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-00640-RP **JURY TRIAL DEMANDED**

PLAINTIFF'S DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS FOR DEFENDANT ZF FRIEDRICHSHAFEN AG

Plaintiff Foras Technologies Limited ("Foras") hereby makes the following infringement disclosures with respect to United States Patent Nos. 7,502,958 ("the '958 Patent"), 7,624,302 ("the '302 Patent"), and 7,627,781 ("the '781 Patent") (the "Asserted Patents").

Foras's investigation is ongoing and discovery is in its preliminary stages. Accordingly, these disclosures are based on information available to Foras at this time. Foras reserves the right to supplement this disclosure after further discovery from Defendant and non-parties, particularly documents and other discovery regarding the Defendant's accused devices. Foras also reserves the right to assert additional claims of the Asserted Patents, accuse different products, or find alternative literal and/or equivalent infringing elements in Defendant's products.

A. ASSERTED CLAIMS

Defendant ZF Friedrichshafen AG ("ZF") has infringed and continues to infringe at least the following claims of the Asserted Patents:

- **'958 Patent:** Claims 1-6, 8-12, 19-20, and 23-25.

- **'302 Patent:** Claims 1-10 and 21-25.
- **'781 Patent:** Claims 1-7, 9-15, 16-20, 22-23, and 25-30.

Foras reserves the right to seek leave of court to add, delete, substitute, or otherwise amend this list of asserted claims should further discovery, the Court's claim construction, or other circumstances so merit.

B. ACCUSED PRODUCTS

The accused products include at least the following, as well as instrumentalities with reasonably similar functionality (collectively, the "Accused Products"):

- **'958 Patent:** ZF Electronic Control Units (ECU) that are ASIL-D compliant and contain at least one pair of lockstep processors, including but not limited to ECUs containing Infineon TC38X chipsets or Infineon chipsets with reasonably similar functionality, and any other ZF modules containing Infineon AURIX TC3XX chipsets that contain at least one pair of lockstep processors.
- **'302 Patent:** ZF ECUs that are ASIL-D compliant and contain at least two pairs of lockstep processors, including but not limited to ECUs containing Infineon TC38X chipsets or Infineon chipsets with reasonably similar functionality, and any other ZF modules containing Infineon AURIX TC3XX chipsets that contain at least two pairs of lockstep processors.
- **'781 Patent:** ZF ECUs that are ASIL-D compliant and contain at least two pairs of lockstep processors, including but not limited to ECUs containing Infineon TC38X chipsets or Infineon chipsets with reasonably similar functionality, and any other ZF modules containing Infineon AURIX TC3XX chipsets that contain at least two pairs of lockstep processors.

ZF is accused of making, using, selling, offering for sale and/or importing the above Accused Products. ZF is also accused of infringing the asserted claims listed above under at least

35 U.S.C. § 271(a). For example, ZF has and continues to directly infringe the asserted claims by making, using, selling, offering for sale, and/or importing the Accused Products.

Foras reserves the right to amend this list of accused instrumentalities, as well as other information contained in this document and the exhibits hereto, to incorporate new information learned during the course of discovery, including, but not limited to, the inclusion of newly released products, versions, or any other equivalent or infringing devices ascertained through discovery. Further, to the extent any Accused Products have gone through or will go through name changes, but were or will be used or sold with the same accused features, earlier corresponding products under different names also are accused.

C. CLAIM CHARTS AND DIRECT INFRINGEMENT

A claim chart identifying a location of every element of every asserted claim of the Asserted Patents within Accused Products are attached hereto as Exhibits A-C. Foras reserves the right to amend these claim charts, as well as other information contained in this document and the exhibits hereto, to incorporate new information learned during the course of discovery, including but not limited to information that is not publicly available or readily discernible without discovery. Foras further reserves the right to amend the claim chart, as well as other information contained in this document and the exhibits attached hereto. In an effort to focus the issues, Foras identifies exemplary evidence for each claim limitation. The evidence cited for a particular limitation should be considered in light of the additional evidence cited for the other claim limitations. Foras reserves the right to rely on evidence cited for any particular limitation of an asserted claim for any other limitation asserted for that claim.

ZF makes, has made, uses, has used, imports, has imported, offers to sell, has offered to sell, sells and/or has sold the Accused Products and has directly infringed and continues to directly

infringe each of the asserted claims as specified in Exhibits A-C. With respect to the asserted method claims, as further specified in Exhibits A-C, the claimed method is performed by ZF when the functionality is activated as part of ZF services related to the Accused Products, as part of design and development activities, testing, and/or are otherwise operated by ZF including for, or on behalf of, users. ZF directly infringes the asserted method claims because it performs each limitation of the claimed method. When ZF or its customers and/or users turn on and use the Accused Products in the U.S., or when the Accused Products are tested in the U.S., the claimed methods are performed in the U.S. and thus directly infringed under 35 U.S.C. 271(a). ZF designs the Accused Products such that users will naturally use them in a way that infringes the asserted claims. ZF directly infringes and practices the asserted method claims by controlling the operations of the functionality on the accused products and directs and controls the functionality in a manner that is directly liable for practicing the asserted methods.

ZF also is a direct infringer under 35 U.S.C. §271(a) of the asserted method and apparatus claims because ZF controls and/or directs third parties, including ZF's customers and authorized retailers and servicers, to use the methods and apparatuses, for example via the pre-installed functionality, ZF's remote services, and all other ZF software that run on the Accused Products. ZF conditions use and receipt of the benefit of the claimed methods and apparatuses on use of the accused products in an infringing manner, and ZF establishes the manner and/or timing of doing so, by way of the foregoing conduct, thus further establishing ZF as a direct infringer under 35 U.S.C. §271(a).

To the extent it is argued that an entity other than ZF performs or satisfies one or more limitations of an asserted claim(s), Foras asserts that ZF is also liable for direct infringement because it exercises direction and control (*e.g.*, through an agent, contractual relationship, the

conditioning of participation in an activity or receipt of a benefit upon performance of a step or steps of a patented method and establishment of the manner or timing of that performance, a joint enterprise, etc.) over the performance of the claimed limitations.

D. LITERAL INFRINGEMENT AND DOCTRINE OF EQUIVALENTS

Foras asserts that, under the proper construction of the asserted claims and their claim terms, the limitations of the asserted claims of the Asserted Patents are literally present in the Accused Products or acts accused of infringing the claim, as set forth in the claim charts attached hereto as Exhibits A-C. Foras also contends that any and all elements found not to be literally infringed are infringed under the doctrine of equivalents because the differences between the claimed inventions and the Accused Products, if any, are insubstantial.

Foras's contention is that each limitation is literally met, and necessarily also would be met under the doctrine of equivalents because there are no substantial differences at all between the Accused Products and the claims, in function, way, or result. As such, Foras's current description of the function, way, and result for each limitation would be the same as the claim language itself. If ZF attempts to argue that there is no infringement literally and also no infringement under doctrine of equivalents and attempts to draw any distinction between the claimed functionality and the functionality in the Accused Products, then Foras reserves its right to rebut the alleged distinction as a matter of literal infringement and/or as to whether any such distinction is substantial under the doctrine of equivalents.

Foras reserves the right to amend its Infringement Contentions as to literal infringement or infringement under the doctrine of equivalents in light of new information learned during the course of discovery and the Court's claim construction.

E. INDIRECT INFRINGEMENT

ZF has induced and/or contributed to infringement, and will continue to induce and/or contribute to infringement, of the asserted claims of the Asserted Patents for at least the following reasons. ZF has had knowledge of the Asserted Patents at least as of June 6, 2023, when the complaint in the above-captioned action was filed. Despite this knowledge of the Asserted Patents, ZF continues to actively encourage and instruct its customers to use the Accused Products in ways that directly infringe the Asserted Patents. For example, ZF instructs its customers on how to install and use the Accused Products in an infringing manner. ZF also instructs, promotes, and encourages features of the Accused Products that infringe the Asserted Patents, such as through the use of the accused features. ZF engages in many activities that encourage its customers to infringe the Accused Products, including (i) advertising and promotion efforts for the products; (ii) the publication of demonstrational videos concerning the products; (iii) the publication of data sheets that purport to describe alleged benefits customers will derive from embracing the products; (iv) the publication of promotional papers that purport to describe the alleged virtues of the products; (v) the publication both directly and indirectly through the training site, including through the website of tutorial, demonstration, and best practices instructional videos concerning the products; and (vi) the provision of user forums, blogs, and product documentation. Through at least these activities, ZF specifically intends that its customers directly infringe the Asserted Patents.

ZF has contributorily infringed, and will continue to contributorily infringe the asserted claims of the Asserted Patents for at least the following reasons. ZF sells, offers for sale, and/or imports into the United States relevant hardware and/or software components comprising the Accused Products, constituting material parts of the inventions of the asserted claims, thus contributing to infringement under 35 U.S.C. § 271(c), (f). These components are known by ZF

to be especially made or especially adapted for use in infringement of the asserted claims, and are not a staple article or commodity of commerce suitable for substantial noninfringing uses. ZF has knowledge of the asserted claims at least as of the filing of the complaint. ZF provides to its customers (direct infringers) these components. ZF is thus liable for infringement of the asserted claims directly and indirectly including for inducement and contributory infringement. *See* 35 U.S.C. §§271(a)-(c), (f).

Foras further incorporates by reference its Complaint and any amendments thereto.

F. PRIORITY DATE

The Asserted Patents are entitled to at least the following priority date:

- **'958 Patent:** U.S. Patent No. 7,502,958 was filed as U.S. Patent Application No. 10/973,076 on October 25, 2004. Each asserted claim of the '958 Patent is entitled to at least a priority date of October 25, 2004.

- **'302 Patent:** U.S. Patent No. 7,624,302 was filed as U.S. Patent Application No. 10/972,588 on October 25, 2004. Each asserted claim of the '302 Patent is entitled to at least a priority date of October 25, 2004

- **'781 Patent:** U.S. Patent No. 7,627,781 was filed as U.S. Patent Application No. 10/973,077 on October 25, 2004. Each asserted claim of the '781 Patent is entitled to at least a priority date of October 25, 2004

G. PRACTICING PRODUCTS

Foras does not currently contend that any of its own apparatuses, products, or devices practices any of the asserted claims, but reserves the right to modify or amend its response as discovery progresses.

H. FORAS DOCUMENT PRODUCTION

Foras is producing or making available for inspection documents that are in Foras's possession, custody or control. Foras identifies the following documents as the file history: FORAS-WDTX640-00004666 - FORAS-WDTX640-00005569.

Dated: April 1, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that this document is being served upon counsel of record for Defendant on April 1, 2024 via electronic mail.

/s/ Drew B. Hollander
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