

Fed. Circ. Backs More Ford PTAB Wins On Hybrid Patents

By Ryan Davis

Law360, New York (April 21, 2017, 7:01 PM EDT) -- The Federal Circuit on Friday upheld the Patent Trial and Appeal Board's decisions that many claims of two Paice LLC patents on hybrid vehicle technology are invalid — another victory for Ford Motor Co., which has challenged many Paice patents it is accused of infringing.

After Paice sued Ford over several patents in 2014, the auto giant filed 25 petitions for inter partes review seeking to invalidate numerous claims of the patents. The PTAB found the challenged claims to be obvious in 22 reviews. In Friday's ruling, the Federal Circuit reviewed four of those decisions, covering two patents.

"Paice appeals, arguing that the board misconstrued several claim terms and made insufficiently supported factual findings in arriving at the ultimate obviousness determinations," the court wrote. "We reject Paice's arguments and affirm."

The ruling comes on the heels of a March decision in which the Federal Circuit largely affirmed four PTAB decisions invalidating as obvious many claims of two other Paice patents challenged by Ford. It found that the board erred on a single claim and remanded.

Paice has appeals pending of the other 14 PTAB decisions.

The patents at issue in Friday's ruling cover processes for controlling a hybrid vehicle, increasing fuel efficiency and decreasing emissions. The Federal Circuit ruled that the claims would be obvious in view of earlier patents and a technical paper, and that the PTAB's decisions were supported by the evidence.

In some instances, the Federal Circuit relied on its March decision, saying that it involved similar terms and issues on related patents.

Paice and the Abell Foundation Inc., a Baltimore-based charitable organization that has sponsored its research, own many patents related to hybrid vehicle technology. They have filed infringement lawsuits against a number of auto companies over the years, including Ford.

A federal jury in Maryland decided in 2015 that Hyundai Motor Co. and Kia Motors Corp. owed approximately \$29 million for violating the patented technology. Paice also previously reached a licensing deal with Toyota Motor Co. Ford was the first automaker to test the validity of Paice's patents at the PTAB.

On its website, Paice says it approached Ford about its hybrid technology in 1999. It worked with the automaker for years until Ford refused to license the patents and then began infringing them, Paice said.

Paice calls the dispute "a classic case of a powerful corporation with deep pockets using the system to its advantage, squeezing a small company with limited resources in the hope that the small company will just fade away."

"But just like the innovative hybrid technology that Paice shared with Ford, Paice has staying power," the company said.

Attorneys for the parties could not immediately be reached for comment Friday.

Judges Timothy Dyk, Haldane Robert Mayer and Richard Taranto sat on the panel for the Federal Circuit.

The patents-in-suit are U.S. Patent Numbers 8,214,097 and 7,237,634.

Paice is represented by Ruffin Cordell, Timothy Riffe, Daniel Tishman and Brian Livedalen of Fish & Richardson PC.

Ford is represented by Matthew Moore and Gabriel Bell of Latham & Watkins LLP and Andrew Turner, John Rondini, Frank Angileri and Sangeeta Shah of Brooks Kushman PC.

The case is Paice LLC v. Ford Motor Co., case numbers 16-1411 and 16-1746, in the U.S. Court of Appeals for the Federal Circuit.

--Editing by Sara Ziegler.