

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

AMERICAN VEHICULAR SCIENCES
LLC

Plaintiff,

v.

HYUNDAI MOTOR COMPANY,
HYUNDAI MOTOR AMERICA,
HYUNDAI MOTOR
MANUFACTURING ALABAMA, LLC

Defendants.

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**Consolidated Lead Case
No. 6:12-cv-00774
Civil Action No. 6:12-cv-00776**

JURY TRIAL

PLAINTIFF'S FIRST AMENDED COMPLAINT

Plaintiff American Vehicular Sciences LLC (“AVS”) files this First Amended Complaint for patent infringement against Defendants Hyundai Motor Company, Hyundai Motor America, and Hyundai Motor Manufacturing Alabama, LLC (collectively “Hyundai”).

PARTIES

1. Plaintiff AVS is a limited liability company existing under the laws of Texas with its principal place of business at 6136 Frisco Square Blvd., Suite 385, Frisco, Texas 75034.
2. On information and belief, Defendant Hyundai Motor Company is a Korean Company with a place of business at 231 Yangjae-dong, Seocho-gu, Seoul, South Korea 137-938.

3. On information and belief, Defendant Hyundai Motor America is a California corporation with a place of business at 10550 Talbert Ave. Fountain View, CA 92708. On information and belief, Hyundai Motor America is a subsidiary of Hyundai Motor Company and responsible for U.S. operations, such as sales, marketing, and distribution for Hyundai Motor Company.

4. On information and belief, Defendant Hyundai Motor Manufacturing Alabama, LLC (“HMMA”) is a Delaware limited liability company with its principal place of business at 700 Hyundai Blvd., Montgomery, Alabama 36105.

JURISDICTION AND VENUE

5. This is an action for patent infringement under the Patent Laws of the United States, Title 35 of the United State Code.

6. This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Hyundai. On information and belief, Hyundai, either directly or through intermediaries, regularly sells products and services into this judicial district and manufactures products intended to be sold and in fact sold into and within this judicial district. Additionally, on information and belief, this Court has personal jurisdiction over Hyundai because Hyundai has committed, aided, abetted, contributed to, induced, and/or participated in the commission of acts within this judicial district giving rise to this action.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and 1400 (b).

SUMMARY

9. Dr. David Breed is one of the leading inventors in the field of automotive technology in the world today.

10. Dr. Breed is an inventor on more than 300 United States patents relating to automotive technologies, including airbags, navigation systems, vehicle diagnostics, crash sensors, vehicle communications, systems monitoring, theft protection, and collision avoidance.

11. Dr. Breed has a Ph.D in Mechanical Engineering from Columbia University as well as Bachelors' and Masters' degrees from the Massachusetts Institute of Technology.

12. Dr. Breed has received the National Highway Traffic Safety Administration's Award for Safety Engineering and the prestigious H.H. Bliss award for his contributions to the development of the airbag.

13. Dr. Breed is a member of the Tau Beta Pi and Pi Tau Sigma engineering honors societies and has published numerous peer-reviewed articles.

COUNT I: INFRINGEMENT OF U.S. PATENT NO. 6,738,697

14. AVS incorporates the foregoing paragraphs as if fully set forth here.

15. On May 18, 2004, the USPTO duly and legally issued United States Patent No. 6,738,697 B2 ("the '697 Patent"), entitled "Telematics System For Vehicle Diagnostics." AVS owns the '697 Patent and holds the right to sue and recover damages for infringement thereof.

16. On information and belief, Hyundai has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the '697 Patent in the state of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, offering for sale, selling, or importing vehicles, including but not limited to various model years of Hyundai's Santa Fe, Elantra, Genesis Coupe, Genesis sedan, Azera, Sonata, Sonata Hybrid and Veloster products, that include vehicle diagnostic systems, including but not limited to the Blue Link system and other similar systems, that

infringe or the use of which infringe one or more claims of the '697 Patent, all to the injury of AVS. Hyundai is thus liable for infringement of the '697 Patent pursuant to 35 U.S.C. § 271.

17. As a result of Hyundai's infringement of the '697 Patent, Hyundai has damaged AVS. Hyundai is liable to AVS in an amount to be determined at trial that adequately compensates AVS for the infringement, which by law can be no less than a reasonable royalty.

18. AVS intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the '697 Patent.

19. As a result of Hyundai's infringement of the '697 Patent, AVS has suffered and will continue to suffer loss and injury unless Hyundai is enjoined by this Court.

20. At least as early as its receipt of this Complaint, Hyundai has had knowledge of the '697 Patent and written notice of the infringement

COUNT II: INFRINGEMENT OF U.S. PATENT NO. 7,082,359

21. AVS incorporates the foregoing paragraphs as if fully set forth here.

22. On July 25, 2006, the USPTO duly and legally issued United States Patent No. 7,082,359 B2 ("the '359 Patent"), entitled "Vehicular Information And Monitoring System And Methods." AVS owns the '359 Patent and holds the right to sue and recover damages for infringement thereof.

23. On information and belief, Hyundai has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the '359 Patent in the state of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, offering for sale, selling, or importing vehicles, including but not limited to various model years of Hyundai's Santa Fe, Elantra, Genesis Coupe, Genesis

sedan, Azera, Sonata, Sonata Hybrid and Veloster products, that include vehicle diagnostic systems, including but not limited to the Blue Link system and other similar systems, that infringe or the use of which infringe one or more claims of the '359 Patent, all to the injury of AVS. Hyundai is thus liable for infringement of the '359 Patent pursuant to 35 U.S.C. § 271.

24. As a result of Hyundai's infringement of the '359 Patent, Hyundai has damaged AVS. Hyundai is liable to AVS in an amount to be determined at trial that adequately compensates AVS for the infringement, which by law can be no less than a reasonable royalty.

25. AVS intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the '359 Patent.

26. As a result of Hyundai's infringement of the '359 Patent, AVS has suffered and will continue to suffer loss and injury unless Hyundai is enjoined by this Court.

27. At least as early as its receipt of this Complaint, Hyundai has had knowledge of the '359 Patent and written notice of the infringement.

COUNT III: INFRINGEMENT OF U.S. PATENT NO. 7,630,802

28. AVS incorporates the foregoing paragraphs as if fully set forth here.

29. On December 8, 2009, the USPTO duly and legally issued United States Patent No. 7,630,802 B2 ("the '802 Patent"), entitled "Information Management And Monitoring System And Method." AVS owns the '802 Patent and holds the right to sue and recover damages for infringement thereof.

30. On information and belief, Hyundai has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the '802 Patent in the state of Texas, in this judicial district, and elsewhere within the United States

by, among other things, making, using, offering for sale, selling, or importing vehicles, including but not limited to various model years of Hyundai's Santa Fe, Elantra, Genesis Coupe, Genesis sedan, Azera, Sonata, Sonata Hybrid and Veloster products, that include vehicle diagnostic systems, including but not limited to the Blue Link system and other similar systems, that infringe or the use of which infringe one or more claims of the '802 Patent, all to the injury of AVS. Hyundai is thus liable for infringement of the '802 Patent pursuant to 35 U.S.C. § 271.

31. As a result of Hyundai's infringement of the '802 Patent, Hyundai has damaged AVS. Hyundai is liable to AVS in an amount to be determined at trial that adequately compensates AVS for the infringement, which by law can be no less than a reasonable royalty.

32. AVS intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the '802 Patent.

33. As a result of Hyundai's infringement of the '802 Patent, AVS has suffered and will continue to suffer loss and injury unless Hyundai is enjoined by this Court.

34. At least as early as its receipt of this Complaint, Hyundai has had knowledge of the '802 Patent and written notice of the infringement.

COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 7,650,210

35. AVS incorporates the foregoing paragraphs as if fully set forth here.

36. On January 19, 2010, the USPTO duly and legally issued United States Patent No. 7,650,210 B2 ("the '210 Patent"), entitled "Remote Vehicle Diagnostic Management." AVS owns the '210 Patent and holds the right to sue and recover damages for infringement thereof.

37. On information and belief, Hyundai has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the

'210 Patent in the state of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, offering for sale, selling, or importing vehicles, including but not limited to various model years of Hyundai's Santa Fe, Elantra, Genesis Coupe, Genesis sedan, Azera, Sonata, Sonata Hybrid and Veloster products, that include vehicle diagnostic systems, including but not limited to the Blue Link system and other similar systems, that infringe or the use of which infringe one or more claims of the '210 Patent, all to the injury of AVS. Hyundai is thus liable for infringement of the '210 Patent pursuant to 35 U.S.C. § 271.

38. As a result of Hyundai's infringement of the '210 Patent, Hyundai has damaged AVS. Hyundai is liable to AVS in an amount to be determined at trial that adequately compensates AVS for the infringement, which by law can be no less than a reasonable royalty.

39. AVS intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the '210 Patent.

40. As a result of Hyundai's infringement of the '210 Patent, AVS has suffered and will continue to suffer loss and injury unless Hyundai is enjoined by this Court.

41. At least as early as its receipt of this Complaint, Hyundai has had knowledge of the '210 Patent and written notice of the infringement.

COUNT V: INFRINGEMENT OF U.S. PATENT NO. 8,019,501

42. AVS incorporates the foregoing paragraphs as if fully set forth here.

43. On September 13, 2011, the USPTO duly and legally issued United States Patent No. 8,019,501 B2 ("the '501 Patent"), entitled "Vehicle Diagnostic And Prognostic Methods And Systems." AVS owns the '501 Patent and holds the right to sue and recover damages for infringement thereof.

44. On information and belief, Hyundai has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the '501 Patent in the state of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, offering for sale, selling, or importing vehicles, including but not limited to various model years of Hyundai's Santa Fe, Elantra, Genesis Coupe, Genesis sedan, Azera, Sonata, Sonata Hybrid and Veloster products, that include vehicle diagnostic systems, including but not limited to the Blue Link system and other similar systems, that infringe or the use of which infringe one or more claims of the '501 Patent, all to the injury of AVS. Hyundai is thus liable for infringement of the '501 Patent pursuant to 35 U.S.C. § 271.

45. As a result of Hyundai's infringement of the '501 Patent, Hyundai has damaged AVS. Hyundai is liable to AVS in an amount to be determined at trial that adequately compensates AVS for the infringement, which by law can be no less than a reasonable royalty.

46. AVS intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the '501 Patent.

47. As a result of Hyundai's infringement of the '501 Patent, AVS has suffered and will continue to suffer loss and injury unless Hyundai is enjoined by this Court.

48. At least as early as its receipt of this Complaint, Hyundai has had knowledge of the '501 Patent and written notice of the infringement.

COUNT VI: INFRINGEMENT OF U.S. PATENT NO. 8,024,084

49. AVS incorporates the foregoing paragraphs as if fully set forth here.

50. On September 20, 2011, the USPTO duly and legally issued United States Patent No. 8,024,084 B2 (“the ‘084 Patent”), entitled “Vehicle Diagnostic Techniques.” AVS owns the ‘084 Patent and holds the right to sue and recover damages for infringement thereof.

51. On information and belief, Hyundai has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the ‘084 Patent in the state of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, offering for sale, selling, or importing vehicles, including but not limited to various model years of Hyundai’s Santa Fe, Elantra, Genesis Coupe, Genesis sedan, Azera, Sonata, Sonata Hybrid and Veloster products, that include vehicle diagnostic systems, including but not limited to the Blue Link system and other similar systems, that infringe or the use of which infringe one or more claims of the ‘084 Patent, all to the injury of AVS. Hyundai is thus liable for infringement of the ‘084 Patent pursuant to 35 U.S.C. § 271.

52. As a result of Hyundai’s infringement of the ‘084 Patent, Hyundai has damaged AVS. Hyundai is liable to AVS in an amount to be determined at trial that adequately compensates AVS for the infringement, which by law can be no less than a reasonable royalty.

53. AVS intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the ‘084 Patent.

54. As a result of Hyundai’s infringement of the ‘084 Patent, AVS has suffered and will continue to suffer loss and injury unless Hyundai is enjoined by this Court.

55. At least as early as its receipt of this Complaint, Hyundai has had knowledge of the ‘084 Patent and written notice of the infringement.

COUNT VII: INFRINGEMENT OF U.S. PATENT NO. 8,036,788

56. AVS incorporates the foregoing paragraphs as if fully set forth here.

57. On October 11, 2011, the USPTO duly and legally issued United States Patent No. 8,036,788 B2 (“the ‘788 Patent”), entitled “Vehicle Diagnostic Or Prognostic Message Transmission Systems And Methods.” AVS owns the ‘788 Patent and holds the right to sue and recover damages for infringement thereof.

58. On information and belief, Hyundai has been and now is directly infringing, and/or inducing infringement by others, and/or contributing to the infringement by others of the ‘788 Patent in the state of Texas, in this judicial district, and elsewhere within the United States by, among other things, making, using, offering for sale, selling, or importing vehicles, including but not limited to various model years Hyundai’s Santa Fe, Elantra, Genesis Coupe, Genesis sedan, Azera, Sonata, Sonata Hybrid and Veloster products, that include vehicle diagnostic systems, including but not limited to the Blue Link system and other similar systems, that infringe or the use of which infringe one or more claims of the ‘788 Patent, all to the injury of AVS. Hyundai is thus liable for infringement of the ‘788 Patent pursuant to 35 U.S.C. § 271.

59. As a result of Hyundai’s infringement of the ‘788 Patent, Hyundai has damaged AVS. Hyundai is liable to AVS in an amount to be determined at trial that adequately compensates AVS for the infringement, which by law can be no less than a reasonable royalty.

60. AVS intends to seek discovery on the issue of willfulness and reserves the right to seek a willfulness finding relative to pre-suit infringement and/or post-suit infringement of the ‘788 Patent.

61. As a result of Hyundai’s infringement of the ‘788 Patent, AVS has suffered and will continue to suffer loss and injury unless Hyundai is enjoined by this Court.

62. At least as early as its receipt of this Complaint, Hyundai has had knowledge of the '788 Patent and written notice of the infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff AVS pray for the following relief:

63. A judgment in favor of AVS that Hyundai has infringed AVS' '697, '359, '802, '210, '501, '084, and '788 patents;

64. A permanent injunction, enjoining Hyundai along with its officers, directors, agents, servants, employees, affiliates, divisions, branches, subsidiaries, and parents from infringing AVS' '697, '359, '802, '210, '501, '084, and '788 patents;

65. A judgment and order requiring Hyundai to pay AVS damage for Hyundai's infringement of AVS' '697, '359, '802, '210, '501, '084, and '788 patents, together with interest (both pre- and post-judgment), costs and disbursements as fixed by this Court under 35 U.S.C. § 284;

66. A judgment and order finding Hyundai's infringement willful and awarding treble the amount of damages and losses sustained by AVS as a result of Hyundai's infringement under 35 U.S.C. § 284;

67. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to AVS its reasonable attorney's fees; and

68. Such other and further relief in law or in equity to which AVS may be justly entitled.

DEMAND FOR JURY TRIAL

69. Plaintiff demands a trial by jury of any and all issues triable of right before a jury.

Dated: February 15, 2013

Respectfully submitted,

/s/ Brian E. Simmons

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by mail on this the 15th day of February, 2013.

/s/ Brian E. Simmons
Brian E. Simmons