

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

LONGHORN AUTOMOTIVE GROUP LLC

Plaintiff,

v.

VOLKSWAGEN AG

Defendant.

Civil Action No. 2:24-CV-00933-JRG
(LEAD CASE)

LONGHORN AUTOMOTIVE GROUP LLC

Plaintiff,

v.

MAZDA MOTOR CORPORATION

Defendant.

Civil Action No. 2:24-CV-00686-JRG
(MEMBER CASE)

DEFENDANT VOLKSWAGEN AG'S MOTION TO DISMISS

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LOCAL RULE 7(a)(1) STATEMENT OF ISSUES TO BE DECIDED BY THE COURT

1. Whether the Court should dismiss Longhorn's claims of direct infringement under 35 U.S.C. § 271(a) where the complaint maps infringement allegations only to products of a nonparty, and pleads inconsistent and implausible facts regarding the mappings?
2. Whether the Court should dismiss Longhorn's claims of indirect infringement under 35 U.S.C. §§ 271(b), (c) where the complaint fails to state a claim of direct infringement under 35 U.S.C. § 271(a), makes no effort to plead the requirements of contributory infringement, and pleads only inducing acts allegedly performed by nonparties?
3. Whether the Court should dismiss Longhorn's claims of presuit indirect infringement under 35 U.S.C. §§ 271(b), (c) where the complaint inadequately pleads presuit knowledge of the asserted patents?
4. Whether the Court should dismiss all presuit damages where the complaint implausibly alleges compliance with the marking requirements of 35 U.S.C. § 287, and in any event limits its allegations only to a particular time period?

I. INTRODUCTION

Shortcomings unique to this case warrant dismissal. Longhorn Automotive Group LLC (“Longhorn”) accuses Volkswagen AG (“Volkswagen”) of directly and indirectly infringing five patents. But the complaint’s infringement mappings exclusively address vehicles of a nonparty, Audi AG (“Audi”). While Volkswagen is the corporate parent of Audi, Audi is an independent company. The complaint lacks plausible allegations that any *Volkswagen* vehicle infringes any patent. Longhorn’s infringement theories are also riddled with inconsistencies, rendering them facially implausible.

Longhorn’s indirect infringement allegations fare no better. Longhorn pleads no allegedly inducing acts performed by Volkswagen. Instead, the complaint points only to Audi advertising and literature. The complaint’s sole reference to contributory infringement—a jurisdictional claim that Volkswagen “has contributed to patent infringement”—likewise fails to state a claim. Longhorn also pleads no facts suggesting that Volkswagen had presuit knowledge of the asserted patents, making Longhorn’s allegations of presuit indirect infringement ripe for dismissal.

Finally, Longhorn does not state a claim of presuit damages because it fails to plead any facts alleging compliance with the patent marking statute, 35 U.S.C. § 287(a). The Federal Circuit requires such allegations and rejects complaints that do not abide. Longhorn’s claim for past damages should be dismissed for this further reason.

II. FACTUAL BACKGROUND

A. Longhorn’s Complaint

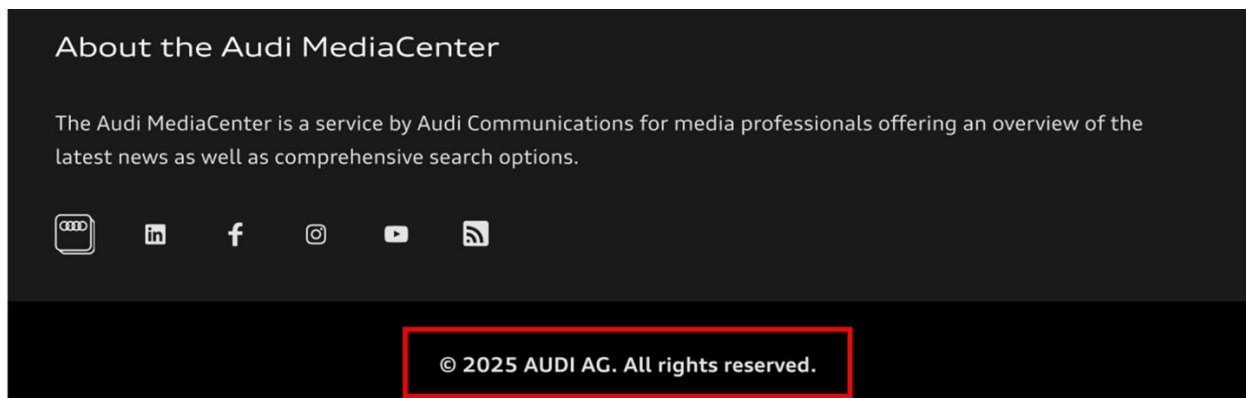
Longhorn asserts five patents against Volkswagen: U.S. Patent Nos. 8,810,803 (the “’803 patent”), 7,987,002 (the “’002 patent”), 7,513,238 (the “’238 patent”), 8,265,353 (the “’353 patent”), and 8,085,192 (the “’192 patent”), (collectively, the “asserted patents”). Dkt. 1 ¶¶ 7-11; Exs. A-E. While Volkswagen is a car company, the asserted patents are not so limited. For example,

the '353 patent is directed to “medical imagery” of a “patient [] being examined” ('353 patent, 2:42-43), yet Longhorn accuses vehicle camera systems. The '803 patent focuses on “interactive display systems” ('803 patent, 1:16-17), and Longhorn accuses headlights.

1. Alleged Direct Infringement

The complaint begins by identifying a group of 23 Volkswagen and Audi vehicles that allegedly infringe the '803 patent. Dkt. 1 ¶¶ 14-18. This grouping of “Accused Vehicles” is then applied en masse to each of the other four patents. *Id.* ¶¶ 23, 35, 49, 62, 78. Nowhere does Longhorn allege how each vehicle allegedly infringes. Instead, for each patent, Longhorn compares a single patent claim to a single *Audi* vehicle. *See id.* ¶¶ 23-27 (Audi e-tron Sportback 55 quattro), 35-41 (Audi A8), 49-54 (Audi Q7), 62-70 (Audi A8), and 79-85 (Audi A3).

For the '803 patent, Longhorn maps claim 15 to “the Audi e-tron Sportback 55 quattro” with “Digital Matrix LED Headlights,” citing two websites: www.audi-mediacenter.com and <https://media.audiusa.com>. Dkt. 1 ¶¶ 24-27. The first website is published by Audi AG:



Ex. F, <https://www.audi-mediacenter.com/en/photos/album/audi-e-tron-series-digital-matrix-led-headlights-2021> at 4 (last accessed February 10, 2025) (annotations in red added). The second is published by Audi of America. *See* Ex. G, <https://media.audiusa.com/releases/444> at 2 (last accessed February 10, 2025); *see also* Ex. H, <https://media.audiusa.com/company-information> at 1 (last accessed February 10, 2025) (describing Audi of America’s role in selling Audi-brand

vehicles manufactured by Audi AG). The complaint contains no allegation that the Audi Digital Matrix LED headlights from the Audi e-tron Sportback 55 quattro—or any Digital Matrix LED headlights—are included in any Volkswagen product. *See* Dkt. 1 ¶¶ 20-32. No detailed mapping is provided for *any* Volkswagen product. *See id.*

Longhorn’s infringement theory for the ’803 patent is also inconsistent. It maps the claimed “condenser lens” both to “a primary optic mirror” and to “a projector lens of the two-light system” in the same sentence. *Id.* ¶ 27. This confuses not only *what* element Longhorn contends is the claimed “condenser lens,” but also whether this element is a “mirror” or “lens.”

27. The Audi e-tron Sportback 55 quattro comprises a condenser lens (e.g., a primary optic mirror) located between said light source (e.g., LEDs) and said cluster of lenses, the condenser lens (e.g., a projector lens of the two-light system within one headlight) concentrating light from each of the plurality of emitters towards a center of the cluster of lenses:

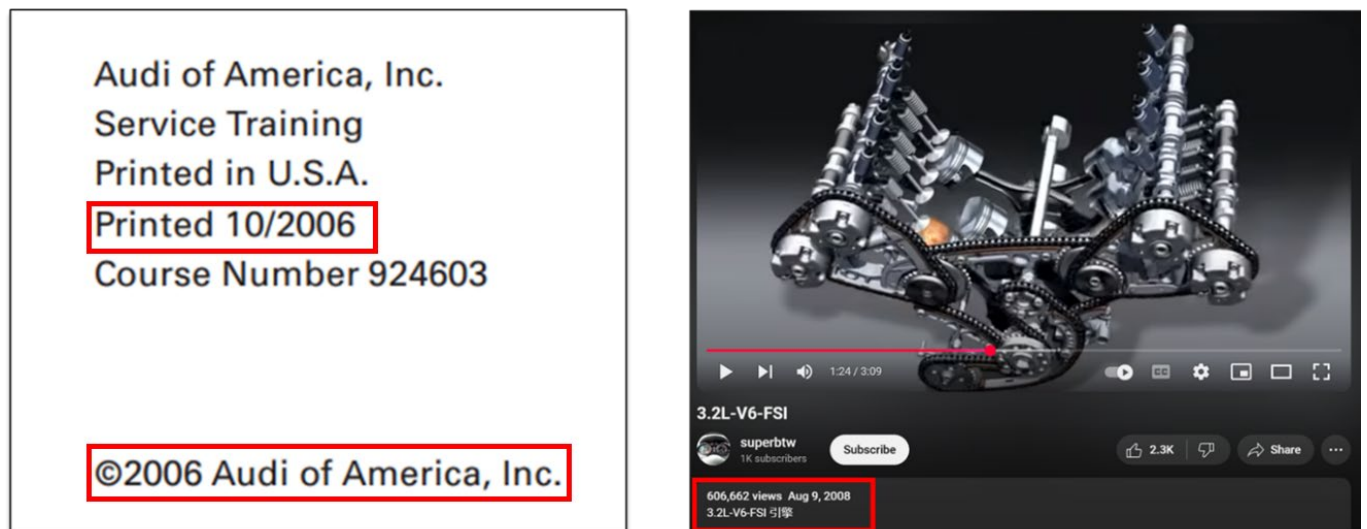
Id. (annotations added).

Longhorn similarly fails to map the ’002 patent against any Volkswagen product. It compares claim 15 to the Audi Connect System of the Audi A8. Dkt. 1 ¶¶ 36-41. For support, it cites an Audi of America website (www.audiusa.com) and third-party websites referring to Audi vehicles. *See id.* But Longhorn does not map the ’002 patent to any Volkswagen product and does not allege that the identified Volkswagen Car-Net works the same way as the accused Audi Connect. *See id.* Volkswagen Car-Net itself is never mapped to the claims.

Asserted claim 15 of the ’002 patent recites a “plurality of monitoring units compris[ing] at least one complex monitoring unit and at least one basic monitoring unit.” In its mappings, Longhorn identifies the claimed plurality of monitoring units as (1) the myAudi app and (2) the Audi Multimedia Interface (MMI). *Id.* ¶ 38. But in the following paragraph, the complaint

identifies a different entity, an (3) Audi Connect Server Platform, as the claimed “complex monitoring unit” while alleging the (1) myAudi app is the “at least one basic monitoring unit.” *Id.* ¶¶ 39-40. Longhorn thus takes inconsistent positions about what accused elements are the claimed “plurality of monitoring units.”

Longhorn’s allegations for the ’238 patent have their own unique defects. Longhorn accuses all “VW and Audi vehicles with direct injection engines, in all trims and configurations, including the Accused Vehicles.” Dkt. 1 ¶ 50. The complaint, however, does not support this sweeping statement with factual allegations. Instead, it maps only Audi’s FSI Direct Injection engine found in an unspecified model year of an Audi Q7 to the claim. *Id.* Befuddling this point, Longhorn points to Audi service manuals of Audi of America, Inc. from nearly twenty years ago and a YouTube video published sixteen years ago¹:

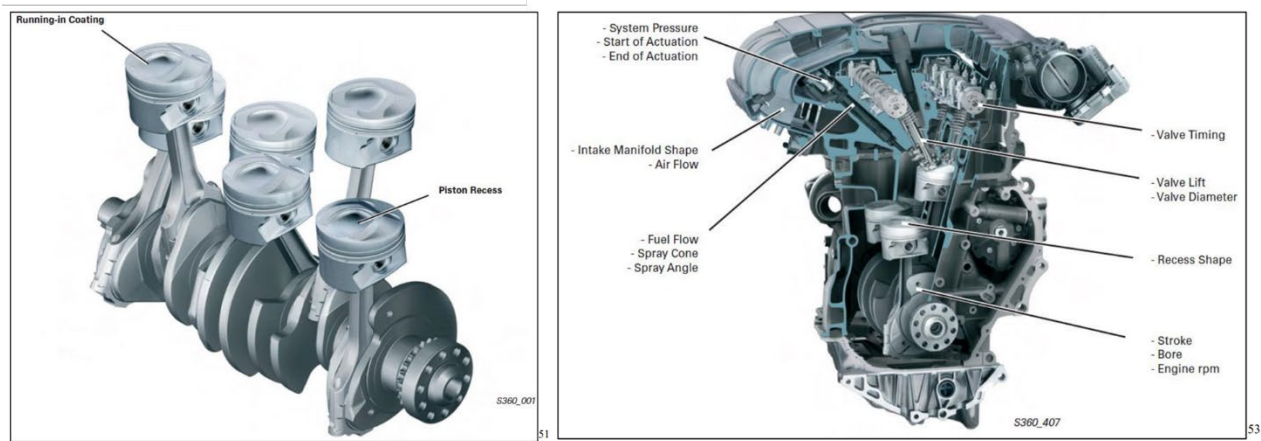


Ex. I (a full version of the Audi Self Study Program entitled “The 3.2 and 3.6 liter FSI Engine Self Study Program,” as pulled from the URL provided in Longhorn’s complaint, Dkt. 1 ¶¶ 51-55)

¹ <https://youtu.be/5hKKO89VbQ0?si=x1nK6-2Q-pCQqrrT&t=83> (last accessed March 4, 2025).

(annotated). Nowhere does the complaint refer to materials within the six-year damages period of 35 U.S.C. § 286 for the '238 patent.

Claim 1 of the '238 patent recites an engine piston having “a piston recess, which, in a central region thereof, has an elevation extending in a cylinder head direction.” In its complaint, Longhorn identifies a piston recess but nowhere identifies any central region with an “elevation” extending in a cylinder head direction:



Dkt. 1 ¶ 53. Instead, Longhorn simply concludes that the piston “has an elevation extending in a cylinder head direction (e.g., the top of the cylinder with a recess shape).” *Id.* No such “elevation” is identified in or apparent from the complaint.

For the '353 patent, Longhorn accuses “Volkswagen IQ Drive and Audi Pre Sense, included in vehicles, in all trims and configurations, including the Accused Vehicles, such as the Audi A8, using the Central Driver Assistance Controller (zFAS).” Dkt. 1 ¶ 62. Longhorn provides no mappings to any Volkswagen vehicle or the Volkswagen IQ Drive system. *See id.* ¶¶ 63-69. Instead, Longhorn maps claim 1 to an unspecified model of an Audi A8, citing web pages published by Audi. *See id.* Longhorn also alleges Volkswagen, a German company, uses “the Audi A8 through promotional demonstration, testing, repairs, troubleshooting, and instructional guidance in the United States and Texas, performing at least steps of claim 1.” *Id.* ¶ 70.

Like all other asserted patents, Longhorn makes no specific allegations that a Volkswagen product infringes the '192 patent. Longhorn attacks “Accused Vehicles equipped with infotainment and navigations systems, such as Volkswagen and Audi Multimedia Interface (MMI) systems, currently known as MIB 3.” *Id.* ¶ 78. It maps claim 1 to components of the Audi A3, once again citing websites published by Audi and Audi of America. *See id.* ¶¶ 79-85. Longhorn provides no mapping for any Volkswagen vehicle.

2. Alleged Indirect Infringement

Longhorn’s allegations of indirect infringement are again tied to actions and vehicles of nonparty Audi, not Volkswagen. Longhorn alleges that Volkswagen induced infringement by customers “by supplying them with instructions on how to operate the infringing technology in an infringing manner, while also making publicly available information on the infringing technology via Defendant’s website, product literature and packaging, and other publications.” Dkt. 1 ¶¶ 30, 44, 57, 73, and 88. This allegation is based on unidentified portions of owners’ manuals of unspecified years published by Audi of America. *See id.* For contributory infringement, Longhorn alleges, as a jurisdictional predicate, that “Defendant regularly conducts business and has committed acts of patent infringement and/or has induced acts of patent infringement by others in this Judicial District and/or *has contributed to patent infringement* by others in this Judicial District, the State of Texas, and elsewhere in the United States.” *Id.* ¶ 4 (emphasis added). The complaint makes no effort to plead the elements of contributory infringement, including allegations that the accused components “constitute[e] a material part of” any claimed invention, that Volkswagen “know[s] the same to be especially made or especially adapted for use in an infringement of such patent,” or that the components are “not a staple article or commodity of commerce suitable for substantial noninfringing use.” *See id.*; 35 U.S.C. § 271(c).

The complaint further alleges—identically for each patent—that Volkswagen knew of the patent “at least as of the date of this Complaint” and “[a]lternatively, on information and belief, Defendant has adopted a policy of not reviewing the patents of others, including specifically those related to Defendant’s specific industry, thereby remaining willfully blind to the Patent-in-Suit at least as early as the issuance of the Patent-in-Suit.” Dkt. 1 ¶¶ 29, 43, 56, 72, 87.

B. Longhorn’s Pleading of Compliance with 35 U.S.C. § 287

The complaint’s only allegation of marking compliance is a bare legal conclusion: Longhorn “has at all times complied with the marking provisions of 35 U.S.C. § 287 with respect to the Patents-in-Suit.” Dkt. 1 ¶ 13. No facts are pled, whether to indicate what form of compliance was achieved (e.g., actual or constructive notice) or what actions (if any) Longhorn took to comply. The complaint is also silent about whether Longhorn’s many predecessors-in-interest of the asserted patents complied with the marking statute. U.S. Patent and Trademark Office assignment records show that each of the asserted patents was at one time assigned to an Intellectual Ventures entity, among additional former entities. *See* Ex. J (USPTO assignment record assigning the ’803 patent, the ’002 patent, the ’238 patent, and the ’192 patent from Intellectual Ventures Assets 190 LLC to AI-Core Technologies, LLC); Ex. K (USPTO assignment record assigning the ’353 patent from Intellectual Ventures Assets 190 LLC to AI-Core Technologies, LLC); Ex. L (USPTO assignment record assigning the Asserted Patents to Longhorn). Intellectual Ventures is a well-known patent licensing entity, having filed at least one hundred thirty patent cases. *See* Ex. M (Docket Navigator report for cases filed by “Intellectual Ventures”). The complaint does not account for any of this ownership history or its implications for patent marking. Instead, Longhorn’s averred compliance is limited to itself—“LAG has . . . complied.” Dkt. 1 ¶ 13.

III. LEGAL STANDARD

A. Stating a Claim for Relief Under Rule 12(b)(6)

A complaint must plead a plausible claim for relief. Fed. R. Civ. P. 8(a)(2). While well-pled facts are treated as true at the pleadings stage, bare legal conclusions and labels are given no weight. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “To survive dismissal at the pleading stage, a complaint must state enough facts such that the claim to relief is plausible on its face.” *NorthStar Sys. LLC v. Volkswagen AG*, No. 2:22-cv-00486, 2023 WL 5723648, at *1 (E.D. Tex. Sept. 5, 2023) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). In reviewing a motion to dismiss, “a district court ‘must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motions to dismiss, in particular, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.’” *Funk v. Stryker Corp.*, 631 F.3d 777, 783 (5th Cir. 2011) (citing *Tellabs, Inc. v. Makor Issues & Rts., Ltd.*, 551 U.S. 308, 322 (2007)).

The Court may take judicial notice of matters of public record, including patent prosecution histories and assignments recorded at the United States Patent and Trademark Office. *See, e.g., Walker v. Beaumont Indep. Sch. Dist.*, 938 F.3d 724,735 (5th Cir. 2019) (judicial notice of “matters of public record”); *Data Engine Techs. LLC v. Google LLC*, 906 F.3d 999, 1008 n.2 (Fed. Cir. 2018) (“Prosecution histories constitute public records”); *Zamora Radio, LLC v. Last.FM Ltd.*, No. 09-CIV-20940, 2010 WL 11505226, at *2 n.1 (S.D. Fla. Jan. 27, 2010) (judicial notice of “the assignment history for the patent”).

B. Direct Infringement

Direct infringement is governed by 35 U.S.C. § 271(a). “A claim of literal infringement requires a showing that ‘each and every limitation set forth in a claim appear[] in the accused product.’” *Semcon IP Inc. v. Kyocera Corp.*, No. 2:18-CV-00197-JRG, 2019 WL 1979930, at *2

(E.D. Tex. May 3, 2019) (quoting *Becton Dickinson & Co. v. C.R. Bard, Inc.*, 922 F.2d 792, 796 (Fed. Cir. 1990)). Bare bones allegations of infringement or mere conclusory statements without accompanying factual allegations do not pass the *Iqbal/Twombly* plausibility standard. See *Chapterhouse, LLC v. Shopify, Inc.*, No. 2:18-CV-00300-JRG, 2018 WL 6981828, at *2 (E.D. Tex. Dec. 11, 2018). A plaintiff “cannot assert a plausible claim for infringement under the *Iqbal/Twombly* standard by reciting the claim elements and merely concluding that the accused product has those elements.” *Bot M8 LLC v. Sony Corp. of Am.*, 4 F.4th 1342, 1353 (Fed. Cir. 2021). “There must be some factual allegations that, when taken as true, articulate why it is plausible that the accused product infringes the patent claim.” *Id.* Moreover, “a patentee may subject its claims to early dismissal by pleading facts that are inconsistent with the requirements of its claims.” *Id.* at 1346. “Direct infringement under § 271(a) occurs where all steps of a claimed method are performed by or attributable to a single entity.” *Akamai Techs., Inc. v. Limelight Networks, Inc.*, 797 F.3d 1020, 1022 (Fed. Cir. 2015) (en banc). Thus, “to state a viable direct infringement claim, a plaintiff must plead facts that plausibly suggest that the accused product meets each limitation of the asserted claim or claims.” *Encoditech, LLC v. Citizen Watch Co. of Am., Inc.*, No. SA-18-CV-1335, 2019 WL 2601347, at *3 (W.D. Tex. June 25, 2019); see also *Stragent, LLC v. BMW of N. Am., LLC*, No. 6:16-CV-446, 2017 WL 2821697, at *6 (E.D. Tex. Mar. 3, 2017) (dismissing claims of direct infringement because complaint failed to plausibly allege defendant practiced all claim limitations).

C. Indirect Infringement

Indirect infringement may take the form of induced infringement under 35 U.S.C. § 271(b) or contributory infringement under § 271(c). “A finding of inducement requires establishing ‘that the defendant possessed specific intent to encourage another’s infringement.’” *GlaxoSmithKline LLC v. Teva Pharm. USA, Inc.*, 7 F.4th 1320, 1327 (Fed. Cir. 2021) (quoting *DSU Med. Corp. v.*

JMS Co., 471 F.3d 1293, 1306 (Fed. Cir. 2006) (en banc)). “This requires a plaintiff to show ‘that the alleged infringer’s actions induced infringing acts and that he knew or should have known his actions would induce actual infringements.’” *Id.* (quoting *DSU*, 471 F.3d at 1306). Contributory infringement “requires proof that (1) the defendant had ‘knowledge of the patent in suit,’ (2) the defendant had ‘knowledge of patent infringement,’ and (3) the accused product is not a staple article or commodity of commerce suitable for a substantial noninfringing use.” *Bio-Rad Labs., Inc. v. Int’l Trade Comm’n*, 998 F.3d 1320, 1335 (Fed. Cir. 2021) (quoting *Commil USA, LLC v. Cisco Sys., Inc.*, 575 U.S. 632, 639 (2015)).

Claims of indirect infringement are dismissed if they are implausible or inadequate. *See, e.g., SQWIN SA v. Walmart, Inc.*, No. 4:22-cv-1040, 2023 WL 4236896, at *3 (E.D. Tex. June 28, 2023); *Chapterhouse*, 2018 WL 6981828, at *4; *Babbage Hldgs., LLC v. Activision Blizzard, Inc.*, No. 2:13-750, 2014 WL 2115616, at *1-2 (E.D. Tex. May 15, 2014). A complaint that “provides no factual basis whatsoever to support its claims of indirect” infringement “fall[s] far short of *Twombly*’s ‘fair notice’ pleading requirements.” *SQWIN*, 2023 WL 4236896, at *3.

D. Patent Marking

Under the patent marking statute, a patentee must provide actual or constructive notice of alleged infringement before damages begin to accrue. 35 U.S.C. § 287(a); *Gart v. Logitech, Inc.*, 254 F.3d 1334, 1345 (Fed. Cir. 2001); *e-Watch Inc. v. Avigilon Corp.*, No. H-13-0347, 2013 WL 5231521, at *3 (S.D. Tex. Sept. 16, 2013). The burden of pleading and proving compliance with the marking statute falls on the patentee. *See Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.*, 876 F.3d 1350, 1366 (Fed. Cir. 2017) (“*Arctic Cat I*”) (citing *Maxwell v. J. Baker, Inc.*, 86 F.3d 1098, 1111 (Fed. Cir. 1996); *Dunlap v. Schofield*, 152 U.S. 244, 248 (1894)). This burden includes alleging compliance by the patentee’s licensees. *See Arctic Cat Inc. v. Bombardier Recreational Prods. Inc.*, 950 F.3d 860, 864 (Fed. Cir. 2020) (“*Arctic Cat II*”); *Arctic Cat I*, 876

F.3d at 1366. When a patentee does not plead such compliance, its claim for damages may be dismissed accordingly. *See, e.g., Lans v. Digital Equip. Corp.*, 252 F.3d 1320, 1328-29 (Fed. Cir. 2001) (affirming Rule 12(b)(6) dismissal for lack of notice), *aff'g Uniboard Aktiebolag v. Acer Am. Corp.*, 118 F. Supp. 2d 19, 26-27 (D.D.C. 2000); *e-Watch*, 2013 WL 5231521, at *3 (“The Federal Circuit[] specifically allows addressing the § 287(a) issue through a motion to dismiss”).

IV. LONGHORN’S DIRECT INFRINGEMENT ALLEGATIONS SHOULD BE DISMISSED

A. Longhorn Does Not Plausibly Plead Direct Infringement Against any Volkswagen Product

Longhorn’s pleading suffers a fundamental flaw. Longhorn sued Volkswagen, but its complaint contains no specific allegations of infringement against any Volkswagen product. Instead, Longhorn maps its asserted claims only to vehicles of a nonparty, not Volkswagen. This disconnect dooms Longhorn’s complaint from the start.

For the ’803 patent, Longhorn accuses “VW’s and Audi’s headlight system, included in personal vehicles, in all trims and configurations, such as the Audi e-tron Sportback 55 quattro, among other vehicles.” Dkt. 1 ¶ 22. This encompasses *every* headlight of *every* Volkswagen and Audi vehicle for *all* of time—including, presumably, the prior art. Longhorn pleads no facts to support such a totalizing allegation. Instead, Longhorn’s more specific allegations are directed to the Audi e-tron Sportback 55 quattro with Digital Matrix LED headlights. *Id.* But the complaint alleges no plausible facts explaining why any *Volkswagen* product infringes the ’803 patent. Instead, Longhorn’s mapping pertains exclusively to this one nonparty vehicle. *See id.* ¶¶ 24-27. Longhorn takes the same approach for each patent in-turn.

For the ’002 patent, Longhorn accuses “Volkswagen Car-Net and Audi Connect, included in vehicles, in all trims and configurations, including the Accused Vehicles,” *id.* ¶¶ 35-36, but it maps claim elements of the ’002 patent to only the Audi Connect System and the myAudi app

allegedly found in an unspecified model year of an Audi A8 vehicle, *id.* ¶¶ 37-41. Longhorn never maps Volkswagen Car-Net to the claims. *See id.* ¶¶ 35-41.

For the '238 patent, Longhorn accuses all “VW and Audi vehicles with direct injection engines”—i.e., all direct injection engines across all time. Dkt. 1 ¶ 50. Rather than support this plenary claim, Longhorn maps the patent only to Audi’s FSI Direct Injection engine allegedly installed in an unnamed model year of an Audi Q7 vehicle. *Id.* ¶¶ 50-54. Again, Longhorn maps no Volkswagen vehicle to the claims.

Longhorn accuses the Volkswagen IQ.Drive and Audi Pre Sense driver assistance systems of infringing the '353 patent, but it maps the patent only to a Central Driver Assistance Controller of an Audi A8. *Id.* ¶¶ 62-70. Longhorn provides no specific allegations for any Volkswagen system, component, or vehicle.

Lastly, Longhorn maps infotainment and navigation systems from an Audi A3 vehicle in its allegations for the '192 patent, but makes no specific allegations against any Volkswagen vehicle. *See id.* ¶¶ 79-85.

All of Longhorn’s specific direct infringement allegations thus collapse because they pertain to a nonparty rather than the named defendant, Volkswagen. Indeed, the materials cited in Longhorn’s complaint underscore this disjunction:

ABOUT AUDI OF AMERICA

Audi of America, Inc. and its U.S. dealers offer a full line of German-engineered luxury vehicles. **AUDI AG is among the most successful luxury automotive brands, delivering about 1.845 million vehicles globally in 2019.** In the U.S., Audi of America sold just over 224,000 vehicles in 2019 and launched the brand’s first fully electric vehicle, the Audi e-tron – one of four fully electric models coming to the U.S. market in the next two years. Globally, the brand aims to be CO2 neutral by 2050. Visit [audiusa.com](https://www.audiusa.com) or media.audiusa.com for more information regarding Audi vehicles and business topics.

Ex. G at 2 (highlighting added).

Because Longhorn's nonparty allegations do not plausibly state a claim against Volkswagen, what remains are scattered legal conclusions alleging that Volkswagen vehicles infringe the asserted patents. *See* Dkt. 1 ¶ 23 (accused vehicles "that include LED headlights" infringe the '803 patent), ¶ 36 (vehicles with "Volkswagen Car-Net and Audi Connect" infringe the '002 patent), ¶ 50 ("VW and Audi vehicles with direct injection engines" infringe the '238 patent), ¶ 63 (vehicles with "Volkswagen IQ.Drive and Audi Pre Sense" infringe the '353 patent), and ¶ 79 ("products that include the infotainment and navigations systems" infringe the '192 patent). Such conclusions amount to no more than "reciting the claim elements and merely concluding that the accused product[s] [have] those elements." *Bot M8*, 4 F.4th at 1353. This sparse approach fails under Rule 8(a). *See Chapterhouse*, 2018 WL 6981828, at *2 ("a mere conclusory statement" on its own cannot "pass the *Iqbal/Twombly* standard"). Longhorn's direct infringement claims should be dismissed.

B. Longhorn's Allegations Against Audi Vehicles Do Not Plead Plausible Facts to Satisfy Material Claim Elements

Even if Longhorn's failure to specifically accuse Volkswagen vehicles could be overlooked, additional flaws warrant dismissal. For the '803, '002, and '238 patents, Longhorn omits factual allegations suggesting that the accused products meet material claim elements. A plaintiff must plead "factual allegations that, when taken as true, articulate why it is plausible that the accused product infringes the patent claim." *Bot M8*, 4 F.4th at 1353. Because Longhorn does not, as explained below, its direct infringement claims for the '803, '002, and '238 patents should be dismissed for this additional reason. *See, e.g., Metricolor LLC v. L'Oreal S.A.*, 791 F. App'x 183, 188 (Fed. Cir. 2019) (affirming dismissal of infringement claims when nothing in complaint showed accused products contain material claim elements).

1. Longhorn Identifies No Condenser Lens for the '803 Patent

Longhorn fails to plausibly allege that the accused Audi headlight contains the claimed “condenser lens.” Longhorn asserts claim 15 of the '803 patent, which requires “a condenser lens located between the light source and the cluster of lenses.” '803 patent, 6:62-65. In its complaint, Longhorn maps the claimed “condenser lens” to both a “primary optic mirror,” and simultaneously, to a “projector lens of the two-light system within one headlight”:

27. The Audi e-tron Sportback 55 quattro comprises a condenser lens (e.g., a primary optic mirror) located between said light source (e.g., LEDs) and said cluster of lenses, the condenser lens (e.g., a projector lens of the two-light system within one headlight) concentrating light from each of the plurality of emitters towards a center of the cluster of lenses:

Dkt. 1 ¶ 27 (highlighting added).

This pleading is implausible for several reasons. First, a mirror is not a lens. Every eyeglass wearer knows this—replacing their lenses with mirrors would show them their own eyes. Second, Longhorn inconsistently identifies the supposed condenser lens: the primary optic mirror or the projector lens. Further, Longhorn alleges the projector lens is also the claimed “cluster of lenses”—an entirely different claim element. *See id.* ¶ 26; '803 patent, 6:56-61. This cannot satisfy the claim limitation because the claimed condenser lens must be “located between [the] light source and [the] cluster of lenses.” '803 patent, 8:22-26. Under Longhorn’s reading, the claimed condenser lens and the cluster of lenses are *both* mapped to the projector lens, making it impossible for the accused condenser lens to be located *between* the light source and the cluster of lenses. Longhorn’s inconsistent and contradictory infringement allegations for the '803 patent are implausible and should be dismissed. *See Bot M8*, 4 F.4th at 1354 (“Where, as here, the factual allegations are actually inconsistent with and contradict infringement, they are likewise insufficient to state a

plausible claim”); *see also Mora v. Univ. of Tex. Sw. Med. Ctr.*, 469 F. App’x 295, 299 (5th Cir. 2012) (finding claim “implausible on its face” when it is “contra[di]cted by other facts alleged in the complaint.”); *Qwikcash, LLC v. Blackhawk Network Holdings, Inc.*, No. 4:19-CV-876, 2020 WL 6781566, at *4 (E.D. Tex. Nov. 17, 2020) (“[G]iven irreconcilable internal inconsistencies on the face of its pleading—Qwikcash’s claim of direct infringement is patently implausible”).

2. Longhorn Inconsistently Maps Communication Protocols and Monitoring Units for the ’002 Patent

Longhorn inconsistently maps claim elements for the ’002 patent. Asserted claim 15 requires a “plurality of monitoring units [that] comprise[] at least one complex monitoring unit and at least one basic monitoring unit.” ’002 patent, 16:18-20. But Longhorn’s complaint accuses a mishmash of systems. In paragraph 39, Longhorn identifies an Audi Connect Server Platform as the “complex monitoring unit” and the MyAudi app as the “basic monitoring unit”:

39. The Audi A8 comprises a plurality of monitoring units configured to communicate with at least one interface unit using a first protocol, wherein the at least one interface unit is communicably connected to a distributed control system, and the at least one interface unit is further configured to receive data values from the distributed control system using a second protocol; wherein the plurality of monitoring units comprises at least one complex monitoring unit (e.g., the Audi Connect Server Platform) and at least one basic monitoring unit (e.g., the myAudi app with remote services):

Dkt. 1 ¶ 39; *see also id.* ¶¶ 40-41. But in the preceding paragraph, Longhorn identifies the myAudi app and the Audi Multimedia Interface (MMI) as the plurality of monitoring units:

38. The Audi A8 comprises a plurality of monitoring units (e.g., the my Audi app and the Audi Multimedia Interface (MMI)) configured to communicate with at least one interface unit (e.g., the telematics control unit (TCU)) using a first protocol (e.g., a cellular network), wherein

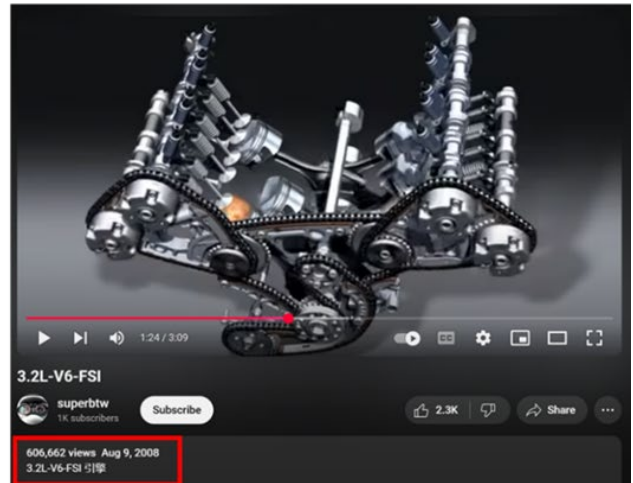
Id. ¶ 38. These inconsistent mappings fail to present a plausible infringement theory. Such pleadings warrant dismissal. *See Grecia v. Walgreen Co.*, No. 18 C 1848, 2018 WL 7858007, at *3 (N.D. Ill. Dec. 14, 2018), *aff'd* 785 F. App'x 876 (Fed. Cir. 2019) (dismissing direct infringement claim where plaintiff made inconsistent mappings, finding plaintiff “cannot make up his mind about what part meets” what claim element); *Van De Vliert v. Tam Int'l, Inc.*, No. 6:15-CV-135-JRG, 2015 WL 6745811, at *2 (E.D. Tex. Oct. 30, 2015) (dismissing direct infringement claim when “the Court is unable to determine whether a ‘Swellable Packer’ comprises the entire claimed system or is simply a component of the allegedly infringing system”).

3. Longhorn’s Accusations of Audi Engines for the ’238 Patent Rely on Outdated Products and Omit Material Claim Elements

Longhorn’s pleadings for the ’238 patent are implausible because they rely on Audi literature from 2006 and 2008—well outside the damages period of 35 U.S.C. § 286—and fail to allege a connection to any Volkswagen product within the statutory period. Here, Longhorn filed its complaint on November 15, 2024, and may only recover damages for acts performed after November 15, 2018. Longhorn’s complaint alleges no plausible facts that Volkswagen infringed the ’238 patent within the statutory timeframe.

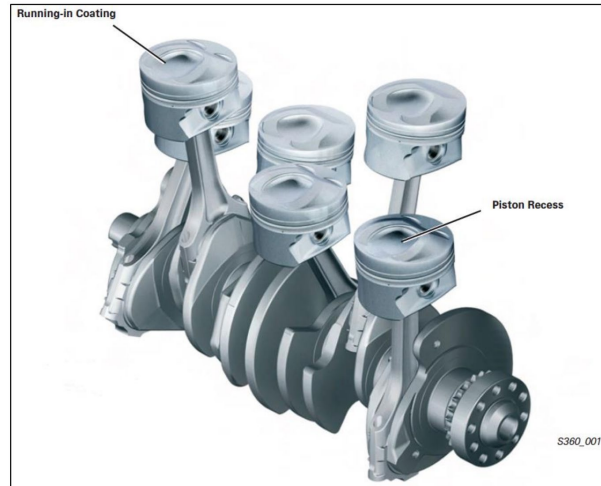
Instead, Longhorn alleges that Audi’s FSI Direct Injection engine in an unspecified model year of the Audi Q7 vehicle infringes the ’238 patent. Dkt. 1 ¶ 50. This theory is premised on screenshots from two primary sources. *See id.* ¶¶ 51-54 n.40-42, n.44-55. The first is a Service Training manual entitled “The 3.2 and 3.6 liter FSI Engine” and dated October 2006. Ex. I at 2-3 (providing a copyright date of 2006 and stating “Printed 10/2006”). The other is a YouTube video posted on August 9, 2008² (annotated red boxes added):

² <https://youtu.be/5hKKO89VbQ0?si=x1nK6-2Q-pCQqrT&t=83> (last accessed March 4, 2025).



Longhorn never alleges a link between these materials and any specific model year vehicle manufactured and sold by Volkswagen (or Audi) since 2018. The complaint therefore lacks plausible facts that Volkswagen infringed the '238 patent within the actionable damages period.

Longhorn also fails to map material claim elements in its complaint. Claim 1 of the '238 patent recites an engine piston having "a piston recess, which in a central region thereof, has an elevation extending in a cylinder head direction." '238 patent, 4:41-47. Longhorn glosses over this element, never identifying any central region of a piston recess that has an elevation extending in a cylinder head direction. *See* Dkt. 1 ¶ 53. Instead, Longhorn simply concludes that the piston "has an elevation extending in a cylinder head direction (e.g., the top of the cylinder with a recess shape)." *Id.* But the pictures Longhorn provides show no elevation, let alone one within a piston recess, and Longhorn does not identify one:



See id. ¶ 53. Claim 1 also requires a specific timing and geometry for the piston recess “so that an injection jet impinging the surface and injected as early as possible is distributed both in an elevation direction and in the recess direction” and “such that an injection jet injected as late as possible impinges onto the surface.” ’238 patent, 4:45-54. Longhorn omits any discussion of the claimed piston timing or geometry. Instead, it simply recites the claim language and adds an inapt screenshot without explanation:



Dkt. 1 ¶ 54.

Courts affirm dismissal of infringement claims when the complaint omits material claim elements. For example, in *Metricolor LLC v. L’Oreal S.A.*, a plaintiff failed to properly plead infringement when the claims required an “air-tight reclosing seal” but the complaint never

identified any “air-tight” seal and the accused product was in-fact unsealed. 791 F. App’x at 188. Likewise, in *CyboEnergy, Inc. v. Hoymiles Power Elecs. USA, Inc.*, a plaintiff failed to state a claim for direct infringement when it failed to map a system of multiple power inverters “being connected in a daisy chain” by accusing only individual inverters. No. 2:23-CV-00311-JRG, 2024 WL 1219725, at *3 (E.D. Tex. Mar. 20, 2024). The same applies here. Longhorn never identifies a piston recess, which in a central region thereof, has an elevation extending in a cylinder head direction, nor do the images in Longhorn’s complaint reveal one. And Longhorn provides nothing more than an unexplained screenshot when alleging the injection jet timing and geometry requirements. This too fails to state a claim. *See Chapterhouse*, 2018 WL 6981828, at *2 (“Plaintiff must further allege how the screenshots meet the text of the exemplary claim in order to lay out sufficient factual allegations which might permit the Court to find that the *Iqbal/Twombly* standard is met”).

Longhorn’s accusations of direct infringement for the ’238 patent are implausible and should be dismissed.

V. LONGHORN’S INDIRECT INFRINGEMENT ALLEGATIONS SHOULD BE DISMISSED

A. Longhorn’s Failure to Plead Direct Infringement Negates its Indirect Infringement Claims

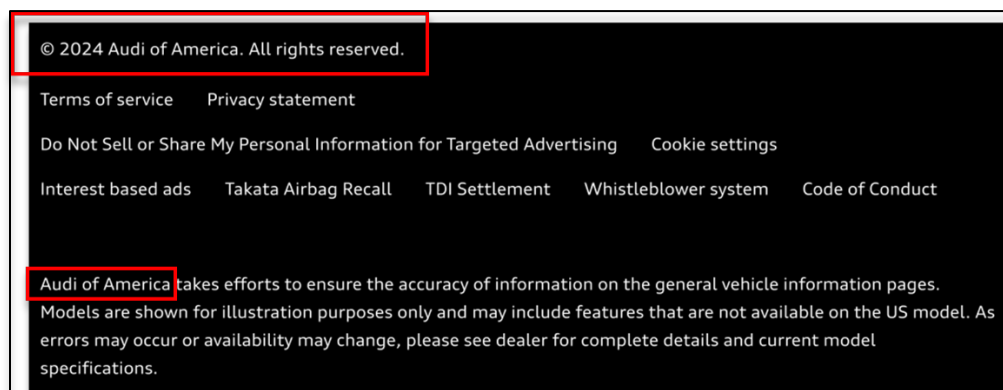
Longhorn’s indirect infringement allegations should be dismissed. Failure to plead an underlying act of direct infringement warrants dismissal of corresponding indirect infringement allegations. *See Limelight Networks, Inc. v. Akamai Techs., Inc.*, 572 U.S. 915, 921 & n.3 (2014) (explaining that “inducement liability may arise if, but only if, there is direct infringement,” and declining to distinguish contributory infringement and inducement “for these purposes” because they “spring from common stock” (cleaned up)). “It is axiomatic that there can be no inducement or contributory infringement without an underlying act of direct infringement.” *Nalco*

Co. v. Chem-Mod, LLC, 883 F.3d 1337, 1355 (Fed. Cir. 2018) (citation and internal quotation marks omitted). Because Longhorn did not plausibly allege direct infringement, *see* Section IV, its indirect infringement allegations should be dismissed.

B. Longhorn Pleads No Inducing Acts by Volkswagen, Dooming its Induced Infringement Claims

Longhorn fails to plead any affirmative action by Volkswagen to induce infringement. To properly allege induced infringement, Longhorn must plead facts showing “that the accused inducer took an affirmative act to encourage infringement with the knowledge that the induced acts constitute patent infringement.” *Astornet Techs. Inc. v. BAE Sys., Inc.*, 802 F.3d 1271, 1279 (Fed. Cir. 2015) (internal quotations and citations omitted).

Longhorn makes no plausible allegations of any inducing actions by Volkswagen. For each count, Longhorn alleges Volkswagen induces infringement “by its customers and end-users by supplying them with instructions on how to operate the infringing technology in an infringing manner, while also making publicly available information on the infringing technology via Defendant’s website, product literature and packaging, and other publications,” citing a website from audiusa.com with a repository of vehicle owner’s manuals. *See* Dkt. 1 ¶¶ 30, 44, 57, 73, 88. Again, Audi user manuals are provided by nonparty Audi, not Volkswagen. And any manuals on audiusa.com are provided by nonparty Audi of America, not Volkswagen, as that domain shows:



Ex. N at 20 (annotated). Longhorn also fails to specify what in these user manuals constitutes inducement for the asserted claims—nothing in the manuals is cited. Pleading nonspecific acts by a nonparty does not amount to pleading affirmative acts performed by Volkswagen. Longhorn’s allegations of inducement should be dismissed. *See Qwikcash*, 2020 WL 6781566, at *3-5 (dismissing claims “given irreconcilable internal inconsistencies on the face of its pleading”).

C. Longhorn’s Jurisdictional Allegation that Volkswagen “Contributed to” Infringement Does Not State a Claim of Contributory Infringement

Longhorn’s complaint never expressly alleges contributory infringement under 35 U.S.C. § 271(c). Instead, as an unexplained jurisdictional predicate, Longhorn alleges that “Defendant regularly conducts business and has committed acts of patent infringement and/or has induced acts of patent infringement by others in this Judicial District and/or *has contributed to patent infringement* by others in this Judicial District, the State of Texas, and elsewhere in the United States.” Dkt. 1 ¶ 4 (emphasis added). At best, this is a mere legal conclusion that disintegrates under *Twombly* and *Iqbal*.

Longhorn’s pleading omits elements of a contributory infringement claim, including that any accused product is a “component” forming a “material part of the invention,” that such component was “especially made or especially adapted for use in an infringement,” that such component was “not a staple article or commodity of commerce,” and that such component was not “suitable for substantial noninfringing use”—all of which are required by statute. 35 U.S.C. § 271(c). To the extent Longhorn pleads contributory infringement, its claim should be dismissed for omitting these required allegations. *NobelBiz, Inc. v. InsideSales.com, Inc.*, No. 6:13-cv-360, 2014 WL 12378804, *3 (E.D. Tex. Oct. 14, 2014) (dismissing contributory infringement claim that lacked any “factual allegation as to the possible non-infringing use of” accused product and lacked any allegation of knowledge of infringement).

D. Longhorn Pleads No Facts Alleging Pre-Suit Knowledge of The Asserted Patents

Longhorn’s presuit indirect infringement claims should be dismissed because Longhorn fails to plausibly plead Volkswagen had presuit knowledge of the asserted patents. Induced infringement under Section 271(b) requires knowledge of the existence of the patent that is infringed. *See Commil USA*, 575 U.S. at 640 (liability under Section 271(b) “can only attach if the defendant knew of the patent and knew as well that ‘the induced acts constitute patent infringement’”) (quoting *Global-Tech Appliances, Inc. v. SEB S.A.*, 563 U.S. 754, 766 (2011)). Contributory infringement under Section 271(c) also requires such knowledge. *Global-Tech*, 563 U.S. at 764. Longhorn does not allege that Volkswagen had actual presuit notice of any of the asserted patents. *See generally*, Dkt. 1. Instead, Longhorn attempts to plead presuit knowledge vis-à-vis a theory of willful blindness. *See id.* ¶¶ 29, 43, 56, 72, and 87 (alleging “Defendant has adopted a policy of not reviewing the patents of others, including specifically those related to Defendant’s specific industry, thereby remaining willfully blind to the Patents-in-Suit at least as early as the issuance of the Patents-in-Suit”).

But Longhorn does not allege a plausible claim of willful blindness. “To plead willful blindness, a plaintiff must plausibly plead that the defendant (1) subjectively believed that there is a high probability that a fact exists and (2) took deliberate action to avoid learning of that fact.” *Dialect, LLC v. Bank of Am., N.A.*, No. 2:24-CV-00207-JRG, 2024 WL 4980794, at *3 (E.D. Tex. Dec. 4, 2024) (citing *Global-Tech*, 563 U.S. at 768). Longhorn does not allege Volkswagen subjectively believed that the asserted patents existed or that it believed any Volkswagen product infringed prior to this lawsuit. Longhorn’s accusations instead generally concern “the patents of

others, including,” those “related to Defendant’s specific industry.”³ Dkt. 1 ¶¶ 29, 43, 56, 72, 87. This pleading is silent as to any subjective belief by Volkswagen of the existence of the asserted patents or Volkswagen’s knowledge of infringement.

Moreover, Longhorn does not allege that Volkswagen took deliberate action to avoid learning of the existence of the asserted patents. Longhorn’s vagaries that Volkswagen does not review “the patents of others” are untethered to the asserted patents and not a specific act of willfully blind conduct. Indeed, under Longhorn’s theory, Volkswagen would presumably be willfully blind to *any* patent not owned by Volkswagen. Such a theory eviscerates the standard set out in *Global-Tech*. See 563 U.S. at 769-70 (distinguishing reckless and negligent actions from willful blindness) (“a willfully blind defendant is one who takes deliberate actions to avoid confirming a high probability of wrongdoing and who can almost be said to have actually known the critical facts.”). Accordingly, Longhorn’s claims for presuit indirect infringement should be dismissed. See *Dialect*, 2024 WL 4980794, at *3 (dismissing presuit induced and contributory infringement for failure to plead willful blindness); *Signode Indus. Grp. LLC v. Samuel, Son & Co.*, No. 2:24-CV-00080-JRG, 2024 WL 3543408, at *4 (E.D. Tex. July 25, 2024) (same).

VI. LONGHORN FAILS TO STATE A CLAIM OF PRESUIT DAMAGES

A. Longhorn Does Not Adequately Plead Compliance with 35 U.S.C. § 287

All presuit damages should be dismissed because Longhorn does not plead plausible facts demonstrating compliance with 35 U.S.C. § 287. Pleading compliance with § 287 is a patentee’s burden. *Arctic Cat I*, 876 F.3d at 1366. This burden includes alleging compliance by the patentee’s licensees. See *Arctic Cat II*, 950 F.3d at 864; *Arctic Cat I*, 876 F.3d at 1366. Longhorn’s burden

³ Indeed, it is hard to understand how several of the asserted patents are even tangentially related to the automotive industry. The ’803 patent, for example, relates to interactive advertisement displays placed in shopping malls, and the ’353 patent relates to medical imaging of patients.

applies to all asserted patents here because each of the asserted patents includes system or apparatus claims. *See Am. Med. Sys., Inc. v. Med. Eng'g Corp.*, 6 F.3d 1523, 1538–39 (Fed. Cir. 1993).⁴ Claims for past damages in complaints lacking adequate allegations of marking compliance are dismissed. *See, e.g., Lans*, 252 F.3d at 1328 (affirming dismissal); *VDPP, LLC v. Volkswagen Grp. of Am., Inc.*, No. 4:23-CV-2961, 2024 WL 1313899, at *5 (S.D. Tex. Mar. 27, 2024) (dismissal); *Ortiz & Assocs. Consulting, LLC v. VIZIO, Inc.*, No. 3:23-CV-00791-N, 2023 WL 7184042, at *3 (N.D. Tex. Nov. 1, 2023) (dismissal); *Sunless, Inc. v. Selby Hldgs., LLC*, No. 3:20-cv-00930, 2021 WL 3513871, at *5 (M.D. Tenn. Aug. 10, 2021) (dismissal); *PLC Trenching Co., LLC v. IM Servs. Grp., LLC*, No. 1:20-cv-00602, 2021 WL 3234590, at *10 (D. Idaho July 29, 2021) (dismissal); *e-Watch*, 2013 WL 5231521, at *3; *see also Express Mobile, Inc. v. Liquid Web, LLC*, No. 1:18-cv-01177, 2019 WL 1596999, at *2 (D. Del. Apr. 15, 2019) (“A claim for past damages requires pleading compliance with the marking statute—even when compliance is achieved, factually, by doing nothing at all.”).

Longhorn pleads no facts demonstrating compliance with the marking statute. Longhorn’s pleading, in its entirety, states: “LAG has at all times complied with the marking provisions of 35 U.S.C. § 287 with respect to the Patents-in-Suit.” Dkt. 1, ¶ 13. This is a legal conclusion containing no facts. *See Iqbal*, 556 U.S. at 679 (“legal conclusions . . . must be supported by factual allegations”); *Papasan v. Allain*, 478 U.S. 265, 286 (1986) (“[W]e are not bound to accept as true a legal conclusion couched as a factual allegation.”). Longhorn does not allege the *form* of marking compliance (e.g., actual notice or patent marking) or the *acts* it took (if any) to comply. This hollow

⁴ While patentees need not comply with the marking statute when they assert only method claims, *see Crown Packaging Tech., Inc. v. Rexam Beverage Can Co.*, 559 F.3d 1308, 1317 (Fed. Cir. 2009), Longhorn does not limit its pleading to only method claims. *See* Dkt. 1 ¶ 63 (accusing Volkswagen of infringing “*at least claim 1* of the ’353 patent by *making, using, offering to sell, selling, and/or importing* [products] into the United States”) (emphasis added).

pleading is exactly the type courts find insufficient to state a claim for presuit damages. *See BelAir Elecs., Inc. v. Twelve S., LLC*, No. 2:22-CV-04443, 2023 WL 6388810, at *7 (D.S.C. Sept. 29, 2023) (finding pleading of “[t]o the extent required by law, [plaintiff] has complied with the provisions of 35 U.S.C. § 287” insufficient to state a claim for past damages); *Blackbird Tech LLC v. Argento SC By Sicura, Inc.*, No. 21CV11018, 2022 WL 3701084, at *2 (S.D.N.Y. Aug. 26, 2022) (same for pleading of “[a]ll marking requirements under 35 U.S.C. § 287 have been complied with”). Longhorn’s pleading also omits allegations found sufficient in other cases based on different facts. *See, e.g., Estech Sys. IP, LLC v. Mitel Networks, Inc.*, No. 2:21-cv-00473-JRG-RSP, 2023 WL 6115252, at *7 (E.D. Tex. July 17, 2023), *report and recommendation adopted*, 2023 WL 6065865 (E.D. Tex. Aug. 2, 2023) (allowing marking allegation addressing “predecessors-in-interest” and “the full period allowed by law for infringement of the [asserted] Patent”).

Unique aspects of Longhorn’s complaint also make its conclusion of marking compliance not only factually devoid, but implausible. Each of the Asserted Patents was once owned by Intellectual Ventures, a prolific licensing entity. Exs. J-K. In addition, for example, the invention of the ’803 patent was previously owned by Reactrix Systems, Inc., a company that manufactured digital advertising displays, Ex. O (USPTO assignment record assigning ’803 patent parent application), the ’238 patent was at one time owned by Daimler AG, a well-known manufacturer of automobiles, ’238 Patent, (Field (73) Assignee), and the ’192 patent was formerly owned by Leigh Rothschild, another well-known inventor and patent litigator, ’192 patent, (Field (76) Inventor). Longhorn pleads nothing about whether any of these former owners, or their licensees, complied with the marking statute. *Cf. Estech*, 2023 WL 6115252, at *7 (accounting for “predecessors-in-interest”). As the Federal Circuit explains, “it [] does not excuse [patentee’s] lack

of marking that it is [patentee's] licensee, rather than [patentee] itself, who sold unmarked products.” *Arctic Cat II*, 950 F.3d at 864. Under the circumstances here, where the asserted patents originate from several known manufacturing or licensing entities, it is not plausible to conclude, without any facts, that every owner and licensee has complied with 35 U.S.C. § 287. Indeed, Longhorn’s complaint does not even attempt to make such an allegation. Insofar as Longhorn alleges presuit marking compliance, such a claim should be dismissed for lacking any factual allegations and being implausible on this record.

B. If Longhorn’s Marking Allegation is Accepted, it Still Fails to State a Claim Before October 6, 2023, When it Acquired the Asserted Patents

Even if accepted, Longhorn’s marking allegation is limited to Longhorn’s own actions. *See* Dkt. 1 ¶ (“*LAG* has at all times complied”) (emphasis added). Longhorn acquired the asserted patents on October 6, 2023. Ex. L at 1-4, 6 (annotated). Accordingly, even if Longhorn’s conclusory allegations were sufficient, they allege marking compliance only as of October 6, 2023. Longhorn does not allege marking compliance by itself before this time. Because Longhorn pleads no plausible facts demonstrating compliance with 35 U.S.C. § 287 before October 6, 2023, its claim for damages in that period should be dismissed. *See Seoul Semiconductor Co. v. Finelite, Inc.*, No. 22-CV-02869, 2023 WL 7106480, at *3 (N.D. Cal. Jan. 27, 2023) (partially dismissing presuit damages for portion of presuit damages period); *see also cf. Morrison v. Haughton*, No. 6:21-cv-41, 2021 WL 3190576, at *1 (E.D. Tex. July 28, 2021) (dismissing portion of presuit liability based on statute of limitations); *Thomas v. Standard Fire Ins. Co.*, No. 2:11-CV-00462-JRG, 2012 WL 3242226, *3 (E.D. Tex. Aug. 7, 2012) (same).

VII. CONCLUSION

For the foregoing reasons, Volkswagen respectfully requests that the Court dismiss Longhorn’s complaint.

Dated: April 4, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on April 4, 2025, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3).

/s/ Eric H. Findlay
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