

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

HEARTLAND RECREATIONAL VEHICLES, LLC	)	
	)	
	)	
Plaintiff,	)	
	)	Case No. 3:08-CV-490 RLM CAN
vs.	)	
	)	
FOREST RIVER, INC.	)	
	)	
Defendant.	)	

**HEARTLAND RECREATIONAL VEHICLES, LLC'S MOTION TO DISMISS CERTAIN CLAIMS FOR LACK OF SUBJECT MATTER JURISDICTION IN LIGHT OF COVENANT NOT TO SUE**

Pursuant to Rule 12(h)(3) of the Federal Rules of Civil Procedure, Heartland Recreational Vehicles, LLC ("Heartland") respectfully moves to dismiss Forest River, Inc.'s ("Forest River") counterclaims alleging invalidity, non-infringement, and unenforceability. Such claims are moot in light of Heartland's covenant not to sue Forest River for infringement of U.S. Patent No. 7,278,650 ("the '650 Patent"). The Covenant Not To Sue is filed contemporaneously herewith.

The grounds for Heartland's motion are set forth more fully in the accompanying Memorandum in Support of Heartland Recreational Vehicles, LLC's Motion to Dismiss Certain Claims for Lack of Subject Matter Jurisdiction in Light of Covenant Not to Sue.

WHEREFORE, Heartland respectfully requests that this court dismiss, without prejudice, Forest River, Inc.'s counterclaims involving validity, infringement, and enforceability.

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By: /s/ David P. Irscher

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ATTORNEYS FOR PLAINTIFF,  
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**CERTIFICATE OF SERVICE**

The undersigned counsel for plaintiff Heartland Recreational Vehicles, LLC, hereby certifies that a copy of the foregoing HEARTLAND RECREATIONAL VEHICLES, LLC'S MOTION TO DISMISS CERTAIN CLAIMS FOR LACK OF SUBJECT MATTER JURISDICTION IN LIGHT OF COVENANT NOT TO SUE were served upon the following, this 11th day of May, 2009, by operation of the Court's ECF System.

Ryan M. Fountain  
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Mishawaka, Indiana 46544-1902

ATTORNEY FOR DEFENDANT  
FOREST RIVER, INC.

BAKER & DANIELS

*/s/ David P. Irmischer*  
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David P. Irmischer