

UNITED STATES DISTRICT COURT
Northern District of Indiana
South Bend Division

HEARTLAND RECREATIONAL)	
VEHICLES, LLC,)	
Plaintiff,)	
)	CASE NO.: <u>3:08-cv-490</u>
v.)	
)	
FOREST RIVER, INC.,)	JURY DEMAND
Defendant.)	

**FOREST RIVER'S MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST
HEARTLAND FOR UNFAIR COMPETITION**

Pursuant to Fed. R. Civ. P. 56, Forest River, Inc., requests this Court enter summary judgment against Heartland Recreational Vehicles, LLC for unfair competition in violation of Indiana law. This claim is based upon Heartland's acts of deception in connection with obtaining and using Forest River's list of dealers attending the private trade show on October 22-23, 2008. By this motion, liability of Heartland would be established, leaving the issues of the amount of damages to be paid to Forest River and/or unjust enrichment to be removed from Heartland as well as any injunctive relief for further adjudication by the Court.

Also, it is believed that granting this motion would moot the Lanham Act and criminal deception claims made in this case, since those are of the nature of "lesser included offenses" with respect to the unfair competition violation. To a degree, granting this motion and the subsequent award of damages would moot a portion of the damage recovery sought by the Exceptional Case counterclaim in this case, since that claim is in the nature of an Abuse of Process charge and the

damage recovery would be partially covered by the damage award possible under unfair competition laws.

Accordingly, this motion is submitted in furtherance of complete resolution of this case and to at least identify for trial which facts are established as a matter of law since they are not genuinely in dispute. A Memorandum in support of this motion and a Statement of Material Facts are attached hereto.

Dated: November 2, 2010

Respectfully submitted,

s/Ryan M. Fountain

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Certificate of Service

I certify that on November 2, 2010, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF system, which sent notification of such filing to all of the parties through at least the following counsel of record for Defendant:

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s/Ryan M. Fountain

Ryan M. Fountain
Attorney for Forest River, Inc.