**IN THE UNITED STATES DISTRICT COURT**
**FOR THE NORTHERN DISTRICT OF ILLINOIS**
**EASTERN DIVISION**



MERIDIAN RAIL PRODUCTS CORP.,

Plaintiff,

v.

AMSTED INDUSTRIES INCORPORATED,

Defendant.

CIVIL ACTION NO.

02C 3708



**COMPLAINT FOR DECLARATORY JUDGMENT**

For its Complaint against defendant Amsted Industries Incorporated ("Amsted"), plaintiff Meridian Rail Products Corp. ("Meridian"), states as follows:

**PARTIES**

1. This is a Declaratory Judgment action for a declaration of invalidity and noninfringement of U.S. Patent No. 5,752,564 ("'564 Patent") and U.S. Patent No. 5,954,114 ("'114 Patent").

2. Meridian is a corporation organized and existing under the laws of Delaware, having a principal place of business in Lombard, Illinois.

3. Amsted is a corporation organized and existing under the laws of Delaware, with its principal place of business in Granite City, Illinois.

4. Amsted is the listed assignee of the '564 Patent, issued May 19, 1998, entitled "Railway Truck Castings and Method and Cores for Making Castings."

5. Amsted is the listed assignee of the '114 Patent, issued September 21, 1999, entitled "Method of Making Railway Truck Bolsters."

**JURISDICTION AND VENUE**

6. Meridian's claims arise under the Patent Laws of the United States, Title 35 of the United States Code.

7. This Court has subject matter jurisdiction over these claims under 28 U.S.C. §§ 1331 and 1338(a), and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

8. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b) and (c).

9. On May 21, 2002 during a meeting among Meridian and Amsted executives, Amsted unequivocally stated it intends to sue Meridian for patent infringement immediately upon Meridian's manufacture and sale of its newly designed lightweight sideframes and bolsters. On information and belief, Amsted has indicated to Meridian's customers that Amsted intends to sue Meridian for patent infringement immediately upon Meridian's manufacture and sale of its newly designed lightweight sideframes and bolsters.

10. Meridian currently manufactures and sells lightweight sideframes and bolsters.

11. A case or controversy exists between Meridian and Amsted as to infringement and validity of the '564 and '114 Patents.

**Count I –Declaration of Noninfringement of the '564 Patent**

12. Meridian incorporates and reallages paragraphs 1-11, as if fully set forth herein.

13. Meridian's method of manufacturing sideframes and bolsters does not infringe any claim of the '564 Patent.

**Count II –Declaration of Noninfringement of the '114 Patent**

14. Meridian incorporates and reallages paragraphs 1-13, as if fully set forth herein.

15. Meridian's method of manufacturing sideframes and bolsters does not infringe any claim of the '114 Patent.

**Count III – Declaration of Invalidity of the '564 Patent**

16. Meridian incorporates and reallages paragraphs 1-15, as if fully set forth herein.

17. One or more claims of the '564 Patent are invalid under 35 U.S.C. §§ 102 and/or 103 in view of the prior art.

**Count IV – Declaration of Invalidity of the '114 Patent**

18. Meridian incorporates and reallages paragraphs 1-17, as if fully set forth herein.

19. One or more claims of the '114 Patent are invalid under 35 U.S.C. §§ 102 and/or 103 in view of the prior art.

**PRAYER FOR RELIEF**

WHEREFORE, Meridian respectfully prays that this Court enter such orders and judgments as is necessary to provide the following relief:

(A) A final judgment in favor of Meridian on all counts in the Complaint;

(B) A final judgment declaring that Meridian has not infringed any claim of the '564 Patent;

(C) A final judgment declaring that Meridian has not infringed any claim of the '114 Patent;

(D) A final judgment declaring that one or more claims of the '564 Patent are invalid;

(E) A final judgment declaring that one or more claims of the '114 Patent are invalid;

(F) An order that this is an exceptional case under 35 U.S.C. § 285 and Meridian be awarded its reasonable attorneys' fees, expenses, and costs in this action; and

(G) Such other and further relief as this Court deems just and proper.

Dated this 23rd day of May, 2002

By: _____
One of the Attorneys for
MERIDIAN RAIL PRODUCTS CORP.

Michael J. Abernathy
Alan L. Barry
Wendy J. Weimer
BELL, BOYD & LLOYD LLC
70 West Madison Street
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Chicago, Illinois 60602
(312) 372-1121

(1)

**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.

**Plaintiff**(s): **Meridian Rail Products Corp.**

County of Residence: Cook

Plaintiff's Atty: Michael J. Abernathy
Bell, Boyd & Lloyd
70 West Madison Street, Suite 3300
(312) 372-1121

**Defendant**(s):**Amsted Industries Incorporated**

County of Residence: Cook

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**

02C 3708

IV. Origin : **1. Original Proceeding**

CHIEF JUDGE ASPEN
MAGISTRATE JUDGE KEYS

V. Nature of Suit: **830 Patent**

VI.Cause of Action: **35 U.S.C. 1, et seq. Declaratory judgment of patent noninfringement and invalidity.**

VII. Requested in Complaint
Class Action:
Dollar Demand:
Jury Demand: **No**

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

**Signature:** Michael J Abernathy

**Date:** May 23, 2002

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 in your browser display to make the form print properly.** **Revised: 06/28/00**

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# UNITED STATES DISTRICT COURT
# NORTHERN DISTRICT OF ILLINOIS

Eastern Division

In the Matter of

Meridian Rail Products Corp.
v.
Amsted Industries Incorporated

DOCKETED
MAY 24 2002

Case Number: 02C 3708

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

CHIEF JUDGE ASPEN

Meridian Rail Products Corp.

| (A) | (B) |
|---|---|
| SIGNATURE: Michael J. Abernathy | SIGNATURE: Alan L. Barry |
| NAME: Michael J. Abernathy | NAME: Alan L. Barry |
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| IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE): 6183736 | IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE): 6180457 |
| MEMBER OF TRIAL BAR? YES ✔ NO | MEMBER OF TRIAL BAR? YES ✔ NO |
| TRIAL ATTORNEY? YES ✔ NO | TRIAL ATTORNEY? YES NO ✔ |
| | DESIGNATED AS LOCAL COUNSEL? YES NO ✔ |
| **(C)** | **(D)** |
| SIGNATURE: Wendy J. Weimer | SIGNATURE |
| NAME: Wendy J. Weimer | NAME |
| FIRM: Bell, Boyd & Lloyd LLC | FIRM |
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| IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE): 6276148 | IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) |
| MEMBER OF TRIAL BAR? YES NO ✔ | MEMBER OF TRIAL BAR? YES NO |
| TRIAL ATTORNEY? YES NO ✔ | TRIAL ATTORNEY? YES NO |
| DESIGNATED AS LOCAL COUNSEL? YES NO ✔ | DESIGNATED AS LOCAL COUNSEL? YES NO |

FILED
02 MAY 23 PM 12:15
CLERK U.S. DISTRICT COURT

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