1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2 PATENT TRIAL AND APPEAL BOARD

3 CERTIFIED COPY

4 In re:) U.S. PATENT NO.
) 9,311,271
5 UNITED SERVICES AUTOMOBILE) PROCEEDING NO.
ASSOCIATION (USAA),) IPR2023-00911
6) U.S. PATENT NO.
PETITIONER,) 9,633,487
7) IPR2023-00518
V.) U.S. PATENT NO.
8) 10,192,369
AUTO TELEMATICS, LTD.,) PROCEEDING NO.
9) IPR2023-00768
PATENT OWNER.) U.S. PATENT NO.
10) 10,198,879
_____) IPR2023-00857
11

12 VOLUME I

13

14 ORAL DEPOSITION OF CHRISTOPHER K. WILSON

15

16 Tuesday, March 26, 2024

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20

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22

23 Reported by:

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

Exhibit 1088
USAA v. Auto Telematics
IPR2023-00911

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	)	IPR2023-00768
PATENT OWNER.	)	U.S. PATENT NO.
	)	10,198,879
_____	)	IPR2023-00857

Oral deposition of CHRISTOPHER K. WILSON, taken on behalf of the Petitioner, beginning at 10:17 a.m., on Tuesday, March 26, 2024, at the law offices of Whiteford, Taylor & Preston, 1800 M Street, Northwest, Washington, D.C., before Susan Ashe, CCR, RMR, CRR, and Notary Public of the District of Columbia.

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Answers IP, LLC

CONTENTS

THE WITNESS
Christopher K. Wilson

BY MR. CHAKKALAKAL 6

EXHIBITS

PETITIONER

Exhibit No.		Marked
Exhibit 1	Declaration of Christopher K. Wilson	14
Exhibit 2	U.S. Patent 9,311,271	33
Exhibit 3	International Publication No. WO 2010/042545	46
Exhibit 4	DECISION Granting Institution of Inter Partes Review 35 U.S.C. 314	95
Exhibit 5	EDR Q&As - 11 Pages	144
Exhibit 6	"ITS Technology in Automotive -- Who's on First?"	152
Exhibit 7	Declaration of Dr. William R. Michalson	154
Exhibit 8	"Nericell: Rich Monitoring of Road and Traffic Conditions using Mobile Smartphones"	164

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.

Q. And who do you work for?
A. I work for myself. I'm self-employed.
Q. Do you have any company that you're a part of?
A. I have my own company: Christopher K. Wilson LLC.
Q. Do you have any title associated with that?
A. "Principal" is what I usually use, but I can give myself whatever title I like.
Q. All right. So my name is Noel Chakkalakal, and I'll be taking your deposition today.
I'm just going to go through a few ground rules first. So you understand that you're under oath?
A. Yes.
Q. Okay. And so, that means the answers you give here today must be the truth.
Do you understand that?
A. Yes, I do.
Q. Okay. The whole truth, nothing but the truth?
A. Yes.
Q. All right. And you can do that. Right?

A. Yes, I can.
Q. And you understand the testimony you give here today would be the same as if you were testifying before the PTAB?
A. I do.
Q. And just to be clear, do you understand what the PTAB is?
A. More or less, yes.
Q. Okay. All right. And you understand that the PTAB board may read the testimony that you provide here today?
A. Yes, I do.
Q. Okay. And for that reason as well, it's important that you tell the truth today?
A. I understand.
Q. All right. It's important that the answers be verbal, because we have a court reporter who is taking down your answers.
So can you...would you be able to provide verbal answers to my questions today?
A. Yes -- depending on the questions, but I expect so.
Q. Okay. Well, to the extent that you have an answer, would you be willing to give it as a verbal answer?

A. I will do that.
Q. Thank you. All right. And if I ask you a question and you don't understand it, would you please let me know?
A. Yes.
Q. Okay. If you don't let me know, I can take it to mean that you did understand the question.
Is that fair?
A. That's fair.
Q. Okay. And if you ever want to change or revise or add to an answer, and even if it's later on, would you please just let me know?
A. Okay.
Q. And I will let you go ahead and make that change.
Is that fair?
A. Yes.
Q. Okay. The plan is to take breaks about every hour or so, and then we'll probably break for lunch in a couple hours.
Does that work with you?
A. That would be fine.
Q. Each break will be about ten minutes.
Does that work?

A. Yeah, that's fine.
Q. All right. And you understand that there will be a transcript of the deposition from today?
A. Yes, I do.
Q. And that you'll have a chance to review that transcript?
A. Yes.
Q. Okay. And to the extent that there are any changes, you would be able to -- or corrections -- you would be able to inform the court reporter of that?
A. To the extent I can detect them in the transcript, yes.
Q. Okay. But if you do change it, we will know that you've changed it. And we can inform the Board of those changes.
A. Correct.
Q. Okay. And you are being represented by counsel here today?
A. I am.
Q. And who is that?
A. Steven Tiller.
Q. And you understand that your counsel may, at times, object to certain of my questions -- right?

A. Yes, I do.
Q. But you also understand that, unless he instructs you not to answer, you are supposed to go ahead and answer the question?
A. I understand that.
Q. And will you do that?
A. Yes.
Q. Okay, great. Thanks.
Are you presently taking anything that could impair your ability to give full and truthful testimony here today?
A. No, I'm not.
Q. Is there any reason, whatsoever, that you cannot give full and truthful testimony here today?
A. No.
Q. Okay. If that ever changes during the course of the day, will you please let me know?
A. I will do that.
Q. Okay. So unless I hear otherwise from you, is it fair for me to assume that you would be able to continue providing fair and truthful testimony?
A. That's fair, yes.
Q. Okay. Now, Mr. Wilson, did you prepare for this deposition?

A. Yes, I did.
Q. And what did you do to prepare?
A. Mostly reread some of the documents -- specifically, my declarations and the patents at issue here.
Q. Okay. Did you meet with anybody in preparing for your deposition?
A. Yes.
Q. Okay. Who else did you meet with?
A. I met with Steve and Lisa and Lissi, who are on this deposition -- on this transcript here.
Q. Okay. Did you --
A. And also Greg was -- Greg Stone?
MR. TILLER: That's his name, yes.
A. Greg Stone was also as a part of the meeting, remotely.
Q. All right. I've seen his name.
And who is Greg Stone; do you know?
A. He's an attorney with Whiteford.
Q. Okay. So were all the attorneys you listed part of Whiteford?
A. I believe Lissi -- I can't remember her last name offhand -- is not a part of Whiteford.
Q. Okay. Did you meet with anybody else

who -- in preparing for this deposition?
A. I can't recall anyone else at this time.
Q. Okay. Now, I know that you are -- that you've also signed on as a consultant to the district court litigation.
Is that correct?
A. Yes. I have -- two other people from the district court litigation were on -- met with them briefly for approximately a half-hour as well.
Q. And who was that?
A. That was Andrew White and....
The name is escaping me.
MR. TILLER: I'm not testifying.
A. The name is escaping me right now.
Q. Okay. Anthony Bruster?
A. I don't believe....
Q. Let's see, Nick Weiss?
A. Yeah --
Q. Okay.
A. -- Nick Weiss.
Q. So you said you met with them for about a half-hour.
Is that right?
A. Yes. They were dialed-in to the meeting, remotely, for about a half an hour or something like

that.

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

A. It was probably about nine hours yesterday.

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

A. Yes.

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

A. Correct.

Q. Have you ever been deposed before?

A. Yes, I have.

Q. How many times?

A. About 20.

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

A. Yes.

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

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

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

(Witness reading.)

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

A. I do.

Q. And how do you recognize it?

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

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

A. Yes.

Q. And is that your signature?

A. That is.

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

Is that correct?

A. Yes.

Q. Okay.

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

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

Q. Right.

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

Q. No problem. Yeah, the other declaration

said "January 30, 2023."
A. Yes.
Q. It's supposed to be "2024"?
A. Correct.
Q. No problem.
Could you go to the back of this declaration.
First of all, which IPR was this declaration submitted as part of?
A. This is submitted as a part of IPR~2023-00911.
Q. And did you sign, basically, an identical declaration for the -857 IPR?
A. I can't remember if it was the -857. But it was for another IPR, yes.
Q. Okay. Just to make sure, let's go to page 2 of 106.
And if you look at Paragraph No. 1.
A. Yes. It is the -85- -- an identical report was submitted relevant to the -857 IPR.
Q. Great, thank you.
And if you could just turn to the last two pages there.
A. I'm there.
Q. Okay. And is this a copy of your CV?

A. Yes, it is.
Q. And is this CV accurate as of the date you signed it?
A. Yes.
Q. Thank you.
And we will be referring to Exhibit 1 probably repeatedly today. So if you could keep that by you and keep it handy, I would appreciate it.
All right. You understand this is part of a -- that these patents have been asserted against USAA. Correct?
A. I do.
Q. Okay. Have you had any other interaction with USAA?
A. I mean, outside of the litigation context?
Q. Outside of litigation context, correct.
A. I guess I'm not completely sure of what they do. Are they the parent of the automobile -- AAA? Is that....
Q. Not that I'm aware of.
A. Okay. I guess I don't -- can't say for sure, but I'm not aware of any at this time.
Q. All right. Has your interaction with USAA in this litigation been in the context of these

IPRs?

A. Yes.

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

What was the purpose there?

MR. TILLER: Objection.

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

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

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

Q. Now....

Sorry, give me a second.

(Pause.)

Q. If we go to page....

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

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

MR. CHAKKALAKAL: Give me one second.

(Pause.)

BY MR. CHAKKALAKAL:

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

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

MR. CHAKKALAKAL: Yes.

A. Okay.

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

(Pause.)

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

It says:

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

Do you see that?

A. I do.

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

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

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

A. Not to the best of my recollection.

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

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

A. No.

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

A. I believe everything....

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

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

Q. Um-hum.

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

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

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

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

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

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

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

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

MR. CHAKKALAKAL: Oh, sorry.

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

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

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

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

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

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

A. I did not.

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

A. Okay.

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

A. I see that.

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

Is that correct?

A. That's correct.

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

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

Would that be fair?

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

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

(Pause.)

Q. Let me rephrase that question.

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

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

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

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

And you said you....

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

You say:

> I understand that in a currently pending Federal District Court proceeding involving the '879 and '271 patents, the term "driving period" was deemed "not to" require any special definition or construction....

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

A. Correct.

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

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

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

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

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

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

A. Not that I recall.

Q. Okay.

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

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

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

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

A. I....

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

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

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

know, directly involved in, I do.

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

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

A. Yes.

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

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

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

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

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

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

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

of Markman transcripts.

Q. That's fair.

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

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

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

So that is a....

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

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

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

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

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

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

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

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

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

Is that correct?

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

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

I don't recall....

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. TILLER: Objection -- hang on.

Objection to the characterization of whatever happened at the Markman hearing.

Second, asked and answered.

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

MR. CHAKKALAKAL: I understand.

I'm asking whether he has an understanding.

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

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

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

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

But I do want to finish this up.

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

BY MR. CHAKKALAKAL:

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

A. Not that I recall at this time.

Q. Thank you.

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

Q. Thank you.

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

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

Do you recognize this?

A. I do.

Q. And what is it?

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

Wright -- U.S. patent.

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

A. I did.

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

A. I'm there.

Q. All right. Thank you.

It says here that:

> I am not a lawyer and will not provide any legal opinions in these IPRs. I have, however, been advised of certain relevant legal principles and will apply those legal principles when offering my opinions in these matters.

Do you see that?

A. I do.

Q. What other legal principles were you advised of?

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

Q. So you said "some of the legal

principles."

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

Is that correct?

A. That is correct.

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

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

A. Paragraph which?

Q. "14."

A. "14"?

(Witness reading.)

A. Yes, that is related to claim construction.

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

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

A. I do.

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

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

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

Do you understand what "anticipation" is?

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

Q. What is your understanding of "anticipation"?

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

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

A. "Corollary"....

MR. TILLER: Objection.

I'm not sure what that means.

But, go ahead.

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

Q. So you said that:

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

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

A. Yes, I have.

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

A. That is correct.

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

A. Yes, I have.

Q. Okay. When does infringement occur?

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

Q. I understand.

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

something infringes.

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

A. Okay, yeah. Accused product.

Q. Fair?

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

A. Can you repeat the question there.

Q. Sure. The....

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

A. (Witness nods head.)

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

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

Q. Thank you.

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

A. Yeah.

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

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

Do you see that?

A. I do.

Q. Okay. What does that mean to you?

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

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

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

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

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

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

Q. Sure. Your previous answer was:

I think it depends on the context very much.

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

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

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

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

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

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

support a conclusion of nonobviousness.

Right?

A. Correct.

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

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

A. Correct.

Q. And they involve four different patents?

A. Correct.

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

A. Yes.

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

A. That would be fine, yeah.

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

A. I do.

Q. But they have different claims. Correct?

A. That is correct.

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

A. That is correct.

Q. And....

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

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

A. Correct.

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

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

(Witness reading.)

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

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

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

A. They are directed to aspects of the same

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

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

A. Okay.

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

A. So (reading):

> The '271 patent is directed to methods and systems for logging driving information associated with a vehicle when driven.

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

A. I do.

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

Is that correct?

A. That is correct.

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

A. Yes.

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

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

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

Is that correct?

A. That is correct.

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

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

Do you understand that?

A. I do.

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

> ...store a selection of the driving information to the memory....

Do you see that?

A. I do.

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

Do you see that claim limitation?

A. Yes. At line 39 there?
Q. That is correct.
A. Yeah.
Q. So do you understand....
So I'm going to refer to it as the "determine" -- sorry.
For all the limitations that are below "the mobile device configure to," do you understand those to be steps that need to be performed by the mobile device?
(Witness reading.)
A. In general, I don't....
In the....
...wherein the mobile communications device is controlled by a downloaded application....
I wouldn't characterize that as being performed by the mobile device.
But, in general, yes these are all attributes of the mobile device, if you will.
Q. Okay. So we have -- other than the "wherein" clause, we have a determine step, a process step, and a storing step?
A. Correct.

Q. Would you agree? Okay.

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

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

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

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

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

A. Yes.

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

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

And do you recognize this?

A. I do.
Q. What is it?
A. This is World Intellectual Property Organization patent or International Publication No.~WO 2010/042545 to Curry, with the inventor as Curry.
Q. Okay. So would the....
If I refer to that as the "Curry reference," would you recognize it?
A. I would.
Q. Okay, great. Now, if you could just go to the bottom of page....
And I know there's kind of a double page number there, which makes things very, very interesting.
MR. TILLER: We've been using the bottom one.
Q. So....
A. Yes, we've had this fun ourselves.
Q. All right. And I apologize. Let me pull it up here real quick so it's easier for me to look.
Okay. If you go down to the bottom of the -- of page 2, and the bottom number being the "2."
A. Okay.

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

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

Do you see that?

A. I do.

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

A. Broadly, yes.

Q. What about Nokia mobile phones?

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

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

A. I did.

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

A. Not specifically.

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

I doubt it was a Nokia device in that time

frame, but I did have a mobile device.

Q. Fair enough.

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

A. Yes.

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

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

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

MR. TILLER: An hour and five minutes.

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

THE WITNESS: Okay.

MR. CHAKKALAKAL: -- if that works.

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

BY MR. CHAKKALAKAL:

Q. Welcome back, Mr. Wilson.

A. Thank you.

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

And I believe you said that:

> I would agree that storing information in cell phone memory or an Apple phone memory would be routine at the time.

Is that correct?

A. Yes.

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

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

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

MR. TILLER: Objection.

A. And so, this limitation being the....
Q. Sorry; the storing limitation.
A. The storing limitation of the '271 patent...I mean, there's a number of issues with the premise.
One is determining whether this is, in fact, driving information.
I would agree that it would be possible for an iPhone to store driving information in the memory.
I don't necessarily agree that it does that.
Q. And just to be clear, I'm talking about not the Curry reference but, generally, a prior art reference.
If a prior art reference were to disclose driving information -- or, sorry, if a prior art reference were to disclose a selection of driving information, would you -- and the prior art reference was shown to work on an iPhone -- based on just those two pieces of information, would you agree with me that such a prior art reference would disclose this limitation?
MR. TILLER: Well, strike that -- or objection.

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

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

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

MR. CHAKKALAKAL: I understand.

BY MR. CHAKKALAKAL:

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

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

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

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

A. My answer would be no.

Q. Okay. And why is that?

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

But you also say it is on an iPhone.

Q. Um-hum.

A. I agree that iPhone does have memory.

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

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

A. Because of the....

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

Q. So the prior art reference would need to

explicitly disclose the step of storing.

Is that correct?

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

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

> ...process the sensor data from the sensor set during the driving period to derive driving information associated with how the vehicle is driven....

Do you see that?

A. Yes, I do.

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

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

The Curry reference discloses an iPhone 3G. Correct?

A. Yes, it does.

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

A. Yes, it is.
Q. Would you agree with me that the iPhone 3G as disclosed in Curry would have an image sensor?
MR. TILLER: Objection; calls for speculation --
COURT REPORTER: What was that? Could you repeat that.
MR. TILLER: -- relies on evidence that has not been admitted or even shown.
A. Can you repeat the question?
Q. Sure. The Curry reference discloses an iPhone 3G. Correct?
A. Correct.
Q. And you have some understanding of what an iPhone 3G is?
A. Approximate understanding, yes.
Q. Are you aware of whether the iPhone 3G had an image sensor?
A. I believe it did.
Q. Would you agree with me that the iPhone 3G is a phone?
A. Yes, I would.
Q. Okay. So would you agree with me that, because it's a phone, it has an audio sensor, such

as a microphone?

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

You switched from an image sensor to a microphone?

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

A. Oh.

Q. -- a microphone.

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

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

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

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

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

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

MR. TILLER: Objection; calls for speculation.

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

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

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

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

A. Yeah, I....

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

together.

Q. It's a lengthy limitation.

MR. TILLER: A lot of assumptions.

Q. Well, the assumption is really two assumptions.

You have the iPhone as disclosed in Curry. Okay.

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

A. Um-hum.

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

A. Okay.

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

MR. TILLER: Same objection.

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

that's taken by the petitioner in this case.

A. I would say no.

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

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

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

> ...determine, based on the inputs received by the user interface and sensor data from the sensor set, a start from the driving period during which the mobile device is removably attached to the vehicle and the vehicle is in use....

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

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

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

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

MR. TILLER: Objection.

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

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

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

A. It depends on the step.

Some claims require just a capability to do something.

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

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

A. Okay. I'm there.

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

> Curry's mobile phone does not perform further processing, evaluation, statistical analysis, or scoring, especially as concerns how the user is driving the vehicle or for detecting a driving incident

Do you see that?

A. I do.

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

MR. TILLER: Objection.

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

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

detecting a driving incident is performed on the phone.

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

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

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

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

> ...Curry's mobile phone uses the raw data to estimate context....

Right?

A. That is correct.

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

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

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

A. Yes, that would certainly include that.
Q. Okay. But the mobile device does have the capability to perform such processing. Right?
A. The mobile device has the capability to perform lots of different types of processing.
Q. So the mobile device in Curry could perform the processing.
But your opinion is that it doesn't disclose processing of -- further processing at the mobile device. Correct?
A. It's my opinion that -- I mean, technically, it could perform the processing, you know, as, you know, Wright points out.
But I see nothing in Curry that indicates that there is -- the processing is performed or that there's any reason to perform the additional processing on the mobile phone.
Q. Okay. But there is no technical inadequacy that would prevent, for example, the -- Curry's iPhone from performing processing of the data. Right?
MR. TILLER: Objection.
Mr. Wilson's not identified as an expert in the iPhone.
A. So I would say that cell phones, mobile

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

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

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

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

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

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

MR. TILLER: Objection.

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

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

The question, I feel, before me is: Could

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

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

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

MR. TILLER: The same objection.

A. Certainly.

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

All of these would be limitations on implementing these processes.

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

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

processing on sensor data?

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

But Curry's application requires specific types of processing.

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

Q. Okay. Now, your....

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

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

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

And I'm looking at paragraph....

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

(Pause.)

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

A. I see that.
Q. Okay. And....
Well, it says that:
While the mobile...client...is illustrated in FIG. 1 is including a variety of modules --
MR. TILLER: Excuse me.
Where...what line are you reading from?
MR. CHAKKALAKAL: Line 3 of page 12.
MR. TILLER: Okay.
BY MR. CHAKKALAKAL:
Q. (Reading:)
While the mobile...client 110 is illustrated in FIG. 1 as including a variety of modules, caches, and databases, it is also possible that these may be located remotely, such as on the driving safety server or on a mobile phone service provider's network.
The location of software

and firmware used to create the functionality of the system for monitoring and controlling the use of a mobile computing device illustrated in FIG. 1 can be based on a tradeoff between the complexity of the mobile device and the amount of information communicated on the mobile device's network.

Do you see that?

A. I do.

Q. And then it says:

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

Do you see that?

A. I do.

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

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

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

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

> Conversely, locating more of the modules, caches, and databases remotely can enable the use of a simpler mobile device, but may require additional communication between the mobile device 106, the driving safety server 104, and the mobile device service provider....

Do you see that?

A. I do.

Q. Do you agree with that statement?

(Witness reading.)

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

It may enable less communication too.

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

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

Q. Okay. And then the paragraph concludes:

> The actual location of the modules, caches, and databases can be decided based on engineering and business needs.

Do you see that?

A. I do.

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

A. Yes, I do.

Q. Okay. So to the....

So you earlier said:

> It is my opinion that Curry does disclose, you know, further processing of the raw data, evaluation, statistical analysis, and scoring at a server.

Do you recall that?

A. I do.

Q. Okay. Would the processing of raw data or

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

MR. TILLER: Objection; calls for speculation.

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

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

I guess, what's the question again?

Q. Sure. The question was:

Curry discloses --

Sorry.

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

MR. TILLER: Objection; calls for speculation.

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

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

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

A. Yes, I did.

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

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

A. Okay. I see that.

Q. What is "driving information"?

A. I address that in my report.

(Witness reading.)

A. So I address that in numerous spots.

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

> Driving information is distinct from raw sensor data because it is derived from raw sensor data and is transformed by the phone for further analysis associated with how the vehicle is driven.

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

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

Q. Okay. And when you say "the data," the sensor data?
A. Correct.
Q. Okay. And so, it's derived from the sensor data. I think that's what that paragraph says?
A. Yes.
Q. Okay. And you say it's "distinct from raw sensor data" in that paragraph. Right?
A. Yes.
Q. Okay. And just to be clear, we're talking about paragraph 56 of your declaration in the -911 IPR?
A. That is correct.
Q. And what does it mean to be distinct from raw sensor data?
A. That they -- essentially, this means that raw sensor data is not, you know, necessarily driving information.
Q. You said "not necessarily." But....
Okay. What do you mean by "not necessarily"?
A. That the driving information -- basically, not necessarily.
There is some what I would characterize

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

Q. So raw sensor data can be --

A. Some raw sensor data would be driving information.

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

Well, just leave it at that.

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

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

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

A. It....

Yes.

Q. Okay. So....

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

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

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

Q. And just to....

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

So my question was:

So....

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

And your answer was:

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

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

So raw data associated with speed is

associated with how the vehicle is driven?

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

So I guess....

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

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

Is GPS data associated with how the vehicle is driven?

A. The raw data itself is not.

Q. Okay.

A. Well, it would depend on the context.

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

Q. So GPS data is not driving information?

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

Q. Okay. What about raw accelerometer data?

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

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

Q. When it's....

Accelerometer data, once it's been captured --

A. No, what -- sorry.

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

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

Q. Is the same true of the GPS data?

A. Yes.

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

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

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

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

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

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

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

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

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

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

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

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

But that's obviously processed into some

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

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

MR. TILLER: Objection.

Are you asking in the context of Curry?

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

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

BY MR. CHAKKALAKAL:

Q. Go ahead.

A. Yeah, so this is....

I guess, repeat the question.

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

So you had an answer that said:

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

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

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

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

And you answered:

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

And I asked:

Where does that processing occur?

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

Q. Well, we were talking about an accelerometer.

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

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

A. Yes.
I guess, I just add that that....
Well, I'll just leave it.
Q. The '271 patent also discloses an image sensor, Claim 1.
If you need the cite, it's going to be Column 31, line 32.
A. Okay.
Q. What would be raw sensor data that would come from an image sensor?
A. For purposes of this patent, the raw sensor data would be an image, a digital image.
Q. Okay. So when you say "a digital image," a series of ones and zeros that can then be interpreted into an image. Correct?
A. Correct.
Q. And what would be the raw sensor data that would come out of an audio sensor?
A. You know, again -- so in the context of this claim, I think the raw data is not the voltage again. The raw data would be a string of binary digits representing the sound.
Q. Representing an audio signal?
A. Representing an audio signal, yes.
MR. CHAKKALAKAL: Okay.

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

MR. TILLER: Okay.

MR. CHAKKALAKAL: -- take a lunch break.

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

- - -

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

on the driving information --
for example, the speed and
location of the vehicle.
Would you agree with me that there it lists "speed" and "location" as examples of driving information.
(Witness reading.)
A. Yeah, so this paragraph does seem to indicate that location of the vehicle is driving information.
But that's not my interpretation from reading the specification in its entirety, and I don't recall sort of looking at this in particular.
Q. Okay. Let's -- I want to go back to the claim and take you to the step that says:
...determine, based on
inputs received by the user
interface and sensor data from
the sensor set, a start of a
driving period during which the
mobile device is removably
attached to the vehicle and the
vehicles in use....
And this is Exhibit 2, Column 31, line 39.
A. Okay. I'm there.

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

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

Let me know when you're there.

A. I'm there.

Q. Okay. So here you say that:

> Based on a plain reading of the language of the claims of the '879 and '271 patents, "...during which the mobile device is removably attached to the vehicle and the vehicle is in use" does not itself define a "driving period." Rather, this language simply provides additional limitations of the overall invention.

Do you see that?

A. I do.

Q. And is that still your position?

A. Yes, it is.

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

disclose this limitation.

Is that correct?

A. That is correct.

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

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

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

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

Q. Okay.

A. -- limitation.

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

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

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

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

determine, based on inputs

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

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

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

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

So you say rather -- the last sentence says:

Rather, this language
simply provides additional
limitations "to" the overall
invention.

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

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

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

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

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

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

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

A. Yes.

Q. Okay. The....

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

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

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

A. I don't....

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

Q. So I understand that -- I understand.

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

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

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

(Witness reading.)

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

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

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

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

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

Q. Um-hum.

A. I would say no.

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

car but hasn't started the car.

Is the vehicle in use?

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

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

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

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

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

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

Q. So....

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

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

mobile device is removably attached to the vehicle."

Do you see that limitation?

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

A. I see that.

Q. Okay. So....

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

A. That is correct.

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

A. That is correct.

Q. Does Curry disclose this limitation?

MR. TILLER: Objection; beyond the scope.

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

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

Q. So what is....

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

MR. TILLER: Objection; beyond the scope.

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

(Witness reading.)

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

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

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

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

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

A. Okay.

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

So you....

A. Yeah, I thought I cited that.

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

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

Is that correct?

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

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

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

MR. TILLER: Objection; beyond the scope.

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

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

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

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

Q. Um-hum.

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

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

> ...determine, based on inputs received by the user interface and sensor data from the sensor set, a start of a driving period during which the mobile device is removably attached to the vehicle and the vehicle is in use....

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

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

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

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

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

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

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

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

And the second full paragraph, it begins with:

> We agree with Petitioner's construction, to the extent "that" the Determination

Limitation expressly defines the "driving period" as corresponding to a period "during which the mobile device is removably attached to the vehicle and the vehicle is in use."

Do you see that?

A. I do.

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

MR. TILLER: Objection; beyond the scope.

He hasn't relied on the institution decision.

(Witness reading.)

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

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

period."

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

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

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

Q. Okay.

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

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

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

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

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

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

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

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

A. Paragraph 49?

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

A. Okay.

Q. So the last sentence there:

> Thus, in my opinion, a POSITA would understand the term "driving period" to refer simply to the period of time when the vehicle is being driven.

Is that what you're getting at?

A. Yes.

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

page, on page 27 of 106, it says:

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

Do you see that?

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

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

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

A. No, there is not.

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

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

If they miss a little bit at the beginning 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 --

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

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

MR. TILLER: Objection; beyond the scope.

(Witness reading.)

A. Not offhand.

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

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

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

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

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

Do you see that sentence?

A. I do.

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

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

Q. Um-hum.

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

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

caveats you had in paragraph 54 --

A. Um-hum.

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

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

A. Certainly.

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

A. That's true.

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

A. That is correct.

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

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

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

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

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

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

A. Okay. I'm there.

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

A. I do.

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

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

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

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

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

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

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

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

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

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

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

A. Yes.

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

A. Correct.

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

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

Q. So it could be any of those?

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

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

Q. Um-hum.

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

Q. Okay. So --

A. So....

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

A. Okay.

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

So in the context of

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

You said yes.

Is that still true?

A. Yes.

Q. Okay. And then I said:

Or it could be started by leaving a geofence

And you said, "Correct."

Is that still true?

A. That is true.

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

(Phone noise in background.)

(Discussion off the record.)

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

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

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

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

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

A. Yes.

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

> ...determine, based on inputs received by the user interface and sensor data from the sensor set, a start of a driving period during which the mobile device is removably attached to the vehicle and the vehicle is in use....

Do you see that?

A. I do.

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

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

for Claim 1?

(Witness reading.)

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

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

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

> ...wherein the mobile communications device is controlled by a downloaded application to control the mobile device to register the start of the driving period in response to an initialization input generated automatically in response to sensor data having predetermined values, wherein the initialization input is generated in response to sensor data reflecting a detected speed above a predetermined threshold.

Do you see that?
A. I do.
Q. Okay. So that aspect of this claim, "sensor data reflecting a detected speed" -- is that the start of the driving period?
(Witness reading.)
A. For Claim 1, yes, that would start the driving period.
Q. Okay. But the driving period could be -- if I look at the determining step, the driving period could be any of the starts that you identified with respect to Claim 4. Correct?
A. Yes. The clause we discussed in Claim 4 -- that same clause is in Claim 1.
The clause we're discussing, the wherein clause, further narrows the start of the driving period.
Q. Okay. So for Claim 1, let's say the threshold was set to ten miles per hour.
That predetermined threshold -- if you look at just the last sentence, the last two words of that claim, "predetermined threshold," let's say that's set to ten miles per hour.
Okay. Is it possible for a driving period to start under ten miles per hour?

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

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

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

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

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

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

Is that correct?

A. The driving period of Claim 1 is

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

Q. Whatever the predetermined threshold is --

A. Correct.

Q. -- set to?

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

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

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

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

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

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

per hour, okay, is that a possibility?

MR. TILLER: Objection; hypothetical.

A. I didn't opine on that.

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

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

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

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

MR. TILLER: Objection; hypothetical.

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

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

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

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

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

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

A. I believe that is correct.

Q. Okay. The --

A. At least the independent claims.

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

A. Yes.

Q. -- incorporate the independent claims.

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

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

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

(Whereupon, a recess was taken

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

BY MR. CHAKKALAKAL:

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

> ...determine, based on inputs received by the user interface....

A. I do.

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

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

A. Yes.

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

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

Would you agree that that meets the user interface element?

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

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

A. Yes. IPhone 3G has a user interface that

a user can input data through.

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

Well, let me just ask you: Do you recall whether Curry discloses a downloaded application?

A. Not offhand.

(Witness reading.)

Q. Okay. Let me ask it to you this way: Would you agree that Curry discloses a program running on a mobile device?

A. Yes, I would.

Q. Okay. At least in part. Correct?

A. Correct, yes.

Q. Okay. Now, based on the fact that Curry discloses a program running on a mobile device and discloses the iPhone 3G, would you agree that the portion of the "determine" step that says "based on inputs received by the user interface and the sensor data from the sensor set" -- sorry, not the second half, just the first half -- "based on inputs received by the user interface," would you agree that Curry discloses that portion of the limitation?

MR. TILLER: Objection; beyond the scope.

(Witness reading.)

A. Okay. Can you repeat the question? I've been going between all these documents.

Q. So we agree that Curry discloses a program running on a mobile device. Correct?

A. Yes.

Q. And we agree that Curry discloses an iPhone 3G. Correct?

A. Correct.

Q. And for the portion of the "determine" step that recites "based on inputs received by the user interface," would you agree that Curry discloses this by virtue of those two aspects?

MR. TILLER: Same objection.

A. I would agree that Curry discloses the capability to basically have inputs received by the user interface, but not that it....

You know, I don't think it's disclosing this clause or this limitation.

Q. The....

A. Now, are there specific inputs you're referring to? I mean, because it's -- I don't disagree that inputs can be put into the iPhone 3.

Q. Um-hum.

A. I'm just not sure what inputs we're referring to.

Q. And that's what I'm trying to understand. So we have the -- so you agree that Curry discloses the iPhone 3. And you agree that Curry discloses a program running on a mobile device, such as the iPhone 3G. Right?

A. Correct.

Q. So I'm saying: Based on those two things, would you agree that Curry discloses the clause "based on inputs received by the user interface"? -- in other words, Curry discloses the ability for the user to input information through the user interface.

A. Yeah --

MR. TILLER: Objection; beyond the scope.

A. -- I agree that a POSITA reading Curry would understand that one could provide inputs through the user interface of the iPhone 3G.

Q. To the programming of Curry?

A. Yes.

(Pause.)

A. Yeah, I agree that that is technically possible, but not that that happens necessarily.

Q. Not that what necessarily happens?

A. What I'm agreeing to is that it would be

possible to, you know, hypothetically have inputs to an iPhone 3G interface that are received by the program of Curry. I agree that could be possible.

I -- you know, based on this conversation, I'm not agreeing that that happens.

Q. So if I take you to page 13, Curry -- again it's the lower number on the page, page 13 -- starting at line 20.

And it says there that:

> FIG. 3 illustrates a flow chart depicting a driving safety monitoring program on a mobile phone client.

Do you see that?

A. I do.

Q. And it says:

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

Do you see that?

A. Yes, I do.

Q. And then the next line says:

> This may be accomplished by the user of the phone....

Do you see that?
A. Yes.
Q. Okay. So would you agree with me that that portion discloses that the user can interact with the programming of Curry on the phone?
MR. TILLER: Again, objection; beyond the scope.
(Witness reading.)
A. I didn't form an opinion on this, at least I don't recall any opinion in my report here.
But I don't agree that this requires input through the user interface up to Curry, to the application of Curry.
Q. Okay. So it says here -- and I'm reading this -- reading this portion of the sentence, the third sentence:
This may be accomplished by the user of the phone....
So are you saying that the user of the phone would start the motion-recording process some other way rather than through the user interface of the phone?
A. It could be set up so that that's done by the -- initiating a call, for example.
So that would be...the way I'm reading

that, that would not be directly interfacing with Curry. That would be with -- you know, interfacing with the call module, which would then, in turn, interface with Curry.

But, again, this is just off the top of my head. I haven't opined on this.

Q. Okay. So the portion you just -- what you just said was the...:

> That would -- with, you know, interfacing with the call module, which would then, in turn, interface with Curry.

Now, if I look at the next line after what I just -- well, let me read that sentence -- the third sentence again:

> This may be accomplished by the user of the phone, or through an automated process by the mobile phone client when a selected type of motion is detected. For example, the reporting process may be activated when an outgoing call...is made or an incoming call...is received.

So those are examples of what you just described. Right?

A. Yes. Specifically, the outgoing call 301 would be made by the user. And that could trigger the monitoring program.

Q. Okay.

A. Again, I haven't opined on this. So....

Q. All right. I'm trying to understand your -- just your understanding of user inputs.

So these are examples of calls-- of how the motion-recording process can be activated. Right?

A. The motion-recording process can be activated by an outgoing call or an incoming call.

Q. Right. And I'm saying: These are examples of that.

A. Yes, right. They're examples.

There are other ways --

Q. Okay.

A. -- potentially.

Q. Okay. And one of those potential ways is by the user interacting with the programming of Curry. Right?

A. Well, that -- I think that's what I was saying is not clear to me, is that interacting with

the phone -- i.e., making an outgoing phone call -- I don't consider to be interacting with the software of Curry, although it would cause this monitoring program to start.

Q. Right. And I'm saying that the phone calls are just an example.

A. Correct.

Q. Right. So there could be other ways of interacting with the programming of Curry. Right?

A. Certainly, there could be. But this does not disclose any other ones.

Q. Okay. Now, the....

(Pause.)

Q. So let's talk about the example that's listed here, the outgoing call.

So it says if the -- the paragraph, second sentence says:

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

Right?

A. Correct.

Q. Okay. And the last line says:

> ...the reporting process

may be activated when an
outgoing call...is made or an
incoming call...is received.
Right?
A. Correct.
Q. Okay. So the user has the phone and makes -- like dials a number, starts a phone call.
That could activate the motion-recording process. Right?
A. That is correct.
Q. Okay.
MR. TILLER: Objection; beyond the scope.
Q. And the -- once a motion-recording process is activated, Curry would then determine a context of the phone.
Is that correct?
(Witness reading.)
MR. TILLER: Same objection.
A. Okay. Can you repeat that question again?
Q. I'll have to go back and look at it myself.
A. Yeah.
Q. So once -- well, I'll just say -- ask the question again.

Once the motion-recording process is activated, Curry could then determine the context of the phone.

Is that correct?

MR. TILLER: Objection.

A. Yes.

Again, if you can point me to someplace where I've opined on this -- I don't recall specifically looking at this paragraph, but....

Yeah, so monitoring mode is when the calls are being allowed -- so, yeah.

Q. Okay.

(Pause.)

Q. And just for context, it is....

(Pause.)

Q. I know I have the citation here. That's what I'm trying to look for.

Okay. So if you look at -- yeah, if you look at paragraph 136 of your declaration, there's a citation to this paragraph in that paragraph.

It's going to be -- you'll see it at the top of page 70 of 106.

A. I'm sorry. Where are we looking? Which paragraph?

Q. Paragraph --

A. 136?
Q. -- 136.
If you look at page 70 of 106, at the very top there there's a citation to this paragraph.
So I'm just trying to make sure I understand the -- what your understanding of this paragraph is.
A. Okay.
(Witness reading.)
A. Which is Curry? Is Curry 1005?
Q. Yes.
(Witness reading.)
A. Okay. So, I mean, it seems like I'm citing to the petition, which is citing to that -- which is fine. But....
Q. Yeah, so I'm just trying to get your understanding of these paragraphs in the Curry reference.
A. Okay. One of the problems is: Curry is not particularly well written, and there's ambiguous parts.
But, I guess, repeat the question, because I'm not sure --
Q. Sure, no problem.
A. -- what we're discussing right now.

Q. So the paragraph that begins with, "Figure 3" -- that begins at line 20 --
A. Correct.
Q. -- talks about putting the mobile device into a motion-recording process. Right?
A. Yes.
Q. Okay. And from my understanding, the motion-recording process -- you're now collecting data. Right?
A. Yes.
Q. Okay. And then if we go down to the bottom of the page, then there's an activity mode recognition module. It's the last sentence on that page:

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

Do you see that?
A. I do.
Q. Okay. So what I'm getting at here is that when you start this motion-recording process, the phone -- the -- Curry discloses you can then

determine an activity or context, whether that be driving, walking, running, remaining substantially still. Correct?

A. Yes. There is a process within Curry that is determining the activity mode.

Q. And is one of the -- from other parts of Curry, do you understand that one of the activities that it can determine is driving?

A. That is correct.

Q. Okay. And then if....

(Pause.)

Q. Now, there's one other thing I wanted to ask you about here -- another thing. I shouldn't say "one other thing."

MR. TILLER: I will hold you to it.

MR. CHAKKALAKAL: I corrected it before you could say anything.

Q. You say here that....

I'm sorry. The claim -- we're looking at Claim 1 of the '271 patent.

And it says that...in the storing step, it says:

...store a selection of the driving information to the

memory, wherein the driving
information is derived without
data from vehicle sensors....
Is that correct?
A. Yes.
Q. Okay. So you made a -- I think you've commented in this -- in your declaration that the data could -- only comes from -- in the context of Claim 1 of the '271 patent, the data has to come from the mobile phone sensors. Correct?
A. Yes. The "sensor set" referred to in Claim 1 of the '271 is the sensor set on the mobile phone.
Q. Right. And just to be clear, though, that doesn't negate the possibility of getting sensor data from other sensors that are not part of the vehicle. Right?
A. The '271 patent is fairly explicit that the sensors are....
It enumerates them.
But, you know, if I look at Figure 3, 23, 25, 21, and 27 --
Q. Um-hum.
A. -- my recollection is that those are identified as the sensor sets or the sensors of --

specifically, they are talking about here.

Q. So is it your opinion that the sensor data is limited to the sensor set that's disclosed in those figures?

A. That would be -- again, depending on the context, I think it....

I believe it does not include 29 and 31, which are sort of specifically not included in the -- my recollection of the list of citations -- or list of sensors.

Q. Sorry. Which figure are you looking at?

A. I'm looking at Figure 3 of Wright, of '271.

Q. Um-hum, okay.

A. In the -- or in the specification -- and I can't cite to exactly the spot -- he identifies the sensors as 23, 25, 21, and 27.

Q. Um-hum.

A. So it at least includes those four.

In my opinion, it does not include 29 and 31.

If there were some other sensor you want to consider, I think it would depend on the situation.

Q. So in your opinion, is 29 a sensor

communications module?

A. No, it is not, for purposes of this patent.

Q. Okay. Now...so you mentioned these four sensors: accelerometer, GPS receiver, image capture module, audio capture module. Correct?

A. Again, those are the ones that my recollection is -- right, identifies as the sensor set.

Q. Okay. So that corresponds to the sensor set from Claim 1, which says:

> ...image sensor, an audio sensor, an accelerometer, or a positioning module....
>
> (Witness reading.)

A. Yes.

Q. In the context of Claim 1, does the driving information have to be derived from all four of those?

A. Claim 1 requires that the sensors -- it could be any one of those or a combination thereof.

Q. Okay. So it could be any individual one of those four sensors?

A. The claim requires that there's a sensor set comprising an image sensor, an audio sensor, an

accelerometer, or a positioning module, or a combination thereof.

In my opinion, what this is saying is that, depending on the data type or the information sought, any or all of those can be used, as appropriate, to get the sensor data required.

Q. What sensor data would be required to -- what sensor data, at a minimum, would be required to derive driving information?

A. Any one of those could be used to derive driving information, either alone or in combination.

Q. Could you derive driving information from just an audio sensor?

A. Yes.

Q. And based on your review of the '271 patent, is that -- is it disclosed how you could do that?

A. I didn't opine on this and certainly didn't focus on the audio sensors.

In some of the art, there is talk of using the audio sensor to detect driving events.

I don't recall, specifically, if it is from the '271 or elsewhere. Again, this was not the focus of my analysis.

I think he talks about honking horns and

other sounds that might be interesting.

But, again, if you could point me to something, I can look at that. But I don't remember, specifically, the citation.

Q. And I'm trying to understand -- I know you have a section in your report that talks about the patents and the scope of them. So I'm trying to understand the scope of what's being claimed here and -- at least your understanding of what the scope that's being claimed here.

So are you able to identify any particular driving information that could be derived from just an audio sensor -- as those terms are used in the patent, the '271 patent?

A. Certainly, speed can be derived from an audio sensor.

Wouldn't -- yeah....

Q. Could you --

A. An airbag deployment could be derived from an audio sensor.

I don't know if that would be driving information.

Q. Well, let's -- you said "speed."

Can you tell me how you derive speed from an audio sensor?

A. It can be derived based on the Doppler effect from sounds from -- you know, if you're listening to something in the infrastructure.

Q. So a Doppler effect would be using a theory of relativity, right? -- to a certain extent, to determine the -- essentially, the sound effect.

But you wouldn't be able to do that from within the car. Right?

A. If you could hear something outside the car, you can determine if -- it would require an audio signal coming from outside the car.

You know, you could -- well, again, I didn't opine on --

Q. I understand.

A. -- these sorts of things.

Q. And I'm just trying to understand.

So an audio sensor is outside the car, but then you would have to make the -- assume -- assumption that the audio sensor on the car was stationary --

A. Yes.

Q. -- in order to -- in order for you to use a Doppler effect of some kind. Right?

A. Yes.

Q. Okay.

A. I mean, again, if you want to point me to something, I can look at what Wright talks about.

But I don't -- like, this wasn't part of my opinion.

Q. Would you consider distracted driving to be driving information?

(Pause.)

Q. Let me step back for a second and ask the foundation question.

Do you have an understanding of what distracted driving is?

A. I do.

Q. Okay. Would you consider distracted driving to be driving information?

MR. TILLER: Objection; beyond the scope.

A. I didn't opine on this.

I do not believe -- you know, off the top of my head here, various driving data -- such as, you know, swerving; such as, speed control -- may be indicative of distracted driving.

But I don't think -- you know, today I would not call distracted driving itself a....

What was the term you used?

Q. "Driving information."

A. "Driving information."

It is -- it probably has implications for what the driving information looks like. But it is not driving information in and of itself -- but, again, off the top of my head here.

Q. Okay. So you said that it is -- it implicates -- distracted driving implicates driving information.

And just to be clear, the -- as I understand your report, you do opine on what may or may not constitute driving information.

Is that correct?

A. Yes.

Q. Okay. And that's what I'm trying to understand -- where are the boundaries of what is and what isn't driving information, in your opinion.

So the....

So you said it has --

...driving information, it probably has implications for what the driving information looks like, but it is not driving information in and of itself.

What's the distinction there?

A. The distinction is that one that is distracted -- a driver that is distracted will drive in certain ways.

Q. Um-hum.

A. And those certain ways are how the driver drives.

So they may, you know, hard-brake more often because they're just not "paying as attention."

COURT REPORTER: They may what?

A. "Hard-brake," like brake the -- you know, hit the brakes hard.

So hitting the brakes hard is how the vehicle is being driven, driver information.

The fact that...the fact of distracted driving, you know, may be the reason for that, but it is not driver information itself.

Q. Now, driving information can relate to either the vehicle or the person driving the vehicle. Right?

MR. TILLER: Objection; beyond the scope.

A. Yeah, I guess I'm not sure what you mean by that question.

Driving information is information,

generally, about how the vehicle is being driven.

So I guess I don't -- if you would provide me an example or something. I don't understand the question.

Q. Well, so -- if you go to Exhibit 1 and go to paragraph 21.

A. I'm there.

Q. Okay. And if we read the second sentence, it says:

> The data logging system includes a database storing multiple accounts and stores driving information associated with at least one of a vehicle and a driver.

Okay.

A. Yes, I see that.

Q. So my question was: So driving information can relate to either the vehicle or the person driving the vehicle. Correct?

MR. TILLER: Objection.

A. The driving information is derived from vehicle sensors.

So it relates directly to -- well, it's not --

The driving information is derived from the sensors on the mobile device.

That can be associated with a vehicle or with a driver.

I'm not sure if that's answering your question. So it -- it's not necessarily about the driver. It's about the phone, if you will.

But it can be associated with a vehicle or a driver -- and/or a driver.

Q. So driving information could be associated with a vehicle or a driver?

A. Yeah, presumably, the driving information was collected while a driver was driving a vehicle and can be associated with either of those or both of those.

Q. Okay. Would a system that monitors distracted driving necessarily include driving information?

A. I would say no.

Q. Why not?

A. At least some....

Distracted driving systems are monitoring the driver and not necessarily how the vehicle is being driven.

Q. Can you give me an example?

A. One example is, you know, where the -- the eye trackers, which monitor where the driver is looking.

Q. Okay.

A. So that would be an example.

Q. So an eye tracker that monitors where the person is looking would be monitoring distracted driving.

Is that right?

A. It could be, among other things, yes.

Q. Okay. So I guess my -- so my question is -- so let me ask you this: So, you know, if you -- if you look to -- if you're driving and you look to the side of the road, would that be -- would that necessarily be distracted driving?

A. Not necessarily, no.

Q. Okay. So does the eye tracker by itself monitor distracted driving, or does it have to have some sort of context to determine whether it is, in fact, a distraction?

A. It does not need -- I mean, that doesn't need context.

Q. Now, in the "State of the Art" section of your declaration, which I believe begins on page -- or paragraph 24 and goes through page 34, you're

talking about the state of the art in relation to the asserted patents.

Is that correct?

A. Basically, this is responding to Dr. Michalson's report. And....

Q. Okay.

A. So I'm -- whatever -- it's basically responding to him.

Q. And that is talking about the state of the art in relation to the asserted patents.

Is that correct?

A. That's correct.

Q. Okay. So with the -- well, one of the things you mention here are "Event Data Recorders," EDRs. Do you recall that?

A. Yes, I do.

Q. Okay. And....

Now, did vehicles have Event Data Recorders back in 200- -- prior to the critical dates of these patents?

A. Many did, yes.

Q. And what kind of information did they record?

A. They typically record -- they are triggered during an incident.

They record the -- basically, speed, some other parameters, with the brake -- with somebody on the brake for about five seconds before the incident.

And then they record acceleration for the 300 milliseconds after they're triggered.

And along with -- there's a number of other parameters. Seat belt usage is recorded. Speed -- RPM is recorded. There's a number of parameters.

Q. So you mentioned that they record information from five seconds before the incident.

So there are -- they're continuously collecting data.

Is that correct?

A. That's correct.

Q. Okay. And then they are triggered by some sort of event, like a collision?

A. Correct.

Q. And then, they'll basically record the five seconds before -- saved to some sort of permanent storage, the five seconds beforehand and other data. Right?

A. Correct.

Q. So the event itself doesn't trigger the

start of collection of data. It triggers when certain data is recorded to a permanent storage.

A. There's an ongoing recording -- or ongoing --

Q. Collection?

A. -- buffer --

Q. Okay.

A. -- that contains this five seconds' worth of data.

At the time of an event, that buffer is written to a long-term memory along with other data and data from the subsequent 300 milliseconds or so of the crash.

Q. Where does -- you know, where do the EDRs get this data from?

A. They get this data from the vehicle systems. Typically from an airbag monitor would be most -- well, the data comes from different spots, but vehicle buses.

Q. Okay. Could EDRs also take input from external sensors, such as GPS?

A. They're not designed to take inputs from any sensors other than those built into the vehicle. So I consider those to be internal to the vehicle.

Q. But EDRs can work with other systems as

well. Right?

A. EDRs are designed to work with the vehicle as a whole.

So any system on a vehicle could -- could provide data to an EDR in theory if it -- well, this hypothetical, unless you want to get the specific data -- getting data from some spots to others can be really difficult.

But, you know, they are integrated into the car. Potentially, they could have access to any data available in the car.

Q. Okay. And I guess what I'm getting at is that, so you have -- you could -- can other systems access the EDR's data?

A. I would....

Again, I didn't opine on this. But off the top of my head, I would say no. That's sort of the end of the line -- but, while the vehicle is moving.

Now, the EDR data can be accessed after the fact in an accident reconstruction scenario. But those are off -- systems from off of the vehicle.

(Whereupon, Petitioner Exhibit 5 was marked for identification.)

Q. I'm handing you what's been marked as Exhibit No. 5.

Mr. Wilson, I've handed you what's been marked as Defendants [sic] Exhibit No. 5.

Do you recognize this?

A. I do.

Q. Okay. What is it?

A. This is a question-and-answer website or copy of a question-and-answer website put out by, I believe, National Highway Traffic Safety Administration regarding EDRs and the basics of EDRs.

Q. So when you're looking at this document, I want to turn your attention to the first paragraph and the last sentence of that paragraph or the last line.

> For instance, EDRs may record...pre-crash vehicle dynamics and system status...driver inputs...vehicle crash signature...restraint usage/deployment status, and...post-crash data such as the activation of an automatic

collision
notification...system.
Do you see that?
A. I do.
Q. Okay. And then when it talks about -- so "ACN" is "automatic collision notification." Right?
A. That's correct.
Q. Now, if you look at page 3 of this document. And it talks about -- the second paragraph talks about "automatic collision notification."
Do you see that?
A. I do.
Q. And if you look at the last sentence there, it says:
Some of these systems use data from...EDR to determine crash severity, thereby helping to ensure an appropriate level of medical response.
Do you see that?
A. I do.
Q. Okay. So would you agree with me that there are systems that interact with the EDRs and can get data from the EDRs?

A. I don't believe this is the way this is actually done.

The relevant data is coming out of the crash sensors.

I spent years developing these systems, and I'm not aware of anyone that takes the data from the EDR.

The EDR takes data from the crash sensors. The ACN unit takes data from the crash sensors.

So it's certainly possible that in these GM OnStar vehicles -- and I don't know the details of them -- they are taking data -- you know, the data is passing from the crash sensor through the EDR to the OnStar system.

But I'm a little surprised at that. That is what it says here.

Q. Okay.

A. I would also point out that, you know, this is a NHTSA document.

Functionally, this is correct. This is how it works. But -- you know, at the high level, this is how it works.

The details...I'm not clear that NHTSA got them right here, but I don't know that they got them wrong either.

Q. Okay. So it's possible that NHTSA got some of the details wrong?

A. Specifically this of -- you know, where this data comes from, I am certain, in my years of expertise here, that the data comes from the crash sensors.

Whether it passes through the EDR on the way to the ACN device, I doubt it. But I don't know that.

Q. So it mentions the OnStar system. And I think you said you....

Do you have any experience with the OnStar system?

A. Not at the detailed programming level, no.

I'm familiar with it at a high level. I've developed other systems that perform the same function.

But I don't have a detailed knowledge of the OnStar system.

Q. Would you disagree with the characterization here of GM's OnStar system being an ACN device?

A. I would not disagree with that.

Q. Okay.

A. My only disagreement here, as I said --

and it makes no functional difference to the reader of this document -- but, is that the data determining crash severity comes from the crash sensors, other locations.

The EDR is merely a recorder. So the data may pass through the recorder, but it certainly doesn't generate the data.

Q. The data is generated from the crash sensors, is what you're saying.

A. The crash sensors and there's other sensors, seat belt sensors, other sensors that are sent with the ACN data.

And that data is also sent to the EDR, where it is recorded. But....

Q. And you....

So this is a NHTSA document. Correct?

A. That is my understanding.

Q. And is there a reason you chose a NHTSA document to cite in your report?

A. NHTSA is the organization that places requirements on EDRs.

So they -- there's a number of things at the back of this. You know, this is a high-level description of the types of data that NHTSA requires that any EDR collect.

But, I mean, there's a lot more information in the regulations. This is essentially for, I guess, laypeople to understand what's going on.

Q. Generally, in your field, do people review NHTSA documentation?

A. A lot of people look at -- well, there's two answers to that.

There's a lot of consumers, go to NHTSA for safety information around cars.

So is that in my field? I guess I'm questioning what does "in my field" mean.

Q. What would you say your field to be?

A. Well, I mean, in my field of, you know, essentially, vehicle communications and safety systems, we look to NHTSA for requirements documents. They regulate the industry.

And so, there will be -- like, such as EDR regulation, which specifies -- you know, if you're going to put on an EDR, it must do these things. It must work in this situation.

So, yes, we read those -- there's somebody who's responsible for reading all those documents and being compliant with the law.

Q. Okay. So -- but, generally, NHTSA is a

well known organization, I guess, in the field of auto telematics?

A. Not necessarily in the field of telematics.

They, again -- they regulate the vehicle industry, essentially.

So they are very concerned with anything having to do with vehicle safety. And so, they regulate various aspects of vehicles' construction, how they behave in crashes, those sorts of things.

In this case, I'm not aware of any regulations regarding EDRs that NHTSA promulgate -- or, excuse me, regarding automatic collision notification.

To the best of my knowledge, there's no regulations on that.

They do regulate EDRs.

Again, this -- I did not, you know, opine on ACNs at all in my report either. So this is just my background knowledge.

Q. But this is the document that was cited in the "State of the Art" section of your report. Correct?

A. That is correct.

MR. CHAKKALAKAL: Okay.

I think this is a good time to take a 10-minute break.

(Whereupon, a recess was taken from 3:26 p.m. until 3:43 p.m.)

BY MR. CHAKKALAKAL:

Q. Welcome back, Mr. Wilson.

A. Thank you.

Q. All right. Now, in paragraph 26 of your report, that's Exhibit 1, you talk about the "Conover" -- and I'm not sure if I'm pronouncing that right -- but the Conover reference there --

A. "Gerry Conover."

Q. "Gerry Conover," thank you.

-- that Dr. Michalson characterizes.

Let me know when you're there.

A. I'm there.

Q. Okay. And I am going to hand you a copy of Exhibit No. -- this is Defendants Exhibit No. 6 -- I keep saying "Defendants" -- Petitioner's Exhibit No. 6.

(Whereupon, Petitioner Exhibit 6 was marked for identification.)

(Witness reading.)

Q. If you could just take a look at that and let me know if you recognize it.

A. I do.

Q. Okay. So does that look like the accurate copy of Conover?

A. Yes. To the best of my recollection, this is an accurate copy.

Q. So if I'm looking at paragraph 26 of your report, you say here that:

> Dr. Michalson states that Conover "recognized the need to include"....

And then you have, in brackets:

> ..."[various technologies] in automotive systems."

Do you see that?

A. I do.

Q. Now, if we're looking at Conover....

(Pause.)

Q. Just making sure I have the right document here.

So if we're looking at the list of technologies in Exhibit 6, the second paragraph, it says:

> Technology topics include navigation, telematics, vehicle dynamics control, parking aids,

adaptive cruise control, lane departure warning, active...systems, predictive safety systems (e.g., braking assist, collision warning, and collision avoidance), and vehicle-to-vehicle and vehicle-to-roadside communications.

Do you see that?

A. I do.

Q. Okay. And those are the various technologies that you're referring to in paragraph~26 of your report?

A. Those. But I believe he also identifies others in the bodies of the report that aren't identified there -- but, yes.

(Whereupon, Petitioner Exhibit 7 was marked for identification.)

Q. Here's Exhibit No. 7. And you can see that you're citing to paragraph 33 of -- I'm sorry.

Mr. Wilson, can you identify what Exhibit No. 7 is?

A. Exhibit No. 7 is the declaration of Dr. William R. Michalson from the 9th of May 2023.

Q. And does this appear to be the declaration that you reference in paragraph 26 of your report?
A. Yes, it does.
Q. Okay. So if we turn to paragraph 33 of Dr. Michalson's report.
And I'll let you know it's on page 28, if that helps.
A. Yeah, it speeds things up a little bit.
Got it.
Q. Okay. And you can see there the various -- the quote from Exhibit 6, Conover?
A. I see it.
Q. All right. So that list is from that paragraph I just read off, which is the second paragraph of Exhibit 6.
Is that correct?
A. Yes, that's correct.
Q. Okay. Later on in this paragraph, you say -- in paragraph 26 of your report, you say:
However, based on my personal knowledge and experience in the field of vehicle telematics, several of the technologies identified by Conover are not in "the" U.S.

production vehicles today, or only in a few high-end vehicles, almost 20 years later....

Do you see that?

A. Yes, I do.

Q. So going through that list, would you agree with me that navigation was known at the time?

A. All of these were clearly known at the time. Conover cites to them, so he's aware of them. They were generally known.

My point here is that Dr. Michalson says there's a need to include these systems, implying that -- to me, at least -- that they were essentially needed by the industry.

And my point here is that -- that they weren't -- even today, some of these don't exist.

And, you know, Conover was more of a: These are the hot topics in the field right now -- not that we need them, necessarily.

Q. But some of them -- some of them were -- so when you say that some of them -- that they weren't needed, are you referring to by virtue of regulation they weren't needed?

A. I'm referring to the urgency.

You know, Dr. Michalson seemed to imply, in my view, that there was a lot of urgency to get these on the road; whereas, in my opinion, they were more, you know, the interesting topics of the day -- and, you know, gee, wouldn't it be nice if we could have these.

Q. Well, so -- like one of these is active safety systems. Right?

A. Correct.

Q. Wouldn't ABS be a type of active safety system?

A. Yes, it would.

Q. Okay. So ABS was --

A. Actually, ABS is not active safety. But....

It's on the line.

Q. Okay. Would you consider -- would you consider ABS as being a need at the time or just something that was nice to have?

A. I don't see ABS listed here.

I'm not sure -- are we -- ABS was already, I think by this time, mandated on U.S. vehicles.

Q. Okay. So that was an example of a need, right -- you had to have ABS?

A. Yes, it was required. But --

Q. Okay.
A. -- I don't see Conover citing or mentioning that.
Q. Well, like you said, it was -- in your opinion, it's on the line.
And I think to the extent that there's -- you know, ABS I've seen described as an active safety system.
But you're also -- you're obviously an expert. So we'll -- I just want to ask your opinion on ABS.
What about adaptive cruise control; is that something that was known?
A. Yes, it was known -- yes.
I mean, it was certainly known as -- I believe Conover does mention that and has a discussion of it later in the article.
Q. Would you characterize that as a "need" or something else?
A. I would characterize that as...I wouldn't characterize it as a "need."
It was fairly mature at the time already -- yeah.
Q. What about parking aids?
A. There was a lot of developments of parking

aids at the time.

Q. Okay. But you wouldn't characterize them as a "need"?

A. No. I think they are very much nice-to-haves, and there was certainly a lot of work being done in that field.

But I would not characterize them as a, you know, need of the industry.

Q. Okay. So I guess you're looking at it from an industry perspective when you contemplate what is needed?

A. Yes. And the Conover report is directed to, you know, status at major automakers and key Tier 1 suppliers, which fairly -- around the world -- which is a fairly good characterization of the automotive industry.

Q. What about a need from like a competitive aspect to the point -- and by that I mean, like, if one manufacturer is doing it, wouldn't another one want to be able to do it as well?

MR. TILLER: Objection.

Mr. Wilson isn't identified as an expert in automobile industry economics.

A. I would consider competitive technologies

to be, you know, nice-to-haves.

You know, to the extent they aren't -- yeah, to the extent they're merely competitive, they would generally, in my field, be the nice-to-haves unless there's some, you know, societal need or regulatory need for them.

Q. Well -- so the statement that you took issue with from Michalson that you've quoted here -- you said:

> Dr. Michalson states that Conover "recognized the need to include [various technologies] in automotive systems."

And I'm asking you: Did you consider the need from a competitive aspect? -- or, for example, somebody like Toyota might say, "Well, Ford's got this in their SUV. We should have the same thing in ours."

MR. TILLER: Same objection.

A. My main point here is: Conover states in his abstract that this paper examines the status of important ITS technology developments at major automakers and key Tier 1 suppliers around the world.

I don't think characterizing that as

"needs" is appropriate.

You know, whether I think it's a need or not is irrelevant to the fact that I think that Dr. Michalson is mistaking what Mr. Conover's paper was about.

Q. And what I'm asking you is that, did you consider that Dr. Michalson might have stated it as a need because -- one, if one manufacturer is doing it, another manufacturer might feel the need to also include the same technologies in their systems?

A. Well, Dr. --

MR. TILLER: Same objection.

A. Dr. Michalson is stating that Conover "recognized the need."

So whether, you know, he or I think the need was there is irrelevant -- the statement. There's no evidence here that Conover recognizes the need for these technologies.

He's saying these are what's going on, but he nowhere says there's a need for these things.

Q. So Conover, though, states that these are important ITS technology developments at major automakers. Right?

A. That's correct.

Q. Okay. So if they're "important," you'd --

Conover is describing them as "important." Correct?
A. That's correct.
Q. And so, just so I'm clear on this, several of the technologies identified by Conover are in production vehicles today. Right?
A. And several were in production at the time he wrote this article, yes.
Q. Okay. If we go to the next paragraph in your report, paragraph 27, you say that:

> Dr. Michalson's discussion of the alleged state of the art also does not address "driving incidents"....

Do you see that?
A. I do.
Q. Okay. Would a "driving incident" include a collision?
A. Yes.
Q. Okay. And would you agree with me that Conover discusses collision notification?
And to help if you want, you can look at page 7, I believe.
(Witness reading.)
A. Yes, he does.
Q. And you agree that Dr. Michalson cited to

Conover. Correct?

(Pause.)

Q. And I meant generally, but to be more -- to make the question clearer, you agree with me that Dr. Michalson discussed Conover.

Is that correct?

(Witness reading.)

A. Certainly, Dr. Michalson, you know, cites to Conover. But I do not believe he cites him in the context of driving incidents or detecting driving incidents.

But, again, I didn't -- I'm not completely on top right now of where the citation to driving incidents is. So....

(Witness reading.)

A. Yeah, off the top of my head or just here today, I don't see any citation to Conover in the context of disclosing driving incidents.

Q. All right. So just to clear it up a bit, you agree with me that Dr. Michalson does cite to Conover or does discuss Conover in his declaration. Right?

A. Yes, as an example for the need for the automotive industry to do certain things.

Q. Okay. And you would agree with me that

Conover does disclose collision detection, correct? -- or collision notification, correct?

A. He does disclose automatic collision notification.

Q. Okay. And then if we turn to....

(Whereupon, Petitioner Exhibit 8 was marked for identification.)

Q. This is...Exhibit No. 8 is the -- is Mohan, which you refer to in paragraph 27 of your report?

A. That's correct.

Q. And it says:

> Specifically, Dr. Michalson cites to Mohan's system that "could be used for traffic sensing functions" as an example of "detecting driving incidents."

"However, road and traffic" -- the next sentence reads:

> However, road and traffic conditions, as addressed by Mohan, do not include "driving incidents," but "focus specifically on ... detect[ing]

potholes, bumps, braking, and honking".... Dr. Michalson provides no support for the suggestion that Mohan detects "driving incidents."

Now, if you look at Mohan and go to Page No. 3, you agree with me -- and you've already agreed with me that collisions are examples of driving incidents. Right?

A. Yes.

Q. Okay. So if we go to Page No. 3, and it's -- the first full paragraph, beginning with, "Other forms of sensing...."

Do you see that?

A. I do.

Q. It says -- the second sentence says:

Accelerometers are used for automotive safety applications such as detecting crashes to deploy airbags and to possibly also notify emergency services automatically....

A. That's correct.

Q. Okay. So you would agree with me that

Mohan does discuss driving incidents. Right?

A. This is cited in a section on related work. You know, I haven't read this in a long time.

He, you know, clearly mentions that accelerometers are used for detecting crashes. But it's not clear to me how that is related to the work of Mohan.

And, you know, I can read through this. But, again, it's not clear from that citation that Mohan's work has anything to do with crashes.

Q. Well -- but the Mohan paper does have a discussion of crashes in it, right? -- just from that paragraph.

A. Mohan mentions that accelerometers are used for automotive system -- or:

> Accelerometers are used for automotive safety applications such as detecting crashes to deploy airbags and to possibly also notify emergency services automatically --

Q. Okay.

A. -- end quote.

Q. And then -- sorry.

A. Yeah, I don't....
Yeah, I'll leave it at that.
Q. So if we turn to paragraph 25 of your report....
And you talk -- paragraph 25 says:
Neither the "Petitioners" nor...Michalson are clear "in" which -- on which technologies that they reference in such "Technology Overview" were incorporated into cars and which were incorporated into mobile devices, such as cell phones, at the time of...invention.
Do you see that?
A. I do.
Q. Okay. Would you agree with me that, generally speaking, smartphones existed at the time of the invention?
A. Yes. They were reasonably new, but they certainly existed.
Q. Okay. And I think we've already talked about whether they have sensors in them.
But are you aware of whether or not a

smartphone would have been able to download a mobile application?

A. I believe smartphones were definite -- were able to download mobile applications and run those applications.

COURT REPORTER: And what kind of application?

THE WITNESS: Smartphones were able to download applications and run those applications.

COURT REPORTER: Oh, "run" those applications.

THE WITNESS: Yeah.

COURT REPORTER: Thank you, thank you so much.

Q. Were those applications -- if I said "mobile applications," would you have an understanding of what that term meant?

A. I would assume the term "mobile applications" means a phone -- an application running on a mobile phone.

Q. Okay.

A. Unless the context appeared to be otherwise.

Q. And we talked about EDRs earlier.

Do you recollect that?
A. I do.
Q. And logging driving information?
A. Yes.
Q. Okay. And would you agree that an EDR was one way of logging driving information?
A. Yes. An EDR is a data logger for driving information, yeah.
Q. So an EDR is....
Do insurance companies use EDRs, the data from them?
MR. TILLER: Objection --
A. Yes, they do.
MR. TILLER: -- it calls for speculation.
Q. To the best of your knowledge, would insurance companies use EDR data?
MR. TILLER: The same objection.
A. Yes, they would.
Q. Okay. And what would they use it for?
MR. TILLER: Objection; calls for speculation.
Mr. Wilson is not identified as an insurance expert.
A. Yeah, again, I didn't opine on this in my

report.

But they typically use EDR for understanding accidents, collisions, crashes, and assessing fault, generally, in their case.

Q. So an EDR provided an electronic means of gathering information related to the type of information that insurance companies were interested in regardless?

MR. TILLER: Regardless of...?

A. Yeah.

Q. Regardless of whether it was electronic or not.

Let me say that in a different way.

Insurance companies are interested when you have an accident. Right?

A. If you're insured by them, they're interested, yes.

Q. Right. They use -- those are part of putting together a policy quote for you or determining how much your premium is going to be. Correct?

MR. TILLER: Objection. That calls for speculation.

Mr. Wilson is not an insurance rate expert.

A. Again, I didn't opine on this.
But it is certainly my understanding that in assessing an insurance premium or rate for a person, the number of crashes or their responsibility in crashes is one of the factors that goes into that.
Q. Okay. And just to be clear, I'm looking at paragraph 37 of your report. The last sentence says:

> The data logged by these black -- data logged by these black boxes could then be analyzed and used as evidence to determine fault for insurance claims and to subsequently set insurance premiums.

A. That's correct.
Q. Okay. So in general, in your report you've expressed certain opinions related to what relates to insurance premiums. Right?
A. Certainly, here I relate to that. I don't recall a lot of opinions on insurance premiums.
Q. Understood. And I'm just trying to understand the....

So EDRs could be used to gather information that -- on crashes.

And that would be of interest to an insurance company for the purpose of setting an insurance premium. Correct?

MR. TILLER: Same objection.

A. Among other things. There's a lot going on in that sentence.

But, yes, insurance companies are interested in EDR data from vehicles they insure where a crash has occurred.

Q. Okay. Before the advent of EDRs, insurance companies would have gathered information about an accident in relation to setting -- at least in part, in relation to setting an insurance policy?

MR. TILLER: Same objection.

A. As far as I know, there are insurance people who go out and gather data on crashes and assess fault for the purposes of determining payments from companies.

Q. Okay. To the best of your knowledge, does the '271 patent disclose or rely on any kind of specialized hardware?

A. The '271 patent is directed to a mobile device, mobile phone, that at the time was fairly,

you know, new and, in that sense, specialized.
So from that perspective, yes.
Q. Okay. So we know that Curry is identified as a prior art reference. Right?
A. That's correct.
Q. And Curry discloses the iPhone. Correct?
A. That's correct.
Q. Okay. So would you consider the iPhone as being a specialized piece of hardware?
A. I didn't opine on this, and it would certainly depend on the context.
But, yes, I think it's a specialized piece of hardware. But, again, if we get to the definition of specialized in the context, then....
Q. Okay. Let me ask it to you this way: To the extent Curry discloses using an iPhone and the '271 patent could be implemented on a mobile device, is there anything that would prevent the implementation of the '271 on the iPhone that's disclosed in Curry?
A. So I'm not an expert on iPhones. I didn't --
MR. TILLER: Objection; calls for speculation.
A. And I didn't opine on this.

It's...the, you know, specifications of the Curry iPhone may not support the Wright requirements for memory, processing power, whatever.

But I'm not aware of any specific, you know, reason why it could or could not support the, you know, invention of Wright, the '271 invention.

Q. So your answer here said:

> The specification -- the specifications of the Curry iPhone may not support the Wright requirements for memory, processing power, whatever.

What are Wright's requirements for memory, processing power?

A. Those are not documented in the patent.

And by "Wright" there, it meant the name "Wright" not the word "right." I don't know how it came out.

Q. She actually got it right.

A. This could get confusing -- okay.

Yeah, so I don't know what the requirements are for Wright. And I don't know that the iPhone or any other particular phone would meet or would not meet those technical requirements.

Q. Is it your opinion that a -- that the

mobile device, as claimed in Claim 1 of the '271 patent, has specific technical requirements beyond what is listed in the claim?

A. To the extent the requirements are listed in the claims, off the top of my head, they appear sufficient.

But, obviously, you know, for any one of those, a processer has certain capabilities. And to implement the '271 would require at least that level of capabilities.

And that's true for the user interface, the memory, the -- etc. -- the sensors.

So other than that, I don't really have an opinion on this. I don't -- I'm not sure where we're going.

Q. Well, I'm trying to understand if there's -- in your opinion, could -- you know, we're looking at the Curry reference, and it discloses the iPhone.

Is there a reason why the iPhone, as disclosed in Curry, could not implement the claimed invention of the '271 patent?

A. So the iPhone is --

MR. TILLER: Objection.

Mr. Wilson is not identified as

a hardware expert.

A. The iPhone identified in Curry has certain processer, memory, and other technical capabilities.

You know, depending on that level -- which is, the iPhone has a certain level -- depending on what is needed to implement the '271, which is not -- "I don't know" -- the iPhone may or may not be able to implement the '271 invention.

And I don't have an opinion on whether it can or not.

Q. So we're talking about the state of the art at the time of the -- looking at your report, paragraph 24 onwards -- paragraphs 24 to 34.

Would you agree or disagree that the -- that at that time of state of the art, that a cell phone was able to download mobile applications?

A. I would agree that there are -- certainly were smartphones that could download mobile applications.

Q. Okay. And would you agree that there were systems that could determine when a driver had started a vehicle?

MR. TILLER: Objection.

Are you asking this in the, sort of just --

MR. CHAKKALAKAL: State of the art.

MR. TILLER: -- there's something out there?

Okay.

A. I mean, is this in the context of a car? I mean -- or in the context of a -- I guess I don't understand the context.

Certainly, you know, a lock, a key, ignition key, could determine whether the user had started the vehicle.

Q. Well, let me ask it to you this way: You agree that an EDR was known at the time. Right?

A. An EDR was known in 2009 or the time of -- the referenced time, yes.

Q. And would at least some EDRs start collecting data based on when the car was started?

MR. TILLER: Objection; calls for speculation.

A. An EDR continually collected data when the vehicle was started.

Q. Okay. And based on the NHTSA document and the discussion of ACN, would you agree with me that there were systems in place that could determine when a crash had occurred?

A. Certainly within vehicles.

I mean, the EDR system, when the vehicle is started, to me that means the power is supplied to the vehicle. The power supplies the EDR. It collects data. That's what it does.

There are crash sensors in the car that can detect crashes. They were well known at the time.

You know, the innovation of Wright, though, is to move away from all those sensors in the car and be able to do these things from the mobile phone.

Q. I understand. I'm just trying to understand your perspective on what the state of the art was at the time.

A. Yeah, certainly, the state of the art for in-vehicle systems included monitoring when the car was on, detecting crashes.

Q. Okay. And just like a -- and as the EDR example, the information that was gathered related to a crash could be stored to memory. Right?

A. In the EDR example, yes, during a crash, the data gathered during that crash is stored to a memory.

Q. Did dashcams exist at the time?

A. Yes, dashcams existed.
Q. Okay. And did dashcams have a -- to a certain degree, a similar type of functionality of recording data?
MR. TILLER: Objection; calls for speculation and beyond the scope.
A. Yeah, I didn't opine on this.
But dashcams, generally, are, you know, a camera mounted on the dash that's continuously collecting video data of the road or whatever they're pointed at.
Q. And when you say "continuously collected data," that is...what triggers a start of the data collection?
A. Again, this is not --
MR. TILLER: Objection; beyond the scope.
A. -- not something I opined on.
I know at least some of the systems are plugged into a cigarette lighter socket. And so, they start collecting data when the power is turned on of the vehicle.
Q. Sticking with just the dashcams for a second, dashcams did require vehicle sensor data in order to work. Correct?

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

A. There certainly were some dashcams that consisted of a -- essentially, a video camera that, you know, were placed on the dash, looking out the front, and plugged into the vehicle's power supply.

They would not use vehicle sensors.

Q. And, in general, systems that were able to track driving behavior was known prior to the dates of the asserted patents. Correct?

A. Yes. I worked on, you know, several throughout my career prior to that time.

Q. And I'm going to go back to this idea of just specialized hardware.

In the context of the '271 patent, the '271 patent, Claim 1, discloses a sensor set. Correct?

A. Yes, it does.

Q. And that sensor set generally -- that sensor set consists of an accelerometer, an audio sensing device, a positioning module, and an image sensor. Correct?

A. Or a combination thereof, yes.

Q. Or a combination thereof.

Would you agree with me that the patents

do not disclose any specialized form of accelerometer?

A. The '271 patent does not -- the claims do not disclose any particular form of an accelerometer.

But, you know, one skilled in the art would understand that in order to implement the system, this accelerometer would have to have certain functionality or certain capabilities.

Q. Well, the claim just says "accelerometer." Correct?

A. That is correct.

Q. Okay. And likewise, the claim just says "a positioning module." Correct?

A. That is correct.

Q. And the claim just says "an audio sensor." Correct?

A. That is correct.

But, you know, like the others in the contents of -- or in the context of the specification, one skilled in the art would understand that there are certain technical requirements on those sensors.

Q. Okay. But those technical requirements are not listed in the claim itself?

A. That is correct.
Q. Okay. And the same is true of the image sensor. Correct?
A. Yes.
(Pause.)
THE WITNESS: I guess I'd like a quick break too when we get a chance.
MR. CHAKKALAKAL: Sure.
If you need one now --
THE WITNESS: Yeah.
MR. CHAKKALAKAL: -- that's fine.
(Whereupon, a recess was taken from 4:38 p.m. until 4:47 p.m.)
BY MR. CHAKKALAKAL:
Q. Welcome back again, Mr. Wilson.
A. Thank you.
Q. All right. We were talking about the state of the art. And when we were talking about the -- well, let's talk about the Curry reference.
The -- in your report at paragraph 77....
A. Okay.
Q. ...you state that:
...Curry makes clear that any processing, evaluation,

statistical analysis, or
scoring, especially as concerns
how the user is driving the
vehicle or for detecting a
driving incident, is performed
at Curry's remote,
centrally-managed server.
Do you see that?
A. I do.
Q. And as examples of that, you cite to Figure 2. And you also cite to -- your first cite is to 3:24 to 4:6 of Curry.
Do you see that?
A. I do.
Q. Do you see it says:
(server receives data from
motion data cache to compare
against user permission data
for calculating safety
statistic....)
Do you see that?
A. Yes.
Q. And....
(Pause.)
Q. So the safety statistic is an example of

the processing of --

COURT REPORTER: So the what?

Q. So the safety statistic is an example of processing of data. Correct?

A. The safety statistic is derived using a statistical -- it is derived from the data.

COURT REPORTER: Is derived from the....

THE WITNESS: From the data.

COURT REPORTER: Thank you.

Q. The...and you're stating that this calculation is done at the server in Curry. Correct?

A. Yes.

Q. Now, you would agree with me that Curry, on page 9 -- again, the lower number 9 -- at lines 26 through 28, it says:

...possible violations of mobile phone use or unsafe driving behavior such as speeding, abnormal deceleration and sharp turns.

Do you see that?

A. I do.

Q. Okay. So Curry discloses the

determination of some unsafe driving behavior. Right?

(Witness reading.)

A. Curry discloses, you know, possible violations of mobile phone use, which is an unsafe behavior, or unsafe driving behavior -- "such as speeding, abnormal deceleration and sharp turns" -- that those can be identified on the server.

Q. Okay. And those criteria -- speeding, abnormal deceleration, sharp turns -- those can affect the safety statistic that we discussed just a second ago.

Is that correct?

A. The Curry is...I don't recall, within Curry, a discussion of, really, how the safety statistic is computed. That's not the point of this patent.

He's indicated a few of the inputs to it -- namely, the cell phone use.

But, I mean, if you can point me somewhere, I can talk on it.

I don't remember opining on the details of his safety statistic.

Q. Well, let me back up just a second.

The safety statistic is calculated from

the raw sensor data. Right?

A. Among other things, yes.

Q. Okay. So let me take you to the -- to lower number 3, page 3, the last paragraph.

And I'm looking at the third [sic] line.

A. Okay.

Q. (Reading:)

The data in the motion data cache can be compared with the user permission data to enable a driver safety statistic to be calculated based on when and where the wireless computing device was used and the motion of the device.

Do you see that?

A. Yes.

Q. Okay. And the data in the motion data cache is the sensor data. Correct?

A. Yes.

Q. Okay. And if we look at Figure 1 of Curry, the motion data cache is located on the mobile phone.

Is that right?

A. The...there is a motion data cache indicated there, but the data from that motion data cache is also transmitted to the server. So the data is in both places.

Q. Okay. Likewise, the use permission database is located on the mobile phone client. Correct?

A. There is a use permission database on the mobile phone client.

There's also one on the server.

Q. Okay. And the driver safety statistic is calculated from using the motion data cache and the user permission data. Correct?

A. Possibly, among other things, yes.

Q. And the...if you look towards the end of that -- apologize.

(Background noise.)

Q. If you look towards the second-to-last sentence, it says:

The driver stay -- safety statistic --

MR. TILLER: Wait. Where are we? I'm sorry. Where are we?

MR. CHAKKALAKAL: Sorry. The second-to-last sentence of the paragraph.

So it's on --

MR. TILLER: Which?

MR. CHAKKALAKAL: So it's on page -- we're on the last paragraph of page 3. So the end of that paragraph is on page 4.

BY MR. CHAKKALAKAL:

Q. The second-to-last sentence says:

The driver safety statistic can also be decreased based on driving behavior, such as speeding, abnormal acceleration, abnormal deceleration, and taking sharp turns.

Do you see that?

A. No. Let me just see.

(Witness reading.)

A. Where are you -- you're on --

Q. Page 4, top of page 4.

A. Top of page 4, okay.

Q. Sorry.

MR. TILLER: We were all looking at the wrong spot.

Q. At the end of that paragraph that started

on page 3, the second-to-last line:

The driver safety statistic can also be decreased based on driving behavior, such as speeding, abnormal acceleration, abnormal deceleration, and...sharp turns.

A. I see that, yes.

Q. Okay. So now, if you look at the next sentence, it says:

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

Do you see that?

A. Yes.

Q. Do you agree with that statement?

(Witness reading.)

A. Yes, I see that.

Q. Okay. Now, the Curry reference....

And, I'm sorry, the -- I know you said, yes, you see that.

I guess my question was: Do you agree with that statement?

MR. TILLER: Are you asking him,

do you agree that it says that?
I'll stipulate that it says that.
Q. The statement says:
The safety statistic can be reported to or calculated at the data server.
MR. TILLER: What are you asking him --
(Simultaneous speaking.)
MR. TILLER: It says what it says.
Q. I understand. Now I'm asking him, do you have -- let me phrase it this way -- well, first, do you agree that it says that?
A. I agree that it says that, yes.
Q. And do you see any reason why that the safety statistic could not be reported to the data server?
A. No.
Q. Okay.
A. I think the relevant question is where it's reported from.
Q. So let's...the safety statistic is calculated from data in the motion data cache and

the user permission data.

Is that correct?

(Pause.)

Q. If it helps, that page 3, the statement that you read earlier, that was read earlier -- page 3, last paragraph, third [sic] sentence:

> The data in the motion data cache can be compared with the user permission data to enable a driver safety statistic to be calculated....

A. Right. I understand -- well, yes, the driver safety statistic can be calculated from the driving data.

I think that was the question.

Q. Yes.

Other than the mobile phone client and the driver data safety server that is shown on Figure 1, are there any other -- are you aware of any other components of Curry's systems that are disclosed as having both the motion data cache and the user permission data?

A. The...I think the question we're getting at is where the safety score is coming from. And I believe that this safety score is potentially coming

from the -- the parties identified in line 9 or so on page 4.

These are parents, guardians, insurance company, etc.

If we look at...around line 5 of page 13, this discloses that the insurance company, the users, can set a driving score, and to start the week or the month or whatever.

So my understanding is that this would be done on the third-party site and sent to the backend -- the server of Curry.

Q. So you said page 13.

And where are you looking at page 13?

A. Page 13, the first full paragraph.

Q. Okay. And you're referring to the driver safety score evaluation module?

A. Yes.

Q. Okay. And what are you pointing out in there?

A. So line 5 starts:

> For example, an initial driving score can be set "at" 100 points for a selected period....

Q. Um-hum.

A. I -- my belief, a POSITA would understand that that is probably done by the parent, the insurance company, whoever is managing this person.

And so, that would be the source or at least one source of a driving score for the processing on the server.

Q. Okay. And we're talking specifically about the safety statistic that is discussed in -- on page 3.

A. Correct.

Q. And I'm asking: With regards to the safety statistic that's disclosed on page 3, it says that it is calculated based on the data in the motion data cache and the user permission data.

A. So I believe that the driving score is the same as the safety statistic, that they are the same thing.

So as I read the first paragraph on page 13, there is a way for the third party, if you will, to set the statistic.

Q. So my question to you, Mr. Wilson, was: Are you aware of any component that is disclosed in Curry that has both the motion data cache and the user permission data, other than the mobile phone client and the driving safety and data server?

Is there any other component that's shown in Curry that is disclosed as having both of those?

A. So the two being the motion data cache and the driver --

Q. -- user permission data.

A. Those two databases?

Q. Yes. More specifically, the data in those -- yes, those two databases. Right.

(Witness reading.)

A. I don't recall opining on if the, you know, third party has that data.

I don't -- off the top of my head here right now, it's not obvious that the -- all of that data would be at the third party.

And here -- I'm referring to the "third party" -- I mean what is shown as auto insurance companies on Figure 1.

Is that answering your question?

Q. I think it's getting to it.

And I don't want to mischaracterize your answer, but it sounds to me like you're saying that, no, you're not aware of any other component in Curry that is disclosed as having both of those -- i.e., the motion data cache and the user permission data.

A. Both the server and the mobile phone

client have user permission data and the motion data cache data.

I did not form an opinion on whether that data is also available at the auto insurance companies -- let's see here...or these third parties. But I'm not aware of any disclosure to that effect.

Q. Okay.

A. Yeah, I would add that it seems not unlikely to me that the driving safety user control and monitoring website would have access to that data. That's shown in Figure 1. It's Item 102.

But, again, I don't recall any disclosure -- specific disclosure that that data is available there.

Q. And the motion data cache has raw sensor data. Correct?

A. That is correct.

Q. All right. And you would agree with me that the...that that raw data is taken and used in the calculation to determine the safety statistic. Right?

A. Yes.

Q. Okay. So let's talk about the activity recognition mode that's shown on page 9.

And going forward, if I refer to a page number in Curry, can we just agree that it's the lower number?

A. Hopefully.

Q. All right. Now, do you have understanding what the "activity mode recognition" is?

A. Yes, I do.

Q. Okay. So the activity mode recognition determines whether -- well, in part, it determines the context of the device, such as whether the person who's using the device is driving, running, walking, etc. Correct?

A. That's correct.

Q. Okay. And you would agree with me that it does this so data is collected, right? -- by the phone.

A. Yes.

Q. Sensor data.

It goes into the motion data cache. Correct?

A. (Witness nods head.)

Q. And then, the -- there's an activity mode recognition module that exists on the phone that is run on that data to determine a context. Correct?

A. Yes.

Q. Okay. And that module is -- can be running at any time. Correct?

MR. TILLER: Objection; beyond the scope.

A. I mean, it wouldn't -- it has to be initialized somehow. But it may have been initialized at any point, yes.

Q. What I'm trying to get at is: It doesn't require -- necessarily require a phone call or something to start up. Right?

A. The -- you know, Curry is silent on exactly when the motion recognition is done.

I haven't expressed an opinion on that, because I -- again, I don't -- it's not obvious to me if that runs only when triggered by a phone call or maybe running in the background and is -- yeah.

Q. So I'm going to take you back to the bottom of page 3. And it says there, "In addition" -- the last sentence:

In addition, the wireless device may collect data during periods other than when phone calls are answered or made.

Do you see that?

A. I do.

Q. And then it says:

For example, the wireless device may collect speed and location information and report that information back to the data server.

Do you see that?

A. I do.

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

The driver safety statistic "may" be -- also "to" be decreased based on driving behavior, such as speeding, abnormal acceleration, abnormal deceleration, and taking sharp turns.

Do you see that?

A. I do.

Q. Okay. So from that, do you gather that the wireless device would be collecting data even when there's no phone call?

A. That indicates to me that that may be one function of the wireless device, but it does not -- it's ancillary to the focus of the Curry patent.

You know, that seems to be a -- sort of

additional, on-the-side functionality to me and not core -- not core to the -- the process of managing phone calls, basically.

Q. And I just want to understand what Curry actually -- what it discloses.

But you would agree with me that Curry discloses the collection of data at time -- of sensor data at times, other than when a phone call is made. Right?

A. Yes, it does.

Q. And the activity recognition module would work on the collected data to determine a context of the phone. Correct?

A. Yes, it would.

But whether it is doing that all the time or not is not disclosed by Curry -- or only done in the context of a phone call coming in or going out.

And when I say "phone call," I include texts and other media.

Q. Well, so that -- I'm going to that sentence. And it says:

> ...the wireless device may collect data during periods other than when phone calls are answered or made. For example,

the wireless device may collect speed and location information and report that information back to the data server.

And then it says:

The "data server" statistic can also be decreased based on driving behavior, such as speeding, abnormal acceleration, abnormal deceleration, and taking sharp turns.

In order for it to be a driver safety statistic, the activity recognition module would have had to have made the determination that the context was driving. Correct?

A. Not necessarily.

In my opinion -- and that's because, in my opinion, there's also a driver recognition module running on the backend that needs to be there for other reasons.

And so, that driver activity recognition module could be performing that specific processing.

In other words, it would have to....

Well, yeah, leave it at that.

Q. So I'm trying to understand your answer in light of my question. I'm going to try to ask my question a different way.

The...in order for the driver safety statistic to be decreased, the system disclosed would have to have known the context was driving. Correct?

A. That is correct, yes.

Q. Okay. And the portion that I read here, the part that says:

> ...the wireless device may collect data during periods other than when "the" phone calls are answered or made. For example, the wireless device may collect speed and location information and report that information back to the data server. ...driver safety statistic can be -- also be decreased based on driving behavior, such as speeding, abnormal acceleration, abnormal deceleration, and taking sharp turns.

A. (Witness nods head.)
Q. There is certainly nothing in that paragraph that limits it to -- limits the invention of Curry to a period of time only when there were phone calls. Right?
A. Correct.
Q. And you mentioned "driving mode" just a little bit ago.
COURT REPORTER: Did you say "Mohan"?
MR. CHAKKALAKAL: "Mode."
COURT REPORTER: Oh, "mode."
MR. CHAKKALAKAL: "Driving mode."
Q. So we know that the -- that the -- that Curry can recognize when a user's -- the context of a mobile device, such as when a user is walking, running, or driving. Correct?
A. Correct.
Q. Okay. And that's the activity recognition module?
A. Yes. Just...Curry also accounts for cases when it can't recognize -- so, an unknown mode.
And that is performed in the...the user activity mode recognition module.

Q. Okay. And Curry does the activity recognition based on information from -- or based on GPS data and accelerometer data. Correct?

A. Yes.

Q. Okay. And then....

(Pause.)

Q. So once it's determined that the user is driving, then Curry can place the mobile device in a driving mode. Correct?

COURT REPORTER: "Drive-free mode"?

MR. CHAKKALAKAL: "Driving mode."

COURT REPORTER: Thank you.

MR. CHAKKALAKAL: Sorry.

A. Curry defines two modes -- I think, a GPS navigation mode and a communications mode.

So those are the modes disclosed for the phone -- or for the mobile device.

Q. Well, on page 4 it discloses a driving mode. Right?

And if you look at page 4, the paragraph that -- sorry, line 16, it says:

A dynamic call handling module is configured to place

the wireless device in a selected mode based on the activity mode.

A. Okay.

Q. And then it goes on to say:

For example, when it is identified that the user is driving based on information from the accelerometer and GPS receiver, then the wireless device can be placed in a driving mode.

A. That's correct.

Q. Okay. And the GPS data and the accelerometer data are time-stamped. Correct?

A. Yes.

Q. Now, if we look at....

Sorry, give me just a second.

(Pause.)

Q. If we're looking at paragraph 39 of your declaration.

A. Okay.

Q. And it says....

(Pause.)

Q. Sorry. I might have the wrong paragraph

number, just a second.

(Pause.)

Q. Sorry. If you go down to paragraph 42 -- sorry about that.

And you could see the sentence that...the sentence that says:

> The inventions of the '879 and '271 patents are not necessarily meant to replace a vehicle's traditional black box, but to supplement the vehicle with a readily accessible application on a portable device for real-time, continuous situational awareness of a vehicle's environment during entire driving periods of the vehicle, determining what data is important, and storing and providing important data that is immediately viewable by a vehicle user and actionable by an insurance provider.

Do you see that?

A. I do.
Q. Okay. And you would agree with me that Curry discloses an application that runs on a mobile device that assesses the user's driving context?
MR. TILLER: Objection.
A. I would agree with that.
Q. Okay.
A. Driving context there being, are they driving or not?
Q. Correct.
A. I mean, so it's a simplistic version of driving context.
Q. And you would agree that the...that Curry's able to -- well, that Curry stores this context. Correct?
A. No.
Q. So when Curry -- when the system of Curry discloses that you have a -- a context of a device. Right?
A. The context being driving or....
Q. Right.
A. Okay.
Q. And then, the system of Curry also discloses that you have -- that that is compared to a -- to a set of user permissions. Right?

A. I don't recall that.
Q. Well, let me ask it to you this way: The system of Curry is designed such that if you're driving, it can prevent you from making a phone call or taking a phone call. Correct?
A. Yes.
Q. Okay. So in -- with that understanding, the -- in the context of Curry, Curry would have to know whether you're driving or not -- so that when the call comes in, it knows whether you're driving or not so that it can prevent the phone call from being made or taken?
A. It either has to know that in advance or, when the phone call comes in, figure it out real quick.
Q. Okay. So the -- there is use of that context in conjunction with the user permissions in order to perform additional functionality.
A. I don't believe that necessarily follows, in that one way Curry could be implemented -- and it's silent on this -- is to look in the permission database, see, you know, okay, I'm on this road, I have permission. I don't care what the driving context is or the context is.
Q. All right. So you said one way that Curry

could be implemented, but it's silent as to this way, is looking at the road that the person is on?

A. I think the question is whether you look at the permissions database or the mode first, because if you...yeah.

Q. So let me clarify to the extent that was unclear.

I was asking whether you're using the user permissions and the context of the device together to perform additional functionality, such as preventing the person from making a phone call or taking a phone call.

A. Yes.

Q. Does Curry disclose post processing?

A. Yes, it does.

Q. So in order to....

(Pause.)

Q. So if I'm looking at Curry and I look at page 9. And....

Sorry, one second.

(Pause.)

Q. And do you see that there is a paragraph that -- or a section that starts, "Motion data uploading"?

A. Yes.

Q. Okay. And there it says, "Motion data" -- sorry, it starts by saying:

> Through mobile phone communication links, motion data and activity mode estimation results of a user of the mobile phone...can be transmitted to the driving safety data server....

Do you see that?

A. I do.

Q. So would that indicate to you that the results of the activity mode recognition are saved in some way, shape, or form?

(Witness reading.)

A. So this is indicating that the motion data and activity mode estimation results of a user of the mobile phone can be transmitted to the driving safety data server.

I don't think I opined on whether that involved storage. Obviously, there's some temporary storage.

But can you repeat the question, then, just to make sure I answered -- or if I answered it.

Q. I think you've answered it.

A. Okay.
Q. So....
(Pause.)
Q. Now, to the extent that Curry discloses -- or Curry system allows for....
Would you agree with me that Curry discloses safety policies, such as not -- you know, or is directed somewhat towards certain safety policies, such as not talking while you're driving?
A. The, you know, main purpose of the phone is to -- or the invention of Curry is to....
(Witness reading.)
A. What's the title of this?
A "SYSTEM AND METHOD FOR PREVENTING CELL PHONE USE WHILE DRIVING."
So that is a policy of not -- not using the cell phone while driving.
Q. And would you agree with me, then, that use -- and it talks about a safety statistic that can be calculated and that can be decreased based on unsafe driving. Correct?
A. That is correct.
Q. Okay. And would you agree with me that one type of unsafe driving -- indeed, probably the main type of unsafe driving, as contemplated by

Curry -- is usage of a cell phone while driving?

MR. TILLER: Objection.

A. Yes; that is the primary goal of Curry, is to eliminate or penalize people for the use of a cell phone while driving.

Q. Okay. So use of a cell phone while driving is a type -- would you agree with me that use of a cell phone while driving is a type of driving information that would be...well, that is a type of driving information?

MR. TILLER: Objection.

A. No. Similar to the -- we discussed something similar earlier.

I believe it may influence driving information or may have impact on it. But it is not driving information, in and of itself.

Q. Okay. The....

(Pause.)

MR. CHAKKALAKAL: Actually, let's go ahead and take a break for five minutes -- or ten minutes, whatever you prefer.

(Whereupon, a recess was taken from 5:46 p.m. until 5:59 p.m.)

BY MR. CHAKKALAKAL:

Q. Welcome back, Mr. Wilson.

Now, to the extent that we've been talking about the Curry reference, would you agree with me that the -- that what is disclosed in Curry, at least from line 5 of page 7 onwards, is embodiments of the invention?

MR. TILLER: Where are we? I'm sorry.

MR. CHAKKALAKAL: The Curry reference or --

MR. TILLER: Line 5, page 7.

MR. CHAKKALAKAL: Yes.

(Witness reading.)

A. So I didn't opine on that.

Line 4 of page 7 obviously says "EXAMPLE EMBODIMENTS" in bold caps.

Off the top of my head, I would say it ends at, you know, line 4 of the next page, page 8, which is "Use permission data input" in small type.

Again, I don't have an opinion on this. This is just off the top, looking at this, and the fact that I consider...the small-type headings appear to me to be not embodiments so much as details of the invention.

Q. Um-hum. So I want to go back to something

we discussed a little bit ago, the -- well, let me ask you this: The....

(Pause.)

Q. Does Curry contemplate that -- or disclose that distracted driving, such as using your cell phone while driving, could be the cause of an accident?

(Witness reading.)

MR. TILLER: Objection; beyond the scope.

A. Just looking at Curry now -- and again, I didn't opine on this -- he certainly implies it is the cause of an accident, citing to handheld rules and legislation around cell phone usage.

But I don't see anywhere that he says that specifically, offhand.

Q. Well....

So in -- on page 11 of Curry, the last full paragraph, the second-to-last line [sic], it says:

The system can prevent countless motorized vehicle accidents and deaths, thereby enabling a significant amount of money to be saved for the

mobile phone owner and the
insurance company.
Do you see that?
A. I do.
Q. Okay. And you have stated before, I believe, that the primary objective of Curry was to prevent cell phone use while driving.
A. That is correct.
Q. Okay. So would you agree with me that Curry is attempting to reduce accidents and death by limiting cell phone use while driving?
A. I don't think Curry discloses specifically that it's the cell phone use. As you pointed out earlier, it talks about the score reflecting other factors, such as speeding.
But, you know, in general, I believe this paragraph on the bottom of page 11 is saying that the combination of monitoring drivers, blocking cell phones, would save a lot of lives and money.
Q. Okay. So...let me just generally ask you: Would you consider, based on your knowledge as an expert, that cell phone use as a -- when driving is a cause of accidents?
MR. TILLER: Objection.
Mr. Wilson is not identified as

an expert in vehicle safety analysis.

A. Oh, you know, in my opinion, it is certainly a factor in many accidents.

Q. Okay. Just one second.

(Pause.)

Q. If we go to the....

And would you agree with me that the '271 patent -- one of the goals or one of the objectives is to determine the cause of an accident?

A. Among other things, that is one of the objectives, yes.

Q. So if I'm looking at the field of the invention for the '271 -- and that is Column 1, lines 17 to 25 -- it says:

The present disclosure relates to methods and systems for logging driving information associated with vehicle behaviour.

Sorry.

A. Yeah, let me....

(Pause.)

A. Yes, I see that.

Q. It says:

Moreover, the present

disclosure relates to a mobile device adapted for installation to a vehicle and configured to log such driving information....

Do you see that?

A. Yes.

Q. So the "driving information" there is driving information associated with vehicle behavior. Right?

A. Yes.

Q. Okay.

...for example, video footage associated with how the vehicle is driven.

Do you see that?

A. I do.

Q. Then it says:

Such driving information may subsequently be utilised to determine the cause of an event such as an accident...

A. I see that.

Q. Okay. And would you agree with me that cell phone use while driving could be a cause of an

event such as an accident?

A. I would certainly characterize it as a factor leading up to an accident.

Whether it is the cause of the accident, I haven't opined on that. That would take some more thought, because the....

Yeah, those....

You know, that can be very contentious as to causes in these cases.

Q. So Mr. Wilson, is it your testimony that cell phone use while driving could not be the cause of an accident?

A. No, it is not.

Q. Okay. So could it be the cause of an accident?

A. I did not opine on that or form an opinion on it.

You know, sitting here today, it would certainly be a contributing factor.

You know, depending on, is it the cause, I think would depend on the context and so forth.

But in certain contexts, it could be the cause of an accident -- but, you know, that's sitting here today.

Q. We talked earlier -- and we're going back

to the Curry reference -- we talked earlier about whether Curry discloses that it collects data outside the context of a phone call.

Do you recall that?

A. Generally, yes.

Q. Okay. So if I look at page 10, I'm looking at the GPS and communication mode section that starts at line 15. And it says:

> In one embodiment, a mobile phone 106 can have two mutually exclusive modes: a GPS monitoring/navigation mode and a communication mode. Based on acceleration data from the embedded accelerometer 116, an always-on activity recognition program can detect the activity status of a mobile phone user during various activities.

Do you see that?

A. I do.

Q. In this context, what is your understanding of "always on"?

(Witness reading.)

A. I didn't opine on this.
But, again, sitting here today, "always on" would mean whenever the phone is on this is also on, this activity recognition program.
Q. And if we go to page 7 of the Curry reference, the portion in the middle says a -- sorry, let's do it by line number -- Line No. 13:
A driving safety evaluation module can be used to perform a statistical analysis on collected raw driving data.
Do you see that?
A. I do.
Q. It says:
The evaluation module can then calculate corresponding safety scores.
Do you see that?
A. Yes.
Q. Okay. And then:
...safety scores can be "consumed" by consumers and insurance agencies to determine insurance premiums for related

drivers.

Do you see that?

A. Yes.

Q. So would you agree with me that Curry discloses determining -- a method of determining insurance premiums from collected sensor data?

A. I would agree that Curry suggests an approach to collect -- you know, an approach to what you said.

Q. Okay. Now, you -- in paragraph 136 of your declaration --

A. Okay.

Q. -- you state that:

In my opinion, Curry and Rabu, whether alone or in combination also does not -- / do not teach, suggest, or render obvious all of the elements of claim element [1.8] of either the '879 or '271 patents.

And then you go on to say:

Claim element [1.8] requires that the mobile device store a selection of the

derived driving information to
the memory of the phone.
Do you see that?
A. I do.
Q. Okay. So we had talked earlier about the safety statistic.
Do you recall that?
A. Yes.
Q. Do you have an opinion whether or not the safety statistic is stored to the phone?
A. In examining Curry, I find no evidence that the safety statistic is stored to the phone.
Q. Okay.
A. And furthermore, I don't see any reason why it would be.
Q. The...to the extent that....
(Pause.)
Q. So I just want to take you down to page~5 [sic].
A. Of...?
MR. TILLER: Curry?
MR. CHAKKALAKAL: Curry -- yes, Curry.
Q. And you see here, we have...starting with the paragraph that starts, "Indeed."

Indeed, a module of the --
of executable code may be a
single --
MR. TILLER: Excuse me. Where
are you?
MR. CHAKKALAKAL: Sorry, page --
I apologize, page 6, not page 5.
MR. TILLER: It's late.
Q. Start with the paragraph, "Indeed."
Indeed, a module of
executable code may be a single
instruction, or "may" --
instructions, and may even be
"disputed" over several...code
segments, among different
programs, and across several
memory devices.
Do you see that?
A. I do.
Q. (Continued reading:)
Similarly, operational
data may be identified and
illustrated herein within
modules, and may be embodied in
any suitable form and organized

within any suitable type of
data structure.
Do you see that?
A. I see that.
Q. Okay. Do you have an understanding of what "operational data" is?
A. In general, yes.
Q. Okay. Would operational data exclude processed sensor data?
A. No.
Q. Okay. So the....
Okay. And would you understand that the operational data would -- such as processed central data, would be organized within any suitable type of data structure -- would you understand that to mean that it's stored in a data structure?
A. Where are you?
Q. That same sentence. It says --
A. Oh, I see it.
Okay. So I understand that -- this to mean that it may be stored in a suitable data structure, not necessarily that it is.
Q. But that the operational data may be stored in a data structure?
A. Correct.

Q. Okay. And that data structure would be stored on memory on the mobile phone client?

A. It -- I mean, some would be stored there. Some would be stored on the server. They could be stored anywhere.

I don't think this paragraph provides any indication of where it's stored. In fact, it seems to be saying it could be stored anywhere.

Q. So being organized within a data structure does not indicate storage to you?

A. My comment -- you -- my understanding of your last question was that you were limiting it to storage on the mobile device.

Q. Okay.

A. If I got that wrong, I don't know. But that's -- I don't see that here.

Q. Okay. But it does leave open the possibility that it can be stored on the mobile device?

A. I would agree that there is the possibility of storing data structures on the mobile device.

But, you know, depending on the size of the structure and -- would be one matter. And then 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.

Again, I'm not an expert on data structures. But at least using the term loosely, I would say yes.

But I do think of data structures as usually referring to storage structures rather than communication structures.

So I may have this -- this is not where I'm an expert.

Q. What would be a communication structure?

A. A communication structure would be a packaging of the data for -- suitable for the communications medium.

And I don't know, but I would generally not consider those to be a data structure. I would consider those to be something else.

But, again, this is something I'm not an expert on. I don't -- haven't formed an opinion on this.

Q. I understand. And so -- and just to be clear, I'm trying to understand your basis for your opinions on the storing claim element.

And so, I'm trying to understand what your -- how you use the terms and what meets that term and what doesn't. I just want to give you some context of why I'm asking the question.

A. Yeah, I don't recall using the term "data structure." I may have.

But, you know, whether it is a data structure or not a data structure I don't believe would affect my opinions.

Q. I understand. But the reference, Curry uses it. And you've opined on the storage aspect of it. So that's just what I'm --

A. Okay.

Q. -- trying to understand.

And I'm trying to understand this distinction that you have between communication and data -- and storage.

So if something is in a communication structure, you would not consider that as being stored on the device?

A. I don't think I said that.

I was -- my point was merely that I don't think one transmits data using a storage structure.

Q. Okay. And so -- and I apologize if my wording was different. But what I was trying to ask was: If you have data that is being put into a structure to be transmitted from A to B, do you consider that data in the structure on A to be stored in A or is that different?

A. So I think this use of storage is contextually dependent, and that storage can mean for longer periods than just enough time to pass through a buffer.

Q. Okay.

A. And so, that is situationally dependent.

And I didn't form an opinion on storage here. And I don't believe it bears on my opinions in my report.

Q. And I'm trying to understand the context of the '271 patent, which requires a storage -- storing a selection of the driving information to memory.

And I'm trying to understand that, would the -- would that be met by a prior art reference that puts data into a structure to transmit it?

A. In my opinion, the '271 requires that the data be stored for some period of time so that it could be accessed later by the mobile device.

So that would, in this specific case, not include putting it in a register for transmitting offboard, if you will.

MR. CHAKKALAKAL: Well, it is 6:30. And before I get to the next set of questions, I think that it's probably a

good point to stop for the day, if you're okay with that.

THE WITNESS: I'm okay with that.

MR. CHAKKALAKAL: All right.

THE WITNESS: I mean, let's assume another half hour here isn't going to get us out tomorrow or not.

MR. CHAKKALAKAL: No; I don't think that it will make a difference.

- - -

(Witness excused.)

- - -

(Deposition concluded at 6:32 p.m.)

- - -

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.

( ) Reading and signing was not requested.

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

--oOo--

ERRATA SHEET

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

DATE OF DEPOSITION: March 26, 2024

NAME OF WITNESS: CHRISTOPHER K. WILSON

Reason Codes:

1: To clarify the record.

2: To conform to the facts.

3: To correct transcription error.

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Page _____ Line _____ Reason _____

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CHRISTOPHER K. WILSON DATE

DECLARATION UNDER PENALTY OF PERJURY

I am the witness in the foregoing deposition.

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

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

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

_____

CHRISTOPHER K. WILSON

CERTIFICATE

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

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

Dated this 4th day of April 2024.

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

Exhibits

Wilson Exhibit 1
5:10 14:21,22,25 15:2,3 17:6 34:5 41:6,14 85:4 98:10 138:5 152:9

Wilson Exhibit 2
5:12 33:18,21 41:5 42:19 44:1 71:22 83:14 84:24 104:10

Wilson Exhibit 3
5:13 46:20,23,24 50:7

Wilson Exhibit 4
5:15 95:15,18

Wilson Exhibit 5
5:18 144:24 145:2,4

Wilson Exhibit 6
5:19 152:18,19,20,21 153:21 155:11,15

Wilson Exhibit 7
5:21 154:18,20,22,23, 24

Wilson Exhibit 8
5:23 164:6,8

-

--o0o--
6:3

--of
62:5

--we
32:16

-85-
16:19

-857
16:13,14,20 43:18

-911
73:12

1

1
14:21,22,25 15:3,8 16:18 17:6 34:5 41:6,14 44:2,9 57:11 67:6,17 68:5 72:6 81:5 85:4 94:12 98:10 108:7,23 109:1 110:7,14,18 111:9,16,20,25 112:14, 23,24 115:4 128:21 129:9,12 131:11,17,20 138:5 152:9 159:14 160:23 175:1 180:16 186:22 191:18 194:17 195:12 215:13

1.8
220:19,23

10
218:6

10-minute
152:2

100
100:3 192:23

1005
126:10

102
195:12

104
69:16

106
15:9 16:17 69:15 99:1 125:22 126:3 218:10

10:17
6:2

11
213:18 214:17

110
67:17

116
218:15

11:22
50:2

11:31
50:2

12
66:24,25 67:12 104:12

12:27
82:7

13
34:6 119:6,7 192:5,12, 13,14 193:19 219:7

136
125:19 126:1,2 220:10

14
35:10,14,15

15
218:8

16
203:23

17
215:14

18
38:25

19
43:3

1:03
83:2

1G
77:11 80:2

2

2
16:17 33:18,21 41:5 42:19 44:1 47:23,24 71:22 83:14 84:24 104:10 183:11

20
14:15 102:19 105:8 119:8 127:2 156:3

200-
141:19

2009
48:8,18 49:12 177:14

2010
48:18 49:12

2010/042545
47:5

2023
15:22 16:1 154:25

2024
6:1 15:14 16:3 21:14

21
129:22 130:17 138:6

23
83:17 95:20 129:21 130:17

24
140:25 176:13

25
129:22 130:17 167:3,5 215:14

26
6:1 98:12 152:8 153:6 155:2,19 184:17

27
99:1 129:22 130:17 162:9 164:9

271
19:16 24:8 41:18 43:9 51:3 71:23 72:6,13 81:4 83:11,13 85:10 88:21 89:14,17,21 90:14 92:1 94:12 104:8 105:12 108:8 111:9 115:4 128:21 129:9,12,18 130:13 132:15,23 133:14 172:22,24 173:17,19 174:6 175:1, 9,22 176:6,8 180:15,16 181:3 205:8 215:7,13 220:20 228:11,17

28
155:6 184:17

29
15:14 130:7,20,25

29th
21:14

2:07
115:1

2:18
115:1

2G
77:11 80:3

3

3
46:20,23,24 50:7 64:1, 12 65:1 66:9 67:11 117:22 118:3 119:10 127:2 129:21 130:12 146:8 165:7,11 186:4 188:5 189:1 191:4,6 193:9,12 197:18

30
16:1 72:6 114:4

300

142:6 143:12

301
122:3

302
119:20

306
127:16

31
72:6 81:7 84:24 91:4 94:13 108:10 115:11,14 130:7,21

32
81:7 104:9

33
154:21 155:4

34
140:25 176:13

35
115:13

36
22:16

37
171:8

38
59:14

39
45:1 84:24 94:13 108:9 115:11 204:20

3:24
183:12

3:26
152:4

3:43
152:4

3G
48:5,13 49:5 54:20,22, 24 55:2,13,16,18,21 56:10,13,18,20 57:3 115:18,21,25 116:16 117:7 118:5,18 119:2

4

4
83:14,15 95:15,18 104:8 105:2,18,19 106:20,22 107:14,18 108:25 110:12,14 188:6,20,21 192:2 203:20,22 212:15,18

41
91:4

42
205:3

43
54:7 101:15

49
19:1,2,3,11 23:24 98:9, 11 109:9

4:38
182:14

4:47
182:14

4:6
183:12

5

5
144:24 145:2,4 192:5, 20 212:5,11 222:7

50%
48:7

53
85:4

54
103:1

56
72:13 73:12

5:46
211:24

5:59
211:24

6

6
152:19,20,21 153:21 155:11,15 222:7

6:30
228:24

6:32
229:14

7

7
154:18,20,23,24 162:22 212:5,11,15 219:5

70
125:22 126:3

76
61:1,5

77
182:21

8

8
164:6,8 212:18

80
112:25 113:22

879
19:16 24:8 43:22 85:10 205:7 220:20

9

9
184:16 192:1 195:25 208:19

9,311,271
33:25 41:15

99
100:4

99.5
100:4

9th
154:25

A

a.m.
6:2 50:2

AAA
17:20

ability
11:10 118:10 225:5

abnormal
184:21 185:7,10 188:12,13 189:5,6 198:14 200:9,10 201:23

ABS
157:10,13,14,18,20,21, 24 158:7,11

absent
99:7 100:11 103:3 225:20

abstract
160:21

acceleration
74:25 75:21 79:2 80:14 107:22 142:5 188:13 189:6 198:14 200:10 201:23 218:14

accelerometer
48:4 56:13 76:23,24 77:5,9 78:21 79:24 80:8,21,23 131:5,13 132:1 180:20 181:2,5,8, 10 203:3 204:9,15 218:15

accelerometers
79:10 165:17 166:5,14, 16

access
144:10,14 195:11

accessed
144:20 228:19

accessible
205:13

accident
102:3 103:7,10,13 144:21 170:15 172:14 213:7,13 215:9 216:22 217:1,3,4,12,15,23

accidents
170:3 213:23 214:10,23 215:3

accomplished
119:24 120:17 121:16

accounts
138:12 202:22

accurate
17:2 153:2,5

accused
38:3,4,13 39:11

achieving
39:18 40:5,18

acknow-
32:16

ACN
146:6 147:9 148:8,22 149:12 177:23

ACNS
151:19

act
53:23,24

actionable
205:23

activate
124:8

activated
119:20 121:23 122:11, 14 124:1,15 125:2

activated...on
123:21

activation
145:25

active
157:7,10,14 158:7

active...systems
154:3

actively
26:6

activities
128:7 218:20

activity
54:5 127:12,15,18 128:1,5 195:24 196:6,8, 22 199:11 200:14,22 202:20,25 203:1 204:3 209:5,13,17 218:16,18 219:4

actual
59:6 70:6 104:16

adapted
216:2

adaptive
154:1 158:12

add
9:12 33:13 81:2 195:9

addition
58:24 96:22 197:19,20

additional
63:16 69:14,24 85:17 87:14,24 88:6,8,12 89:1,3 91:10 97:11 98:1 99:6 199:1 207:18 208:10

address
72:9,11 92:6 162:12

addressed
92:9 164:22

Administration
22:21 145:11

admitted
55:9

admitting
224:25

advance
207:13

advent
172:12

advised
34:13,21,24 35:4

affect
106:11 185:11 227:5

agencies
219:24

agree
31:20 38:15 41:15,21 42:1 43:14 46:1,5,14 49:4,8,13 50:10,18 51:8,11,22 52:21 53:13 54:18,24 55:2,21,24 57:13 64:9 66:17 69:1, 6,21 70:4,12 83:9 84:4 95:23 96:17 97:2 103:6 115:19,21 116:9,16,21 117:3,6,11,14 118:2,3, 8,16,22 119:3 120:3,11 146:23 156:8 162:19,25 163:4,20,25 165:7,25 167:18 169:5 176:14, 17,20 177:13,23 180:25 184:15 189:17,23 190:1,15,16 195:19 196:2,14 199:6 206:2,6, 13 210:6,18,23 211:7 212:3 214:9 215:7 216:24 220:4,7 224:20

agreed
165:8

agreeing
118:25 119:5

ahead
9:15 11:4 24:2 36:22 79:16 211:20

aids
153:25 158:24 159:1

airbag
133:19 143:17

airbags
165:20 166:19

alleged
162:11

allowed
125:11

allude
64:5

alluding
64:10

always-on
218:16

ambiguous
126:20

amount
68:8,19 213:24

analysis
60:7 61:9,24 64:14 65:2 66:15,19 70:21 71:1,15 72:20 88:13 100:9 132:24 183:1 215:1 219:11

analyzed
171:13

ancillary
198:24

and...post-crash
145:24

and...sharp
189:7

And...so
103:25

and/or
83:22 102:4 139:9

Andrew
13:11

Andrews
22:6

answering
139:5 194:18

answers
7:18 8:17,18,20 33:2 150:8

Anthony
13:15

anticipated
36:15 37:7

anticipates
36:13 37:3

anticipating
36:16 37:8

anticipation
36:6,7,8,11,12,17 37:1 38:6,16

apologize
6:11 18:19 47:20 65:8 187:16 222:7 227:20

apparent
39:8

appeared
168:23

appears
112:17

Apple
48:6,23,24 49:14 50:12

application
45:17 53:7 66:5 83:20 109:14 116:3,5 120:13 168:2,7,20 205:13 206:3

applications
65:17,18 165:19 166:18 168:4,5,9,10,12,16,17, 20 176:16,19

applied
29:7 72:25

applies
109:5

apply
34:15 59:25 74:24 75:19 114:19

approach
220:8

Approximate
55:17

approximately
13:9 87:19

arranged
83:20

art
23:2,5 36:2,3,13,15 37:2,4,7,14 38:8,17 39:7,9,19,22 40:6 46:5, 15,16 50:16 51:14,16, 17,19,22 52:19,22 53:25 57:6,15 58:21,22 59:6 60:1,5,17 85:24 86:4 91:12,13 93:7 100:10 132:20 140:23 141:1,10 151:22 162:11 173:4 176:12,15 177:2 178:15,16 181:6,21 182:19 228:15

article
158:17 162:7

as...i
158:20

aspect
110:3 159:18 160:15 227:7

aspects
42:25 111:7 117:12 151:9

asserted
17:11 33:9 114:6 141:2, 10 180:10

assess
172:19

assesses
206:4

assessing
170:4 171:3

assist
154:5

association
69:2 93:17

assume
11:20 52:19 57:6,11 134:18 168:19 229:7

assumes
29:23 57:20

assuming
53:8

assumption
57:11 58:5,9,13 134:19

assumptions
57:14 58:4,6,17 59:23

at...around
192:5

attached
59:21 84:22 85:12 87:25 88:3,5 91:1,8,15 92:3,18,24 93:22 94:20 95:9 96:5,20 97:4,21 98:3 108:17

attempting
214:10

attention
137:9 145:14

attorney
12:20 20:5

attorneys
12:21 14:3,9 20:21 28:10,14 29:19 35:8

attributes
45:21

audio
55:25 81:18,23,24 131:6,12,25 132:13,19, 21 133:13,16,20,25 134:11,17,19 180:20 181:16

auto
21:17 41:10 151:2 194:16 195:4

automakers
159:13 160:23 161:23

automated
121:18

automatic
145:25 146:6,10 151:13 164:3

automatically
109:18 165:23 166:22

automobile
17:19 159:23

automotive
153:13 159:16 160:13 163:24 165:18 166:15, 17

avoidance
154:6

aware
17:21,23 23:6 27:17 55:18 56:12,17 64:17 65:9,23 147:6 151:11 156:10 167:25 174:4 191:19 193:22 194:22 195:6

awareness
205:16

B

back
16:6 23:24 34:5 44:2 48:18 50:4 56:22 71:22 75:4 76:8 83:4 84:14 102:20,25 104:22 108:7 115:3 124:21 135:8 141:19 149:23 152:6 180:13 182:16 185:24 197:17 198:5 200:4 201:18 212:1,25 217:25

backed
104:19

backend
192:11 200:20

background
65:18 107:16 151:20 187:17 197:16

backing
99:8 100:13 103:4,7

based
27:14 28:2 30:18 44:23 51:20 57:13 59:15 68:6 70:8 84:16 85:8 86:11, 12,25 94:14 108:11 111:6,7,21,22 115:6 116:14,17,20 117:10 118:7,9 119:4 132:15 134:1 155:20 177:17,22 186:13 188:11 189:4 193:13 198:12 200:8 201:21 203:2 204:2,8 210:20 214:21 218:14

basically
16:12 22:7 23:14 36:14 37:5 58:10 73:23 117:15 141:4,7 142:1, 20 199:3

basics
145:11

basis
37:14 90:5 91:24 94:2 226:20

be...the
120:25

be...well
211:9

bears
228:8

beaten
32:21

begin
6:11

beginning
44:10,23 99:24 165:12

begins
83:18 95:21 127:1,2 140:24

behave
151:10

behavior
99:22 180:9 184:20 185:1,6 188:11 189:4 198:13 200:8 201:22 216:10

behaviour
102:4 215:19

belief
193:1

belt
142:8 149:11

big
100:1

binary
77:18 78:19 81:21

bit
32:22 72:2 78:9 99:24, 25 104:16 155:8 163:19 202:8 213:1

black
171:11,12 205:10

blocking
214:18

board
8:10 10:16

bodies
154:16

bold
212:16

books
23:16

bottom
47:12,17,22,23 66:25 127:12 197:18 214:17

boundaries
136:15

box
205:11

boxes
171:12

brackets
153:11

brake
137:11 142:2,3

brakes
137:12,13

braking
154:4 165:1

break
9:20,24 49:22 82:5 114:24 152:2 182:7 211:20

breaks
9:19

briefly
13:9

broadly
48:14,16

broke
83:7

Bruster
13:15

buffer
143:6,10 228:4

built
143:23

bumps
165:1

buses
143:19

business
70:9

C

cache
183:17 186:9,20,23 187:1,3,12 190:25 191:8,21 193:14,23 194:3,24 195:2,16 196:19

caches
67:19 68:15 69:10 70:7

calculate
219:17

calculated
185:25 186:12 187:12 189:13 190:6,25 191:11,13 193:13 210:20

calculating
183:19

calculation
78:3 184:12 195:21

calculations
64:4

call
40:8 120:24 121:3,10 122:3,14 123:1,15 124:7 135:23 197:9,15 198:21 199:8,17,18 203:24 207:4,5,10,11, 14 208:11,12 218:3

call...is
121:24,25 124:2,3

called
95:3

calls
55:4 57:1,19 71:3,17 123:6 125:10 169:14,21 170:23 173:23 177:18 179:5 180:2 197:23 199:3,24 201:14 202:5

calls--
122:10

camera
107:24 179:9 180:4

capabilities
175:8,10 176:3 181:9

capability
60:18,21 63:3,4 64:7,8 94:9 117:15

capable
54:25

caps
212:16

capture
131:5,6

captured
76:25 77:1,6

car
90:1 104:18,20,24,25 134:8,10,11,17,19 144:10,11 177:6,17 178:6,11,17

care
207:23

career
180:12

cars
150:10 167:11

case
18:5 20:15 22:3,10 23:21 24:19 25:18 26:12,13 27:10,19 28:14 29:9 30:13,16 43:23 59:2 95:20 102:15 151:11 170:4 228:20

cases
202:22 217:9

caveats
103:1

cell
49:10,14 50:11 63:25 167:13 176:15 185:19 210:14,17 211:1,5,6,8 213:5,14 214:7,11,13, 18,22 216:25 217:11

central
223:13

centrally-managed
183:7

Chakkalakal
6:9,18,20,21 7:12 14:19 18:22,25 19:5 21:23 32:11,23 33:5 49:16,21, 24 50:3,23 52:8,13,14 53:1 67:11,14 79:8,15 81:25 82:4 83:3 114:22 115:2 128:17 151:25 152:5 177:1 182:8,11, 15 187:24 188:3,7 202:11,13 203:12,15 211:19,25 212:9,12 221:22 222:6 228:23 229:5,9

chance
10:5 182:7

change
9:11,16 10:14

changed
10:15

characterization
32:4 148:21 159:15

characterizations
29:21 30:4

characterize
45:18 73:25 158:18,20, 21 159:2,7 217:2

characterizes
152:14

characterizing
160:25

chart
119:11

chip
77:18,19 80:23

choice
102:14

chooses
101:20

chose
149:18

Christopher
6:5,24 7:5

cigarette
179:20

citation
125:16,20 126:4 133:4 163:13,17 166:9

citations
130:9

cite
71:5 81:6 130:16 149:19 163:20 183:10, 11

cited
23:20,22 60:8 93:2 151:21 162:25 166:2

cites
156:10 163:8,9 164:14

citing
126:14 154:21 158:2 213:13

claim
20:10,18 25:6,19 29:21 30:9 33:9 35:11,17 37:25 38:2,7,13,16 44:2,9,11,25 46:13 56:22 60:6 72:6 81:5,20 84:15 85:24,25 86:6,18, 20,23 91:13 93:6 94:6, 12 97:8 98:1,4 104:8,17 105:2,18,19 106:10,16, 20,22 107:14,18 108:7, 23,25 109:1,10 110:3,7, 12,14,18,22 111:9,16, 20,25 112:14,23,24 115:4 128:20,21 129:9, 12 131:11,17,20,24 175:1,3 180:16 181:10, 13,16,25 220:19,23 226:21

claimed
133:8,10 175:1,21

claims
21:7 23:2 41:24 42:2,6, 9,12,14,19,20,23 60:15, 21 61:20 62:22,24 71:25 72:3 85:9 90:22 94:8 96:18 109:7 114:6, 12,13,16,19 171:15 175:5 181:3

Claim~4
107:1

clarifications
33:8

clarified
29:6

clarify
31:16 52:12,15 208:6

clause
40:22 45:23 86:17,23 90:6,8 109:6,9 110:13, 14,15,16 111:18 117:18 118:8

clauses
109:3

cleaned
77:1

clear
8:6 33:2,3 51:13 54:4 64:5 70:2 73:11 76:3 86:8 87:7 91:7 106:19 112:7 122:25 129:14 136:9 147:23 162:3 163:19 166:6,9 167:7 171:7 182:24 226:20

clear...so
28:7

clearer
163:4

client
119:13 121:19 187:6,9 191:17 193:25 195:1 224:2

close
32:23 59:12

code
222:2,11

colleagues
6:11

collect
43:1,2 149:25 197:21 198:3 199:23 200:1 201:12,16 220:8

collected
139:13 177:20 179:12 196:15 199:12 219:11 220:6

collecting
127:8 142:14 177:17 179:10,21 198:20

collection
104:1 143:1,5 179:14 199:7

collects
178:5 218:2

collision
142:18 146:1,6,10 151:13 154:5,6 162:17, 20 164:1,2,3

collisions
165:8 170:3

Column
72:6 81:7 83:14,15 84:24 91:4 94:13 104:9 108:10 115:11,14 215:13

combination
39:2,15,22 108:5 131:21 132:2,11 180:23,24 214:18 220:16

combine
39:10 40:13

combining
40:17

comment
224:11

commented
129:7

communicated
68:9

communication
68:19 69:4,14,24,25 209:4 218:7,13 226:6,9, 10 227:12,14

communications
45:15 109:12 131:1 150:15 154:9 203:17 226:12

companies
102:11 103:18 113:25 169:10,17 170:7,14 172:9,13,20 194:17 195:5

company
7:3,5 103:23 104:1 172:4 192:4,6 193:3 214:2

company's
114:4

compare
183:17

compared
39:23 186:9 191:8 206:24

competitive
159:17,25 160:3,15

completely
17:18 163:12

complex
68:17

complexity
68:7

compliant
150:24

component
193:22 194:1,22

components
191:20

comprising
131:25

computed
185:16

computing
68:4 186:14

concept
78:14

concerned
151:7

concerns
61:10,25 183:2

concluded
229:14

concludes
70:5

conclusion
41:1

conditions
164:22

conducted
20:12 24:18

configure
45:8

configured
94:9 203:25 216:3

confused
66:22 76:6

confusing
174:20

confusion
106:23

conjunction
207:17

connotations
31:13 59:9

Conover
152:10,11,12,13 153:3, 9,16 155:11,25 156:10, 18 158:2,16 159:12 160:11,20 161:13,17,21 162:1,4,20 163:1,5,9, 17,21 164:1

Conover's
161:4

consider...the
212:22

considered
99:16

consisted
180:4

consistent
38:20 53:9

consists
44:11 180:20

constitute
78:8 136:11

construction
19:20 20:10,19 24:12 25:1,6,19 35:11,18 95:24 98:8 151:9

construed
19:22 30:19 31:10

consultant
13:4

consumed
219:23

consumers
150:9 219:23

contemplate
159:10 213:4

contemplated
83:10 210:25

contentions
21:3,12

contentious
217:8

contents
181:20

context
14:16 17:16,17,25 39:16,21 40:3 56:3 62:15,18 75:5 76:14,21, 22 77:25 78:14 79:6 81:19 89:13,17,21 90:10 92:1 105:2,17,19 106:16,20,22,25 107:13,18 111:8,20 112:24 115:10 124:15 125:2,14 128:1 129:8 130:6 131:17 140:19,22 163:10,18 168:23 173:11,14 177:6,7,8 180:15 181:20 196:10, 24 199:12,17 200:16 201:6 202:16 206:4,8, 12,15,18,20 207:8,17, 24 208:9 217:21 218:3, 23 226:25 228:10

contexts
217:22

contextually
228:2

continually
177:20

continue
11:21

continued
222:20

continuous
205:15

continuously
142:13 179:9,12

contributing
217:19

control
83:21 109:14 135:20 153:25 154:1 158:12 195:10

controlled
45:16 109:13

controlling
68:3

conversation
119:4

conversations
20:20,25 21:7

Conversely
69:9

copy
16:25 33:25 145:9 152:17 153:3,5

core
199:2

corollary
36:18,19,23 38:23

correct
10:17 13:6 14:11 15:15 16:4 17:12,17 22:22,23 24:14,15,19,20 28:18 35:5,6 37:16 38:19 40:14 41:4,11,13,24,25 42:4,11 43:19,20 44:6,7 45:2,25 50:14 54:2,22 55:13,14 60:10 62:17, 21 63:10 66:19 71:25 73:3,14 81:15,16 86:2, 3,10 91:10,11,15,16 93:10 94:25 100:16 103:15 105:25 107:10 110:12 111:24 112:5 114:10 115:24 116:12, 13 117:4,7,8 118:6 123:7,23 124:5,10,17 125:4 127:3 128:3,9 129:4,10 131:6 136:12 138:20 141:3,11,12 142:15,16,19,24 146:7 147:20 149:16 151:23, 24 155:16,17 157:9 161:24 162:1,2 163:1,6 164:2,11 165:24 170:21 171:18 172:5 173:5,6,7 179:25 180:10,17,22 181:11,12,14,15,17,18 182:1,3 184:4,13 185:13 186:20 187:7,13 191:2 193:10 195:17,18 196:12,13,20,24 197:2 199:13 200:16 201:7,8 202:6,18,19 203:3,9 204:13,15 206:10,15 207:5 210:21,22 214:8 223:25 225:6

corrected
128:17

corrections
10:10

corresponds
131:10

counsel
10:19,23 24:14 27:15 28:2,6 32:19

countless
213:22

couple
9:21 14:9

court
8:17 10:10 13:5,8 14:10,20 18:5,11 19:15 20:2,6,15,21 21:16,20 22:3 24:7,18 25:18 26:6,13 28:15 29:9 30:13,16 55:6 137:10 168:6,11,14 184:2,7,10 202:9,12 203:10,14

cover
113:21 114:1

covered
114:2

covering
114:5

crash
143:13 145:21 146:18 147:4,8,9,13 148:5 149:3,8,10 172:11 177:25 178:6,21,22,23

crashes
151:10 165:20 166:5, 10,12,19 170:3 171:4,5 172:2,18 178:7,18

crazy
102:18

create
68:1

criteria
111:23 185:9

critical
100:9 141:19

cruise
154:1 158:12

Curry
47:5,6,8 49:3 50:7 51:14 54:19,21 55:3,12 56:16,20,24 57:12 58:7 60:9 61:21,22 63:6,14 64:10,18 65:4,25 66:11, 13,18 70:18 71:2,7,11 79:7 88:16,19 89:2,8 91:17,21 93:20 94:4,23 95:2,7,12 102:15 115:17,18 116:2,5,9,14, 22 117:3,6,11,14 118:2, 3,8,10,16,19 119:3,6 120:5,12,13 121:2,4,12 122:23 123:3,9 124:15 125:2 126:10,17,19 127:25 128:4,7 173:3,6, 16,20 174:2,9 175:18, 21 176:2 182:20,24 183:12 184:12,15,25 185:4,14,15 186:23 189:20 192:11 193:23 194:2,22 196:2 197:11 198:24 199:4,6,16 202:4,16 203:1,8,16 206:3,14,17,23 207:3,8, 20,25 208:14,18 210:4, 5,6,11 211:1,3 212:3,4, 9 213:4,11,18 214:6,10, 12 218:1,2 219:5 220:4, 7,14 221:11,21,22,23 225:2,4,19 227:6

Curry's
61:6 62:9,13,19 63:20 64:3,4 66:5 71:19 183:6 191:20 206:14

CV
16:25 17:2

D

dash
179:9 180:5

dashcams
178:25 179:1,2,8,23,24 180:3

data
43:2 52:7 54:8,25 56:23,24 57:4,7,16 58:10,14 59:17 62:5,6, 14,25 63:21 64:19,24 65:11 66:1,4,14 70:20, 25 71:14 72:16,18,25 73:1,2,5,9,16,18 74:1,3, 4,9,14,22,23 75:15,17, 23,25 76:10,12,17,18, 19,20,23,24 77:3,5,9, 12,15,17 78:10,12,15 79:23 80:4 81:9,12,17, 20,21 84:18 87:2 94:16 100:6 104:1 108:13 109:19,23 110:4 115:23 116:1,19 127:9,17 129:3,8,9,16 130:2 132:4,6,7,8 135:19 138:10 141:14,18 142:14,23 143:1,2,9,11, 12,15,16,18 144:5,7,11, 14,20 145:24 146:17,25 147:3,6,8,9,12,13 148:4,5 149:2,5,7,8,12, 13,24 169:7,10,17 171:10,11 172:10,18 177:17,20 178:5,23 179:4,10,13,21,24 183:16,17,18 184:4,6,9 186:1,8,9,10,19,20,23 187:1,2,4,12,13 189:14 190:7,18,25 191:1,7,8, 9,14,18,21,22 193:13, 14,23,24,25 194:3,5,7, 11,14,24 195:1,2,4,12, 14,16,17,20 196:15,18, 19,24 197:21 198:6,20 199:7,8,12,23 200:4,6 201:12,19 203:3 204:14,15 205:19,21 208:23 209:1,5,9,16,19 212:19 218:2,14 219:12 220:6 222:22 223:2,6,8, 9,13,14,15,16,21,23,24 224:1,9,21 225:1,5,7,8, 9,10,11,12,13,14,15,16, 20,22 226:1,4,11,14 227:1,3,4,13,19,22,24 228:16,18

database
138:11 187:6,8 207:22 208:4

databases
67:19 68:15 69:11 70:7 194:6,8

date
15:19 17:2

dates
141:20 180:9

day
11:17 157:4 229:1

DAYLIGHT
6:2

death
214:10

deaths
213:23

deceleration
184:21 185:7,10 188:14 189:7 198:15 200:11 201:24

decided
28:2 70:8

decision
95:19 96:15

declaration
15:25 16:7,9,13 18:10, 13 21:2,6,13 22:16 23:13 25:17,24 30:14 34:3 37:15 43:4,18 44:5 61:2,17 71:24 73:12 79:14 85:3 87:10 88:14 92:7,10,18,24 98:10 101:16 125:19 129:7 140:24 154:24 155:1 163:21 204:21 220:11

declarations
12:4 26:18 27:4

decreased
188:10 189:3 198:12 200:7 201:5,21 210:20

deemed
19:18 24:10

defeat
113:5,9,11

Defendants
14:25 33:21 46:23 145:4 152:18,19

define
85:14 86:10 91:9 93:14 106:8

defined
86:6,9,15 88:20

defines
96:1 203:16

defining
105:9

definite
168:3

definition
19:19 24:11 53:9 86:21 92:12 114:21 173:14

degree
179:3

departure
154:2

depend
76:14,21 78:13 130:23 173:11 217:21

dependence
83:25

dependent
114:13 228:2,6

depending
8:21 77:25 104:6 130:5 132:4 176:4,5 217:20 224:23

depends
39:16 40:2 60:20 90:10

depicting
119:11

deploy
165:20 166:19

deployment
133:19

deposed
14:12

deposition
7:12 10:3 11:25 12:7,11 13:1 14:3 82:6 93:12 229:14

derive
54:10 57:9,17 58:15 78:7 132:9,10,12 133:24

derived
52:6 72:17 73:4 129:2 131:18 133:12,15,19 134:1 138:22 139:1 184:5,6,7 221:1

describe
102:9

describing
162:1

description
71:6 149:24

designed
143:22 144:2 207:3

detailed
148:14,18

details
147:11 148:2 185:22 212:24

details...i'm
147:23

detect
10:12 100:19 107:25 108:2 132:21 178:7 218:17

detect[ing
164:25

detected
109:24 110:4 121:21

detecting
61:12 62:1 107:22 163:10 164:17 165:19 166:5,18 178:18 183:4

detection
164:1

detects
165:4

determination
95:25 185:1 200:15

determine
40:10 44:23 45:6,23 59:14,15 60:1 78:2 84:16 86:25 94:14,24 95:2 102:1,4 108:11 115:6 116:17 117:9 124:15 125:2 128:1,8 134:6,10 140:19 146:17 171:14 176:21 177:10, 24 195:21 196:24 199:12 215:9 216:21 219:24

determine...sorry
94:11

determined
107:19 203:7

determines
196:9

determining
51:6 60:3,5 110:10 128:5 149:3 170:20 172:19 205:19 220:5

developed
148:16

developing
147:5

developments
158:25 160:22 161:22

device
45:8,10,15,19,21 48:19, 24,25 49:1 59:20 62:25 63:2,4,6,10 65:25 68:5, 8,16,17 69:13,15,17 80:24 83:21,24 84:21 85:12 88:5 90:25 91:1, 14 93:8 94:19 95:9 96:4,20 97:3,4,21 98:2 107:20 108:16 109:12, 15 116:10,15 117:4 118:4 127:4 139:2 148:8,22 172:25 173:17 175:1 180:21 186:14,16 196:10,11 197:21 198:3,20,23 199:22 200:1 201:11,16 202:17 203:8,19 204:1,11 205:14 206:4,18 208:9 216:2 220:24 224:13, 19,22 225:4 227:16 228:19

device's
68:10

devices
64:18 65:10 87:25 167:13 222:17 225:2

dialed
14:10

dialed-in
13:24

dials
124:7

difference
61:19 149:1 229:10

difficult
144:8

digital
79:1 80:13 81:12,13

digits
81:22

directed
42:13,14,24,25 43:10 159:12 172:24 210:8

direction
27:15

directions
42:8

directly
26:1,4 89:5 121:1 138:24

disable
83:22

disagree
68:24 96:10 97:9 114:8 117:22 148:20,23 176:14

disagreement
148:25

disclose
50:17 51:16,18,23 54:1, 3 57:15 60:2,5 63:9 66:13 70:18 86:1,5 88:19,21,25 89:2,10 91:13,17,21 94:23 123:11 164:1,3 172:22 181:1,4 208:14 213:4

disclosed
55:3 56:24 57:12 58:7, 22 60:10,15 64:18 65:25 71:2 95:12 130:3 132:16 173:20 175:21 191:20 193:12,22 194:2,23 199:16 201:5 203:18 212:4

discloses
49:3 50:18 52:19,20,22 54:19,21 55:12 57:7 66:11,18 71:11 81:4 88:16 89:8 115:18 116:2,5,9,15,16,22 117:3,6,12,14 118:3,4, 8,10 120:4 127:25 173:6,16 175:18 180:16 184:25 185:4 192:6 199:5,7 203:20 206:3, 18,24 210:4,7 214:12 218:2 220:5 225:4

disclosing
117:17 163:18

disclosure
195:6,14 215:15 216:1

discuss
163:21 166:1

discussed
110:13 163:5 185:11 193:8 211:12 213:1

discusses
162:20

discussing
83:6 110:15 126:25

discussion
21:10,11 31:22,24 39:1 107:17 158:17 162:10 166:12 177:23 185:15

discussions
35:8

disputed
222:14

distinct
72:16 73:8,15

distinction
32:15 74:8 136:25 137:1 227:12

distracted
135:5,11,13,21,23 136:7 137:2,15 139:17, 22 140:7,15,18 213:5

distraction
140:20

district
13:5,8 14:9 18:5,11 19:15 20:2,15,21 21:15, 19 22:3 24:7,18 25:18 26:6,13 28:15 29:9 30:12,16

divert
83:23

divided
71:20

divides
71:7

document
15:6 145:13 146:9 147:19 149:2,16,19 151:21 153:18 177:22

documentation
150:6

documented
174:15

documents
12:3 15:19 20:7 23:20, 22,23 117:2 150:17,23

Doppler
134:1,4,23

double
47:13

doubt
48:25 148:8

download
168:1,4,9 176:16,18

downloaded
45:16 109:13 116:2,5

drive
137:2

Drive-free
203:10

driven
43:13 54:13 57:10,18 58:16 72:21 74:12,13, 15,21,22,24 75:12,14, 18,24 76:1,11 90:7 96:25 97:16,25 98:20 99:4,16 137:14 138:1 139:24 216:15

driver
102:3 137:2,5,14,17 138:15 139:4,7,9,11,13, 23 140:2 176:21 186:11 187:11,20 188:9 189:2 191:10,13,18 192:15 194:4 198:10 200:13, 19,22 201:4,19

drivers
214:18 220:1

drives
137:6

driveway
99:8 100:13 103:4,8,21 104:19

driving
19:17,21 24:9,25 30:11, 19,24 31:10 43:11 44:18 46:17 50:17 51:7, 9,17,18 52:3,5,6,20 53:2,7,8,9,15,17 54:10, 11 57:8,9,17 58:14,15 59:19 61:11,12,25 62:1 67:22 69:16 72:4,8,15 73:19,23 74:1,4,9,15,22 75:1,15 76:18,19 77:3, 12,24 78:3,8 80:4 83:6, 10,25 84:1,5,9,20 85:15 86:10,11,22 87:3,18,19, 22 88:2,20,22,25 89:11 90:18 91:9 94:18,24 95:4,5,6 96:2,19,23,25 97:3,11,13,20,23 98:5, 7,17 99:2,12,19,21,22 100:8,9,15,19,23 101:4, 5,7,24 102:8,9,18,19,23 103:16 104:13,21 105:1,4,6,10,13,19 106:2,8,15 107:1,15,18 108:2,15,22,24 109:16 110:5,8,9,10,16,24 111:1,5,11,16,20,25 112:12,14,21 113:13,21 114:1,7,18,19 119:11 127:19 128:2,8,25 129:1 131:18 132:9,11, 12,21 133:12,21 135:5, 6,11,14,19,21,23,25 136:1,3,4,7,11,16,19, 21,23 137:16,18,19,25 138:13,18,20,22 139:1, 10,12,13,17,22 140:8, 13,15,18 162:12,16 163:10,11,13,18 164:18,23 165:5,9 166:1 169:3,6,7 180:9 183:3,5 184:20 185:1,6 188:11 189:4 191:14 192:7,22 193:5,15,25 195:10 196:11 198:12 200:8,16 201:6,21 202:7,13,18 203:8,9,12, 20 204:8,12 205:18 206:4,8,9,12,20 207:4, 9,10,23 209:8,18 210:9, 15,17,21,24,25 211:1,5, 7,8,9,10,14,16 213:5,6 214:7,11,22 215:17 216:4,8,9,19,25 217:11 219:8,12 221:1 228:12

driving...these
97:10

duly
6:6

dumped
78:19

dynamic
203:24

dynamics
145:19 153:25

E

e.g
101:21 154:4

earlier
24:17 28:8 70:16 71:6 79:19,20 168:25 191:5 211:13 214:14 217:25 218:1 221:5

easier
47:21

EASTERN
6:2

economics
159:24

EDR
144:5,20 147:7,8,14 148:7 149:5,13,25 150:18,20 169:5,7,9,17 170:2,5 172:10 177:13, 14,20 178:2,4,19,22

EDR's
144:14

EDRS
141:15 143:14,20,25 144:2 145:11,12,17 146:24,25 149:21 151:12,17 168:25 169:10 172:1,12 177:16

effect
114:3 134:2,4,6,23 195:7

elaborate
92:16

electronic
170:5,11

electronically
92:13 93:5,9,18

element
56:22 115:20 220:19,23 226:21

elements
36:15 37:6,25 38:2,7, 12,16 220:19

eliminate
211:4

embedded
218:15

embodied
222:24

embodiment
218:9

embodiments
212:5,16,23

emergency
165:22 166:21

enable
69:11,25 186:11 191:10

enabled
56:21

enabling
105:12 213:24

end
99:25 144:18 166:24 187:15 188:5,25

ending
32:24

ends
100:8 212:18

engineering
70:9

ensure
146:19

entire
87:17,19 99:3 102:9 205:17

entirety
84:12 99:18

enumerates
129:20

environment
205:17

equipped
48:5

escaping
13:12,14

essentially
36:13 37:3 42:24 73:17 97:24 99:20 134:6 150:2,15 151:6 156:15 180:4

estimate
62:14,18 127:18

estimation
209:6,17

evaluation
61:8,23 64:14 65:2 66:15 70:20 71:1 182:25 192:16 219:9,16

event
102:2 141:14,18 142:18,25 143:10 216:21 217:1

events
103:17,20,24 104:2 112:21 132:21

evidence
29:24 40:23 55:9 57:21 161:17 171:13 221:11

EXAMINATION
6:8

examined
6:6

examines
160:21

examining
221:11

examples
83:9 84:5 100:14,17 101:6 105:15 122:1,10, 16,17 165:8 183:10

exceeding
105:14,20 107:2

exclude
223:8

excluded
100:15,23,25 101:7

exclusions
102:10

exclusive
218:11

excuse
67:9 151:13 222:4

excused
229:12

executable
222:2,11

executed
83:19

exhaustive
35:3

Exhibit
14:21,22,25 15:2 17:6 33:18,21 34:5 41:5,6,14 42:19 44:1 46:20,23 50:7 71:22 83:14 84:24 85:4 95:15,18 98:10 104:10 138:5 144:24 145:2,4 152:9,18,20,21 153:21 154:18,20,22,24 155:11,15 164:6

exist
156:17 178:25

existed
167:19,22 179:1

exists
196:23

expect
8:22

expectation
39:1,14 40:12,18,25

experience
148:12 155:22

expert
14:17 21:20 26:6 37:11, 14,18 63:24 64:21,22 79:13 158:10 159:23 169:24 170:25 173:21 176:1 214:22 215:1 226:1,8,17

expertise
148:5

explanation
108:21,24 114:18

explicit
129:18

explicitly
54:1,3

express
95:13

expressed
171:20 197:13

expressly
96:1

extent
8:23 10:8,12 22:11 28:6,21 30:2 31:12 39:6 71:7 78:13 89:1 93:14 95:24 102:13 109:5 114:17 134:5 158:6 160:2,3 173:16 175:4 208:6 210:4 212:2 221:16

external
143:21

extreme
113:14

eye
140:2,6,17

F

fact
22:24 25:3 36:3 51:7 53:14 58:25 64:3 116:14 137:15 140:20 144:21 161:3 212:22 224:7

factor
31:24 215:3 217:3,19

factors
171:5 214:15

facts
23:6 29:24 57:20

fair
9:9,10,17 11:20,21,23 23:3 27:2,18 38:5 49:2 99:20

fairly
33:14 90:7 129:18 158:22 159:14,15 172:25

familiar
148:15

faster
113:21

fault
170:4 171:14 172:19

February
15:14 21:14

federal
19:14 20:2 24:6

feel
64:25 161:9

field
150:5,11,12,13,14 151:1,3 155:22 156:19 159:6 160:4 215:12

FIG
67:6,17 68:5 119:10

figure
30:17 127:2 129:21 130:11,12 183:11 186:22 191:18 194:17 195:12 207:14

figures
130:4

filed
43:17

final
111:18

find
221:11

finding
92:10

fine
9:23 10:1 29:15 41:20 126:15 182:12

finish
32:25 95:5

firmware
68:1

five-
49:22 114:24

flow
119:10

focus
132:19,24 164:24 198:24

follow-up
80:5,6

footage
216:14

Ford's
160:16

form
77:2 91:24 94:2 120:9 181:1,4 195:3 209:14 217:16 222:25 228:7

format
78:20

formed
226:17

forming
93:25

forms
37:14 165:13

forward
196:1

found
36:15 37:8 38:7,17

foundation
135:9

frame
49:1,12

frankly
30:9

from...edr
146:17

front
180:6

full
11:10,14 95:21 165:12 192:14 213:19

fun
47:19

function
49:10 148:17 198:23

functional
149:1

functionality
68:2 179:3 181:9 199:1 207:18 208:10

Functionally
147:20

functions
164:16

G

gather
172:1,18 198:19

gathered
172:13 178:20,23

gathering
170:6

gave
97:19 108:22,24 114:18

gear
106:6

gee
157:5

general
27:5 28:9 45:12,20 59:8 65:22 69:6 76:16 77:24 171:19 180:8 214:16 223:7 225:17

generally
25:16,21 35:11,24 36:1 42:14,20 51:14 79:9 94:5 103:20,24 138:1 150:5,25 156:11 160:4 163:3 167:19 170:4 179:8 180:19 214:20 218:5 226:13

generate
149:7

generated
109:18,22 149:8

geo-fence
99:9 100:13 103:5

geofence
103:14,21,22 105:24 107:9 111:6,12,22 112:9

Gerry
152:12,13

give
6:14 7:10,19 8:2,24 11:10,14 18:15,22 66:21 139:25 204:18 226:24

GM
147:11

GM's
148:21

goal
100:21 211:3

goals
39:19 40:6,18 101:23 215:8

good
6:10,22 82:2 101:22 152:1 159:15 229:1

GPS
48:3 56:19,21 76:10,17, 19,20 77:15,17,18,19 78:11,12,17,19 80:18 131:5 143:21 203:3,16 204:9,14 218:7,12

GPS-ENABLED
48:9

great
6:18 11:8 16:21 47:11

Greg
12:13,16,19

ground
7:14

guardians
192:3

guess
17:18,22 30:6 36:23 40:19 56:2 71:9 76:4,5 79:18 81:2 86:18 87:7,8 90:9,16 93:14 97:9 113:11 126:22 137:23 138:2 140:11 144:12 150:3,11 151:1 159:9 177:7 182:6 189:23

guy
87:21

H

half
13:25 112:8 116:20 229:7

half-hour
13:9,22

hand
152:17

handed
145:3

handheld
213:13

handing
14:19,24 33:20 46:22 95:17 145:1

handling
203:24

handy
17:8 41:6

hang
32:1

happened
20:15 27:24 29:5 32:4

hard
25:9 57:25 100:18 137:12,13

hard-brake
137:7,11

hardware
172:23 173:9,13 176:1 180:14

have...starting
221:24

head
29:17 38:14 76:15 90:15,20 91:20 101:14 121:6 135:19 136:5 144:17 163:16 175:5 194:12 196:21 202:1 212:17

headings
212:22

hear
11:19 32:20 134:9

heard
32:19

hearing
20:12 24:18,23 25:14 27:21,25 29:19 30:12, 22 31:19,23 32:5,9 33:16

hearings
30:5

helping
146:18

helps
155:7 191:4

here...or
195:5

high
147:21 148:15

high-end
156:2

high-level
149:23

Highway
22:20 145:10

hired
37:17

hit
137:12

hitting
137:13

hold
59:25 108:23,25 128:15

honest
87:9

honking
132:25 165:2

Hoover
6:24

horns
132:25

horse
32:22

hot
156:19

hour
9:20 13:25 49:17,19 105:8 110:19,23,25 111:2,10,13,18 112:2, 10 113:1,22 114:4,23 229:7

hours
9:21 14:4,8

hypothetical
113:3,17 144:6

hypothetically
50:22,24 90:9 113:20 119:1

hypotheticals
59:10

I

I'VE...ATTORNEYS
27:5

i.e.
123:1 194:23

idea
180:13

identical
16:12,19 43:18 109:4

identification
14:23 33:19 46:21 79:13 95:16 144:25 152:22 154:19 164:7

identified
63:23 64:22 65:3 110:12 129:25 154:17 155:24 159:22 162:4 169:23 173:3 175:25 176:2 185:8 192:1 204:7 214:25 222:22

identifies
130:16 131:8 154:15

identify
95:2 133:11 154:22

ignition
106:3,11 177:10

illustrated
67:6,17 68:5 222:23

illustrates
119:10

image
55:3,19 56:4 57:4 81:4, 10,12,13,15 131:5,12, 25 180:21 182:2

imagine
107:21

immediately
205:22

impact
211:15

impair
11:10

implement
175:9,21 176:6,8 181:7

implementation
104:17 173:19

implementations
104:7

implemented
64:13 173:17 207:20 208:1

implementing
65:20

implicates
136:7

implications
136:2,20

implies
213:12

imply
157:1

implying
156:13

important
8:14,16 31:9 100:5,20 102:10 103:18 104:2 160:22 161:22,25 162:1 205:20,21

in-depth
21:11

in-vehicle
178:17

in...sorry
41:9

inadequacy
63:19

incidences
26:24

incident
61:13 62:1 141:25 142:4,12 162:16 183:5

incidental
21:10

incidents
162:13 163:10,11,14,18 164:18,24 165:5,9 166:1

include
23:5 30:21 53:22 63:1 100:19 101:24 130:7,20 139:17 153:10,23 156:13 160:12 161:10 162:16 164:23 199:18 228:21

included
23:16 100:25 130:8 178:17

includes
130:19 138:11

including
67:7,18

incoming
83:23 121:24 122:14 124:3

incorporate
114:16

incorporated
167:11,12

independent
114:12,16

indicating
27:15 209:16

indication
93:21 224:7

indicative
135:21

individual
131:22

industry
150:17 151:6 156:15 159:8,10,16,23 163:24

influence
211:14

inform
10:10,15 20:14 113:25

information
23:15 25:5,10,13 28:1,5 30:21 43:11 44:18 46:17 49:5,9,13 50:11, 17 51:7,9,17,19,21 52:3,5,6,20 53:2,8,10, 16,17 54:11 57:9,17 58:15 68:9 72:4,8,15 73:19,23 74:2,5,9,15 75:1 76:18,19 77:14,21, 24 78:2,4,8 83:7,10 84:1,6,10 101:25 109:6 118:11 128:25 129:2 131:18 132:4,9,11,12 133:12,22 135:6,14,25 136:1,3,4,8,11,16,19, 21,23 137:14,17,18,25 138:13,19,22 139:1,10, 12,18 141:22 142:12 150:2,10 169:3,6,8 170:6,7 172:2,13 178:20 198:4,5 200:2,3 201:17,18 203:2 204:8 211:9,10,15,16 215:17 216:5,8,9,19 221:1 228:12

informed
20:4,18 24:13,16,22 27:19 28:6 29:20 30:3, 15 31:14 33:7,8 36:8 46:13

infrastructure
134:3

infringement
21:2,8,12,18,24 22:1,12 36:18,24 37:18,20,21 38:12

infringes
38:1

inherent
54:3

initial
192:21

initialization
109:17,21

initialized
112:1 197:6,7

initiating
120:24

innovation
178:9

input
109:18,22 115:23 116:1 118:11 120:11 143:20 212:19

inputs
44:24 59:16 84:17 86:25 94:15 108:12 115:7,12 116:18,20 117:10,15,20,22,24 118:9,17 119:1 122:9 143:22 185:18

inputs...vehicle
145:21

insinuations
31:13

installation
216:2

instance
145:17

instinctive
57:23

institution
95:19 96:15

instruction
222:12

instructions
222:13

instructs
11:3

insurance
102:5,10,22 103:18,25 113:20,25 114:3 169:10,17,24 170:7,14, 24 171:3,15,16,21,23 172:4,5,9,13,15,17 192:3,6 193:3 194:16 195:4 205:24 214:2 219:24,25 220:6

insure
172:10

insured
170:16

insurer
99:21

insuring
114:4

integrated
144:9

Intellectual
47:3

interact
111:15 120:4 146:24

interacting
122:22,25 123:2,9

interaction
17:14,24

interest
75:1 172:3

interested
31:18 170:7,14,17 172:10

interesting
27:16 47:15 133:1 157:4

interface
59:17 84:18 87:1 94:16 108:13 115:8,13,20,22, 24,25 116:18,21 117:11,16 118:9,12,18 119:2 120:12,21 121:4, 12 175:11

interfacing
121:1,2,10

internal
143:24

internally
78:15

International
47:4

internet
23:1,18

interpretation
84:11

interpreted
81:15

invalidate
85:25 91:13

invalidity
21:19 22:2,4,6 36:6

invention
85:18 87:16 91:10 101:23 105:12 167:20 174:6 175:22 176:8 202:3 210:11 212:6,24 215:13

inventions
205:7

inventor
47:5

investigation
23:8,12

involve
41:12

involved
18:9 26:1,4,5,14 209:21

involves
26:17

involving
19:16 24:8

iphone
48:5,13 49:3,5,10 50:8, 18 51:9,20 52:21 53:11, 13 54:20,21,24 55:2,13, 16,18,21 56:10,13,18, 20,23 57:3,4,5,11 58:7 63:20,24 64:1,12,22,23 65:1 66:9 115:18,21,25

116:16 117:7,22 118:3, 5,18 119:2 173:6,8,16, 19 174:2,10,23 175:19, 20,23 176:2,5,7

iphones
173:21

IPR
16:8,13,15,20 21:1 26:18 43:18 73:13

IPRS
18:1 26:22 34:12 41:9

IPR~2023-00911
16:11

irrelevant
161:3,16

is...exhibit
164:8

is...i
185:14

is...the
102:9

is...what
179:13

issue
12:5 30:12 38:19 41:8 43:22 94:1 113:19 160:8

issued
41:10

issues
51:4

it's...it
46:12

It's...the
174:1

it's...when
86:8

Item
195:12

items
100:14

J

January
16:1

judge
24:23 29:22 30:2,21

judged
39:21

Just...curry
202:22

K

keeping
65:17

Kenneth
6:24

key
61:19,20 159:13 160:23 177:9,10

kind
29:20 32:21 47:13 134:23 141:22 168:6 172:22 225:8,12,14

knowing
29:1

knowledge
37:13 49:4 60:16 148:18 151:15,20 155:21 169:16 172:21 214:21

L

lacking
61:21

lane
154:1

language
85:9,16 87:13

largely
27:14

lat-long
77:20 78:6

late
222:8

latitude-longitude
77:23 78:1,11,18

law
150:24

lawyer
34:10 37:22

laypeople
150:3

lead
36:2

leading
217:3

leave
74:7 81:3 103:14 167:2 200:25 224:17

leaves
103:16

leaving
99:8 100:13 103:5 105:23 107:9

legal
34:11,14,16,20,23,25 35:3,9,19 37:22 38:18 46:9

legislation
213:14

lengthy
58:2

let's...the
190:24

level
146:19 147:21 148:14, 15 175:9 176:4,5

light
60:15 62:7 201:2

lighter
179:20

likewise
181:13 187:5

limit
98:5 107:3

limitation
44:15,16,25 46:8,16 50:19 51:1,2,3,23 52:23,25 53:16,20,24 57:15 58:2,22 60:10 61:20 64:17 65:9,24 85:23 86:1,14,19 87:5 88:4,6,8,17 89:2,3,17 90:23 91:2,10,17 93:7, 16 94:23 96:1,18 104:13 108:9 116:22 117:18

limitations
44:12 45:7 60:6 64:2 65:14,19,22 85:17 87:15,24 88:12,14 89:9 95:11 98:2 103:19 104:6 225:18

limited
130:3

limiting
214:11 224:12

limits
111:19 202:3

lines
21:11 23:4 92:12 184:16 215:14

link
22:18,25

links
209:4

Lisa
12:10

Lissi
12:10,23

list
35:3 130:9,10 153:20 155:13 156:7

listed
12:22 36:5 123:15 157:20 175:3,4 181:25

listening
134:3

lists
84:5

literature
23:21

litigation
13:5,8 14:10 17:16,17, 25 21:20 26:6

litigations
21:16

lives
214:19

LLC
7:6

located
67:21 186:23 187:6

locating
69:9

location
67:25 70:6 80:19 83:9 84:3,5,9 198:4 200:2 201:17

locations
149:4

lock
177:9

log
216:4

logged
171:10,11

logger
169:7

logging
43:11 138:10 169:3,6 215:17

long
100:5 166:3

long-term
143:11

longer
228:3

looked
23:14 60:9,14

loosely
226:2

lot
26:25 27:9,12 31:6 58:3 150:1,7,9 157:2 158:25 159:5 171:23 172:7 214:19

lots
63:5

lower
119:7 184:16 186:4 196:3

lunch
9:21 82:1,5,7 83:7

M

made
121:24 122:4 124:2 129:6 197:23 199:9,25 200:15 201:14 207:12

magazines
23:17

main
89:10 160:20 210:10,25

major
159:13 160:22 161:22

make
9:15 16:16 33:3 39:11 54:4 57:25 126:5 134:18 163:4 209:24 229:10

makes
47:14 124:7 149:1 182:24

making
102:12 123:1 153:18 207:4 208:11

managing
193:3 199:2

mandated
157:22

manner
94:4

manufacturer
159:19 161:8,9

MARCH
6:1

mark
14:20

marked
14:23,25 33:19,21 46:21,23 95:16,17 144:25 145:1,4 152:22 154:19 164:7

Markman
25:23 26:7,20,21 27:1, 20,25 28:16,23 29:8,18 30:12,18,22 31:3,6,17, 19,23 32:5,8 33:14

material
18:11

matter
15:7 18:9 20:22 25:15, 25 26:11,14,16 224:24

matters
26:2,10 34:17

mature
158:22

meaning
19:23 25:5 29:7 30:20 31:11,20 33:8 96:25 97:14,24 98:8

means
7:18 36:21,24 39:6 73:17 74:20 75:10,22 85:24 92:19 168:20 170:5 178:3

meant
38:23 163:3 168:18 174:16 205:9

media
199:19

medical
146:20

medium
226:12

meet
12:6,9,25 46:7,15 53:16,19 93:6 101:22 102:21 174:23,24

meeting
12:17 13:24

meets
115:19 226:23

memory
33:6 44:19 46:18 49:6, 9,14 50:12 51:10 52:3,5 53:3,13,15,18 65:15 68:18 129:1 143:11 174:3,11,13 175:12 176:3 178:21,24 221:2 222:17 224:2 228:13

mention
99:10 141:14 158:16

mentioned
18:3 31:16 37:10 56:25 131:4 142:11 202:7

mentioning
158:3

mentions
148:10 166:4,14

mere
60:18

met
12:10 13:8,21 59:10 86:19 92:25 228:15

method
210:14 220:5

methods
43:10 215:16

Michalson
152:14 153:8 154:25 156:12 157:1 160:8,10 161:4,7,13 162:25 163:5,8,20 164:14 165:2

Michalson's
141:5 155:5 162:10

microphone
56:1,5,9,11 57:5 107:25

middle
101:17 219:6

miles
105:8 110:19,23,25 111:2,10,13,17 112:2, 10,25 113:22 114:4

milliseconds
142:6 143:12

mind
31:9 98:8

minimum
132:8

minor
103:24

minute
23:25

minutes
9:24 49:20 102:19 211:21

mischaracterize
194:20

missed
56:3

missing
103:17

misstate
24:3

mistaking
161:4

mobile
43:1 45:8,10,14,19,21 48:7,15,18 49:1 59:20 61:6 62:13,19,25 63:2, 4,6,10,17,25 64:4,18 65:24 67:23 68:4,8,10, 16 69:12,15,17 80:24 83:21,24 84:21 85:11 87:24 88:5 90:25 91:1, 14 93:8 94:19 95:9 96:4,20 97:4 98:2 106:12 107:19 108:16 109:11,15 116:10,15 117:4 118:4 119:13,17 121:19 123:18 127:4 129:10,12 139:2 167:13 168:1,4,17,19,21 172:24,25 173:17 175:1 176:16,18 178:12 184:19 185:5 186:24 187:6,9 191:17 193:24 194:25 202:17 203:8,19 206:3 209:3,7,18 214:1 216:1 218:10,18 220:24 224:2,13,18,21 225:4 228:19

mobile...client
67:16

mobile...client...is
67:5

mode
119:18 123:19 125:10 127:12,15 128:5 195:25 196:6,8,22 202:7,11,12, 14,23,25 203:9,11,13, 17,21 204:2,3,12 208:4 209:5,13,17 218:7,12, 13

modes
203:16,18 218:11

modify
102:3

module
56:18 71:5,16 121:3,11 127:13,16 131:1,6,14 132:1 180:21 181:14 192:16 196:23 197:1 199:11 200:14,19,23 202:21,25 203:25 219:9,16 222:1,10

modules
66:19 67:8,18 68:14 69:3,10 70:7 71:2,8,15, 21 222:24

Mohan
164:9,23 165:4,6 166:1, 7,11,14 202:10

Mohan's
164:14 166:10

money
213:25 214:19

monitor
102:22 140:2,18 143:17

monitoring
68:3 102:8,14 119:12, 18 122:5 123:3,19 125:10 139:22 140:7 178:17 195:11 214:18

monitoring/ navigation
218:12

monitors
101:20 139:16 140:6

month
192:8

months
31:5

morning
6:10,22

motion
119:18 121:20 123:19 183:17 186:8,15,19,23 187:1,2,12 190:25 191:7,21 193:14,23 194:3,24 195:1,16 196:19 197:12 208:23 209:1,4,16

motion-recording
120:20 122:11,13 124:8,14 125:1 127:5,8, 24

motivate
39:10

motivation
39:8

motorized
213:22

mounted
107:24 179:9

move
178:10

moving
144:19

multiple
32:17 39:7 41:8,9 44:12 138:12

mute
18:21

mutually
218:11

N

narrows
110:16

National
22:20 145:10

navigation
153:24 156:8 203:17

necessarily
51:11 53:16,19 59:10 69:2,5 73:18,20,22,24 92:19 118:23,24 139:6, 17,23 140:15,16 151:3 156:20 197:9 200:17 205:9 207:19 223:22

needed
68:19 156:15,23,24 159:11 176:6

negate
129:15

network
67:24 68:10

NHTSA
22:25 147:19,23 148:1 149:16,18,20,24 150:6, 9,16,25 151:12 177:22

NHTSA.GOV
22:18

nice
157:5,19

nice-to-haves
159:5 160:1,4

nicely
102:20

Nick
13:17,20

No.~wo
47:5

nods
38:14 196:21 202:1

Noel
7:11 18:20 42:18

noise
107:16 187:17

Nokia
48:7,15,25

nomenclature
71:20

nonobviousness
41:2

nor...michalson
167:7

not...it's
65:6

note
69:23

notice
15:18

noticed
22:15

notification
146:6,11 151:14 162:20 164:2,4

notification...system.
146:2

notify
165:21 166:20

Now...so
131:4

number
23:14 32:9 47:14,23 51:4 66:25 77:11 80:2 101:1 106:6 108:1

119:7 124:7 142:7,9 149:22 171:4 184:16 186:4 196:2,3 205:1 219:7

numbers
66:22

numerous
72:11

O

oath
7:16

object
10:24

objecting
58:24

objection
18:7 27:22 29:23 32:1,3 36:20 50:25 51:25 52:24 55:4 57:1,19 58:23 60:11 61:18 63:22 64:20 65:12 71:3, 17 79:5,11 91:18 92:4 93:11,23 96:12 97:6 101:9 113:2,16 116:23 117:13 118:14 120:6 124:12,19 125:5 135:15 137:21 138:21 159:21 160:19 161:12 169:12, 18,21 170:22 172:6,16 173:23 175:24 176:23 177:18 179:5,16 180:1 197:3 206:5 211:2,11 213:9 214:24

objective
214:6

objectives
215:8,11

obvious
36:2,4 39:12,20 40:7 65:6 94:3 194:13 197:14 220:18

obviousness
35:22 36:1 39:6

occur
29:25 37:20 79:4 80:17, 18,22 104:2

occurred
27:20 172:11 177:25

occurring
103:20

of...invention.
167:15

of...some
72:24

offboard
228:22

offering
34:16

offhand
12:24 26:23 35:7 101:12,13 116:6 213:16

omitted
101:3

on-the-side
199:1

ongoing
143:3,4

Onstar
147:11,14 148:10,12, 19,21

onwards
176:13 212:5

open
103:16 224:17

operate
68:20

operating
65:16 113:14

operational
222:21 223:6,8,13,23 225:11,13,15,22

opine
90:3,19 91:22 111:14 113:4 132:18 134:13 135:17 136:10 144:16 151:18 169:25 171:1 173:10,25 179:7 212:14 213:12 217:16 219:1 225:25

opined
89:4 112:17 113:19 121:6 122:7 125:8 179:18 209:20 217:5 227:7

opining
185:22 194:10

opinion
52:17 57:3 62:19 63:8, 11 64:15 65:5 66:8,13 70:17 88:15,19,24 89:8 93:13 94:22 95:8,10,13 98:15 104:4 113:6 120:9,10 130:2,20,25 132:3 135:4 136:16 157:3 158:5,10 174:25 175:14,17 176:9 195:3 197:13 200:18,19 212:20 215:2 217:16 220:14 221:9 226:17 228:7,17

opinions
23:15,19 30:3 34:11,17 90:6 91:24 94:1,2 171:20,23 226:21 227:5 228:8

order
18:4 25:4,19 30:19 31:3,17,19 33:14 46:7, 14 85:24 91:12 93:6 97:2 134:22 179:25 181:7 200:13 201:4 207:18 208:16

orders
31:6

ordinary
19:23 25:4 29:7 30:20 31:11,20 33:7 96:25 97:14,23 98:8

organization
47:4 149:20 151:1

organized
222:25 223:14 224:9

orient
91:3

outgoing
121:23 122:3,14 123:1, 15 124:2

outline
34:23

outlined
40:19

output
77:18,19 78:21 80:7

outputs
78:11

Overview
167:10

owned
23:16 48:24

owner
214:1

P

p.m.
82:7 83:2 115:1 152:4 182:14 211:24 229:14

packaging
226:11

pages
16:23

page~5
221:18

pair
77:23

pairs
78:6

paper
160:21 161:4 166:11

paragraph
16:18 19:2,3,11 22:16 23:24 34:6 35:10,13 38:25 43:3 61:1,5 66:20 70:5 72:13 73:5,9,12 84:8 85:4 87:10 95:21 98:9,11 101:15 103:1 123:16 125:9,19,20,24, 25 126:4,7 127:1 138:6 140:25 145:14,15 146:10 152:8 153:6,21 154:21 155:2,4,14,15, 18,19 162:8,9 164:9 165:12 166:13 167:3,5 171:8 176:13 182:21 186:4 187:25 188:4,5, 25 191:6 192:14 193:18 202:3 203:22 204:20,25 205:3 208:22 213:19 214:17 220:10 221:25 222:9 224:6

paragraphs
34:22 126:17 176:13

paragraph~26
154:14

paragraph~54
98:24

parameters
142:2,8,10

parent
17:19 193:2

parenthetical
99:6 100:11

parents
192:3

parking
153:25 158:24,25

part
7:3 12:16,22,24 15:6 16:9,10 17:10 20:21 21:5 23:8 25:23 26:19 44:4 62:4 86:18 93:25 97:8 104:5 109:6 116:12 129:16 135:3 170:18 172:15 196:9 201:10

parties
21:16 192:1 195:6

partly
86:15

parts
126:21 128:6

party
193:19 194:11,14,16

pass
149:6 228:3

passed
112:19

passes
148:7

passing
147:13

patent
23:21 33:25 34:1,2 40:8,9,10,19,20 41:18 42:20 43:9,22 44:4 47:4 53:10 59:8 62:8 65:3 71:23,25 72:6 74:25 75:20 76:17 81:4,11 83:11,13 88:21 89:13, 14,17,22 90:14 92:1 94:12 100:2,21 101:5 104:9 108:8 111:9 113:6,10,12 114:1 115:4 128:21 129:9,18 131:3 132:16 133:14 172:22,24 173:17 174:15 175:2,22 180:15,16 181:3 185:17 198:24 215:8 225:19 228:11

patent...i
51:4

patents
12:4 17:11 18:9 19:17 24:9 26:17 33:10 41:8, 12,22 42:7,21 85:10 133:7 141:2,10,20 180:10,25 205:8 220:21

Pause
6:15 18:16,24 19:8 23:9 66:23 118:21 123:13 125:13,15 128:11 135:7 153:17 163:2 182:5 183:24 191:3 203:6 204:19,24 205:2 208:17,21 210:3 211:18 213:3 215:5,22 221:17

paying
137:8

payments
172:20

penalize
211:4

pending
19:10,14 24:6

people
13:7 150:5,7 172:18 211:4

perceived
100:10

percent
100:3,4

perfectly
87:9

perform
46:12 60:18 61:7 62:10, 20 63:3,5,7,12,16 64:4 65:1,4,7 66:9 148:16 207:18 208:10 219:10

performed
45:9,19 62:1 63:15 183:5 202:24

performing
63:20 65:25 66:19 200:23

period
19:18,21 24:10,25 30:11,19,24 31:10 54:10 57:8,17 58:15 59:19 83:25 84:20 85:15 86:10,11,22 87:4, 18,19,23 88:2,20,22,25 89:11 90:18 91:9 94:18, 24 95:4,5,6 96:2,3,19, 23,24 97:1,3,11,13,15, 20,23 98:5,6,7,17,18 99:2,3,12,19 100:8,9, 15,19,24 101:4,5,8 102:8,9 103:16 104:13 105:1,4,6,10,13,20 106:2,9,15 107:1,15,19 108:3,15,22,25 109:16 110:5,8,9,11,17,24 111:5,12,16,21,25 112:12,14,22 114:1,2,7, 18,19 192:24 202:4 228:18

periodicals
23:17

periods
99:7 100:12 101:2 103:3 104:3 197:22 199:23 201:12 205:18 228:3

permanent
142:22 143:2

permission
183:18 186:10 187:5,8, 13 191:1,9,22 193:14, 24 194:5,24 195:1 207:21,23 212:19

permissions
206:25 207:17 208:4,9

person
39:9 100:10 137:19 138:20 140:7 171:4 193:3 196:11 208:2,11

personal
155:21

perspective
37:24 159:10 173:2 178:14

pertaining
25:14

petition
60:8 126:14

petitioner
14:22 33:18 46:20 59:1 95:15 144:24 152:21 154:18 164:6

Petitioner's
95:23 152:19

Petitioners
167:6

phase
78:16

phone
43:1 48:23 49:10,14 50:11,12 55:22,25 61:6 62:2,9,13,19 63:17 64:4 67:23 72:19,23 77:2 102:16 106:12 107:16 119:13,17,20,25 120:5, 18,20,22 121:17,19 123:1,5,18,21 124:6,7, 16 125:3 127:25 129:10,13 139:7 168:20,21 172:25 174:23 176:16 178:12 184:19 185:5,19 186:24 187:6,9 191:17 193:24 194:25 196:16,23 197:9,15,22 198:21 199:3,8,13,17,18,24 201:13 202:5 203:19 207:4,5,11,14 208:11, 12 209:3,18 210:10,15, 17 211:1,5,6,8 213:6,14 214:1,7,11,13,22 216:25 217:11 218:3, 10,19 219:3 221:2,10, 12 224:2

phone...can
209:7

phones
48:6,7,15,17 63:25 64:1

167:14 214:19

phrase
39:14 86:17 190:14

physically
92:13 93:4,9,18

piece
36:12,13,15,16 37:2,4, 7,9 38:8 46:15 173:9,12

pieces
39:7,10 51:21

place
54:5 177:24 203:8,25

places
98:1 149:20 187:4

placing
68:14

plain
19:23 25:4 29:6 30:20 31:11,20 33:7 85:8 96:25 97:14,23 98:8

plan
9:19

plugged
179:20 180:6

point
14:9 27:6 28:10 31:15 60:23 72:5 89:10 92:15 101:1 102:12 105:6 125:7 133:2 135:1 147:18 156:12,16 159:18 160:20 185:16, 20 197:7 227:18 229:1

pointed
28:14,21 29:8,12,19 179:11 214:13

pointing
50:20 192:18

points
63:13 192:23

policies
210:7,9

policy
113:20 170:19 172:15 210:16

portable
205:14

portion
52:1 85:2 96:24 116:17, 22 117:9 120:4,15 121:7 201:9 219:6

POSITA
39:8 40:16 98:16 99:18 100:18 104:4 105:5 118:16 193:1

position
58:25 85:21

positioning
56:18 131:14 132:1 180:21 181:14

positive
33:14

possibility
103:17 113:1 129:15 224:18,21

possibly
31:14 165:21 166:20 187:14

post
208:14

potential
122:21

potentially
122:20 144:10 191:25

potholes
165:1

power
174:3,12,14 178:3,4 179:21 180:6

practical
103:19 104:16,22

practice
60:6 93:16 112:23

practiced
37:25 38:2,13

practicing
86:20

predetermined
109:20,25 110:20,22 111:9 112:1,4,11,18,25

predictive
154:3

prefer
211:22

premise
51:5 53:6,22

premium
170:20 171:3 172:5

premiums
102:5 171:17,21,23 219:25 220:6

preparation
26:19

prepare
11:24 12:2

preparing
12:7 13:1 14:3 18:10,13 23:8,12 44:5

present
215:15,25

presently
11:9

presume
27:9

pretty
49:9

prevent
63:19 64:18 65:10 113:13 173:18 207:4,11 213:21 214:7

prevented
65:24

preventing
208:11 210:14

previous
26:18 27:3 40:1

previously
106:23

primary
211:3 214:6

Principal
7:9

principle
35:20 36:6

principles
34:15,16,20,23 35:1,3, 9,12

prior
21:1,15 36:2 37:2 38:8, 17 39:7 46:5,15,16 50:16 51:14,16,17,19, 22 52:18,22 53:25 57:6, 14 58:21 59:6 60:1,5 85:24 86:4 91:12,13 93:7 141:19 173:4 180:9,12 228:15

problem
15:25 16:5 100:1 126:24

problems
126:19

proceeding
19:15 20:3 24:7 28:20, 23 29:1,3,5

proceedings
25:6 28:16 29:9,11

process
40:16 43:2 44:4 45:24 54:8 56:24 57:4,16 58:11 59:6,7,25 64:19, 23 65:11 72:24 119:19 120:20 121:18,22 122:11,13 123:20,25 124:9,14 125:1 127:5,8, 24 128:4 199:2

processed
78:17,25 223:9,13 225:16

processer
175:8 176:3

processes
64:11,13 65:4,20

processing
54:6,25 56:23 61:7,23 62:3,4,6,7,8,10,18,20, 22,23,24 63:3,5,7,9,12, 15,17,20 64:9 65:1,15 66:1,3,6,8,12,14 70:19, 25 71:8,13,16,20 77:13 79:3 80:12,16,18,22 174:3,12,14 182:25 184:1,4 193:6 200:23 208:14

product
38:3,4,13 39:11

production
156:1 162:5,6

program
116:9,15 117:3 118:4 119:3,12 122:5 123:4 218:17 219:4

programming
118:19 120:5 122:22 123:9 148:14

programs
222:16

promulgate
151:12

pronouncing
152:10

Property
47:3

proposes
105:16

protective
18:4

provide
8:11,19 34:11 88:12 118:17 138:2 144:5

provided
25:2 170:5

provider
69:18 205:24

provider's
67:24

providing
11:21 205:21

PTAB
8:4,7,10

Publication
47:4

pull
47:20

purported
39:19 40:7

purpose
18:6 113:5,9,12,13 172:4 210:10

purposefully
101:3

purposes
81:11 90:14 98:4 100:1 101:5 102:21 106:10 113:25 131:2 172:19 225:23

put
21:5 25:16,24 77:2 117:22 145:9 150:20 225:22 227:22

puts
228:16

putting
21:1 69:3 106:5 127:4 170:19 228:21

Q

qualifications
29:21

question
9:3,8 11:4 23:10 38:10 39:24 42:18,22 46:10 52:9,12,17 54:17,20 55:11 57:24 64:16,25 65:8 71:9,10 75:7 76:6 79:18 80:5,6 87:7 88:15 92:21 112:8 117:1 124:20,25 126:22 135:9 137:24 138:4,18 139:6 140:11 163:4 189:23 190:22 191:15,23 193:21 194:18 201:2,3 208:3 209:23 224:12 226:25

question-and-answer
145:8,9

questioning
150:12

questions
8:20,21 10:24 76:7 228:25

quick
22:7 47:21 182:7 207:15

quote
155:11 166:24 170:19

quoted
160:8

R

Rabu
220:15

random
100:6

randomly
101:2

range
105:3

rate
170:25 171:3

rationale
59:24

raw
62:5,14 66:14 70:19,25 71:14 72:16,17 73:8,16,18 74:1,3,4,8,14 75:23,25 76:12,20,23 77:2,9 78:9,12,15 79:23 81:9,11,17,20,21 186:1 195:16,20 219:11

reach
111:17

read
8:10 24:2,17,21 31:17 43:7 75:4 109:3,6 121:14 138:8 150:22 155:14 166:3,8 191:5 193:18 201:9

reader
149:1

readily
205:12

reading
15:1 23:20 35:16 42:16 43:8 45:11 67:10,15 69:22 72:10 84:7,12 85:8 87:17 89:6 92:8 96:16 101:11 109:2 110:6 112:16 116:7,25 118:16 120:8,14,15,25 124:18 126:9,12 131:15 150:23 152:23 162:23 163:7,15 185:3 186:7 188:18 189:18 194:9 209:15 210:12 212:13 213:8 218:25 222:20

reads
164:20

real
47:21 207:14

real-time
205:14

reason
8:13 11:13 59:4 63:16 94:3 95:1 113:8 114:8 137:16 149:18 174:5 175:20 190:17 221:14

reasonable
39:1,14 40:12,17,24

reasons
92:20 200:21

recall
13:2 24:24 25:7,13 26:23 28:24 29:17 30:4 31:15 33:11 35:7 70:23 84:13 89:7 91:21 105:15 116:3,4 120:10 125:8 132:22 141:15 171:23 185:14 194:10 195:13 207:1 218:4 221:7 227:1

received
25:10 44:24 57:8 59:16 84:17 87:1 94:15 108:12 115:7 116:18,21 117:10,15 118:9 119:2 121:25 124:3

receiver
131:5 204:10

receives
183:16

recently
31:7

recess
50:1 114:25 152:3 182:13 211:23

recessed
82:6

recited
115:13

recites
117:10

recognition

127:13,16 195:25 196:6,8,23 197:12 199:11 200:14,19,22 202:20,25 203:2 209:13 218:17 219:4

recognize
15:2,5 33:22 46:25 47:9 145:5 152:25 202:16,23

recognized
153:9 160:11 161:14

recognizes
161:17

recollect
25:12 114:20 169:1

recollection
20:8 91:23 92:11 129:24 130:9 131:8 153:4

reconstruction
144:21

record
6:23 33:4 107:17 115:10 141:23,24 142:1,5,11,20

record...pre-crash
145:18

recorded
127:17 142:8,9 143:2 149:14

recorder
149:5,6

Recorders
141:14,19

recording
119:19 123:20 143:3 179:4

reduce
98:5 214:10

reduced
68:21

reducing
69:3

redundant
90:7

refer
41:17 45:5 47:8 72:3 98:17 164:9 196:1

reference
38:8,9,17 47:9 50:7,16, 21 51:14,15,16,18,20, 22 52:19,22 53:25 54:19,21 55:12 57:7,15 58:21,22 60:2 66:18 71:2 85:25 86:4 93:7,20 115:17 126:18 152:11 155:2 167:9 173:4 175:18 182:20 189:20 212:3,10 218:1 219:6 227:6 228:15

referenced
23:22 177:15

references
23:5 40:9 60:7,9,14 225:4

referred
129:11

referring
17:6 20:9 22:5 62:4,6 117:21,25 154:13 156:23,25 192:15 194:15 226:5

reflecting
109:23 110:4 214:14

reflects
61:20

regard
33:9

register
109:15 228:21

regulate
150:17 151:5,9,17

regulation
150:19 156:24

regulations
150:2 151:12,16

regulatory
160:6

relate
35:9 137:18 138:19 171:22

related
26:2,10,11,13,16 35:17 36:6 74:12 99:7 100:12 166:2,6 170:6 171:20 178:20 219:25

relates
138:24 171:21 215:16 216:1

relating
103:3

relation
141:1,10 172:14,15

relationship
69:4 70:1,4

relativity
134:5

relevant
16:20 27:7,12,16,20 28:4,12,15 29:2 34:14 62:22,24 74:24 75:19 113:23 147:3 190:22

relied
96:14

relies
39:7 55:8

rely
172:22

remaining
127:20 128:2

remember
12:23 16:14 48:21 133:4 185:22

reminded
15:24

remote
183:6 225:23

remotely
12:17 13:25 67:21 69:11

removably
59:20 84:21 85:12 87:25 88:3,5 90:25 91:1,8,14 92:2,17,24 93:22 94:19 95:9 96:5, 20 97:4 98:2 108:16

render
220:18

repeat
38:10 39:24 55:7,11 79:18 117:1 124:20 126:22 209:23

repeatedly
17:7

rephrase
23:10 57:24 88:4

replace
205:9

report
16:20 21:18,19,24 22:2, 4,6,13 23:8 30:3 46:11 72:9,13 95:14 120:10 133:6 136:10 141:5 149:19 151:19,22 152:9 153:7 154:14,16 155:2, 5,19 159:12 162:9 164:10 167:4 170:1 171:8,19 176:12 182:21 198:4 200:3 201:17 228:9

reported
189:13 190:6,18,23

reporter
8:17 10:11 14:20 55:6 137:10 168:6,11,14 184:2,7,10 202:9,12 203:10,14

reporting
121:22 123:25

reports
15:21

represent
99:20

representation
33:15

represented
10:18

representing
81:22,23,24

require
19:19 24:11 53:24 60:21 68:16 69:13,24 112:18 134:10 175:9 179:24 197:9

required
64:5 112:22 132:6,7,8 157:25

requirement
93:17

requirements
94:6 97:11 149:21 150:16 174:3,11,13,22, 24 175:2,4 181:23,24

requires
66:5 96:23 112:14 120:11 131:20,24 149:24 220:24 228:11, 17

requires...or
64:10

reread
12:3

research
23:1,4,7,11 27:15

respect
43:22 88:22 93:20 108:25 110:12

responding
141:4,8

response
57:23 109:17,19,22 146:20

responsibility
171:5

responsible
150:23

restart
54:20

results
209:6,13,17

retained
20:21 21:20

retaining
18:8

review
10:5 18:11 20:6,11 21:2 22:1,4,8,12 25:18,23 26:7 34:2 132:15 150:5

reviewed
18:13 22:5 26:20,21,25 31:4 44:4

reviewing
23:21

revise
9:12

road
89:19 140:14 157:3 164:19,21 179:10 207:22 208:2

Roman
98:12

room
6:12

roughly
87:20,21 100:5

routine
49:10,15 50:13

RPM
142:9

rule
25:22

rules
7:15 213:13

run
168:4,9,11 196:24

running
65:17 89:20 116:10,15 117:4 118:4 127:19 128:2 168:21 196:11 197:2,16 200:20 202:18

runs
197:15 206:3

Ryan
18:21

S

safe
37:13

safety
22:21 67:22 69:16 119:12 145:10 150:10, 15 151:8 154:4 157:8, 10,14 158:8 165:18 166:17 183:19,25 184:3,5 185:11,15,23, 25 186:11 187:11,20 188:9 189:2,12 190:5, 18,24 191:10,13,18,24, 25 192:16 193:8,12,16, 25 195:10,21 198:10 200:13 201:4,19 209:9, 19 210:7,8,19 215:1 219:8,18,22 221:6,10, 12

sample
99:21 100:6

save
214:19

saved
142:21 209:13 213:25

scenario
144:21

scope
21:7 23:2 71:25 79:12, 14 91:19 92:5 93:12,24 96:13 101:10 116:24 118:15 120:7 124:13 133:7,8,9 135:16 137:22 179:6,17 180:2 197:4 213:10

score
191:24,25 192:7,16,22 193:5,15 214:14

scores
219:18,22

scoring
61:9,24 64:14 65:2 66:15 70:21 183:2

Scott
22:6

search
23:18

searching
23:1

seat
142:8 149:11

sec
6:14

second-to-last
61:4 187:18,25 188:8 189:1 213:19

seconds
142:3,12,21,22

seconds'
143:8

section
133:6 140:23 151:22 166:2 208:23 218:7

see...give
18:18

see...i
79:9

seek
27:25

segments
222:15

selected
101:3 121:20 192:23 204:2

selection
44:17 46:17 51:18 52:2, 4,20 53:2,17 59:5 128:24 220:25 228:12

selectively
83:22

self-employed
7:2

sense
22:8 90:13 173:1 225:17

sensing
164:16 165:13 180:21

sensor
44:11 54:8,9,25 55:3, 19,25 56:4,7,23,24 57:5,7,8,16 58:10,14 59:17,18 62:4,5,25 64:19,24 65:11 66:1,3 72:16,18 73:2,5,9,16,18 74:1,3,4,9,14 77:14 78:10,12,15,18,19 80:19 81:5,9,10,12,17, 18 84:18,19 87:2 94:16, 17 106:12 108:13,14 109:19,23 110:4 116:18,19 129:11,12, 15,25 130:2,3,22,25 131:8,10,12,13,24,25 132:6,7,8,13,21 133:13, 16,20,25 134:17,19 147:13 179:24 180:16, 19,20,22 181:16 182:3 186:1,20 195:16 196:18 199:8 220:6 223:9 225:16

sensors
48:4 52:7 56:25 107:19 129:3,10,16,19,25 130:10,17 131:5,20,23 132:19 138:23 139:2 143:21,23 147:4,8,9 148:6 149:4,9,10,11 167:24 175:12 178:6,10 180:7 181:23

sentence
19:11 43:6 61:4 62:11 83:18 87:11 88:11 98:14,24 101:17,18 102:6 110:21 120:15,16 121:14,15 123:17 127:13 138:8 145:15 146:14 164:20 165:16 171:8 172:8 187:19,25 188:8 189:11 191:6 197:19 199:21 205:5,6 223:18

separate
89:16

series
81:14

served
22:2

server
66:12,16 67:22 69:16 70:22 183:7,16 184:12 185:8 187:3,10 189:14 190:7,19 191:18 192:11 193:6,25 194:25 198:6 200:4,6 201:19 209:9, 19 224:4 225:24

service
67:23 69:17

services
165:22 166:21

set
44:11 53:6 54:9 57:8,16 58:14 59:18 60:5 84:19 87:3 94:17 106:12 108:14 110:19,23 111:2,10 112:3,6,11,25 116:19 120:23 129:11, 12 130:3 131:9,11,25 171:16 180:16,19,20 192:7,22 193:20 206:25 225:20 228:24

sets
129:25

setting
172:4,14,15

several...code
222:14

severity
146:18 149:3

shape
209:14

share
41:22

sharp
184:22 185:7,10 188:14 198:15 200:11 201:24

shipped
48:8

short
99:7 100:12 101:1 103:3

show
27:7,8 28:12 46:7,16 93:7

show...would
46:6

showing
40:23

shown
51:20 55:10 59:6 191:18 194:1,16 195:12,25

sic
14:25 33:21 41:14 46:23 60:5 98:12 145:4 186:5 191:6 213:19 221:19

side
89:18 140:14

sign
16:12

signal
81:23,24 134:11

signals
78:16

signature
15:11

signature...restraint
145:22

signed
13:4 15:13 17:3 18:4 21:13

significant
213:24

silent
197:11 207:21 208:1

similar
42:6 54:16 59:4 179:3 211:12,13

similarities
42:2,9

Similarly
222:21

simple
52:18 69:5

simpler
69:12

simplistic
206:11

simply
85:16 87:14 98:18

simultaneous
190:10

single
36:12 37:2 38:8,17 222:3,11

site
192:10

sitting
25:11 76:21 89:18 91:20 217:18,24 219:2

situation
104:23 130:24 150:21

situational
205:15

situationally
228:6

situations
94:10 99:23

size
224:23

skill
39:9 100:10

skilled
36:3 60:16 181:6,21

slightly
42:8

small
212:19

small-type
212:22

smart
48:5

smartphone
168:1

smartphones
167:19 168:3,8 176:18

Smith
21:24,25 22:13

So...let
214:20

societal
160:5

socket
179:20

software
67:25 123:2

solely
86:12

someone's
102:23

someplace
125:7

sort
22:7,8 26:2,9 31:5 57:23 71:16 72:24 76:16 77:18 79:1 80:13 84:13 101:2 111:14 130:8 140:19 142:18,21 144:17 176:24 198:25

sorts
75:1 134:15 151:10

sought
132:5

sound
81:22 134:6

sounds
38:19 133:1 134:2 194:21

source
193:4,5

sources
23:15

speaking
35:24 36:1 167:19 190:10

special
19:19 24:11

specialized
172:23 173:1,9,12,14 180:14 181:1

specific
23:5 26:24 29:14 50:21 60:24 64:11 66:5,7 99:11 117:20 144:6 174:4 175:2 195:14 200:23 225:20 228:20

specifically
12:4 20:9 26:23 48:22 61:22 65:1,23 72:5 89:8 91:22 103:22 122:3 125:9 130:1,8 132:22 133:4 148:3 164:13,25 193:7 194:7 213:16 214:12 225:11

specification
41:22 46:13 59:9 60:16 84:12 86:7 87:18 88:20 96:22 99:18 130:15 174:8 181:21

specifications
174:1,9

specifics
48:16 100:7

specifies
150:19

speculation
55:5 57:2,20 71:4,18 169:15,22 170:23 173:24 177:19 179:6 180:2

speed
65:15 75:25 78:7 83:9 84:2,5 99:8,10,11,15 100:12 103:4,11 104:20 105:14,20 106:4 107:2,3,23 109:24 110:4 112:1,10 133:15,23,24 135:20 142:1,9 198:3 200:2 201:16

speeding
184:21 185:7,9 188:12 189:5 198:13 200:9 201:22 214:15

speeds
74:25 75:20 113:15 155:8

spend
14:2

spent
147:5

spoken
30:21

spot
130:16 188:24

spots
72:11 114:20 143:18 144:7

stamped
127:17

stars
109:9

start
59:18 84:19 87:3 94:17,24 95:4 104:12,22 105:9,11 106:2,14 107:15 108:2,14,22 109:16 110:5,7,16,25 111:3,6,21 120:20 123:4 127:24 143:1 177:16 179:13,21 192:7 197:10 222:9

started
90:1 104:19,24 105:1,13,20,23 107:2,8 111:22 176:22 177:11,17,21 178:3 188:25

starting
65:17 71:5 108:9 111:11 119:8

starts
86:24 87:21 99:12 100:8 104:9 105:6 110:11 111:17 124:7 192:20 208:23 209:2 218:8 221:25

state
6:23 23:1 24:25 72:14 140:23 141:1,9 151:22 162:11 176:11,15 177:1 178:14,16 182:19,23 220:13

stated
29:22 43:21 44:3 65:21 101:23 161:7 214:5

statement
43:15,21 61:16 69:21 70:13 96:11 99:7 160:7 161:16 189:17,24 190:4 191:4

statements
68:24 69:7

states
153:8 160:10,20 161:21

stating
161:13 184:11

stationary
134:20

statistic
183:20,25 184:3,5 185:11,16,23,25 186:12 187:11,21 188:10 189:3,12 190:5,18,24 191:11,13 193:8,12,16,20 195:21 198:11 200:7,14 201:5,20 210:19 221:6,10,12

statistical
61:8,24 64:14 65:2 66:15 70:20 71:1,14 183:1 184:6 219:10

status
145:23 159:13 160:21 218:18

status...driver
145:20

stay
187:20

stayed
22:10

step
45:23,24 46:3,7,12,15 54:1,6 58:11 59:14 60:1,3,18,20 84:15 94:11,12 110:10 116:17 117:10 128:22 135:8

steps
45:9

Steve
12:10

Steven
10:22 20:5,17

Sticking
179:23

stipulate
190:2

Stone
12:13,16,19

stop
229:1

storage
142:22 143:2 209:21,22 224:10,13 226:5 227:7,13,19 228:1,2,7,11

store
44:17 49:5 51:9 52:4 53:17 59:8,25 128:24 220:25 225:5

stored
178:21,23 221:10,12 223:16,21,24 224:2,3,4,5,7,8,18 225:1,7,9,12,13 227:16,25 228:18

stores
46:17 138:12 206:14

storing
45:24 46:3,15 49:9,13 50:10 51:2,3 52:2 53:1,23,24 54:1,5 59:5 128:22 138:11 205:20 224:21 226:21 228:12

strike
51:24

string
81:21

structure
223:2,15,16,22,24 224:1,9,24 225:1,8,9,10,12,14,23 226:9,10,

14 227:2,4,15,19,23,24 228:16

structures
224:21 226:2,4,5,6

submitted
16:9,10,20 21:16,17,19

subsequent
34:22 143:12

subsequently
101:25 171:16 216:20

substantial
31:22 96:23

substantially
127:20 128:2

success
39:13 40:12,25

successful
39:2,15,18 40:4

suffice
101:4

sufficient
105:9 175:6

suggest
59:11 220:17

suggestion
165:4

suggests
105:7 220:7

suitable
222:25 223:1,14,21 226:11

supplement
205:11

supplied
178:3

suppliers
159:14 160:23

supplies
178:4

supply
180:6

support
23:15,19 41:1 165:3 174:2,5,10

supposed
11:3 16:3

surmise
22:25

surprised
147:15

suspect
113:18

SUV
160:17

swerving
74:25 75:21 135:20

switched
56:2,4

sworn
6:6

system
65:16 68:2,20 101:19 102:22 138:10 139:16 144:4 145:19 147:14 148:10,13,19,21 157:11 158:8 164:15 166:15 178:2 181:8 201:5 206:17,23 207:3 210:5, 14 213:21

systems
43:10 103:20 104:6 139:22 143:17,25 144:13,22 146:16,24 147:5 148:16 150:16 153:13 154:4 156:13 157:8 160:13 161:10 176:21 177:24 178:17 179:19 180:8 191:20 215:16

T

takes
78:5 147:6,8,9

taking
7:12 8:18 11:9 54:5 147:12 188:14 198:15 200:11 201:24 207:5 208:12

talk
60:24 78:9 85:1 89:12 90:24 104:16 123:14 132:20 152:9 167:5 182:20 185:21 195:24

talked
20:17 71:24 79:20 167:23 168:25 217:25 218:1 221:5

talking
35:11 50:6 51:13 52:2,4 73:11 80:20 89:14,15 105:17 115:16 130:1 141:1,9 176:11 182:18, 19 193:7 210:9 212:2

talks
127:4 132:25 133:6 135:2 146:5,9,10 210:19 214:14

tasks
65:7

teach
220:17

Teams
6:12

technical
37:24 63:18 64:2,6,17 65:9,14,22,23 113:8 174:24 175:2 176:3 181:22,24

technically
63:12 118:22

technologies
153:12,21 154:13 155:24 159:25 160:12 161:10,18 162:4 167:8

technology
153:23 160:22 161:22 167:10

telematics
21:17 41:10 151:2,4 153:24 155:23

temporary
209:21

ten
9:24 31:5 110:19,23,25 111:2,10,13,17 112:2, 10 211:21

ten-minute
49:22 114:24

term
19:17,21 24:9 30:11,16, 24 37:22 39:13 98:17 114:7,17 135:24 168:18,19 226:2,24 227:1

termed
78:22 80:8

terms
29:16,22 30:9 33:9 65:14,15,16 133:13 226:23

testified
6:7 27:23 32:7 37:11

testifying
8:4 13:13

testimony
8:2,10 11:11,14,22 217:10

texts
199:19

that...in
128:22

that...the
98:24 137:15 205:5

The...and
184:11

The...i
191:23

the...if
187:15

The...in
201:4

the...that
195:20 206:13

the...the
202:24

The...there
187:1

The...to
221:16

theory
134:5 144:5

thereof
104:7 131:21 132:2 180:23,24

thing
31:9 36:4 39:11 42:24 43:1 104:15 128:12,13, 14 160:17 193:17

things
27:6,8,10 28:11,13,22 29:12,17 47:14 74:11 78:24 101:14 108:5 112:13 118:7 134:15 140:10 141:14 149:22 150:20 151:10 155:8 161:20 163:24 172:7 178:11 186:2 187:14 215:10

thinking
31:1

third-party
192:10

thought
93:2,15 217:6

threshold
105:14,21 106:5 107:3 109:25 110:19,20,22 111:2,10,17,21 112:2,4, 11,18,25

Tier
159:14 160:23

till
87:21

Tiller
6:13,16,19 10:22 12:14 13:13 18:7,20 19:3 20:5 21:21 27:22 29:23 32:1, 14 36:20 42:17 47:16 49:19 50:20,25 51:24 52:11,24 55:4,8 57:1,19 58:3,23 60:11 61:18 63:22 64:20 65:12 67:9, 13 71:3,17 79:5,11 82:3 91:18 92:4 93:11,23 96:12 97:6 101:9 113:2, 16 116:23 117:13 118:14 120:6 124:12,19 125:5 128:15 135:15 137:21 138:21 159:21 160:19 161:12 169:12, 14,18,21 170:9,22 172:6,16 173:23 175:24 176:23 177:3,18 179:5, 16 180:1 187:22 188:2, 23 189:25 190:8,11 197:3 206:5 211:2,11 212:7,11 213:9 214:24 221:21 222:4,8

time
6:2 13:2 14:2 17:23 26:13 33:11 48:25 49:11,12,15 50:13 64:1 77:10 80:2 82:2 87:20, 21 98:18 127:17 143:10 152:1 156:8,10 157:18, 22 158:22 159:1 162:6 166:3 167:14,19 172:25 176:12,15 177:13,14,15 178:8,15,25 180:12 197:2 199:7,15 202:4 228:3,18

time-combines
78:6

time-stamped
204:15

times
10:24 14:14 32:10,17 37:11 199:8

title
7:7,10 210:13

today
7:13,19 8:3,11,14,20 10:3,19 11:11,14 17:7 25:11 112:17 135:22 156:1,17 162:5 163:17 217:18,24 219:2

told
29:2,6 32:18

tomorrow
229:8

top
29:16 31:13 76:15 88:1 90:15,20 91:20 101:14 104:9 121:5 125:22 126:4 135:18 136:5 144:17 163:13,16 175:5 188:20,21 194:12 212:17,21

topics
153:23 156:19 157:4

total
14:2

Toyota
160:16

track
180:9

tracker
140:6,17

trackers
140:2

tradeoff
68:6

traditional
205:10

traffic
145:10 164:16,19,21

transcript
10:3,6,13 12:11 20:11 24:17,21 26:7 32:8,18 33:15

transcripts
25:23 26:20,22 27:1

transformed
72:18,22

transmission
225:23

transmit
228:16

transmits
227:19

transmitted
187:3 209:8,18 227:23

transmitting
228:21

Transportation
22:21

trigger
111:11 122:4 142:25

triggered
112:9,12 141:25 142:6, 17 197:15

triggering
112:21

triggers
143:1 179:13

true
43:15 59:25 77:15 103:12 107:5,11,12 108:23,25 175:11 182:2

truth
7:19,22,23 8:14

truthful
11:10,14,21

TUESDAY
6:1

turn
15:8 16:22 41:5 43:25 44:1 61:1 102:13 121:3, 12 145:14 155:4 164:5 167:3

turned
106:3 179:21

turning
102:15,20 106:11

turns
87:21 184:22 185:7,10 188:15 189:8 198:16 200:12 201:25

type
121:20 127:18 132:4 157:10 170:6 179:3 210:24,25 211:7,8,10 212:19 223:1,14

types
23:11 63:5 66:6,7 149:24

typically
77:9 78:18,23 79:25 80:11 141:24 143:17 170:2

U

U.S.
34:1 155:25 157:22

Um-hum
20:23 53:12 58:12 79:3 89:23 94:7 102:17 103:2 106:13 117:23 129:23 130:14,18 137:4 192:25 212:25

unclear
208:7

understand
7:15,20 8:2,6,9,15 9:3,7 10:2,23 11:2,5 17:10 19:9,13 20:2 24:5 30:8, 10,14,23 31:24 32:11,

14 36:3,7,17 37:23 38:6 39:13 41:7 44:10,13 45:4,8 52:13 53:23 58:20,21 65:21 75:5 87:9,10,18 88:23,24 92:23 97:18,22 98:16 99:19,22 104:5 105:5 111:4 118:1,17 122:8 126:6 128:7 133:5,8 134:14,16 136:10,15 138:3 150:3 171:25 175:16 177:8 178:13,14 181:7,22 190:13 191:12 193:1 199:4 201:1 223:12,15,20 226:19, 20,22 227:6,10,11 228:10,14

understanding
20:3 30:9,15,18,24 31:25 32:13 35:22,25 36:10 38:20,21 48:12 55:15,17 60:4 74:19 75:10 88:2 92:25 93:3 94:22 96:18 122:9 126:6,17 127:7 133:9 135:10 149:17 168:18 170:3 171:2 192:9 196:5 207:7 218:24 223:5 224:11

understood
100:18,20 171:24

unidirectional
69:5

unit
147:9

unknown
52:24 202:23

unsafe
113:13 184:19 185:1,5, 6 210:21,24,25

uploading
208:24

urgency
156:25 157:2

USAA
17:12,15,24 21:18 41:10

USAA's
21:20

usable
77:2

usage
142:8 211:1 213:14

usage/deployment
145:23

user
59:16 61:11,25 84:17 87:1 94:15 101:20 108:12 115:7,12,13,19, 21,23,24,25 116:1,18, 21 117:11,16 118:9,11, 18 119:25 120:4,12,18, 19,21 121:17 122:4,9, 22 124:6 175:11 177:10 183:3,18 186:10 187:13 191:1,9,21 193:14,24 194:5,24 195:1,10 202:17,24 203:7 204:7 205:23 206:25 207:17 208:8 209:6,17 218:19

user's
202:16 206:4

users
192:7

utilised
102:1 216:20

V

validate
23:19

values
109:20

variety
67:7,18

vehicle
43:12 52:7 54:12 57:10, 18 58:16 59:21,22 61:11,25 72:21 74:12, 13,15,20,22,23 75:12, 14,17,23 76:1,11,18 78:7 84:3,9,22 85:2,13 86:5,9,12,15,17 87:21, 22,25 88:1,4,6,7,16 89:15,16,18 90:2,18,23 91:1,15 92:14 93:4,9, 19,22 94:20,21 95:10, 11 96:6,20,21,24 97:5, 16,21,24 98:3,19 99:4, 15 105:7 106:5 108:17, 18 113:14 129:3,17 137:14,19,20 138:1,14, 19,20,23 139:3,8,11,13, 23 143:16,19,23,24 144:2,4,18,23 145:18 150:15 151:5,8 153:24 155:23 176:22 177:11, 21 178:2,4 179:22,24 180:7 183:4 205:12,18, 23 213:22 215:1,18 216:3,9,15

vehicle's
180:6 205:10,16

vehicle-to-roadside
154:8

vehicle-to-vehicle
154:7

vehicles
84:23 141:18 147:11 156:1,3 157:22 162:5 172:10 178:1

vehicles'
151:9

verbal
8:17,20,25

version
206:11

VI
98:12

video
179:10 180:4 216:13

view
157:2

viewable
205:22

violations
184:18 185:5

virtue
22:24 117:12 156:23

voice-calls
83:23

voltage
77:10 78:22,23 79:25 80:1,9 81:20

W

Wait
187:22

waiting
6:12

walking
127:19 128:2 196:12 202:17

wanted
128:12

warning
154:2,5

was...i
80:5

ways
106:6 107:21 108:1 111:15 122:18,21 123:8 137:3,5

website
145:8,9 195:11

week
192:8

Weiss
13:17,20

well...let
59:24

whatsoever
11:13

Where...what
67:10

White
13:11

Whiteford
12:20,22,24 20:5

William
154:25

Wilson
6:5,10,22,25 7:6 11:24 14:24 15:2 21:18,22 33:20 46:22 50:4 52:9, 15 83:4 115:3 145:3 152:6 154:22 159:22 169:23 170:24 175:25 182:16 193:21 212:1 214:25 217:10

Wilson's
63:23 64:21

wireless
186:14 197:20 198:2, 20,23 199:22 200:1 201:11,15 204:1,10

word
62:7 174:17

wording
227:21

words
86:18 110:21 118:10 200:24

work
7:1,2 9:22,25 18:8 21:5 22:11 50:17 51:20 93:21 94:4 143:25 144:2 150:21 159:5 166:3,6,10 179:25 199:12

worked
180:11

working
94:9

works
49:25 52:21 147:21,22

world
47:3 159:15 160:24

worst
102:24

worth
143:8

would...that
102:20

would...you
102:21

Wright
34:1 62:8 63:13 65:3 74:24 75:2,20 76:17 105:7,16 130:12 135:2 174:2,6,11,16,17,22 178:9

Wright's
174:13

writing
34:2

written
46:7,12 60:10,15 126:20 143:11

wrong
15:19 147:25 148:2 188:24 204:25 224:15

wrote
15:6 162:7

Y

yard
103:23

years
147:5 148:4 156:3

yesterday
14:5

you...would
8:19

you...yeah.
208:5

Z

zeros
81:14