

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE: NEO WIRELESS, LLC,
PATENT LITIGATION

Case No. 2:22-MD-03034-TGB
HON. TERRENCE G. BERG

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56, Ford Motor Company (“Ford”), General Motors Company and General Motors LLC (collectively “GM”), Tesla, Inc. (“Tesla”), Nissan North America Inc. and Nissan Motor Acceptance Corporation a/k/a Nissan Motor Acceptance Company LLC (collectively “Nissan”), FCA US LLC (“FCA”), 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 (collectively “Toyota”), and American Honda Motor Co., Inc. and Honda Development & Manufacturing of America, LLC (collectively “Honda”) (together the “Defendants”) hereby move for summary judgment against Neo Wireless LLC (“Neo”) on the following grounds:

- (1) No infringement of Neo’s asserted U.S. Patent Nos. 10,075,941, 10,447,450, 10,771,302 and 10,833,908 (the “Asserted Patents”);
- (2) No damages prior to commencement of suit for failure to mark patented products pursuant to 35 U.S.C. § 287 (a); and
- (3) No willful patent infringement.

Defendants rely on the accompanying Brief in Support of this motion for summary judgment.

CONCURRENCE PURSUANT TO L.R. 7.1(a)

Pursuant to L.R. 7.1(a), the parties met-and-conferred telephonically on June 14, 2024 regarding the relief sought in this Motion. Neo did not concur on any of the relief requested herein.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

IN RE: NEO WIRELESS, LLC,
PATENT LITIGATION

Case No. 2:22-MD-03034-TGB
HON. TERRENCE G. BERG

**BRIEF IN SUPPORT OF DEFENDANTS’
MOTION FOR SUMMARY JUDGMENT**

TABLE OF CONTENTS

TABLE OF AUTHORITIES	iii
CONCISE STATEMENT OF THE CASE	iv
I. INTRODUCTION	1
II. STATEMENT OF MATERIAL FACTS	3
A. The Inventors Did Not Participate in the Development of the 4G LTE Standard that Neo Accuses of Infringement	3
B. Non-Infringement of the '908 and '302 Patents	3
C. Non-Infringement of the '941 Patent	8
D. Non-Infringement of the '450 Patent	9
E. No Pre-Suit Damages and No Willful Infringement.....	11
III. ARGUMENT.....	14
A. The Accused Products Do Not Infringe the '302 and '908 Patents	14
1. The Accused Products Do Not Practice the Court's "DSSS" Construction for the '908 and '302 Patents	14
a. DSSS Signals Are Generated by Multiplying Information Bits and a Spreading Sequence.....	15
b. The accused 4G/LTE signals are not DSSS signals	18
c. The Accused Products Do Not Meet the DSSS Construction Under the Doctrine of Equivalents	22
2. The Accused Products Do Not Meet the "assigned by" Limitation of the '908 Patent	24
B. The Accused Products Do Not Infringe the '941 Patent.....	28
C. The Accused Products Do Not Infringe the '450 Patent.....	32
D. Neo Is Not Entitled to Pre-Suit Damages Under 35 U.S.C. § 287(A).....	34
1. The Marking Requirement of 35 U.S.C. § 287.....	34
2. Neo Is Not Entitled to Pre-Suit Damages	35
a. The <i>Arctic Cat</i> Letter Identified the Unmarked, Licensed Products	36

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.