Claim 73

73. The method of claim 70 further comprising generating a plurality of insurance, actuarial classes based at least in part on an aggregation of data elements representing actual driving characteristics of vehicles and human actions that were previously extracted and stored from a plurality of in-vehicle sensors.

See the discussion of claim 73 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, this claim will be considered as requiring grouping of data elements based at least in part on characteristics of the operating states of vehicles and humans actions, i.e. driving characteristics, that were previously extracted and stored from a plurality of in-vehicle sensors, e.g. prior preset driving profiles, which grouping/group data is used to compute the 'insurance rating', and which step may either comprise the steps of claim 70, e.g. the analyzing and correlating and computing steps, or be in addition thereto." It is noted again that the vehicles and humans actions claimed do not preclude the vehicle and actions of human(s) claimed in claim 70.

Furthermore, see the discussion of claims 41, 44-50 and 71 and 72 supra, esp. with respect to the terminology "insurance actuarial class". Attention is also directed to '079 at col. 29, lines 18-24, e.g. different vehicles used by same driver/human, and col. 31, lines 24-26, i.e. history, e.g., previous actions and vehicles.

Therefore the prior art combination contemplates the method as claimed in claim 73.

Claim 74
74. The method of claim 70, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

> **generating insurance actuarial classes and operator profiles relative thereto based on the plurality of data elements.**

See the discussion of claim 74 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, such step may either comprise the steps of claim 70, e.g. the analyzing, grouping

and storing, or be in addition thereto."

Furthermore, see the discussion of claims 65, 71 and 73 supra.

Therefore the prior art combination contemplates the method as claimed in claim 74.

Claim 16

16. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]
It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the step of analyzing, grouping, and storing comprises:

> **determining that the one or more data elements have a preselected relationship to a predetermined safety standard; and**

> **recording the one or more data elements in the first memory in response to determining that the one or more data elements have the preselected relationship to the safety standard.**

With regard to the terminology "analyzing, grouping and storing" see the discussion of

such step of claim 6 supra i.e. pages 24-56 of the non-final Office Action by incorporation, esp.

pages 40-43 thereof. With regard to the terminology "determining that the one or more data

elements have a preselected relationship" and "a predetermined safety standard", see the

discussion of similar terminology with regard to claim 5 supra in paragraph 5, esp. pages 12 and

18-20 of the non-final Office Action by incorporation.

See the discussion of claim 16 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, this claim will be interpreted to require the one or more data elements of the

analyzing, grouping and storing step according to claim 6 to have 'a preselected relationship' or

'be related' to 'a predetermined safety standard' at a minimum."

See the discussion of the claims supra, e.g. the discussion of claims 6, 10-11 and 70-73

supra, esp. pages 43-46, 61-65 and 164-165 of the non-final Office Action by incorporation.

Especially note again col. 2, lines 29-32, col. 4, lines 40-44 and 65, col. 5, line 5, col. 6, lines 34-

43 of the '970 Patent e.g., ABS and airbags, use of seat belt and turn signals, speed limit

observation, time of day and location of driving, rate of acceleration and braking are all related to

safety, '079, i.e. a event recording apparatus 5 and sensors 4a within a vehicle, elements 5, 510,

600, 22, 510 in the Figures as well as col. 9, second full paragraph and col. 10, first full

paragraph, e.g. sensors associated with ABS and airbags, use of seat belt and turn signals, speed

time of day and location of driving, rate of acceleration and braking, cols. 30-32 and Figures 18-

19, steps 1801-1808, e.g. analyzing, grouping and storing of values in Table 19 which are related

safety and col. 27, lines 31-58, e.g. recording by the apparatus/system is triggered by an unusual

event such as a vehicle operational or performance value exceeding a preset threshold value or

an accident, e.g. a predetermined standard related to safety.

Therefore the prior art combination contemplates the method as claimed in claim 16.

Claim 17

17. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]**
It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the step of analyzing, grouping, and storing comprises grouping a selected data element of the one or more data elements in the first memory in combination with a location of the vehicle associated with the selected data element.

With regard to the terminology "analyzing, grouping and storing" see the discussion of

such step of claim 6 supra i.e. pages 24-56 of the non-final Office Action by incorporation, esp.

pages 40-43.

See the discussion of claim 17 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, this claim will be interpreted to require the analyzing, grouping and storing step

according to claim 6 to include at least one of the one or more data elements combined with a

location of the vehicle."

See the discussion of claims supra, esp. claims 1, 6, and 11, pages 39-57, esp. 43-46

thereof, 66 and 72, of the non-final Office Action by incorporation, i.e. '079 teaches "grouping a

selected data element of the one or more data elements in the first memory in combination with a

location of the vehicle associated with the selected data element."

Therefore the prior art combination contemplates the method as claimed in claim 17.

Claim 18

18. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43 thereof, and '079 at col. 25, lines 16-23 and

col. 26, lines 49-59.

the step of analyzing, grouping, and storing comprises grouping a selected data element of the one or more data elements in the first memory in combination with a time or date associated with the selected data element.

With regard to the terminology "analyzing, grouping and storing" see the discussion of

such step of claim 6 supra i.e. pages 24-56 of the non-final Office Action by incorporation, esp.

pages 40-43 thereof.

See the discussion of claim 18 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, this claim will be interpreted to require the analyzing, grouping and storing step

according to claim 6 to include at least one of the one or more data elements combined with a

time or date."

See the discussion of claims supra, esp. claims 1, 6, 11, pages 39-57, esp. pages 43-46,

thereof, 66 and 72, of the non-final Office Action by incorporation, and claim 17 supra, i.e. '79

teaches "grouping a selected data element of the one or more data elements in the first memory

in combination with a time or date associated with the selected data element."

Therefore the prior art combination contemplates the method as claimed in claim 18.

Claim 19

19. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43 thereof, and '079 at col. 25, lines 16-23 and

col. 26, lines 49-59.

the method further comprising:
        calculating a rate of acceleration of the vehicle based on at least one of the one or more data elements; and

        using the rate of acceleration of the vehicle to compute the insurance rating for the vehicle.

With regard to the terminology "an insurance rating", see again the discussion of such

terminology with regard to claim 6 supra, pages 24-56 of the non-final Office Action by

incorporation, esp. pages 47-56 thereof.

See the discussion of claim 19 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim will be considered either in addition to the steps of claim 6

wherein the rate of acceleration is based on some data element, e.g. raw, calculated or derived, or

the extracting step or the analyzing step of claim 6 will be considered to comprise the calculating

step of this claim wherein the rate of acceleration is based on some data element, e.g. raw,

calculated or derived, and the correlating and generating step of claim 6 will be considered to comprise the using step of this claim."

See discussion of the claims supra, e.g. claim 1-3, 6 supra, esp. the discussion of claim 6, i.e. pages 46-56 and 68-75 of the non-final Office Action by incorporation, and claim 70 supra and, e.g., '079 at elements 5, 510, 600, 22, 510 in the Figures of '079, col. 9, lines 42-44, col. 10, lines 35-37, 54-56, and 62-64, col. 27, lines 46 and 56, col. 28, lines 47-49, col. 29, line 21-24, col. 30, lines 29-55, col. 31, lines 24-44, col. 32, lines 8-11 and claims 1-3 and 7, e.g. '079 teaches acceleration, sudden acceleration, smoothness of acceleration/sudden acceleration, speed profile including mean and variability, headway, turning rate evaluated, i.e. measured/determined/calculated.

Therefore the prior art combination contemplates the method as claimed in claim 19.

Claim 20

20. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office action by incorporation, esp. pages 40-43 thereof, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:
calculating a rate of acceleration of the vehicle based on at least one of the one or more data elements; and

determining whether the rate of acceleration indicates a trigger event which would result in a surcharge or discount during an insurance billing process.

With regard to the terminology "insurance billing process", see the '970 Patent at Figure 2, col. 5, lines 57-59, the paragraph bridging cols 8-9 and col. 10, lines 14-50.

See the discussion of claim 20 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, these steps of this claim will be considered either in addition to the steps of claim 6 or the extracting step and/or the analyzing step(s) of claim 6 will be considered to comprise the calculating step of this claim and the determining step of this claim using a rate, either calculated or not calculated."

See the discussion of claims supra, e.g. 1-3, 6-7, i.e. pages 46-57 and 68-75 of the non-final Office Action by incorporation, and claims 19 and 70 supra. With regard to the discussion of claim 6, see, e.g., "The prior art combination also contemplates use of the output information to provide up front discounts, prospective setting or retrospective adjustment of some cost(s) associated with a cost of insurance, e.g. a pure or gross premium, surcharge or discount. Finally the prior art combination contemplates use with conventional systems of payment/billing, e.g. prepaid cards or credit cards." (Emphasis added), and the portions of '868 and Black cited and discussed. With regard to discussion of claim 7, see, e.g., "Note that the claim does not set forth how the indication is determined...The specification of the '970 Patent sets forth at col. 8, lines 63-65 that "Trigger events' are defined as **a combination of sensor data** *requiring additional action* or *which* *may* *result in a surcharge or discount* during the insurance *billing process*". (Emphasis added.) Also, note '079 again at cols. 30-31 and Figures 18-19, e.g. determining by a processor whether/that acceleration is used as a combination of sensor data which results in output/evaluation used to determine classification/consequence.

Therefore, the prior art combination contemplates the method of claim 20.

Claim 21

21. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data;** [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising
      calculating a rate of acceleration of the vehicle based on at least one of the one or more data elements;
      determining whether the rate of acceleration has a preselected relationship to a predetermined safety standard; and
      recording the rate of acceleration in the first memory in response to determining that the rate of acceleration has the preselected relationship to the safety standard.

See the discussion of claim 21 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, the step of calculating of this claim will be considered either in addition to the steps of claim 6 or the extracting step or the analyzing step of claim 6 will be considered to comprise the calculating step of this claim and such calculated rate having 'a preselected relationship' to 'a predetermined safety standard".

See the discussion of claims supra, e.g. claims 16 and 19, e.g. esp. pages 24-46 of the non-final Office Action by incorporation and '079 at col. 27, lines 38-62.

Therefore, the prior art combination contemplates the method of claim 21.

<u>Claim 22</u>

22. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:
recording a number of acceleration events during the data collection period that are identified as being excessive or sudden; and

computing the insurance rating for the vehicle based on the number of identified excessive or sudden acceleration events.

See discussion of claim 22 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, these steps of this claim will be considered either in addition to the steps of claim 6 with the recording step including acceleration events which are excessive or sudden or the extracting step or the analyzing step of claim 6 will be considered to comprise the recording step of this claim including acceleration events which are excessive or sudden and the correlating and generating step of claim 6 will be considered to comprise the computing step of this claim."

See discussion of claims supra, e.g. claim 19, esp. the cited portions of '079.

Therefore, the prior art combination contemplates the method of claim 22.

<u>Claim 23</u>

23. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:
    monitoring a rate of braking associated with the vehicle based on at least one of the one or more data elements; and

    using the rate of braking associated with the vehicle to compute the insurance rating for the vehicle.

See the discussion of claim 23 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim will be considered either in addition to the steps of claim 6

where the rate is monitored or the extracting step or the analyzing step of claim 6 will be

considered to comprise monitoring a rate of braking and the correlating and generating step of

claim 6 will be considered to comprise the using step of this claim."

See discussion of the claims supra, e.g. claim 19, as well as '079 at, e.g., col. 9, lines 40-

41, col. 10, lines 39-42, col. 27, lines 48 and 56-57, col. 28, line 49, cols. 30-32 and Figures 18-

19, esp. col. 30, lines 29-39 and claims, esp., 3.

Therefore the prior art combination contemplates the method of claim 23.

Claim 24

24. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:
monitoring a rate of braking associated with the vehicle based on at least one of the one or more data elements; and

determining whether the rate of braking indicates a trigger event which would result in a surcharge or discount during an insurance billing process.

See the discussion of claim 24 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, these steps of this claim will be considered either in addition to the steps of claim 6 where the rate is monitored or the extracting step and/or the analyzing step(s) of claim 6 will be considered to comprise the monitoring a rate of braking and the determining step using such rate."

See the discussion of claims supra, e.g. claims 20 and 23.

Therefore the prior art combination contemplates the method of claim 24.

Claim 25

25. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:
      monitoring a rate of braking associated with the vehicle based on at least one of the one or more data elements;

      determining whether the rate of braking has a preselected relationship to a predetermined safety standard; and

      recording the rate of braking in the first memory in response to determining that the rate of braking has the preselected relationship to the safety standard.

See the discussion of claim 25 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, the monitoring step of this claim will be considered either in addition to the steps of

claim 6 where the rate is based on at least one of the data elements or the extracting step or the

analyzing step of claim 6 will be considered to comprise monitoring a rate of braking and such

rate of braking having "a preselected relationship" to "a predetermined safety standard".

See the discussion of claims supra, e.g. claims 16, 21 and 23.

Therefore the prior art combination contemplates the method of claim 25.

Claim 26

26. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:
        recording a number of braking events during the data collection period that are identified as being excessive or sudden; and

        computing the insurance rating for the vehicle based on the number of identified excessive or sudden braking events.

See the discussion of claim 26 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, these steps of this claim will be considered either in addition to the steps of claim 6 with the recording step including braking events which are excessive or sudden or the extracting step or the analyzing step of claim 6 will be considered to comprise the recording step of this claim including braking events which are excessive or sudden and the correlating and generating step of claim 6 will be considered to comprise the computing step of this claim."

See the discussion of claims supra, e.g. claims 19, 22 and 23.

Therefore the prior art combination contemplates the method of claim 26.

Claim 27

27. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:
        determining speed data associated with a location of the vehicle based on at least one of the one or more data elements;

        identifying a predetermined speed threshold associated with the location of the vehicle;

comparing the speed data to the predetermined speed threshold to determine that the speed data indicates an occurrence of an excessive speed event above the predetermined speed threshold; and

computing the insurance rating for the vehicle based on the occurrence of the excessive speed event.

See the discussion of claim 27 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, these steps of this claim will be considered either in addition to the steps of claim 6 with determining, identifying and comparing to determine the occurrence of an excessive speed event above a predetermined threshold at a/the location of the vehicle, or the extracting step or the analyzing step of claim 6 will be considered to comprise determining, identifying and comparing to determine the occurrence of an excessive speed event above a predetermined threshold at a/the location of the vehicle, and the correlating and generating step of claim 6 will be considered to comprise the computing step of this claim.", and in paragraph 3 supra, Prior Art Rejections.

See discussion of claims supra, e.g. claims 19, 22-23 and 26, as well as '079 at col. 9, lines 28-29, col. 10, lines 20-23, col. 11, lines 1-2, col. 23, line 54-col. 24, line 21, col. 27, lines 38-42 and 67, col. 28, line 49, col. 29, line 23, cols. 30-32 and Figures 18-19, esp. col. 30, lines 1-35, col. 30, line 59-61, col. 31, lines 24-45, col. 32, line 8-11, col. 29, line 23 and claims 1-2.

Therefore the prior art combination contemplates the method of claim 27.

Claim 28

28. The method according to claim 27, further comprising
      measuring a time duration of the excessive speed event above the predetermined speed threshold,

> **wherein the step of computing the insurance rating comprises computing the insurance rating for the vehicle based on the time duration of the excessive speed event.**

It is noted that such claim does not require measuring time duration of only excessive speed events.

See the discussion of claim 28 in paragraph 7 supra, i.e. "Accordingly, for purposes of examination, the determining, identifying and comparing step of claim 27 will also be considered to comprise measuring a time duration associated with an occurrence of an excessive speed event, and the computing step of claim 27 will also be considered to comprise the computing step of this claim."

See discussion of claim 27 as well as '079 at col. 11, lines 10-22, col. 23, line 54-col. 24, line 21, col. 25, lines 1-2, col. 26, lines 53-55, col. 27, lines 38-42, the paragraph bridging cols. 27-28, e.g. speed measured at time intervals gives indication of duration of speed, col. 27, lines 46 and 56, col. 28, lines 47-49, col. 29, line 23, col. 31, lines 24-30, e.g. performance, e.g. speed, at any time is compared to speed at any other time, the paragraph bridging cols. 31-32, esp. col. 31, line 50-54 , and claim 2.

Therefore the prior art combination contemplates the method of claim 28.

Claim 29

29. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:
        determining speed data associated with a location of the vehicle based on at least one of the one or more data elements;

        extracting speed limit data associated with the location of the vehicle from a database;

        comparing the speed data to the speed limit data to determine whether the speed data indicates an occurrence of an excessive speed event above the speed limit data; and

        recording the speed data in the first memory in response to determining that the speed data indicates an occurrence of an excessive speed event above the speed limit data.

See the discussion of claim 29 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of determining speed data and extracting speed limit data at a/the

location of the vehicle will either be considered in addition to claim 6 or the extracting step or

the analyzing step of claim 6 will be considered to comprise determining speed data and

extracting speed limit data at a/the location of the vehicle" and in paragraph 3 supra, Prior Art

Rejections.

See discussion of claims supra, esp. 1, 16, 21, 25 and 27, as well as '079 at col. 23, line

54-col. 24, line 21, col. 27, lines 38-42, the paragraph bridging cols. 27-28, col. 28, lines 47-49,

col. 29, line 23, col. 30, first three full paragraphs, Figures 18 and 19, esp. elements 1801 and

1802, and claim 2.

Therefore the prior art combination contemplates the method of claim 29.

<u>Claim 30</u>

30. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:

> **monitoring time of day driving data associated with the vehicle; and**

> **determining whether the time of day driving data indicates a trigger event which would result in a surcharge or discount during an insurance billing process.**

See the discussion of claim 30 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, the monitoring and determining steps will be considered either in addition to the claims of claim 6 or the extracting step and/or the analyzing step(s) of claim 6 will be considered to comprise the monitoring step of this claim and the determining step of this claim."

See discussion of claims supra, e.g. claims 20 and 24, as well as '079 at, e.g., Figures 18-19, esp. 1802 and col. 30, lines 1-col. 31, line 44 and claim 2.

Therefore the prior art combination contemplates the method of claim 30.

<u>Claim 31</u>

31. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data. With regard to the terminology "extracting" see the

discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by

incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:

 monitoring time of day driving data associated with the vehicle,

 determining whether the time of day driving data has a preselected relationship to a predetermined safety standard; and

 recording the time of day driving data in the first memory in response to determining that the time of day driving data has the preselected relationship to the safety standard.

See the discussion of claim 31 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, the monitoring step will be considered either in addition to the steps of claim 6 or

the extracting step or the analyzing step of claim 6 will be considered to comprise the monitoring

step of this claim and this claim will be considered to require the time of day driving data have

"a preselected relationship" to "a predetermined safety standard".

See discussion of claims supra, esp. claims 16, 21, 25 and 30.

Therefore the prior art combination contemplates the method of claim 31.

Claim 32

32. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

> **monitoring time of day driving data associated with the vehicle;**

> **determining whether the time of day driving data indicates an occurrence of a high risk driving time event; and**

> **computing the insurance rating for the vehicle based on the occurrence of the high risk driving time event.**

See the discussion of claim 32 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim are considered either in addition to the steps of claim 6 or

the extracting step or the analyzing step of claim 6 will be considered to comprise at least

monitoring to determine the occurrence of a high risk driving time event, and the correlating and

generating step of claim 6 will be considered to comprise the computing step of this claim."

See discussion of claims supra, esp. claims 27 and 30-31.

Therefore the prior art combination contemplates the method of claim 32.

Claim 33

33. **The method according to claim 32, further comprising**

> **measuring a time duration of the high risk driving time event,**

> **wherein the step of computing the insurance rating comprises computing the insurance rating for the vehicle based on the time duration of the high risk driving time event.**

See the discussion of claim 33 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, the determining, identifying and comparing step of claim 32 will also be considered

to comprise measuring a time duration associated with an occurrence of a high risk time event,

and the computing step of claim 27 will also be considered to comprise the computing step of

this claim.

See discussion of claims supra, esp. claims 28 and 30-32.

Therefore the prior art combination contemplates the method of claim 33.

Claim 34

34. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

monitoring driving route data associated with a location of the vehicle;

determining that the driving route data indicates an occurrence of a high risk driving location event; and

computing the insurance rating for the vehicle based on the occurrence of the high risk driving location event.

See the discussion of claim 34 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, theses steps of this claim are considered either in addition to the steps of claim 6 or

the extracting step or the analyzing step of claim 6 will be considered to comprise at least

monitoring to determine the occurrence of a high risk driving location event, and the correlating

and generating step of claim 6 will be considered to comprise the computing step of this claim."

See discussion of claims supra, esp. claim 32, as well as '079 at Figures 18-19, esp. step

1801 and col. 30, lines 1-col. 31, line 44.

Therefore the prior art combination contemplates the method of claim 34.

Claim 35

35. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

recording a lateral acceleration of the vehicle based on at least one of the one or more data elements; and

using the lateral acceleration of the vehicle to compute the insurance rating for the vehicle.

See the discussion of claim 35 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim are considered either in addition to the steps of claim 6

wherein the lateral acceleration is based on some data element, e.g. raw, calculated or derived, or

the extracting step or the analyzing step of claim 6 will be considered to comprise the recording

step of this claim wherein the lateral acceleration is based on some data element, e.g. raw,

calculated or derived, and the correlating and generating step of claim 6 will be considered to comprise the using step of this claim."

See discussion of claims supra, esp. claim 19, as well as '079 at col. 10, lines 35-37, e.g. a lateral acceleration of the vehicle based on the one or more data elements extracted from the at least one sensor.

Therefore the prior art combination contemplates the method of claim 35.

Claim 36

36. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:

calculating a lateral acceleration of the vehicle based on at least one of the one or more data elements; and

determining whether the lateral acceleration indicates a trigger event which would result in a surcharge or discount during an insurance billing process.

See the discussion of claim 36 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, these steps of this claim are considered either in addition to the steps of claim 6 wherein the lateral acceleration is based on some data element, e.g. raw, calculated or derived, or the extracting step and/or the analyzing step(s) of claim 6 will be considered to comprise the

calculating step of this claim wherein the lateral acceleration is based on some data element, e.g.

raw, calculated or derived, and the determining step of this claim."

See discussion of claims supra, esp. claims 19-21 and 35.

Therefore the prior art combination contemplates the method of claim 36.

Claim 37

37. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

     calculating a lateral acceleration of the vehicle based on at least one of the one or more data elements;

     determining whether the lateral acceleration has a preselected relationship to a predetermined safety standard; and

     recording the lateral acceleration in the first memory in response to determining that the lateral acceleration has the preselected relationship to the safety standard.

See the discussion of claim 37 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, the calculating step of this claim will be considered either in addition to the steps of

claim 6 wherein the lateral acceleration is based on some data element, e.g. raw, calculated or

derived, or the extracting step or the analyzing step of claim 6 will be considered to comprise the

calculating step of this claim wherein the lateral acceleration is based on some data element, e.g.

raw, calculated or derived, and this claim will be considered to require the lateral rate of

acceleration having 'a preselected relationship' to 'a predetermined' value which value may or

may not be a 'safety standard".

See discussion of claims supra, esp. claims 19-21 and 35-36.

Therefore the prior art combination contemplates the method of claim 37.

Claim 38

38. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising adjusting an insurance premium associated with the vehicle based on at least one of the one or more data elements.

See the discussion of claim 38 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, this adjusting step of this claim will be considered either in addition to the steps of

claim 6 or the steps of claim 6 will be considered to comprise the adjusting step of this claim

wherein at a minimum the insurance "rating" computed is associated with a "premium".

See discussion of claims supra, esp. claim 6, e.g., "The prior art combination also

contemplates use of the output information to provide up front discounts, prospective setting or

retrospective adjustment of some cost(s) associated with a cost of insurance, e.g. a pure or gross

premium, surcharge or discount." and claim 70, e.g., last two steps. Note also the discussion of

claims 39-40 and 61-64 infra.

Therefore the prior art combination contemplates the method of claim 38.

Claim 39

39. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising prospectively setting an insurance cost or an insurance premium associated with the vehicle based on at least one of the one or more data elements.

See the discussion of claim 39 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, this setting step of this claim will be considered either in addition to the steps of

claim 6 or the steps of claim 6 will be considered to comprise the prospective setting step of this

claim wherein at a minimum the insurance "rating" computed is associated with a "cost" or a

"premium" which is prospectively set."

See discussion of claims supra, esp. claims 9, 38 and 70. Note also the discussion of

claims 40 and 61-64 infra.

Therefore the prior art combination contemplates the method of claim 39.

Claim 40

40. The method according to claim 6, further comprising prospectively setting an insurance cost or an insurance premium associated with the vehicle based on the insurance rating.

See the discussion of claim 40 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, this step of this claim will be considered either in addition to the steps of claim 6 or the steps of claim 6 will be considered to comprise the prospective setting step of this claim wherein at a minimum the insurance "rating" computed is associated with a "cost" or a "premium" which is prospectively set."

See discussion of claims supra, esp. claims 9, 38-39 and 70. Note also the discussion of claims 61-64 infra.

Therefore the prior art combination contemplates the method of claim 40.

Claim 41

41. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:

using one or more of the one or more data elements to determine an insurance actuarial class associated with the vehicle; and

using one or more of the one or more data elements for use to determine a surcharge or discount to be applied to a base cost of insurance associated with the vehicle.

See also the discussion of claim 41 in paragraph 7 supra, i.e. "Accordingly, for purposes of examination, this claim will be interpreted to require the using steps of this claim either in addition to the steps of claim 6 or at least one of the one or more data elements of the analyzing, grouping and storing step according to claim 6 being determinative of an "insurance actuarial class" and at least one of the one or more data elements of the analyzing, grouping and storing step according to claim 6 being determinative of a surcharge or discount to be applied to a base cost of insurance.

This claim uses the language "an insurance actuarial class". See the '970 Patent at col. 1, line 17-col. 2, line 20, col. 3, first full paragraph, col. 3, third full paragraph, col. 4, lines 27-52, col. 4, lines 53-56, col. 5, lines 8-12, col. 5, lines 28-33 and col. 5, lines 34-44 set forth supra in the discussion with regard to claim 10. Therefore and in light of MPEP 2258, "an insurance actuarial class" is interpreted as being a combination/group/groupings related to loss/risk/safety which are determined from classifications/characteristics representative of motor vehicle operational characteristics and driver behavior for which data is gathered. With regard to the language "a surcharge or discount to be applied to a base cost of insurance associated with the vehicle", see not only portions of the '970 Patent supra see again, esp. col. 5, lines 8-12 and col. 5, lines 34-44 as well as the discussion of "a cost of insurance", e.g. with regard to claims 1 and 4, "an insurance charge" with regard to claim 2, and "an insurance rating" with regard to claims 6 and 70.

Furthermore, see discussion of claims supra, esp., 6, 10-11, 70-73 and the portions of '079 cited supra, e.g. the abstract, the paragraph bridging cols. 4-5, col. 5, third full paragraph

col. 6, lines 13-15, col. 7, lines 45-49, the paragraph bridging cols. 9-10, col. 29, line 65-col. 31,

line 43, and Figures 18-19, e.g. steps 1801-1808 and Table, and claims 1 and 7. Therefore and in

light of MPEP 2258, since '079 provide for use of at least two of the one or more data elements

representative of a characteristic of the vehicle or driver as a group data value related to

risk/safety or a combination/group/groupings used to predict loss/evaluate risk/safety which are

determined from classifications/characteristics representative of motor vehicle operational

characteristics and driver behavior for which data is gathered, see '079 at, e.g., Table in Figure

19 and cols. 30-31, steps 1801-1808 and claim 7, similar to the description of the '970 Patent, it

is the Examiner's position that the prior art combination contemplates using at least one of the

one or more data elements to determine/determinative of "insurance actuarial class" and using at

least one of the one or more data elements to determine/determinative of a surcharge or discount

to be applied to a base cost of insurance.

Therefore the prior art combination contemplates the method of claim 41.

Claim 42

42. The method according to claim 6, wherein the step of analyzing, grouping, and storing comprises grouping speed data of the vehicle in combination with a location of the vehicle in a log of vehicle speed for the location.

See the discussion of claim 42 in paragraph 7 supra, e.g.. "Accordingly, for purposes of

examination, this claim will be interpreted to require the step of this claim in addition to the steps

of claim 6 or the analyzing, grouping and storing step according to claim 6 to include at least two

data elements, i.e. speed and location as data values of a group, i.e. the log stored in the first

memory.

See discussion of claims supra, esp. claims 1, 11, 14, and 17-18.

Therefore the prior art combination contemplates the method of claim 42.

Claim 43

43. The method according to claim 6, further comprising communicating information representative of a trigger event associated with the one or more data elements to a central control station remote from the vehicle via a communications uplink.

See the discussion of claim 43 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, the step of claim 6 will be considered to further comprise communicating information representative of a trigger event, i.e. not precluding the indication of a trigger event which would result in a surcharge or discount during an insurance billing process, associated with the one or more data elements to a central control station remote from the vehicle via a communications uplink."

See discussion of claims supra, esp. claims 7 and 8.

Therefore the prior art combination contemplates the method of claim 43.

Claim 44

44. The method according to claim 6, further comprising determining an insurance actuarial class based on a measured total driving time of the vehicle during the data collection period.

See the discussion of claim 44 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, the step of this claim will be considered either in addition to the steps of claim 6 or at least one of the one or more data elements of the extracting step of claim 6 will be considered to be total driving time and the analyzing, grouping and storing step according to claim 6 will be considered to have a group for data values stored wherein the group is related to loss/risk/safety

characteristics including total driving time. Note the discussion of the terminology "insurance actuarial class" with regard to the discussion of claim 41 infra."

See discussion of claims supra, esp. claims 6, 10-11, 13-14, 16, 30, 41, and 70-72 noting especially discussion with respect to the terminology "insurance actuarial class" and "safety or other actuarial standard values", and "preselected relationship to the safety standard" and what is considered related to loss/risk/safety and monitoring time of day. See also the portions of '079 cited, e.g., cols. 30-32 and Figures 18-19, esp. col. 30, lines 21-22, i.e. "trip length", and col. 6, lines 1-3, i.e. trip recorder, col. 26, lines 49-49, and claim 7.

Therefore the prior art combination contemplates the method of claim 44.

Claim 45

45. The method according to claim 6, further comprising determining an insurance actuarial class based on a measured driving time of the vehicle in high risk locations during the data collection period.

See the discussion of claim 45 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, the step of this claim will be considered either in addition to the steps of claim 6 or at least one of the one or more data elements of the extracting step of claim 6 will be considered to be driving time in high risk locations and the analyzing, grouping and storing step according to claim 6 will be considered to have a group for data values stored wherein the group is related to loss/risk/safety characteristics including driving time in high risk locations. Note the discussion of the terminology "insurance actuarial class" with regard to the discussion of claim 41 infra."

See discussion of claims supra, esp. claim 44. Furthermore see the discussion of claims 30-33 supra and '079 at col. 30, lines 7-18, the Table in Figure 19, esp. titles in of columns.

Therefore the prior art combination contemplates the method of claim 45.

Claim 46

**46. The method according to claim 6, further comprising determining an insurance
actuarial class based on a measured driving time of the vehicle at high risk times during the
data collection period.**

See the discussion of claim 46 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, the step of this claim will be considered either in addition to the steps of claim 6 or

at least one of the one or more data elements of the extracting step of claim 6 will be considered

to be driving time at high risk times and the analyzing, grouping and storing step according to

claim 6 will be considered to have a group for data values stored wherein the group is related to

loss/risk/safety characteristics including driving time at high risk times. Note the discussion of

the terminology "insurance actuarial class" with regard to the discussion of claim 41 infra."

See discussion of claims supra, esp. claims 44-45. Furthermore see '079 at col. 30, lines

19-28, the Table in Figure 19, esp. titles in of columns.

Therefore the prior art combination contemplates the method of claim 46.

Claim 47

**47. The method according to claim 6, wherein the step of extracting comprises extracting
the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:
processing speed data associated with the vehicle based on at least one of the one or more data elements; and

determining an insurance actuarial class based on the speed data.

See the discussion of claim 47 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, these steps of this claim will be considered either in addition to the steps of claim 6 or at least one of the one or more data elements of the extracting step of claim 6 will be considered to be speed data and the analyzing, grouping and storing step according to claim 6 will be considered to have a group for data values stored wherein the group is related to loss/risk/safety characteristics including speed data. Note the discussion of the terminology "insurance actuarial class" with regard to the discussion of claim 41 infra"

See discussion of claims supra, esp. claims 44-46. Furthermore see the discussion of claims 27-29 supra and '079 at col. 30, lines 7-18 and 29-35, the Table in Figure 19, esp. titles of columns and rows.

Therefore the prior art combination contemplates the method of claim 47.

Claim 48

48. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:

   determining speed limit observation data associated with a location of the vehicle based on the one or more data elements; and

   determining an insurance actuarial class based on the speed limit observation data.

See the discussion of claim 48 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim will be considered either in addition to the steps of claim 6

or at least one of <u>the</u> one or more data elements of the extracting step of claim 6 will be

considered to be speed limit observation data and the analyzing, grouping and storing step

according to claim 6 will be considered to have a group for data values stored wherein the group

is related to loss/risk/safety characteristics including speed limit observation data. Note the

discussion of the terminology "insurance actuarial class" with regard to the discussion of claim

41 infra."

See discussion of claims supra, esp. claims 44-47. Furthermore see the discussion of

claims 30-33 and '079 at col. 30, lines 7-18, the Table in Figure 19, esp. titles in of columns.

Therefore the prior art combination contemplates the method of claim 48.

Claim 49

49. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

      determining acceleration data associated with the vehicle based on at least one of the one or more data elements; and

      determining an insurance actuarial class based on the acceleration data.

See the discussion of claim 49 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim will be considered either in addition to the steps of claim 6

or at least one of the one or more data elements of the extracting step of claim 6 will be

considered associated acceleration data and the analyzing, grouping and storing step according to

claim 6 will be considered to have a group for data values stored wherein the group is related to

loss/risk/safety characteristics including associated acceleration data. Note the discussion of the

terminology "insurance actuarial class" with regard to the discussion of claim 41 infra. "

See discussion of claims supra, esp. claims 44-48. Furthermore see the discussion of

claims 19-22 supra and the portions of '079 cited with regard thereto.

Therefore the prior art combination contemplates the method of claim 49.

Claim 50

50. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

> **determining braking data associated with the vehicle based on at least one of the one or more data elements; and**

> **determining an insurance actuarial class based on the braking data.**

See the discussion of claim 50 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim will be considered either in addition to the steps of claim 6

or at least one of <u>the</u> one or more data elements of the extracting step of claim 6 will be

considered to be rate of braking related data and the analyzing, grouping and storing step

according to claim 6 will be considered to have a group for data values stored wherein the group

is related to loss/risk/safety characteristics including rate of braking related data. Note the

discussion of the terminology "insurance actuarial class" with regard to the discussion of claim

41 infra"

See discussion of claims supra, esp. claims 44-49. Furthermore see the discussion of

claims 23-26 supra and the portions of '079 cited with regard thereto.

Therefore the prior art combination contemplates the method of claim 50.

Claim 51

51. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements from the at least one sensor by an on-board computer comprising a computer processor and computer memory.**

The "extracting" of this claim and <u>the</u> "extracting" of claim 6 are interpreted as one and

the same.

See discussion of claims supra, esp. claim 6, and '079 at, e.g., Figures 3, 8, 13 and 16,

col. 8, lines 44-47, col. 11, lines 3-22, the paragraph bridging cols. 21-22, the paragraph bridging

cols. 24-25, first full paragraph of cols. 25, and col. 26, lines 49-59, e.g. on board EVA 5

records/extracts the output of the sensors and includes processor 22 and memory 23 or on-board

system 107 includes processor 510 and memory 512.

Therefore the prior art combination contemplates the method of claim 51.

Claim 52

52. The method according to claim 6, wherein the step of extracting comprises communicating one or more raw data elements to a computer through an on-board diagnostics (OBD) connector of the vehicle.

It is noted that "a computer" is not required to be "on-board".

See discussion of claims supra, esp. claims 6 and 3, and '079 at, e.g., Figures 2-3, 8 (Note

esp. the arrowed lines one of which is labeled "RS232") and 12 and col. 24, lines 51-58 and col.

29, lines 25-28.

Therefore the prior art combination contemplates the method of claim 52.

Claim 53

53. The method according to claim 6, wherein the at least one sensor comprises an in vehicle sensor in operative connection with a data bus of the vehicle, and wherein the step of extracting comprises monitoring the at least one operating state of the vehicle through the at least one in-vehicle sensor.

See discussion of claims supra, esp. claims 6, 3 and 52, and '079 at, e.g., col. 29, lines 25-

38.

Therefore the prior art combination contemplates the method of claim 53.

Claim 54

54. The method according to claim 6, wherein the at least one sensor comprises a power train sensor coupled with the vehicle, an in-vehicle electrical sensor coupled to the vehicle, and an in-vehicle body sensor coupled with the vehicle;

wherein the one or more data elements comprise a first data element, a second data element, and a third data element;

wherein the step of extracting comprises:
        extracting the first data element from the power train sensor coupled with the vehicle;

        extracting the second data element from the in-vehicle electrical sensor coupled to the vehicle; and

        extracting the third data element from the in-vehicle body sensor coupled with the vehicle.

See discussion of claims supra, esp. claims 6 and 3, and the '970 Patent at, e.g., col. 7,

lines 25-64 and '079 at, e.g., col. 9, line 31, Figure 12, element 617, col. 24, lines 1-7, and col.

10, lines 39-40.

Therefore the prior art combination contemplates the method of claim 54.

Claim 55

55. The method according to claim 6, further comprising:

        analyzing the one or more data elements to identify a trigger event requiring additional action; and

        transmitting a location of the vehicle by an on-board computer to a remote control center in response to determining that the one or more data elements comprise the trigger event.

See discussion of claims supra, esp. claims 6-8 and 43. Note esp. '079 at col. 9, line 47,

col. 11, lines 1-2, Figure 18, step 1808 and col. 32, lines 4-9.

It is the Examiner's first position that the prior art combination contemplates transmitting

a location in response to the trigger event, e.g. not meeting a performance standard within a

certain amount of time. In any case, even if such is not explicitly contemplated, it would be

obvious to transmit a location in order to permit the dispatcher or controller responsible for the

safety of the driver and vehicle to accurately assess whether the driver is located in a place which

is safe for vehicle shutdown or whether additional time is needed to find a place to park and

thereby requiring an override of the shut.down for limited periods to afford the driver additional

time to find an appropriate place to park the vehicle safely and the desire by '079 to promote

safety.

Therefore the prior art combination contemplates the method of claim 55.

Claim 56

**56. The method according to claim 6, wherein the step of extracting comprises extracting
the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:
**   detecting a non-use of turn signals by a driver of the vehicle based on at least one of
the one or more data elements;**

recording the detected non-use of the turn signals by the driver in computer memory; and

computing an insurance surcharge for the vehicle by a processor based on the detected non-use of the turn signals by the driver.

See the discussion of claim 56 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, these steps of this claim will either be considered to comprise steps in addition to the steps of claim 6 or the extracting step and the analyzing step of claim 6 will be considered to comprise the detecting and recording of non-use steps of this claim regardless of a determination of it being a "trigger event" and a computer memory which can be the first memory and the correlating and generating step of claim 6 will be considered to comprise the computing step of this claim. Additionally, "computer" of the "computer memory" of this claim, line 6 and the "computer" of this claim, line 1 may or may not be considered one and the same."

See discussion of claims supra, esp. claims 6-7, 20, 22, 24, 26, 30 and 36 as well as '079 at Figure 12, 612, col. 9, lines 22-27, col. 10, last line, col. 11, lines 3-25, col. 24, first full paragraph, col. 26, line 49-col. 28, line 6, cols. 30-32, esp. col. 30, line 33, Figure 18, e.g., step 1803 and Figure 19, e.g. row labeled "turn signal".

Therefore the prior art combination contemplates the method of claim 56.

Claim 57

57. **The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]**

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

    **detecting an application of an anti-lock braking system of the vehicle based on at
least one of the one or more data elements;**

    **recording the detected anti-lock braking system application in computer memory;
and**

    **computing an insurance surcharge for the vehicle based on the detected anti-lock
braking system application.**

See the discussion of claim 57 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim will either be considered to comprise steps in addition to

the steps of claim 6 or the extracting step and the analyzing step of claim 6 will be considered to

comprise the detecting and recording of brake system application steps of this claim regardless of

a determination of it being a "trigger event" and a computer memory which can be the first

memory and the correlating and generating step of claim 6 will be considered to comprise the

computing step of this claim. Additionally, "computer" of the "computer memory" of this claim,

line 6 and the "computer" of this claim, line 1 may or may not be considered one and the same."

See discussion of claims supra, esp. claims 6-7, 20, 22, 24, 26, 30, 36 and 56 as well as

'079 at Figure 12, element 610, col. 9, lines 22-27 and 40-41, col. 10, lines 39-40 and 67, col. 11,

lines 1 and 3-25, col. 24, first full paragraph, col. 26, line 49-col. 28, line 6, co. 28, lines 49-52,

and cols. 30-32, esp. col. 30, lines 29-35 and 38-39.

Therefore the prior art combination contemplates the method of claim 57.

Claim 58
58. **The method according to claim 6, further comprising:**

monitoring the one or more data elements for a predetermined incident condition;

remaining in a data collection loop in response to determining that the one or more data elements fail to meet the predetermined incident condition; and

recording a snapshot of the one or more data elements in response to determining that the one or more data elements meet the predetermined incident condition.

See the discussion of claim 58 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, the steps of this claim will either be considered to comprise steps in addition to the steps of claim 6 or the extracting step and/or the analyzing step of claim 6 will be considered to comprise monitoring the one or more data elements and the remaining and recording steps as claimed wherein determination is with regard to the occurrence of an incident and the snapshot may be stored/recorded in the first memory."

See discussion of claims supra, esp. claims 6-7, as well as '079 at col. 26, line 49-col. 28, line 6, esp. col. 27, lines 31-53. The claim requires "a snapshot". The '970 Patent utilizes the terminology "a snapshot". See Figure 5 and the sentence bridging cols. 10-11 thereof. However, since '079 so describes recording the data elements upon an unusual event similar to the description by '970, it is the Examiner's position that '079 records a "snapshot" as claimed.

Therefore the prior art combination contemplates the method of claim 58.

Claim 59

59. **The method according to claim 6, further comprising:**

acquiring a vehicle sensor record file associated with the vehicle by a central billing system remote from the vehicle;

acquiring a trigger event response file associated with the vehicle by the central billing system; and

consolidating the vehicle sensor record file with the trigger event response file into a consolidated activity file by the central billing system.

See the discussion of claim 59 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, the acquiring and consolidating steps will be considered either to comprise or be in addition to the steps of claim 6."

See '970 at Figure 2 and col. 10, line 11-col. 11, line 2. Furthermore, see the discussion of claim 6 supra, e.g. the portions of '079 cited therein, esp. col. 26, line 49-col. 28, line 6, e.g. storage and storage locations/files of data related to sensors and data related to unusual events/threshold events and col. 28, lines 7-43, e.g. data in storage locations/files serially transmitted to, e.g. acquired by, remote computer and converted/consolidated by the remote computer system from serial form to parallel form, i.e. joined/consolidated form/file, as well as, e.g., stored in a different memory and/or displayed and/or analyzed in a variety of forms. See again also the portions of '868 cited, e.g. the entire disclosure of '868, esp. those discussed supra with regard to claims 4-6 and 9 again,, e.g., page 6, col. 1., last full paragraph, Figures 1, 5, 9, and 11, the title, claims 1-17, page 4, col. 1, third full paragraph, page 7, col. 1, last full paragraph, page 9, col. 1, first full paragraph, and the paragraph bridging cols. 1-2 of page 9, e.g. premium settlement, i.e. billing/analysis, performed either on-board or remotely, as well as the Black publication again, esp. the fourth-seventh paragraphs, eight through tenth paragraphs and second to last paragraph, i.e. data transmitted to remote systems and/or remote systems for assessment/analysis. Since the prior art combination contemplates a remote computer acquiring and consolidating as claimed being part of a system associated with billing/settlement/analysis

and/or such also related to insurance similar to that described by '970, it is the Examiner's

position that the prior art combination contemplates the method of claim 59.

Claim 60
60. **The method according to claim 59, further comprising:**

processing, by the central billing system, the consolidated activity file and an insured profile associated with the vehicle against an insurance surcharge or discount algorithm file; and

adjusting available insurance surcharges or discounts for the vehicle based on usage patterns reflected in the consolidated activity file.

See the discussion of claim 60 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, the acquiring and consolidating steps will be considered either to comprise or be in

addition to the steps of claim 6 and "usage patterns" may or may not be the same as the behavior

patterns in insured activity described by the '970 Patent. With regard to the language "insured

profile", note also the discussion of claim 5 supra."

See discussion of claims supra, esp. claims 6, 59, 4-5, 7 and 9. Note also, e.g., the

portions of '079 cited therein, esp. col. 26, line 49-col. 28, line 6, esp. col. 26, lines 50-53, cols.

30-32 and Figures 18-19 and steps 1806-1808, esp. the paragraph bridging cols. 29-30 and col.

31, lines 24-45 and col. 32, lines 44-47, the abstract and claim 7, i.e. stored/displayed/analyzed

data is consolidated data, driver profile/standard data and algorithm/statistical data, and col. 28,

lines 7-43 and the portions of '868 and Black cited supra with regard to claim 59. Finally, note

that the claim does not set forth the specifics of the processing performed and, i.e., converting of

the serial data from storage locations to parallel data or manipulation or data for display in a

particular manner, e.g. distribution curve or table, by the remote computer as taught by '079 is

"processing". Since the prior art combination contemplates a remote computer processing

various data to dynamically adjust a cost of insurance similar to that described by '970, it is the

Examiner's position that the prior art combination contemplates the method of claim 60.

Claim 61

61. The method according to claim 6, further comprising setting an insurance cost or an insurance premium associated with the vehicle based on the insurance rating.

See the discussion of claim 61 in paragraph 7 supra, e.g. "See discussion of a similar step

supra with regard to claim 40. Such discussion also applies here.", i.e. "Accordingly, for

purposes of examination, the step of this claim will be considered either in addition to the steps

of claim 6 or the steps of claim 6 will be considered to comprise the setting step of this claim

wherein at a minimum the insurance "rating" computed is associated with a "cost" or a

"premium".

See discussion of claims supra, esp. claims 40, 9 and 38.

Therefore the prior art combination contemplates the method of claim 61.

Claim 62

62. The method according to claim 6, further comprising generating an insurance cost based on the insurance rating for the vehicle for the data collection period, where the preset values comprise a safety standard value or other actuarial standard value.

See the discussion of claim 62 in paragraph 7 supra, i.e. "See discussion of a similar step

supra with regard to claims 40 and 61. Such discussion also applies here. Accordingly, for

purposes of examination, the step of this claim will be considered either in addition to the steps

of claim 6 or the steps of claim 6 will be considered to comprise the setting step of this claim

wherein at a minimum the insurance "rating" computed, either with preset values as claimed in

claim 6 or as claimed in this claim, is associated with a 'cost' or a 'premium".

See discussion of claims supra, esp. claims 61, 40, 5, 9-15 and 38-39.

Therefore the prior art combination contemplates the method of claim 62.

Claim 63

63. The method according to claim 62, further comprising:

comparing a plurality of data elements to the safety standard value or the actuarial standard value to generate the insurance cost

See the discussion of claim 63 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, this claim is interpreted as requiring generation of a insurance cost, see discussion

of claim 4 supra, and a plurality of data elements associated with safety or actuarial standard, see

discussion of claims 5 and 10-11 supra."

See discussion of claims supra, esp. claims 61-62, 40, 5, 9-15 and 38-39.

Therefore the prior art combination contemplates the method of claim 63.

Claim 64

64. The method according to claim 63 where the insurance cost is for a prospective or retrospective basis.

See the discussion of claim 64 in paragraph 7 supra, e.g. "Accordingly, for purpose of

examination, this claim is interpreted as requiring at least using the cost of claim 63

prospectively or using the cost retrospectively at a minimum."

See discussion of claims supra, esp. claims 61-63, 40, 5, 9-15 and 38-39.

Therefore the prior art combination contemplates the method of claim 64.

Claim 65

65. The method according to claim 6, further comprising generating an initial vehicle operator profile and an initial insured profile.

See the discussion of claim 65 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, this claim will be interpreted as requiring at least one of 'an initial vehicle operator profile' and 'an initial insured profile' and such terminology is interpreted similarly to that discussed supra with regard to claims 4 and 5."

See discussion of claims supra, esp. claim 6, and the portions of '079 cited therein, esp. the abstract, col. 5, lines 23-25, col. 6, lines 19-21, the paragraph bridging cols. 9-10 and the paragraph bridging cols. 29-30. Therefore, and in light of MPEP 2258, since the prior art combination provides for generating since initial files or information with respect to the operator/the insuring thereof or information which is initially acquired/stored in insurance files regarding insurance for the vehicle, i.e. insurance agreement or insurance coverage specific(s) (e.g. the predetermined safety standards/the preset values for warnings or a base cost of vehicle insurance, i.e. the prepaid premium/prepaid balance premium required), e.g. '079 teaches a personalized standard or profile and normal/non personalized standards, similar to those described by the '970 Patent, it is the Examiner's position that the prior art combination provides for generating an "initial vehicle operator profile" and "an initial insured profile".

Therefore the prior art combination contemplates the method of claim 65.

Claim 66

66. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:

> **deriving road condition data; and**

> **processing the road condition data through a processor to compute the insurance rating for the vehicle.**

See the discussion of claim 66 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, this claim will be considered as requiring deriving data related to road conditions based on the one or more data elements, and the deriving step and processing step be in addition to the method of claim 6 or comprise the extracting step and/or the analyzing step of claim 6 and the correlating and generating step of claim 6 respectively, e.g. the extracting or analyzing includes at least the deriving the road condition data and the correlation and generating step processing the road condition data."

See discussion of claims supra, esp. claims 6, 19, 22-23, 26, 32, 34 and the portions of '079 cited, e.g., the paragraph bridging cols. 3-4, col. 8, lines 34-42, the paragraph bridging cols. 10-11, col. 23, line 36-col. 24, line 16, col. 29, lines 53-56, cols. 30-32, esp. col. 30, lines 44-58, and Figures 18-19 and claim 7, e.g. road conditions such as snow or rain and used to generate profiles for evaluation.

Therefore the prior art combination contemplates the method of claim 66.

<u>Claim 67</u>
67. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by a computer programmed to gather data at a minimum. With regard to the terminology "extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-59.

the method further comprising:

deriving traffic condition data associated with a path of the vehicle based on the one or more data elements extracted from the at least one sensor; and

processing the traffic condition data to compute the insurance rating for the vehicle.

See the discussion of claim 67 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, this claim will be considered as requiring deriving data related to traffic conditions based on the one or more data elements as the identifying step, and the identifying step and processing step be in addition to the method of claim 6 or comprise the extracting step and/or the analyzing step of claim 6 and the correlating and generating step of claim 6 respectively, e.g. the extracting or analyzing includes at least the deriving of the traffic conditions data and the correlating and generating step processing the road condition data."

See discussion of claims supra, esp. claims 6, 19, 22-23, 26, 32, 34 and 67 and the portions of '079 cited, esp., e.g., the paragraph bridging cols. 3-4, col. 8, lines 34-42, the paragraph bridging cols. 10-11, col. 23, line 36-col. 24, line 16, col. 29, lines 53-56, cols. 30-32, esp. col. 30, lines 31-44 and 46-55, and Figures 18-19 and claim 7, e.g. target/headway conditions reflecting traffic conditions monitored and used to generate profiles for evaluation.

Therefore the prior art combination contemplates the method of claim 67.

Claim 68

68. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

> **calculating a distance traveled by the vehicle based on at least one of the one or more data elements extracted from the at least one sensor;**

> **determining speed data associated with the vehicle based on at least one of the one or more data elements;**

> **recording a rate of change in vehicle speed with respect to time based on at least one of the one or more data elements extracted from the at least one sensor;**

> **and processing the distance traveled, the rate of change in vehicle speed with respect to time, and the speed data to compute the insurance rating for the vehicle.**

See the discussion of claim 68 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, this claim will be considered as requiring the calculating, determining and

recording steps and the processing step be in addition to the method of claim 6 or comprise the

extracting step and/or the analyzing step of claim 6 and the correlating and generating step of

claim 6 respectively, e.g. the extracting or analyzing includes at least the calculating,

determining and recording steps as claimed and the correlating and generating step includes the

processing step."

See discussion of claims supra, esp. claims 6, 19, 22-23, 26, 32, 34 and 67-68, and the

portions of '079 cited, e.g., the paragraph bridging cols. 3-4, the paragraph bridging cols. 5-6,

col. 9, lines 22-28 and 42-44, col. 10, lines 20-22, 35-37 and 62-64, col. 8, lines 34-42, col. 23,

line 36-col. 24, line 16, col. 26, lines 49-59, col. 27, line 38-col. 28, line 6, col. 28, lines 44-52,

col. 29, lines 53-56, cols. 30-32, esp. col. 30, lines 21-22, and 29-42, and Figures 18-19 and

claims 2-3 and 7, e.g. trip length/distance travelled determined, speed data is determined and rate

of change of speed, with respect to time, e.g. acceleration, is recorded and used to generate

profiles.

Therefore the prior art combination contemplates the method of claim 68.

Claim 69

69. **The method according to claim 68, further comprising:**

monitoring time of day driving data associated with the vehicle; and

**processing the time of day driving data to compute the insurance rating for the
vehicle.**

See the discussion of claim 69 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, this claim will be considered as requiring the monitoring step and the processing

step be in addition to the method of claim 6 or comprise the extracting step and/or the analyzing

step of claim 6 and the correlating and generating step of claim 6 respectively, e.g. the extracting

or analyzing includes at least the monitoring as claimed and the correlating and generating step

includes the processing."

See discussion of claims supra, esp. claims 6, 19, 22-23, 26, and 30-32.

Therefore the prior art combination contemplates the method of claim 69.

Claim 80

80. The method according to claim 6, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Office Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26,

lines 49-59.

the method further comprising:

determining speed data associated with the vehicle based on at least one of the one or more data elements;
identifying a predetermined speed threshold;
comparing the speed data to the predetermined speed threshold;
measuring an amount of time that a speed of the vehicle is above the predetermined speed threshold; and
computing the insurance rating for the vehicle based on the amount of time that the speed of the vehicle is above the predetermined speed threshold.

See the discussion of claim 80 in paragraph 7 supra, e.g. "Accordingly, for purposes of

examination, these steps of this claim will be considered either in addition to the steps of claim 6

with determining, identifying and comparing to determine the speed data above a predetermined

threshold, i.e. not necessarily the legally imposed "speed limit", and measuring an amount of

time, i.e. not necessarily the total time that speed data is above a threshold, if any, or the

extracting step or the analyzing step of claim 6 will be considered to determining, identifying and

comparing to determine the speed data above a predetermined threshold, i.e. not necessarily the

legally imposed "speed limit", and measuring an amount of time, i.e. not necessarily the total

time that speed data is above a threshold, if any, and the correlating and generating step of claim

6 will be considered to comprise the computing step of this claim."

See discussion of claims supra, esp. claims 27-28, as well as the discussion with respect

to such in paragraph 3, Prior Art Rejections section supra.

Therefore the prior art combination contemplates the method of claim 80.

10. Claim 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Bouchard '079 in view of Kosaka '686 and Black Magic as further evidenced by the

definitions of "RATING, Insurance:" in Barron's Dictionary of Finance and Investment

Terms and "SCHEDULE RATING" in Barron's Dictionary of Insurance Terms.

75. The method of claim 70, wherein the step of extracting comprises extracting the one or more data elements by a computer programmed to gather data; [sic]

It is noted that this clause requires the extraction of one data element from one sensor by

a computer programmed to gather data at a minimum. With regard to the terminology

"extracting" see the discussion of such step of claim 6 supra, i.e. pages 24-56 of the non-final

Action by incorporation, esp. pages 40-43, and '079 at col. 25, lines 16-23 and col. 26, lines 49-

59.

the method further comprising:

determining an initial insured profile and a base cost of vehicle insurance based on said insured profile;

identifying a surcharge based on at least one of the plurality of data elements;

identifying a discount based on at least one of the plurality of data elements; and

producing a final cost of vehicle insurance by applying the surcharge and the discount to the base cost of vehicle insurance.

See the discussion of claim 75 in paragraph 7 supra, e.g. "Accordingly, for purposes of examination, such steps may either comprise the steps of claim 70, e.g. the analyzing, grouping and storing, correlating and/or computing, or be in addition thereto." With regard to the claim language "an initial insured profile" and "a base cost", see discussion of claims supra, esp. claims 5 and 65.

See discussion of claims supra, esp. claims 40, 61, 65 and 76-79, 5-6, esp. the portions of '079, '868 and Black Magic cited therein, as well as the discussion with respect to such in paragraph 3, Prior Art Rejections section supra. Therefore, at the very least, the prior art combination contemplates providing a net increase or decrease, i.e. a premium change, at the end of a selected period to a premium existing at the beginning of such period, i.e. a base cost, based on the collection of driving data, i.e. distinctive usage information, over the time, i.e. during the selected period, which data is indicative of risk/performance/fitness, as well as such in combination with conventional systems of billing/payment, attention is again invited to, e.g., the discussion of claim 6 supra, e.g. pages 24-56 of the non-final Office Action incorporated by reference, e.g. the last paragraph of page 48, the sentence bridging pages 50-51, the paragraph bridging pages 53-54 and pages 55-56. This claim further requires identifying and applying both a surcharge, i.e. an increase, and a discount, i.e. a decrease, based on at least one data element to produce a final cost from a base cost, i.e. a net change to the base cost indicates both such surcharge and discount (It is noted that the claim dos not set forth the specifics of the net

change, if any, to the base cost). However, as evidenced by the definition of "RATING,

Insurance:" in Barron's Dictionary of Finance and Investment:

> **Insurance:** using statistics, mortality tables, probability theory, experience,
> judgment, and mathematical analysis to establish the rates on which insurance
> premiums are based. There are three basic rating systems: *class rate*, applying to a
> homogeneous grouping of clients; *schedule system*, **relating positive and
> negative factors in the case of a particular insured (for example, a smoker or
> nonsmoker in the case of a life policy) to a base figure**; and *experience rating*,
> reflecting the historical loss experience of the particular insured. Also called *rate-
> making*. (Bold and underlining emphasis added.)

and "SCHEDULE RATING" in Barron's Dictionary of Insurance Terms:

> **SCHEDULE RATING method of pricing** property and liability insurance. It
> uses charges and credits to modify a class rate based on the special characteristics
> of the risk. Insurers have been able to develop a schedule of rates because
> experience has shown a direct relationship between certain physical
> characteristics and the possibility of loss. For example, for fire insurance, the
> underwriter might make an additional charge above the standard rate for the class
> if a building contains a flammable liquid. A credit may be given if it has a
> sprinkler system. *In automobile insurance, a credit might be given for driver
> education.* In life insurance, credit is usually given for a nonsmoker. **Schedule
> rating is commonly used for fire, automobile and workers compensation
> insurance.** *See also* EXPERIENCE RATING; PREMIUM DISCOUNT;
> RETROSPECTIVE RATING. (Emphasis added.)

conventional systems of billing/payment/pricing, including systems of vehicle/operator

insurance, include the identification and use/application of both surcharges, i.e. charges/negative

factors/ increased risk or loss factors, and discounts, i.e. credits/positive factors/decreased risk or

loss factors, to modify/change a base figure/class rate, i.e. base cost, to arrive at a final cost based

on distinct usage information to accurately/equitably rate/determine insurance premiums

according to direct characteristics/loss, i.e. styles of driving and locality of use, i.e. personalize or

individualize cost of insurance to environment and movements in governing risk levels,

distinguish between operators who always operate safely, and operators who occasionally take

risks and fairly. Therefore, to employ the vehicle/operator/automobile insurance

billing/payment/pricing system of the prior art combination to identify and apply both a

surcharge, e.g., jerky/hard deceleration/braking, and a discount, e.g., lack of high speeds (i.e.

identify and apply a net premium change, if any) to produce a final cost from a base cost, e.g.

premium, if not already, would be obvious to one of ordinary skill in the art in view of the

recognition that such is a commonly used method of automobile insurance

pricing/billing/payment to arrive at a final cost based on distinct usage information to

accurately/equitably rate/determine insurance premiums according to direct characteristics/loss,

i.e. styles of driving and locality of use, i.e. personalize or individualize cost of insurance to

environment and movements in governing risk levels, distinguish between operators who always

operate safely, and operators who occasionally take risks and fairly and the desire of such also by

the prior art combination.

Therefore the prior art combination contemplates the method of claim 75.

11. **Claims 70-75 are rejected under 35 U.S.C. 305 as enlarging the scope of the
claim(s) of the patent being reexamined.**

In 35 U.S.C. 305, it is stated that "[n]o proposed amended or new claim enlarging the

scope of a claim of the patent will be permitted in a reexamination proceeding... ." A claim

presented in a reexamination "enlarges the scope" of the patent claim(s) where the claim is

broader than any claim of the patent. A claim is broader in scope than the original claims if it

contains within its scope any conceivable product or process which would not have infringed the

original patent. <u>A claim is broadened if it is broader in any one respect, even though it may be narrower in other respects.</u>

Claim 70 now sets forth "extracting and storing in the vehicle a plurality of data elements from a plurality of in vehicle sensors wherein the plurality of data elements are generated by an operating state of the vehicle and <u>at least one human's actions</u> during a data collection period" (emphasis added). Since the claim does not require "at least one human's actions" to be those of an operator of the vehicle or a human controlling the power source driven vehicle as set forth in the preamble, e.g. the human could be a passenger in the vehicle, the claim is broader than any claim of the patent. Claims 71-75 depend from claim 70.

Double Patenting

12. A terminal disclaimer was filed 4-6-2011. The disclaimer was approved by the proper reviewing authority on April 7, 2011. Accordingly the obvious double patenting rejection of the newly added claims is withdrawn.

Other Matters

13. The amendment filed 4-6-11 does not comply with 37 CFR 1.530(d), i.e. the status of the original patent claims is incorrect, i.e."(previously presented)" rather than (Original). While the amendment filed 1-19-11 will be considered for the purpose of the action on the merits supra, Patent Owner must correct the format of the amendment to being it into full compliance with Rule 1.530 in the next response, if any, to this Office Action.

Conclusion

14. Patent owner's amendment filed April 6, 2011 necessitated the new grounds of

rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See

MPEP § 706.07(a).

A shortened statutory period for response to this action is set to expire 1 month from the

mailing date of this action.

Extensions of time under 37 CFR 1.136(a) do not apply in reexamination

proceedings. The provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in

a reexamination proceeding. Further, in 35 U.S.C. 305 and in 37 CFR 1.550(a), it is required

that reexamination proceedings "will be conducted with special dispatch within the Office."

Extensions of time in reexamination proceedings are provided for in 37 CFR

1.550(c). A request for extension of time must be filed on or before the day on which a response

to this action is due, and it must be accompanied by the petition fee set forth in 37 CFR 1.17(g).

The mere filing of a request will not effect any extension of time. An extension of time will be

granted only for sufficient cause, and for a reasonable time specified.

The filing of a timely first response to this final rejection will be construed as including a

request to extend the shortened statutory period for an additional month, which will be granted

even if previous extensions have been granted. In no event, however, will the statutory period

for response expire later than SIX MONTHS from the mailing date of the final action. See

MPEP § 2265.

Notification of Concurrent Proceedings

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to

apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving

Patent No. 7,523,063 throughout the course of this reexamination proceeding. The third party

requester is also reminded of the ability to similarly apprise the Office of any such activity or

proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282

and 2286.

Amendment in Reexamination Proceedings

Patent owner is notified that any proposed amendment to the specification and/or claims

in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j), must be formally

presented pursuant to 37 CFR 1.52(a) and (b), and must contain any fees required by 37 CFR

1.20(c). See MPEP § 2250(IV) for examples to assist in the preparation of proper proposed

amendments in reexamination proceedings.

Submissions

In order to insure full consideration of any amendments, affidavits or declarations or

other documents as evidence of patentability, such documents must be submitted in response to

the first Office action on the merits (which does not result in a close of prosecution).

Submissions after the second Office action on the merits, which is intended to be a final action,

will be governed by the requirements of 37 CFR 1.116, after final rejection and by 37 CFR 41.33

after appeal, which will be strictly enforced.

IDS Submissions

Regarding IDS submissions MPEP 2256 recites the following: "Where patents,

publications, and other such items of information are submitted by a party (patent owner or

requester) in compliance with the requirements of the rules, the requisite degree of consideration

to be given to such information will be normally limited by the degree to which the party filing

the information citation has explained the content and relevance of the information."

Accordingly, the IDS submissions have been considered by the Examiner only with the scope

required by MPEP 2256.

In certain instances, the examiner has "lined through" references because they do not

meet the requirements of being a Patent or Printed Publication (e.g. court papers and other

evidence that is not NPL). However, these references have been made of record in the

proceeding and are given due consideration.

Service of Papers

After filing of a request for *ex parte* reexamination by a third party requester, any

document filed by either the patent owner or the third party requester must be served on the other

party (or parties where two or more third party requester proceedings are merged) in the

reexamination proceeding in the manner provided in 37 CFR 1.248. The document must reflect

service or the document may be refused consideration by the Office. See 37 CFR 1.550(f).

Correspondence

All correspondence relating to this ex parte reexamination proceeding should be directed:

By Mail to: Mail Stop *Ex Parte* Reexam
                 Central Reexamination Unit
                 Commissioner for Patents
                 United States Patent & Trademark Office
                 P.O. Box 1450
                 Alexandria, VA 22313-1450

By FAX to: (571) 273-9900
                 Central Reexamination Unit

By hand: Customer Service Window
                 Randolph Building
                 401 Dulany Street
                 Alexandria, VA 22314

Registered users of EFS-Web may alternatively submit such correspondence via the

electronic filing system EFS-Web, at

https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html. EFS-Web offers the benefit

of quick submission to the particular area of the Office that needs to act on the correspondence.

Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the

official file for the reexamination proceeding, which offers parties the opportunity to review the

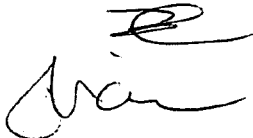content of their submissions after the "soft scanning" process is complete.

Any inquiry concerning this communication should be directed to the Central

Reexamination Unit at telephone number 571-272-7705.

Other useful telephone numbers:

Reexamination Practice (571) 272-7703

/Karin M. Reichle/
Examiner, CRU
Art Unit 3992

Conferees:

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-			
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

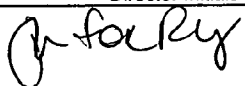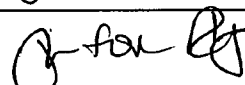| *		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	definitions of "microcontroller" and "program", Microsoft(R) Computer Dictionary, 5th ed., 2002
	V	definitions of "EXPERIENCE RATING", "PREMIUM", "PURE PREMIUM RATING METHOD", "RATE MAKING", "RETROSPECTIVE RATING" and "SCHEDULE RATING", Barrons' Dictionary of Insurance Terms, ed. Harvey W. Rubin, 4th edition, 2000 (1st ed. 1987).
	W	definition of "RATING, Insurance:", Barrons's Dictionary of Finance and Investment Terms, ed. John Downs, 5th ed., 1998 (lst ed. 1985).
	X	definition of "PREMIUM", Barron's Dictionary of Legal Terms, ed. Steven H. Gifis, 3rd ed., 1998 (lst ed. 1983).

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Patent and Trademark Office
PTO-892 (Rev. 01-2001)   **Notice of References Cited**   Part of Paper No. 20110516

Page 000459

Reexamination	Application/Control No.	Applicant(s)/Patent Under Reexamination
	90/011,252	6,064,970
	Certificate Date	Certificate Number

Requester Correspondence Address:	☐ Patent Owner	☒ Third Party

ROPES & GRAY LLP
PATENT DOCKETING 39/41
ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624

LITIGATION REVIEW ☒	KMR	5/16/11
	(examiner initials)	(date)
Case Name		Director Initials
Closed (Stayed): Progressive Casualty Ins. Co. v. Safeco Ins. Co. of Ill., et. al., 1:10-cv-01370 (N. D. Ohio)		*(signature)*
Open: Progressive Casualty Ins. Co. v. Allstate Ins.. Co. of Ill., et. al., 1:11-cv-00082 (N. D. Ohio)		*(signature)*

COPENDING OFFICE PROCEEDINGS	
TYPE OF PROCEEDING	NUMBER
1.	
2.	
3.	
4.	

U.S. Patent and Trademark Office

DOC. CODE RXFILJKT

Page 000460

Search Notes (continued)	Application/Control No.	Applicant(s)/Patent under Reexamination
	90/011,252	6,064,970
	Examiner	Art Unit	
	KARIN REICHLE	3992	

SEARCHED

Class	Subclass	Date	Examiner
NONE		5/16/2011	KMR

INTERFERENCE SEARCHED

Class	Subclass	Date	Examiner

SEARCH NOTES (INCLUDING SEARCH STRATEGY)

	DATE	EXMR
Review of Patented File Prosecution History	5/16/2011	KMR

FORM PTO-1449			SERIAL NO. 90/011,252	CASE NO. 12741-32
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT			FILING DATE September 22, 2010	GROUP ART UNIT 3992
(use several sheets if necessary)	APPLICANT(S): Robert John McMillan et al.			CONFIRMATION NO. 4116

REFERENCE DESIGNATION   U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER Number-Kind Code (if known)	DATE	NAME	CLASS/ SUBCLASS	FILING DATE

FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER Number-Kind Code (if known)	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES OR NO

EXAMINER INITIAL		OTHER ART – NON PATENT LITERATURE DOCUMENTS (Include name of author, title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date page(s), volume-issue number(s), publisher, city and/or country where published.
	D1	Complaint with Exhibits, filed January 12, 2011, Case No. 1:11-cv-00082-BYP: Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 63 pages.
	D2	Amended Complaint with Exhibits, filed January 27, 2011, Case No. 1:11-cv-00082-BYP, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 68 pages.
	D3	Safeco Insurance Company of Illinois, Safeco Insurance Company of America, Liberty Mutual Fire Insurance Company and Liberty Mutual Insurance Company's Motion to Sever, filed February 9, 2011, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 20 pages.
Not Patent or NPL	D4	Allstate's Motion to Sever, Consolidate and Stay All Claims, Defenses and Counterclaims Relating to U.S. Patent No. 6,064,970 with Exhibits, filed February 9, 2011, Case: 1:11-cv-00082-BYP, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 69 pages.
	D5	Liberty Mutual's Memorandum in Partial Opposition to Allstate's Motion to Sever, Consolidate and Stay All Claims, Defenses and Counterclaims Relating to U.S. Patent No. 6,064,970 with Exhibits, filed February 23, 2011, Case: 1:11-cv-00082-BYP, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 24 pages.
	D6	Progressive's Response to Allstate's Motion to Sever, Consolidate and Stay All Claims, Defenses and Counterclaims Relating to U.S. Patent No. 6,064,970, filed February 28, 2011, Case: 1:11-cv-00082-BYP, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 5 pages.
	D7	Progressive Casualty Insurance Company's Memorandum in Opposition to the Liberty Mutual Defendant's Motion to Sever, filed February 28, 2011, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 15 pages.
	D8	Allstate's Reply In Support of Its Motion to Sever, Consolidate and Stay All Claims, Defenses and Counterclaims Relating to U.S. Patent No. 6,064,970, filed March 9, 2011, Case: 1:11-cv-00082-BYP, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 9 pages.

EXAMINER /Karin Reichle/	DATE CONSIDERED 05/16/2011

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /KR

FORM PTO-1449	SERIAL NO. 90/011,252	CASE NO. 12741-32
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE September 22, 2010	GROUP ART UNIT 3992
(use several sheets if necessary)	APPLICANT(S): Robert John McMillan et al.	

EXAMINER INITIAL		OTHER ART – NON PATENT LITERATURE DOCUMENTS (Include name of author, title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date page(s), volume-issue number(s), publisher, city and/or country where published.
	D9	Safeco Insurance Company of Illinois, Safeco Insurance Company of America, Liberty Mutual Fire Insurance Company and Liberty Mutual Insurance Company's Reply In Support of Motion to Sever, filed March 10, 2011, Case: 1:11-cv-00082-BYP, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 9 pages.
Not Patent or NPL	D10	Liberty Mutual Defendant's Motion To Stay Litigation Pending Ex Parte Reexamination of the Patents-In-Suit by the United States PTO with Exhibits, filed April 4, 2011, Case: 1:11-cv-00082-BYP, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., 218 pages.
	D11	Civil Docket for Case No. 1:11-cv-00082-BYP, Progressive Casualty Insurance Company versus Allstate Insurance Company et al., U.S. District Court, Northern District of Ohio (Cleveland) printed from the internet at <https://ecf.ohnd.uscourts.gov/cgi-bin/DktRpt.pl?109962780451316-L_1_0-1> on April 21, 2011, 19 pages.

EXAMINER /Karin Reichle/	DATE CONSIDERED 05/16/2011

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /KR

Litigation Search Report CRU 3999

TO: Reichle, Karin **Location: CRU** **Art Unit: 3992** **Date: 04/26/11** **Case Serial Number: 90/011,252**	**From: Sharon S. Hoppe** **Location: CRU 3999** **MDW 7C69** **Phone: (571) 272-1586** **Sharon.hoppe@uspto.gov**

Search Notes

U.S. Patent No. 6,064,970

1) I performed a KeyCite Search in Westlaw, which retrieves all history on the patent including any litigation.

2) I performed a search on the patent in Lexis CourtLink for any open dockets or closed cases.

3) I performed a search in Lexis in the Federal Courts and Administrative Materials databases for any cases found.

4) I performed a search in Lexis in the IP Journal and Periodicals database for any articles on the patent.

5) I performed a search in Lexis in the news databases for any articles about the patent or any articles about litigation on this patent.

Litigation was found.

1:11cv82   Open.
Motion to Stay Denied, Court will consider a stay if USPTO agrees to conduct Reexamination.

1:10cv1370   Closed
Stayed

KEYCITE

C US PAT 6064970 MOTOR VEHICLE MONITORING SYSTEM FOR DETERMINING A COST OF INSURANCE, Assignee: Progressive Casualty Insurance Company (May 16, 2000)
History
Direct History

=>   1 **MOTOR VEHICLE MONITORING SYSTEM FOR DETERMINING A COST OF INSUR-ANCE**, US PAT 6064970, 2000 WL 929156 (U.S. PTO Utility May 16, 2000) (NO. 09/135034)

Patent Family
2 AUTOMOBILE INSURANCE COST DETERMINATION BASED ON OPERATOR AND VEHICLE CHARACTERISTIC DATA - INVOLVES MONITORING RAW DATA ELE-MENTS AND RECORDING SELECTED ONES WHICH HAVE GIVEN RELATIONSHIP TO SAFETY STANDARD, Derwent World Patents Legal 1997-470443

Assignments
3 ACTION: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS). NUMBER OF PAGES: 006, (DATE RECORDED: Mar 18, 2002)
4 ACTION: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS). NUMBER OF PAGES: 005, (DATE RECORDED: Jun 28, 2001)
5 ACTION: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS). NUMBER OF PAGES: 005, (DATE RECORDED: Mar 22, 2001)

Patent Status Files
.. Request for Re-Examination, (OG DATE: Jan 25, 2011)
.. Patent Suit(See LitAlert Entries),
.. Patent Suit(See LitAlert Entries),
.. Patent Suit(See LitAlert Entries),

Docket Summaries
10.PROGRESSIVE CASUALTY INSURANCE COMPANY v. ALLSTATE INSURANCE COM-PANY ET AL, (N.D.OHIO. Jan 12, 2011) (NO. 1:11CV00082), (35 USC 271 PATENT IN-FRINGEMENT)
11 PROGRESSIVE CASUALTY INSURANCE COMPANY v. SAFECO INSURANCE COM-PANY OF ILLINOIS ET AL, (N.D.OHIO. Jun 18, 2010) (NO. 1:10CV01370), (15 USC 1126 PATENT INFRINGEMENT)

Litigation Alert

12 Derwent LitAlert P2011-03-13 (Jan 12, 2011) Action Taken: cause - 35 USC 271 - complaint for PATENT INFRINGEMENT

13 Derwent LitAlert P2010-26-83 (Jun 18, 2010) Action Taken: complaint for PATENT IN-FRINGEMENT

14 Derwent LitAlert P2011-06-50 (Jun 18, 2010) Action Taken: MEMORANDUM OPINION AND ORDER: DEFENDANTS' MOTION TO STAY LITIGATION PENDING EX PARTE REEX-AMINATION OF THE PATENT-IN-SUIT BY THE UNITED STATES PTO IS GRANTED. THIS CASE WILL BE CLOSED, BUT REOPENED UPON IMMEDIATE NOTIFICATION OF EITHER PARTY AFTER T

Prior Art (Coverage Begins 1976)

C 15 ADAPTIVE VEHICLE, US PAT 4829434Assignee: General Motors Corporation, (U.S. PTO Utility 1989)

C 16 APPARATUS FOR ACCUMULATING AND PERMANENTLY STORING STATISTICAL IN-FORMATION, US PAT 4608638Assignee: Siemens Corporate Research & Support,, (U.S. PTO Utility 1986)

C 17 APPARATUS FOR DETECTING AND STORING MOTOR VEHICLE IMPACT DATA, US PAT 4992943 (U.S. PTO Utility 1991)

C 18 APPARATUS FOR INDICATING SAFE DRIVING, US PAT 3504337Assignee: Ekman Adolphe, (U.S. PTO Utility 1970)

C 19 AUTOMATIC DETECTION OF SEAT BELT USAGE, US PAT 4667336Assignee: Burlington Industries, Inc., (U.S. PTO Utility 1987)

C 20 AUTOMOTIVE WARNING AND RECORDING SYSTEM, US PAT 5430432 (U.S. PTO Utility 1995)

C 21 CONDITION ADAPTIVE-TYPE CONTROL METHOD FOR INTERNAL COMBUSTION EN-GINES, US PAT 4853720Assignee: Hitachi, Ltd., (U.S. PTO Utility 1989)

C 22 DATA LOGGING IN A VOLTAGE REGULATOR CONTROLLER, US PAT 5500806Assignee: Siemens Energy & Automation, Inc., (U.S. PTO Utility 1996)

C 23 ELECTRONIC ENGINE CONTROL APPARATUS, US PAT 5189621Assignee: Hitachi, Ltd., (U.S. PTO Utility 1993)

C 24 IMPACT DETECTION APPARATUS, US PAT 4745564Assignee: Board of Trustees Operating Michigan State, (U.S. PTO Utility 1988)

C 25 LAND VEHICLE MOUNTED AUDIO-VISUAL TRIP RECORDER, US PAT 4843463 (U.S. PTO Utility 1989)

C 26 METHOD AND APPARATUS FOR DETERMINING TAX OF A VEHICLE, US PAT 5694322Assignee: Highwaymaster Communications, Inc., (U.S. PTO Utility 1997)

C 27 METHOD AND DEVICE FOR RECORDING ANALOG PARAMETERS ON A STATIC DI-GITAL MEMORY, US PAT 4807179Assignee: Etat Francais, (U.S. PTO Utility 1989)

C 28 METHOD FOR STORING RUN DATA OF A VEHICLE IN THE MEMORY OF AN ELEC-

TRONIC TACHOGRAPH AND APPARATUS FOR CARRYING OUT THE METHOD, US PAT 4987541 (U.S. PTO Utility 1991)

c 29 MOBILE UNIT TRACKING SYSTEM, US PAT 5365451Assignee: Motorola, Inc., (U.S. PTO Utility 1994)

c 30 MONITORING AND RECORDING SYSTEM FOR VEHICLES, US PAT 4067061Assignee: Rockwell International Corporation, (U.S. PTO Utility 1978)

c 31 MOTOR VEHICLE MONITORING SYSTEM FOR DETERMINING A COST OF INSUR- ANCE, US PAT 5797134Assignee: Progressive Casualty Insurance Company, (U.S. PTO Utility 1998)

c 32 MOTOR VEHICLE WITH DRIVING STATUS DETECTION DEVICE, US PAT 4763745Assignee: Toyoda Koki Kabushiki Kaisha, (U.S. PTO Utility 1988)

c 33 POSITION MONITORING SYSTEM AND METHOD, US PAT 5550551Assignee: AT&T Corp., (U.S. PTO Utility 1996)

c 34 PRECISE UNIVERSAL TIME FOR VEHICLES, US PAT 5319374Assignee: Trimble Naviga- tion Limited, (U.S. PTO Utility 1994)

c 35 SYSTEM & METHOD FOR MONITORING & DIAGNOSING FAULTS IN ENVIRONMENT- ALLY CONTROLLED CONTAINERS, SUCH SYSTEM AND METHOD BEING ESPE- CIALLY ADAPTED FOR REMOTE COMPUTER CONTROLLED MONITORING OF NU- MEROUS TRANSPORTABLE CONTAINERS OVER EXISTING ON-SITE POWER WIRING, US PAT 4234926Assignee: Sealand Service Inc., (U.S. PTO Utility 1980)

c 36 TRIP RECORDER, US PAT 4939652Assignee: Centrodyne Inc., (U.S. PTO Utility 1990)

c 37 VEHICLE DATA STORAGE AND ANALYSIS SYSTEM AND METHODS, US PAT 5638273Assignee: Remote Control Systems, Inc., (U.S. PTO Utility 1997)

c 38 VEHICLE DRIVER PERFORMANCE MONITORING SYSTEM, US PAT 5499182 (U.S. PTO Utility 1996)

c 39 VEHICLE DRIVING MONITOR APPARATUS, US PAT 5548273Assignee: Competition Com- ponents International Pty, (U.S. PTO Utility 1996)

c 40 VEHICLE LOCATION SYSTEM, US PAT 5055851Assignee: TrackMobile, Inc., (U.S. PTO Utility 1991)

c 41 VEHICLE MONITORING AND RECORDING SYSTEM, US PAT 4258421Assignee: Rockwell International Corporation, (U.S. PTO Utility 1981)

c 42 VEHICLE PERFORMANCE DETECTION AND RECORDING APPARATUS, US PAT 4533962 (U.S. PTO Utility 1985)

c 43 VEHICLE SPEED MONITORING AND LOGGING MEANS, US PAT 4843578 (U.S. PTO Utility 1989)

c 44 VEHICLE TRACKING AND SECURITY SYSTEM, US PAT 5223844Assignee: Auto-Trac, Inc., (U.S. PTO Utility 1993)

c 45 VEHICULAR MOUNTED SURVEILLANCE AND RECORDING SYSTEM, US PAT 5111289 (U.S. PTO Utility 1992)

c 46 VEHICULAR MOVEMENT INDICATOR SAFETY SYSTEM, US PAT 4638295 (U.S. PTO Utility 1987)

US District Court Civil Docket

U.S. District - Ohio Northern
(Cleveland)

1:11cv82

Progressive Casualty Insurance Company v. Allstate Insurance Company et A

This case was retrieved from the court on Tuesday, April 26, 2011

Date Filed: 01/12/2011	Class Code:
Assigned To: Judge Benita Y Pearson	Closed: No
Referred To:	Statute: 35:271
Nature of suit: Patent (830)	Jury Demand: Both
Cause: Patent Infringement	Demand Amount: $0
Lead Docket: None	NOS Description: Patent
Other Docket: None	
Jurisdiction: Federal Question	

Litigants	Attorneys
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Date	#	Proceeding Text
01/12/2011	1	Complaint with jury demand against All Defendants. Filing fee paid &#36 350, Receipt number 0647-4491327 Plaintiff has indicated that case may be related to pending civil action 10-cv-1370 . Filed by Progressive Casualty Insurance Company. (Attachments: # 1 Civil Cover Sheet, # 2 Summons, # 3 Exhibit A, # 4 Exhibit B, # 5 Exhibit C) (Griffith, Calvin) (Entered: 01/12/2011)
01/12/2011	2	Corporate Disclosure Statement identifying Corporate Parent Progressive Corporation for Progressive Casualty Insurance Company filed by Progressive Casualty Insurance Company. (Griffith, Calvin) (Entered: 01/12/2011)
01/13/2011	--	Judge Patricia A. Gaughan assigned to case. (C,BA) (Entered: 01/13/2011)
01/13/2011	--	Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge McHargh. (C,BA) (Entered: 01/13/2011)
01/13/2011	3	Original Summons and Magistrate Consent Form issued for service upon Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America & Safeco Insurance Company of Illinois. (Attachments: # 1 Magistrate Consent Form) (C,BA) (Entered: 01/13/2011)
01/13/2011	--	This action has been identified as a Patent Case that is subject to the Local Patent Rules. Link to Local Patent Rules. (C,BA) (Entered: 01/13/2011)
01/20/2011	--	Case reassigned to Judge Benita Y. Pearson pursuant to General Order 2011-4. (K,K) (Entered: 01/20/2011)
01/24/2011	4	Return of Service by personal service executed upon All Defendants, filed on behalf of Progressive Casualty Insurance Company (Higgins, Christopher) (Entered: 01/24/2011)
01/25/2011	5	Motion for extension of time until March 10, 2011 to answer Complaint or File Responsive Pleadings, With Consent of Plaintiff, filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company

of Illinois. (Attachments: # 1 Proposed Order Granting Safeco and Liberty Mutual Defendants' Motion to Extend Time to File Responsive Pleading With Consent of Plaintiff)(Cipolla, John) (Entered: 01/25/2011)

01/27/2011	6	Amended complaint against Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. Filed by Progressive Casualty Insurance Company. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D) (Griffith, Calvin) (Entered: 01/27/2011)
01/28/2011	7	Attorney Appearance by Luke L. Dauchot filed by on behalf of Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Dauchot, Luke) (Entered: 01/28/2011)
01/28/2011	8	Corporate Disclosure Statement identifying Corporate Parent Allstate Insurance Company, Corporate Parent The Allstate Corporation for Allstate Fire and Casualty Insurance Company filed by Allstate Fire and Casualty Insurance Company. (Dauchot, Luke) (Entered: 01/28/2011)
01/28/2011	9	Corporate Disclosure Statement identifying Corporate Parent The Allstate Corporation for Allstate Insurance Company filed by Allstate Insurance Company. (Dauchot, Luke) (Entered: 01/28/2011)
01/28/2011	10	Answer to 6 Amended complaint, Affirmative Defenses and Counterclaim against Progressive Casualty Insurance Company, Drive Trademark Holdings, LP filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Attachments: # 1 Summons)(Dauchot, Luke) Modified text on 1/31/2011 (JLG). (Entered: 01/28/2011)
01/31/2011	11	Attorney Appearance by Joshua V. Vanhoven of Ropes & Gray LLP filed by on behalf of Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Vanhoven, Joshua) (Entered: 01/31/2011)
02/01/2011	12	Motion for Attorney James R. Myers to Appear Pro Hac Vice. Filing fee $ 100, receipt number 0647-4527696, filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Attachments: # 1 Affidavit of James R. Myers)(Cipolla, John) Modified text on 2/2/2011 (JLG). (Entered: 02/01/2011)
02/01/2011	13	Motion for Attorney Nicole M. Jantzi to Appear Pro Hac Vice. Filing fee $ 100, receipt number 0647-4527724, filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Attachments: # 1 Affidavit of Nicole M. Jantzi)(Cipolla, John) Modified text on 2/2/2011 (JLG). (Entered: 02/01/2011)
02/01/2011	--	Order [non-document] granting Defendants' 5 Motion for Extension of Time to Answer. Defendants answer is due 3/12/2011. Judge Benita Y. Pearson on 2/1/2011.(S,L) (Entered: 02/01/2011)
02/04/2011	14	Joint Notice In Compliance with Local Patent Rule 1.5 filed by All Parties. (Norton, Patrick) (Entered: 02/04/2011)
02/07/2011	15	Order granting Motions for appearance pro hac vice by Defendants Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America and Safeco Insurance Company of Illinois. Judge Benita Y. Pearson on 2/7/2011. Related documents 12 and 13 .(S,L) (Entered: 02/07/2011)
02/07/2011	16	Attorney Appearance by Robert J. Herberger, Jr filed by on behalf of Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Herberger, Robert) (Entered: 02/07/2011)
02/09/2011	17	Corporate Disclosure Statement filed by Safeco Insurance Company of Illinois. (Cipolla, John) (Entered: 02/09/2011)
02/09/2011	18	Original Summons issued for service upon Drive Trademark Holdings, LP. (K,V) (Entered: 02/09/2011)
02/09/2011	19	Corporate Disclosure Statement filed by Safeco Insurance Company of America. (Cipolla, John) (Entered: 02/09/2011)
02/09/2011	20	Corporate Disclosure Statement filed by Liberty Mutual Fire Insurance Company. (Cipolla, John) (Entered: 02/09/2011)
02/09/2011	21	Corporate Disclosure Statement filed by Liberty Mutual Insurance Company. (Cipolla, John) (Entered: 02/09/2011)
02/09/2011	22	Motion to sever filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Attachments: # 1 Brief in Support of Motion to Sever, # 2 Proposed Order Granting Motion to

Sever)(Cipolla, John) (Entered: 02/09/2011)

02/09/2011	23	Motion to sever , consolidate and stay all claims, defenses and counterclaims relating to U.S. Patent No. 6,064,970 filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Attachments: # 1 Memorandum in Support, # 2 Exhibit A to Memorandum in Support - 10-cv-1370 Complaint, # 3 Exhibit B to Memorandum in Support - 10-cv-1370 Opinion, # 4 Exhibit C to Memorandum in Support - Office Action, # 5 Exhibit D to Memorandum in Support - Office Action, # 6 Proposed Order)(Dauchot, Luke) Modified text on 2/10/2011 (JLG). (Entered: 02/09/2011)
02/16/2011	24·	Motion for attorney Robin A. McCue to Appear Pro Hac Vice. Filing fee $ 100, receipt number 0647-4555414, filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Attachments: # 1 Supplement & Certificate of Good Standing)(Herberger, Robert) Modified exhibit text on 2/17/2011 (G,CA). (Entered: 02/16/2011)
02/16/2011	25	Motion for attorney Garret A. Leach to Appear Pro Hac Vice. Filing fee $ 100, receipt number 0647-4555481, filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Attachments: # 1 Supplement & Certificate of Good Standing)(Herberger, Robert) Modified exhibit text on 2/17/2011 (G,CA). (Entered: 02/16/2011)
02/16/2011	26	Motion for attorney Jordon M. Heinz to Appear Pro Hac Vice. Filing fee $ 100, receipt number 0647-4555501, filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Attachments: # 1 Affidavit & Certificate of Good Standing)(Herberger, Robert) Modified exhibit text on 2/17/2011 (G,CA). (Entered: 02/16/2011)
02/16/2011	27	Motion for attorney Meredith Krannich to Appear Pro Hac Vice. Filing fee $ 100, receipt number 0647-4555513, filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Attachments: # 1 Affidavit & Certificate of Good Standing)(Herberger, Robert) Modified exhibit text on 2/17/2011 (G,CA). (Entered: 02/16/2011)
02/16/2011	28	Motion for attorney Matthew V. Topic to Appear Pro Hac Vice. Filing fee $ 100, receipt number 0647-4555529, filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Attachments: # 1 Affidavit & Certificate of Good Standing)(Herberger, Robert) Modified exhibit text on 2/17/2011 (G,CA). (Entered: 02/16/2011)
02/18/2011	29	Answer to the Allstate Defendants' Counterclaims filed by Progressive Casualty Insurance Company. (Griffith, Calvin) (Entered: 02/18/2011)
02/23/2011	30	Opposition to 23 Motion to sever , CONSOLIDATE AND STAY ALL CLAIMS,DEFENSES AND COUNTERCLAIMS RELATING TO U.S. PATENT NO. 6,064,970 (PARTIAL OPPOSITION) filed by· Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Attachments: # 1 Exhibit A - 11/8/2010 USPTO Examiner Interview Summary in Ex Parte Rexam No. 90/011,252, # 2 Exhibit B - 1/26/2011 Waiver of Right to File Patent Owner Statement in Ex Parte Rexam No. 90/011,252)(Cipolla, John) (Entered: 02/23/2011)
02/28/2011	31	Case Management Conference Scheduling Order with case management conference to be held on 4/8/2011 at 3:00 PM. Lead counsel and parties must be present unless excused by the Court upon written motion. Judge Benita Y. Pearson on 2/28/2011. (S,L) (Additional attachment(s) added on 2/28/2011: # 1 Attachment 1, # 2 Attachment 2, # 3 Attachment 3) (S,L). (Entered: 02/28/2011)
02/28/2011	32	Response to 23 Motion to sever , CONSOLIDATE AND STAY ALL CLAIMS,DEFENSES AND COUNTERCLAIMS RELATING TO U.S. PATENT NO. 6,064,970 filed by Progressive Casualty Insurance Company. (Griffith, Calvin) (Entered: 02/28/2011)
02/28/2011	33	Opposition to 22 Motion to sever filed by Progressive Casualty Insurance Company. (Griffith, Calvin) (Entered: 02/28/2011)
03/02/2011	34	Return of Service by personal service executed upon Drive Trademark Holdings, LP on 2/10/2011, filed on behalf of Allstate Fire and Casualty Insurance Company; Allstate Insurance Company Related document(s) 10 . (Dauchot, Luke) (Entered: 03/02/2011)
03/03/2011	35	Order granting Defendants' Motions for appearance pro hac vice by attorney Matthew V. Topic,Meredith L. Krannich,Jordon M. Heinz,Garret A. Leach, and Robin A. McCue for Allstate Fire and Casualty Insurance Company and Allstate Insurance Company. Judge Benita Y. Pearson on 3/3/2011. Related documents 24 , 25 , 26 , 27 , and 28 .(S,L) (Entered: 03/03/2011)
03/09/2011	36	Reply to response to 23 Motion to sever , CONSOLIDATE AND STAY ALL CLAIMS,DEFENSES AND

COUNTERCLAIMS RELATING TO U.S. PATENT NO. 6,064,970 filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Leach, Garret) (Entered: 03/09/2011)

03/10/2011	37	Reply to response to 22 Motion to sever filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Cipolla, John) (Entered: 03/10/2011)
03/14/2011	38	Answer with jury demand to 6 Amended complaint, Affirmative Defenses, and , Counterclaim against Progressive Casualty Insurance Company filed by Liberty Mutual Insurance Company, Liberty Mutual Fire Insurance Company, Safeco Insurance Company of Illinois, Safeco Insurance Company of America. (Cipolla, John) Modified text on 3/15/2011 (H,LA). (Entered: 03/14/2011)
03/17/2011	39	Answer to Counterclaim filed by Drive Trademark Holdings, LP. Related document(s) 10 . (Wilks, David) (Entered: 03/17/2011)
03/17/2011	40	Corporate Disclosure Statement filed by Drive Trademark Holdings, LP. (Wilks, David) (Entered: 03/17/2011)
03/25/2011	41	Notice of Service of Initial Disclosures filed by Progressive Casualty Insurance Company. (Norton, Patrick) (Entered: 03/25/2011)
03/25/2011	42	Notice of Service of Rule 26(a)(1) Initial Disclosures filed by Drive Trademark Holdings, LP. Related document(s) 1 , 6 .(Wilks, David) (Entered: 03/25/2011)
03/25/2011	43	Notice of Service of Rule 26(a)(1) Initial Disclosures filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Cipolla, John) (Entered: 03/25/2011)
03/25/2011	44	Notice of Service of DEFENDANTS ALLSTATE INSURANCE COMPANY AND ALLSTATE FIRE & CASUALTY INSURANCE COMPANYS INITIAL DISCLOSURES filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Leach, Garret) (Entered: 03/25/2011)
04/01/2011	45	Motion to excuse appearance of Company Representative at CMC filed by Counter-Defendant Drive Trademark Holdings, LP. Related document(s) 31 . (Attachments: # 1 Proposed Order) (Wilks, David) (Entered: 04/01/2011)
04/01/2011	46	Joint Report of Parties' Planning Meeting , parties do not consent to this case being assigned to the magistrate judge, filed by All Parties. (Attachments: # 1 Exhibit A - Schedule, # 2 Exhibit B - ESI Protocol)(Griffith, Calvin) (Entered: 04/01/2011)
04/04/2011	47	Answer To Liberty Mutual's Counterclaims filed by Progressive Casualty Insurance Company. Related document(s) 38 . (Norton, Patrick) (Entered: 04/04/2011)
04/04/2011	48	Motion to stay Litigation Pending Ex Parte Reexamination of the Patents-in-Suit by the United States PTO filed by Liberty Mutual Fire Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois, Counter-Claimant Liberty Mutual Insurance Company. (Attachments: # 1 Brief in Support, # 2 Exhibit A - 4/5/06 Notice of Allowance, # 3 Exhibit B - 10/27/10 Notice of Allowance, # 4 Exhibit C - Ex Parte Reexam Filing Data, # 5 Exhibit D - MPEP, # 6 Exhibit E - 11/12/10 Judge Gaughan Memorandum of Opinion and Order, # 7 Exhibit F - 11/24/10 PTO Order Granting Request for Ex Parte Reexam of U.S. Pat. No. 6,064,970, # 8 Exhibit G - 3/7/11 Office Action in Ex Parte Reexam, # 9 Exhibit H - Request for Ex Parte Reexamination of U.S. Patent No. 7,124,088, # 10 Exhibit I - Request for Ex Parte Reexamination of U.S. Patent No. 7,877,269, # 11 Exhibit J - Pilot Program for Waiver of Patent Owners Statement in Ex Parte Reexamination Proceedings, 75 Fed. Reg. 47,270 (Aug. 5, 2010), # 12 Exhibit K - 9/29/2010 letter from N. Jantzi to L. Miller, # 13 Exhibit L - 1/26/2011 Waiver of Right to File Patent Owner Statement in Ex Parte Reexamination, # 14 Exhibit M - 2/4/11 Progressive Casualty Insurance Companys First Set of Requests for Documents and Things (Nos. 1-80) to the Allstate Defendants, # 15 Exhibit N - U.S. Patent No. 7,124,088, # 16 Exhibit O - U.S. Pat. No. 5,903,873 (Peterson))(Cipolla, John) (Entered: 04/04/2011)
04/05/2011	--	Order [non-document] denying Defendants' 48 Motion to stay. The Court will consider a stay if the U.S. Patent and Trademark Office agrees to conduct a reexamination. Judge Benita Y. Pearson on 4/5/2011.(S,L) (Entered: 04/05/2011)
04/05/2011	--	Order [non-document] denying Defendants' 45 Motion to excuse appearance at the Case Management Conference. Defendants Drive Trademark Holdings, LP, may participate via telephone by calling the Court directly at 330-884-7435 promptly at 3:00 p.m. Defendant's representative must be on the line the entire conference. Counsel must be physically present. Judge Benita Y. Pearson on 4/5/2011.(S,L) (Entered: 04/05/2011)
04/08/2011	--	Minutes of proceedings [non-document] before Judge Benita Y. Pearson.Case Management Conference held on 4/8/2011. Present were attorneys Calvin Griffith, Jim Wooley, Meredith Wilkes and John Biernaski as counsel for Plaintiff; attorneys James Myers, Nicole Jantzi and John S. Cipolla as counsel for Liberty Mutual and Safeco; attorneys Bob Herberfer and Garret Leach as counsel for Allstate; Nestor Ramirez as party representative for Liberty Mutual; Ray Link as

party representative for Progressive; Casey Managan as party representative for Allstate; and David Wilks as party representative for Drive Trademark Holding. Participating via telephone was Paul Jones as party representative for Drive Trademark Holding. (Court Reporter: None.) Time: 3 Hours. (S,L) (Entered: 04/08/2011)

04/12/2011	49	Case Management Conference Plan/Order. This Case is assigned to the complex track. This matter is referred to the Courts mediation panel for mediation to be completed not later than 7/31/2011. Counsel should anticipate following the case progression and cutoffs recommended by the Local Patent Rules and adopted herein. See Order for details. The parties' Agreed Protocol for Discovery of Electronically-stored Information is attached hereto as Exhibit A and adopted hereby. A Claim Construction Hearing will be held on 1/19/2012 at 10:30 a.m. in Courtroom 351. The next Status Conference will be held via 8/2/2011 at 1:30 p.m. Defendants' Counsel is to setup the conference call. Lead counsel are required to participate in the conference call. Counsel should notify the Court in advance of the Status Conference if the matter has settled. Judge Benita Y. Pearson on 4/12/2011. (Attachments: # 1 Exhibit A - Agreed Protocol for Discovery of ESI)(S,L) (Entered: 04/12/2011)
04/12/2011	50	Order of Referral to ADR for mediation. Signed by Judge Benita Y. Pearson. (S,L) (Entered: 04/12/2011)
04/12/2011	51	List of potential neutrals sent to parties. Neutral selection due by 4/26/2011. Mediation conference to be conducted on or before 7/31/2011. Report of Mediator to be manually filed with the ADR Administrator no later than 8/15/2011. Mediation process to be completed by 8/15/2011 (Related document(s) 50) (Attachments: #(1) Agreed Mediation Ranking Information Sheet Form, #(2) Neutral List). (N, P) (Entered: 04/12/2011)
04/13/2011	52	Notice of New Legal Authority Relevant to Liberty Mutual Defendants' Motion to Sever filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Attachments: # 1 Exhibit A - Man Machine Interface Technologies, LLC v. Funai Corp., Inc., et al., CV 10-8629-JFW (C.D. Cal.)) (Cipolla, John) (Entered: 04/13/2011)
04/13/2011	53	Protective Order . Judge Benita Y. Pearson on 4/13/2011. (S,L) (Entered: 04/13/2011)
04/13/2011	54	Notice of Compliance Regarding Exchange of Preliminary Estimate of Attorneys' Fees and Costs filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Cipolla, John) (Entered: 04/13/2011)
04/13/2011	55	Notice of DEFENDANTS ALLSTATE INSURANCE COMPANY AND ALLSTATE FIRE & CASUALTY INSURANCE COMPANYS CERTIFICATE OF COMPLIANCE filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company. (Leach, Garret) (Entered: 04/13/2011)
04/14/2011	56	Motion for extension of time until July 11, 2011 to Serve Responses to Progressive's First Sets of Interrogatories and Requests for Production filed by Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois. (Attachments: # 1 Brief in Support, # 2 Affidavit / Declaration of Nicole M. Jantzi in Support of Motion for Extension, # 3 Exhibit A to Nicole Jantzi Declaration - PTO Filing Confirmation for 3/31/11 Liberty Mutual Ex Parte Reexam Request for U.S. Patent No. 7,124,088, # 4 Exhibit B to Nicole Jantzi Declaration - PTO Electronic Acknowledgement of 4/4/11 Liberty Mutual Ex Parte Reexam Request for U.S. Patent No. 7,877,269, # 5 Exhibit C to Nicole Jantzi Declaration - Progressives 4/8/11 Interrogatories to Liberty Mutual Defendants, # 6 Exhibit D to Nicole Jantzi Declaration - Progressives 4/8/11 Document Requests to Liberty Mutual Defendants, # 7 Exhibit E to Nicole Jantzi Declaration - 4/13/11 Letter from N. Jantzi to C. Griffith Regarding Discovery Response Extension, # 8 Exhibit F to Nicole Jantzi Declaration - MPEP § 2209 (Describing Characteristics of an Ex Parte Reexamination))(Cipolla, John) (Entered: 04/14/2011)
04/15/2011	57	Joint Motion for protective order filed by Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois, Allstate Fire and Casualty Insurance Company, Allstate Insurance Company, Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Safeco Insurance Company of America, Safeco Insurance Company of Illinois, Drive Trademark Holdings, LP, Progressive Casualty Insurance Company, Progressive Casualty Insurance Company, Plaintiff Progressive Casualty Insurance Company. (Attachments: # 1 Exhibit A - Protective Order)(Griffith, Calvin) (Entered: 04/15/2011)
04/18/2011	58	Protective Order : The Court issues the 57 Stipulated Protective Order agreed to by all parties. This stipulated protective order supersedes that previously issued by the Court, See ECF 53 . To the extent, however, there are matters not resolved by the stipulated protective order, ECF 57 , the order previously issued by the Court, ECF 53 , shall have binding effect. Judge Benita Y.

Pearson on 4/18/11. (S,L) (Entered: 04/18/2011)

04/20/2011	59	Attorney Appearance by John Charles Evans filed by on behalf of Progressive Casualty Insurance Company. (Evans, John) (Entered: 04/20/2011)
04/22/2011	60	Attorney Appearance by Sheryl H. Love filed by on behalf of All Plaintiffs. (Love, Sheryl) (Entered: 04/22/2011)
04/22/2011	61	Brief In Opposition to Motion For Extension of Time filed by Progressive Casualty Insurance Company. Related document(s) 56 . (Norton, Patrick) (Entered: 04/22/2011)
04/25/2011	62	Notice of Withdrawal of Counsel filed by Progressive Casualty Insurance Company. (Griffith, Calvin) (Entered: 04/25/2011)

US District Court Civil Docket

U.S. District - Ohio Northern
(Cleveland)

1:10cv1370

Progressive Casualty Insurance Company v. Safeco Insurance Company of Illinois et A

This case was retrieved from the court on Tuesday, April 26, 2011

Date Filed: 06/18/2010
Assigned To: Judge Benita Y Pearson
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Lead Docket: None
Other Docket: None
Jurisdiction: Federal Question

Class Code: CLOSED
Closed: Yes
Statute: 35:271
Jury Demand: Plaintiff
Demand Amount: $0
NOS Description: Patent

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