

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STOREBOUND LLC,	:	
	:	CIVIL ACTION
<i>Plaintiff</i>	:	
	:	Case No.
v.	:	
	:	JURY TRIAL DEMANDED
SENSIO INC d/b/a MADE BY GATHER	:	
	:	
<i>Defendant</i>	:	
	:	

PATENT INFRINGEMENT COMPLAINT

Plaintiff, StoreBound LLC, by and through its attorneys, for its Complaint against Defendant, Sensio Inc. (d/b/a Made by Gather) (the “Defendant”), alleges as follows:

PRELIMINARY STATEMENT

This is an action for infringement of Plaintiff's United States Patent No D884,411 and D906,035 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 BELLA brand 7 Egg Cooker (“Accused Product”) in the United States.

JURISDICTION

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

2. On information and belief, Defendant is subject to this Court’s specific and general personal jurisdiction, pursuant to due process and New York Long-Arm Statute, due at least to Defendant’s substantial business in New York and this judicial district, including: (i) its continued presence in the state of New York and this judicial district with its principal place of business located at 261 Madison Avenue, 25th Floor, New York, NY, United States, 10016; (ii) it has availed

itself of the rights and benefits of the laws of New York, (iii) at least part of its infringing activities in the state of New York and this judicial district; (iv) regularly conducting or soliciting business in New York; and/or (v) engaging in persistent conduct and/or driving substantial revenue from goods and services provided to customers in New York.

VENUE

3. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b). On information and belief, Defendant is organized as a corporation under the laws of Delaware with its principal place of business located at 261 Madison Avenue, 25th Floor, New York, NY. On information and belief, from and within this judicial district, Defendant has committed at least a portion of the infringements at issue in this case. For these reasons, venue is proper in this Court under 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

PARTIES

4. Plaintiff STOREBOUND LLC (“StoreBound”) is a limited liability company formed under the laws of the state of New York with its principal place of business located at 50 Broad Street, 12th Floor, New York, NY 10004.

5. Upon information and belief, Defendant Sensio Inc. (d/b/a Made by Gather) is a corporation organized under the laws of the state of Delaware with its principal place of business located at 261 Madison Avenue, 25th Floor, New York, NY, United States, 10016. A copy of the Defendant’s publicly available corporate records with the New York Secretary of State is attached hereto as Exhibit “A.”

FACTUAL BACKGROUND

6. StoreBound is an award-winning New York-based electrical appliance wholesaler and a global leader in small kitchen appliances.

7. Its innovative technologies and designs have revolutionized the way people cook today, enabling on-the-go individuals to create delicious meals with ease.

8. StoreBound's brand "Dash" is a household name in quality kitchen appliances.

9. The Dash Rapid Egg Cooker is the most popular Steam Egg Cooker on the market today, with over 81,000 5-star reviews on Amazon.

10. For its research and design efforts, StoreBound has been awarded multiple patents, garnered industry acclaim, and is recognized as a trusted brand among consumers worldwide.

COUNT I
(INFRINGEMENT OF US PATENT NO. D884,411)

11. StoreBound repeats and realleges paragraphs 1 through 10 hereof, as if fully set forth herein.

12. United States Patent Number D884,411 ("the 'D411 Patent"), entitled EGG COOKER, was duly and legally issued on May 19, 2020, and names Evan Marc Dash, YiYang Zhang and I-Nung Huang as the inventors. A true and correct copy of the 'D411 Patent is attached hereto as Exhibit "B." The 'D411 Patent was issued from the United States Patent Application No. 29/673,452 filed December 14, 2018.

13. StoreBound is the assignee of the entire right, title, and interest in the 'D411 Patent, which assignment was recorded with the United States Patent and Trademark Office at Reel/Frame: 047915/0016 on December 14, 2018. (A copy of the assignment is attached hereto as Exhibit "C.")

14. The 'D411 Patent claims the ornamental design for an egg cooker as shown in the drawings, provided herewith in Exhibit "B."

15. Upon information and belief, the Defendant, Sensio, owns the domain name



19. The below images show side-by-side comparisons of FIGS. 1-16 of the 'D411 Patent, Exhibit B, and photographs of a sample of the Accused Product:

	D884,411	BELLA EGG COOKER
FIG. 1		

FIG. 2

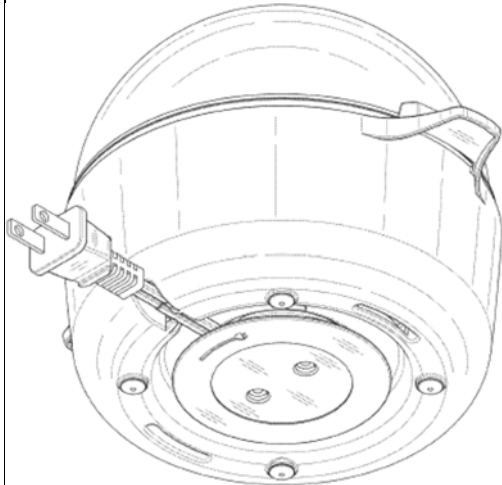
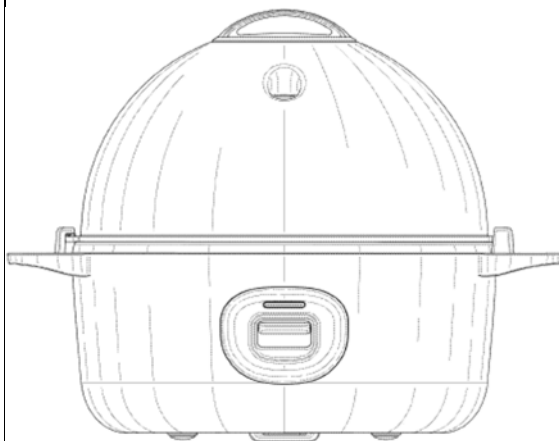


FIG. 3



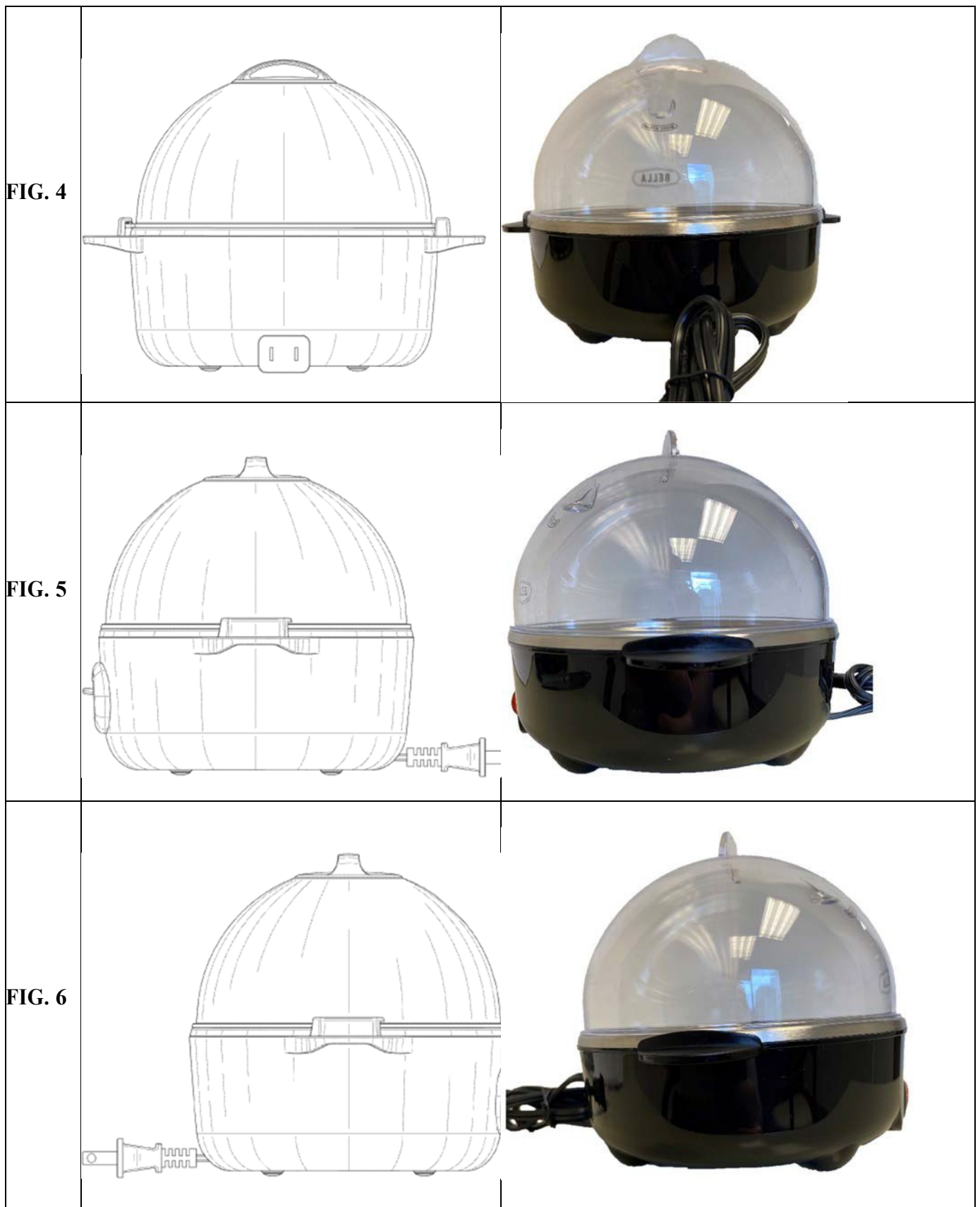


FIG. 7

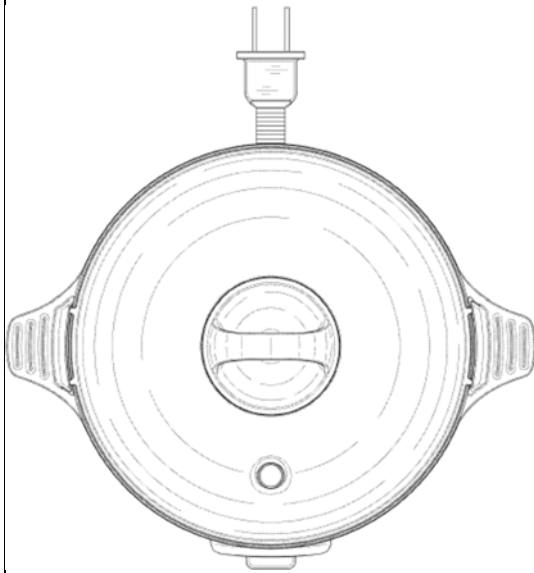


FIG. 8

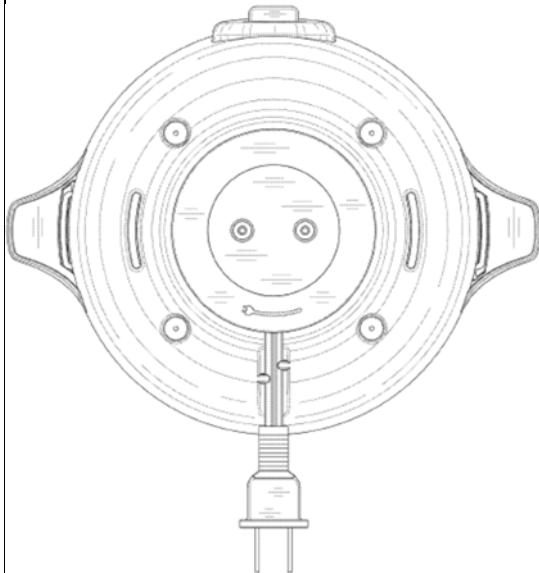


FIG. 9



FIG. 10

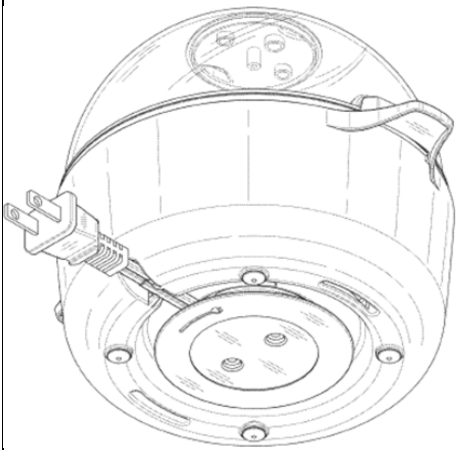


FIG. 11

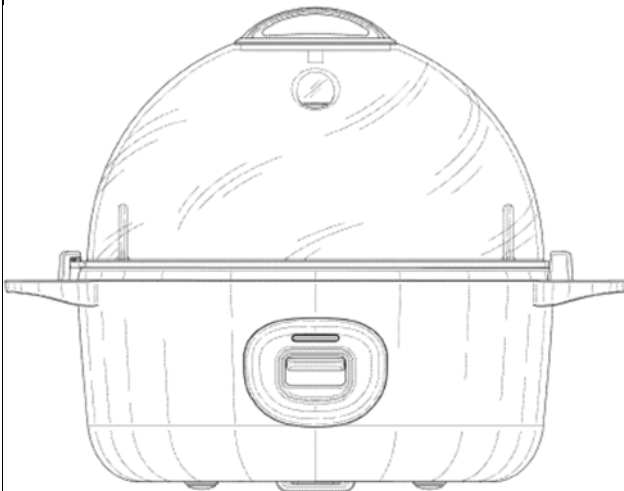


FIG. 12

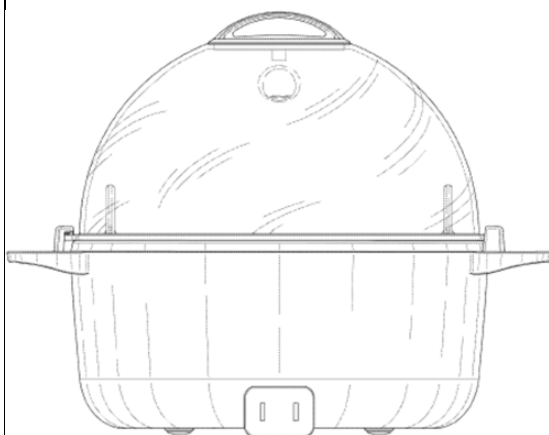


FIG. 13

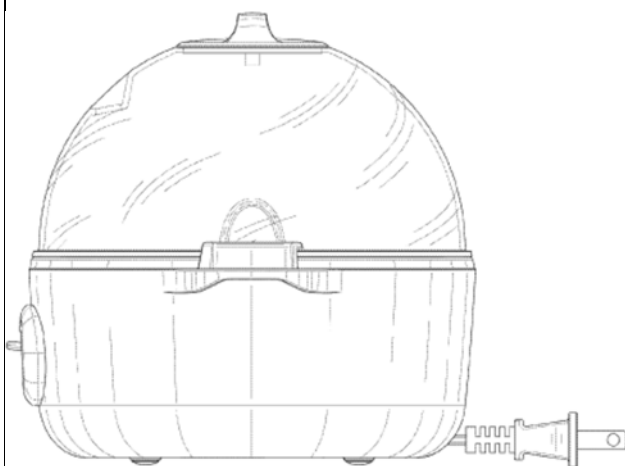
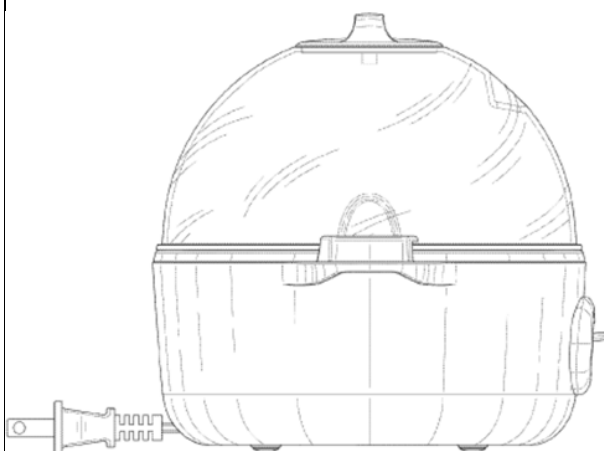
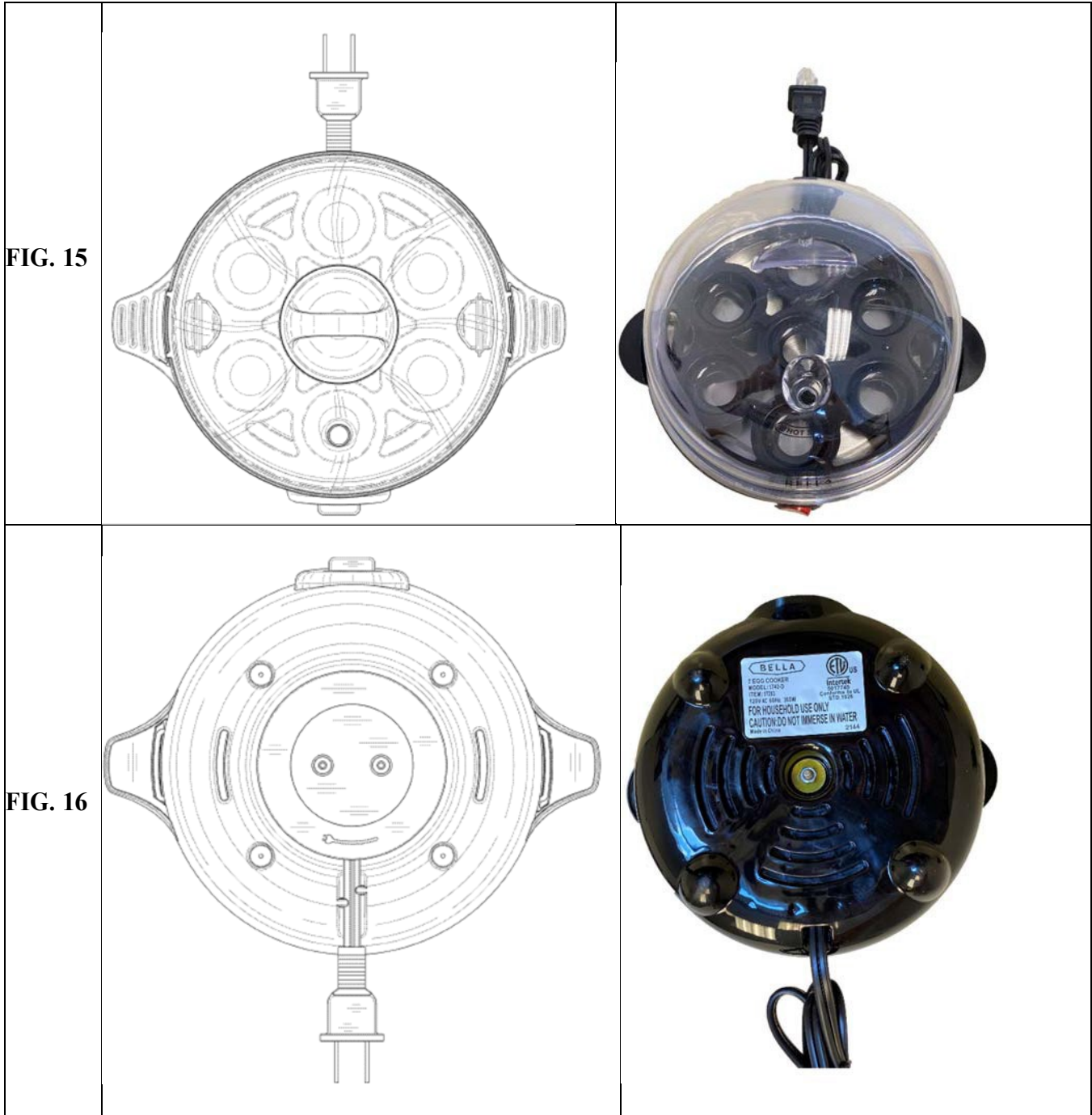


FIG. 14





20. As illustrated above, the overall appearance of the ornamental design claimed in the 'D411 Patent and the corresponding design of the Accused Product are substantially the same.

21. The Accused Product contains a substantially similar round plastic lid and bottom, the same 7-egg shelf, and a substantially identical twist off lid.

22. In addition, the Accused Product uses the exact same cooking processes and comes with identical cooking accessories.

23. An ordinary observer familiar with the egg related kitchen device marketplace would perceive the overall appearance of the ornamental design of the 'D411 Patent and the corresponding design of the Accused Product to be substantially the same.

24. The resemblance between the 'D411 Patent and the Accused Product is such as to deceive an ordinary observer, inducing the purchase the Accused Product supposing it to be the egg cooker claimed in the 'D411 Patent.

25. Defendant has thus infringed, and continues to infringe, literally or under the doctrine of equivalents, StoreBound's 'D411 Patent, by making, using, importing, selling and/or offering to sell in the United States, including within this judicial district, the Accused Product during the pendency of the 'D411 Patent, in violation of 35 U.S.C § 271 (a).

26. Without authorization from StoreBound, Defendant has applied the 'D411 patented design (or a colorable imitation thereof) to its Accused Product for the purpose of sale, and has sold and exposed for sale the Accused Product to which the 'D411 patented design (or a colorable imitation thereof) has been applied. Defendant is therefore liable to StoreBound to the extent of Defendant's total profit for the Accused Product, pursuant to 35 U.S.C § 289.

27. Defendant has also infringed, and continues to infringe, the claims of the 'D411 Patent by actively and knowingly inducing others to offer to sell, import, and/or sell the Accused Product in the United States, including within this judicial district.

28. Sellers and importers of the Accused Product who offer to sell, import, and/or sell the Accused Product in accordance with the Defendant's instructions and/or encouragement infringe the 'D411 Patent in violation of 35 U.S.C § 271 (a).

29. Defendant also induces infringement by others by failing to remove or diminish the infringing features of the Accused Product. Defendant is thus liable for infringement of the 'D411 Patent under 35 U.S.C § 271 (b).

30. The Defendant has also infringed, and continues to infringe, the 'D411 Patent by contributing to the direct infringement of the 'D411 Patent.

31. Upon information and belief, the Defendant sells, offers to sell and/or imports into the United States components of the Accused Product, constituting a material part of the 'D411 invention, knowing those components to be especially made or especially adapted for use in the infringement of the 'D411 Patent, and which are neither a staple article nor a commodity of commerce suitable for substantial non-infringement use. The Defendant is thus liable for infringement under 35 U.S.C § 271 (c).

32. Upon information and belief, Defendant has known of the existence of the 'D411 Patent, and its acts of infringement have been willful and in disregard for the 'D411 Patent, without any reasonable basis for believing that it had a right to engage in the infringing conduct.

33. The Defendant will have been on notice of the 'D411 Patent since at least June 3, 2022 when it accepted delivery of a Cease and Desist letter informing it of the same. A copy of the Cease-and-Desist letter is included herewith as Exhibit “D” and a copy of the FedEx tracking history indicating delivery on June 3, 2022 at 9:49AM is included herewith as Exhibit “E.”

34. By the time of trial, the Defendant will have known and intended (since receiving such notice) that its continued actions would infringe or actively induce and contribute to the infringement of the 'D411 Patent.

35. StoreBound has been damaged by the Defendant’s infringement of the 'D411 Patent.

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

37. Defendant's acts of infringement of the 'D411 Patent have caused and will continue to cause StoreBound damages for which StoreBound is entitled to compensation pursuant to 35 U.S.C. § 284.

38. Defendant's acts of infringement of the 'D411 Patent have caused and will continue to cause StoreBound immediate and irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

39. StoreBound has no adequate remedy at law, including loss of customers, loss of market-share, price erosion, and loss of customer goodwill. StoreBound is thus entitled to a preliminary and permanent injunction against the Defendant's further infringement of the 'D411 Patent.

COUNT II
(INFRINGEMENT OF US PATENT NO. D906,035)

40. StoreBound repeats and realleges paragraphs 1 through 39 hereof, as if fully set forth herein.

41. United States Patent Number D906,035 ("the 'D035 Patent"), entitled EGG COOKER, was duly and legally issued on December 29, 2020, and names Evan Marc Dash, YiYang Zhang and I-Nung Huang as the inventors. A true and correct copy of the 'D035 Patent is attached hereto as Exhibit "F." The 'D035 Patent was issued from United States Patent Application No. 29/731,893 filed April 20, 2020.

42. StoreBound is the assignee of the entire right, title, and interest in the 'D035 Patent, which assignment was recorded by the United States Patent and Trademark Office at Reel/Frame: 052437/0346 on April 20, 2020. (A copy of the assignment is attached hereto as Exhibit "G.")

43. The 'D035 Patent claims the ornamental design for an egg cooker as shown in the drawings, provided herewith in Exhibit "F."

44. Upon information and belief, the Defendant makes, uses, imports, sells and/or offers to sell the Accused Product under one or more brands including, but not limited to, the BELLA brand, in the United States, which has an ornamental design which is substantially the same as the design claimed in the 'D035 Patent.

45. The below images show side-by-side comparisons of FIGS. 1-8 of the 'D035 Patent, Exhibit F, and photographs of a sample of the Accused Product:



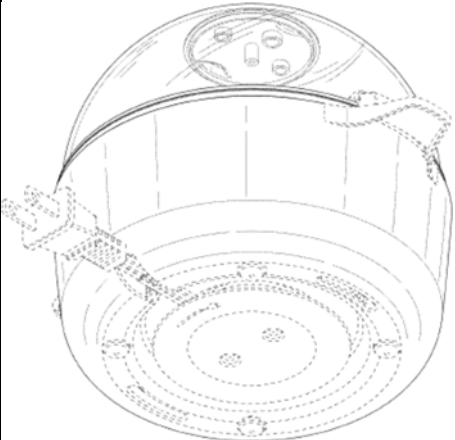

	D906,305	BELLA EGG COOKER
FIG. 1		
FIG. 2		

FIG. 3

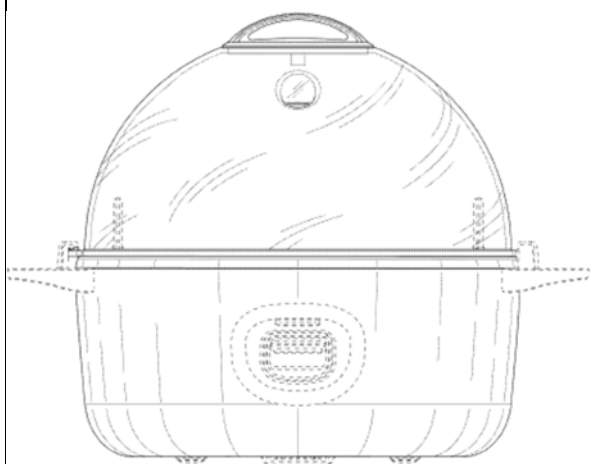


FIG. 4



FIG. 5

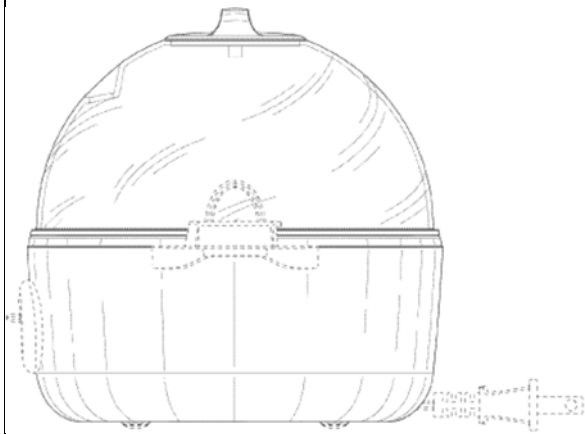
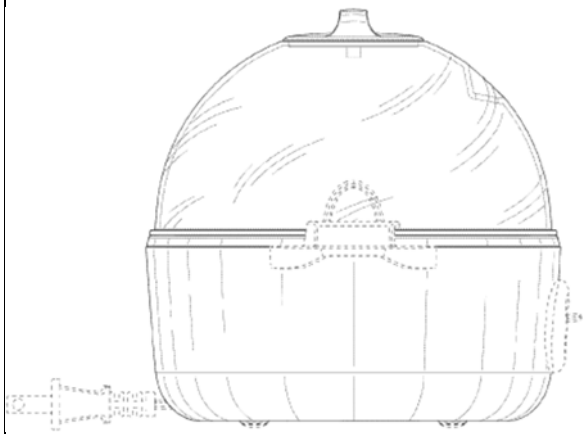


FIG. 6





46. The overall appearance of the ornamental design claimed in the 'D035 Patent and the corresponding design of the Accused Product are substantially the same.

47. An ordinary observer familiar with the egg related kitchen device marketplace would perceive the overall appearance of the ornamental design of the 'D035 Patent and the

corresponding design of the Accused Product to be substantially the same.

48. The resemblance between the 'D035 Patent and the Accused Product is such as to deceive an ordinary observer, inducing the purchase of the Accused Product supposing it to be the egg cooker claimed in the 'D035 Patent.

49. Defendant has thus infringed, and continues to infringe, literally or under the doctrine of equivalents, StoreBound's 'D035 Patent, by making, using, importing, selling and/or offering to sell in the United States, including within this judicial district, the Accused Product during the pendency of the 'D035 Patent, in violation of 35 U.S.C § 271 (a).

50. Without authorization from StoreBound, Defendant has applied the 'D035 patented design (or a colorable imitation thereof), to its Accused Product for the purpose of sale, and has sold and exposed for sale the Accused Product to which the 'D035 patented design (or a colorable imitation thereof) has been applied. Defendant is therefore liable to StoreBound to the extent of Defendant's total profit for the Accused Product, pursuant to 35 U.S.C § 289.

51. Defendant has also infringed, and continues to infringe, the claims of the 'D035 Patent by actively and knowingly inducing others to offer to sell, import, and/or sell the Accused Product in the United States, including within this judicial district.

52. Sellers and importers of the Accused Product who offer to sell, import, and/or sell the Accused Product in accordance with the Defendant's instructions and/or encouragement infringe the 'D035 Patent in violation of 35 U.S.C § 271 (a).

53. Defendant also induces infringement by others by failing to remove or diminish the infringing features of the Accused Product. Defendant is this liable for infringement of the 'D035 Patent under 35 U.S.C § 271 (b).

54. The Defendant has also infringed, and continues to infringe, the 'D035 Patent by

contributing to the direct infringement of the 'D035 Patent.

55. Upon information and belief, the Defendant sells, offers to sell and/or imports into the United States components of the Accused Product, constituting a material part of the 'D035 invention, knowing those components to be especially made or especially adapted for use in the infringement of the 'D035 Patent, and which are neither a staple article nor a commodity of commerce suitable for substantial non-infringement use. The Defendant is thus liable for infringement under 35 U.S.C § 271 (c).

56. Upon information and belief, Defendant has known of the existence of the 'D035 Patent, and its acts of infringement have been willful and in disregard for the 'D035 Patent, without any reasonable basis for believing that it had a right to engage in the infringing conduct.

57. The Defendant will have been on notice of the 'D035 Patent since at least June 3, 2022 when it accepted delivery (Exhibit “E”) of the Cease-and-Desist letter (Exhibit “D”) informing it of the same.

58. By the time of trial, the Defendant will have known and intended (since receiving such notice) that its continued actions would infringe or actively induce and contribute to the infringement of the 'D035 Patent.

59. StoreBound has been damaged by the Defendant’s infringement of the 'D035 Patent.

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

61. Defendant's acts of infringement of the 'D035 Patent have caused and will continue to cause StoreBound damages for which StoreBound is entitled to compensation pursuant to 35 U.S.C. § 284.

62. Defendant's acts of infringement of the 'D035 Patent have caused and will continue to cause StoreBound immediate and irreparable harm unless such infringing activities are enjoined by this Court pursuant to 35 U.S.C. § 283.

63. StoreBound has no adequate remedy at law, including loss of customers, loss of market-share, price erosion, and loss of customer goodwill.

64. StoreBound is thus entitled to a preliminary and permanent injunction against the Defendant's further infringement of the 'D035 Patent.

JURY DEMAND

65. Pursuant to Rule 8 of the Federal Rules of Civil Procedure, StoreBound demands a trial by jury on all issues triable as such.

PRAYER FOR RELIEF

WHEREFORE, StoreBound requests judgment against Defendant as follows:

A. Adjudging that Defendant has infringed, actively induced infringement of, and/or contributorily infringed the 'D411 and 'D035 Patents, in violation of 35 U.S.C. § 271(a), (b), and/or (c);

B. Granting an injunction, preliminarily and permanently, enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all of those in active concert and participation with any of the foregoing persons or entities from infringing, contributing to the infringement of, or inducing infringement of the 'D411 and 'D035 Patents;

C. Ordering Defendant to account and pay damages adequate to compensate StoreBound for Defendant's infringement of the 'D411 Patent and 'D035 Patent, including for any infringing acts not presented at trial and pre-judgment and post-judgment interest and costs,

pursuant to 35U.S.C. § 284;

D. Ordering Defendant to account and pay damages adequate to compensate StoreBound to the extent of Defendant's total profit for the Accused Product, pursuant to 35 U.S.C § 289;

E. Ordering an accounting for any infringing sales not presented at trial and an award by the court of additional damages for any such infringing sales.

F. Ordering that the damages award be increased up to three times the actual amount assessed, pursuant to 35 U.S.C. § 284;

G. Declaring this case exceptional and awarding StoreBound its reasonable attorney fees and expenses pursuant to 35 U.S.C. § 285; and

H. Awarding such other and further relief as this Court deems just and proper.

Respectfully submitted,

BOCHETTO & LENTZ, P.C.

/s/ Gavin P. Lentz

By: _____

Gavin P. Lentz, Esquire
1524 Locust Street
Philadelphia, PA 19102
(215) 735-3900

glentz@bochettoandlentz.com

Attorneys for Plaintiff

Date: July 13, 2022