

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

Blitzsafe Texas, LLC,

Plaintiff,

-against-

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

**JOINT PRETRIAL ORDER FOR *BLITZSAFE* v. *VOLKSWAGEN* TRIAL**

The Pretrial Conference is scheduled for January 11, 2017 in Marshall, Texas, pursuant to the Court's Amended Docket Control Order (Dkt. 311) and Rule 16 of the Federal Rules of Civil Procedure. As used herein, "Blitzsafe" or "Plaintiff" means Blitzsafe Texas, LLC. As used herein, "VWGoA" or "Defendants" means Volkswagen Group of America, Inc. and Volkswagen Group of America Chattanooga Operations, LLC.

The following parties submit this Joint Pretrial Order:

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**B. STATEMENT OF JURISDICTION**

This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, including 35 U.S.C. § 1 *et seq.* Defendant VWGoA disputes that personal jurisdiction is proper in this case.

**C. NATURE OF ACTION**

**1. Blitzsafe's Statement Regarding the Description of the Case**

Plaintiff Blitzsafe alleges that Defendant VWGoA directly infringes and/or indirectly infringes U.S. Patent No. 7,489,786 (the '786 patent) and U.S. Patent No. 8,155,342 (the '342 patent) by making, using, selling, and/or offering for sale in the United States or importing into the United States Volkswagen and Audi brand automobiles that include accused infotainment systems, collectively, the "Accused Products". Blitzsafe alleges that VWGoA indirectly infringes by way of contributory and/or induced infringement of the '786 patent and the '342 patent.

Blitzsafe alleges that Volkswagen and Audi brand automobiles infringe the '786 patent because they include, among other things, infotainment systems that include a first connector electrically connectable to a car stereo; a second connector electrically connectable to an aftermarket audio device; an interface connected between the first and second connectors for channeling audio from the after-market audio device to the car stereo; and a microcontroller included in the interface with code that permits the after-market audio device to be controlled by commands from the car stereo and that permits the car stereo to display data obtained from the after-market audio device.

Blitzsafe alleges Volkswagen and Audi brand automobiles infringe the '342 patent because they include, among other things, infotainment systems that include an integration

subsystem in communication with a car audio/video system; a first wireless interface in communication with the integration subsystem that establishes a wireless communication link with a second wireless interface in communication with an external portable device; the integration subsystem obtaining information about an audio file from the portable device and transmitting it to the car audio/video system for display, instructing the portable device to play the audio file in response to a user selecting the audio file using the controls of the car audio/video system, and receiving audio generated by the portable device for playing on the car audio/video system.

Blitzsafe alleges that VWGoA induces its customers to infringe the patents-in-suit by, among other things, instructing its customers to directly infringe by making, using, or selling the Volkswagen Accused Products and Audi Accused Products.

Blitzsafe alleges that the VWGoA Defendants contributorily infringe by, among other things, making, using, selling, offering to sell, and importing components of the Volkswagen Accused Products and Audi Accused Products, including the interfaces and integration subsystems of those products, which have no substantial non-infringing uses.

Blitzsafe further alleges that VWGoA's infringement is and has been willful.

## **2. VWGoA's Statement Regarding the Description of the Case**

VWGoA denies Blitzsafe's allegations, and asserts a number of defenses to Blitzsafe's claims. Specifically, VWGoA denies Blitzsafe's allegations of direct and indirect infringement, and contends that Blitzsafe is precluded from alleging infringement under the doctrine of equivalents. VWGoA further denies that any alleged infringement is or was willful. VWGoA further contends that Blitzsafe's allegations of infringement are barred by equitable doctrines, including laches.

Further, VWGoA contends that all of the asserted claims of the '786 and '342 patents are invalid, both for lack of patent-eligible subject matter, and in view of the prior art. VWGoA seeks a declaratory judgment of noninfringement and invalidity as to the asserted claims of the '786 and '342 patents.

VWGoA further denies that Blitzsafe is entitled to any damages or injunctive relief. VWGoA further contends that any damages are limited due to Blitzsafe's failure to notify VWGoA of the alleged infringement, Blitzsafe's delay in bringing suit, and Blitzsafe's failure to require licensees of the '786 and '342 patents to mark any products that incorporate the claimed subject matter of the '786 and '342 patents.

VWGoA requests that the Court declare the case exceptional and award attorneys' fees to VWGoA pursuant to 35 U.S.C. § 285, costs, and expenses.

#### **D. CONTENTIONS OF THE PARTIES**

##### **1. Blitzsafe's Statement of its Contentions**

By providing these Contentions, Blitzsafe does not concede that all of these issues are appropriate for trial. In addition, Blitzsafe does not waive any of its motions *in limine*.

1. In this case, Blitzsafe contends that VWGoA is directly infringing and/or indirectly infringing claims 5, 6, 7, 8, 14, 57, 61, 62, and 65 of the '786 patent under 35 U.S.C. §§ 271 and 281-285, either literally or, in the alternative, under the doctrine of equivalents, by making, using, offering for sale, selling, and/or importing products with patented Blitzsafe audio interface technology.

2. Blitzsafe holds all right, title and interest to the '786 patent and has standing to bring this suit. Blitzsafe possesses all rights of recovery under the '786 patent.

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