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

IN RE NEO WIRELESS, LLC PATENT LITIG.	8 8 8 8 8	2:22-MD-03034-TGB HON. TERRENCE G. BERG
NEO WIRELESS, LLC,	§ §	2:22-CV-11403-TGB
Plaintiff,	000000000000000000000000000000000000000	
	§	
v.	§	HON. TERRENCE G. BERG
AMEDICAN HONDA MOTOD	§	
AMERICAN HONDA MOTOR CO., INC. & HONDA	8	
DEVELOPMENT &	8	
MANUFACTURING OF	\$ {	HIDWEDIAL DEMANDED
AMERICA, LLC,	§	JURY TRIAL DEMANDED
	§	
Defendants.	§	
NEO WIRELESS, LLC,	§ §	2:22-CV-11405-TGB
Plaintiff,	8 8 8 8 8	
	§	
V.	§	
NIGGANANOPENAANEPAGA		HON. TERRENCE G. BERG
NISSAN NORTH AMERICA INC. & NISSAN MOTOR	§	
ACCEPTANCE CORPORATION	§ §	
a/k/a NISSAN MOTOR		HIDV TOLAL DEMANDED
ACCEPTANCE COMPANY	\$ \$ \$ \$ \$	JURY TRIAL DEMANDED
LLC,	§	
Defendants.	§	



# PLAINTIFF NEO WIRELESS, LLC'S RESPONSE TO DEFENDANTS HONDA AND NISSAN'S MOTION TO DISMISS PLAINTIFF'S CLAIMS OF WILLFUL AND INDUCED PATENT INFRINGEMENT



# TABLE OF CONTENTS

I.	IN	TRO	DDUCTION	1
II.	WI	LLI	FULNESS AND INDUCEMENT FACTUAL ALLEGATIONS	4
III.	AP	PLI	CABLE STANDARD	6
IV.	AR	RGU	MENT	7
	A. Defendants' Pre-Suit Knowledge Coupled With Its Subsequent Actions Allows This Court To Plausibly Infer Honda And Nissa Willfully Infringed.			
		1.	Neo Plausibly Alleged Defendants Received Pre-Suit Notice of the Asserted Patents	8
		2.	Defendants' Pre-Suit Knowledge Coupled With Their Subsequent Actions Further Allows the Court to Infer Defendants' Culpability.	11
		3.	At a Minimum, Neo has Plausibly Alleged Intentional Infringement Since the Filing of the Original Complaint	14
	В.		o Adequately Pleaded that Defendants Had Knowledge of and couraged Others to Directly Infringe the Asserted Patents	16
		1.	Neo Sufficiently Alleged Honda and Nissan Had Both Pre-Suit and Post-Suit Knowledge of the Asserted Patents.	17
		2.	Neo Sufficiently Alleged Honda and Nissan Intended to Induce Infringement Through a Numerous Concrete Facts and Examples.	19
	C.	In	the Alternative, Neo Requests Leave to Amend	
V	CC	NC	LUSION	23



## **TABLE OF AUTHORITIES**

### Cases

Addiction & Detox. Inst., LLC v. Aharonov 2015 WL 631959 (E.D. Mich. Feb. 13, 2015)
Ashcroft v. Iqbal 556 U.S. 662 (2009)
Bayer Healthcare LLC v. Baxalta Inc. 989 F.3d 964 (Fed. Cir. 2021)
Bell Atlantic Corp. v. Twombly 550 U.S. 544 (2007)
BillJCo, LLC v. Apple Inc. No. 6:21-CV-00528-ADA, 2022 WL 299733 (W.D. Tex. Feb. 1, 2022)15
Brice Env. Servs. Corp. v. Arcadis U.S., Inc. 2022 WL 1032930 (D. Alaska Apr. 6, 2022)12
Crehan v. Countrywide Bank, FSB No. 1:11 CV 613, 2012 WL 4341049 (W.D. Mich. Feb. 15, 2012)
DSU Med. Corp. v. JMS Co., Ltd. 471 F.3d 1293 (Fed. Cir. 2006)19
Eko Brands, LLC v. Adrian Rivera Maynez Enter., Inc. 946 F.3d 1367 (Fed. Cir. 2020)
Ericsson Inc. v. TCL Comm. Tech. Holdings, Ltd. 2017 WL 5137401 (E.D. Tex. Nov. 4, 2017)
Georgetown Rail Equip. Co. v. Holland L.P. 867 F.3d 1229 (Fed. Cir. 2017)
Halo Elecs., Inc. v. Pulse Elecs., Inc. 579 U.S. 93 (2016)



Hilgraeve, Inc. v. Symantec Corp. 272 F. Supp. 2d 613 (E.D. Mich. 2003)	1
Hill v. Snyder 878 F.3d 193 (6th Cir. 2017)	6
In re Bill of Lading Transmission & Proc. Sys. Patent Lit. 681 F.3d 1323 (Fed. Cir. 2012)	7, 16, 17
In re Seagate Tech., LLC 497 F.3d 1360 (Fed. Cir. 2007)	1, 15
IOENGINE, LLC v. PayPal Holdings, Inc. 2019 WL 330515 (D. Del. Jan. 25, 2019)	3, 11, 15
JDS Techs., Inc. v. Avigilon USA Corp. 2015 WL 3603525 (E.D. Mich. June 15, 2015)	10, 11, 17
John Keeler & Co., Inc. v. Heron Point Seafood, Inc. 2016 WL 6839615 (N.D. Ohio July 8, 2016)	11
Lifetime Indus., Inc. v. Trim–Lok, Inc. 869 F.3d 1372 (Fed. Cir. 2017)	16
Malibu Boats, LLC v. MasterCraft Boat Co., LLC No. 3:16-cv-82-TAV-HBG 2016 WL 8286158 (E.D. Tenn. Oct. 28, 2016)	10, 11
Mentor Graphics Corp. v. EVE-USA, Inc. 851 F.3d 1275 (Fed. Cir. 2017)	
Michigan Motor Techs. LLC v. Volkswagen Aktiengesellschaft 472 F. Supp. 3d 377 (E.D. Mich. 2020)	passim
Nalco Co. v. Chem-Mod, LLC 883 F.3d 1337 (Fed. Cir. 2018)	16, 20
National Institute for Strategic Tech. Acquisition & Commercialization v. Nissan of N. Am. No. 11-11039, 2012 WL 3600289 (F.D. Mich. Aug. 21, 2012)	10 20 21



# DOCKET

# 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.

