

**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

JURY TRIAL DEMANDED

NOTICE OF RELATED FOREIGN PROCEEDING

Defendants file this notice regarding the recent withdrawal by Neo Wireless LLC (“Neo”) of its foreign proceedings against Tesla, Ford, FCA, Nissan, and Toyota regarding Neo’s European Patent 3 876 490 (“the EP 490 patent”). Neo’s EP 490 patent is the European counterpart to U.S. Patent 10,833,908 (“the ’908 patent”) asserted against the Defendants in this case.¹

On May 8, 2023, Neo’s German affiliate brought an infringement action against Tesla (and identical infringement actions against Ford, FCA, Nissan, and Toyota) in Germany requesting an injunction based on the EP 490 patent. During a hearing on April 30, 2024 regarding Neo’s infringement allegation, the German Court stated that the EP 490 patent is not infringed by a device implementing the LTE standard because the LTE standard lacks “the random access signal is a spread spectrum signal” required in the asserted claim of the EP 490 patent. Upon hearing this, Neo immediately withdrew its infringement action against Tesla regarding the EP 490 patent and was ordered to pay Tesla’s costs in defending against the action. After the hearing, Neo withdrew its parallel German infringement actions regarding the EP 490 patent against the German affiliates of MDL Defendants Ford, FCA, Nissan, and Toyota.

¹ The EP 490 patent and the ’908 patent share the same inventors and the same specification.

Neo’s decision to withdraw its German infringement actions against Tesla, Ford, FCA, Nissan, and Toyota following the German court’s remarks at the April 30, 2024 hearing is relevant to the MDL before this Court because the EP 490 patent claim term “the random access signal is a spread spectrum signal” is very similar to the ’908 patent’s claim term “random access signal,” which this Court has construed as “a direct sequence spread spectrum signal used as a random access signal.” (*Markman* Order, Dkt. 198 at 54-62.) Throughout this MDL, Defendants have asserted, consistent with the German Court’s statement, that the LTE standard does not practice “a direct sequence spread spectrum signal used as a random access signal” as required by the ’908 patent—the U.S. counterpart of the EP 490 patent.²

² Neo’s asserted ’302 patent is in the same “patent family” as the asserted ’908 patent, and similarly requires “a direct sequence spread spectrum signal used as a probing signal.” (*Markman* Order, Dkt. 198 at 81-89.) Defendants assert the ’302 patent is not infringed by the LTE standard for the same reason as the ’908 patent, i.e., the LTE standard does not implement a direct sequence spread spectrum signal for the reason expressed by the German Court at the April 30, 2024 hearing.

Dated: May 8, 2024

Respectfully submitted,

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