



5775 Morehouse Drive, San Diego, California 92121

**Qualcomm Submittal of Supplemental Information
to the Motor Carrier Safety Advisory Committee (MCSAC)**

RE: Comments and Patent Policy Issue

December 2, 2011

To: David Parker, MCSAC Chairman
RC Powell, EOBR Subcommittee Chairman
Larry Minor, DFO, FMCSA

Comments on Recent Submittal Concerning Security Requirements:

I noticed that there are some additional submittals posted on the MCSAC meetings portal from Continental regarding EOBR security and data transfer via USB with their proprietary solutions. Their "EOBR_TelematicsRisks_1.0 " comments appear to be well off the mark of what we discussed in the EOBR subcommittee meetings and they ignore FMCSA's recommended guidelines for the security and privacy baseline. If the committee has further concerns about EOBR security, I would suggest more in-depth presentations on the security baseline and the telematics approach.

Patent Policy Issue:

A concern that I have with some submittals and the multiple options now suggested for a USB data transfer approach is that they represent proprietary information and are provided in a format where the submitter's intellectual property interest are protected. As you know, I previously recommended that MCSAC implement a patent policy for the EOBR subcommittee process. The policy would have required early disclosure of patents and other intellectual property (IP), consensus that such patents were essential to a technical standard, and a commitment to license accepted patents on a fair, reasonable, and non-discriminatory (FRAND) basis. Because this has not been acted upon, the EOBR subcommittee process has not been subject to a patent policy. As a result, there is risk that undisclosed IP interests will find their way into the proposed rulemaking, particularly relating to a proposed enforcement electronic interface, EOBR security, and certification testing requirements. This risk may significantly delay rulemaking and/or rule implementation.

As a potential solution to this situation, I think it is important that EOBR technical requirements are subjected to a standards process with an effective patent policy to ensure proper patent disclosure and FRAND licensing arrangements, if applicable. There are several options in accomplishing this and it would require commitment and support by FMCSA. I am not sure that this is within the scope of the EOBR subcommittee or MCSAC Task Statement 11-04, but I recommend that FMCSA evaluate and pursue a technical standards approach in further advancing and technical vetting of the MCSAC recommendations report.

Please let me know if I can assist.

Dave Kraft
Director, Industry Affairs
Qualcomm Enterprise Services