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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

AMERICAN VEHICULAR SCIENCES
LLC, a Texas Limited Liability
Company,

Plaintiff,

v.

TOYOTA MOTOR CORPORATION, a
Japanese company; TOYOTA MOTOR
SALES, U.S.A., INC., a California
corporation; AUTOLIV, INC, a
Delaware corporation; AUTOLIV ASP,
INC., an Indiana corporation; TAKATA
CORPORATION, a Japanese company;
and TK HOLDINGS INC., a Delaware
corporation; TOYODA GOSEI CO.,
LTD., a Japanese company; and
TOYODA GOSEI NORTH AMERICA
CORP., a Michigan corporation,

Defendants.

CASE NO. 8:15-cv-01391-JVS-JCG

**AMERICAN VEHICULAR
SCIENCES LLC'S FIRST
AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

JURY DEMAND

1 Plaintiff American Vehicular Sciences LLC, (“AVS” or “Plaintiff”) hereby
 2 submits this First Amended Complaint against Defendants Toyota Motor
 3 Corporation and Toyota Motor Sales, U.S.A., Inc. (collectively “Toyota” or
 4 “Defendants”); Autoliv, Inc. and Autoliv ASP, Inc. (collectively “Autoliv”);
 5 Takata Corporation and TK Holdings Inc. (collectively “Takata”); and Toyoda
 6 Gosei Co., Ltd. and Toyoda Gosei North America Corp. (collectively “Toyoda
 7 Gosei”) and states as follows:

8 **THE PARTIES**

9 1. AVS is a Texas limited liability company, having a principal place of
 10 business at 2400 Dallas Parkway, Suite 200, Plano, Texas 75093.

11 2. On information and belief, Defendant Toyota Motor Corporation is a
 12 Japanese company with a principal place of business at 1 Toyota-cho, Toyota City,
 13 Aichi Prefecture 471-8571, Japan.

14 3. On information and belief, Defendant Toyota Motor Sales, U.S.A.,
 15 Inc. is a California corporation with a principal place of business at 19001 S.
 16 Western Avenue, Torrance, California 90501. On information and belief, Toyota
 17 Motor Sales is responsible for distribution, marketing and sales of Toyota and
 18 Lexus branded automobiles in the United States.

19 4. On information and belief, Defendant Autoliv, Inc. is a Delaware
 20 corporation. Autoliv, Inc.’s headquarters is located at Vasagatan 11, 7th Floor, SE-
 21 111 20, Box 70381, SE-107 24 Stockholm, Sweden, but on information and belief
 22 it has a regular and established place of business at 3350 Airport Rd., Ogden, UT
 23 84405.

24 5. On information and belief, Defendant Autoliv ASP, Inc. is an Indiana
 25 corporation with a regular and established place of business at 3350 Airport Rd.,
 26 Ogden, UT 84405. On information and belief Autoliv ASP, Inc. is wholly-owned
 27 by Autoliv, Inc.

6. On information and belief, Defendant Takata Corporation is a Japanese company with a principal place of business located at ARK Hills South Tower, 4-5 Roppongi 1-Chome, Minato-ku, Tokyo, 106-8488, Japan.

7. On information and belief, Defendant TK Holdings Inc. is a Delaware corporation with a principal place of business located at 2500 Takata Drive, Auburn Hills, MI 48326. On information and belief, TK Holdings Inc. has a sales office located at 21250 Hawthorne Blvd, Suite 500, Office 37, Torrance, CA 90503. On information and belief, TK Holdings Inc. is a subsidiary and/or operational unit of Takata Corporation.

8. On information and belief, Defendant Toyoda Gosei Co., Ltd. is a Japanese company with a principal place of business located at 1 Haruhinagahata, Kiyosu, Aichi, 452-8564, Japan.

9. On information and belief, Defendant Toyoda Gosei North America Corp. is a Michigan corporation with a principal place of business located at 1400 Stephenson Hwy, Troy, MI 48083. On information and belief, Toyoda Gosei North America Corp. is a subsidiary and/or operational unit of Toyoda Gosei Cp., Ltd.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 101 et seq.

11. This Court has personal jurisdiction over Toyota due to its systematic and continuous contacts within this state. Among other things, on information and belief, Toyota, either directly or through intermediaries, regularly sells products and services into this judicial district and specifically, Orange County, and manufactures products intended to be sold and in fact sold into and within this judicial district and specifically, Orange County. Additionally, on information and belief, this Court has personal jurisdiction over Toyota because Toyota has

1 committed and/or participated in the commission of acts within this judicial district
2 and specifically, Orange County, giving rise to this action. Toyota has sold and
3 offered to sell infringing Toyota and Lexus branded automobiles through
4 authorized dealers located in this state and this judicial district and specifically,
5 Orange County.

6 12. In particular, Toyota Motor Sales, which on information and belief is
7 responsible for distribution, marketing and sales of Toyota and Lexus branded
8 automobiles in the United States, is a California corporation that is located in
9 Torrance, California within this judicial district.

10 13. This Court has jurisdiction over each of the Autoliv, Takata, and
11 Toyoda Gosei Defendants due to their systematic and continuous contacts with this
12 state. Each of the Autoliv, Takata, and Toyoda Gosei Defendants is in the business
13 of designing, manufacturing, assembling, testing, promoting, advertising,
14 distributing, and selling vehicle restraint systems to various automakers, including
15 Toyota, including the side-curtain airbags incorporated and used by Toyota in the
16 infringing Toyota and Lexus branded automobiles. On information and belief,
17 each of the Autoliv, Takata, and Toyoda Gosei Defendants offers to sell and sells
18 side-curtain airbags to Toyota, which operates its principal place of business in the
19 United States within this judicial district and resells the infringing Toyota and
20 Lexus branded automobiles, containing the side-curtain airbags, through
21 authorized dealers located throughout the United States, including in this state and
22 this judicial district, and specifically, Orange County.

23 14. Infringement in this case relates to the presence of side-curtain airbags
24 in the Toyota and Lexus branded automobiles. Each of the Autoliv, Takata, and
25 Toyoda Gosei Defendants knew, if not intended, that the accused Toyota and
26 Lexus branded automobiles would be sold in this state and this judicial district and
27 specifically, Orange County. As such, each of the Autoliv, Takata, and Toyoda
28 Gosei defendants could reasonably foresee being brought before a Court in this

1 judicial district, and specifically, Orange County, with respect to activities related
2 to the side-curtain airbags.

3 15. Venue is proper in this federal district pursuant to 28 U.S.C.
4 §§1391(b)-(d) and 1400(b). A substantial part of the events or omissions giving
5 rise to this action have occurred in this judicial district and specifically, Orange
6 County. Infringement has occurred in this judicial district and specifically, Orange
7 County, and will continue to occur in this judicial district and specifically, Orange
8 County. Defendant Toyota Motor Sales, whose Toyota and Lexus branded
9 automobiles are accused of infringement, is a California corporation and has a
10 regular and established place of business in this judicial district. Defendants are
11 subject to personal jurisdiction in this judicial district and specifically, Orange
12 County.

13 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 9,043,093**

14 16. On May 26, 2015, the United States Patent and Trademark Office
15 (“USPTO”) duly and legally issued United States Patent No. 9,043,093 (“the ’093
16 Patent”), entitled “Single Side-Curtain Airbag For Vehicles.” David S. Breed is
17 the named inventor of the ’093 Patent. AVS owns the ’093 Patent and holds the
18 rights to sue and recover damages for infringement thereof.

19 17. Upon information and belief, Toyota has infringed directly and
20 continues to infringe directly the ’093 Patent in the state of California, in this
21 judicial district, and elsewhere within the United States. The infringing acts
22 include, but are not limited to, the manufacture, use, sale, importation, and/or offer
23 for sale of products and/or methods encompassed by the claims of the ’093 Patent.
24 Toyota’s infringement of the ’093 Patent relates to the presence in its vehicles of
25 side-curtain airbags within the scope of the claims of the ’093 Patent.

26 18. On information and belief, the scope of infringement includes, but is
27 not necessarily limited to, at least the following vehicle models: 2015 Toyota
28 Yaris, 2015 Toyota Corolla, 2015 Toyota Camry, 2015 Toyota Avalon, 2015

1 Toyota Sienna, 2015 Toyota Tacoma, 2015 Toyota Tundra, 2015 Toyota RAV4,
 2 2015 Toyota Venza, 2015 Toyota Highlander, 2015 Toyota 4Runner, 2015 Toyota
 3 Sequoia, 2015 Toyota Land Cruiser, 2015 Toyota Prius, 2015 Lexus IS, 2015 and
 4 2016 Lexus ES, 2015 Lexus GS, 2015 Lexus LS, 2015 Lexus NX, 2015 Lexus RX,
 5 2015 Lexus GX, 2015 Lexus LX, 2015 Lexus RC, 2015 Lexus RCF, and 2015
 6 Lexus CT.

7 19. On information and belief, each of the Autoliv, Takata, and Toyoda
 8 Gosei Defendants has been and is now indirectly infringing by way of inducing
 9 infringement and/or contributing to the infringement of the claims of the '093
 10 Patent in the state of California, in this judicial district, and specifically, Orange
 11 County, and elsewhere within the United States by selling, offering for sale, and/or
 12 importing the side-curtain airbags used in the accused Toyota and Lexus branded
 13 automobiles. In the case of such indirect infringement, the direct infringer of the
 14 '093 Patent is at least Toyota. Each of the Autoliv, Takata, and Toyoda Gosei
 15 Defendants advertises and promotes its side-curtain airbags on its websites and in
 16 other means of advertising. On information and belief, each of the Autoliv,
 17 Takata, and Toyoda Gosei Defendants also engages in direct sales activities with
 18 Toyota. Each of the Autoliv, Takata, and Toyoda Gosei Defendants provides,
 19 makes, sells, and offers for sale side-curtain airbags with the specific intention that
 20 Toyota uses the side-curtain airbags in Toyota and Lexus branded automobiles.
 21 The side-curtain airbags provided by each of the Autoliv, Takata, and Toyoda
 22 Gosei Defendants, have no substantial non-infringing uses and are especially made
 23 and or especially adapted so as to be used in automobiles so as to infringe the '093
 24 Patent..

25 20. The acts of infringement by the Toyota, Autoliv, Takata, and Toyoda
 26 Gosei Defendants has caused damage to AVS, and AVS is entitled to recover from
 27 these Defendants damages sustained by AVS as a result of Defendants' wrongful
 28 acts in an amount subject to proof at trial, which by law can be no less than a

1 reasonable royalty. The infringement of AVS's exclusive rights under the '093
2 Patent by Defendants has damaged and will continue to damage AVS.

3 21. At least as early as its receipt of this Complaint, the Toyota has had
4 knowledge of the '093 Patent and written notice of the infringement. On August
5 31, 2015, letters were transmitted via Federal Express to the Autoliv, Takata, and
6 Toyoda Gosei Defendants Defendants. These letters identified the '093 Patent and
7 the relevance of the '093 Patent to the side curtain airbags manufactured and sold
8 by each of the Autoliv, Takata, and Toyoda Gosei Defendants that are incorporated
9 by automakers into vehicles. Thus, each of the Autoliv, Takata, and Toyoda Gosei
10 Defendants have knowledge of the '093 Patent and notice of infringement. AVS
11 intends to seek discovery on the issue of willfulness and reserves the right to seek a
12 willfulness finding and increased damages under 35 U.S.C. § 284 and attorneys'
13 fees and costs incurred in prosecuting this action under 35 U.S.C. § 285.

14 **JURY DEMAND**

15 22. AVS hereby demands a trial by jury on all issues.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, AVS requests entry of judgment in its favor against
18 Defendants as follows:

19 a. A declaration that Defendants have infringed and are infringing
20 the '093 Patent;

21 b. An award of damages to AVS arising out of Defendants' infringement
22 of the '093 Patent, including enhanced damages pursuant to 35 U.S.C. § 284,
23 together with prejudgment and post-judgment interest, in an amount according to
24 proof;

25 c. An award of attorneys' fees pursuant to 35 U.S.C. § 285 or as
26 otherwise permitted by law; and,

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1 d. Granting AVS its costs and further relief as the Court may deem just
2 and proper.
3

4 DATED: September 3, 2015 STRADLING YOCCA CARLSON & RAUTH,
5 P.C.

6 By: /s/ Douglas Q. Hahn
7 Douglas Q. Hahn

8 **ATTORNEYS FOR PLAINTIFF**
9 **AMERICAN VEHICULAR SCIENCES LLC**
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