

**FILED**

**AUG 13 2014**

**CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY *MC* DEPUTY**

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

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AFFINITY LABS OF TEXAS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. WA:13-CV-363
	)	
FORD MOTOR COMPANY,	)	
	)	
Defendant.	)	

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AFFINITY LABS OF TEXAS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. WA:13-CV-365
	)	
TOYOTA MOTOR NORTH AMERICA, INC.,	)	
ET AL.,	)	
	)	
Defendants.	)	

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AFFINITY LABS OF TEXAS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. WA:13-CV-366
	)	
VOLVO CARS OF NORTH AMERICA, LLC	)	
and AB VOLVO <sup>1</sup> ,	)	
	)	
Defendants.	)	

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<sup>1</sup> Plaintiff voluntarily dismissed AB Volvo on February 24, 2014.



**DEFENDANTS NISSAN MOTOR CO., LTD. AND NISSAN NORTH AMERICA, INC.'s  
THIRD-PARTY COMPLAINT**

Defendants Nissan Motor Co., Ltd. (“NML”) and Nissan North America, Inc. (“NNA”) hereby for their third-party complaint, pursuant to Rule 14 of the Federal Rules of Civil Procedure, against Robert Bosch LLC (“Bosch” or “third-party defendant”) state as follows:

**NATURE OF ACTION**

1. This is an action for indemnity against Bosch for claims of infringement of U.S. Patent Nos. 8,544,191 (the “191 patent”), and 8,588,680 (the “680 patent”) (collectively, the “patents-in-suit”) brought by Affinity Labs of Texas, LLC (“Affinity”) against NNA and NML.
2. Affinity’s complaint alleges that NNA and NML are liable for patent infringement because NNA and NML manufacture, sell, import, and/or offer for sale Nissan and Infiniti vehicles utilizing sound systems that are able to pair with a portable electronic device, such as an MP3 player or cell phone. NNA and NML incorporate here by reference the allegations made by Affinity in its complaint (ECF No. 1), which is attached as Exhibit A.
3. NNA and NML deny any liability to Affinity, but assert that, if held liable to Affinity, NNA and NML are entitled to indemnification from the third-party defendant.
4. NNA and NML manufacture and distribute motor vehicles.
5. Bosch supplies NNA with parts, including audio head units, which are installed into motor vehicles manufactured by NNA.

**PARTIES**

6. NNA is a California corporation with a principal place of business located in Franklin, Tennessee. NNA is responsible for the design, manufacturing, distribution, marketing, and sales of Nissan and Infiniti brand vehicles, and maintains a network of regional offices that support more than 1,100 independent, franchisee dealerships across the United States.

7. NML is a Japanese corporation with a principal place of business located in Yokohama, Japan. NML is responsible for designing, manufacturing, distributing, marketing, and selling Nissan and Infiniti brand vehicles. NML sells Nissan and Infiniti brand vehicles to NNA, and NNA distributes those vehicles to its network of dealerships.
8. On information and belief, Plaintiff Affinity Labs of Texas, LLC is a Texas corporation with its principal place of business at 31884 RR 12, Dripping Springs, TX 78620. Affinity asserts it is the assignee and owner of the patents-in-suit.
9. Robert Bosch LLC is, on information and belief, the subsidiary of a German corporation, Robert Bosch GmbH, organized and existing under the laws of Delaware, and having its registered office at 2800 S. 25th Avenue; Broadview, Illinois 60155. Bosch designs, manufactures, and sells audio sound systems used around the world by automobile manufacturers, such as NNA and NML. Bosch is registered and actively engaged in business within the State of Texas, and maintains an agent for service of process at Corporation Service Company, dba, SCS – Lawyers Inco.; 701 Brazos Suite 1050; Austin, Texas 78701.

#### JURISDICTION AND VENUE

10. The Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1338 over related patent infringement claims. The Court has subject matter jurisdiction over this action against Bosch under 28 U.S.C. § 1367(a).
11. The Court has personal jurisdiction over Bosch pursuant to the Texas long-arm statute Tex. Civ. Prac. & Rem. Code § 17.041 et seq., since Bosch transacts business and has contacts in Texas directly by designing, manufacturing, and selling NNA automobile components, including audio head units, that are installed into vehicles manufactured by NNA, which NNA then sells in the State of Texas and in this District through its independent dealerships. Further, Bosch is, on information and belief, fully aware that it designs, manufactures, and sells automobile components that are sold throughout the

United States, and particularly in Texas. By designing, manufacturing, and selling automobile components that Bosch is fully aware will be used in the State of Texas and in this District, Bosch has participated in the allegedly infringing acts asserted by Affinity in its complaint.

12. Bosch has sufficient minimum contacts within the State of Texas such that maintenance of this suit does not offend traditional notions of fair play and substantial justice.
13. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial number of the alleged acts giving rise to this cause of action occurred within the Western District of Texas, Waco Division. Further, venue is proper in this district pursuant to 28 U.S.C. § 1391(c)(2), as Bosch is subject to personal jurisdiction in this District, and therefore resides in this District for purposes of venue.

#### **FACTUAL BACKGROUND**

14. Bosch has a valid and enforceable contract dated January 8, 2011 with NNA, known as the Master Purchase Agreement (“NNA- Bosch MPA”), for the supply of audio system parts. Under this contract, Bosch designs, develops, and tests components for NNA. NNA then issues purchase orders for components that Bosch then manufactures, sells, and delivers to NNA. NNA then installs these components into Nissan and Infiniti vehicles, including vehicles sold in the State of Texas. The NNA-Bosch MPA contains specific provisions whereby Bosch agreed to indemnify NNA for any loss, liability, damages, costs and expenses, including reasonable attorney fees and expert fees arising from any claim alleging infringement in connection with the supplied components. The NNA-Bosch MPA also contains general indemnification provisions, where Bosch agreed to indemnify NNA for any third party claims. Having been sued by Affinity for infringement based on their use of automobile components designed, manufactured, and supplied by Bosch that are used in Nissan and Infiniti vehicles, NNA seeks indemnification under the NNA-Bosch MPA.

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