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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT TRIAL AND APPEAL BOARD

CERTIFIED COPY

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 I

ORAL DEPOSITION OF CHRISTOPHER K. WILSON

Tuesday, March 26, 2024

Reported by:
SUSAN ASHE, CCR, RMR, CRR
Ref. 36137-0024IP1, 36137-0025IP1, 36137-0026IP1 and 36137-0027IP1
Job No.: 24-135155

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2 **PATENT TRIAL AND APPEAL BOARD**

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10 PATENT OWNER.	)	U.S. PATENT NO.
	)	10,198,879
	)	IPR2023-00857

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17 **Oral deposition of CHRISTOPHER K. WILSON,**

18 **taken on behalf of the Petitioner, beginning at**

19 **10:17 a.m., on Tuesday, March 26, 2024, at the law**

20 **offices of Whiteford, Taylor & Preston, 1800**

21 **M Street, Northwest, Washington, D.C., before Susan**

22 **Ashe, CCR, RMR, CRR, and Notary Public of the**

23 **District of Columbia.**

24

25

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20 **Answers IP, LLC**

21

22

23

24

25

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TUESDAY, MARCH 26, 2024;
10:17 A.M. EASTERN DAYLIGHT TIME
--o0o--
Whereupon,
CHRISTOPHER K. WILSON
having been first duly sworn, was examined
and testified as follows:
EXAMINATION
BY MR. CHAKKALAKAL:
Q. Good morning, Mr. Wilson -- and I
apologize. Before we begin, one of my colleagues
said they're on the waiting room for the Teams.
MR. TILLER: Oh. I'll let him
in. Give me a sec.
(Pause.)
MR. TILLER: He should be in
now.
MR. CHAKKALAKAL: Great.
MR. TILLER: There he is.
MR. CHAKKALAKAL: Thank you.
BY MR. CHAKKALAKAL:
Q. Good morning, Mr. Wilson. Can you please
state your name for the record.
A. My name is Christopher Kenneth Hoover
Wilson.

1 Q. And who do you work for?

2 A. I work for myself. I'm self-employed.

3 Q. Do you have any company that you're a part
4 of?

5 A. I have my own company: Christopher K.
6 Wilson LLC.

7 Q. Do you have any title associated with
8 that?

9 A. "Principal" is what I usually use, but I
10 can give myself whatever title I like.

11 Q. All right. So my name is Noel
12 Chakkalakal, and I'll be taking your deposition
13 today.

14 I'm just going to go through a few ground
15 rules first. So you understand that you're under
16 oath?

17 A. Yes.

18 Q. Okay. And so, that means the answers you
19 give here today must be the truth.

20 Do you understand that?

21 A. Yes, I do.

22 Q. Okay. The whole truth, nothing but the
23 truth?

24 A. Yes.

25 Q. All right. And you can do that. Right?

1 A. Yes, I can.

2 Q. And you understand the testimony you give
3 here today would be the same as if you were
4 testifying before the PTAB?

5 A. I do.

6 Q. And just to be clear, do you understand
7 what the PTAB is?

8 A. More or less, yes.

9 Q. Okay. All right. And you understand that
10 the PTAB board may read the testimony that you
11 provide here today?

12 A. Yes, I do.

13 Q. Okay. And for that reason as well, it's
14 important that you tell the truth today?

15 A. I understand.

16 Q. All right. It's important that the
17 answers be verbal, because we have a court reporter
18 who is taking down your answers.

19 So can you...would you be able to provide
20 verbal answers to my questions today?

21 A. Yes -- depending on the questions, but I
22 expect so.

23 Q. Okay. Well, to the extent that you have
24 an answer, would you be willing to give it as a
25 verbal answer?

1 A. I will do that.

2 Q. Thank you. All right. And if I ask you a
3 question and you don't understand it, would you
4 please let me know?

5 A. Yes.

6 Q. Okay. If you don't let me know, I can
7 take it to mean that you did understand the
8 question.

9 Is that fair?

10 A. That's fair.

11 Q. Okay. And if you ever want to change or
12 revise or add to an answer, and even if it's later
13 on, would you please just let me know?

14 A. Okay.

15 Q. And I will let you go ahead and make that
16 change.

17 Is that fair?

18 A. Yes.

19 Q. Okay. The plan is to take breaks about
20 every hour or so, and then we'll probably break for
21 lunch in a couple hours.

22 Does that work with you?

23 A. That would be fine.

24 Q. Each break will be about ten minutes.

25 Does that work?

1 A. Yeah, that's fine.

2 Q. All right. And you understand that there
3 will be a transcript of the deposition from today?

4 A. Yes, I do.

5 Q. And that you'll have a chance to review
6 that transcript?

7 A. Yes.

8 Q. Okay. And to the extent that there are
9 any changes, you would be able to -- or
10 corrections -- you would be able to inform the court
11 reporter of that?

12 A. To the extent I can detect them in the
13 transcript, yes.

14 Q. Okay. But if you do change it, we will
15 know that you've changed it. And we can inform the
16 Board of those changes.

17 A. Correct.

18 Q. Okay. And you are being represented by
19 counsel here today?

20 A. I am.

21 Q. And who is that?

22 A. Steven Tiller.

23 Q. And you understand that your counsel may,
24 at times, object to certain of my questions --
25 right?

1 A. Yes, I do.

2 Q. But you also understand that, unless he
3 instructs you not to answer, you are supposed to go
4 ahead and answer the question?

5 A. I understand that.

6 Q. And will you do that?

7 A. Yes.

8 Q. Okay, great. Thanks.

9 Are you presently taking anything that
10 could impair your ability to give full and truthful
11 testimony here today?

12 A. No, I'm not.

13 Q. Is there any reason, whatsoever, that you
14 cannot give full and truthful testimony here today?

15 A. No.

16 Q. Okay. If that ever changes during the
17 course of the day, will you please let me know?

18 A. I will do that.

19 Q. Okay. So unless I hear otherwise from
20 you, is it fair for me to assume that you would be
21 able to continue providing fair and truthful
22 testimony?

23 A. That's fair, yes.

24 Q. Okay. Now, Mr. Wilson, did you prepare
25 for this deposition?

1 A. Yes, I did.

2 Q. And what did you do to prepare?

3 A. Mostly reread some of the documents --
4 specifically, my declarations and the patents at
5 issue here.

6 Q. Okay. Did you meet with anybody in
7 preparing for your deposition?

8 A. Yes.

9 Q. Okay. Who else did you meet with?

10 A. I met with Steve and Lisa and Lissi, who
11 are on this deposition -- on this transcript here.

12 Q. Okay. Did you --

13 A. And also Greg was -- Greg Stone?

14 MR. TILLER: That's his name,
15 yes.

16 A. Greg Stone was also as a part of the
17 meeting, remotely.

18 Q. All right. I've seen his name.

19 And who is Greg Stone; do you know?

20 A. He's an attorney with Whiteford.

21 Q. Okay. So were all the attorneys you
22 listed part of Whiteford?

23 A. I believe Lissi -- I can't remember her
24 last name offhand -- is not a part of Whiteford.

25 Q. Okay. Did you meet with anybody else

1 who -- in preparing for this deposition?

2 A. I can't recall anyone else at this time.

3 Q. Okay. Now, I know that you are -- that
4 you've also signed on as a consultant to the
5 district court litigation.

6 Is that correct?

7 A. Yes. I have -- two other people from the
8 district court litigation were on -- met with them
9 briefly for approximately a half-hour as well.

10 Q. And who was that?

11 A. That was Andrew White and....

12 The name is escaping me.

13 MR. TILLER: I'm not testifying.

14 A. The name is escaping me right now.

15 Q. Okay. Anthony Bruster?

16 A. I don't believe....

17 Q. Let's see, Nick Weiss?

18 A. Yeah --

19 Q. Okay.

20 A. -- Nick Weiss.

21 Q. So you said you met with them for about a
22 half-hour.

23 Is that right?

24 A. Yes. They were dialed-in to the meeting,
25 remotely, for about a half an hour or something like

1 that.

2 Q. And how much time, total, did you spend
3 with attorneys in preparing for this deposition?

4 A. It was probably about nine hours
5 yesterday.

6 Q. Okay. And so, I take it -- was that here?

7 A. Yes.

8 Q. Okay. During that nine hours, at some
9 point a couple of the attorneys from the district
10 court litigation dialed in?

11 A. Correct.

12 Q. Have you ever been deposed before?

13 A. Yes, I have.

14 Q. How many times?

15 A. About 20.

16 Q. And has it always been in the context of
17 being an expert?

18 A. Yes.

19 MR. CHAKKALAKAL: I'm handing to
20 the court reporter to mark as
21 Exhibit 1....

22 (Whereupon, Petitioner Exhibit 1 was
23 marked for identification.)

24 Q. Mr. Wilson, I'm handing you what has been
25 marked as Defendants [sic] Exhibit No. 1.

1 (Witness reading.)

2 Q. Mr. Wilson, do you recognize Exhibit
3 No. 1?

4 A. I do.

5 Q. And how do you recognize it?

6 A. This is a document I wrote as a part of
7 this matter.

8 Q. Okay. And would you please turn to page 1
9 of 106, which is the third page.

10 A. Yes.

11 Q. And is that your signature?

12 A. That is.

13 Q. And this indicates that you signed this on
14 February 29, 2024.

15 Is that correct?

16 A. Yes.

17 Q. Okay.

18 A. I did notice -- I believe, on one of the
19 documents the date was wrong. I think there's --
20 not on this one.

21 But one of the other reports, I think I
22 have "2023."

23 Q. Right.

24 A. So just -- that just reminded me of that.

25 Q. No problem. Yeah, the other declaration

1 said "January 30, 2023."

2 A. Yes.

3 Q. It's supposed to be "2024"?

4 A. Correct.

5 Q. No problem.

6 Could you go to the back of this
7 declaration.

8 First of all, which IPR was this
9 declaration submitted as part of?

10 A. This is submitted as a part of
11 IPR~2023-00911.

12 Q. And did you sign, basically, an identical
13 declaration for the -857 IPR?

14 A. I can't remember if it was the -857. But
15 it was for another IPR, yes.

16 Q. Okay. Just to make sure, let's go to
17 page 2 of 106.

18 And if you look at Paragraph No. 1.

19 A. Yes. It is the -85- -- an identical
20 report was submitted relevant to the -857 IPR.

21 Q. Great, thank you.

22 And if you could just turn to the last two
23 pages there.

24 A. I'm there.

25 Q. Okay. And is this a copy of your CV?

1 A. Yes, it is.

2 Q. And is this CV accurate as of the date you
3 signed it?

4 A. Yes.

5 Q. Thank you.

6 And we will be referring to Exhibit 1
7 probably repeatedly today. So if you could keep
8 that by you and keep it handy, I would appreciate
9 it.

10 All right. You understand this is part of
11 a -- that these patents have been asserted against
12 USAA. Correct?

13 A. I do.

14 Q. Okay. Have you had any other interaction
15 with USAA?

16 A. I mean, outside of the litigation context?

17 Q. Outside of litigation context, correct.

18 A. I guess I'm not completely sure of what
19 they do. Are they the parent of the automobile --
20 AAA? Is that....

21 Q. Not that I'm aware of.

22 A. Okay. I guess I don't -- can't say for
23 sure, but I'm not aware of any at this time.

24 Q. All right. Has your interaction with USAA
25 in this litigation been in the context of these

1 IPRs?

2 A. Yes.

3 Q. And I know I mentioned to you that -- I
4 know that you've signed on to a protective order for
5 the district court case.

6 What was the purpose there?

7 MR. TILLER: Objection.

8 A. They were retaining me for some work on
9 the patents involved in that matter -- yeah.

10 Q. In preparing your declaration, did you
11 review any of the district court material?

12 A. No, I don't believe there was anything I
13 reviewed in preparing this declaration.

14 Q. Now....

15 Sorry, give me a second.

16 (Pause.)

17 Q. If we go to page....

18 Let's see...give me just one second -- I
19 apologize.

20 MR. TILLER: Noel, can you ask
21 Ryan to go on mute.

22 MR. CHAKKALAKAL: Give me one
23 second.

24 (Pause.)

25 BY MR. CHAKKALAKAL:

1 Q. All right. So if you go to page 49 of
2 your -- sorry, paragraph 49.

3 MR. TILLER: "Paragraph 49," you
4 said?

5 MR. CHAKKALAKAL: Yes.

6 A. Okay.

7 Q. Sorry. I'm just....

8 (Pause.)

9 Q. And it says here, "I understand that in a
10 currently pending" -- I'm looking at the first
11 sentence of paragraph 49.

12 It says:

13 I understand that in a
14 currently pending Federal
15 District Court proceeding
16 involving the '879 and '271
17 patents, the term "driving
18 period" was deemed not to
19 require any special definition
20 or construction, but rather the
21 term "driving period" should be
22 construed according to its
23 plain and ordinary meaning.

24 Do you see that?

25 A. I do.

1 Q. Okay. So when you say here that you
2 understand from the federal district court
3 proceeding, how did you come to that understanding?

4 A. I was informed of that by, I believe,
5 Steven Tiller, the Whiteford attorney.

6 Q. Okay. Did you review any of the court
7 documents?

8 A. Not to the best of my recollection.

9 Q. So specifically this here is referring to
10 a claim construction.

11 Did you review the transcript from the
12 hearing that was conducted?

13 A. No.

14 Q. Did anyone else inform you of what
15 happened in the district court case?

16 A. I believe everything....

17 I mean, again, I've talked to Steven.
18 He's informed me of -- that -- the claim
19 construction.

20 I've had some conversations with the
21 district court attorneys as a part of being retained
22 for that matter.

23 Q. Um-hum.

24 A. So I mean, yes, I've had some
25 conversations with them.

1 Q. Prior to putting together your IPR -- your
2 declaration, did you review any of the infringement
3 contentions?

4 A. I don't -- I believe not.

5 Q. Okay. As part of your work before you put
6 together your declaration, did you have
7 conversations about the scope of the claims with
8 regards to infringement?

9 A. There was very little -- I mean, there may
10 have been some incidental discussion along those
11 lines, but certainly no in-depth discussion
12 regarding the infringement contentions.

13 Q. So I know that this declaration was signed
14 on February 29th of 2024.

15 And prior to that, the -- in the district
16 court litigations, the parties had submitted
17 their -- Auto Telematics had submitted its
18 infringement report by Dr. Wilson and USAA had
19 submitted its invalidity report in the district
20 court litigation that was by USAA's retained expert.

21 MR. TILLER: Just, you said
22 "Dr. Wilson."

23 MR. CHAKKALAKAL: Oh, sorry.

24 Q. Dr. Smith, the infringement report by
25 Dr. Smith.

1 Did you review either the infringement
2 report or the invalidity report that was served in
3 the district court case?

4 A. I did review an invalidity report. I'm
5 not sure what you're referring to, but I reviewed an
6 invalidity report by Mr. Andrews, Scott Andrews.

7 I basically did a -- sort of a quick
8 review of that, just sort of getting a sense of what
9 was in it.

10 And then the case was stayed. And so,
11 that was the extent of my work there.

12 Q. Okay. Did you review the infringement
13 report by Dr. Smith?

14 A. I did not.

15 Q. So I also noticed that in your
16 declaration, if we go to page -- paragraph 36.

17 A. Okay.

18 Q. There is a link there to NHTSA.gov?

19 A. I see that.

20 Q. And that is the National Highway
21 Transportation Safety Administration.

22 Is that correct?

23 A. That's correct.

24 Q. So by virtue of the fact that there's a
25 link here to NHTSA, I surmise that you also did some

1 internet searching and research into the state of
2 the art and the scope of the claims.

3 Would that be fair?

4 A. Some research along those lines, but also
5 looking for art and specific references to include
6 for facts I already was aware of.

7 Q. Okay. Did you do any other research or
8 investigation as part of preparing your report?

9 (Pause.)

10 Q. Let me rephrase that question.

11 What other types of research and
12 investigation did you do in preparing your
13 declaration?

14 A. So I basically looked at a number of
15 sources for information in support of my opinions.
16 Those would have included books that I owned and
17 magazines, periodicals.

18 I did some internet search, mostly to, you
19 know, validate, support, the opinions that I had
20 from reading the various documents cited in the
21 case, as well as reviewing patent literature and
22 other documents cited and referenced in the cited
23 documents.

24 Q. So I want to go back to paragraph 49 for
25 just a minute.

1 And you said you....

2 Let me just go ahead and read it so I
3 don't misstate it.

4 You say:

5 I understand that in a
6 currently pending Federal
7 District Court proceeding
8 involving the '879 and '271
9 patents, the term "driving
10 period" was deemed "not to"
11 require any special definition
12 or construction....

13 And you said that you were informed of
14 that by counsel. Correct?

15 A. Correct.

16 Q. Okay. Were you informed of -- and I asked
17 earlier if you had read the transcript from the
18 hearing that was conducted in the district court
19 case. And you said you hadn't. Correct?

20 A. Yes, that is correct. You asked me, and I
21 have not read that transcript.

22 Q. Were you informed at all of anything that
23 the judge said during that hearing?

24 A. Not that I recall, other than, you know,
25 what I state here regarding the driving period

1 construction -- which, again, I don't know when that
2 was said or when that was provided.

3 Q. Okay. So other than the fact that the
4 order said that it would be plain and ordinary
5 meaning, there was no other information you were
6 given about the claim construction proceedings?

7 A. Not that I recall.

8 Q. Okay.

9 A. But again, you know, it's very hard to say
10 where information I received came from. So....

11 Q. But sitting here today, you don't
12 recollect anything else?

13 A. Yes. I don't recall any other information
14 pertaining to that hearing or any hearing in that
15 matter.

16 Q. Generally, when you put together a
17 declaration, do you -- and if there is a
18 corresponding district court case, do you review the
19 claim construction order?

20 A. I....

21 Generally, do I do that? I can't say
22 that, as a rule, I do or don't do that.

23 Q. Do you review Markman transcripts as part
24 of when you put together a declaration?

25 A. Certainly, for a matter that I am, you

1 know, directly involved in, I do.

2 For sort of related matters, I may or may
3 not.

4 Q. So when you say "directly involved with,"
5 you're saying that, if you're involved in the
6 district court litigation actively as an expert,
7 then you would review the Markman transcript?

8 A. Yes.

9 Q. Okay. And when you say, "For sort of
10 related matters, I may or may not," what's an
11 example of a "related matter"?

12 A. I think in this case, the -- you know, at
13 the time the district court case was a related
14 matter that I wasn't involved in.

15 And so, that would be, you know -- I would
16 consider that a "related matter," because it
17 involves the same patents.

18 Q. For previous IPR declarations that you've
19 done as part of your preparation, would you have
20 reviewed Markman transcripts?

21 A. I certainly have reviewed Markman
22 transcripts, I believe, for IPRs.

23 I can't recall specifically, offhand, you
24 know, specific incidences of that.

25 But that seems like -- I've reviewed a lot

1 of Markman transcripts.

2 Q. That's fair.

3 Why would you have done that for previous
4 declarations but not have done that for this one?

5 A. In general, you know, I've...attorneys
6 will point me to things. If they think they are
7 relevant, they will show me. Or if I ask for
8 things, they will show me.

9 But I presume, you know, there's a lot of
10 things in that case that I haven't seen. And I'm
11 not going to go looking at all of them, certainly.
12 But, you know, a lot of them could be relevant.

13 So that is a....

14 You know, largely, it is based on either
15 direction of counsel or my own research indicating
16 that there's something interesting there or relevant
17 that I need to be aware of.

18 Q. So is it fair to say that in this
19 particular case you were not informed of anything
20 relevant that would have occurred during the Markman
21 hearing?

22 MR. TILLER: Objection. That's
23 not what he testified to.

24 A. So given that I don't know what happened
25 during the Markman hearing and I did not seek out

1 that information myself, I -- what I know about it
2 was based on what counsel decided to tell me
3 regarding that.

4 So whether there was other relevant
5 information or not, you know, I don't know, other
6 than to the extent counsel informed me.

7 Q. Okay. And just to be clear...so you
8 earlier said that:

9 In general, you know,
10 attorneys will point me to
11 things if they think that they
12 are relevant. They will show
13 me when I ask for things.

14 In this case, no attorneys pointed you to
15 anything that was relevant from the district court
16 Markman proceedings and you did not ask for
17 anything.

18 Is that correct?

19 A. Again, I don't know what was in that
20 proceeding.

21 So to the extent they pointed me to
22 things, they may or may not have been from that
23 Markman proceeding.

24 I don't recall....

25 You know, so I really can't answer what --

1 you know, not knowing what was in that proceeding, I
2 can't tell you if what they told me was relevant or
3 from that proceeding. It's -- yeah.

4 Q. Right. And I'm not trying to ask you what
5 happened in the proceeding. I'm just trying to get
6 clarified that, other than being told that the plain
7 and ordinary meaning applied, nothing else was
8 pointed out to you from any of the Markman
9 proceedings in the district court case?

10 A. Again, I don't know what was in those
11 proceedings. So I can't say that.

12 There may have been other things pointed
13 out to me. But I don't -- you know, if there's
14 something specific you want to ask about, that's
15 fine.

16 But in terms of just -- off the top of my
17 head, I don't recall, you know, other things that
18 seem like they would have been in the Markman
19 hearing that were pointed out to me by attorneys.

20 Q. Were you informed of any kind of
21 qualifications or characterizations of the claim
22 terms as stated by the judge?

23 MR. TILLER: Objection; assumes
24 facts not in evidence and that did not
25 occur.

1 A. Yeah, I don't....

2 I mean, to the extent whatever the judge
3 said informed my opinions, it's in my report. And
4 I'm not -- I don't recall other characterizations of
5 that -- of those hearings.

6 I guess I'm really not sure what you're
7 getting at or where we're going with this.

8 Q. So I'm trying to understand, quite
9 frankly, your understanding of the claim terms.

10 And what I'm trying to understand is like,
11 for example, this term "driving period." That was
12 an issue at the Markman hearing in the district
13 court case.

14 I understand from your declaration that
15 you were informed or you have an understanding of
16 that term from the district court case.

17 And I'm trying to figure out, is that
18 understanding just that -- based on the Markman
19 order, that the driving period should be construed
20 as plain and ordinary meaning or did you also
21 include information that the judge would have spoken
22 about at the Markman hearing?

23 So I'm just trying to understand where
24 your understanding of the term "driving period"
25 comes from.

1 A. So I -- you know, thinking on this, I --
2 it's possible that I -- I mean, when would the
3 Markman order have come out?

4 I mean, it's possible I reviewed it nine,
5 ten months ago or something like that. I sort of --
6 I see a lot of Markman orders.

7 I know I haven't seen it recently. I know
8 I haven't used any....

9 The important thing that's kept in my mind
10 is this, that the "driving period" was construed as
11 plain and ordinary meaning.

12 To the extent there were other
13 connotations on top of that or insinuations --
14 possibly, I was informed of them. But I don't
15 recall at this point.

16 Q. And just to clarify, you mentioned the
17 Markman order you may have read.

18 I was actually more interested in the
19 Markman hearing, because the Markman order did say
20 "plain and ordinary meaning." I'll agree with you
21 there.

22 But there was a substantial discussion at
23 the Markman hearing. And what I'm trying to
24 understand is: Did any of that discussion factor
25 into your understanding?

1 MR. TILLER: Objection -- hang
2 on.

3 Objection to the
4 characterization of whatever happened at
5 the Markman hearing.

6 Second, asked and answered.

7 He's testified that he hasn't
8 seen the transcript from the Markman
9 hearing. He's said that a number of
10 times.

11 MR. CHAKKALAKAL: I understand.

12 I'm asking whether he has an
13 understanding.

14 MR. TILLER: I understand the
15 distinction in the -- but he said....

16 I mean --we can acknow- --
17 you've asked him multiple times. He
18 hasn't seen the transcript, and he's told
19 you what he's heard from counsel.

20 That's where he's going to hear
21 it from. So we've kind of beaten this
22 horse a little bit.

23 MR. CHAKKALAKAL: And I'm close
24 to ending it.

25 But I do want to finish this up.

1 Because, as far as I can see,
2 the answers are not clear to me and I just
3 want to make sure that I've got it clear
4 on the record.

5 BY MR. CHAKKALAKAL:

6 Q. So to the best of your memory, you were
7 not informed of -- other than the plain and ordinary
8 meaning, you were not informed of any clarifications
9 with regard to the claim terms in the asserted
10 patents?

11 A. Not that I recall at this time.

12 Q. Thank you.

13 A. And I would also add that, while I may
14 have seen a Markman order, I'm fairly positive I
15 never saw a transcript or a representation of the
16 hearing itself.

17 Q. Thank you.

18 (Whereupon, Petitioner Exhibit 2 was
19 marked for identification.)

20 Q. Mr. Wilson, I'm handing you what has been
21 marked as Defendants [sic] Exhibit No. 2.

22 Do you recognize this?

23 A. I do.

24 Q. And what is it?

25 A. This is a copy of Patent No. 9,311,271 to

1 Wright -- U.S. patent.

2 Q. Did you review this patent in writing your
3 declaration?

4 A. I did.

5 Q. If you could go back to Exhibit No. 1, and
6 if I can take you down to Paragraph No. 13.

7 A. I'm there.

8 Q. All right. Thank you.

9 It says here that:

10 I am not a lawyer and will
11 not provide any legal opinions
12 in these IPRs. I have,
13 however, been advised of
14 certain relevant legal
15 principles and will apply those
16 legal principles when offering
17 my opinions in these matters.

18 Do you see that?

19 A. I do.

20 Q. What other legal principles were you
21 advised of?

22 A. So the subsequent several paragraphs here
23 outline the -- at least some of the legal principles
24 that I was -- had been advised of.

25 Q. So you said "some of the legal

1 principles."

2 And so, I take that to mean that this is
3 not an exhaustive list of legal principles that you
4 were advised of.

5 Is that correct?

6 A. That is correct.

7 I mean, I can't recall others offhand.
8 But, certainly, discussions with attorneys often
9 relate to legal principles.

10 Q. So if we go down to paragraph 14, is that
11 generally talking about claim construction
12 principles?

13 A. Paragraph which?

14 Q. "14."

15 A. "14"?

16 (Witness reading.)

17 A. Yes, that is related to claim
18 construction.

19 Q. So -- okay. Now, is another legal
20 principle that....

21 Well, let me ask you this: Do you have
22 understanding of what "obviousness" is?

23 A. I do.

24 Q. Generally speaking, what's your
25 understanding of it?

1 A. Generally speaking, "obviousness" or
2 something is obvious when the prior art would lead
3 one skilled in the art to understand that fact or
4 that thing that is obvious.

5 Q. Now, it's not listed here, but another
6 principle related to invalidity is anticipation.

7 Do you understand what "anticipation" is?

8 A. I've been informed what "anticipation" is,
9 yes.

10 Q. What is your understanding of
11 "anticipation"?

12 A. "Anticipation" is when a single piece of
13 art essentially anticipates a second piece of art so
14 that, you know, all of the -- basically, all of the
15 elements of the anticipated piece of art are found
16 in the anticipating piece.

17 Q. Okay. And do you understand anticipation
18 to be a corollary of infringement?

19 A. "Corollary"....

20 MR. TILLER: Objection.

21 I'm not sure what that means.

22 But, go ahead.

23 A. I guess I don't know what "corollary of
24 infringement" means.

25 Q. So you said that:

1 "Anticipation" is when a
2 single piece of prior art
3 essentially anticipates a
4 second piece of art so that,
5 you know, all -- basically, all
6 the elements are -- of the
7 anticipated piece of art are
8 found in the anticipating
9 piece.

10 I mean -- so you've mentioned that you've
11 testified as an expert several times. Right?

12 A. Yes, I have.

13 Q. So is it safe to say that your knowledge
14 as an expert in art forms a basis for your
15 declaration?

16 A. That is correct.

17 Q. Okay. And have you been hired -- have you
18 been an expert before on infringement?

19 A. Yes, I have.

20 Q. Okay. When does infringement occur?

21 A. I mean, I believe "infringement" is a
22 legal term, first of all. So I'm not a lawyer.

23 Q. I understand.

24 A. But from a technical perspective, when the
25 elements of a claim are practiced by something, that

1 something infringes.

2 Q. When the elements of a claim are practiced
3 by an accused product.

4 A. Okay, yeah. Accused product.

5 Q. Fair?

6 And would you understand "anticipation" to
7 mean that when the elements of a claim are found in
8 a prior art reference -- a single piece of prior art
9 reference?

10 A. Can you repeat the question there.

11 Q. Sure. The....

12 "Infringement" is when all the elements of
13 a claim are practiced by an accused product?

14 A. (Witness nods head.)

15 Q. And would you agree with me that
16 "anticipation" is when all the elements of the claim
17 are found in a single prior art reference?

18 A. Again, this is a -- I think, a legal
19 issue. But that sounds correct to my
20 understanding -- or consistent with my
21 understanding.

22 Q. Thank you.

23 And that's what I meant by a "corollary."

24 A. Yeah.

25 Q. And if we go to paragraph 18, you also

1 have a discussion of "reasonable expectation that
2 the combination would be successful."

3 Do you see that?

4 A. I do.

5 Q. Okay. What does that mean to you?

6 A. That means that, to the extent obviousness
7 relies on multiple pieces of prior art, that there
8 must be some motivation apparent to a POSITA --
9 that's a person of skill in the art -- that would
10 motivate them to combine those two pieces in such a
11 way as to make the accused product or make the thing
12 that is obvious.

13 Q. How do you understand the term "success"
14 in the phrase "reasonable expectation that the
15 combination would be successful"?

16 A. I think that depends on the context very
17 much.

18 It's successful in, you know, achieving at
19 least the goals of the art that is purported to be
20 obvious.

21 Q. So it's judged in the context of the -- of
22 the art that's -- that the combination is being
23 compared to?

24 A. So can you repeat the question again.
25 This is getting....

1 Q. Sure. Your previous answer was:

2 I think it depends on the
3 context very much.

4 It's successful in, you
5 know, achieving at least the
6 goals of the art that is
7 purported to be obvious.

8 So if you're looking at a patent -- call
9 it "Patent A" -- and you have references B and C,
10 you're looking at Patent A to determine whether B
11 and C would be -- it would be reasonably -- you
12 would have a reasonable expectation of success to
13 combine B and C?

14 A. I believe that's correct, in that I would
15 look to -- in the....

16 Would a POSITA -- in the process of
17 combining B and C, would they have a reasonable
18 expectation of achieving the goals or -- that are
19 outlined in the patent or the -- I guess it would be
20 a "Patent A."

21 Q. Okay. And you say here that the -- the
22 last clause says that:

23 ...evidence showing that
24 there is no reasonable
25 expectation of success may

1 support a conclusion of
2 nonobviousness.

3 Right?

4 A. Correct.

5 Q. Okay. So now let's turn to Exhibit No. 2.
6 Again, please keep Exhibit No. 1 handy.

7 Now, there are -- you understand that
8 there are multiple patents at issue in this --
9 in...sorry, there are multiple IPRs that have been
10 issued by USAA against Auto Telematics. Right?

11 A. Correct.

12 Q. And they involve four different patents?

13 A. Correct.

14 Q. And this is the -- Exhibit 1 [sic] is
15 9,311,271, would you agree?

16 A. Yes.

17 Q. Would you be -- if I refer to this as the
18 "'271 patent," would you have -- would that be okay
19 with you?

20 A. That would be fine, yeah.

21 Q. Would you agree with me that the -- all
22 four patents share the same specification?

23 A. I do.

24 Q. But they have different claims. Correct?

25 A. That is correct.

1 Q. Okay. But you would agree with me that
2 the -- but the claims themselves have similarities
3 between them?

4 A. That is correct.

5 Q. And....

6 A. I would say some of the claims are similar
7 among the patents. Each of the patents goes off in
8 slightly different directions. So....

9 Q. But the claims all have some similarities
10 to them?

11 A. Correct.

12 Q. Okay. And what would you say the claims
13 are directed to?

14 A. I think the claims are generally directed
15 to....

16 (Witness reading.)

17 MR. TILLER: Let me just ask a
18 question, Noel.

19 The claims in the Exhibit 2
20 patent or the claims, generally, to all
21 four patents?

22 Q. So let me ask the question this way: All
23 right. Do you believe that the claims are
24 essentially directed to the same thing?

25 A. They are directed to aspects of the same

1 thing -- namely, using a mobile phone to collect
2 certain -- collect and process certain data, yeah.

3 Q. Well, let me take you to paragraph 19 of
4 your declaration.

5 A. Okay.

6 Q. And the first sentence there, could you
7 read it for me.

8 A. So (reading):

9 The '271 patent is
10 directed to methods and systems
11 for logging driving information
12 associated with a vehicle when
13 driven.

14 Q. Now, would you agree with me that the --
15 you still believe that statement to be true?

16 A. I do.

17 Q. Okay. And as you said before, you filed
18 an identical declaration in the -857 IPR.

19 Is that correct?

20 A. That is correct.

21 Q. Okay. So that same statement is stated
22 with respect to the '879 patent that was at issue in
23 that case?

24 A. Yes.

25 Q. Okay. Now, if we can turn to -- well, if

1 you can go to Exhibit 2 and turn to -- towards the
2 back of it. Let's look at Claim 1.

3 And let me ask first: You stated you
4 reviewed this patent as part of your process of
5 preparing the declaration.

6 Is that correct?

7 A. That is correct.

8 Q. Okay. And if I am -- so I just want to
9 look at Claim 1.

10 And you understand that, beginning with
11 "sensor set," below that, the claim consists of
12 multiple limitations.

13 Do you understand that?

14 A. I do.

15 Q. Okay. So the limitation I would first
16 like to take a look at is the limitation that says:

17 ...store a selection of
18 the driving information to the
19 memory....

20 Do you see that?

21 A. I do.

22 Q. Let me first ask you this: So the --
23 beginning with "determine" -- "determine, based on
24 inputs received."

25 Do you see that claim limitation?

1 A. Yes. At line 39 there?

2 Q. That is correct.

3 A. Yeah.

4 Q. So do you understand....

5 So I'm going to refer to it as the
6 "determine" -- sorry.

7 For all the limitations that are below
8 "the mobile device configure to," do you understand
9 those to be steps that need to be performed by the
10 mobile device?

11 (Witness reading.)

12 A. In general, I don't....

13 In the....

14 ...wherein the mobile
15 communications device is
16 controlled by a downloaded
17 application....

18 I wouldn't characterize that as being
19 performed by the mobile device.

20 But, in general, yes these are all
21 attributes of the mobile device, if you will.

22 Q. Okay. So we have -- other than the
23 "wherein" clause, we have a determine step, a
24 process step, and a storing step?

25 A. Correct.

1 Q. Would you agree? Okay.

2 All right. So if we're looking at the
3 storing step....

4 Well, let me ask you this: Would you
5 agree with me that the prior art would need to have
6 to show...would need to have -- it would have to
7 show the step as written in order for it to meet the
8 limitation?

9 A. Well, this, again, seems like a legal
10 question.

11 But, you know, as I say in my report,
12 it's...it has to perform the step as written in the
13 claim but also informed by the specification.

14 Q. So would you agree with me that in order
15 for a piece of prior art to meet the storing step
16 limitation, the prior art would need to show that it
17 stores a selection of driving information to the
18 memory?

19 A. Yes.

20 (Whereupon, Petitioner Exhibit 3 was
21 marked for identification.)

22 Q. Mr. Wilson, I'm handing you what's been
23 marked as Exhibit No. 3, Defendants [sic] Exhibit
24 No. 3.

25 And do you recognize this?

1 A. I do.

2 Q. What is it?

3 A. This is World Intellectual Property
4 Organization patent or International Publication
5 No.~WO 2010/042545 to Curry, with the inventor as
6 Curry.

7 Q. Okay. So would the....

8 If I refer to that as the "Curry
9 reference," would you recognize it?

10 A. I would.

11 Q. Okay, great. Now, if you could just go to
12 the bottom of page....

13 And I know there's kind of a double page
14 number there, which makes things very, very
15 interesting.

16 MR. TILLER: We've been using
17 the bottom one.

18 Q. So....

19 A. Yes, we've had this fun ourselves.

20 Q. All right. And I apologize. Let me pull
21 it up here real quick so it's easier for me to look.

22 Okay. If you go down to the bottom of
23 the -- of page 2, and the bottom number being the
24 "2."

25 A. Okay.

1 Q. And if you look at the last line there, it
2 says:

3 For example both GPS and
4 accelerometer sensors have been
5 equipped in iPhone 3G smart
6 phones from Apple, Inc., while
7 50% of Nokia mobile phones
8 shipped in 2009 will be
9 GPS-enabled.

10 Do you see that?

11 A. I do.

12 Q. And do you have an understanding of what
13 the iPhone 3G is?

14 A. Broadly, yes.

15 Q. What about Nokia mobile phones?

16 A. Again, broadly, but not the specifics of
17 these phones.

18 Q. Back in 2009, 2010, did you have a mobile
19 device?

20 A. I did.

21 Q. Okay. Do you remember which one it was?

22 A. Not specifically.

23 But I -- it was not an Apple phone. I've
24 not owned an Apple device.

25 I doubt it was a Nokia device in that time

1 frame, but I did have a mobile device.

2 Q. Fair enough.

3 Now, because Curry discloses an iPhone,
4 would you agree with me that, from your knowledge of
5 an iPhone 3G, that it was able to store information
6 to memory?

7 A. Yes.

8 Q. And would you agree with me that that --
9 that storing information into memory is a pretty
10 routine function of a cell phone, such as an iPhone,
11 at that time? -- and by "that time," I mean the
12 2009, 2010 time frame.

13 A. I would agree that storing information in
14 a cell phone memory or an Apple phone memory would
15 be routine at the time.

16 MR. CHAKKALAKAL: Okay. I think
17 we've been going for about an hour.
18 Right?

19 MR. TILLER: An hour and five
20 minutes.

21 MR. CHAKKALAKAL: So why don't
22 we take a five- to ten-minute break --

23 THE WITNESS: Okay.

24 MR. CHAKKALAKAL: -- if that
25 works.

1 (Whereupon, a recess was taken
2 from 11:22 a.m. until 11:31 a.m.)

3 BY MR. CHAKKALAKAL:

4 Q. Welcome back, Mr. Wilson.

5 A. Thank you.

6 Q. Okay. So we were just talking about the
7 Curry reference and, actually, Exhibit 3 and the --
8 I think, the iPhone.

9 And I believe you said that:

10 I would agree that storing
11 information in cell phone
12 memory or an Apple phone memory
13 would be routine at the time.

14 Is that correct?

15 A. Yes.

16 Q. Okay. Now, if a prior art reference were
17 to disclose driving information and was able to work
18 on an iPhone, would you agree that it discloses this
19 limitation?

20 MR. TILLER: Are you pointing to
21 a specific reference, or you're just
22 asking hypothetically?

23 MR. CHAKKALAKAL: No; I'm asking
24 hypothetically.

25 MR. TILLER: Objection.

1 A. And so, this limitation being the....

2 Q. Sorry; the storing limitation.

3 A. The storing limitation of the '271
4 patent...I mean, there's a number of issues with the
5 premise.

6 One is determining whether this is, in
7 fact, driving information.

8 I would agree that it would be possible
9 for an iPhone to store driving information in the
10 memory.

11 I don't necessarily agree that it does
12 that.

13 Q. And just to be clear, I'm talking about
14 not the Curry reference but, generally, a prior art
15 reference.

16 If a prior art reference were to disclose
17 driving information -- or, sorry, if a prior art
18 reference were to disclose a selection of driving
19 information, would you -- and the prior art
20 reference was shown to work on an iPhone -- based on
21 just those two pieces of information, would you
22 agree with me that such a prior art reference would
23 disclose this limitation?

24 MR. TILLER: Well, strike
25 that -- or objection.

1 What portion of this -- are you
2 just talking about storing selection of
3 the driving information to the memory, or
4 are you talking about store selection of
5 the driving information to the memory,
6 wherein the driving information is derived
7 without data from vehicle sensors?

8 MR. CHAKKALAKAL: I want
9 Mr. Wilson to answer the question as I
10 asked it.

11 MR. TILLER: I'm trying to
12 clarify the question.

13 MR. CHAKKALAKAL: I understand.

14 BY MR. CHAKKALAKAL:

15 Q. If Mr. Wilson wants me to clarify it, he
16 can ask me.

17 But my question in my opinion was
18 relatively simple, which is: If you have a prior
19 art reference and you assume that it discloses a
20 selection of driving information and it discloses
21 that it works on an iPhone, would you agree with me
22 that such a prior art reference discloses this
23 limitation?

24 MR. TILLER: Objection; unknown
25 what you mean by "this limitation."

1 MR. CHAKKALAKAL: The storing
2 selection of driving information to the
3 memory.

4 A. My answer would be no.

5 Q. Okay. And why is that?

6 A. I believe the premise you set up was
7 having driving -- an application having driving
8 information, and assuming that driving information
9 is consistent with the definition of "driving
10 information" in this patent.

11 But you also say it is on an iPhone.

12 Q. Um-hum.

13 A. I agree that iPhone does have memory.

14 But the fact that -- the fact that there
15 is memory there and that there is driving
16 information does not necessarily meet the limitation
17 of store selection of the driving information to the
18 memory.

19 Q. And why does it not necessarily meet the
20 limitation?

21 A. Because of the....

22 The premise does not include the
23 storing -- the act of storing. And I understand
24 this limitation to require the storing act.

25 Q. So the prior art reference would need to

1 explicitly disclose the step of storing.

2 Is that correct?

3 A. Explicitly disclose it or have it inherent
4 or somehow otherwise make it clear that there is a
5 storing activity taking place.

6 Q. Now, if we go to the processing step,
7 which is at line 43 and says:

8 ...process the sensor data
9 from the sensor set during the
10 driving period to derive
11 driving information associated
12 with how the vehicle is
13 driven....

14 Do you see that?

15 A. Yes, I do.

16 Q. Okay. And I'm going to ask you a similar
17 question: Is it --

18 So let me ask you this: Would you agree
19 with me that because the Curry reference discloses
20 an iPhone 3G -- sorry, let me restart the question.

21 The Curry reference discloses an iPhone
22 3G. Correct?

23 A. Yes, it does.

24 Q. Would you agree with me that an iPhone 3G
25 is capable of processing sensor data?

1 A. Yes, it is.

2 Q. Would you agree with me that the iPhone 3G
3 as disclosed in Curry would have an image sensor?

4 MR. TILLER: Objection; calls
5 for speculation --

6 COURT REPORTER: What was that?
7 Could you repeat that.

8 MR. TILLER: -- relies on
9 evidence that has not been admitted or
10 even shown.

11 A. Can you repeat the question?

12 Q. Sure. The Curry reference discloses an
13 iPhone 3G. Correct?

14 A. Correct.

15 Q. And you have some understanding of what an
16 iPhone 3G is?

17 A. Approximate understanding, yes.

18 Q. Are you aware of whether the iPhone 3G had
19 an image sensor?

20 A. I believe it did.

21 Q. Would you agree with me that the iPhone 3G
22 is a phone?

23 A. Yes, I would.

24 Q. Okay. So would you agree with me that,
25 because it's a phone, it has an audio sensor, such

1 as a microphone?

2 A. Okay. You just switched from -- I guess I
3 missed the context of that.

4 You switched from an image sensor to a
5 microphone?

6 Q. Yes. I'm just asking if it had another
7 sensor, which is --

8 A. Oh.

9 Q. -- a microphone.

10 A. Yes. An iPhone 3G would have had a
11 microphone.

12 Q. And are you aware of whether or not the
13 iPhone 3G would have had an accelerometer?

14 A. I believe it did. I'm not certain of
15 that, but I believe it did -- well, yes, I mean,
16 according to Curry, it did.

17 Q. Okay. And are you aware of whether the
18 iPhone 3G would have had a positioning module or
19 GPS?

20 A. According to Curry, yes, the iPhone 3G had
21 a GPS or was GPS enabled.

22 Q. Okay. So going back to this claim element
23 of processing the sensor data, would the iPhone as
24 disclosed in Curry been able to process sensor data
25 from the sensors you just mentioned?

1 MR. TILLER: Objection; calls
2 for speculation.

3 A. In my opinion, the iPhone 3G would have
4 been able to process data from the iPhone image
5 sensor or iPhone microphone.

6 Q. Now, let's assume you have a prior art
7 reference that discloses having sensor data that was
8 received from a sensor set during the driving period
9 and that is used to derive driving information
10 associated with how the vehicle is driven -- that's
11 Assumption 1. And assume that you have the iPhone
12 as disclosed in Curry.

13 Would you agree with me that, based on
14 those two assumptions, that the -- that such a prior
15 art reference would disclose the limitation of
16 "process the sensor data from the sensor set during
17 the driving period to derive driving information
18 associated with how the vehicle is driven"?

19 MR. TILLER: Objection; calls
20 for speculation and assumes facts not in
21 evidence.

22 A. Yeah, I....

23 My sort of instinctive response to that is
24 no. But I -- if you could rephrase the question,
25 make it -- what was -- it's hard to get that all

1 together.

2 Q. It's a lengthy limitation.

3 MR. TILLER: A lot of
4 assumptions.

5 Q. Well, the assumption is really two
6 assumptions.

7 You have the iPhone as disclosed in Curry.
8 Okay.

9 The second assumption is that the -- that
10 you have sensor data -- just basically everything
11 after "process" step.

12 A. Um-hum.

13 Q. The second assumption is that you have
14 "sensor data from the sensor set during the driving
15 period to derive driving information associated with
16 how the vehicle is driven" -- so, those two
17 assumptions.

18 A. Okay.

19 Q. And I'm asking: If you have those two,
20 would you understand -- if you had those two in a
21 prior art reference, would you understand the prior
22 art reference to have disclosed this limitation?

23 MR. TILLER: Same objection.

24 Also, in addition, objecting to
25 the fact that that's not the position

1 that's taken by the petitioner in this
2 case.

3 A. I would say no.

4 Q. Okay. And is it for a similar reason as
5 your answer to storing a selection, in that the
6 actual process needs to be shown in the prior art?

7 A. Yes. The -- you know, "process" and
8 "store," as used in this patent, in general, in the
9 specification, have certain connotations which are
10 not necessarily met in the hypotheticals that you
11 suggest.

12 Q. Okay. And just to close this off -- so
13 I'm going to go to the last -- sorry, the
14 "determine" step at line 38:

15 ...determine, based on the
16 inputs received by the user
17 interface and sensor data from
18 the sensor set, a start from
19 the driving period during which
20 the mobile device is removably
21 attached to the vehicle and the
22 vehicle is in use....

23 Okay. The same assumptions: You have
24 a -- well...let me ask you: Does the rationale that
25 you apply to "process" and "store" hold true for the

1 "determine" step, in that the -- a prior art
2 reference would have to actually disclose the
3 determining step?

4 A. Yes. It is my understanding that the
5 prior art has to disclose a determining set [sic]
6 for it to practice the limitations of this claim.

7 Q. So your analysis of the references that
8 were cited here in the petition -- for example,
9 Curry -- you looked to see whether the references
10 disclosed the limitation, as written. Correct?

11 MR. TILLER: Objection.

12 I'm not sure that's what he
13 said. But....

14 A. I looked to see if the references
15 disclosed the claims, as written, in light of the
16 specification and knowledge of one skilled in the
17 art.

18 Q. But mere capability to perform the step
19 wasn't enough?

20 A. It depends on the step.

21 Some claims require just a capability to
22 do something.

23 But, again, if -- and if you can point me
24 to something specific, I'll talk about it. But
25 it's....

1 Q. So let's turn to paragraph 76 of your
2 declaration.

3 A. Okay. I'm there.

4 Q. And the second-to-last sentence of
5 paragraph 76 says:

6 Curry's mobile phone does
7 not perform further processing,
8 evaluation, statistical
9 analysis, or scoring,
10 especially as concerns how the
11 user is driving the vehicle or
12 for detecting a driving
13 incident

14 Do you see that?

15 A. I do.

16 Q. Why do you have this statement in here in
17 your declaration?

18 MR. TILLER: Objection.

19 A. I think this is a key difference or a
20 key -- reflects a key limitation of the claims that
21 Curry is lacking.

22 Specifically, there's nothing in Curry
23 that indicates this processing, evaluation,
24 statistical analysis, or scoring, especially as
25 concerns how the user is driving the vehicle or for

1 detecting a driving incident is performed on the
2 phone.

3 Q. And when you say "processing," are you
4 referring, in part, to processing of sensor
5 data -- of raw sensor data?

6 A. I'm referring to processing of data, you
7 know, in light of the use of the word "processing"
8 or how processing is used in the Wright patent.

9 Q. Well, you say Curry's phone does not
10 perform further processing.

11 And if you look at the sentence above
12 that, it's:

13 ...Curry's mobile phone
14 uses the raw data to estimate
15 context....

16 Right?

17 A. That is correct.

18 Q. So there's processing to estimate context.
19 But in your opinion, Curry's mobile phone does not
20 perform further processing?

21 A. Correct; along -- you know, further
22 processing that's relevant to the claims.

23 Q. And when you say "further processing
24 that's relevant to the claims," is that processing
25 of sensor data at the mobile device?

1 A. Yes, that would certainly include that.

2 Q. Okay. But the mobile device does have the
3 capability to perform such processing. Right?

4 A. The mobile device has the capability to
5 perform lots of different types of processing.

6 Q. So the mobile device in Curry could
7 perform the processing.

8 But your opinion is that it doesn't
9 disclose processing of -- further processing at the
10 mobile device. Correct?

11 A. It's my opinion that -- I mean,
12 technically, it could perform the processing, you
13 know, as, you know, Wright points out.

14 But I see nothing in Curry that indicates
15 that there is -- the processing is performed or that
16 there's any reason to perform the additional
17 processing on the mobile phone.

18 Q. Okay. But there is no technical
19 inadequacy that would prevent, for example, the --
20 Curry's iPhone from performing processing of the
21 data. Right?

22 MR. TILLER: Objection.

23 Mr. Wilson's not identified as
24 an expert in the iPhone.

25 A. So I would say that cell phones, mobile

1 phones, the iPhone 3, at the time, had various
2 technical limitations.

3 Whether or not Curry's -- the fact that
4 Curry's mobile phone could perform the calculations
5 required or that you allude to is not clear to me.
6 I mean, it may or may not have had that technical
7 capability.

8 It had the capability to do some
9 processing -- you know, I agree to that.

10 But Curry requires...or you're alluding to
11 specific processes.

12 And I can't say if the iPhone 3 could
13 have, you know, implemented these processes of
14 evaluation, statistical analysis, or scoring -- or
15 not. I don't have an opinion on that.

16 Q. Let me ask you the question this way: Are
17 you aware of any technical limitation that would
18 prevent the mobile devices disclosed in Curry from
19 being able to process sensor data?

20 MR. TILLER: Objection.

21 Mr. Wilson's not an expert --
22 not identified as an expert on the iPhone.

23 A. I would say that the iPhone does process
24 sensor data.

25 The question, I feel, before me is: Could

1 the iPhone 3 specifically perform the processing,
2 evaluation, statistical analysis, or scoring
3 identified in the -- you know, the Wright patent or
4 in Curry -- could it perform those processes? And I
5 don't have an opinion on that.

6 But it is not...it's certainly not obvious
7 to me that it could perform those tasks.

8 Q. And I apologize, but my question was: Are
9 you aware of any technical limitation to those
10 devices that would prevent them from being able to
11 process the sensor data?

12 MR. TILLER: The same objection.

13 A. Certainly.

14 They have technical limitations in terms
15 of memory, in terms of processing speed, in terms of
16 what the operating system would allow, in terms of
17 keeping applications running and, you know, starting
18 applications in the background.

19 All of these would be limitations on
20 implementing these processes.

21 Q. And I understand you to have just stated
22 certain general technical limitations.

23 Specifically, are you aware of a technical
24 limitation that would have prevented a mobile
25 device, as disclosed in Curry, from performing

1 processing on sensor data?

2 A. Again, it would -- as I've said, it
3 certainly can do some processing on some sensor
4 data.

5 But Curry's application requires specific
6 types of processing.

7 And for those specific types of
8 processing, I don't have an opinion on whether the
9 iPhone 3 could perform those or not.

10 Q. Okay. Now, your....

11 So would you say that Curry discloses such
12 processing in the -- at the server? -- at a server?

13 A. It's my opinion that Curry does disclose,
14 you know, further processing of the raw data,
15 evaluation, statistical analysis, and scoring at a
16 server, yes.

17 Q. Now, you agree with me that the -- or let
18 me ask you: The Curry reference discloses the use
19 of modules for performing analysis. Correct?

20 And I'm looking at paragraph....

21 Sorry, give me one second. I have my line
22 numbers confused here.

23 (Pause.)

24 Q. So if you go to page 12 -- and again,
25 that's the bottom number 12.

1 A. I see that.

2 Q. Okay. And....

3 Well, it says that:

4 While the
5 mobile...client...is
6 illustrated in FIG. 1 is
7 including a variety of
8 modules --

9 MR. TILLER: Excuse me.

10 Where...what line are you reading from?

11 MR. CHAKKALAKAL: Line 3 of
12 page 12.

13 MR. TILLER: Okay.

14 BY MR. CHAKKALAKAL:

15 Q. (Reading:)

16 While the mobile...client
17 110 is illustrated in FIG. 1 as
18 including a variety of modules,
19 caches, and databases, it is
20 also possible that these may be
21 located remotely, such as on
22 the driving safety server or on
23 a mobile phone service
24 provider's network.

25 The location of software

1 and firmware used to create the
2 functionality of the system for
3 monitoring and controlling the
4 use of a mobile computing
5 device illustrated in FIG. 1
6 can be based on a tradeoff
7 between the complexity of the
8 mobile device and the amount of
9 information communicated on the
10 mobile device's network.

11 Do you see that?

12 A. I do.

13 Q. And then it says:

14 By placing more modules,
15 caches, and databases on the
16 mobile device, it can require a
17 more complex device (having
18 more memory). However, the
19 amount of communication needed
20 to operate the system can be
21 reduced.

22 Do you see that?

23 A. I do.

24 Q. Do you disagree with any of the statements
25 in there?

1 A. I would -- I don't agree that,
2 necessarily, you know, there's an association by
3 putting modules somewhere and reducing
4 communication. That relationship is not,
5 necessarily, simple or unidirectional.

6 But, in general, I agree with the
7 statements here.

8 Q. Okay. And then it goes on to say:

9 Conversely, locating more
10 of the modules, caches, and
11 databases remotely can enable
12 the use of a simpler mobile
13 device, but may require
14 additional communication
15 between the mobile device 106,
16 the driving safety server 104,
17 and the mobile device service
18 provider....

19 Do you see that?

20 A. I do.

21 Q. Do you agree with that statement?

22 (Witness reading.)

23 A. I do, with the note that it says, you
24 know, "may require additional communication."

25 It may enable less communication too.

1 So that -- again, that relationship is not
2 clear.

3 But, certainly, that there is some
4 relationship between the two -- I agree with that.

5 Q. Okay. And then the paragraph concludes:

6 The actual location of the
7 modules, caches, and databases
8 can be decided based on
9 engineering and business needs.

10 Do you see that?

11 A. I do.

12 Q. Okay. And do you agree with that
13 statement?

14 A. Yes, I do.

15 Q. Okay. So to the....

16 So you earlier said:

17 It is my opinion that
18 Curry does disclose, you know,
19 further processing of the raw
20 data, evaluation, statistical
21 analysis, and scoring at a
22 server.

23 Do you recall that?

24 A. I do.

25 Q. Okay. Would the processing of raw data or

1 evaluation of statistical analysis be done by
2 modules that are disclosed in the Curry reference?

3 MR. TILLER: Objection; calls
4 for speculation.

5 A. You were starting to cite to a module
6 description earlier.

7 To the extent that Curry divides his
8 processing up into various modules....

9 I guess, what's the question again?

10 Q. Sure. The question was:

11 Curry discloses --

12 Sorry.

13 Would the processing of
14 raw data or statistical
15 analysis be done by modules,
16 some sort of processing module?

17 MR. TILLER: Objection; calls
18 for speculation.

19 A. I believe, according to, you know, Curry's
20 nomenclature, he has divided the processing into
21 various modules -- so, yes.

22 Q. Let's go back to Exhibit No. 2, which is
23 the '271 patent.

24 And in your declaration, you talked about
25 the scope of the patent and its claims. Correct?

1 A. Yes, I did.

2 Q. Okay. So I want to ask you a little bit
3 about the -- well, what is -- the claims refer to
4 "driving information."

5 And specifically, I'll point you to
6 Claim 1 of the '271 patent, Column 31, line 30.

7 A. Okay. I see that.

8 Q. What is "driving information"?

9 A. I address that in my report.

10 (Witness reading.)

11 A. So I address that in numerous spots.

12 You know, one I'm, you know, looking at
13 right now is at paragraph 56 of my '271 report,
14 where I state that:

15 Driving information is
16 distinct from raw sensor data
17 because it is derived from raw
18 sensor data and is transformed
19 by the phone for further
20 analysis associated with how
21 the vehicle is driven.

22 Q. And what does it mean to be "transformed
23 by the phone"?

24 A. That some sort of...some sort of process
25 that's applied to the data.

1 Q. Okay. And when you say "the data," the
2 sensor data?

3 A. Correct.

4 Q. Okay. And so, it's derived from the
5 sensor data. I think that's what that paragraph
6 says?

7 A. Yes.

8 Q. Okay. And you say it's "distinct from raw
9 sensor data" in that paragraph. Right?

10 A. Yes.

11 Q. Okay. And just to be clear, we're talking
12 about paragraph 56 of your declaration in the -911
13 IPR?

14 A. That is correct.

15 Q. And what does it mean to be distinct from
16 raw sensor data?

17 A. That they -- essentially, this means that
18 raw sensor data is not, you know, necessarily
19 driving information.

20 Q. You said "not necessarily." But....

21 Okay. What do you mean by "not
22 necessarily"?

23 A. That the driving information -- basically,
24 not necessarily.

25 There is some what I would characterize

1 as, you know, "raw sensor data" that is also driving
2 information.

3 Q. So raw sensor data can be --

4 A. Some raw sensor data would be driving
5 information.

6 And here, I, you know, am somewhat....

7 Well, just leave it at that.

8 Q. So what's the distinction between what raw
9 sensor data can be driving information and what
10 can't?

11 A. You know, among other things, it is
12 related to how the vehicle is driven -- or
13 associated with how the vehicle is driven.

14 Q. So raw sensor data that is associated with
15 how the vehicle is driven is driving information?

16 A. It....

17 Yes.

18 Q. Okay. So....

19 And what is your understanding of what it
20 means to be associated with how the vehicle is
21 driven?

22 A. How the vehicle is driven is driving data
23 about the way that the data -- the vehicle is being
24 driven that would apply or be relevant to the Wright
25 patent, such as speeds, acceleration, swerving, the

1 sorts of driving information of interest to the
2 Wright -- to Wright.

3 Q. And just to....

4 I'm going to read back your answer just so
5 you understand the context of what I'm going to ask
6 next.

7 So my question was:

8 So....

9 And what is your
10 understanding of what it means
11 to be associated with how the
12 vehicle is driven?

13 And your answer was:

14 How the vehicle is driven
15 is driving data about the
16 way -- about the way that the
17 data -- the vehicle is being
18 driven would -- that would
19 apply or be relevant to the
20 Wright patent, such as speeds,
21 acceleration, swerving....

22 And we're asking about what it means for
23 raw data to be associated with how the vehicle is
24 driven.

25 So raw data associated with speed is

1 associated with how the vehicle is driven?

2 A. Yeah, my answer was definitely not very
3 clear there. I'm trying to....

4 So I guess....

5 I guess I'm -- I'm going to ask what the
6 question is again here, because I've gotten confused
7 by my answer as well as your questions.

8 Q. Let me see if I can back up a second to
9 maybe -- to maybe help out here.

10 Is GPS data associated with how the
11 vehicle is driven?

12 A. The raw data itself is not.

13 Q. Okay.

14 A. Well, it would depend on the context.

15 But, you know, off of the top of my head,
16 sort of in general, I would say, you know, looking
17 at the Wright patent, GPS data on its own is not
18 vehicle data or is not driving information.

19 Q. So GPS data is not driving information?

20 A. The raw GPS data -- and again, it's going
21 to depend on the context -- but, you know, sitting
22 here right now without further context, I'd say no.

23 Q. Okay. What about raw accelerometer data?

24 A. Accelerometer data, once it's been
25 captured by a....

1 Once it's been captured and cleaned up and
2 put in the form usable by the phone, yes, that raw
3 data would be driving data.

4 Q. When it's....

5 Accelerometer data, once it's been
6 captured --

7 A. No, what -- sorry.

8 What I was trying to get at there is: The
9 raw data out of an accelerometer is typically a
10 voltage. So the voltage is not. But by the time it
11 becomes a number -- 1G, .2G, whatever it is -- that
12 would be driving data.

13 So there's some processing that goes on to
14 the sensor information.

15 Q. Is the same true of the GPS data?

16 A. Yes.

17 Q. Okay. So with the GPS data, you have --
18 the output from the GPS chip is some sort of binary?

19 A. Yeah. So the output of the GPS chip would
20 be a lat-long, presumably -- maybe some other
21 information.

22 And my answer was that that
23 latitude-longitude pair, in and of themselves, are
24 not driving information, in general -- again,
25 depending on the context.

1 Q. Okay. But if that latitude-longitude
2 information were used to determine something else,
3 were used in a calculation, then it would be driving
4 information?

5 A. I -- you know, one of -- if one takes of
6 the two lat-long pairs and time-combines those to
7 derive a speed for the vehicle, that speed would
8 constitute driving information.

9 Q. So let's talk a little bit more about raw
10 sensor data.

11 So the GPS outputs a latitude-longitude.
12 That's the raw sensor data from the GPS. Right?

13 A. This would depend, to some extent, on the
14 concept -- on the context.

15 You know, the raw sensor data, internally,
16 is this -- you know, the phase of various signals.

17 But that's processed within the GPS
18 sensor. And typically, a latitude-longitude would
19 be dumped out of the GPS sensor in a binary, you
20 know, format.

21 Q. And the output of an accelerometer is --
22 you termed it as "voltage." Right?

23 A. Typically, yes, it's going to be voltage.
24 It may be other things.

25 But that's obviously processed into some

1 sort of a digital value that would be an
2 acceleration value.

3 Q. Um-hum. And where does that processing
4 occur?

5 MR. TILLER: Objection.

6 Are you asking in the context of
7 Curry?

8 MR. CHAKKALAKAL: Well, let's
9 see...I was asking generally about
10 accelerometers.

11 MR. TILLER: Well, objection,
12 then; beyond the scope of his
13 identification as an expert, beyond the
14 scope of his declaration.

15 BY MR. CHAKKALAKAL:

16 Q. Go ahead.

17 A. Yeah, so this is....

18 I guess, repeat the question.

19 Q. Sure. You had earlier said -- you had
20 earlier talked -- let me go to your earlier answer.

21 So you had an answer that said:

22 What I was trying to get
23 at there is that the raw data
24 out of an accelerometer is
25 typically a voltage. So, the

1 voltage is not. But by the
2 time it becomes a number -- 1G,
3 2G, whatever it is -- that
4 would be driving data.

5 And so my follow-up question was...I mean,
6 I had a follow-up question that I asked:

7 And the output of an
8 accelerometer you termed as
9 "voltage." Right?

10 And you answered:

11 Typically, that's
12 obviously processing to some
13 sort of digital value that
14 would be an acceleration value.

15 And I asked:

16 Where does that processing
17 occur?

18 A. And that processing would occur in the GPS
19 sensor or the location sensor.

20 Q. Well, we were talking about an
21 accelerometer.

22 A. And that processing would occur within the
23 accelerometer chip, if you will.

24 Q. Okay. That's on the mobile device.
25 Right?

1 A. Yes.

2 I guess, I just add that that....

3 Well, I'll just leave it.

4 Q. The '271 patent also discloses an image
5 sensor, Claim 1.

6 If you need the cite, it's going to be
7 Column 31, line 32.

8 A. Okay.

9 Q. What would be raw sensor data that would
10 come from an image sensor?

11 A. For purposes of this patent, the raw
12 sensor data would be an image, a digital image.

13 Q. Okay. So when you say "a digital image,"
14 a series of ones and zeros that can then be
15 interpreted into an image. Correct?

16 A. Correct.

17 Q. And what would be the raw sensor data that
18 would come out of an audio sensor?

19 A. You know, again -- so in the context of
20 this claim, I think the raw data is not the voltage
21 again. The raw data would be a string of binary
22 digits representing the sound.

23 Q. Representing an audio signal?

24 A. Representing an audio signal, yes.

25 MR. CHAKKALAKAL: Okay.

1 I think since lunch is here,
2 it's a good time to --

3 MR. TILLER: Okay.

4 MR. CHAKKALAKAL: -- take a
5 lunch break.

6 (Whereupon, the deposition recessed for
7 lunch at 12:27 p.m.)

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

(1:03 p.m.)

BY MR. CHAKKALAKAL:

Q. Welcome back, Mr. Wilson.

A. Thank you.

Q. All right. So we were discussing driving
information before we broke for lunch.

I just want to ask you: Is -- would you
agree with me that speed and location are examples
of driving information, at least as contemplated by
the '271 patent?

A. No.

Q. So if you take a look at the '271 patent
and look at Column 4 -- sorry, that's Exhibit No. 2,
Column 4. And....

A. Okay.

Q. I'm going to take you down to line 23.
The sentence begins, "Accordingly."

Accordingly, the executed
application may be arranged to
control the mobile device to
selectively disable and/or
divert voice-calls incoming to
the mobile device during a
driving period, in dependence

1 on the driving information --
2 for example, the speed and
3 location of the vehicle.

4 Would you agree with me that there it
5 lists "speed" and "location" as examples of driving
6 information.

7 (Witness reading.)

8 A. Yeah, so this paragraph does seem to
9 indicate that location of the vehicle is driving
10 information.

11 But that's not my interpretation from
12 reading the specification in its entirety, and I
13 don't recall sort of looking at this in particular.

14 Q. Okay. Let's -- I want to go back to the
15 claim and take you to the step that says:

16 ...determine, based on
17 inputs received by the user
18 interface and sensor data from
19 the sensor set, a start of a
20 driving period during which the
21 mobile device is removably
22 attached to the vehicle and the
23 vehicles in use....

24 And this is Exhibit 2, Column 31, line 39.

25 A. Okay. I'm there.

1 Q. Okay. And I want to talk about the
2 "vehicle in use" portion.

3 Now, in your declaration -- so if we want
4 to go to Exhibit 1, paragraph 53.

5 Let me know when you're there.

6 A. I'm there.

7 Q. Okay. So here you say that:

8 Based on a plain reading
9 of the language of the claims
10 of the '879 and '271 patents,
11 "...during which the mobile
12 device is removably attached to
13 the vehicle and the vehicle is
14 in use" does not itself define
15 a "driving period." Rather,
16 this language simply provides
17 additional limitations of the
18 overall invention.

19 Do you see that?

20 A. I do.

21 Q. And is that still your position?

22 A. Yes, it is.

23 Q. Okay. Now, if this is a limitation of the
24 claim, that means that in order for a prior art
25 reference to invalidate the claim it would need to

1 disclose this limitation.

2 Is that correct?

3 A. That is correct.

4 Q. Okay. So a prior art reference would need
5 to disclose the vehicle being in use. Right?

6 A. Yeah -- as it's defined in the claim and
7 the specification, yes.

8 Q. But just to be clear, it's...when you say
9 "as it's defined," you're saying that "vehicle in
10 use" doesn't define "driving period." Correct?

11 A. The driving period is based -- is not
12 based solely on the vehicle in use --

13 Q. Okay.

14 A. -- limitation.

15 Q. So is it defined partly by the "vehicle in
16 use"?

17 A. Well, the "vehicle in use" clause, phrase,
18 I guess -- words within this claim are part of the
19 limitation. And that needs be met by anything
20 practicing this claim.

21 But it is, you know, not a definition of
22 the driving period -- is what I'm saying here.

23 Q. Okay. So the claim -- the -- that clause
24 starts with:

25 determine, based on inputs

1 received by the user interface
2 and sensor data from the sensor
3 set, a start of a driving
4 period....

5 Is that one limitation? -- is that what
6 you're saying?

7 A. I guess I'm not clear on the question.

8 Q. So I guess -- and I'm trying to
9 understand -- to be perfectly honest, I'm trying to
10 understand this paragraph in the declaration.

11 So you say rather -- the last sentence
12 says:

13 Rather, this language
14 simply provides additional
15 limitations "to" the overall
16 invention.

17 A. Okay. So one reading the entire
18 specification would understand that a driving period
19 is approximately the entire period of driving.

20 So from the -- roughly the time the
21 vehicle starts till roughly the time the guy turns
22 off the vehicle and gets out, that is the driving
23 period.

24 The additional limitations of the mobile
25 devices, "removably attached to the vehicle and the

1 vehicle is in use," are on top of that, that
2 understanding of driving period.

3 Q. Okay. So "removably attached" is one
4 limitation and "vehicle" -- sorry, let me rephrase.

5 "Mobile device is removably attached to
6 the vehicle" is one additional limitation.

7 And the "vehicle is in use" is another
8 additional limitation?

9 A. Yes.

10 Q. Okay. The....

11 And I see this sentence here. They
12 provide -- these provide additional limitations.

13 Now, there's no further analysis of these
14 limitations in your declaration.

15 So my question is: Is it your opinion
16 that Curry discloses this -- the "vehicle in use"
17 limitation?

18 A. I don't....

19 My opinion is that Curry does not disclose
20 the driving period as defined in the specification
21 of the '271 patent -- or does not disclose, yeah,
22 doing anything with respect to that driving period.

23 Q. So I understand that -- I understand.

24 But as I understand, your opinion is that
25 it doesn't disclose the driving period.

1 But to the extent this is an additional
2 limitation, I'm asking: Does Curry disclose this
3 additional limitation?

4 A. So I don't think I opined on that
5 directly, as you say.

6 (Witness reading.)

7 A. Yeah, I don't -- I don't recall an
8 opinion, specifically, on whether Curry discloses
9 these limitations.

10 My main point is that it does not disclose
11 the driving period.

12 Q. All right. So let's just talk about it in
13 the context of the patent itself -- so, you know,
14 just talking about the '271 patent.

15 If we're talking about a "vehicle in use"
16 as a separate -- "vehicle is in use" as a separate
17 limitation, in the context of the '271 patent if you
18 have a -- if you have a vehicle sitting on the side
19 of the road, is it in use? -- without anybody in it
20 and it's not running or anything like that.

21 A. Okay. Within the context of the '271
22 patent?

23 Q. Um-hum.

24 A. I would say no.

25 Q. Okay. Now, let's say somebody gets in the

1 car but hasn't started the car.

2 Is the vehicle in use?

3 A. Yeah, I don't -- I didn't opine on that,
4 exactly where "in use" comes into this.

5 You know, I don't think that's the basis
6 of my opinions, is not -- to me, the "in use" clause
7 looks fairly redundant with the "being driven"
8 clause.

9 But, you know, I guess, hypothetically,
10 within the -- you know, it depends on the context,
11 very much, whether that would be in use.

12 I mean, it's clearly in use. In some
13 sense, it's not. I would say not in use for the
14 purposes of the '271 patent, but that's just off the
15 top of my head.

16 Q. Okay. So I guess because of what you just
17 said, let me ask you this way: Could you ever have
18 a driving period where the vehicle is not in use?

19 A. I didn't opine on that. But, again, off
20 the top of my head, I would say no.

21 Q. So....

22 Okay. Now, each of the claims also -- so
23 that's the "vehicle in use" limitation.

24 Let's talk about the -- talk about the
25 removably -- the mobile device is -- sorry -- "the

1 mobile device is removably attached to the vehicle."

2 Do you see that limitation?

3 And just to orient ourselves, that is
4 Column 31, line 41.

5 A. I see that.

6 Q. Okay. So....

7 And just to be clear again, here also
8 you're saying that it -- "removably attached"
9 doesn't define the driving period. It is an
10 additional limitation to the invention. Correct?

11 A. That is correct.

12 Q. So once again, in order for the prior art
13 to invalidate the claim, the prior art must disclose
14 that the device -- that a mobile device is removably
15 attached to the vehicle. Correct?

16 A. That is correct.

17 Q. Does Curry disclose this limitation?

18 MR. TILLER: Objection; beyond
19 the scope.

20 A. Off the top of my head, sitting here now,
21 I do not recall that Curry does disclose that.

22 But I didn't opine on that specifically,
23 to the best of my recollection. And it does not
24 form the basis of my opinions.

25 Q. So what is....

1 In the context of the '271 patent, what
2 does it mean for something to be "removably
3 attached"?

4 MR. TILLER: Objection; beyond
5 the scope.

6 A. I believe I address that somewhere in my
7 declaration.

8 (Witness reading.)

9 A. I believe I addressed that in my
10 declaration here. I'm not finding it.

11 My recollection is, the -- you know, my
12 definition is something along the lines of either
13 physically or electronically associated with the
14 vehicle.

15 But if you want to point me to something,
16 I can elaborate more.

17 Q. No; and, you know, I see "removably
18 attached" used in your declaration, but I don't
19 necessarily see what exactly it means.

20 And that's one of the reasons I asked the
21 question --

22 A. Okay.

23 Q. -- is because I'm trying to understand, in
24 your declaration you as used "removably attached,"
25 what is your understanding of it? How is it met?

1 So you....

2 A. Yeah, I thought I cited that.

3 But my understanding is that it is
4 associated with a vehicle physically or
5 electronically.

6 Q. Okay. So in order to meet this claim
7 limitation, a prior art reference would have to show
8 that the -- that a mobile device is associated with
9 a vehicle physically or electronically.

10 Is that correct?

11 MR. TILLER: Objection; beyond
12 the scope of this deposition.

13 A. You know, my opinion here right now -- and
14 I guess I didn't -- to the extent I didn't define
15 that -- which I, again, thought I had -- that would
16 be that, to practice this limitation, that it would
17 be a requirement that the -- there be an association
18 either electronically or physically with the
19 vehicle.

20 Q. With respect to the Curry reference, do
21 you have any indication that it would not work if it
22 was removably attached to the vehicle?

23 MR. TILLER: Objection; beyond
24 the scope.

25 A. So I did not -- as part of my -- forming

1 my opinions, I did not look into that issue and it
2 doesn't form the basis of my opinions.

3 But I -- there's no obvious reason to me
4 that, you know, Curry would not work in such manner.

5 But, you know, most -- that's generally
6 not the requirements of the claim --

7 Q. Um-hum.

8 A. -- that claims are usually -- that it's
9 configured to or it has the capability of working
10 in, you know, those situations. So....

11 Q. So as to this step, determine...sorry,
12 this step of Claim 1 of the '271 patent that's at
13 Column 31, line 39:

14 ...determine, based on
15 inputs received by the user
16 interface and sensor data from
17 the sensor set, a start of a
18 driving period during which the
19 mobile device is removably
20 attached to the vehicle and the
21 vehicle is in use....

22 My understanding is that your opinion is
23 that Curry does not disclose this limitation because
24 it does not determine a start of a driving period.
25 Correct?

1 A. Yeah, it is at least for that reason that
2 the -- Curry does not determine or identify anything
3 that could be associated or reasonably called the
4 start of a driving period.

5 The driving period itself, finish of a
6 driving period -- you know, none of those are in
7 Curry.

8 Q. But you have no opinion as to whether the
9 mobile device is removably attached to the
10 vehicle -- you have no opinion as to whether the
11 vehicle is in use, whether those limitations are
12 disclosed by Curry?

13 A. I do not express any opinion on that in my
14 report.

15 (Whereupon, Petitioner Exhibit 4 was
16 marked for identification.)

17 Q. I'm handing you what has been marked as
18 Exhibit No. 4.

19 So this is the institution decision in
20 this case, and I just want to take you to page 23.

21 And the second full paragraph, it begins
22 with:

23 We agree with Petitioner's
24 construction, to the extent
25 "that" the Determination

1 Limitation expressly defines
2 the "driving period" as
3 corresponding to a period
4 "during which the mobile device
5 is removably attached to the
6 vehicle and the vehicle is in
7 use."

8 Do you see that?

9 A. I do.

10 Q. Okay. So do you disagree with that
11 statement?

12 MR. TILLER: Objection; beyond
13 the scope.

14 He hasn't relied on the
15 institution decision.

16 (Witness reading.)

17 A. So I would agree with this, in that my
18 understanding of the claims is that one limitation
19 is that the driving period is during which the
20 mobile device is removably attached to the vehicle
21 and the vehicle is in use.

22 But in addition, the specification
23 requires that the driving period be a substantial
24 portion of the period during which the vehicle is
25 driven or the plain and ordinary meaning of "driving

1 period."

2 Q. Okay. So you agree that in order for
3 there to be a driving period, the device has to
4 be -- the mobile device has to be removably attached
5 to the vehicle and the vehicle has to be in use?

6 MR. TILLER: Objection. I'm not
7 sure that's what he said.

8 A. Yeah, I -- those are part of the claim,
9 whether -- I guess that is not -- I guess I disagree
10 with this, in that the driving...these are
11 additional requirements on the driving period.

12 Q. Okay.

13 A. But they are -- the driving period itself
14 would be the plain and ordinary meaning, being
15 that -- you know, the period during which the
16 vehicle is being driven.

17 Q. All right. So let me ask it to you this
18 way -- and I'm just trying to understand the answer
19 that you just gave me.

20 Can you have a driving period where --
21 when the device is not attached to the vehicle?

22 A. Yes. So again, the way I understand this
23 is that "driving period" is the plain and ordinary
24 meaning of, essentially, when a vehicle is being
25 driven.

1 The claim places the additional
2 limitations of when the mobile device is removably
3 attached and the vehicle is in use.

4 But those -- so for purposes of the claim,
5 they limit the driving period or reduce the driving
6 period.

7 But the driving period itself is still the
8 plain and ordinary meaning construction, in my mind.

9 Q. And if we go to paragraph 49 of your
10 declaration, and that's Exhibit 1.

11 A. Paragraph 49?

12 Q. Yes, on page 26 and Roman VI [sic].

13 A. Okay.

14 Q. So the last sentence there:

15 Thus, in my opinion, a
16 POSITA would understand the
17 term "driving period" to refer
18 simply to the period of time
19 when the vehicle is being
20 driven.

21 Is that what you're getting at?

22 A. Yes.

23 Q. Okay. And then if we look at
24 paragraph~54, you say that...the very last sentence
25 in that -- well, if you look at the last line on the

1 page, on page 27 of 106, it says:

2 ...the driving period must
3 be the entire period in which
4 the vehicle is being driven....

5 Do you see that?

6 A. I do, with the additional parenthetical
7 statement "absent short periods related to getting
8 up to speed, backing out of the driveway, leaving a
9 particular geo-fence, etc."

10 Q. So you mention "getting up to speed."

11 Is there a specific speed at which the
12 driving period starts?

13 A. No, there is not.

14 Q. Okay. And let me ask it to you this way:
15 Is there a particular speed below which a vehicle
16 isn't considered as being driven?

17 A. No, there is not -- you know, again, a
18 POSITA looking at this specification in its entirety
19 would understand that the driving period must
20 represent essentially what I think of as a fair
21 sample of the driving, so that an insurer can
22 understand or see the driving behavior under, you
23 know, most situations.

24 If they miss a little bit at the beginning
25 or a little bit at the end, you know, that is, you

1 know, not a big problem for the purposes of the
2 patent.

3 And whether you get, you know, 100 percent
4 or 99 percent or 99.5 percent is not, you know,
5 particularly important as long as that's a roughly
6 random sample of the data.

7 So the specifics of exactly when the
8 driving period starts and exactly when it ends are
9 not critical to the analysis or the driving period
10 as perceived by a person of skill in the art.

11 Q. So with your parenthetical here, "absent
12 short periods related to getting up to speed,
13 backing out of the driveway, leaving a geo-fence,
14 etc." -- so you have three examples there of items
15 that are excluded from the driving period.

16 Is that correct?

17 A. Yes. And these are examples that I think
18 are understood by a POSITA to be often hard to
19 detect or include in a driving period and, you
20 know -- and would be understood to be not important
21 to the overall goal of the patent.

22 Q. Okay. So let me ask you this: Are all
23 three of these always excluded from the driving
24 period?

25 A. No. They may be included or excluded --

1 you know, my point being that a number of short
2 periods, especially sort of randomly, that aren't
3 purposefully selected can be omitted from the
4 driving period, and it would still suffice as a
5 driving period for purposes of the patent.

6 Q. Are there any other examples that you can
7 think of that may be excluded from the driving
8 period?

9 MR. TILLER: Objection; beyond
10 the scope.

11 (Witness reading.)

12 A. Not offhand.

13 Certainly, other -- not offhand. I can't
14 think of things off the top of my head.

15 Q. And if I can take you to paragraph 43 of
16 your declaration.

17 And the middle sentence there says --
18 sorry, the second -- third sentence says:

19 A system that only
20 monitors when the user chooses
21 (e.g., when they are being
22 "good") will not meet the
23 stated goals of the invention,
24 which include that the "driving
25 information may subsequently be

1 utilised to determine the cause
2 of an event such as an
3 accident, to modify driver
4 behaviour and/or to determine
5 insurance premiums."

6 Do you see that sentence?

7 A. I do.

8 Q. Okay. So monitoring the driving period
9 is...the entire driving period, as you describe it,
10 with these exclusions, is important to insurance
11 companies?

12 A. Yes. And I'm making the point here that,
13 you know, especially to the extent one could turn
14 off the monitoring either by choice or, you know,
15 perhaps in the case of Curry by turning off their
16 phone --

17 Q. Um-hum.

18 A. -- and then driving, you know, crazy for
19 20 minutes or whatever and then, you know, driving
20 nicely and turning it back on, that would...that
21 would...you know, would not meet the purposes of an
22 insurance system which is trying to monitor
23 someone's driving -- you know, especially when
24 they're at their worst.

25 Q. Okay. But -- so let's go back to the

1 caveats you had in paragraph 54 --

2 A. Um-hum.

3 Q. -- "absent short periods relating to
4 getting up to speed, backing out of the driveway,
5 leaving a particular geo-fence."

6 You would agree with me, though, that you
7 can get into an accident backing out of the
8 driveway. Right?

9 A. Certainly.

10 Q. And you can get into an accident when
11 you're getting up to speed?

12 A. That's true.

13 Q. And you can get into an accident before
14 you leave a geofence?

15 A. That is correct.

16 Q. Okay. So the driving period leaves open
17 the possibility of missing events that would be --
18 that might be important to insurance companies?

19 A. There are practical limitations to the
20 systems. And generally, events occurring in the
21 driveway within a geofence -- and by this,
22 specifically, it would be a geofence around a
23 company or a yard or something like that -- those
24 events are generally going to be minor.

25 And...so, yes -- I mean, the insurance

1 company may -- it may miss -- or the data collection
2 may miss important events if they occur within those
3 periods.

4 But, you know, in my opinion, a POSITA
5 would understand that that's, you know, part of the
6 limitations of these systems -- or may be, depending
7 on the implementations thereof.

8 Q. So let's look at Claim 4 of the '271
9 patent, and that starts at the top of Column 32 of
10 Exhibit 2.

11 A. Okay. I'm there.

12 Q. Do you see on line 12 "a start of a
13 driving period" limitation?

14 A. I do.

15 Q. Okay. So let's go through this thing just
16 a bit -- or let's talk about an actual practical
17 implementation of this claim.

18 So you've gotten in your car. You've
19 started it. You've backed out of the driveway.
20 You've gotten the car up to speed.

21 Have you -- have you -- had the driving --
22 well, sorry, let me back up -- start the practical
23 situation over again.

24 You've gotten in your car. You've started
25 the car.

1 Has the driving period started in the
2 context of Claim 4?

3 A. That would be within the range of a
4 driving period.

5 A POSITA would understand that whether the
6 driving period starts, you know, at that point or --
7 I believe Wright suggests when the vehicle gets to
8 20 miles per hour or something like that -- any of
9 those are sufficient for defining the start of a
10 driving period and the -- which one of those or
11 anything in between or some other start is still
12 enabling of the '271 invention.

13 Q. So the driving period could be started by
14 exceeding a speed threshold?

15 A. As I recall, that's one of the examples
16 that Wright proposes.

17 Q. Okay. And I'm just talking in the context
18 of Claim 4.

19 So in the context of Claim 4, a driving
20 period could be started by exceeding a speed
21 threshold?

22 A. Yes.

23 Q. Or it could be started by leaving a
24 geofence?

25 A. Correct.

1 Q. Is there anything else that you can think
2 of that would start the driving period?

3 A. It could be the ignition turned on. It
4 could be the -- you know, some other speed
5 threshold. It could be putting the vehicle into
6 gear. There's a number of ways that could be used.

7 Q. So it could be any of those?

8 A. Well, that would just define a driving
9 period.

10 For purposes of this claim, obviously,
11 turning on the ignition is not going to affect the
12 mobile phone sensor set.

13 Q. Um-hum.

14 A. So they could be used as the start of a
15 driving period, but not for the driving period in
16 the context of this claim.

17 Q. Okay. So --

18 A. So....

19 Q. And just to be clear, I'm only asking
20 about the context of Claim 4.

21 A. Okay.

22 Q. So in the context of Claim 4 -- and just
23 so there's no confusion, previously you had answered
24 that -- when I asked you:

25 So in the context of

1 Claim~4, driving period could
2 be started by exceeding a speed
3 limit -- speed threshold?

4 You said yes.

5 Is that still true?

6 A. Yes.

7 Q. Okay. And then I said:

8 Or it could be started by
9 leaving a geofence

10 And you said, "Correct."

11 Is that still true?

12 A. That is true.

13 Q. Okay. Now, again, in the context of
14 Claim 4, is there anything else that you can think
15 of that would start the driving period?

16 (PHONE NOISE IN BACKGROUND.)

17 (DISCUSSION OFF THE RECORD.)

18 A. So in the context of Claim 4, the driving
19 period has to be determined by sensors on a mobile
20 device.

21 I could imagine other ways of doing that.
22 Could be through detecting certain acceleration.
23 Speed is obviously one.

24 A camera -- if you had the camera mounted,
25 we could detect it using that, or the microphone.

1 So there's a number of different ways that
2 could be used to detect the start of a driving
3 period.

4 Q. Okay. And could it be any -- could it be
5 a combination of those things?

6 A. Yes.

7 Q. So, now let's go back to Claim 1 of the
8 '271 patent. And you see that same -- that same
9 limitation is there, right? -- starting at line 39
10 of Column 31:

11 ...determine, based on
12 inputs received by the user
13 interface and sensor data from
14 the sensor set, a start of a
15 driving period during which the
16 mobile device is removably
17 attached to the vehicle and the
18 vehicle is in use....

19 Do you see that?

20 A. I do.

21 Q. Okay. So is your -- does the explanation
22 you gave -- just gave for start of a driving period
23 for Claim 1, does that hold true for Claim -- sorry.

24 The explanation you just gave for driving
25 period with respect to Claim 4, does that hold true

1 for Claim 1?

2 (Witness reading.)

3 A. Yeah, as I read these two clauses, they're
4 identical.

5 So to the extent it applies to one, the
6 information in that clause or that part we just read
7 is the same in both claims.

8 Q. Okay. So if I take you down to the
9 wherein clause that starts at line 49 of that same
10 claim, it says:

11 ...wherein the mobile
12 communications device is
13 controlled by a downloaded
14 application to control the
15 mobile device to register the
16 start of the driving period in
17 response to an initialization
18 input generated automatically
19 in response to sensor data
20 having predetermined values,
21 wherein the initialization
22 input is generated in response
23 to sensor data reflecting a
24 detected speed above a
25 predetermined threshold.

1 Do you see that?

2 A. I do.

3 Q. Okay. So that aspect of this claim,
4 "sensor data reflecting a detected speed" -- is that
5 the start of the driving period?

6 (Witness reading.)

7 A. For Claim 1, yes, that would start the
8 driving period.

9 Q. Okay. But the driving period could be --
10 if I look at the determining step, the driving
11 period could be any of the starts that you
12 identified with respect to Claim 4. Correct?

13 A. Yes. The clause we discussed in
14 Claim 4 -- that same clause is in Claim 1.

15 The clause we're discussing, the wherein
16 clause, further narrows the start of the driving
17 period.

18 Q. Okay. So for Claim 1, let's say the
19 threshold was set to ten miles per hour.

20 That predetermined threshold -- if you
21 look at just the last sentence, the last two words
22 of that claim, "predetermined threshold," let's say
23 that's set to ten miles per hour.

24 Okay. Is it possible for a driving period
25 to start under ten miles per hour?

1 A. Are you asking that, if the driving
2 threshold is set to ten miles per hour, could it
3 start --

4 Q. So -- because I'm trying to understand
5 that -- you know, you said that a driving period
6 could start based on the geofence. It could start
7 based on other aspects.

8 What I'm asking for in the context of
9 Claim 1, in the '271 patent -- if your predetermined
10 threshold is set to ten miles per hour, okay, is
11 that the only trigger for starting the driving
12 period or can it still be the geofence if you're
13 under ten miles per hour?

14 A. So I didn't opine on sort of the possible
15 ways these could interact.

16 I mean, for Claim 1, the driving period
17 starts when you reach that threshold, ten miles per
18 hour -- because I believe that final clause there
19 limits that.

20 Q. So in the context of Claim 1, the driving
21 period has to start based on the threshold. It
22 cannot be started based on a geofence or other
23 criteria.

24 Is that correct?

25 A. The driving period of Claim 1 is

1 initialized by the speed going above a predetermined
2 threshold, ten miles per hour or whatever it happens
3 to be set to.

4 Q. Whatever the predetermined threshold is --

5 A. Correct.

6 Q. -- set to?

7 And just to be clear, so I have an answer
8 to the second half of my question -- so it cannot be
9 triggered by a geofence or something else if the
10 speed is below ten miles per hour or whatever the
11 predetermined threshold is set to?

12 A. Again, a driving period could be triggered
13 by those other things.

14 But the driving period of Claim 1 requires
15 that the....

16 You know, as I'm reading this here
17 today -- and I haven't opined on this -- it appears
18 to require that the predetermined threshold be
19 passed.

20 Now, whether that is -- there may have
21 been other triggering events triggering the driving
22 period, but that is the one that is required to
23 practice Claim 1.

24 Q. So in the context of Claim 1, if someone
25 were to set the predetermined threshold to 80 miles

1 per hour, okay, is that a possibility?

2 MR. TILLER: Objection;

3 hypothetical.

4 A. I didn't opine on that.

5 It would certainly defeat the purpose of
6 the patent, in my opinion.

7 But it would -- it's not -- I see no
8 technical reason one couldn't do that.

9 But, again, it would defeat the purpose of
10 the patent.

11 Q. So I guess when you say "defeat the
12 purpose of the patent," could it be a possible
13 purpose to prevent just really unsafe driving --
14 like, where you're operating your vehicle at extreme
15 speeds?

16 MR. TILLER: Objection;

17 hypothetical.

18 A. I suspect -- I -- I mean, again, I haven't
19 opined on that -- if somebody were to issue an
20 insurance policy, hypothetically, that says we're
21 only going to cover you when you're driving faster
22 than 80 miles per hour, something like that might be
23 relevant.

24 But, you know, given at least one of the
25 purposes is to inform insurance companies, one would

1 want this patent or the driving period to cover as
2 much of that covered period as possible.

3 And so, to the effect the insurance
4 company's insuring you at 30 miles per hour, you'd
5 like this to be covering that.

6 Q. The asserted claims all have a -- have the
7 term "driving period" in them.

8 Do you have any reason to disagree with me
9 on that?

10 A. I believe that is correct.

11 Q. Okay. The --

12 A. At least the independent claims.

13 Q. Right. And the dependent claims,
14 obviously --

15 A. Yes.

16 Q. -- incorporate the independent claims.

17 To the extent that they use the term
18 driving period, does the explanation you gave for
19 driving period apply to all the claims?

20 A. I don't recollect any spots where that
21 definition is not appropriate.

22 MR. CHAKKALAKAL: We've been
23 going for about an hour. Let's take a
24 five-, ten-minute break.

25 (Whereupon, a recess was taken

1 from 2:07 p.m. until 2:18 p.m.)

2 BY MR. CHAKKALAKAL:

3 Q. All right. Mr. Wilson, going back to
4 Claim 1 of the '271 patent, and you see where it
5 says:

6 ...determine, based on
7 inputs received by the user
8 interface....

9 A. I do.

10 Q. For context -- well, for the record, that
11 is line 39 of Column 31.

12 Now, do those user inputs have to be
13 through the user interface that's recited at line 35
14 of Column 31?

15 A. Yes.

16 Q. And if we're talking about a....

17 Well, we have the Curry reference. And we
18 know that Curry discloses an iPhone 3G.

19 Would you agree that that meets the user
20 interface element?

21 A. I agree, and iPhone 3G does have a user
22 interface.

23 Q. Okay. And a user could input data through
24 that user interface. Correct?

25 A. Yes. iPhone 3G has a user interface that

1 a user can input data through.

2 Q. Now, Curry discloses a downloaded
3 application. Do you recall that?

4 Well, let me just ask you: Do you recall
5 whether Curry discloses a downloaded application?

6 A. Not offhand.

7 (Witness reading.)

8 Q. Okay. Let me ask it to you this way:
9 Would you agree that Curry discloses a program
10 running on a mobile device?

11 A. Yes, I would.

12 Q. Okay. At least in part. Correct?

13 A. Correct, yes.

14 Q. Okay. Now, based on the fact that Curry
15 discloses a program running on a mobile device and
16 discloses the iPhone 3G, would you agree that the
17 portion of the "determine" step that says "based on
18 inputs received by the user interface and the sensor
19 data from the sensor set" -- sorry, not the second
20 half, just the first half -- "based on inputs
21 received by the user interface," would you agree
22 that Curry discloses that portion of the limitation?

23 MR. TILLER: Objection; beyond
24 the scope.

25 (Witness reading.)

1 A. Okay. Can you repeat the question? I've
2 been going between all these documents.

3 Q. So we agree that Curry discloses a program
4 running on a mobile device. Correct?

5 A. Yes.

6 Q. And we agree that Curry discloses an
7 iPhone 3G. Correct?

8 A. Correct.

9 Q. And for the portion of the "determine"
10 step that recites "based on inputs received by the
11 user interface," would you agree that Curry
12 discloses this by virtue of those two aspects?

13 MR. TILLER: Same objection.

14 A. I would agree that Curry discloses the
15 capability to basically have inputs received by the
16 user interface, but not that it....

17 You know, I don't think it's disclosing
18 this clause or this limitation.

19 Q. The....

20 A. Now, are there specific inputs you're
21 referring to? I mean, because it's -- I don't
22 disagree that inputs can be put into the iPhone 3.

23 Q. Um-hum.

24 A. I'm just not sure what inputs we're
25 referring to.

1 Q. And that's what I'm trying to understand.

2 So we have the -- so you agree that Curry
3 discloses the iPhone 3. And you agree that Curry
4 discloses a program running on a mobile device, such
5 as the iPhone 3G. Right?

6 A. Correct.

7 Q. So I'm saying: Based on those two things,
8 would you agree that Curry discloses the clause
9 "based on inputs received by the user interface"? --
10 in other words, Curry discloses the ability for the
11 user to input information through the user
12 interface.

13 A. Yeah --

14 MR. TILLER: Objection; beyond
15 the scope.

16 A. -- I agree that a POSITA reading Curry
17 would understand that one could provide inputs
18 through the user interface of the iPhone 3G.

19 Q. To the programming of Curry?

20 A. Yes.

21 (Pause.)

22 A. Yeah, I agree that that is technically
23 possible, but not that that happens necessarily.

24 Q. Not that what necessarily happens?

25 A. What I'm agreeing to is that it would be

1 possible to, you know, hypothetically have inputs to
2 an iPhone 3G interface that are received by the
3 program of Curry. I agree that could be possible.

4 I -- you know, based on this conversation,
5 I'm not agreeing that that happens.

6 Q. So if I take you to page 13, Curry --
7 again it's the lower number on the page, page 13 --
8 starting at line 20.

9 And it says there that:

10 FIG. 3 illustrates a flow
11 chart depicting a driving
12 safety monitoring program on a
13 mobile phone client.

14 Do you see that?

15 A. I do.

16 Q. And it says:

17 If the mobile phone is not
18 in monitoring mode, a motion
19 recording process can be
20 activated 302 on the phone.

21 Do you see that?

22 A. Yes, I do.

23 Q. And then the next line says:

24 This may be accomplished
25 by the user of the phone....

1 Do you see that?

2 A. Yes.

3 Q. Okay. So would you agree with me that
4 that portion discloses that the user can interact
5 with the programming of Curry on the phone?

6 MR. TILLER: Again, objection;
7 beyond the scope.

8 (Witness reading.)

9 A. I didn't form an opinion on this, at least
10 I don't recall any opinion in my report here.

11 But I don't agree that this requires input
12 through the user interface up to Curry, to the
13 application of Curry.

14 Q. Okay. So it says here -- and I'm reading
15 this -- reading this portion of the sentence, the
16 third sentence:

17 This may be accomplished
18 by the user of the phone....

19 So are you saying that the user of the
20 phone would start the motion-recording process some
21 other way rather than through the user interface of
22 the phone?

23 A. It could be set up so that that's done by
24 the -- initiating a call, for example.

25 So that would be...the way I'm reading

1 that, that would not be directly interfacing with
2 Curry. That would be with -- you know, interfacing
3 with the call module, which would then, in turn,
4 interface with Curry.

5 But, again, this is just off the top of my
6 head. I haven't opined on this.

7 Q. Okay. So the portion you just -- what you
8 just said was the...:

9 That would -- with, you
10 know, interfacing with the call
11 module, which would then, in
12 turn, interface with Curry.

13 Now, if I look at the next line after what
14 I just -- well, let me read that sentence -- the
15 third sentence again:

16 This may be accomplished
17 by the user of the phone, or
18 through an automated process by
19 the mobile phone client when a
20 selected type of motion is
21 detected. For example, the
22 reporting process may be
23 activated when an outgoing
24 call...is made or an incoming
25 call...is received.

1 So those are examples of what you just
2 described. Right?

3 A. Yes. Specifically, the outgoing call 301
4 would be made by the user. And that could trigger
5 the monitoring program.

6 Q. Okay.

7 A. Again, I haven't opined on this. So....

8 Q. All right. I'm trying to understand
9 your -- just your understanding of user inputs.

10 So these are examples of calls-- of how
11 the motion-recording process can be activated.
12 Right?

13 A. The motion-recording process can be
14 activated by an outgoing call or an incoming call.

15 Q. Right. And I'm saying: These are
16 examples of that.

17 A. Yes, right. They're examples.

18 There are other ways --

19 Q. Okay.

20 A. -- potentially.

21 Q. Okay. And one of those potential ways is
22 by the user interacting with the programming of
23 Curry. Right?

24 A. Well, that -- I think that's what I was
25 saying is not clear to me, is that interacting with

1 the phone -- i.e., making an outgoing phone call --
2 I don't consider to be interacting with the software
3 of Curry, although it would cause this monitoring
4 program to start.

5 Q. Right. And I'm saying that the phone
6 calls are just an example.

7 A. Correct.

8 Q. Right. So there could be other ways of
9 interacting with the programming of Curry. Right?

10 A. Certainly, there could be. But this does
11 not disclose any other ones.

12 Q. Okay. Now, the....

13 (Pause.)

14 Q. So let's talk about the example that's
15 listed here, the outgoing call.

16 So it says if the -- the paragraph, second
17 sentence says:

18 If the mobile phone is not
19 in monitoring mode, the motion
20 recording process can be
21 activated...on the phone.

22 Right?

23 A. Correct.

24 Q. Okay. And the last line says:

25 ...the reporting process

1 may be activated when an
2 outgoing call...is made or an
3 incoming call...is received.

4 Right?

5 A. Correct.

6 Q. Okay. So the user has the phone and
7 makes -- like dials a number, starts a phone call.

8 That could activate the motion-recording
9 process. Right?

10 A. That is correct.

11 Q. Okay.

12 MR. TILLER: Objection; beyond
13 the scope.

14 Q. And the -- once a motion-recording process
15 is activated, Curry would then determine a context
16 of the phone.

17 Is that correct?

18 (Witness reading.)

19 MR. TILLER: Same objection.

20 A. Okay. Can you repeat that question again?

21 Q. I'll have to go back and look at it
22 myself.

23 A. Yeah.

24 Q. So once -- well, I'll just say -- ask the
25 question again.

1 Once the motion-recording process is
2 activated, Curry could then determine the context of
3 the phone.

4 Is that correct?

5 MR. TILLER: Objection.

6 A. Yes.

7 Again, if you can point me to someplace
8 where I've opined on this -- I don't recall
9 specifically looking at this paragraph, but....

10 Yeah, so monitoring mode is when the calls
11 are being allowed -- so, yeah.

12 Q. Okay.

13 (Pause.)

14 Q. And just for context, it is....

15 (Pause.)

16 Q. I know I have the citation here. That's
17 what I'm trying to look for.

18 Okay. So if you look at -- yeah, if you
19 look at paragraph 136 of your declaration, there's a
20 citation to this paragraph in that paragraph.

21 It's going to be -- you'll see it at the
22 top of page 70 of 106.

23 A. I'm sorry. Where are we looking? Which
24 paragraph?

25 Q. Paragraph --

1 A. 136?

2 Q. -- 136.

3 If you look at page 70 of 106, at the very
4 top there there's a citation to this paragraph.

5 So I'm just trying to make sure I
6 understand the -- what your understanding of this
7 paragraph is.

8 A. Okay.

9 (Witness reading.)

10 A. Which is Curry? Is Curry 1005?

11 Q. Yes.

12 (Witness reading.)

13 A. Okay. So, I mean, it seems like I'm
14 citing to the petition, which is citing to that --
15 which is fine. But....

16 Q. Yeah, so I'm just trying to get your
17 understanding of these paragraphs in the Curry
18 reference.

19 A. Okay. One of the problems is: Curry is
20 not particularly well written, and there's ambiguous
21 parts.

22 But, I guess, repeat the question, because
23 I'm not sure --

24 Q. Sure, no problem.

25 A. -- what we're discussing right now.

1 Q. So the paragraph that begins with,
2 "Figure 3" -- that begins at line 20 --

3 A. Correct.

4 Q. -- talks about putting the mobile device
5 into a motion-recording process. Right?

6 A. Yes.

7 Q. Okay. And from my understanding, the
8 motion-recording process -- you're now collecting
9 data. Right?

10 A. Yes.

11 Q. Okay. And then if we go down to the
12 bottom of the page, then there's an activity mode
13 recognition module. It's the last sentence on that
14 page:

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

21 Do you see that?

22 A. I do.

23 Q. Okay. So what I'm getting at here is that
24 when you start this motion-recording process, the
25 phone -- the -- Curry discloses you can then

1 determine an activity or context, whether that be
2 driving, walking, running, remaining substantially
3 still. Correct?

4 A. Yes. There is a process within Curry that
5 is determining the activity mode.

6 Q. And is one of the -- from other parts of
7 Curry, do you understand that one of the activities
8 that it can determine is driving?

9 A. That is correct.

10 Q. Okay. And then if....

11 (Pause.)

12 Q. Now, there's one other thing I wanted to
13 ask you about here -- another thing. I shouldn't
14 say "one other thing."

15 MR. TILLER: I will hold you to
16 it.

17 MR. CHAKKALAKAL: I corrected it
18 before you could say anything.

19 Q. You say here that....

20 I'm sorry. The claim -- we're looking at
21 Claim 1 of the '271 patent.

22 And it says that...in the storing step, it
23 says:

24 ...store a selection of
25 the driving information to the

1 memory, wherein the driving
2 information is derived without
3 data from vehicle sensors....

4 Is that correct?

5 A. Yes.

6 Q. Okay. So you made a -- I think you've
7 commented in this -- in your declaration that the
8 data could -- only comes from -- in the context of
9 Claim 1 of the '271 patent, the data has to come
10 from the mobile phone sensors. Correct?

11 A. Yes. The "sensor set" referred to in
12 Claim 1 of the '271 is the sensor set on the mobile
13 phone.

14 Q. Right. And just to be clear, though, that
15 doesn't negate the possibility of getting sensor
16 data from other sensors that are not part of the
17 vehicle. Right?

18 A. The '271 patent is fairly explicit that
19 the sensors are....

20 It enumerates them.

21 But, you know, if I look at Figure 3, 23,
22 25, 21, and 27 --

23 Q. Um-hum.

24 A. -- my recollection is that those are
25 identified as the sensor sets or the sensors of --

1 specifically, they are talking about here.

2 Q. So is it your opinion that the sensor data
3 is limited to the sensor set that's disclosed in
4 those figures?

5 A. That would be -- again, depending on the
6 context, I think it....

7 I believe it does not include 29 and 31,
8 which are sort of specifically not included in
9 the -- my recollection of the list of citations --
10 or list of sensors.

11 Q. Sorry. Which figure are you looking at?

12 A. I'm looking at Figure 3 of Wright, of
13 '271.

14 Q. Um-hum, okay.

15 A. In the -- or in the specification -- and I
16 can't cite to exactly the spot -- he identifies the
17 sensors as 23, 25, 21, and 27.

18 Q. Um-hum.

19 A. So it at least includes those four.

20 In my opinion, it does not include 29 and
21 31.

22 If there were some other sensor you want
23 to consider, I think it would depend on the
24 situation.

25 Q. So in your opinion, is 29 a sensor

1 communications module?

2 A. No, it is not, for purposes of this
3 patent.

4 Q. Okay. Now...so you mentioned these four
5 sensors: accelerometer, GPS receiver, image capture
6 module, audio capture module. Correct?

7 A. Again, those are the ones that my
8 recollection is -- right, identifies as the sensor
9 set.

10 Q. Okay. So that corresponds to the sensor
11 set from Claim 1, which says:

12 ...image sensor, an audio
13 sensor, an accelerometer, or a
14 positioning module....

15 (Witness reading.)

16 A. Yes.

17 Q. In the context of Claim 1, does the
18 driving information have to be derived from all four
19 of those?

20 A. Claim 1 requires that the sensors -- it
21 could be any one of those or a combination thereof.

22 Q. Okay. So it could be any individual one
23 of those four sensors?

24 A. The claim requires that there's a sensor
25 set comprising an image sensor, an audio sensor, an

1 accelerometer, or a positioning module, or a
2 combination thereof.

3 In my opinion, what this is saying is
4 that, depending on the data type or the information
5 sought, any or all of those can be used, as
6 appropriate, to get the sensor data required.

7 Q. What sensor data would be required to --
8 what sensor data, at a minimum, would be required to
9 derive driving information?

10 A. Any one of those could be used to derive
11 driving information, either alone or in combination.

12 Q. Could you derive driving information from
13 just an audio sensor?

14 A. Yes.

15 Q. And based on your review of the '271
16 patent, is that -- is it disclosed how you could do
17 that?

18 A. I didn't opine on this and certainly
19 didn't focus on the audio sensors.

20 In some of the art, there is talk of using
21 the audio sensor to detect driving events.

22 I don't recall, specifically, if it is
23 from the '271 or elsewhere. Again, this was not the
24 focus of my analysis.

25 I think he talks about honking horns and

1 other sounds that might be interesting.

2 But, again, if you could point me to
3 something, I can look at that. But I don't
4 remember, specifically, the citation.

5 Q. And I'm trying to understand -- I know you
6 have a section in your report that talks about the
7 patents and the scope of them. So I'm trying to
8 understand the scope of what's being claimed here
9 and -- at least your understanding of what the scope
10 that's being claimed here.

11 So are you able to identify any particular
12 driving information that could be derived from just
13 an audio sensor -- as those terms are used in the
14 patent, the '271 patent?

15 A. Certainly, speed can be derived from an
16 audio sensor.

17 Wouldn't -- yeah....

18 Q. Could you --

19 A. An airbag deployment could be derived from
20 an audio sensor.

21 I don't know if that would be driving
22 information.

23 Q. Well, let's -- you said "speed."

24 Can you tell me how you derive speed from
25 an audio sensor?

1 A. It can be derived based on the Doppler
2 effect from sounds from -- you know, if you're
3 listening to something in the infrastructure.

4 Q. So a Doppler effect would be using a
5 theory of relativity, right? -- to a certain extent,
6 to determine the -- essentially, the sound effect.

7 But you wouldn't be able to do that from
8 within the car. Right?

9 A. If you could hear something outside the
10 car, you can determine if -- it would require an
11 audio signal coming from outside the car.

12 You know, you could -- well, again, I
13 didn't opine on --

14 Q. I understand.

15 A. -- these sorts of things.

16 Q. And I'm just trying to understand.

17 So an audio sensor is outside the car, but
18 then you would have to make the -- assume --
19 assumption that the audio sensor on the car was
20 stationary --

21 A. Yes.

22 Q. -- in order to -- in order for you to use
23 a Doppler effect of some kind. Right?

24 A. Yes.

25 Q. Okay.

1 A. I mean, again, if you want to point me to
2 something, I can look at what Wright talks about.

3 But I don't -- like, this wasn't part of
4 my opinion.

5 Q. Would you consider distracted driving to
6 be driving information?

7 (Pause.)

8 Q. Let me step back for a second and ask the
9 foundation question.

10 Do you have an understanding of what
11 distracted driving is?

12 A. I do.

13 Q. Okay. Would you consider distracted
14 driving to be driving information?

15 MR. TILLER: Objection; beyond
16 the scope.

17 A. I didn't opine on this.

18 I do not believe -- you know, off the top
19 of my head here, various driving data -- such as,
20 you know, swerving; such as, speed control -- may be
21 indicative of distracted driving.

22 But I don't think -- you know, today I
23 would not call distracted driving itself a....

24 What was the term you used?

25 Q. "Driving information."

1 A. "Driving information."

2 It is -- it probably has implications for
3 what the driving information looks like. But it is
4 not driving information in and of itself -- but,
5 again, off the top of my head here.

6 Q. Okay. So you said that it is -- it
7 implicates -- distracted driving implicates driving
8 information.

9 And just to be clear, the -- as I
10 understand your report, you do opine on what may or
11 may not constitute driving information.

12 Is that correct?

13 A. Yes.

14 Q. Okay. And that's what I'm trying to
15 understand -- where are the boundaries of what is
16 and what isn't driving information, in your opinion.

17 So the....

18 So you said it has --

19 ...driving information, it
20 probably has implications for
21 what the driving information
22 looks like, but it is not
23 driving information in and of
24 itself.

25 What's the distinction there?

1 A. The distinction is that one that is
2 distracted -- a driver that is distracted will drive
3 in certain ways.

4 Q. Um-hum.

5 A. And those certain ways are how the driver
6 drives.

7 So they may, you know, hard-brake more
8 often because they're just not "paying as
9 attention."

10 COURT REPORTER: They may what?

11 A. "Hard-brake," like brake the -- you know,
12 hit the brakes hard.

13 So hitting the brakes hard is how the
14 vehicle is being driven, driver information.

15 The fact that...the fact of distracted
16 driving, you know, may be the reason for that, but
17 it is not driver information itself.

18 Q. Now, driving information can relate to
19 either the vehicle or the person driving the
20 vehicle. Right?

21 MR. TILLER: Objection; beyond
22 the scope.

23 A. Yeah, I guess I'm not sure what you mean
24 by that question.

25 Driving information is information,

1 generally, about how the vehicle is being driven.

2 So I guess I don't -- if you would provide
3 me an example or something. I don't understand the
4 question.

5 Q. Well, so -- if you go to Exhibit 1 and go
6 to paragraph 21.

7 A. I'm there.

8 Q. Okay. And if we read the second sentence,
9 it says:

10 The data logging system
11 includes a database storing
12 multiple accounts and stores
13 driving information associated
14 with at least one of a vehicle
15 and a driver.

16 Okay.

17 A. Yes, I see that.

18 Q. So my question was: So driving
19 information can relate to either the vehicle or the
20 person driving the vehicle. Correct?

21 MR. TILLER: Objection.

22 A. The driving information is derived from
23 vehicle sensors.

24 So it relates directly to -- well, it's
25 not --

1 The driving information is derived from
2 the sensors on the mobile device.

3 That can be associated with a vehicle or
4 with a driver.

5 I'm not sure if that's answering your
6 question. So it -- it's not necessarily about the
7 driver. It's about the phone, if you will.

8 But it can be associated with a vehicle or
9 a driver -- and/or a driver.

10 Q. So driving information could be associated
11 with a vehicle or a driver?

12 A. Yeah, presumably, the driving information
13 was collected while a driver was driving a vehicle
14 and can be associated with either of those or both
15 of those.

16 Q. Okay. Would a system that monitors
17 distracted driving necessarily include driving
18 information?

19 A. I would say no.

20 Q. Why not?

21 A. At least some....

22 Distracted driving systems are monitoring
23 the driver and not necessarily how the vehicle is
24 being driven.

25 Q. Can you give me an example?

1 A. One example is, you know, where the -- the
2 eye trackers, which monitor where the driver is
3 looking.

4 Q. Okay.

5 A. So that would be an example.

6 Q. So an eye tracker that monitors where the
7 person is looking would be monitoring distracted
8 driving.

9 Is that right?

10 A. It could be, among other things, yes.

11 Q. Okay. So I guess my -- so my question
12 is -- so let me ask you this: So, you know, if
13 you -- if you look to -- if you're driving and you
14 look to the side of the road, would that be -- would
15 that necessarily be distracted driving?

16 A. Not necessarily, no.

17 Q. Okay. So does the eye tracker by itself
18 monitor distracted driving, or does it have to have
19 some sort of context to determine whether it is, in
20 fact, a distraction?

21 A. It does not need -- I mean, that doesn't
22 need context.

23 Q. Now, in the "State of the Art" section of
24 your declaration, which I believe begins on page --
25 or paragraph 24 and goes through page 34, you're

1 talking about the state of the art in relation to
2 the asserted patents.

3 Is that correct?

4 A. Basically, this is responding to
5 Dr. Michalson's report. And....

6 Q. Okay.

7 A. So I'm -- whatever -- it's basically
8 responding to him.

9 Q. And that is talking about the state of the
10 art in relation to the asserted patents.

11 Is that correct?

12 A. That's correct.

13 Q. Okay. So with the -- well, one of the
14 things you mention here are "Event Data Recorders,"
15 EDRs. Do you recall that?

16 A. Yes, I do.

17 Q. Okay. And....

18 Now, did vehicles have Event Data
19 Recorders back in 200- -- prior to the critical
20 dates of these patents?

21 A. Many did, yes.

22 Q. And what kind of information did they
23 record?

24 A. They typically record -- they are
25 triggered during an incident.

1 They record the -- basically, speed, some
2 other parameters, with the brake -- with somebody on
3 the brake for about five seconds before the
4 incident.

5 And then they record acceleration for the
6 300 milliseconds after they're triggered.

7 And along with -- there's a number of
8 other parameters. Seat belt usage is recorded.
9 Speed -- RPM is recorded. There's a number of
10 parameters.

11 Q. So you mentioned that they record
12 information from five seconds before the incident.

13 So there are -- they're continuously
14 collecting data.

15 Is that correct?

16 A. That's correct.

17 Q. Okay. And then they are triggered by some
18 sort of event, like a collision?

19 A. Correct.

20 Q. And then, they'll basically record the
21 five seconds before -- saved to some sort of
22 permanent storage, the five seconds beforehand and
23 other data. Right?

24 A. Correct.

25 Q. So the event itself doesn't trigger the

1 start of collection of data. It triggers when
2 certain data is recorded to a permanent storage.

3 A. There's an ongoing recording -- or
4 ongoing --

5 Q. Collection?

6 A. -- buffer --

7 Q. Okay.

8 A. -- that contains this five seconds' worth
9 of data.

10 At the time of an event, that buffer is
11 written to a long-term memory along with other data
12 and data from the subsequent 300 milliseconds or so
13 of the crash.

14 Q. Where does -- you know, where do the EDRs
15 get this data from?

16 A. They get this data from the vehicle
17 systems. Typically from an airbag monitor would be
18 most -- well, the data comes from different spots,
19 but vehicle buses.

20 Q. Okay. Could EDRs also take input from
21 external sensors, such as GPS?

22 A. They're not designed to take inputs from
23 any sensors other than those built into the vehicle.
24 So I consider those to be internal to the vehicle.

25 Q. But EDRs can work with other systems as

1 well. Right?

2 A. EDRs are designed to work with the vehicle
3 as a whole.

4 So any system on a vehicle could -- could
5 provide data to an EDR in theory if it -- well, this
6 hypothetical, unless you want to get the specific
7 data -- getting data from some spots to others can
8 be really difficult.

9 But, you know, they are integrated into
10 the car. Potentially, they could have access to any
11 data available in the car.

12 Q. Okay. And I guess what I'm getting at is
13 that, so you have -- you could -- can other systems
14 access the EDR's data?

15 A. I would....

16 Again, I didn't opine on this. But off
17 the top of my head, I would say no. That's sort of
18 the end of the line -- but, while the vehicle is
19 moving.

20 Now, the EDR data can be accessed after
21 the fact in an accident reconstruction scenario.
22 But those are off -- systems from off of the
23 vehicle.

24 (Whereupon, Petitioner Exhibit 5 was
25 marked for identification.)

1 Q. I'm handing you what's been marked as
2 Exhibit No. 5.

3 Mr. Wilson, I've handed you what's been
4 marked as Defendants [sic] Exhibit No. 5.

5 Do you recognize this?

6 A. I do.

7 Q. Okay. What is it?

8 A. This is a question-and-answer website or
9 copy of a question-and-answer website put out by, I
10 believe, National Highway Traffic Safety
11 Administration regarding EDRs and the basics of
12 EDRs.

13 Q. So when you're looking at this document, I
14 want to turn your attention to the first paragraph
15 and the last sentence of that paragraph or the last
16 line.

17 For instance, EDRs may
18 record...pre-crash vehicle
19 dynamics and system
20 status...driver
21 inputs...vehicle crash
22 signature...restraint
23 usage/deployment status,
24 and...post-crash data such as
25 the activation of an automatic

1 collision

2 notification...system.

3 Do you see that?

4 A. I do.

5 Q. Okay. And then when it talks about -- so
6 "ACN" is "automatic collision notification." Right?

7 A. That's correct.

8 Q. Now, if you look at page 3 of this
9 document. And it talks about -- the second
10 paragraph talks about "automatic collision
11 notification."

12 Do you see that?

13 A. I do.

14 Q. And if you look at the last sentence
15 there, it says:

16 Some of these systems use
17 data from...EDR to determine
18 crash severity, thereby helping
19 to ensure an appropriate level
20 of medical response.

21 Do you see that?

22 A. I do.

23 Q. Okay. So would you agree with me that
24 there are systems that interact with the EDRs and
25 can get data from the EDRs?

1 A. I don't believe this is the way this is
2 actually done.

3 The relevant data is coming out of the
4 crash sensors.

5 I spent years developing these systems,
6 and I'm not aware of anyone that takes the data from
7 the EDR.

8 The EDR takes data from the crash sensors.
9 The ACN unit takes data from the crash sensors.

10 So it's certainly possible that in these
11 GM OnStar vehicles -- and I don't know the details
12 of them -- they are taking data -- you know, the
13 data is passing from the crash sensor through the
14 EDR to the OnStar system.

15 But I'm a little surprised at that. That
16 is what it says here.

17 Q. Okay.

18 A. I would also point out that, you know,
19 this is a NHTSA document.

20 Functionally, this is correct. This is
21 how it works. But -- you know, at the high level,
22 this is how it works.

23 The details...I'm not clear that NHTSA got
24 them right here, but I don't know that they got them
25 wrong either.

1 Q. Okay. So it's possible that NHTSA got
2 some of the details wrong?

3 A. Specifically this of -- you know, where
4 this data comes from, I am certain, in my years of
5 expertise here, that the data comes from the crash
6 sensors.

7 Whether it passes through the EDR on the
8 way to the ACN device, I doubt it. But I don't know
9 that.

10 Q. So it mentions the OnStar system. And I
11 think you said you....

12 Do you have any experience with the OnStar
13 system?

14 A. Not at the detailed programming level, no.
15 I'm familiar with it at a high level.
16 I've developed other systems that perform the same
17 function.

18 But I don't have a detailed knowledge of
19 the OnStar system.

20 Q. Would you disagree with the
21 characterization here of GM's OnStar system being an
22 ACN device?

23 A. I would not disagree with that.

24 Q. Okay.

25 A. My only disagreement here, as I said --

1 and it makes no functional difference to the reader
2 of this document -- but, is that the data
3 determining crash severity comes from the crash
4 sensors, other locations.

5 The EDR is merely a recorder. So the data
6 may pass through the recorder, but it certainly
7 doesn't generate the data.

8 Q. The data is generated from the crash
9 sensors, is what you're saying.

10 A. The crash sensors and there's other
11 sensors, seat belt sensors, other sensors that are
12 sent with the ACN data.

13 And that data is also sent to the EDR,
14 where it is recorded. But....

15 Q. And you....

16 So this is a NHTSA document. Correct?

17 A. That is my understanding.

18 Q. And is there a reason you chose a NHTSA
19 document to cite in your report?

20 A. NHTSA is the organization that places
21 requirements on EDRs.

22 So they -- there's a number of things at
23 the back of this. You know, this is a high-level
24 description of the types of data that NHTSA requires
25 that any EDR collect.

1 But, I mean, there's a lot more
2 information in the regulations. This is essentially
3 for, I guess, laypeople to understand what's going
4 on.

5 Q. Generally, in your field, do people review
6 NHTSA documentation?

7 A. A lot of people look at -- well, there's
8 two answers to that.

9 There's a lot of consumers, go to NHTSA
10 for safety information around cars.

11 So is that in my field? I guess I'm
12 questioning what does "in my field" mean.

13 Q. What would you say your field to be?

14 A. Well, I mean, in my field of, you know,
15 essentially, vehicle communications and safety
16 systems, we look to NHTSA for requirements
17 documents. They regulate the industry.

18 And so, there will be -- like, such as EDR
19 regulation, which specifies -- you know, if you're
20 going to put on an EDR, it must do these things. It
21 must work in this situation.

22 So, yes, we read those -- there's somebody
23 who's responsible for reading all those documents
24 and being compliant with the law.

25 Q. Okay. So -- but, generally, NHTSA is a

1 well known organization, I guess, in the field of
2 auto telematics?

3 A. Not necessarily in the field of
4 telematics.

5 They, again -- they regulate the vehicle
6 industry, essentially.

7 So they are very concerned with anything
8 having to do with vehicle safety. And so, they
9 regulate various aspects of vehicles' construction,
10 how they behave in crashes, those sorts of things.

11 In this case, I'm not aware of any
12 regulations regarding EDRs that NHTSA promulgate --
13 or, excuse me, regarding automatic collision
14 notification.

15 To the best of my knowledge, there's no
16 regulations on that.

17 They do regulate EDRs.

18 Again, this -- I did not, you know, opine
19 on ACNs at all in my report either. So this is just
20 my background knowledge.

21 Q. But this is the document that was cited in
22 the "State of the Art" section of your report.
23 Correct?

24 A. That is correct.

25 MR. CHAKKALAKAL: Okay.

1 I think this is a good time to
2 take a 10-minute break.

3 (Whereupon, a recess was taken
4 from 3:26 p.m. until 3:43 p.m.)

5 BY MR. CHAKKALAKAL:

6 Q. Welcome back, Mr. Wilson.

7 A. Thank you.

8 Q. All right. Now, in paragraph 26 of your
9 report, that's Exhibit 1, you talk about the
10 "Conover" -- and I'm not sure if I'm pronouncing
11 that right -- but the Conover reference there --

12 A. "Gerry Conover."

13 Q. "Gerry Conover," thank you.

14 -- that Dr. Michalson characterizes.

15 Let me know when you're there.

16 A. I'm there.

17 Q. Okay. And I am going to hand you a copy
18 of Exhibit No. -- this is Defendants Exhibit
19 No. 6 -- I keep saying "Defendants" -- Petitioner's
20 Exhibit No. 6.

21 (Whereupon, Petitioner Exhibit 6 was
22 marked for identification.)

23 (Witness reading.)

24 Q. If you could just take a look at that and
25 let me know if you recognize it.

1 A. I do.

2 Q. Okay. So does that look like the accurate
3 copy of Conover?

4 A. Yes. To the best of my recollection, this
5 is an accurate copy.

6 Q. So if I'm looking at paragraph 26 of your
7 report, you say here that:

8 Dr. Michalson states that
9 Conover "recognized the need to
10 include"....

11 And then you have, in brackets:

12 ..."[various technologies]
13 in automotive systems."

14 Do you see that?

15 A. I do.

16 Q. Now, if we're looking at Conover....

17 (Pause.)

18 Q. Just making sure I have the right document
19 here.

20 So if we're looking at the list of
21 technologies in Exhibit 6, the second paragraph, it
22 says:

23 Technology topics include
24 navigation, telematics, vehicle
25 dynamics control, parking aids,

1 adaptive cruise control, lane
2 departure warning,
3 active...systems, predictive
4 safety systems (e.g., braking
5 assist, collision warning, and
6 collision avoidance), and
7 vehicle-to-vehicle and
8 vehicle-to-roadside
9 communications.

10 Do you see that?

11 A. I do.

12 Q. Okay. And those are the various
13 technologies that you're referring to in
14 paragraph~26 of your report?

15 A. Those. But I believe he also identifies
16 others in the bodies of the report that aren't
17 identified there -- but, yes.

18 (Whereupon, Petitioner Exhibit 7 was
19 marked for identification.)

20 Q. Here's Exhibit No. 7. And you can see
21 that you're citing to paragraph 33 of -- I'm sorry.

22 Mr. Wilson, can you identify what Exhibit
23 No. 7 is?

24 A. Exhibit No. 7 is the declaration of
25 Dr. William R. Michalson from the 9th of May 2023.

1 Q. And does this appear to be the declaration
2 that you reference in paragraph 26 of your report?

3 A. Yes, it does.

4 Q. Okay. So if we turn to paragraph 33 of
5 Dr. Michalson's report.

6 And I'll let you know it's on page 28, if
7 that helps.

8 A. Yeah, it speeds things up a little bit.
9 Got it.

10 Q. Okay. And you can see there the
11 various -- the quote from Exhibit 6, Conover?

12 A. I see it.

13 Q. All right. So that list is from that
14 paragraph I just read off, which is the second
15 paragraph of Exhibit 6.

16 Is that correct?

17 A. Yes, that's correct.

18 Q. Okay. Later on in this paragraph, you
19 say -- in paragraph 26 of your report, you say:

20 However, based on my
21 personal knowledge and
22 experience in the field of
23 vehicle telematics, several of
24 the technologies identified by
25 Conover are not in "the" U.S.

1 production vehicles today, or
2 only in a few high-end
3 vehicles, almost 20 years
4 later....

5 Do you see that?

6 A. Yes, I do.

7 Q. So going through that list, would you
8 agree with me that navigation was known at the time?

9 A. All of these were clearly known at the
10 time. Conover cites to them, so he's aware of them.
11 They were generally known.

12 My point here is that Dr. Michalson says
13 there's a need to include these systems, implying
14 that -- to me, at least -- that they were
15 essentially needed by the industry.

16 And my point here is that -- that they
17 weren't -- even today, some of these don't exist.

18 And, you know, Conover was more of a:
19 These are the hot topics in the field right now --
20 not that we need them, necessarily.

21 Q. But some of them -- some of them were --
22 so when you say that some of them -- that they
23 weren't needed, are you referring to by virtue of
24 regulation they weren't needed?

25 A. I'm referring to the urgency.

1 You know, Dr. Michalson seemed to imply,
2 in my view, that there was a lot of urgency to get
3 these on the road; whereas, in my opinion, they were
4 more, you know, the interesting topics of the day --
5 and, you know, gee, wouldn't it be nice if we could
6 have these.

7 Q. Well, so -- like one of these is active
8 safety systems. Right?

9 A. Correct.

10 Q. Wouldn't ABS be a type of active safety
11 system?

12 A. Yes, it would.

13 Q. Okay. So ABS was --

14 A. Actually, ABS is not active safety.
15 But....

16 It's on the line.

17 Q. Okay. Would you consider -- would you
18 consider ABS as being a need at the time or just
19 something that was nice to have?

20 A. I don't see ABS listed here.

21 I'm not sure -- are we -- ABS was already,
22 I think by this time, mandated on U.S. vehicles.

23 Q. Okay. So that was an example of a need,
24 right -- you had to have ABS?

25 A. Yes, it was required. But --

1 Q. Okay.

2 A. -- I don't see Conover citing or
3 mentioning that.

4 Q. Well, like you said, it was -- in your
5 opinion, it's on the line.

6 And I think to the extent that there's --
7 you know, ABS I've seen described as an active
8 safety system.

9 But you're also -- you're obviously an
10 expert. So we'll -- I just want to ask your opinion
11 on ABS.

12 What about adaptive cruise control; is
13 that something that was known?

14 A. Yes, it was known -- yes.

15 I mean, it was certainly known as -- I
16 believe Conover does mention that and has a
17 discussion of it later in the article.

18 Q. Would you characterize that as a "need" or
19 something else?

20 A. I would characterize that as...I wouldn't
21 characterize it as a "need."

22 It was fairly mature at the time
23 already -- yeah.

24 Q. What about parking aids?

25 A. There was a lot of developments of parking

1 aids at the time.

2 Q. Okay. But you wouldn't characterize them
3 as a "need"?

4 A. No. I think they are very much
5 nice-to-haves, and there was certainly a lot of work
6 being done in that field.

7 But I would not characterize them as a,
8 you know, need of the industry.

9 Q. Okay. So I guess you're looking at it
10 from an industry perspective when you contemplate
11 what is needed?

12 A. Yes. And the Conover report is directed
13 to, you know, status at major automakers and key
14 Tier 1 suppliers, which fairly -- around the
15 world -- which is a fairly good characterization of
16 the automotive industry.

17 Q. What about a need from like a competitive
18 aspect to the point -- and by that I mean, like, if
19 one manufacturer is doing it, wouldn't another one
20 want to be able to do it as well?

21 MR. TILLER: Objection.

22 Mr. Wilson isn't identified as
23 an expert in automobile industry
24 economics.

25 A. I would consider competitive technologies

1 to be, you know, nice-to-haves.

2 You know, to the extent they aren't --
3 yeah, to the extent they're merely competitive, they
4 would generally, in my field, be the nice-to-haves
5 unless there's some, you know, societal need or
6 regulatory need for them.

7 Q. Well -- so the statement that you took
8 issue with from Michalson that you've quoted here --
9 you said:

10 Dr. Michalson states that
11 Conover "recognized the need to
12 include [various technologies]
13 in automotive systems."

14 And I'm asking you: Did you consider the
15 need from a competitive aspect? -- or, for example,
16 somebody like Toyota might say, "Well, Ford's got
17 this in their SUV. We should have the same thing in
18 ours."

19 MR. TILLER: Same objection.

20 A. My main point here is: Conover states in
21 his abstract that this paper examines the status of
22 important ITS technology developments at major
23 automakers and key Tier 1 suppliers around the
24 world.

25 I don't think characterizing that as

1 "needs" is appropriate.

2 You know, whether I think it's a need or
3 not is irrelevant to the fact that I think that
4 Dr. Michalson is mistaking what Mr. Conover's paper
5 was about.

6 Q. And what I'm asking you is that, did you
7 consider that Dr. Michalson might have stated it as
8 a need because -- one, if one manufacturer is doing
9 it, another manufacturer might feel the need to also
10 include the same technologies in their systems?

11 A. Well, Dr. --

12 MR. TILLER: Same objection.

13 A. Dr. Michalson is stating that Conover
14 "recognized the need."

15 So whether, you know, he or I think the
16 need was there is irrelevant -- the statement.
17 There's no evidence here that Conover recognizes the
18 need for these technologies.

19 He's saying these are what's going on, but
20 he nowhere says there's a need for these things.

21 Q. So Conover, though, states that these are
22 important ITS technology developments at major
23 automakers. Right?

24 A. That's correct.

25 Q. Okay. So if they're "important," you'd --

1 Conover is describing them as "important." Correct?

2 A. That's correct.

3 Q. And so, just so I'm clear on this, several
4 of the technologies identified by Conover are in
5 production vehicles today. Right?

6 A. And several were in production at the time
7 he wrote this article, yes.

8 Q. Okay. If we go to the next paragraph in
9 your report, paragraph 27, you say that:

10 Dr. Michalson's discussion
11 of the alleged state of the art
12 also does not address "driving
13 incidents"....

14 Do you see that?

15 A. I do.

16 Q. Okay. Would a "driving incident" include
17 a collision?

18 A. Yes.

19 Q. Okay. And would you agree with me that
20 Conover discusses collision notification?

21 And to help if you want, you can look at
22 page 7, I believe.

23 (Witness reading.)

24 A. Yes, he does.

25 Q. And you agree that Dr. Michalson cited to

1 Conover. Correct?

2 (Pause.)

3 Q. And I meant generally, but to be more --
4 to make the question clearer, you agree with me that
5 Dr. Michalson discussed Conover.

6 Is that correct?

7 (Witness reading.)

8 A. Certainly, Dr. Michalson, you know, cites
9 to Conover. But I do not believe he cites him in
10 the context of driving incidents or detecting
11 driving incidents.

12 But, again, I didn't -- I'm not completely
13 on top right now of where the citation to driving
14 incidents is. So....

15 (Witness reading.)

16 A. Yeah, off the top of my head or just here
17 today, I don't see any citation to Conover in the
18 context of disclosing driving incidents.

19 Q. All right. So just to clear it up a bit,
20 you agree with me that Dr. Michalson does cite to
21 Conover or does discuss Conover in his declaration.
22 Right?

23 A. Yes, as an example for the need for the
24 automotive industry to do certain things.

25 Q. Okay. And you would agree with me that

1 Conover does disclose collision detection,
2 correct? -- or collision notification, correct?

3 A. He does disclose automatic collision
4 notification.

5 Q. Okay. And then if we turn to....

6 (Whereupon, Petitioner Exhibit 8 was
7 marked for identification.)

8 Q. This is...Exhibit No. 8 is the -- is
9 Mohan, which you refer to in paragraph 27 of your
10 report?

11 A. That's correct.

12 Q. And it says:

13 Specifically,
14 Dr. Michalson cites to Mohan's
15 system that "could be used for
16 traffic sensing functions" as
17 an example of "detecting
18 driving incidents."

19 "However, road and traffic" -- the next
20 sentence reads:

21 However, road and traffic
22 conditions, as addressed by
23 Mohan, do not include "driving
24 incidents," but "focus
25 specifically on ... detect[ing]

1 potholes, bumps, braking, and
2 honking".... Dr. Michalson
3 provides no support for the
4 suggestion that Mohan detects
5 "driving incidents."

6 Now, if you look at Mohan and go to
7 Page No. 3, you agree with me -- and you've already
8 agreed with me that collisions are examples of
9 driving incidents. Right?

10 A. Yes.

11 Q. Okay. So if we go to Page No. 3, and
12 it's -- the first full paragraph, beginning with,
13 "Other forms of sensing...."

14 Do you see that?

15 A. I do.

16 Q. It says -- the second sentence says:

17 Accelerometers are used
18 for automotive safety
19 applications such as detecting
20 crashes to deploy airbags and
21 to possibly also notify
22 emergency services
23 automatically....

24 A. That's correct.

25 Q. Okay. So you would agree with me that

1 Mohan does discuss driving incidents. Right?

2 A. This is cited in a section on related
3 work. You know, I haven't read this in a long time.

4 He, you know, clearly mentions that
5 accelerometers are used for detecting crashes. But
6 it's not clear to me how that is related to the work
7 of Mohan.

8 And, you know, I can read through this.
9 But, again, it's not clear from that citation that
10 Mohan's work has anything to do with crashes.

11 Q. Well -- but the Mohan paper does have a
12 discussion of crashes in it, right? -- just from
13 that paragraph.

14 A. Mohan mentions that accelerometers are
15 used for automotive system -- or:

16 Accelerometers are used
17 for automotive safety
18 applications such as detecting
19 crashes to deploy airbags and
20 to possibly also notify
21 emergency services
22 automatically --

23 Q. Okay.

24 A. -- end quote.

25 Q. And then -- sorry.

1 A. Yeah, I don't....

2 Yeah, I'll leave it at that.

3 Q. So if we turn to paragraph 25 of your
4 report....

5 And you talk -- paragraph 25 says:

6 Neither the "Petitioners"
7 nor...Michalson are clear "in"
8 which -- on which technologies
9 that they reference in such
10 "Technology Overview" were
11 incorporated into cars and
12 which were incorporated into
13 mobile devices, such as cell
14 phones, at the time
15 of...invention.

16 Do you see that?

17 A. I do.

18 Q. Okay. Would you agree with me that,
19 generally speaking, smartphones existed at the time
20 of the invention?

21 A. Yes. They were reasonably new, but they
22 certainly existed.

23 Q. Okay. And I think we've already talked
24 about whether they have sensors in them.

25 But are you aware of whether or not a

1 smartphone would have been able to download a mobile
2 application?

3 A. I believe smartphones were definite --
4 were able to download mobile applications and run
5 those applications.

6 COURT REPORTER: And what kind
7 of application?

8 THE WITNESS: Smartphones were
9 able to download applications and run
10 those applications.

11 COURT REPORTER: Oh, "run" those
12 applications.

13 THE WITNESS: Yeah.

14 COURT REPORTER: Thank you,
15 thank you so much.

16 Q. Were those applications -- if I said
17 "mobile applications," would you have an
18 understanding of what that term meant?

19 A. I would assume the term "mobile
20 applications" means a phone -- an application
21 running on a mobile phone.

22 Q. Okay.

23 A. Unless the context appeared to be
24 otherwise.

25 Q. And we talked about EDRs earlier.

1 Do you recollect that?

2 A. I do.

3 Q. And logging driving information?

4 A. Yes.

5 Q. Okay. And would you agree that an EDR was
6 one way of logging driving information?

7 A. Yes. An EDR is a data logger for driving
8 information, yeah.

9 Q. So an EDR is....

10 Do insurance companies use EDRs, the data
11 from them?

12 MR. TILLER: Objection --

13 A. Yes, they do.

14 MR. TILLER: -- it calls for
15 speculation.

16 Q. To the best of your knowledge, would
17 insurance companies use EDR data?

18 MR. TILLER: The same objection.

19 A. Yes, they would.

20 Q. Okay. And what would they use it for?

21 MR. TILLER: Objection; calls
22 for speculation.

23 Mr. Wilson is not identified as
24 an insurance expert.

25 A. Yeah, again, I didn't opine on this in my

1 report.

2 But they typically use EDR for
3 understanding accidents, collisions, crashes, and
4 assessing fault, generally, in their case.

5 Q. So an EDR provided an electronic means of
6 gathering information related to the type of
7 information that insurance companies were interested
8 in regardless?

9 MR. TILLER: Regardless of...?

10 A. Yeah.

11 Q. Regardless of whether it was electronic or
12 not.

13 Let me say that in a different way.

14 Insurance companies are interested when
15 you have an accident. Right?

16 A. If you're insured by them, they're
17 interested, yes.

18 Q. Right. They use -- those are part of
19 putting together a policy quote for you or
20 determining how much your premium is going to be.
21 Correct?

22 MR. TILLER: Objection. That
23 calls for speculation.

24 Mr. Wilson is not an insurance
25 rate expert.

1 A. Again, I didn't opine on this.

2 But it is certainly my understanding that
3 in assessing an insurance premium or rate for a
4 person, the number of crashes or their
5 responsibility in crashes is one of the factors that
6 goes into that.

7 Q. Okay. And just to be clear, I'm looking
8 at paragraph 37 of your report. The last sentence
9 says:

10 The data logged by these
11 black -- data logged by these
12 black boxes could then be
13 analyzed and used as evidence
14 to determine fault for
15 insurance claims and to
16 subsequently set insurance
17 premiums.

18 A. That's correct.

19 Q. Okay. So in general, in your report
20 you've expressed certain opinions related to what
21 relates to insurance premiums. Right?

22 A. Certainly, here I relate to that. I don't
23 recall a lot of opinions on insurance premiums.

24 Q. Understood. And I'm just trying to
25 understand the....

1 So EDRs could be used to gather
2 information that -- on crashes.

3 And that would be of interest to an
4 insurance company for the purpose of setting an
5 insurance premium. Correct?

6 MR. TILLER: Same objection.

7 A. Among other things. There's a lot going
8 on in that sentence.

9 But, yes, insurance companies are
10 interested in EDR data from vehicles they insure
11 where a crash has occurred.

12 Q. Okay. Before the advent of EDRs,
13 insurance companies would have gathered information
14 about an accident in relation to setting -- at least
15 in part, in relation to setting an insurance policy?

16 MR. TILLER: Same objection.

17 A. As far as I know, there are insurance
18 people who go out and gather data on crashes and
19 assess fault for the purposes of determining
20 payments from companies.

21 Q. Okay. To the best of your knowledge, does
22 the '271 patent disclose or rely on any kind of
23 specialized hardware?

24 A. The '271 patent is directed to a mobile
25 device, mobile phone, that at the time was fairly,

1 you know, new and, in that sense, specialized.

2 So from that perspective, yes.

3 Q. Okay. So we know that Curry is identified
4 as a prior art reference. Right?

5 A. That's correct.

6 Q. And Curry discloses the iPhone. Correct?

7 A. That's correct.

8 Q. Okay. So would you consider the iPhone as
9 being a specialized piece of hardware?

10 A. I didn't opine on this, and it would
11 certainly depend on the context.

12 But, yes, I think it's a specialized piece
13 of hardware. But, again, if we get to the
14 definition of specialized in the context, then....

15 Q. Okay. Let me ask it to you this way: To
16 the extent Curry discloses using an iPhone and the
17 '271 patent could be implemented on a mobile device,
18 is there anything that would prevent the
19 implementation of the '271 on the iPhone that's
20 disclosed in Curry?

21 A. So I'm not an expert on iPhones. I
22 didn't --

23 MR. TILLER: Objection; calls
24 for speculation.

25 A. And I didn't opine on this.

1 It's...the, you know, specifications of
2 the Curry iPhone may not support the Wright
3 requirements for memory, processing power, whatever.

4 But I'm not aware of any specific, you
5 know, reason why it could or could not support the,
6 you know, invention of Wright, the '271 invention.

7 Q. So your answer here said:

8 The specification -- the
9 specifications of the Curry
10 iPhone may not support the
11 Wright requirements for memory,
12 processing power, whatever.

13 What are Wright's requirements for memory,
14 processing power?

15 A. Those are not documented in the patent.

16 And by "Wright" there, it meant the name
17 "Wright" not the word "right." I don't know how it
18 came out.

19 Q. She actually got it right.

20 A. This could get confusing -- okay.

21 Yeah, so I don't know what the
22 requirements are for Wright. And I don't know that
23 the iPhone or any other particular phone would meet
24 or would not meet those technical requirements.

25 Q. Is it your opinion that a -- that the

1 mobile device, as claimed in Claim 1 of the '271
2 patent, has specific technical requirements beyond
3 what is listed in the claim?

4 A. To the extent the requirements are listed
5 in the claims, off the top of my head, they appear
6 sufficient.

7 But, obviously, you know, for any one of
8 those, a processor has certain capabilities. And to
9 implement the '271 would require at least that level
10 of capabilities.

11 And that's true for the user interface,
12 the memory, the -- etc. -- the sensors.

13 So other than that, I don't really have an
14 opinion on this. I don't -- I'm not sure where
15 we're going.

16 Q. Well, I'm trying to understand if
17 there's -- in your opinion, could -- you know, we're
18 looking at the Curry reference, and it discloses the
19 iPhone.

20 Is there a reason why the iPhone, as
21 disclosed in Curry, could not implement the claimed
22 invention of the '271 patent?

23 A. So the iPhone is --

24 MR. TILLER: Objection.

25 Mr. Wilson is not identified as

1 a hardware expert.

2 A. The iPhone identified in Curry has certain
3 processor, memory, and other technical capabilities.

4 You know, depending on that level -- which
5 is, the iPhone has a certain level -- depending on
6 what is needed to implement the '271, which is not
7 -- "I don't know" -- the iPhone may or may not be
8 able to implement the '271 invention.

9 And I don't have an opinion on whether it
10 can or not.

11 Q. So we're talking about the state of the
12 art at the time of the -- looking at your report,
13 paragraph 24 onwards -- paragraphs 24 to 34.

14 Would you agree or disagree that the --
15 that at that time of state of the art, that a cell
16 phone was able to download mobile applications?

17 A. I would agree that there are -- certainly
18 were smartphones that could download mobile
19 applications.

20 Q. Okay. And would you agree that there were
21 systems that could determine when a driver had
22 started a vehicle?

23 MR. TILLER: Objection.

24 Are you asking this in the, sort
25 of just --

1 MR. CHAKKALAKAL: State of the
2 art.

3 MR. TILLER: -- there's
4 something out there?

5 Okay.

6 A. I mean, is this in the context of a car?
7 I mean -- or in the context of a -- I guess I don't
8 understand the context.

9 Certainly, you know, a lock, a key,
10 ignition key, could determine whether the user had
11 started the vehicle.

12 Q. Well, let me ask it to you this way: You
13 agree that an EDR was known at the time. Right?

14 A. An EDR was known in 2009 or the time of --
15 the referenced time, yes.

16 Q. And would at least some EDRs start
17 collecting data based on when the car was started?

18 MR. TILLER: Objection; calls
19 for speculation.

20 A. An EDR continually collected data when the
21 vehicle was started.

22 Q. Okay. And based on the NHTSA document and
23 the discussion of ACN, would you agree with me that
24 there were systems in place that could determine
25 when a crash had occurred?

1 A. Certainly within vehicles.

2 I mean, the EDR system, when the vehicle
3 is started, to me that means the power is supplied
4 to the vehicle. The power supplies the EDR. It
5 collects data. That's what it does.

6 There are crash sensors in the car that
7 can detect crashes. They were well known at the
8 time.

9 You know, the innovation of Wright,
10 though, is to move away from all those sensors in
11 the car and be able to do these things from the
12 mobile phone.

13 Q. I understand. I'm just trying to
14 understand your perspective on what the state of the
15 art was at the time.

16 A. Yeah, certainly, the state of the art for
17 in-vehicle systems included monitoring when the car
18 was on, detecting crashes.

19 Q. Okay. And just like a -- and as the EDR
20 example, the information that was gathered related
21 to a crash could be stored to memory. Right?

22 A. In the EDR example, yes, during a crash,
23 the data gathered during that crash is stored to a
24 memory.

25 Q. Did dashcams exist at the time?

1 A. Yes, dashcams existed.

2 Q. Okay. And did dashcams have a -- to a
3 certain degree, a similar type of functionality of
4 recording data?

5 MR. TILLER: Objection; calls
6 for speculation and beyond the scope.

7 A. Yeah, I didn't opine on this.

8 But dashcams, generally, are, you know, a
9 camera mounted on the dash that's continuously
10 collecting video data of the road or whatever
11 they're pointed at.

12 Q. And when you say "continuously collected
13 data," that is...what triggers a start of the data
14 collection?

15 A. Again, this is not --

16 MR. TILLER: Objection; beyond
17 the scope.

18 A. -- not something I opined on.

19 I know at least some of the systems are
20 plugged into a cigarette lighter socket. And so,
21 they start collecting data when the power is turned
22 on of the vehicle.

23 Q. Sticking with just the dashcams for a
24 second, dashcams did require vehicle sensor data in
25 order to work. Correct?

1 MR. TILLER: Objection; beyond
2 the scope, calls for speculation.

3 A. There certainly were some dashcams that
4 consisted of a -- essentially, a video camera that,
5 you know, were placed on the dash, looking out the
6 front, and plugged into the vehicle's power supply.

7 They would not use vehicle sensors.

8 Q. And, in general, systems that were able to
9 track driving behavior was known prior to the dates
10 of the asserted patents. Correct?

11 A. Yes. I worked on, you know, several
12 throughout my career prior to that time.

13 Q. And I'm going to go back to this idea of
14 just specialized hardware.

15 In the context of the '271 patent, the
16 '271 patent, Claim 1, discloses a sensor set.
17 Correct?

18 A. Yes, it does.

19 Q. And that sensor set generally -- that
20 sensor set consists of an accelerometer, an audio
21 sensing device, a positioning module, and an image
22 sensor. Correct?

23 A. Or a combination thereof, yes.

24 Q. Or a combination thereof.

25 Would you agree with me that the patents

1 do not disclose any specialized form of
2 accelerometer?

3 A. The '271 patent does not -- the claims do
4 not disclose any particular form of an
5 accelerometer.

6 But, you know, one skilled in the art
7 would understand that in order to implement the
8 system, this accelerometer would have to have
9 certain functionality or certain capabilities.

10 Q. Well, the claim just says "accelerometer."
11 Correct?

12 A. That is correct.

13 Q. Okay. And likewise, the claim just says
14 "a positioning module." Correct?

15 A. That is correct.

16 Q. And the claim just says "an audio sensor."
17 Correct?

18 A. That is correct.

19 But, you know, like the others in the
20 contents of -- or in the context of the
21 specification, one skilled in the art would
22 understand that there are certain technical
23 requirements on those sensors.

24 Q. Okay. But those technical requirements
25 are not listed in the claim itself?

1 A. That is correct.

2 Q. Okay. And the same is true of the image
3 sensor. Correct?

4 A. Yes.

5 (Pause.)

6 THE WITNESS: I guess I'd like a
7 quick break too when we get a chance.

8 MR. CHAKKALAKAL: Sure.

9 If you need one now --

10 THE WITNESS: Yeah.

11 MR. CHAKKALAKAL: -- that's
12 fine.

13 (Whereupon, a recess was taken
14 from 4:38 p.m. until 4:47 p.m.)

15 BY MR. CHAKKALAKAL:

16 Q. Welcome back again, Mr. Wilson.

17 A. Thank you.

18 Q. All right. We were talking about the
19 state of the art. And when we were talking about
20 the -- well, let's talk about the Curry reference.

21 The -- in your report at paragraph 77....

22 A. Okay.

23 Q. ...you state that:

24 ...Curry makes clear that
25 any processing, evaluation,

1 statistical analysis, or
2 scoring, especially as concerns
3 how the user is driving the
4 vehicle or for detecting a
5 driving incident, is performed
6 at Curry's remote,
7 centrally-managed server.

8 Do you see that?

9 A. I do.

10 Q. And as examples of that, you cite to
11 Figure 2. And you also cite to -- your first cite
12 is to 3:24 to 4:6 of Curry.

13 Do you see that?

14 A. I do.

15 Q. Do you see it says:

16 (server receives data from
17 motion data cache to compare
18 against user permission data
19 for calculating safety
20 statistic....)

21 Do you see that?

22 A. Yes.

23 Q. And....

24 (Pause.)

25 Q. So the safety statistic is an example of

1 the processing of --

2 COURT REPORTER: So the what?

3 Q. So the safety statistic is an example of
4 processing of data. Correct?

5 A. The safety statistic is derived using a
6 statistical -- it is derived from the data.

7 COURT REPORTER: Is derived from
8 the....

9 THE WITNESS: From the data.

10 COURT REPORTER: Thank you.

11 Q. The...and you're stating that this
12 calculation is done at the server in Curry.
13 Correct?

14 A. Yes.

15 Q. Now, you would agree with me that Curry,
16 on page 9 -- again, the lower number 9 -- at lines
17 26 through 28, it says:

18 ...possible violations of
19 mobile phone use or unsafe
20 driving behavior such as
21 speeding, abnormal deceleration
22 and sharp turns.

23 Do you see that?

24 A. I do.

25 Q. Okay. So Curry discloses the

1 determination of some unsafe driving behavior.

2 Right?

3 (Witness reading.)

4 A. Curry discloses, you know, possible
5 violations of mobile phone use, which is an unsafe
6 behavior, or unsafe driving behavior -- "such as
7 speeding, abnormal deceleration and sharp turns" --
8 that those can be identified on the server.

9 Q. Okay. And those criteria -- speeding,
10 abnormal deceleration, sharp turns -- those can
11 affect the safety statistic that we discussed just a
12 second ago.

13 Is that correct?

14 A. The Curry is...I don't recall, within
15 Curry, a discussion of, really, how the safety
16 statistic is computed. That's not the point of this
17 patent.

18 He's indicated a few of the inputs to
19 it -- namely, the cell phone use.

20 But, I mean, if you can point me
21 somewhere, I can talk on it.

22 I don't remember opining on the details of
23 his safety statistic.

24 Q. Well, let me back up just a second.

25 The safety statistic is calculated from

1 the raw sensor data. Right?

2 A. Among other things, yes.

3 Q. Okay. So let me take you to the -- to
4 lower number 3, page 3, the last paragraph.

5 And I'm looking at the third [sic] line.

6 A. Okay.

7 Q. (Reading:)

8 The data in the motion
9 data cache can be compared with
10 the user permission data to
11 enable a driver safety
12 statistic to be calculated
13 based on when and where the
14 wireless computing device was
15 used and the motion of the
16 device.

17 Do you see that?

18 A. Yes.

19 Q. Okay. And the data in the motion data
20 cache is the sensor data. Correct?

21 A. Yes.

22 Q. Okay. And if we look at Figure 1 of
23 Curry, the motion data cache is located on the
24 mobile phone.

25 Is that right?

1 A. The...there is a motion data cache
2 indicated there, but the data from that motion data
3 cache is also transmitted to the server. So the
4 data is in both places.

5 Q. Okay. Likewise, the use permission
6 database is located on the mobile phone client.
7 Correct?

8 A. There is a use permission database on the
9 mobile phone client.

10 There's also one on the server.

11 Q. Okay. And the driver safety statistic is
12 calculated from using the motion data cache and the
13 user permission data. Correct?

14 A. Possibly, among other things, yes.

15 Q. And the...if you look towards the end of
16 that -- apologize.

17 (Background noise.)

18 Q. If you look towards the second-to-last
19 sentence, it says:

20 The driver stay -- safety
21 statistic --

22 MR. TILLER: Wait. Where are
23 we? I'm sorry. Where are we?

24 MR. CHAKKALAKAL: Sorry. The
25 second-to-last sentence of the paragraph.

1 So it's on --

2 MR. TILLER: Which?

3 MR. CHAKKALAKAL: So it's on
4 page -- we're on the last paragraph of
5 page 3. So the end of that paragraph is
6 on page 4.

7 BY MR. CHAKKALAKAL:

8 Q. The second-to-last sentence says:

9 The driver safety
10 statistic can also be decreased
11 based on driving behavior, such
12 as speeding, abnormal
13 acceleration, abnormal
14 deceleration, and taking sharp
15 turns.

16 Do you see that?

17 A. No. Let me just see.

18 (Witness reading.)

19 A. Where are you -- you're on --

20 Q. Page 4, top of page 4.

21 A. Top of page 4, okay.

22 Q. Sorry.

23 MR. TILLER: We were all looking
24 at the wrong spot.

25 Q. At the end of that paragraph that started

1 on page 3, the second-to-last line:

2 The driver safety
3 statistic can also be decreased
4 based on driving behavior, such
5 as speeding, abnormal
6 acceleration, abnormal
7 deceleration, and...sharp
8 turns.

9 A. I see that, yes.

10 Q. Okay. So now, if you look at the next
11 sentence, it says:

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

15 Do you see that?

16 A. Yes.

17 Q. Do you agree with that statement?

18 (Witness reading.)

19 A. Yes, I see that.

20 Q. Okay. Now, the Curry reference....

21 And, I'm sorry, the -- I know you said,
22 yes, you see that.

23 I guess my question was: Do you agree
24 with that statement?

25 MR. TILLER: Are you asking him,

1 do you agree that it says that?

2 I'll stipulate that it says

3 that.

4 Q. The statement says:

5 The safety statistic can

6 be reported to or calculated at

7 the data server.

8 MR. TILLER: What are you asking

9 him --

10 (Simultaneous speaking.)

11 MR. TILLER: It says what it

12 says.

13 Q. I understand. Now I'm asking him, do you
14 have -- let me phrase it this way -- well, first, do
15 you agree that it says that?

16 A. I agree that it says that, yes.

17 Q. And do you see any reason why that the
18 safety statistic could not be reported to the data
19 server?

20 A. No.

21 Q. Okay.

22 A. I think the relevant question is where
23 it's reported from.

24 Q. So let's...the safety statistic is
25 calculated from data in the motion data cache and

1 the user permission data.

2 Is that correct?

3 (Pause.)

4 Q. If it helps, that page 3, the statement
5 that you read earlier, that was read earlier --
6 page 3, last paragraph, third [sic] sentence:

7 The data in the motion
8 data cache can be compared with
9 the user permission data to
10 enable a driver safety
11 statistic to be calculated....

12 A. Right. I understand -- well, yes, the
13 driver safety statistic can be calculated from the
14 driving data.

15 I think that was the question.

16 Q. Yes.

17 Other than the mobile phone client and the
18 driver data safety server that is shown on Figure 1,
19 are there any other -- are you aware of any other
20 components of Curry's systems that are disclosed as
21 having both the motion data cache and the user
22 permission data?

23 A. The...I think the question we're getting
24 at is where the safety score is coming from. And I
25 believe that this safety score is potentially coming

1 from the -- the parties identified in line 9 or so
2 on page 4.

3 These are parents, guardians, insurance
4 company, etc.

5 If we look at...around line 5 of page 13,
6 this discloses that the insurance company, the
7 users, can set a driving score, and to start the
8 week or the month or whatever.

9 So my understanding is that this would be
10 done on the third-party site and sent to the
11 backend -- the server of Curry.

12 Q. So you said page 13.

13 And where are you looking at page 13?

14 A. Page 13, the first full paragraph.

15 Q. Okay. And you're referring to the driver
16 safety score evaluation module?

17 A. Yes.

18 Q. Okay. And what are you pointing out in
19 there?

20 A. So line 5 starts:

21 For example, an initial
22 driving score can be set "at"
23 100 points for a selected
24 period....

25 Q. Um-hum.

1 A. I -- my belief, a POSITA would understand
2 that that is probably done by the parent, the
3 insurance company, whoever is managing this person.

4 And so, that would be the source or at
5 least one source of a driving score for the
6 processing on the server.

7 Q. Okay. And we're talking specifically
8 about the safety statistic that is discussed in --
9 on page 3.

10 A. Correct.

11 Q. And I'm asking: With regards to the
12 safety statistic that's disclosed on page 3, it says
13 that it is calculated based on the data in the
14 motion data cache and the user permission data.

15 A. So I believe that the driving score is the
16 same as the safety statistic, that they are the same
17 thing.

18 So as I read the first paragraph on
19 page 13, there is a way for the third party, if you
20 will, to set the statistic.

21 Q. So my question to you, Mr. Wilson, was:
22 Are you aware of any component that is disclosed in
23 Curry that has both the motion data cache and the
24 user permission data, other than the mobile phone
25 client and the driving safety and data server?

1 Is there any other component that's shown
2 in Curry that is disclosed as having both of those?

3 A. So the two being the motion data cache and
4 the driver --

5 Q. -- user permission data.

6 A. Those two databases?

7 Q. Yes. More specifically, the data in
8 those -- yes, those two databases. Right.

9 (Witness reading.)

10 A. I don't recall opining on if the, you
11 know, third party has that data.

12 I don't -- off the top of my head here
13 right now, it's not obvious that the -- all of that
14 data would be at the third party.

15 And here -- I'm referring to the "third
16 party" -- I mean what is shown as auto insurance
17 companies on Figure 1.

18 Is that answering your question?

19 Q. I think it's getting to it.

20 And I don't want to mischaracterize your
21 answer, but it sounds to me like you're saying that,
22 no, you're not aware of any other component in Curry
23 that is disclosed as having both of those -- i.e.,
24 the motion data cache and the user permission data.

25 A. Both the server and the mobile phone

1 client have user permission data and the motion data
2 cache data.

3 I did not form an opinion on whether that
4 data is also available at the auto insurance
5 companies -- let's see here...or these third
6 parties. But I'm not aware of any disclosure to
7 that effect.

8 Q. Okay.

9 A. Yeah, I would add that it seems not
10 unlikely to me that the driving safety user control
11 and monitoring website would have access to that
12 data. That's shown in Figure 1. It's Item 102.

13 But, again, I don't recall any
14 disclosure -- specific disclosure that that data is
15 available there.

16 Q. And the motion data cache has raw sensor
17 data. Correct?

18 A. That is correct.

19 Q. All right. And you would agree with me
20 that the...that that raw data is taken and used in
21 the calculation to determine the safety statistic.
22 Right?

23 A. Yes.

24 Q. Okay. So let's talk about the activity
25 recognition mode that's shown on page 9.

1 And going forward, if I refer to a page
2 number in Curry, can we just agree that it's the
3 lower number?

4 A. Hopefully.

5 Q. All right. Now, do you have understanding
6 what the "activity mode recognition" is?

7 A. Yes, I do.

8 Q. Okay. So the activity mode recognition
9 determines whether -- well, in part, it determines
10 the context of the device, such as whether the
11 person who's using the device is driving, running,
12 walking, etc. Correct?

13 A. That's correct.

14 Q. Okay. And you would agree with me that it
15 does this so data is collected, right? -- by the
16 phone.

17 A. Yes.

18 Q. Sensor data.

19 It goes into the motion data cache.
20 Correct?

21 A. (Witness nods head.)

22 Q. And then, the -- there's an activity mode
23 recognition module that exists on the phone that is
24 run on that data to determine a context. Correct?

25 A. Yes.

1 Q. Okay. And that module is -- can be
2 running at any time. Correct?

3 MR. TILLER: Objection; beyond
4 the scope.

5 A. I mean, it wouldn't -- it has to be
6 initialized somehow. But it may have been
7 initialized at any point, yes.

8 Q. What I'm trying to get at is: It doesn't
9 require -- necessarily require a phone call or
10 something to start up. Right?

11 A. The -- you know, Curry is silent on
12 exactly when the motion recognition is done.

13 I haven't expressed an opinion on that,
14 because I -- again, I don't -- it's not obvious to
15 me if that runs only when triggered by a phone call
16 or maybe running in the background and is -- yeah.

17 Q. So I'm going to take you back to the
18 bottom of page 3. And it says there, "In
19 addition" -- the last sentence:

20 In addition, the wireless
21 device may collect data during
22 periods other than when phone
23 calls are answered or made.

24 Do you see that?

25 A. I do.

1 Q. And then it says:

2 For example, the wireless
3 device may collect speed and
4 location information and report
5 that information back to the
6 data server.

7 Do you see that?

8 A. I do.

9 Q. Okay. And then it goes on to say:

10 The driver safety
11 statistic "may" be -- also "to"
12 be decreased based on driving
13 behavior, such as speeding,
14 abnormal acceleration, abnormal
15 deceleration, and taking sharp
16 turns.

17 Do you see that?

18 A. I do.

19 Q. Okay. So from that, do you gather that
20 the wireless device would be collecting data even
21 when there's no phone call?

22 A. That indicates to me that that may be one
23 function of the wireless device, but it does not --
24 it's ancillary to the focus of the Curry patent.

25 You know, that seems to be a -- sort of

1 additional, on-the-side functionality to me and not
2 core -- not core to the -- the process of managing
3 phone calls, basically.

4 Q. And I just want to understand what Curry
5 actually -- what it discloses.

6 But you would agree with me that Curry
7 discloses the collection of data at time -- of
8 sensor data at times, other than when a phone call
9 is made. Right?

10 A. Yes, it does.

11 Q. And the activity recognition module would
12 work on the collected data to determine a context of
13 the phone. Correct?

14 A. Yes, it would.

15 But whether it is doing that all the time
16 or not is not disclosed by Curry -- or only done in
17 the context of a phone call coming in or going out.

18 And when I say "phone call," I include
19 texts and other media.

20 Q. Well, so that -- I'm going to that
21 sentence. And it says:

22 ...the wireless device may
23 collect data during periods
24 other than when phone calls are
25 answered or made. For example,

1 the wireless device may collect
2 speed and location information
3 and report that information
4 back to the data server.

5 And then it says:

6 The "data server"
7 statistic can also be decreased
8 based on driving behavior, such
9 as speeding, abnormal
10 acceleration, abnormal
11 deceleration, and taking sharp
12 turns.

13 In order for it to be a driver safety
14 statistic, the activity recognition module would
15 have had to have made the determination that the
16 context was driving. Correct?

17 A. Not necessarily.

18 In my opinion -- and that's because, in my
19 opinion, there's also a driver recognition module
20 running on the backend that needs to be there for
21 other reasons.

22 And so, that driver activity recognition
23 module could be performing that specific processing.

24 In other words, it would have to....

25 Well, yeah, leave it at that.

1 Q. So I'm trying to understand your answer in
2 light of my question. I'm going to try to ask my
3 question a different way.

4 The...in order for the driver safety
5 statistic to be decreased, the system disclosed
6 would have to have known the context was driving.
7 Correct?

8 A. That is correct, yes.

9 Q. Okay. And the portion that I read here,
10 the part that says:

11 ...the wireless device may
12 collect data during periods
13 other than when "the" phone
14 calls are answered or made.
15 For example, the wireless
16 device may collect speed and
17 location information and report
18 that information back to the
19 data server. ...driver safety
20 statistic can be -- also be
21 decreased based on driving
22 behavior, such as speeding,
23 abnormal acceleration, abnormal
24 deceleration, and taking sharp
25 turns.

1 A. (Witness nods head.)

2 Q. There is certainly nothing in that
3 paragraph that limits it to -- limits the invention
4 of Curry to a period of time only when there were
5 phone calls. Right?

6 A. Correct.

7 Q. And you mentioned "driving mode" just a
8 little bit ago.

9 COURT REPORTER: Did you say
10 "Mohan"?

11 MR. CHAKKALAKAL: "Mode."

12 COURT REPORTER: Oh, "mode."

13 MR. CHAKKALAKAL: "Driving
14 mode."

15 Q. So we know that the -- that the -- that
16 Curry can recognize when a user's -- the context of
17 a mobile device, such as when a user is walking,
18 running, or driving. Correct?

19 A. Correct.

20 Q. Okay. And that's the activity recognition
21 module?

22 A. Yes. Just...Curry also accounts for cases
23 when it can't recognize -- so, an unknown mode.

24 And that is performed in the...the user
25 activity mode recognition module.

1 Q. Okay. And Curry does the activity
2 recognition based on information from -- or based on
3 GPS data and accelerometer data. Correct?

4 A. Yes.

5 Q. Okay. And then....

6 (Pause.)

7 Q. So once it's determined that the user is
8 driving, then Curry can place the mobile device in a
9 driving mode. Correct?

10 COURT REPORTER: "Drive-free
11 mode"?

12 MR. CHAKKALAKAL: "Driving
13 mode."

14 COURT REPORTER: Thank you.

15 MR. CHAKKALAKAL: Sorry.

16 A. Curry defines two modes -- I think, a GPS
17 navigation mode and a communications mode.

18 So those are the modes disclosed for the
19 phone -- or for the mobile device.

20 Q. Well, on page 4 it discloses a driving
21 mode. Right?

22 And if you look at page 4, the paragraph
23 that -- sorry, line 16, it says:

24 A dynamic call handling
25 module is configured to place

1 the wireless device in a
2 selected mode based on the
3 activity mode.

4 A. Okay.

5 Q. And then it goes on to say:

6 For example, when it is
7 identified that the user is
8 driving based on information
9 from the accelerometer and GPS
10 receiver, then the wireless
11 device can be placed in a
12 driving mode.

13 A. That's correct.

14 Q. Okay. And the GPS data and the
15 accelerometer data are time-stamped. Correct?

16 A. Yes.

17 Q. Now, if we look at....

18 Sorry, give me just a second.

19 (Pause.)

20 Q. If we're looking at paragraph 39 of your
21 declaration.

22 A. Okay.

23 Q. And it says....

24 (Pause.)

25 Q. Sorry. I might have the wrong paragraph

1 number, just a second.

2 (Pause.)

3 Q. Sorry. If you go down to paragraph 42 --
4 sorry about that.

5 And you could see the sentence that...the
6 sentence that says:

7 The inventions of the '879
8 and '271 patents are not
9 necessarily meant to replace a
10 vehicle's traditional black
11 box, but to supplement the
12 vehicle with a readily
13 accessible application on a
14 portable device for real-time,
15 continuous situational
16 awareness of a vehicle's
17 environment during entire
18 driving periods of the vehicle,
19 determining what data is
20 important, and storing and
21 providing important data that
22 is immediately viewable by a
23 vehicle user and actionable by
24 an insurance provider.

25 Do you see that?

1 A. I do.

2 Q. Okay. And you would agree with me that
3 Curry discloses an application that runs on a mobile
4 device that assesses the user's driving context?

5 MR. TILLER: Objection.

6 A. I would agree with that.

7 Q. Okay.

8 A. Driving context there being, are they
9 driving or not?

10 Q. Correct.

11 A. I mean, so it's a simplistic version of
12 driving context.

13 Q. And you would agree that the...that
14 Curry's able to -- well, that Curry stores this
15 context. Correct?

16 A. No.

17 Q. So when Curry -- when the system of Curry
18 discloses that you have a -- a context of a device.
19 Right?

20 A. The context being driving or....

21 Q. Right.

22 A. Okay.

23 Q. And then, the system of Curry also
24 discloses that you have -- that that is compared to
25 a -- to a set of user permissions. Right?

1 A. I don't recall that.

2 Q. Well, let me ask it to you this way: The
3 system of Curry is designed such that if you're
4 driving, it can prevent you from making a phone call
5 or taking a phone call. Correct?

6 A. Yes.

7 Q. Okay. So in -- with that understanding,
8 the -- in the context of Curry, Curry would have to
9 know whether you're driving or not -- so that when
10 the call comes in, it knows whether you're driving
11 or not so that it can prevent the phone call from
12 being made or taken?

13 A. It either has to know that in advance or,
14 when the phone call comes in, figure it out real
15 quick.

16 Q. Okay. So the -- there is use of that
17 context in conjunction with the user permissions in
18 order to perform additional functionality.

19 A. I don't believe that necessarily follows,
20 in that one way Curry could be implemented -- and
21 it's silent on this -- is to look in the permission
22 database, see, you know, okay, I'm on this road, I
23 have permission. I don't care what the driving
24 context is or the context is.

25 Q. All right. So you said one way that Curry

1 could be implemented, but it's silent as to this
2 way, is looking at the road that the person is on?

3 A. I think the question is whether you look
4 at the permissions database or the mode first,
5 because if you...yeah.

6 Q. So let me clarify to the extent that was
7 unclear.

8 I was asking whether you're using the user
9 permissions and the context of the device together
10 to perform additional functionality, such as
11 preventing the person from making a phone call or
12 taking a phone call.

13 A. Yes.

14 Q. Does Curry disclose post processing?

15 A. Yes, it does.

16 Q. So in order to....

17 (Pause.)

18 Q. So if I'm looking at Curry and I look at
19 page 9. And....

20 Sorry, one second.

21 (Pause.)

22 Q. And do you see that there is a paragraph
23 that -- or a section that starts, "Motion data
24 uploading"?

25 A. Yes.

1 Q. Okay. And there it says, "Motion data" --
2 sorry, it starts by saying:

3 Through mobile phone
4 communication links, motion
5 data and activity mode
6 estimation results of a user of
7 the mobile phone...can be
8 transmitted to the driving
9 safety data server....

10 Do you see that?

11 A. I do.

12 Q. So would that indicate to you that the
13 results of the activity mode recognition are saved
14 in some way, shape, or form?

15 (Witness reading.)

16 A. So this is indicating that the motion data
17 and activity mode estimation results of a user of
18 the mobile phone can be transmitted to the driving
19 safety data server.

20 I don't think I opined on whether that
21 involved storage. Obviously, there's some temporary
22 storage.

23 But can you repeat the question, then,
24 just to make sure I answered -- or if I answered it.

25 Q. I think you've answered it.

1 A. Okay.

2 Q. So....

3 (Pause.)

4 Q. Now, to the extent that Curry discloses --
5 or Curry system allows for....

6 Would you agree with me that Curry
7 discloses safety policies, such as not -- you know,
8 or is directed somewhat towards certain safety
9 policies, such as not talking while you're driving?

10 A. The, you know, main purpose of the phone
11 is to -- or the invention of Curry is to....

12 (Witness reading.)

13 A. What's the title of this?

14 A "SYSTEM AND METHOD FOR PREVENTING CELL
15 PHONE USE WHILE DRIVING."

16 So that is a policy of not -- not using
17 the cell phone while driving.

18 Q. And would you agree with me, then, that
19 use -- and it talks about a safety statistic that
20 can be calculated and that can be decreased based on
21 unsafe driving. Correct?

22 A. That is correct.

23 Q. Okay. And would you agree with me that
24 one type of unsafe driving -- indeed, probably the
25 main type of unsafe driving, as contemplated by

1 Curry -- is usage of a cell phone while driving?

2 MR. TILLER: Objection.

3 A. Yes; that is the primary goal of Curry, is
4 to eliminate or penalize people for the use of a
5 cell phone while driving.

6 Q. Okay. So use of a cell phone while
7 driving is a type -- would you agree with me that
8 use of a cell phone while driving is a type of
9 driving information that would be...well, that is a
10 type of driving information?

11 MR. TILLER: Objection.

12 A. No. Similar to the -- we discussed
13 something similar earlier.

14 I believe it may influence driving
15 information or may have impact on it. But it is not
16 driving information, in and of itself.

17 Q. Okay. The....

18 (Pause.)

19 MR. CHAKKALAKAL: Actually,
20 let's go ahead and take a break for five
21 minutes -- or ten minutes, whatever you
22 prefer.

23 (Whereupon, a recess was taken
24 from 5:46 p.m. until 5:59 p.m.)

25 BY MR. CHAKKALAKAL:

1 Q. Welcome back, Mr. Wilson.

2 Now, to the extent that we've been talking
3 about the Curry reference, would you agree with me
4 that the -- that what is disclosed in Curry, at
5 least from line 5 of page 7 onwards, is embodiments
6 of the invention?

7 MR. TILLER: Where are we? I'm
8 sorry.

9 MR. CHAKKALAKAL: The Curry
10 reference or --

11 MR. TILLER: Line 5, page 7.

12 MR. CHAKKALAKAL: Yes.

13 (Witness reading.)

14 A. So I didn't opine on that.

15 Line 4 of page 7 obviously says "EXAMPLE
16 EMBODIMENTS" in bold caps.

17 Off the top of my head, I would say it
18 ends at, you know, line 4 of the next page, page 8,
19 which is "Use permission data input" in small type.

20 Again, I don't have an opinion on this.
21 This is just off the top, looking at this, and the
22 fact that I consider...the small-type headings
23 appear to me to be not embodiments so much as
24 details of the invention.

25 Q. Um-hum. So I want to go back to something

1 we discussed a little bit ago, the -- well, let me
2 ask you this: The....

3 (Pause.)

4 Q. Does Curry contemplate that -- or disclose
5 that distracted driving, such as using your cell
6 phone while driving, could be the cause of an
7 accident?

8 (Witness reading.)

9 MR. TILLER: Objection; beyond
10 the scope.

11 A. Just looking at Curry now -- and again, I
12 didn't opine on this -- he certainly implies it is
13 the cause of an accident, citing to handheld rules
14 and legislation around cell phone usage.

15 But I don't see anywhere that he says that
16 specifically, offhand.

17 Q. Well....

18 So in -- on page 11 of Curry, the last
19 full paragraph, the second-to-last line [sic], it
20 says:

21 The system can prevent
22 countless motorized vehicle
23 accidents and deaths, thereby
24 enabling a significant amount
25 of money to be saved for the

1 mobile phone owner and the
2 insurance company.

3 Do you see that?

4 A. I do.

5 Q. Okay. And you have stated before, I
6 believe, that the primary objective of Curry was to
7 prevent cell phone use while driving.

8 A. That is correct.

9 Q. Okay. So would you agree with me that
10 Curry is attempting to reduce accidents and death by
11 limiting cell phone use while driving?

12 A. I don't think Curry discloses specifically
13 that it's the cell phone use. As you pointed out
14 earlier, it talks about the score reflecting other
15 factors, such as speeding.

16 But, you know, in general, I believe this
17 paragraph on the bottom of page 11 is saying that
18 the combination of monitoring drivers, blocking cell
19 phones, would save a lot of lives and money.

20 Q. Okay. So...let me just generally ask you:
21 Would you consider, based on your knowledge as an
22 expert, that cell phone use as a -- when driving is
23 a cause of accidents?

24 MR. TILLER: Objection.

25 Mr. Wilson is not identified as

1 an expert in vehicle safety analysis.

2 A. Oh, you know, in my opinion, it is
3 certainly a factor in many accidents.

4 Q. Okay. Just one second.

5 (Pause.)

6 Q. If we go to the....

7 And would you agree with me that the '271
8 patent -- one of the goals or one of the objectives
9 is to determine the cause of an accident?

10 A. Among other things, that is one of the
11 objectives, yes.

12 Q. So if I'm looking at the field of the
13 invention for the '271 -- and that is Column 1,
14 lines 17 to 25 -- it says:

15 The present disclosure
16 relates to methods and systems
17 for logging driving information
18 associated with vehicle
19 behaviour.

20 Sorry.

21 A. Yeah, let me....

22 (Pause.)

23 A. Yes, I see that.

24 Q. It says:

25 Moreover, the present

1 disclosure relates to a mobile
2 device adapted for installation
3 to a vehicle and configured to
4 log such driving
5 information....

6 Do you see that?

7 A. Yes.

8 Q. So the "driving information" there is
9 driving information associated with vehicle
10 behavior. Right?

11 A. Yes.

12 Q. Okay.

13 ...for example, video
14 footage associated with how the
15 vehicle is driven.

16 Do you see that?

17 A. I do.

18 Q. Then it says:

19 Such driving information
20 may subsequently be utilised to
21 determine the cause of an event
22 such as an accident...

23 A. I see that.

24 Q. Okay. And would you agree with me that
25 cell phone use while driving could be a cause of an

1 event such as an accident?

2 A. I would certainly characterize it as a
3 factor leading up to an accident.

4 Whether it is the cause of the accident, I
5 haven't opined on that. That would take some more
6 thought, because the....

7 Yeah, those....

8 You know, that can be very contentious as
9 to causes in these cases.

10 Q. So Mr. Wilson, is it your testimony that
11 cell phone use while driving could not be the cause
12 of an accident?

13 A. No, it is not.

14 Q. Okay. So could it be the cause of an
15 accident?

16 A. I did not opine on that or form an opinion
17 on it.

18 You know, sitting here today, it would
19 certainly be a contributing factor.

20 You know, depending on, is it the cause, I
21 think would depend on the context and so forth.

22 But in certain contexts, it could be the
23 cause of an accident -- but, you know, that's
24 sitting here today.

25 Q. We talked earlier -- and we're going back

1 to the Curry reference -- we talked earlier about
2 whether Curry discloses that it collects data
3 outside the context of a phone call.

4 Do you recall that?

5 A. Generally, yes.

6 Q. Okay. So if I look at page 10, I'm
7 looking at the GPS and communication mode section
8 that starts at line 15. And it says:

9 In one embodiment, a
10 mobile phone 106 can have two
11 mutually exclusive modes: a
12 GPS monitoring/navigation mode
13 and a communication mode.
14 Based on acceleration data from
15 the embedded accelerometer 116,
16 an always-on activity
17 recognition program can detect
18 the activity status of a mobile
19 phone user during various
20 activities.

21 Do you see that?

22 A. I do.

23 Q. In this context, what is your
24 understanding of "always on"?

25 (Witness reading.)

1 A. I didn't opine on this.

2 But, again, sitting here today, "always
3 on" would mean whenever the phone is on this is also
4 on, this activity recognition program.

5 Q. And if we go to page 7 of the Curry
6 reference, the portion in the middle says a --
7 sorry, let's do it by line number -- Line No. 13:

8 A driving safety
9 evaluation module can be used
10 to perform a statistical
11 analysis on collected raw
12 driving data.

13 Do you see that?

14 A. I do.

15 Q. It says:

16 The evaluation module can
17 then calculate corresponding
18 safety scores.

19 Do you see that?

20 A. Yes.

21 Q. Okay. And then:

22 ...safety scores can be
23 "consumed" by consumers and
24 insurance agencies to determine
25 insurance premiums for related

1 drivers.

2 Do you see that?

3 A. Yes.

4 Q. So would you agree with me that Curry
5 discloses determining -- a method of determining
6 insurance premiums from collected sensor data?

7 A. I would agree that Curry suggests an
8 approach to collect -- you know, an approach to what
9 you said.

10 Q. Okay. Now, you -- in paragraph 136 of
11 your declaration --

12 A. Okay.

13 Q. -- you state that:

14 In my opinion, Curry and
15 Rabu, whether alone or in
16 combination also does not -- /
17 do not teach, suggest, or
18 render obvious all of the
19 elements of claim element [1.8]
20 of either the '879 or '271
21 patents.

22 And then you go on to say:

23 Claim element [1.8]
24 requires that the mobile device
25 store a selection of the

1 derived driving information to
2 the memory of the phone.

3 Do you see that?

4 A. I do.

5 Q. Okay. So we had talked earlier about the
6 safety statistic.

7 Do you recall that?

8 A. Yes.

9 Q. Do you have an opinion whether or not the
10 safety statistic is stored to the phone?

11 A. In examining Curry, I find no evidence
12 that the safety statistic is stored to the phone.

13 Q. Okay.

14 A. And furthermore, I don't see any reason
15 why it would be.

16 Q. The...to the extent that....

17 (Pause.)

18 Q. So I just want to take you down to page~5
19 [sic].

20 A. Of...?

21 MR. TILLER: Curry?

22 MR. CHAKKALAKAL: Curry -- yes,
23 Curry.

24 Q. And you see here, we have...starting with
25 the paragraph that starts, "Indeed."

1 Indeed, a module of the --
2 of executable code may be a
3 single --

4 MR. TILLER: Excuse me. Where
5 are you?

6 MR. CHAKKALAKAL: Sorry, page --
7 I apologize, page 6, not page 5.

8 MR. TILLER: It's late.

9 Q. Start with the paragraph, "Indeed."
10 Indeed, a module of
11 executable code may be a single
12 instruction, or "may" --
13 instructions, and may even be
14 "disputed" over several...code
15 segments, among different
16 programs, and across several
17 memory devices.

18 Do you see that?

19 A. I do.

20 Q. (Continued reading:)

21 Similarly, operational
22 data may be identified and
23 illustrated herein within
24 modules, and may be embodied in
25 any suitable form and organized

1 within any suitable type of
2 data structure.

3 Do you see that?

4 A. I see that.

5 Q. Okay. Do you have an understanding of
6 what "operational data" is?

7 A. In general, yes.

8 Q. Okay. Would operational data exclude
9 processed sensor data?

10 A. No.

11 Q. Okay. So the....

12 Okay. And would you understand that the
13 operational data would -- such as processed central
14 data, would be organized within any suitable type of
15 data structure -- would you understand that to mean
16 that it's stored in a data structure?

17 A. Where are you?

18 Q. That same sentence. It says --

19 A. Oh, I see it.

20 Okay. So I understand that -- this to
21 mean that it may be stored in a suitable data
22 structure, not necessarily that it is.

23 Q. But that the operational data may be
24 stored in a data structure?

25 A. Correct.

1 Q. Okay. And that data structure would be
2 stored on memory on the mobile phone client?

3 A. It -- I mean, some would be stored there.
4 Some would be stored on the server. They could be
5 stored anywhere.

6 I don't think this paragraph provides any
7 indication of where it's stored. In fact, it seems
8 to be saying it could be stored anywhere.

9 Q. So being organized within a data structure
10 does not indicate storage to you?

11 A. My comment -- you -- my understanding of
12 your last question was that you were limiting it to
13 storage on the mobile device.

14 Q. Okay.

15 A. If I got that wrong, I don't know. But
16 that's -- I don't see that here.

17 Q. Okay. But it does leave open the
18 possibility that it can be stored on the mobile
19 device?

20 A. I would agree that there is the
21 possibility of storing data structures on the mobile
22 device.

23 But, you know, depending on the size of
24 the structure and -- would be one matter. And then
25 the other is: I'm not admitting here that any

1 particular structure would be stored on the data
2 devices indicated by Curry.

3 Q. So let me ask it to you this way: The
4 Curry references discloses that the mobile device
5 has the ability to store data. Right?

6 A. Correct.

7 Q. Okay. And such data would be stored in a
8 data structure of some kind. Right?

9 A. May be stored in a data structure.

10 Q. Okay. And if the data structure is -- and
11 that -- and operational data, specifically, could be
12 stored in a data structure of some kind?

13 A. Yes. Operational data might be stored in
14 a data structure of some kind.

15 Q. And such -- said operational data could be
16 processed sensor data. Right?

17 A. In a general sense, yes.

18 But, of course, within the limitations of
19 Curry and any patent, you know, those aren't -- you
20 know, absent a specific set of data, yes.

21 Q. Okay. Would you....

22 Could operational data be put into a data
23 structure for purposes of transmission to the remote
24 server?

25 A. I don't opine on that.

1 Again, I'm not an expert on data
2 structures. But at least using the term loosely, I
3 would say yes.

4 But I do think of data structures as
5 usually referring to storage structures rather than
6 communication structures.

7 So I may have this -- this is not where
8 I'm an expert.

9 Q. What would be a communication structure?

10 A. A communication structure would be a
11 packaging of the data for -- suitable for the
12 communications medium.

13 And I don't know, but I would generally
14 not consider those to be a data structure. I would
15 consider those to be something else.

16 But, again, this is something I'm not an
17 expert on. I don't -- haven't formed an opinion on
18 this.

19 Q. I understand. And so -- and just to be
20 clear, I'm trying to understand your basis for your
21 opinions on the storing claim element.

22 And so, I'm trying to understand what
23 your -- how you use the terms and what meets that
24 term and what doesn't. I just want to give you some
25 context of why I'm asking the question.

1 A. Yeah, I don't recall using the term "data
2 structure." I may have.

3 But, you know, whether it is a data
4 structure or not a data structure I don't believe
5 would affect my opinions.

6 Q. I understand. But the reference, Curry
7 uses it. And you've opined on the storage aspect of
8 it. So that's just what I'm --

9 A. Okay.

10 Q. -- trying to understand.

11 And I'm trying to understand this
12 distinction that you have between communication and
13 data -- and storage.

14 So if something is in a communication
15 structure, you would not consider that as being
16 stored on the device?

17 A. I don't think I said that.

18 I was -- my point was merely that I don't
19 think one transmits data using a storage structure.

20 Q. Okay. And so -- and I apologize if my
21 wording was different. But what I was trying to ask
22 was: If you have data that is being put into a
23 structure to be transmitted from A to B, do you
24 consider that data in the structure on A to be
25 stored in A or is that different?

1 A. So I think this use of storage is
2 contextually dependent, and that storage can mean
3 for longer periods than just enough time to pass
4 through a buffer.

5 Q. Okay.

6 A. And so, that is situationally dependent.
7 And I didn't form an opinion on storage
8 here. And I don't believe it bears on my opinions
9 in my report.

10 Q. And I'm trying to understand the context
11 of the '271 patent, which requires a storage --
12 storing a selection of the driving information to
13 memory.

14 And I'm trying to understand that, would
15 the -- would that be met by a prior art reference
16 that puts data into a structure to transmit it?

17 A. In my opinion, the '271 requires that the
18 data be stored for some period of time so that it
19 could be accessed later by the mobile device.

20 So that would, in this specific case, not
21 include putting it in a register for transmitting
22 offboard, if you will.

23 MR. CHAKKALAKAL: Well, it is
24 6:30. And before I get to the next set of
25 questions, I think that it's probably a

1 good point to stop for the day, if you're
2 okay with that.

3 THE WITNESS: I'm okay with
4 that.

5 MR. CHAKKALAKAL: All right.

6 THE WITNESS: I mean, let's
7 assume another half hour here isn't going
8 to get us out tomorrow or not.

9 MR. CHAKKALAKAL: No; I don't
10 think that it will make a difference.

11 - - -

12 (Witness excused.)

13 - - -

14 (Deposition concluded at 6:32 p.m.)

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DEPONENT'S SIGNATURE

Please be advised I have read the
foregoing deposition, pages 1 through 229,
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.
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NAME OF CASE: United States Automobile Association (USAA) v. Auto Telematics, Ltd.

NAME OF WITNESS: CHRISTOPHER K. WILSON

- 1: To clarify the record.
- 2: To conform to the facts.
- 3: To correct transcription error.

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ERRATA SHEET

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

DATE OF DEPOSITION: March 26, 2024

NAME OF WITNESS: CHRISTOPHER K. WILSON

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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.

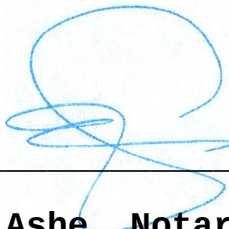
CHRISTOPHER K. WILSON

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.

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