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Attorneys for Plaintiff
Ibormeith IP, LLC

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IBORMEITH IP, LLC,
Plaintiff,

v.

MERCEDES-BENZ USA, LLC and
DAIMLER AG,

Defendants.

Civil Action No.

**COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND
FOR JURY TRIAL**

Document Electronically Filed

Plaintiff Ibormeith IP, LLC, (hereafter referred to as "Ibormeith"),
complains against defendants Mercedes-Benz USA, LLC and Daimler AG
(collectively referred to hereafter as "Mercedes" or "Defendants") as follows:

PARTIES

1. Plaintiff Ibormeith IP, LLC (“Ibormeith”) is a Texas company having its principal place of business at 3301 W. Marshall Ave., Suite 104B, Longview, TX 75604.

2. Upon information and belief, defendant Mercedes-Benz USA, LLC is a Delaware corporation having its principal place of business at One Mercedes Drive, Montvale, New Jersey 07675, and is registered to do business in New Jersey.

3. Upon information and belief, defendant Daimler AG is a German corporation with its principal place of business at 137 Mercedes Street, Stuttgart, Germany 70327.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. The Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. Defendants have imported, used, sold and offered to sell various models of luxury cars within this judicial district, including the E Class and S Class cars accused of infringement in this case.

6. Mercedes-Benz USA, LLC is headquartered in this district and is a citizen of New Jersey for purposes of general jurisdiction and venue.

7. Daimler AG is an alien corporation that can be sued in any district.

8. Therefore, the Court has personal jurisdiction over Defendants and venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

BACKGROUND

9. On November 6, 2001, United States Patent No. 6,313,749, titled “Sleepiness Detection For Vehicle Driver Or Machine Operator” (“the ‘749 patent”), was duly and legally issued to inventors James Anthony Horne and Louise Ann Reyner. The entire right, title and interest to the ‘749 patent is assigned to and owned by Ibormeith. Ibormeith has the right to sue and to recover for infringement of the ‘749 patent. A true and correct copy of the ‘749 patent is attached hereto as Exhibit A.

10. Defendants import, sell and/or offer to sell, and use luxury cars in the United States that embody or use at least one invention claimed in the ‘749 patent, including, without limitation, several models of the Mercedes Benz E Class and S Class cars.

INFRINGEMENT BY DEFENDANTS OF U.S. PATENT NO. 6,313,749

11. Ibormeith re-alleges and incorporates the allegations set forth in paragraphs 1 through 10 herein.

12. Defendants infringe one or more claims of the ‘749 patent by importing, selling, and/or offering to sell, using or inducing others to use, sell, import and/or offer for sale, luxury cars in the United States. For example and

without limitation, the E and S Class Mercedes luxury cars incorporating the Attention Assist feature infringe at least, without limitation, independent claim 9 by practicing each and every element of that claim.

13. Defendants' acts of infringement of the '749 patent have caused and will continue to cause Ibormeith damages for which Ibormeith is entitled to compensation pursuant to 35 U.S.C. § 284.

14. Defendants' acts of infringement of the '749 patent have caused and will continue to cause Ibormeith irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

15. Prior to the filing of this lawsuit, Mercedes was provided with actual notice of the '749 patent and of its infringement.

16. This case is exceptional, and, therefore, Ibormeith is entitled to an award of attorney's fees pursuant to 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Ibormeith respectfully requests that the Court enter judgment against each Defendant as follows:

A. That each Defendant has infringed and is infringing the '749 patent;

B. That each Defendant and its officers, directors, agents, employees and attorneys, and those in active concert or participation with any of them, be permanently enjoined from further acts of infringement of the '749 patent;

C. That each Defendant be ordered to pay to Ibormeith damages sufficient to compensate for said Defendants' infringement of the '749 patent, with pre-judgment and post-judgment interest;

D. That this action be declared exceptional under 35 U.S.C. § 285 and that Ibormeith be awarded its attorneys' fees, costs and expenses; and

E. That Ibormeith be awarded such other and further relief as this Court or a jury deems just and proper.

DEMAND FOR JURY TRIAL

Ibormeith demands a trial by jury of all issues properly triable to a jury in this case.

Respectfully submitted

SAIBER LLC
Attorneys for Plaintiff
Ibormeith IP, LLC

s/ Arnold B. Calmann
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Dated: October 18, 2010

CERTIFICATION PURSUANT TO LOCAL CIVIL RULE 11.2

Ibormeith, by their undersigned counsel, hereby certify pursuant to Local Civil Rule 11.2 that the matters in controversy are not the subject of any other action pending in any other court or of any pending arbitration or administrative proceeding.

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CERTIFICATION PURUSANT TO LOCAL CIVIL RULE 201.1

Under Local Civil Rule 201.1, Ibormeith, by their undersigned counsel, hereby certify that, in addition to monetary damages greater than \$150,000, Plaintiff seeks injunctive relief, and therefore this action is not appropriate for compulsory arbitration.

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