

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

BLITZSAFE TEXAS, LLC,

Plaintiff,

v.

**VOLKSWAGEN GROUP OF AMERICA,
INC. and VOLKSWAGEN GROUP OF
AMERICA CHATTANOOGA
OPERATIONS, LLC,**

Defendants.

No. 2:15-cv-01278-JRG-RSP

CONSOLIDATED INTO

No. 2:15-cv-01274-JRG-RSP

JURY TRIAL DEMANDED

DEFENDANTS' MOTION TO STAY

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INTRODUCTION

In this litigation and in the consolidated lawsuits, plaintiff (“Blitzsafe”) is asserting claims for infringement of U.S. Patent Nos. 7,489,786 and 8,155,342 against defendants Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga Operations, LLC (“VWGoA and VWGoA Chattanooga”) and defendants Honda, Hyundai/Kia, Nissan, and Toyota. *See, e.g.*, Case No. 2:15-cv-01278-JRG-RSP, D.E. 22 (Blitzsafe’s First Amended Complaint against VWGoA and VWGoA Chattanooga).¹ The U.S. Patent Office Patent Trial and Appeal Board (“PTAB” or “Board”) recently instituted two *inter partes* reviews of the ’786 and ’342 patents requested by Toyota, after finding that almost 60% of Blitzsafe’s asserted patent claims—41 of 69—are not reasonably likely to be patentable over the prior art.² VWGoA also recently filed three IPR petitions, and Honda and Hyundai/Kia recently filed four additional IPR petitions, challenging the remaining asserted claims, as well as the claims already under review, on additional grounds that have not yet been considered by the Board.³

The court should stay this litigation until the conclusion of these IPR proceedings, including any appeals. Each of the relevant factors favors a stay. First, Blitzsafe will not be unduly prejudiced by a stay because it does not compete with VWGoA and VWGoA Chattanooga, and money damages will be adequate to compensate it for any delay. Second, a

¹ The ’342 patent claims the priority of the ’786 patent through a chain of a continuation-in-part patent applications. In its P.R. 3-1 infringement contentions, Blitzsafe asserts that VWGoA and VWGoA Chattanooga infringe claims 1–2, 4–8, 13–14, 23–24, 44, 47, 57–58, 60–65, 86, 88–92, 94, 97, and 98 of the ’786 patent, and claims 49–54, 56, 62–64, 71, 73–78, 95, 97, 99–101, 106, 109–11, and 120 of the ’342 patent. *See* Ex. 1 (Blitzsafe infringement contentions) at 2.

² *See* Exs. 2–3 (Institution Decisions in IPR2016-00418 and IPR2016-00421).

³ *See* Exs. 4–6 (VWGoA Petitions in IPR2016-01445, IPR2016-01448 and IPR2016-01449, filed July 20, 2016); Exs. 7–8 (Honda Petitions in IPR2016-01472 and IPR2016-01473, filed July 21, 2016); Exs. 9–10 (Hyundai/Kia Petitions in IPR2016-01476 and IPR2016-01477, filed July 21, 2016).

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