

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VOLKSWAGEN GROUP OF AMERICA, INC.,  
Petitioner,

v.

STRATOSAUDIO, INC.,  
Patent Owner

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IPR2021-00720  
Patent 9,355,405 B2

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Before JUSTIN T. ARBES, HYUN J. JUNG, and  
KEVIN C. TROCK, *Administrative Patent Judges*.

TROCK, *Administrative Patent Judge*.

DECISION  
Granting Institution of *Inter Partes* Review  
35 U.S.C. § 314(a)

## I. INTRODUCTION

Petitioner Volkswagen Group of America, Inc. filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 12–16 (the “challenged claims”) of U.S. Patent No. 9,355,405 B2 (Ex. 1001, “the ’405 Patent”). Patent Owner StratosAudio, Inc. filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Pursuant to an Order, Paper 11, Petitioner filed a Reply, Paper 12 (“Reply”), and Patent Owner filed a Sur-reply, Paper 14 (“Sur-reply”) to address issues raised in Patent Owner’s Preliminary Response.

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless the information presented in the Petition and any response thereto shows “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Taking into account the arguments presented in Patent Owner’s Preliminary Response, we conclude that the information presented in the Petition establishes that there is a reasonable likelihood that Petitioner would prevail in challenging at least one of claims 12–16 of the ’405 patent as unpatentable under the grounds presented in the Petition. Pursuant to § 314, we hereby institute an *inter partes* review as to the challenged claims of the ’405 Patent.

### A. Real Party in Interest

The parties identify themselves as real parties in interest. Pet. 1; Paper 4, 1.

### B. Related Matters

The parties identify the following as related matters:

- *StratosAudio, Inc. v. Hyundai Motor America*, No. 20-cv-01125-ADA (W.D. Tex.);

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- *StratosAudio, Inc. v. Mazda Motor of America, Inc.*, No. 20-cv-01126-ADA (W.D. Tex.).
- *StratosAudio, Inc. v. Subaru of America, Inc.*, No. 20-cv-01128-ADA (W.D. Tex.).
- *StratosAudio, Inc. v. Volvo Cars USA, LLC*, No. 20-cv-01129-ADA (W.D. Tex.).
- *StratosAudio, Inc. v. Volkswagen Group of America, Inc.*, No. 6:20-cv-1131 (W.D. Tex.);<sup>1</sup>

Pet. 1; Paper 4, 1.

### C. The '405 Patent

The '405 Patent relates to media advertising and associating an advertising media signal with another media signal. Ex. 1001, 1:24–26. The '405 Patent explains that it is generally desirable to associate products with specific characteristics and such associations may increase the chance that a potential customer will decide to purchase a product when the product is associated with a favorable characteristic. *Id.* at 1:28–36. In view of this, the '405 Patent states that an advertisement may be more effective if it is associated with an image of a celebrity or another media element that exhibits favorable characteristics. *Id.* at 1:36–40.

The '405 Patent describes a media enhancement system that is configured to associate a secondary media signal (e.g., an advertisement) to a primary media signal (e.g., a radio broadcast). *Id.* at 3:15–19. The '405 Patent explains that the secondary media signal may be based on the content

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<sup>1</sup> Patent Owner identifies this proceeding as *StratosAudio, Inc. v. Volkswagen Group of America, Inc.*, No. 20-cv-01127-ADA (W.D. Tex.). Paper 4, 1. The correct case number appears to be 6:20-cv-1131-ADA. Ex. 2006, 1.

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of the primary media, user characteristics (e.g., demographic and/or geographic information), and/or third party preferences (e.g., the goals of advertisers). *Id.* at 3:23–27.

The '405 Patent provides an example in which a radio station transmits a song in a first media signal that is received by a user enabled-device (e.g., a cellular phone with a radio). *Id.* at 3:33–36. A media association system analyzes the song to determine what media elements can be associated with the song and the media association system provides a second media signal (e.g., an advertisement) to the user enabled-device. *Id.* at 3:36–42. While the user enabled-device is playing the song, the user enabled-device displays the media content in the second media signal (e.g., a still or moving picture of the advertised product). *Id.* at 3:43–46. The '405 Patent provides another example in which a user enabled-device is playing a song from a first media signal, media content from a second media signal (e.g., a still or moving picture with selectable audio of an advertised product) is displayed by the user enabled-device, and the audio track for the first media signal is paused upon selection of the second media signal audio. *Id.* at 3:47–53.

Figure 1A of the '405 Patent is reproduced below.

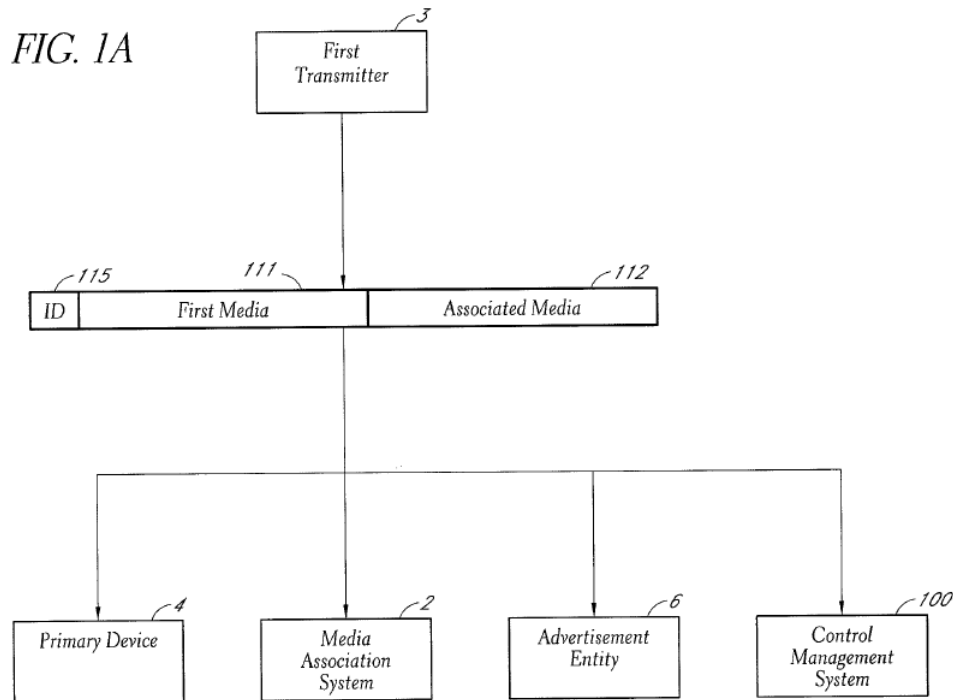


Figure 1A, shown above, is a block diagram depicting signals and identifiers correlated and transmitted between elements of a media enhancement system. *Id.* at 2:48–50. The system can include first transmitter 3, control management system 100, media association system 2, primary device 4, and advertisement entity 6. *Id.* at 8:17–22. First transmitter 3 can be broadcast content from a radio station, from over the internet, through a cable line or satellite, and/or through other communication methods. *Id.* at 8:23–30. For instance, first transmitter 3 can send a first media signal 111 that is received by primary device 4. *Id.* at 8:47–49.

Figure 1B of the '405 Patent is reproduced below.

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