UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SRAM, LLC,

Petitioner,

v.

FOX Factory, Inc.,

Patent Owner.

U.S. Patent No. 9,739,331 B2
Filing Date: August 10, 2015
Issue Date: August 22, 2017

Title: METHOD AND APPARATUS FOR AN ADJUSTABLE DAMPER

Case No. IPR2023-01301

DECLARATION OF MICHAEL J. HICKEY IN SUPPORT OF PETITIONER SRAM, LLC'S PETITION FOR *INTER PARTES* REVIEW

DECLARATION OF MICHAEL J. HICKEY

Being of legal age, I, Michael J. Hickey, declare and state as follows:

1. I am over the age of twenty-one (21) and have personal knowledge of the facts stated herein. I am a Member of the law firm of Lewis Rice LLC and lead counsel for SRAM, LLC ("SRAM") in the instant IPR Proceeding. I have personal knowledge of the facts set forth in this declaration and, if called upon to do so, I would testify competently thereto.

2. This declaration is in support of Petitioner SRAM's Petition for *Inter Partes* Review.

3. Exhibit 1001 in the above-referenced proceeding is a true and correct copy of U.S. Patent No. 9,739,331 B2 to Becker.

4. Exhibit 1004 is a true and correct copy of the file history of U.S. Patent No. 9,739,331 B2 to Becker.

5. Exhibit 1005 is a true and correct copy of Japanese Patent Application Publication No. JP2004345366A to Kojima, including a certified English translation of the same.

6. Exhibit 1006 is a true and correct copy of U.S. Patent No. 1,174,168 to Kraft.

7. Exhibit 1007 is a true and correct copy of U.S. Patent No. 7,624,752 B2 to Huang.

8. Exhibit 1008 is a true and correct copy of U.S. Patent No. 6,592,136 B2 to Becker et al.

9. Exhibit 1009 is a true and correct copy of U.S. Patent No. 7,231,939 B2 to Bruckbauer.

10. Exhibit 1010 is a true and correct copy of European Patent Application Publication No. EP0979772A2 to Danter.

11. Exhibit 1011 is a true and correct copy of U.S. Patent Publication No. 2012/0080279 A1 to Galasso et al.

12. Exhibit 1012 is a true and correct copy of Fox Factory, Inc.'s Disclosure of Asserted Claims and Infringement Contentions Related to U.S. Patent Nos. 9,739,331 and 8,550,223, dated December 23, 2022 (including Attachment A), served in *Fox Factory, Inc. v. SRAM, LLC*, Case No. 1:23-cv-00313-RM-KLM in the District of Colorado.

13. Exhibit 1013 is a true and correct copy of Fox Factory, Inc.'s Amended Disclosure of Asserted Claims and Infringement Contentions Related to U.S. Patent Nos. 9,739,331 and 8,550,223, dated Mar. 16, 2023 (including Attachment A),

served in *Fox Factory, Inc. v. SRAM, LLC*, Case No. 1:23-cv-00313-RM-KLM in the District of Colorado.

14. Exhibit 1014 is a true and correct copy of the Notice of Filing of Joint Disputed Claim Terms Chart, dated August 3, 2023, filed in *Fox Factory, Inc. v. SRAM, LLC*, Case No. 1:23-cv-00313-RM-KLM in the District of Colorado.

15. In the parallel proceeding in the District of Colorado (*Fox Factory, Inc. v. SRAM, LLC*, Case No. 1:23-cv-00313-RM), no trial date has been set. Further, to date, no claim construction hearing has been scheduled, as the parties just filed a Notice of Filing of Joint Disputed Claim Terms Chart on August 3, 2023, with claim construction briefing expected to start in late August and continue into September 2023. The parties are still in the preliminary stages of discovery, principally having exchanged written discovery and conducted depositions relating to Fox's motion for preliminary injunction, which was denied on July 17, 2023. To date, the District Court has not provided any analysis of prior art invalidity issues.

I declare that all statements made herein of my own knowledge are true and that all statements made upon information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

August 10, 2023 /s/Michael J. Hickey
Michael J. Hickey