

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

FORAS TECHNOLOGIES LTD.,

Plaintiff,

v.

NISSAN MOTOR COMPANY, LTD. and  
ZF FRIEDRICHSHAFEN AG,

Defendants.

Case No. 1:23-cv-640

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT AGAINST  
NISSAN MOTOR COMPANY, LTD.**

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 Nissan Motor Company, Ltd. (“Nissan”) and Defendant ZF Friedrichshafen AG (“ZF”) (collectively, “Defendants”).

**INTRODUCTION**

1. This complaint arises from Defendants’ unlawful infringement of the following United States patents owned by Plaintiff, which relate to lockstep processing technology: United States Patent No. 7,502,958 (“the ’958 Patent”), 7,627,781 (“the ’781 Patent”), and 7,624,302 (“the ’302 Patent”) (collectively, the “Asserted Patents”).

**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 Patents, including the right to recover for past, present, and future infringement.

3. Defendant Nissan Motor Company, Ltd. (“Nissan”) is a foreign company organized and existing under the laws of Japan with its headquarters at 1-1, Takashima 1-chome, Nishi-Ku, Yokohama-shi, Kanagawa 220-8686, Japan. Upon information and belief, Nissan does business in Texas and in the Western District of Texas, directly or through intermediaries. On information and belief, Nissan is responsible for importing, making, marketing, distributing, offering for sale, and/or selling Nissan-branded automobiles in the United States (directly or through its wholly-owned subsidiaries), including in this District.

4. Defendant ZF Friedrichshafen AG (“ZF”) is a foreign company organized and existing under the laws of Germany with its headquarters at Löwentaler Straße 20, ZF Forum, 88046 Friedrichshafen, Germany. On information and belief, ZF is responsible for importing, making, marketing, distributing, offering for sale, and/or selling ZF components (such as smart front-facing cameras) included in Nissan-branded automobiles in the United States (directly or through its wholly-owned subsidiaries), including in this District.

5. 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 Nissan-branded automobiles containing ZF 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 Western District of Texas. Defendants purposefully direct the Accused Products into established distribution channels within this District and the U.S. nationally.

6. On information and belief, Nissan maintains a corporate presence in the United States via at least its wholly-owned subsidiaries, including Nissan North America, Inc. (“Nissan NA”). Nissan NA is a corporation organized and existing under the laws of California with a regular and established place of business at One Nissan Way, Franklin, TN 37067. Nissan NA is registered to do business in the state of 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. Nissan NA is an agent of Nissan. At the direction and control of Nissan, U.S.-based subsidiaries, including Nissan NA, make, use, import, offer to sell, and/or sell Nissan-branded automobiles that infringe the Asserted Patents.

7. On information and belief, Nissan and its U.S.-based subsidiaries (which act as part of a global network of research and development, 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, Nissan, alone and through at least the activities of their U.S.-based sales subsidiaries (including Nissan NA), conduct business in the United States, including importing, distributing, and selling infringing products, in Texas and this District. *See, e.g.*, Exs. 1 & 2 (Nissan dealerships and/or service centers at 4914 S I-35 Frontage Rd, Austin, TX 78745; 6451 S Desert Blvd, El Paso, TX 79932). For example, Nissan identifies U.S.-based sales in its financial statements as part of its revenue:

**CONSOLIDATED FINANCIAL INFORMATION -2**  
Global Retail Sales Volume & Production Volume

(May 11, 2023)  
NISSAN MOTOR CO., LTD.  
Global Communications Division

	RESULTS FY2022 22/4-23/3		RESULTS FY2021 21/4-22/3		FORECAST FY2023 23/4-24/3
(THOUSAND UNITS)					
SALES VOLUME GLOBAL RETAIL					
JAPAN (INCL.MINI)	454	6.1%	428	-10.3%	510
NORTH AMERICA	1,023	-13.5%	1,183	-2.4%	1,320
USA ONLY	764	-14.5%	893	-3.7%	
EUROPE	308	-9.2%	340	-13.3%	390
ASIA (1)	1,201	-23.6%	1,572	-4.7%	
CHINA ONLY	1,045	-24.3%	1,381	-5.2%	1,130
OTHERS	318	-10.1%	353	10.3%	(2) 650
TOTAL	3,305	-14.7%	3,876	-4.3%	4,000

Ex. 3 (Nissan FY2022 Consolidated Financial Information) at 1, 2. Nissan also identifies that it possesses 100% of the shares in Nissan NA:

NML Share: Sum of investments from Nissan Motor Co., Ltd. and its consolidated affiliates of Nissan Motor Co., Ltd.

## Regional Headquarters

### Nissan North America, Inc.

<b>Address</b>	One Nissan Way, Franklin, TN 37067, U.S.A.
<b>Major Operations / Products</b>	Headquarters for management of NISSAN AMERICAS operations
<b>NML Share</b>	100.0%

Ex. 4 (Nissan Overseas Operations). On information and belief, Nissan, alone and through its U.S.-based subsidiaries (such as Nissan NA), place such infringing products 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 Western District of Texas.

8. On information and belief, Nissan does business itself, or through their subsidiaries, affiliates, and agents, in the State of Texas and the Western District of Texas. Nissan has placed or contributed to placing infringing products, such as Nissan-branded automobiles containing ZF 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 Western District of Texas. On information and belief, Nissan has derived substantial revenue from infringing acts in the Western District of Texas, including from the sale and use of infringing products.

9. On information and belief, ZF maintains a corporate presence in the United States via at least its wholly-owned U.S.-based subsidiaries ZF North America, Inc. (“ZF NA”), ZF Active Safety and Electronics US LLC (“ZF S&E”), ZF Passive Safety US Inc. (“ZF Passive”), and ZF Electronic Systems Pleasant Prairie, LLC (“ZF Electronic”), among others. ZF NA is a Delaware corporation with a regular and established place of business at 15811 Centennial Drive, Northville, MI 48168. ZF S&E is a Delaware limited liability company with a regular and established place of business at 12001 Tech Center Drive, Livonia, MI 48150. ZF Passive is Delaware corporation with a regular and established place of business at 120011 Tech. Center Drive, Livonia, MI 48150. ZF Electronic is a Delaware limited liability company with a regular and established place of business at 10411 Corporate Drive, Suite 102, Pleasant Prairie, WI 53158.

10. On information and belief, ZF maintains a corporate presence in this District through at least its wholly-owned U.S.-based subsidiaries ZF Passive and ZF Electronic. For example, ZF Passive maintains a regular and established place of business at 9780A Plaza Circle,

El Paso, Texas 79927. Further, ZF Electronic maintains a regular and established place of business at 12420 Mercantile Avenue, El Paso, Texas 79928. ZF Passive and ZF Electronic are 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.

11. On information and belief, ZF and its U.S.-based subsidiaries (which act as part of a global network of research and development, 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, ZF, alone and through at least the activities of their U.S.-based sales subsidiaries (including ZF S&E, ZF Passive, and ZF Electronic), conduct business in the United States, including making, using, importing, offering to sell, and/or selling products included in infringing Nissan-branded automobiles in Texas and this District. For example, ZF identifies U.S.-based subsidiaries ZF NA, ZF S&E, ZF Passive and ZF Electronic in its list of “Consolidated Subsidiaries” and identifies ZF’s share of capital in each of those entities at “100%.” Ex. 5 (ZF 2022 Annual Report) at 194, 196, and 197. As such, ZF’s U.S.-based subsidiaries act as agents of ZF. At the direction and control of ZF, U.S.-based subsidiaries, including ZF NA, ZF S&E, ZF Passive and ZF Electronic make, use, import, offer to sell, and/or sell ZF components included in Nissan-branded automobiles that infringe the Asserted Patents.

12. On information and belief, ZF does business itself, or through their subsidiaries, affiliates, and agents, in the State of Texas and the Western District of Texas. ZF has placed or contributed to placing infringing products, such as Nissan-branded automobiles containing ZF 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 Western District of Texas. On information and belief, ZF has derived substantial revenue from

infringing acts in the Western District of Texas, including from the sale and use of infringing products.

### **JURISDICTION AND VENUE**

13. 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).

14. 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 Nissan-branded automobiles containing ZF components that infringe the Asserted Patents.

15. 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 Nissan and ZF because they are foreign corporations organized under the laws of Japan and Germany, 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).

16. Nissan and ZF 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.*, Nissan-branded automobiles with ZF 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**

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

18. 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 6.

19. 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 Nissan Rogue, which includes a ZF Smart Camera 4.8 (containing Infineon TC38XX 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.

20. 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 Exhibit 7.



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

22. 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.

23. 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 Nissan and ZF, together with interest and costs as fixed by the Court.

## **COUNT II**

### **INFRINGEMENT OF U.S. PATENT NO. 7,627,781**

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

25. 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. 7,627,781, titled "System and method for establishing a spare processor for recovering from loss of lockstep in a boot processor." The '781 Patent was duly and legally issued by the United States Patent and Trademark Office on December 1, 2009. A true and correct copy of the '781 Patent is attached as Exhibit 8.

26. 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 Nissan Rogue, which includes a ZF Smart Camera 4.8 (containing Infineon TC38XX chipsets) (“Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’781 Patent. Identification of the Accused Products will be provided in Plaintiff’s infringement contentions disclosed pursuant to the Court’s scheduling order.

27. The Accused Products satisfy all claim limitations of one or more claims of the ’781 Patent. A claim chart comparing exemplary independent claim 1 of the ’781 Patent to representative Accused Products is attached as Exhibit 9.

28. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Nissan and ZF have injured Plaintiff and are liable for infringement of the ’781 Patent pursuant to 35 U.S.C. § 271.

29. 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 ’781 Patent during the relevant time period or were not otherwise required to mark during the relevant time period.

30. As a result of Defendants’ direct infringement of the ’781 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 Nissan and ZF, together with interest and costs as fixed by the Court.

**COUNT III**

**INFRINGEMENT OF U.S. PATENT NO. 7,624,302**

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

32. 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. 7,624,302, titled “System and method for switching the role of boot processor to a spare processor responsive to detection of loss of lockstep in a boot processor.” The ’302 Patent was duly and legally issued by the United States Patent and Trademark Office on November 24, 2009. A true and correct copy of the ’302 Patent is attached as Exhibit 10.

33. 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 Nissan Rogue, which includes a ZF Smart Camera 4.8 (containing Infineon TC38XX chipsets) (“Accused Products”), that directly infringe, literally and/or under the doctrine of equivalents, one or more claims of the ’302 Patent. Identification of the Accused Products will be provided in Plaintiff’s infringement contentions disclosed pursuant to the Court’s scheduling order.

34. The Accused Products satisfy all claim limitations of one or more claims of the ’302 Patent. A claim chart comparing exemplary independent claim 21 of the ’302 Patent to representative Accused Products is attached as Exhibit 11.

35. By making, using, offering for sale, selling and/or importing into the United States the Accused Products, Nissan and ZF have injured Plaintiff and are liable for infringement of the ’302 Patent pursuant to 35 U.S.C. § 271.

36. 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 '302 Patent during the relevant time period or were not otherwise required to mark during the relevant time period.

37. As a result of Defendants' direct infringement of the '302 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 Nissan and ZF, 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, '781, and '302 Patents;
- 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, '781, and '302 Patents;
- 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 6, 2023

Respectfully submitted,

*/s/ Brett Cooper*

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