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Paper 12
Entered: May 5, 2020

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
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Dataspeed Inc. (“Petitioner”) filed a Petition under 35 U.S.C. § 311 requesting *inter partes* review of claims 1–19 of U.S. Patent No. 9,871,671 B2 (Ex. 1001, “the ’671 patent”). Paper 1 (“Pet.”). Success, LLC (“Patent Owner”) filed a Preliminary Response. Paper 11 (“Prelim. Resp.”).

We have authority under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted unless the information presented in the Petition and the Preliminary Response shows that “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a); *see also* 37 C.F.R. § 42.4(a) (“The Board institutes the trial on behalf of the Director.”). The Supreme Court has held that under 35 U.S.C. § 314, we may not institute review of fewer than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018).

Having considered the arguments and the associated evidence presented in the Petition, for the reasons described below, we institute *inter partes* review.

II. BACKGROUND

A. Real Party-in-Interest

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

B. 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, *Sucxess LLC v. AutoX Technologies, Inc.*, Case No. 1:19-cv-02121 (D. Del.); *Sucxess LLC v. Phantom Auto, Inc.*, Case No. 1:19-cv-02122 (D. Del.); *Sucxess LLC v. Pony.ai, Inc.*, Case No. 1:19-cv-02123 (D. Del.); *Sucxess LLC v. SF Motors, Inc.*, Case No. 1:19-cv-02124 (D. Del.); and *Sucxess 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.

C. 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.

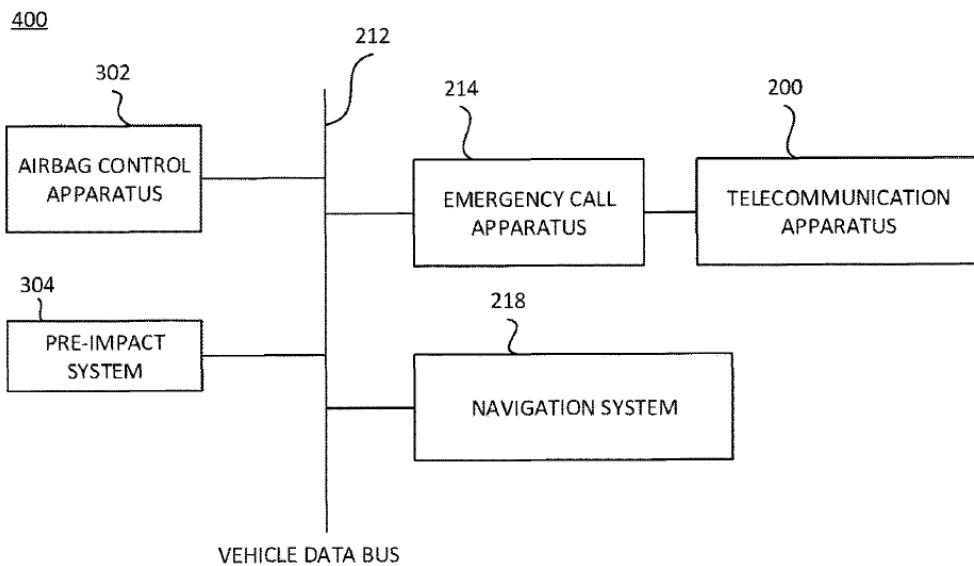


FIG. 4

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 message originating from emergency call apparatus 214 even though it may not have been designed for this purpose.” *Id.* at 10:3–7.

Messages to telecommunication apparatus 200 are communicated through first and second data buses, as depicted in Figure 7, reproduced below.

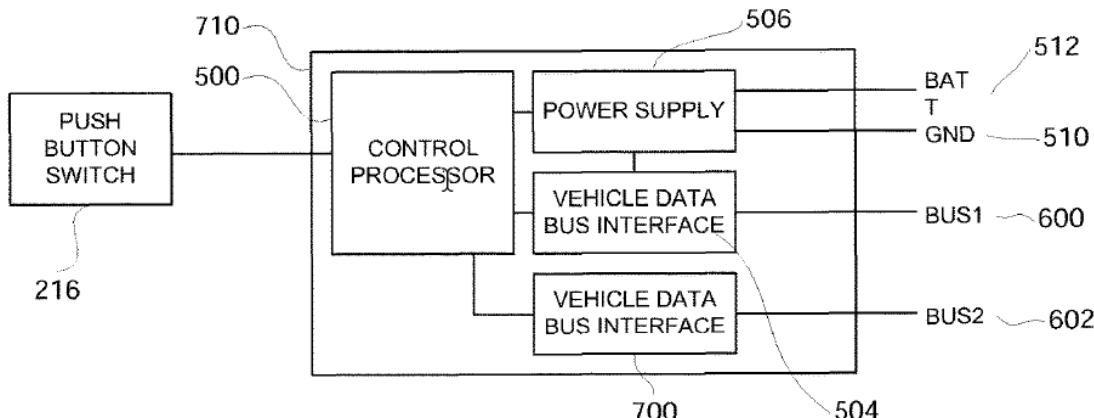


FIG. 7

Figure 7 is a block diagram that depicts emergency call apparatus 710. Ex. 1001, 8:60–61. In Figure 7, control processor 500 communicates with telecommunication apparatus 200 through vehicle data bus interface 504 and electric terminal 600. *Id.* at 8:61–64. Control processor 500 also communicates with other electronic modules connected to vehicle data bus 212 through second vehicle data bus interface 700 and electric terminal 602. *Id.* at 8:64–66. “Control processor 500 retransmits any messages it receives from vehicle data bus interface 504 through vehicle data bus interface 700 and any messages it receives from vehicle data bus interface 700 through vehicle data bus interface 504, thereby functionally connecting telecommunication apparatus 200 with vehicle data bus 212.” *Id.* at 9:7–13.

D. Challenged Claims

Petitioner challenges claims 1–19 of the '671 patent. Claims 1, 6, and 10 are independent claims, and claim 1 is reproduced below with added identification of claim elements in brackets.

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