

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHIGAN MOTOR TECHNOLOGIES LLC

Plaintiff,

v.

MERCEDES-BENZ USA, LLC, and

MERCEDES-BENZ GROUP AG

Defendants.

C.A. No. 1:22-cv-3957-JRB-JTG

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Michigan Motor Technologies LLC (“MMT” or “Plaintiff”), for its First Amended Complaint against Defendants Mercedes-Benz USA, LLC. (“MBUSA”) and Mercedes-Benz Group AG (“MBAG” collectively with MBUSA “Defendants”) alleges the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 et seq.

THE PARTIES

2. Plaintiff is a Limited Liability Company organized under the laws of the State of Michigan with a place of business at 2360 Orchard Lake Road, Suite 100, Sylvan Lake, Michigan 48320.

3. Upon information and belief, MBUSA is a corporation organized and existing under the laws of the State of Delaware with a principal place of business at 1 Mercedes Benz Dr., Sandy Springs, GA 30328-4312.

4. Upon information and belief, since at least July 13, 2000, MBUSA has been registered to do business in Illinois with the Secretary of State. Defendants maintains a Certificate of Good Standing under File Number 00436003. Defendants may be served with process through its registered agent, CT Corporation System, 208 S. LaSalle Street, Suite 814, Chicago IL 60604.

5. Upon information and belief, Defendants maintain offices at 100 Mercedes Drive, Carols Stream IL 60188. This facility, called the “Carol Stream, IL Chicago Parts Distribution Center (PDC) supports dealers in the Midwestern United States with parts supply and houses parts inventory,” including parts and inventory for the Accused Instrumentalities. (*See* Carol Stream, IL Chicago Parts Distribution Center (PDC) | Mercedes-Benz Group <https://group.mercedes-benz.com/careers/about-us/locations/location-detail-page-329611.html> (last visited July 8, 2022).)

6. Defendants employs 45 people at the Carol Stream PDC. (*See id.*)

7. The website about the Carol Stream PDC also directs visitors to Defendants’ corporate website, <https://mbusa.com>. (*See id.*)

8. Upon information and belief, MBAG is a corporation organized and existing under the laws of Germany with its principal place of business at Mercedesstraße 120, 70372 Stuttgart-Untertürkheim, Germany.

9. Upon information and belief, MBAG is the parent company of MBUSA and conducts its business in the United States through MBUSA.

JURISDICTION AND VENUE

10. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

11. This court has subject matter jurisdiction under 28 U.S.C. §§ 1331 (Federal Question) and 1338(a) (Patent Law).

12. Venue is proper in this judicial district under 28 U.S.C. § 1400(b). On information and belief, Defendants have committed acts of infringement in this District and have regular and established places of business within this District.

13. Defendants' unlawful infringement of MMT's patents was committed in this jurisdiction. Defendants maintains offices that support the sale and on-going support for the Accused Instrumentalities within this jurisdiction thereby purposefully availing itself of the laws of the State of Illinois and this Judicial District. As such, Defendants is subject to this Court's general and specific personal jurisdiction.

14. Defendants have sufficient minimum contacts within the State of Illinois and this Judicial District, pursuant to due process and/or 735 ILCS 5/2-209, as Defendants have purposefully availed themselves of the privileges of conducting business in the State of Illinois by regularly conducting and soliciting business within the State of Illinois and within this Judicial District, and because Plaintiff's causes of action arise directly from Defendants' business contacts and other activities in the State of Illinois and this Judicial District

ACCUSED INSTRUMENTALITIES

15. Defendants make, use, sell and offer for sale, provide, and causes to be used, now and within the past six years, the M176, M177 and M178 engines. ("Accused Instrumentalities").

16. Upon information and belief, the M176 engine has been installed in, and continues to be installed in the Mercedes-Benz G500, G550, S560, GLE 580, GLS 580, S580 and Maybach S560 and S580.

17. Upon information and belief, the M177 engine has been installed in, and continues to be installed in the Mercedes-Benz AMG C63, AMG E63, AMG G 63, AMG GLC 63, AMG GLE 63, AMG GLS 63, AMG SL 55, and Aston Martin DB11, Vantage and DBX.

18. Upon information and belief, the M178 engine has been installed in, and continues to be installed in the Mercedes-Benz AMG GT, AMG GT S, AMG GT C, AMG GT R, AMG GT Black Series, and Aston Martin Valhalla.

19. Defendants also make, use, sell and offer for sale, provide, and cause to be used, now and within the past six years, the Mercedes-Benz GLC 350e, among other such products (“PHEV Accused Instrumentalities”).

PATENTS IN SUIT

20. Plaintiff is the owner by assignment of a portfolio of patents, including the seven patents described in detail in the counts below (collectively “the Asserted Patents”).

21. U.S. Patent Nos. 6,557,540 (“the ’540 patent”), 6,561,166 (“the ’166 patent”), 6,581,565 (“the ’565 patent”), 6,581,574 (“the ’574 patent”), 6,588,260 (“the ’260 patent”), 6,736,122 (“the ’122 patents”) and 8,909,482 (“the ’482 patent”) were assigned to Plaintiff, MMT on August 28, 2017.

22. MMT is the rightful owner of the Asserted Patents and hold the entire right, title and interest in the Asserted Patents.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 6,557,540

23. The allegations set forth in the foregoing paragraphs 1 through 22 are incorporated into this Claim for Relief.

24. On May 6, 2003, the ’540 patent entitled “Method of Calculating a Valve Timing Command for an Engine,” was duly and legally issued from U.S. Patent Application No. 10/014,286 filed on December 11, 2001. A true and correct copy of the ’540 patent is attached as Exhibit 1.

25. Michigan Motor is the assignee and owner of the right, title and interests in and to the '540 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

26. Upon information and belief, Defendants have directly infringed at least claim 1 of the '540 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing to be used the Accused Instrumentality that infringe the patented methods as explained in attached Exhibit 2.

27. Upon information and belief, these Accused Instrumentality are used, marketed, provided to, and/or used by or for the Defendants' partners, clients, and customers across the country and in this District.

28. Defendants were made aware of the '540 patent and its infringement thereof at least as early as the date of filing of this Complaint.

29. Upon information and belief, Defendants have induced and continue to induce others to infringe at least claim 1 of the '540 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants' partners, clients and customers, whose use of the Accused Instrumentality constitutes direct infringement of at least claim 1 of the '540 patent.

30. In particular, the Defendants' actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentality and providing instruction materials and services regarding the Accused Instrumentality.

31. Any party, including Defendants' partners, clients and customers using the Accused Instrumentalities necessarily infringes the '540 patent. Defendants thus induce others to infringe

the '540 patent. Defendants have knowingly induced infringement since at least the filing of this Complaint when Defendants were first made aware of the '540 patent.

32. Upon information and belief, the Defendants are liable as a contributory infringer of the '540 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentality that infringe the patented methods, to be especially made or adapted for use in an infringement of the '540 patent. Each of the Accused Instrumentality is a material component for use in practicing the '540 patent and is specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

33. Plaintiff has been harmed by Defendants' Infringing activities.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 6,561,166

34. The allegations set forth in the foregoing paragraphs 1 through 33 are incorporated into this Claim for Relief.

35. On May 13, 2003, the '166 patent entitled "Purge Fuel Canister Measurement Method and System" was duly and legally issued from U.S. Patent Application No. 09/861,983 filed on May 16, 2001. A true and correct copy of the '161 patent is attached as Exhibit 3.

36. Michigan Motor is the assignee and owner of the right, title and interests in and to the '166 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

37. Upon information and belief, Defendants have directly infringed at least claim 1 of the '166 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing to be used the Accused Instrumentality that infringe the patented methods as explained in attached Exhibit 4.

38. Upon information and belief, these Accused Instrumentality are used, marketed, provided to, and/or used by or for the Defendants' partners, clients, and customers across the country and in this District.

39. Defendants were made aware of the '166 patent and its infringement thereof at least as early as the date of filing of this Complaint.

40. Upon information and belief, Defendants have induced and continue to induce others to infringe at least claim 1 of the '166 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants' partners, clients and customers, whose use of the Accused Instrumentality constitutes direct infringement of at least claim 1 of the '166 patent.

41. In particular, the Defendants' actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentality and providing instruction materials and services regarding the Accused Instrumentality.

42. Any party, including Defendants' partners, clients and customers using the Accused Instrumentalities necessarily infringes the '166 patent. Defendants thus induce others to infringe the '166 patent. Defendants have knowingly induced infringement since at least the filing of this Complaint when Defendants were first made aware of the '166 patent.

43. Upon information and belief, the Defendants are liable as a contributory infringer of the '166 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentality that infringe the patented methods, to be especially made or adapted for use in an infringement of the '166 patent. Each of the Accused Instrumentality is a material component for use in practicing the '166 patent and is specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

44. Plaintiff has been harmed by Defendants' Infringing activities.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 6,581,565

45. The allegations set forth in the foregoing paragraphs 1 through 44 are incorporated into this Claim for Relief.

46. On June 24, 2003, the '565 patent entitled "Engine Torque Controller" was duly and legally issued from U.S. Patent Application No. 10/191,641 filed on July 9, 2002. A true and correct copy of the '565 patent is attached as Exhibit 5.

47. Michigan Motor is the assignee and owner of the right, title and interests in and to the '565 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

48. Upon information and belief, Defendants have directly infringed at least claim 1 of the '565 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing to be used the Accused Instrumentality that infringe the patented device as explained in attached Exhibit 6.

49. Upon information and belief, these Accused Instrumentality are used, marketed, provided to, and/or used by or for the Defendants' partners, clients, and customers across the country and in this District.

50. Defendants were made aware of the '565 patent and its infringement thereof at least as early as the date of filing of this Complaint.

51. Upon information and belief, Defendants have induced and continue to induce others to infringe at least claim 1 of the '565 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants' partners, clients and customers, whose use of the Accused Instrumentality constitutes direct infringement of at least claim 1 of the '565 patent.

52. In particular, the Defendants' actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentality and providing instruction materials and services regarding the Accused Instrumentality.

53. Any party, including Defendants' partners, clients and customers using the Accused Instrumentalities necessarily infringes the '565 patent. Defendants thus induce others to infringe the '565 patent. Defendants have knowingly induced infringement since at least the filing of this Complaint when Defendants were first made aware of the '565 patent.

54. Upon information and belief, the Defendants are liable as a contributory infringer of the '565 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentality that infringe the patented methods, to be especially made or adapted for use in an infringement of the '565 patent. Each of the Accused Instrumentality is a material component for use in practicing the '565 patent and is specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

55. Plaintiff has been harmed by Defendants' Infringing activities.

COUNT IV – INFRINGEMENT OF U.S. PATENT NO. 6,581,574

56. The allegations set forth in the foregoing paragraphs 1 through 53 are incorporated into this Claim for Relief.

57. On June 24, 2003, the '574 patent entitled "Method of Controlling Fuel Rail Pressure," was duly and legally issued from U.S. Patent Application No. 10/108,093 filed on March 27, 2002. A true and correct copy of the '547 patent is attached as Exhibit 7.

58. Michigan Motor is the assignee and owner of the right, title and interests in and to the '547 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

59. Upon information and belief, Defendants have directly infringed at least claim 1 of the '574 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing to be used the Accused Instrumentality that infringe the patented methods as explained in attached Exhibit 8.

60. Upon information and belief, these Accused Instrumentality are used, marketed, provided to, and/or used by or for the Defendants' partners, clients, and customers across the country and in this District.

61. Defendants were made aware of the '574 patent and its infringement thereof at least as early as the date of filing of this Complaint.

62. Upon information and belief, Defendants have induced and continue to induce others to infringe at least claim 1 of the '574 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants' partners, clients and customers, whose use of the Accused Instrumentality constitutes direct infringement of at least claim 1 of the '574 patent.

63. In particular, the Defendants' actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentality and providing instruction materials and services regarding the Accused Instrumentality.

64. Any party, including Defendants' partners, clients and customers using the Accused Instrumentalities necessarily infringes the '574 patent. Defendants thus induce others to infringe the '574 patent. Defendants have knowingly induced infringement since at least the filing of this Complaint when Defendants were first made aware of the '574 patent.

65. Upon information and belief, the Defendants are liable as a contributory infringer of the '574 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the

United States the Accused Instrumentality that infringe the patented methods, to be especially made or adapted for use in an infringement of the '574 patent. Each of the Accused Instrumentality is a material component for use in practicing the '574 patent and is specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

66. Plaintiff has been harmed by Defendants' Infringing activities.

COUNT V – INFRINGEMENT OF U.S. PATENT NO. 6,588,260

67. The allegations set forth in the foregoing paragraphs 1 through 64 are incorporated into this Claim for Relief.

68. On July 8, 2003, the '260 patent entitled "Electronic Throttle Disable Control Test System" was duly and legally issued from U.S. Patent Application No. 09/695,165 filed on October 24, 2000. A true and correct copy of the '260 patent is attached as Exhibit 9.

69. Michigan Motor is the assignee and owner of the right, title and interests in and to the '260 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

70. Upon information and belief, Defendants have directly infringed at least claim 1 of the '260 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing to be used the Accused Instrumentality that infringe the patented apparatus as explained in attached Exhibit 10.

71. Upon information and belief, these Accused Instrumentality are used, marketed, provided to, and/or used by or for the Defendants' partners, clients, and customers across the country and in this District.

72. Defendants were made aware of the '260 patent and its infringement thereof at least as early as the date of filing of this Complaint.

73. Upon information and belief, Defendants have induced and continue to induce others to infringe at least claim 1 of the '260 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants' partners, clients and customers, whose use of the Accused Instrumentality constitutes direct infringement of at least claim 1 of the '260 patent.

74. In particular, the Defendants' actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentality and providing instruction materials and services regarding the Accused Instrumentality.

75. Any party, including Defendants' partners, clients and customers using the Accused Instrumentalities necessarily infringes the '260 patent. Defendants thus induce others to infringe the '260 patent. Defendants have knowingly induced infringement since at least the filing of this Complaint when Defendants were first made aware of the '260 patent.

76. Upon information and belief, the Defendants are liable as a contributory infringer of the '260 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentality that infringe the patented methods, to be especially made or adapted for use in an infringement of the '260 patent. Each of the Accused Instrumentality is a material component for use in practicing the '260 patent and is specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

77. Plaintiff has been harmed by Defendants' Infringing activities.

COUNT VI – INFRINGEMENT OF U.S. PATENT NO. 6,736,122

78. The allegations set forth in the foregoing paragraphs 1 through 75 are incorporated into this Claim for Relief.

79. On May 29, 2004, the '122 patent entitled "Motor Vehicle Engine Synchronization," was duly and legally issued from U.S. Patent Application No. 10/104,153 filed on March 22, 2002. A true and correct copy of the '122 patent is attached as Exhibit 11.

80. Michigan Motor is the assignee and owner of the right, title and interests in and to the '122 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

81. Upon information and belief, Defendants have directly infringed at least claim 1 of the '122 patent by making, using, selling, importing, offering for sale, providing, practicing, and causing to be used the Accused Instrumentality that infringe the patented apparatus as explained in attached Exhibit 12.

82. Upon information and belief, these Accused Instrumentality are used, marketed, provided to, and/or used by or for the Defendants' partners, clients, and customers across the country and in this District.

83. Defendants were made aware of the '122 patent and its infringement thereof at least as early as the date of filing of this Complaint.

84. Upon information and belief, Defendants have induced and continue to induce others to infringe at least claim 1 of the '122 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants' partners, clients and customers, whose use of the Accused Instrumentality constitutes direct infringement of at least claim 1 of the '122 patent.

85. In particular, the Defendants' actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the Accused Instrumentality and providing instruction materials and services regarding the Accused Instrumentality.

86. Any party, including Defendants' partners, clients and customers using the Accused Instrumentalities necessarily infringes the '122 patent. Defendants thus induce others to infringe the '122 patent. Defendants have knowingly induced infringement since at least the filing of this Complaint when Defendants were first made aware of the '122 patent.

87. Upon information and belief, the Defendants are liable as a contributory infringer of the '122 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the Accused Instrumentality that infringe the patented methods, to be especially made or adapted for use in an infringement of the '122 patent. Each of the Accused Instrumentality is a material component for use in practicing the '122 patent and is specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

88. Plaintiff has been harmed by Defendants' Infringing activities.

COUNT VII – INFRINGEMENT OF U.S. PATENT NO. 8,909,482

89. The allegations set forth in the foregoing paragraphs 1 through 86 are incorporated into this Claim for Relief.

90. On December 9, 2014, patent entitled "Device for Measuring Power Consumption and Performance with Respect to the Environment of a Power-Consuming Unit," was duly and legally issued from U.S. Patent Application No. 13/054,355 filed on July 20, 2009. A true and correct copy of the '482 patent is attached as Exhibit 13.

91. Michigan Motor is the assignee and owner of the right, title and interests in and to the '482 patent, including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

92. Upon information and belief, Defendants have directly infringed at least claim 1 of the '482 patent by making, using, selling, importing, offering for sale, providing, practicing, and

causing to be used the PHEV Accused Instrumentality that infringe the patented device as explained in attached Exhibit 14.

93. Upon information and belief, these PHEV Accused Instrumentality are used, marketed, provided to, and/or used by or for the Defendants' partners, clients, and customers across the country and in this District.

94. Defendants were made aware of the '482 patent and its infringement thereof at least as early as the date of filing of this Complaint.

95. Upon information and belief, Defendants have induced and continue to induce others to infringe at least claim 1 of the '482 patent under 35 U.S.C. § 271(b) by, among other things, and with specific intent or willful blindness, actively aiding and abetting others to infringe, including, but not limited to Defendants' partners, clients and customers, whose use of the PHEV Accused Instrumentality constitutes direct infringement of at least claim 1 of the '482 patent.

96. In particular, the Defendants' actions that aid and abet others such as its partners, clients and customers to infringe include advertising and distributing the PHEV Accused Instrumentality and providing instruction materials and services regarding the PHEV Accused Instrumentality.

97. Any party, including Defendants' partners, clients and customers using the PHEV Accused Instrumentalities necessarily infringes the '482 patent. Defendants thus induce others to infringe the '482 patent. Defendants have knowingly induced infringement since at least the filing of this Complaint when Defendants were first made aware of the '482 patent.

98. Upon information and belief, the Defendants are liable as a contributory infringer of the '482 patent under 35 U.S.C. § 271(c) by offering to sell, selling and importing into the United States the PHEV Accused Instrumentality that infringe the patented methods, to be

especially made or adapted for use in an infringement of the '482 patent. Each of the PHEV Accused Instrumentality is a material component for use in practicing the '482 patent and is specifically made and are not a staple article of commerce suitable for substantial non-infringing use.

99. Plaintiff has been harmed by Defendants' Infringing activities.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment for itself and against Defendants as follows:

A. An adjudication that Defendants have infringed the '540, '166, '565, '260, '574, '122, and '482 patents;

B. An award of damages to be paid by Defendants adequate to compensate Plaintiff for Defendants' past infringement of the '540, '166, '565, '260, '574, '122, and '482 patents and any continuing or future infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of Plaintiff's reasonable attorneys' fees; and

D. An award to Plaintiff of such further relief at law or in equity as the Court deems just and proper.

Dated: March 27, 2023

/s/ Neil A. Benchell

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