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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

STRATOSAUDIO, INC. \* June 23, 2021  
\*  
VS. \* CIVIL ACTION NOS.  
\*  
HYUNDAI MOTOR AMERICA \* W-20-CV-1125  
VOLKSWAGEN GROUP OF AMERICA, INC. W-20-CV-1131

BEFORE THE HONORABLE ALAN D ALBRIGHT  
MOTION HEARING (via Zoom)

APPEARANCES:

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1 (June 23, 2021, 9:31 a.m.)

2 DEPUTY CLERK: Motion hearing in Civil Action  
3 W-20-CV-1125, styled StratusAudio, Incorporated versus Hyundai  
4 Motor America, and Case No. W-20-CV-1131, styled StratosAudio,  
5 Incorporated versus Volkswagen Group of America.

6 THE COURT: If I could have announcements from counsel,  
7 please.

8 MR. VOWELL: Good morning, Your Honor. This is Corby  
9 Vowell with Friedman, Suder & Cooke for the plaintiff  
10 StratosAudio.

11 MR. SNYDER: Good morning, Your Honor. This is Darin  
12 Snyder of O'Melveny and Myers for defendant Hyundai Motor  
13 America. My colleague Mr. Clarence Rowland is going to be  
14 handling the argument for us today.

15 THE COURT: Very good.

16 MR. WHITTLESEY: Your Honor, David Whittlesey here from  
17 Shearman & Sterling for Volkswagen, and with me my partner Mark  
18 Hannemann. I think he will be taking the lead on our arguments  
19 today.

20 MR. VOWELL: And, Your Honor, also on the plaintiff's side  
21 let me let lead counsel introduce themselves.

22 MR. SONGER: Your Honor, this is Mike Songer.

23 Thank you, Mr. Vowell.

24 It's Mike Songer from White & Case, and I'll be handling  
25 the venue motion.

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Volkswagen v StratosAudio

1 THE COURT: Okay.

2 MR. LAMBERSON: Good morning, Your Honor. Jonathan  
3 Lamberson also from White & Case, and I will be handling the  
4 discovery/schedule dispute.

5 THE COURT: What do you all suggest we take up first?

6 MR. SONGER: I'd say the venue.

7 THE COURT: Okay. I thought so too. I'm happy to hear  
8 the argument on the motion for transfer.

9 MR. WHITLESEY: Your Honor, we have two -- there's two  
10 motions, one for Volkswagen, one for Hyundai. Do you have any  
11 preference as to which one goes first?

12 THE COURT: I don't.

13 (Clarification by the reporter.)

14 MR. HANNEMANN: All right. Thank you, Your Honor. This  
15 is Mark Hannemann from Shearman representing Volkswagen. It's  
16 nice to see you on the other side of the virtual bench. It's  
17 been awhile.

18 Plaintiff's argument in this case would provide nationwide  
19 venue for patent suits against wholesalers who do business  
20 nationwide. This is exactly the opposite of Congress' intent  
21 in passing the venue statute which is explained in, for  
22 example, the Federal Circuit's Cray decision.

23 The basic problem with plaintiff's argument is that it  
24 conflates whether someone is doing business at a place with  
25 whether that place is their own established place of business.

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1 I don't know that there's a lot for me to say other than that  
2 Volkswagen does not have a place of business in the Waco  
3 Division. It owns no real estate. It rents no real estate.  
4 It -- the only allegation is that its dealers are in Waco,  
5 which means that Volkswagen is doing business with its dealers,  
6 but it's not doing that business at the dealerships. And  
7 without a place of business of Volkswagen, there is no venue in  
8 this district for a patent case against Volkswagen.

9 I can talk in more detail about the Cray case. I could  
10 talk about ratification, which is something that comes up in  
11 the plaintiff's brief, but if you have any particular questions  
12 for me right now, I'd be happy to answer them.

13 THE COURT: Let me hear from -- obviously a response, but,  
14 I mean, I think the -- I just find it a fascinating question.  
15 I mean, I really do. You know, it's -- is Volkswagen --  
16 Volkswagen is selling cars in the district. I mean -- well,  
17 let me try it this way. I'll use a passive voice.

18 Volkswagen cars are being sold in the Western Division.  
19 We don't have a fight over that. And they're being sold by  
20 independent dealers. I think -- you know, I get all the facts,  
21 but I still find it a fascinating question about whether or not  
22 that is doing business in the Western District, and I'm happy  
23 to hear -- let me hear from the plaintiff and then we'll go  
24 back.

25 MR. SONGER: Yes, Your Honor. This is Mr. Songer.

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