i. In the art, the definition of a log is "a record of transaction or activities that take place on a computer system, comparable to a captain's log." *Microsoft Press® Computer and Internet Dictionary*, 1991 (defining "log").

ii. But the log has a particular meaning in this claim – it is a record of vehicle speed that is taking place when time and location are found to be relevant for determining a *cost of vehicle insurance*. Claims 1; see *also* (col. 8, lines 49-51).

iii. The language of the claim itself indicates that the log of vehicle speed must correspond to (meaning accompany) each selected time and location data elements that are found to be appropriate for determining a cost of vehicle insurance, and thus recorded in the database. *The American Heritage Dictionary of the English Language*, Third Ed. 1992 (defining "corresponding").

iv. If a log (i.e. the record of speed activities that are monitored on the vehicle during the selected time period) does not exist, such as upon an initial rendering of the database or if the log were deleted, it must be created.

v. Based on the foregoing, the broadest reasonable interpretation one of ordinary skill would understand the meaning of "said ones including . . . a corresponding log of vehicle speed for the time and location" in the context of the claim means: a record of recorded speed activities that accompanies each time and location data elements that are found relevant for determining a cost of insurance, which if the log of vehicle speed does not exist when time and location are found to be relevant for determining a cost of insurance, the log of vehicle speed is generated.

vi. Bouchard in view of Kosaka and Black Magic contain no disclosure of a log or recording time, location, and a corresponding log of vehicle speed *when* it is determined that at least *time and location* are determined to be relevant to determining a cost of *vehicle insurance*.

    1. **In 1991**, Kosaka's "vague empirical knowledge" determined risk evaluation value by processing the output of doppler radar main unit 30, the speed detector 38, and the main engine rotation rate detector 43. (pg. 7, col. 1, line 49-col. 2, line 20). The input values were used as an input to the fuzzy logic, but were not stored. *Id.*

    2. **Two years later, in 1993**, Bouchard discloses evaluating a driver in real time through classifications and selected profiles.

    3. In Bouchard, block 1801 discloses classifying the driving environment by ranges of speed. In block 1802, time is classified due to risk of accidents. Block 1803 sets forth the profiles that are

used for the various driving environments (1801) that are selected by the table shown in Figure 19.
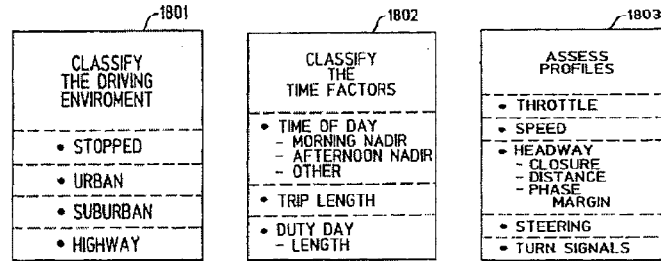
4. **One year later, in 1994**, Black Magic discloses that insurers are just learning the benefits of satellite navigation. The electronic experts offered only prediction and prophecy, but the ***insurers regarded black-box technology as science fiction***. (pg. 2, *see* concluding line).

d. The only basis for interpreting Bouchard, Kosaka, and Black Magic to suggest recording time, location, and a corresponding log of speed for the time and location when it is determined that at least time and location are determined to be relevant for determining a cost of vehicle insurance or is cited for teaching a database is the patentee's own disclosure, which simply is not a proper basis for a 35 U.S.C. § 103 obviousness rejection. See M.P.E.P. § 2142 ("impermissible hindsight must be avoided and the legal conclusion [of obviousness] must be reached on the basis of the facts gleaned from the prior art.").

V.   § 103 Rejection of Claim 6

a. The proposed combination does not teach or suggest analyzing, grouping, and storing the one or more data elements as group data values in a first memory related to a predetermined group of elements; and, correlating the group data values to preset values in a second memory and generating an output data value based on the correlation wherein the output data value is used to compute an insurance rating for the vehicle FOR the data collection period.

b. An insurance rating is separate and distinguishable from a cost.

VI.   § 103 Rejections of the New Dependent Claims

a. Claim 17
   i. The proposed combination does not teach or suggest 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.

b. Claim 18

    i. The proposed combination does not teach or suggest 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.

c. Claim 22

    i. The proposed combination does not teach or suggest computing the insurance rating for the vehicle based on the number of identified excessive or sudden acceleration events.

d. Claim 26

    i. The proposed combination does not teach or suggest computing the insurance rating for the vehicle based on the number of identified excessive or sudden braking events.

e. Claim 27

    i. The proposed combination does not teach or suggest identifying a predetermined speed threshold associated with the location of the vehicle, 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.

f. Claim 28

    i. The proposed combination does not teach or suggest measuring a time duration of the excessive speed event, and computing the insurance rating for the vehicle based on the time duration of the excessive speed event.

g. Claim 29

    i. The proposed combination does not teach or suggest 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.

h. Claim 34

    i. The proposed combination does not teach or suggest monitoring driving route data associated with 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.

i. Claim 41

i. The proposed combination does not teach or suggest using one or more of the one or more data elements <u>to determine an actuarial class associated with the vehicle</u>, and using one or more of the one or more data elements <u>to determine a surcharge or discount</u> to be applied to a base cost of insurance associated with the vehicle.

j. Claim 42

i. The proposed combination does not teach or suggest <u>grouping</u> speed data of the vehicle <u>in combination with a location of the vehicle in a log of vehicle speed for the location</u>.

k. Claims 44-50

i. The proposed combination does not teach or suggest determining an <u>insurance actuarial class</u> based on the monitored driving data.

l. Claim 66

i. The proposed combination does not teach or suggest deriving <u>road condition</u> data, and processing the road condition data <u>to compute the insurance rating for the vehicle</u>.

m. Claim 67

i. The proposed combination does not teach or suggest deriving <u>traffic condition</u> data, and processing the traffic condition data <u>to compute the insurance rating for the vehicle</u>.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Ex Parte Reexam of:	Robert John McMillan et al.		
Reexam Appln. No.:	90/011,252	Examiner:	Karin M. Reichle
Filed:	September 22, 2010	Art Unit:	3992
For:	MOTOR VEHICLE MONITORING SYSTEM FOR DETERMINING A COST OF INSURANCE	Conf. No.:	4116
Attorney Docket No.:	12741-32		

CERTIFICATE OF SERVICE

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Dear Sir:

I hereby certify that a true copy of the foregoing **INTERVIEW AGENDA**, was served this March 25, 2011 by First Class United States Mail, postage prepaid, on:

> J. Steven Baughman
> Ropes & Gray LLP
> One International Place
> Boston, MA 02110

Respectfully submitted,

March 25, 2011	/James A. Collins/
Date	James A. Collins (Reg. No. 43,557)

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