1   UNITED STATES PATENT AND TRADEMARK OFFICE

2   BEFORE THE PATENT TRIAL AND APPEAL BOARD

3

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5   LIBERTY MUTUAL INSURANCE   )
      COMPANY,   )   No. CBM2012-00002
6   )   CBM2012-00004 (JL)
                 Petitioner,   )   Patent 6,064,970
7   )
                 vs.   )   No. CBM2013-0004 (JL)
8   )   Patent 8,090,598
      PROGRESSIVE CASUALTY   )
9   INSURANCE COMPANY,   )   No. CBM2012-0003
)   CBM2013-0009 (JL)
10   Patent Owner.   )   Patent 8,140,358
      _____)

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12   VIDEOTAPED DEPOSITION OF SCOTT ANDREWS

                   Palo Alto, California

13   Tuesday, September 24, 2013

                        Volume 2

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18   Reported by:

19   LESLIE ROCKWOOD, RPR, CSR 3462

20   Job No. 65807

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1   Do you see that?

2   A. I see that.

3   Q. What references do you believe this person of

4 ordinary skill in the art would correct -- would

5 consult? Excuse me.

6   A. Well, for example, they might consult the Wang

7 book that was quoted by or recited by Dr. Ehsani. If

8 they were doing this in 1999, they'd probably use the

9 Langari and Yen book. There are other texts on fuzzy

10 logic.

11   And there also quite often -- certainly at this

12 time in the development of the technology, there were

13 many articles in things like electronic design news and

14 electrical engineering magazines, kind of trade

15 magazines that would be very hands-on specific examples

16 of how to use one sort of technology or another. And

17 many engineers used those as a vehicle for understanding

18 how to make use of a new technology, and then they would

19 go and find a reference that had specific details on it.

20   Q. As you sit here today, can you identify any

21 such articles that related to the field of fuzzy logic

22 as of 1996 that these engineers would have consulted, in

23 your opinion?

24   A. To actually identify them by name and

25 publication date, no, but I recall reading articles like

1 that in periodicals.

2   Q. Do you recall when you read them?

3   A. Well, pretty much all my career. So beginning

4 in the early '80s, I would -- all of us would subscribe

5 to those magazines and periodicals, but I don't recall a

6 specific article which is what you would like me to cite

7 to. So I don't have a specific article that I can --

8   Q. I'm sorry, did you finish?

9   A. Yeah.

10   Q. Okay. And is it your testimony under oath

11 today that you recall reviewing such articles dealing

12 with fuzzy logic prior to 1996?

13   A. Almost certainly I recall reading articles on

14 fuzzy logic, on Solitons, there are a whole lot of

15 technologies like this which are not typically the

16 things that you learn in school, but they're very, very

17 useful technologies. And there were always articles

18 about these things in those trade magazines, but I can't

19 recall a particular article that I read.

20   Q. So is it your opinion, Mr. Andrews, that this

21 hypothetical person of ordinary skill in the art would

22 be able to combine what was taught in those articles or

23 other publications dealing with fuzzy logic with the

24 disclosure of the Kosaka patent application in order to

25 understand how to apply that?

1   MR. MYERS: Objection. 402, 403.

2   THE WITNESS: I don't think that they would

3 need to because Kosaka is fairly explicit about its

4 application of fuzzy logic. I would think that someone

5 reading Kosaka would look at it and say, well, this is

6 clearly an application of fuzzy logic to this

7 classification problem so I'm going to go to a textbook

8 like Wang or Langari and Yen and find out the specific

9 details of how to implement that.

10   The engineers that you were referring to

11 earlier, the engineers that I supervised that were

12 making use of these kinds of systems, didn't have a

13 patent in front of them saying to use fuzzy logic. They

14 had a problem, which was they needed to classify things

15 which were being classified on the basis of a wide

16 number of possibly conflicting variables.

17   And so they're faced with that problem, they

18 would have recalled reading an article that that was --

19 that fuzzy logic was a good technology to use for that,

20 and then they would have gone and probably reread that

21 article, if they could find it, and then gone and gotten

22 a text.

23   So I think you're talking about two different

24 situations here. Someone reading Kosaka would not need

25 to have that information because Kosaka tells them.

1 BY MR. WAMSLEY:

2   Q. Let me direct your attention to paragraph 8 of

3 your rebuttal declaration. Again, that's Exhibit 1019.

4 And here you're stating opinions with respect to the

5 membership functions described in Kosaka; correct?

6   A. That's right.

7   Q. Mr. Andrews, would you agree with me that

8 Kosaka does not disclose the particular parameter values

9 that are associated with the membership functions he

10 uses in his device?

11   A. Do you have -- I'm sorry, do you have a copy of

12 Kosaka?

13   Q. I do and you do.

14   A. That's fine.

15   Q. That's Exhibit 1004.

16   A. I was thrown off by the Japanese.

17   Q. And if you want the question back, we can have

18 the reporter read it back.

19   A. Why don't you go ahead and read it back.

20   (The record was read by the reporter

21   as follows:

22   "QUESTION: Mr. Andrews, would you agree with

23   me that Kosaka does not disclose the particular

24   parameter values that are associated with the

25   membership functions he uses in his device?")

1   BY MR. WAMSLEY:
2   Q. And among the many things you say you could
3   have put in your original declaration was this opinion
4   in the first sentence of paragraph 10.
5   Am I right?
6   MR. MYERS: Objection. 402, 403.
7   THE WITNESS: As long as we're speculating, I
8   could have put this in there.
9   BY MR. WAMSLEY:
10   Q. Does that require speculation for you to say
11   you could have done it?
12   A. Well, we're speculating here about things that
13   I could have put into my original declaration as opposed
14   to why I put them in this declaration. I put them in
15   this declaration to respond to Dr. Ehsani.
16   I could have put, you know, a comprehensive
17   claim chart about Kosaka into my first declaration, but
18   I didn't feel that it was necessary.
19   Q. Dr. Ehsani didn't testify in his declaration
20   that fuzzy logic had to be used in Kosaka, did he?
21   MR. MYERS: Objection. 402, 403.
22   THE WITNESS: I don't -- I have to read through
23   his entire declaration, I guess, to answer definitively,
24   but I don't recall that he did that.
25   BY MR. WAMSLEY:

1   Q. Now later in paragraph 10, you testify that if
2   Kosaka implemented the system using crisp logic, many of
3   the same components as described for the fuzzy logic
4   system would be required.
5   Do you see that?
6   A. I see that.
7   Q. Would you agree with me that some of the
8   components would not be the same if he -- if his system
9   were implemented as you suggest in crisp logic?
10   A. Well, you probably wouldn't have the fuzzy
11   logic parts.
12   Q. Exactly. Moreover, there's no disclosure in
13   Kosaka of how those crisp logic units would be used.
14   Am I right?
15   MR. MEYERS: Objection. 402, 403.
16   THE WITNESS: Do you want to restate your
17   question?
18   BY MR. WAMSLEY:
19   Q. Do you want me to restate it or can the
20   reporter just read it back, please.
21   (The record was read by the reporter
22   as follows:
23   "QUESTION: Moreover, there's no disclosure in
24   Kosaka of how those crisp logic units would be
25   used.

1   Am I right?")
2   MR. MYERS: Objection. 402, 403.
3   THE WITNESS: He actually says at the bottom of
4   the first column of page 6: "But determination may be
5   carried out without using fuzzy logic. Calculation may
6   also be carried out using a common insurance table."
7   So he provides an alternative, which would be
8   just implementing an insurance table in crisp logic. He
9   doesn't provide you with a diagram of that.
10   BY MR. WAMSLEY:
11   Q. There's no disclosure of how those crisp logic
12   functions would be carried out.
13   Am I right?
14   MR. MYERS: Objection. 402, 403.
15   THE WITNESS: They would be carried out using a
16   common insurance table.
17   BY MR. WAMSLEY:
18   Q. Do you have familiarity with a common insurance
19   table, Mr. Andrews?
20   A. Well, I think we've established that I'm not an
21   expert in insurance.
22   Q. So your answer is "no"?
23   A. No.
24   MR. MYERS: Objection. 402, 403.
25   BY MR. WAMSLEY:

1   Q. So how the crisp logic would be carried out
2   were it to be used in building the Kosaka invention,
3   that would require insurance expertise?
4   MR. MYERS: Objection. 402, 403.
5   THE WITNESS: Someone would need to understand
6   what a common insurance table contained, appropriate for
7   this application, and how one would compare measured
8   values to that table. But that comparison process is
9   fairly straightforward from a technical perspective.
10   It's just that I don't know what the content of a common
11   insurance table would be.
12   BY MR. WAMSLEY:
13   Q. Let's turn to your testimony in paragraphs 11,
14   12 and 13 of your rebuttal declaration, please.
15   A. Okay.
16   Q. And that refers to the article entitled "An
17   Interest in Black Magic," which is Liberty Mutual
18   Exhibit 1008. Do you have that?
19   A. I have that.
20   Q. Now, in your original declaration, you didn't
21   provide any testimony with respect to this article, did
22   you? And feel free to consult it. You have it there in
23   front of you.
24   A. Yeah. It's been a long time, so --
25   In this declaration, it's not listed as one of