

I. THE CLAIMS OF THE '239 PATENT ARE INVALID UNDER 112

A. Indefinite

The Asserted Claims of the '239 Patent are invalid as indefinite under Section 112, ¶ 2 for failing to particularly point out and distinctly claim the subject matter which the Applicants regarded as the alleged invention. For example, as demonstrated either individually or collectively by the claim elements addressed below, the Asserted Claims fail to inform those skilled in the art about the scope of the invention with reasonable certainty, rendering the Asserted Claims (and any claims depending therefrom) invalid as indefinite:

- “microprocessor executable profile identification module” (claims 1 8)
- “(microprocessor executable) vehicle control system” (claims 1, 5, 7, 8, 12, 21, 31-35)
- “near the vehicle” (claims 5, 12, 19, 35)
- “the persona comprises one or more of bioinformatics, medical information, driving history, personal information, private information, travel information, and Internet browsing history and/or browsed content” (claims 1, 8, 15)
- “vehicle related information comprises one or more of vehicle context, state, external surroundings, location, past, current, and/or intended path of travel, waypoint, and destination” (claims 1, 8, 15)
- “determining a type of assistance to provide” (claims 1, 8, 15)
- “not being based on in response to a preceding request” (claims 1, 8, 15)

- “the action being one or more of providing a suggestion or recommendation to the selected vehicle occupant, providing a reminder to the selected vehicle occupant, scheduling an activity involving the selected vehicle occupant, purchasing an item on line for the selected vehicle occupant, adding an entry into the selected vehicle occupant’s electronic calendar, providing a notification to the selected vehicle occupant regarding an incoming message, call or action of a person, and/or sending a message to a person at a waypoint or destination of the vehicle regarding an arrival time of the vehicle” (claims 1, 8, 15)
- “determine[/determining] [. . .] relevant information” (claims 5, 12, 19, 35)
- “the relevant information comprising one or more of a persona of a selected person not currently in the vehicle, a message from a friend or family member of the selected vehicle occupant, a current activity of the friend and/or family member, a current location of the friend or family member near the vehicle and/or the vehicle's path of travel, and a road condition along a path of travel of the vehicle” (claims 5, 12, 19)
- “friend” (claims 2, 5, 9, 12, 16, 19)
- “family member” (claims 5, 12, 19)
- “one ore more” (claims 1, 5, 7, 8, 12, 15, 19, 21, 22, 33 and 35)
- “vehicle-related information comprises at least one of a current and/or future vehicle location and path of vehicle travel” (claims 2, 9, 16)
- the action is providing a notification of an instant message, email, voice

mail from, and/or missed phone call from, current activity of and/or location of a friend (claims 2, 9, 16)

- “wherein the action is based on the identified and/or distinguished clothing, held object and/or object in the possession of the selected vehicle occupant” (claims 7, 21)
- “the vehicle control system translates signage located outside the vehicle” (claim 29)
- “the relevant information comprising one or more of a location, hours of operation, and/or descriptive information about a point and/or location of interest near the vehicle and/or the vehicle's path of travel, a location, hours of operation, and/or descriptive information about a vehicle service facility near the vehicle and/or the vehicle's path of travel, and a location, hours of operation, and/or descriptive information about a hotel and/or motel near the vehicle and/or the vehicle's path of travel.” (claim 35)

The above limitations fail to set forth the scope of the alleged invention with reasonable certainty. The scope of these terms is not reasonably certain. One or more of these limitations is required by all Asserted Claims. Accordingly, all Asserted Claims are indefinite.

B. Written Description

The Asserted Claims of the '034 Patent are also invalid for failure to comply with the written description requirement under Section 112, ¶ 1. For example, the '239 Patent does not contain written description support at least for the following claim terms, either individually or collectively, rendering the Asserted Claims in which they appear (and any claims depending therefrom) invalid for lack of written description:

- “wherein the microprocessor executable vehicle control system, based on information received from a sensor identifies and/or distinguishes the selected vehicle occupant's clothing, held object and/or object in the possession of the selected vehicle occupant” (claims 7, 21)
- “the vehicle control system translates signage located outside the vehicle” (claim 29)

At least under AutoConnect’s apparent interpretation and application of the Asserted Claims, the ’239 Patent does not provide sufficient written description support for the above claim terms. The specification provides insufficient support for any of the above identified limitations to describe to a person of skill in the art what has been claimed. Instead, the specification describes aspirational functionality without describing how such limitations are to be implemented in the invention. Moreover, the specification does not provide written description support for the full scope of the claims to the extent the scope of the claims is interpreted to cover the accused embodiments, which are not described in the specification.

One or more of these limitations is required by all Asserted Claims. Accordingly, all Asserted Claims are invalid for lack of written description.

C. Lack of Enablement

The Asserted Claims of the ’239 Patent are also invalid for failure to comply with the enablement requirement under Section 112, ¶ 1. For example, the ’239 Patent fails to provide an enabling disclosure with respect to the following claim terms, either individually or collectively, rendering the Asserted Claims in which they appear (and any claims depending therefrom) invalid for lack of enablement:

- “wherein the microprocessor executable vehicle control system, based on

information received from a sensor identifies and/or distinguishes the selected vehicle occupant's clothing, held object and/or object in the possession of the selected vehicle occupant” (claims 7, 21)

- “the vehicle control system translates signage located outside the vehicle” (claim 29)

At least under AutoConnect’s apparent interpretation and application of the Asserted Claims, the ’239 Patent does not enable the above claim terms. The specification provides insufficient support for any of the above identified limitations to enable a person of skill in the art to make and use the invention. Instead, the specification describes aspirational functionality without describing how such limitations are to be implemented in the invention.

One or more of these limitations is required by all Asserted Claims. Accordingly, all Asserted Claims are invalid for lack of enablement.