

WASICA FINANCE GMBH v. CONTINENTAL AUTOMOTIVE SYSTEMS, INC., Appeal Nos. 2015-2078, 2015-2079, 2015-2093, and 2015-2096 (Fed. Cir. April 4, 2017). Before Prost, Schall, and Chen. Appealed from the Patent Trial and Appeal Board.

### Background:

Wasica ("the patentee") owned U.S. Patent No. 5,602,524 ("the '524 patent"), directed to a tire pressure monitoring system that used pressure sensors and transmitters in each tire, and a receiver for each tire, to measure and transmit pressure information to a driver. The '524 patent was the subject of two Inter Partes Review proceedings in which the Board collectively found claims 1-5, 10-19, and 21 to be invalid as anticipated, and claims 6-9 and 20 to be patentable.

The patentee appealed the Board's decisions finding claims 1-5, 10-19, and 21 to be invalid. The parties that instituted the Inter Partes Review proceedings cross-appealed the Board's decisions finding claims 6-9 and 20 to be patentable.

### Issues/Holdings:

Did the Board err in holding claims 1-5, 10-19, and 21 to be invalid as anticipated, and claims 6-9 and 20 to be patentable? No with respect to claims 1-8 and 10-21; Yes with respect to claim 9.

### Discussion:

The Federal Circuit first construed the phrase "electrical pressure signal" in claim 1. The prior art disclosed a binary switch system, where a switch is triggered when pressure is too low. In order to overcome this reference, the patentee had argued that "electrical pressure signal" should be construed to require a numerical value of pressure. The Federal Circuit was not persuaded, because claim 1 recites displaying this signal as "numbers or symbols." Because the term "or" was used, the Federal Circuit construed claim 1 to require either numbers or a non-numerical alternative, which would include a binary indicator of pressure levels. Thus, the Federal Circuit found claim 1 to be invalid for encompassing the prior art.

The Federal Circuit next construed the phrase "emittance of a predetermined switching signal" in claim 17. The prior art disclosed a system that would transmit this signal via wired communication, and the patentee argued for a construction limiting the claim to wireless transmission. The Federal Circuit held that the plain and ordinary meaning of "emittance" would encompass wired transmission. The Federal Circuit also referred to the specification's interchangeable use of "emit" and "transmit," and reasoned that "transmit" would undoubtedly include wired transmission. Thus, the Federal Circuit held claim 17 to be invalid.

Finally, the Federal Circuit construed the phrase "at least a 4 bit sequence" including a "first bit sequence" through "fourth bit sequence." The Board had construed each bit sequence as requiring two or more bits, and held claim 9 valid over prior art that disclosed only one bit for one of its bit sequences. The Federal Circuit overturned this construction, and asserted that if each of the first through fourth bit sequences must have two or more bits, the total sequence would include at least eight bits. The Federal Circuit reasoned that this contradicted the "at least a 4 bit sequence" phrase in claim 9, and held claim 9 to be invalid.