IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

Auto Telematics Ltd.,	§ § §	
Plaintiff,	§ §	**Civil Action No. 6:23-CV-506**
v.	§ §	
United Services Automobile Association,	§ §	**Jury Trial Demanded**
Defendant.	§ §	

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Auto Telematics Ltd. files this Original Complaint for patent infringement against Defendant United Services Automobile Association, alleging as follows:

NATURE OF THE SUIT

1.   This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

THE PARTIES

2.   Plaintiff **Auto Telematics Ltd. ("Auto Telematics" or "Plaintiff")** is a private limited company organized under the laws of the United Kingdom with a registered office address of 5 Driffield Terrace, York England, Y0241EJ.

3.   Upon information and belief, Defendant **United Services Automobile Association ("USAA" or "Defendant")** is a reciprocal interinsurance exchange and unincorporated association organized under the laws of the State of Texas with a principal place of business located in this judicial district at 9800 Fredericksburg Road, San Antonio, Texas 78288. On information and belief, Defendant does not maintain a registered agent for service, and may be served at its normal and customary place of business at 9800 Fredericksburg Road, San Antonio, Texas 78288.

4.   On information and belief, USAA sells, offers to sell, and otherwise provides insurance products, including automobile insurance, through its subsidiary Noblr Insurance Services, LLC ("Noblr"), to consumers throughout the State of Texas, including in this judicial District, and has introduced such services into the stream of commerce knowing and intending they would be extensively used in the State of Texas and in this judicial District. On information and belief, USAA specifically targets customers in the State of Texas and in this judicial District, including through its website at www.usaa.com and through its subsidiary Noblr's website at www.noblr.com and via the Noblr mobile application.

JURISDICTION AND VENUE

5.   This action arises under the patent laws of the United States, 35 U.S.C. § 101, *et seq*. This Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271, *et seq*., 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. § 1338 (jurisdiction over patent actions).

6.   USAA is subject to personal jurisdiction in this Court. In particular, this Court has personal jurisdiction over USAA because USAA has engaged in continuous, systematic, and substantial activities within this State, including substantial marketing, offers to sell, and sales of products and services within this State and this District. Furthermore, upon information and belief, this Court has personal jurisdiction over USAA because USAA has committed acts giving rise to Plaintiff's claims for patent infringement within and directed to this District.

7.   Upon information and belief, USAA has committed acts of infringement in this District and has one or more regular and established places of business within this District under the language of 28 U.S.C. § 1400(b). Thus, venue is proper in this District under 28 U.S.C. § 1400(b).

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8.   USAA maintains a permanent and physical presence within the Western District of Texas, conducting business from at least its location at 9800 Fredericksburg Road, San Antonio, Texas 78288.

9.   Upon information and belief, USAA has conducted and does conduct substantial business in this forum, directly and/or through subsidiaries, agents, representatives, or intermediaries, such substantial business including but not limited to: (i) at least a portion of the infringements alleged herein; (ii) purposefully and voluntarily placing one or more infringing products into the stream of commerce with the expectation that they will be purchased and/or used by consumers in this forum; and/or (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this judicial District.

10.   Upon information and belief, USAA has had and currently has customers of its Noblr insurance products who are located in this judicial District.

11.   Upon information and belief, USAA subsidiary Noblr began selling insurance products in this judicial district in October 2019.

12.   A Noblr press release dated October 23, 2019, states in part that "Today, Noblr, a next generation personal car insurance company, announced its Texas launch." *available at* https://www.noblr.com/wp-content/uploads/2020/07/Smart-Car-Insurance-Company-Arrives-in-Texas.pdf. Upon information and belief, Noblr customers have used and are using the Noblr application in this judicial District.

13.   Upon information and belief, on or around June of 2021, USAA acquired Noblr, such acquisition including the Noblr mobile application as well as Noblr's customers.

14.   Upon information and belief, USAA continues to sell Noblr automobile insurance policies to Noblr customers who reside in this judicial District.

15.   Upon information and belief, USAA began offering the Noblr application to its pre-existing individual consumer customers, who have used and are using the Noblr application, also more-recently identified and branded on the USAA website as USAA Pay As You Drive (referred to in this Complaint as the "Noblr App"), for mobile devices in this judicial District.

16.   Upon information and belief, USAA hires and has hired claims adjusters for its insurance adjusters in and around Waco, Texas, which is in this judicial District.

17.   Upon information and belief, USAA maintains a financial center located at 2309 East Central Expressway, Suite 500, in Killeen, Texas.

18.   Upon information and belief, USAA services more than 25,000 customers within a five-mile radius of Fort Hood, which is located in the Waco Division of this judicial District.

19.   An article posted in the Fort Hood Herald states in part:

> The organization recently opened a financial center in Killeen at 2309 E. Central Expressway, Suite 500.
>
> There, members - more then 26,000 are in a five-mile radius of Fort Hood - can meet with representatives to discuss investments, get insurance quotes, apply for loans or receive financial advice on issues like retirement and college planning, according to information from USAA.

See Amanda Kim Stairrett, "USAA financial center opens in Killeen," Fort Hood Herald (March 24, 2010, updated August 16, 2012), *available at* https://kdhnews.com/fort_hood/homefront/usaa-financial-center-opens-in-killeen/article_acbb5ffd-9490-5deb-8d8f-cf03fe509a37.html   (last accessed July 13, 2023).

20.   Upon information and belief, one or more USAA customers within the Fort Hood area is a user of the Noblr App.

21.   Noblr itself has maintained a service hub in Austin Texas, which is within this judicial district. *See* Cision PR Newswire, "Smart Car Insurance Company Arrives in Texas" (Oct. 23, 2019), *available at* https://www.prnewswire.com/news-releases/smart-car-insurance-company-arrives-in-texas-300943741.html (last accessed July 13, 2023).

22.   Venue is proper in the Western District of Texas pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400(b).

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THE PATENTS-IN-SUIT

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23.   This cause of action asserts infringement of United States Patent No. 9,311,271 ("the '271 Patent"), United States Patent No. 9,633,487 ("the '487 Patent), United States Patent No. 10,192,369 ("the '369 Patent"), and United States Patent No. 10,198,879 ("the '879 Patent") (collectively, the "Patents-in-Suit").

24.   The '271 Patent, entitled "Method and System for Logging Vehicle Behavior," duly and legally issued on April 12, 2016, from U.S. Patent Application No. 13/994,455, filed on July 24, 2013, naming Andrew William Wright as the sole inventor. The '271 Patent claims priority to PCT Application No. PCT/GB2011/052492, filed on December 15, 2011, to GB 1021292.6, filed on December 15, 2010, to GB 1101259.8, filed on January 25, 2011, to GV 1109759.9, field on June 10, 1011, and to GB 1118777.0, filed on October 31, 2011. A true and correct copy of the '271 Patent is attached hereto as **Exhibit 1** and is incorporated by reference.

25.   The '271 Patent claims patent-eligible subject matter under 35 U.S.C. § 101. *See infra*, ¶¶ 45–50.

26.   Plaintiff Auto Telematics is the owner and assignee of all rights, title, and interest in and under the '271 Patent.

27.   Auto Telematics has standing to sue for infringement of the '271 Patent.

28.   The '487 Patent, entitled "Method and System for Logging Vehicle Behavior," duly and legally issued on April 25, 2017, from U.S. Patent Application No. 15/061,910, filed on March 4, 2016, naming Andrew William Wright as the sole inventor. The '487 Patent is a continuation of the '271 Patent and also claims priority to PCT Application No. PCT/GB2011/052492, filed on December 15, 2011, to GB 1021292.6, filed on December 15, 2010, to GB 1101259.8, filed on January 25, 2011, to GV 1109759.9, field on June 10, 1011, and to GB 1118777.0, filed on October 31, 2011. A true and correct copy of the '487 Patent is attached hereto as **Exhibit 2** and is incorporated by reference.

29.   The '487 Patent claims patent-eligible subject matter under 35 U.S.C. § 101. *See infra*, ¶¶ 45–50.

30.   Plaintiff Auto Telematics is the owner and assignee of all rights, title, and interest in and under the '487 Patent.

31.   Auto Telematics has standing to sue for infringement of the '487 Patent.

32.   The '369 Patent, entitled "Method and System for Logging Vehicle Behavior," duly and legally issued on January 29, 2019, from U.S. Patent Application No. 15/454,937, filed on March 9, 2017, naming Andrew William Wright as the sole inventor. The '369 Patent is a continuation of the '487 Patent and also claims priority to PCT Application No. PCT/GB2011/052492, filed on December 15, 2011, to GB 1021292.6, filed on December 15, 2010, to GB 1101259.8, filed on January 25, 2011, to GV 1109759.9, field on June 10, 1011, and to GB 1118777.0, filed on October 31, 2011. A true and correct copy of the '369 Patent is attached hereto as **Exhibit 3** and is incorporated by reference.

33.   The '369 Patent claims patent-eligible subject matter under 35 U.S.C. § 101. *See infra*, ¶¶ 45–50.

34.   Plaintiff Auto Telematics is the owner and assignee of all rights, title, and interest in and under the '369 Patent.

35.   Auto Telematics has standing to sue for infringement of the '369 Patent.

36.   The '879 Patent, entitled "Method and System for Logging Vehicle Behavior," duly and legally issued on February 5, 2019, from U.S. Patent Application No. 15/454,952, filed on March 9, 2017, naming Andrew William Wright as the sole inventor. The '879 Patent is a continuation of the '487 Patent and also claims priority to PCT Application No. PCT/GB2011/052492, filed on December 15, 2011, to GB 1021292.6, filed on December 15, 2010, to GB 1101259.8, filed on January 25, 2011, to GV 1109759.9, field on June 10, 1011, and to GB 1118777.0, filed on October 31, 2011. A true and correct copy of the '879 Patent is attached hereto as **Exhibit 4** and is incorporated by reference.

37.   The '879 Patent claims patent-eligible subject matter under 35 U.S.C. § 101. *See infra*, ¶¶ 45–50.

38.   Plaintiff Auto Telematics is the owner and assignee of all rights, title, and interest in and under the '879 Patent.

39.   Auto Telematics has standing to sue for infringement of the '879 Patent.

40.   The Patents-in-Suit generally relate to the use of a mobile telecommunications device—such as a cellular telephone—to monitor and record data during a driving period and to report that data to a central system.

41.   The inventor, Mr. Wright, conceived of the inventions after watching a dispute regarding the cause of a minor traffic accident in U.K. County Court in 2010. Mr. Wright conceived of the idea of creating an application to run on a smartphone that would record a user's vehicle journey in a rolling loop while also recording information such as time of day, speed, GPS

positioning, etc. The information could later be used to reconstruct the vehicle's trip to assist in determining the cause of a crash, for example. Mr. Wright believed that using a mobile device's sensors (rather than the vehicle's sensors) would be better because it would require virtually zero cost to install and because it would yield better accuracy and reliability due to the technical limitations inherent in most vehicles.

42.   Mr. Wright's conception led to the development of a new application called "Witness." The app allowed recording of additional aspects of a driving period, which would be recorded in a rolling loop and uploaded to a central server. The original app was, for a time, a top-selling app in the travel section of one or more mobile app stores for several countries. The Witness app was later replaced by Witness Pro. Mr. Wright considered the app to be a valuable tool for use in the insurance industry, as it would allow for monitoring of an individual's driving habits and, consequently, the relative risk of being involved in a costly accident.

43.   While Mr. Wright's concept was received favorably by several insurance companies, none agreed to pilot the Witness Pro app. Eventually, the growing cost of maintaining Witness Pro without investment and increasing competition forced the closure of the business. Within a year or two after Mr. Wright closed the business, however, insurance companies began launching their own telematics applications that incorporate technology described and claimed in the Patents-in-Suit.

44.   The Patents-in-Suit describe and claim the core components of the telematics systems that many insurance companies—including USAA—use to monitor driving performance and offer premium adjustments based on an individual's particular driving record.

45.   The Patents-in-Suit describe and claim eligible subject matter under 35 U.S.C. § 101. They describe and claim specialized sensors such as an image sensor, audio sensor,

accelerometer, and positioning module. *See, e.g.*, '271 Patent at 1:63–64, Claim 1. The system

uses this data to "register the start of a driving period during which [a] mobile device is installed

to [a] vehicle [while] the vehicle is driven by a driver; process [this] sensor data from the sensor

set during the driving period to derive driving information associated with how the vehicle is

driven; and store a selection of the driving information . . . ." *See* '271 Patent at 2:3–9.

46.   The Patents-in-Suit discuss the "sensor set" used to collect driver data, describing

how an accelerometer may be used to measure accurate acceleration of a vehicle, how an image

sensor may be used to capture video footage of the road, and how a unique initialization process

may be used to register the start of a driving period. *See, e.g.*, '271 Patent at 3:2–8, 3:30–32. As

the Patents-in-Suit describe:

> The initialisation input may be generated automatically in response to the sensor
> data having predetermined values. For example, if the sensor data reflects a
> detected speed above a predetermined threshold—for example, 20 kilometers per
> hour—then this can be used to trigger the start of the driving period. Similarly, if
> the sensor data reflects that the mobile device is held securely to the vehicle in a
> predetermined position (for example, via the adapter) this can also be used to trigger
> the start of the driving period. To this end, the adapter and/or the mobile device
> may comprise a registration module configured to register the installation of the
> mobile device to the vehicle and/or the adapter. The registration module may
> comprise a proximity sensor to detect the proximity of the mobile device to the
> vehicle. The registration module may comprise a NFC (near field communication)
> device. The registration module may be arranged to determine a match between the
> location of the mobile device and the location of the vehicle. The match may be
> performed by receiving and comparing a first positioning input associated with the
> position of the vehicle and a second positioning input associated with the position
> of the mobile device.

'271 Patent at 3:30–54.

47.   The Patents-in-Suit also describe the ability to manage voice calls to the mobile

device by, for example, temporarily disabling or diverting incoming calls during a registered

driving period or based on the speed and location of the vehicle. *See, e.g.*, '271 Patent at 3:55–59,

4:23–28.

48.   The Patents-in-Suit also describe the use of sensors to detect the occurrence of a predetermined event (*e.g.*, accident, hard braking, sharp turn, etc.) and store driving information associated with such event to the device's memory. *See, e.g.*, '271 Patent at 5:3–10. As the specifications describe, detection of a predetermined event may involve correlating sensor data and comparing it against an event indication model and/or against data that has been generated and recorded over time. *See, e.g.*, '271 Patent at 5:20–40.

49.   The Patents-in-Suit also describe the use of a GPS to register a vehicle's position. *See, e.g.*, '271 Patent at 8:66. The positioning module may be used to determine the speed of the vehicle as well as latitude, longitude, elevation, and other location data. *See id.* at 9:5–10. An orientation sensor may also be used to augment the data of the positioning module. *See, e.g.*, *id.* at 9:11–17.

50.   The claims of the Patents-in-Suit are directed to the inventive combination of multiple sensors to track and determine attributes of individual driving sessions to assess tendencies and characteristics of individual drivers. The claimed inventions allow insurers, fleet operators, drive-share companies, and others to analyze the tendencies and characteristics of drivers and driving sessions and to use the collected data to, *inter alia*, offer new and innovative user-based insurance products, limit liability, reduce worker compensation claims, and strengthen goodwill.

51.   The claims of the Patents-in-Suit improve the functioning of traditional telematics systems and traditional driver monitoring systems, including those used by insurance companies. For example, and without limitation, the use of a mobile telecommunication device's sensors (rather than the vehicle's sensors) to collect driver data is an improvement over the prior art that was not well-understood, routine, or conventional at the time. Use of mobile telecommunication

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devices to capture sensor data that is then used in the calculation of a driving score improves the overall performance and efficiency of the data-logging systems used to log driving information.

52.   USAA has not obtained a license to any of the Patents-in-Suit.

53.   USAA does not have Auto Telematics's permission to make, use, sell, offer to sell, or import products that are covered by one or more claims of the Patents-in-Suit or to perform any methods claimed in the Patents-in-Suit.

54.   USAA needs to obtain a license to the Patents-in-Suit and cease its ongoing infringement of Auto Telematics's patent rights.

GENERAL ALLEGATIONS

55.   Upon information and belief, USAA makes, uses, sells, offers to sell, and/or imports into the United States methods and systems for logging vehicle behavior as claimed in each of the Patents-in-Suit. For example, and without limitation, USAA provides—through its subsidiary Noblr—for its insurance customers the Noblr application, which is also identified as the USAA Pay As You Drive application for mobile devices (collectively, the "Noblr App").

56.   The Noblr App was previously independently owned and maintained by Noblr.

57.   On September 30, 2021, USAA acquired Noblr Inc. for approximately $99.6 million. *See* S&P Global Market Intelligence, "United Services Automobile Association closes Noblr deal" (Nov. 22, 2021), *available at* https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/united-services-automobile-association-closes-noblr-deal-67766843 (last accessed July 13, 2023).
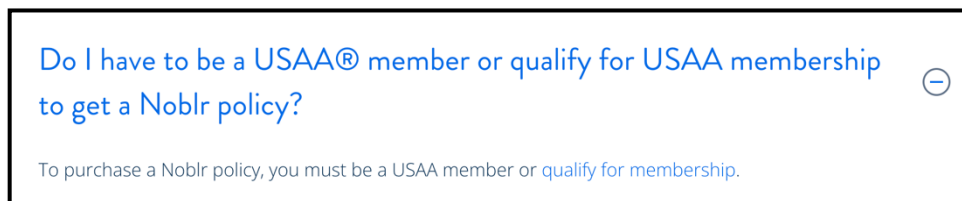
58.   Today, USAA markets Noblr as "Noblr a USAA Company":
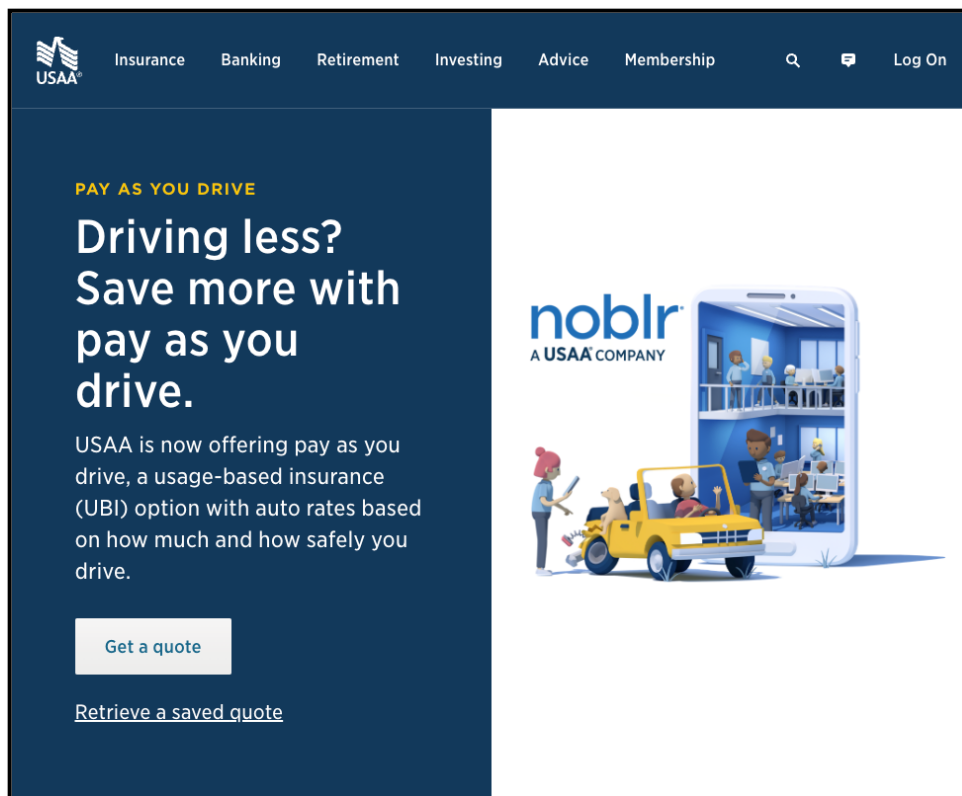
Source: https://www.usaa.com/inet/wc/auto-insurance-noblr?vurl=vurl_payasyoudrive&

59.   When a user types "www.noblr.com" into the URL window of a web browser, he or she is redirected to USAA's website.

60.   Users who desire to purchase a Noblr insurance policy must be USAA members or must qualify for USAA membership:
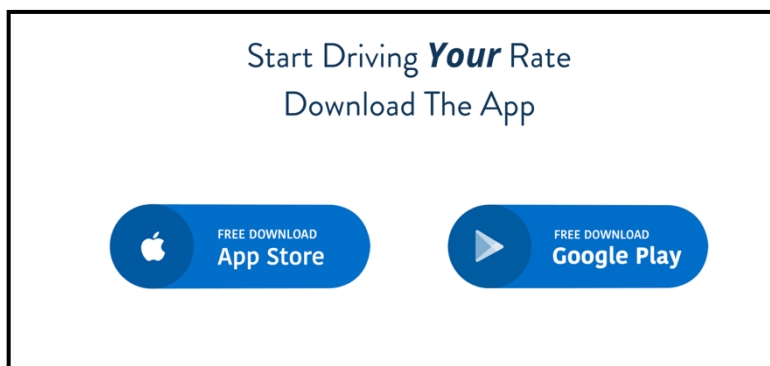

Source: noblr.com/faq

61.   USAA members who want to use the Noblr App must choose between enrolling in a USAA auto policy or enrolling in a Noblr auto policy. According to USAA, "Noblr is a USAA company, so if it best fits your needs, you can be confident you'll get the same USAA quality and excellent service."

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> **Can I have a USAA auto policy and a Noblr auto policy at the same time?** ⊖
>
> Each household can only have one auto policy at a time. We're excited to offer options for your auto insurance, so you can choose the one that works best for you. Noblr is a USAA company, so if it best fits your needs, you can be confident you'll get the same USAA quality and excellent service.

Source: noblr.com/faq

62.   The Noblr App is available for both iOS and Android devices:

Start Driving *Your* Rate
Download The App

 FREE DOWNLOAD
App Store   FREE DOWNLOAD
Google Play

Source: noblr.com/why-an-app

63.   According to USAA, the Noblr App uses the sensors that are already in a user's phone to "save you money every time you drive":

We leverage the sensors and technology that are already active in your phone to save you money every time you drive.

Your smartphone + Noblr = smart car insurance
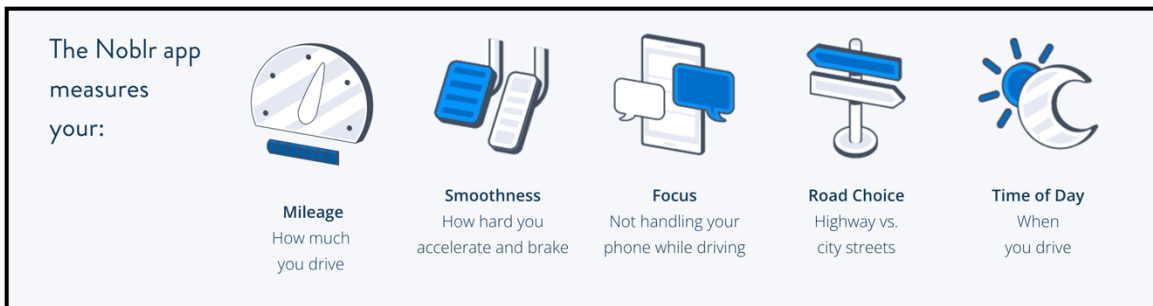No mandatory 2-week trials.
No dongles.

Learn more about how we use the sensors and tech in your phone to save you money.

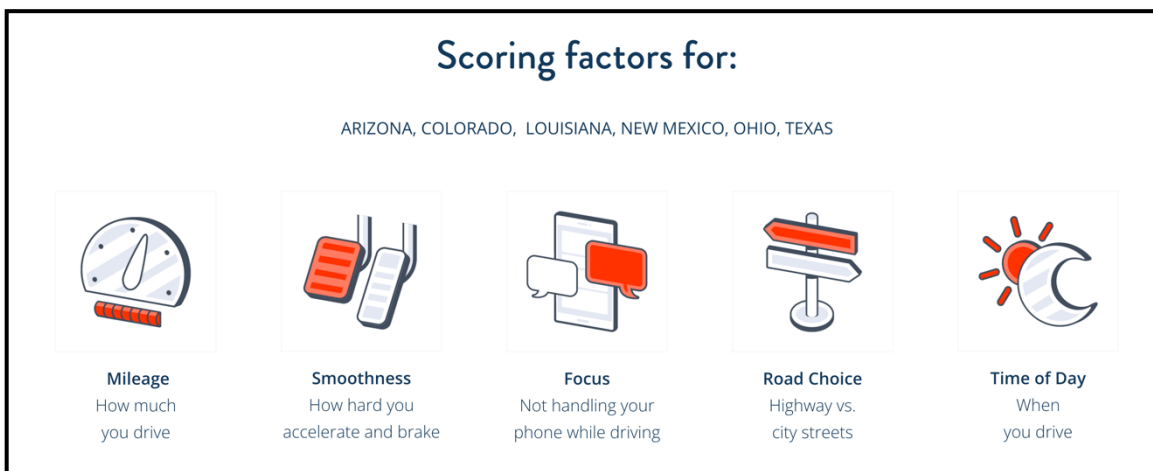**Lower mileage + better driving behavior = real time savings!**

Source: noblr.com/why-an-app

64.   According to USAA, the Noblr App uses the sensors in a user's phone to measure certain criteria about the user's driving performance, including:
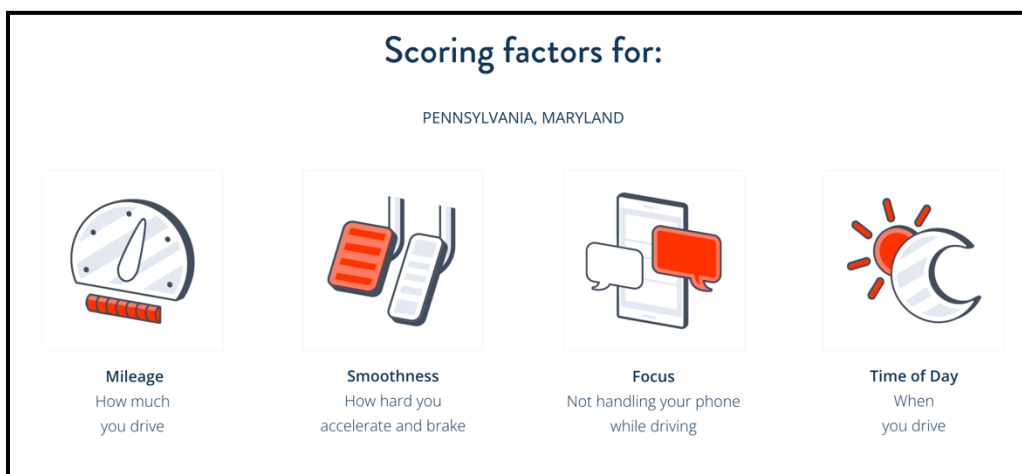
Source: noblr.com/why-an-app

65.   According to USAA, the "scoring factors" that are used in the Noblr System differ depending on a user's state:

Source: noblr.com/scoring factors

Source: noblr.com/scoring factors

66.   According to USAA, the driving criteria that impact a user's monthly variable rate include mileage, smoothness, focus, road choice, and time of day:

> ─ **What driving criteria impact my monthly variable rate?**
>
> Scoring factors vary by state. The pay as you drive app scores your trips in real time to save you money. No dongles or two-week trials required. We team up with the technology that's already in your phone to calculate the following:
>
> - **Mileage.** How much you drive. Driving less saves you more.
> - **Smoothness.** How hard you accelerate and brake.
> - **Focus.** Whether you handle your phone while driving. Hands-free mounts and functions are your friends.
> - **Road choice.** In some states, it matters where you drive. In Arizona, Colorado, Louisiana, New Mexico, Ohio and Texas, highway driving is preferred over city streets.
> - **Time of day.** When you drive. Avoid driving from 11pm to 4am.

Source: https://www.usaa.com/inet/wc/auto-insurance-noblr?vurl=vurl_payasyoudrive&

67.   USAA instructs users how to set up the Noblr App once they purchase an auto policy:

> ─ **I bought a policy. How do I set up the app?**
>
> First, you have to download the pay as you drive app to your smartphone.
> - Search "pay as you drive" in your app store or use one of these links: iOS or Android
> - Once you've downloaded the app, follow the prompts to log on with the username and password you set up when you bought your policy. If you've been added to a policy as an additional driver, check out the next FAQ.
> - Then, follow prompts to enable location and other permissions for the app.
> - We use location to measure how much you drive, so your rate is accurate and personalized. It's how we help you save money. Set it to "Always Allow," so you get the most accurate rate.
> - On iOS devices, "Motion & Fitness" must also be enabled to accurately log your trips. For Android, "Physical Activity" must be enabled. We use motion to measure your driving behaviors, like braking and smoothness, to give you the most savings we can.
> - On Android devices, "Phone" must also be enabled to measure Focus. We don't log, listen to or store anything about your calls.
> - You can find all your account information and documents in the app, so make sure you install it and log on.

Source: https://www.usaa.com/inet/wc/auto-insurance-noblr?vurl=vurl_payasyoudrive&

68.   According to USAA, the Noblr App "scores your driving behavior to provide personalized car insurance pricing":

Is pay as you drive right for me?

Pay as you drive rewards low mileage and good driving with insurance savings. It's an app that uses the miles you drive and scores your driving behavior to provide personalized car insurance pricing. If you don't drive a lot, usage-based insurance might be a good option for you. Pay as you drive policies are issued by Noblr, a USAA company. If pay as you drive isn't the right fit, USAA has other options for auto insurance.

Working from home means no more commute. Pay as you drive could help you save on your auto insurance if you're driving less.

If you or your partner deploy across the world, and your vehicle won't be driven while you're away, pay as you drive could help reduce your auto insurance bill.

Ride your bike to work or use public transportation but still own a car? Pay as you drive could help you save money while you're saving miles on your car.

Source: https://www.usaa.com/inet/wc/auto-insurance-noblr?vurl=vurl_payasyoudrive&

Lower mileage + better driving = more savings[1]

How does pay as you drive work?

Our pay as you drive app measures how many miles you drive and scores your driving to help you make safer choices and save money. Low mileage and better driving scores add up to huge potential savings.

Save money when you:

✔ Drive less.

✔ Brake and accelerate mindfully.

✔ Don't text and drive.

✔ Take the safest route.

✔ Avoid driving late at night.

Source: https://www.usaa.com/inet/wc/auto-insurance-noblr?vurl=vurl_payasyoudrive&

69.   According to USAA, the Noblr App "tracks all your trips whenever you're in a moving vehicle." According to USAA, the Noblr App also provides users the ability to alter the system's determination of whether the user was the driver or a passenger during a trip:

> — How do I change a trip type?
>
> The pay as you drive app tracks all your trips whenever you're in a moving vehicle. The app also displays whether you were driving on each tracked trip. If the app indicates you were driving when you weren't or if you were driving a commercial vehicle for work on a trip, you have up to 14 days from the date of the trip to change the trip type in the app.
>
> To change trip type in the app:
>
> • Select "Trips" from the top of your app dashboard.
> • Find the trip that you'd like to modify and select it.
> • Tap "On this trip I was driving" to reveal a dropdown menu.
> • Choose the appropriate selection for that trip.
> • The app will automatically save your selection.

Source: https://www.usaa.com/inet/wc/auto-insurance-noblr?vurl=vurl_payasyoudrive&

70.   According to USAA, the Noblr App "runs in the background and gathers" certain "details about each trip" a user takes:

> — What driving information does the pay as you drive app collect?
>
> The pay as you drive app runs in the background and gathers the following details about each trip you take:
> • Location
> • If you're the passenger or driver
> • Mileage
> • Smoothness
> • Focus
> • Road choice
> • Mode of transportation
> • Time of day

Source: https://www.usaa.com/inet/wc/auto-insurance-noblr?vurl=vurl_payasyoudrive&

71.   The "App Store Preview" for the Noblr App on the iOS "App Store" features the following iPhone Screenshots:

Source: https://apps.apple.com/us/app/noblr-car-insurance/id1445749903
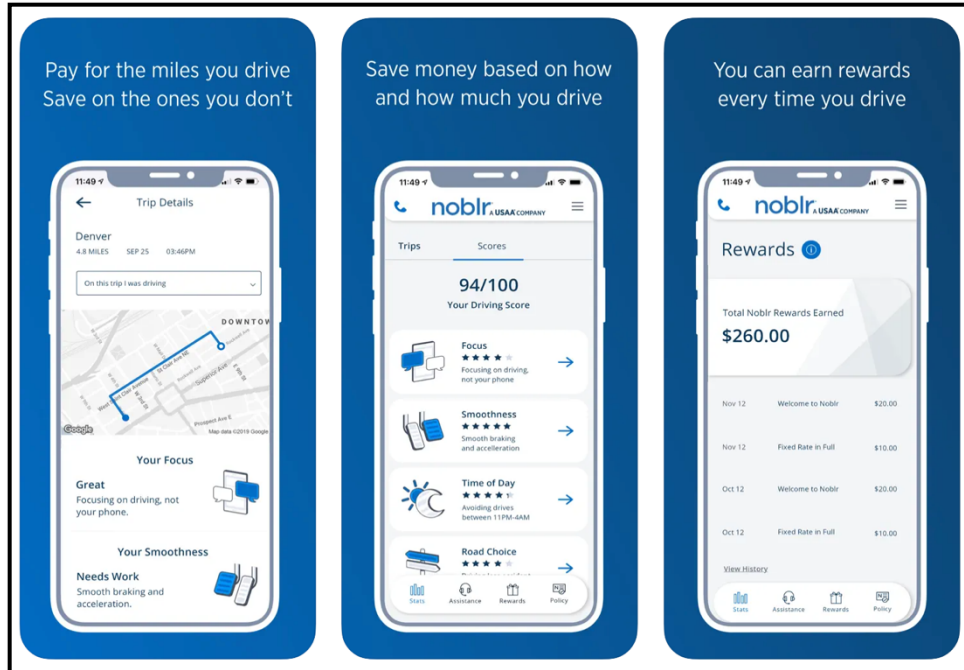
72.   The description of the Noblr App on the Google Play Apps store features the following Android Screenshots:
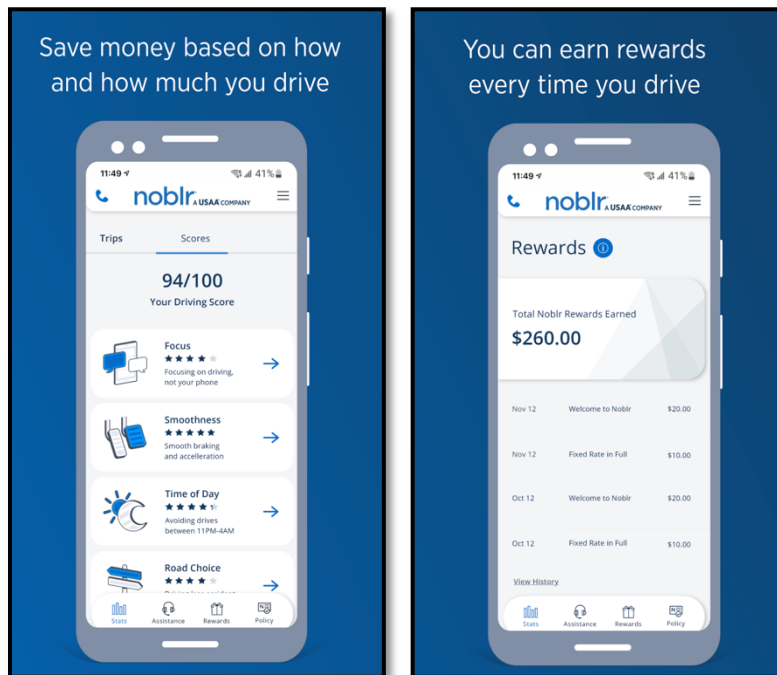
Source: https://play.google.com/store/apps/details?id=com.noblr.app&hl=en_US

73.   Based on the screenshots identified above, and upon information and belief, USAA uses driving information collected through the Noblr App to calculate a "Driving Score" that is used to help determine users' insurance rates.

74.   According to USAA, the Noblr program is currently available in Arizona, Colorado, Georgia, Illinois, Indiana, Louisiana, Maryland, Missouri, Nevada, New Mexico, Ohio, Pennsylvania, Texas, Virginia, and Wisconsin:

> — **What states is pay as you drive available in?**
>
> As of April 2023, pay as you drive is available in Arizona, Colorado, Georgia, Illinois, Indiana, Louisiana, Maryland, Missouri, Nevada, New Mexico, Ohio, Pennsylvania, Texas, Virginia and Wisconsin.
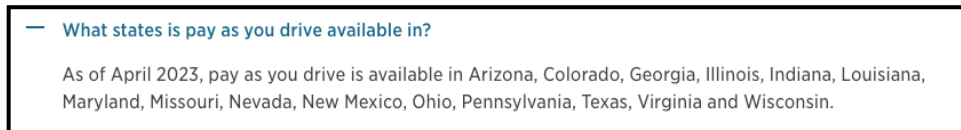
Source: https://www.usaa.com/inet/wc/auto-insurance-noblr?vurl=vurl_payasyoudrive&

Thus, the Noblr program is being offered and is available in the State of Texas and this judicial District.

75.   USAA has infringed and continues to infringe (literally and/or under the doctrine of equivalents), directly, indirectly, and/or through subsidiaries, agents, representatives, or intermediaries, one or more claims of each of the Patents-in-Suit by making, using, testing, supplying, causing to be supplied, selling, and/or offering for sale in the United States the Noblr program, including the Noblr App.

76.   Auto Telematics has been and continues to be damaged because of USAA's infringing conduct. USAA is therefore liable to Auto Telematics in an amount that adequately compensates Auto Telematics for USAA's infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

77.   Additionally, upon information and belief, USAA markets, sells, and/or uses other products and services that are not covered by the claims of the Patents-in-Suit but that are used or offered with the Noblr program and/or that benefit USAA in ways at least attributable in part to

the Noblr program. Accordingly, Auto Telematics is entitled to collect damages from USAA for convoyed sales of certain non-patented products and services.

78.   USAA failed to obtain permission from Auto Telematics to make, use, sell, offer to sell, and/or import products or services incorporating the inventions claimed in the Patents-in-Suit.

79.   USAA has been aware of Auto Telematics and each of the Patents-in-Suit since before the filing of this lawsuit.

80.   Auto Telematics filed suit against USAA in the United States District Court for the Western District of Texas, Waco Division, on May 11, 2022, in a case styled *Auto Telematics Ltd. v. United Services Automobile Association*, No. 6:22-CV-00474, alleging infringement of each of the Patents-in-Suit by USAA's SafePilot System, including the SafePilot App ("SafePilot Suit").

81.   USAA was served with a copy of the Complaint in the SafePilot Suit on May 13, 2022.

82.   USAA has been aware of Auto Telematics and of each of the Patents-in-Suit since at least May 13, 2022.

83.   Because USAA was served with the Complaint from the SafePilot Suit more than one year before the filing of the present suit, USAA is barred from filing any new *inter partes* reviews at the Patent Trial and Appeal Board related to any of the Patents-in-Suit.

84.   The Court in the SafePilot Suit construed the disputed terms of the Patents-in-Suit. *See Auto Telematics Ltd. v. USAA*, No. No. 6:22-CV-00474, Dkt. No. 40 (W.D. Tex. Feb. 17, 2023).

85.   USAA's infringement of the Patents-in-Suit through the Noblr System and App has been willful since at least the filing of the SafePilot Suit and remains willful today.

86.   For each count of infringement listed below, Auto Telematics incorporates and re-states the allegations contained in the preceding paragraphs above, including these General Allegations, as if fully set forth in each count of infringement.

COUNT I – INFRINGEMENT OF THE '271 PATENT

87.   Auto Telematics incorporates by reference the allegations made in paragraphs 1–86.

88.   USAA has been and is now directly infringing the '271 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale, and/or importing into the United States products that are covered by and/or that practice the methods described in one or more claims of the '271 Patent, including but not limited to Claims 1 and 6.

89.   For example, the USAA Noblr App uses a customer's mobile telecommunications device and configures it to log driving information associated with a vehicle, as described in Claim 1 of the '271 Patent.

90.   Additionally, for example, USAA maintains a data-logging system for logging driving information received from its customers' remote mobile telecommunications devices that run the Noblr App, as described in Claim 6 of the '271 Patent.

91.   Additionally, USAA has been and is now indirectly infringing the '271 Patent in violation of 35 U.S.C. § 271(b) by inducing its customers to use the Noblr System, including the Noblr App, which itself constitutes direct infringement of the systems and methods described in one or more claims of the '271 Patent. USAA has knowingly and intentionally induced its customers to directly infringe the claims of the '271 Patent at least by (1) providing instructions or information, for example on its publicly available website, to explain how to download and use the Noblr App; and (2) marketing the use of the Noblr App in advertisements, including at least those on USAA's websites. Use of the Noblr App in the manner intended and/or instructed by

USAA infringes the claims of the '271 Patent, including at least Claims 1 and 6. As described above in paragraphs 79–82, USAA has had actual knowledge of the '271 Patent and of Auto Telematics's allegations that USAA infringes the '271 Patent since before the filing of this lawsuit.

92.   Additionally, USAA has been and is now indirectly infringing at least Claims 1 and 6 of the '271 Patent in violation of 35 U.S.C. § 271(c) by providing material components of the inventions claimed in the '271 Patent with knowledge of the '271 Patent. The Noblr System, including the Noblr App, is designed for a use that is both patented and infringing and that has no substantial non-infringing use and is not a staple article of commerce. As described above in paragraphs 79–82, USAA has had actual knowledge of the '271 Patent and of Auto Telematics's allegations that USAA infringes the '271 Patent since before the filing of this lawsuit.

93.   An exemplary claim chart comparing USAA's infringing systems/methods to one or more claims of the '271 Patent is attached as **Exhibit 5** and is incorporated by reference as if fully set forth herein.

94.   As a result of USAA's infringement of the '271 Patent, Auto Telematics has suffered and is owed monetary damages that are adequate to compensate it for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

COUNT II – INFRINGEMENT OF THE '487 PATENT

95.   Auto Telematics incorporates by reference the allegations made in paragraphs 1–86.

96.   USAA has been and is now directly infringing the '487 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale, and/or importing into the United States products that are covered by and/or that practice the methods described in one or more claims of the '487 Patent, including but not limited to Claim 1.

97.   For example, the USAA Noblr App uses a customer's mobile telecommunications device and configures it to log driving information associated with a vehicle, as described in Claim 1 of the '487 Patent.

98.   Additionally, USAA has been and is now indirectly infringing the '487 Patent in violation of 35 U.S.C. § 271(b) by inducing its customers to use the Noblr System, including the Noblr App, which itself constitutes direct infringement of the systems and methods described in one or more claims of the '487 Patent. USAA has knowingly and intentionally induced its customers to directly infringe the claims of the '487 Patent at least by (1) providing instructions or information, for example on its publicly available website, to explain how to download and use the Noblr App; and (2) marketing the use of the Noblr App in advertisements, including at least those on USAA's websites. Use of the Noblr App in the manner intended and/or instructed by USAA infringes the claims of the '487 Patent, including at least Claim 1. As described above in paragraphs 79–82, USAA has had actual knowledge of the '487 Patent and of Auto Telematics's allegations that USAA infringes the '487 Patent since before the filing of this lawsuit.

99.   Additionally, USAA has been and is now indirectly infringing at least Claim 1 of the '487 Patent in violation of 35 U.S.C. § 271(c) by providing material components of the inventions claimed in the '487 Patent with knowledge of the '487 Patent. The Noblr System, including the Noblr App, is designed for a use that is both patented and infringing and that has no substantial non-infringing use and is not a staple article of commerce. As described above in paragraphs 79–82, USAA has had actual knowledge of the '487 Patent and of Auto Telematics's allegations that USAA infringes the '487 Patent since before the filing of this lawsuit.

100.   An exemplary claim chart comparing USAA's infringing systems/methods to one or more claims of the '487 Patent is attached as **Exhibit 6** and is incorporated by reference as if fully set forth herein.

101.   As a result of USAA's infringement of the '487 Patent, Auto Telematics has suffered and is owed monetary damages that are adequate to compensate it for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

COUNT III – INFRINGEMENT OF THE '369 PATENT

102.   Auto Telematics incorporates by reference the allegations made in paragraphs 1–86.

103.   USAA has been and is now directly infringing the '369 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale, and/or importing into the United States products that are covered by and/or that practice the methods described in one or more claims of the '369 Patent, including but not limited to Claim 1.

104.   For example, the USAA Noblr App uses a customer's mobile telecommunications device and configures it to log driving information associated with a vehicle, as described in Claim 1 of the '369 Patent.

105.   Additionally, USAA has been and is now indirectly infringing the '369 Patent in violation of 35 U.S.C. § 271(b) by inducing its customers to use the Noblr System, including the Noblr App, which itself constitutes direct infringement of the systems and methods described in one or more claims of the '369 Patent. USAA has knowingly and intentionally induced its customers to directly infringe the claims of the '369 Patent at least by (1) providing instructions or information, for example on its publicly available website, to explain how to download and use the Noblr App; and (2) marketing the use of the Noblr App in advertisements, including at least those on USAA's websites. Use of the Noblr App in the manner intended and/or instructed by

USAA infringes the claims of the '369 Patent, including at least Claim 1. As described above in paragraphs 79–82, USAA has had actual knowledge of the '369 Patent and of Auto Telematics's allegations that USAA infringes the '369 Patent since before the filing of this lawsuit.

106.   Additionally, USAA has been and is now indirectly infringing at least Claim 1 of the '369 Patent in violation of 35 U.S.C. § 271(c) by providing material components of the inventions claimed in the '369 Patent with knowledge of the '369 Patent. The Noblr System, including the Noblr App, is designed for a use that is both patented and infringing and that has no substantial non-infringing use and is not a staple article of commerce. As described above in paragraphs 79–82, USAA has had actual knowledge of the '369 Patent and of Auto Telematics's allegations that USAA infringes the '369 Patent since before the filing of this lawsuit.

107.   An exemplary claim chart comparing USAA's infringing systems/methods to one or more claims of the '369 Patent is attached as **Exhibit 7** and is incorporated by reference as if fully set forth herein.

108.   As a result of USAA's infringement of the '369 Patent, Auto Telematics has suffered and is owed monetary damages that are adequate to compensate it for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

COUNT IV – INFRINGEMENT OF THE '879 PATENT

109.   Auto Telematics incorporates by reference the allegations made in paragraphs 1–86.

110.   USAA has been and is now directly infringing the '879 Patent in violation of 35 U.S.C. § 271(a) by making, using, selling, offering for sale, and/or importing into the United States products that are covered by and/or that practice the methods described in one or more claims of the '879 Patent, including but not limited to Claims 1 and 21.

111.   For example, the USAA Noblr App uses a customer's mobile telecommunications device and configures it to log driving information associated with a vehicle, as described in Claim 1 of the '879 Patent.

112.   Additionally, for example, the USAA Noblr App constitutes a non-transitory computer readable medium having instructions comprising a software application stored thereon, wherein the instructions are configured to be executed on a processor of a customer's mobile telecommunications device to enable the mobile telecommunications device to log driving information associated with a driver of a vehicle, as described in Claims 1 and 21 of the '879 Patent.

113.   Additionally, USAA has been and is now indirectly infringing the '879 Patent in violation of 35 U.S.C. § 271(b) by inducing its customers to use the Noblr System, including the Noblr App, which itself constitutes direct infringement of the systems and methods described in one or more claims of the '879 Patent. USAA has knowingly and intentionally induced its customers to directly infringe the claims of the '879 Patent at least by (1) providing instructions or information, for example on its publicly available website, to explain how to download and use the Noblr App; and (2) marketing the use of the Noblr App in advertisements, including at least those on USAA's websites. Use of the Noblr App in the manner intended and/or instructed by USAA infringes the claims of the '879 Patent, including at least Claims 1 and 21. As described above in paragraphs 79–82, USAA has had actual knowledge of the '369 Patent and of Auto Telematics's allegations that USAA infringes the '879 Patent since before the filing of this lawsuit.

114.   Additionally, USAA has been and is now indirectly infringing at least Claims 1 and 21 of the '879 Patent in violation of 35 U.S.C. § 271(c) by providing material components of the inventions claimed in the '879 Patent with knowledge of the '879 Patent. The Noblr System,

including the Noblr App, is designed for a use that is both patented and infringing and that has no substantial non-infringing use and is not a staple article of commerce. As described above in paragraphs 79–82, USAA has had actual knowledge of the '879 Patent and of Auto Telematics's allegations that USAA infringes the '879 Patent since before the filing of this lawsuit.

115.   An exemplary claim chart comparing USAA's infringing systems/methods to one or more claims of the '879 Patent is attached as **Exhibit 8** and is incorporated by reference as if fully set forth herein.

116.   As a result of USAA's infringement of the '879 Patent, Auto Telematics has suffered and is owed monetary damages that are adequate to compensate it for the infringement under 35 U.S.C. § 284, but in no event less than a reasonable royalty.

DEMAND FOR A JURY TRIAL

117.   Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Auto Telematics demands a trial by jury on all issues triable of right by a jury.

PRAYER FOR RELIEF

118.   WHEREFORE, Auto Telematics respectfully requests that this Court enter judgment in its favor and grant the following relief:

a.   A judgment that USAA has directly and indirectly infringed one or more claims of each of the Patents-in-Suit;

b.   A judgment that USAA's infringement of the Patents-in-Suit has been willful.

c.   A judgment and order requiring USAA to pay Auto Telematics past and future damages under 35 U.S.C. § 284, including for supplemental damages arising from any continuing post-verdict infringement for the time between trial and entry of the final judgment with an accounting, as needed, as provided by 35 U.S.C. § 284;

d.   A judgment and order requiring USAA to pay Auto Telematics reasonable ongoing royalties on a going-forward basis after final judgment;

e.   A judgment and order requiring USAA to pay Auto Telematics pre-judgment and post-judgment interest on the damages award;

f.   A judgment and order requiring USAA to pay Auto Telematics's costs;

g.   A judgment and order declaring this an exceptional case;

h.   A judgment and order requiring USAA to pay Auto Telematics's attorneys' fees; and

i.   Such other and further relief as the Court may deem just and proper.

Dated: July 17, 2023   Respectfully submitted,

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ANTHONY K. BRUSTER
State Bar No. 24036280
Lead Attorney
SHAWN A. LATCHFORD
State Bar No. 24066603
ANDREW J. WRIGHT
State Bar No. 24063927
EDWARD K. CHIN
State Bar No. 50511688
BRUSTER PLLC
680 North Carroll Avenue, Suite 110
Southlake, Texas 76092
817.601.9564 (telephone)
akbruster@brusterpllc.com
shawn@brusterpllc.com
andrew@brusterpllc.com
ed@brusterpllc.com

MICHAEL B. ANGELOVICH
State Bar No. 00785666
NICHOLAS A. WYSS
State Bar No. 24071459
NIX PATTERSON LLP
3600 North Capital of Texas Highway
Suite B350
Austin, Texas 78746
512.328.5333 (telephone)
mangelovich@nixlaw.com
nwyss@nixlaw.com

STEVEN E. TILLER
Pro hac vice application to be filed
GREGORY M. STONE
Pro hac vice application to be filed
WHITEFORD TAYLOR PRESTON LLP
Seven St. Paul Street
Baltimore, Maryland 21202
410.347.8700 (telephone)
stiller@whitefordlaw.com
gstone@whitefordlaw.com

KARL RUPP
State Bar No. 24035243
SOREY & HOOVER, LLP
100 N. 6th Street, Suite 502
Waco, TX 76701
903.230.5600 (telephone)
krupp@soreylaw.com

COUNSEL FOR PLAINTIFF
AUTO TELEMATICS LTD.