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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

TJTM TECHNOLOGIES, LLC, Plaintiff, v. **VERIZON COMMUNICATIONS, INC.**, Defendant.	Case No. _____ **COMPLAINT FOR PATENT INFRINGEMENT** **JURY TRIAL DEMANDED**

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Plaintiff **TJTM Technologies, LLC** ("TJTM"), brings this action against **Verizon Communications, Inc.** ("Verizon") to stop it from using TJTM's patented technology in cell phones sold by it without permission. TJTM seeks damages and injunctive relief. On information and belief, it alleges as follows:

I. NATURE OF THE ACTION

1. This is a civil action for patent infringement under 35 U.S.C. § 1 et seq.

2. On February 17, 2015, the United States Patent and Trademark Office ("USPTO") issued U.S. Patent No. 8,958,853, entitled "Mobile Device Inactive Mode and Inactive Mode Verification" to its inventor (the "'853 Patent"). This describes the "OFF MODE" application. A true and correct copy of the '853 Patent is attached hereto as **Exhibit A**.

3. The inventor of the '853 patent is an engineer, inventor and restauranteur. TJTM is the legal owner of the '853 patent by assignment. The Managing Member of TJTM is the wife of the inventor, Dr. Connie Morris, who practices dentistry in South San Francisco.

4. The "OFF MODE" application was invented in 2010. The inventor was concerned that drivers were increasingly distracted by incoming calls and text messages while driving, which creates a public safety hazard. The "OFF MODE" application allows users to block telephone calls, text messages, and other notifications while driving and otherwise, gives them the option of issuing automated replies to senders or callers informing them that the driver is temporarily unavailable, and then provides a log of missed communications when "OFF MODE" is turned off. "OFF MODE" increases highway safety by diminishing the urge to use one's cell phone while driving. This allows drivers to focus solely on the road and traffic.

5. TJTM had a software engineer build the "OFF MODE" application. It was available for downloading in 2013 on Google Play and their business website. Since then, it has been downloaded more than 61,000 times.

6. "OFF MODE" was the first application of its kind and the inventor was issued the '853 patent.

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/ / /

7. Verizon has infringed and continues to infringe one or more claims of the '853 Patent by offering a "Driving Mode" feature in the Messages ("Message+") app on cellular telephones to millions of consumers throughout the world. To the extent that this is not pre-loaded onto the phones, Verizon offers directions to its customers on how they can download the software. Verizon's "Driving Mode" mirrors the claims of the '853 patent.

8. Verizon had to know about the '853 patent and the "OFF MODE" app when it first adopted the "Driving Mode" feature for cellular phones sold by it. Instead of licensing the '853 patent for a reasonable royalty, however, Verizon took TJTM's invention and paid no compensation for it. On information and belief, Verizon gambled that TJTM could not afford to litigate its claims under the '853 patent. This lawsuit followed, and seeks, among other things, monetary damages and injunctive relief.

II. THE PARTIES

9. Plaintiff **TJTM Technologies, LLC**, is a California limited liability company with its principal place of business in San Francisco, California. Dr. Connie Morris is its Managing Member.

10. Defendant **Verizon Communications, Inc.** is a corporation that does business all over the United States and internationally.

III. JURISDICTION

11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 (Federal question) and 1338 (a) (any act of Congress relating to patents and trademarks.).

12. This Court has personal jurisdiction because Verizon operates and resides in this District. It has more locations in California than any other state. The patented technology is used while driving an automobile. There are more automobiles used in California than any other state. It employs hundreds of people in offices in San Francisco, San Jose, and Walnut Creek. It has over 200 licensed franchisees ("authorized retailers") and its own stores in the District who, among other things, sell the infringing phones for Verizon. One such company-owned store is located at 768 Market Street in San Francisco. There are 6,426 Verizon Wireless locations in the United States as of February 22, 2022. The state with the most number of Verizon Wireless

locations in the US is California, with 528 locations, which is 8% of all Verizon Wireless locations in America. On information and belief, selling cellular phones is one of the requirements of an authorized dealer. This Court also has personal jurisdiction as Verizon has committed and induced acts of patent infringement and has regularly and systematically conducted and solicited business in this District by and through, at a minimum, its sales, and offers for sale of Verizon products and services, and other contractual arrangements with Verizon customers, and it and its authorized dealers sell Verizon products and services, including the infringing phones, are located in and/or doing business within this District.

IV. VENUE AND INTRA-DISTRICT ASSIGNMENT

13. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c) and 1400 (b). Pursuant to Local Rule 3-2(c), intellectual property actions are assigned on a District-wide basis.

14. There were two previous cases in this District involving the same patent, *SMTM Technology, LLC, v. Apple, Inc*., Case No. 4:19-cv-08133-YGR and *TJTM Technologies, LLC. v. Samsung Electronics America, Inc.,* 4:21-cv-05500-YGR. Both of these settled prior to trial.[1] Because both were assigned to the Hon. Yvonne Gonzalez Rogers, in the interest of judicial economy this case should be assigned to her because it is a related case.

V. FACTUAL ALLEGATIONS

A. THE PATENT CREATES A NOVEL APPLICATION TO SHUT OFF CELL PHONE NOTIFICATIONS WHILE DRIVING

15. In 2010, Dr. Morris and her children were complaining that her husband was always on or checking his phone while he was driving. As a result, the "OFF MODE" was developed for a breakthrough application for cell phones. It was clear that there were an increasing number of automobile accidents caused by driver distraction due to cell phone use. Automobile accidents caused by distracted driving were on the rise and had become as serious a public safety problem as driving while intoxicated. As many as 25% of all automobile accidents – millions of crashes – were caused by texting and driving. Many drivers are aware of the risks

[1] To the extent that Verizon has sold any phones made by Apple or Samsung, they are expressly excluded from the claims in this Complaint.

of distracted driving but lack the willpower not to use their phones while driving as shown by studies.

16. It was recognized that there was a need for a technological solution that would limit user distractions without forcing the user to turn off their phone and thereby miss essential communications. In furtherance of this, the "OFF MODE" function of the '853 patent automatically notifies the sender that the recipient is temporarily unavailable, and it provides a log of missed communications once "OFF MODE" is turned off.

17. The proliferation of accidents caused by distracted driving also created a need for a driver to prove, in the event of an accident, that he or she was not using their phone while driving. Accordingly, the patent created novel functionality for suppressing communications to a user and a means for verifying that a user was not receiving or responding to communications while driving.

18. In essence, "OFF MODE" as described in the '853 patent allows users to shut off notifications while driving, and replies with automated responses letting people know they are busy. The "OFF MODE" application blocks the screen from showing text, email, phone calls and other notifications, eliminating distractions so that the driver can focus on road safety. Users still receive incoming messages but without the distracting pop-up notifications, pings, dings, vibrations or other sounds. When "OFF MODE" is turned off, a report of all missed texts and calls is made available to the driver.

19. In 2013, after conceiving of the "OFF MODE" function, a software engineer was hired to build an app for the Android platform and a patent lawyer to draft the patent application.

20. In May 2013, the "OFF MODE" app was released to the public. A Facebook page for it was made and the app was available on the Google Play website.

21. The inventor felt so strongly about the public safety advantages of his app that it was made it available to the public for free.

B. THE USPTO ISSUES THE '853 PATENT

22. On June 14, 2013, a provisional patent application was filed for the "OFF

MODE" app titled "Mobile Device Inactive Mode and Inactive Mode Verification."

23. On February 9, 2014, a non-provisional, continuation of patent application for "OFF MODE" was filed.

24. On February 17, 2015, a patent was issued, United States Patent No. 8,958,853 for "Mobile Device Inactive Mode and Inactive Mode Verification." *See* **Exhibit A**.

C. VERIZON INFRINGES THE '853 PATENT BY SELLING PHONES WITH THE DRIVING MODE FEATURE

25. At a time unknown, but occurring after the filing date of the provisional patent application, Verizon began selling phones containing the Driving Mode feature in its Messaging (Message +) app. It had the same features as the "Do Not Disturb" app. "Driving Mode" while driving causes the phone to stay silent and the screen to stay dark while the user is driving. Likewise, if someone sends a message, they receive an automatic reply letting them know that the user is temporarily unavailable. If the message is important, the sender can type the word "urgent" to make sure the user receives a notification. Verizon's "Driving Mode" feature for its phones mirrors or constitutes the equivalent of the elements comprising the '853 patent.

26. While "Driving Mode" while driving may have been new to Verizon, it was certainly not new to the marketplace. It was released after the TJTM released its "OFF MODE" app and after the grant of the '853 patent. Given the massive legal resources available to Verizon to search new technology for patent infringement, and the knowledge that its software engineers and business executives have of the apps available for download, Verizon was fully aware of the TJTM app and the '853 patent at the time it adopted "Driving Mode" for its.

27. On information and belief, "Driving Mode" has been preloaded on many phones sold by Verizon. To the extent it is not pre-loaded, Verizon's website contains instructions on how to download and install it.

D. THE PTAB AFFIRMS THE VALIDITY OF THE PATENT

28. It was learned that Apple had incorporated his invention into its iOS 11 software and was profiting from it. It was wrong for Apple to steal the invention, profit from it, and not pay royalties. Apple was told it that it was using the technology covered by the '853 and

requested that he be paid an appropriate royalty. Apple refused.

29. Shortly thereafter, the '853 patent was challenged at the Patent Trial and Appeal Board ("PTAB")[2] by a company called Unified Patents, Inc. Unified Patents is a membership-based organization dedicated to eliminating what a member considers to be a "poor quality patent," particularly in the tech field. On information and belief, Verizon is a member of Unified Patents.

30. Unified Patents claimed that the '853 patent was invalid because the technology was already known, or strongly suggested by, previous patents. The PTAB disagreed, and on July 30, 2019, issued a decision holding that United Patents "failed to demonstrate a reasonable likelihood that it would prevail in showing the unpatentability of at least one challenged claim of the '853 Patent." The PTAB decision is attached as **Exhibit B**.[3]

31. TJTM ultimately sued Apple for infringing the '853 patent. That lawsuit settled before trial.

33. At a minimum, Verizon learned of the '853 patent from Unified Patents either at the time the proceeding was filed or after its unsuccessful conclusion. Notwithstanding this knowledge, Verizon continued using "Driving Mode" in the phones it sells.

FIRST CLAIM FOR RELIEF

(Infringement of Patent No. 8,958,853)

34. TJTM re-alleges and incorporates by reference the allegations in Paragraphs 1-33 of this Complaint.

35. Verizon has directly infringed, and continues to infringe, the claims of the '853, pursuant to 35 U.S.C. § 271, by using, selling, or offering to sell within the United States, without authority, phones containing the infringing "Driving Mode" during the term of the '853 patent.

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[2] The Patent Trial and Appeal Board is an adjudicative body within the U.S. Patent and Trademark Office. It decides appeals from decisions of the patent examiners, and adjudicates the patentability of issued patents challenged by third parties in post-grant proceedings.

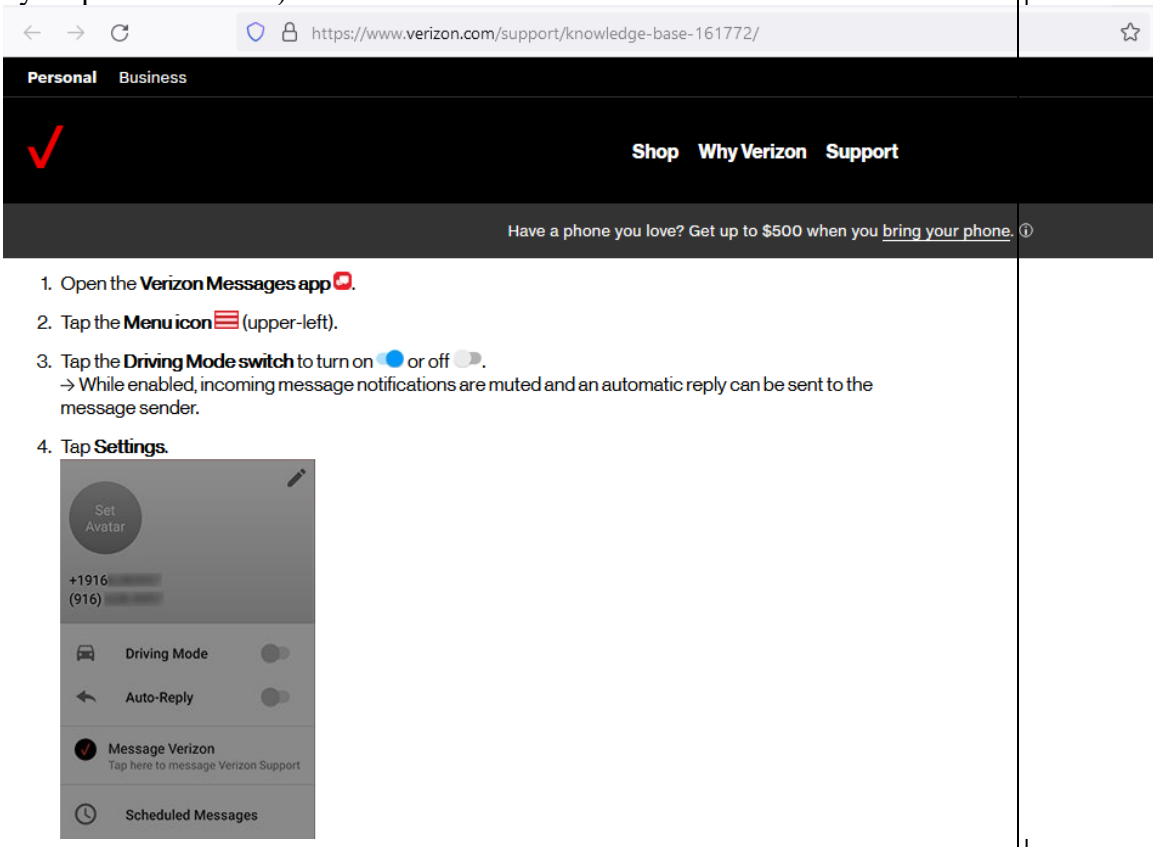
[3] After the PTAB proceeding and the settlement of the Apple case, SMTM assigned the '853 patent to TJTM.

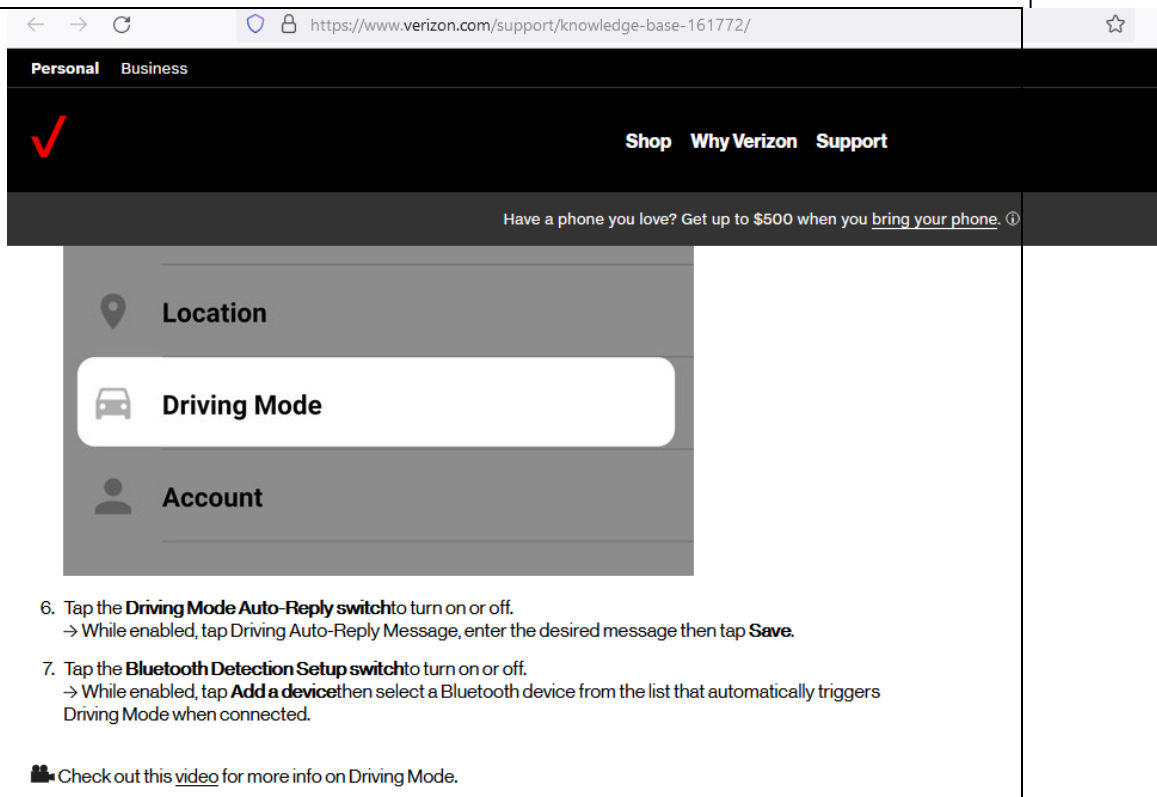
36. As just one non-limiting example, set forth below is a description of Verizon's infringement of claim one of the '853 patent in connection with Verizon's "Driving Mode" feature of the phones it sells. TJTM reserves the right to modify this description, including, for example, on the basis of information about Verizon's "Driving Mode" feature that is obtained through discovery.

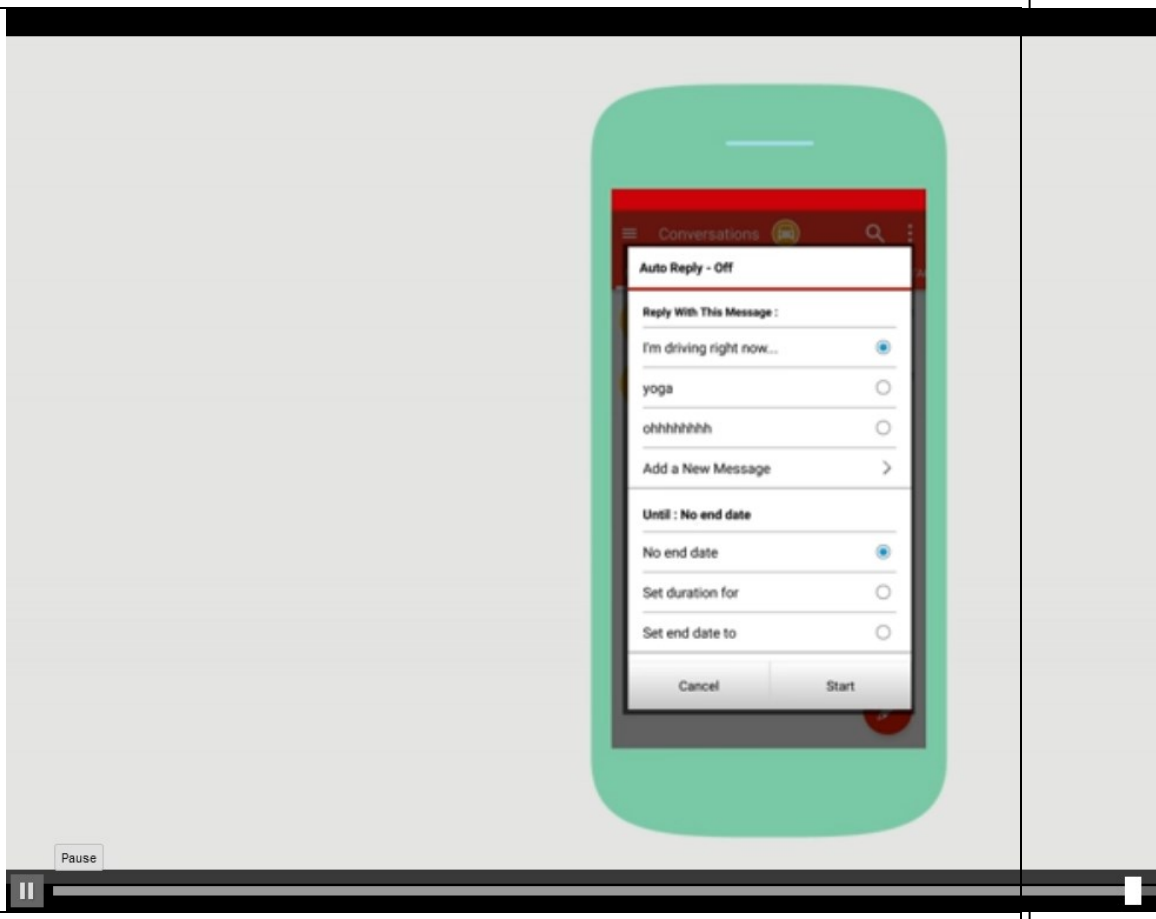
37. The "Driving Mode" feature of the Android phones infringes the'853 patent in the following ways:

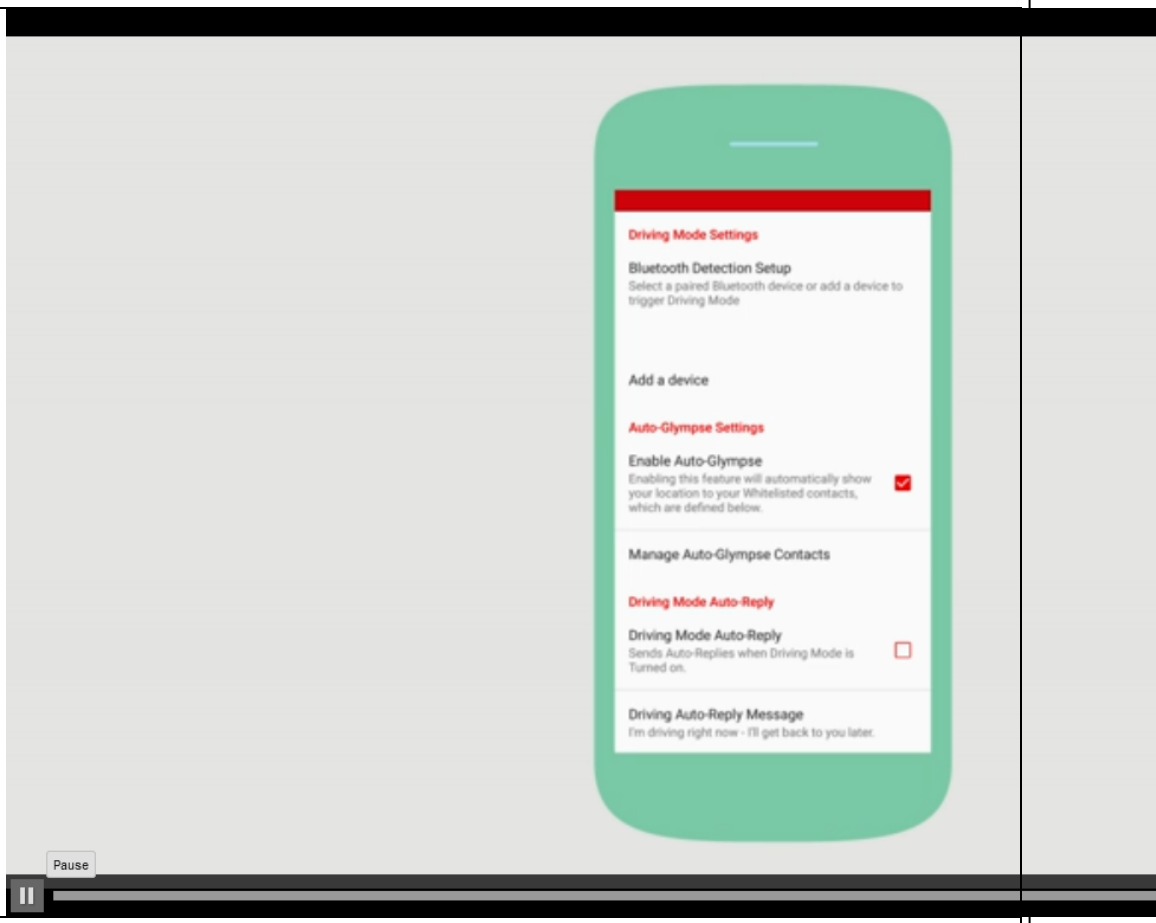
Claim Chart for U.S. Patent No. 8,958,853
Mobile Devices using Verizon Messages (Message+) App

U.S. Patent No. 8,958,853	Accused Product
Claim 1	
1. A mobile device comprising:	"Driving Mode" is a feature incorporated into Verizon's Messages (Message+) App for use on Android mobile devices. "Verizon Messages (Message+) comes already installed on many Verizon Android smartphones." https://www.verizon.com/support/how-to-use-verizon-messages-android/
a wireless communication module;	Android mobile devices include a wireless communication module for sending and receiving phone calls, messages and the like.
a processor, controlling the wireless communication module; and	Android mobile devices include a microprocessor that controls the wireless communication module.
a memory controlled by the processor, the memory including instructions that when executed by the processor cause the processor to perform the steps of:	"Driving Mode" on the Verizon Messages (Message+) App is performed by the execution of the instructions stored in the memory of the mobile device by the processor.

providing a graphical user interface through which a user customizes one or more functions of the mobile device when placed in an inactive mode;	The user can customize one or more functions, e.g., how it activates, etc. (https://www.verizon.com/support/knowledge-base-161772/) For example, "Driving Mode" can be activated or de-activated using a graphical user interface on the Android mobile devices. ("If you need to enable or disable Driving Mode, which mutes incoming notifications within the Verizon Messages (Message+) app on your Android™ smartphone, follow these step-by-step instructions.") 
receiving a user selection to automatically initiate the inactive mode in response to the pairing of the mobile device with a vehicle;	The user can select "Driving Mode" and can tap the "Bluetooth Detection Setup Switch" to automatically engage when the Android mobile device pairs to the vehicle via Bluetooth. ("Tap the Bluetooth Detection Setup switch to turn on or off. While enabled, tap Add a device then select a Bluetooth device from the list that automatically triggers Driving Mode when connected." https://www.verizon.com/support/knowledge-base-161772/)

	
receiving a user selection of an away message to use when the mobile device is in inactive mode;	An away message for when the mobile device is in "Driving Mode" on the Verizon Messages (Message+) App can be input and saved. ("While enabled, tap Driving Auto-Reply Message, enter the desired message then tap Save." https://www.verizon.com/support/knowledge-base-161772/)

	
in response to the pairing of the mobile device and the vehicle, automatically initiating a process to place the mobile device in inactive mode;	When activated by a user, and in response to the pairing of the mobile device and the vehicle, "Driving Mode" is automatically initiated. ("While enabled, tap Add a device then select a Bluetooth device from the list that automatically triggers Driving Mode when connected." https://www.verizon.com/support/knowledge-base-161772/)

	
when the mobile device is in inactive mode, in response to receiving a communication from the wireless communication module, transmitting the user selected away message via the wireless module and suppressing one or more sound, visual, or vibration communication cues that	When enabled in "Driving Mode", a user-selected message is sent, and the incoming message alert is "muted." ("While enabled, incoming message notifications are muted and an automatic reply can be sent to the message sender." https://www.verizon.com/support/knowledge-base-161772/)

would have accompanied the communication had the mobile device not been in inactive mode.	

38. To the extent that the Driving Mode app is not pre-loaded into the phones sold by Verizon and its authorized dealers Verizon is indirectly liable as it offers the app for downloading into phones and provides directions to consumers on how to download the app with, on information and belief, knowledge of the '853 patent and that the downloading the app into the phone would create a mobile device that infringes it.

39. As the direct and proximate result of Verizon's infringing conduct, TJTM has suffered injury and, if Verizon's conduct is not stopped, will continue to suffer, irreparable injury, and significant damages, in an amount to be proven at trial. Because TJTM's remedy at law is inadequate, it seeks permanent injunctive relief.

40. TJTM is informed and believes, and on that basis alleges, that Verizon's infringement of the '853 patent has been and continues to be intentional, willful, and without regard to TJTM's rights. TJTM is informed and believes, and on that basis alleges, that Verizon's infringement of the '853 patent is and has been intentional, deliberate, and willful at least because it had knowledge of the '853 as a result of its participation in the cell phone industry. It surely had knowledge of the "OFF MODE" app which was available for download long before the launch of the "Driving Mode" feature which, on information and belief, led Verizon to knowledge of the '853 patent.

41. TJTM is informed and believes, and on that basis alleges, that Verizon has gained profits by virtue of its infringement of the '853 patent or, at a minimum, has avoided paying license fees for the use of the technology claimed in the '853 patent.

42. TJTM has sustained damages as a direct and proximate result of Verizon's infringement of the '853.

43. TJTM will suffer and is suffering irreparable harm from Verizon's infringement

of the '853. TJTM has no adequate remedy at law and is entitled to an injunction against Verizon's continuing infringement of the '853. Unless enjoined, Verizon will continue its infringing conduct.

PRAYER FOR RELIEF

WHEREFORE, TJTM prays for relief, as follows:

1. A judgment that the '853 is valid and enforceable;

2. A judgment that Verizon has infringed one of more claims of the '853 patent;

3. An order and judgment permanently enjoining Verizon and its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns from further acts of infringement of the '853 patent;

4. A judgment awarding TJTM all damages adequate to compensate for Verizon's infringement of the '853, and in no event less than a reasonable royalty for Verizon's acts of infringement, including all pre-judgment and post-judgment interest at the maximum rate permitted by law;

5. A judgment awarding TJTM all damages, including treble damages, based on any infringement found to be willful pursuant to 35 U.S.C. § 284, together with prejudgment interest;

6. Actual damages suffered by TJTM as a result of Verizon's unlawful conduct, in an amount to be proven at trial, as well as prejudgment interest as authorized by law;

7. A judgment that this is an exceptional case and an award to TJTM of its costs and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285; and

8. Such other relief as this Court deems just and proper.

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DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, TJTM hereby demands a jury trial on all issues raised by the Complaint.

Dated: March 31, 2022

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TJTM Technologies, LLC

Exhibit A

US008958853B1

(12) **United States Patent**
Bovis

(10) **Patent No.: US 8,958,853 B1**
(45) **Date of Patent: Feb. 17, 2015**

(54) **MOBILE DEVICE INACTIVE MODE AND INACTIVE MODE VERIFICATION**

(71) Applicant: **Nick Bovis**, San Francisco, CA (US)

(72) Inventor: **Nick Bovis**, San Francisco, CA (US)

(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **14/515,477**

(22) Filed: **Oct. 15, 2014**

Related U.S. Application Data

(63) Continuation of application No. 14/176,107, filed on Feb. 9, 2014.

(60) Provisional application No. 61/835,234, filed on Jun. 14, 2013.

(51) **Int. Cl.**

H04M 1/00	(2006.01)
H04M 1/725	(2006.01)
H04W 4/14	(2009.01)
H04M 3/42	(2006.01)

(52) **U.S. Cl.**
CPC ***H04M 1/72552*** (2013.01); ***H04M 1/72577*** (2013.01); ***H04W 4/14*** (2013.01); ***H04M 3/42374*** (2013.01)
USPC **455/569.2**

(58) **Field of Classification Search**
USPC 455/569.2
See application file for complete search history.

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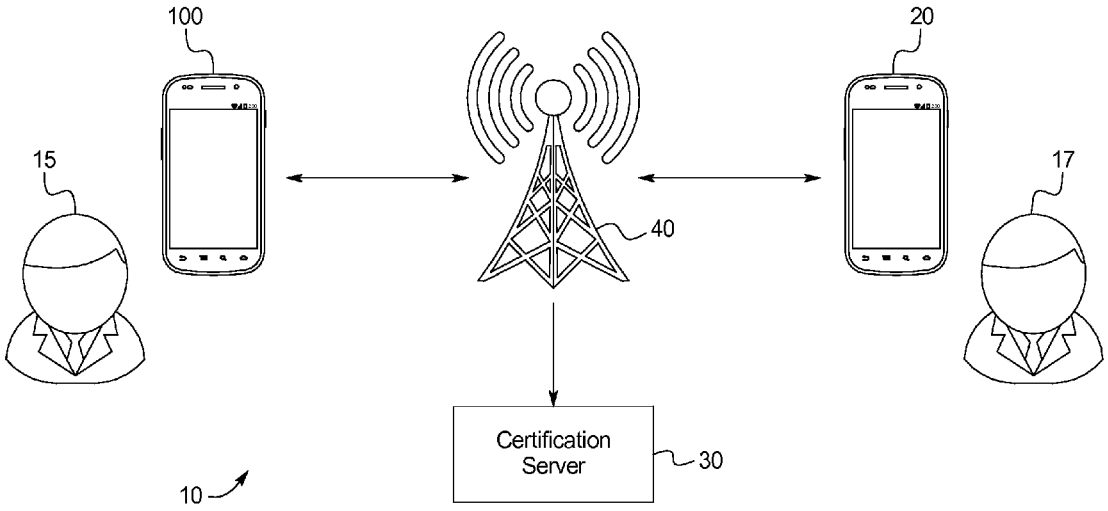
Primary Examiner — Joel Ajayi
(74) *Attorney, Agent, or Firm* — Richards Patent Law P.C.

(57) **ABSTRACT**

A mobile device, comprising: a processor; and a memory including instructions that when executed by the processor cause it to perform the steps of: receiving a user selection to automatically enter an inactive mode in response to an action within the mobile device indicating the device is being used in a moving vehicle; receiving a communication from a wireless communication module; if the mobile device is not in inactive mode, providing a notification to the user that a communication has been received; if the mobile device is in inactive mode, transmitting an away message via the wireless module.

9 Claims, 10 Drawing Sheets



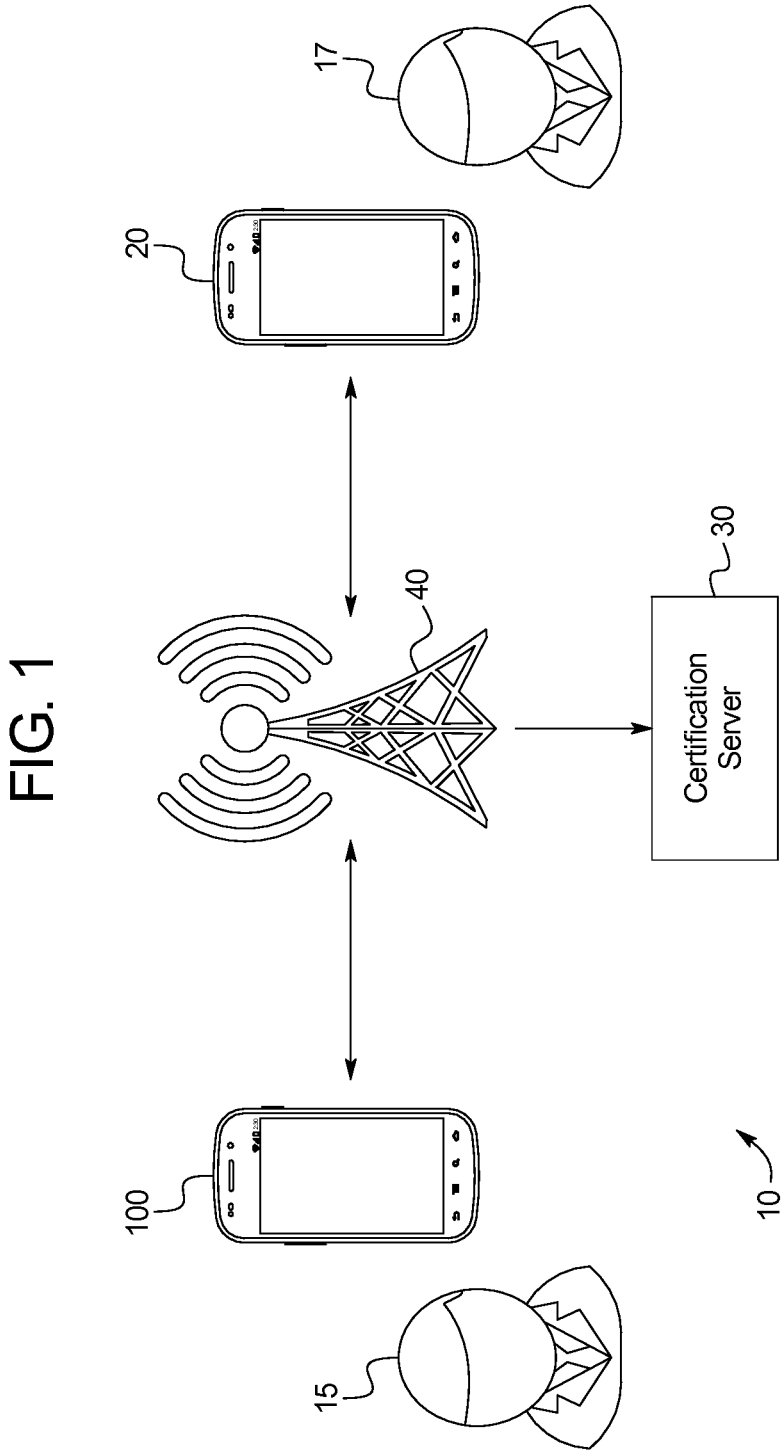


FIG. 1

FIG. 2

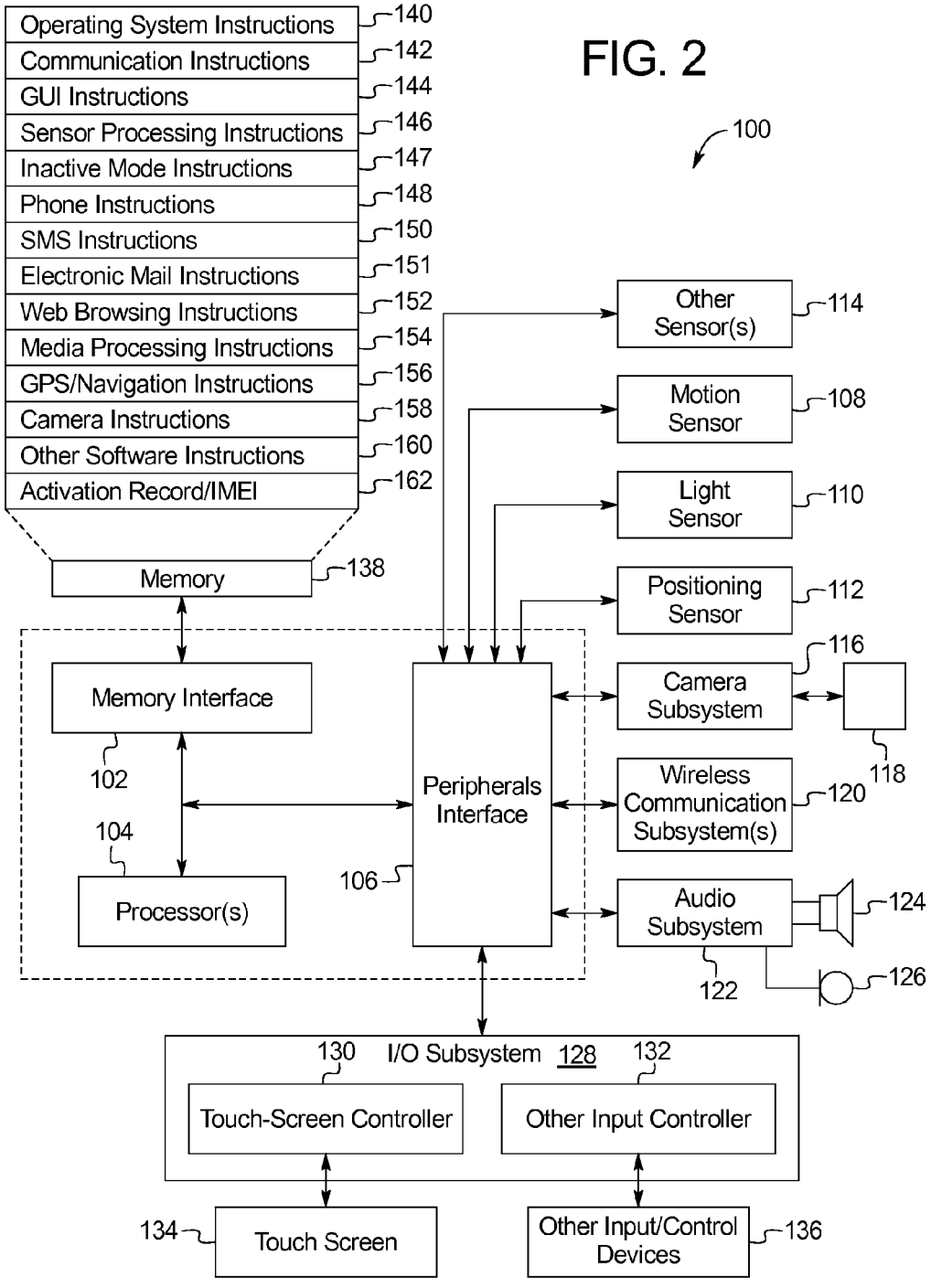

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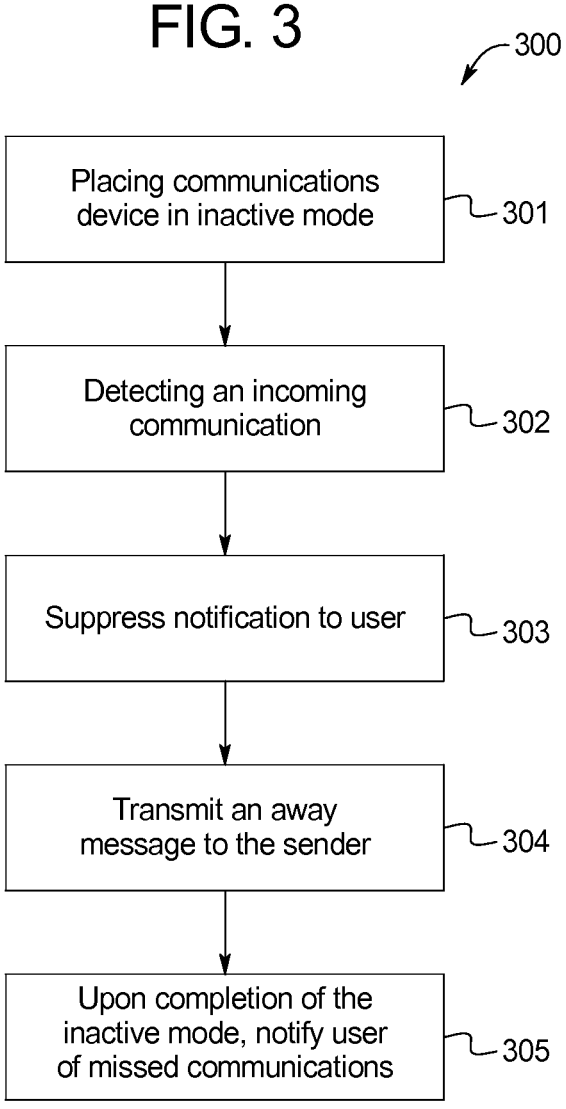
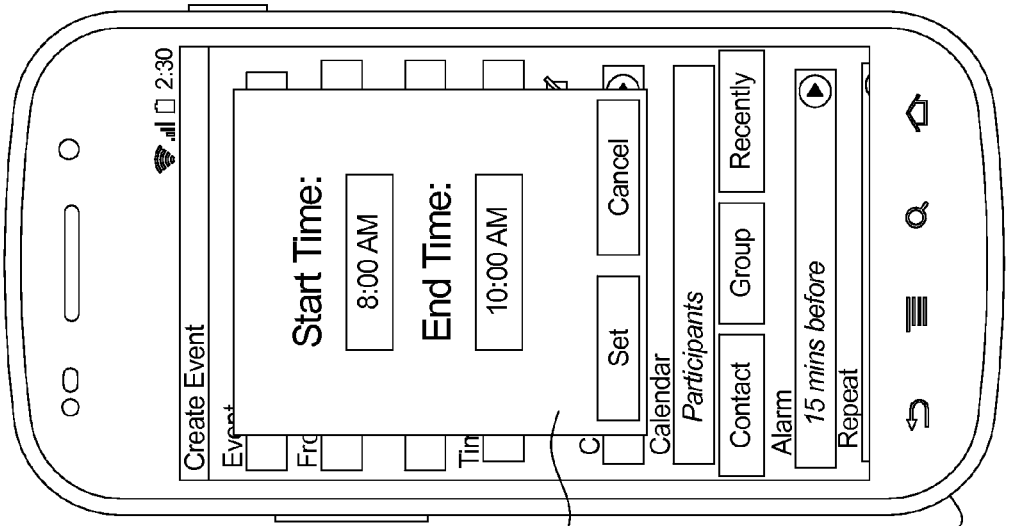
FIG. 3


300
Placing communications device in inactive mode
301
Detecting an incoming communication
302
Suppress notification to user
303
Transmit an away message to the sender
304
Upon completion of the inactive mode, notify user of missed communications
305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End Time:
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Cancel
Set
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Group
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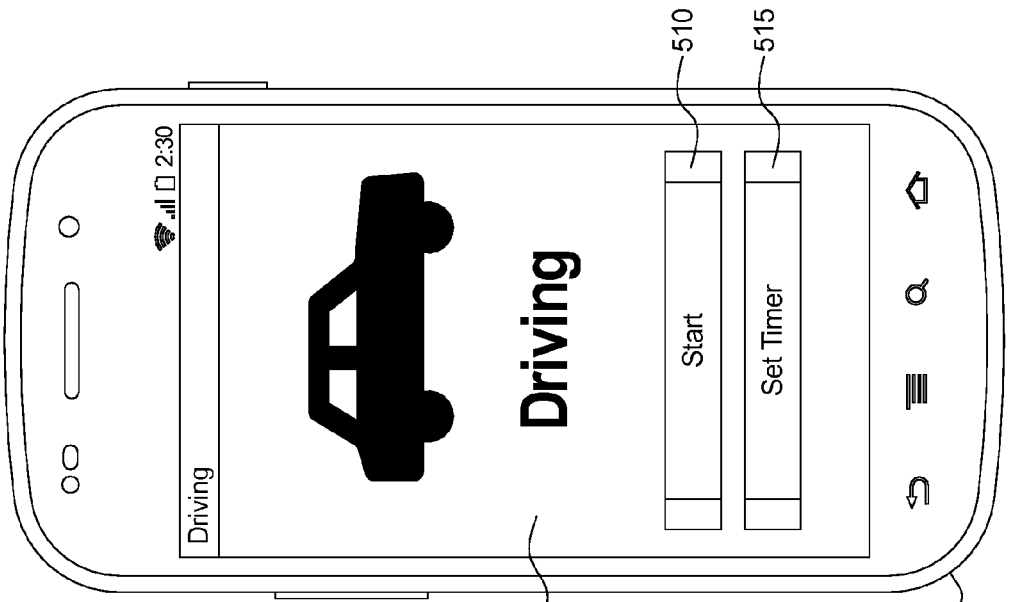
100

FIG. 4B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Driving
Driving
Start
Set Timer
510
515
520
100

FIG. 4A

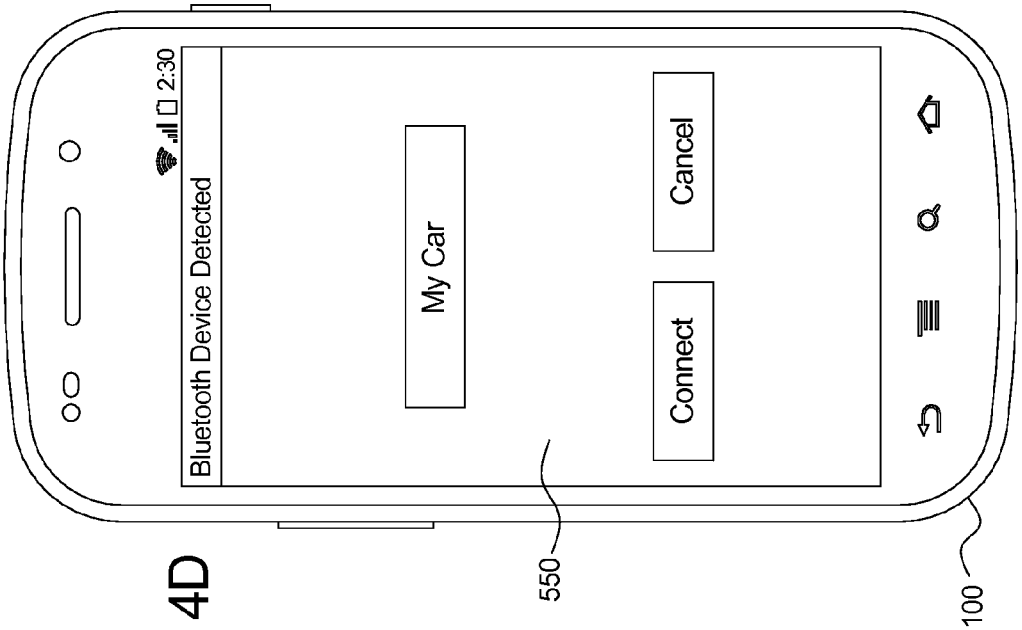

2:30
Bluetooth Device Detected
My Car
Cancel
Connect
550
100

FIG. 4D

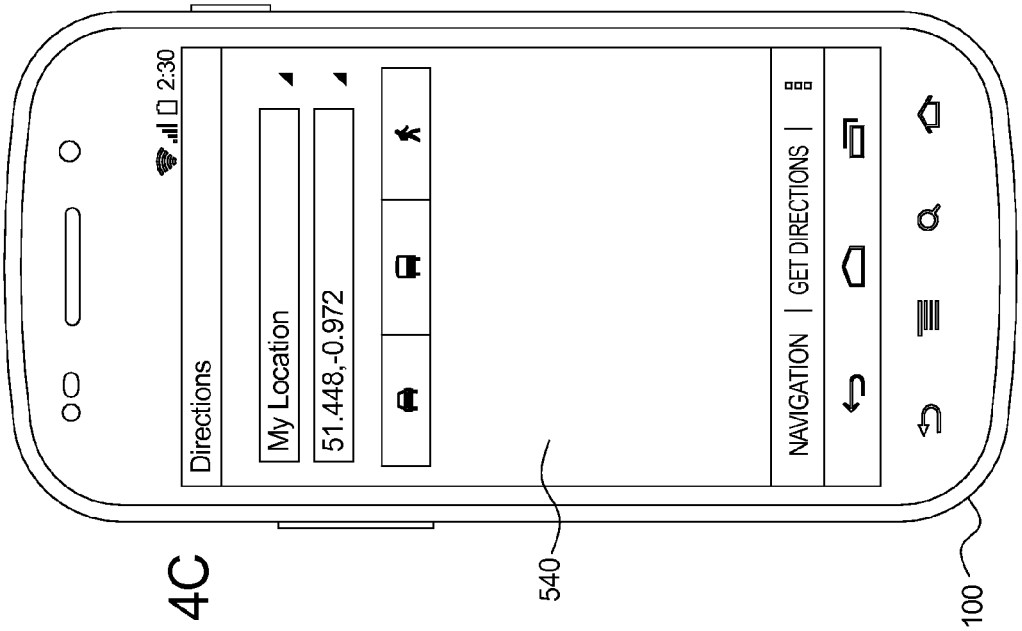

2:30
Directions
My Location
51.448,-0.972
NAVIGATION | GET DIRECTIONS |
540
100

FIG. 4C

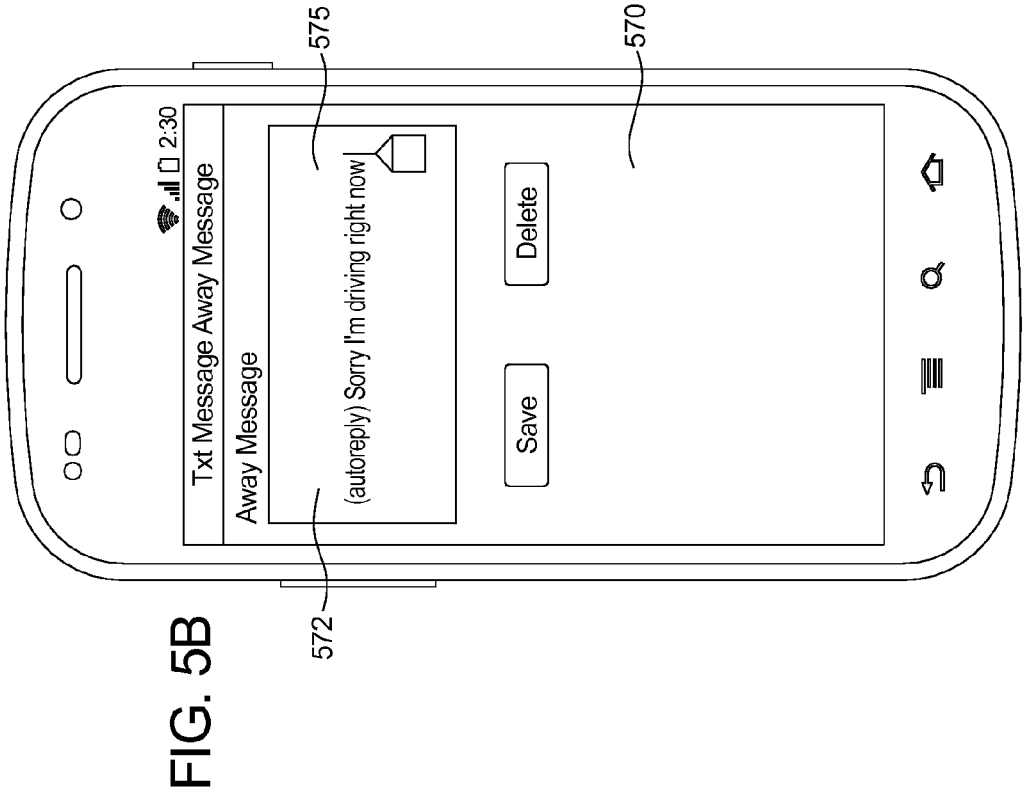

575
570
2:30
Txt Message Away Message
Away Message
(autoreply) Sorry I'm driving right now
Delete
Save
572

FIG. 5B

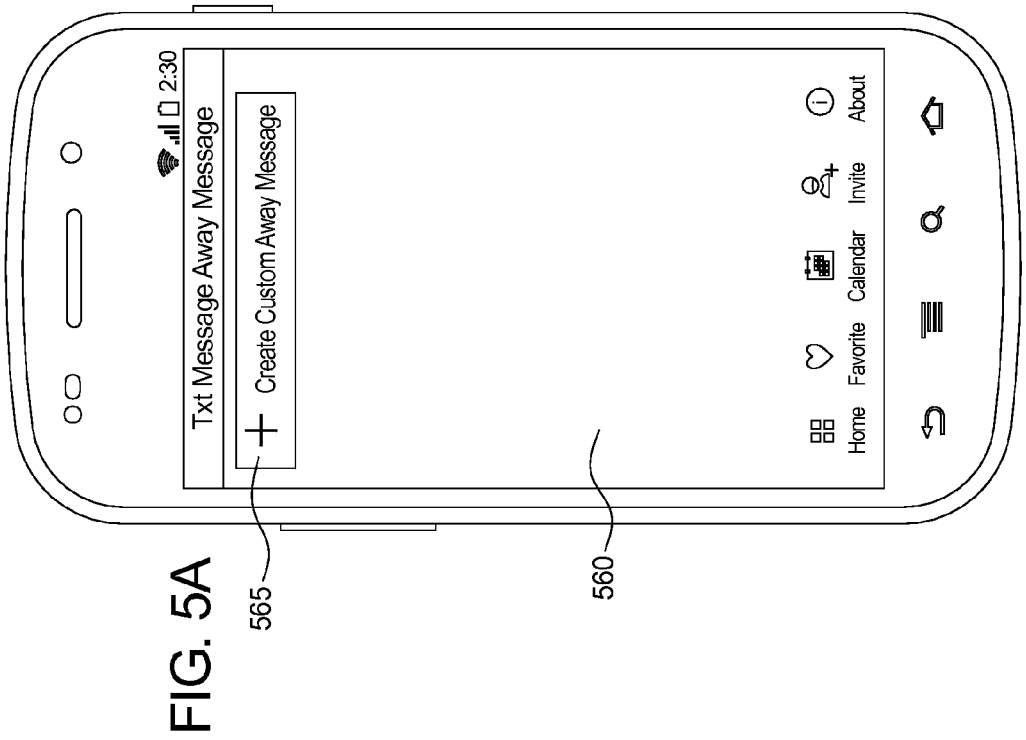

2:30
Txt Message Away Message
Create Custom Away Message
About
Invite
Calendar
Favorite
Home
565
560

FIG. 5A

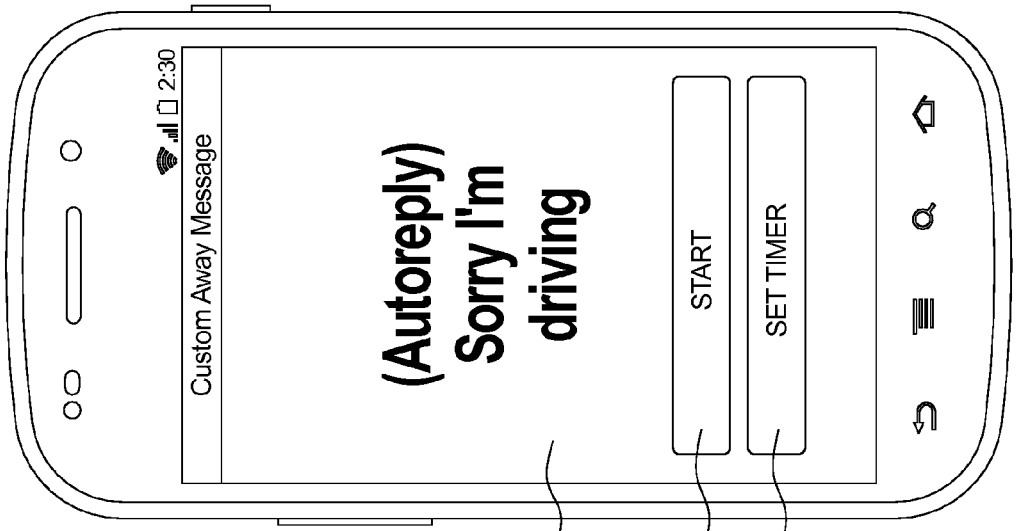

2:30
Custom Away Message
(Autoreply) Sorry I'm driving
START
SET TIMER
520
510
515

FIG. 5D

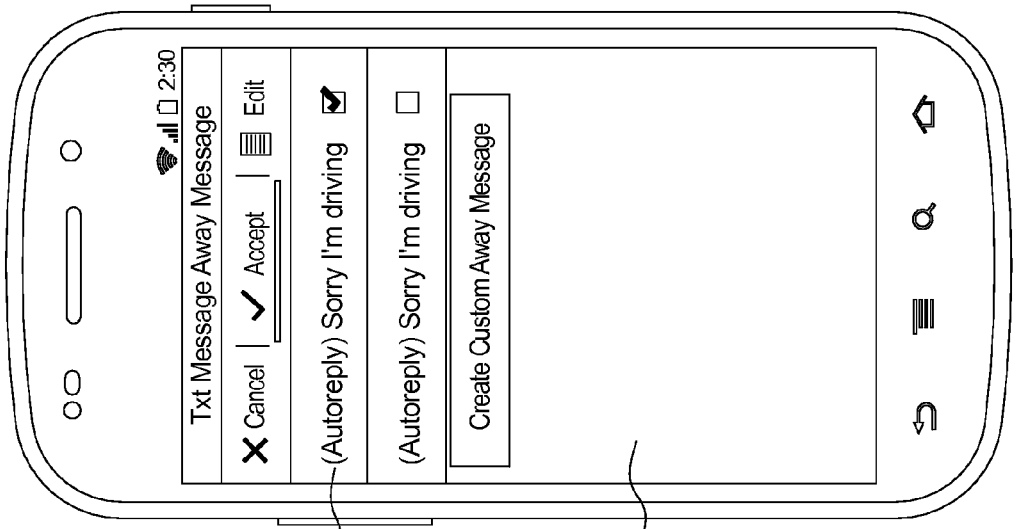

2:30
Txt Message Away Message
Cancel
Accept
Edit
(Autoreply) Sorry I'm driving
(Autoreply) Sorry I'm driving
Create Custom Away Message
575
560

FIG. 5C

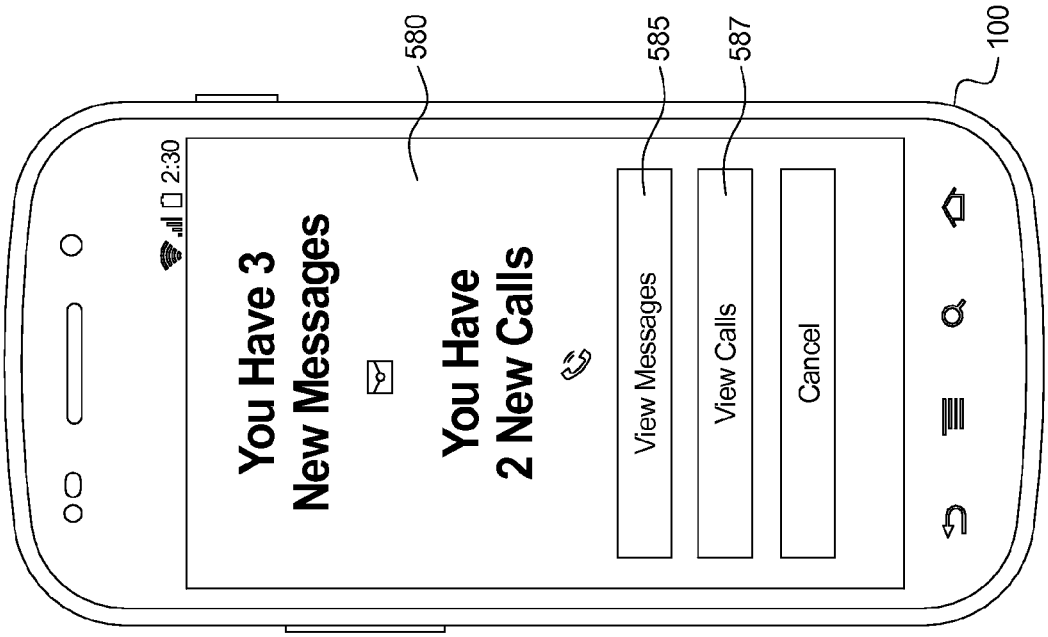

580
585
587
100
2:30
You Have 3
New Messages
You Have
2 New Calls
View Messages
View Calls
Cancel

FIG. 6

FIG. 7

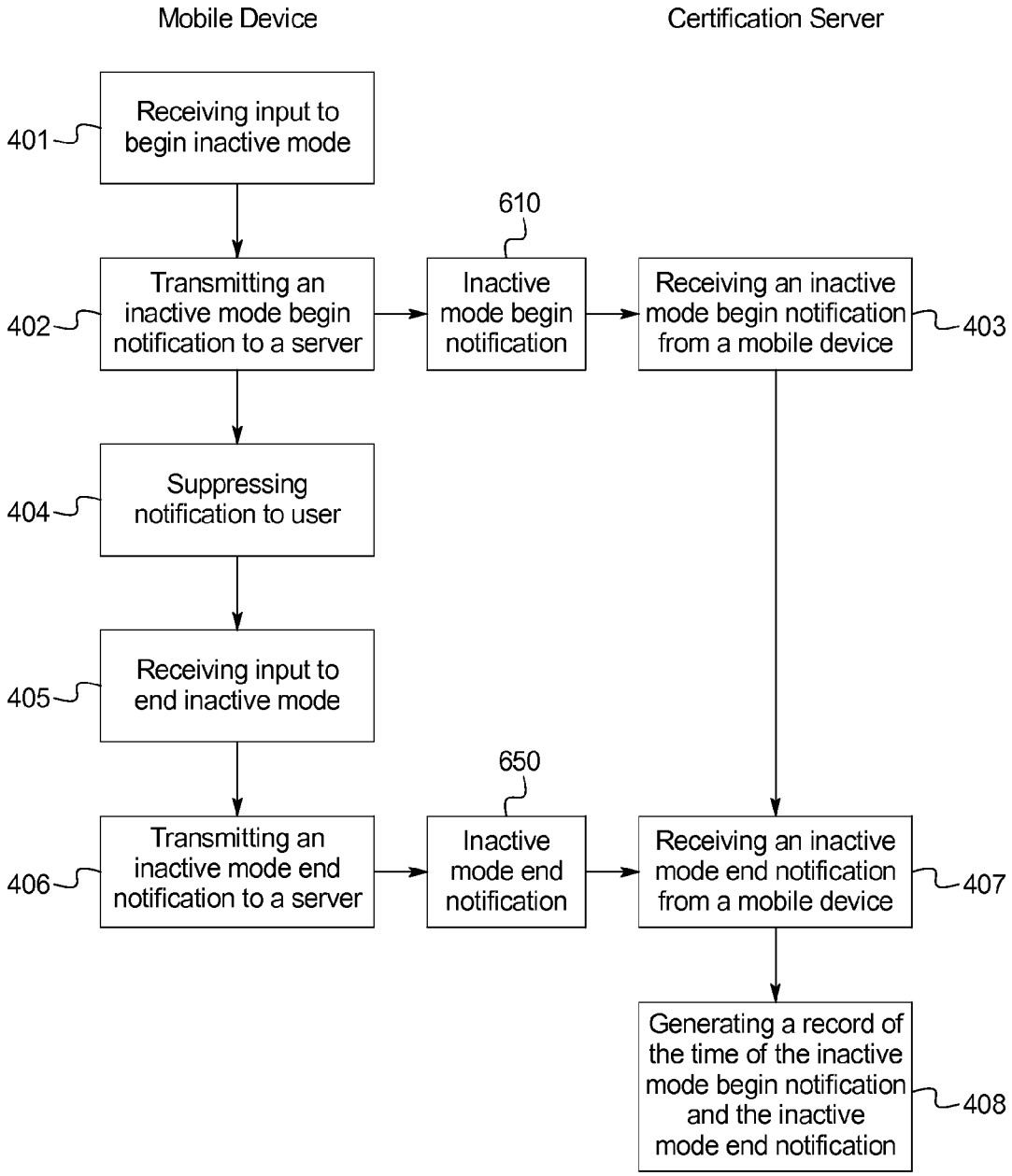

Mobile Device
Certification Server
401
Receiving input to begin inactive mode
610
402
Transmitting an inactive mode begin notification to a server
Inactive mode begin notification
Receiving an inactive mode begin notification from a mobile device
403
404
Suppressing notification to user
405
Receiving input to end inactive mode
650
406
Transmitting an inactive mode end notification to a server
Inactive mode end notification
Receiving an inactive mode end notification from a mobile device
407
Generating a record of the time of the inactive mode begin notification and the inactive mode end notification
408

FIG. 8A

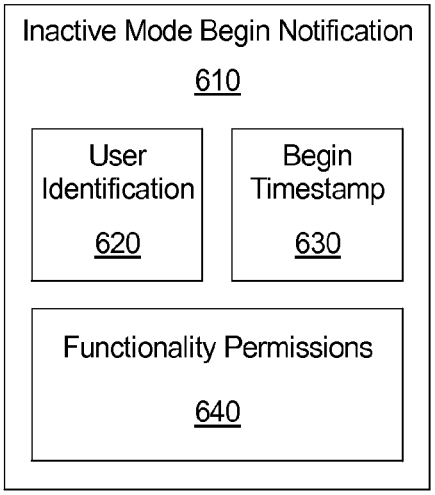


FIG. 8B

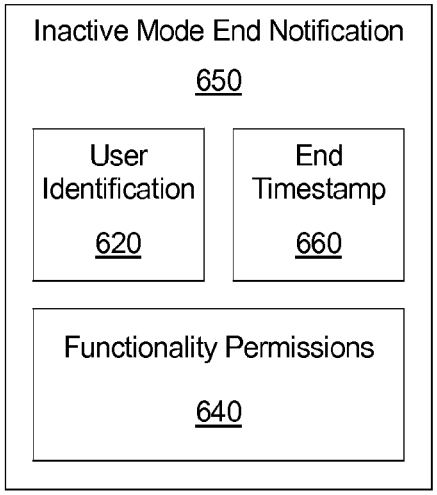
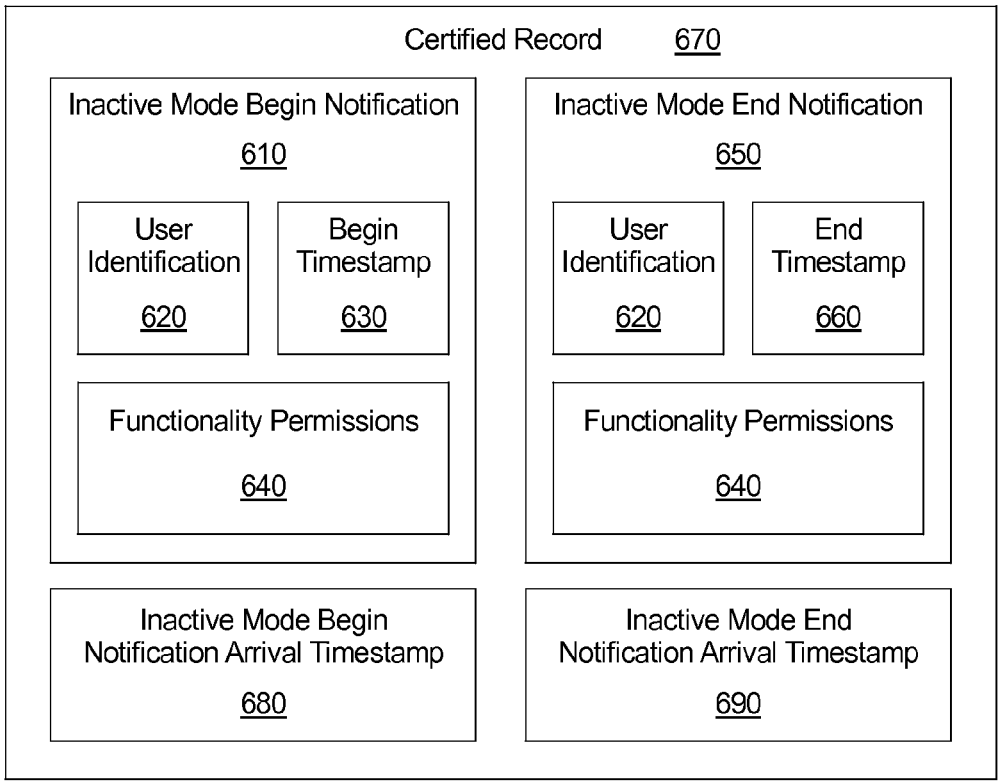


FIG. 8C



MOBILE DEVICE INACTIVE MODE AND INACTIVE MODE VERIFICATION

CROSS-REFERENCE TO RELATED APPLICATIONS

This application incorporates by reference and claims priority to U.S. Non-provisional application Ser. No. 14/176,107 filed Feb. 9, 2014 and to U.S. Provisional Application No. 61/835,234 filed Jun. 14, 2013.

BACKGROUND OF THE INVENTION

The present subject matter relates generally to a mobile device including functionality for suppressing user notifications of communications received by the mobile device and notifying the sender of the communication that the user is not receiving communications. Further, the present subject matter relates generally to systems and methods for verifying that a user was not receiving communications during a particular period of time.

User distraction caused by mobile devices has become a serious problem in modern society. For example, motor vehicle accidents caused by distracted driving are on the rise and have become as serious as driving while intoxicated. Many drivers are aware of the risks of distracted driving but may lack the resolve to avoid trying to respond to incoming communications. One previous solution was to power down the mobile device while driving, however, this is inconvenient and easy to forget to initiate. Further, powering down the device may block access to urgent communications that may need to be received. What are needed are mechanisms to limit user communication distractions without forcing the user to power down a mobile device and miss essential communications.

Further, the proliferation of accidents cause by distracted driving has created a need to prove that one was not operating a communications device during operation of a vehicle. What are needed are mechanisms to show that a user was not using a communications device during an accident while operating a vehicle.

Accordingly, there is a need for a mobile device including functionality for suppressing communications to a user and systems for verifying that a user was not receiving communications during a particular period of time, as described herein.

BRIEF SUMMARY OF THE INVENTION

To meet the needs described above and others, the present disclosure provides a mobile device including functionality for suppressing communications to a user and systems for verifying that a user was not receiving communications during a particular period of time.

As used herein, a communication may include a mobile device call, SMS text message, email, application notification, etc. A sender includes an individual sending the communication.

An inactive mode for a mobile device as disclosed herein may be implemented using stored instructions that implement the functionality disclosed herein. In a preferred embodiment, the stored instructions may be provided in the form of a mobile device application. A user may install the mobile device application through a mobile device application online store.

A user may enable an inactive mode of the device to suppress notification of incoming phone calls, text, emails, etc.

and automatically notify the sender with an away message. By suppressing the communications distracted driving may be reduced. One drawback, however, is that senders may feel upset that they are not being answered when the sender is expecting the user to reply. Thus, in order to reassure senders that they will receive a response at the earliest convenient opportunity, the mobile device permits the user to send an away message upon receipt of a communication.

Further, the device may communicate with a certification server to "certify" that a mobile device was not operational during a certain period as evidence that the phone was not used during driving. By enabling a user to show that he or she did not use mobile device during operation of a vehicle, he or she may be able to qualify for discounts from an insurance company or may be able to show he or she was not at fault in an accident. Further, parents may use such records to verify that teenage drivers are not being distracted by their mobile device.

In an embodiment, a method carried out by a mobile device to provide for an inactive mode and thus prevent distracted driving includes the steps of: placing the mobile device in inactive mode; detecting one or more incoming communications; suppressing notification of the user of the one or more incoming communications; transmitting an away message to one or more senders of the one or more communications; and notifying the user of missed communications upon completion of the inactive mode.

The method begins when the mobile device is placed in inactive mode. The inactive mode may be activated by many different mechanisms. For example, a user may press a button to begin the inactive mode. Alternatively, a user may schedule a time period during which the mobile device is automatically in inactive mode. Even further, inactive mode may be automatically initiated upon the use of a driving directions functionality of the mobile device. Yet even further, the inactive mode may be automatically initiated upon the pairing of the mobile device and a vehicle. Moreover, inactive mode may be activated by a remote user, for example, to enable parents to limit distracted driving by teenagers. Additionally, the inactive mode may be activated by the mobile device detecting a particular location using GPS, such as a gym or school, where inactive mode is routinely activated. It is contemplated that any input that indicates that the user is not to be distracted may be used to place the device in inactive mode, as will be understood by those of skill in the art.

While in inactive mode, the mobile device will detect incoming communications. When inactive mode functionality is provided as a mobile application, the mobile application may register with the operating system of the mobile device to receive a notification upon a communication event, such as a mobile call, SMS message, or email. Upon receipt of notification of the incoming communication, the mobile application may capture contact information of the sender, such as phone number or email address.

In addition to suppressing communications, inactive mode may restrict the user's use of the mobile device. For example, the user of the mobile device may be restricted from accessing a web browser on the mobile device. Inactive mode may restrict all use of the mobile device or may permit only selective access to needed functionality. For example, when driving, mapping and navigation functionality may remain accessible.

It is contemplated that the user may customize the allowed functionality during inactive mode. Alternatively or additionally, the restriction on the functionality may be pre-programmed in the device, for example, if the inactive mode functionality is embodied in a mobile application distributed

by an insurance company, the restriction of functionality may be optimized to minimize distracted driving accidents. Further, a remote user may restrict the functionality of the device. For example, a parent may limit a child's use of a mobile device during nighttime sleeping hours.

Upon receiving notification of a communication event, the mobile device may suppress normal user notification. The mobile device may suppress normal user notification actions, such as ringing, vibration, and screen activation. Further the mobile device may suppress applications normally launched upon a communication event, such as a mobile call application. In some embodiments, the mobile device may permit normal user notification if the sender is on a pre-screened list of allowed senders.

After suppressing user notification, the mobile device may transmit an away message to the sender. The away message may be sent via the same medium that the original communication was made in. For example, if a text message was received, the mobile device may transmit a response via text message. Alternatively, the message may be sent by a different medium. For example, if a phone call was received, the mobile device may transmit the away message via text message or email (if, for example, the sender has an associated email address in the users contacts). It is further contemplated that the user's inactive mode away message may be automatically shared to social networks such Facebook and Twitter upon activation of the inactive mode.

The user may configure an away message before placing the mobile device in inactive mode. The user may configure multiple away messages and choose among the away messages when placing the mobile device in away mode.

At the appropriate time, the device may leave inactive mode and permit the user to use the full functionality of the device. In an embodiment, inactive mode may be disabled by pressing a button ending inactive mode. Alternatively, where inactive mode was scheduled to start automatically, the mobile device may leave inactive mode by reaching the end of a scheduled time. Further, where the mobile device was placed in inactive mode by the driving directions functionality, the mobile device may leave inactive mode by arriving at a destination. Even further, where the mobile device was placed in inactive mode remotely, the mobile device may be removed from inactive mode by remote deactivation, etc. It will be apparent to one of skill in the art that that the mobile device may be removed from inactive mode by any mechanism that reflects that the need for restricted access is no longer needed.

Upon completion of the inactive mode, the mobile device notifies user of missed communications. The user may then view any text messages or emails, or may listen to voicemails left by the sender.

As described, the device may "certify" or prove that a mobile device was not operational during a certain period as evidence that the phone was not used during driving. A method of proving a cell phone was disabled comprises the steps of: receiving an input by the mobile device to begin the inactive mode; transmitting an inactive mode begin notification from the mobile device to the certification server; receiving, by the certification server, an inactive mode begin notification; suppressing notifications to a user; receiving an input by the mobile device to end the inactive mode; transmitting an inactive mode end notification from the mobile device to the certification server; receiving an inactive mode end notification by the certification server; generating, by the certification server, a certified record of the time of the inactive mode begin notification and the inactive mode end notification.

The method of proving a cell phone was disabled may begin upon the mobile device being placed in inactive mode. As previously described, the mobile device may be placed in inactive mode by the user pressing a button to begin the inactive mode; by the user scheduling a time period during which the mobile device is automatically in inactive mode; by the use of the driving directions functionality of the mobile device; by activation by a remote user; etc.

Upon being placed in inactive mode, the mobile device may transmit an inactive mode begin notification to the server. The inactive mode begin notification may include a user identifier, and a begin timestamp indicating the time that the inactive mode was initiated. Further, the inactive mode begin notification may include a listing of functionality permissions to record the functionality made available and/or the functionality made restricted to the user during the inactive mode. It is contemplated that the mobile device need not immediately transmit the inactive mode begin notification upon the step of receiving an input to begin inactive mode is received, and the mobile device may alternatively transmit the inactive mode begin notification when requested, when a connection is available, during periods of low bandwidth utilization, or any other time useful to create the certification.

The certification server receives the inactive mode begin notification from the mobile device. The certification server may assume that inactive mode is operating continuously until receiving a signal, such as an inactive mode end notification, that inactive mode has been disabled. A certified record of the data contained in the inactive mode begin notification may be created and stored in a database of the certification server. The certified record may include a first timestamp of the time the inactive mode begin notification was received.

In inactive mode, the mobile device may suppress communications and enforce the restrictions of the inactive mode until the step of receiving an input to end inactive mode. As previously described, an input may be the user pressing a button to end the inactive mode, the user scheduling a time period during which the mobile device is automatically in inactive mode, the use of the driving directions functionality of the mobile device, activation by a remote user; etc.

At the conclusion of inactive mode, the mobile device may transmit an inactive mode end notification to the certification server to indicate that the device has left the inactive mode. The inactive mode end notification may include a user identifier and a end timestamp marking the time that the mobile device was removed from inactive mode. Further, the inactive mode end notification may include a listing of functionality permissions to record the functionality made available and/or the functionality made restricted to the user during the inactive mode. It is contemplated that the mobile device need not immediately transmit the inactive mode end notification upon the step of receiving an input to begin inactive mode is received, and the mobile device may transmit the inactive mode end notification when requested, when a connection is available, during periods of low bandwidth utilization, or any other time useful to create the certification.

The certification server may receive an inactive mode end notification from the mobile device. Upon receipt of the inactive mode end notification, the certification server may make a certified record of the inactive mode session. The certified record of the inactive mode session may include the inactive mode begin notification, an inactive mode begin notification arrival timestamp recording the arrival of the inactive mode begin notification, the inactive mode end notification, and an inactive mode end notification arrival timestamp recording the arrival of the inactive mode end notification. The record

may be used to verify that the inactive mode was enabled during a period of time. To do so, the record may be made available via a user interface to the user, an insurance company, the police, the courts, a parent of the user, etc., to certify the times the device was in inactive mode and the restrictions on functionality in place during inactive mode.

In an embodiment, a mobile device includes: a processor; and a memory including instructions that when executed by the processor cause it to perform the steps of: receiving a user selection to automatically enter an inactive mode in response to an action within the mobile device indicating the device is being used in a moving vehicle; receiving a communication from a wireless communication module; if the mobile device is not in inactive mode, providing a notification to the user that a communication has been received; and if the mobile device is in inactive mode, transmitting an away message via the wireless module.

In some embodiments of the mobile device, the action is the activation of a driving directions functionality. In other embodiments, the action is GPS location functionality detecting a velocity above a certain rate. In additional embodiments, the action is pairing the mobile device with the moving vehicle.

In some embodiments of the mobile device, the communication is a mobile phone call. In other embodiments, the away message is one of a mobile phone call, an SMS message, or an email. In additional embodiments the communication is an SMS phone call. In further embodiments, the communication is an email.

In some embodiments of the mobile device, the memory further includes instructions that when executed by the processor cause it to perform the steps of: receiving an input from a user requesting access to a function of the mobile device; if the mobile device is not in inactive mode, providing access to the requested functionality; and if the mobile device is in inactive mode, checking if the requested functionality is present on a list of restricted functionality, and if the requested functionality is present on a list of restricted functionality, refusing access to the requested functionality.

One objective of the invention is to increase driver safety by reducing mobile device communications as a source of distraction.

A further objective is to inform callers of the delay and the reason for failing to respond.

Another objective of the invention is to provide a mechanism for users to prove that the communication functions of their mobile device were disabled at a particular time.

Additional objects, advantages and novel features of the examples will be set forth in part in the description which follows, and in part will become apparent to those skilled in the art upon examination of the following description and the accompanying drawings or may be learned by production or operation of the examples. The objects and advantages of the concepts may be realized and attained by means of the methodologies, instrumentalities and combinations particularly pointed out in the appended claims.

BRIEF DESCRIPTION OF THE DRAWINGS

The drawing figures depict one or more implementations in accord with the present concepts, by way of example only, not by way of limitations. In the figures, like reference numerals refer to the same or similar elements.

FIG. **1** is a schematic view of the ecosystem of a device including functionality for suppressing communications to a user using an inactive mode and a verification system to verify that a user was not receiving communications during a particular period of time.

FIG. **2** is a diagram of an example of a device including functionality for suppressing communications to a user using an inactive mode and verifying that a user was not receiving communications during a particular period of time.

FIG. **3** is a flow chart illustrating a method carried out by a mobile device to provide for an inactive mode.

FIG. **4***a* is an example mobile device user interface showing a start screen used to begin the inactive mode.

FIG. **4***b* is an example mobile device user interface showing a scheduling screen to schedule a time period during which the mobile device is automatically in inactive mode.

FIG. **4***c* is an example mobile device user interface showing a GPS/directions screen that when opened may trigger the inactive mode.

FIG. **4***d* is a front view of a mobile device user interface showing a Bluetooth device detection screen that when used to accept a Bluetooth connection may trigger the inactive mode.

FIG. **5***a* is an example mobile device user interface showing a custom message selection screen.

FIG. **5***b* is an example mobile device user interface showing a custom message creation screen.

FIG. **5***c* is an example mobile device user interface showing a custom message selection screen including example away messages.

FIG. **5***d* is an example mobile device user interface showing a start screen that includes a custom away message.

FIG. **6** is an example mobile device user interface showing a notification screen displayed upon leaving inactive mode.

FIG. **7** is a flow chart illustrating a certification method to create a certified record at the certification server that a mobile device was inactive during a particular time.

FIG. **8***a* is a diagram of an example inactive mode begin notification created during the execution of the certification method of FIG. **7**.

FIG. **8***b* is a diagram of an example inactive mode end notification created during the execution of the certification method of FIG. **7**.

FIG. **8***c* is a diagram of an example record of an inactive mode session created during the execution of the certification method of FIG. **7**.

DETAILED DESCRIPTION OF THE INVENTION

FIG. **1** illustrates the ecosystem **10** of an example of a mobile device **100** including functionality for suppressing communications using an inactive mode. As shown in FIG. **1**, the ecosystem **10** includes a communications network **40** which provides communications functionality to the mobile device **100**, other communication devices **20** which other users may use to communicate to the mobile device **100**, and a certification server **30** that may verify that a user **15** was not receiving communications during a particular period of time.

A user **15** may enable an inactive mode of the device **100** to suppress notification of incoming phone calls, text, emails, and other communications and automatically notify the device **20** of the sender **17** with an away message. By suppressing the incoming communications, the mobile device **100** may minimize user distractions permitting the user **15** to maintain concentration on important tasks, such as driving. One drawback, however, is that senders **17** may feel upset that they are not being answered when the sender **17** is expecting the user **15** to answer communications. Thus, in order to reassure senders **17** that their communication will receive a

response at the earliest convenient opportunity, the mobile device **100** permits the user **15** to send an away message upon receipt of a communication.

FIG. **2** is a block diagram of an example implementation of a mobile device **100** including an inactive mode. The mobile device **100** includes communication functions that can be facilitated through one or more wireless communication subsystems **120**, which can include radio frequency receivers and transmitters and/or optical (e.g., infrared) receivers and transmitters. The specific design and implementation of the communication subsystem **120** can depend on the communication network(s) over which the mobile device **100** is intended to operate. For example, the mobile device **100** can include communication subsystems **120** designed to operate over a GSM network, a GPRS network, an EDGE network, a Wi-Fi or WiMax network, and a Bluetooth network. In particular, the wireless communication subsystems **120** may include hosting protocols such that the mobile device **100** may be configured as a base station for other wireless devices.

A memory **138** may store communication instructions **142** to facilitate communicating with one or more additional devices, one or more computers and/or one or more servers. The memory **138** may include phone instructions **148** to facilitate phone-related processes and functions; short message service instructions **150** to facilitate SMS-messaging related processes and functions; electronic mail instructions **151** to facilitate electronic-mail processes and functions. The phone instruction **148**, the short message service instructions **150**, electronic mail instructions **151** may include default instructions to notify a user via sound, visual, or vibration cues to alert the user of incoming communications. The memory may further include inactive mode instructions **147** to suppress the sound, visual, or vibration communication cues and manage the inactive mode related processes and functions further described herein.

Turning to FIG. **3**, in an embodiment, a method **300** carried out by a mobile device **100** to provide for an inactive mode includes: the step **301** of placing the mobile device **100** in inactive mode; the step **302** of detecting one or more incoming communications; the step **303** of suppressing notification of the user **15** of the one or more incoming communications; the step **304** of transmitting an away message to one or more senders **17** of the one or more communications; and the step **305** of notifying the user **15** of missed communications upon completion of the inactive mode.

The method **300** begins at step **301** when the mobile device **100** is placed in inactive mode. Inactive mode may be activated by many different mechanisms. For example, as shown in FIG. **4***a*, a user **15** may press a start button **510** on a start screen **520** to begin the inactive mode. Alternatively, a user **15** may select the set timer button **515** on the start screen **515** to enter a scheduling screen **530**, as shown in FIG. **4***b*, to schedule a time period during which the mobile device **100** is automatically in inactive mode. Even further, as shown in FIG. **4***c*, the inactive mode may be automatically initiated upon the opening of a GPS/directions screen **540** of the mobile device. Yet even further, as shown in FIG. **4***d*, the inactive mode may be automatically initiated upon the pairing of the mobile device **100** and a vehicle, as shown by the Bluetooth device detection screen **550**. Moreover, the inactive mode may be activated by a remote user **15**, for example, to enable parents to limit distracted driving by teenagers. Additionally, the inactive mode may be activated by the mobile device **100** detecting a particular location using GPS, such as a gym or school, where inactive mode is routinely activated. It is contemplated that any input that may indicate that the user is not to be distracted may be used to place the device in inactive mode, as will be understood by those of skill in the art.

Once placed in inactive mode, at step **302**, the mobile device **100** will detect any incoming communications normally. When inactive mode functionality is provided as a mobile application, upon entering inactive mode the mobile application may register with the operating system of the mobile device **100** to receive a notification upon a communication event, such as a mobile call, SMS message, or email. Upon receipt of notification of the incoming communication, the mobile application may capture contact information of the sender **17**, such as phone number or email address.

Proceeding to step **303**, upon receiving notification of an incoming communication, the mobile device **100** may suppress normal user notification. The mobile device **100** may suppress normal user notification actions, such as ringing, vibration, and screen activation. Further the mobile device **100** may suppress applications normally launched upon a communication event, such as a mobile call application. In some embodiments, the mobile device **100** may permit normal user notification if the sender **17** is on a pre-screened list of allowed senders **17**.

After suppressing user notification of an incoming communication, the mobile device **100**, at step **304** of the method **300**, may transmit an away message **575** to the sender **17**. The user **15** may configure multiple away messages **575** and choose among the away messages **575** when placing the mobile device **100** in away mode. As shown in FIGS. **5***a*-**5***d*, the user **15** may configure an away message before placing the mobile device **100** in inactive mode. FIG. **5***a* illustrates an away message selection screen **560** before the user **15** has set up an away message **575**. A user **15** may select the away message creation button **565** to enter an away message editing screen **570** including an edit box **572**, as shown in FIG. **5***b*. After creating away messages **575**, the user **15** may select from the away messages **575** tin the away message selection screen **560** as shown in FIG. **5***c*. Upon selecting an away message **575**, the start screen **520** is opened permitting the user to start the inactive mode. It is further contemplated that the away message **575** may be automatically shared to social networks such Facebook and Twitter upon activation of the inactive mode.

In some embodiments, the away message **575** may be sent via the same communications medium in which the original communication was made. For example, if a text message was received, the mobile device **100** may transmit the away message **575** via text message. Alternatively, the away message **575** may be sent by a different communications medium. For example, if a phone call was received, the mobile device **100** may transmit the away message **575** via text message or email.

Upon completion of the inactive mode, next at step **305**, the mobile device **100** notifies the user **15** of missed communications. At the missed communications screen **580** shown in FIG. **6**, the user **15** may then view any text messages or emails by clicking the view message button **585**, listen to voicemails left by the sender **17** by clicking the view calls button **587**, or otherwise use the full functionality of the device. In an embodiment, inactive mode may be disabled by pressing a button ending inactive mode. Alternatively, where inactive mode was scheduled to start automatically, the mobile device **100** may leave inactive mode by reaching the end of a scheduled time. Further, where the mobile device **100** was placed in inactive mode by the driving directions functionality, the mobile device **100** may leave inactive mode by arriving at a destination. Even further, where the mobile device **100** was

placed in inactive mode remotely, the mobile device **100** may be removed from inactive mode by remote deactivation. It will be apparent to one of skill in the art that that the mobile device **100** may be removed from inactive mode by any mechanism that reflects that the need for restricted access is no longer needed.

In addition to suppressing communications, inactive mode may restrict the user's use of the mobile device. For example, the user **15** of the mobile device **100** may be restricted from accessing a web browser, applications, communications programs, etc. Inactive mode may restrict all use of the mobile device **100** or may permit only selective access to certain functionality. For example, when driving, mapping and GPS/navigation functionality may remain accessible.

It is contemplated that the user **15** may customize the allowed functionality during inactive mode. Alternatively or additionally, the restriction on the functionality may be preprogrammed in the inactive mode instructions **147**. For example, if the inactive mode functionality of the mobile device **100** is embodied in a mobile application distributed by an insurance company, the restriction of functionality may be optimized to minimize distracted driving accidents. Further, a remote user may restrict the functionality of the mobile device **100**. For example, a parent may limit a child's use of a mobile device **100** during nighttime sleeping hours.

Referring to FIG. **4**, the certification method **400** may be used to create a certified record **670** (FIG. **6***c*) by the certification server **30** that records that a mobile device **100** was inactive during a particular time. As shown in FIG. **4**, the certification method **400** includes: the step **401** of receiving an input by the mobile device **100** to begin the inactive mode; the step **402** of transmitting an inactive mode begin notification **610** from the mobile device **100** to the certification server **30**; the step **403** of receiving, by the certification server **30**, an inactive mode begin notification **610**; the step **404** of suppressing notifications to a user **15**; the step **405** of receiving an input by the mobile device **100** to end the inactive mode; the step **406** of transmitting an inactive mode end notification **650** from the mobile device **100** to the certification server **30**; the step **407** of receiving an inactive mode end notification **650** by the certification server **30**; the step **408** of generating, by the certification server **30**, a certified record **670** of the time of the inactive mode begin notification **610** and the inactive mode end notification **650**.

The certification method **400** may begin upon the step **401** of the mobile device **100** receiving an input to begin the inactive mode. For example, as shown in FIG. **4***a*, a user **15** may press a start button **510** on a start screen **520** to begin the inactive mode. Alternatively, a user **15** may select the set timer button **515** on the start screen **515** to enter a scheduling screen **530**, as shown in FIG. **4***b*, to schedule a time period during which the mobile device **100** is automatically in inactive mode. Even further, as shown in FIG. **4***c*, the inactive mode may be automatically initiated upon the opening of a GPS/directions screen **540** of the mobile device. Yet even further, as shown in FIG. **4***d*, the inactive mode may be automatically initiated upon the pairing of the mobile device **100** and a vehicle, as shown by the Bluetooth device detection screen **550**. Moreover, the inactive mode may be activated by a remote user **15**, for example, to enable parents to limit distracted driving by teenagers. It is contemplated that any input that may indicate that the user is not to be distracted may be used to place the device in inactive mode, as will be understood by those of skill in the art.

Upon being placed in inactive mode, at step **402** the mobile device **100** may transmit an inactive mode begin notification **610** to the certification server **30**. As shown in FIG. **8***a*, the inactive mode begin notification **610** may include a user identifier **620**, and a begin timestamp **630** indicating the time that the inactive mode was initiated. Further, the inactive mode begin notification **610** may include a listing of functionality permissions **640** to record the functionality made available and/or the functionality made restricted to the user during the inactive mode. It is contemplated that the mobile device **100** need not immediately transmit the inactive mode begin notification **610** upon the step **401** of receiving an input to begin inactive mode is received, and the mobile device **100** may alternatively transmit the inactive mode begin notification **610** when requested, when a connection is available, during periods of low bandwidth utilization, or any other time useful to create the certification.

At step **403**, the certification server **30** may receive an inactive mode begin notification **610**. The certification server **30** may assume that inactive mode is operating continuously until receiving a signal, such as an inactive mode end notification **650** (FIG. **8***b*), that inactive mode has been disabled. A certified record **670** of the data contained in the inactive mode begin notification **610** may be created and stored in a database of the certification server **30**. As shown in FIG. **8***c*, the certified record **670** may include a first timestamp **680** of the time the inactive mode begin notification **610** was received.

At step **404**, the mobile device **100** may suppress communications and enforce the restrictions of the inactive mode until the step **405** of receiving an input to end inactive mode. As previously described, an input may be the user pressing a button to end the inactive mode, the user scheduling a time period during which the mobile device **100** is automatically in inactive mode, the use of the driving directions functionality of the mobile device **100**, activation by a remote user; etc.

At step **406**, the mobile device **100** may transmit an inactive mode end notification **650** to the certification server **30** to indicate that the device **100** has left the inactive mode. The inactive mode end notification **650** may include a user identifier and a end timestamp **660** marking the time that the mobile device was removed from inactive mode. Further, the inactive mode end notification **650** may include a listing of functionality permissions **640** to record the functionality made available and/or the functionality made restricted to the user **15** during the inactive mode. It is contemplated that the mobile device **100** need not immediately transmit the inactive mode end notification **650** upon the step **405** of receiving an input to begin inactive mode is received, and the mobile device **100** may transmit the inactive mode end notification **650** when requested, when a connection is available, during periods of low bandwidth utilization, or any other time useful to create the certification.

At step **407**, the certification server **30** may receive an inactive mode end notification **650**. Upon receipt of the inactive mode end notification **650**, the certification server **30** may make a certified record **670** of the inactive mode session. The certified record **670** of the inactive mode session may include the inactive mode begin notification **610**, an inactive mode begin notification arrival timestamp **680** recording the arrival of the inactive mode begin notification **610**, the inactive mode end notification **650**, and an inactive mode end notification arrival timestamp **690** recording the arrival of the inactive mode end notification **650**. In some embodiments, the certified record **670** may further include a GPS location trace of the mobile device **100** while the mobile device was in inactive mode. By storing a GPS location trace in the certified record, the user may, among other things, provide proof of location during inactive mode, as may be useful when an accident has occurred. The certified record **670** may be used to verify that the inactive mode was enabled during a period of time. To do

so, the record may be made available via a user interface to the user **15**, an insurance company, the police, the courts, a parent of the user **15**, etc., to certify the times the device was in inactive mode and the restrictions on functionality in place during inactive mode.

Referring back to FIG. **2**, the mobile device **100** includes a memory interface **102**, one or more data processors, image processors and/or central processors **104**, and a peripherals interface **106**. The memory interface **102**, the one or more processors **104** and/or the peripherals interface **106** can be separate components or can be integrated in one or more integrated circuits. The various components in the mobile device **100** can be coupled by one or more communication buses or signal lines, as will be recognized by those skilled in the art.

Sensors, devices, and additional subsystems can be coupled to the peripherals interface **106** to facilitate various functionalities. For example, a motion sensor **108** (e.g., a gyroscope), a light sensor **110**, and a positioning sensor **112** (e.g., GPS receiver) can be coupled to the peripherals interface **106** to facilitate the orientation, lighting, and positioning functions described further herein. Other sensors **114** can also be connected to the peripherals interface **106**, such as a proximity sensor, a temperature sensor, a biometric sensor, or other sensing device, to facilitate related functionalities.

A camera subsystem **116** and an optical sensor **118** (e.g., a charged coupled device (CCD) or a complementary metal-oxide semiconductor (CMOS) optical sensor) can be utilized to facilitate camera functions, such as recording photographs and video clips.

An audio subsystem **122** can be coupled to a speaker **124** and a microphone **126** to facilitate voice-enabled functions, such as voice recognition, voice replication, digital recording, and telephony functions.

The I/O subsystem **128** can include a touch screen controller **130** and/or other input controller(s) **132**. The touch-screen controller **130** can be coupled to a touch screen **134**. The touch screen **134** and touch screen controller **130** can, for example, detect contact and movement, or break thereof, using any of a plurality of touch sensitivity technologies, including but not limited to capacitive, resistive, infrared, and surface acoustic wave technologies, as well as other proximity sensor arrays or other elements for determining one or more points of contact with the touch screen **134**. The other input controller(s) **132** can be coupled to other input/control devices **136**, such as one or more buttons, rocker switches, thumb-wheel, infrared port, USB port, and/or a pointer device such as a stylus. The one or more buttons (not shown) can include an up/down button for volume control of the speaker **124** and/or the microphone **126**.

The memory interface **102** can be coupled to memory **138**. The memory **138** can include high-speed random access memory and/or non-volatile memory, such as one or more magnetic disk storage devices, one or more optical storage devices, and/or flash memory (e.g., NAND, NOR). The memory **138** can store operating system instructions **140**, such as Darwin, RTXC, LINUX, UNIX, OS X, iOS, WINDOWS, or an embedded operating system such as VxWorks. The operating system instructions **140** may include instructions for handling basic system services and for performing hardware dependent tasks. In some implementations, the operating system instructions **140** can be a kernel (e.g., UNIX kernel).

The memory **138** may include graphical user interface instructions **144** to facilitate graphic user interface processing; sensor processing instructions **146** to facilitate sensor-related processing and functions; web browsing instructions **152** to facilitate web browsing-related processes and functions; media processing instructions **154** to facilitate media processing-related processes and functions; GPS/Navigation instructions **156** to facilitate GPS and navigation-related processes and instructions; camera instructions **158** to facilitate camera-related processes and functions; and/or other software instructions **160** to facilitate other processes and functions (e.g., access control management functions, etc.). The memory **138** may also store other software instructions (not shown) controlling other processes and functions of the mobile device **100** as will be recognized by those skilled in the art. In some implementations, the media processing instructions **154** are divided into audio processing instructions and video processing instructions to facilitate audio processing-related processes and functions and video processing-related processes and functions, respectively. An activation record and International Mobile Equipment Identity (IMEI) **162** or similar hardware identifier can also be stored in memory **138**.

Each of the above identified instructions and applications can correspond to a set of instructions for performing one or more functions described herein. These instructions need not be implemented as separate software programs, procedures, or modules. The memory **138** can include additional instructions or fewer instructions. Furthermore, various functions of the mobile device **100** may be implemented in hardware and/or in software, including in one or more signal processing and/or application specific integrated circuits.

It should be noted that various changes and modifications to the presently preferred embodiments described herein will be apparent to those skilled in the art. Such changes and modifications may be made without departing from the spirit and scope of the present invention and without diminishing its attendant advantages.

I claim:

1. A mobile device, comprising:

a wireless communication module;

a processor, controlling the wireless communication module; and

a memory controlled by the processor, the memory including instructions that when executed by the processor cause the processor to perform the steps of:

providing a graphical user interface through which a user customizes one or more functions of the mobile device when placed in an inactive mode;

receiving a user selection to automatically initiate the inactive mode in response to the pairing of the mobile device with a vehicle;

receiving a user selection of an away message to use when the mobile device is in inactive mode;

in response to the pairing of the mobile device and the vehicle, automatically initiating a process to place the mobile device in inactive mode;

when the mobile device is in inactive mode, in response to receiving a communication from the wireless communication module, transmitting the user selected away message via the wireless module and suppressing one or more sound, visual, or vibration communication cues that would have accompanied the communication had the mobile device not been in inactive mode.

2. The mobile device of claim **1** wherein the memory further includes instructions that when executed by the processor cause it to perform the step of:

when the mobile device is in inactive mode, in response to receiving the communication from the wireless communication module, suppressing all sound, visual, and

vibration communication cues that would have accompanied the communication had the mobile device not been in inactive mode.

3. The mobile device of claim **1** wherein the memory further includes instructions that when executed by the processor cause it to perform the step of:

providing a notification of the communications upon completion of the inactive mode.

4. The mobile device of claim **1** wherein the communication received from the wireless communication module is an SMS message.

5. The mobile device of claim **1** wherein the communication received from the wireless communication module is an email.

6. The mobile device of claim **1** wherein the communication received from the wireless communication module is a cellular phone call.

7. The mobile device of claim **1** wherein the user selected away message is a user customized away message.

8. The mobile device of claim **1** wherein the memory further includes instructions that when executed by the processor cause it to perform the step of:

when the mobile device is placed in inactive mode, provide a notification to a certification server that the mobile device is in inactive mode.

9. The mobile device of claim **8** wherein the memory further includes instructions that when executed by the processor cause it to perform the step of:

when the mobile device exits inactive mode, provide a notification to a certification server that the mobile device exited inactive mode.

* * * * *

Exhibit B

Trials@uspto.gov
571-272-7822

Paper No. 6
Entered: July 30, 2019

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.
Petitioner,

v.

SMTM TECHNOLOGIES, LLC
Patent Owner.

Case IPR2019-00434
Patent 8,958,853 B1

Before NEIL T. POWELL, GEORGIANNA W. BRADEN, and SHARON FENICK *Administrative Patent Judges.*

FENICK, *Administrative Patent Judge.*

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314(a)

I. INTRODUCTION

Unified Patents Inc. ("Petitioner") filed a Petition requesting *inter partes* review of claims 1–7 ("the challenged claims") of U.S. Patent No. 8,958,853 B1 (Ex. 1001, "the '853 patent"). Paper 1 ("Pet."). Patent

Owner SMTM Technologies, LLC ("Patent Owner") did not file a Preliminary Response. *See* Paper 5, 1. We have jurisdiction under 35 U.S.C. § 314.

Upon consideration of the Petition, Petitioner has failed to demonstrate a reasonable likelihood that it would prevail in showing the unpatentability of at least one challenged claim of the '853 patent. Accordingly, Petitioner's request to institute *inter partes* review is denied.

II. BACKGROUND

A. Related Matters and Real Parties in Interest

Petitioner states that the '853 patent was asserted in *SMTM Technology, LLC v. Apple Inc.*, Case No. 3:18-cv-04111 (N.D. Cal.) and *SMTM Technology, LLC v. Microsoft Corp.*, Case No. 3:15-cv-02396 (N.D. Cal.). Pet. 1–2. Patent Owner states that there are no related matters. Paper 5, 1 (Patent Owner's Mandatory Notices).

Petitioner identifies only itself as the real party in interest. Pet. 1. Patent Owner also identifies only itself as the real party in interest. Paper 5, 1.

B. Overview of the '853 Patent

The '853 patent relates to "a mobile device including functionality for suppressing communications to a user and systems for verifying that a user was not receiving communications during a particular period of time." Ex. 1001, 1:50–54, 6:57–60. This is done to prevent distracted driving. *Id.* at 1:22–28, 2:2–3, 19–21, 37–39, 6:60–64. The suppressed communications may be, for example, notifications of incoming phone calls, text messages, or emails, or notifications from mobile device applications. *Id.* at 1:55–58, 1:66–2:1. Thus, when the device is in inactive mode, normal user

notifications of communication events, such as ringing, vibration, or screen activation, are suppressed. *Id.* at 1:66–2:1, 2:19–23, 42–45, 3:6–12.

Additionally, optionally, when a communication is received at the mobile device, the mobile device sends an "away message" to the sender of a communication, "in order to reassure senders that they will receive a response at the earliest convenient opportunity." *Id.* at 1:66–2:8, 2:24–25, 3:16–25. The user can configure the away message or choose from among several away messages before the device enters inactive mode. *Id.* at 3:29–32.

A user can customize the behavior of the mobile device during inactive mode using a graphical user interface on the mobile device. *Id.* at 8:26–37, 9:15–25. Figure 5c, reproduced below, depicts a mobile device with an interface showing a custom message selection screen including example "away messages." *Id.* at 6:26–28.

FIG. 5C

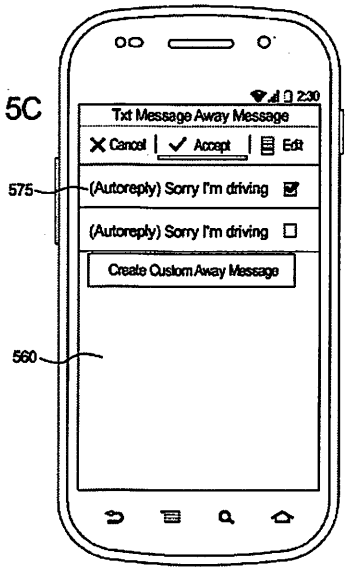
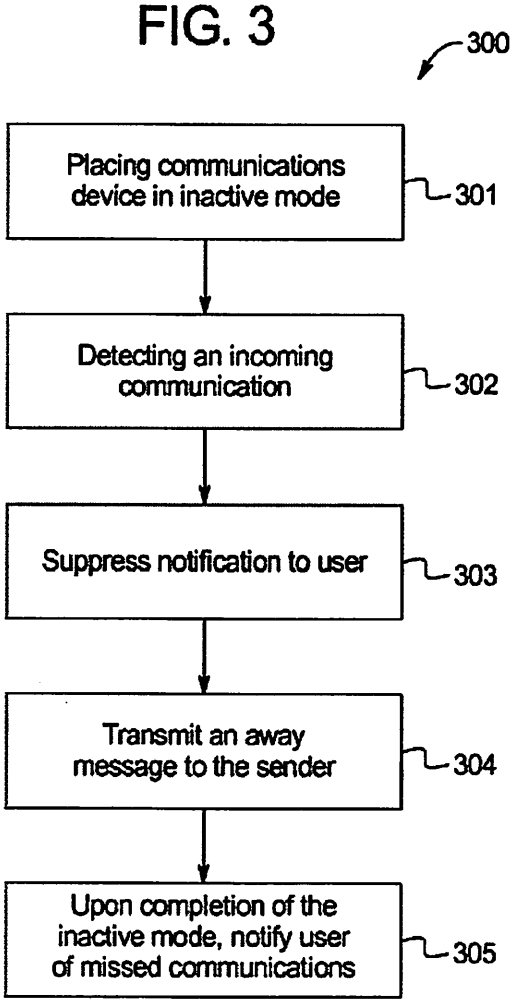


Figure 5c shows an away message selection screen 560, which allows the user to select a specific away message to be used from away

messages 575. *Id.* at 8:36–38. The away message selection screen can be used to enable a user to create custom "away messages" and select a message to be transmitted to the sender of a communication when the mobile device is in inactive mode. *Id.* at 8:24–38.

Figure 3, reproduced below, is "a flow chart illustrating a method carried out by a mobile device to provide for an inactive mode." *Id.* at 6:8–9.

FIG. 3



As shown above in Figure 3, the method provides five sequential steps: placing a device into inactive mode (301); detecting an incoming communication (302), suppressing notification (303); transmitting an away message to the sender of the communication (304); and, upon completion of the inactive mode, notifying the user of missed communications (305). *Id.* at 7:37–49, 8:4–6, 8:14–16, 8:24–26, 8:53–55.

The inactive mode may be activated in different ways: through a user activating a button on a user interface; according to a pre-set schedule; when driving directions functionality of a mobile device is being used; upon pairing of the mobile device with a vehicle; by a remote user; or when the mobile device enters a particular location. *Id.* at 2:29–42, 3:4–5, 5:9–12, 5:19–24, 7:47–67. "[A]ny input that may indicate that the user is not to be distracted may be used to place the device in inactive mode." *Id.* at 7:67–8:2.

C. Illustrative Claim

Of the challenged claims, claim 1 is independent. Claim 1 is reproduced below, with bracketed notations, corresponding in part to notations in the petition,[1] added for reference.

1. [a] A mobile device, comprising:

a wireless communication module;

[b] a processor, controlling the wireless communication module; and

[c] a memory controlled by the processor, the memory including instructions that when

[1] Petitioner does not provide a label for one limitation of claim 1, we reference it with the notation "[*]".

executed by the processor cause the processor to perform the steps of:

[d] providing a graphical user interface through which a user customizes one or more functions of the mobile device when placed in an inactive mode;

[e] receiving a user selection to automatically initiate the inactive mode in response to the pairing of the mobile device with a vehicle;

[f] receiving a user selection of an away message to use when the mobile device is in inactive mode;

[*] in response to the pairing of the mobile device and the vehicle, automatically initiating a process to place the mobile device in inactive mode;

[g] when the mobile device is in inactive mode, in response to receiving a communication from the wireless communication module, transmitting the user selected away message via the wireless module and suppressing one or more sound, visual, or vibration communication cues that would have accompanied the communication had the mobile device not been in inactive mode.

Ex. 1001, 12:36–61.

D. Evidence Relied Upon

Reference		Publication Date	Exhibit
Riemer et al. ("Riemer")	US 2010/0216509 A1	Aug. 26, 2010	1007
Guba et al. ("Guba")	US 2011/0009107 A1	Jan. 13, 2011	1008
Olincy et al. ("Olincy")	US 2011/0151838 A1	June 23, 2011	1010
Chaudhri et al. ("Chaudhri")	US 2013/0332721 A1	Dec. 12, 2013	1011

Petitioner also relies upon the Declaration of Scott Andrews. (Ex. 1005).

E. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability:

References	Claim(s) Challenged
Riemer and Guba	1–7
Guba, Olincy, and Chaudhri	1–7
Guba, Olincy, Chaudhri, and Riemer	3

III. DISCUSSION

A. Person of Ordinary Skill in the Art

Petitioner asserts that the proper level of ordinary skill in the art is of someone with "at least an undergraduate degree or equivalent in electrical engineering, computer engineering, or computer science, or a master's degree in information science," with the caveat that relevant practical experience could offset less or different education. Pet. 17; *see also* Ex. 1005 ¶ 28 (Declarant testifies to a slightly different level of skill in the art, which we determine to be essentially equivalent to that in the Petition).

For purposes of this Decision, we adopt Petitioner's provided definition for the level of skill of a person of ordinary skill in the art as reasonable and consistent with the prior art. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001) (the prior art may reflect an appropriate level of skill in the art).

B. Claim Construction

We apply the same claim construction standard that is applied in civil actions under 35 U.S.C. § 282(b), which is articulated in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). *See* Changes to the Claim Construction Standard for Interpreting Claims in Trial Proceedings Before the Patent Trial and Appeal Board, 83 Fed. Reg. 51340 (Oct. 11, 2018) (applicable to *inter partes* reviews filed on or after November 13, 2018). Under *Phillips*, claim terms are afforded "their ordinary and customary meaning." *Phillips*, 415 F.3d at 1312. "[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention." *Id.* at 1313. "Claim construction begins with the words of the claim, which 'must be read in view of the specification, of which they are a part.'" *Wi-Lan, Inc. v. Apple, Inc.*, 811 F.3d 455, 462 (Fed. Cir. 2016) (quoting *Phillips*, 415 F.3d at 1312–15).

Only terms that are in controversy need to be construed, and then only to the extent necessary to resolve the controversy. *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999).

1. "inactive mode"

Petitioner proposes we construe "inactive mode" to include "any mode 'that indicates that the user is not to be distracted.'" Pet. 17–18 (citing

Ex. 1001, 2:43–44; Ex. 1005 ¶¶ 83–84). We note that the portion of the '853 patent quoted in Petitioner's claim construction and cited in support ("any input that indicates that the user is not to be distracted *may be used to place the device into inactive mode*") does not describe inactive mode, but rather describes the input that triggers the initiation of inactive mode. Ex. 1001, 2:28–45 (emphasis added). Petitioner additionally cites five portions of the '853 patent Specification that describe inactive mode, four of which discuss suppressing notification of incoming communications. Pet. 18 (citing Ex. 1001, 1:66–2:3 ("[a] user may enable an inactive mode of the device to suppress notification of incoming [communications]"), 2:19–3:5 ("suppressing notification of the user of the one or more incoming communications"), 6:57–60 ("[a] user . . . may enable an inactive mode of the device . . . to suppress notification of incoming [communications]"), 7:37–46 (after a device is placed in inactive mode "suppressing notification of the user . . . of the one or more incoming communications"). The fifth cited portion is directed to different situations in which the device may exit the inactive mode. *Id.* (citing Ex. 1001, 3:33–47). This fifth portion is followed immediately by a description relating that, when inactive mode is completed, notifications of communications previously suppressed are provided to the user. Ex. 1001, 3:48–52.

After reviewing the words of the claim in view of the Specification of the '853 patent, including specifically the citations provided in the Petition and discussed above, we find that the correct construction of "inactive mode" at least encompasses a mode in which user notifications relating to incoming communications are suppressed. We determine this term does not otherwise require construction for the purposes of this decision.

2. Additional terms

We determine at this time that no other terms require construction in order to complete our analysis.

C. Overview of the Prior Art

1. Riemer

Riemer describes a portable device that includes a safety feature preventing some forms of use of the device when the device is moving. Ex. 1007, (57). "The device may be a cell phone configured to disable transmission and reception of voice/text, conceal its display screen, and disable incorporated features and functions, if the cell phone is moving faster than walking speed or the movement is uncharacteristic of walking." *Id.* Riemer describes a device entering "safe mode," in which the behavior of a portable electronic device is modified and certain functionality disabled, when the device is traveling at driving speed or when user defined safety thresholds are met. *Id.* ¶ 28.

For example, when a user is driving and an incoming communication such as a call or text is received, any visual or audio alerts may be suppressed until the user has stopped driving. *Id.* ¶ 32. To determine that a user of a device is in a motor vehicle that is being driven, information including GPS system information, cell site information, handset and/or network based information, or vehicle equipment may be used. *Id.* ¶¶ 36, 87–89. "Other location based detection services can be used to determine when the user is in a motor vehicle, including connection with a cradle or charger, connection with a BLUETOOTH system in a motor vehicle, connection with a personal navigation device, activation of some other type

of key or token mechanism associated with the vehicle, or the like." *Id.* ¶ 36.

In one embodiment, a preferences panel can be used to modify the functions of safe mode. *Id.* ¶¶ 131–132, Figs. 5–6. Auto-reply options allow the user to auto-reply to incoming calls and text messages, including customizing content in the auto-reply messages. *Id.* ¶ 131. "The user can also specify whether the portable electronic device should engage in safe mode manually or automatically using speed detection." *Id.* ¶ 132.

2. Guba

Guba provides an application enforcing a rules-based policy that controls the use of functions on a mobile device, including disabling or interrupting certain functions when the vehicle is in motion above a threshold speed. Ex. 1008, (57). Functions that may be blocked or interrupted may include sending or receiving phone calls, sending or receiving text messages, sending or receiving emails, Internet browsing, or launching of applications on the device. *Id.* ¶ 19. A default policy may be used, or an account administrator may customize a policy. *Id.* ¶¶ 30, 83–89. The customization allows, for example, for a modifiable time period for which a vehicle must be stopped before communications and functionality is restored, how fast a vehicle must be moving before functionality is disallowed, and whether certain communications functionality remains uninterrupted even if the vehicle is moving. *Id.* ¶ 89.

When installed, an application checks for a connection between the mobile device and an on-board diagnostic port of the vehicle, and, if the application detects such a connection, "the application monitors and enforces communication policy, which may be based on the speed of the

vehicle, the location of the vehicle, whether the vehicle is 'on,' what gear the vehicle is in, what day of the week, what time of the day, and the like." *Id.* ¶ 119. Based on such data, the policy determines whether to enter "blocking mode" (in which communications notifications may be suppressed) or, alternatively, to remain in "non-blocking mode." *Id.* ¶¶ 19, 97, 117, 121, 124.

D. Alleged Unpatentability of Claim 1 over Riemer and Guba

1. Combination of Riemer and Guba

Petitioner argues that claim 1 is unpatentable as obvious over a combination of Riemer and Guba. Pet. 18–39. Petitioner also argues that one of ordinary skill in the art would have had motivation and a reasonable expectation of success in the combination. *Id.* at 18–20.

Petitioner discusses certain limitations of claim 1, in an attempt to show how Riemer, Guba, or their combination would have taught or suggested each limitation. We address these limitations here in order, excepting limitations [e] and [*] of claim 1, which we address last.

2. Claim 1 –limitations [a], [b], and [c] – "[a] A mobile device, comprising: a wireless communication module, [b] a processor, controlling the wireless communication module; and [c] a memory controlled by the processor, the memory including instructions that when executed by the processor cause the processor to perform the steps of:"

Petitioner describes Riemer's disclosures of a portable electronic device, which is in one embodiment a cell phone, processing performed within the device, and programming of the device for disabling communications functionality and argues that these render obvious elements [a], [b], and [c] of claim 1 as obvious. Pet. 20–26 (citing Ex. 1007 ¶¶ 32, 39, 58, 62, 167, 173; Ex. 1005 ¶¶ 110–116, 121–123).

Additionally, Petitioner argues, with respect to limitations [b] and [c] that Guba also teaches or suggests a processor and associated memory as in those limitations. Pet. 23–24, 26 (citing Ex. 1008 ¶ 36; Ex. 1005 ¶¶ 117–120, 124–126).

3. *Claim 1 – limitations [d] and [f] – "the memory including instructions that when executed by the processor cause the processor to perform the steps of:" "[d] providing a graphical user interface through which a user customizes one or more functions of the mobile device when placed in an inactive mode" and "[f] receiving a user selection of an away message to use when the mobile device is in inactive mode"*

For element [d] of claim 1, Petitioner argues that Riemer's graphical user interface allowing users to customize the functions of the mobile device when it is placed in safe driving mode teaches or suggests the claimed "providing a graphical user interface." Pet. 27–30 (citing Ex. 1007 ¶¶ 131–132, Figs. 5, 6; Ex. 1005 ¶¶ 127–131). Petitioner, referencing its claim construction for "inactive mode," argues that Riemer's safe driving mode is an inactive mode because it "indicates that a user is not to be distracted." *Id.* at 27 (citing Ex. 1005 ¶ 127). While we have not adopted Petitioner's proposal for claim construction, we determine that Riemer's safe driving mode is an inactive mode, as Riemer teaches that in the safe driving mode user notifications relating to incoming communications are suppressed. *See supra* § III.B; Ex. 1007 ¶¶ 32, 131; Pet. 63–64; Ex. 1005 ¶¶ 105, 106, 110, 121, 145.

For element [f] of claim 1, user selection of an away message, Petitioner argues that the element is taught or suggested in the description of the customization provided by Riemer's graphical user interface optionally

"includ[ing] customization of content in auto-reply messages." Pet. 36–37 (quoting Ex. 1007 ¶ 131; citing Ex. 1005 ¶ 141).

4. *Claim 1 – limitation [g] – "the memory including instructions that when executed by the processor cause the processor to perform the steps of:" "[g] when the mobile device is in inactive mode, in response to receiving a communication from the wireless communication module, transmitting the user selected away message via the wireless module and suppressing one or more sound, visual, or vibration communication cues that would have accompanied the communication had the mobile device not been in inactive mode"*

Addressing limitation [g], Petitioner cites Riemer's teachings regarding transmitting an "auto-reply message" for unanswered calls during safe driving mode, and silencing announcements of inbound phone calls in that mode. Pet. 38–39 (citing Ex. 1007 ¶¶ 32, 131–132, Fig. 5; Ex. 1005 ¶¶ 127–131).

5. *Claim 1 – limitation [e] – "the memory including instructions that when executed by the processor cause the processor to perform the steps of:" "[e] receiving a user selection to automatically initiate the inactive mode in response to the pairing of the mobile device with a vehicle"*

a. Riemer and limitation [e]

Petitioner argues that Riemer teaches or suggests limitation [e] of claim 1 in teaching or suggesting "triggers for engaging in safe mode," which include location-based triggers, and that one such trigger is the pairing of a mobile phone to a motor vehicle. Pet. 30–33. Petitioner further argues that "Riemer discloses that a . . . trigger to automatically activate safe driving mode can be pairing a cell phone with a vehicle." Pet. 32 (citing Ex. 1007 ¶¶ 36, 142). However, the cited paragraphs do not contain this

disclosure. In paragraph 36, Riemer describes detecting that a motor vehicle is being driven:

> For example, an embodiment operates when a motor vehicle is being driven. An embodiment detects when the device is in a moving vehicle from an initial stopped position, at the beginning of a user's journey. This detection may be accomplished by several means, including by known GPS systems, by processing location information from cell site information, by a combination of handset and network based information, by network based information alone, by vehicle equipment, by equipment added on to the vehicle, or even by manual entry. Other location based detection services can be used to determine when the user is in a motor vehicle, including connection with a cradle or charger, connection with a BLUETOOTH system in a motor vehicle, connection with a personal navigation device, activation of some other type of key or token mechanism associated with the vehicle, or the like.

Ex. 1007 ¶ 36.

Paragraph 36 describes an embodiment relating to the use of safe mode when "when a motor vehicle is being driven," detecting that "a device is in a *moving vehicle from an initial stopped position*," using various means, such as by GPS or cell site information. *Id.* (emphasis added). Paragraph 36 then describes ways to "determine when a user is in a *motor vehicle*," including through the pairing of the user's device with a motor vehicle. *Id.* (emphasis added). This does not disclose, teach, or suggest that pairing is a sufficient trigger for safe mode, however, as Petitioner asserts. It only discloses that pairing can be used as part of a determination that the user is in a moving vehicle.

Riemer contains several discussions relating to distinguishing between a device that is moving and a device that is in a motor vehicle that is moving or that is being driven by the user. *See, e.g.*, *id.* ¶¶ 9, 12, 77 ("[A] portable

electronic device . . . may be configured such that the speed detecting and/or blocking functions may be enabled only when the user is in a car or is driving a car."), 80, 104. Riemer describes that a check of the travelling speed of the device may be needed only when the device is paired, e.g., using a hands-free interface with a Bluetooth device. *Id.* ¶ 92. In light of these disclosures, paragraph 36 cannot be seen to teach or suggest triggering the safe mode upon pairing, as Petitioner argues, but rather using pairing to determine if a user is in a motor vehicle as part of an embodiment that detects "when a motor vehicle is being driven." *Id.* ¶ 36.

Paragraph 142 is similarly unavailing. Riemer discloses an embodiment in which "a set consisting of one or more thresholds which trigger . . . safe driving mode . . . may be customized with a safety policy through a dashboard"[2] with triggers associated with certain speeds or based on the current day and time. *Id.* ¶ 141. Paragraph 142 describes that "[t]he dashboard may provide speed, timer, and date controls" in this embodiment. Read in context, the dashboard allowing a user or an administrator to specify "various triggers and thresholds for engaging in safe mode" of paragraph 142 may be read as describing triggers and thresholds beyond these speed or day/time triggers, but not as teaching or suggesting that "a trigger to automatically activate safe driving mode can be pairing a cell phone with a vehicle" as Petitioner asserts.

[2] Riemer's "dashboard" is not a vehicle dashboard, but rather the user interface – the "device, web or network based application or interface for user and administrator control" of safe driving mode policies for a portable electronic device. Ex. 1007 ¶ 115.

b. Guba and limitation [e]

Alternatively, Petitioner argues that Guba teaches or suggests limitation [e]. Pet. 33–35.

Petitioner argues that "Guba discloses automatically initiating its *communication policy* when a legitimate and authorized connection is detected" – in other words, "in response to the pairing of the mobile device with a vehicle," as in limitation [e] of claim 1. *Id.* at 33 (citing Ex. 1008 ¶ 119) (emphasis added). Petitioner further argues that "Guba's disclosure is clear that the communication policies, applications, and functions" allow for customization, including customization of "triggers for automatically activating safe driving mode." *Id.* at 34 (citing Ex. 1008 ¶¶ 30, 116–117).

However, the claim limitation requires automatic initiation not of "communication policies" but rather of inactive mode. Guba's initiation of communication policy does not necessarily entail automatically activating a safe driving mode. To the contrary, in Guba, the analogue to the '853 patent's inactive mode, in which "user notifications relating to incoming communications are suppressed",[3] is Guba's blocking mode, in which certain functionality of the mobile device is interrupted. Ex. 1008 ¶¶ 67, 124; *see supra* § III.B.1. Blocking mode is not disclosed as automatically initiated in Guba in response to the pairing of the mobile device with the vehicle. Ex. 1008 ¶¶ 89, 92. Rather, in Guba, blocking may begin if certain conditions are met after a communication policy setting such conditions has

[3] We note that the Guba's blocking mode would be the correct analogue to "inactive mode" even were we to accept Petitioner's claim construction that "inactive mode" is a mode "that indicates that the user is not to be distracted." Pet. 17.

been initiated, including conditions such as speed over a certain threshold value. *Id.* ¶¶ 19, 97, 121, 124, Fig. 5 (element 505, upon initiation, "blocking mode is set to 'off'" (*id.* ¶ 121)); Fig. 8 (element 865, "blocking mode is implemented for all functions not allowed while the vehicle is in motion above the threshold value" (*id.* ¶ 124)). Before such conditions are met, functionality is not disallowed. *Id.* ¶¶ 89, 92, 124. While the policies illustrated in Guba are exemplary, there is no support for Petitioner's assertion that Guba teaches or suggests automatically initiating blocking upon the pairing of a mobile device with a vehicle. *See* Pet. 34.

Petitioner additionally argues, without citation to any support, that "[a] [person of ordinary skill in the art at the time of the invention] would have understood that Guba's disclosure of enabling a safety policy in response to connection between the mobile device and the vehicles wireless OBD interface teaches or suggests the claimed automatic initiation of an inactive mode in response to pairing of a mobile device with a vehicle." *Id.* Yet, again, "a safety policy" being enabled does not teach or suggest initiation of an inactive mode, but rather, in Guba, describes or enacts conditions under which inactive mode would be applied. Petitioner puts forward insufficient evidence that one of ordinary skill would have found Guba to teach or suggest that one condition that would cause automatic initiation of inactive mode would be the pairing of the mobile device with a vehicle.

c. Limitation [e] - Conclusion

Petitioner argues, based on its assertions regarding the teachings and suggestions of Riemer and Guba relating to limitation [e], that one of ordinary skill would have found it obvious to provide an option in a user

interface to select such a trigger. Pet. 32–36. As detailed above, we do not see support for Petitioner's assertions regarding Riemer and Guba's teachings or suggestions relating to the automatic initiation of inactive mode in response to the pairing of a mobile device with a vehicle. Thus, Petitioner fails to demonstrate a reasonable likelihood that it will prevail in showing that the combination of Riemer and Guba teaches or suggests this limitation.

> 6. *Claim 1 – limitation [*] – "the memory including instructions that when executed by the processor cause the processor to perform the steps of:" "[*] in response to the pairing of the mobile device and the vehicle, automatically initiating a process to place the mobile device in inactive mode"*

Petitioner entirely fails to address this limitation, other than to assert that it was one of three bases cited by the Examiner as a point of novelty in the Notice of Allowability and Examiner's Amendment for the '853 patent. Pet. 5 (citing Ex. 1006, 14–15).

This limitation describes "a process to place the mobile device in inactive mode" – this "process" is never addressed by Petitioner. Any distinction between this limitation [*] and limitation [e], or any relationship this limitation [*] has to limitation [e] is not addressed by Petitioner. To the extent that Petitioner's arguments relating to limitation [e] would be relied on for this limitation, the issues noted above with Petitioner's arguments are reiterated.

Therefore, we find Petitioner fails to demonstrate a reasonable likelihood that it will prevail in showing that the combination of Riemer and Guba teaches or suggests this limitation.

7. Conclusion

Accordingly, for the reasons discussed above, Petitioner has failed to demonstrate a reasonable likelihood of showing claim 1 is unpatentable over the combination of Riemer and Guba.

E. Alleged Unpatentability of Claims 2–7 over Riemer and Guba

Petitioner's analysis of dependent claims 2–7 relies on the analysis of claim 1, from which these claims depend, directly or indirectly. Pet. 39–50. Accordingly, for the reasons discussed above, Petitioner has failed to demonstrate a reasonable likelihood that it will prevail in showing claims 2–7 are unpatentable over Riemer and Guba.

F. Alleged Unpatentability of Claims 1–7 over Guba, Olincy, and Chaudhri and Unpatentability of Claim 3 over Guba, Olincy, Chaudhri, and Riemer

Petitioner's analysis of limitation [e] of claim 1 in its ground asserting that claim 1 is obvious over a combination of Guba, Olincy, and Chaudhri repeats substantially the same assertions regarding Guba as in the ground relating to the combination of Reimer and Guba. *Compare* Pet. 33–34 *with id.* at 56–57. Thus, Petitioner fails to demonstrate a reasonable likelihood that it will prevail in showing that the combination of Guba, Olincy, and Chaudhri teaches or suggests limitation [e]. *See supra* § III.D.5.b. Additionally, Petitioner again fails to address limitation [*] of claim 1 in any way, and fails to demonstrate a reasonable likelihood that it will prevail in showing that the combination of Guba, Olincy, and Chaudhri teaches or suggests limitation [*]. *See supra* § III.D.6.

Therefore, Petitioner has failed to demonstrate a reasonable likelihood of showing claim 1 is unpatentable over the combination of Guba, Olincy, and Chaudhri. Petitioner's analysis of dependent claims 2–7 relies on the

analysis of the claim 1, from which these claims depend, directly or indirectly. Pet. 67–74. Accordingly, for the reasons discussed above, Petitioner has failed to demonstrate a reasonable likelihood that it will prevail in showing claims 2–7 are unpatentable over Guba, Olincy, and Chaudhri.

Similarly, Petitioner's analysis of claim 3's patentability over Guba, Olincy, Chaudhri, and Riemer depends on the claim 1 arguments over Guba, Olincy, and Chaudhri. Pet. 74–76. Accordingly, for the reasons discussed above, Petitioner has failed to demonstrate a reasonable likelihood that it will prevail in showing claim 3 is unpatentable over Guba, Olincy, Chaudhri, and Riemer.

IV. CONCLUSION

We have reviewed the Petition, and have considered all of the evidence and arguments presented by Petitioner. We find, on this record, Petitioner has failed to demonstrate a reasonable likelihood of showing any of claims 1–7 of the '853 patent are unpatentable over the prior art relied upon. Accordingly, we deny the Petition, and decline to institute *inter partes* review of claims 1–7 on the grounds raised in the Petition.

V. ORDER

It is ORDERED that, pursuant to 35 U.S.C. § 314, the Petition is *denied*, and no *inter partes* review is instituted on any grounds.

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