

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VOLKSWAGEN GROUP OF AMERICA, INC.,
Petitioner

v.

NEO WIRELESS, LLC,
Patent Owner

Case IPR2022-01539
Patent 10,965,512

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Petitioner Volkswagen Group of America, Inc. (“Petitioner”), objects under the Federal Rules of Evidence (FRE) and 37 C.F.R. § 42.64(b)(1) to the admissibility of Exhibit 2010 (“Second Declaration of William P. Alberth Jr.”), filed by Patent Owner Neo Wireless, LLC (“Patent Owner”), on August 10, 2023, with the Patent Owner’s Response. Petitioner’s Objections are timely filed under 37 C.F.R. § 42.64(b)(1), within five business days of the August 10, 2023 Patent Owner’s Response. Petitioner files these Objections to provide notice to Patent Owner that Petitioner may move to exclude the challenged evidence under 37 C.F.R. § 42.64(c).

I. IDENTIFICATION OF GROUNDS FOR OBJECTIONS

A. Exhibit 2010 (“Second Declaration of William P. Alberth Jr.”)

FRE 702 and 703: Exhibit 2010 includes statements and testimony based on insufficient facts or data, and is not the product of reliable principles and methods. For example, Petitioner objects to paragraphs 22-23, 38, 53-59, 61, 68, 77-82, 91, 93-95, 97-99, and 102 because these paragraphs contain statements and conclusions that are unsupported by factual evidence or data. Further, the relied-upon facts and data are not those on which experts in this field would reasonably rely.

FRE 401, 402, and 403: Petitioner further objects to paragraphs 17-21, 37-40, 42, 46, 50, 60, 68, 70, 71, 75, 76, 90, 98-104, 107, 110, 111, 117, 121-123, 127,

128, and 133, 136-138 because Patent Owner does not cite any of these paragraphs in its Response, rendering Mr. Alberth's testimony in these paragraphs irrelevant under FRE 401. Petitioner therefore objects to these paragraphs under FRE 402. Petitioner also objects to these paragraphs under FRE 403 because they have no probative value, create unfair prejudice to Petitioner, and will only confuse the issues and waste the Board's time.

II. CONCLUSION

In view of the foregoing objections, Petitioner may file a motion to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

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Date: August 17, 2023

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing **PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE PURSUANT TO 37 C.F.R. § 42.64(B)(1)** was electronically served via e-mail in its entirety on August 17, 2023, upon the following counsel of record for Patent Owner:

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