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U.S. DISTRICT COURT

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EASTERN DISTRICT
OF TEXAS

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
DEC 31 2002
DAVID J. MALAND, CLERK
BY DEPUTY *[Signature]*

1. SCOTT CLARE,
 2. NEIL LONG, and
 3. INNOVATIVE TRUCK STORAGE INC.
- Plaintiffs

v.

1. FORD MOTOR COMPANY,
 2. GENERAL MOTORS CORPORATION,
 3. ROYAL TRUCK BODY, INC.,
 4. PETERS CHEVROLET, INC., and
 5. DEALERS TRUCK EQUIPMENT CO., INC.
- Defendants.

CIVIL ACTION NO. 02CV-325

DEMAND FOR JURY TRIAL

**COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF
FOR PATENT INFRINGEMENT**

Plaintiffs, Scott Clare, Innovative Truck Storage, Inc., and Neil Long complain of Ford Motor Company, General Motors Corporation, Royal Truck Body, Inc, Peters Chevrolet, Inc., and Dealers Truck Equipment Company, Inc., collectively, Defendants.

JURISDICTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §101, et. seq. This Court has subject matter jurisdiction over this patent infringement action under 28 U.S.C §§ 1331, 1332 and 1338(a).

2. Defendants regularly conduct business in this judicial district, have offered to sell, offer to sell, have sold and sell infringing products in this judicial district and are subject to personal jurisdiction in this judicial district.

THE PLAINTIFFS

3. Plaintiff Scott Clare is a California resident residing at 547 El Pintado Road, Danville, CA 94526.
4. Plaintiff Neil Long is a California resident residing at 2630 Randall Way, Hayward, CA 94541.
5. Plaintiff Innovative Truck Storage, Inc. is a Nevada corporation having a principal place of business at 2533 N. Carson St., Box 1219, Carson City, NV 89706.

THE DEFENDANTS

6. Based on information and belief, Defendant Ford Motor Company (“Ford”) is a Delaware corporation having a principal place of business at One American Road, Dearborn, MI 48126. Ford’s Registered Agent for service of process in Texas is CT Corporation System, who may be served at 350 North St. Paul Street, Dallas, Texas 75201.
7. Based on information and belief, Defendant General Motors Corporation (“GM”) is a Delaware corporation having a principal place of business at 300 Renaissance Center, Detroit, MI 48265. General Motors’ Registered Agent for service of process in Texas is CT Corporation System, who may be served at 350 North St. Paul Street, Dallas, Texas 75201.
8. Based on information and belief, Defendant Royal Truck Body, Inc. (“Royal”) is a California corporation having a principal place of business at 14001 Garfield Avenue, Paramount, CA 90723. Royal’s Registered Agent for service of process is Dudley D. Dezonias, who may be served at 14001 Garfield Avenue, Paramount, CA 90723.
9. Based on information and belief, Defendant Peters Chevrolet, Inc. (“Peters”) is a Delaware corporation having a principal place of business at 201 S. Spur 63, Longview, TX 75601. Peters’ Registered Agent for service of process is Randall Peters who may be served at 201 S. Spur 63, Longview, TX 75601.

10. Based on information and belief, Defendant Dealers Truck Equipment Company, Inc. (“Dealers”) is a Louisiana corporation having a principal place of business at 2460 Midway Street, P. O. Box 31435, Shreveport, LA 71108 and a place of business at 1231 W. Marshall Ave., Longview, TX 75601. Dealers’ Registered Agent for service of process in Texas is CT Corporation System, who may be served at 350 North St. Paul Street, Dallas, Texas 75201.

U.S. PATENT NO’s. 5,567,000 and 6,499,795

11. On October 22, 1996, U.S. Patent No. 5,567,000 (the “‘000 Patent”), entitled “Hidden Storage/Utility System” was duly and validly issued to the inventor Scott Clare.

12. On December 31, 2002, U.S. Patent No. 6,499,795 (the “‘795 Patent”), entitled “Vehicle with Storage/Utility System” was duly and validly issued to the inventor Scott Clare. The ‘795 Patent was first published on December 20, 2001 as United States Patent Application 20010052714.

13. Based on information and belief, Defendants had actual notice of the ‘000 Patent and the publication of said United States Patent Application 20010052714.

14. The ‘000 Patent and the ‘795 Patent are assigned to Scott Clare and Neil Long. Innovative Truck Storage, Inc. is the exclusive licensee of both patents (the “Patents-in-Suit”).

PLAINTIFFS’ PRIOR DEALINGS WITH DEFENDANT FORD

15. On or about September 1996 high ranking officials from Ford approached Plaintiffs expressing interest in their side panel storage system. Over the course of many months, Plaintiffs had numerous meetings and conversations with Ford including top level business people and lead engineers and designers about incorporating Plaintiffs’ side panel storage system into Ford trucks.

16. With Ford's participation, Plaintiffs installed a side panel storage system into a Ford truck which was displayed at several shows on behalf of Ford.

17. Sometime thereafter, without Plaintiffs' knowledge or consent, Ford began using and is still using Defendant, Royal Truck Body, to upfit its trucks with Plaintiffs' patented side panel storage system.

PLAINTIFFS' PRIOR DEALINGS WITH DEFENDANT GM

18. On or about September 1998, GM expressed an interest in incorporating Plaintiffs' side panel storage system into GM vehicles. Over the course of several months, Plaintiffs worked with GM engineers to place a side panel storage system into a GM truck.

19. Sometime thereafter, without Plaintiffs' knowledge or consent, GM began using and is still using Defendant, Royal Truck Body, to upfit its trucks with Plaintiffs' patented side panel storage system.

20. Sometime around the year 2000, without Plaintiffs' knowledge or consent, GM began using Plaintiffs' patented side panel storage system in its OEM produced Avalanche trucks.

**CLAIM FOR RELIEF AGAINST
FORD MOTOR COMPANY : PATENT INFRINGEMENT**

21. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1-20.

22. Upon information and belief, Defendant Ford has imported, made, used, sold, and/or offered to sell vehicles embodying the claimed inventions of the '000 Patent within the United States. These vehicles infringe at least one or more of Claims 1-8 and 10-16 of the '000 Patent and include, Ford vehicles equipped with Defendant Royal Truck Body's hidden side panel storage system.

23. Upon information and belief, Defendant Ford has been and still is importing, making, using, selling, and/or offering to sell vehicles embodying the claimed inventions of the '795

Patent within the United States. These vehicles infringe at least one or more of Claims 1-32 and 38-48 of the '795 Patent and include, but are not limited to, the Lincoln Blackwood and Ford vehicles equipped with Defendant Royal Truck Body's Sculptured "Sport" Truck Body.

24. Upon information and belief, Defendant Ford has and is actively inducing others to directly infringe at least one or more asserted claims of the Patents-in-Suit. Specifically, Defendant Ford actively encourages others to upfit Ford vehicles with a side panel storage system so as to meet each and every element of the asserted claims of Patents-in-Suit. Defendant Ford has intentionally done so having knowledge of the Patents-in-Suit and therefore knew, or should have known, that it actively had induced others to commit acts that constitute direct infringement of the asserted claims of the Patents-in-Suit.

25. Upon information and belief, Defendant Ford's infringing conduct is unlawful and willful and will continue unless enjoined by this Court.

26. Defendant Ford's infringement of the asserted claims of the Patents-in-Suit has caused and will continue to cause irreparable injury to Plaintiffs for which there is no adequate remedy at law.

27. Plaintiffs have suffered damages as a result of Defendant Ford's infringement of the asserted claims of the Patents-in-Suit and will continue to suffer damages as a result of Defendant Ford's continued infringement.

**CLAIM FOR RELIEF AGAINST
GENERAL MOTORS CORPORATION: PATENT INFRINGEMENT**

28. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1-20.

29. Upon information and belief, Defendant GM has been and still is importing, making, using, selling, and/or offering to sell vehicles embodying the claimed inventions of the '000

Patent within the United States. These vehicles infringe at least one or more of Claims 1-8 and 10-16 of the '000 Patent and include, but are not limited to, the GMC Terradyne.

30. Upon information and belief, Defendant GM has been and still is importing, making, using, selling, and/or offering to sell vehicles embodying the claimed inventions within the United States. These vehicles infringe at least one or more of Claims 8, 9, 11, 13, 14-16, 18, 20, and 21 of the '795 Patent. These vehicles include, but are not limited to, the GMC Terradyne, GMC Sierra Pro Plus, Chevrolet Avalanche and Cadillac Escalade EXT.

31. Upon information and belief, Defendant GM has and is actively inducing others to directly infringe at least one or more asserted claims of the '795 Patent. Specifically, Defendant GM actively encouraged others to upfit GM vehicles with a side panel storage system so as to meet each and every element of asserted claims of the '795 Patent. Defendant GM has intentionally done so having knowledge of the '795 Patent and therefore knew, or should have known, that it actively had induced others to commit acts that constitute direct infringement of the asserted claims of the '795 Patent.

32. Upon information and belief, Defendant GM's infringing conduct is unlawful and willful and will continue unless enjoined by this Court.

33. Defendant GM's infringement of the asserted claims of the '795 Patent has caused and will continue to cause irreparable injury to Plaintiffs for which there is no adequate remedy at law.

34. Plaintiffs have suffered damages as a result of Defendant GM's infringement of the asserted claims of the '795 Patent and will continue to suffer damages as a result of Defendant GM's continued infringement.

**CLAIM FOR RELIEF AGAINST
ROYAL TRUCK BODY, INC.: PATENT INFRINGEMENT**

35. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1-20.

36. Upon information and belief, Defendant Royal has been making, using, selling, and/or offering to sell articles embodying the claimed invention of the '000 Patent within the United States. These articles infringe at least one or more of Claims 1-8 and 10-16 of the '000 Patent. These articles include, but are not limited to, vehicles equipped with Royal Truck Body's hidden side panel storage systems.

37. Upon information and belief, Defendant Royal has been and still is making, using, selling, and/or offering to sell articles embodying the claimed invention of the '795 Patent within the United States. These articles infringe at least one or more of Claims 1-32 and 38-48 of the '795 Patent. These articles include, but are not limited to, vehicles and truck beds equipped with Royal Truck Body products and parts sold and offered for sale under the names "GM Summit," Royal "Sport" Truck Body, and "Sculptured Bodies."

38. Upon information and belief, Defendant Royal actively induced others to directly infringe at least one or more of asserted claims of the Patents-in-Suit. Specifically, Defendant Royal actively encouraged others to combine Royal's side panel storage systems with vehicle so as to contain each and every element of the asserted claims of the Patents-in-Suit. Defendant Royal has intentionally done so having knowledge of the Patents-in-Suit and therefore knew, or should have known, that it actively had induced others to commit acts that constitute direct infringement of the asserted claims of the Patents-in-Suit.

39. Upon information and belief, Defendant Royal has been and still is contributorily infringing at least one or more asserted claims of the Patents-in-Suit by making, using, selling, and/or offering to sell within the United States a component of a patented combination,

consisting of a material part of one or more of the components of the claimed inventions, knowing the same to be especially made or adapted for use in the infringement of the asserted claims of the Patents-in-Suit and not a staple article or commodity of commerce suitable for substantial non-infringing use.

40. Upon information and belief, Defendant Royal's infringing conduct is unlawful and willful and will continue unless enjoined by this Court.

41. Defendant Royal's infringement of the asserted claims of the Patents-in-Suit has caused and will continue to cause irreparable injury to Plaintiffs for which there is no adequate remedy at law.

42. Plaintiffs have suffered damages as a result of Defendant Royal's infringement of the asserted claims of the Patents-in-Suit and will continue to suffer damages as a result of Defendant Royal's continued infringement.

**CLAIM FOR RELIEF AGAINST
PETERS CHEVROLET, INC.: PATENT INFRINGEMENT**

43. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1-20.

44. Upon information and belief, Defendant Peters has been making, using, selling, and/or offering to sell articles embodying the claimed invention of the '000 Patent within the United States. These articles infringe at least one or more of Claims 1-8 and 10-16 of the '000 Patent. These articles include, but are not limited to, GM Terradyne and GM vehicles equipped with Royal Truck Body's hidden side panel storage systems.

45. Upon information and belief, Defendant Peters has been and still is making, using, selling, and/or offering to sell articles embodying the claimed invention of the '795 Patent within the United States. These articles infringe at least one or more of Claims 1-32 and 38-48 of the '795 Patent. These articles include, but are not limited to, GMC Terradyne, GMC Sierra Pro

Plus, Chevrolet Avalanche, Cadillac Escalade EXT and GM vehicles and truck beds equipped with Royal Truck Body products and parts sold and offered for sale under the names "GM Summit," Royal "Sport" Truck Body, and "Sculptured Bodies."

46. Upon information and belief, Defendant Peters actively induced others to directly infringe at least one or more of asserted claims of the Patents-in-Suit. Specifically, Defendant Peters actively encouraged others to upfit GM vehicles with a side panel storage system so as to meet each and every element of the asserted claims of the Patents-in-Suit. Defendant Peters has intentionally done so having knowledge of the Patents-in-Suit and therefore knew, or should have known, that it actively had induced others to commit acts that constitute direct infringement of the asserted claims of the Patents-in-Suit.

47. Upon information and belief, Defendant Peters' infringing conduct is unlawful and willful and will continue unless enjoined by this Court.

48. Defendant Peters' infringement of the asserted claims of the Patents-in-Suit has caused and will continue to cause irreparable injury to Plaintiffs for which there is no adequate remedy at law.

49. Plaintiffs have suffered damages as a result of Defendant Peters' infringement of the asserted claims of the Patents-in-Suit and will continue to suffer damages as a result of Defendant Peters' continued infringement.

**CLAIM FOR RELIEF AGAINST
DEALERS TRUCK EQUIPMENT CO., INC.: PATENT INFRINGEMENT**

50. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1-20.

51. Upon information and belief, Defendant Dealers has been making, using, selling, and/or offering to sell articles embodying the claimed invention of the '000 Patent within the United States. These articles infringe at least one or more of Claims 1-8 and 10-16 of the '000 Patent.

These articles include, but are not limited to, vehicles equipped with Royal Truck Body's hidden side panel storage systems.

52. Upon information and belief, Defendant Dealers has been and still is making, using, selling, and/or offering to sell articles embodying the claimed invention of the '795 Patent within the United States. These articles infringe at least one or more of Claims 1-32 and 38-48 of the '795 Patent. These articles include, but are not limited to, vehicles and truck beds equipped with Royal Truck Body products and parts sold and offered for sale under the names "GM Summit," Royal "Sport" Truck Body, and "Sculptured Bodies."

53. Upon information and belief, Defendant Dealers actively induced others to directly infringe at least one or more of asserted claims of the Patents-in-Suit. Specifically, Defendant Dealers actively encouraged others to combine Royal's side panel storage systems with vehicles so as to contain each and every element of the asserted claims of the Patents-in-Suit. Defendant Dealers has intentionally done so having knowledge of the Patents-in-Suit and therefore knew, or should have known, that it actively had induced others to commit acts that constitute direct infringement of the asserted claims of the Patents-in-Suit.

54. Upon information and belief, Defendant Dealers has been and still is contributorily infringing at least one or more asserted claims of the Patents-in-Suit by making, using, selling, and/or offering to sell within the United States a component of a patented combination, consisting of a material part of one or more of the components of the claimed inventions, knowing the same to be especially made or adapted for use in the infringement of the asserted claims of the Patents-in-Suit and not a staple article or commodity of commerce suitable for substantial non-infringing use.

55. Upon information and belief, Defendant Dealers' infringing conduct is unlawful and willful and will continue unless enjoined by this Court.

56. Defendant Dealers' infringement of the asserted claims of the Patents-in-Suit has caused and will continue to cause irreparable injury to Plaintiffs for which there is no adequate remedy at law.

57. Plaintiffs have suffered damages as a result of Defendant Dealers' infringement of the asserted claims of the Patents-in-Suit and will continue to suffer damages as a result of Defendant Dealers' continued infringement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a judgment:

- (a) that Defendants Ford, GM, Royal, Peters and Dealers have infringed the asserted claims of the '000 Patent;
- (b) that Defendants Ford, GM, Royal, Peters and Dealers have infringed the asserted claims of the '795 Patent;
- (c) that a preliminary and permanent injunction be issued against further infringement of the asserted claims of the Patents-in-Suit by Defendants Ford, GM, Royal, Peters, Dealers, and their officers, agents, servants, employees, attorneys and all those persons in active concern or participation with each Defendant;
- (d) that Defendants Ford, GM, Royal, Peters and Dealers be ordered to account for each infringement of the asserted claims of the '000 Patent occurring within the last six years in an amount adequate to compensate Plaintiffs for each such infringement;
- (e) that Defendants Ford, GM, Royal, Peters, and Dealers be ordered to account for each act of infringement of the asserted claims of the '795 Patent occurring since the

publication date of December 20, 2001 in an amount adequate to compensate Plaintiffs for each such infringement;

(f) that Defendants Ford, GM, Royal, Peters, and Dealers be ordered to pay Plaintiffs' costs, expenses and prejudgment interest as provided for by 35 U.S.C. §284;

(g) that this case is exceptional within the meaning of 35 U.S.C. §285 and award Plaintiffs their reasonable attorney fees;

(h) that the Court determine that Defendants Ford, GM, Royal, Peters, and Dealers willfully infringed the asserted claims of the '000 Patent and enhance damages up to treble as provided by 35 U.S.C. §284;

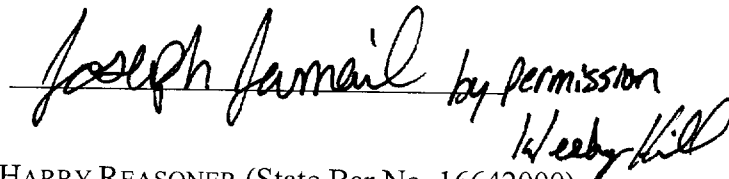
(i) that the Court determine that Defendants Ford, GM, Royal, Peters, and Dealers willfully infringe the asserted claims of the '795 Patent and enhance damages up to treble as provided by 35 U.S.C. §284; and

(j) that Plaintiffs be granted such other relief as the court deems just and equitable.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs demand a jury trial on all issues triable of right by a jury.

Respectfully submitted,

 by permission
Weedy Hill

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