

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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

Case No. 2:11-CV-503

Plaintiffs,

v.

1. CHRYSLER GROUP LLC,

Defendant.

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

Plaintiffs, Scott Clare, Innovative Truck Storage, Inc., and Neil Long complain of Chrysler Group LLC, Defendant.

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 131 La Questa Drive, 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 I-247, Carson City, NV 89706.

THE DEFENDANTS

6. Based on information and belief, Defendant Chrysler Group LLC is a Delaware Limited Liability Company having a principal place of business at 1000 Chrysler Drive, Auburn Hills, Michigan. Chrysler's Registered Agent for service of process in Texas is CT Corporation System, who may be served at 350 North St. Paul Street, Suite 2900, Dallas, Texas 75201

U.S. PATENT NO's. 5,567,000; 6,499,795; and 7,104,583

7. 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.

8. 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 2001/0052714.

9. On September 12, 2006, U.S. Patent No. 7,104,583 (the "'583 Patent"), entitled "Vehicle with Storage/Utility System" was duly and validly issued to the inventor Scott Clare. The '583 Patent was first published on August 7, 2003 as United States Patent Application 2003/0146638.

10. Based on information and belief, Defendants had actual notice of the '000 Patent, the '795 Patent and the '583 Patent.

11. The '000 Patent, the '795 Patent, and the '583 Patent are assigned to Scott Clare and Neil Long.

12. Innovative Truck Storage, Inc. is the exclusive licensee of both patents (the "Patents-in-Suit").

13. The '000 Patent and the '795 Patent were the subject of a prior case in this District, *Clare et al. v. Ford Motor Co. et al.*, Case No. 2-02-cv-00325.

PLAINTIFFS' PRIOR DEALINGS WITH CHRYSLER

14. Plaintiffs originally approached Chrysler in 1997 to discuss a possible license to, at that time, the '000 patent. While Chrysler declined to take a license as it was not interested at that time in incorporating the patented system on its vehicles, Chrysler personnel worked closely with Plaintiffs by, for example, providing a test vehicle to Plaintiffs for durability testing of Plaintiffs' aftermarket Hide-N-Side product for Ram pickup trucks which debuted in 1999. Chrysler also provided a number of loose pickup beds to be converted by Plaintiffs to include the aftermarket Hide-N-Side product.

15. Chrysler personnel viewed the Hide-N-Side product again at the 2003 SEMA show and expressed further interest in the patented product. Plaintiffs subsequently provided a great deal of information concerning the patented product to business planning personnel at Chrysler. Once again, Chrysler declined to take a license.

16. Recently, without Plaintiffs' knowledge or consent, Chrysler began using and is still using Plaintiffs' patented side panel storage system in the Dodge RamBox® Cargo Maintenance System.

17. On or about December 5, 2011, Plaintiffs, through counsel, contacted Chrysler via letter regarding the infringement by Chrysler of the '795 Patent and the '583 Patent.

CLAIM FOR RELIEF AGAINST
CHRYSLER GROUP LLC: PATENT INFRINGEMENT

18. Plaintiffs reallege and incorporate by reference the allegations of paragraphs 1-17.

19. Upon information and belief, Defendant Chrysler has imported, made, used, sold, and/or offered 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 of the '795 Patent and include Dodge Ram pickup trucks equipped with the Dodge RamBox® Cargo Maintenance System.

20. Upon information and belief, Defendant Chrysler has been and still is importing, making, using, selling, and/or offering to sell vehicles embodying the claimed inventions of the '583 Patent within the United States. These vehicles infringe at least one or more of Claims 1-6, 8-11, 16-18, and 20 of the '583 Patent and include Dodge Ram pickup trucks equipped with the Dodge RamBox® Cargo Maintenance System.

21. Upon information and belief, Defendant Chrysler has and is actively inducing others to directly infringe at least one or more asserted claims of the '795 Patent. Specifically, Defendant Chrysler actively encouraged others to upfit Dodge Ram vehicles with a side panel storage system so as to meet each and every element of asserted claims of the '795 Patent. Defendant Chrysler 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.

22. Upon information and belief, Defendant Chrysler has and is actively inducing others to directly infringe at least one or more asserted claims of the '583 Patent. Specifically, Defendant Chrysler actively encouraged others to upfit Dodge Ram vehicles with a side panel storage

system so as to meet each and every element of asserted claims of the '583 Patent. Defendant Chrysler has intentionally done so having knowledge of the '583 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 '583 Patent.

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

24. Defendant Chrysler'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

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for a judgment:

(a) that Defendant Chrysler has infringed the asserted claims of the '795 Patent;

(b) that Defendant Chrysler has infringed the asserted claims of the '583 Patent;

(c) that a preliminary and permanent injunction be issued against further infringement of the asserted claims of the Patents-in-Suit by Defendant Chrysler, and their officers, agents, servants, employees, attorneys and all those persons in active concern or participation with Defendant;

(d) that Defendant Chrysler be ordered to account for each infringement of the asserted claims of the '795 Patent occurring within the last six years in an amount adequate to compensate Plaintiffs for each such infringement:

(e) that Defendant Chrysler be ordered to account for each act of infringement of the asserted claims of the '583 Patent occurring within the last six years in an amount adequate to compensate Plaintiffs for each such infringement

(f) that Defendant Chrysler 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 Defendant Chrysler willfully infringed the asserted claims of the '795 Patent and enhance damages up to treble as provided by 35 U.S.C. §284.

(i) that the Court determine that Defendant Chrysler willfully infringe the asserted claims of the '583 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.

Dated: December 5, 2011

Respectfully submitted,

F&B LLP

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