

**UNITED STATES DISTRICT COURT**  
Northern District of Indiana  
South Bend Division

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

**FOREST RIVER’S INITIAL DISCLOSURES UNDER FED. R. CIV. P. 26(a)(1) TO HEARTLAND**

**1. The individual(s) that Forest River may use to support its claims or defenses:**

a. Mr. Brady, Mr. Rhymer, and Mr. Hoffman, named inventors of the patent in suit, whose full names, telephone numbers, and addresses are known to Heartland, since they are employees of Heartland. These persons have information about of the scope and content of the claimed inventions, the scope and content of the prior art, the differences between the prior art and the claimed inventions, the level of ordinary skill in the art to which the inventions pertain, and the use of the claimed inventions in the market. In addition, Mr. Brady is believed to have information about the Deception and Lanham Act violations (so described in the pleadings) and the issues related thereto.

b. Mike Creech, an employee of Heartland whose name, telephone number and address is already known to Heartland. Mr. Creech has knowledge of Heartland’s attempt to obtain a list of the dealers and the hotels they were staying at from Forest River and its use by Heartland.

c. The designee of Heartland as its Rule 30(b)(6) witness(es), that person having information on all case issues. The specific persons(s) selected has not yet been identified by Heartland.

d. One or more witnesses from the seven hotels involved in the Deception and Lanham Act violations on the issues related thereto. The specific persons selected have not yet been determined.

e. The Heartland employees who delivered the envelopes to the hotels involved in the Deception and Lanham Act violations on the issues related thereto. The specific persons selected have not yet been determined due to Heartland's refusal to allow Mr. Brady and Mr. Hoffman to be deposed.

f. One or more of the dealers whom Heartland signed up and sold products to as a result of the in the Deception and Lanham Act violations on the issues related thereto. The specific persons selected have not yet been determined due to Heartland's refusal to allow Mr. Brady to be deposed.

g. The designee of Lippert as its Rule 30(b)(6) witness, that person having knowledge of the creation, reduction to practice, and use of the patented invention, prior art relevant, and threats to sue under the patent. The specific person(s) selected has not yet been identified by Lippert.

h. The Patent Examiner, Michael R. Stabley, of the U.S. Patent Office in 600 Dulany Street, Alexandria, Va., tel.: 571-272-3275. That person has information relevant to the scope and content of the prior art, the differences between the prior art and the claimed invention, the USPTO procedures relevant to the patent in suit, the representations of fact made by the applicant for the patent in suit, and the meaning of the claims.

i. One or more persons designated as Rule 30(b)(6) witnesses from the manufacturers of the prior art specified in the Amended Answer, Defenses, and Counterclaims, according to the need for such persons as identified by Heartland's admissions in the pleadings not yet filed and according to the testimony of the inventors of the patent, such persons having knowledge of the scope and use of that prior art and related prior art and the differences between that prior art and the claimed

invention. The specific persons selected have not yet been determined due to Heartland's refusal to allow its employees to be deposed and its failure to answer the allegations of the pleadings.

2. The documents and tangible items that Forest River may use to support its claims:

a. The patent in suit, all related (continuation, CIP, divisional, etc.) patents and patent applications to that patent both in the U.S. and other countries, the file histories of all such patent applications, and all prior art of record in those patent applications, the location of each of which is at Heartland or its counsel's offices and, in the case of U.S. patent applications, at the offices of the U.S. Patent Office in 600 Dulany Street, Alexandria, Va., tel.: 571-272-3275.

b. Samples of Heartland's products alleged to be covered by the patent. Comparative samples of Forest River's products accused of infringing the patent. Comparative photographs of each of these products during various phases of assembly. These items are not yet collected at any location due to Heartland's refusal to comply with the Notice of Entry.

c. Heartland's invoices showing sales of the product alleged to be covered by the patent, the Heartland dealer agreements and documents showing Heartland sales of products resulting from the Deception and Lanham Act violations, the items requested from Heartland in Forest Rivers' First Requests for Production, the documents and things requested from Catterton Partners thus far via subpoena, as well as summary financial statements showing Heartland's profits from the sales of products alleged to be covered by the patent, all of which are located at the offices Heartland and Catterton.

d. The prior art and documents previously shown and/or given to Heartland in connection with the patent infringement accusations and the Deception and Lanham Act violations. The

correspondence between the parties in connection with these disputes.

3. The damages sustained by Forest River at present are those incurred from lost sales and sales opportunities, litigation expenses, and the attorneys' fees incurred in responding to the allegations of infringement. The precise computation of the either category is not complete as yet.

4. There are no applicable insurance agreements.

Dated: January 23, 2009

Respectfully submitted,

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Certificate of Service:

I certify that a copy of the foregoing document was served upon the Plaintiff in this case by depositing that copy with the United States Postal Service for delivery via First Class mail, postage pre-paid, on January 23, 2009, addressed for delivery to the following counsel for that party:

David P. Irscher  
Baker & Daniels  
111 East Wayne, Suite 800  
Fort Wayne, IN 46802

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Ryan M. Fountain