

UNITED STATES DISTRICT COURT

Northern District of Indiana
South Bend Division

HEARTLAND RECREATIONAL)	
VEHICLES, INC.,)	
Plaintiff,)	
)	CASE NO.: <u>3:08-CV-490 RLM-CAN</u>
v.)	
)	
FOREST RIVER, INC.,)	
Defendant.)	

FOREST RIVER’S THIRD REQUESTS FOR PRODUCTION TO HEARTLAND

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Forest River requests that Heartland produce for inspection and copying the documents and things requested below, separately organized to correspond to the Request No., at the offices of the undersigned counsel on December 23, 2009.

All items sought herein encompass all embodiments of the item in tangible or electronic form or other storage media. If several copies of a given item are maintained by Heartland, only one copy needs to be produced, provided that the copies do not differ in any respect as to content (i.e., a clean, typed copy of a document and another copy with handwritten notes on the typed copy would both need to be produced, while only one of two identical typed copies would need to be produced). Heartland is required to produce all of the requested documents and things owned by it and/or in its custody, possession or control (i.e., documents belonging to Heartland, which were previously given to Heartland’s accounting firm to prepare accounting summaries for Heartland, would need to be produced since those are within the control of Heartland; similarly, the patent file histories in the

possession of Heartland's patent counsel would need to be produced by Heartland directly). If Heartland maintains certain of the requested items in electronic form (such as computer accounting records), then Heartland shall produce those items in electronic form rather than printing out a paper copy of the item, and the electronic form so produced shall have the same functionality and electronic format as that item is used and maintained by Heartland in its regular course of business. For example, if Heartland maintains a data base of certain records that allows for sorting and correlation of those records, then the electronic copy produced by Heartland shall also permit sorting and correlation of those records in the same manner.

In the event that Heartland objects to producing the items requested at the offices of the undersigned counsel because it is excessively burdensome to do so or for some other appropriate reason, those items shall be made available for inspection and copying at the location and in the format that they are normally kept in the ordinary course of Heartland's business, commencing at 9:00 a.m. on December 29, 2009, and in its Response to the applicable Request No. Heartland shall identify that location, including address and telephone number.

Request No. 32: All correspondence with and/or from any attorney, patent agent, professional searcher or any other person who provided information to Heartland regarding the application for the patent in this lawsuit or the invention of that patent, including, but not limited to, patentability, infringement, state of the art, or prior art searches and reports thereof, and billing statements therefor, where that correspondence occurred prior to the issue date of the patent in suit or refers to communications prior to the issue date of the patent in suit.

RESPONSE:

Request No. 33: All documents and things provided to and received from any person who Heartland has requested be an expert witness in the present litigation.

RESPONSE:

Dated: November 20, 2009

Respectfully submitted,

Ryan M. Fountain (8544-71)
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ATTORNEY FOR DEFENDANT

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 November 20, 2009, addressed for delivery to the following counsel for that party:

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

A courtesy copy was sent via email as well on that date.

Ryan M. Fountain