

EXHIBIT 2006

Trial@USPTO.GOV
571-272-7822

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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.*

ORDER
(DENIAL OF GROUNDS -- 37 C.F.R. § 42.208(b))

INTRODUCTION

1
2
3
4
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

CBM-2012-00003

Liberty Mutual Ins. Co. v. Progressive Casualty Ins. Co.

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:

15	1:2	2:2	3:2	4:2	5:2	6:2
16	1:4	2:4	3:4	4:4	5:4	6:4
17	1:6	2:6	3:6	4:6	5:6	6:6
18	1:7	2:7	3:7	4:7	5:7	6:7
19	1:10	2:10	3:10	4:10	5:10	6:10
20	1:11	2:11	3:11	4:11	5:11	6:11
21	1:14	2:14	3:14	4:14	5:14	6:14
22	1:15	2:15	3:15	4:15	5:15	6:15
23	7:2	8:2	9:2	10:2	11:2	12:2
24	7:4	8:4	9:4	10:4	11:4	12:4
25	7:6	8:6	9:6	10:6	11:6	12:6
26	7:7	8:7	9:7	10:7	11:7	12:7

CBM-2012-00003

Liberty Mutual Ins. Co. v. Progressive Casualty Ins. Co.

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

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.