

PATENT

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 No.: 6,778,074

Filed: March 18, 2002

Issued: August 17, 2004

Inventors: Giuseppe A. Cuzzo

Title: Speed Limit Indicator and Method for Displaying Speed and
the Relevant Speed Limit

Docket No.: CUO0001-RE

**PATENT OWNER'S REPLY TO PETITIONER'S OPPOSITION TO
PATENT OWNER'S MOTION TO AMEND**

Cuozzo Speed Technologies LLC (“Patent Owner”) submits this reply to Petitioner’s Opposition to Patent Owner’s Motion to Amend (Paper 39).

I. Substitute Claims 21-23 are Narrower in Scope than Original Claim 10.

Substitute claim 21 recites *verbatim* all of the limitations of original claim 10 and includes additional limitations. Thus, there is no basis for Petitioner’s assertion that substitute claim 21 enlarges the scope of original claim 10. In a blatant attempt to confuse the Board, Petitioner cites to *Quantum Corp. v. Rodine, PLC*, 65 F.3d 1577, 1580-82 (Fed. Cir. 1995) in which the Court held that amendment of an original claim from “at least 600 tpi” to “at least approximately 600 tpi” in a reexamination improperly enlarged the scope of the original claims. *Quantum* is irrelevant to the instant proceeding in which Patent Owner’s amendment changes none of the original claim language, adding only narrowing limitations.

Indeed, as a matter of law, substitute claim 21 must be narrower in scope than original claim 10, because it recites language identical to original claim 10 and adds several limitations. 35 U.S.C. § 112(d). Similarly, substitute claims 22 and 23 depend from, and therefore include all of the limitations of, substitute claim 21. Accordingly, the Board should reject Petitioner’s assertion that substitute claims 21-23 enlarge the scope of original claim 10.¹

¹ Petitioner’s assertions regarding enlargement of scope of new matter are based on 37 C.F.R. § 42.221(a)(2)(i-ii) which are applicable to Post Grant Review, not *Inter Partes* Review.

II. Substitute Claims 21-23 are Fully Supported by the Original Disclosure.

Petitioner alleges that substitute claims 21-23 introduce new matter but does not advance a single argument refuting any of the support for such claims in the original disclosure of the '074 Patent detailed in Patent Owner's Motion to Amend. For example, with regard to substitute claims 21 and 22, Petitioner does not dispute that original claim 18 depends from original claim 10 and recites, "wherein the speedometer comprises **a** liquid crystal display." Petitioner does not dispute that fundamental claim construction law presumes that "a" means "one or more," and therefore, original claim 18 encompasses an embodiment of the invention in which the speedometer comprises one or more liquid crystal displays. *KCJ Corp. v. Kinetic Concepts, Inc.*, 223 F.3d 1351, 1356 (Fed. Cir. 2000). Finally, Petitioner does not dispute that original claim 12 recites, "wherein the colored display is a liquid crystal display." Therefore, Petitioner has not in any way disputed that original claims 10, 12 and 18 fully support substitute claim 21 which is directed to an embodiment of the invention in which the speedometer comprises a liquid crystal display and the colored display is the liquid crystal display.

Moreover, Petitioner's argument ignores the perspective of one skilled in the art established by the unrebutted evidence presented by Patent Owner. In his declaration and at deposition, Prof. Morris, an expert in the field of the invention, explained why a person of skill in the art would understand the claims to encompass

the use of a single LCD for the speedometer output and the colored display (Ex. 1021, Morris Tr. at 38:21-39:14).

Regarding substitute claim 23, Petitioner does not dispute the support detailed in Patent Owner's Motion to Amend.² Instead, Petitioner performs a hypothetical infringement analysis premised on Petitioner's newly-proposed interpretations of "delineation," "speed readings" and "colored." Petitioner, however, never proposed constructions for these terms (which are recited in the original claims) in the Petition as required by the rules and provides no intrinsic support for its position now. Thus, the Board should reject Petitioner's new claim construction arguments which are untimely and prejudicial to Patent Owner.

Petitioner's only alleged support for its untimely argument is the recent testimony by Prof. Morris, who submitted a declaration in this proceeding concerning the meaning of "integrally attached" as understood by one of skill in the art at the time of the invention.³ At deposition, however, Petitioner questioned Prof. Morris about subject matter (1) outside the scope of his declaration and (2) for which he was not prepared to offer an opinion.⁴ Accordingly, this portion of Prof. Morris's

² Petitioner makes reference to claim 1 with respect to its allegation of new matter for substitute claim 23, but claim 1 is not at issue in this proceeding.

³ Petitioner vaguely references the testimony of Mr. Cuzzo, the inventor of the '074 Patent. Mr. Cuzzo has completed an errata which corrects and clarifies his deposition testimony (Ex. 1026).

⁴ Prof. Morris has completed an errata which corrects and clarifies the testimony relied upon by Petitioner (Ex. 1027). Further, Prof. Morris testified that he would

testimony is appropriately excluded from the record under 37 C.F.R. § 42.53(d)(5)(ii) and should not be considered.

III. Substitute Claims 21-23 are Patentable Over Nagoshi in view of Vaughn.

A. Neither Nagoshi nor Vaughn, either alone or in combination, discloses or suggests “the colored display is the liquid crystal display.”

Nagoshi never discloses or suggests a “liquid crystal display” as recited in substitute claim 21. Nagoshi merely discusses LEDs surrounding a speedometer display, which are colored based on a speed limit. Contrary to Petitioner’s assertion, Figures 4 and 5 of Nagoshi would not lead one of skill in the art to believe that the speedometer display with LEDs in Nagoshi must be an LCD. Indeed, the “display” of Nagoshi appears to be an analog speedometer display surrounded (schematically) by the LEDs.

Vaughn does cure this deficiency in Nagoshi. Vaughn does not disclose or suggest a “colored” display. The vague reference to LEDs, LCDs, and CRT screens showing position and velocity never reference color or any reason to depict such information in color. The LEDs, LCD, and CRT screens in Vaughn do not disclose or suggest “the *colored* display is the liquid crystal display” of substitute claim 21.

need more time to consider issues Petitioner questioned him about that were outside the scope of his declaration. *See* Ex. 1021 at 77:19-22; 97:16-98:12 (“I could spend more time in it, certainly if I compare it to the Smith thing . . . So I’m a little bit confused by this, yes, so I could spend more time”).

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