

# EXHIBIT D

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

BLITZSAFE TEXAS, LLC,

Plaintiff,

v.

HONDA MOTOR CO., LTD., ET AL.,

Defendants.

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NO. 2:15-CV-01274-JRG-RSP  
(LEAD CASE)

**HONDA, HYUNDAI, KIA, NISSAN, AND TOYOTA DEFENDANTS’  
P. R. 3-3 & 3-4 INVALIDITY CONTENTIONS AND DISCLOSURES**

Pursuant to Rule 3-3 of the Patent Local Rules for the Eastern District of Texas, and the Court’s Docket Control Order (Dkt. 56), Defendants American Honda Motor Co., Inc., Honda of America Mfg., Inc., Honda Manufacturing of Alabama, LLC, Honda Manufacturing of Indiana, LLC, Hyundai Motor America, Hyundai Motor Manufacturing Alabama, LLC, Kia Motors America, Inc., Kia Motors Manufacturing Georgia, Inc., Nissan North America, Inc., Nissan Motor Co., Ltd., Toyota Motor Corporation, Toyota Motor Sales U.S.A., Inc., Toyota Motor Manufacturing, Texas, Inc., Toyota Motor Manufacturing Kentucky, Inc., and Toyota Motor Manufacturing Mississippi, Inc. (collectively, the “Defendants<sup>1</sup>”) submit the following Invalidation Contentions to Plaintiff Blitzsafe Texas, LLC (“Blitzsafe”).

The Invalidation Contentions address the following claims of U.S. Patent No. 7,489,786 (“the ’786 patent”) and U.S. Patent No. 8,155,342 (“the ’342 patent”) (collectively, the “Patents-

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<sup>1</sup> Honda Motor Co., Ltd., a named defendant in Case No. 2:15-cv-1274, and Hyundai Motor Company and Kia Motors Corporation, named defendants in Case No. 2:14-cv-1275, have not appeared in the respective cases and are not signatories to these invalidity contentions, but each reserves its right to join in these contentions if and after it is served.

in-Suit”), which were alleged by Blitzsafe to be infringed by the Defendants in Blitzsafe’s Disclosure of Asserted Claims and Infringement Contentions (“Infringement Contentions”):

Asserted Patent	Asserted Claims
U.S. Patent No. 7,489,786	1, 2, 4-8, 10, 13, 14, 23, 24, 44, 47, 57, 58, 60-65, 86, 88-92, 94, 97, and 98
U.S. Patent No. 8,155,342 <sup>2</sup>	49-57, 62-64, 66, 68, 70, 71, 73-80, 94, 95, 97, 99-103, 106, 109-111, 113, 115, and 120

Blitzsafe’s Infringement Contentions are deemed to be its final contentions pursuant to P. R. 3-6. Should the Court allow Blitzsafe to later assert infringement of additional claims not asserted in Blitzsafe’s Infringement Contentions or additional infringement theories with respect to the Asserted Claims, the Defendants reserve the right to supplement their Invalidity Contentions to assert invalidity of those additional claims and/or to assert invalidity based on the additional infringement theories.

### **I. Preliminary Matters**

The Defendants’ Invalidity Contentions are based in whole or in part on their present understanding of the Asserted Claims and Blitzsafe’s Infringement Contentions against each respective Defendant, including the priority dates of each of the Patents-in-Suit as asserted by Blitzsafe in its Infringement Contentions.

The Defendants’ Invalidity Contentions are responsive at least to the same level of specificity of Blitzsafe’s Infringement Contentions. The Defendants’ Invalidity Contentions may also take into account Blitzsafe’s apparent claim constructions, to the extent Blitzsafe’s constructions can be gleaned from Blitzsafe’s Infringement Contentions. Such apparent

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<sup>2</sup> Claims 66, 68, 70, 94, 113, and 115 were not asserted by Blitzsafe against the Hyundai and Kia Defendants, and therefore they make no contentions with respect to those claims at this time. However, they reserve all rights should Blitzsafe later assert those claims or others against the Hyundai and Kia Defendants.

constructions may be inconsistent with the constructions that the Defendants ultimately will proffer in this case. By including prior art that would anticipate or render obvious the asserted claims of the patents in suit based on Blitzsafe's disclosed and apparent claim constructions, or based on any other particular claim construction, the Defendants are not adopting Blitzsafe's claim constructions, nor are the Defendants admitting to the accuracy of any particular claim construction. The Court has established separate deadlines for the parties' proposed claim constructions, and the Defendants will disclose their proposed constructions according to those deadlines. For purposes of these Invalidity Contentions, the Defendants may adopt alternative, and even inconsistent, claim construction positions. The Defendants reserve all rights to amend these Invalidity Contentions after the Court issues its claim construction ruling, or if the Court permits Blitzsafe to amend its Infringement Contentions.

The Defendants, however, do not concede that Blitzsafe's Infringement Contentions meet the specificity required under the Patent Rules, and the Defendants provide these Invalidity Contentions without waiving any right to receive from Blitzsafe full and complete specific infringement contentions. Moreover, nothing herein admits in any way that any accused product, or any of the Defendants' other products, infringes any of the Asserted Claims.

**A. Incorporation By Reference Of Related Invalidity Contentions and Disclosures**

The Defendants attach as Appendices to these Invalidity Contentions and explicitly incorporate by reference as if fully set forth herein, and intend to rely on, each of the contentions, charts, prior art references, and other statements made or disclosed in the following petitions for *inter partes* review:

Case	Patent	Petitioner	Filing Date	Appendix
IPR2016-00118	'342 patent	Unified Patents Inc.	Oct. 30, 2015	Appendix 1
IPR2016-00418	'342 patent	Toyota Motor Corp.	Dec. 30, 2015	Appendix 2

IPR2016-00419	'342 patent	Toyota Motor Corp.	Dec. 30, 2015	Appendix 3
IPR2016-00421	'786 patent	Toyota Motor Corp.	Dec. 30, 2015	Appendix 4
IPR2016-00422	'786 patent	Toyota Motor Corp.	Dec. 30, 2015	Appendix 5

The Defendants incorporate by reference all contentions, charts, prior art references, and other statements relating to any ground of invalidity identified by any potential or actual licensee to the Patents-in-Suit and by any party in any other past, present, and future litigation involving the Patents-in-Suit and patents related to the Patents-in-Suit, including those of defendants Volkswagen Group of America, Inc. and Volkswagen Group of America Chattanooga Operations, LLC in this consolidated action. The Defendants incorporate by reference all grounds of invalidity identified in any present or future reexamination, *inter partes* review, covered business method (CBM) patent review, or other post-issuance review by the Patent and Trademark Office of the Patents-in-Suit. The Defendants also incorporate by reference the production of documents associated with any grounds for invalidity for the Patents-in-Suit identified in this paragraph. The Defendants request that all such contentions from every case involving the '786 patent or the '342 patent be produced to the Defendants as soon as possible after they are served on, or become known to, Blitzsafe.

**B. Ongoing Investigation**

The Defendants' discovery and investigation in connection with this lawsuit is continuing, and thus, these Invalidity Contentions are based on information obtained to date. Among other things, discovery is still underway, neither Blitzsafe nor any third party witnesses have been deposed to date, and the Court has not yet construed the terms of the Asserted Claims. Accordingly, the Defendants' Invalidity Contentions are subject to modification, amendment, or supplementation in accordance with the Court's Docket Control Order, the Local and Patent

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