UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LIBERTY MUTUAL INSURANCE COMPANY
Petitioner,

v.

PROGRESSIVE CASUAL INSURANCE COMPANY
Patent Owner,

_____

Case CBM2012-00003 (JL)
Patent 8,140,358

_____

Before JAMESON LEE, JONI Y. CHANG, and MICHAEL R. ZECHER,
Administrative Patent Judges.

LEE, *Administrative Patent Judge*.

1   **ORDER**
2   **(DENIAL OF GROUNDS -- 37 C.F.R. § 42.208(b))**
3
4   INTRODUCTION

5   This petition for covered business method patent review of Patent 8,140,358

6 ('358 patent) was filed on September 16, 2012. Petitioner has asserted four

7 hundred and twenty two (422) grounds of unpatentability against the 20 claims of

8 the '358 patent, averaging more than 21 grounds per claim. The Patent Owner has

9 not yet filed a preliminary response. In this order, we deny one hundred and ninety

10 six (196) of the asserted grounds as not meeting the threshold for institution of

1 trial. *See* 37 C.F.R. §§ 42.208(b) and 300(a). In any response to be filed by the

2 Patent Owner, the denied grounds need not be addressed.

3 There are two types of grounds being denied.

4 The first type includes those grounds which rely on the disclosure in Kosaka

5 (Japanese Published Application H4-182868, Published June 30, 1992, Ex. 1003)

6 of a wireless transmitter on the gear of a diver, which transmits an emergency

7 signal to an aid boat or buoy when evaluation in real-time of the diving data

8 indicates an extremely high risk situation, to meet the claim limitation of "a

9 wireless transmitter configured to transfer the selected vehicle data retained within

10 the memory to a distributed network and a server" without any reference's

11 disclosing wireless transmission of selected vehicle data for subsequent evaluation.

12 For the first type, the grounds of obviousness are, for independent claim 1:

13 over Kosaka,
14 over Kosaka and Bouchard

15
16 The grounds are, for dependent claims 2-20, over Kosaka and over Kosaka and

17 Bouchard, plus at least one more reference relied on by the Petitioner to meet the

18 additional features recited in dependent claims 2-20.

19 The second type includes those same grounds as in the first type, but

20 modified to substitute the wireless transmitter of Kosaka with a more sophisticated

21 wireless transmission system disclosed in another reference to provide or convey

22 "different types of data more efficiently to better determine driver performance."

23 (Pet. 38:5-9; 40:4-8; 42:16 to 43:5).

24

1   For the second type, the grounds of obviousness are, for claim 1:

2   over Kosaka and Scapinakis

3   over Kosaka,, Bouchard, and Scapinakis

4   over Kosaka and Eisenmann

5   over Kosaka, Bouchard, and Eisenmann

6   over Kosaka and Stanifer

7   over Kosaka,, Bouchard, and Stanifer

8

9   The grounds of obviousness for claims 2-20 are the same as those listed above for

10   claim 1, but with the addition of at least one more reference relied on by the

11   Petitioner to account for the additional features recited in dependent claims 2-20.

12   Using the system of designating asserted grounds of unpatentability as

13   revealed in the chart on pages 17-22 of the petition, we identify the denied grounds

14   for instituting trial as follows:

1:2	2:2	3:2	4:2	5:2	6:2
1:4	2:4	3:4	4:4	5:4	6:4
1:6	2:6	3:6	4:6	5:6	6:6
1:7	2:7	3:7	4:7	5:7	6:7
1:10	2:10	3:10	4:10	5:10	6:10
1:11	2:11	3:11	4:11	5:11	6:11
1:14	2:14	3:14	4:14	5:14	6:14
1:15	2:15	3:15	4:15	5:15	6:15
7:2	8:2	9:2	10:2	11:2	12:2
7:4	8:4	9:4	10:4	11:4	12:4
7:6	8:6	9:6	10:6	11:6	12:6
7:7	8:7	9:7	10:7	11:7	12:7

1	7:10	8:10	9:10	10:10	11:10	12:10
2	7:11	8:11	9:11	10:11	11:11	12:11
3	7:14	8:14	9:14	10:14	11:14	12:14
4	7:15	8:15	9:15	10:15	11:15	12:15
5	13:2	14:2	15:2			
6	13:4	14:4	15:4			
7	13:6	14:6	15:6			
8	13:7	14:7	15:7			
9	13:10	14:10	15:10			
10	13:11	14:11	15:11			
11	13:14	14:14	15:14			
12	13:15	14:15	15:15			
13	16:2	17:2	18:2			
14	16:4	17:4	18:4			
15	16:6	17:6	18:6			
16	16:8	17:8	18:8			
17	17:11	18:11	17:20	18:20		
18	17:13	18:13	17:22	18:22		
19	17:15	18:15	17:24	18:24		
20	17:17	18:17	17:26	18:26		
21	19:2	20:2	19:19	20:19	19:36	20:36
22	19:4	20:4	19:21	20:21	19:38	20:38
23	19:6	20:6	19:23	20:23	19:40	20:40
24	19:7	20:7	19:24	20:24	19:41	20:41

1	19:10	20:10	19:27	20:27	19:44	20:44
2	19:11	20:11	19:28	20:28	19:45	20:45
3	19:14	20:14	19:31	20:31	19:48	20:48
4	19:15	20:15	19:32	20:32	19:49	20:49

5   The claimed invention

6   The '358 patent discloses a data logging device that tracks the operation of a

7   vehicle or operator behavior. (Spec. 1:33-34). A processor reads data from an

8   automotive bus that transfers data from vehicle sensors to other components and

9   stores the data into memory. (Spec. 1:40-45). A communication device links the

10   data logging device to a network of computers. (Spec. 1:44-45).

11   Claim 1 is the only independent claim, and is reproduced below:

12   1.   A system that monitors and facilitates a review of data
13   collected from a vehicle that is used to determine a level of safety or
14   cost of insurance comprising:
15
16   a processor that collects vehicle data from a vehicle bus that
17   represents aspects of operating the vehicle;
18
19   a memory that stores selected vehicle data related to a level of
20   safety or an insurable risk in operating a vehicle;
21
22   a wireless transmitter configured to transfer the selected vehicle
23   data retained within the memory to a distributed network and a server;
24
25   a database operatively linked to the server to store the selected
26   vehicle data transmitted by the wireless transmitter, the database
27   comprising a storage system remote from the wireless transmitter and
28   the memory comprising records with operations for searching the
29   records and other functions;
30

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