

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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**LIBERTY MUTUAL INSURANCE CO.**  
Petitioner

v.

**PROGRESSIVE CASUALTY INSURANCE CO.**  
Patent Owner

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Case CBM2013-00009  
Patent 8,140,358

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

**RULE 42.64(b)(2) DECLARATION OF SCOTT ANDREWS ON BEHALF OF PETITIONER LIBERTY MUTUAL INSURANCE CO. REGARDING U.S. PATENT NO. 8,140,358**

I, Scott Andrews, hereby declare under penalty of perjury under the laws of the United States of America:

I have previously been asked by Liberty Mutual Insurance (“Liberty”) to testify as an expert witness in this action.

**I. Prior Testimony**

1. I am the same Scott Andrews who provided a Declaration in this matter executed on November 19, 2012 as Exhibit 1014, and a Rebuttal Declaration in this matter executed on August 16, 2013 as Exhibit 1027. (My information regarding experience, qualifications, and compensation has been provided along with my prior Declaration, Exhibit 1014, and CV, Exhibit 1015.)

## II. Response to Evidentiary Objections

2. I understand an evidentiary objection has been made to Exhibit 1027, asserting that it is hearsay, but in fact it is my sworn expert testimony in the matter. *See* Patent Owner's Notice of Objection to Evidence Pursuant to 37 C.F.R. § 42.64, at 5.

3. I understand that a further evidentiary objection has been made to Exhibit 1027, asserting that it has "no relevant bearing on any issue properly raised in this proceeding." *See* Patent Owner's Notice of Objection to Evidence Pursuant to 37 C.F.R. § 42.64, at 2-3. As I stated in my Rebuttal Declaration (Exhibit 1027), I testified in Exhibit 1027 solely to rebut issues actually raised by Patent Owner in its Patent Owner's Response, including assertions and opinions of Mark Ehsani expressed in his declaration of June 11, 2013 (attached to the Patent Owner's Response as Exhibit 2015), assertions and opinions of Ivan Zatkovich expressed in his declaration of June 13, 2013 (attached to the Patent Owner's Response as Exhibit 2020), and certain assertions of Progressive in its Patent Owner's Response of June 13, 2013. Contrary to Progressive's evidentiary objection, my testimony was not offered to "raise new theories and invalidity arguments in an effort to make out a *prima facie* case of unpatentability of the claims," which I understand the Board already found to exist in its Institution Decision.

Executed this 6<sup>th</sup> day of September, 2013



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Scott Andrews

At: Petaluma, CA