

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GARMIN INTERNATIONAL ET AL.  
Petitioners

v.

Patent of CUOZZO SPEED TECHNOLOGIES LLC  
Patent Owner

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Case IPR2013-00373  
Patent 6,778,074

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**PATENT OWNER'S PRELIMINARY RESPONSE TO  
PETITION FOR *INTER PARTES* REVIEW OF  
U.S. PATENT NO. 6,778,074  
UNDER 35 USC §§ 311-319 AND 37 CFR §42.100 ET SEQ.**

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Pursuant to 37 C.F.R. § 42.107(a) Cuozzo Speed Technologies LLC (“Patent Owner”) submits the following preliminary response to Garmin’s petition.

**1. Introduction.**

This is the second *inter partes* review (“IPR”) filed by Garmin for U.S. Patent 6,778,074 (“’074 Patent”). The first IPR filed by Garmin (IPR2012-00001) is currently pending a final decision by the Patent Trial and Appeal Board (“PTAB”). There are several reasons this second IPR should be rejected:

First, this second IPR is entirely duplicative of Garmin’s first IPR. In the first IPR, Garmin alleged that all claims ‘074 Patent (claims 1-20) are invalid based on the references Evans, Nagoshi, Tegethoff, Vaughn, Wendt and others.<sup>1</sup> The PTAB rejected all grounds of unpatentability alleged by Garmin except those with regard to claims 10, 14 and 17. In the second IPR, Garmin cites to the same exact references and combinations it cited in the first IPR along with one additional reference, Hauler, which is not prior art

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<sup>1</sup> The Nagoshi and Vaughn references were cited by Garmin in response to Patent Owner’s motion to amend.

and nevertheless is entirely duplicative of references at issue in the first IPR.<sup>2</sup>

Second, Garmin, as it did in the first IPR, fails to state its proposed construction for any claim terms of the '074 Patent. Instead, Garmin proposes multiple claim constructions for a single claim term (“integrally attached”) and instructs the PTAB undergo an overly burdensome assessment of the patentability of the claims under a multitude of permutations of claim constructions and references.

Finally, a favorable decision for Patent Owner in the first IPR would estop Garmin’s second IPR. 37 CFR 42.73(d). The first IPR is pending a final decision which could encompass issues related to claim construction, conception and reduction to practice, and patentability. Should the PTAB rule in the first IPR that the claims at issue are patentable, Garmin will be estopped from challenging the claims of the '074 Patent.

Clearly, Garmin’s redundant, “see-what-sticks” approach is an attempt to undermine and take advantage of the time-limited, resource-

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<sup>2</sup> Garmin also identifies a Brandt reference on p. 4 of its second IPR, but never cites the Brandt reference in the Proposed Statutory Rejections. Thus, the PTAB should not consider the Brandt reference.

intensive IPR process and, therefore, the PTAB should reject Garmin's second IPR petition.

## **2. Garmin's Second IPR is Entirely Duplicative of Its First IPR**

Garmin does not provide a single reason why this second IPR is not duplicative of the first IPR or why the PTAB and the parties should waste their respective time and resources addressing the same references and claim construction issues in a second IPR.

In the first IPR, Garmin alleged that all of claims 1-20 in the '074 Patent were unpatentable based on 35 U.S.C. §§ 102 and/or 103 in view of several references. The PTAB rejected all of Garmin's allegations, except those for original claims 10, 14, and 17 in view of the references Aumayer, Evans, Tegethoff, Wendt and others. After institution of trial on claims 10, 14 and 17, Patent Owner filed a motion to amend proposing new claims 21-23, in response to which Garmin alleged that Patent Owner's proposed new claims are unpatentable based on the references Nagoshi and Vaughn (a reference cited during prosecution of the '074 Patent). Thus, the references Aumayer, Evans, Tegethoff, Wendt, Nagoshi and Vaughn are all at issue in the first IPR and have been considered by the PTAB.

In the second IPR, Garmin again alleges that all of claims 1-20 of the '074 Patent are unpatentable over the same *exact* references at issue in the

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