

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

ORION IP, LLC,

Plaintiff,

v.

1. FORD MOTOR COMPANY,

**2. DAIMLERCHRYSLER
CORPORATION, and**

**3. AMERICAN HONDA MOTOR CO.,
INC.**

Defendants.

Civil Action No. 2:04-CV-313

JURY DEMANDED

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement in which Orion IP, LLC makes the following allegations against Ford Motor Company, Daimlerchrysler Corporation, and American Honda Motor Co., Inc.

PARTIES

1. Plaintiff Orion IP, LLC (“Orion”) is a Delaware limited liability company with its principal place of business at 74-785 Highway 111, Suite 103, Indian Wells, California 92210.

2. Defendant Ford Motor Company (“Ford”) is a Delaware corporation and may be served with process through its registered agent for service, C. T. Corporation Systems, 350 N. St. Paul Street, Dallas, Texas 75201.

3. Defendant, Daimlerchrysler Corporation (“DaimlerChrysler Corp.”) is a Delaware corporation and may be served with process through its registered agent for service, C. T. Corporation Systems, 350 N. St. Paul Street, Dallas, Texas 75201.

4. Defendant, American Honda Motor Co., Inc. (“Honda”) is a California corporation and may be served with process through its registered agent for service, C. T. Corporation Systems, 350 N. St. Paul Street, Dallas, Texas 75201.

JURISDICTION AND VENUE

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

6. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). Defendants each have a regular and established place of business in this district, has transacted business in this district and, on information and belief, has committed acts of patent infringement in this district.

COUNT 1

INFRINGEMENT OF U.S. PATENT NO. 5,615,342

7. Orion, is the owner by assignment of United States Patent No. 5,615,342 (“the ‘342 patent”) entitled “Electronic Proposal Preparation System,” a true copy of which is attached as Exhibit A, duly issued on March 25, 1997

8. The ‘342 Patent was invented by Jerome D. Johnson.

9. Defendants Ford, DaimlerChrysler Corp. and Honda have been and now are directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the ‘342 patent in the state of Texas, in this judicial district,

and elsewhere in the United States by, among other things, making and using supply chain methods, sales methods, sales systems, marketing methods, marketing systems and inventory systems covered by one or more claims of the '342 patent to the injury of Orion.

10. These defendants have actively induced and are actively inducing infringement of the '342 patent.

11. As a result of these Defendants' infringement of the '342 patent, Orion has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

12. Unless a preliminary and permanent injunction are issued enjoining these Defendants and their agents, servants, employees, attorneys, representatives, affiliates and all other acting on their behalf from infringing the '342 patent, Orion will be greatly and irreparably harmed.

COUNT 2

INFRINGEMENT OF U.S. PATENT NO. 5,367,627

13. Orion is the owner by assignment of United States Patent No. 5,367,627 ("the '627 patent") entitled "Computer-Assisted Parts Sales Method," a true copy of which is attached as Exhibit B, duly issued on November 22, 1994.

14. The '627 Patent was invented by Jerome D. Johnson.

15. Defendants Ford, DaimlerChrysler Corp. and Honda have been and now are directly infringing, and indirectly infringing by way of inducing infringement and/or contributing to the infringement of the '627 patent in the state of Texas, in this judicial district, and elsewhere in the United States by, among other things, making and using supply chain

methods, sales methods, sales systems, marketing methods, marketing systems and inventory systems covered by one or more claims of the '627 patent to the injury of Orion.

16. Defendants have actively induced and are actively inducing infringement of the '627 patent.

17. As a result of Defendants' infringement of the '627 patent, Orion has suffered monetary damages in an amount not yet determined, and will continue to suffer damages in the future unless Defendants' infringing activities are enjoined by this Court.

18. Unless a preliminary and permanent injunction are issued enjoining Defendants and their agents, servants, employees, attorneys, representatives, affiliates and all others acting on their behalf from infringing the '627 patent, Orion will be greatly and irreparably harmed.

PRAYER FOR RELIEF

WHEREFORE, Orion requests that this Court enter:

1. A judgment in favor of Orion that Defendants Ford, DaimlerChrysler Corp. and Honda have infringed, directly and indirectly by way of inducing and/or contributing to the infringement of the '342 patent.

2. A permanent injunction, enjoining Defendants Ford, DaimlerChrysler Corp., and Honda and their officers, directors, agents, servants affiliates, employees, divisions, branches subsidiaries, parents and all others acting in concert or privity with any of them from infringement, inducing the infringement of, or contributing to the infringement of the '342 patent.

3. A judgment and order requiring Defendants Ford, DaimlerChrysler Corp. and Honda to pay Orion damages for Defendants' infringement of the '342 patent, together with

interest (both pre- and post- judgment), costs and disbursements as fixed by this Court under 35 U.S.C. §284;

4. A judgment in favor of Orion that Defendants Ford, DaimlerChrysler Corp. and Honda have infringed, directly and indirectly by way of inducing and/or contributing to the infringement of the '627 patent.

5. A permanent injunction, enjoining Defendants Ford, DaimlerChrysler Corp. and Honda and their officers, directors, agents, servants affiliates, employees, divisions, branches subsidiaries, parents and all others acting in concert or privity with any of them from infringement, inducing the infringement of, or contributing to the infringement of the '627 patent.

6. A judgment and order requiring Defendants Ford, DaimlerChrysler Corp. and Honda to pay Orion damages for Defendants' infringement of the '627 patent, together with interest (both pre- and post- judgment), costs and disbursements as fixed by this Court under 35 U.S.C. §284; and

7. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. §285 and awarding to Orion its reasonable attorneys' fees.

JURY DEMAND

Orion demands a trial by jury on all issues so triable.

Dated: January 14, 2005

Respectfully submitted,

By: /s/ Otis Carroll (by perm. Wesley Hill)

Otis W. Carroll – Attorney-in-Charge
Texas Bar No. 03895700
Wesley Hill

Texas Bar No. 24032294
IRELAND CARROLL & KELLEY, P.C.
6101 South Broadway, Suite 500
Tyler, Texas 75703
Telephone: (903) 561-1600
Facsimile: (903) 581-1071
E-mail: fedserv@icklawn.com

Franklin Jones Jr.
Texas Bar No. 00000055
Jones and Jones, Inc., P.C.
201 West Houston Street
P.O. Drawer 1249
Marshall, TX 65671-1249
Telephone: (903) 938-4395
Facsimile: (903) 938-3360
E-mail: maizieh@millerfirm.com

Chris Bunt
Texas Bar No. 00787165
HOWARD, DAVID & BUNT, PC
1200 First Place
100 E. Ferguson
Tyler, TX 75703
Telephone: (903) 533-9997
Facsimile: (903) 533-0260
cbunt@hdbtyler.com

Attorneys for plaintiff
ORION IP, LLC

Of Counsel

David Pridham
R.I. State Bar No. 6625
Orion IP, LLC
74785 Highway 111, Suite 103
Indian Wells, CA 92210
Telephone: (760) 674-1066
Facsimile: (760) 674-9797
E-mail: david@ipnav.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent to all counsel via electronic delivery or U.S. mail on January 14, 2005.

/s/ Wesley Hill

Wesley Hill