

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MERCEDES-BENZ USA, LLC,  
Petitioner,

v.

NEO WIRELESS, LLC,  
Patent Owner.

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Case IPR2023-00079  
U.S. Patent No. 10,965,512

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**PETITIONER'S REPLY IN SUPPORT OF  
PETITIONER'S MOTION FOR JOINDER**

Filed on behalf of Petitioner:  
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## **TABLE OF AUTHORITIES**

### **Page(s)**

#### **Cases**

<i>Everlight Elecs. Co., Ltd. v. Document Sec. Sys., Inc.,</i> No. IPR2018-01225 (P.T.A.B. Sept. 27, 2018).....	3
<i>Mercedes-Benz Grp. AG v. Arigna Tech. Ltd.,</i> No. IPR2022-00776 (P.T.A.B. Sept. 8, 2022).....	2
<i>Microsoft Corp. v. Koninklijke Philips N.V.,</i> No. IPR2017-01754 (P.T.A.B. Nov. 29, 2017).....	3
<i>Pfizer Inc. v. Sanofi-Aventis Deutschland GmbH,</i> No. IPR2019-00981 (P.T.A.B. Aug. 15, 2019).....	3
<i>Qualcomm Inc. v. DSS Tech. Mgmt., Inc.,</i> No. IPR2016-01314 (P.T.A.B. Aug. 29, 2016).....	3

#### **Statutes**

35 U.S.C. § 315(c) .....	1
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#### **Rules**

37 C.F.R. § 42.122(b) .....	1
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Neo Wireless, LLC (“Patent Owner”) filed a Patent Owner’s Response to Petitioner’s Motion For Joinder,<sup>1</sup> in which it does not oppose but instead seeks multiple unnecessary conditions on such joinder. Paper 7 (“Response”). Instead of a substantive opposition, Patent Owner argues that joinder should only be granted on the following conditions: 1) Petitioner should be denied *any* right to participate in the joined proceeding, 2) Petitioner’s exhibits, including its expert declaration, should be excluded from the record, and 3) if joinder is granted, Volkswagen should be shown to have accepted Petitioner’s role in the proceeding. For the reasons given herein and in Petitioner’s Motion for Joinder, Paper 3 (“Motion”), if the Volkswagen IPR is instituted, Petitioner’s Motion for Joinder should be granted, without imposing Patent’s Owner’s unnecessary conditions.

First, the Response fails to appropriately consider Petitioner’s express statements that it, if joined, would take an inactive understudy role. Petitioner

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<sup>1</sup> Petitioner respectively moved pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b) for joinder with any *inter partes* review that is instituted as to U.S. Patent No. 10,965,512 (the “’512 patent”) in *Volkswagen Group of America, Inc. v. Neo Wireless, LLC*, No. IPR2022-01539 (the “Volkswagen IPR”). Should the Volkswagen IPR not be instituted, Petitioner’s motion for joinder would be moot and its petition decided on its merits.

being joined as an inactive understudy would not present any additional burden on the Patent Owner. As described in Petitioner’s Motion, the grounds presented here by Petitioner are the same as the grounds presented in the Volkswagen IPR, Motion at 6–7, and Petitioner will have no substantive role in that proceeding unless the petitioner in the Volkswagen IPR ceases its own participation. *See* Motion at 78.

Second, Patent Owner’s supposed “further conditions,” Response at 2–7, are essentially duplicative of the restrictions that Petitioner already proposes on its participation in the Volkswagen IPR and are thus unnecessary. Petitioner’s Motion makes clear that, if joined, it will not raise new grounds or introduce its own arguments or discovery and that it will not submit any filing unless the filing solely involves Petitioner. These restrictions are adequate to eliminate the chance of duplicative briefing and any additional burden in the Volkswagen IPR. *See, e.g., Mercedes-Benz Grp. AG v. Arigna Tech. Ltd.*, No. IPR2022-00776, Paper No. 8, 11 (P.T.A.B. Sept. 8, 2022).

And although Patent Owner urges that Petitioner be compelled to withdraw the declaration of Mr. McNeal, that would be inappropriate and premature at this stage. The cases relied upon by Patent Owner involve situations where joining petitioners sought to introduce expert declarations with *new* or additional arguments or otherwise did not agree to rely solely on the declaration of first petitioner’s expert,

and are inapplicable here. Response at 7. The Board regularly permits joinder of petitioners who relied on different declarants, when, as is the case here, the joining petitioner's expert presents the same opinions as the earlier-filed IPR. *See, e.g., Everlight Elecs. Co., Ltd. v. Document Sec. Sys., Inc.*, No. IPR2018-01225, Paper 14, at 5-9 (P.T.A.B. Sept. 27, 2018); *see also Pfizer Inc. v. Sanofi-Aventis Deutschland GmbH*, No. IPR2019-00981, Paper 12, at 4 (P.T.A.B. Aug. 15, 2019); *Microsoft Corp. v. Koninklijke Philips N.V.*, No. IPR2017-01754, Paper 16, at 6 (P.T.A.B. Nov. 29, 2017); *Qualcomm Inc. v. DSS Tech. Mgmt., Inc.*, No. IPR2016-01314, Paper 8, at 2 n.1, 3 (P.T.A.B. Aug. 29, 2016). Consistent with such cases, Petitioner agrees to rely entirely on, and be bound by, the declaration and deposition of Dr. Paul Min in the Volkswagen IPR, assuming that the Volkswagen IPR petitioner does not terminate its IPR before Dr. Min is deposed. *See Everlight Elecs.*, No. IPR2018-01225, Paper 14, at 6. And if the Volkswagen Petitioner terminates its IPR before Dr. Min is deposed, Petitioner will rely on Mr. McNeal's substantively identical declaration and the Patent Owner can depose Mr. McNeal. Joinder accordingly presents no risk of duplicative declarations, depositions, or other evidence.

Third, Patent Owner's demands for agreement as to Petitioner's role from the petitioner in the Volkswagen IPR are a red herring. Petitioner's acceptance of an understudy role places numerous restrictions on *Petitioner* that the Volkswagen IPR

petitioner need not agree to, such as Petitioner being prohibited from raising grounds or introducing discovery not raised or introduced by the Volkswagen IPR petitioner and being bound by any discovery agreements between Patent Owner and the Volkswagen IPR petitioner. *See* Motion at 7–8. Should the Volkswagen IPR be instituted, and this proceeding joined with it, Petitioner is willing to meet and confer with the Board and all involved parties regarding the conduct of the joined proceeding, if necessary.

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For the foregoing reasons, and the reasons provided in Petitioner’s Motion, Petitioner respectfully requests *inter partes* review of U.S. Patent No. 10,965,512 and joinder with *Volkswagen Group of America, Inc. v. Neo Wireless, LLC*, No. IPR2021-01539 if it is instituted.

Dated: March 20, 2023

Respectfully submitted,

/s/ Celine J. Crowson

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## **CERTIFICATE OF SERVICE**

The undersigned certifies that, in accordance with 37 C.F.R. § 42.6(e) and 37 C.F.R. § 42.105, on March 20, 2023, a copy of the foregoing PETITIONER'S REPLY IN SUPPORT OF PETITIONER'S MOTION FOR JOINDER was served via e-mail (as agreed in Patent Owner's Mandatory Notices) on the following counsel of record:

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