

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

JOHN A. MCDOUGAL TRUST, d/b/a  
MCDOUGAL ENGINEERING,

Plaintiff,

v

HYUNDAI MOTOR AMERICA,  
HYUNDAI MOTOR COMPANY, KIA  
MOTORS CORPORATION AND KIA  
MOTORS AMERICA, INC.,

Defendants.

Case No. 07-13209

Hon. Bernard A. Friedman

Magistrate: Virginia M. Morgan

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STEPHEN J. POKOJ (P37158)  
FILDEW HINKS, PLLC  
Attorneys for Plaintiff  
3600 Penobscot Building  
645 Griswold Street  
Detroit, MI 48226-4291  
(313) 961-9700

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**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT  
AND REQUEST FOR JURY TRIAL**

Plaintiff, John A. McDougal Trust, d/b/a McDougal Engineering, for its Complaint against Defendants Hyundai Motor America, Hyundai Motor Company, Kia Motors Corporation, and Kia Motors America, Inc., alleges as follows:

**The Parties**

1. Plaintiff the John A. McDougal Trust, d/b/a McDougal Engineering ("McDougal") is organized and existing under the laws of the state of Michigan, having a place of business at 17850 Maumee, Grosse Pointe, Michigan, 48230.

2. Defendant Hyundai Motor America, on information and belief, is a corporation organized under the laws of the United States of America and has its principal place of business at 10550 Talbert Avenue, Fountain Valley, California, 92708, and is doing business within the Eastern District of Michigan.

3. Defendant Hyundai Motor Company, on information and belief, is a corporation organized under the laws of the Republic of Korea and has its principal place of business at 231 Yangjae-dong, Seocho-gu, Seoul, 137-130, South Korea, and is doing business within the Eastern District of Michigan.

4. Defendant Kia Motors Corporation, on information and belief, is a corporation organized under the laws of the Republic of Korea and has its principal place of business at 231 Yangjae-dong, Seocho-gu, Seoul, 137-130, South Korea, and is doing business within the Eastern District of Michigan.

5. Defendant Kia Motors America, Inc. a corporation organized under the laws of the United States of America and has its principal place of business at 9801 Muirlands Boulevard, Irvine, California, 92618, and is doing business within the Eastern District of Michigan.

6. Defendants Hyundai Motor America, Hyundai Motor Company, Kia Motors Corporation and Kia Motors America, Inc. are collectively referred to as "Hyundai" in this Complaint.

#### **Jurisdiction and Venue**

7. This is an action for patent infringement under the patent laws of the United States of America, Title 35, United States Code.

8. This Court has subject matter jurisdiction under 28 U.S.C. section 1338 (a).

9. Venue is proper before this Court under 28 U.S.C. sections 1391 and 1400.

**Patents-In-Suit**

10. Plaintiff is the owner of United States Patent No. 4,993,371 (the "'371 Patent") that was duly and legally issued on February 19, 1991, on an invention entitled "Internal Combustion Engine Ignition System and Cleaning Device: KCS Gating." A copy of the '371 Patent is attached hereto as Exhibit A.

11. Plaintiff is the owner of United States Patent No. 5,029,567 (the "'567 Patent") that was duly and legally issued on July 9, 1991, on an invention entitled "Internal Combustion Engine Ignition System and Cleaning Device: Gating." A copy of the '567 patent is attached hereto as Exhibit B.

12. Plaintiff is the owner of United States Patent No. 5,133,322 (the "'322 Patent") that was duly and legally issued on July 28, 1992, on an invention entitled "Internal Combustion Engine Ignition System and Cleaning Device: Self-adapting to Octane Levels." A copy of the '322 patent is attached hereto as Exhibit C.

13. Plaintiff is the owner of United States Patent No. 4,809,662 (the "'662 Patent") that was duly and legally issued on March 7, 1989, on an invention entitled "Internal Combustion Engine Ignition System: Advance / Retard." (The '662 Patent expired on March 7, 2006 and therefore, the only relief being sought are damages prior to its expiration.) A copy of the '662 Patent is attached hereto as Exhibit D.

14. The '371 Patent, the '567 Patent, the '322 Patent and the '662 Patent are collectively referred to as the "Patents-in-Suit."

**The Inventor John A. McDougal**

15. The inventor, John A. McDougal, now deceased, was an individual with a long career in the automotive industry, and particularly, with internal combustion engine ignition systems. As a result of this experience, Mr. McDougal achieved an insightful understanding of the combustion process within the cylinder of an internal combustion engine. That insightful

understanding led to the conception of the inventions disclosed and claimed in the Patents-in-Suit.

16. Upon information and belief, John A. McDougal has been one of the few individuals who have succeeded in licensing the world's automobile industry on his/her inventions.

### **The Inventions**

17. Fundamentally, Mr. McDougal conceived of methods and apparatus for improving the power output and efficiency of internal combustion engines by adapting the operation of an ignition system to accommodate cylinder-to-cylinder variations in the operating conditions of a multi-cylinder internal combustion engine and variations in the octane of the fuel burned in an internal combustion engine. Through the use of the McDougal inventions, the fuel economy of a vehicle can be enhanced thus reducing the consumption of gasoline. The benefits of reduced fuel consumption, of course, are manifold and widely recognized.

18. The merits of the McDougal inventions have been recognized by the world's leading automobile manufacturers. The following companies have paid considerable monies to acquire a license to the Patents-in-Suit:

Daimler-Chrysler Corporation

Ford Motor Company

General Motors Corporation

Audi AG

BMW AG

Bosch U.S.A.

Kefico Corporation

KIA Motors Corporation

Rover Group (Land Rover)

Mercedes Benz AG

Automobiles Peugeot

Porsche AG

Saab-Automotive AB

Toyota Motor Corporation

Volkswagen AG

Volvo North America Corp.

**First Cause of Action**  
**Infringement of the '371 Patent**

19. Upon information and belief, Defendant Hyundai has infringed, contributorily infringed, and/or actively induced infringement of the '371 Patent in violation of 35 U.S.C. section 271 by making, using, inducing others to use, offering for sale, and/or selling automobiles incorporating ignition systems that infringe one or more of the claims of the '371 Patent, both within and outside this judicial district, without authority to do so.

20. Upon information and belief, Defendant's infringement of the '371 Patent has been willful.

21. McDougal has been irreparably damaged and will continue to be irreparably damaged by Hyundai's infringement unless this Court enjoins Defendant from continuing its infringement.

**Second Cause of Action**  
**Infringement of the '567 Patent**

22. Upon information and belief, Defendant Hyundai has infringed, contributorily infringed, and/or actively induced infringement of the '567 Patent in violation of 35 U.S.C.

section 271 by making, using, inducing others to use, offering for sale, and/or selling automobiles incorporating ignition systems that infringe one or more of the claims of the '567 Patent, both within and outside this judicial district, without authority to do so.

23. Upon information and belief, Defendant's infringement of the '567 Patent has been willful.

24. McDougal has been irreparably damaged and will continue to be irreparably damaged by Hyundai's infringement unless this Court enjoins Defendant from continuing its infringement.

**Third Cause of Action**  
**Infringement of the '322 Patent**

25. Upon information and belief, Defendant Hyundai has infringed, contributorily infringed, and/or actively induced infringement of the '322 Patent in violation of 35 U.S.C. section 271 by making, using, inducing others to use, offering for sale, and/or selling automobiles incorporating ignition systems that infringe one or more of the claims of the '322 Patent, both within and outside this judicial district, without authority to do so.

26. Upon information and belief, Defendant's infringement of the '322 Patent has been willful.

27. McDougal has been irreparably damaged and will continue to be irreparably damaged by Hyundai's infringement unless this Court enjoins Defendant from continuing its infringement.

**Fourth Cause of Action**  
**Infringement of the '662 Patent**

28. Upon information and belief, Defendant Hyundai had infringed, contributorily infringed, and/or actively induced infringement of the '662 Patent in violation of 35 U.S.C. section 271 by making, using, inducing others to use, offering for sale, and/selling automobiles incorporating ignition systems that infringed one or more of the claims of the '662 Patent, both

within and outside this judicial district, prior to its expiration and within six years of this complaint, without authority to do so.

**29.** Upon information and belief, Defendant's infringement of the '662 Patent was willful.

**Prayer for Relief**

Wherefore, Plaintiff McDougal prays for the entry of judgment from this Court that:

a) United States Patent No. 4,993,371, No. 5,029,567 and No. 5,133,322 were duly and legally issued, and are valid and enforceable and United States Patent No. 4,809,622 had been duly and legally issued and was valid and enforceable prior to its expiration;

b) Hyundai has directly and/or contributorily infringed United States Patent No. 4,993,371, No. 5,029,567, No. 5,133,322 and No. 4,809,622 and/or actively induced infringement of United States Patent No. No. 4,993,371, No. 5,029,567, No. 5,133,322 and No. 4,809,622;

c) Hyundai be preliminarily and permanently enjoined from engaging in any further acts of infringement of United States Patent No. 4,993,371, No. 5,029,567, and No. 5,133,322;

d) McDougal be awarded damages adequate to compensate for the infringement by Hyundai pursuant to 35 U.S.C. section 284;

e) Hyundai's infringement has been willful, thereby entitling McDougal to recover treble damages, pursuant to 35 U.S.C. section 284;

f) The infringement by Hyundai has been such as to render this action exceptional, and McDougal be awarded reasonable attorney fees, pursuant to 35 U.S.C section 285;

g) McDougal be awarded such other and further relief as this Court may deem to be right and just.

**Request for Jury Trial**

McDougal hereby makes demand for a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure as to all issues of this lawsuit.

FILDEW HINKS, PLLC

By: \_\_\_\_\_

Stephen J. Pokoj (P37158)  
645 Griswold Street  
3600 Penobscot Building  
Detroit, MI 48226  
(313) 961-9700  
[spokoj@Fildewhinks.com](mailto:spokoj@Fildewhinks.com)

Attorneys for Plaintiff  
THE JOHN A. MCDOUGAL TRUST, dba  
McDOUGAL ENGINEERING



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**CERTIFICATE OF SERVICE**

I hereby certify that on August 20, 2007, Joni Lashbrook electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: N/A, and I hereby certify that she mailed by United States Postal Service the paper to the following non-ECF participants: Hyundai Corporation (USA) and Kia Motors America, Inc.

FILDEW HINKS, PLLC

By: s/Stephen J. Pokoj  
Attorney for Plaintiff  
3600 Penobscot Building  
645 Griswold Street  
Detroit, MI 48226  
(313) 961-9700  
[spokoj@fildewhinks.com](mailto:spokoj@fildewhinks.com)  
P37158