

STATEMENT

OF

CARL OLSEN

ON BEHALF OF

THE ALLIANCE OF AUTOMOBILE MANUFACTURERS

BEFORE THE:

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON
COURTS, THE INTERNET
AND INTELLECTUAL PROPERTY**

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PRESENTED BY:

Carl Olsen
Ark Design

Good afternoon. My name is Carl Olsen and I am testifying on behalf of the Alliance of Automobile Manufacturers. The Alliance is the auto industry's leading trade association representing ten manufacturers including BMW, Chrysler, Ford Motor Company, General Motors, Mazda, Mercedes Benz USA, Mitsubishi, Porsche, Toyota and Volkswagen.

When a product becomes easier to make than it is to sell, design (or style if you like) assumes paramount importance.

Bang and Olufsen, the trend-setting Danish audio/visual product manufacturers could not exist if it were not for their innovative, refined designs. Apple's success grows not only because of their technical innovations but also their design policy, which is the 'coolest' in the industry covering products, advertising, retail outlets and packaging.

The second generation Prius is sleek and aerodynamic with a strong identity. In 2007 it had impressive U.S. sales of 181,221 vehicles. Other hybrid-powered vehicles, those based on existing sedans & SUVs, had only modest sales. The reason? Their designs did not express their technical innovation – thus the price premium necessary on these hybrid vehicles was not apparent to the customer.

The 2004 Chrysler 300 with its radical exterior appearance has been a run-away sales success. About 6% of the 300's sales were captured from prestigious brands like Mercedes Benz, BMW and Lexus. Strong innovative design with details that expressed high quality spearheaded this unparalleled success story.

Designing a new vehicle is not cheap! It requires a team of well-trained talented designers working in competition, proposing a large number of creative solutions.

Each part, from headlamps to door handles, receives tender-loving-care. This methodology assists management to make rational decisions on the final appearance of a new vehicle. It costs hundreds of millions of dollars to create unique distinctive exterior designs for vehicles.

Ford Motor Company estimates the overall cost of a typical new vehicle program to be between \$500 million to \$1 billion. These investments translate into desirable jobs. Based on recent studies in Europe, it has been reported that the loss of exterior automotive design protection alone would cost upwards of 50,000 jobs.

Ford recently obtained an exclusion order from the International Trade Commission protecting seven exterior parts of the F150 pickup truck, the largest selling vehicle in America, from copy-cat foreign imports. This shows that a recognized right to protect the intellectual property embodied in exterior vehicle components exists! The ITC ruled that 7 of the 10 Ford patents were valid and infringed, thus allowing Ford to block the importation of 'copy-cat' parts from overseas manufacturers. This victory for Ford further demonstrates the focused nature of this problem and the limitations of the patent design solution.

Industrial design protection for the auto industry protects numerous high-paying design and manufacturing jobs and also the automobile industry's huge investment in the United States; is

consistent with the underlying policy goals of U.S. intellectual property law; and mirrors the intellectual property rights protection provided to auto manufacturers in Brazil, France, Germany, Japan and other countries.

Respecting intellectual property rights does not limit consumer choice. Consumers are encouraged to use re-manufactured parts, salvaged parts and even new parts having their own unique designs. Protecting the exterior appearance of a vehicle does not affect ‘customizers’ or after market companies offering products of their own designs as substitutes for OEM parts – for the simple reason that these are not exact copies of the original parts. In fact OEMs encourage such customizing because it increases consumer loyalty to the brand itself. Those seeking to weaken American IP protection do not create their own designs. They exist only to make exact copies parts of designs they did not create.

IN CONCLUSION

There is a confluence of developments that makes it imperative to have more effective protection for exterior automotive designs. Technology has made it easy and inexpensive for counterfeiters to make ‘knock-off’ products. The migration of the copy-cat industry almost entirely overseas, where cheap labor prevails, has further reduced the cost of intellectual piracy. Without protection, we are likely to see rapid growth in this immoral activity.

There is a demand that we enforce our property rights abroad; this argues for us to strengthen and enforce them here at home in the U.S. America’s manufacturing sector is under serious

threat. Without IPR protection, American manufacturers are caught in a race to the bottom against with copycat producers from low cost markets.

Can the U.S. manufacturing sector continue to survive such an exodus? Is it something that we want to encourage or do we want to take steps to discourage the blatant copying of America-designed and American-made products? Congress must not waiver in its resolve / obligation to protect the Intellectual Property Rights that exist in exterior automotive design.

I would like to close with a simple example of the double standard that some are seeking to force onto the U.S. auto industry. Let us assume a vehicle collision has occurred. Its front fenders must be replaced, its CD player and its CDs are destroyed, and a book inside the car is also lost.

Which of these items does a consumer have a right to a copy for a replacement? The answer should be none. We must be careful to ensure that IP continues to mean intellectual property – not intellectual piracy – for the American auto industry.

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