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 CLERK U.S. DISTRICT COURT
 CENTRAL DIST. OF CALIF.
 SANTA ANA

FILED

10 Attorneys for Plaintiff
 11 KRUSE TECHNOLOGY PARTNERSHIP

12 **IN THE UNITED STATES DISTRICT COURT**
 13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15 KRUSE TECHNOLOGY
 16 PARTNERSHIP,

17 Plaintiff,

18 v.

19 DAIMLER AG; MERCEDES-BENZ
 20 USA, LLC; DETROIT DIESEL
 CORPORATION; FREIGHTLINER
 21 CORPORATION; WESTERN STAR
 TRUCK SALES, INC.;
 22 VOLKSWAGEN AG;
 VOLKSWAGEN GROUP OF
 23 AMERICA, INC., d/b/a AUDI OF
 AMERICA, INC.; FORD MOTOR
 24 COMPANY; CUMMINS INC.; and
 CHRYSLER GROUP LLC,

25 Defendants.

Civil Action No. **SACV10-01066 AG (RNBx)**

**COMPLAINT FOR PATENT
 INFRINGEMENT**

DEMAND FOR JURY TRIAL

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 27
 28

1 Plaintiff Kruse Technology Partnership hereby complains of Defendants
2 Daimler AG; Mercedes-Benz USA, LLC; Detroit Diesel Corporation,
3 Freightliner Corporation; Western Star Truck Sales, Inc.; Volkswagen AG;
4 Volkswagen Group of America, Inc., doing business in part as Audi of America,
5 Inc.; Ford Motor Company; Cummins Inc.; and Chrysler Group LLC
6 (collectively, “Defendants”), and alleges as follows:

7 **I. THE PARTIES**

8 1. Kruse Technology Partnership (“Kruse”) is a California limited
9 partnership located at 1121 N. Cosby Way, Suite G, Anaheim, California 92806.

10 2. Upon information and belief, Daimler AG (“Daimler”) is a
11 corporation organized and existing under the laws of the Country of Germany,
12 having a principal place of business at Mercedesstrasse 137, 70327 Stuttgart,
13 Germany.

14 3. Upon information and belief, Mercedes-Benz USA, LLC
15 (“Mercedes Benz”) is a limited liability corporation organized and existing
16 under the laws of the State of Delaware, having a principal place of business at
17 3 Mercedes Drive, Montvale, New Jersey 07645.

18 4. Upon information and belief, Detroit Diesel Corporation (“Detroit
19 Diesel”) is a corporation organized and existing under the laws of the State of
20 Delaware, having a principal place of business at 13400 Outer Drive West,
21 Detroit, Michigan 48239.

22 5. Upon information and belief, Freightliner Corporation
23 (“Freightliner”) is a corporation organized and existing under the laws of the
24 State of Delaware, having a principal place of business at 4747 North Channel
25 Avenue, Portland, Oregon 97217.

26 6. Upon information and belief, Western Star Truck Sales, Inc.
27 (“Western Star”) is a corporation organized and existing under the laws of the
28 State of Washington, having a principal place of business at 4747 North

1 Channel Avenue, Portland, Oregon 97217.

2 7. Upon information and belief, Volkswagen AG is a corporation
3 organized and existing under the laws of the Country of Germany, having a
4 principal place of business at Berliner Ring 1, D-38436 Wolfsburg, Germany.

5 8. Upon information and belief, Volkswagen Group of America, Inc.
6 (“Volkswagen America”) is a corporation organized and existing under the laws
7 of the state of New Jersey, having a principal place of business at 2200
8 Ferdinand Porsche Drive, Herndon, Virginia 20171. Upon information and
9 belief, Volkswagen America does business in part under the name “Audi of
10 America, Inc.”

11 9. Upon information and belief, Ford Motor Company (“Ford”) is a
12 corporation organized and existing under the laws of the State of Delaware,
13 having a principal place of business at One American Road, Dearborn,
14 Michigan 48126.

15 10. Upon information and belief, Cummins Inc. (“Cummins”) is a
16 corporation organized and existing under the laws of the State of Indiana,
17 having a principal place of business at 500 Jackson Street, Columbus, Indiana
18 47202.

19 11. Upon information and belief, Chrysler Group LLC (“Chrysler”) is
20 a corporation organized and existing under the laws of the State of Delaware,
21 having a principal place of business at 1000 Chrysler Drive, Auburn Hills,
22 Michigan 48326.

23 12. Upon information and belief, Defendants do business in this
24 judicial district, and have committed acts of infringement in this District.

25 **II. JURISDICTION AND VENUE**

26 13. Kruse realleges and reincorporates the allegations set forth in
27 paragraphs 1 through 12.

28 14. This cause of action arises under the patent laws of the United

1 States, 35 U.S.C. § 100, et seq., more particularly 35 U.S.C. § 271 and § 281.

2 15. Subject matter jurisdiction in this Court is proper under 28 U.S.C.
3 § 1338(a).

4 16. Venue is proper in this District under 28 U.S.C. §§ 1391 and
5 1400(b).

6 **III. FIRST CLAIM FOR RELIEF: PATENT INFRINGEMENT**

7 **(U.S. PATENT NO. 5,265,562)**

8 17. Kruse realleges and reincorporates the allegations set forth in
9 paragraphs 1 through 16.

10 18. On November 30, 1993 the United States Patent and Trademark
11 Office duly and lawfully issued U.S. Patent No. 5,265,562 (“the ’562 patent”)
12 entitled “Internal Combustion Engine With Limited Temperature Cycle” to
13 Douglas C. Kruse.

14 19. Kruse is the owner of the ’562 patent.

15 20. Upon information and belief, Defendants have in the past and are
16 currently infringing the ’562 patent by, without authority, making, using,
17 offering to sell, or selling, within the United States, or importing into the United
18 States, their engines and/or vehicles equipped with engines that practice the
19 patented methods. Defendants’ acts constitute direct and indirect infringement
20 of the ’562 patent in violation of 35 U.S.C. § 271.

21 21. Upon information and belief, the infringement by Detroit Diesel,
22 Ford, Cummins, and Chrysler has been willful, intentional and deliberate with
23 full knowledge of the ’562 patent. This is an exceptional case within the
24 meaning of 35 U.S.C. § 285 with respect to Detroit Diesel, Ford, Cummins, and
25 Chrysler.

26 22. Upon information and belief, Kruse has been and will continue to
27 be injured by Defendants’ infringement of the ’562 patent, and such acts will
28 continue unless they are enjoined therefrom.

1 23. Upon information and belief, Defendants have derived, received,
2 and will continue to derive and receive gains, profits and advantages from the
3 aforesaid acts of infringement in an amount that is not presently known to
4 Kruse. By reason of the aforesaid infringing acts, Kruse has been damaged, and
5 is entitled to monetary relief in an amount to be proven at trial.

6 **IV. SECOND CLAIM FOR RELIEF: PATENT INFRINGEMENT**

7 **(U.S. PATENT NO. 6,058,904)**

8 24. Kruse realleges and reincorporates the allegations set forth in
9 paragraphs 1 through 23.

10 25. On May 9, 2000 the United States Patent and Trademark Office
11 duly and lawfully issued U.S. Patent No. 6,058,904 (“the ’904 patent”) entitled
12 “Internal Combustion Engine With Limited Temperature Cycle” to Douglas C.
13 Kruse.

14 26. Kruse is the owner of the ’904 patent.

15 27. Upon information and belief, Defendants have in the past and are
16 currently infringing the ’904 patent by, without authority, making, using,
17 offering to sell, or selling, within the United States, or importing into the United
18 States, their engines and/or vehicles equipped with engines that practice the
19 patented methods. Defendants’ acts constitute direct and indirect infringement
20 of the ’904 patent in violation of 35 U.S.C. § 271.

21 28. Upon information and belief, the infringement by Detroit Diesel
22 and Ford has been willful, intentional and deliberate with full knowledge of the
23 ’904 patent. This is an exceptional case within the meaning of 35 U.S.C. § 285
24 with respect to Detroit Diesel and Ford.

25 29. Upon information and belief, Kruse has been and will continue to
26 be injured by Defendants’ infringement of the ’904 patent, and such acts will
27 continue unless they are enjoined therefrom.

28 30. Upon information and belief, Defendants have derived, received,

1 and will continue to derive and receive gains, profits and advantages from the
2 aforesaid acts of infringement in an amount that is not presently known to
3 Kruse. By reason of the aforesaid infringing acts, Kruse has been damaged, and
4 is entitled to monetary relief in an amount to be proven at trial.

5 **V. THIRD CLAIM FOR RELIEF: PATENT INFRINGEMENT**
6 **(U.S. PATENT NO. 6,405,704)**

7 31. Kruse realleges and reincorporates the allegations set forth in
8 paragraphs 1 through 30.

9 32. On June 18, 2002, the United States Patent and Trademark Office
10 duly and lawfully issued U.S. Patent No. 6,405,704 (“the ’704 patent”) entitled
11 “Internal Combustion Engine With Limited Temperature Cycle” to Douglas C.
12 Kruse.

13 33. Kruse is the owner of the ’704 patent.

14 34. Upon information and belief, Defendants have in the past and are
15 currently infringing the ’704 patent by, without authority, making, using,
16 offering to sell, or selling, within the United States, or importing into the United
17 States, their engines and/or vehicles equipped with engines that practice the
18 patented methods. Defendants’ acts constitute direct and indirect infringement
19 of the ’704 patent in violation of 35 U.S.C. § 271.

20 35. Upon information and belief, the infringement by Detroit Diesel
21 and Cummins has been willful, intentional and deliberate with full knowledge of
22 the ’704 patent. This is an exceptional case within the meaning of 35 U.S.C.
23 § 285 with respect to Detroit Diesel and Cummins.

24 36. Upon information and belief, Kruse has been and will continue to
25 be injured by Defendants’ infringement of the ’704 patent, and such acts will
26 continue unless they are enjoined therefrom.

27 37. Upon information and belief, Defendants have derived, received,
28 and will continue to derive and receive gains, profits and advantages from the

1 aforesaid acts of infringement in an amount that is not presently known to
2 Kruse. By reason of the aforesaid infringing acts, Kruse has been damaged, and
3 is entitled to monetary relief in an amount to be proven at trial.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff Kruse Technology Partnership prays for a
6 judgment in its favor against Defendants Daimler AG; Mercedes-Benz USA,
7 LLC; Detroit Diesel Corporation; Freightliner Corporation; Western Star Truck
8 Sales, Inc.; Volkswagen AG; Volkswagen Group of America, Inc., doing
9 business in part as Audi of America, Inc.; Ford Motor Company; Cummins Inc.;
10 and Chrysler Group LLC for the following relief:

11 A. For an Order adjudging Defendants to have infringed the '562
12 patent, the '904 patent, and the '704 patent under 35 U.S.C. § 271;

13 B. For a permanent injunction pursuant to 35 U.S.C. § 283 enjoining
14 Defendants, their officers, agents, servants, employees and attorneys, and those
15 persons in active concert or participation with the Defendants, from, directly or
16 indirectly, infringing the '562 patent, the '904 patent, and the '704 patent;

17 C. For a recovery of Kruse's compensatory damages pursuant to 35
18 U.S.C. § 284 for Defendants' infringement of the '562 patent, the '904 patent,
19 and the '704 patent;

20 D. For an Order adjudging Detroit Diesel's infringement of the '562
21 patent, the '904 patent, and the '704 patent to be willful, and that this is an
22 exceptional case under 35 U.S.C. § 285 with respect to Detroit Diesel.

23 E. For an Order adjudging Ford's infringement of the '562 patent and
24 the '904 patent to be willful, and that this is an exceptional case under 35 U.S.C.
25 § 285 with respect to Ford.

26 F. For an Order adjudging Cummins's infringement of the '562 patent
27 and the '704 patent to be willful, and that this is an exceptional case under 35
28 U.S.C. § 285 with respect to Cummins.

1 G. For an Order adjudging Chryslers' infringement of the '562 patent
2 to be willful, and that this is an exceptional case under 35 U.S.C. § 285 with
3 respect to Chrysler.

4 H. For a trebling of the award of damages under 35 U.S.C. § 284, or
5 such other enhancement of the award of damages the Court deems appropriate,
6 with respect to Detroit Diesel, Ford, Cummins, and Chrysler.

7 I. For an assessment of prejudgment and post-judgment interest and
8 costs against Defendants, together with an award of such interest and costs,
9 pursuant to 35 U.S.C. § 284;

10 J. For an award to Kruse of its attorneys' fees incurred in connection
11 with this action pursuant to 35 U.S.C. § 285 with respect to Detroit Diesel, Ford,
12 Cummins, and Chrysler; and

13 K. For such other and further relief as this Court may deem just and
14 proper.

15
16 Respectfully submitted,

17 KNOBBE, MARTENS, OLSON & BEAR, LLP

18
19 Dated: July 13, 2010

20 By: 

21 John B. Sganga, Jr.
22 Karen Vogel Weil
23 Jon W. Gurka ✓
24 David G. Jankowski
25 Marko R. Zoretic

26 Attorneys for Plaintiff
27 KRUSE TECHNOLOGY PARTNERSHIP
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JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Kruse Technology Partnership demands a trial by jury of all issues raised by this Complaint that are triable by jury.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 13, 2010

By: 

John B. Sganga, Jr.
Karen Vogel Weil
Jon W. Gurka
David G. Jankowski
Marko R. Zoretic

Attorneys for Plaintiff
KRUSE TECHNOLOGY PARTNERSHIP

9338206

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Andrew Guilford and the assigned discovery Magistrate Judge is Robert N. Block.

The case number on all documents filed with the Court should read as follows:

SACV10- 1066 AG (RNBx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

ORIGINAL

Name & Address:
John B. Sganga, Jr., SBN: 116,211
Knobbe, Martens, Olson & Bear, LLP
2040 Main St., 14th Floor
Irvine, CA 92614
Phone: (949) 760-0404/Fax: (949) 760-9502

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

KRUSE TECHNOLOGY PARTNERSHIP,

PLAINTIFF(S)

v.

DAIMLER AG; (SEE ATTACHMENT A);

DEFENDANT(S).

CASE NUMBER

SACV10-01066 AG (RNBx)

SUMMONS

TO: DEFENDANT(S): _____

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint _____ amended complaint counterclaim cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, John B. Sganga, Jr., whose address is Knobbe, Martens, Olson & Bear, LLP, 2040 Main St., Irvine, CA 92614. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: **JUL 14 2010**

By: **ROLLS ROYCE PASSEAL**
Deputy Clerk

(Seal of the Court)

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

ATTACHMENT A TO SUMMONS

Additional Defendants:

MERCEDES-BENZ USA, LLC

DETROIT DIESEL CORPORATION

FREIGHTLINER CORPORATION

WESTERN STAR TRUCK SALES, INC.

VOLKSWAGEN AG

VOLKSWAGEN GROUP OF AMERICA, INC.,
d/b/a AUDI OF AMERICA, INC.

FORD MOTOR COMPANY

CUMMINS INC.

CHRYSLER GROUP LLC

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): SACV 08-1452 JVS (JWJx), SACV09-3710 JVS (MLGx), SACV09-458 JVS (JWJx), and SACV09-3710 JVS (JWJx)

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County	

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Daimler - Germany; Mercedes-Benz - New Jersey; Detroit Diesel Corporation - Michigan; Freightliner Corporation - Oregon; Western Star Truck Sales, Inc. - Oregon; Volkswagen AG - Germany; (SEE ATTACHMENT A)

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Orange County and Los Angeles County	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER)  Date July 13, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))

ATTACHMENT A TO CIVIL COVER SHEET

I(a) DEFENDANTS (Cont.)

VOLKSWAGEN AG

VOLKSWAGEN GROUP OF AMERICA, INC.,
d/b/a AUDI OF AMERICA, INC.

FORD MOTOR COMPANY

CUMMINS INC.

CHRYSLER GROUP LLC

IX(b) VENUE (cont.)

Volkswagen Group of America, Inc. – Virginia

Ford Motor Company – Michigan

Cummins, Inc. – Indiana

Chrysler Group LLC - Michigan