

## VW Gets PTAB To Review Patent Cited In Car Tech MDL

By **Andrew Karpan**

*Law360 (May 3, 2023, 9:15 PM EDT)* -- Volkswagen has persuaded the Patent Trial and Appeal Board to review its petition challenging the validity of a patent that's the subject of multidistrict litigation in Michigan federal court against numerous carmakers over in-vehicle cellular technology.

In a boon for one of the automakers targeted by the flurry of patent lawsuits consolidated by the U.S. Judicial Panel on Multidistrict Litigation last June, a panel of patent board judges agreed on Tuesday that Volkswagen Group of America Inc. had "a reasonable likelihood of prevailing" on at least some of its arguments calling for the invalidity of at least one claim in a patent owned by Neo Wireless LLC.

Volkswagen had put forward challenges on four Neo patents, and the Tuesday decision is the first of these that the board has agreed to hold hearings on in order to review.

The patent was issued in 2021, a year before Neo filed lawsuits against Volkswagen, Ford Motor Co., American Honda Motor Co. Inc., Nissan North America Inc. and Tesla Inc., among others, all of which cited a handful of Neo patents.

The cases were all consolidated in U.S. District Judge Terrence G. Berg's courtroom in Detroit last year, a somewhat rare occurrence for patent lawsuits, though last year also marked the first MDL in U.S. District Judge Rodney Gilstrap's courtroom, too, in another series of disputes over technology patents.

The patent challenged by Volkswagen in the Tuesday decision covers a new method of using "cell-specific and common pilot subcarriers in multi-carrier, multi-cell wireless communication networks," which Volkswagen cars allegedly use in order to comply with a "3GPP LTE standard specification," according to the lawsuit.

Volkswagen's petition argues that all the claims in that patent can be found by pushing together language from a handful of patent applications dating from 2002 to 2004 with that of a 2003 patent issued to a Chinese researcher named Wen Tong, then a major researcher at bankrupt Canadian telecom company Nortel, and currently one of the heads of wireless research at Huawei.

"Tong indicates beam-forming provides benefits without having to receive feedback on channel conditions," observed Administrative Patent Judge Hyun Jung, who wrote for the unanimous panel and concluded that "thus, on the preliminary record, petitioner's arguments and cited evidence for 'wherein at least some subcarriers of the first plurality of subcarriers or the second plurality of subcarriers are beam-formed' are sufficient for institution."

Counsel for Volkswagen declined to comment on the decision.

Representatives for Neo Wireless did not immediately respond to a request for comment.

The patent-at-issue is U.S. Patent No. 10,965,512.

Volkswagen is represented by Ryan C. Richardson, Michael D. Specht, Daniel E. Yonan and David W. Haars of Sterne Kessler Goldstein & Fox PLLC.

Neo Wireless is represented by Kenneth J. Weatherwax, Edward Hsieh and Parham Hendifar of Lowenstein & Weatherwax LLP, and Hamad M. Hamad of Caldwell Cassady & Curry PC.

The case is Volkswagen Group of America Inc. v. Neo Wireless LLC, case number IPR2022-01539, before the Patent Trial and Appeal Board.

--Additional reporting by Jasmin Jackson. Editing by Scott Russell.