

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VOLKSWAGEN GROUP OF AMERICA, INC.,
Petitioner

v.

EMERACHEM HOLDINGS, LLC,
Patent Owner

Case No. IPR2014-01558
U.S. Patent No. 5,599,758

**VOLKSWAGEN GROUP OF AMERICA, INC.'S
NOTICE OF APPEAL**

via PTAB E2E System
Patent Trial and Appeal Board

via Hand Carry
Director of the United States Patent and Trademark Office
c/o Office of the General Counsel, 10B20
Madison Building East
600 Dulany Street
Alexandria, VA 22314

via CM/ECF
United States Court of Appeals for the Federal Circuit

February 22, 2019

INTRODUCTION

Petitioner Volkswagen Group of America, Inc.'s appeal stems from the Patent Trial and Appeal Board's Decision on Remand entered on February 27, 2018 (Paper 67) and Decision On Rehearing entered on January 30, 2019 (Paper 80) in the above-captioned *inter partes* review of United States Patent No. 5,599,758 (the '758 patent"). This notice is timely filed within 63 days of the Board's Decision on Rehearing. 37 C.F.R. §90.3(b)(1).

VOLKSWAGEN GROUP OF AMERICA, INC.'S APPEAL

Notice is hereby given, pursuant to 35 U.S.C. §§141(c), 142 and 319, and 37 C.F.R. §§90.2(a) and 90.3(a), that Petitioner Volkswagen Group of America, Inc. hereby appeals to the United States Court of Appeals for the Federal Circuit from the Decision On Rehearing, Decision on Remand, and from all underlying orders, decisions, rulings and opinions.

VOLKSWAGEN GROUP OF AMERICA, INC.'S ISSUES ON APPEAL

In accordance with 37 C.F.R. §90.2(a)(3)(ii), Volkswagen Group of America, Inc.'s issues on appeal include at least: (i) the Board's interpretation of the scope of the Federal Circuit's remand in *EmeraChem Holdings, LLC v. Volkswagen Grp. of Am.*, 859 F.3d 1341 (Fed. Cir. 2017) (Paper 67 at 2-4; Paper 80 at 2-3); (ii) the Board's failure to consider the prior art Stiles et al. U.S. Patent

No. 5,362,463 (“Stiles”) even though it had been part of the IPR2014-01558 record since the filing of the petition and previously relied upon in the Final Written Decision (Paper 59) to invalidate Claims 3, 16, and 20 (Paper 67 at 4; Paper 80 at 4-5); (iii) the Board’s denial of Petitioner’s request to file a remand brief addressing the prior art Saito et al. Japanese Patent Application Publication No. 62-106826A (“Saito”) (Paper 80 at 6-7); (iv) all factual findings and legal reasoning underlying the Board’s Decision on Remand (Paper 67) and Decision on Rehearing (Paper 80), including the Board’s failure to find by a preponderance of evidence that Claims 3, 16, and 20 were obvious in view of Saito in combination with the prior art Campbell U.S. Patent No. 5,451,558 and Hirota et al. U.S. Patent No. 5,406,790; and (v) any findings or determinations supporting or related to the aforementioned issues as well as all other issues decided adversely to Petitioner Volkswagen Group of America, Inc. in any orders, decisions, rulings, and/or opinions.

Simultaneously with this submission, Petitioner Volkswagen Group of America, Inc. is filing a true and correct copy of this Notice of Appeal with the Director of the United States Patent and Trademark Office and a true and correct copy of the same, along with the required filing fee, with the Clerk of the United

States Court of Appeals for the Federal Circuit, as set forth in the accompanying
Certificate Of Filing.

Respectfully submitted,

Dated: February 22, 2019

/ Steven F. Meyer /

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CERTIFICATE OF FILING

The undersigned hereby certifies that, in addition to being electronically filed through the PTAB E-2-E System, a true and correct copy of the foregoing **VOLKSWAGEN GROUP OF AMERICA, INC.’s NOTICE OF APPEAL** is being filed by hand with the Director on February 22, 2019, at the following address:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel, 10B20
Madison Building East
600 Dulany Street
Alexandria, VA 22314

The undersigned also hereby certifies that a true and correct copy of the foregoing **VOLKSWAGEN GROUP OF AMERICA, INC.’s NOTICE OF APPEAL** and the filing fee is being filed via CM/ECF with the Clerk’s Office of the United States Court of Appeals for the Federal Circuit on February 22, 2019.

Dated: February 22, 2019

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§42.6(e) and 42.105(b), the undersigned hereby certifies that on February 22, 2019 a complete copy of the foregoing **VOLKSWAGEN GROUP OF AMERICA, INC.'s NOTICE OF APPEAL** was electronically served in its entirety on the Patent Owner of record at mbradford@luedeka.com and koosrasser@gmail.com.

Dated: February 22, 2019

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