

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORD MOTOR COMPANY, GENERAL MOTORS LLC, and
NISSAN NORTH AMERICA, INC.,¹
Petitioners,

v.

NEO WIRELESS LLC,
Patent Owner.

Case IPR2023-00763
Patent 10,447,450

PATENT OWNER'S OBJECTIONS PURSUANT TO 37 C.F.R. § 42.64(b)(1)

¹ General Motors LLC and Nissan North America, Inc. were joined as a petitioner to this proceeding based on a petition and motion for joinder filed in IPR2023-00962, which were granted.

Pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”), Patent Owner Neo Wireless LLC hereby objects to the following documents submitted by Petitioner.

Nothing in this paper should be construed as an admission that any rights of Patent Owner would have been waived or forfeited had the paper or any objection herein not been filed, or that 37 C.F.R. § 42.64(b) applies to any of the objections herein if § 42.64(b) would not otherwise apply. The objections herein are premised upon § 42.64 potentially being determined to apply to the document in question, and are submitted solely to preserve the rights of Patent Owner should § 42.64(b) be determined to apply.

1. EXHIBIT 1002

Under FRE 106/1001, 35 U.S.C. § 312(a)(3) & (5), and 37 C.F.R. § 42.51(b)(1), this document is incomplete and is not a copy which accurately reproduces the original.

2. EXHIBIT 1003

Under FRE 401/402/403/702, this document includes testimony not relevant to the instituted review, because, among other things, it has not been shown that the purportedly expert declarant is qualified to testify competently regarding the matters the opinions are said to address, or that the declarant’s testimony is based on sufficient facts or data or arrived at by reliable principles, procedures, or

methods reliably applied to the facts of this case, or that the declarant's opinion will assist the trier of fact to understand the evidence or to determine any fact in issue and does not have a greater potential to mislead than to enlighten. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, this document includes testimony that is not shown to be based on first-hand knowledge including of how relied-upon data was generated, is based on speculation, and constitutes and contains inadmissible hearsay. Under FRE 401/705 and 37 C.F.R. § 42.65, this document includes testimony on patent law and practice.

3. EXHIBIT 1009, 1010, 1012, 1013, 1028

Under FRE 401/402/403 these references are not relevant, including because they do not form a basis of the instituted review.

4. EXHIBIT 1006

The document is relied upon as evidence of prior art or of common knowledge or understanding of persons in the art at the priority date at issue, but is inadmissible because it has not been shown to qualify as prior art under, *inter alia*, 35 U.S.C. § 311(b), and there is a lack of supporting documentation to demonstrate common knowledge or understanding as of the priority date. Under FRE 106/1001, 35 U.S.C. § 312(a)(3) & (5), and 37 C.F.R. § 42.51(b)(1), this document is incomplete and is not a copy which accurately reproduces the original. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, this document constitutes and

contains inadmissible hearsay to the extent Petitioner relies on it for the truth of statements made therein.

5. **EXHIBIT 1007, 1015**

Under FRE 401/402/403 these documents include testimony not relevant to the instituted review, because, among other things, they purport to testify regarding the status of the availability of certain documents at time(s) after the priority date of the patent. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, these documents constitute and contain inadmissible hearsay to the extent Petitioner relies on them for the truth of statements made therein.

6. **EXHIBIT 1008**

Under FRE 401/402/403/702 this document includes testimony not relevant to the instituted review, including because it has not been shown that the purportedly expert declarant is qualified to testify competently regarding the matters the opinions are said to address. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, this document constitutes and contains inadmissible hearsay to the extent Petitioner relies on it for the truth of statements made therein.

7. **EXHIBIT 1014**

Under FRE 401/402/403, this document is inadmissible as irrelevant because, among other things, it does not form a basis of the instituted grounds, and its probative value is outweighed by other considerations including prejudice,

confusion and waste of time. To the extent that the document is relied upon as evidence of prior art or of common knowledge or understanding of persons in the art at the priority date at issue, it is inadmissible because it has not been shown to qualify as prior art under, *inter alia*, 35 U.S.C. § 311(b), and there is a lack of supporting documentation to demonstrate common knowledge or understanding as of the priority date. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, this document constitutes and contains inadmissible hearsay to the extent Petitioner relies on it for the truth of statements made therein.

8. EXHIBITS 1016, 1017, 1026, 1027

Under FRE 401/402/403, these documents are inadmissible as irrelevant because, among other things, they do not form a basis of the instituted grounds, and their probative value is outweighed by other considerations including prejudice, confusion and waste of time. Under FRE 901, these documents are inadmissible because they have not been shown to be authenticated or identified. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, these documents constitute and contain inadmissible hearsay to the extent Petitioner relies on it for the truth of statements made therein.

9. EXHIBITS 1022, 1023, 1024, 1025, 1026, 1027

Under FRE 401/402/403, these documents are inadmissible as irrelevant because, among other things, they do not form a basis of the instituted grounds,

and their probative value is outweighed by other considerations including prejudice, confusion and waste of time. To the extent that the documents are relied upon as evidence of prior art or of common knowledge or understanding of persons in the art at the priority date at issue, they are inadmissible because they have not been shown to qualify as prior art under, *inter alia*, 35 U.S.C. § 311(b), and there is a lack of supporting documentation to demonstrate common knowledge or understanding as of the priority date. Under FRE 901, these documents are inadmissible because they have not been shown to be authenticated or identified. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, these documents constitute and contain inadmissible hearsay to the extent Petitioner relies on it for the truth of statements made therein.

10. Objections to Evidence in IPR2023-00962:

IPR2023-00962 has been joined with IPR2023-00763, and the role of the IPR2023-00962 Petitioner in IPR2023-00763 shall be limited unless and until Ford is terminated from the proceeding in IPR2023-00763. To the extent the role of Petitioner in IPR2023-00962 is changed to an active participant and its exhibits become part of the record, Patent Owner hereby incorporates by reference, as if stated fully herein, all of its objections to exhibits in IPR2023-00763 for the corresponding exhibits in IPR2023-00962.

Furthermore, Patent Owner objects to the additional Exhibit 1029 in IPR2023-00962 as follows: Under FRE 401/402/403/702, this document includes testimony not relevant to the instituted review, because, among other things, it has not been shown that the purportedly expert declarant is qualified to testify competently regarding the matters the opinions are said to address, or that the declarant's testimony is based on sufficient facts or data or arrived at by reliable principles, procedures, or methods reliably applied to the facts of this case, or that the declarant's opinion will assist the trier of fact to understand the evidence or to determine any fact in issue and does not have a greater potential to mislead than to enlighten. Under FRE 602/701/801/802 and 37 C.F.R. § 42.61, this document includes testimony that is not shown to be based on first-hand knowledge including of how relied-upon data was generated, is based on speculation, and constitutes and contains inadmissible hearsay. Under FRE 401/705 and 37 C.F.R. § 42.65, this document includes testimony on patent law and practice.

Respectfully submitted,

/ Kenneth Weatherwax /
Kenneth J. Weatherwax (Reg. No. 54,528)
LOWENSTEIN & WEATHERWAX LLP

Date: September 24, 2024

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the following documents were served by electronic service, by agreement between the parties, on the date below:

PATENT OWNER'S OBJECTIONS PURSUANT TO 37 C.F.R. § 42.64(b)(1)

The names and addresses of the parties being served are as follows:

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Respectfully submitted,

/ Keith Moore /

Date: September 24, 2024