

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

VIDEOTAPED DEPOSITION OF SCOTT ANDREWS  
Palo Alto, California  
Tuesday, September 24, 2013  
Volume 2

Reported by:  
LESLIE ROCKWOOD, RPR, CSR 3462  
Job No. 65807

Progressive Exhibit 2032  
Liberty Mutual v. Progressive  
CBM2013-00009

1 BY MR. WAMSLEY:

2 Q. I'm confused. You're referring to the car, but  
3 isn't it a fact that this discussion all relates to the  
4 diving watch embodiment?

5 A. I'm sorry. I haven't looked at that.

6 So inside the device versus outside the device.  
7 So you might -- imagine that you go diving, and you  
8 measure these parameters, and then later the insurance  
9 premiums are calculated based on what you did.

10 Q. You keep changing from what my question is,  
11 though, Mr. Andrews. My question relates to the  
12 determination of the risk evaluation values.

13 A. Okay.

14 Q. And my question was: Isn't it a fact that  
15 there's no disclosure in Kosaka that data is conveyed to  
16 the insurer for determining those risk evaluation  
17 values?

18 MR. MYERS: Objection. 402, 403.

19 THE WITNESS: I would say that Kosaka certainly  
20 leaves that option open.

21 BY MR. WAMSLEY:

22 Q. By not disclosing it?

23 MR. MYERS: Objection.

24 THE WITNESS: Actually, no. By saying that the  
25 risk evaluation values may be determined subsequently.

1 A. No.

2 Q. Do you understand it's a legal question as to  
3 whether a witness is qualified to opine on particular  
4 topics?

5 A. I don't know whether that is a legal question  
6 or not. I do know that Dr. Ehsani has no -- apparently  
7 no experience in wireless communication systems or  
8 telematic systems, from his CV.

9 Q. Do you believe you're qualified to testify as  
10 to whether Dr. Ehsani has necessary qualifications to  
11 render legal -- to render technical opinions in this  
12 matter?

13 A. Well, not being a lawyer, I don't know what the  
14 requirements for that are. But what I do know is that  
15 looking at his CV, he doesn't have any experience with  
16 telematic systems or communication systems, which is  
17 what he's opining on.

18 Q. Let's turn to paragraph 20 of your rebuttal  
19 declaration. And here, you state that, "Kosaka does not  
20 indicate that driver warning functionality is necessary  
21 for its risk evaluation and premium determination  
22 analysis to function"; right?

23 A. That's correct.

24 Q. So you understand the -- the title of the  
25 Kosaka patent application is "Risk Evaluation Device and

1 Or the change in insurance premium may be calculated  
2 subsequently. That could --

3 BY MR. WAMSLEY:

4 Q. Where does it disclose in Kosaka that  
5 someone -- something other than his device calculates  
6 risk evaluation values?

7 A. I don't think that Kosaka explicitly says that.  
8 But he does say that they could be calculated  
9 subsequently.

10 And as I said earlier, there are payments --  
11 payment transactions. He talks about an online credit  
12 settlement may be performed using a credit card, rather  
13 than settlement of the payment being a prepaid amount.  
14 And all of those things would have to be done through  
15 some kind of a communications scheme.

16 Q. Let me ask you to look at paragraphs 13 and 14  
17 of your rebuttal declaration.

18 A. Okay.

19 Q. And you see your opinion in -- expressed in  
20 paragraph 14, that Dr. Ehsani is unqualified to opine on  
21 certain things?

22 A. That's right.

23 Q. Are you a lawyer, Mr. Andrews?

24 A. No.

25 Q. Do you have legal training?

1 Insurance Premium Determination Device"?

2 A. That's right.

3 Q. And he discloses, as part of his risk  
4 evaluation device, the capability of a warning being  
5 delivered to the driver in the event risk exceeds a  
6 certain level; correct?

7 A. I think that's a fair characterization. I'm  
8 not sure if it's exactly how he says it. But fair.

9 Q. But in -- in opining that that warning  
10 functionality is not indicated to be necessary, you're  
11 basically carving that out of his risk evaluation  
12 device; is that right?

13 MR. MYERS: Objection. 402, 403.

14 THE WITNESS: I'm merely stating that it's not  
15 central to the determination of the risk. What you do  
16 with the risk evaluation value that you ultimately end  
17 up with from the system could be to warn, but it could  
18 also be to calculate an insurance premium, or it could  
19 certainly be used in the process of calculating one.

20 So the warning is a -- something that Kosaka  
21 describes as being possible. But it's not -- apparently  
22 not central to the function of the device.

23 BY MR. WAMSLEY:

24 Q. That's your conclusion, that it's not central  
25 to the function of the device?