

Kevin J. O'Connor
LUM, DRASCO & POSITAN, LLC
103 Eisenhower Parkway
Roseland, NJ 07068-1049
(973) 403-9000
Email: koconnor@lumlaw.com

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARLOWE PATENT HOLDINGS LLC,

Plaintiff,

v.

FORD MOTOR COMPANY,

Defendant.

Case No. 2:11-cv-07044-PGS-DEA

JURY TRIAL DEMANDED

**DEFENDANT FORD MOTOR COMPANY'S
MOTION FOR RULE 11 SANCTIONS**

This is a patent infringement lawsuit in which Plaintiff Marlowe Patent Holdings LLC (“MPH”) has accused Defendant Ford Motor Company (“Ford”) of infringing U.S. Patent No. 7,489,786 (the “’786 patent”). Ford hereby moves the Court to enter sanctions pursuant to Fed. R. Civ. P. 11(c) against MPH because it knew, at the time the complaint was filed, that the ’786 patent is both invalid and unenforceable. The grounds for this Motion, as will be developed more fully in the Brief in Support, are as follows:

1. More than one year before filing the application that led to the ’786 patent, the inventor of the ’786 patent began selling devices that embody the invention claimed in the ’786 patent. These sales invalidate all claims of the ’786 patent.

2. Despite having full knowledge of these sales, the inventor of the ’786 patent never disclosed the relevant technical details of these prior art products to the U.S. Patent and Trademark Office. Because these sales embodied the invention claimed in the ’786 patent, they would have been highly material to the examiner. Indeed, but for these the inventor withholding these technical details, the U.S. Patent and Trademark Office would not have issued ’786 patent. Moreover, the single most reasonable inference is that the inventor withheld these sales in order to deceive the U.S. Patent and Trademark Office. The ’786 patent is thus unenforceable due to the inventor’s inequitable conduct.

3. Because an invalid and unenforceable patent cannot be infringed, MPH has no legitimate basis for accusing Ford of infringing the ’786 patent. MPH’s Complaint was thus filed in violation of Federal Rule of Civil Procedure 11.

For the reasons set forth above, as well as in Ford’s Brief in Support of this Motion, Ford respectfully requests that this Court dismiss MPH’s claims with prejudice and award sanctions

against MPH for violation of Rule 11, including reasonable costs and attorneys' fees. At the time of this Motion, Ford's attorneys' fees and expenses exceed \$200,000.

Dated: June 10, 2013

Respectfully submitted,

/s/ John S. LeRoy
Thomas A. Lewry (Michigan Bar No. P36399)
John M. Halan (Michigan Bar No. P37616)
John S. LeRoy (Michigan Bar No. P61964)
Amy C. Leshan (Michigan Bar No. P69328)
BROOKS KUSHMAN P.C.
1000 Town Center, Twenty-Second Floor
Southfield, Michigan 48075
Tel: (248) 358-4400; Fax: (248) 358-3351
Email: jderoy@brookskushman.com

Kevin J. O'Connor
LUM, DRASCO & POSITAN, LLC
103 Eisenhower Parkway
Roseland, NJ 07068-1049
(973) 403-9000
Email: koconnor@lumlaw.com

Attorneys for Defendant Ford Motor Co.

CERTIFICATE OF SERVICE

I certify that I served:

**DEFENDANT FORD MOTOR COMPANY'S
MOTION FOR RULE 11 SANCTIONS**

on June 10, 2013 by:

X delivering (via electronic mail to rcatalina@szaferman.com;
pkaese@szaferman.com; rcatalina@newtechlegal.com)

X mailing (via First-Class mail)

a copy to:

RICHARD A. CATALINA, JR. (RC 4462)
Szaferman Lakind Blumstein & Blader PC
101 Grovers Mill Road, Suite 200
Lawrenceville, NJ 08648
609.275.0400

Attorneys for Plaintiff

/s/ John S. LeRoy

Kevin J. O'Connor
LUM, DRASCO & POSITAN, LLC
103 Eisenhower Parkway
Roseland, NJ 07068-1049
(973) 403-9000
Email: koconnor@lumlaw.com

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MARLOWE PATENT HOLDINGS LLC,

Plaintiff,

v.

FORD MOTOR COMPANY,

Defendant.

Case No. 3:11-cv-07044-PGS-DEA

JURY TRIAL DEMANDED

**BRIEF IN SUPPORT OF DEFENDANT
FORD MOTOR COMPANY'S MOTION FOR
RULE 11 SANCTIONS**

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.