

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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Case No. 2:15-CV-1274-JRG-RSP

(LEAD CASE)

JURY TRIAL DEMANDED

**COUNTERCLAIM DEFENDANT BLITZSAFE TEXAS, LLC'S
ANSWER TO COUNTERCLAIMS OF COUNTERCLAIM PLAINTIFFS
HYUNDAI MOTOR AMERICA, HYUNDAI MOTOR MANUFACTURING
ALABAMA, LLC, KIA MOTORS AMERICA, INC., AND KIA MOTORS
MANUFACTURING GEORGIA, INC.**

Plaintiff/Counterclaim Defendant Blitzsafe Texas, LLC (hereinafter "Blitzsafe" or "Counterclaim Defendant"), as and for its Answer to Counterclaims (the "Counterclaims") of Defendants/Counterclaim Plaintiffs Hyundai Motor America ("HMA"), Hyundai Motor Manufacturing Alabama, LLC ("HMMA"), Kia Motors America, Inc. ("KMA"), and Kia Motors Manufacturing Georgia, Inc. ("KMMG") (hereinafter collectively referred to as "Hyundai and Kia" or "Counterclaim Plaintiffs"), states as follows:

ANSWER TO COUNTERCLAIMS

Blitzsafe denies all allegations contained in headings preceding individually numbered paragraphs of Counterclaim Plaintiffs' Counterclaims. Blitzsafe denies all allegations to the

extent not expressly admitted. Blitzsafe hereby responds to the individually numbered paragraphs of Counterclaim Plaintiffs' Counterclaims as follows:

I. THE PARTIES

1. HMA is a California corporation with a place of business at 10550 Talbert Ave., Fountain Valley, CA 92708. HMA is a wholly-owned subsidiary of HMC.

RESPONSE TO ¶ 1

Blitzsafe admits the allegations contained in paragraph 1 of the Counterclaims.

2. HMMA is a Delaware limited liability company with its principal place of business at 700 Hyundai Blvd., Montgomery, AL 36105. HMMA is a wholly-owned subsidiary of HMA.

RESPONSE TO ¶ 2

Blitzsafe admits the allegations contained in paragraph 2 of the Counterclaims.

3. KMA is a California corporation with a place of business at 111 Peters Canyon Road, Irvine, CA 92606. KMA is a wholly-owned subsidiary of KMC.

RESPONSE TO ¶ 3

Blitzsafe admits the allegations contained in paragraph 3 of the Counterclaims.

4. KMGG is a Delaware corporation with its principal place of business at 7777 Kia Parkway, West Point, GA 31833. KMMG is a wholly-owned subsidiary of KMA-

RESPONSE TO ¶ 4

Blitzsafe admits the allegations contained in paragraph 4 of the Counterclaims.

5. Based on Blitzsafe's assertion in its Complaint, Hyundai and Kia allege on information and belief that Blitzsafe, is a limited liability company organized and existing under the laws of the State of Texas, and maintains its principal place of business at 100 W. Houston Street, Marshall, Texas 75670.

RESPONSE TO ¶ 5

Blitzsafe admits the allegations contained in paragraph 5 of the Counterclaims.

II. JURISDICTION AND VENUE

6. Based on Blitzsafe's filing of this action and Hyundai and Kia's affirmative defenses, an actual controversy has arisen and now exists between Blitzsafe and Hyundai and Kia as to whether Hyundai and Kia have infringed or are infringing one or more valid and enforceable claims of U.S. Patent No. 7,489,786 (the '786 Patent) and/or U.S. Patent No. 8,155,342 (the '342 Patent).

RESPONSE TO ¶ 6

Blitzsafe admits that an actual controversy exists between Blitzsafe and Hyundai and Kia as to whether Hyundai and Kia have infringed or are infringing one or more valid and enforceable claims of the '786 Patent and/or the '342 Patent and denies the remaining allegations contained in paragraph 6 of the Counterclaims.

7. Hyundai and Kia's counterclaims arise under the patent laws of the United States as enacted under Title 35 of the United States Code and the provisions of the Federal Declaratory Judgment Act. The jurisdiction of this Court is proper under 28 U.S.C. §§ 1331, 1338, 2201 and 2202.

RESPONSE TO ¶ 7

Blitzsafe admits that Hyundai and Kia's counterclaims purport to arise under Title 35 of the United States Code and the provisions of the Federal Declaratory Judgment Act and that jurisdiction is proper under 28 U.S.C. §§ 1331, 1338, 2201, and 2202.

8. Hyundai and Kia deny that venue for Blitzsafe's patent infringement claims against the Hyundai and Kia is proper in this District. However, to the extent Blitzsafe's infringement claims against are litigated in this District, venue for Hyundai and Kia's counterclaims is proper in this District.

RESPONSE TO ¶ 8

Blitzsafe admits that venue for Hyundai and Kia's Counterclaims is proper in this District and denies the remaining allegations contained in paragraph 8 of the Counterclaims.

FIRST COUNTERCLAIM
(Declaratory Judgment of Non-Infringement)

9. Hyundai and Kia re-allege and incorporate by reference the allegations set forth in the preceding paragraphs of the counterclaims.

RESPONSE TO ¶ 9

Answering paragraph 9 of the Counterclaims, Blitzsafe repeats and realleges its responses to paragraphs 1 through 8 above as if fully set forth at length herein.

10. Hyundai and Kia do not infringe and have not infringed, either directly or indirectly, no have Hyundai and Kia contributed to or induced the infringement of, any asserted claim of the '786 patent and/or the '342 Patent under any legally valid theory, including literal infringement or infringement under the doctrine of equivalents.

RESPONSE TO ¶ 10

Blitzsafe denies the allegations contained in paragraph 10 of the Counterclaims.

11. Hyundai and Kia pray, pursuant to 28 U.S.C. § 2201, for declaratory judgment they do not infringe the patents-in-suit.

RESPONSE TO ¶ 11

Blitzsafe denies the allegations contained in paragraph 11 of the Counterclaims.

SECOND COUNTERCLAIM
(Declaratory Judgment of Invalidity)

12. Hyundai and Kia re-allege and incorporate by reference the allegations set forth in the preceding paragraphs of the counterclaims.

RESPONSE TO ¶ 12

Answering paragraph 12 of the Counterclaims, Blitzsafe repeats and realleges its responses to paragraphs 1–8 and 10–11 above as if fully set forth at length herein.

13. Each asserted claim of all of the patents-in-suit are invalid under one or more grounds specified in 35 U.S.C. §§ 101, 102, 103 and/or 112.

RESPONSE TO ¶ 13

Blitzsafe denies the allegations contained in paragraph 13 of the Counterclaims.

14. Hyundai and Kia pray, pursuant to 28 U.S.C. § 2201, for declaratory judgment that one or more claims of the patents-in-suit are invalid under one or more grounds specified in 35 U.S.C. §§ 101, 102, 103 and/or 112.

RESPONSE TO ¶ 14

Blitzsafe denies the allegations contained in paragraph 14 of the Counterclaims.

THIRD COUNTERCLAIM

(Declaratory Judgment of Unenforceability Due to Inequitable Conduct by Failing to Disclose Prior Art Patented Products)

15. Hyundai and Kia re-allege and incorporate by reference the allegations set forth in the preceding paragraphs of the Counterclaims.

RESPONSE TO ¶ 15

Answering paragraph 15 of the Counterclaim, Blitzsafe repeats and realleges its responses to paragraphs 1–8, 10–11, 13 and 14 above as if fully set forth at length herein.

16. The '786 patent, and the '342 patent in its family, are unenforceable for inequitable conduct committed at least by Ira Marlowe during prosecution of at least the U.S. Patent Application No. 10/316,961 from which the '786 Patent issued.

RESPONSE TO ¶ 16

Blitzsafe denies the allegations contained in paragraph 16 of the Counterclaims.

17. The '786 Patent issued on February 10, 2009, from U.S. Patent Application No. 10/316,961, filed on December 11, 2002 (“the '961 Application”). The '342 Patent issued on April 10, 2012, from U.S. Patent Application No. 11/475,847, filed on June 27, 2006 (“the '847 Application”). The application that issued as the '342 patent was a continuation-in-part (CIP) application in the '786 patent family. A finding of inequitable conduct renders the entire patent family unenforceable.

RESPONSE TO ¶ 17

Blitzsafe admits that the '786 Patent issued on February 10, 2009 from the '961 Application, filed on December 11, 2002. Blitzsafe admits that the '342 Patent issued on April

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