To: Yacoubian, Lisa@ARB[lisa.yacoubian@arb.ca.gov]; Jeremiah.Bearden@arb.ca.gov[Jeremiah.Bearden@arb.ca.gov]; kimberly.pryor@arb.ca.gov[kimberly.pryor@arb.ca.gov]; sdaley@arb.ca.gov[sdaley@arb.ca.gov]
Cc: Kaul, Meetu[Kaul.Meetu@epa.gov]
From: Kulschinsky, Edward[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DEAE35C464C74233BAAA489C61F8C949-KULSCHINSKY, EDWARD]
Sent: Mon 5/17/2021 7:45:16 PM (UTC)
Subject: RE: EZ Lynk - Touch Base
Derive v EZLynk - 42-1 - First Gintz Decl.pdf
FireShot Capture 090 - EZ LYNK – The Future of Vehicle Diagnostics & Control - www.ezlynk.com.pdf
FireShot Capture 087 - Technicians – EZ LYNK - www.ezlynk.com.pdf
FireShot Capture 062 - PPEI SUPPORT PACK FOR EZ LYNK AUTOAGENT (POWERSTROKE) - wickeddieselva.com.pdf
Company_Press_Release.pdf
CARB.pdf
EZ Lynk Complaint.AS FILED.pdf

Hello Lisa, Kimberly, Shawn, and Jeremiah,

Thank you for meeting with us last week to discuss the EZ Lynk Auto Agent's ECU overwrite capability. In follow-up, I'm providing a number of publicly-available materials that document or illustrate the EZ Lynk product's ability to overwrite ECU. I've also included a copy of the company press release responding to the United States' recent complaint, which refers to CARB's June 10, 2020 letter (also attached; see https://www.ezlynk.com/news/).

- "Derive v EZLynk – 42-1 – First Gintz Decl.pdf" – This is a declaration of Brad Gintz, part-owner of EZ Lynk, describing what the EZ Lynk product is and how it functions. This declaration was filed in litigation brought by Derive Systems against EZ Lynk and others alleging copyright infringement and theft of intellectual property. This declaration is in the publicly available docket and may be obtained through Westlaw or Lexis. Mr. Gintz begins to describe how the EZ Lynk Auto Agent is "configured to reprogram the ECU Firmware" on page 5, paragraph 26. Pages 7 and 8 provide diagrams depicting "how EZ Lynk's Auto Agent product performs reprogramming of a vehicle's ECU." In paragraph 41, Mr. Gintz explains how the Auto Agent works with EZ Lynk's smartphone app and the EZ Lynk Cloud to overwrite an ECU. In paragraph 42, Mr. Gintz states that "the source of updated ECU Firmware can be a vehicle manufactuer . . . or a custom ECU Firmware provider," i.e., a custom tuner. In paragraph 43, Mr. Gintz summarizes EZ Lynk's role as follows: "EZ Lynk does not create or provide ECU Firmware – it simply provides a way for a technician to deliver ECU Firmware to a remotely located vehicle."
- "FireShot Capture 090 - EZ LYNK – The Future of Vehicle Diagnostics & Control - www.ezlynk.com.pdf" – This is a screenshot of the first page currently on EZ Lynk's website, http://ezlynk.com. Under the heading "Auto Agent Capabilities," EZ Lynk lists one capability as "REFLASH CAPABILITIES Quickly and easily program your vehicle using ECU profiles created by your technician."
- "FireShot Capture 087 - Technicians – EZ LYNK - www.ezlynk.com.pdf" – This is a screenshot of the "Technicians" page currently on EZ Lynk's website, at https://www.ezlynk.com/technicians/. EZ Lynk advertises the following: "AUTO SHARE ECU PROFILES Enable auto share from a vehicle's description to make ECU profiles [i.e., tunes] with a matching Cal ID instantly available to the user." Further down on the page, EZ Lynk advertises a section to discuss its "ECU PROFILE EDITOR" which allows "LIVE SOFTWARE ADJUSTMENTS." The ECU Profile Editor is an online ECU software editing tool that allows technicians to "View and adjust map parameters from scaled graphs or advanced data tables."
- Links to Patents – Three patents for a "System and method for real time wireless ECU monitoring and reprogramming," listing EZ Lynk owners Brad Gintz and Tom Wood as coinventors, and assigning the patent to EZ Lynk. The patent documents do not name the Auto Agent but describe the device as we understand it, consistent with the description in Mr. Gintz's declaration. The background section of each patent includes the following language: "Programmable ECUs are required, for example, where significant aftermarket performance enhancing modifications have been made. Such modifications often include the addition of a turbo charger, intercooler or modified exhaust system. Programmable ECU's are also used for several vehicle systems, such as engine control module (ECM), transmission control module (TCM), body control module, anti-lock brake system (ABS), airbag control module, and so on, that each receive routine updates from the manufacturer of the vehicle. Each ECU is remapped or reprogrammed to adapt the performance of the involved system to match the required modifications and/or to update the software and parameters of the ECU. Other changes for high performance engines which can be remapped in an ECU include ignition timing, maximum RPM, water temperature correction, transient fueling, low fuel pressure modifiers and a closed loop lambda (in order to modify a target air/fuel ratio), turbo charger waste gate control, staged fuel injection, variable cam timing, gear control and turbo charger anti-lag.
    - https://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&co1=AND&d=PTXT&s1=%22EZ+Lynk%22&OS=%22EZ+Lynk%22&RS=%22EZ+Lynk%22
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    - https://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-

bool.html&r=3&f=G&l=50&co1=AND&d=PTXT&s1=%22EZ+Lynk%22&OS=%22EZ+Lynk%22&RS=%22EZ+Lynk%22

- "FireShot Capture 062 - PPEI SUPPORT PACK FOR EZ LYNK AUTOAGENT (POWERSTROKE) - wickeddieselva.com.pdf" – This is a screenshot from a commercial website advertising and selling "No Emissions" tuning for the EZ Lynk Auto Agent.
- https://www.youtube.com/watch?v=VfagFfCx4_0 – This is a link to a YouTube video showing a tutorial on how to install emissions-delete tuning using the EZ Lynk Auto Agent. The participants say they are in Mexico but at timestamp 36:58 the video shows a trash can labeled as belonging to Ramona Disposal Service, indicating the video was filmed in Ramona, CA. Other evidence that the video was filmed in CA appears at 18:13, when a notification appears on the phone telling the owner they are 43 minutes away from "Near Boyington Road," San Diego, and should take CA-67 to get there, and at 37:39, when the video shows a truck with CA license plate #54062G2 in the driveway where the truck is having its emissions controls removed. The actual tuning is shown beginning at 13:35.

I can round up additional material if it would be helpful. I understand that a copy of EZ Lynk's application to CARB may be currently inaccessible, but I would appreciate if you could share those materials if/when it is possible to do so. I would also appreciate if you could share with us copies of any future correspondence you have with EZ Lynk, to the extent allowed by law.

Thank you, and please don't hesitate to contact me with any questions.

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-----Original Appointment-----
From: Kaul, Meetu <Kaul.Meetu@epa.gov>
Sent: Friday, May 07, 2021 5:57 PM
To: Kulschinsky, Edward; Yacoubian, Lisa@ARB
Subject: EZ Lynk - Touch Base
When: Thursday, May 13, 2021 4:00 PM-4:25 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Microsoft Teams Meeting

Lisa,

As discussed, we filed a complaint against EZ Lynk in March. See https://www.justice.gov/usao-sdny/pr/manhattan-us-attorney-sues-automobile-device-manufacturer-ez-lynk-its-owners-and

We recently learned that CARB issued a letter to the company indicating an EO was not required for their Auto Agent and Auto Agent 2 products (https://www.ezlynk.com/wp-content/uploads/2021/03/CARB.pdf) and would like to discuss with you, Shawn and Kim or the relevant folks.

Thanks,
mk

Microsoft Teams meeting

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