

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FORAS TECHNOLOGIES LTD.,

Plaintiff,

v.

KIA CORPORATION and KIA AMERICA,
INC.,

Defendants.

Case No. 2:23-cv-219

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Foras Technologies Limited (“Plaintiff” or “Foras”) makes the following allegations against Defendants Kia Corporation (“Kia Corp.”) and Kia America, Inc. (“Kia Am.”) (collectively, “Kia” or “Defendants”):

INTRODUCTION

1. This complaint arises from Defendants’ unlawful infringement of the following United States patent owned by Plaintiff, which relates to lockstep processing technology: United States Patent No. 7,502,958 (“the ’958 Patent”) (the “Asserted Patent”).

PARTIES

2. Plaintiff Foras Technologies Limited is a private company limited by shares organized and existing under the law of Ireland, with its principal place of business at The Hyde Building, Suite 23, The Park, Carrickmines, Dublin 18, Ireland. Foras is the sole owner by

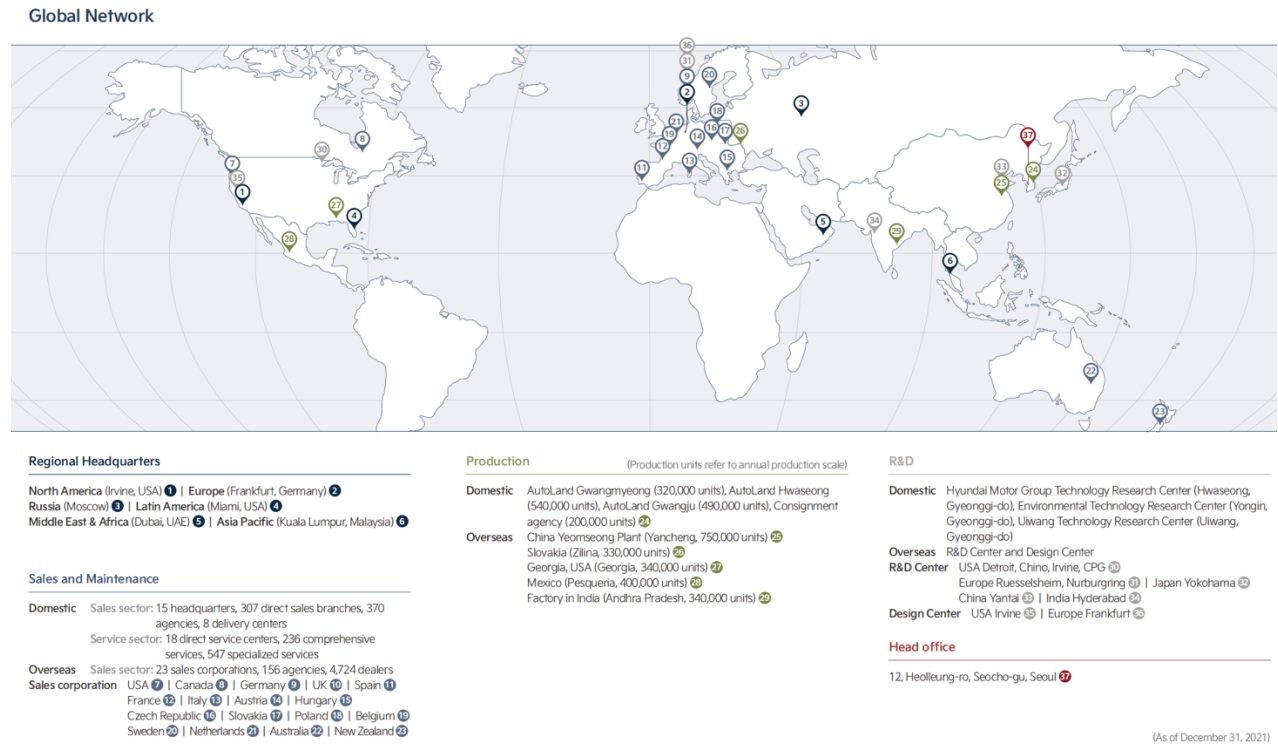
assignment of all right, title, and interest in the Asserted Patent, including the right to recover for past, present, and future infringement.

3. Defendant Kia Corporation is a Korean corporation with its principal place of business at 12 Heolleung-ro, Seocho-gu, Seoul, 06797, Republic of Korea. On information and belief, Kia Corp. does business itself, or through its subsidiaries, affiliates, and agents, in the State of Texas and the Eastern District of Texas. On information and belief, Kia Corp. is responsible for importing, making, marketing, distributing, offering for sale, and/or selling Kia-branded automobiles including components from HL Mando Corporation (“Mando”) and/or Hella Gmbh & Co. (“Hella”) throughout the United States, including this District.

4. Defendant Kia America, Inc. is a corporation organized and existing under the laws of California, with a principal place of business at 111 Peters Canyon Road, Irvine, CA 92606. Kia Am. maintains its corporate headquarters for the southwest region in this District at 5810 Tennyson Parkway, Plano, Texas 75024. Kia Am. is registered to do business in the state of Texas and may be served through its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201. On information and belief, Kia Am. is responsible for importing, making, marketing, distributing, offering for sale, and/or selling Kia-branded automobiles including components from Mando and/or Hella throughout the United States, including this District.

5. Kia Corp. maintains a corporate presence in the United States via at least its wholly-owned U.S.-based subsidiary Kia Am., which operates in this judicial district. On information and belief, Kia Corp. and its U.S.-based subsidiaries (which act as part of a global network of sales and manufacturing subsidiaries) operate as agents of one another and vicariously as parts of the same business group to work in concert together. For example, Kia Corp., alone and through at least

the activities of their U.S.-based sales subsidiaries (including Kia Am.), conduct business in the United States, including importing, distributing, and selling infringing products, in Texas and this District. *See, e.g.*, Exs. 1 & 2 (Kia dealership and/or service centers at 3401 N Central Expy, Plano, TX 75023, 4818 Troup Hwy, Tyler, TX 75703). For example, Kia Corp. identifies U.S.-based operations as part of its “Global Network”:

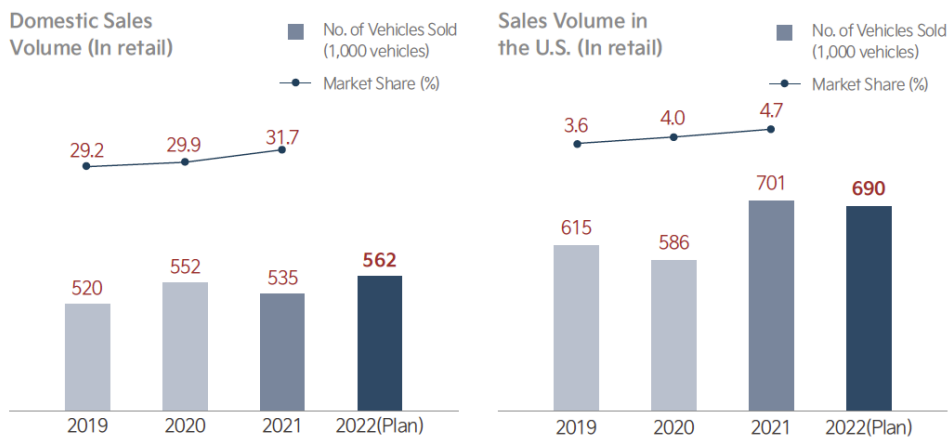


Ex. 3 (Kia Corp. 2022 Sustainability Report) at 7. For example, Kia Corp. identifies U.S.-based sales in its financial reports:

U.S.

In 2021, despite supply shortages in the U.S. market, we hit an all-time high of 701,000 units in retail sales and 4.7% in market share. As a result, local inventories have fallen to their lowest levels.

In 2022, we plan to achieve 15% of sales of eco-friendly vehicles by early normalizing dealer inventory by maximizing wholesale, strengthening sales momentum of SUVs such as Tellurite, Sorento, and Sportage, and successfully launching EV6.



Id. at 56. For example, Kia Corp. also identifies U.S.-based employees as part of its workforce:

Status of Employees (Unit : Persons)

Domestic and foreign employees		2019*	2020	2021	Ratio (%)
Domestic		35,469	35,115	35,453	68.2
Gender	Male	34,210	33,799	34,033	96.0
	Female	1,259	1,316	1,420	4.0
By age	20-29 years old	1,501	382	1,554	4.4
	30-39 years old	4,895	3,320	3,573	10.1
	40-49 years old	14,868	10,310	11,452	32.3
	over 50 years old	14,205	21,103	18,874	53.2
USA		3,075	3,169	3,288	6.3
Mexico		2,339	2,362	2,243	4.3
Europe		5,059	4,861	4,881	9.4
China		4,824	4,613	4,317	8.3
Others		1,682	1,779	1,793	3.4
Total		52,448	51,899	51,975	100

* Industrial-educational personnel, part-time jobs are not included

Id. at 75. On information and belief, Kia Corp., alone and through its U.S.-based subsidiaries (including Kia Am.), place infringing products into the stream of commerce via established

distribution channels knowing or understanding that such products would be sold and used in the United States, including in the Eastern District of Texas.

6. On information and belief, Kia Corp. does business itself, or through their subsidiaries, affiliates, and agents, in the State of Texas and the Eastern District of Texas. Kia Corp. has placed or contributed to placing infringing products, such as Kia-branded automobiles with Mando and/or Hella components, into the stream of commerce via established distribution channels knowing or understanding that such products would be sold and used in the United States, including in the Eastern District of Texas. On information and belief, Kia Corp. has derived substantial revenue from infringing acts in the Eastern District of Texas, including from the sale and use of infringing products.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has personal jurisdiction over Defendants in this action because Defendants have committed acts within this District giving rise to this action and have established minimum contacts with this forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice. Defendants, directly and through subsidiaries or intermediaries, have committed and continue to commit acts of infringement in this District by, among other things, making, using, importing, offering to sell, and selling Kia-branded automobiles containing components from Mando and/or Hella that infringe the Asserted Patent.

9. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendants have transacted business in this District and have committed

acts of direct and indirect infringement in this District by, among other things, making, using, importing, offering to sell, and selling products that infringe the Asserted Patent. Venue is proper as to Kia Am., which is registered to do business in Texas. Kia Am. has a regular and established place of business in this District, including at 5810 Tennyson Parkway, Plano, Texas 75024.

10. Venue is also proper as to Kia Corp. because it is a foreign corporation organized under the laws of Korea, with a principal place of business in Korea, and suits against foreign entities are proper in any judicial district. *See* 28 U.S.C. § 1391(c)(3); *In re HTC Corp.*, 889 F.3d 1349 (Fed. Cir. 2018).

11. Kia Corp. and Kia Am. may be joined in this action because (1) any right to relief is asserted against Defendants jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused products (*i.e.*, Kia-branded automobiles with Mando and/or Hella components that infringe the Asserted Patent); and (2) questions of fact common to Defendants will arise in this action.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,502,958

12. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

13. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 7,502,958, entitled “System and method for providing firmware recoverable lockstep protection.” The ’958 Patent was duly and legally issued by the United States Patent and Trademark Office on March 10, 2009. A true and correct copy of the ’958 Patent is attached as Exhibit 4.

14. On information and belief, Defendants have and continue to make, use, offer for sale, sell, and/or import certain products and services, including without limitation the Kia K5, Telluride, and Seltos which include a Mando MRR-20 Mid-Range Radar (containing an Infineon SAK-TC297TA chipset) and/or Hella RS4 Lange Change Assist Radar (containing an Infineon SAK-TC264DA chipset) (“Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’958 Patent. Identification of the Accused Products will be provided in Plaintiff’s infringement contentions disclosed pursuant to the Court’s scheduling order.

15. The Accused Products satisfy all claim limitations of one or more claims of the ’958 Patent. Claim charts comparing exemplary independent claim 19 of the ’958 Patent to representative Accused Products are attached as Exhibit 5.

16. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Defendants have injured Plaintiff and are liable for infringement of the ’958 Patent pursuant to 35 U.S.C. § 271.

17. On information and belief, Plaintiff (including its predecessors and any licensees) complied with 35 U.S.C. §287 at least prior to June 30, 2022 because Plaintiff, its predecessors, and any licensees did not make, offer for sale, or sell products that practice(d) the ’958 Patent during the relevant time period or were not otherwise required to mark during the relevant time period.

18. As a result of Defendants’ direct infringement of the ’958 Patent, Plaintiff is entitled to monetary damages (past, present, and future) in an amount adequate to compensate for Defendants’ infringement, but in no event less than a reasonable royalty for the use made of the invention by Defendants, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

- a. A judgment in favor of Plaintiff that Defendants have infringed, either literally and/or under the doctrine of equivalents, the '958 Patent;
- b. A judgment and order requiring Defendants to pay Plaintiff its damages (past, present, and future), costs, expenses, and pre-judgment and post-judgment interest for their infringement of the '958 Patent;
- c. A judgment and order requiring Defendants to pay Plaintiff compulsory ongoing licensing fees, as determined by the Court;
- d. A judgment and order requiring Defendants to provide an accounting and to pay supplemental damages to Plaintiff, including without limitation, pre-judgment and post-judgment interest and compensation for infringing products released after the filing of this case that are not colorably different from the Accused Products;
- e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendants; and
- f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: May 18, 2023

Respectfully submitted,

/s/ Brett E. Cooper

Brett E. Cooper (NY SBN 4011011)

bcooper@bc-lawgroup.com

Seth Hasenour (TX SBN 24059910)

shasenour@bc-lawgroup.com

Drew B. Hollander (NY SBN 5378096)

dhollander@bc-lawgroup.com

Jonathan Yim (NY SBN 5324967)

jyim@bc-lawgroup.com

BC LAW GROUP, P.C.

200 Madison Avenue, 24th Floor

New York, NY 10016

Tel.: (212) 951-0100

Fax: (646) 293-2201

*Attorneys for Plaintiff Foras Technologies
Limited*