

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE NEO WIRELESS, LLC
PATENT LITIG.

§
§
§
§
§
§
§

2:22-MD-03034-TGB

HON. TERRENCE G. BERG

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Joint Rule 26 Report and Proposed Scheduling Order (Dkt. 84), the parties submit this Joint Claim Construction Statement.

Exhibit A attached hereto identifies the agreed claim terms. Exhibit B attached hereto identifies the disputed claim terms, the party that proposed the disputed claim term, and the proposed construction of the respective parties for each disputed claim term.

Date: January 18, 2023

Respectfully submitted,

/s/ Paul R. Steadman

Paul R. Steadman
(Illinois Bar No. 6238160)
Matthew Satchwell
(Illinois Bar No. 6290672)
Shuzo Maruyama
(Illinois Bar No. 6313434)
DLA PIPER LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Tel: 312.368.2135
Fax: 312.251.2850
paul.steadman@us.dlapiper.com
matthew.satchwell@us.dlapiper.com
shuzo.maruyama@us.dlapiper.com

Brian Erickson (Texas Bar No. 24012594)
DLA PIPER LLP (US)
303 Colorado Street, Suite 3000
Austin, Texas 78701-4653
Tel: 512.457.7059
Fax: 512.721.2263
brian.erickson@us.dlapiper.com

Counsel for Defendants Toyota Motor Corporation, Toyota Motor North America, Inc., Toyota Motor Sales, U.S.A., Inc. and Toyota Motor Engineering & Manufacturing North America, Inc. and Toyota Motor Credit Corporation

/s/ Joseph A. Herriges

Joseph A. Herriges
MN Bar No. 390350
Conrad A. Gosen
MN Bar No. 0395381
James Huguenin-Love

/s/ Jason D. Cassady

Jason D. Cassady
Texas State Bar No. 24045625
Email: jcassady@caldwellcc.com
Christopher S. Stewart
Texas State Bar No. 24079399
Email: cstewart@caldwellcc.com
Daniel R. Pearson
Texas State Bar No. 24070398
Email: dpearson@caldwellcc.com
Bailey A. Blaies
Texas State Bar No. 24109297
Email: bblaies@caldwellcc.com

**CALDWELL CASSADY CURRY
P.C.**

2121 N. Pearl St., Suite 1200
Dallas, Texas 75201
Telephone: (214) 888-4848
Facsimile: (214) 888-4849

Jaye Quadrozzi (P71646)

**YOUNG, GARCIA &
QUADROZZI, PC**

2775 Stansbury Blvd., Suite 125
Farmington Hills, MI 48334
Telephone: (248) 353-8620
Email: quadrozzi@youngpc.com

***Attorneys for Plaintiff
NEO WIRELESS, LLC***

/s/ Matthew J. Moore

Matthew J. Moore
Michael A. David
Benjamin L. Smith
LATHAM & WATKINS LLP
555 Eleventh Street NW, Suite 1000

MN Bar No. 0398706
FISH & RICHARDSON P.C.
60 South Sixth Street, 3200 RBC Plaza
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696
herriges@fr.com, gosen@fr.com,
huguein-love@fr.com

Michael J. McKeon, DC Bar No. 459780
Christian Chu, DC Bar No. 483948
Jared Hartzman, DC Bar No. 1034255
Joshua Carrigan, VA Bar No. 96911
FISH & RICHARDSON P.C.
1000 Maine Avenue SW, Suite 1000
Washington, DC 20024
Telephone: (202) 783-5070
Facsimile: (202) 783-2331
mckeon@fr.com, chu@fr.com,
hartzman@fr.com, carrigan@fr.com

J. Michael Huget (P39150)
Sarah E. Waidelich (P80225)
HONIGMAN LLP
315 East Eisenhower Parkway
Suite 100
Ann Arbor, MI 48108
Tel: (734) 418-4254
Fax: (734) 418-4255
mhuget@honigman.com,
swaidelich@honigman.com

***Counsel for Defendants General Motors
Company and General Motors LLC***

/s/ Celine J. Crowson
Celine J. Crowson
(DC Bar No. 0436549A)
Hogan Lovells US LLP
555 Thirteenth St, NW

Washington, DC 20004
Tel: (202) 637-2000
Fax: (202) 637-2201
matt.moore@lw.com
michael.david@lw.com
ben.smith@lw.com

Clement J. Naples
LATHAM & WATKINS LLP
1271 Avenue of the Americas
New York, NY 10020
Tel: (212) 906-1200
Fax: (212) 751-4864
clement.naples@lw.com

Gabrielle A. LaHatte
LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
Tel: (415) 391-0600
Fax: (415) 395-8095
gabrielle.lahatte@lw.com

***Attorneys for Defendant Ford
Motor Company***

/s/ Thomas H. Reger II
Thomas H. Reger II
Texas Bar No. 24032992
reger@fr.com
FISH & RICHARDSON P.C.
1717 Main Street, Suite 5000
Dallas, TX 75201
Telephone: (214) 747-5070

Lawrence Jarvis
Georgia Bar No. 102116
jarvis@fr.com
FISH & RICHARDSON P.C.

Washington, DC 20004
Telephone: (202) 637-5703
Facsimile: (202) 637-5910
Email: celine.crowson@hoganlovells.com

***Counsel for Defendant Mercedes-Benz
USA, LLC***

/s/ Frank C. Cimino, Jr.

Frank C. Cimino, Jr.
Megan S. Woodworth
Jonathan L. Falkler
Robert C. Tapparo
VENABLE LLP
600 Massachusetts Avenue, NW
Washington, DC 20001
(202) 344-4569
FCCimino@Venable.com
MSWoodworth@Venable.com
JLFalkler@Venable.com
RCTapparo@Venable.com

Patrick G. Seyferth (P47575)
Susan M. McKeever (P73533)
BUSH SEYFERTH PLLC
100 W. Big Beaver Road, Suite 400
Troy, MI 48084
(248) 822-780
seyferth@bsplaw.com
mckeever@bsplaw.com

Attorneys for FCA US LLC

/s/ Reginald J. H

Reginald J. Hill (IL Bar #6225173)
Peter J. Brennan (IL Bar #6190873)
JENNER & BLOCK LLP
353 N. Clark St.
Chicago, IL 60654
Telephone: (312) 222-9350

1180 Peachtree Street NE, 21st
Floor
Atlanta, Georgia 30309
Telephone: (404) 892-5005
Facsimile: (404) 892-5002

Elizabeth Ranks
Massachusetts Bar No. 693679
ranks@fr.com
FISH & RICHARDSON P.C.
1 Marina Park Drive
Boston, Massachusetts 02210
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

J. Michael Huget (P39150)
Sarah E. Waidelich (P80225)
HONIGMAN LLP
315 East Eisenhower Parkway
Suite 100
Ann Arbor, MI 48108
Tel: (734) 418-4254
mhuget@honigman.com
swaidelich@honigman.com

Counsel for Defendant Tesla, Inc.

rhill@jenner.com
pbrennan@jenner.com

Counsel for Defendants
NISSAN NORTH AMERICA INC.
AND NISSAN MOTOR
ACCEPTANCE CORPORATION a/k/a
NISSAN MOTOR ACCEPTANCE
COMPANY LLC

/s/ John T. Johnson
John T. Johnson
FISH & RICHARDSON P.C.
7 Times Square, 20th Floor
New York, NY 10036
Telephone: (212) 765-5070
Facsimile: (212) 258-2291
E-mail: jjohnson@fr.com

Ruffin B. Cordell
Benjamin J Christoff
FISH & RICHARDSON P.C.
1000 Maine Avenue, S.W.
Suite 1000 Washington, D.C. 20024
Telephone: (202) 783-5070
Facsimile: (202) 783-2331
E-mail: Cordell@fr.com

Thomas Branigan (P41774)
Bowman and Brooke LLP
41000 Woodard Avenue, 200 East
Bloomfield Hills, MI 48304
Telephone: (248) 205-3300
Facsimile: (248) 205-3399
thomas.branigan@bowmanandbrooke.com

Counsel for Defendants
AMERICAN HONDA MOTOR CO.,
INC. AND HONDA DEVELOPMENT

/s/Daniel E. Yonan
Susan M. McKeever
Justin B. Weiner
Bush Seyferth PLLC
100 West Big Beaver Road
Suite 400
Troy, MI 48084
(248) 822-7851
mckeever@bsplaw.com
weiner@bsplaw.com

Daniel E. Yonan
Deirdre M. Wells
Ryan C. Richardson
William H. Milliken
Anna G. Phillips
Sterne, Kessler, Goldstein & Fox
P.L.L.C
1100 New York Avenue NW
Suite 600
Washington, DC 20005
(202) 371-2600
dyonan@sternekessler.com
dwells@sternekessler.com
rrichardson@sternekessler.com
wmilliken@sternekessler.com
aphillips@sternekessler.com

Counsel for Defendants
Volkswagen Group of America, Inc.

**& MANUFACTURING OF
AMERICA, LLC**

***and Volkswagen Group of America
Chattanooga Operations, Inc.***

CERTIFICATE OF SERVICE

The undersigned certifies that on January 18, 2023, the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

/s/ Jason D. Cassady
Jason D. Cassady

Exhibit A

Exhibit A

Agreed Claim Terms¹²

#	Claim Term	Claims	Joint Proposed Construction
1	“In a multi-cell orthogonal frequency division multiple access (OFDMA) wireless communication system comprising a plurality of base stations and mobile stations, a mobile station configured to communicate with a serving base station in a cell via a communication	’366 Patent, Claim 1	The preamble is limiting. Plain and ordinary meaning.

¹ Volkswagen Grp. of Am., Inc. and Volkswagen Grp. of Am. Chattanooga Operations, LLC, do not take a position on the proposed constructions for any of the Agreed Claim Terms. That said, Volkswagen Grp. of Am., Inc. and Volkswagen Grp. of Am. Chattanooga Operations, LLC understand that they will be bound by any claim construction ruling set forth by the Court.

² Neo Wireless objects to the Volkswagen Defendants’ decision to take no position on any claim terms (contravening the parties’ agreed Discovery Plan, which Volkswagen signed). This is an attempt by the Volkswagen Defendants, in the IPRs that they alone filed, to adopt broad interpretations to support their invalidity positions; while accepting the benefit of the other Defendants’ narrow, incompatible interpretations in this Court to support their non-infringement positions. It is especially bizarre in the context of this Exhibit, which presents *agreed* claim constructions (that one defendant apparently does not agree to). Neo is continuing to meet and confer with Volkswagen about this issue.

Exhibit A

	channel, the mobile station comprising:”		
2	“In an orthogonal frequency division multiple access (OFDMA) wireless communication system, a method for signal transmission by a mobile station to a serving base station via a communication channel, the method comprising:”	’366 Patent, Claim 17	The preamble is limiting. Plain and ordinary meaning.
3	“A mobile station comprising:”	’908 Patent, Claim 1	The preamble is limiting. Plain and ordinary meaning.
4	“A mobile device in a wireless packet system using a frame structure of multiple frames for transmission, each frame comprising a plurality of time intervals, each time	’450 Patent, Claim 7	The preamble is limiting. Plain and ordinary meaning.

Exhibit A

	interval comprising a plurality of orthogonal frequency division multiplexing (OFDM) symbols, and each OFDM symbol containing a plurality of frequency subcarriers, the mobile device configured to:”		
5	“A link adaption method by a mobile station served by a serving base station in an Orthogonal Frequency Division Multiplexing (OFDM) communication system, the communication system utilizing a transmission structure with time slots in the time domain and frequency subchannels in the frequency domain, the method comprising:”	’941 Patent, Claim 8	The preamble is limiting. Plain and ordinary meaning.

Exhibit A

6	“A mobile station served by a serving base station in an Orthogonal Frequency Division Multiplexing (OFDM) communication system, the communication system utilizing a transmission structure with time slots in the time domain and frequency subchannels in the frequency domain, the mobile station comprising a receiver configured to:”	’941 Patent, Claim 13	The preamble is limiting. Plain and ordinary meaning.
7	“A mobile device in an Orthogonal Frequency Division Multiplexing (OFDM) communication system, the mobile device comprising”	’302 Patent, Claim 23	The preamble is limiting. Plain and ordinary meaning.
8	“An orthogonal frequency division multiple access	’512 Patent, Claim 15	The preamble is limiting. Plain and ordinary meaning.

Exhibit A

	(OFDMA)-compatible mobile station that uses subcarriers in a frequency domain and time slots in a time domain, the OFDMA-compatible mobile station comprising:”		
9	A method performed by an orthogonal frequency division multiple access (OFDMA)-compatible mobile station that uses subcarriers in a frequency domain and time slots in a time domain, the method comprising:	’512 Patent, Claim 23	The preamble is limiting. Plain and ordinary meaning.
10	“time-frequency coordinate”	’450 Patent, Claim 7	“one-dimensional time-frequency coordinate”
11	“wherein modular coding is applied to the time-frequency resource units in the segment of	’450 Patent, Claim 11	“wherein a modular coding scheme is applied to the time-frequency resource units in the segment of time-frequency resource”

Exhibit A

	time-frequency resource”		
--	-----------------------------	--	--

Exhibit B

Exhibit B**Disputed Claim Terms**¹²

#	Proposed By	Claim Term	Claims	Plaintiff's Proposed Construction	Defendants' Proposed Construction
1	Defendants	"configured to"	'366 Patent, Claims 1 & 5; '908 Patent, Claims 1–3 & 9; '450 Patent, Claim 7; '941 Patent, Claims 13 & 14; '302 Patent, Claim 23; '512 Patent, Claim 15	Plain and ordinary meaning. No construction necessary. Alternatively, if a construction is necessary: An apparatus/element is "configured to" perform a function if it includes hardware and/or software enabling the	"designed to"

¹ Volkswagen Grp. of Am., Inc. and Volkswagen Grp. of Am. Chattanooga Operations, LLC, do not take a position on the proposed constructions for any of the Disputed Claim Terms. That said, Volkswagen Grp. of Am., Inc. and Volkswagen Grp. of Am. Chattanooga Operations, LLC understand that they will be bound by any claim construction ruling set forth by the Court.

² Neo Wireless objects to the Volkswagen Defendants' decision to take no position on any claim terms (contravening the parties' agreed Discovery Plan, which Volkswagen signed). This is an attempt by the Volkswagen Defendants, in the IPRs that they alone filed, to adopt broad interpretations to support their invalidity positions; while accepting the benefit of the other Defendants' narrow, incompatible interpretations in this Court to support their non-infringement positions. Neo is continuing to meet and confer with Volkswagen about this issue.

Exhibit B

				apparatus/element to perform the function.	
2	Defendants	“the ranging signal exhibits a low peak-to-average power ratio in the time domain”	’366 Patent, Claims 1 & 17	Plain and ordinary meaning. No construction necessary. Alternatively, to the extent construction is deemed necessary, “exhibits a low peak-to-average power ratio in the time domain” means “exhibits a peak-to-average power ratio in the time domain of 9dBs or less.”	Indefinite.
3	Defendants	“a ranging sequence selected from a set of ranging sequences”	’366 Patent, Claims 1 & 17	Plain and ordinary meaning. No construction necessary.	“a ranging sequence selected by said apparatus from a set of ranging sequences”
4	Jointly Proposed	“wherein the portion of the frequency band used for transmission of the	’908 Patent, Claim 4	“wherein the portion of the frequency band used for transmission of the random access signal does not overlap	“wherein the portion of the frequency band used for transmission of the random access signal does not

Exhibit B

		random access signal does not include control channels”		with the portions of the frequency band used for control channels”	include channels carrying control information”
5	Defendants	“associated with”	’908 Patent, Claims 1–2 & 9	Plain and ordinary meaning. No construction necessary.	“identifying”
6	Defendants	“random access signal”	’908 Patent, Claims 1–2, 4, & 6–9	Plain and ordinary meaning. No construction necessary.	“direct sequence spread spectrum signal”
7	Defendants	“time-frequency resource unit”	’450 Patent, Claims 7 & 11	Plain and ordinary meaning. No construction necessary.	“a combination of time and frequency units designed according to the application requirements of the application that is being grouped”

Exhibit B

8	Jointly Proposed	“the antenna transmission scheme comprising a transmission diversity scheme or a multiple-input multiple-output (MIMO) scheme”	’941 Patent, Claims 8 & 13	“the antenna transmission scheme is capable of comprising either a MIMO scheme or a transmission diversity scheme other than MIMO. To avoid any doubt, this requires supporting both MIMO and non-MIMO transmission diversity systems.”	“the mobile-station specific transmission parameters alternatively indicate an antenna transmission scheme that comprises a MIMO scheme or an antenna transmission scheme comprising a transmission diversity scheme other than MIMO, wherein the antenna transmission scheme is capable of comprising either a MIMO scheme or a transmission diversity scheme other than MIMO. To avoid any doubt, this requires supporting both MIMO and non-MIMO transmission diversity systems.”
---	------------------	--	----------------------------	---	--

Exhibit B

9	Jointly Proposed	“the mobile station-specific transmission parameters indicate ... a corresponding subchannel configuration ... the corresponding subchannel configuration characterized by distributed subcarriers or localized subcarriers in the frequency domain”	’941 Patent, Claims 8 & 13	“the mobile station-specific transmission parameters indicate ... a corresponding subchannel configuration .. the corresponding subchannel configuration characterized by distributed subcarriers or localized subcarriers in the frequency domain, wherein the subchannel configuration is capable of comprising either localized or distributed subcarriers. To avoid any doubt, this requires supporting both localized and distributed subchannel configurations.”	“the mobile station-specific transmission parameter alternatively indicates either distributed subcarriers or localized subcarriers in the frequency domain as subchannel configurations”
---	------------------	---	---------------------------------------	---	--

Exhibit B

10	Defendants	“probing signal”	’302 Patent, Claims 23–24, 26, & 28	Plain and ordinary meaning. No construction necessary.	“direct sequence spread spectrum signal”
11	Jointly Proposed	“the probing signal is configured to occupy a portion of spectrum in the uplink frequency band not designated for transmission of uplink control signals in the system”	’302 Patent, Claim 23	“the probing signal is configured to reside within a portion of spectrum in the uplink frequency band not designated for transmission of uplink control signals in the system.”	“the probing signal is configured to occupy a portion of spectrum in the uplink frequency band not designated for transmission of uplink control signals in the Orthogonal Frequency Division Multiplexing (OFDM) communication system”
12	Defendants	“a receiver configured to receive a request for a probing signal from a base station in the system”	’302 Patent, Claim 23	Plain and ordinary meaning. No construction necessary.	“a receiver configured to receive a request for a probing signal from a base station in the Orthogonal Frequency Division Multiplexing (OFDM) communication system”

Exhibit B

13	Defendants	“the probing signal is configured to overlap, in the time domain, with uplink signals transmitted over an uplink frequency band by other mobile devices in the system”	’302 Patent, Claim 23	Plain and ordinary meaning. No construction necessary.	“the probing signal is configured to overlap, in the time domain, with uplink signals transmitted over an uplink frequency band by other mobile devices in the Orthogonal Frequency Division Multiplexing (OFDM) communication system”
14	Plaintiff	“wherein the first plurality of subcarriers and the second plurality of subcarriers are received in at least one of the time slots”	’512 Patent, Claims 15 & 23	“wherein the first plurality of subcarriers and the second plurality of subcarriers are received in at least one of the same time slots”	Plain and ordinary meaning.
15	Defendants	“second pilots of a second type”	’512 Patent, Claims 15 & 23	Plain and ordinary meaning. No construction necessary.	“pilots possessing a set of characteristics common to all base stations of the system”