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**PATENT**  
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re the U.S. Patent Application of:**

**Applicant:** Brian R. Brady, et al.  
**Title:** Travel Trailer Having Improved Turning Radius  
**Serial No.:** 12/315,894  
**Filing Date:** December 8, 2008

**Art Unit:** 3611  
**Examiner:** Michael R. Stabley

**REVOCATION OF POWER OF ATTORNEY AND APPOINTMENT OF NEW POWER  
OF ATTORNEY UNDER 37 CFR §1.36**

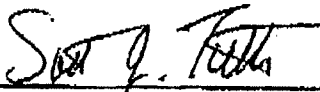
Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

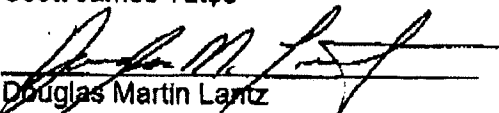
Sir:

The undersigned applicants, each being a named inventor and applicant in the above-referenced patent application, hereby revoke all previous powers of attorney granted by them in connection with this application and appoint the following attorney to act on their behalf in transacting all business with the USPTO in connection with this application:

Ryan M. Fountain  
420 Lincoln Way West  
Mishawaka, Indiana 46544  
Reg. No. 30751

May 11, 2009

  
\_\_\_\_\_  
Scott James Tuttle

  
\_\_\_\_\_  
Douglas Martin Lantz

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**PETITION FOR ACCEPTANCE OF REVOCATION OF POWER OF ATTORNEY AND  
APPOINTMENT OF NEW POWER OF ATTORNEY UNDER 37 CFR §1.36,  
INCLUDING REQUEST FOR PARTICIPATION IN PATENT PROSECUTION TO  
AVOID A CONTINUING FRAUD UPON THE USPTO**

Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Two of the named inventors in the above-referenced patent application, Scott James Tuttle and, Douglas Martin Lantz, herein petition the Commissioner to:

- a. accept the attached Revocation of Power of Attorney, and
- b. permit these inventors to participate in the prosecution of the patent application.

The purpose of this petition is to permit the inventors to comply with 37 CFR 1.56 and to prevent a continuing fraud upon the USPTO by the prior attorneys responsible for this patent application and US Patent 7,278,650 and its other US patent application serial no. 11/834,214, as explained in detail below.

**Background Information:**

This application is a continuation of the '214 application, which is itself a continuation of the '650 patent. Each of these inventors have duty under Rule 56 to disclose certain information to the USPTO. As a result of the failure of the prior attorneys to properly communicate with these inventors, these inventors have been prevented from complying with Rule 56. That has caused important information to be withheld from the USPTO and has caused the '650 patent to issue with and the '214 application to be prosecuted with the wrong claimed invention. These flaws came to light as a result of litigation between the owner of the '650 patent, Heartland, and a third party, Forest River, Inc., and particularly as a result of Mr. Lantz and Mr. Tuttle becoming aware of the testimony of the other three named inventors, Brian Brady, John Rhymer, and Tim Hoffman, during their depositions of June 15, 16, and 17, respectively. This petition is timely because the transcripts of those depositions are now published and available for public inspection and, in addition, because of the actions of the prior attorneys on June 24, 2009, in connection with those depositions, as discussed further below.

**Detailed Discussion of Misconduct of Prior Attorneys:**

1. At least three of the named inventors executed the Declaration of inventorship, (copy attached), under false pretenses - having not read the application sufficiently to understand its content and claims, having falsely asserted inventorship, and having not disclosed to the USPTO the information required under 37 CFR 1.56. This is shown by the Brady, Rhymer and Hoffman deposition transcripts. That falsity was known or should

have been known by the primary patent attorney they appointed to represent them before the USPTO, Gregory S. Cooper. Mr. Cooper was personally bound both under 37 CFR 10 et seq., and 37 CFR 1.56 to prevent the patent application from being prosecuted under those circumstances.

2. Mr. Cooper and the succeeding patent attorneys who were directly involved in prosecuting the patent application, Gerald Gallagher and Thomas Mauoh, either failed to communicate with the inventors sufficiently to gather the information known to the inventors or failed to pass on to the USPTO information obtained from the inventors with respect to:

a. the nature of the invention itself - the invention, in the minds of at least some of the inventors at least, lay in the spaced apart, mating curvatures of the trailer lower corner to the truck cap upper corner, rather than in any one or two particular frame designs to accomplish that invention. Frame design was instead recognized by at least some of the inventors as a mere matter of design choice, to be selected and dimensioned in the normal course of events from a wide variety of potential formats, as was well known in the industry.

b. the known scope and content of the prior art, including the fact that travel trailers, horse trailers, cargo trailers, park model homes, modular homes, and some boat trailers are all made by many of the same manufacturers and are structurally related to a high degree, especially as to chassis design and construction; also, that many of those trailers have common functions and are sold through the same channels of trade, including at common trade shows such that persons familiar with travel trailers and fifth wheels are likely to also be familiar with horse trailers and cargo trailers which have living quarters formed within; also, that trailer chassis

designs have been made with a wide range of variation and structural equivalence such that locating any particular side beam, end beam, or cross beam at any particular location according to a particular use or fit was widely known as a matter of design choice; also, that adapting fifth wheel trailer chassis to include as interchangeable features notched or angled front corners to support a particular cap configuration was well known, such as shown by Trial Exhibits 40 and 41 in the Heartland/Forest River litigation (copies attached hereto), especially so as to maximize "floor plan to footprint" ratios of larger trailers; also, that as pointed out in the Amended Answer, Defenses, and Counterclaims, one or more of the inventors were aware of the specific prior art illustrated therein and/or of prior art having a similar structures and/or purposes to those illustrated examples; also, that the RVIA and other trade organizations to which Heartland and/or the inventors belong cover a range of closely related products using similar trailer chassis (see attached RVIA publication showing the interrelationship of travel trailers and fifth wheel travel trailers); and also, that there was additional relevant and material prior art in existence and known to the inventors in the United States and foreign RV markets, such as, the travel trailers of Trial Exhibit 30 in the Heartland/Forest River litigation, having angled front corners, various V nose trailers, and cargo trailers with forward ramp doors or fifth wheel formats supported on trailer chassis, as well as the Space Craft fifth wheel travel trailer which preceded the invention of this patent application and was known to at least Mr. Tuttle, which had a turning radius feature from its front end shape which should have been disclosed to the USPTO but was not (see attached advertisement), and that the Holiday Rambler fifth wheel travel trailer

which Forest River disclosed in Answer to the Complaint filed by Heartland was actually known to at least Mr. Tuttle prior to the invention of this patent application.

c. the known level of ordinary skill of those persons who were involved in the design of some or all portions of travel trailers and fifth wheels, including the average years of experience and education of those persons, as well as the fact that many of the employees involved in the design and construction of such trailers will change jobs within that general industry, making travel trailers at one time, cargo trailers at another, modular homes at another, etc., such that they become familiar with the construction of a wide range of such products; also, that persons of ordinary skill in the design of some or all portions of travel trailers and fifth wheels would have been exposed to and aware of many of the features of such products from trade shows, dealer servicing, and living in RV oriented communities like Elkhart County, IN; and also, that travel trailers and fifth wheels are typically designed in whole or part by a team of persons, such that "a person of ordinary skill in the art" within the meaning of the patent laws would actually have attributed to him or her that collective level of skill and experience.

d. the differences and similarities between the claimed invention of the patent application and the prior art cited by the USPTO.

As a result, these patent attorneys obtained the issuance of a patent which was not directed to and did not claim the real "invention" of the named inventors. Further, the final, fully amended application for that patent was defective under 35 U.S.C. §112 for not "particularly pointing out and distinctly claiming the subject matter which the [named inventors] regards as [their] invention" and for not "enabling" one of ordinary skill in the art

to make and use that invention.

3. Neither Heartland, who was also bound by 37 CFR 1.56, nor any of the other named inventors corrected those mistakes of the patent attorneys even though they were, according to the fully executed Declaration of Inventorship, knowingly bound to do so, upon pain of patent invalidity. This failure by Heartland was not inadvertent, but rather intentionally done to further its position in the lawsuit with Forest River.

4. Heartland's patent attorneys intentionally and repeatedly mislead the USPTO as to the scope and content of the prior art by refusing to admit in Information Disclosure Statements ("IDSs") filed with the USPTO that certain "prior art" was in fact "prior art." Those attorneys knew or should have known that the documents submitted with the IDSs really did disclose prior art.

5. Heartland's attorneys failed to bring to the attention of the USPTO prior art which was disclosed to them by Forest River during the pendency of the patent application for the '650 patent even when they were aware that Forest River considered that prior art to be so relevant and material that it created a defense to the patent infringement charge being made by Heartland against Forest River. Instead, Heartland waited until after the patent issued and a lawsuit was filed and brought that prior art to the USPTO in a "submarine" patent application (the '214 and present cases), but still doing so in a manner which mislead the USPTO as to the significance of that prior art. Further, even when required by the USPTO to provide a fuller disclosure in the record of the '214 patent application of the arguments about the prior art which were made in a non-public hearing on December 4, 2008 with the USPTO, Heartland failed to do so, intentionally keeping secret those arguments so as to not reveal their own failure to comply with 37 CFR 1.56 in the parent

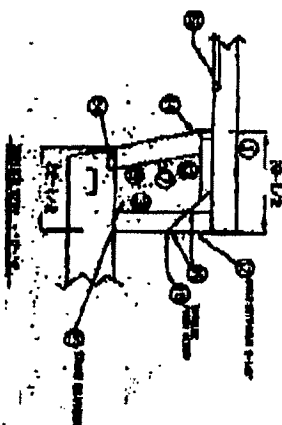
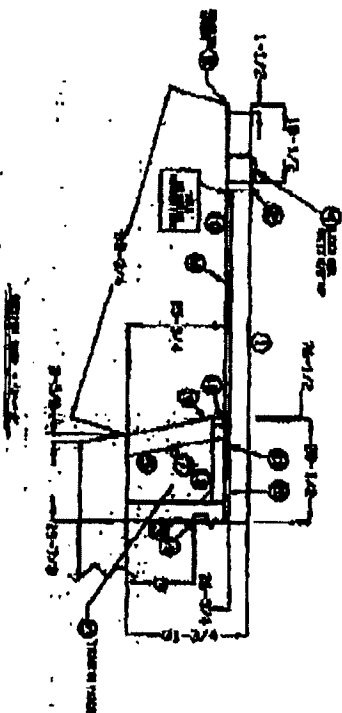
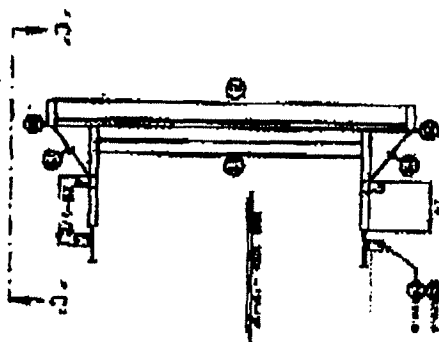
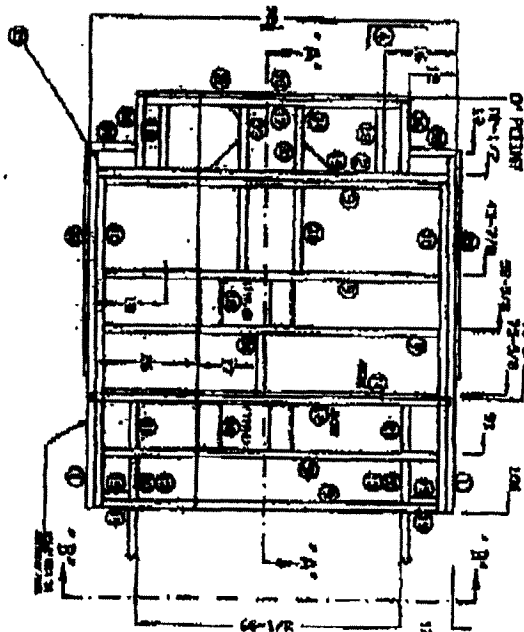
patent and/or to keep secret admissions against interest which could be used under the Doctrine of File Wrapper Estoppel to interpret the '650 patent claims more narrowly than Heartland was asserting against Forest River. Further, immediately after June 15 - 17, 2009, when the deposition testimony of Heartland's own employees under oath asserted that there was false inventorship in the parent patent application (which is also attributed to the '214 and present patent applications as a matter of law) Heartland's attorneys rushed to pay the issue fee in the '214 patent application on June 24, 2009 so as to close down prosecution of that patent application before the transcript of those depositions was created. This was done to deceive the USPTO into issuing the new patent quickly so that it could be used by Heartland to argue a "purge" of the inequitable conduct in not bringing the Forest River prior art to light in the parent patent. Specifically, Heartland thought to argue that the Forest River prior art was not relevant and material because the USPTO somehow issued the second patent anyway. However, in doing so, Heartland's attorneys compounded the fraud on the USPTO.

**Conclusion:**

Mr. Tuttle and Mr. Lantz need separate representation and participation before the USPTO in order to enable them to comply with 37 CFR 1.56.

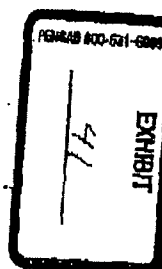
Respectfully submitted,

Ryan M. Fountain  
Reg. No. 30751  
Attorney for Mr. Tuttle and Mr. Lantz



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### **5th Wheel Photo Gallery**

### **Floor Plans**

### **Standard Equipment**

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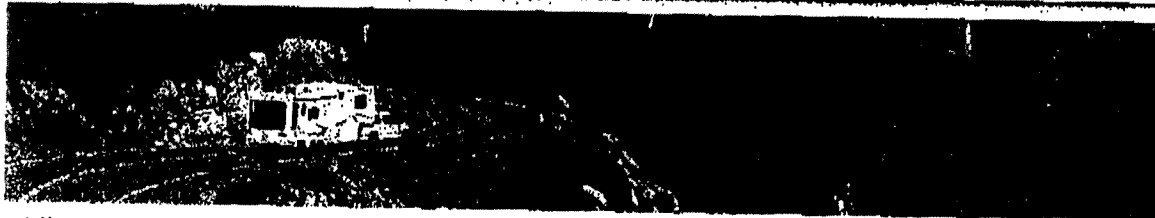
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## What is a Recreation Vehicle (RV)?

A motorized or towable vehicle that combines transportation and temporary living quarters for travel, recreation and camping. RVs do not include mobile homes, off-road vehicles, snowmobiles or conversion vehicles. RVs are sold by recreation vehicle dealers.

[Printable Version](#)

## The RV Family

### Towable RVs

Designed to be towed by family car, van or pickup truck. Can be unhitched and left at the campsite while you explore in your auto.

Click on an RV for more information.



Folding Camping Trailers



Truck Campers



Conventional Travel Trailers



Fifth-Wheel Travel Trailers



Sport Utility RVs

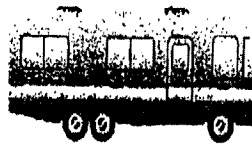


Travel Trailers with Expandable Ends

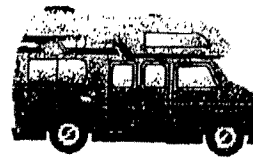
### Motorhomes

Living quarters are accessible from the driver's area in one convenient unit.

Click on an RV for more information.



Type A Motorhomes



Type B Motorhomes



Type C Motorhomes

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