

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

MACNEIL AUTOMOTIVE PRODUCTS
LIMITED, d/b/a WEATHERTECH,
an Illinois Corporation,

Plaintiff,

v.

JINRONG (SH) AUTOMOTIVE
ACCESSORY DEVELOPMENT CO., LTD.,
a Chinese Company, and RUI DAI, a Chinese
Company and/or Individual,

Defendants.

Case No. 1:19-cv-02460

Hon. Matthew F. Kennelly

**JINRONG (SH) AUTOMOTIVE ACCESSORY DEVELOPMENT CO., LTD'S LPR 2.3
INITIAL NON-INFRINGEMENT, UNENFORCEABILITY, AND INVALIDITY
CONTENTIONS AND LPR 2.4 SUPPLEMENTAL INITIAL DISCLOSURES**

Pursuant to the Scheduling Order and LPR 2.3, Defendant Jinrong Automotive Accessory Development Co., LTD (“Jinrong” or “Defendant”) hereby provides notice of Jinrong’s Initial Non-Infringement, Unenforceability and Invalidity Contentions, including Exhibits A-1 to A-10, B-1 to B-10, C, and D, for:

- Claims 1, 2, 3, 6, and 7 of U.S. Patent No. 8,382,186 (“the ’186 Patent”)¹
- Claims 1, 4, 5, 8, 9, 12, 13, and 14 of U.S. Patent No. 8,833,834 (“the ’834 Patent”)²

(collectively “Asserted Claims”). Jinrong further supplements its Initial Disclosures in accordance with LPR 2.4.

Jinrong reserves the right to amend, modify, and/or supplement these Initial LPR 2.3 Contentions based on, among other things, amendments, modifications or supplements to Plaintiff’s infringement contentions, further investigation, fact or expert discovery, and/or evaluation of the scope and content of the prior art, disclosure of the parties’ claim constructions, an order construing the Asserted Claims, or any other basis contemplated by the Federal Rules of Civil Procedure, the Court’s Local Rules, and any other applicable order entered by the Court.

Jinrong’s Initial LPR 2.3 Contentions are based on information reasonably available at this time with respect to the Asserted Claims, and are necessarily preliminary and may require

¹ MacNeil refers to claim 4 of the ’186 Patent on page 7 of its LPR 2.2 contentions but does not include claim 4 in its claim charts or identify any specific products that purportedly infringe claim 4. Therefore, claim 4 of the ’186 Patent is not specifically addressed in these contentions, but Jinrong contends that it is not infringed and invalid for at least the same reasons discussed with respect to the other claims herein. Jinrong reserves the right to revise or amend these contentions to specifically address this claim should MacNeil properly allege infringement of this claim.

² MacNeil does not identify any specific products that purportedly infringe claim 14 of the ’834 Patent other than the product in Exhibit 2. Jinrong reserves the right to revise or amend these contentions to specifically address additional products should MacNeil specifically identify additional accused products with respect to this claim.

subsequent amendment, modification, and/or supplementation. Moreover, this case is in its early stages, and Jinrong has not obtained deposition testimony from any of the named inventors of the Asserted Patents or any third party. These disclosures are made without prejudice to Jinrong's right to supplement or amend its contentions as additional facts are ascertained, analyses are made, research is completed, and/or claims are construed.

Because this case is in its early stages, Jinrong has not yet completed its investigation, discovery, or analysis of matters relating to the infringement, validity, or enforceability of the Asserted Claims, including, without limitation, invalidity due to on-sale statutory bars, public use statutory bars or improper inventorship, or unenforceability due to inequitable conduct. The disclosures herein are not and should not be construed as a statement that no other persons have discoverable information, that no other documents, data compilations, and/or tangible things exist that Jinrong may use to support their claims or defenses, or that no other legal theories or factual bases will be pursued. Accordingly, Jinrong reserves the right to amend, modify and supplement these Initial LPR 2.3 Contentions as additional information is discovered, identified, or otherwise appreciated, including testimony about the Asserted Claims and the scope and content of the prior art.

I. LPR 2.3(a) – Initial Non-Infringement Contentions

Jinrong contends that it does not infringe the Asserted Claims directly, indirectly, contributorily, literally, under the doctrine of equivalents, or willfully. Jinrong's Initial Non-Infringement Contentions are provided in Exhibit C as to the '186 Patent and in Exhibit D as to the '834 Patent.

II. LPR 2.3(b) – Initial Invalidity Contentions

As set forth in further detail below, Jinrong contends that each of the Asserted Claims is invalid under at least 35 U.S.C. §§ 102, 103, and/or 112.

Jinrong expects further discovery will reveal additional prior art, including related disclosures and corresponding evidence for many of the prior art references identified below. For example, Jinrong has not received from MacNeil a copy of any of the invalidity contentions served by any defendant in a prior case in which Jinrong has asserted any of the Asserted Patents. Accordingly, Jinrong incorporates by reference each such invalidity contention as if fully set forth herein.

Jinrong's Initial Invalidity Contentions are based on Plaintiff's apparent understanding of the meaning of the claim terms and scope of the claims as evidenced by Plaintiff's Infringement Contentions. Jinrong's Initial Invalidity Contentions should not be taken to mean that (i) Jinrong agrees with Plaintiff's bases for infringement; (ii) Jinrong agrees with Plaintiff regarding the scope of any of the Asserted Claims; (iii) Jinrong agrees with Plaintiff's claim constructions advanced expressly or implicitly by Plaintiff's Infringement Contentions or in any other pleading, discovery request or response, or written or verbal communication; or (iv) Jinrong agrees or believes that the claims at issue are amenable to a meaningful construction or satisfy the requirements of 35 U.S.C. § 112. Jinrong expressly reserves the right to propose and advocate for alternative constructions to those apparently advocated by Plaintiff.

Unless otherwise specified, the Invalidity Contentions set forth herein are in reliance on the alleged priority dates of the Asserted Patents asserted by Plaintiff in its Infringement Contentions. To the extent Plaintiff asserts entitlement to a different priority date for prior art purposes, Jinrong reserves the right to amend these contentions. Further, nothing in these

contentions constitutes an admission concerning the priority dates, conception date or reduction to practice of the Asserted Claims of the Asserted Patents.

Prior art not included in this disclosure, whether known or unknown to Jinrong, may become relevant. In particular, Jinrong is currently unaware of the extent, if any, to which Plaintiff will contend that limitations of the asserted claims are not disclosed in the prior art identified by Jinrong. To the extent that such an issue arises, Jinrong reserves the right to identify additional teachings in the same references or in other references that anticipate or would have made the addition of the allegedly missing limitation to the device or method obvious.

Jinrong's invalidity claim charts cite to particular teachings and disclosures of the prior art as applied to features of the Asserted Claims. However, a person having ordinary skill in the art ("POSITA") may view an item of prior art generally in the context of other publications, literature, products, and understanding. Accordingly, the cited portions are only examples, and Jinrong reserves the right to rely on uncited portions of the prior art references and other publications and expert testimony as aids in understanding and interpreting the cited portions, as providing context thereto, and as additional evidence that a claim limitation is known or disclosed. Jinrong further reserves the right to rely on uncited portions of the prior art references, other publications, and testimony to establish bases for combinations of certain cited references that render the asserted claims obvious. Further, the references discussed in the claim charts or elsewhere identified, may disclose the elements of the asserted claims explicitly, and/or inherently, and/or they may be relied upon to show the state of the art in the relevant timeframe. The suggested obviousness combinations are provided in the alternative to Jinrong's anticipation contentions and are not to be construed to suggest that any reference included in the combinations is not itself anticipatory.

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