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Fed. Circ. Won't Revive Auto Sensor Patents

By **Dani Meyer**

Law360, New York (March 21, 2016, 5:58 PM ET) -- The Federal Circuit refused Monday to overturn several Patent Trial and Appeal Board decisions finding that an inventor's patents for recording vehicle data during a crash that were challenged by Toyota are unpatentable, just weeks after Toyota withdrew from the appeals.

LeRoy G. Hagenbuch had fought to preserve his patents covering sensors that detect factors such as tire pressure, oil temperature and whether there has been a crash after the PTAB largely sided with Toyota Motor Corp. when finding they were unpatentable, but a unanimous three-judge panel said it wasn't persuaded.

"The board ... did not err in concluding that the challenged claims would have been obvious to one of ordinary skill in the art in view of the prior art," Circuit Judge Alan D. Lourie wrote for the panel.

Earlier this month, Toyota said it had reached a settlement with Hagenbuch. It asked and quickly won approval for permission to withdraw from the appeals and dismiss its cross-appeals.

Toyota had initially launched four inter partes review petitions challenging the claims in Hagenbuch's patents, U.S. Patent Numbers 8,014,917 and 8,532,867, after Hagenbuch sued Toyota in September 2013 for allegedly using infringing technology in its vehicles. Both of the patents are now expired.

Both patents direct methods and apparatus for recording vehicle data during a crash and automatically sending a wireless distress signal, according to the opinion. The '867 patent is a continuation of the '917 patent, and the claims set out parameters for what is recorded before and after a crash.

The PTAB later initiated review of all claims of the '917 patent and most claims of the '867 patent on the grounds that they're obvious under patent applications called Aoyanagi, Vollmer and Steiner.

After reviewing the references, the PTAB concluded that Toyota had shown the '917 patent and claims 1-7, 10, 11, 15-20, 23 and 24 of the '867 patent are unpatentable as obvious.

Hagenbuch appealed and Toyota cross-appealed, but Toyota settled with him before oral arguments and withdrew from the appeal earlier this month. The parties also filed a stipulation of dismissal in the district court suit, but the Federal Circuit said Hagenbuch still seeks relief from the PTAB's orders.

But after taking a look at the evidence, the Federal Circuit said Monday that the board didn't err in its conclusions and affirmed the decision.

"We agree with the board that the few limitations not explicitly or inherently disclosed by Aoyanagi are taught by Vollmer and Steiner (and other prior art not significantly at issue on appeal), and we find that substantial evidence supports the board's finding of a motivation to combine the art," the appellate court said.

A representative for Hagenbuch didn't immediately respond Monday to a request for comment.

Circuit Judges Sharon Prost, Alan D. Lourie and Evan J. Wallach sat on the panel for the Federal Circuit.

The patents-in-suit are U.S. Patent Numbers 8,014,917 and 8,532,867.

Hagenbuch is represented by Jonathan Hill and David Ter Molen of Freeborn & Peters LLP.

Toyota was represented by Eric W. Schweibenz, Robert C. Mattson, John S. Kern and Thomas C. Yebernetsky of Oblon McClelland Maier & Neustadt LLP.

The cases are In Re: LeRoy G. Hagenbuch, case numbers 2015-1476, 2015-1633, 2015-1745 and 2015-1747, in the U.S. Court of Appeals for the Federal Circuit.

--Editing by Kelly Duncan.

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