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Seattle, WA 98104

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

Anova Applied Electronics, Inc.

Plaintiff

v.

Precision Appliance Technology, Inc.

Defendant.

No. 2:22-cv-00042

VERIFIED COMPLAINT

**PATENT INFRINGEMENT COMPLAINT**

Plaintiff, Anova Applied Electronics, Inc. ("Anova"), by and through its attorneys, for its Complaint against defendant PRECISION APPLIANCE TECHNOLOGY, INC. (the "Defendant"), alleges as follows:

**PRELIMINARY STATEMENT**

This is an action for infringement of Plaintiff's United States Patent No. D862,154 under the Patent Act, 35 U.S.C. § 271, based on Defendant's unauthorized manufacture, commercial use, importation, offer for sale, and sale of its V Vesta Precision branded Sous Vide Circulator ("Accused Product") in the United States.

**JURISDICTION**

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3 1. This Court has original jurisdiction over the subject matter of this action pursuant to 28  
4 U.S.C. §§ 1331 and 1338(a).

5 2. On information and belief, Defendant is subject to this Court’s specific and general  
6 personal jurisdiction, pursuant to due process and Washington state Long-Arm Statute, due at least to  
7 Defendant’s substantial business in the state of Washington and this judicial district, including: (i) its  
8 continued presence in the state of Washington and this judicial district organized as a corporation under  
9 the laws of the state of Washington with its principal place of business located at 3120 139TH AVE SE,  
10 SUITE 500, BELLEVUE, WA 98005; (ii) it has purposefully availed itself of the rights and benefits of the  
11 laws of the state of Washington, (iii) at least part of its infringing activities in the state of Washington and  
12 this judicial district; (iv) regularly conducting or soliciting business in the state of Washington, and/or (v)  
13 engaging in persistent conduct and/or driving substantial revenue from goods and services provided to  
14 customers in the state of Washington.

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16 **VENUE**

17 3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b). On  
18 information and belief, Defendant is organized as a corporation under the laws of the state of  
19 Washington with its principal place of business located at 3120 139TH AVE SE, SUITE 500, BELLEVUE,  
20 WA 98005. Under the patent laws, because Defendant is organized as a corporation in the state of  
21 Washington, state of Washington is the only district in which it resides. On information and belief, from  
22 and within this judicial district, Defendant has committed at least a portion of the infringements at issue  
23 in this case. For these reasons, venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

**PARTIES**

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3 4. ANOVA APPLIED ELECTRONICS, INC. ("ANOVA") is a corporation formed under the laws  
4 of the state of Delaware with its principal place of business located in San Francisco, California. ANOVA  
5 has been doing business, including in the state of Washington, since 2013.

6 5. Upon information and belief, Defendant is organized as a corporation under the laws of  
7 Washington with its principal place of business located at 3120 139TH AVE SE, SUITE 500, BELLEVUE,  
8 WA 98005. A copy of the Defendant's publicly available corporate records with the Washington Secretary  
9 of State is attached hereto as Exhibit 1, which is supported by the Affidavit of Brian Glover, attached  
10 hereto as Exhibit B.

11  
12 **FACTUAL BACKGROUND**

13 6. ANOVA is an award-winning San Francisco-based company and a global leader in smart  
14 kitchen appliances. Its innovative technologies and designs have revolutionized the way people cook  
15 today, enabling home chefs to easily create restaurant-like experiences every day. Founded in 2013,  
16 ANOVA is credited with launching the first commercially available and affordable sous vide immersion  
17 circulator for home cooks. In 2014, the company became a household name practically overnight when it  
18 debuted its signature product, the Precision Cooker sous vide immersion circulator, as part of a record-  
19 breaking crowdfunding campaign on Kickstarter. The Precision Cooker has become the best-selling sous  
20 vide device on the market today. For its research and design efforts, ANOVA has been awarded multiple  
21 patents, garnered industry acclaim, and is recognized as a trusted brand among consumers worldwide.  
22

23 **COUNT I**  
24 **(INFRINGEMENT OF US PATENT NO. D 862,154)**

25 7. ANOVA repeats and realleges paragraphs 1 through 6 hereof, as if fully set forth herein.  
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1 8. United States Patent Number D 862,154 ("the 'D154 Patent"), entitled CIRCULATOR  
2 COOKER, was duly and legally issued on October 8, 2019, and names John Van Den Nieuwenhuizen and  
3 Vitor Alexandre Medeiros De Santa Maria as the inventors. A true and correct copy of the 'D154 Patent is  
4 attached hereto as Exhibit 2, which is supported by the Affidavit of Brian Glover, attached hereto as  
5 Exhibit B. The 'D154 Patent was issued from the United States Patent Application No. 29/611,354, filed  
6 July 20, 2017.

7  
8 9. ANOVA is the assignee of the entire right, title, and interest in the 'D154 Patent, which  
9 assignment was recorded by the US Patent and Trademark Office at Reel/Frame: 043345/0975 on August  
10 27, 2017. A copy of the assignment is attached hereto as Exhibit 3 supported by the Affidavit of Brian  
11 Glover, attached hereto as Exhibit B.

12 10. The 'D154 Patent claims an ornamental design for a circulator cooker, Exhibit 2, Claim 1.

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14 11. Upon information and belief, the Defendant owns the domain name  
15 [www.VESTAPRECISION.COM](http://www.VESTAPRECISION.COM) ("Vesta Online Store"). A copy of the publically available ICANN record  
16 identifying the Defendant as registrant of the [www.VESTAPRECISION.COM](http://www.VESTAPRECISION.COM) is attached hereto as Exhibit 4  
17 supported by Affidavit of Brian Glover, attached hereto as Exhibit B.

18 12. Upon information and belief, the Defendant is the current owner of the following US  
19 trademark registration nos. 5956350, and 5933185 for V VESTA PRECISION (WORDS, LETTERS, AND/OR  
20 NUMBERS IN STYLIZED FORM), and SOUSVCART (Standard Character Mark), as shown in Exhibits 5-6  
21 supported by the Affidavit of Brian Glover, attached hereto as Exhibit B, respectively (Collectively referred  
22 to as the "Vesta Brands").

23  
24 13. Upon information and belief, the Defendant makes, uses, imports, sells and/or offers to  
25 sell the Accused Product under one or more brands including, but not limited to, the Vesta Brands, in the  
26 United States, which device practices the claimed invention of the 'D154 Patent.

1           14.     Upon information and belief, the Defendant advertises, offers for sale, and sells the  
2 Accused Product, which practices the claimed invention of the 'D154 Patent, on Vesta Online Store, and  
3 offers to ship and ships the Accused Products, which practices the claimed invention of the 'D154 Patent,  
4 to customers throughout the United States including the state of Washington. A copy of the Vesta Online  
5 Store offering the Accused Product is shown in Exhibit 7 supported by the Affidavit of Brian Glover,  
6 attached hereto as Exhibit B.

7  
8           15.     Below are images of the Accused Product designated as Vesta Precision Sous Vide  
9 Immersion Circulator - Imersa available at the Vesta Online Store (Source:  
10 <https://www.vestaprecision.com/collections/sous-vidе-1/products/sous-vidе-immersion-circulator-imersa>).



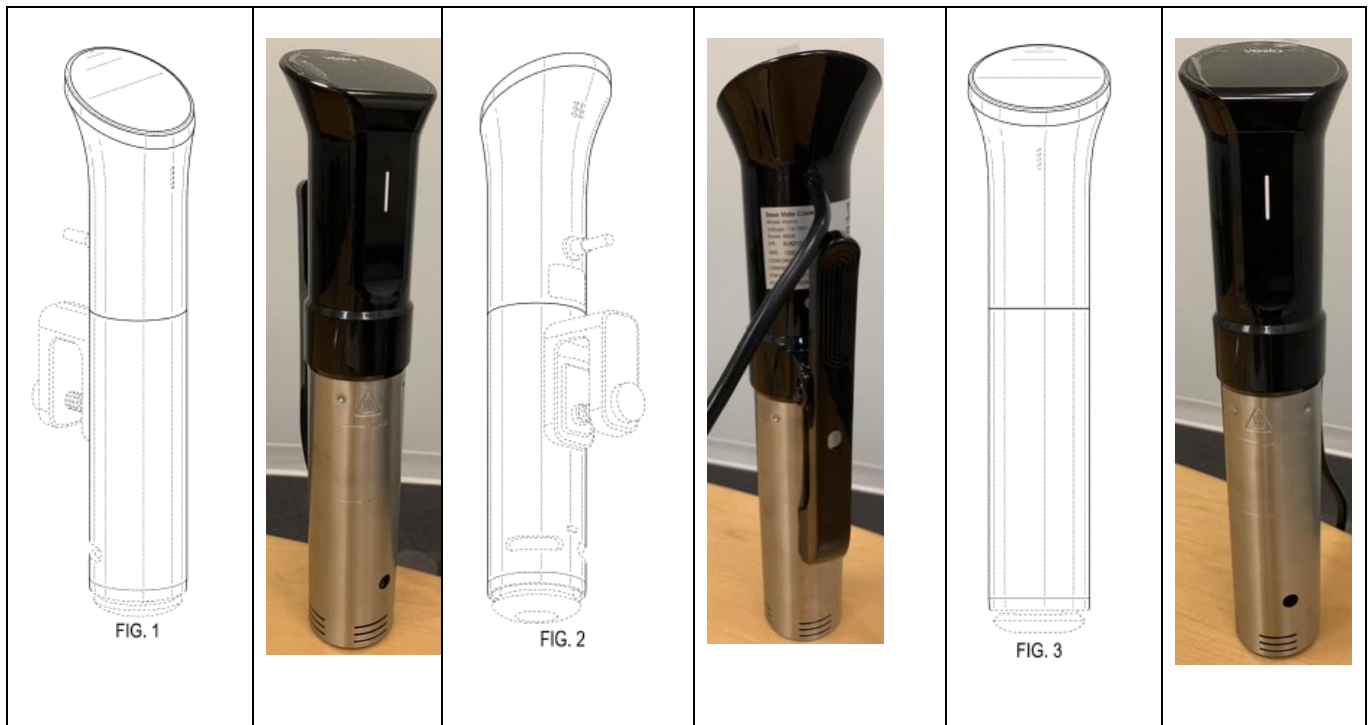
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19           16.     Upon information and belief, the Defendant advertises, offers for sale, and/or sells the  
20 Accused Product, which practices the claimed invention of the 'D154 Patent, on Amazon to customers  
21 throughout the United States including Washington.

22  
23           17.     On October 20, 2021, an example of the Accused Product, specifically Sous Vide Cooker  
24 by Vesta Precision – Imersa (ASIN#B07GVPXKZ3) was purchased from Amazon by Mr. Nathan Cho,  
25 supported by Mr. Nathan Cho’s affidavit, which is attached hereto as Exhibit A.

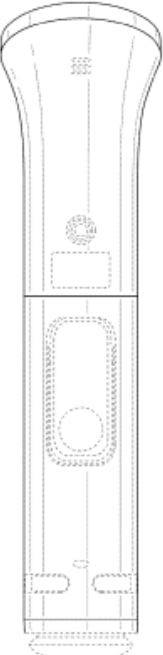

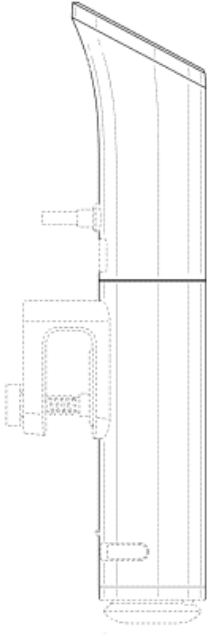

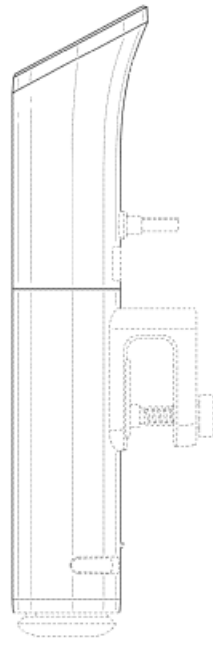


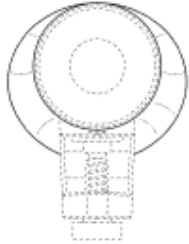


1 18. Defendant describes its Accused Product on Amazon as "Sous Vide Cooker by Vesta  
2 Precision – Imersa" under the Model No. SV82BK and ASIN No. B07GVPXKZ3, as shown in Exhibit 8  
3 supported by the Affidavit of Brian Glover, attached hereto as Exhibit B, at the following URL:

4 [https://www.amazon.com/Sous-Vide-Precision-Cooker-](https://www.amazon.com/Sous-Vide-Precision-Cooker-Vesta/dp/B07GVPXKZ3/ref=sr_1_1?crd=393L3NS3PS9Z3&keywords=B07GVPXKZ3&qid=1641849605&sprefix=b07gvpkz3%2Caps%2C358&sr=8-1&th=1)  
5 [Vesta/dp/B07GVPXKZ3/ref=sr\\_1\\_1?crd=393L3NS3PS9Z3&keywords=B07GVPXKZ3&qid=1641849605&sp](https://www.amazon.com/Sous-Vide-Precision-Cooker-Vesta/dp/B07GVPXKZ3/ref=sr_1_1?crd=393L3NS3PS9Z3&keywords=B07GVPXKZ3&qid=1641849605&sprefix=b07gvpkz3%2Caps%2C358&sr=8-1&th=1)  
6 [refix=b07gvpkz3%2Caps%2C358&sr=8-1&th=1](https://www.amazon.com/Sous-Vide-Precision-Cooker-Vesta/dp/B07GVPXKZ3/ref=sr_1_1?crd=393L3NS3PS9Z3&keywords=B07GVPXKZ3&qid=1641849605&sprefix=b07gvpkz3%2Caps%2C358&sr=8-1&th=1)  
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8 19. The below images show side-by-side comparisons of Figures 1-8 of the 'D154 Patent,  
9 Exhibit 2, and respective photographs of the example of the Accused Product obtained by Mr. Cho:



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 <p>FIG. 4</p>		 <p>FIG. 5</p>			
 <p>FIG. 6</p>		 <p>FIG. 7</p>  <p>FIG. 8</p>	 		

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3 20. The overall appearance of the ornamental design claimed in the 'D154 Patent and the  
4 corresponding design of Accused Product are substantially the same. An ordinary observer familiar with  
5 the prior art in the sous vide device marketplace would perceive the overall appearance of the  
6 ornamental design of the 'D154 Patent and the corresponding design of the Accused Product to be  
7 substantially the same. Such an ordinary server would be deceived into believing the design of the  
8 Accused Product was the same as the ornamental design claimed in the 'D154 Patent.

9 21. Defendant has thus infringed, and continues to infringe, literally or under the doctrine of  
10 equivalents, ANOVA's 'D154 Patent, by making, using, importing, selling and/or offering to sell in the  
11 United States, including within this judicial district, the Accused Product during the pendency of the  
12 'D154 Patent, in violation of 35 U.S.C § 271 (a).

13 22. Without authorization from ANOVA, Defendant has applied the 'D154 patented design or  
14 a colorable imitation thereof, to its Accused Product for the purpose of sale, and has sold and exposed for  
15 sale the Accused Product to which the 'D154 patented design or a colorable imitation thereof has been  
16 applied. Defendant is therefore liable to ANOVA to the extent of Defendant's total profit for the Accused  
17 Product, pursuant to 35 U.S.C § 289.

18 23. Defendant has also infringed, and continues to infringe, the claims of the 'D154 Patent  
19 by actively and knowingly inducing others to offer to sell, import, and/or sell the Accused Product in the  
20 United States, including within this judicial district. Sellers and importers of the Accused Product who  
21 offer to sell, import, and/or sell the Accused Product in accordance with the Defendant's instructions  
22 and/or encouragement infringe the 'D154 Patent in violation of 35 U.S.C § 271 (a). Defendant also  
23 induces infringement by others by failing to remove or diminish the infringing features of the Accused  
24 Product. Defendant is this liable for infringement of the 'D154 Patent under 35 U.S.C § 271 (b).



1           24.     The Defendant has also infringed, and continues to infringe, the 'D154 Patent by  
2 contributing to the direct infringement of the 'D154 Patent. The Defendant sells, offers to sell and/or  
3 imports into the United States components of the Accused Product, constituting a material part of the  
4 'D154 invention, knowing those components to be especially made or especially adapted for use in the  
5 infringement of the 'D154 Patent, and which are neither a staple article nor a commodity of commerce  
6 suitable for substantial non-infringement use. The Defendant is thus liable for infringement under 35  
7 U.S.C § 271 (c).

8           25.     Upon information and belief, Defendant has known of the existence of the 'D154 Patent,  
9 and its acts of infringement have been willful and in disregard for the 'D154 Patent, without any  
10 reasonable basis for believing that it had a right to engage in the infringing conduct.

11           26.     The Defendant will have been on notice of the 'D154 Patent since, the latest, the service  
12 of this complaint upon it. By the time of trial, the Defendant will have known and intended (since  
13 receiving such notice) that its continued actions would infringe or actively induce and contribute to the  
14 infringement of the 'D154 Patent.

15           27.     The Defendant may have infringed the 'D154 Patent through other devices using the  
16 overall appearance of the ornamental design of the 'D154 Patent.

17           28.     ANOVA has been damaged by the Defendant's infringement of the 'D154 Patent.

18           29.     Upon information and belief, Defendant's infringement has been, and continues to be  
19 knowing, intentional, and willful.

20           30.     Defendant's acts of infringement of the 'D154 Patent have caused and will continue to  
21 cause ANOVA damages for which they ANOVA is entitled to compensation pursuant to 35 U.S.C. § 284.

1           31. Defendant's acts of infringement of the 'D154 Patent have caused and will continue to  
2 cause ANOVA immediate and irreparable harm unless such infringing activities are enjoined by this Court  
3 pursuant to 35 U.S.C. § 283. ANOVA has no adequate remedy at law, including loss of customers, loss of  
4 market-share, price erosion, and loss of customer goodwill. ANOVA is thus entitled to a preliminary and  
5 permanent injunction against the Defendant's further infringement of the 'D154 Patent.

6           32. This case is exceptional and, therefore, ANOVA is entitled to an award of attorney fees  
7 pursuant to 35 U.S.C. § 285.  
8

9   **JURY DEMAND**

10           33. Pursuant to Rule 8 of the Federal Rules of Civil Procedure, ANOVA demands a trial by  
11 jury on all issues triable as such.  
12

13   **PRAYER FOR RELIEF**

14                           **WHEREFORE**, ANOVA requests judgment against Defendant as follows:  
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- 16           A. Adjudging that Defendant has infringed, actively induced infringement of, and/or contributorily  
17 infringed the 'D154 Patent, in violation of 35 U.S.C. § 271(a), (b), and/or (c);  
18
- 19           B. Granting an injunction, preliminarily and permanently, enjoining Defendant, its employees,  
20 agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all of  
21 those in active concert and participation with any of the foregoing persons or entities from  
22 infringing, contributing to the infringement of, or inducing infringement of the 'D154 Patent;
- 23           C. Ordering Defendant to account and pay damages adequate to compensate ANOVA for  
24 Defendant's infringement of the 'D154 Patent, including for any infringing acts not presented at  
25 trial and pre-judgment and post-judgment interest and costs, pursuant to 35 U.S.C. § 284;  
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- 1 D. Ordering Defendant to account and pay damages adequate to compensate ANOVA to the extent  
2 of Defendant's total profit for the Accused Product, pursuant to 35 U.S.C § 289;
- 3 E. Ordering an accounting for any infringing sales not presented at trial and an  
4 award by the court of additional damages for any such infringing sales;
- 5 F. Ordering that the damages award be increased up to three times the actual  
6 amount assessed, pursuant to 35 U.S.C. § 284;
- 7  
8 G. Declaring this case exceptional and awarding ANOVA its reasonable attorney fees  
9 and expenses pursuant to 35 U.S.C. § 285; and  
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11 Awarding such other and further relief as this Court deems just and proper.  
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16 DATED January 15, 2022.

17 TBILLICK LAW<sup>PLLC</sup>

18  
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*Attorneys for Plaintiff*

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