

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

FORD MOTOR COMPANY,
Petitioner,

v.

NEO WIRELESS LLC,
Patent Owner.

IPR2023-00763
Patent 10,447,450 B2

Before KATHERINE K. VIDAL, *Under Secretary of Commerce for
Intellectual Property and Director of the United States Patent and
Trademark Office.*

ORDER

Granting Patent Owner's Request for Rehearing of
Sealed Order Regarding *Ex Parte* Communication and
Dismissing Patent Owner's Motion to Seal

The U.S. Patent and Trademark Office (“Office”) became aware of an *ex parte* communication submitted to the Office, which was not properly filed as an authorized paper or exhibit in the above-listed proceeding. An Order issued on December 27, 2023, that entered the *ex parte* communication into the record; the Order and communication were made available to the parties and Board only. Paper 20 (“Order”); Ex. 3102.

Patent Owner filed a Request for Rehearing of the decision to make the Order and Exhibit 3102 available only to the parties and Board, arguing that they should be made public. Paper 21. Patent Owner contends that Exhibit 3102 “does not contain any confidential information, does not purport to contain any confidential information, and was publicly disseminated without confidentiality restrictions nearly a week before the Order.” *Id.* at 2, 5 (“The Letter is not marked as confidential and does not purport to be confidential or to contain any confidential information.”). Patent Owner contends that, because Exhibit 3102 is now part of the record and does not include confidential information, Exhibit 3102 and the Order should be made available to the public. *See id.* at 10 (citing 37 C.F.R. §§ 42.14, 42.54(a)). In this case, I agree with Patent Owner’s arguments and grant Patent Owner’s request. *See* 37 C.F.R. § 42.14 (“The record of a proceeding, including documents and things, shall be made available to the public, except as otherwise ordered.”); *see also* 35 U.S.C. § 316(a)(1). Because I grant Patent Owner’s request, I dismiss as moot Patent’s Owner’s accompanying Motion to Seal the Request for Rehearing. *See* Paper 22.

Although I now designate Exhibit 3102 as publicly available, I have not, and will not, review or consider this inappropriate *ex parte* communication. The Director Review guidelines clearly state that “[t]hird

parties may not request Director Review or submit comments concerning the review of a decision.” Revised Interim Director Review Process § 3.A.¹

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner’s Request for Rehearing (Paper 21) is *granted* and the Order (Paper 20) and Exhibit 3102 are made available to the public; and

FURTHER ORDERED that Patent Owner’s Motion to Seal (Paper 22) is *dismissed*.

¹ Available at www.uspto.gov/patents/ptab/decisions/revised-interim-director-review-process (updated January 19, 2024).

IPR2023-00763
Patent 10,447,450 B2

FOR PETITIONER:

John LeRoy
Christopher Smith
Kyle Konz
BROOKS KUSHMAN P.C.
jleroy@brookskushman.com
csmith@brookskushman.com
kkonz@brookskushman.com

FOR PATENT OWNER:

Kenneth Weatherwax
Parham Hendifar
LOWENSTEIN & WEATHERWAX LLP
weatherwax@lowensteinweatherwax.com
hendifar@lowensteinweatherwax.com

Hamad Hamad
CALDWELL, CASSADY, & CURRY P.C.
hhamad@caldwellcc.com