

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

EMERACHEM HOLDINGS, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. _____
)	
VOLKSWAGEN GROUP OF AMERICA, INC.,)	JURY DEMANDED
VOLKSWAGEN AG, and VOLKSWAGEN)	
GROUP OF AMERICA CHATTANOOGA)	
OPERATIONS, LLC,)	
)	
Defendants.)	

COMPLAINT

Plaintiff, EmeraChem Holdings, LLC (“EmeraChem”), by and through counsel, for its Complaint for Patent Infringement against Volkswagen Group of America, Inc. (“VGA”), Volkswagen AG, and Volkswagen Group of America Chattanooga Operations, LLC (“VGACO”), states as follows:

Parties

1. EmeraChem is a Delaware limited liability company with its principal place of business located at 201 Perimeter Park Drive, Knoxville, Tennessee 37922.
2. Upon information and belief, VGA is a New Jersey corporation with its headquarters and principal place of business located at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171. VGA is registered to do business in the State of Tennessee and may be served with a copy of the Complaint and Summons through Corporation Services Company, its Registered Agent for Service of Process at 2908 Poston Avenue, Nashville, Tennessee 37203-1312.

3. Upon information and belief, Volkswagen AG is a German corporation with its principal place of business located at Brieffach 1849, Wolfsburg, Germany.

4. Upon information and belief, VGACO is a Tennessee limited liability company with its headquarters and principal place of business located at 2200 Ferdinand Porsche Drive, Herndon, Virginia 20171. VGACO may be served with a copy of the Complaint and Summons through Corporation Services Company, its Registered Agent for Service of Process at 2908 Poston Avenue, Nashville, Tennessee 37203-1312.

5. VGA is and has been performing business within the State of Tennessee by selling and distributing automobiles through a chain of distribution and dealers within the State of Tennessee's stream of commerce at all times relevant to this proceeding.

6. Volkswagen AG is and has been performing business within the State of Tennessee by selling and distributing automobiles through a chain of distribution and dealers within the State of Tennessee's stream of commerce at all times relevant to this proceeding.

7. VGACO is and has been performing business within the State of Tennessee by manufacturing automobiles within the State of Tennessee at all times relevant to this proceeding.

8. Upon information and belief, Defendants are engaged in the design, manufacture and sale within the United States and abroad, offering for sale in the United States, use within the United States, importation into the United States, and/or sales after importation into the United States of automobiles. Upon information and belief, Defendants market and sell these devices worldwide through their dealerships.

Jurisdiction and Venue

9. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1338(a).

11. Upon information and belief, Defendants are subject to personal jurisdiction in the Eastern District of Tennessee, consistent with the principles of due process and the Tennessee Long Arm Statute, because Defendants manufacture and/or offer products for sale in this District, have transacted business in this District, have committed and/or induced acts of patent infringement in this District, and/or have placed infringing products into the stream of commerce through established distribution channels with the expectation that such products will be purchased by residents of this District.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), 1391(c), 1391(d), and 1400(b).

Patent Infringement Counts

13. EmeraChem is the owner of all right, title and interest in U.S. Patent No. 5,451,558 (the “558 Patent”), U.S. Patent No. 5,599,758 (the “758 Patent”), “U.S. Patent No. 5,953,911 (the “911 Patent”), U.S. Patent No. 7,951,346 (the “346 Patent”) and U.S. Patent No. 6,037,307 (the “307 Patent”) (collectively the “EmeraChem Patents”), which Defendants are infringing, and/or inducing others to infringe, by making, using, offering to sell and/or selling in the United States, and/or importing into the United States, products or processes that practice one or more inventions claimed in the EmeraChem Patents.

14. Defendants have profited through infringement of the EmeraChem Patents. As a result of Defendants’ unlawful infringement of the EmeraChem Patents, EmeraChem has suffered, and will continue to suffer, damages, including in Knox County, Tennessee.

EmeraChem is entitled to recover from Defendants the damages suffered by EmeraChem as a result of Defendants' unlawful acts.

15. Upon information and belief, Defendants intend to continue their unlawful infringing activity, and EmeraChem continues to and will continue to suffer irreparable harm – for which there is no adequate remedy at law – from such unlawful infringing activity unless Defendants are enjoined by this Honorable Court.

Count I

Infringement of U.S. Patent No. 5,451,558

16. The allegations in paragraph 1 through 15 of the Complaint are incorporated herein by reference, as if copied verbatim.

17. EmeraChem is the owner of all right, title and interest in the '558 Patent, entitled "Process for the Reaction and Absorption of Gaseous Air Pollutants, Apparatus Therefor and Method of making the Same," duly and properly issued by the U.S. Patent and Trademark office on or about September 19, 1995. A copy of the '558 Patent is attached as **Exhibit 1**.

18. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '558 Patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least one claim of the '558 Patent, including, by way of illustration and not by limitation, the distribution and sale of diesel powered vehicles equipped with NOx Storage catalyst (NSC).

19. The acts of Defendants complained of herein have been done willfully with knowledge of, or reason to know, that they violate EmeraChem's rights under and related to the '558 Patent including, but not limited to, infringement of the '558 Patent.

20. As a result of Defendants' unlawful actions, EmeraChem has sustained damages for which it is entitled to compensation.

Count II

Infringement of U.S. Patent No. 5,599,758

21. The allegations in paragraph 1 through 20 of the Complaint are incorporated herein by reference, as if copied verbatim.

22. EmeraChem is the owner of all right, title and interest in the '758 Patent, entitled "Regeneration of Catalyst/Absorber," duly and properly issued by the U.S. Patent and Trademark office on or about February 4, 1997. A copy of the '758 Patent is attached as **Exhibit 2**.

23. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '758 Patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least one claim of the '758 Patent, including, by way of illustration and not by limitation, the distribution and sale of diesel powered vehicles equipped with NSC and programmed to carry out the claimed method.

24. The acts of Defendants complained of herein have been and are now being done willfully with knowledge of, or reason to know, that they violate EmeraChem's rights under and related to the '758 Patent including, but not limited to, infringement of the '758 Patent.

25. The acts of Defendants complained of herein have caused and are presently causing irreparable harm, damage, and injury to EmeraChem for which EmeraChem has no adequate remedy at law, and such acts will continue to cause such irreparable harm, damage, and injury to EmeraChem unless and until the same are enjoined and restrained by this Court.

Count III

Infringement of U.S. Patent No. 5,953,911

26. The allegations in paragraph 1 through 25 of this Complaint are incorporated herein by reference, as if copied verbatim.

27. EmeraChem is the owner of all right, title and interest in the '911 Patent, entitled "Regeneration of Catalyst/Absorber," duly and properly issued by the U.S. Patent and Trademark office on or about September 21, 1999. A copy of the '911 Patent is attached as **Exhibit 3**.

28. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '911 Patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least one claim of the '911 Patent, including, by way of illustration and not by limitation, the distribution and sale of diesel powered vehicles equipped with NSC and programmed to carry out the claimed method.

29. The acts of Defendants complained of herein have been and are now being done willfully with knowledge of, or reason to know, that they violate EmeraChem's rights under and related to the '911 Patent including, but not limited to, infringement of the '911 Patent.

30. The acts of Defendants complained of herein have caused and are presently causing irreparable harm, damage, and injury to EmeraChem for which EmeraChem has no adequate remedy at law, and such acts will continue to cause such irreparable harm, damage, and injury to EmeraChem unless and until the same are enjoined and restrained by this Court.

Count IV

Infringement of U.S. Patent No. 6,037,307

31. The allegations in paragraph 1 through 30 of this Complaint are incorporated herein by reference, as if copied verbatim.

32. EmeraChem is the owner of all right, title and interest in the `307 Patent, entitled “Catalyst/Sorber for Treating Sulfur Compound Containing Effluent,” duly and properly issued by the U.S. Patent and Trademark office on or about March 14, 2000. A copy of the `307 Patent is attached as **Exhibit 4**.

33. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the `307 Patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least one claim of the `307 Patent, including, by way of illustration and not by limitation, the distribution and sale of diesel powered vehicles equipped with exhaust gas treatment catalysts.

34. The acts of Defendants complained of herein have been and are now being done willfully with knowledge of, or reason to know, that they violate EmeraChem’s rights under and related to the `307 Patent including, but not limited to, infringement of the `307 Patent.

35. The acts of Defendants complained of herein have caused and are presently causing irreparable harm, damage, and injury to EmeraChem for which EmeraChem has no adequate remedy at law, and such acts will continue to cause such irreparable harm, damage, and injury to EmeraChem unless and until the same are enjoined and restrained by this Court.

Count V

Infringement of U.S. Patent No. 7,951,346

36. The allegations in paragraph 1 through 35 of this Complaint are incorporated herein by reference, as if copied verbatim.

37. EmeraChem is the owner of all right, title and interest in the '346 Patent, entitled "Methods and Systems for Reducing Particulate Matter in a Gaseous Stream," duly and properly issued by the U.S. Patent and Trademark office on or about May 31, 2011. A copy of the '346 Patent is attached as **Exhibit 5**.

38. Defendants have been and/or are directly infringing and/or inducing infringement of and/or contributorily infringing the '346 Patent by, among other things, making, using, offering to sell or selling in the United States, or importing into the United States, products and/or services that are covered by at least one claim of the '346 Patent, including, by way of illustration and not by limitation, the distribution and sale of diesel powered vehicles equipped with exhaust gas treatment catalysts and on-board diagnostics.

39. The acts of Defendants complained of herein have been and are now being done willfully with knowledge of, or reason to know, that they violate EmeraChem's rights under and related to the '346 Patent including, but not limited to, infringement of the '346 Patent.

40. The acts of Defendants complained of herein have caused and are presently causing irreparable harm, damage, and injury to EmeraChem for which EmeraChem has no adequate remedy at law, and such acts will continue to cause such irreparable harm, damage, and injury to EmeraChem unless and until the same are enjoined and restrained by this Court.

Demand for Jury

41. EmeraChem requests a trial by jury of all issues properly triable by jury.

Prayers for Relief

WHEREFORE, EmeraChem respectfully requests the following relief:

1. For a judgment declaring that the Defendants have infringed each of the EmeraChem Patents identified above;

2. For a judgment awarding EmeraChem compensatory damages as a result of Defendants' infringement of EmeraChem's Patents, together with interest and costs, and in no event less than a reasonable royalty;

3. For a judgment declaring Defendants' infringement of EmeraChem's Patents have been willful and deliberate;

4. For a judgment awarding EmeraChem treble damages and pre-judgment interest under 35 U.S.C. § 284 as a result of Defendants' willful and deliberate infringement of the EmeraChem Patents;

5. For a judgment declaring that this case is exceptional and awarding EmeraChem its expenses, costs and attorneys' fees in accordance with 35 U.S.C. § 284 and 285 and Rule 54(d) of the Federal Rules of Civil Procedure;

6. For a grant of permanent injunction pursuant to 35 U.S.C. § 283, enjoining the Defendants from further acts of infringement; and

7. For such other and further relief as this Honorable Court deems just and proper.

Respectfully submitted this 31st day of March, 2014.

/s/ John E. Winters

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