

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

ORBITAL AUSTRALIA PTY LTD	)	
and	)	Civil Action No. 3:14-cv-808-REP
ORBITAL FLUID TECHNOLOGIES,	)	
INC.,	)	
	)	JURY TRIAL DEMANDED
Plaintiff(s),	)	
	)	
	)	
	)	
	)	
DAIMLER AG,	)	
MERCEDES-BENZ USA LLC,	)	
MERCEDES-BENZ US	)	
INTERNATIONAL INC.,	)	
ROBERT BOSCH GMBH, and	)	
ROBERT BOSCH LLC,	)	
	)	
Defendant(s).	)	

**AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

This is a civil action for patent infringement by Orbital Australia Pty Ltd (“Orbital Australia”) and Orbital Fluid Technologies, Inc. (“Orbital USA”) (collectively, “Orbital”) against Daimler AG (“Daimler”), and its United States subsidiaries, Mercedes-Benz USA, LLC (“Mercedes USA”) and Mercedes-Benz U.S. International, Inc. (“Mercedes International”) (collectively, “Mercedes”), and Robert Bosch GmbH (“Bosch Germany”) and its United States subsidiary Robert Bosch LLC (“Bosch USA”) (collectively, “Bosch”), for infringement of United States Patent Nos. 6,923,387 (the “387 patent”), 5,655,365 (the “365 patent”), and 5,606,951 (the “951 patent”) (collectively, the “Asserted Patents”), under 35 U.S.C. § 271. True and correct copies of the Asserted Patents are attached hereto as Exhibits 1 through 3, respectively. Orbital seeks a judgment finding that Mercedes has infringed the Asserted Patents.

Orbital seeks a judgment finding that Bosch has infringed the '387 patent. Orbital seeks a judgment awarding Orbital compensatory damages and permanent injunctive relief enjoining Mercedes and Bosch from using the patented inventions of the '387 patent, or a compulsory license fee if the Court determines that injunctive relief is not appropriate. Orbital seeks a judgment awarding compensatory damages for Mercedes' infringement of the '365 and '951 patents. By and through its undersigned counsel, Orbital alleges as follows:

### **THE PARTIES**

1. Plaintiff Orbital USA is a Delaware corporation with current ownership interest in Synerject LLC, a joint venture, located at 201 Enterprise Dr., Newport News, Virginia, 23603. During a period of development of the Asserted Patents, Orbital USA had its principal place of business in Newport News, Virginia. Orbital USA is a wholly owned subsidiary of Orbital Australia. Orbital USA is an exclusive licensee, in the automotive field, of the Asserted Patents.

2. Plaintiff Orbital Australia is an Australian company with its principal place of business at 4 Whipple St., Balcatta, Western Australia, 6021. Orbital Australia is, and at all relevant times has been, the sole owner of each of the Asserted Patents, including the right to collect damages for past infringement of the Asserted Patents.

3. Defendant Daimler is a corporation organized under the laws of Germany with its principal place of business at Mercedesstr. 137, 70327 Stuttgart, Germany.

4. Defendant Mercedes USA is a Delaware limited liability company with its principal place of business at One Mercedes Drive, Montvale, New Jersey, 07645. Mercedes USA is a subsidiary of Daimler that is responsible for the distribution and marketing of Mercedes-Benz vehicles in the United States.

5. Defendant Mercedes International is an Alabama corporation with its principal place of business at One Mercedes Drive, Vance, Alabama, 35490. Mercedes International is a

subsidiary of Daimler responsible for the manufacture of Mercedes-Benz vehicles in the United States.

6. Upon information and belief, and as more specifically alleged below, Daimler, Mercedes USA, and Mercedes International together, individually, and/or through agents, infringe each of the Asserted Patents.

7. Defendant Bosch Germany is a limited liability company organized under the laws of Germany with its principal place of business at Robert-Bosch-Platz 1, 70839 Gerlingen, Germany.

8. Defendant Bosch USA is a Delaware limited liability company with its principal place of business at 3800 Hills Tech Drive, Farmington Hills, Michigan, 48331. Bosch USA is a wholly owned subsidiary of Bosch Germany.

9. Upon information and belief, and as more specifically alleged below, Bosch Germany, and Bosch USA together, individually, and/or through agents, infringe the '387 patent.

#### **JURISDICTION AND VENUE**

10. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States.

11. The Court has personal jurisdiction over each Mercedes defendant under Virginia Code § 8.01-328.1 because each has sufficient minimum contacts with the forum, resulting from its regular transaction of business within the Commonwealth of Virginia and within the Eastern District of Virginia. Each Mercedes defendant directly or indirectly sells vehicles through twelve dealerships in Virginia, nine of which are located within the Eastern District of Virginia. Mercedes', including Daimler's, Mercedes USA's, and Mercedes International's, efforts in advertising online and through these established locations demonstrate that it has established the requisite minimum contacts in Virginia. Additionally, through these dealerships and advertising

activities, each of the Mercedes defendants has established direct contacts with Virginia residents. Daimler leads customers to these Mercedes dealerships through its website, by directing United States customers to the Mercedes USA website, which provides specific information regarding Mercedes dealerships across the United States, including Virginia. Further, Daimler and Mercedes International manufacture vehicles to be transferred into, and sold within, the Commonwealth of Virginia. The Mercedes dealerships within the Eastern District of Virginia sell Mercedes vehicles manufactured by Daimler, manufactured by Mercedes International, and brought into the district by Mercedes USA and/or a concerted effort between Daimler, Mercedes USA, Mercedes International and their agents. The Mercedes defendants, directly or through their agents, operate the accused Mercedes vehicles in an infringing manner during transportation and/or sale into and in the Eastern District of Virginia and the Newport News Division. Further, following the sale of the Mercedes vehicles, Mercedes' customers routinely use the vehicles in an infringing manner in the Eastern District of Virginia and in the Newport News Division.

12. The Court has personal jurisdiction over each Bosch defendant under Virginia Code § 8.01-328.1 because each has sufficient minimum contacts with the forum, resulting from its regular transaction of business within the Commonwealth of Virginia and within the Eastern District of Virginia and the Newport News Division. Bosch defendants manufacture a wide variety of automotive parts which can be used on a variety of vehicle makes and models. Each Bosch defendant has established direct contacts with Virginia residents through advertising and sale of its automotive parts online, through dealerships, and through third party retailers. Bosch USA's website identifies over 50 different vehicle makes, including Mercedes, for which Bosch

manufactures parts.<sup>1</sup> These parts are delivered to and used by vehicle dealerships, including Mercedes dealerships. Additionally, the Bosch USA website provides the location of third party retailers which stock and sell Bosch automotive parts.<sup>2</sup> More specifically, when searching for gasoline direct injection parts, the Bosch USA website identifies 17 third party retailers that stock, for sale, Bosch automotive parts, within 20 miles of the Spottswood W. Robinson III and Robert R. Merhige, Jr., Federal Courthouse and eight third party retailers within 20 miles of the Newport News Federal Courthouse. Bosch Germany's and Bosch USA's efforts in advertising online and selling Bosch auto parts through these established locations demonstrate that each Bosch defendant has established the requisite minimum contacts in Virginia. Further, upon information and belief Bosch USA and/or Bosch Germany, directly or through agents, are responsible for the importation of Bosch automotive parts, and the delivery and sale of the automotive parts to dealerships and third party retailers in the Eastern District of Virginia and the Newport News Division.

13. Venue is proper in this District, including in the Newport News Division and this Division under 28 U.S.C. §§ 1391 and 1400(b) and Local Civil Rule 3(C) because, as alleged above, each defendant is a corporate entity subject to personal jurisdiction in this District, including in the Newport News and this Division. Further, because each Defendant has distributed, advertised, sold and/or used, and/or has induced others to use, methods and systems that infringe one or more of the Asserted Patents, a substantial part of the events giving rise to the claims asserted herein occurred, and are continuing to occur, in this District, including in the Newport News and this Division. Additionally, part of the work that led to the patented inventions occurred in this judicial district and the Newport News division.

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<sup>1</sup> <http://www.boschautoparts.com/>

<sup>2</sup> <http://www.boschautoparts.com/gasoline-direct-injection>

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