UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FORD MOTOR COMPANY,

Petitioner,

-vs-

PAICE, LLC & ABELL FOUNDATION, INC.,

Patent Owner.

_____

U.S. Patent Nos. 7,237,634 and 7,104,347

IPR Case Nos. IPR2015-00722; IPR2015-00784;

IPR2015-00787; IPR2015-00790; IPR2015-00791;

IPR2015-00794 and IPR2015-00795

_____

Deposition of GREGORY DAVIS, PhD

Wednesday, January 13, 2016

Southfield, Michigan

Reported by:

Laura J. Steenbergh, CSR-3707, RPR, CRR, RMR

Job no: 15629

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1 APPEARANCES:
2 MR. JOHN RONDINI, ESQ.
3 MR. ANDREW B. TURNER, ESQ.
4 Brooks Kushman, P.C.
5 1000 Town Center, 22nd Floor
6 Southfield, Michigan 48075
7 (248) 358-4400
8 jrondini@brookskushman.com
9 aturner@brookskushman.com
10 Appearing on behalf of the Petitioner.
11
12 MR. BRIAN LIVEDALEN, ESQ.
13 Fish & Richardson, P.C.
14 1425 K Street NW, 11th Floor
15 Washington, DC 20005
16 (202) 783-5050
17 livedalen@fr.com
18 Appearing on behalf of the Patent Owner.
19
20 ALSO PRESENT: Ms. Frances Keenan - Paice, LLC
21
22   * * * *
23
24
25

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1 Southfield, Michigan
2 Wednesday, January 13, 2016
3 About 9:20 a.m.   09:19:13AM
4 MR. LIVEDALEN: Good morning, Dr. Davis. 09:19:13AM
5 THE WITNESS: Good morning. 09:23:01AM
6 GREGORY DAVIS, PhD, 09:23:01AM
7 having first been duly sworn, was examined and testified 09:23:01AM
8 on his oath as follows: 09:23:01AM
9 EXAMINATION BY MR. LIVEDALEN: 09:23:01AM
10 Q. Could you please state your name for record? 09:23:01AM
11 A. Sure. It's Dr. Gregory W. Davis. 09:23:03AM
12 Q. And you understand that you've taken an oath today? 09:23:06AM
13 A. Yes.   09:23:08AM
14 Q. And you intend to tell the truth? 09:23:09AM
15 A. Yes.   09:23:10AM
16 Q. And so some administrative matters. Your counsel, or 09:23:10AM
17 John, and I spoke about dividing these up into basically 09:23:14AM
18 three tiers. So this first one's going to concern U.S. 09:23:18AM
19 Patent 7,237,634, so we'll call this the '634 patent. 09:23:25AM
20 A. Okay.   09:23:29AM
21 Q. You're familiar with that, I believe? 09:23:29AM
22 A. Yes.   09:23:31AM
23 Q. And we're going to divide these up further and just 09:23:31AM
24 address the declarations that you opined on with regard 09:23:35AM
25 to the Ibaraki reference. And that is, for the record, 09:23:38AM

1 U.S. Patent Number 5,789,882. 09:23:45AM
2 A. Okay.   09:23:49AM
3 Q. And so the numbers are 2015-00722, 2015-00784, 09:23:50AM
4 2015-00787, 2015-00790, and 2015-00791. 09:24:03AM
5 MR. RONDINI: And just for the record, I know 09:24:09AM
6 we spoke off the record about this, I just wanted to put 09:24:11AM
7 on the record that you are aware that you did not Notice 09:24:14AM
8 the '722, even though that is one of '634. 09:24:18AM
9 MR. LIVEDALEN: Well, I'll have to go confirm 09:24:21AM
10 that, but I think we talked about it and it didn't seem 09:24:23AM
11 like an issue.   09:24:26AM
12 MR. RONDINI: No. 09:24:27AM
13 MR. LIVEDALEN: Okay, great. 09:24:27AM
14 BY MR. LIVEDALEN: 09:24:28AM
15 Q. And so, Dr. Davis, I know that's a lot of numbers, and I 09:24:28AM
16 think John would have told me if I got one wrong, so 09:24:32AM
17 we'll proceed, if that's okay with you? 09:24:34AM
18 A. Yeah, that's fine. 09:24:36AM
19 Q. Okay. Sure.   09:24:37AM
20 So, Dr. Davis, I'll represent to you that one 09:24:43AM
21 or more of these matters also deals with a reference on 09:24:47AM
22 the Frank reference. Do you recall that one we talked 09:24:51AM
23 about a few months ago?   09:24:56AM
24 A. Yes, I do recall Frank. I think it was like a year ago. 09:24:58AM
25 Q. Yeah. So that patent number is 6,116,363. Do you 09:25:02AM

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 1      recall that reference?  Do you want me to give it to      09:25:07AM
 2      you?                                  09:25:15AM
 3  A.  Let me just take a look.  I think I brought a copy.       09:25:15AM
 4      6,116,363, yes, I have.                       09:25:18AM
 5  Q.  And do you recall, how does the Frank reference select    09:25:25AM
 6      operating modes?                          09:25:28AM
 7          MR. RONDINI:  Objection to form.            09:25:30AM
 8  BY MR. LIVEDALEN:                               09:25:34AM
 9  Q.  Do you recall?                            09:25:35AM
10  A.  Well, I've got a lot of material here.  Perhaps it would  09:25:35AM
11      go easier if you could direct me to a spot in one of     09:25:39AM
12      these pile of declarations here that I could take a look  09:25:45AM
13      at.                                   09:25:49AM
14  Q.  Well, why don't we just mark Frank as an exhibit.         09:25:49AM
15          DAVIS EXHIBIT 1                      09:26:07AM
16          U.S. Patent Number 6,116,363            09:26:07AM
17          WAS MARKED BY THE REPORTER                  09:26:07AM
18          FOR IDENTIFICATION                  09:26:07AM
19  BY MR. LIVEDALEN:                               09:26:07AM
20  Q.  So for the record, Exhibit 1 is U.S. Patent Number        09:26:09AM
21      6,116,363, Exhibit 3 to Frank.  Does that look right to   09:26:14AM
22      you, Dr. Davis?                         09:26:22AM
23  A.  Yes.                                 09:26:24AM
24  Q.  And if you look at Figure 4, does that refresh your       09:26:33AM
25      recollection as far as what criteria Frank is using to    09:26:48AM
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 1      select operating modes?                      09:26:51AM
 2  A.  Yes, I think I did talk about that in my declarations.    09:26:53AM
 3      Let's see if I can find that.                 09:27:38AM
 4  Q.  Which declaration are you looking at?                09:30:45AM
 5  A.  I'm looking at the IPR case number 2015-00784.           09:30:48AM
 6  Q.  Okay.  Maybe -- does paragraph 384 help at all?          09:30:58AM
 7  A.  I actually just turned to that page.             09:31:03AM
 8  Q.  All right.  We're on the same page.             09:31:05AM
 9  A.  Can you give me the question again?              09:31:18AM
10  Q.  If I can remember.                         09:31:22AM
11          Let me just ask you this, what criteria does      09:31:24AM
12      the Frank reference evaluate to determine which         09:31:27AM
13      operating mode to select?                     09:31:30AM
14  A.  Well, what you can see is if you look on, you know,       09:31:33AM
15      starting on page 165, continuing on for, I think, a      09:31:37AM
16      couple of pages, that you can see there's lots of        09:31:43AM
17      similarities between the hybrid electric vehicles        09:31:46AM
18      disclosed here, and that like the Ibaraki '882, the      09:31:53AM
19      Frank has mode of operation of engine only mode,         09:31:58AM
20      electric motor only mode, and an engine-motor mode.  But  09:32:00AM
21      unlike the control strategy used by the Ibaraki '882,    09:32:04AM
22      which relies on the instantaneous torque to propel the   09:32:11AM
23      vehicle and the vehicle speed to make a determination    09:32:16AM
24      about which mode to switch into, Frank uses a different   09:32:18AM
25      approach.  And it's probably best if we look at page     09:32:22AM
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 1      168, where you can see a side-by-side comparison between  09:32:27AM
 2      the Figure 4 from Frank and Figure 11 from the Ibaraki    09:32:30AM
 3      '882, and you can see the three general modes of         09:32:38AM
 4      operation.  Again, the one highlighted in kind of an     09:32:41AM
 5      orange-ish pink color is the motor drive mode.  In green  09:32:48AM
 6      is engine drive mode, and in blue is the combination     09:32:52AM
 7      engine-motor drive mode.  And, again, if you look at     09:32:57AM
 8      Figure 11 from Ibaraki you can see that the              09:33:00AM
 9      determination as to which mode to operate in is based on  09:33:05AM
10      the instantaneous torque to propel the vehicle and the   09:33:07AM
11      vehicle's speed, whereas in Frank he used a different    09:33:11AM
12      control scheme in order to determine which mode he       09:33:14AM
13      wanted to go into.  In Frank he used the vehicle speed,   09:33:16AM
14      and the discharge of the battery, or the state of charge  09:33:21AM
15      of the batteries to help make the decision.          09:33:25AM
16          MR. RONDINI:  Just real quick, did we want to     09:33:28AM
17      mark this as an exhibit?                      09:33:31AM
18          MR. LIVEDALEN:  Yeah, why don't we go ahead an    09:33:32AM
19      do that.  Do you want to mark his personal copy, or --   09:33:33AM
20          MR. RONDINI:  Do you want to --            09:33:38AM
21          THE WITNESS:  This is fine.  I don't know that    09:33:39AM
22      I have anything in here.                      09:33:40AM
23          MR. RONDINI:  That's fine then.            09:33:42AM
24
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 1          DAVIS EXHIBIT 2                      09:33:58AM
 2          Declaration in IPR 2015-00784           09:33:58AM
 3          WAS MARKED BY THE REPORTER                  09:33:58AM
 4          FOR IDENTIFICATION                  09:33:59AM
 5  BY MR. LIVEDALEN:                               09:33:59AM
 6  Q.  All right.  So if I understand you correctly, you said    09:34:03AM
 7      that the Frank reference uses speed and battery          09:34:05AM
 8      discharge to switch modes, is that right?             09:34:10AM
 9  A.  Yeah, or the battery state of charge or depth of         09:34:13AM
10      discharge.                              09:34:17AM
11  Q.  And would one of skill in the art understand the Ibaraki  09:34:17AM
12      '882 to also use speed switch modes?              09:34:21AM
13  A.  No.  The Ibaraki, as I just explained, and you can see    09:34:24AM
14      it in the side-by-side comparison on page 168 of my      09:34:27AM
15      declaration, Ibaraki uses, if you look at the Y axis,    09:34:30AM
16      instead of seeing, in the Frank figure on the left, you   09:34:34AM
17      see speed on the Y axis.  On the Y axis or the vertical   09:34:37AM
18      axis of Ibaraki on the right, Figure 11, you see the     09:34:42AM
19      vehicle drive torque.  So Ibaraki is using the torque    09:34:45AM
20      and the vehicle speed to make the determination, whereas  09:34:52AM
21      Frank was using the speed on the Y axis and the depth of  09:34:54AM
22      discharge on the X axis.                      09:34:59AM
23  Q.  So one of skill in the art would not conclude that       09:35:00AM
24      Ibaraki '882 is comparing vehicle speed to a speed       09:35:03AM
25      threshold, right?                         09:35:07AM
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1   MR. RONDINI: Objection to form, vague.   09:35:08AM
2   THE WITNESS: I'm not sure I understand your   09:35:09AM
3 question.   09:35:14AM
4 BY MR. LIVEDALEN: 09:35:17AM
5 Q. What don't you understand about it?   09:35:18AM
6 A. I guess I just -- I'm not sure I understand what you're   09:35:19AM
7   asking there.   09:35:25AM
8 Q. So in Frank you agree with me, right, that Figure 4 of   09:35:26AM
9   Frank discloses evaluating the vehicle speed to a speed   09:35:32AM
10   threshold to select an operating mode?   09:35:38AM
11   MR. RONDINI: Objection, misstates testimony,   09:35:41AM
12 vague.   09:35:43AM
13   THE WITNESS: I'm not -- again, I think maybe   09:35:46AM
14 it's clearer if we look at my text and maybe that would   09:35:51AM
15 clear it up a little bit. If you look at -- let's see,   09:35:57AM
16 probably the description I have --   09:36:04AM
17 BY MR. LIVEDALEN: 09:36:07AM
18 Q. It's really a simple question. Does Frank --   09:36:07AM
19 A. Sorry, I just don't understand.   09:36:11AM
20 Q. Okay. So you've seen Figure 4, right?   09:36:13AM
21 A. Yes.   09:36:14AM
22 Q. The Y axis is what?   09:36:15AM
23 A. It's the vehicle speed.   09:36:18AM
24 Q. All right and at below 113 kilometers per hour, what   09:36:22AM
25   mode is being used?   09:36:28AM

1 A. It depends.   09:36:29AM
2 Q. Well, between 0 and 50 percent battery depth of   09:36:35AM
3   discharge what mode is being used in under 13 kilometers   09:36:42AM
4   per hour?   09:36:45AM
5 A. Again, it still depends.   09:36:46AM
6 Q. Okay. So looking at Figure 4, you cannot tell me   09:36:48AM
7   whether or not Frank uses -- strike that.   09:36:52AM
8   Looking at Figure 4, you cannot tell me   09:36:55AM
9   whether or not Frank compares vehicle speed to a speed   09:36:57AM
10   threshold or to select operating modes?   09:37:00AM
11   MR. RONDINI: Objection, vague.   09:37:02AM
12   THE WITNESS: Again, it uses both vehicle   09:37:09AM
13 speed, as I described before, and the battery depth of   09:37:11AM
14 discharge in order to determine the locations where it's   09:37:14AM
15 going to switch modes.   09:37:21AM
16 BY MR. LIVEDALEN: 09:37:23AM
17 Q. Does it ever compare vehicle speed to a speed threshold   09:37:23AM
18   to select an operating mode?   09:37:28AM
19 A. Well, it defines its boundaries between modes based on   09:37:30AM
20   the vehicle speed and the depth of discharge. So,   09:37:55AM
21   again, the comparison that's being made is looking at   09:37:58AM
22   the vehicle speed at a particular depth of discharge or   09:38:03AM
23   condition of the battery in order to decide which mode   09:38:06AM
24   of operation is desired.   09:38:08AM
25 Q. And does that ever require a comparison of vehicle speed   09:38:10AM

1 to a speed threshold?   09:38:16AM
2   MR. RONDINI: Objection, asked and answered.   09:38:18AM
3   THE WITNESS: Again, it's making the   09:38:20AM
4 determination, it set up the boundaries, if you will,   09:38:24AM
5 between the different modes based on the vehicle speed   09:38:27AM
6 and the depth of discharge.   09:38:30AM
7 BY MR. LIVEDALEN: 09:38:33AM
8 Q. Okay. Now, looking at Ibaraki '882, does Ibaraki '882   09:38:38AM
9   compare vehicle speed to a speed threshold?   09:38:43AM
10 A. Again, Ibaraki is probably clearest if you look at the   09:38:45AM
11   figures that I have annotated on page 168 of my report,   09:38:50AM
12   you can see that the Ibaraki uses the vehicle drive   09:38:54AM
13   torque and the vehicle speed, and it's to help lay out   09:38:59AM
14   the boundaries between the modes.   09:39:08AM
15 Q. So it does make a comparison between vehicle speed and   09:39:09AM
16   the speed threshold?   09:39:13AM
17 A. So it's looking at the torque at a given speed, and   09:39:14AM
18   perhaps -- I think I have some other annotated figure at   09:39:19AM
19   Figure 11.   09:39:24AM
20   Well, perhaps a better figure to look at that   09:40:22AM
21   might help clear up any issue here is if we look at   09:40:25AM
22   page 87 of my declaration, or one example of an   09:40:27AM
23   annotated Figure 11, and you can see I've tried to lay   09:40:32AM
24   out some of the conditions here, and you can see --   09:40:36AM
25   looks like you're still turning -- and so you can see   09:40:48AM

1 the basic strategy that Ibaraki is employing here is   09:40:50AM
2 it's determining the vehicle speed and the required   09:40:54AM
3 torque to propel the vehicle, which I've annotated here,   09:40:58AM
4 I called that TL on the diagram. And then in order to   09:41:03AM
5 make the mode determination it's comparing that value   09:41:06AM
6 with the setpoint, which on this curve that I'm showing   09:41:11AM
7 is a setpoint to transition to engine drive mode only,   09:41:15AM
8 and so it's making comparison that TL is greater than   09:41:20AM
9 that setpoint. And the different setpoints, they vary   09:41:24AM
10 as a function of speed in Ibaraki, and they're kind of   09:41:28AM
11 shown as that line B, that curved line B would be the   09:41:34AM
12 kind of boundary value or values in which you would   09:41:39AM
13 switch to engine mode, engine drive mode.   09:41:44AM
14 Q. So at a point along speed V1 is it your opinion that   09:41:48AM
15   there's a comparison between a demand torque and a   09:41:55AM
16   torque threshold?   09:42:01AM
17   MR. RONDINI: Objection, vague, misstates   09:42:03AM
18 testimony.   09:42:07AM
19   THE WITNESS: I think what I said is that   09:42:15AM
20 there is the -- the curve is set up using the torque,   09:42:18AM
21 the vehicle drive torque or the instantaneous torque to   09:42:25AM
22 propel the vehicle and vehicle speed so that there are   09:42:29AM
23 multiple setpoints. The setpoints vary as a function of   09:42:36AM
24 vehicle speed. But in the example I'm showing here on   09:42:40AM
25 page 87, at one particular vehicle speed the controller   09:42:43AM

4 (Pages 10 to 13)

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 1    will determine the value, TL, the torque, at that speed    09:42:49AM
 2    and make a comparison as to whether that is greater than    09:42:56AM
 3    the setpoint or not greater than the setpoint.  And in    09:43:00AM
 4    this case it's greater than the setpoints which are    09:43:05AM
 5    defined by curve B, and it's less than the setpoint that    09:43:10AM
 6    would be defined on the curve of multiple setpoints of    09:43:16AM
 7    curve C.  So it's looking at the setpoint, SP, that I    09:43:23AM
 8    have labeled, and the value I called C1, and it's making    09:43:27AM
 9    a determination in that case that it should be in engine    09:43:31AM
10    drive mode.    09:43:35AM
11  BY MR. LIVEDALEN:    09:43:35AM
12  Q.  So is there or isn't there a comparison between a demand    09:43:36AM
13    torque and a torque threshold?    09:43:40AM
14      MR. RONDINI:  Objection, compound.    09:43:42AM
15      THE WITNESS:  I think I've already answered    09:43:51AM
16    that question a couple of times now.    09:44:00AM
17  BY MR. LIVEDALEN:    09:44:03AM
18  Q.  My answer calls for a yes or no answer, so is it yes or    09:44:04AM
19    no?    09:44:07AM
20      MR. RONDINI:  Objection, vague, misstates    09:44:09AM
21    testimony.    09:44:13AM
22      THE WITNESS:  Perhaps I don't understand your    09:44:19AM
23    question.    09:44:20AM
24  BY MR. LIVEDALEN:    09:44:21AM
25  Q.  Sitting here today, can you tell me whether or not    09:44:21AM
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 1    vehicle, which is indicated by TL if we go back to that    09:45:47AM
 2    Figure 11 I have annotated on page 87 and you're    09:45:51AM
 3    comparing to see if it's greater than that setpoint at    09:45:55AM
 4    the same vehicle speed.  And if it is, then you're going    09:45:58AM
 5    to consider engine drive mode only.  You're also going    09:46:03AM
 6    to look then to see if it's less than the setpoint which    09:46:08AM
 7    is laid out on -- I called it C1, and if it's between    09:46:13AM
 8    those two values you're going to go into engine drive    09:46:18AM
 9    mode.  So it's clearly looking at the torque required to    09:46:21AM
10    propel the vehicle and comparing it to the setpoint.    09:46:27AM
11  BY MR. LIVEDALEN:    09:46:30AM
12  Q.  So you're telling me there is a comparison?    09:46:30AM
13  A.  I think I have been telling you that, that it's a    09:46:33AM
14    comparison between those values.    09:46:37AM
15  Q.  Okay.  I'm not trying to trick you, I'm just trying to    09:46:38AM
16    get -- trying to make sure I understand your opinion.    09:46:41AM
17      So you would agree with me then -- or strike    09:46:45AM
18    that.    09:46:45AM
19      So is it your opinion that Ibaraki '882    09:46:51AM
20    compares a torque demand to a torque threshold?    09:46:53AM
21      MR. RONDINI:  Objection, asked and answered.    09:46:56AM
22  BY MR. LIVEDALEN:    09:46:59AM
23  Q.  I think your answer's yes.  I don't know why --    09:47:01AM
24  A.  Perhaps I'm just -- I didn't use the exact terms that    09:47:03AM
25    you're using in your question, so perhaps maybe that's    09:47:05AM
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 1    Ibaraki '882 compares a torque demand to a torque    09:44:23AM
 2    threshold?  If you can't answer, if you don't know,    09:44:29AM
 3    that's fine.    09:44:38AM
 4  A.  I guess I don't understand your question.    09:44:38AM
 5  Q.  Okay.  So sitting here today you can't tell me whether    09:44:40AM
 6    Ibaraki '882 compares a torque demand to a torque    09:44:44AM
 7    threshold, is that right?    09:44:47AM
 8  A.  Again, I don't understand your question.  Because I    09:44:48AM
 9    think I've already answered it a couple of times, but    09:44:51AM
10    apparently I haven't.  So perhaps we're not    09:44:55AM
11    communicating effectively here.    09:45:01AM
12  Q.  So you can't answer my question?    09:45:02AM
13  A.  No.  I think I already have actually, that I kind of    09:45:03AM
14    tried to explain how Ibaraki works here.    09:45:07AM
15  Q.  I appreciate your long explanations, but I just want an    09:45:13AM
16    answer to my question.  And if the answer is I don't    09:45:17AM
17    know, then that's perfectly fine.  So again, I'll repeat    09:45:20AM
18    the question.    09:45:23AM
19      Sitting here today can you tell me whether or    09:45:23AM
20    not Ibaraki '882 compares a torque demand to a torque    09:45:26AM
21    threshold?    09:45:29AM
22      MR. RONDINI:  Objection, asked and answered.    09:45:30AM
23      THE WITNESS:  Again, I think I did say that,    09:45:31AM
24    that the -- the particular example here, you're looking    09:45:37AM
25    at the instantaneous torque required to propel the    09:45:42AM
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 1    where there's some miscommunication.  It definitely    09:47:11AM
 2    compares its controller determination of the    09:47:17AM
 3    instantaneous drive torque to propel the vehicle to the    09:47:18AM
 4    setpoints.    09:47:22AM
 5  Q.  So you said that in your opinion there's a setpoint at    09:47:22AM
 6    B, along curve B at B1, right, that's where you're    09:47:27AM
 7    identifying your setpoint?    09:47:35AM
 8  A.  Yes, that's one particular setpoint.  That's an example    09:47:36AM
 9    at that particular vehicle speed.    09:47:39AM
10  Q.  And at that precise point does Ibaraki compare the    09:47:40AM
11    vehicle speed to a speed threshold?    09:47:44AM
12  A.  You know, it's looking at that particular point in order    09:47:49AM
13    to determine what the setpoint torque value would be.    09:47:52AM
14  Q.  There's no comparison --    09:47:56AM
15  A.  And then it's making a comparison.    09:47:58AM
16  Q.  There's no comparison of a speed, of a vehicle speed to    09:48:00AM
17    a speed threshold?    09:48:04AM
18  A.  I don't believe so, there is a speed threshold there.  I    09:48:05AM
19    think later on, you know, obviously over the full    09:48:09AM
20    operating range of the vehicle, speed is a concern.    09:48:12AM
21  Q.  Okay.  But you would not consider Ibaraki '882 to    09:48:17AM
22    disclose a comparison of vehicle speed to a speed    09:48:21AM
23    threshold, are you?    09:48:24AM
24  A.  At this example that I show here, it's using the speed    09:48:25AM
25    in order to determine what the setpoint value should be    09:48:28AM
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5 (Pages 14 to 17)

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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.

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

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API

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

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Litigation and bankruptcy checks for companies and debtors.

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Sync your system to PACER to automate legal marketing.