

1 the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for
2 Defendant’s acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in
3 connection with Defendant’s false advertising that its “Clean Diesel” vehicles had low
4 emissions, complied with state and federal emissions standards, were environmentally friendly,
5 and retained a high resale value.

6 **JURISDICTION**

7 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a),
8 and 1345, and 15 U.S.C. § 45(a).

9 **VENUE AND INTRADISTRICT ASSIGNMENT**

10 3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1)-(2) and (c)(2), and
11 15 U.S.C. § 53(b).

12 4. Intradistrict assignment to the San Francisco Division is proper pursuant to Civil
13 Local Rule 3-2(c) because acts or omissions giving rise to the FTC’s claims occurred, among
14 other places, in San Francisco County, California.

15 **PLAINTIFF**

16 5. The FTC is an independent agency of the United States Government created by
17 statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
18 which prohibits unfair or deceptive acts or practices in or affecting commerce.

19 6. The FTC is authorized to initiate federal district court proceedings, by its own
20 attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be
21 appropriate in each case, including rescission or reformation of contracts, restitution, the refund
22 of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A).

23 **DEFENDANT**

24 7. Defendant Volkswagen Group of America, Inc. (“Volkswagen USA”) is a New
25 Jersey corporation with its principal place of business located at 2200 Ferdinand Porsche Drive,
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1 13. From late 2008 to late 2015, Defendant Volkswagen USA advertised, marketed,
2 offered for sale, sold, offered for lease, leased, and distributed more than 550,000 Defeat Device
3 Vehicles to consumers throughout the United States.

4 14. Volkswagen USA represented that DDVs had low emissions, complied with
5 government emissions standards, were environmentally friendly, and retained a high resale
6 value. During this time, Volkswagen USA became the largest seller of light-duty diesel vehicles
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1 performs confirmatory testing. OTAQ’s confirmatory testing involves operating the vehicle in a
2 laboratory setting; it does not involve “on-road” testing. Volkswagen knew how and when
3 OTAQ would perform confirmatory testing.

4 19. In June 2008, Volkswagen submitted a COC application to OTAQ for its first
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24. Volkswagen USA’s “Clean Diesel” adve

- 1 C. Press coverage of the 2008 “Audi Mileage Marathon,” quotes an Audi
2 spokesperson saying: “Diesel is not dirty. This marathon is about getting the
3 word out that clean-diesel technology such as ours can achieve 40-percent better
4 fuel economy and reduce nitrogen-oxide emissions by 90%.”
- 5 D. A press release for the 2014 Volkswagen Touareg states that the “deNOx catalytic
6 converter . . . helps reduce NOx emissions by up to 90 per cent.”
- 7 E. According to 2010 press materials, the Volkswagen Jetta’s clean diesel
8 technology “reduces nitrogen oxide (NOx) emissions by up to 90% by making
9 internal engine modifications and implementing a NOx storage catalytic
10 converter.”
- 11 F. A 2009 press release identifies the Audi Q7 as the “world’s cleanest diesel SUV,”
12 states that it has an “advanced exhaust emission control system” that “reduces
13 smog-causing nitrogen oxides by up to 90% when compared with past generations
14 of diesel technologies sold in the U.S.,” and is “significantly less intrusive on the
15 environment than past diesel engines.”
- 16 G. 2013 emails to consumers promoting Audi TDIs state that “Clean Diesel” offers
17 “fewer NOx emissions than comparable gasoline engines.”
- 18 H. An Audi print ad with the tagline “Diesel. It’s no longer a dirty word,” describes
19 the TDI engine as having “20% fewer emissions than gasoline engines.”
- 20 I. In the “coffee filter test” video featured on one of Volkswagen USA’s online
21 media campaigns at TDITruthandDare.com, two testers compare a “Clean Diesel”
22 Volkswagen Touareg with a “traditional diesel” by placing clean white coffee
23 filters on the tailpipes “to see which one is cleaner after 10 minutes.” After the
24 “test,” the Touareg filter is still clean white, but the “traditional diesel” filter had a
25 black stain. The tester comments: “That [filter from the “traditional diesel”] is
26 nasty-looking. This [filter from the Touraeg] looks pretty good, though.” The

1 tester then proposes making coffee with the filters, commenting: “Traditional
2 diesel coffee, it’s got the extra kick. It’s got the carbon monoxide, the sulfur
3 oxide Ready for some sooty emissions, diesel particulates?”

- 4 J. In a 2015 online video titled “Diesel Old Wives’ Tale #6: Diesel is Dirty,” one of
5 the “old wives” asks: “Aren’t diesels dirty?” The TDI driver (another “old wife”)
6 responds: “That used to be dirty; this is 2015.” She then “proves it” by holding a
7 white scarf to the exhaust of a Volkswagen Golf SportWagen TDI car and then
8 brandishing the clean cloth (“See how clean it is?”). The final tagline reads:
9 “Volkswagen TDI Clean Diesel: Like really clean diesel.” This ad reached at
10 least 9 million consumers.

11 **Volkswagen USA Claimed Its Defeat Device Vehicles Complied**

12 **With Emissions Standards.**

13 27. Volkswagen USA’s advertisements, promotional materials, and public statements
14 represented that its Defeat Device Vehicles complied with state and federal emissions standards.

15 For example:

- 16 A. “Clean Diesel” vehicles “meet the strictest EPA standards in the U.S.”
17 B. “Audi TDI clean diesel technology meets emission standards in all 50 states.”
18 C. Volkswagen USA presents the “50-state compliant clean diesel Volkswagen Jetta
19 TDI sedan and SportWagen TDI.”
20 D. The “Touareg V6 TDI meet[s] the most stringent emission requirements of the
21 world [with] its advanced DeNOx system.”
22 E. “To achieve its 50-state-legal emissions qualification, a deNOx catalytic
23 converter, augmented by a special injection system that sprays [diesel exhaust
24 fluid (“DEF”)] into the exhaust, helps reduce NOx emissions by up to 90 per cent.
25 This lets the engine meet the Tier 2, Bin 5/ULEV II standards imposed across all
26 50 U.S. states.”

1 F. “Certified for use in all 50 states.”

2 **Volkswagen USA Claimed that Its Defeat Device Vehicles**
3 **Were Environmentally Friendly.**

4 28. Volkswagen USA’s advertisements, promotional materials, and public statements
5 represented that its Defeat Device Vehicles were environmentally friendly, including that they
6 were “environmentally-conscious,” “eco-conscious,” or “green.” For example:

7 A. In a television advertisement broadcast during the 2010 Super Bowl, the “Green
8 Police” arrest consumers who use plastic bags or bottles, throw away batteries,
9 fail to compost orange rinds, install incandescent light bulbs, soak in overheated

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E. A 2013 brochure calls a TDI “Clean Diesel” vehicle “[g]ood, clean fun,”

- 1 B. In marketing the benefits of DDVs, Volkswagen USA often used its tagline:
2 “That’s the power of German engineering,” and referred to its “unparalleled” and
3 “superior” engineering.
- 4 C. Volkswagen USA frequently described DDVs as “long-lasting.” As one brochure
5 states: “Whether you’re . . . driving mile after mile in any of our long-lasting TDI
6 models, Volkswagen is all about performance. In fact, we’re known for it . . . no
7 matter what model you choose, every Volkswagen is designed to perform. Year
8 after year after year.”
- 9 D. In training dealers and distributors to sell and lease DDVs, Volkswagen USA
10 encouraged dealers to highlight the durability and high resale value of TDIs.
11 Training materials and fact sheets for dealers stress that TDIs have a higher resale
12 versus gasoline vehicles (noting a \$3,800 resale difference at 48,000 miles and a
13 \$3,000 difference at 60,000 miles) and that “[t]he durability of the 3.0-liter TDI
14 engine [] minimizes engine wear and tear over the life of the vehicle[,] which can
15 result in substantially higher resale than comparable competitive models with
16 gasoline engines.”

17 **Volkswagen USA Continued to Deceptively Market Defeat Device Vehicles Despite**
18 **Evidence that the Vehicles Exceeded Legal Emissions Standards.**

19 30. The International Council on Clean Transportation (“ICCT”) hired West Virginia
20 University (“WVU”) to conduct complex on-road testing (as opposed to government-mandated
21 laboratory testing) on several diesel light-duty vehicles. In 2013, WVU began conducting on-
22 road testing in collaboration with the California Air Resources Board (“CARB”).

23 31. WVU performed this testing on a “Clean Diesel” Volkswagen Passat and a
24 “Clean Diesel” Volkswagen Jetta. The “Clean Diesels” exceeded EPA’s NOx limits by as much
25 as 4,000 percent.
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1 32. ICCT presented the results at a March 2014 conference attended by Volkswagen
2 engineers. By mid-2014, CARB, EPA, and Volkswagen USA were communicating regularly
3 regarding possible causes of the excess emissions. By October 2014, Volkswagen had
4 independently confirmed WVU's excess emissions findings, but provided regulators with
5 scientifically invalid explanations for why its vehicles emitted so much NOx.

6 33. Volkswagen USA's interaction with CARB and EPA eventually led Volkswagen
7 USA to issue software repairs in late 2014, and a recall of 2.0L "Clean Diesel" vehicles in April
8 2015 to repair the emissions aftertreatment system. One Volkswagen engineer discussing
9 proposed fixes noted that Volkswagen's 3.0L "Clean Diesel" vehicles have "exactly the same
10 issues, but not public yet." He observed: "They have not been caught."

11 34. In coordination with EPA, CARB conducted both laboratory and on-road testing
12 on the 2.0L "Clean Diesel" vehicles after the fixes and recalls and discovered that they failed to
13 reduce the "Clean Diesel" vehicles' illegal NOx emissions. The discrepancy between the Defeat
14 Device Vehicles' laboratory performance and their real-world performance remained.

15 35. Volkswagen USA attempted to explain the discrepancy in various ways that
16 CARB and EPA found increasingly implausible. Nonetheless, during this period, Volkswagen
17 USA continued to market "Clean Diesel" vehicles as producing low emissions, complying with
18 emissions standards, being environmentally friendly, and having a high resale value.

19 36. In August 2015, EPA and CARB informed Volkswagen USA that it would not
20 receive COCs for 2016 model year 2.0L "Clean Diesel" vehicles until the issue was resolved.

21 37. At this point, Volkswagen USA admitted that its 2.0L diesel vehicles contained
22 defeat devices. On September 18, 2015, EPA issued Volkswagen USA a Notice of Violation
23 ("NOV") covering approximately 480,000 2.0L Defeat Device Vehicles.

24 38. However, Volkswagen USA continued selling 3.0L "Clean Diesel" vehicles with
25 TDI engines that also contained defeat devices.
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49. Defendant's failure to disclose the material information described in Paragraph 47, in light of the representations in Paragraph 46, constitutes a deceptive act or practice in

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