

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

ELECTROLYSIS PREVENTION  
SOLUTIONS LLC,

Plaintiff,

v.

DAIMLER TRUCKS NORTH AMERICA  
LLC,

Defendant.

Civil Action No. 3:21-cv-171

JURY TRIAL DEMANDED

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**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Electrolysis Prevention Solutions LLC (“EPS” or “Plaintiff”) files this Complaint for patent infringement against Daimler Trucks North America LLC for infringement of U.S. Patent No. RE47,494 (“the ’494 Reissue Patent” or “the Patent-in-Suit”).

**THE PARTIES**

1. Plaintiff is a Texas limited liability corporation with its principal place of business located at 11 Tattersall, Laguna Niguel, California 92677.
2. Defendant Daimler Trucks North America LLC (“DTNA” or “Defendant”) is a Delaware limited liability corporation with its headquarters located at 4555 N. Channel Avenue, Portland Oregon, 97217. DTNA may be served through its registered agent, The Corporation Trust Company, Corporate Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

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### **JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, 35 U.S.C. § 101, *et seq.* This Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271, *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction), and § 1338 (jurisdiction over patent actions).

4. Defendant is subject to personal jurisdiction in this Court. In particular, this Court has personal jurisdiction over Defendant because Defendant maintains a permanent physical presence in the Western District of North Carolina. In addition, Defendant has engaged in continuous, systematic, and substantial activities within this State.

5. On information and belief, Defendant has committed acts of infringement in this District and has one or more regular and established places of business within this District under the language of 28 U.S.C. § 1400(b). Thus, venue is proper in this District under 28 U.S.C. § 1400(b).

6. DTNA maintains a permanent physical presence in the Western District of North Carolina, conducting business from at least its locations at 1800 North Main Street, Mt. Holly, North Carolina 28120 and 1400 Tulip Drive, Gastonia, North Carolina 28052.

7. On information and belief, DTNA's Mt. Holly facility is a truck manufacturing plant where DTNA manufactures trucks for sale that contain the Accused Products (as defined herein).

8. On information and belief, DTNA's Gastonia facility is a component and logistics facility, that includes line sequencing of parts, such as the Accused Products (as defined herein) used in DTNA manufacturing plants and aftermarket packaging.

9. On information and belief, Defendant has conducted, and does conduct, substantial business in this forum, directly and/or through subsidiaries, agents, representatives, or intermediaries. Such substantial business includes but is not limited to: (i) at least a portion of the infringements alleged herein; (ii) purposefully and voluntarily placing one or more infringing products into the stream of commerce with the expectation that they will be purchased by consumers in this forum; and (iii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in North Carolina and in this judicial district.

#### **THE PATENT-IN-SUIT**

10. Frank Amidio Catalano is the named inventor on the '494 Reissue Patent.

11. Mr. Catalano resides in Concord, North Carolina.

12. Mr. Catalano is the owner and operator of Webster Radiator, A/C, & Auto/Truck Repair located in Concord, North Carolina. Mr. Catalano and his team have been providing radiator services in the Concord area for over twenty-five years.

13. The '494 Reissue Patent is a reissue of U.S. Patent No. 8,236,145.

14. The '494 Reissue Patent is titled, "Electrolysis Prevention Device and Method of Use."

15. The '494 Reissue Patent duly and legally issued on July 9, 2019. A true and correct copy of the '494 Reissue Patent is attached hereto as Exhibit 1 and incorporate herein by reference.

16. The inventions claimed in the '494 Reissue Patent relate generally to improved radiators with an electrolysis prevention device in the form of a sacrificial anode.
17. The '494 Reissue Patent is valid, enforceable and was duly issued in full compliance with Title 35 of the United States Code.
18. Each claim of the '494 Reissue Patent is presumed valid pursuant to 35 U.S.C. § 282.
19. Each claim in the '494 Reissue Patent is directed to patent eligible subject matter under 35 U.S.C. § 101.
20. Mr. Catalano is the owner of the '494 Reissue Patent. EPS is the exclusive licensee of the '494 Reissue Patent with all substantial rights to the '494 Reissue Patent including the exclusive right to enforce, sue, and recover damages for past and future infringements.
21. EPS has standing to bring this lawsuit.

**COUNT I**  
**(INFRINGEMENT OF U.S. PATENT NO. RE47,494)**

22. EPS incorporates paragraphs 1 through 19 herein by reference.
23. This cause of action arises under the patent laws of the United States, and in particular, 35 U.S.C. §§ 271, *et seq.*
24. Defendant has, and continues to, directly infringe one or more claims of the '494 Reissue Patent in this judicial district and/or elsewhere in North Carolina and the United States, including at least claim 25, by, among other things, making, using, offering for

sale, selling and/or importing radiators that infringe the '494 Reissue Patent ("the Accused Products").

25. Attached hereto as Exhibit 2, and incorporated herein by reference, is a claim chart detailing how a representative Accused Product infringes at least claim 25 of the '494 Reissue Patent.

26. Plaintiff has been damaged as a result of Defendant's infringing conduct described in this Count. Defendant is, thus, liable to EPS in an amount that adequately compensates it for Defendant's infringement, which by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

### **DEMAND FOR A JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all issues triable of right by a jury.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and grant the following relief:

- a. A judgment that Defendant has directly and/or indirectly infringed one or more claims of the '494 Reissue Patent and that it is liable for such infringement;
- b. A judgment and order requiring Defendant to pay Plaintiff past and future damages under 35 U.S.C. § 284, including for supplemental damages arising from any continuing post-verdict infringement for the time between trial and entry of the final judgment with an accounting, as needed, as provided by 35 U.S.C. § 284;

- c. A judgment and order requiring Defendant to pay Plaintiff reasonable ongoing royalties on a going-forward basis after final judgment;
- d. A judgment and order requiring Defendant to pay Plaintiff pre-judgment and post-judgment interest on the damages award;
- e. A judgment and order requiring Defendant to pay Plaintiff's costs; and
- f. Such other and further relief as the Court may deem just and proper.

Dated: April 19, 2021

Respectfully submitted,

/s/ Albert P. Allan

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*ATTORNEYS FOR PLAINTIFF*

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