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

NATIONAL STEEL CAR LIMITED, a Canadian corporation,	)	
Plaintiff,	)	Case No. _____
vs.	)	
FREIGHTCAR AMERICA, INC., a Delaware corporation,	)	**JURY TRIAL DEMANDED**
Defendant.	)	

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff National Steel Car Limited ("NSC") brings this action against Defendant FreightCar America, Inc. ("FreightCar America") and alleges as follows:

NATURE OF THE ACTION

1. This is a civil action arising under the laws of the United States, 35 U.S.C. § 1, *et seq.*, for patent infringement. NSC seeks damages and injunctive relief as provided in 35 U.S.C. §§ 281, 283–85.

THE PARTIES

2. NSC is a corporation organized and existing under the laws of the province of Ontario, Canada, having its principal place of business at 600 Kenilworth Avenue North, Hamilton, Ontario, Canada, L8N 3J4.

3. Upon information and belief, FreightCar America is a corporation organized and existing under the laws of the State of Delaware, having its headquarters and principal place of business at Two North Riverside Plaza, Suite 1250, Chicago, Illinois, 60606.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over FreightCar America because FreightCar America maintains a principal place of business in this District and has done, and is doing, substantial business in this District, both generally and with respect to the allegations in this Complaint.

6. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

THE PATENTS-IN-SUIT

7. On November 1, 2011, United States Patent No. 8,047,140 ("the '140 patent"), entitled "RAIL ROAD HOPPER CAR STRUCTURE," was duly and legally issued by the United States Patent and Trademark Office. NSC owns all right, title, and interest in and to the '140 patent. A copy of the '140 patent is attached to this complaint as Exhibit A.

8. On November 29, 2011, United States Patent No. 8,065,964 ("the '964 patent"), entitled "RAIL ROAD HOPPER CAR RIDGE FITTINGS," was duly and legally issued by the United States Patent and Trademark Office. NSC owns all right, title, and interest in and to the '964 patent. A copy of the '964 patent is attached to this complaint as Exhibit B. The '140 and '964 patents are hereinafter referred to collectively as the "Patents-In-Suit."

COUNT I
INFRINGEMENT OF U.S. PATENT NO. 8,047,140

9. NSC incorporates by reference paragraphs 1 through 8 as if fully set forth herein.

10. FreightCar America has infringed and continues to infringe, literally and/or under the doctrine of equivalents, the '140 patent in this District and elsewhere in the United States by FreightCar America's manufacture, sale, offering for sale, use, and/or importing of infringing

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products including, but not limited to, VersaFlood hybrid steel and aluminum aggregate cars without authority or license of NSC.

11. FreightCar America has caused NSC substantial damage and irreparable injury by its infringement of the ’140 patent, and NSC will continue to suffer damage and irreparable injury unless and until FreightCar America is enjoined by this Court from continuing such infringement.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 8,065,964

12. NSC incorporates by reference paragraphs 1 through 8 as if fully set forth herein.

13. FreightCar America has infringed and continues to infringe, literally and/or under the doctrine of equivalents, the ’964 patent in this District and elsewhere in the United States by FreightCar America’s manufacture, sale, offering for sale, use, and/or importing of infringing products including, but not limited to, VersaFlood hybrid steel and aluminum aggregate cars without authority or license of NSC.

14. FreightCar America has caused NSC substantial damage and irreparable injury by its infringement of the ’964 patent, and NSC will continue to suffer damage and irreparable injury unless and until FreightCar America is enjoined by this Court from continuing such infringement.

PRAYER FOR RELIEF

WHEREFORE, NSC prays for the following relief against FreightCar America:

1. For judgment in favor of NSC that FreightCar America has infringed and is infringing the Patents-In-Suit;

2. For entry of preliminary and permanent injunctions prohibiting FreightCar America from manufacturing, using, selling, offering for sale, or importing products that infringe

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the Patents-In-Suit including, but not limited to, VersaFlood hybrid steel and aluminum aggregate cars in the United States;

3. For an award of damages for FreightCar America's infringement of the Patents-In-Suit, no less than a reasonable royalty, together with interest (both pre-and post-judgment), costs, and disbursements as fixed by this Court under 35 U.S.C. § 284; and

4. For such other and further relief in law or in equity to which NSC may be justly entitled.

DEMAND FOR JURY TRIAL

NSC demands a trial by jury of any and all issues triable of right before a jury.

Dated: December 9, 2011

Respectfully submitted,

/s/ Linda S. DeBruin

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