

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VOLKSWAGEN GROUP OF AMERICA, INC., and  
HYUNDAI MOTOR AMERICA,  
Petitioner,

v.

STRATOSAUDIO, INC.,  
Patent Owner

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IPR2021-00720  
Patent 9,355,405 B2

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Before JUSTIN T. ARBES, HYUN J. JUNG, and  
KEVIN C. TROCK, *Administrative Patent Judges*.

TROCK, *Administrative Patent Judge*.

JUDGMENT  
Final Written Decision  
Determining All Challenged Claims Unpatentable  
*35 U.S.C. § 318(a)*

## I. INTRODUCTION

We have authority to hear this *inter partes* review under 35 U.S.C. § 6. This Final Written Decision issues pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed herein, we determine that Volkswagen Group of America, Inc. and Hyundai Motor America (“Petitioner”) have shown by a preponderance of the evidence that claims 12–16 (the “challenged claims”) of U.S. Patent No. 9,355,405 B2 (Ex. 1001, “the ’405 Patent”) are unpatentable. *See* 35 U.S.C. § 316(e) (2018); 37 C.F.R. § 42.1(d) (2019).

### A. Procedural History

The Petition (Paper 1, “Pet.”) requested *inter partes* review of the challenged claims of the ’405 Patent. Patent Owner, StratosAudio, Inc., filed a Preliminary Response. Paper 6. Pursuant to an Order, Paper 11, Petitioner filed a Preliminary Reply, Paper 12, and Patent Owner filed a Preliminary Sur-reply, Paper 14, to address issues raised in Patent Owner’s Preliminary Response. Based upon the record at that time, we instituted *inter partes* review on all challenged claims on the grounds presented in the Petition. Paper 16 (“Institution Decision” or “Dec.”).

After institution, Patent Owner filed a Response, Paper 29 (“PO Response”), Petitioner filed a Reply, Paper 34 (“Pet. Reply”), and Patent Owner filed a Sur-reply, Paper 38 (“PO Sur-reply”).

On June 2, 2022, we granted a Motion for Joinder with IPR2021-00720 filed by Hyundai Motor America, Mazda Motor of America, Inc., Subaru of America, Inc., and Volvo Car USA, LLC in IPR2022-00224. *See* Paper 39. Pursuant to that Order, Hyundai Motor America, Mazda Motor of America, Inc., Subaru of America, Inc., and Volvo Car USA, LLC maintained a secondary role in this proceeding.

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On July 22, 2022, an oral hearing was held. A transcript of the hearing is made part of the record. *See* Paper 51.

On July 29, 2022, we issued an Order, Paper 48, terminating Mazda Motor of America, Inc. from this proceeding due to a settlement.

On September 29, 2022, we issued an Order, Paper 55, terminating Volvo Car USA, LLC from this proceeding due to a settlement.

Concurrently with this Final Written Decision we are issuing an order terminating Subaru of America, Inc., from this proceeding due to a settlement.

### *B. Related Matters*

The parties identify the following as related matters:

- *StratosAudio, Inc. v. Hyundai Motor America*, No. 20-cv-01125-ADA (W.D. Tex.);
- *StratosAudio, Inc. v. Mazda Motor of America, Inc.*, No. 20-cv-01126-ADA (W.D. Tex.).
- *StratosAudio, Inc. v. Subaru of America, Inc.*, No. 20-cv-01128-ADA (W.D. Tex.).
- *StratosAudio, Inc. v. Volvo Cars USA, LLC*, No. 20-cv-01129-ADA (W.D. Tex.).
- *StratosAudio, Inc. v. Volkswagen Group of America, Inc.*, No. 6:20-cv-1131 (W.D. Tex.);<sup>1</sup>

Pet. 1; Paper 4, 1.

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<sup>1</sup> Patent Owner identifies this proceeding as *StratosAudio, Inc. v. Volkswagen Group of America, Inc.*, No. 20-cv-01127-ADA (W.D. Tex.). Paper 4, 1. The correct case number appears to be 6:20-cv-1131-ADA. Ex. 2006, 1.

*C. The '405 Patent*

The '405 Patent relates to media advertising and associating an advertising media signal with another media signal. Ex. 1001, 1:24–26. The '405 Patent explains that it is generally desirable to associate products with specific characteristics and such associations may increase the chance that a potential customer will decide to purchase a product when the product is associated with a favorable characteristic. *Id.* at 1:28–36. In view of this, the '405 Patent states that an advertisement may be more effective if it is associated with an image of a celebrity or another media element that exhibits favorable characteristics. *Id.* at 1:36–40.

The '405 Patent describes a media enhancement system that is configured to associate a secondary media signal (e.g., an advertisement) to a primary media signal (e.g., a radio broadcast). *Id.* at 3:15–19. The '405 Patent explains that the secondary media signal may be based on the content of the primary media, user characteristics (e.g., demographic and/or geographic information), and/or third party preferences (e.g., the goals of advertisers). *Id.* at 3:23–27.

The '405 Patent provides an example in which a radio station transmits a song in a first media signal that is received by a user enabled-device (e.g., a cellular phone with a radio). *Id.* at 3:33–36. A media association system analyzes the song to determine what media elements can be associated with the song and the media association system provides a second media signal (e.g., an advertisement) to the user enabled-device. *Id.* at 3:36–42. While the user enabled-device is playing the song, the user enabled-device displays the media content in the second media signal (e.g., a still or moving picture of the advertised product). *Id.* at 3:43–46. The '405 Patent provides another example in which a user enabled-device is playing a

song from a first media signal, media content from a second media signal (e.g., a still or moving picture with selectable audio of an advertised product) is displayed by the user enabled-device, and the audio track for the first media signal is paused upon selection of the second media signal audio. *Id.* at 3:47–53.

Figure 1A of the '405 Patent is reproduced below.

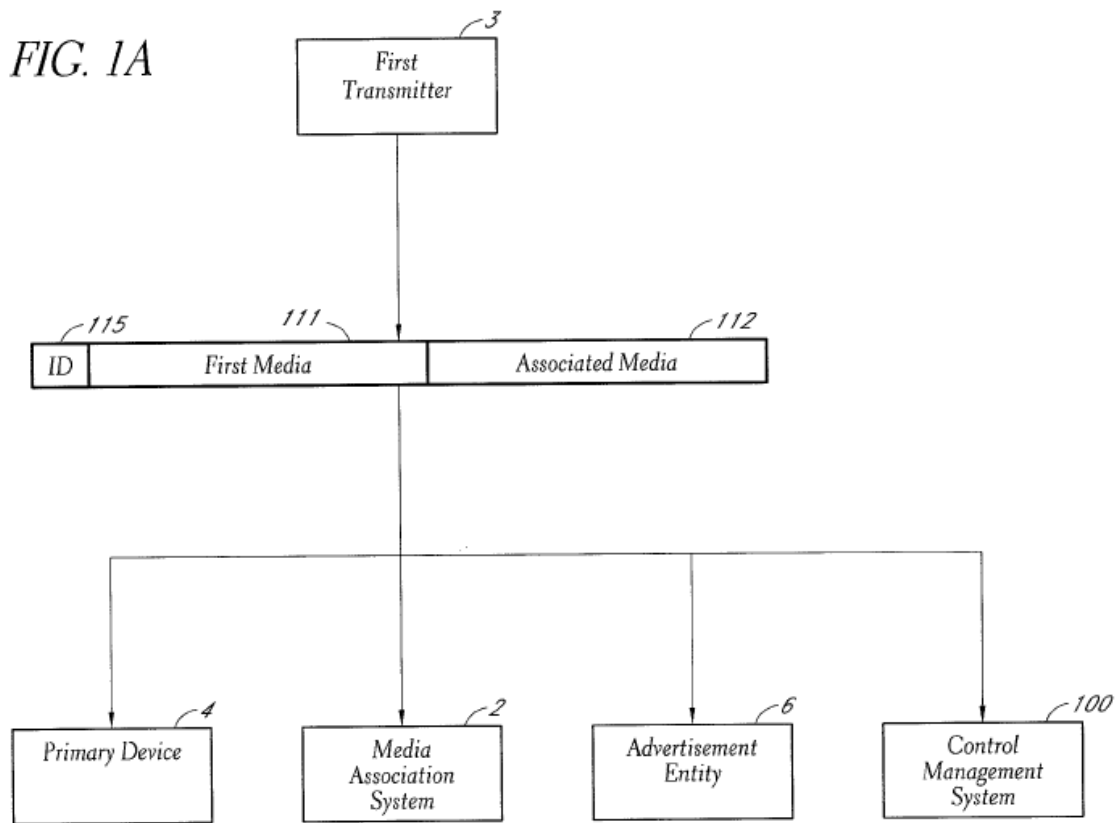


Figure 1A, shown above, is a block diagram depicting signals and identifiers correlated and transmitted between elements of a media enhancement system. *Id.* at 2:48–50. The system can include first transmitter 3, control management system 100, media association system 2, primary device 4, and advertisement entity 6. *Id.* at 8:17–22. First transmitter 3 can be broadcast content from a radio station, from over the internet, through a cable line or satellite, and/or through other

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