

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GARMIN INTERNATIONAL, INC. ET AL.
Petitioner

v.

Patent of CUOZZO SPEED TECHNOLOGIES LLC
Patent Owner

Case IPR2012-00001
Patent 6,778,074

**PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION FOR
DISCOVERY AUTHORIZATION**

TABLE OF CONTENTS

I. Nexus and Invalidity Under the Board’s Original Claim Construction	1
II. Nexus and Invalidity Under Cuozzo’s Proposed Claim Construction	4
III. Cuozzo’s Material Benefit and Garmin’s Significant Prejudice	5
A. Adopting Cuozzo’s Construction Without Revisiting Invalidity Unfairly Prejudices Garmin.....	5
B. Cuozzo’s Assertions Regarding Infringement, Reliance, and a Factual Connection Between the ’074 Patent and Garmin’s Devices	6
IV. Relevance and the Interests of Justice of Cuozzo’s Requested Discovery	7
A. Requested Discovery Related to Privies	7
B. Cuozzo’s Delay and the Requested Discovery Are Burdensome	7
C. The Requested Discovery Is Not in the Interests of Justice	10
1. Inconsistent Positions	11
2. Analysis of Each Request Grouping.....	11
V. Conclusion	15

Patent Owner Cuozzo's discovery requests primarily focus on secondary considerations of non-obviousness based on Petitioner Garmin's navigational devices. To have even minimal relevance of the requested discovery (let alone in the interests of justice), Cuozzo must establish there is a nexus between the claims and Garmin's products. The baseline requirement for nexus is that the claims are commensurate with and cover Garmin's products, which necessarily implicates and requires deciding what is the correct claim construction for this IPR.

Cuozzo has a duplicity problem, however. Under its proposed claim construction, at least the independent claims of the '074 Patent are unpatentable. Thus, this Board's ultimate claim construction implicates not only whether the requested discovery is in the interests of justice but also whether the Board's initial decision on the requested claims continues to be proper in view of any revised claim construction.

I. Nexus and Invalidity Under the Board's Original Claim Construction

The Board correctly found that "integrally attached" means "that the two elements [speedometer and colored display] are discrete parts physically joined together as a unit without each part losing its own separate identity." (Decision, p. 8). The Board also held that "Petitioner has not presented a reasonable basis to broaden out the interpretation of 'integrally attached' to cover the case of a single electronic display that itself operates both as a speedometer and a colored display."

Id. This latter finding is important because it is substantially the same construction that Cuozzo is now advancing.

In the Petition, Garmin cited prior art disclosing an LCD with a speedometer displayed thereon and a red tick mark on the speedometer to indicate the speed limit at the particular location of the vehicle. (See, Ex. 1001 and 1003, Aumayer and Tegethoff, at the least). The Board rejected Garmin's request for review of the independent claims in view of Aumayer and/or Tegethoff based *solely* on the Board's claim construction:

The single electronic display screen of Aumayer showing both the image of a speedometer and a colored scale mark indicating the current speed limit does not meet the claim recitation 'integrally attached' as applied to a speedometer and a colored display. There, the speedometer and the colored display are not discrete and separately recognizable parts that are 'integrally attached' to each other. Rather, the liquid crystal display screen itself is a single component which performs the function of both the speedometer and colored display.

(Decision, p. 14).

The result of the Board's original claim construction was that review was not instituted for most of the claims and proposed rejections. That same claim construction additionally precludes a nexus with Garmin's products and the consequential irrelevance of Cuozzo's requested discovery.

Consider the speed limit alert feature in Garmin's navigational devices:



Garmin's navigational devices (i.e., the *same* devices for which Cuozzo requests discovery) use an LCD that displays the speed limit in one box and the current vehicle speed in another box. Once the driver of the vehicle exceeds the speed limit by a certain threshold, the current speed turns red. Importantly, Garmin's devices provide a "single electronic display that itself operates both as a speedometer and a colored display." Under the Board's claim construction, the claims of the '074 Patent are not commensurate with and do not cover Garmin's devices. If an LCD that is both speedometer and colored display cannot meet the "integrally attached" limitation for invalidity purposes, then it also cannot meet the "integrally attached" limitation for nexus purposes.

Cuozzo's requested discovery is thus irrelevant under the Board's construction, and Garmin submits that the Board's construction should be maintained. However, should the Board entertain Cuozzo's claim construction arguments (despite the Board's instruction not to argue claim construction),

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