

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DATASPEED INC.,
Petitioner,

v.

SUCXESS, LLC,
Patent Owner.

IPR2020-00116
Patent 9,871,671 B2

Before TREVOR M. JEFFERSON, MINN CHUNG, and
NATHAN A. ENGELS, *Administrative Patent Judges*.

JEFFERSON, *Administrative Patent Judge*.

DECISION
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

I. INTRODUCTION

In this *inter partes* review, Dataspeed Inc. (“Petitioner”) challenges claims 1–19 (“the challenged claims”) of U.S. Patent No. 9,871,671 B2 (Ex. 1001, “the ’671 patent”) owned by Success, LLC (“Patent Owner”). Paper 1 (“Pet.”).

We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision, issued pursuant to 35 U.S.C. § 318(a), addresses issues and arguments raised during the trial in this *inter partes* review. For the reasons discussed herein, we determine that Petitioner has shown by a preponderance of the evidence that claims 1–19 are unpatentable.

A. Procedural History

Petitioner filed a Petition challenging claims 1–19 of the ’671 patent (Pet. 3, 18–65) and Patent Owner filed a Preliminary Response (Paper 11). We instituted trial on all grounds of unpatentability. Paper 12 (“Dec.”), 27–28.

Patent Owner filed a Response (Paper 17, “PO Resp.”), Petitioner filed a Reply (Paper 20, “Reply”), and Patent Owner filed a Sur-reply (Paper 21, “Sur-reply”).

Petitioner submits the Declaration of Robert Leale (Ex. 1003) in support of the Petition and Reply. Patent Owner supports its Response and Sur-reply with the Declaration of Dr. Mahdi Shahbakhti (Ex. 2028). Petitioner also submits the Deposition Transcript of Mahdi Shahbakhti, Ph.D. (Ex. 1020) and Patent Owner submits the Deposition Transcript of Robert Leale (Ex. 2024).

A combined oral hearing for this *inter partes* review and related cases, IPR2020-00147 and IPR2020-00268 was held on February 11, 2021, a transcript of which appears in the record in each case. Paper 26 (“Tr.”).

B. Instituted Grounds

We instituted *inter partes* review of the challenged claims on following grounds asserted by Petitioner under 35 U.S.C. § 103¹ (Dec. 7, 27–28):

Challenged Claims	35 U.S.C. §	References
1–15, 19	§ 103	Munoz ² or Munoz, Negley ³ , SAE ⁴ , Bosch ⁵
16–18	§ 103	Munoz or Munoz, Negley, SAE, Bosch, Lobaza ⁶
1–15, 19	§ 103	Dietz ⁷ , Negley, SAE, Bosch
16–18	§ 103	Dietz, Negley, SAE, Bosch, Lobaza

¹ The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) (“AIA”), amended 35 U.S.C. § 103. Because the ’671 patent has an effective filing date prior to the effective date of the applicable AIA amendments, we refer to the pre-AIA versions of § 103.

² Munoz (US 7,737,831 B2; filed Feb. 6, 2007; issued June 15, 2010). Ex. 1004.

³ Bruce Negley, *Getting Control Through CAN*, The Journal of Applied Sensing Technology, Oct. 2000, vol. 17, no. 10, pages 16–33. Ex. 1006.

⁴ Craig Szydowski, *A Gateway for CAN Specification 2.0 Non-Passive Devices*, SAE Technical Paper Series, 930005, Society of Automotive Engineers, Inc. 1993, pages 29–37. Ex. 1009.

⁵ Robert Bosch, *CAN Specification Version 2.0*, Bosch, Sept. 1991. Ex. 1010.

⁶ Lobaza et al. (US 6,812,832 B2; filed Nov. 26, 2002; issued Nov. 2, 2004). Ex. 1014.

⁷ Audiotechnik Dietz, *Installation/connection manual for multimedia interface 1280*, March 16, 2005, <http://www.dietz.biz>. Ex. 1005.

C. Real Party-in-Interest

Petitioner states that it, Dataspeed Inc., is the sole real party-in-interest. Pet. 2.

D. Related Proceedings

Patent Owner states that two patents in the same family as the '671 patent, namely, US 10,027,505 and US 10,454,707 are the subject of five district court cases involving Patent Owner and various third parties, namely, *Sucsess LLC v. AutoX Technologies, Inc.*, Case No. 1:19-cv-02121 (D. Del.); *Sucsess LLC v. Phantom Auto, Inc.*, Case No. 1:19-cv-02122 (D. Del.); *Sucsess LLC v. Pony.ai, Inc.*, Case No. 1:19-cv-02123 (D. Del.); *Sucsess LLC v. SF Motors, Inc.*, Case No. 1:19-cv-02124 (D. Del.); and *Sucsess LLC v. WeRide Corp.*, Case No. 1:19-cv-02130 (D. Del.). Paper 8, 1. Patent Owner also states that Petitioner filed a Petition for review of US 10,027,505 in IPR2020-00147. Paper 10, 1.

E. The '671 Patent (Ex. 1001)

Titled “Method, Apparatus and System for Retrofitting a Vehicle” (Ex. 1001, [54]), the '671 patent states that a vehicle could be retrofitted to add, for example, an emergency call apparatus. Ex. 1001, 2:48–49. The retrofit apparatus is used to transmit a message on the vehicle data bus. *Id.* at 2:54–57. The '671 patent states that a retrofit apparatus may be added to the vehicle with two data buses, with the first bus used to communicate with the original vehicle equipment and the second bus used to communicate with the rest of the vehicle. *Id.* at 3:33–37. With respect to this communication, the '671 patent states that the retrofit apparatus can be configured to mimic command messages to enable the original vehicle equipment to perform specified functions not originally enabled. *Id.* at 9:52–10:7.

In one embodiment of the '671 patent, the retrofit apparatus is an emergency call apparatus 214 that sends a message to a first apparatus, i.e., telecommunication apparatus 200 as seen in Figure 4, reproduced below.

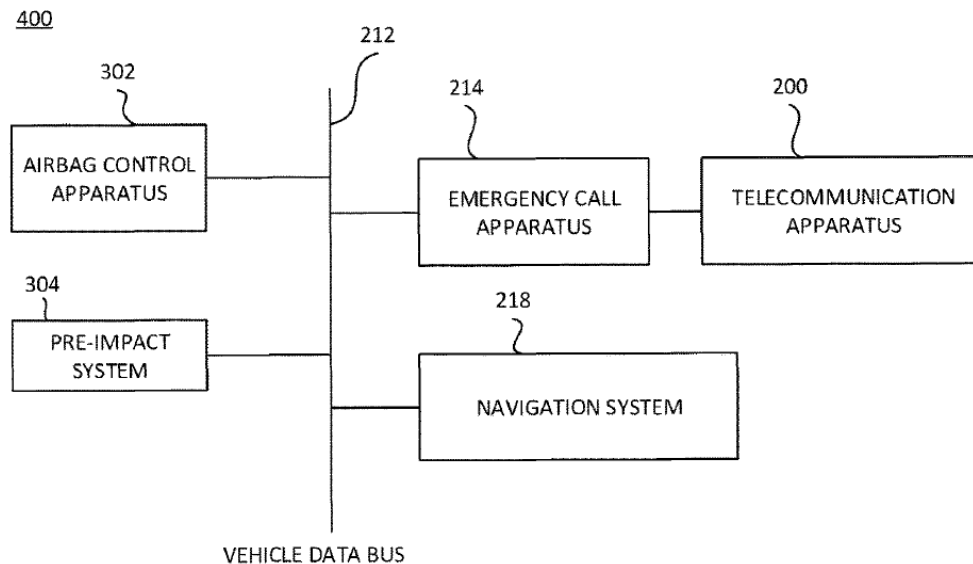


FIG. 4

Figure 4 illustrates vehicle communication system 400 having telecommunication apparatus 200 in communication with vehicle data bus 212 using an indirect connection through emergency call apparatus 214. Ex. 1001, 7:59–63. Emergency call apparatus 214 mimics the dial command message by using “the same message identifier segment that has been assigned to navigation system 218 when transmitting its telephone dial command message.” *Id.* at 9:63–65. “By sharing the same message identifier segment a telephone dial command message originating from emergency call apparatus 214 and a telephone dial command message originating from navigation system 218 become indistinguishable for the telecommunication apparatus 200.” *Id.* at 9:66–10:3. “Telecommunication apparatus 200 hence responds properly to a telephone dial command

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