

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

STATE OF OHIO, <i>ex rel.</i>)	
MICHAEL DEWINE)	CASE NO.
ATTORNEY GENERAL OF OHIO)	
30 E. Broad St., 14 th Floor)	JUDGE
Columbus, Ohio 43215)	
)	
Plaintiff,)	
)	
v.)	
)	
VOLKSWAGEN AG,)	COMPLAINT FOR
Brieffach 1849)	DECLARATORY JUDGMENT,
38436 Wolfsburg)	INJUNCTIVE RELIEF,
Germany)	CONSUMER RESTITUTION,
)	AND CIVIL PENALTIES
AUDI AG,)	
Auto-Union-Strasse 1)	
85045 Ingolstadt)	
Germany)	
)	
VOLKSWAGEN GROUP OF AMERICA, INC.)	
(D/B/A VOLKSWAGEN OF AMERICA, INC.)	
OR AUDI OF AMERICA, INC.),)	
2200 Ferdinand Porsche Drive)	
Herndon, Virginia 20171)	
)	
AUDI OF AMERICA, LLC,)	
2200 Ferdinand Porsche Drive)	
Herndon, Virginia 20171)	
)	
VOLKSWAGEN GROUP OF AMERICA)	
CHATTANOOGA OPERATIONS, LLC,)	
2200 Ferdinand Porsche Drive)	
Herndon, Virginia 20171)	
)	
DR. ING. H.C. F. PORSCHE AG,)	
Porscheplatz 1)	
70435 Stuttgart)	
Germany)	
)	
AND)	
)	

1. The State of Ohio (the “State”), by and through its Attorney General, Michael DeWine, brings this action against defendants Volkswagen AG, Audi AG, Volkswagen Group of America, Inc. (d/b/a Volkswagen of America, Inc. or Audi of America, Inc.), Audi of America, LLC, and Volkswagen Group of America Chattanooga Operations LLC (collectively, “Volkswagen”), and Dr. Ing. h.c. F. Porsche AG and Porsche Cars North America, Inc. (together, “Porsche,” and Porsche and Volkswagen collectively, “Defendants”) pursuant to the R.C. 1345.01 et seq. and its Substantive Rules, O.A.C. 109:4-3-01 et seq., to obtain consumer restitution, civil penalties, and appropriate injunctive and equitable relief for defendants’ marketing, advertising, distribution, sale and lease of certain 2.0- and 3.0-liter diesel passenger vehicles (“the Subject Vehicles”)¹ containing undisclosed software allegedly intended to circumvent federal and state emissions standards. During the 2009-2016 model years, Defendants introduced more than 573,000 of the Subject Vehicles into commerce nationwide, including approximately 14,000 in Ohio.
2. In particular, the Defendants represented the Subject Vehicles as “Clean Diesel,” and further claimed they had low emissions and complied with state and federal emissions

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standards, including for emissions of nitrogen oxides (“NO_x”), were environmentally friendly, and retained a high resale value.

3. In fact, these representations were false and misleading in light of the Defendants’ installation in the Subject Vehicles of undisclosed, illegal software (“Defeat Devices”) in the Subject Vehicles’ electronic control modules designed to defeat or cheat the emissions testing regime. These Defeat Devices *increase* emissions controls during legally required emissions tests in order to bring NO_x emissions within legal limits and *decrease* emissions controls during regular driving, in order to conceal defects in the emissions systems’ design and manufacture and reduce wear on various engine components that would otherwise fail prematurely. As a result of the Defeat Devices, the Subject Vehicles spew NO_x emissions of up to 40 times the legal limits in real world driving.

II. JURISDICTION AND VENUE

4. Plaintiff, State of Ohio, by and through the Attorney General of Ohio, Michael DeWine, having reasonable cause to believe that violations of Ohio’s consumer laws have occurred, brings this action in the public interest and on behalf of the State of Ohio under the authority vested in him by R.C. 1345.07.
5. This Court has jurisdiction over the subject matter of this action, personal jurisdiction over the Defendants and authority to grant the relief requested pursuant to R.C. 1345.04.
6. Venue lies in this Court pursuant to Ohio Civ. R. 3(B).
7. The Defendants transacted business in Ohio through at least 20 car dealerships. In addition, Defendants marketed and advertised the Subject Vehicles through print and electronic media disseminated throughout Ohio.

8. At all relevant times, the Defendants have purposefully availed themselves of this forum.

III. DEFENDANTS

9. Volkswagen AG is a corporation organized under the laws of Germany, is the parent corporation of Audi AG and Volkswagen Group of America, Inc., and has its principal place of business in Wolfsburg, Germany.
10. Audi AG is a corporation organized under the laws of Germany, has its principal place of business in Ingolstadt, Germany, and 99.55% of its stock is owned by Volkswagen AG.
11. Volkswagen Group of America, Inc. (“VWGoA”) is a corporation organized under the laws of the State of New Jersey, with its principal place of business located at 2200 Ferdinand Porsche Drive, Herndon, Virginia. Audi of America, Inc. is an operating unit of Volkswagen Group of America, Inc.
12. Audi of America, LLC is a Delaware limited liability company and a wholly-owned subsidiary of Volkswagen Group of America, Inc., with its principal place of business located at 2200 Ferdinand Porsche Drive, Herndon, Virginia.
13. Volkswagen Group of America Chattanooga Operations, LLC (“VW Chattanooga”) is a Tennessee limited liability company and a wholly-owned subsidiary of Volkswagen Group of America, Inc., with its automotive manufacturing activities and principal place of business in Chattanooga, Tennessee.

14. Dr. Ing. h.c. F. Porsche d/b/a Porsche AG is a corporation organized under the laws of Germany, has its principal place of business in Stuttgart, Germany, and is an indirect wholly owned subsidiary of Volkswagen AG.
15. Porsche Cars North America, Inc. is a Delaware corporation that has its principal place of business at One Porsche Drive, Atlanta, Georgia.

IV. FACTS

A. The Defendants Acted in Concert to Violate Consumer Laws and Make Extensive Misrepresentations to Regulators and Consumers.

16. The Subject Vehicles include the following makes and models sold or leased in the United States for the 2009 through 2016 model years (“MY”):

2.0 Liter Diesel Models

Model Year	EPA Test Group	Vehicle Make and Model(s)
2009	9VWXV02.035N 9VWXV02.0U5N	VW Jetta, VW Jetta Sportwagen
2010	AVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2011	BVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2012	CVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2013	DVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2014	EVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen
2012 2013 2014	CVWXV02.0U4S DVWXV02.0U4S EVWXV02.0U4S	VW Passat
2015	FVGAV02.0VAL	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportwagen, VW Jetta, VW Passat, Audi A3

3.0 Liter Diesel Models

Model Year	EPA Test Groups	Vehicle Make and Model(s)
2009	9ADXT03.03LD	VW Touareg, Audi Q7
2010	AADXT03.03LD	VW Touareg, Audi Q7
2011	BADXT03.02UG BADXT03.03UG	VW Touareg Audi Q7
2012	CADXT03.02UG CADXT03.03UG	VW Touareg Audi Q7
2013	DADXT03.02UG DADXT03.03UG DPRXT03.0CDD	VW Touareg Audi Q7 Porsche Cayenne Diesel
2014	EADXT03.02UG EADXT03.03UG EPRXT03.0CDD EADXJ03.04UG	VW Touareg Audi Q7 Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5
2015	FVGAT03.0NU2 FVGAT03.0NU3 FPRXT03.0CDD FVGJ03.0NU4	VW Touareg Audi Q7 Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5
2016	GVGAT03.0NU2 GPRXT03.0CDD GVGAJ03.0NU4	VW Touareg Porsche Cayenne Diesel Audi A6 Quattro, A7 Quattro, A8L, Q5

17. To sell the Subject Vehicles in the United States, Defendants applied for and obtained Certificates of Conformity from the Environmental Protection Agency (“EPA”) and Executive Orders from the California Air Resources Board (“CARB”). In those applications, Defendants were required to, among other things, disclose all auxiliary emissions control devices (“AECDs”) on the vehicles, *i.e.*, any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system. For each such AECD, Defendants were required to provide: a written, detailed justification; the parameters it senses and controls; and a rationale for why the AECD is not a Defeat Device.

18. Defendants installed Defeat Devices in all the Subject Vehicles distributed, sold and leased in the United States, including in Ohio.
19. The Defeat Devices enable the Subject Vehicles' Electronic Control Modules to detect when the vehicles are being driven on the road, rather than undergoing laboratory emissions testing on a dynamometer. When the Defeat Device detects the vehicles are being driven on the road, it renders certain emission control systems in the Subject Vehicles inoperative, resulting in emissions that exceed EPA-compliant and CARB-compliant levels by as much as 40 times. In contrast, during dynamometer testing, the Defeat Devices' software increases emissions controls and reduce NO_x emissions to legally-compliant levels.
20. The Defendants never disclosed the existence of these Defeat Devices to regulators, either in their applications for Certificates of Conformity or applications for Executive Orders, and never disclosed the existence of the Defeat Devices to consumers in their marketing and advertising materials.
21. To the contrary, from 2009 through 2015, the Defendants broadly disseminated Internet, television and print ads advertising the fuel efficiency, performance and environmental benefits of the Subject Vehicles, so as to rebrand diesel as a clean-running, fuel-efficient, fun alternative to their gas and hybrid competitors and to associate the Volkswagen and Audi brands with progressive ideals, environmental or "green" consciousness and innovation. Porsche included in certain of its advertising references to "clean diesel technology."

B. Volkswagen Misled Consumers by Promising “Green” “Clean Diesel” Cars.

22. To induce American consumers to purchase the Subject Vehicles, Volkswagen spent tens of millions of dollars on widely-disseminated advertising to convey “diesel’s environmental and economic advantages.”
23. According to Volkswagen’s marketing strategy materials, one of the “key messages” it intended to convey through the word “clean” was that Clean Diesel vehicles produce “NO_x emissions [that are] reduced by 95 percent[.]”

i. Volkswagen made false, unfair, deceptive, and misleading statements in its advertising.

24. Commercial videos lampooned as “old wives’ tales” the notion that diesel was dirty and noxious. “[Diesel] used to be dirty,” says one character, “but this is 2015.” A character places her scarf against the exhaust of a diesel and states, “see how clean it is!” The ad concludes with a statement, “Like really clean diesel.”
25. Separate commercials, including multiple commercials aired during Super Bowls, touted the Volkswagen Jetta TDI and Audi A3 TDI as “Green Car of the Year.”
26. A commercial for the Audi A3 TDI depicted the TDI engine as efficient, high performing, and therefore a “more fun” alternative to forms of green transportation such as cycling, bio-diesel, and public transit.
27. Marketing brochures likewise contained misstatements about the effectiveness of the emissions control systems. A brochure for the MY 2015 A3, for example, featuring Audi’s slogan “Truth in Engineering” contained the following misleading claim about the A3’s NO_x reduction technology: “[w]ith innovative diesel particulate filters and the nontoxic AdBlue reducing agent, we eliminate up to 95% of diesel NO_x emissions.”

28. Print ads featuring tag-lines like “This ain’t your daddy’s diesel,” “Diesel has really cleaned up its act” and “Di*sel - it’s no longer a dirty word” were geared toward rebranding diesel as a clean and fun alternative to Volkswagen and Audi’s gasoline and hybrid competitors.
29. These ads promised consumers not only a “clean” car, but one that was higher performing, more “fun” to drive and more fuel efficient than non-diesel options.
30. Volkswagen also claimed in advertising that its Clean Diesel models typically retain a higher resale value than similar gasoline vehicles.
31. Volkswagen disseminated these advertisements and marketing materials throughout the United States, including in the State of Ohio.

ii. The Defendants made false representations and warranties to buyers and lessees.

32. In addition to promoting sales through its deceptive advertising campaigns, Defendants made additional misrepresentations to actual and potential buyers and lessees at the point of sale and after.
33. Window stickers affixed to each of the Subject Vehicles for sale or lease reflected average “smog ratings” when, in fact, the Subject Vehicles’ NO_x emissions—a major factor in smog ratings—actually exceeded applicable standards by as much as 40 times.
34. Warranty materials provided to original and subsequent purchasers or lessees warranted to each “that every [Subject Vehicle] . . . was designed, built and equipped so as to conform at the time of sale with all applicable regulations of the United States Environmental Protection Agency[.]” This express warranty was false in light of the installation of the Defeat Devices.

35. Through its advertising, public statements, and selling and leasing of cars, Volkswagen also represented to consumers that its Subject Vehicles were durable, well-engineered vehicles that would retain a high resale value.

iii. The Defendants continued to deceptively market the Subject Vehicles despite evidence that they exceeded legal emissions standards.

36. In spring 2014, West Virginia University's Center for Alternative Fuels, Engines & Emissions published a report commissioned by the International Council on Clean Transportation (the "ICCT Report") concerning real world emissions of several light duty diesel vehicles, which found that two Volkswagen vehicle models contained levels of NOx higher than legal emissions limits during real world driving.
37. Through 2014 and 2015, CARB, EPA, and Volkswagen were communicating regularly regarding possible causes of the excess emissions identified in the ICCT Report. According to CARB, those discussions "culminated in VW's [September 3, 2015] admission to CARB and EPA staff that it has, since model year 2009, employed a Defeat Device to circumvent CARB and the EPA emission test procedures" in model year 2009-2015 diesel light duty vehicles with 2.0 liter engines, such that the vehicles did not comply with emissions standards. In November 2015, CARB issued a press release reporting that in a November 19, 2015 meeting with EPA and CARB, "VW and AUDI told EPA and CARB that the issues raised in the In-Use Compliance letter extend to all 3.0 liter diesel engines from model years 2009 through 2016."
38. Throughout this period, Volkswagen continued to market and advertise the Subject Vehicles as producing low emissions, complying with emissions standards, being environmentally friendly, and having a high resale value.

C. Volkswagen's Deceptive Environmental Message Resonated with Buyers and Lessees of the Subject Vehicles Who Sought to Help the Environment, Not Unlawfully Pollute It.

39. Consumers purchased and leased Subject Vehicles based on Volkswagen's false and misleading representations that the vehicles would be environmentally friendly and clean, fuel-efficient, EPA-compliant, and would provide superior performance. Purchasers were willing to pay thousands of dollars in price premiums for the Subject Vehicles, depending on the model and trim packages.
40. These purchasers have suffered pecuniary damages as a result of Volkswagen's deception, namely: the premium price they paid for their Subject Vehicles; the significant loss of resale value the Subject Vehicles have suffered since the Defeat Device scandal broke; and the anticipated losses of fuel efficiency and performance, post-recall.
41. Consumers who leased Subject Vehicles have also suffered pecuniary damages as a result of Volkswagen's deception, namely: diminution in the value of their leases; costs associated with termination of leases no longer wanted; and the anticipated losses of fuel efficiency and performance, post-recall.
42. Volkswagen's advertising, sale and lease of Subject Vehicles containing undisclosed and hidden Defeat Devices was [unfair and] deceptive and has caused owners and lessees to suffer pecuniary loss.
43. As a direct result of the disclosure of Volkswagen's "clean diesel" misrepresentation the Subject Vehicles have decreased in value, continue to decrease in value, and appear to be largely unsalable because many consumers do not want to own and drive cars that emit higher than expected or advertised amounts of NO_x.

44. The diminution in value of the Subject Vehicles has also exposed those who bought them with financing to carrying loans that now have balances greater than the values of the Subject Vehicles, or to having substantially reduced equity in the Subject Vehicles.
45. Volkswagen's "clean diesel" misrepresentations have also exposed those who leased Subject Vehicles to a substantial diminution of value of their leases.

V. CAUSES OF ACTION

**COUNT I:
UNFAIR AND DECEPTIVE ACTS AND PRACTICES**

46. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Forty-Five (1-45) of this Complaint.
47. Defendants committed unfair and deceptive acts or practices in connection with consumer transactions in violation of the CSPA, R.C. 1345.01(A) and R.C. 1345.02(B)(1), by representing that the subject of a consumer transaction has sponsorship, approval, performance characteristics, accessories, uses, or benefits that it does not have.
48. Defendants committed unfair and deceptive acts or practices in connection with consumer transactions in violation of the CSPA, R.C. 1345.01(A) and R.C. 1345.02(B)(2), by representing that the subject of a consumer transaction is of a particular standard, quality, grade, style, prescription, or model, if it is not.
49. Defendants engaged in unfair and or deceptive acts or practices in in violation of the CSPA as set forth in paragraphs 47 and 48 above, by and without limitation:
 - a. Selling, leasing and offering for sale or lease vehicles that failed to comply with applicable state emissions, certification and/or other regulatory standards;

- b. Falsely and deceptively advertising, promoting and warranting the Subject Vehicles as complying with applicable state emissions, certification and/or other regulatory standards;
 - c. Falsely and deceptively advertising, promoting and warranting the Subject Vehicles as “clean” and “green” despite the fact that, in regular driving, they emit NO_x at between five and forty times the allowable amounts;
 - d. Falsely and deceptively advertising, promoting and warranting the Subject Vehicles by failing to disclose that certain performance measures could only be met when the Defeat Devices were operating;
 - e. Failing to disclose and/or actively concealing from consumers the existence of the Defeat Devices, their harmful environmental impact, and the fact that they were illegal to sell, lease or otherwise place into commerce in Ohio;
 - f. Falsely and expressly warranting to each buyer and lessor of a Subject Vehicle that the vehicle was designed, built and equipped to conform at the time of sale to applicable state emissions standards and other applicable state environmental standards;
 - g. Issuing misleading recalls and/or service actions that failed to provide owners and lessors of the Subject Vehicles with a clear description of the defect being serviced and/or
50. Such acts and practices have been previously determined by Ohio courts to violate the CSPA, R.C. 1345.01 et seq. Defendants committed said violations after such decisions were available for public inspection pursuant to R.C. 1345.05(A)(3).

COUNT 2:
NONCOMPLIANCE WITH MOTOR VEHICLE ADVERTISING RULE

51. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in Paragraphs One through Forty-Five (1-45) of this Complaint.
52. Defendants committed unfair and deceptive acts or practices in connection with consumer transactions in violation of the CSPA, R.C. 1345.01(A), and O.A.C. 109:4-3-16(B)(3) by using a statement, layout, or illustration in any advertisement or sales presentation which could create in the mind of a reasonable consumer a false impression as to any material aspect of said advertised or offered vehicle.
53. Defendants engaged in unfair and or deceptive acts or practices in in violation of the CSPA as set forth in paragraph 52 above, by and without limitation:
- a. Falsely and deceptively advertising, promoting and warranting the Subject Vehicles as complying with applicable state emissions, certification and/or other regulatory standards;
 - b. Falsely and deceptively advertising, promoting and warranting the Subject Vehicles as “clean” and “green” despite the fact that, in regular driving, they emit NO_x at between five and forty times the allowable amounts;
 - c. Failing to disclose and/or actively concealing from consumers the existence of the Defeat Devices, their harmful environmental impact, and the fact that they were illegal to sell, lease or otherwise place into commerce in Ohio; and/or
 - d. Falsely and expressly warranting to each buyer and lessor of a Subject Vehicle that the vehicle was designed, built and equipped to conform at the time of sale to applicable state emissions standards and other applicable state environmental standards.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

- A. ISSUE A DECLARATORY JUDGMENT that each act or practice complained of herein violates the CSPA, R.C. 1345.01 et seq. and its Substantive Rules, Ohio Admin. Code 109:4-3-01 et seq. in the manner set forth in the Complaint;
- B. ISSUE PERMANENT INJUNCTIVE RELIEF, pursuant to R.C. 1345.07, enjoining Defendants, doing business under these names, or any other name(s), their agents, partners, representatives, salespersons, employees, successors and assigns and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership or association, in connection with any consumer transaction, from engaging in the acts or practices of which Plaintiff complains and from further violating the CSPA, R.C. 1345.01 et seq. and its Substantive Rules, O.A.C. 109:4-3-01 et seq., including, but not limited to, violating the specific statutes and rules alleged to have been violated herein;
- C. ASSESS, FINE and IMPOSE upon Defendants a civil penalty of Twenty-Five Thousand Dollars (\$25,000.00) for each separate and appropriate violation described herein pursuant to R.C. 1345.07(D);
- D. ORDER Defendants liable, pursuant to R.C. 1345.07(B), for reimbursement to all consumers found to have been damaged by Defendants' unfair and deceptive acts and practices.
- E. As a means of ensuring compliance with this Court's Order and with the consumer protection laws of Ohio, ORDER Defendants, their successors or assigns, under these or any other names, to maintain in their possession and control for a period of five years all business records relating to Defendants' solicitation or effectuation of business in Ohio and to permit

the Ohio Attorney General or his representative, upon reasonable twenty-four hour notice, to inspect and/or copy any and all of said records, however stored, and further ORDER that copies of such records be provided at Defendants' expense to the Ohio Attorney General upon request of the Ohio Attorney General or his representatives;

- F. GRANT Plaintiff its costs in bringing this action;
- G. ORDER Defendants to pay all court costs associated with this matter;
- H. GRANT such other relief as the court deems to be just, equitable and appropriate.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

/s/ Melissa Wright

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