

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

LEONARD AUTOMATICS, INC.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No.
	)	
WILLIAM C. HOUSER	)	<b>Jury Trial Demanded</b>
	)	
Defendant.	)	
	)	

**DECLARATORY JUDGMENT COMPLAINT OF NON-INFRINGEMENT**

Plaintiff Leonard Automatics, Inc. (hereinafter “Leonard Automatics” or “Plaintiff”), in support of this Declaratory Judgment Complaint against William C. Houser (hereinafter “Defendant” or “Mr. Houser”) does hereby allege as follows:

**NATURE OF THE ACTION**

1. This case involves unlawful attempts by Defendant to assert patent rights against Plaintiff and to cause Plaintiff to cease making, using, selling, and/or offering to sell its electro-mechanical lift gate system, by threatening patent infringement litigation against Plaintiff relating to U.S. Patent No. 9,677,314 (the “’314 Patent”).

2. Beginning on January 10, 2024, and over the course of several emails and threatening voicemail messages thereafter, Defendant has repeated its accusation that Plaintiff’s electro-mechanical lift gate infringes the ’314 Patent, and has demanded that Plaintiff cease all sales and related activity.

3. As explained in greater detail below, Plaintiff does not infringe any valid claim of the '314 Patent, at least because the '314 Patent is directed to the use of a hydraulic system or motorized gear assembly to operate a lift gate, whereas Plaintiff's lift gates uses a linear actuator.

4. Accordingly, Plaintiff brings this action seeking a declaration under the Declaratory Judgment Act (28 U.S.C. § 2201) that Plaintiff has not and does not infringe any valid and enforceable claim of any of the '314 Patent.

### **THE PARTIES**

5. Plaintiff Leonard Automatics, Inc. is a North Carolina corporation with a registered address and principal place of business at 5894 Balsom Ridge Road, Denver, North Carolina 28037.

6. Leonard Automatics provides diversified equipment including in the laundry, garment, and heat treatment industries. *See, e.g.*, [www.leonardautomatics.com](http://www.leonardautomatics.com) ("Products" tab).

7. Leonard Automatics was founded by Len Frushtick in 1969. Since that time, Leonard Automatics has grown tremendously, having assembled some of the most experienced people in the industry with over 75 years' experience in the laundry, garment and heat treatment industries.

8. In 2008, Leonard Automatics broke ground on their facility in Denver, North Carolina. The building is located one mile from their previous location and built upon 6.5 acres of land in a new industrial park. The facility expanded manufacturing and R&D space as well as office space. This new building has allowed Leonard Automatics to explore new markets, improve the manufacturing process, and add more office space.

9. On information and belief, Defendant William C. Houser is an individual residing in Stanley County, North Carolina, with an address at 2403 Clemson Lane, Stanley, North Carolina 28164.

10. On information and belief, for the past two years, neither Defendant nor its affiliates have manufactured or sold any lift gate systems or done any research and development relating thereto.

### **JURISDICTION AND VENUE**

11. The Court has original and exclusive subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331 and 1338 (a) and (b) because this Complaint states claims arising under Acts of Congress, including the Patent Act, *i.e.*, 35 U.S.C. § 101 *et. seq.*

12. The Court also has original and exclusive subject matter jurisdiction over these claims because this Complaint arises under the Federal Declaratory Judgment Act (28 U.S.C. §§ 2201 and 2202), in that it involves an actual case or controversy due to Defendant's accusation that Plaintiff infringes the '314 Patent and its repeated threats to sue for patent infringement.

13. The Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over all other claims asserted or that may be asserted that are so related to claims within the original jurisdiction of this action that they form part of the same case or controversy under Article III of the United States Constitution.

14. Pursuant to 28 U.S.C. §§ 1391(b), 1391(c), 1391(d), and 1400(b), venue is proper in the Western District of North Carolina (hereinafter "this District"), since Plaintiff's principal place of business is in this District, and since a substantial part of the events giving rise to the claims in this Complaint occurred in this District. For example, Defendant has directed its threatening conduct to this District, and from within this District. In other words, a substantial part

of the events giving rise to Plaintiff's claim occurred in this District, including the sending and receipt of the Demand Letter.

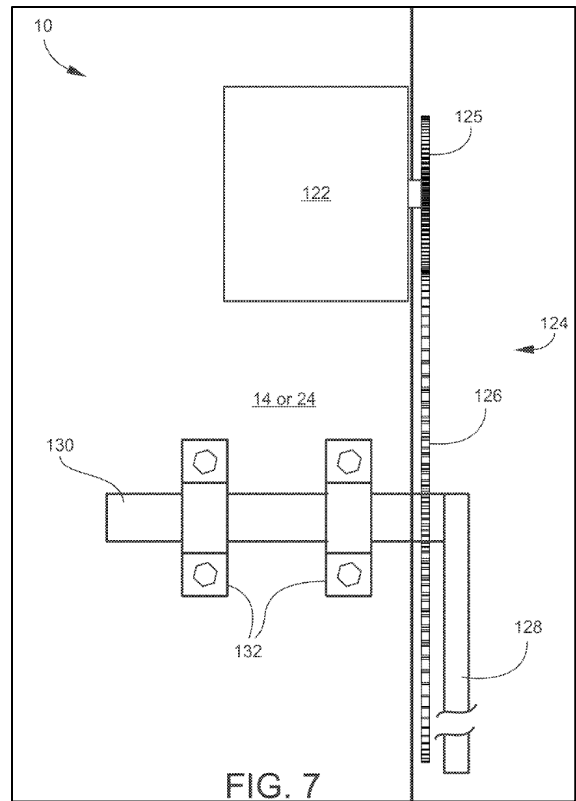
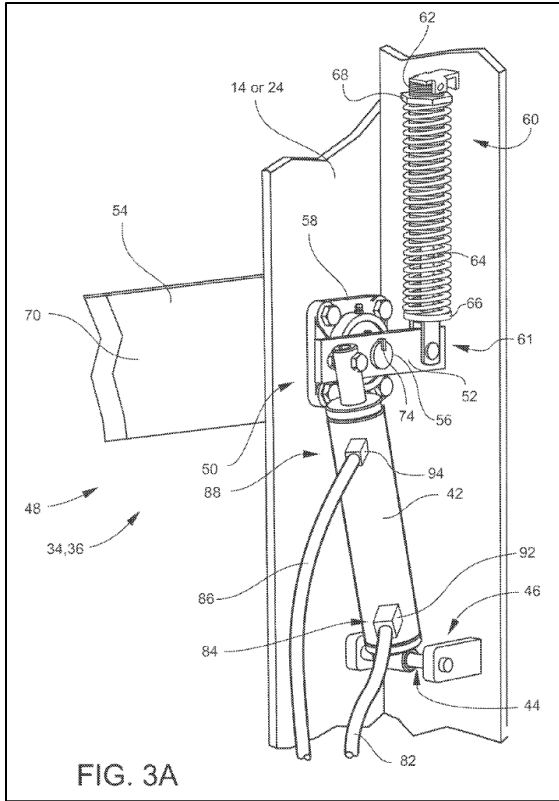
15. This Court has *in personam* jurisdiction over Defendant because Defendant resides in this District. Moreover, Defendant has knowingly and repeatedly directed its threatening conduct into this District. Both since he resides in this District, and by seeking out and threatening litigation against Plaintiff, an entity known to exist under the laws of and operate in North Carolina, and in this District, Defendant should reasonably be expected to be subject to *in personam* jurisdiction in this District.

### **FACTUAL BACKGROUND AND GENERAL ALLEGATIONS**

#### ***The '314 Patent***

16. U.S. Patent No. 9,677,314 is titled "Lift Gate System and Method of Installation Thereof" and issued from Application No. 14/695,853, which was filed on April 24, 2015. That application was published on October 27, 2016 as US 2016/0312512 A1. A copy of the '314 Patent is attached hereto as Exhibit 1.

17. The '314 Patent discloses using either hydraulic components (below, left, Fig. 3A) or else a motorized gear assembly comprising an idle gear (below, right, Fig. 7).



18. The '314 Patent comprises fifteen (15) claims, of which three (3) are independent claims (claims 1, 14 and 15) and the remaining twelve (12) claims are dependent claims.

19. Claim 1 of the '314 discloses "a lift gate system" comprising:

a gate;

a first pole configured to attach to a ground surface on one side of the gate including a first track attached approximate to a first top;

a second pole configured to attach to the ground surface on an opposite side of the gate from the first pole including a second track attached approximate to a second top;

a header interconnecting the first top with the second top; and

an internal operator configured for lifting the gate, where said internal operator being inside one of said first pole, and said second pole;

wherein said internal operator being a *hydraulic operator including:*

*at least one hydraulic cylinder* configured to lengthen and shorten for raising and lowering the gate;

wherein said *hydraulic operator further including:*

a rotatable mount on a fixed end of the at least one *hydraulic cylinder*; and

a lever assembly on an extendable end of the at least one *hydraulic cylinder* connected to said gate, said lever assembly including:

a first lever;

a second lever; and

a shaft held in place by pillow block bearings;

wherein, said first lever being pivotally connected to said extendable end of the at least one *hydraulic cylinder* at one end and fixed to one end of said shaft, and said second lever being pivotally connected to said gate at one end and fixed to the other end of said shaft;

whereby, rotation of said first lever by said *hydraulic cylinder* causes rotation of said second lever thereby raising or lowering the gate.

20. Claim 15 of the '314 Patent discloses a "lift gate system" comprising:

a gate;

a first pole configured to attach to a ground surface on one side of the gate including a first track attached approximate to a first top;

a second pole configured to attach to the ground surface on an opposite side of the gate from the first pole including a second track attached approximate to a second top;

a header interconnecting the first top with the second top; and

an internal operator configured for lifting the gate, where said internal operator being inside one of said first pole, and said second pole;

wherein said internal operator including:

a motor; and

a gear assembly linked to said motor and connected to said gate;

said gear assembly including:

a motor gear connected to said motor;

*an idle gear in communication with said motor gear and having an idle shaft held in place with pillow block bearings; and*

a gate arm connected to said idle shaft on one end and said gate on the other end;

whereby, rotation of said motor turns said gear assembly for raising and lowering the gate.

21. As will be explained below in greater detail, emphasized claim terms/phrases above relating to hydraulics and elements of the motorized gear assembly are most relevant to the instant Complaint, including to proving non-infringement.

***The Accused Electro-Mechanical Lift Gate***

22. Plaintiff is currently offering for sale the lift gate system shown below (hereinafter the “Accused Electro-Mechanical Lift Gate”):

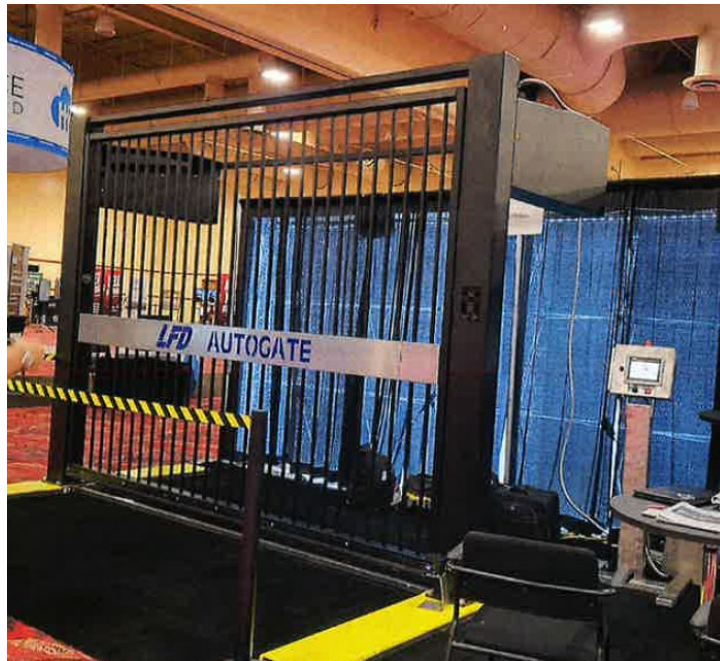


Exhibit 2 at 3.

23. The Accused Electro-Mechanical Lift Gate is configured for commercial garage complexes.

24. As commonly known, gates that tilt or lift are often installed at entrances and/or exists of commercial parking garages or at other similar locations in order to allow for selected entry/exit of vehicles at a location.

25. It has become increasingly important to develop dependable gate systems to accommodate many different spaces, especially smaller sized spaces. Additionally, it is desired for the manufacturing and/or retrofitting, assembly, and maintenance of such gate systems to become increasingly more time efficient, ergonomic, and cost efficient.

26. As such, the components of the gate systems may be required to be simplified while also still maintaining the force, rigidity, and power to easily lift the lift gates. As such, the components of the gate systems may be required to be simplified while also still maintaining the force, rigidity, and power to easily lift the lift gates.

27. As its name implies, the Accused Electro-Mechanical Lift Gate is advantageous because it is operated using electrically-powered linear actuators (shown below) as opposed to using hydraulics or a motorized gear assembly.





28. Rather than use hydraulics or a system of motorized gears (such as would necessitate an idle gear, idle shaft, and pillow block bearings), Plaintiff’s electrical linear actuator converts the electrical motor’s rotary motion into linear motion using a ‘worm and tube’.

29. Specifically, in designing the Accused Electro-Mechanical Lift Gate, Plaintiff specifically opted against the use of hydraulics (which would require the addition of a hydraulic pump and additional tubing, as well as hydraulic fluid, hydraulic pressure relief valves, multiple safety switches on each hydraulic cylinder, etc.) or a motorized gear assembly (comprising an idle gear, idle shaft, and pillow block bearings), each of which would have added to the footprint of the system.

***The Accused Electro-Mechanical Lift Gate Does Not Infringe the Asserted Patents***

30. The Accused Electro-Magnetic Lift Gate cannot infringe any of the independent claims of the ’314 Patent which require either hydraulic components or a motorized gear assembly (comprising an idle gear, idle shaft, and pillow block bearings).

31. The table below comprises a non-exhaustive list of the relevant claim language from the independent claims of the ’314 Patent that cannot be satisfied on account of the absence of any hydraulic components or a motorized gear assembly in the Accused Electro-Mechanical Lift Gate:

Claim	Relevant Claim Language
1	wherein said <b><i>internal operator being a hydraulic operator</i></b> including: <b><i>at least one hydraulic cylinder</i></b> configured to lengthen and shorten for raising and lowering the gate; wherein said <b><i>hydraulic operator further including:</i></b> a rotatable mount on a fixed end of the at least one hydraulic cylinder; and a lever assembly on an extendable end of the at least one <b><i>hydraulic cylinder connected to said gate</i></b> , said lever assembly including: a first lever; a second lever; and a shaft held in place by pillow block bearings;

	<p>wherein, said first lever being pivotally connected to said extendable end of the <b>at least one hydraulic cylinder</b> at one end and fixed to one end of said shaft, and said second lever being pivotally connected to said gate at one end and fixed to the other end of said shaft;</p> <p>whereby, rotation of said first lever by <b>said hydraulic cylinder</b> causes rotation of said second lever thereby raising or lowering the gate.</p>
14	<p>wherein said internal operator being a <b>hydraulic operator including: at least one hydraulic cylinder</b> configured to lengthen and shorten for raising and lowering the gate;</p> <p>wherein said <b>hydraulic operator further including:</b></p> <p><b>a fluid reservoir;</b></p> <p><b>a pump interconnected with said fluid reservoir and said at least one hydraulic cylinder that controls fluid moving between said fluid reservoir and said at least one hydraulic cylinder for lengthening and shortening the at least one hydraulic cylinder;</b></p> <p><b>an intake line interconnecting said reservoir with said pump;</b></p> <p><b>a pressure line interconnecting an inlet of said at least one hydraulic cylinder with said fluid pump; and</b></p> <p><b>a return line interconnecting an outlet of said at least one hydraulic cylinder with said reservoir.</b></p>
15	<p>wherein said internal operator including:</p> <p>a motor; and</p> <p>a gear assembly linked to said motor and connected to said gate;</p> <p>said gear assembly including:</p> <p>a motor gear connected to said motor;</p> <p><b>an idle gear in communication with said motor gear and having an idle shaft held in place with pillow block bearings;</b> and</p> <p>a gate arm connected to said idle shaft on one end and said gate on the other end;</p> <p>whereby, rotation of said motor turns said gear assembly for raising and lowering the gate.</p>

32. There is simply no rational basis for Defendant's accusation that the Accused Electro-Mechanical Lift Gate infringes the '314 Patent.

***Defendant’s Demand Letter and Threatening Conduct Towards Plaintiff***

33. Defendant first contacted Plaintiff via telephone on January 4, 2024, calling twice, and leaving the following voicemail:

Hey Jeff this is Cliff Houser. I called to ask you a question. Do you want to settle this in court or out of court? For willful infringement. Giving you this opportunity to make a decision on how you want to handle this. If you would give me a call please. Thank you have a good day.

34. Defendant followed up with a letter dated January 10, 2024, attached hereto as Exhibit 2 (hereinafter the “Demand Letter”).

35. The Demand Letter including the following language, referencing Defendant’s patent rights<sup>1</sup>, and threatening to sue Plaintiff for patent infringement:

Dear Mr. Frushtick:

I am attaching a picture which shows you in front of your “LFD Autogate,” which is an exact copy of the Houser patent that you are familiar with. This is to notify you that you are in violation of 35 USC 271 and are infringing Mr. Houser’s patent rights.

Unless you remove all information from your website and destroy every component of your lift gates immediately, I intend to file a lawsuit against you for infringement of patent US 2016/0312512A1.

Your refusal will result in your liability for any profits you have derived and penalties and fines as required by Federal Law.

I will expect your response within ten days from the date of this letter.

Exhibit 2.

36. The Demand Letter did not mince words. In it, Defendant unequivocally identifies the Accused Electro-Mechanical Lift Gate (at pg. 2), alleges patent infringement (*i.e.*, “you are in violation of 35 USC 271 and are infringing Mr. Houser’s patent rights”) and threatens a lawsuit (*i.e.*, “Unless you ... I intend to file a lawsuit against you for infringement”).

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<sup>1</sup> The Demand Letter identified the ’314 Patent via its publication number (2016/0312512A1), forcing Plaintiff to expend additional effort and resources in order to identify the correct patent number.

37. Defendant followed up with several emails and voicemails, each time ratcheting up the threat of litigation.

38. For example, on January 22, 2024, Defendant sent an email to Plaintiff saying: “Please advise when your client has destroyed all gate components and taken down website.”

39. As another example, on February 5, 2024, Defendant left Plaintiff the following voicemail:

Hey Jeff this is Cliff. I told you we could deal with this without going to court. Or go to court. I gave you a choice. It looks like you are not going to heed to the letter you got from my attorney so we definitely going to court. I’d never settle with you outside of court. I have an ironclad case and patent so you definitely will be going to court. No way in hell will I settle with you outside of court. I will carry this all the way. And just remember, the company I’m with is a hundred million dollar a year company, and my lawyer is doing it for free, so be ready. If you don’t stop you are going to court. You stole this from me and you know you did. It is not yours.

40. Defendant has never attempted to explain its theory as to how the Accused Electro-Mechanical Lift Gate could possibly infringe the ’314 Patent which is directed to the use of hydraulics and/or a motorized gear assembly.

**COUNT I – DECLARATION OF NON-INFRINGEMENT OF**  
**U.S PATENT NO. 9,677,314**  
*(28 U.S.C. § 2201)*

41. Plaintiff restates and incorporates by reference the allegations in the preceding paragraphs (1-38) as if fully set forth herein.

42. Plaintiff has not infringed and does not infringe any valid and enforceable claim of the ’314 Patent, whether literally or under the doctrine of equivalents.

43. Additionally, Plaintiff is not liable for any induced, contributory, divided, or any other indirect infringement of any valid and enforceable claim of the ’314 Patent.

44. Specifically, as explained in greater detail above, Plaintiff’s Electro-Mechanical Gate does not use hydraulics or a motorized gear assembly (comprising an idle gear, idle shaft,

and/or pillow block bearings) and therefore cannot meet at least those claim limitations, which appear in each and every one of the independent claims of the '314 Patent.

45. In light of the Defendant's Demand Letter, email correspondence and voicemails threatening litigation, there exists a substantial, real and immediate controversy between Plaintiff and Defendant concerning Plaintiff's alleged infringement of the '314 Patent.

46. Defendant's conduct towards Plaintiff clearly demonstrates Defendant's intent to continue to threaten Plaintiff with potential or actual litigation, despite the obvious fact that there can be no infringement.

47. This controversy warrants the issuance of a declaratory judgment of non-infringement. A judicial declaration is necessary and appropriate so that Plaintiff may ascertain its rights and obligations vis-à-vis the '314 Patent.

48. Plaintiff therefore respectfully seeks a judicial declaration that it does not directly, indirectly or otherwise infringe any valid and enforceable claim of the '314 Patent.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Leonard Automatics, Inc. respectfully requests the following relief:

A. A declaration that Plaintiff has not infringed and does not infringe, directly or indirectly, any valid and enforceable claim of U.S. Patent No. 9,677,314, whether literally or under the doctrine of equivalents;

B. An order declaring that this is an exceptional case and awarding Plaintiff its costs, expenses, disbursements, and reasonable attorneys' fees under 35 U.S.C. § 285;

C. All such other and further relief, both at law and in equity, which the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff, Leonard Automatics, Inc. hereby demands a trial by jury of all issues so triable.

This the 7th day of March, 2024.

Respectfully submitted,

/s/ Samuel Alexander Long, Jr.

Samuel Alexander Long, Jr. (N.C. Bar No. 46588)

Tom BenGera (N.C. Bar No. 57019)

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