IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT TRIAL AND APPEAL BOARD

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In re:	U.S. PATENT NO.
	9,311,271
UNITED SERVICES AUTOMOBILE	PROCEEDING NO.
ASSOCIATION (USAA),	IPR2023-00911
	U.S. PATENT NO.
PETITIONER,	9,633,487
	IPR2023-00518
V.	U.S. PATENT NO.
	10,192,369
AUTO TELEMATICS, LTD.,	PROCEEDING NO.
	IPR2023-00768
PATENT OWNER.	U.S. PATENT NO.
	10,198,879
	IPR2023-00857

VOLUME II

CONTINUED ORAL DEPOSITION OF CHRISTOPHER K. WILSON

Wednesday, March 27, 2024

Reported by:

SUSAN ASHE, CCR, RMR, CRR
Ref. 36137-0024IP1, 36137-0025IP1, 36137-0026IP1 and 36137-0027IP1
Job No.: 24-135183

Exhibit 1085
USAA v. Auto Telematics
IPR2023-00768

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_____	)	IPR2023-00857

Oral deposition of CHRISTOPHER K. WILSON, taken on behalf of the Petitioner, continuing at 9:39 a.m., on Wednesday, March 27, 2024, at the law offices of Whiteford, Taylor & Preston, 1800 M Street, Northwest, Washington, D.C., before Susan Ashe, CCR, RMR, CRR, and Notary Public of the District of Columbia.

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WEDNESDAY, MARCH 27, 2024;
9:39 A.M. EASTERN DAYLIGHT TIME
--o0o--
Whereupon,
CHRISTOPHER K. WILSON
having been previously duly sworn, continued to be examined and testified as follows:
EXAMINATION (Continued)
BY MR. CHAKKALAKAL:
Q. Good morning, Mr. Wilson.
A. Good morning.
Q. I'd like to --
MR. TILLER: Did you have something you wanted to say?
THE WITNESS: Yeah, I do.
A. I don't know where you are, but yesterday you asked if I, you know, had any second thoughts or had thought about stuff. And a couple of things came to mind I wanted to clear up from yesterday.
One was, we were talking about sensors and sensor data, what raw data was.
Q. Um-hum.
A. And for purposes of the '271 patent, you know, raw data is the data that comes out of the sensor set, chipsets that would have been purchased

by Apple or whomever.

And so, that would be, you know, machine-readable data. You know, it is not voltages and stuff. That was a rathole I went down and irrelevant to the Wright patent.

Q. Okay. And was that in response to a particular question, do you remember, or just a general statement that you're making?

A. No. I believe there was a question along the lines of, you know, what constituted raw sensor data.

And I went down a rathole of looking at the data within the sensor rather than the data from the sensor as it would be perceived by the phone.

So I went into the -- you know, into the sensors more than, certainly, Wright does.

Q. Okay.

A. Yep.

Q. Okay. And was there something else?

A. The other thing was: I woke up at 4 this morning and realized I may have made an error yesterday when we were talking about what is driver information.

I was fixated for a while on -- while we were having that conversation, on the acceleration,

and thinking at the time that acceleration was both driver information and raw data. And it's not.

And so, I may have said that raw data could be driver -- or driver information itself.

But to be clear and consistent with the claims, driver information is derived from the raw data. It is not the raw data itself.

I can't remember exactly what I said, but I just want to be clear: Driver information is derived from the raw data. It is not raw data.

Q. Okay. And so just following up on that, if you have raw data, as you are describing it, and you -- and that in and of itself is not the driver information?

A. Yes. Driver information is derived from that.

Q. Okay. And the....

We discussed in the patent yesterday the speed and location are considered driver information. Correct?

A. Yes, I remember some discussion of that.

Q. All right. And that was disclosed in the patent: speed and location information being driver information. Correct?

A. I remember some citation to that.

I don't remember the details at this point.

Q. Okay. And just to be clear, if we can go to Exhibit No. --

A. Is this Curry?

Q. No; this is the '271 patent.

A. '271, okay.

Q. It should be Exhibit No. 2.

A. Exhibit 2.

(Whereupon, Petitioner Exhibit 2, previously marked, was presented to the witness.)

Q. And we went down to Column 4, line 26 to 27 -- sorry, 27, actually.

And so:

> ...the "driver" information -- for example, the speed and location of the vehicle.

A. I see that.

Q. Okay. So you agree with me that speed and location are driver information. Correct?

A. Yes.

Q. Okay.

(Pause.)

Q. Sorry. I'm just reviewing the statement

you made. So give me just a second.

(Pause.)

Q. Okay. So I did want to follow up on one of the things from our....

There was a question I asked you yesterday about whether the -- Curry discloses a downloaded application.

Do you remember that?

A. Vaguely, yes.

Q. And I believe you answered you weren't certain.

And to the extent, I just wanted to point you to --

MR. TILLER: So we're now on Curry?

Q. Yes. So if we go to the Curry reference.

MR. TILLER: Just give me a little warning.

MR. CHAKKALAKAL: Oh, I'm sorry about that.

A. Curry is 3.

Q. Yep. Thank you.

So for -- looking at Exhibit 3, and then we go to the page 3 -- with the caveat that this is the lower numbers -- and we go to line 14 --

A. I'll grab glasses.
Q. -- 13.
No problem take your time.
A. I don't remember where I put them last night -- I put them somewhere it would be easy to find in the morning. All right.
(Discussion off the record.)
(Whereupon, Petitioner Exhibit 3, previously marked, was presented to the witness.)
A. Okay. Where are we?
Q. The Curry reference, Exhibit 3, page 3, line 13.
A. Okay.
Q. It says:
The mobile device control module can be download and operated on the wireless device....
Do you see that?
A. I do.
Q. When you're "down-signing" -- when you download an application onto a mobile device, do you have to essentially set it up and configure it?
A. That is correct.
Q. So just to be clear -- so -- and what I'm

getting at is: You have to some sort of interaction with your phone in order to download an application and have it actually run on your phone. Right?

A. It seems to me I have downloaded apps from my computer and said, you know, download this to my phone.

So I don't know that that's necessarily true.

Q. Okay.

A. I can't remember what it would have been like in 2010, either.

Q. Okay. So since Curry discloses an iPhone 3G, do you understand that -- generally, how a downloaded application would work on an iPhone?

A. Generally. But relevant to this, I don't know if it could be downloaded from your computer, say, you know, download this and --

(Simultaneous speaking.)

Q. If you're operating the mobile device, would you have to -- like, if you're on your mobile device and you download an application.

A. That would involve interacting with -- I guess it's the Play Store or the Apple Store, and the user interface to download it from -- if you were downloading it from your phone on your mobile

device.

Q. Let's see. So I want to take you to -- we can stick on the Curry reference, and let's go to....

(Pause.)

Q. If you could take a look at Figure 1 of Curry.

A. I'm there.

Q. Okay. And....

(Pause.)

Q. In Figure 1 of Curry, you have the motion data cache that's illustrated as No. 118. Right?

A. Correct.

Q. Okay. Well, actually, let me ask you this: Curry makes reference to "safety data."

Would you agree with me that the safety data is -- includes the driver safety statistic?

(Witness reading.)

A. Can you point me to where Curry refers to "safety data."

I don't recall that and don't recall opining on that.

Q. Sure. It is on the -- if you look under -- if you look at page 7 and go to line 8:

In one embodiment, the

driving safety data can be recorded in mobile phones and then transmitted to a centrally managed data server through wireless communication links....

MR. TILLER: And again, Noel, the question is that the safety data includes -- does the safety data include the safety statistic.

MR. CHAKKALAKAL: Yes.

MR. TILLER: Okay.

A. So....

So the driving safety data of line 8 of page 7 of Curry would not include the safety statistics, because the safety statistic doesn't exist on the phone. And this is referring to stuff being sent from the phone.

So that would be the raw sensor data.

Q. Does the raw sensor data include a phone usage data?

A. I would assume -- but by "phone usage data," do you -- well, what do you mean by "phone usage data"?

Q. I guess my question to you is: What would

you understand "phone usage data" to be after reviewing the Curry patent?

(Witness reading.)

A. I don't see a specific reference to it here.

But in general, I would consider "phone usage data" to be whether the phone was being -- there was interaction between the phone and the driver at the time.

Q. And is that -- would that be raw sensor data?

A. Not according to Wright, it wouldn't be.

I mean, he has specifically excluded -- or, you know, listed the sensors that would provide that data. And the phone is, you know, noticeably absent from that list of sensors that provide raw sensor data.

Q. Okay. And in the -- from your review of the Curry reference, do you understand phone usage to be raw sensor data?

A. Can you....

Phone data....

I don't -- I mean, if you want to point to me to something, I can go there.

But I don't recall having an opinion on,

you know, the phone usage as sensor data within Curry.

Q. Well, Mr. Wilson, you've reviewed the Curry reference. Right?

A. Correct.

Q. And you made a statement earlier today about what constitutes raw sensor data. Right?

A. Correct.

Q. Okay. So I'm asking you: Is phone usage part of the raw sensor data in the Curry reference?

A. Well, according to Wright, phone usage data is not raw sensor data.

Q. Okay. That's according to Wright.

And I just want to make sure that when your -- does your opinion change if -- in the context of Curry?

A. Again, I don't believe I have formed an opinion on this. So I would say no.

Q. And just to be clear, I understand -- you know, I understand your opinions. But I'm also exploring the basis for your opinions. Right?

A. Um-hum.

Q. So I'm trying to understand the context of what you've talked about with regards -- with respect to raw sensor data. So that's what I'm

trying to understand.

Is phone usage considered raw sensor data with respect to the Curry reference?

MR. TILLER: Objection; seeks irrelevant information.

The issue is: What is sensor set data, as defined by the Wright patent?

That's what we're talking about here.

Q. Mr. Wilson, please, answer the question.

A. Yeah, I'm....

I mean, if you want to point me to somewhere in here where he is defining "phone usage data," I can look at that.

But, you know, sitting here today, I don't believe -- I don't -- yeah, I don't -- I don't have an opinion on whether phone usage is sensor data in Curry or not.

Q. What sensors would you understand Curry to disclose?

A. I see in, you know, page 7, line 5, he discloses an accelerometer sensor.

He discloses a GPS sensor.

You know, looking at line -- or page 3, line 6, it seems to be that the sensors he is

disclosing is an embedded accelerometer and a GPS receiver.

And that's all I see, just looking at this right now.

Q. Okay. So now if I take you to page 18, line 1.

And it says there:

> The driver safety data includes the acceleration data, speed data, and phone usage data to enable a usage of the mobile device to be monitored.

Do you see that?

A. I do.

Q. Okay. So the safety data includes more than just raw sensor data. Right?

A. Well, Curry here seems to -- or does define "safety data" as acceleration data, speed data, and phone usage data.

So that's what it includes for Curry.

Q. Okay. And that is more than just raw sensor data. Correct?

A. That would be more than raw sensor data, according to the Wright patent, yes.

Q. And according to your review of --

according to what you've reviewed in the Curry reference. Right?

A. Again, I don't really have an opinion on whether phone usage data is safety data or not -- or is raw sensor data or not.

So it's not inconsistent with that.

Q. Now, if you could turn to....

Well, let's look at -- let's look at Figure 1.

A. Figure 1 of Curry?

Q. Yes, sorry. Figure 1 of Curry, Exhibit 3.

And you see there...let me pull it up.

You see in Figure 1 a user permission database. Right?

It's inside the mobile phone client.

A. Yes, I see it. No. 112?

Q. Yeah. What is your general understanding of what a database does?

A. A database generally organizes information into a structured format.

Q. Okay. Would you agree or disagree that a database stores information?

A. Yeah, a database utilizes stored information.

Q. Okay. And if you look -- so in this --

and the cache also stores information. Correct?

A. Yes. A "cache" generally refers to something temporarily storing information.

Q. Okay. And if you look here, the data from the cache and -- is sent to a wireless communications link. And then that is sent -- at least has the ability to send information to the driving safety data server.

Is that correct?

A. That is correct.

Q. Okay. And the activity mode recognition that is at 120, that is -- would you agree with me that that is the module that makes a determination whether the context is, for example, driving, walking, or running?

A. Yes, I agree.

Q. And if I take you down to Figure 3 on page 26.

A. Okay.

Q. You see that same activity mode recognition in Step 306. Correct?

A. Yes.

Q. Okay. And so, that activity mode recognition would take the data from the motion data cache and determine a context, such as walking,

running, or driving. Correct?

A. Yes. That is the role of the activity mode recognition module is to determine the context.

Q. And that recognition -- activity mode recognition sends data to a database on the wireless device. Correct?

A. Yes.

Q. Okay. Now, if we turn to page....

Now, if you turn to page...13, there's a discussion of Figure 3 starting at line 20. Correct?

A. Yes.

Q. All right. And it....

And starting at line 21, it talks about the monitoring mode. So it says:

> If the mobile "device" is not in monitoring mode, the motion recording process can be activated 302 on the phone.

And then it goes on to say:

> This may be accomplished by the user of the phone, or through an automated process by the mobile phone client when a selected type of motion is

detected.

Correct?

A. I see that, yes.

Q. Now, I want to take you to page 15.

And this is still under the discussion of Figure 3.

And you can recognize that by the numerals of the figures are that referenced on page 15.

But I'm at line 24 of line [sic] 15.

A. Okay, I'm there.

Q. It says:

To detect the complexity of a driving situation/context, the activity mode recognition module 306 can use a number of data sources, such as the motion data cache...traffic "incidents" reports from public or private traffic information providers, real-time traffic information from roadside sensors, and local traffic data exchanges through vehicle-to-vehicle communications.

Do you see that?
A. I do.
Q. And it says:
A statistical model can be used to estimate and classify the complexity of the driving -- of driving situations and driving attention needs, and then accordingly prevent the cell phone use under complex/critical driving contexts.
A. I see that.
Q. Okay. So the....
As described here, you can have the context and you can compare it to a model to determine driving situations and context. Correct?
A. Run that by me again, here.
Q. Sure. You have the context -- well, the -- let me put it this way: The activity mode recognition module that determines context --
A. Um-hum.
Q. -- can also use a number of data sources to detect the complexity of a driving

situation/context?

A. Correct.

Q. Correct?

And it can be compared to a statistical model to further estimate and classify the complexity of the driving situations?

A. Yes.

Q. Okay. And as we previously discussed, the -- in the context of Figure 3 -- and if you'd like to go back to it, the data from the activity recognition module is sent to a database.

A. Yes.

Q. Okay. All right. So I would like to take you now to page -- well, let me go on to -- let's see here....

All right. So let's go to your declaration. This is Exhibit 1, page -- sorry, paragraph 54.

(Whereupon, Petitioner Exhibit 1, previously marked, was presented to the witness.)

A. I'm there.

Q. And in particular, I wanted to ask you about the concept of geofencing.

Your opinion here is that a geofence may be excluded from the -- the time it -- the portion

of the driving period during -- that it takes to leave the geofence may be excluded from the -- from the driving period.

Is that correct?

A. That is correct.

Q. Okay. Now, the concept of a geofence is not disclosed in the patent specifications, is it?

A. To the best of my recollection, that's correct.

Q. And the....

And geofence isn't a property of the vehicle. It's a function performed by the phone.

Is that correct?

A. I mean, a geofence is a boundary or a fence generally set up as an administration tool that something is triggered when one crosses the fence or goes from -- is inside or is outside.

The fence could be implemented, you know, on many different systems, many different processors.

Q. In the context of your declaration here, you're referring to the geofence functionality of the phone that the app may be downloaded to.

A. Here, I am referring to a driving period as a POSITA would understand it.

And a POSITA would understand that one way to trigger a driving period, especially for commercial vehicles, is when they leave a -- cross a geofence and leave a docking site or a customer or something like that.

So that's fairly common.

Q. Right. So I'm trying to understand how the -- how it would know it has crossed the geofence.

And that's because the geofence's functionality is implemented on a phone that has GPS.

Is that correct?

A. It could be implemented on the phone. It could be implemented on a server if the GPS data -- I mean, it's basically a comparison of a position to a region.

And that comparison could be done in the case of Wright or somebody on the phone itself or on the server -- theoretically could be done, either one.

Q. But it would have to -- when you say a "server," that is a server in communication with the phone. Correct?

A. It would have to know the location of the

phone in order to compare that to the fenced area.

Q. Right. So the location of the phone is the location of the vehicle, so to speak?

A. Yes.

Q. Okay.

A. Location of the phone is a surrogate for the location of the vehicle.

Q. Okay. So then when you know that the phone has left the geofence, you know the vehicle has left the geofence -- assuming that you've made a determination that the owner of the phone is driving. Correct?

A. I guess that's correct.

And again, this is addressed to driving periods in general, and not specifically to Curry or Wright or any of the other prior art references.

Q. And I -- well, I'm trying to understand your -- where you're going with the geofence part of it.

A. I'm not particularly going anywhere with that.

I'm just pointing out that that is a -- another fairly typical way to start a driving period that it -- a POSITA would understand.

Q. Well, I just....

(Pause.)

Q. Just so I'm clear, going to your opinions expressed in paragraph 54, in order for a geofence to work you have to know that the -- the -- or you would have to know that the person is driving and you'd have to be able to use the phone's GPS to determine the location. Correct?

A. Well, the geofence -- I guess it depends on what you're geofencing.

To the extent you're geofencing the phone, you just need to know the phone's location and compare it to the area, the region of the fence.

If you want to geofence the person or the vehicle, you have to make that association either implicitly or explicitly.

But, again, this is just a generic, fairly standard way of implementing a driving period in the industry.

Q. I understand. And so that's what I'm saying: In the context of driving period -- because that's what your geofence opinion here is related to here. Right?

A. Yes.

Q. In the context of driving period, you would have to know -- in order for a geofence to be

effective, you'd have to know the -- that the person is driving and the location of the phone.

A. The geofence is based on a GPS unit. Whether that's on the phone, the vehicle, the person, doesn't really matter. It's: Is that GPS unit within the fence?

Now, in certain contexts, the GPS unit is just a GPS unit. In others, it's a person. In others, it can be a vehicle.

That's all secondary to the geofence process.

Q. So in paragraph 54, you are talking about "driving period" in the context of the asserted patents. Correct?

A. Paragraph 54 is talking about "driving period" in the context of monitoring people for insurance types of reasons in the context in which the patent is also working.

Q. Okay. And in the context of the patent, it would use the GPS from the mobile device?

A. Correct.

Q. Okay. And Curry discloses the use of a phone with a GPS. Correct?

A. Yes, he does.

Q. Okay. And Curry also discloses a -- the

ability for the activity recognition program of Curry to be in an "always-on" state. Correct?

A. Yes.

Q. Okay. And in an "always-on" state, the system of Curry would be able to recognize when a user is driving -- that's the purpose of the activity recognition program. Correct?

A. When the activity mode recognition program does its stuff, the output is a flag or an indication of whether the vehicle is driving, walking -- whatever the activity mode is at that time.

Q. So for the same reasons....

Well...so Curry is able to determine whether a user is driving. Correct?

A. Curry has this activity identification module, which determines whether a user is driving or in some other -- one of a limited number of other states.

Q. And Curry is able to know the location of a vehicle based on the location of the GPS in the phone. Correct?

A. That's correct.

Q. Okay. Now, is there any description in the specification how the -- and the specification

of the asserted patents -- of how to exclude the geofence portion?

A. I do not recall any discussion of geofences in the Wright patents.

Q. Okay. Is there any discussion in....

Is there any discussion in the asserted patents of how to exclude either of the other two criteria you listed in your parenthetical, which is absent short periods related to getting up to speed or backing out of the driveway?

A. Well, Wright does indicate one of the criteria can be, you know, a certain speed threshold.

Q. Okay.

A. For both -- for starting the driving period as well as a certain stationery threshold of time for ending a driving period.

Q. And just to be clear, so your testimony here today is that setting a threshold and starting the driving period is the same as excluding a portion of what would otherwise be considered the driving period?

MR. TILLER: Objection.

A. Setting the threshold is -- you know, by definition, the time before the vehicle achieves

that threshold is not going to be included in the analyzed driving period.

Q. So what I'm trying to understand is, is....

Let's put it this way: You have -- you start driving at Time A. You get up to speed at Time B, and you drive at Time C.

Is the driving period A to C, and then the system then excludes A through B? Or is the driving period B to C?

A. The driving period of Wright would be B to C.

Q. Okay. And there's no discussion in your -- sorry, there's no discussion in the asserted patents of how to exclude backing out of a driveway. Correct?

A. Again, the....

I don't recall any discussion of backing out of a driveway in the patents.

Q. And just going back to that A to B to C hypothetical -- so it's B to C, because of the threshold that's set. Right?

A. B is the trigger -- or the threshold is the trigger that starts the driving period or an example of a trigger that starts the driving period,

according to Wright.

Q. Okay. But that threshold that's in Claim 1 of the '271 patent is the --

A. Hang on a second.

Q. Sure.

A. Claim 1 of the '271 patent.

(Witness reading.)

A. Okay. I see "threshold" at line 56 of Column 31 of the '271 patent.

Is that what we're referring to?

Q. Yeah. And that is the example that you're giving of support for your opinion in paragraph 54, that you can exclude a portion of the driving period for the time that it takes the vehicle to get up to speed. Correct?

A. I would say no to that.

My opinion in paragraph 54 is based on my experience working with these systems to determine insurance premium, modify driving behavior, or to determine the cause of an event such as an accident.

And that's mostly the basis for paragraph~54, which I believe is consistent with Wright.

Q. So...and that's -- that's your experience -- that's your experience at the....

Sorry, I'm trying to phrase this correctly.

When you talk about your experience, you're applying it at the time of the patent. Right?

A. Yes.

Q. 2009, 2010 time frame.

A. Yes.

Q. So in your opinion, it would have -- like a person of ordinary skill in the art would have known to include something like a driving up to -- include driving up to speed as part of a -- to exclude that from a driving period.

A. A person of skill in the art would have understood that the driving period missing that relatively short period of drive would not significantly affect the analysis or the results that one would obtain.

Q. And excluding that period of the drive is functionally equivalent to setting a threshold?

A. That is how that is implemented in that case.

Q. So if I....

So you would agree with me -- well, so let's go back to the Curry reference, Exhibit 2 --

sorry, Exhibit 3.

And if you recall, we talked yesterday about -- we briefly talked about Curry disclosing unsafe driving -- or detecting unsafe driving, such as abnormal acceleration.

Do you recall that?

A. I recall there was a discussion along those lines, not the specifics of it right now. But....

Q. Okay. And to the extent that -- so Curry also discloses scoring the driving. Right?

A. Yes, he does.

Q. Okay. And the rationale that you expressed with regard to driving period -- and I'm going to paraphrase it, so correct me if I'm wrong -- but the rationale that you expressed for driving period for the asserted patents was that the insurance companies would want to collect the entire driving period so that they're missing as little information as possible that would be relevant.

Is that correct?

A. Ideally, it's the entire driving period.

But it's sufficient to have a representative sample or a fair sample that would include most of the driving.

Q. And when we say "driving period" -- you know, and they do that over the course of the policy.

A. Can you rephrase the question.

Q. Sure. You're not limiting it to one driving period, right -- it's multiple driving periods?

A. Correct. So, you know, these sorts of systems, you know, often are on a vehicle the entire time the vehicle is insured.

Sometimes they're put on for three months to sort of get an assessment and set a premium, and then they're taken off.

Q. Okay. So if I took you to Exhibit 3, Curry, the Curry reference, and --

A. Figure 3?

Q. Sorry -- Exhibit 3, Curry.

-- and took you to page 13, and then the paragraph that starts, "The safety performance data...."

Do you see that?

A. I do.

Q. So I am going to take you to line 11. And it says:

In addition, unsafe

behaviors of
talking-while-driving and
texting-while-driving can be
accordingly associated with
driver point penalties.
Do you see that?
A. Yes, I do.
Q. And then it says:
The score over a selected
time period (e.g. 1 year or 2
years) can be compiled and
summarized to form a driving
safety score.
So that's expressing a similar rationale
to what you've expressed with respect to the driving
periods in the asserted patents. Correct?
A. Yes.
Q. Now, let's go to....
MR. CHAKKALAKAL: Well, we've
been going for just about an hour. So
let's take a 10-minute break.
(Whereupon, a recess was taken
from 10:38 a.m. until 10:48 a.m.)
BY MR. CHAKKALAKAL:
Q. Welcome back, Mr. Wilson.

So we were just talking about the -- about how your score may be decreased, as disclosed -- how a driving score may be decreased, as disclosed by Curry.

In addition to the talking-while-driving and texting-while-driving, Curry discloses reducing a score based on speeding, abnormal deceleration, abnormal acceleration, and sharp turns. Correct?

(Pause.)

Q. And to be clear, I'm not necessarily pointing to just that paragraph. I'm talking about, in general, Curry discloses reducing a score based on that information.

A. I see here reducing the score based on speeding and talking-while-driving, etc., in this paragraph.

Q. Okay.

A. I don't see the others here. But....

Q. Well, if you go to page 9, line 27, it identifies "speeding, abnormal deceleration and sharp turns" as unsafe driving behavior. Correct?

(Witness reading.)

A. Yes. This identifies "unsafe driving behavior such as speeding, abnormal deceleration and sharp turns."

Q. So I want to take you to Exhibit 1, which is your declaration. And if you could go to paragraph 123.

A. I'm there.

Q. And in the middle of that paragraph, you express the opinion that:

> At no point does Curry disclose or suggest the determination of "a start of a driving period."

Do you see that?

A. I do.

Q. Okay. The....

You did not use the PTAB's preliminary construction for "driving period," correct? -- in making this opinion.

A. I used the plain and ordinary meaning of "driving period," as informed by the specification and my knowledge as a POSITA.

Q. I understand.

And I understand from our discussion yesterday the PTAB construed "driving period" in agreement with petitioner, which is it was defined -- well, let's....

It's going to be in Exhibit 4.

(Whereupon, Petitioner Exhibit 4, previously marked, was presented to the witness.)

Q. If you go to page -- give me a second, here.

(Pause.)

Q. So if we go to page 23, the second full paragraph -- the second paragraph that starts with, "We agree...."

A. I'm there.

Q. Okay. So:

> We agree with Petitioner's construction, to the extent the Determination Limitation expressly defines the "driving period" as corresponding to a period "during which the mobile device is removably attached to the vehicle and the vehicle is in use."

Do you see that?

A. I do.

Q. Okay. So you did not use the PTAB's construction. You used what you're saying is the plain and ordinary meaning. Correct?

MR. TILLER: Objection to the

characterization of PTAB's construction.

I don't think this construes the term "driving period."

Q. And just to clarify, you agree with me that here that the PTAB is saying that it agrees with the petitioner's construction. Correct?

A. Yes.

Q. Okay. And it defines "driving period" as a period "corresponding to a period 'during which the mobile device is removably attached to the vehicle and the vehicle is in use.'" Correct?

A. That is the identified petitioner's construction here, yes.

Q. But that's not what you used in your declaration.

A. That is correct.

Q. Okay. Do you concede that, under the PTAB's construction, this limitation is disclosed in Curry?

A. Which limitation are we --

MR. TILLER: The same objection.

A. Which limitation are we talking about?

Q. The driving period, start of a driving period.

A. No, I do not.

Q. Okay. Does Curry disclose an electrical or physical connection to the vehicle?

A. Not that I recall at this time.

Q. And in your opinion, that is required in order for the limitation of -- or the portion of the definition that says "removably attached" to be met?

MR. TILLER: Objection; beyond the scope.

A. Yes.

Q. Okay. And I'm going to just clarify that question a bit, because I asked that as a limitation or as a portion of the definition. So let me ask it both ways.

In your opinion, the electrical or physical connection must be shown in order for the "removably attached" limitation to be met. Correct?

A. Yes.

MR. TILLER: Objection; beyond the scope.

Q. And it pretty much also disclosed an electrical or physical connection --

COURT REPORTER: Could you repeat the beginning of that question. I didn't understand you.

MR. CHAKKALAKAL: Sure.

COURT REPORTER: What was your objection, by the way?

MR. TILLER: "Beyond the scope."

COURT REPORTER: "Beyond the scope," thanks.

Q. And under the PTAB's construction, an electrical or physical connection must also be shown in order for the "removably attached" portion of the definition of "driving period" to be met. Correct?

MR. TILLER: Objection; beyond the scope.

A. Can you repeat that. The PTAB construction part --

Q. Sure.

A. -- threw me off a bit.

Q. Under the PTAB's -- sorry, under petitioner's construction, which the PTAB has agreed to, in order for the portion of the definition that refers to "removably attached" -- in order for that to be met, Curry must disclose an electrical or physical connection to the vehicle. Correct?

MR. TILLER: The same objection.

A. First of all, I don't know that the PTAB has agreed to that, other than tentatively for purposes of that decision.

And I didn't opine on this.

But that's, you know, a quick reading of stuff -- or my impression now, without having thought about it fully, is, yes, that's the case.

MR. CHAKKALAKAL: All right.

Mark this Exhibit No. 9.

(Whereupon, Petitioner Exhibit 9 was marked for identification.)

Q. Mr. Wilson, I'm handing you what's been marked as Exhibit No. 9.

A. Thank you.

Q. Mr. Wilson, do you recognize Exhibit No. 9?

A. I do.

Q. And what is it?

A. This is United States Patent No. 8,682,399 to Rabu.

Q. Dr. Wilson, would you agree with me that -- well, you discuss the Rabu reference in your declaration. Correct?

A. That is correct, and it's "Mr. Wilson."

Q. Sorry.

A. That's okay.

Q. Rabu discloses a "PMD" or "Personal Mobile" -- sorry, "Personal Mobile Device."

Correct?

A. Yes, he does.

Q. And that could be a cell phone, to the best of your knowledge?

A. Yes.

Q. So the system of Rabu is intended to work on a mobile device. Correct?

A. That is correct.

Q. Okay. Similar to Curry?

A. Curry also makes use of a backend.

But they both do run on mobile devices, yes.

Q. And Rabu discloses the use of accelerometers.

Is that correct?

A. Yes.

Q. From your review of the Rabu reference, does it require any kind of specialized accelerometer or is it just a standard accelerometer that would be on a mobile device?

MR. TILLER: Objection to the characterization of a "standard" accelerometer.

A. Yeah, to implement Rabu would require certain specifications or capabilities of the

accelerometer that would need to be determined during the development phase.

Whether those could be met by a standard accelerometer or not, I don't have an opinion on at this time.

Q. Do you have -- from your review of Rabu and Curry, do you have any reason to believe -- so if you remember, Curry discloses an iPhone 3G. Correct?

A. Correct.

Q. Do you have any reason to believe that the system disclosed in Curry -- sorry, in Rabu -- would not work on the iPhone 3G that's disclosed in Curry?

A. I really have no opinion or idea, but mostly because I don't understand how Rabu would actually work in practice.

Q. Okay. So looking at Rabu, let me take you to....

Let me take you to page -- sorry, Column No. 2 of Rabu.

A. I'm there.

Q. Okay. In general, would you agree with me that Rabu discloses an ability to determine when a user is driving?

A. Are you looking at something specific in

Column 2?

Q. Well, I'm asking you, in general, based on your review of Rabu, do you have an understanding that Rabu discloses whether a user is driving?

A. It discloses an approach for determining if a user is driving, yes.

Q. Okay. And if we look at the...Column 2 under the "DETAILED DESCRIPTION," starting at line 52, there's a description of "holder status." And then at line 56, there's a description of "holder motion status."

Do you see that?

A. I do.

Q. Do you have understanding of what "holder status" and "holder motion status" are?

A. Yes, I do.

Q. Now, would it be fair to say that the "holder status" is the orientation of the device?

A. I would say the "holder status" is more if the device is mounted or, you know, physically constrained in some way, which is, in part, based on the orientation.

But the "holder status" itself is how it's being held.

Q. So the idea for "holder status" -- the

idea for "holder status" is that you have a mobile device and you can use an accelerometer to determine its orientation.

And if, for example, it is at an orientation of, let's say, 45 degrees, then that may be indicative of the fact that it's in a dock. Correct?

A. That's the general idea, yes.

Q. And the....

And in general, the idea of "holder motion status" is to determine what -- you know, whether the device is moving. Correct?

A. Correct, and, you know, whether it's moving in a car or pedestrian or those sorts of things.

Q. Right. So the idea is that the -- you can use -- if you have the orientation of the device and you know that it's in the dock, and then you use the motion status and determine that it's moving and that it has kept the same orientation, that tells you that it's in a dock in a car?

A. If the motion status is driving, yes, that would be the point of Rabu.

Q. Right. But you can use both of those together, right? -- the "holder status" and the

"holder motion status" -- to make the determination?
A. Yes.
Q. Okay. And all you need to implement the teachings of Rabu is an accelerometer. Correct?
MR. TILLER: Objection.
A. That is the only sensor that you need to implement Rabu, yes.
Q. And based on the fact that Rabu can determine if a person is driving, in part, based on whether the phone is in a dock and whether it's moving, would you agree with me that Rabu discloses a -- at least a physical attachment to the vehicle?
A. When the vehicle [sic] is docked, there is a physical attachment.
Rabu also addresses situations where it's not docked -- in which case, it would not be attached to the vehicle -- or would not be removably attached to the vehicle.
Q. Okay. So to be clear, Rabu addresses the situation where it's docked while driving. Correct?
A. Yes.
Q. And Rabu also discloses a situation where it's docked but not driving. Correct?
A. Yes.
(Pause.)

Q. And, I'm sorry, I just want to get a clarification.

So the question I previously asked you was:

And based on the fact that Rabu can determine if a person is driving, in part, based on whether the phone is in a dock and whether it's moving, would you agree with me that Rabu discloses at least a physical attachment to the vehicle?

The answer, as written here, says:

When the vehicle is docked, there is a physical attachment.

Did you mean to say when the phone or mobile device is docked?

A. Yes, I did.

Q. Okay. Thank you.

Now, for "holder motion status," that relies on a comparison of frequency spectrum.

Is that correct?

A. That is correct.

Q. So the device determines a frequency

spectrum, and at least in one embodiment compares it to a saved list of frequency spectrums. Correct?

COURT REPORTER: Did you say "safe" list?

MR. CHAKKALAKAL: "Saved" list.

COURT REPORTER: Oh, "saved" list.

A. That is correct.

Q. Okay. And from that comparison, it matches up a frequency spectrum to make a determination as to motion status.

A. The system proposes to bind a corresponding frequency spectrum in the reference set to determine the motion status.

Q. And that spectrum set is stored on the mobile device. Right?

A. That is the proposal of Rabu, yes.

Q. At least in one embodiment. Correct?

A. At least in one embodiment, yes.

Q. Curry discloses the ability to store information on the mobile device. Right?

A. In general, yes.

Q. And Curry also discloses using sensor data to determine a context. Correct?

A. Yes.

Q. And I want to take you to Column 12 of Rabu -- That's Exhibit 9 -- line 37 -- sorry, 38.

It says there:

> For example, if the PMD determines that "it" is being held by the driver, the PMD can disable...text messaging feature of the PMD to prevent the driver from sending or receiving text messages while driving.

Do you see that?

A. I do.

Q. So one of the disclosures of Rabu is to prevent cell phone usage while driving. Right?

(Witness reading.)

A. Yes.

Q. And one of the...one of the....

Let me phrase it this way: Curry also discloses the ability to prevent drivers from using their phones while driving. Correct?

A. Yes.

Q. Curry and Rabu both disclose determining when a person is driving. Right?

A. Yes.

Q. And in Curry, it talks about making that determination based on data from an accelerometer and a GPS receiver. Correct?

A. That is correct.

Q. So if I go back to Curry and I'm looking -- so it's Exhibit 3. And I'm looking at page 17.

A. Okay.

Q. And it talks about Figure 5. And it says:

...how to combine information from GPS and accelerometer sensors --

MR. TILLER: Where are you reading from?

MR. CHAKKALAKAL: The first line.

MR. TILLER: Okay.

Q. (Reading:)

FIG. 5 illustrates how to combine information from GPS and accelerometer sensors to precisely identify the type of activity.

Do you see that?

A. I do.

Q. Okay. So in general, this paragraph is talking about how, in Curry, you would identify the type of activity. Right?

(Witness reading.)

A. Yes.

Q. And Rabu discloses another way to identify the type of activity by just using an accelerometer. Correct?

MR. TILLER: Objection.

A. Yes.

Q. Okay. So would you agree with me that one of the goals of Curry is to precisely identify the type of activity?

A. I would say that the goal of Curry is to accurately identify the activity to driving or not driving.

Q. Okay. And just to be clear, that's one of the goals. Right?

A. Yes.

Q. Okay. In general, when you have -- when you're trying to determine something, if you are able to determine it using one method and then you're able to perform a second method to make the same determination and, if the two determinations match up, would you agree with me that you have more

accurately identified the activity?

MR. TILLER: Objection; beyond the scope, calls for hypotheticals.

A. I would agree with you.

But there also is a cost associated with that; namely, one -- in this case, we don't know that the accelerometer, Curry, can meet the demands of the application of Rabu.

Secondly, there is, you know, significant amount of processing that would be difficult to perform in order to implement Rabu.

So if -- so I'd leave it at that.

(Pause.)

Q. So the...so when you talk about "holder motion status" in your report on page 130 -- sorry, paragraph 130 -- so it's Exhibit 1, paragraph 130.

A. Hang on a second.

Paragraph 130...okay, I'm there.

Q. And you....

If you look at the third full sentence that begins with "Rather," it says:

Rather, Rabu determines a holder status and a holder motion status for a mobile device, using the device's

orientation angle and frequency spectrum while in a holder, respectively, and from those statuses, the mode the device may be in (e.g., standing still, walking, or driving).

Do you see that?

A. I do.

Q. And if we go to that -- and you cite to Rabu at Column 7, 31 to 60.

Do you see that?

A. I do.

Q. Okay. And if we go to Columns -- that column and the first line, would you agree with me that it says there that:

In some embodiments, the frequency spectrum for a holder motion can be "defined" -- determined as described below.

A. Yes, it says that.

Q. Now, Rabu does disclose...so if I take you to Figure 4 of Rabu.

A. Okay.

Q. The figure includes a GPS device. Right?

A. Yes.

Q. And an accelerometer. Correct?
A. Correct.
Q. Okay. And the....
And if we go to line -- to Column 4, line~41, it talks about the use of the GPS device. Right?
A. Yes, it does.
Q. Okay. And it can...it says that the:
GPS device...can be -- can provide the location of "the" PMD...in 3-dimensional coordinates....
Do you see that?
A. I do.
COURT REPORTER: Three-dimmensional what?
MR. CHAKKALAKAL: "Coordinates."
COURT REPORTER: Thank you.
A. I do.
Q. So the...so in Rabu, you have a holder status that determines whether the phone is docked or not, relying on the orientation. Correct?
A. Yes.
Q. Okay. And then you have a holder motion status that determines whether the person is in

motion.

And that can be determined using frequency spectrum comparison based on an output from -- well, it can be based on frequency spectrum analysis. Correct?

A. Yes, that is the general idea of Rabu.

Q. So another way of doing -- of analyzing motion is Curry's methodology of using an accelerometer and GPS. Correct?

A. That is -- and Curry's method also determines motion status -- discriminates between driving and nondriving.

Q. Right. So it's -- but it's determining whether the person is driving, which means whether the person is in motion in a vehicle. Correct?

A. Correct.

Q. Okay. And so, the same hardware that's disclosed in Curry to determine motion is also disclosed in Rabu. Correct?

A. The same generic hardware is disclosed.

As I tried to indicate earlier, the requirements on the Curry hardware -- the technical specifications are reasonably well predictable.

Depending on how this frequency spectrum -- what it entails, the accelerometer of

Rabu may have completely different requirements or much more stringent requirements than the accelerometer of Curry.

And, you know, aside from that, you've cited to the image -- or the spectra comparison problem.

Q. Um-hum.

A. And I think that is, you know, even more of an issue here of -- even given the spectra, it's my opinion that comparing two spectra is, you know, well beyond the skill level of the POSITA defined here.

So, you know, even given the, you know, proper hardware, the main problems lie in the software, in the algorithms that Rabu would require.

(Pause.)

Q. So Mr. Wilson, earlier I asked you:

Do you have any reason to believe that the system disclosed in Curry --

Sorry -- yes:

Do you have any reason to believe that the system disclosed in Rabu would not work on the iPhone 3G that's

disclosed in Curry?

Do you recall me asking you that question?

A. I don't, but I remember questions along that line. I don't recall that specific question.

Q. And you responded:

I really have no opinion or idea, because -- but mostly because I don't understand how Rabu would actually work in practice.

Now, when you gave this -- well, do you recall giving that answer?

A. I do.

Q. Okay. So I just want to ask you that question again: Do you have any reason to...do you have any reason to believe that the system disclosed in Rabu would not work on the iPhone 3G that's disclosed in Curry?

A. So I don't know the specs of the iPhone 3 at the time. So I can't speak to that.

I do know that, you know, even today I think this problem of comparing spectra would be difficult to do.

It would take me, as a POSITA, a significant amount of time. And there have been a

lot of advances in this field since 2012.

So --

Q. And just --

Sorry. Go ahead.

A. -- given that, I would strongly suspect that the iPhone 3 did not have sufficient processing or probably memory to implement this.

But, you know, not knowing the specific requirements that it would take to implement Rabu or how to go about doing that, I can't -- I can't make a strong -- a firm opinion on how that -- if it could be implemented on the iPhone 3 or not.

Q. Now, you understand Rabu discloses not just motion -- holder motion status but also holder status. Correct?

A. Yes, I do.

Q. Okay. So is your opinion that the iPhone 3G, as disclosed in Rabu -- as disclosed in Curry -- could not perform the holder status function and the holder motion status function?

A. I don't have an opinion on that.

Curry seems to -- or Rabu integrates the two.

And again, I feel it's quite unlikely that an iPhone 3 could support what would need to be done

to execute Rabu.

But without testing and so forth, I couldn't -- I don't know that for certain.

Q. Mr. Wilson, does the Rabu reference disclose how to determine a holder status?

MR. TILLER: Objection. We've gone through this a lot already.

A. Yes, it does.

Q. Okay. Can the iPhone -- is it your opinion that the iPhone 3G, as disclosed in Curry, cannot perform that functionality?

A. I don't have an opinion on that.

MR. TILLER: Objection; asked and answered.

Q. And is it your understanding that the holder status of Rabu can be used in conjunction with a determination of whether the phone is in motion?

A. Rabu proposes that the holder status and the motion status of the phone are used in combination.

(Pause.)

MR. CHAKKALAKAL: Okay. We've been going for about an hour. Let's take a 10-minute break real quick.

THE WITNESS: Okay.

(Whereupon, a recess was taken from 11:54 a.m. until 12:04 p.m.)

BY MR. CHAKKALAKAL:

Q. Are you all set, Mr. Wilson?

We've discussed numerous claim terms over the last two days, such as "driving period," "removably attached," "vehicle in use," "user data" -- "user inputs," "sensor set," "image sensor audio," "sensor accelerometer," "position module," "user interface processer," "a mobile device configured to start up a driving period," "processing sensor data," "deriving driving information," "storing a downloaded application."

Do you recall discussing --

A. Certainly, many of those and -- yeah.

Q. Okay. We discussed these primarily in the context of the -- well, to the extent we discussed those in the context of the '271 patent and to the extent that those terms are also present in the claims of the other asserted patents, do the opinions you expressed with respect to those terms hold true for the other patents as well?

A. Yes. I'm not aware of any terms that would be -- that have different meanings in the

different patents based on their claims.

Q. So you're not aware of any of your analysis that would change for the other asserted patents? -- with respect to those terms.

A. Correct.

Q. Okay. We also discussed certain prior art references -- for example, Curry and Rabu.

Do your -- do opinions with respect to those references also hold true -- sorry.

Do your opinions -- let me start that one more time.

So we -- to the extent that we discussed Curry and Rabu and other references in context with your declaration in the -911 and -857 petitions, would those opinions hold true for the other -- for your declaration in the other two petitions?

A. Yes; as far as I can think right now, yes.

Q. Okay. Is there any analysis or testimony that you've given over the last two days that you believe would be different for the -- with respect to your declaration in the other two petitions?

A. Of the matters we've discussed, I believe my opinions are not -- are the same with, you know, any of these four patents.

Q. Okay. And between your two declarations?

A. And between my two declarations, yes.
Q. Now, the....
(Pause.)
Q. Now, you mentioned, in your understanding of legal principles, that you have an understanding of claim construction.
Is that correct?
A. That's correct.
Q. Okay. And you also mentioned that you -- in your opinions, that you had been informed of the district court claim construction. Correct?
A. That's correct.
Q. Okay. Do the same claim construction standards apply to proceedings in the PTAB and the district court?
A. I believe there was some change in the standards some time ago. I can't remember exactly what that all was. So, I don't think always.
But I believe, currently, they're the same. But that -- yeah.
MR. CHAKKALAKAL: I will go ahead and pass the witness.
MR. TILLER: Oh, you're done?
MR. CHAKKALAKAL: Yes, sir -- well, the one thing I wanted to put on the

record before is our agreement that the testimony can be used in all proceedings. Correct?

MR. TILLER: All right. Since you caught me off guard a little bit by passing to me now, why don't we take lunch.

MR. CHAKKALAKAL: Okay.

(Whereupon, a recess was taken from 12:10 p.m. until 12:52 p.m.)

EXAMINATION

BY MR. TILLER:

Q. Mr. Wilson, good afternoon.

A. Good afternoon.

Q. I'd like to have you take a look at Exhibit 2 again, which is the Wright '271 patent.

A. Okay.

Q. Taking a look at Claim 1 -- so Column 31, line 38.

A. Okay.

Q. Before we look at that, you had some discussions with counsel, I think, yesterday, where there was discussion about something being capable of doing something.

Do you recall that discussion?

A. Generally, yes.

Q. What does it mean if, for example, a piece of machinery or computer or anything is capable of doing something?

A. To me that means that, you know, if it is programmed or utilized in a certain way -- you know, specifically programmed when it comes to computer-type devices -- that it is -- if programmed appropriately, it would be capable of performing whatever action.

Q. Would a POSITA understand -- a POSITA in this case understand it to be the same thing?

A. I believe so, yes.

Q. So here in Claim 1 -- specifically, line 38 -- the claim says the mobile device, or the phone, is "configured to."

Is that the processing you were just talking about, to configure something?

A. Yes. So "configured to" here, in my opinion, requires not only -- it's a step beyond capable.

"Capable" means, essentially, it could be configured to do this thing; whereas, "configured to" means it actually is ready to do it -- not that it is doing it, but that it could without further

modification or programming.

Q. I'm going to have you take a look at -- strike that.

Before I switch -- and a POSITA would understand it to -- that "configured to" would be -- would be met as well?

A. My opinion is that that is consistent with what a POSITA would understand, yes.

Q. Okay. Take a look at Exhibit 3, which is the Curry reference.

A. Okay.

Q. I'd like you to take a minute to read, beginning on page 3 -- and again, I'll use the bottom number -- the last paragraph of page 3, beginning, "The motion data cache...," through that paragraph that ends on page 4 -- if you could take a second to just refresh your memory on that.

(Witness reading.)

A. Okay.

Q. Okay. So looking at page 3, line 26, would you agree with me that Curry says:

> The data in the motion data cache can be transmitted to and stored on the data server.

A. Yes.
Q. Okay. And the motion data cache, I believe you've testified to multiple times, is where the raw sensor data is?
A. Where it is cached, correct.
Q. Okay. There is also discussion about user permission data in this paragraph -- literally, the next sentence, beginning on line 27 of page 3:

> The data in the motion data cache can be compared with the user permission data....

What is the "user permission data"?
A. The "user permission data" is a set of data indicating permissions that the user would have.
Q. Permissions with regard to where, when it can use a phone?
A. Yes; permission -- permissions about spaces they may be able to drive and use a phone or other conditions under which -- specifically, conditions under which they may be able to use a phone while driving.
Q. And here in this paragraph, that sentence says:

> The data in the motion

data cache can be compared with the user permission data to enable a driver safety statistic....

Do you see that?

A. I do.

Q. So it is here where Curry is talking about taking the motion data, or the raw GPS sensor data, comparing it with the user permission data to determine the driver safety statistic. Correct?

A. Correct.

Q. Okay. Going to the end of this paragraph, which is on page 4, the last sentence says:

The safety statistic --

MR. TILLER: And I have to admit, that's hard to say fast, "safety statistic" -- I know you messed it up a couple times.

BY MR. TILLER:

Q. Anyway, I'm sorry, let's get back.

The last sentence says:

The safety statistic can be reported to or calculated at the data server.

Correct?

A. Yes.
Q. Now, this sentence doesn't say from where this reporting to the data server occurs, does it?
A. It does not. And I believe I pointed that out in my testimony earlier.
Q. Correct.
Now, I'd look to have you take a look at Figure 2 of Curry, which is on page 25.
A. Okay.
Q. So do you see -- would you agree with me that sort of on the left-hand side of Figure 2 there is a part of the figure that references the "Driving Safety User Control and Monitoring Web Site." Correct?
A. Yes.
Q. And looking -- and quickly looking at Figure 1, the "Driving Safety User Control and Monitoring Web Site" is in communication with the data server. Correct?
A. Yes.
Q. Okay. And the....
Going back to Figure 2, would you agree with me that element 206 of Figure 2 shows the user permission or use permission database on the "'Driver' Safety User Control and Monitoring Web

Site" -- correct?
A. Yes.
Q. And would you also agree with me that the "Driving Safety User Control and Monitoring Web Site" includes 208, which is called the "Driving Safety Performance Database"?
A. Yes.
Q. Okay. I'd like you to take a look now at page 13, lines 1 and 2.
Are you there?
A. Yes.
Q. That first sentence says:
The motion data from a mobile phone can be transmitted to the driving safety performance database in the data server....
A. I see --
Q. ...208.
A. Yes.
Q. Okay. So "208" again refers to the website. Correct?
A. "208" is identified in Figure 2 as the "Driving Safety Performance Database" on the "Driving Safety User Control and Monitoring Web

Site".

Q. So would you agree with me, based on page 13, lines 1 and 2, that the motion data -- which is stored in the motion data cache of the phone, correct?

A. Correct.

Q. -- can be transmitted to the driving safety performance database in 208?

A. Yes.

Q. Okay. So on the website, the "Driving Safety User Control and Monitoring Web Site," there is the user permission information. Correct?

A. Yes.

Q. And there is the motion data cache information. Correct?

A. Yes.

Q. And both of these, as we already talked about, are used to determine the -- I think they call it the "safety statistic." Correct?

A. Yes.

Q. So that website could, consistent with page 4, lines 5 and 6, where it says:

> The "state" -- the safety statistic can be reported to or calculated at the data server.

Page 4, line 6 -- or, I'm sorry, lines 5 and 6.

A. Correct.

Q. The website could report this information to the data server. Correct?

A. Yes; and I believe I said something to that effect in my earlier testimony.

Q. Okay. Taking a look at Figure 4 -- of Curry, sorry -- which is -- again, is Exhibit 3.

A. Okay.

Q. Are you there? Okay.

So would you agree with me that Figure 4 shows that the outgoing or incoming phone call occurs and it's at that point that recording of GPS data begins, according to Figure 4?

A. Yes.

Q. Okay. Are you aware of any other disclosure within Curry that starts this recording of GPS data?

A. Off the top of my head, no.

Q. Okay. And the recording that is going on, according to Figure 4, is for some finite set of time. Correct?

A. Yes, some -- yes.

Q. And here, the example is six minutes.

Right?
A. Correct.
Q. But it doesn't necessarily have to be six minutes.
A. That is correct.
Q. But it is -- the only disclosure of recording is during a finite period of time. Correct?
A. Correct.
Q. Does that finite period of time have any relationship to the period in which the vehicle is being driven?
A. It is based on the start of an outgoing or incoming phone call and on the predetermined "X" minutes, and can occur independently of the driving state or not driving state of the vehicle.
Q. So the driving period could end -- let's use this example of six minutes.
A. Okay.
Q. Since it's here in Figure 4.
The driving period could end after two minutes. Correct?
A person could end up home and park their car. Correct?
A. Correct.

Q. They could end up at their work and park their car?
A. Or it could start after two minutes, yes.
Q. And at six minutes, the car could still be driving. Correct?
A. Correct.
Q. Okay. So there's no -- again, there's no relationship -- or to say it another way, the period of time when this recording is going on, according to Figure 4, is not tethered in any way to when the vehicle is being actually driven. Correct?
A. That is correct.
Q. Or in other words, it's not tethered in any way to the driving period, as you've construed it?
A. That is correct.
Q. And do you believe a POSITA would construe it the same way?
A. I do.
Q. I'd like you to take look at Curry page 15 -- specifically, line 24 to 31.
If you want to take a second to just familiarize yourself with this -- although, there was a long discussion about it earlier.
(Witness reading.)

A. Okay.

Q. Okay. You agree with me that this discusses...a -- this proposes to discuss -- or this proposes to disclose a means to detect the complexity of the driving situation or the context of the driving situation.

Do you agree with that?

A. This proposes a method to detect the complexity of a driving situation or context.

Q. And what is that, "the complexity of the driving situation or context"?

A. That would be -- specifically, here, the complexity of the driving situation a driver is encountering and would correlate -- hopefully, correlate with the amount of attention or thought the driver needs to deal with that situation or context.

Q. So when you say "the complexity of the driving situation," could that mean, for example, there's a lot of traffic?

A. Yes.

Q. That maybe you're driving in a city versus out on a highway somewhere?

A. Yes. I believe a POSITA would understand this to be getting to the, you know, amount of

attention required, you know, in order to determine if there was enough time left over for handling a phone call or some other situation.

Q. Okay. And this -- this complexity, the situation that's going on outside, is not a determination of how the vehicle is being driven at that time period, is it? -- or at that period of time.

A. That is correct. It is not a determination of how the vehicle is being driven.

MR. TILLER: Thank you, Mr. Wilson. I have nothing further.

MR. CHAKKALAKAL: All right. I need about five minutes.

MR. TILLER: Our lunch is here. So why don't we....

Do you want to eat, or do you want to try to just bang through?

MR. CHAKKALAKAL: Let's eat.

(Whereupon, the deposition recessed for lunch at 1:10 p.m.)

- - -

A F T E R N O O N S E S S I O N

(1:52 p.m.)

FURTHER EXAMINATION

BY MR. CHAKKALAKAL:

Q. Mr. Wilson, welcome back again.

A. Thank you.

Q. And before we broke for lunch, you answered some questions related to Figure 2, Figure 4 -- Figure 2 and Figure 4 of the Curry reference, which is Exhibit No. 3, and a number of questions on Curry related to -- and some other questions related to the Curry reference.

Do you recollect that?

A. Yes, I do.

Q. Okay. Let's first talk about....

If you could, turn to Figure 4 of Curry.

A. Okay.

Q. Figure 4 is an embodiment. Correct?

A. Yes.

Q. Okay. And if we look at the -- well, you would agree with me that the Curry reference discloses that you can collect data at all times. Correct?

A. Yes.

Q. Okay. And the Curry reference at page....

If you look at page 7.
A. I'm there.
MR. TILLER: Hang on, can you give me a second -- all right.
Q. Page 7, line 8, says:
In one embodiment, the driving safety data can be recorded in mobile phones and then transmitted to a centrally managed...server through wireless communication links....
Right?
A. That's correct.
Q. And if you look at the description of Figure 4 that's on page....
(Pause.)
Q. I apologize. I lost my spot here. Give me one second.
(Pause.)
Q. When you look at "Motion data recording" on page 8 -- and to be clear, this is still under the heading of "EXAMPLE EMBODIMENTS." Correct?
A. Yes. As I said before, the whole rest of the patent seems to be under "EXAMPLE EMBODIMENTS,"

but -- but, yes.

Q. So this talks about:

...the...phone client...can record location, speed and acceleration data from sensors embedded in the wireless device, such as a GPS sensor...and accelerometer....

And it says:

The data can be recorded to a local motion data cache...for further processing.

COURT REPORTER: Can you cite that -- because, you know, I've had a lot of background noise during that reading. I don't know where to find that in the document.

MR. CHAKKALAKAL: No problem. It is going to be on page 8, starting at line 30.

Q. And do you see that portion?

A. Yes, I do.

Q. Okay. So the recording includes -- it refers to location, speed and acceleration data. Correct?

A. Yes.
Q. And GPS data is part of the location data?
A. That is correct.
Q. Okay. So -- and this all gets stored into a local motion data cache. Right?
A. Correct.
Q. So the motion data that's in the cache consists of location, speed, and acceleration data, and includes GPS data. Right?
A. Yes.
Q. Okay. And then if I can take you down to page 13.
A. Okay.
Q. And there it says:
If the mobile phone --
Sorry. Page 13, line 21.
And there it says:
If the mobile phone is not in monitoring mode, the motion recording process can be activated 302 on the phone.
A. Correct.
Q. (Continued reading:)
This may be accomplished by the user of the phone, or

through an automated process by the mobile phone client when a selected type of motion is detected.

So you would agree with me that motion recording can be activated by the -- by a user of the phone. Correct?

A. Yes.

Q. Okay. And you would agree with me that motion recording can be activated by an automated process by the mobile phone client when a selected type of motion is detected.

Is that correct?

A. Yes; that's what Curry is saying here, yes.

Q. Okay. And then if I look at Claim 1 of the Curry reference -- that is on page 19.

A. Okay.

Q. And the claim consists of a data server limitation, a mobile wireless computing device limitation, a mobile device control module limitation -- do you see those first three limitations?

A. I do.

Q. And then underneath the mobile device

control module limitation, there are three more limitations.

Do you see that? -- motion data cache --

A. Yes.

Q. -- activity mode, and a user permission module?

A. Yes.

Q. Okay. And the first limitation says -- the first limitation under mobile device control module limitation says:

> ...a motion data cache configured to record data from the GPS receiver and the accelerometer for a period of greater than one minute....

Do you see that?

A. I do.

Q. And the next clause says -- the next limitation says:

> ...an activity mode recognition module configured to determine a type of activity based on the motion data cache....

Do you see that?

A. I do.
Q. And then the next limitation talks about:
...a user permission module in communication with the data server --
MR. TILLER: "Use" permission module.
Q. (Continued reading:)
-- a use permission module in communication with the data server, wherein the database provides timing and location information detailing when and where the mobile wireless computing device can be used based on the timing information, the location information, and the type of activity determined by the activity mode recognition module.
A. I see that.
Q. Okay. And here it has the mobile device module is "configured to operate." Right?
A. Yes.

Q. So the "configured to operate" in this claim is not limited by a phone call, is it?

A. It is. At least, around line 20, the information is related to "when and where the mobile wireless computing device can be used."

So presumably, if there's no interest in using it or no indication that usage is required, this wouldn't apply.

Q. So just so I'm clear on your -- on the way you're interpreting this, "configured to" should be limited by the....

Well, let me ask it to you this way: So the way you just phrased your answer, my understanding is the "configured to" -- when you have something that's "configured to," it can be further limited by elements not explicitly disclosed in the claim?

A. To me, this claim explicitly discloses that this is trying to figure out when and where the mobile wireless computing device can be used.

And so, the only times where that is relevant is when either a phone call is coming in or there's some effort to place an outgoing call.

And so to me, the process here is limited to those times or is focused -- is limited to the

times when there is an interest in using the phone, i.e., a call coming in or a call going out.

Q. So did you apply that same "configured to" rationale in your interpretation of Claim 1 of the '271 patent?

A. I guess I'm confused in how this modifies the "configured to."

As I'm reading this....

(Witness reading.)

A. Yeah, I don't see how this reflects on "configured to," or I guess I don't understand the question.

Q. Well, you remember that Claim 1 of the '271 patent had the phrase "configured to." Right?

A. Correct.

Q. Okay. And earlier you said that:

> ..."configured to" means, actually, it's ready to do it, not that it could, but that it could do it without further modification or programming.

A. That sounds correct.

Q. Okay. So based on your statement of "configured to," would you agree that the motion data cache configured to record, as described in --

sorry, as described in Claim 1 here, the motion data cache is "configured to record data from the GPS receiver and...accelerometer for a period of greater than one minute" without further modification?

A. If there is a phone call initiated or phone activity initiated, yes.

Q. Is "phone activity" listed anywhere in the claim?

A. In this claim, it is in the form of "when and where the mobile wireless computing device can be used." To me, that represents, indicates, phone usage.

Q. We're talking about phone calls, not phone usage, specifically.

A. Phone calls, including texts and so forth -- but, phone communications.

Q. So here it says the....

...permission module in communication with the data server, wherein the database provides timing and location --

(Court reporter admonition.)

Q. Starting at line 20 -- sorry, line 18 of Claim -- of page -- of line -- of page 19:

...a use permission module

in communication with the data server, wherein the database provides timing and location information detailing when and where the mobile wireless computing device can be used based on the timing information, the location information, and the type of activity determined by the activity mode recognition module.

Did I read that correctly?

A. Yes.

Q. Okay. So what I'm asking you here is that -- the two limitations above that, it says that a motion data cache can be configured to record GPS -- data from a GPS receiver. Right?

A. Yes.

Q. And what I'm asking you: Does this claim disclose any limitation that the GPS recording is limited to a phone call?

MR. TILLER: I object to the relevancy of any of this.

A. I think my answer is still the same here,

in that, to me, the configuration is such that this process is initiated -- or this claim becomes relevant where there is an interest in using the mobile wireless computing device, either indicated by an incoming call or some activity by the user.

And that is what triggers the motion data cache recording and the activity mode recognition module.

Q. Okay.

(Pause.)

Q. And let's go to Figure 2, now, of the Curry reference that's on page....

A. 25?

Q. Yes. Thank you.

A. I'm there.

Q. Okay. And again, Figure 2 is an embodiment. Correct?

A. Yes, it is.

Q. Okay. Does Figure 2 show a server?

(Witness reading.)

A. It shows a "'Driver' Safety User Control and Monitoring Web Site," which could be implemented on a server, but it doesn't identify it as a server by name.

Q. Okay. Does....

(Pause.)

Q. If I go to page 12.

A. Okay.

Q. And it says -- starting at line 19, it says:

FIG. 2 illustrates a flow chart depicting a user permission management and driving safety monitoring system located on a web server.

Do you see that?

A. I do.

Q. Okay.

In one example embodiment, a parent can use...use permission input interface...to input their "teen's" driver's cell phone number and "their" parent's phone number....

And the description goes on.

So first, would you agree with me that the web server that's identified in the first sentence is the website that you just identified in Figure 2?

A. Yes.

Q. Okay. Do you see an indication in

here....

(Pause.)

Q. So the description of Figure 2 appears to start from line 19 of page 12 and proceed on to approximately line 20 of -- sorry, line 19 of page 13.

Do you see that?

A. It appears to be that way, with a quick look, yes.

Q. Do you see....

One second here, sorry.

(Pause.)

Q. In the -- sorry, let's go back to Figure 2 itself on page 25.

A. Okay.

Q. Other than that web server that we've just identified, do you see a -- any other server identified in Figure 2?

A. I do not.

Q. Okay. Going back to page 12 of the Curry reference.

A. I'm there.

Q. Do you see any indication that Figure 2 is a continuation of Figure 1?

MR. TILLER: Objection.

Let me be more specific:
Objection; unclear what is meant by
Figure 2 being a continuation of Figure 1.
(Witness reading.)
A. Again, I didn't opine on this.
But in reviewing the section related to
Figure 2, I don't find any specific references to
Figure 1, although the fact that Figure 2 follows
Figure 1 in this document indicates some association
between the two to me.
Q. Now, the....
(Pause.)
Q. If I look at page 13 of the Curry
reference -- so, Exhibit 3 -- and it identifies....
Sorry.
(Pause.)
Q. My apologies, just one second.
(Pause.)
Q. From line 29:
The activity mode
recognition module...can use
recorded time stamped data to
estimate the type of
activity....
A. I'm sorry --

MR. TILLER: Yeah, I'm sorry. Where?

Q. Sorry. Line 29 of page 13 -- sorry -- line 31, not 29.

A. The activity -- okay.

Q. (Reading:)

The activity mode recognition module 306 can use recorded time stamped data to estimate the type of activity: driving, walking, running, or remaining substantially still.

Do you see that?

A. I do.

Q. Okay. And so, those are all possible activities of the user. Right?

A. Yes.

Q. Okay.

(Pause.)

Q. And then you had some -- so if I take you to page 15 of the Curry reference, starting at line~24.

A. Okay.

Q. And you talked about the complexity of the driving situation/context.

Do you recall that?

A. I do.

Q. And specifically, you answered to the question:

And what is that, the complexity of the driving situation or context?

That was specifically, here, the complexity of the driving situation a driver is encountering.

And when you say "encountering" there, that's based on the situation that the driver of the vehicle is in?

A. Essentially, it's the external environment. So, the presence -- number of other cars. Possibly, weather conditions.

The types of elements that would make driving more difficult or less difficult -- type of environmental elements.

Q. Okay. So when you say "environmental elements," you said weather, traffic, location.

A. Yes -- location in the sense of a weaving zone or an on ramp or off ramp or something like that.

Q. Where the vehicle's located, what kind of road it's on?

A. Yeah, the kind of road that the situation is on -- the vehicle is on -- type -- curvy roads versus straight roads.

MR. CHAKKALAKAL: I have nothing further for the witness.

MR. TILLER: Nothing from me.

MR. CHAKKALAKAL: And just because somebody had pointed out to me, before we go off the record -- I'm sorry I have to ask you again -- but, do we have agreement that the deposition testimony can be used in all proceedings?

MR. TILLER: Yes.

MR. CHAKKALAKAL: Thank you.

MR. TILLER: He'll read.

(Time noted 2:32 p.m.)

- - -

(Witness excused.)

- - -

(Deposition concluded at 2:32 p.m.)

- - -

DEPONENT'S SIGNATURE

Please be advised I have read the foregoing deposition, pages 235 through 330, inclusive. I hereby state there are:

(Check one)

_____ No corrections

_____ Corrections per attached

_____

CHRISTOPHER K. WILSON

(X) Reading and signing was requested.

( ) Reading and signing was waived.

( ) Reading and signing was not requested.

Should the signature of the witness not be affixed to the deposition, the witness shall not have availed himself of the opportunity to sign or the signature has been waived.

--oOo--

ERRATA SHEET

NAME OF CASE: United States Automobile Association (USAA) v. Auto Telematics, LTD

DATE OF DEPOSITION: March 27, 2024

NAME OF WITNESS: CHRISTOPHER K. WILSON

Reason Codes:

1: To clarify the record.

2: To conform to the facts.

3: To correct transcription error.

Page _____ Line _____ Reason _____

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CHRISTOPHER K. WILSON DATE

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CHRISTOPHER K. WILSON DATE

DECLARATION UNDER PENALTY OF PERJURY

I am the witness in the foregoing deposition.

I have read the foregoing deposition or have had read to me the foregoing deposition, and having made such changes and corrections as I desired, I certify that the same is true in my own knowledge.

I hereby declare under penalty of perjury that the foregoing is true and correct.

In witness whereof, I hereby subscribe my name this _____ day of _____, 2024.

_____

CHRISTOPHER K. WILSON

CERTIFICATE

I, SUSAN ASHE, a Registered Merit Reporter and Notary Public, hereby certify that the foregoing is a true and accurate transcript of the deposition of said witness, who was first duly sworn by me on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney nor counsel, nor related to or employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Dated this 4th day of April 2024.

Susan Ashe, Notary Public
of the District of Columbia
My commission expires: May 14, 2028.

Exhibits

Wilson Exhibit 1 (Previously Marked)
239:17 258:17,19 273:1 289:16

Wilson Exhibit 2 (Previously Marked)
239:19 243:8,9,10 268:25 300:16

Wilson Exhibit 3 (Previously Marked)
239:20 244:23 245:8,11 253:11 269:1 270:14,17 287:6 302:9 308:9 313:10 327:14

Wilson Exhibit 4 (Previously Marked)
239:22 273:25 274:1

Wilson Exhibit 9
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