

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TOYOTA MOTOR CORP.  
Petitioner

v.

LEROY G. HAGENBUCH  
Patent Owner

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Case IPR2013-00483  
Patent 8,014,917

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Before JAMESON LEE, MICHAEL W. KIM, and ADAM V. FLOYD,  
*Administrative Patent Judges.*

FLOYD, *Administrative Patent Judge.*

Order  
Conduct of Proceedings  
*37 C.F.R. § 42.05*

Background and Summary of Conference Call

On February 4, 2014, the Board instituted an *inter partes* review on the challenged claims of the '917 patent. Dec. Instit. (Paper 9). In the Decision to Institute, the claim term “monitoring” was given its broadest reasonable interpretation (“BRI”), namely, “watching, keeping track of, or checking.” *Id.* at 8. Subsequently, the '917 patent expired, giving rise to the issue of whether BRI was appropriate for use in the final decision.

On April 14, 2014, a conference call was held between Mr. Mattson, counsel for Petitioner; Mr. Conklin, counsel for Patent Owner; and Judges Lee, Kim, and Floyd, during which the issue of BRI was raised with agreement that a follow up conference call would occur. *See* Paper 19.

On April 16, 2014, a conference call was held between Mr. Mattson, Mr. Conklin, and Judges Lee and Floyd. During the conference, Patent Owner confirmed, and Petitioner agreed, that the '917 patent expired on February 15, 2014. Both parties agreed that BRI should not be applied in the final decision. Instead, the claims should be construed in a fashion similar to that used in a district court's review. Thus, it is necessary to address the proper non-BRI construction of “monitoring.”

Non-BRI Construction of “monitoring”

Both claims 1 and 18 recite —monitoring production-related parameters and monitoring vital sign parameters.

The dictionary defines “monitor” as “to watch, keep track of, or check usually for a special purpose.” MERRIAM-WEBSTER ONLINE DICTIONARY ([www.merriam-webster.com/dictionary/monitor](http://www.merriam-webster.com/dictionary/monitor)). Although the specification repeatedly references sensors for monitoring, it also states that the vehicle operator may “monitor each of the sensors.” Ex. 1001, col. 6, ll. 1-5. Thus, “monitoring,”

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as used in the specification encompasses using an automated, sensor-based process, as well as, a vehicle operator looking at a gauge or light. Thus, based on the record before us, we determine that the non-BRI construction of “monitoring” is as follows.

“Monitoring” means “watching or keeping track of, or checking.”

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