

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DATASPEED INC.,
Petitioner,

v.

SUCXESS LLC,
Patent Owner.

IPR2020-00147
Patent 10,027,505 B2

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

ENGELS, *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 1–16 of U.S. Patent No. 10,027,505 B2 (Ex. 1101, “the ’505 patent”). Paper 1 (“Pet.”). Success LLC (“Patent Owner”) filed a Preliminary Response. Paper 9 (“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 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*

The parties state that the ’505 patent is the subject five district-court cases involving Patent Owner and various third parties, namely, *SUCCESS LLC v. AutoX Technologies, Inc.*, Case No. 1:19-cv-02121 (D. Del.); *SUCCESS LLC v. Phantom Auto, Inc.*, Case No. 1:19-cv-02122 (D. Del.); *SUCCESS LLC v. Pony.ai, Inc.*, Case No. 1:19-cv-02123 (D. Del.); *SUCCESS LLC v. SF*

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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 at 1. Patent Owner also states that Petitioner filed a Petition for review of US 9,871,671 in IPR2020-00116. Paper 8 at 1.

C. The '505 Patent (Ex. 1101)

Titled “Method, Apparatus and System for Retrofitting a Vehicle” (Ex. 1101, code (54)), the '505 patent states that a vehicle could be retrofitted to add, for example, an emergency call apparatus. Ex. 1101, 2:48–49. Among other things, the '505 patent describes a retrofit apparatus in communication with a factory-installed telecommunication apparatus. Ex. 1101, 2:14–2:62, 9:47–10:16. In one embodiment disclosed in the '505 patent, the retrofit apparatus is an emergency call apparatus that mimics the dial command message of a factory-installed apparatus, such as a navigation system, by using “the same message identifier segment that has been assigned to navigation system 218 when transmitting its telephone dial command message.” Ex. 1101, 9:62–65. “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.” Ex. 1101, 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.” Ex. 1101, 10:3–7.

Messaging described in the '505 patent includes Controller Area Network (“CAN”) messages. The '505 patent states that CAN messages

may consist of an identifier segment of 11 or 29 bits and a data segment carrying a message payload of up to 8 bits. Ex. 1101, 10:17–34.

D. Challenged Claims

Petitioner challenges claims 1–16 of the '505 patent. Claims 1, 6, and 10 are independent claims, and claim 1 is reproduced below with added identification of claim elements in brackets.

1. [1.p] A method comprising:

[1.1] providing a vehicle having a factory-installed first apparatus including a processor, programmed to communicate with a factory-installed second apparatus through a vehicle data bus with a first message having an identifier;

[1.2] electrically disconnecting the vehicle data bus between the factory-installed first apparatus and the factory-installed second apparatus;

[1.3] electrically connecting a retrofit apparatus to the vehicle data bus; and

[1.4] transmitting a second message from the retrofit apparatus to the factory-installed first apparatus, the second message being indistinguishable from the first message.

E. Prior Art and Asserted Grounds of Unpatentability

Petitioner asserts the following grounds under 35 U.S.C. § 103:

Claims	35 U.S.C. §	Reference(s)/Basis
1–13	103 ¹	Munoz ² or Munoz, Negley ³ , SAE ⁴ , Bosch ⁵
14–16	103	Munoz or Munoz, Negley, SAE, Bosch, Lobaza ⁶
1–13	103	Dietz ⁷ , Negley, SAE, Bosch
1–13	103	Dietz, Allen ⁸ , Negley, SAE, Bosch
14–16	103	Dietz, Negley, SAE, Bosch, Lobaza
14–16	103	Dietz, Allen, Negley, SAE, Bosch, Lobaza
6–12	103	Allen, Negley, SAE, Bosch
10, 14–16	103	Lobaza, Allen, Negley, SAE, Bosch

¹ The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011), amended 35 U.S.C. § 103 effective March 16, 2013. Because the '505 patent has an effective filing date prior to the effective date of the applicable AIA amendment, we refer to the pre-AIA version 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*, <http://www.dietz.biz>. Ex. 1005.

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