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November 24, 2014

VIA ELECTRONIC MAIL ONLY (annmarie.wahls@lw.com)

Ann Marie Wahls, Esquire
Latham & Watkins LLP
330 North Wabash Avenue
Chicago, Illinois 60611

Re: Paice/Ford

Dear Ms. Wahls:

I am writing in response to your letter of October 16 to Jim Ulwick asking Plaintiffs to limit their patent claims in the Maryland litigation (now stayed per Ford's request), and offering in return to somehow reduce the number and complexity of the IPR proceedings Ford is pursuing.

I begin with a brief review of Ford's well-deserved reputation for maximizing burden and expense for use as a litigation weapon against individual inventors like Dr. Severinsky and small companies like Paice and The Abell Foundation. Ford's indefensible treatment of Robert Kearns and his "Flash of Genius" windshield wiper invention provided an entire generation of patent professionals with new motivation to make our system of justice work more efficiently. Any rational review of that record reveals that Ford used every possible device to impose delay and expense upon Dr. Kearns, resulting in a decade-long litigation that ultimately proved Ford had indeed unlawfully taken his technology. I had the privilege of representing Dr. Kearns in one of his follow-on cases and know first-hand how wasteful and destructive Ford's litigation behavior was in that case. Ford's treatment of the Explorer rollover plaintiffs was in a similar vein; time after time, Ford pressed specious defenses against injured people long after Ford's Explorer product had been established as defective. Paice and The Abell Foundation had hoped that Ford had perhaps abandoned these tactics, but it seems those hopes remain unfulfilled.

Your proposal asking Plaintiffs to unilaterally limit their claims seems little more than another Ford litigation tactic for several reasons. First, you know that Plaintiffs had proposed an efficient schedule in the Maryland litigation under which Plaintiffs would have limited the number of claims at issue after fact discovery and the issuance of the Court's claim construction ruling. Rather than pursue that process, which would have provided a fast and low-cost path to

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limiting and resolving this case, Ford instead successfully convinced the Court to stay the entire Maryland case, ensuring that the time, cost and burden of this matter will be maximized. In fact, a significant part of Ford's argument was that a stay was appropriate *because of the large number of claims in the litigation*. Now having achieved Ford's chosen procedural avenue, Ford repudiates the basis of its stay bargain, asking that Plaintiffs unilaterally limit their claims without the benefit of discovery or claim construction. Tellingly, Ford makes no offer here to produce discovery or otherwise inform the process so that Plaintiffs could make a rational decision on which claims to designate.

Second, your offer comes in the midst of what can only be described as a breathtaking abuse of the USPTO's post-grant review processes. Ford has filed ten separate IPR petitions, often attacking the same patents and claims over repeated combinations in each IPR petition, and in successive IPR petitions. Rather than focus on the best prior art and arguments, Ford's intention is to simply make the process as burdensome and expensive as possible. Again, any impartial observer would be convinced that Ford seeks primarily to outspend Paice and The Abell Foundation, as well as to needlessly tax the resources of the Patent Trial and Appeal Board. Ford making the suggestion that Plaintiffs should somehow sacrifice rights to minimize the burden Ford itself has willfully created is ironic indeed. It is true that Judge Quarles declined to preliminarily enjoin Ford from proceeding with its scorched-earth IPR strategy; however, Ford still stands in breach of the parties' 2010 Arbitration Agreement and Plaintiffs intend to seek all available remedies for that breach once the stay in the Maryland litigation is lifted.

Finally, Ford had the perfect opportunity to minimize the burden and cost of this case through the parties' 2010 Arbitration Agreement. Recall that Ford had the unilateral right to take *all* of Plaintiffs' claims to binding arbitration that the parties had agreed would be completed within a matter of months. Instead, Ford chose litigation to maximize the burden and expense of the matter to better enable Ford to pursue its strategy to use burden and cost as a weapon. We have offered several times to renew the prospect of arbitration but to date Ford has not agreed to arbitrate.

I am happy to discuss any of this by phone if you find that more convenient.

Sincerely,

/s/ Ruffin B. Cordell

Ruffin B. Cordell