

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

LEO A. METZGER,

Plaintiff,

v.

CNH America, L.L.C., f/k/a CASE, L.L.C.,
f/k/a CASE CORPORATION, and
NEW HOLLAND NORTH AMERICA, INC.,

Defendants.

04C50446

JURY DEMANDED

COMPLAINT

Plaintiff Leo A. Metzger (hereinafter "Metzger") for his Complaint against defendants CNH America, L.L.C. f/k/a Case, L.L.C. and New Holland North America, Inc., (hereinafter collectively "CNH") states as follows:

1. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35 United States Code.
2. Leo A. Metzger is an individual residing in Circleville, Ohio, 43113.
3. Upon information and belief, defendant CNH America, L.L.C. is a limited liability corporation organized and existing under the laws of the State of Delaware, having offices in Racine, Wisconsin 53404. CNH America, L.L.C was formerly known as Case, L.L.C.
4. Upon information and belief, defendant New Holland North America, Inc. is a corporation organized and existing under the laws of the State of Delaware having offices in New Holland, Pennsylvania.

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5. This Court has jurisdiction of this matter under the provisions of 28 U.S.C. §1338(a). Venue is proper under 28 U.S.C. §1400(b).

6. On February 25, 2003, United States Letters Patent 6,523,333 entitled "SENSOR ARM FOR COMBINE HEADER" (the "333" patent) was duly and legally issued to Leo A Metzger. Mr. Metzger continues to own the 333 patent.

7. Defendants, CNH, have been and continue willfully to infringe the 333 patent by making, using and/or selling agricultural combines and cornheads for combines, including two such combines sold by Case, L.L.C. under Models 8010 and 2388, and will continue to do so unless enjoined by this Court.

WHEREFORE, plaintiff respectfully requests that the Court enter judgment for plaintiff and enter an Order providing the following:

- a. That defendants, their subsidiaries, affiliates, officers, agents, employees and all other persons in active concert or participation with defendants be enjoined preliminary and permanently from any further infringement of the 333 Patent;
- b. That plaintiff be awarded damages for all infringing activities;
- c. That the infringement be found willful and award of damages be trebled;
- d. That this matter be declared exceptional, and that plaintiff be awarded interest and costs of this action including reasonable attorneys' fees;
- e. That plaintiff be awarded such other and further relief as may be just and proper.

Demand for Jury Trial

Trial by jury is demanded by plaintiff under Rule 38(b) of the Federal Rules of Civil Procedure.

Dated: November 2, 2004

Respectfully submitted,



Daniel F. Konicek

Daniel F. Konicek, Esq.
Jeffrey T. Mitchell
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

04C50446

Plaintiff(s): Leo A. Metzger

Defendant(s): CNH America, LLC, f/k/a Case, LLC; New Holland North America, Inc.

County of Residence:

County of Residence:

Plaintiff's Atty: Daniel F. Konicek
Konicek & Dillon, P.C.
21 W. State St., Geneva, IL
60134
(630) 262-9655

Defendant's Atty:

II. Basis of Jurisdiction:

3. Federal Question (U.S. not a party)

III. Citizenship of Principal
Parties (Diversity Cases Only)

Plaintiff:- N/A
Defendant:- N/A

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

830 Patent

VI. Cause of Action:

Title 35 United States Code

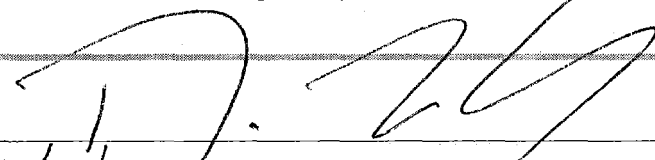
VII. Requested in Complaint

Class Action: No
Dollar Demand:
Jury Demand: Yes

VIII. This case **IS NOT** a refiling of a previously dismissed case.

Signature:

Date:


11/2/04

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If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it.
Once correct, print this form, sign and date it and submit it with your new civil action. **Note: You may need to adjust the font size**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of

~~EASTERN~~ DIVISION
WESTERN

Metzger

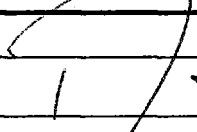
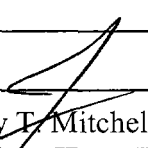
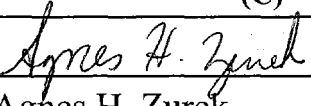
v.

Case Number: **04050446**

CNH America, L.L.C. and New Holland North America, Inc.

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

Leo A. Metzger

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MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	
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