

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

PAICE LLC and THE ABELL FOUNDATION  
INC.,

*Plaintiffs,*

v.

BAYERISCHE MOTOREN WERKE A.G., and  
BMW OF NORTH AMERICA, LLC,

*Defendants.*

C.A. No. 19-CV-3348-SAG

**DEFENDANTS BAYERISCHE MOTOREN WERKE AG AND  
BMW OF NORTH AMERICA, LLC'S RESPONSES TO  
PLAINTIFFS' FIRST SET OF INTERROGATORIES (NOS. 1-28)**

Pursuant to the Federal Rule of Civil Procedure 26 and Local Rule 104, Defendants Bayerische Motoren Werke AG (“BMWAG”) and BMW of North America, LLC (“BMWNA”) (collectively, “BMW”) hereby provide the following responses and objections to the First Set of Interrogatories propounded by Plaintiffs Paice LLC (“Paice”) and the Abell Foundation, Inc. (“Abell”) (collectively, “Plaintiffs” or “Paice”).<sup>1</sup> Discovery is ongoing, and BMW reserves the right to further supplement or amend these responses as discovery progresses.

The following responses are based upon information and documentation that is currently available and specifically known to BMW following a reasonable and ongoing investigation. These responses are given without prejudice to BMW’s right to produce or rely on subsequently discovered, uncovered, or learned information. It is anticipated that further discovery, independent

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<sup>1</sup> Unless stated otherwise, responses to these Interrogatories are submitted on behalf of both BMWAG and BMWNA.

custody, or control of Plaintiffs or their counsel, or that are publicly available or equally available to Plaintiffs and, therefore, are of no greater burden for Plaintiffs to obtain than for BMW to obtain. BMW objects to this Interrogatory as compound, and therefore counting as more than one interrogatory under Fed. R. Civ. P. 33(a)(1).

Subject to and without waiving the foregoing General and Specific Objections, and as BMW understands the Interrogatory, BMW responds as follows:

As presently advised, BMW has identified no employees that recall having any such communications. However, pursuant to Fed. R. Civ. P. 33(d) and to the extent that it has any non-privileged documents in its possession, custody, and control from which responsive information within the non-objectionable scope of this Interrogatory can be obtained, BMW may produce such documents and will supplement this response to identify Bates ranges associated with those documents after such documents are produced.

BMW further states that it is continuing to investigate the subject matter of this Interrogatory and reserves the right to supplement its response if it locates any non-privileged, relevant information or documents responsive to this Interrogatory in accordance with the procedures and timetables established by the Court's Scheduling Order and the Federal Rules of Civil Procedure, and after BMW has been afforded an adequate opportunity to investigate Paice's allegations through discovery in this Action.

**INTERROGATORY NO. 27:**

Identify and describe in detail the circumstances under which You first became aware of Paice and Abell and state the date(s) when You first had notice of each of the Asserted Patents and describe the method(s) by which You received such notice, including in Your answer an identification of all persons involved.

**RESPONSE TO INTERROGATORY NO. 27:**

In addition to its General Objections, BMW specifically objects to this Interrogatory because it calls for information already in the possession, custody, or control of Plaintiffs or their counsel, or that are publicly available or equally available to Plaintiffs and, therefore, are of no greater burden for Plaintiffs to obtain than for BMW to obtain. BMW objects to this Interrogatory as compound, and therefore counting as more than one interrogatory under Fed. R. Civ. P. 33(a)(1).

Subject to and without waiving the foregoing General and Specific Objections, and as BMW understands the Interrogatory, BMW responds as follows:

BMW incorporates its Responses to Interrogatory Nos. 25 and 26.

BMWAG further responds that sometime in 2006 it was contacted by Toyota regarding a request for information pertinent to Toyota's litigation with Paice. However, BMWAG did not learn of the Asserted Patents at that time. BMWAG notes that, between 2006 and 2012, it had no commercially available hybrid vehicles. As presently advised, BMWAG's first knowledge of the Asserted Patents occurred when it received a letter to Dr. Jurgen Reul from Paice in February 2019.

BMWNA further answers that it was aware of Paice sometime in 2009 when it was asked to participate in an amicus brief in the Toyota litigation. However, BMWNA did not learn of the Asserted Patents at that time. As presently advised, BMWNA's first knowledge of the Asserted Patents occurred when it was sued in this case.

BMW further states that it is continuing to investigate the subject matter of this Interrogatory and reserves the right to supplement its response if it locates any non-privileged, relevant information or documents responsive to this Interrogatory in accordance with the

procedures and timetables established by the Court's Scheduling Order and the Federal Rules of Civil Procedure, and after BMW has been afforded an adequate opportunity to investigate Paice's allegations through discovery in this Action.

**INTERROGATORY NO. 28:**

Identify and describe any internal monitoring performed by You or others on Your behalf of Paice or Paice's past litigations with respect to hybrid vehicle technology, and identify all supporting documents and persons most knowledgeable.

**RESPONSE TO INTERROGATORY NO. 28:**

In addition to its General Objections, BMW specifically objects to this Interrogatory because it seeks documents protected by the attorney-client privilege, attorney work product doctrine, the common interest privilege, joint-defense privilege, or any other applicable privilege. BMW objects to this Interrogatory because it calls for information not relevant to the claims and defenses at issue in this Action nor reasonably calculated to lead to the discovery of admissible evidence. BMW objects to this Interrogatory because it requests that BMW create or produce information that BMW does not maintain in the ordinary course of its business or it requests that BMW create or produce information in a particular format or at a particular level of detail that BMW does not maintain in the ordinary course of its business. BMW objects to this Interrogatory as compound, and therefore counting as more than one interrogatory under Fed. R. Civ. P. 33(a)(1).

Subject to and without waiving the foregoing General and Specific Objections, and as BMW understands the Interrogatory, BMW responds as follows:

BMW is not aware of any non-privileged information responsive to this Interrogatory other than as noted in its Response to Interrogatory No. 27