

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

FORAS TECHNOLOGIES LTD.,

Plaintiff,

v.

VOLKSWAGEN AG, APTIV PLC, and
VALEO SA,

Defendants.

Case No. 2:23-cv-314

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

This is an action for patent infringement arising under the Patent Laws of the United States of America, 35 U.S.C. § 1 *et seq.*, in which Plaintiff Foras Technologies Limited (“Plaintiff” or “Foras”) makes the following allegations against Defendant Volkswagen AG (“VW”), Defendant Aptiv PLC (“Aptiv”), and Defendant Valeo SA (“Valeo”) (collectively, “Defendants”).

INTRODUCTION

1. This complaint arises from Defendants’ unlawful infringement of the following United States patent owned by Plaintiff, which relates to lockstep processing technology: United States Patent No. 7,502,958 (“the ’958 Patent”) (collectively, the “Asserted Patent”).

PARTIES

2. Plaintiff Foras Technologies Limited is a private company limited by shares organized and existing under the laws of Ireland, with its principal place of business at The Hyde Building, Suite 23, The Park, Carrickmines, Dublin 18, Ireland. Foras is the sole owner by

assignment of all right, title, and interest in the Asserted Patent, including the right to recover for past, present, and future infringement.

3. Defendant Volkswagen AG (“VW”) is a foreign corporation organized and existing under the laws of Germany with its headquarters at Berliner Ring 2, 38440 Wolfsburg, Germany. Upon information and belief, VW does business in Texas and in the Eastern District of Texas, directly or through intermediaries. On information and belief, VW is responsible for importing, making, marketing, distributing, offering for sale, and/or selling VW-managed automobile brands (such as VW-branded and Audi-branded automobiles) in the United States (directly or through its wholly-owned subsidiaries), including in this District.

4. Defendant Aptiv PLC (“Aptiv”) is a foreign company organized and existing under the laws of Jersey with its headquarters at 5 Hanover Quay Grand Canal Dock Dublin, D02 VY79, Ireland. On information and belief, Aptiv is responsible for importing, making, marketing, distributing, offering for sale, and/or selling Aptiv components (such as Central Driver Assistance Controllers (zFAS)) included in Audi-branded automobiles in the United States (directly or through its wholly-owned subsidiaries), including in this District.

5. Defendant Valeo SA (“Valeo”) is a foreign company organized and existing under the laws of France with its headquarters at 100 Rue de Courcelles, 75017 Paris, France. On information and belief, Valeo is responsible for importing, making, marketing, distributing, offering for sale, and/or selling Valeo components (such as Front Cameras (FAS)) included in VW-branded and Audi-branded automobiles in the United States (directly or through its wholly-owned subsidiaries), including in this District.

6. Defendants induce their subsidiaries, affiliates, retail partners, and customers in the making, using, selling, offering for sale, and/or importing throughout the United States, including

within this District, infringing products (such as VW-branded and Audi-branded automobiles containing Aptiv and/or Valeo components) and placing such automobiles into the stream of commerce via established distribution channels knowing or understanding that such products would be sold and used in the United States, including in the Eastern District of Texas. Defendants purposefully direct the Accused Products into established distribution channels within this District and the U.S. nationally.

7. On information and belief, VW maintains a corporate presence in the United States via at least its wholly-owned subsidiaries, including Volkswagen Group of America, Inc. (“VW Am.”). VW Am. is corporation organized and existing under the laws of New Jersey, with a corporate headquarters located at 2200 Ferdinand Porsche Dr., Herndon, VA 20171. VW Am. is registered to do business in Texas and may be served through Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, TX 78701. On information and belief, VW AM is a wholly owned subsidiary of VW and is responsible for importing, making, marketing, distributing, offering for sale, and selling automotive vehicles and components from Volkswagen-managed brands (e.g., VW, Audi—including Audi of America, Inc.—Porsche, etc.) in the United States. As such, VW Am. is an agent of VW. At the direction and control of VW, U.S.-based subsidiaries, including VW Am., make, use, import, offer to sell, and/or sell VW-branded and Audi-branded automobiles that infringe the Asserted Patent.

8. On information and belief, VW and its U.S.-based subsidiaries (which act as part of a global network of sales and manufacturing subsidiaries) operate as agents of one another and vicariously as parts of the same business group to work in concert together. For example, VW, alone and through at least the activities of their U.S.-based sales subsidiaries (including VW Am.), conduct business in the United States, including importing, distributing, and selling infringing

products, in Texas and this District. *See, e.g.*, Exs. 1-9 (VW and Audi have dealerships and/or service centers at 3600 S Central Expy, McKinney, TX 75070; 5010 State Hwy 121, Frisco, TX 75034; 893 S Stemmons Fwy, Lewisville, TX 75067; 800 S Hwy 31 E, Longview, TX 75604; 3916 S SW Loop 323, Tyler, TX 75701; 4545 N State Line Ave, Texarkana, TX 75503; 1515 I-10 S, Beaumont, TX 77701; 6650 TX, TX-121, McKinney, TX 75070; and 5930 W Plano Pkwy, Plano, TX 75093). For example, VW identifies U.S.-based sales in its financial statements:

PASSENGER CAR DELIVERIES TO CUSTOMERS BY MARKET¹

	DELIVERIES (UNITS)		CHANGE
	2022	2021	(%)
Europe/Other Markets	3,297,402	3,698,948	-10.9
Western Europe	2,615,864	2,761,629	-5.3
of which: Germany	998,000	959,748	+4.0
France	211,430	238,365	-11.3
United Kingdom	377,449	422,594	-10.7
Italy	223,864	248,414	-9.9
Spain	192,311	220,151	-12.6
Central and Eastern Europe	418,513	624,801	-33.0
of which: Czech Republic	103,223	114,250	-9.7
Russia	41,864	204,772	-79.6
Poland	112,389	120,831	-7.0
Other Markets	263,025	312,518	-15.8
of which: Türkiye	102,735	121,885	-15.7
South Africa	71,437	72,847	-1.9
North America	759,791	876,558	-13.3
of which: USA	564,705	647,521	-12.8
Canada	85,860	98,829	-13.1
Mexico	109,226	130,208	-16.1

Ex. 10 (VW 2022 Annual Report at 128 (<https://www.volkswagen-group.com/en/publications/corporate/annual-report-2022-1732>)). VW also explained the following about its U.S.-presence through VW Am. in its 2022 Annual Report:

> USA

In the saturated US market, the proportion of light trucks (particularly SUVs and pickups) is likely to further increase slightly in the coming years. In addition, the electrification of mobility is expected to accelerate due to support measures and legally prescribed fleet emission and fuel consumption targets. The latter factors still depend, however, on which administration is in office. In the USA, Volkswagen Group of America is steadfast in its pursuit to become a full-fledged volume supplier and expand its market share. The expansion of local production capacity – including production for electric vehicles since 2022 – will allow the Group to better serve the market in the North America region. We are also working intensively on offering additional products specifically tailored to the US market. As part of our electrification campaign, we founded a company in the United States in the reporting year with which we aim to tap the market for electric vehicles in the SUV segment with the US brand Scout.

Id. at 242.

9. On information and belief, VW does business itself, or through their subsidiaries, affiliates, and agents, in the State of Texas and the Eastern District of Texas. VW has placed or contributed to placing infringing products, such as VW-branded and/or Audi-branded automobiles containing Aptiv and/or Valeo components, into the stream of commerce via established distribution channels knowing or understanding that such products would be sold and used in the United States, including in the Eastern District of Texas. On information and belief, VW has derived substantial revenue from infringing acts in the Eastern District of Texas, including from the sale and use of infringing products.

10. On information and belief, Aptiv maintains a corporate presence in the United States via at least its wholly-owned U.S.-based subsidiary Aptiv Services US, LLC (“Aptiv US”). Aptiv US is a Delaware corporation with a regular and established place of business at 5725 Innovation Drive, Troy, Michigan 48098. On information and belief, Aptiv maintains a corporate presence in Texas through at least its wholly-owned U.S.-based subsidiary Aptiv US. For example, on information and belief, Aptiv US maintains a regular and established place of business at 48 Walter Jones Building D, El Paso, TX 79906. Aptiv US is registered to do business in Texas and may be served through CT Corporation System, 1999 Bryan St., Suite 900, Dallas, Texas,

75201. Aptiv also advertises for jobs in “El Paso, Texas.” Ex. 11 (Aptiv Job Listing – El Paso, Texas).

11. On information and belief, Aptiv and its U.S.-based subsidiaries (which act as part of a global network of sales and manufacturing subsidiaries) operate as agents of one another and vicariously as parts of the same business group to work in concert together. For example, Aptiv, alone and through at least the activities of their U.S.-based sales subsidiaries (including Aptiv US), conduct business in the United States, including making, using, importing, offering to sell, and/or selling products included in infringing Audi-branded automobiles in Texas and this District. For example, Aptiv identifies U.S.-based subsidiaries, such as Aptiv US, in its list of subsidiaries in its 10K filing with the United States Securities and Exchange Commission. Ex. 12 (Aptiv 2022 10K at 171 (<https://ir.aptiv.com/investors/financial-information/sec-filings/default.aspx>)). Aptiv also identifies its U.S.-based income in its financial filings with the SEC:

14. INCOME TAXES

Income before income taxes and equity income for U.S. and non-U.S. operations are as follows:

	Year Ended December 31,		
	2022	2021	2020
	(in millions)		
U.S. income (loss)	\$ 24	\$ (2)	\$ (65)
Non-U.S. income	966	912	2,019
Income before income taxes and equity loss	<u>\$ 990</u>	<u>\$ 910</u>	<u>\$ 1,954</u>

Id. at 100. As such, Aptiv’s U.S.-based subsidiaries act as agents of Aptiv. At the direction and control of Aptiv, U.S.-based subsidiaries, including Aptiv US, make, use, import, offer to sell, and/or sell Aptiv components included in Audi-branded automobiles that infringe the Asserted Patent.

12. On information and belief, Aptiv does business itself, or through their subsidiaries, affiliates, and agents, in the State of Texas and the Eastern District of Texas. Aptiv has placed or contributed to placing infringing products, such as Audi-branded automobiles containing Aptiv

components, into the stream of commerce via established distribution channels knowing or understanding that such products would be sold and used in the United States, including in the Eastern District of Texas. On information and belief, Aptiv has derived substantial revenue from infringing acts in the Eastern District of Texas, including from the sale and use of infringing products.

13. On information and belief, Valeo maintains a corporate presence in the United States via at least its wholly-owned U.S.-based subsidiary Valeo North America, Inc. (“Valeo NA”). Valeo NA is a Delaware corporation with a regular and established place of business at 350 N. St. Paul St., Dallas, TX 75201. Valeo NA is registered to do business in Texas and may be served through CT Corporation System, 1999 Bryan St., Suite 900, Dallas, TX 75201. On information and belief, Valeo NA is a wholly owned subsidiary of Valeo and is responsible for importing, making, marketing, distributing, offering for sale, and selling Valeo components in the United States. As such, Valeo NA is an agent of Valeo. At the direction and control of Valeo, U.S.-based subsidiaries, including Valeo NA, make, use, import, offer to sell, and/or sell Audi-branded automobiles that infringe the Asserted Patent.

14. On information and belief, Valeo and its U.S.-based subsidiaries (which act as part of a global network of sales and manufacturing subsidiaries) operate as agents of one another and vicariously as parts of the same business group to work in concert together. For example, Valeo advertises that “[w]ith 11 production sites and 3 Development centers across the country, Valeo USA is one of the most successful and innovative companies in North America.” Ex. 13 (<https://www.valeo.com/en/usa/>). Valeo also maintains two different places of business in the state of Texas—one in Dallas and one in Coppell. Ex. 14 (Valeo Dallas); Ex. 15 (Valeo Coppell).

15. On information and belief, Valeo does business itself, or through their subsidiaries, affiliates, and agents, in the State of Texas and the Eastern District of Texas. Valeo has placed or contributed to placing infringing products, such as VW-branded and Audi-branded automobiles containing Valeo components, into the stream of commerce via established distribution channels knowing or understanding that such products would be sold and used in the United States, including in the Eastern District of Texas. On information and belief, Valeo has derived substantial revenue from infringing acts in the Eastern District of Texas, including from the sale and use of infringing products.

JURISDICTION AND VENUE

16. This action arises under the patent laws of the United States, Title 35 of the United States Code. This Court has original subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a).

17. This Court has personal jurisdiction over Defendants in this action because Defendants have committed acts within this District giving rise to this action and have established minimum contacts with this forum such that the exercise of jurisdiction over Defendants would not offend traditional notions of fair play and substantial justice. Defendants, directly and through subsidiaries or intermediaries, have committed and continue to commit acts of infringement in this District by, among other things, making, using, importing, offering to sell, and selling VW-branded and Audi-branded automobiles containing Aptiv and/or Valeo components that infringe the Asserted Patent.

18. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400(b). Upon information and belief, Defendants have transacted business in this District and have committed acts of direct and indirect infringement in this District by, among other things, making, using,

importing, offering to sell, and selling products that infringe the Asserted Patents. Venue is proper as to VW, Aptiv, and Valeo because they are foreign corporations organized under the laws of Germany, Jersey, and France, respectively, and suits against foreign entities are proper in any judicial district. *See* 28 U.S.C. § 1391(c)(3); *In re HTC Corp.*, 889 F.3d 1349 (Fed. Cir. 2018).

19. VW, Aptiv, and Valeo may be joined in this action because (1) any right to relief is asserted against Defendants jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused products (*i.e.*, VW-branded and Audi-branded automobiles with Aptiv and/or Valeo components that infringe the Asserted Patents); and (2) questions of fact common to Defendants will arise in this action.

COUNT I

INFRINGEMENT OF U.S. PATENT NO. 7,502,958

20. Plaintiff realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

21. Plaintiff owns by assignment all rights, title, and interest, including the right to recover damages for past, present, and future infringement, in U.S. Patent No. 7,502,958, titled “System and method for providing firmware recoverable lockstep protection.” The ’958 Patent was duly and legally issued by the United States Patent and Trademark Office on March 10, 2009. A true and correct copy of the ’958 Patent is attached as Exhibit 16.

22. On information and belief, Defendants have and continue to make, use, offer for sale, sell, and/or import certain products and services, including without limitation the Audi A6, A7, A8, e-tron S, e-tron Sportback, Q8, and S6, which include an Aptiv Central Driver Assistance

Controller (zFAS) (containing Infineon TC29XX chipsets), and VW ID.4, VW Golf, and Audi Q4 e-tron, which include a Valeo Front Camera (FAS) (containing Renesas RH850/P1x-C chipsets) (“Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’958 Patent. Identification of the Accused Products will be provided in Plaintiff’s infringement contentions disclosed pursuant to the Court’s scheduling order.

23. The Accused Products satisfy all claim limitations of one or more claims of the ’958 Patent. A claim chart comparing exemplary independent claim 19 of the ’958 Patent to representative Accused Products is attached as Exhibits 17 and 18.

24. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, VW, Valeo, and Aptiv have injured Plaintiff and are liable for infringement of the ’958 Patent pursuant to 35 U.S.C. § 271.

25. On information and belief, Plaintiff (including its predecessors and any licensees) complied with 35 U.S.C. §287 at least prior to June 30, 2022 because Plaintiff, its predecessors, and any licensees did not make, offer for sale, or sell products that practice(d) the ’958 Patent during the relevant time period or were not otherwise required to mark during the relevant time period.

26. As a result of Defendants’ direct infringement of the ’958 Patent, Plaintiff is entitled to monetary damages (past, present, and future) in an amount adequate to compensate for Defendants’ infringement, but in no event less than a reasonable royalty for the use made of the invention by VW, Valeo, and Aptiv, together with interest and costs as fixed by the Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter:

a. A judgment in favor of Plaintiff that Defendants have infringed, either literally

and/or under the doctrine of equivalents, the '958 Patent;

b. A judgment and order requiring Defendants to pay Plaintiff its damages (past, present, and future), costs, expenses, and pre-judgment and post-judgment interest for their infringement of the '958 Patent;

c. A judgment and order requiring Defendants to pay Plaintiff compulsory ongoing licensing fees, as determined by the Court;

d. A judgment and order requiring Defendants to provide an accounting and to pay supplemental damages to Plaintiff, including without limitation, pre-judgment and post-judgment interest and compensation for infringing products released after the filing of this case that are not colorably different from the Accused Products;

e. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to Plaintiff its reasonable attorneys' fees against Defendants; and

f. Any and all other relief as the Court may deem appropriate and just under the circumstances.

DEMAND FOR JURY TRIAL

Plaintiff, under Rule 38 of the Federal Rules of Civil Procedure, requests a trial by jury of any issues so triable by right.

Dated: June 28, 2023

Respectfully submitted,

/s/ Brett E. Cooper

Brett E. Cooper (NY SBN 4011011)

bcooper@bc-lawgroup.com

Seth Hasenour (TX SBN 24059910)

shasenour@bc-lawgroup.com

Drew B. Hollander (NY SBN 5378096)

dhollander@bc-lawgroup.com

Jonathan Yim (NY SBN 5324967)

jyim@bc-lawgroup.com

BC LAW GROUP, P.C.

200 Madison Avenue, 24th Floor

New York, NY 10016

Tel.: (212) 951-0100

Fax: (646) 293-2201

*Attorneys for Plaintiff Foras Technologies
Limited*