

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

ROBERT BOSCH, L.L.C.,

Plaintiff,

v.

DREW TECHNOLOGIES, INC and
SNAP-ON, INC.,

Defendants.

Case No. 2:12-cv-11503

Honorable Robert H. Cleland

Magistrate Judge Mark A. Randon

JURY TRIAL DEMANDED

**ROBERT BOSCH, LLC'S SECOND AMENDED COMPLAINT FOR
PATENT INFRINGEMENT**

INTRODUCTION

By its attorneys, Plaintiff Robert Bosch, L.L.C. ("Bosch") complains against Defendants Snap-on Incorporated ("Snap-on") and Drew Technologies, Inc. ("Drew") (collectively "Defendants") as follows:

NATURE OF THE ACTION

1. This is a civil action for infringement of United States Patent No. 6,782,313 (the "'313 Patent"), entitled DIAGNOSTIC TEST DEVICE FOR MOTOR VEHICLE WITH PROGRAMMABLE CONTROL DEVICES.

PARTIES

2. Plaintiff Bosch is a company duly organized and existing under the laws of the State of Delaware, with a place of business in Farmington Hills, Michigan.

3. On information and belief, Defendant Snap-on is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Kenosha, Wisconsin.

4. On information and belief, Defendant Drew is a corporation organized and existing under the laws of the State of Michigan, with its principal place of business in Ann Arbor, Michigan.

JURISDICTION AND VENUE

5. Bosch incorporates by reference paragraphs 1 through 4, the same as if set forth at length.

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because it arises under the patent laws of the United States, including 35 U.S.C. §§ 271 *et seq.*

7. On information and belief, Snap-on is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Michigan Long Arm Statute, due to (i) consent; (ii) carrying on a continuous and systematic part of its general business within the state; (iii) committing at least a portion of the infringing acts in this state; and/or (iv) targeting this state through sales and marketing efforts for its products.

8. On information and belief, Drew is subject to this Court's specific and general personal jurisdiction pursuant to due process and/or the Michigan Long Arm Statute, due to (i) its incorporation under the laws of this state, (ii) consent; (iii) carrying on a continuous and systematic part of its general business within the state; (iv) committing at least a portion of the

infringing acts in this state; and/or (v) targeting this state through sales and marketing efforts for its products.

9. On information and belief, Snap-on has an office located in this state.

10. On information and belief, Drew has an office located in the state.

11. On information and belief, Snap-on sells and offers for sale products, including Pass Thru Pro II products, VERUS Diagnostic Platform products, and other products in this judicial district and state.

12. On information and belief, Drew sells and offers for sale products, including CarDAQ-Plus products, and other products in this judicial district and state.

13. Snap-on's contacts with this state reveal an intention to invoke or benefit from the protection of the state's laws and that Snap-on has purposely availed itself of the privilege of conducting activities within this state.

14. Drew's contacts with this state reveal an intention to invoke or benefit from the protection of the state's laws and that Drew has purposely availed itself of the privilege of conducting activities within this state.

15. Venue is proper in this Court over Snap-on pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) at least because, on information and belief, Snap-on is subject to personal jurisdiction in this judicial district, has committed acts of patent infringement in this judicial district, has induced and/or contributed to acts of patent infringement in this judicial district, or has a regular and established place of business in this judicial district.

16. Venue is proper in this Court over Drew pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b) at least because, on information and belief, Drew is subject to personal jurisdiction in this judicial district, has committed acts of patent infringement in this judicial district, has induced and/or contributed to acts of patent infringement in this judicial district, or has a regular and established place of business in this judicial district.

INFRINGEMENT OF U.S. PATENT NO. 6,782,313

17. Bosch incorporates by reference paragraphs 1 through 16, the same as if set forth at length.

18. The '313 Patent was duly and legally issued by the United States Patent and Trademark Office on August 24, 2004. A true and correct copy of the '313 Patent is attached hereto as Exhibit A.

19. The '313 Patent has been duly and legally assigned to Bosch, which is the owner of all right, title and interest in the '313 Patent.

20. On information and belief, Snap-on has been and now is directly infringing and indirectly infringing by way of inducing infringement by its customers and/or contributing to the infringement by its customers of the '313 Patent, in this judicial district, state, and elsewhere in the United States. Snap-on's acts of infringement include, among other things, making, using, selling, and offering for sale, or importing products covered by at least claim 1 of the '313 Patent, namely SAE (Society of Automotive Engineers) J2534 pass-thru products (*e.g.*, Pass Thru Pro II products) alone or in combination with computers (*e.g.*, VERUS Diagnostic Platform products or other computers) for programming electronic control units (ECUs) of SAE J2534-

compliant vehicles, without authorization from Bosch. Snap-on is thus liable for infringement of the '313 Patent pursuant to 35 U.S.C. § 271.

21. On information and belief, the Pass Thru Pro II product alone or in combination with the VERUS Diagnostic Platform product or other computer is covered by at least claim 1 of the '313 Patent.

22. On information and belief, Snap-on specifically intended to encourage infringement of the '313 Patent by its customers such as through marketing and training materials, and Snap-on knowingly induced their infringing acts.

23. On information and belief, Snap-on knew that the Pass Thru Pro II products were especially made or adapted for use in infringing the '313 Patent.

24. The Pass Thru Pro II products are not capable of a substantial use that does not infringe the '313 Patent.

25. On information and belief, Snap-on knew that the VERUS Diagnostic Platform products were especially made or adapted for use in infringing the '313 Patent.

26. Snap-on's acts of infringement have caused damage to Bosch in an amount not yet ascertained. Bosch is entitled to recover damages adequate to compensate it for Snap-on's infringing activities in an amount to be determined at trial, but in no event less than a reasonable royalty, together with interest and costs.

27. On information and belief, Snap-on was aware of the '313 Patent before the filing of this lawsuit.

28. Snap-on's conduct in infringing the '313 Patent shows objective recklessness.

29. Snap-on's infringement is willful and deliberate, entitling Bosch to increased damages under 35 U.S.C. § 284.

30. On information and belief, Drew has been and now is directly infringing and indirectly infringing by way of inducing infringement by its customers and/or contributing to the infringement by its customers of at least claim 1 of the '313 Patent, in this judicial district, state, and elsewhere in the United States. Drew's acts of infringement include, among other things, making, using, selling, and offering for sale, or importing products covered by at least claim 1 of the '313 Patent, namely SAE J2534 pass-thru products (*e.g.*, Pass Thru Pro II products and CarDAQ-Plus products) alone or in combination with computers (*e.g.*, VERUS Diagnostic Platform products or other computers) for programming electronic control units (ECUs) of SAE J2534-compliant vehicles, without authorization from Bosch. Drew is thus liable for infringement of the '313 Patent pursuant to 35 U.S.C. § 271.

31. On information and belief, the CarDAQ-Plus product alone or in combination with a computer is covered by at least claim 1 of the '313 Patent.

32. The CarDAQ-Plus products are not capable of a substantial use that does not infringe the '313 Patent.

33. On information and belief, Drew specifically intended to encourage infringement of the '313 Patent by others, including Snap-on, such as through marketing and training materials, and Drew knowingly induced their infringing acts.

34. On information and belief, Drew knew that the CarDAQ-Plus products and Pass-Thru Pro II products were especially made or adapted for use in infringing the '313 Patent.

35. On information and belief, Drew knew that the CarDAQ-Plus products and Pass-Thru Pro II products are not capable of a substantial use that does not infringe the '313 Patent.

36. Drew's acts of infringement have caused damage to Bosch in an amount not yet ascertained. Bosch is entitled to recover damages adequate to compensate it for Drew's infringing activities in an amount to be determined at trial, but in no event less than a reasonable royalty, together with interest and costs.

37. On information and belief, Drew was aware of the '313 Patent before the filing of this lawsuit.

38. Drew's conduct in infringing the '313 Patent shows objective recklessness.

39. Drew's infringement is willful and deliberate, entitling Bosch to increased damages under 35 U.S.C. § 284.

40. This case presents exceptional circumstances within the meaning of 35 U.S.C. § 285, entitling Bosch to an award of its reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Bosch prays for the following relief from the Court:

1. For judgment that the Defendants have directly, and/or by way of inducing infringement by others, and/or contributing to the infringement by others infringed the '313 Patent, and that such infringement was willful;

2. For an accounting of all damages sustained by Bosch as a result of the acts of infringement by Defendants;

3. For a permanent injunction enjoining the aforesaid acts of infringement by Defendants, their officers, directors, agents, servants, employees, assigns, successors, divisions, branches, subsidiaries, parents, and those persons in active concert or participation with any of them who receive notice of the injunction, enjoining them from acts of infringement of the '313 Patent;

4. For actual damages together with prejudgment interest;

5. For a declaration that this case is exceptional under 35 U.S.C. § 285 and an award to Bosch of its reasonable attorneys' fees, expenses and costs incurred in this action;

6. For all costs of suit; and

7. For such other and further relief as the Court may deem just and proper.

JURY DEMAND

Bosch demands a trial by jury on all triable issues in this action.

Respectfully submitted,

Dated: June 8, 2012

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**Attorneys for Plaintiff
ROBERT BOSCH, LLC**

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of June, 2012, copies of the foregoing SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT were served upon counsel of record in the manner indicated.

BY THE ECF SYSTEM

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