

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FORD MOTOR COMPANY,
Petitioner,

v.

NEO WIRELESS, LLC,
Patent Owner.

Case IPR2023-00764
Patent US 10,965,512

**PATENT OWNER'S RESPONSE
TO PETITIONER'S MOTION FOR JOINDER**

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I. INTRODUCTION

Patent Owner Neo Wireless, LLC hereby responds to Petitioner Ford Motor Company's ("Ford") Motion For Joinder (Paper 3, "Mot."), which requests joinder of this IPR with IPR2022-01539 filed by Volkswagen Group of America, Inc. ("Volkswagen") and IPR2023-00079 filed by Mercedes-Benz USA, LLC ("Mercedes"). This motion is timely under 37 C.F.R. § 42.25(a)(1).

"Joinder may be authorized when warranted, but the decision to grant joinder is discretionary." *Sony Corp. of Am. v. Network-1 Security Sols., Inc.*, IPR2013-00386, Paper 16, 3 (July 29, 2013). As moving party, Ford has the burden to establish entitlement to relief. 37 C.F.R. §§ 42.20(c), 42.122(b).¹

If the Board institutes review in this case, joinder should only be granted with additional conditions limiting Ford's participation as joined understudy petitioner, such as those the Board has imposed in other cases, to reduce the inarguable burden the requested joinder will create in these speedy proceedings.

¹ The Motion is moot if review of Ford's, or Mercedes's and Volkswagen's Petitions, are denied. *See Synaptics Inc. v. Amkor Tech., Inc.*, IPR2017-00085, Paper 12, 11 (Apr. 18, 2017). This Response assumes, *arguendo*, institution of both petitions.

Ford concedes that measures limiting its joined participation are appropriate, and pre-emptively “agrees” to several such limits. Mot., 2, 9-10. The Board should, however, grant joinder, if at all, only with further limits.

Ford has said it “will remain in the understudy role” until the target IPR petitioner is no longer a party in the proceeding. Mot., 2. But what does this mean? The Board has stated that “an ‘understudy role’ means that [the petitioner seeking joinder] would not make any substantive filing,” not make “oral hearing presentations,” “not seek to take cross-examination testimony of any witness or have a role in defending the cross-examination of a witness beyond mere observation,” not seek “other discovery,” and, absent termination of the initial petitioner “before the proceeding is complete,” “remain completely inactive as the understudy with the exception being ministerial issues specifically directed to [the petitioner seeking joinder] (e.g., an update to [petitioner’s] Mandatory Notices or Powers of Attorney).” *MSN Labs. Private Ltd. v. Bausch Health Ireland Ltd.*, IPR2023-00016, Paper 12, 3-4 (Nov. 29, 2022). Patent Owner agrees with this understanding of the understudy role. The Board here should make this explicit. In other words, Patent Owner requests that the Board in fact hold Ford to a silent understudy role. Unless the promised “understudy role” is expressly clarified as discussed below, Patent Owner respectfully opposes granting the subject joinder request.

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