

**United States District Court  
Eastern District of Texas  
Beaumont Division**

Affinity Labs of Texas, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:18-cv-454
	)	
FCA US LLC,	)	<b>Jury Trial Demanded</b>
	)	
Defendant.	)	
	)	

---

**Complaint for Patent Infringement**

Plaintiff Affinity Labs of Texas, LLC (Affinity Labs) files this Complaint against Defendant FCA US LLC (FCA) for its willful patent infringement of United States Patent No. 7,324,833 and alleges as follows:

**Parties**

1. Plaintiff Affinity Labs is a Texas limited liability company having offices at 31884 RR 12, Dripping Springs, TX 78620.
2. Defendant FCA US LLC, previously known as Chrysler Group LLC, is a Delaware limited liability company with its principal place of business at 1000 Chrysler Drive, Auburn Hills, MI 48321. FCA designs, engineers, manufactures and sells vehicles under the Chrysler, Jeep, Dodge, Ram, and FIAT brands as well as the SRT performance vehicle designation.

### **Jurisdiction**

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the federal patent statutes, 35 U.S.C. §§ 271 and 281-285.

4. This Court has general and specific personal jurisdiction over FCA. FCA has committed and continues to commit acts giving rise to this action within Texas and within this judicial district and FCA has established minimum contacts within the forum such that the exercise of jurisdiction over FCA would not offend traditional notions of fair play and substantial justice. For example, FCA has committed to and continues to commit acts of patent infringement in this judicial district, by among other things, offering to sell and selling vehicles that infringe U.S. Patent No. 7,434,833 (“the ’833 patent”), including the 2014 Ram 1500 with Uconnect® (“2014 Ram 1500”). In conducting its business in Texas and this judicial district, FCA derives substantial revenue from its infringing products being sold, used, imported, and/or offered for sale or providing service and support to FCA’s customers in Texas and this District, and will continue to do so unless enjoined by this Court.

### **Venue**

5. Venue in the Eastern District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b) and (c) and 1400(b) because FCA has committed acts within this judicial district giving rise to this action, and FCA has and continues to conduct business in this judicial district, including one or more acts of making, using, selling, and/or offering for sale infringing products or providing service and support to FCA’s customers in this District.

6. Venue in the Eastern District of Texas is also proper because FCA has been authorized to do business in the State of Texas by the Texas Secretary of State. Furthermore, FCA maintains a registered agent for service of process in Texas.

7. Venue in the Eastern District of Texas is also proper because FCA sells vehicles in Texas, including in the Eastern District of Texas, through authorized dealers. FCA's website, [www.fcanorthamerica.com](http://www.fcanorthamerica.com), directs consumers to FCA's brand websites, including [www.ramtrucks.com](http://www.ramtrucks.com), where authorized dealers can be located. For example, dealerships located in the Eastern District of Texas, such as Mike Smith Chrysler Jeep Dodge Ram dealership in Beaumont, Texas, can be found through the "Dealers & Vehicles" tab on the website [www.ramtrucks.com](http://www.ramtrucks.com). Consumers can view listings of FCA vehicles on the dealerships' respective websites.

8. FCA has adopted and ratified the dealerships within this District as its places of business.

9. On information and belief, FCA does not permit sales of any new FCA vehicle from any location except authorized dealers—including those authorized FCA dealerships found within the Eastern District of Texas.

10. Dealerships in or near Beaumont, Texas are named for one of FCA's brands. For example, Mike Smith Chrysler Jeep Dodge Ram, Moore Chrysler Dodge Jeep Ram, Winnie Chrysler Dodge Jeep Ram are all FCA dealerships found within this District.

11. Dealerships in or near Beaumont, Texas prominently display the logos of FCA's brands without caveat or reservation that the business is an "authorized dealer" or "exclusive distributor." For example, the dealership, Mike Smith Chrysler Jeep Dodge Ram prominently displays the logos of FCA's brands:



[https://www.google.com/maps/@30.0571792,-94.1371345,3a,75y,66.28h,85.3t/data=!3m6!1e1!3m4!1sKLdYx8aso\\_FTkdyuyTnRFw!2e0!7i13312!8i6656?hl=en](https://www.google.com/maps/@30.0571792,-94.1371345,3a,75y,66.28h,85.3t/data=!3m6!1e1!3m4!1sKLdYx8aso_FTkdyuyTnRFw!2e0!7i13312!8i6656?hl=en)

12. FCA, through its website, represents that the dealerships in this District are places of FCA with respect to the purchase of new FCA vehicles. FCA, on its brand website [www.ramtrucks.com](http://www.ramtrucks.com), includes the following links: “Search New Inventory,” “Schedule a Test Drive,” and “Get a Quote.”

13. When a customer visits the site [www.ramtrucks.com](http://www.ramtrucks.com) and clicks the link to “Search New Inventory” and then clicks a link on vehicle model of choice, FCA’s website shows the customer FCA vehicles of that model found near them or at a location of their choice. A customer is then able to “Get a Quote” through FCA’s website.

14. Upon clicking “Get a Quote,” either directly through the [www.ramtrucks.com](http://www.ramtrucks.com) webpage or through the “Search New Inventory” functionality, a customer is directed to a

web page containing the make and model information for the selected vehicle, the FCA dealership with the selected vehicle, and a prompt to enter personal contact information:

## GET A QUOTE

RAM 1500 BIG HORN / LONE STAR CREW CAB  
4X2 5'7" BOX



Mike Smith Chrysler Jeep Dodge Ram  
1945 Interstate 10 S  
Beaumont, TX 77701  
409-291-5743

### CONTACT INFORMATION

\* Required Field

First Name \*

Last Name \*

Address

ZIP Code \*

Email \*

Phone

× Cancel

Submit >

<https://www.ramtrucks.com/new-inventory/vehicle-details.html?modelYearCode=IUT201920&vin=1C6RREFT6KN549288&dealerCode=44743&radius=100&matchType=X&statusCode=KZX>

15. The webpage indicates that “[b]y submitting your contact information, you are asking us to contact you about purchasing a vehicle or obtaining vehicle financing. Such contact may be by telephone on behalf of FCA US LLC or an authorized dealer using automated technology. You consent and agree to that type of contact and our privacy policy when you click on the Submit button.”

16. Upon clicking on the “Schedule a Test Drive” link, a customer is provided with the ability to select a vehicle model, choose a dealership for a specific location, and provide personal contact information so that the FCA dealership can contact them:

**SCHEDULE A TEST DRIVE**

---

**CHOOSE VEHICLE** → Required Field

Vehicle\*  
-- Select A Vehicle -- ▼

Model  
-- Select A Model -- ▼

Additional Requests  
Color, Drive Option, Engine, etc.

---

**CHOOSE DEALERSHIP**  
(Showing Dealers for 77101 Chicago)

FILTER BY SERVICES ▼

**Mike Smith Chrysler Jeep Dodge Ram**

1945 Interstate 70 S  
Blosswood, TX 77401  
(409) 207-5143 2.81 miles

**Mid County Chrysler Dodge Jeep Ram FIAT**


8181 Memorial Blvd  
Four Arches, TX 77940  
(409) 527-4855 11.5 miles

**Moore Chrysler Dodge Jeep Ram**

1325 Highway 96 Ste  
Gladwin, TX 77636  
(409) 270-4228 17.85 miles

**Star Lake Motor Co Inc**

110 Highway 103 E  
Star Lake, TX 77989  
(409) 209-1647 18.88 miles



**CONTACT INFORMATION** → Required Field

First Name\*

Last Name\*

Address

City

State  
-- Select A State -- ▼

ZIP Code\*  
77101

Preferred Contact Method  
 Email  Phone

Email Address\*

Confirm Email Address\*

When do you prefer to take a test drive?  
 Sat  1/7   Morning

**Submit Request** →

Privacy Policy  
 Opt in: By providing your email address, you may receive future communications about updates, incentives and special offers from FCA US LLC.  
 The Ram brand does not intentionally market to children under 16 years of age. By clicking on SUBMIT, you verify that you are over 16 years of age.

<https://www.ramtrucks.com/satd.html>

17. Accordingly, FCA, through its website, identifies its dealerships as places of business of FCA where customers may schedule test drives and purchase vehicles.

18. Venue in the Eastern District of Texas is thus proper for the reasons identified in *Blitzsafe Texas, LLC v. Bayerische Motoren Werke AG, BMW Manufacturing Co., LLC, BMW of North America, LLC*, C.A. No. 2:17-CV-00418-JRG, Dkt. No. 90 (E.D. Tex. Sept. 5, 2018).

19. Venue is further proper because Affinity Labs is headquartered in this state, in Dripping Springs, Texas.

20. Venue is also proper because the majority of Affinity Labs' documents and relevant evidence is located at Affinity Labs' headquarters and numerous witnesses are also located within Texas.

21. Venue in the Eastern District of Texas is further proper because Affinity Labs is organized and governed by the limited liability company laws of Texas and is subject to taxes in Texas. Affinity Labs maintains a registered agent for service of process in Texas.

22. Venue in the Eastern District of Texas is also proper because of judicial economy. The Honorable Ron Clark presided over *Affinity Labs of Texas, LLC v. BMW North America, LLC*, C.A. No. 9:08-cv-164. As part of that action the Court construed the claims of the same patent asserted in the present action, the '833 patent, in its Order Construing Claim Terms dated December 18, 2009 (Dkt. No. 326). Judge Clark also presided over *Affinity Labs of Texas, LLC v. Ford Motor Co.*, C.A. No. 1:12-cv-580, and *Affinity Labs of Texas, LLC v. General Motors LLC*, C.A. No. 1:12-cv-582, which were both filed on December 6, 2012. As part of the actions against Ford and General Motors, the Court construed the claims of the '833 patent on April 16, 2014 (*Ford*, Dkt. No. 91; *GM*, Dkt. No. 107). The Court also amended its construction of certain terms of the '833 patent on July 25, 2014 (*Ford*, Dkt. No. 149; *GM*, Dkt. No. 150).

### **Background**

23. Affinity Labs was founded in 2008 by Russell White and Harlie Frost.

24. Russell White is a successful entrepreneur and patent attorney. Mr. White grew up in Houston, Texas, and has an undergraduate degree in mechanical engineering from Texas A&M. Mr. White also graduated from the University of Temple Law School. After earning his law degree, Mr. White co-founded SBC Knowledge Ventures, an entity within AT&T.

25. Mr. White is also a prolific inventor. Mr. White is listed as an inventor on at least thirty-two separate United States patents.

26. On March 28, 2000, Mr. White and Kevin R. Imes filed a detailed patent application, No. 09/537,812 (the '812 application) with the United States Patent and Trademark Office (PTO).

27. The '812 application addressed the problem of navigating through and playing audio content stored on portable electronic device, such as an MP3 player or cell phone, using a different electronic device.

28. The '812 application disclosed the ability to connect a portable electronic device, such as an MP3 player or cell phone to a second device such as an automobile with a display and sound system. As disclosed in the '812 application, the music available on the portable device can then be displayed and selected using controls on an automobile stereo system, and played through the speakers.

29. The state of technology in March 2000 when Mr. White and Mr. Imes made this disclosure in the '812 application was very different than it is today. In 2000, Apple had not introduced the iPod, iPhone, or App Store. Apple released the iPod in October 2001. Apple released the iPhone in June 2007. And Apple released the App Store in July 2008. It would also be years before the functionality of having music available on a portable device could be displayed and selected using controls on an automobile stereo system, and played through the speakers was available.

30. Before 2000, if a user wanted to stream media, such as music or video, the user was generally tied to a wired connection, such as a home computer. If a user wanted to consume media on-the-go, then the user was generally limited to: (1) choosing content already stored in internal memory on the portable device (i.e., a previously downloaded file on an MP3 player); or (2) choosing content stored on external media such as CDs or cassette tapes.



31. On January 29, 2008, the PTO issued United States Patent No. 7,324,833, entitled “System and Method for Connecting a Portable Audio Player to an Automobile Sound System” (“the ’833 patent”), a copy of which is attached as Exhibit A. The ’833 patent was issued from a continuation application claiming priority to the ’812 application.

32. Other patents in the same family as the ’833 patent family have been cited by major businesses in the computer, software, communications, automotive, and mobile industries. For example, the ’833 patent and related U.S. Patent No. 7,634,228 (“the ’228 patent”) have been cited in at least 38 patents and publications, with many of these patents assigned to corporations such as Apple, AT&T, Toyota, Google, Nokia, Bose, and Volkswagen.

33. On August 27, 2008, Affinity Labs sued a number of automobile manufacturers, including Hyundai Motor America, Inc.; Hyundai Motor Manufacturing Alabama, LLC (collectively, “Hyundai”); Kia Motors America, Inc. (“Kia”); and Volkswagen Group of America (“Volkswagen”) in the Eastern District of Texas for infringement of the ’833 patent. Affinity Labs alleged that Hyundai, Kia, and Volkswagen infringed the ’833 patent by manufacturing, using, marketing, offering for sale, and/or selling of select automobiles with audio systems designed to integrate a portable digital media device with the automobile’s on-screen display and user interface.

34. The Court, the Honorable Ron Clark presiding, held a jury trial from October 18-22 and October 25-28, 2010 with defendants Hyundai, Kia, and Volkswagen.

35. During the trial, Hyundai, Kia, and Volkswagen asserted that claims 28 and 35 of the ’833 patent were invalid under 35 U.S.C. sections 102, 103 and/or 112.

36. On October 28, 2010, the jury by unanimous verdict found that Volkswagen and Hyundai directly and contributorily infringed and induced infringement of claims 28 and 35 of the '833 patent. The jury awarded damages to Affinity Labs in the amount of \$12,986,530.

37. The jury rejected all of Volkswagen, Hyundai, and Kia's invalidity arguments and found that claims 28 and 35 of the '833 patent are not invalid.

38. The jury also found that claims 28 and 35 of the '833 patent are not anticipated, and that claims 28 and 35 of the '833 patent are not obvious.

39. This verdict was reported on by the legal press, including Law360.

40. On April 12, 2011, the Court ordered final judgment in favor of Affinity Labs in the amount of \$12,986,530 in damages, \$1,193,130 in pre-judgment interest, post-judgment interest calculated at the rate of 0.27%, and costs of court.

41. The claims of the '833 patent are directed toward the ability to stream media in an automobile entertainment system from a portable device. The claims do not recite the performance of a business practice known from the pre-Internet world along with the requirement to perform it on the Internet.

42. The ability to stream media in an automobile entertainment system from a portable device as disclosed by the claims of the '833 patent can only be accomplished in a concrete and tangible manner. There is no way to accomplish this objective through pen-and-paper or the human mind.

43. When the limitations of the claims of the '833 patent are taken together as an ordered combination, the claims recite inventions that are not merely routine or conventional uses of the Internet.

44. The claims of the '833 patent addressed a technological problem of being tied to a wired connection to stream media with a technological solution. The claims recite inventive combinations of hardware and software components that are necessarily rooted in computer technology. The specific combination of software and hardware provide users with the ability to stream media with far more flexibility and control than the options available in March 2000.

45. The claims of the '833 patent recite a specific way to stream media in an automobile entertainment system from a portable device and do not preempt every application of the ability to stream media in an automobile.

46. Numerous companies have recognized the value and importance of Affinity Labs' innovation. For instance, over thirty companies have licensed Affinity Labs' patent portfolio for the patents in the same family as the '833 patent. Numerous automobile manufacturers have licensed the '833 patent, including Ford, General Motors, BMW, Hyundai, Kia, and Volkswagen.

47. The PTO again confirmed the validity of claims 28-35 of the '833 patent when issuing a reexam certificate on January 26, 2018.

### **Count I**

#### **Infringement of U.S. Patent No. 7,324,833 by FCA**

1. Affinity Labs restates and realleges each of the allegations set forth above and incorporates them herein.

2. Affinity Labs holds all legal title, interest, and rights in the '833 patent.

3. FCA manufactures, uses, sells, offers to sell, imports, has manufactured, used, sold, offered to sell, and/or imported products that infringe or have infringed the '833 patent, such as automobiles with Uconnect®.

4. FCA does not have authority to make, use, sell, offer for sale, or import any product or service covered by any claim of the '833 patent.

5. FCA has and continues to manufacture, use, sell, offer to sell, or import, without authority, automobiles with Uconnect®.

6. FCA's automobiles with Uconnect® have audio systems designed to integrate a portable digital media device with the automobile's on-screen display and user interface

7. In violation of 35 U.S.C. § 271(a), FCA has infringed, and if not enjoined, will continue to infringe the '833 patent by manufacturing, using, marketing, selling, offering for sale, and/or importing, without authority, automobiles with sound systems that are covered by one or more claims of the '833 patent, literally and/or under the doctrine of equivalents, in this judicial district and elsewhere in the United States.

8. As set forth in the claim chart attached as Exhibit B and incorporated herein, FCA directly infringes at least claims 28 and 33-34 of the '833 patent at least by having and continuing to make, use, sell, offer to sell, and/or import automobiles with Uconnect®.

9. In violation of 35 U.S.C. § 271(b), FCA has indirectly infringed at least claims 28 and 33-34 of the '833 patent by inducing others (*e.g.*, its customers) to directly infringe the '833 patent at least by using the Uconnect® system and connecting it with a portable electronic device, such as an MP3 player or smartphone, to listen to music in this judicial district and elsewhere in the United States.

10. FCA knowingly encourages and intends for its customers to directly infringe the '833 patent, including at least claims 28 and 33-34 at least by instructing and advertising that its customers may connect a portable digital media device in FCA automobiles with Uconnect® and have access to an on-screen display and user interface. FCA intended these actions by its customers while the '833 patent was and is in force.

11. FCA indirectly infringes one or more claims of the '833 patent at least because FCA has had knowledge of the '833 patent since at least August 3, 2011 when Affinity Labs wrote to FCA, formerly Chrysler Group LLC, regarding the '833 patent and has induced others to infringe the '833 patent.

12. FCA specifically intends to induce its customers to directly infringe the '833 patent when they use the Uconnect® system and connect their portable electronic device to listen to music, as reflected in Exhibit B.

13. In violation of 35 U.S.C. § 271(c), FCA actively contributes to the infringement and actively continues to commit such contributory infringement of the '833 patent in this judicial district and elsewhere in the United States.

14. FCA has made, used, offered, or imported, and continues to make, use, offer or import a sound system for its automobiles to work with a portable electronic device, such as an MP3 player, to listen to music, and continues to do so while the '833 patent was and is in force.

15. FCA made, used, offered, or imported, and continues to make, use, offer, or import components for the automobiles such as the 2014 Ram 1500 with Uconnect® that are able to work with a portable electronic device to listen to music—the use of which by FCA's customers has directly infringed and is directly infringing the '833 patent, and for which no

other substantial non-infringing uses exist. These components include a material part of the claimed inventions of the '833 patent.

16. FCA knows that these components are used by its customers in a manner that infringes the '833 patent, and continues to offer these components for such use and infringement.

17. Despite having knowledge of the '833 patent since at least August 3, 2011, FCA has knowingly and willfully made, used, offered for sale, sold, and/or imported automobiles with sound systems that infringe the '833 patent, including at least the 2014 Ram 1500, and has done so after receiving notice of FCA's infringement of the '833 patent. FCA has taken these actions without authorization from Affinity Labs.

18. Affinity Labs' letters to FCA, formerly Chrysler Group LLC, referenced licenses to various car companies and the judgment against Hyundai/Kia and Volkswagen for infringement of the '833 patent.

19. On April 9, 2018, Affinity Labs again corresponded with FCA seeking an amicable resolution to FCA's infringement of the '833 patent. The letter included a claim chart specifically showing FCA's infringement of claim 28 of the '833 patent. Over the next several months, Affinity Labs and FCA exchanged various communications regarding Affinity Labs' offer to license the '833 patent and release FCA of its liability for its past infringement. FCA still did not obtain a license. Nor did FCA offer any belief that it did not infringe the '833 patent, or any belief that the '833 patent was invalid.

20. FCA's infringement of the '833 patent has been and continues to be willful.

21. FCA does not have a license or permission to use the claimed subject matter in the '833 patent.

22. Affinity Labs has been injured and has been caused significant financial damage as a direct and proximate result of FCA's infringement of the '833 patent.

23. FCA will continue to infringe the '833 patent, and thus cause irreparable injury and damage to Affinity Labs unless enjoined by this Court.

24. Affinity Labs is entitled to recover from FCA the damages sustained by Affinity Labs as a result of FCA's wrongful acts in an amount subject to proof at trial.

### **Demand for Trial by Jury**

Affinity Labs demands a jury trial on all issues so triable, pursuant to Rule 38 of the Federal Rules of Civil Procedure.

### **Prayer for Relief**

Affinity Labs prays for the following relief:

1. A declaration that FCA has infringed and is infringing the '833 patent and is liable to Affinity Labs for infringement;
2. An order enjoining FCA from infringing the '833 patent;
3. If a permanent injunction is not granted, a judicial determination of the conditions for future infringement such as an ongoing royalty;
4. An award of damages, including pre-judgment and post-judgment interest, in an amount adequate to compensate Affinity Labs for FCA's infringement of the '833 patent, and that the damages be trebled for FCA's willful infringement pursuant to 35 U.S.C. § 284;
5. An equitable accounting of damages owed by FCA for the period of infringement of the '833 patent, following the period of damages established by Affinity Labs at trial;
6. A finding that this case is exceptional and an award of attorneys' fees pursuant to 35 U.S.C. § 285;

7. An award of costs, expenses, and disbursements; and
8. Such other and further relief as the Court deems Affinity Labs may be entitled to in law and equity.

Dated: September 20, 2018

Respectfully submitted,

By: /s/ Deron R. Dacus

**Robins Kaplan LLP**

Ronald J. Schutz

(Eastern District of Texas Member)

Cyrus A. Morton

(Eastern District of Texas Member)

Patrick M. Arenz

(Eastern District of Texas Member)

Benjamin C. Linden (*pro hac to be submitted*)

800 LaSalle Avenue, Suite 2800

Minneapolis, Minnesota 55402

Telephone: (612) 349-8500

Facsimile: (612) 339-4181

RSchutz@robinskaplan.com

CMorton@robinskaplan.com

PArenz@robinskaplan.com

BLinden@robinskaplan.com

Deron R. Dacus

State Bar No. 00790553

**The Dacus Firm, P.C.**

821 ESE Loop 323, Suite 430

Tyler, TX 75701

Phone: (903) 705-1117

Fax: (903) 581-2543

[ddacus@dacusfirm.com](mailto:ddacus@dacusfirm.com)

**Attorneys for Plaintiff**

**Affinity Labs of Texas, LLC**