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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ROSENBLATT INNOVATIONS LLC (a
California limited liability company), and
SONOMA CAST STONE CORPORATION (a
California corporation),

Plaintiffs,

vs.

ICC NORTHWEST, INC. (an Oregon domestic
business corporation), and NIEBAUM-
COPPOLA ESTATE WINERY, L.P. (a
California limited partnership),

Defendants.

Case No. _____

**COMPLAINT FOR DESIGN
PATENT INFRINGEMENT**

JURY TRIAL DEMANDED

For its complaint against Defendants, ICC-Northwest, Inc. (“ICC”) and Niebaum-Coppola Estate Winery, L.P., Plaintiff, Rosenblatt Innovations, LLC, by and through its attorneys, complains and alleges as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement under 35 U.S.C. §§ 271, *et seq.*, by Plaintiffs against Defendants for infringement of U.S. Design Patent No. D913,411.

THE PARTIES

2. Plaintiff Rosenblatt Innovations LLC ("Rosenblatt") is a limited liability company organized and existing under the laws of the State of California with its principal place of business at 865 4th Street East, Sonoma, California 95476.

3. Plaintiff Sonoma Cast Stone Corporation ("SCS") is a corporation organized and existing under the laws of the State of California, with its principal place of business at 133A Copeland Street, Petaluma, California 94952.

4. On information and belief, defendant ICC Northwest, Inc., is a domestic business corporation organized and existing under the laws of the State of Oregon, with its principal place of business at 390 S. Redwood Street, Canby, Oregon 97013.

5. On information and belief, defendant Niebaum-Coppola, L.P., is a limited partnership organized and existing under the laws of the State of California, with its principal place of business at 1460 Niebaum Lane, Rutherford, California 94573.

JURISDICTION AND VENUE

6. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271 et seq.

7. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331, 1332, and 1338.

8. Defendant Niebaum-Coppola is subject to this Court's specific and general jurisdiction consistent with the principles of due process and/or the California Long Arm Statute [Cal. Code Civ. Proc. § 410.10]. On information and belief, this Court has personal jurisdiction over Niebaum-Coppola at least because (i) Niebaum-Coppola is a California limited partnership with a principal place of business in Rutherford, California; (ii) Niebaum-Coppola continuously and systematically transacts business within California; (iii) this lawsuit arises out of Niebaum-Coppola's infringing activities including, without limitation, using products in California, and/or importing infringing products and components into California; and (iv) Niebaum-Coppola has made, used, sold, offered for sale, and/or imported infringing products and used such infringing products in the stream of interstate commerce.

1 9. Defendant ICC-NW is subject to this Court’s specific and general jurisdiction
2 consistent with the principles of due process and/or the California Long Arm Statute. On
3 information and belief, this Court has personal jurisdiction over ICC-NW at least because (i)
4 ICC-NW continuously and systematically transacts business within this judicial district and
5 throughout California; (ii) this lawsuit arises out of ICC-NW's infringing activities including,
6 without limitation, ICC-NW's manufacturing, distributing, selling, and/or offering to sell
7 infringing products in this judicial district and throughout California, and/or importing infringing
8 products and components into this judicial district; and (iii) ICC-NW has made, used, sold,
9 offered for sale, and/or imported infringing products and placed such infringing products in the
10 stream of interstate commerce with the expectation that such infringing products would be used,
11 distributed, sold and/or offered for sale within this judicial district and throughout California.

12 10. Venue is proper within this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c), and
13 1400(b), as Defendants Niebaum-Coppola and ICC-NW have committed acts of infringement in
14 this district. Venue is also proper within this district because Niebaum-Coppola resides in the
15 Northern District of California, as it is a California limited partnership that maintains its
16 principal place of business within the district in Rutherford, Napa County, California. Further, on
17 information and belief, Niebaum-Coppola has committed acts of infringement and maintains a
18 regular and established place of business in the Northern District of California.

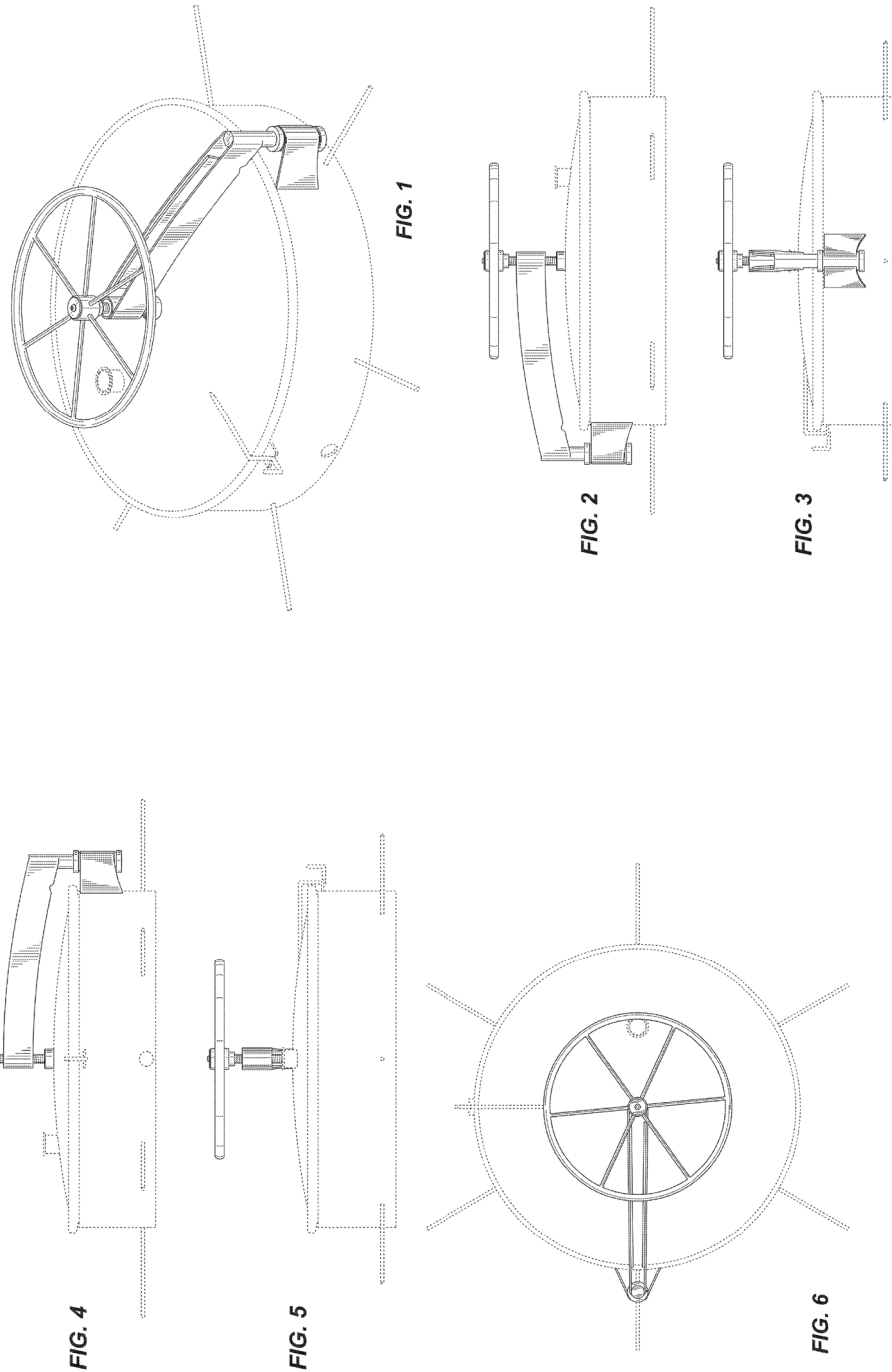
19 **FACTUAL BACKGROUND**

20 11. On March 16, 2021, U.S. Design Patent No. D913,411 (“the 'D411 patent”), entitled
21 “Pivotal Manway Cover,” was duly and legally issued by the United States Patent and
22 Trademark Office (“USPTO”) and names Stephen Rosenblatt as inventor. A copy of the 'D411
23 patent is attached hereto as Exhibit A.

24 12. By lawful assignment, plaintiff Rosenblatt Innovations LLC is the owner of all right,
25 title, and interest in and to the 'D411 patent.

26 13. Plaintiff SCS is the exclusive licensee with exclusive right to make, use, and sell the
27 design claimed in the 'D411 patent.

1 14. The 'D411 patent discloses and claims the non-functional ornamental design for a
2 pivoting arm for a horizontally pivoting manway cover, which is described and shown from
3 multiple perspectives in Figures 1-6, reproduced below.



1 15. An exemplary ornamental design disclosed and claimed by the 'D411 patent is
2 implemented and embodied in Plaintiffs' pivotal manway cover, which includes the same non-
3 functional ornamental features. An example from Sonoma Cast Stone's current website Catalog
4 is depicted below.



21
22 **COUNT 1: INFRINGEMENT OF U.S. DES. PAT. NO. D913,411**

23 16. Plaintiffs incorporate by reference and reallege each of the allegations of paragraphs
24 1-15, as if fully set forth herein.

25 17. Defendant ICC-NW manufactures, imports, sells, and/or offers for sale stainless steel
26 tanks for use in wine, beer, cider, and other food and beverage production.

1 18. On information and belief, Defendant ICC-NW has manufactured, imported, sold,
2 and/or offered for sale infringing manways since March 16, 2021, including the manufacture and
3 sale of infringing manways to Defendant Niebaum-Coppola.

4 19. On March 20, 2023, Plaintiffs notified ICC-NW by letter of the issued 'D411 patent
5 and provided ICC-NW with a copy of the patent.

6 20. On information and belief, since receipt of the above-mentioned letter, Defendant
7 ICC-NW has refused to change the design of its infringing product (the Accused Product) and
8 has refused to discontinue its sales of the Accused Product.

9 21. On information and belief, ICC-NW, with full knowledge of the asserted claim and
10 the Accused Products, has acted with intentional disregard for the 'D411 patent.

11 22. Images of samples of the Accused Product sold by ICC-NW to Niebaum-Coppola are
12 set out below.

13 23. As the views below show, Defendant ICC-NW has misappropriated Plaintiffs'
14 patented pivotal manway cover design in the Accused Product.



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22 24. On information and belief, Defendants have infringed and continue to infringe the
23 'D411 patent under 35 U.S.C. §§ 271(a), (b), and/or (c), including, but not limited to, by making,
24 using, offering for sale, and/or selling the patented design without the authority of Plaintiffs
25 and/or by contributing to and/or inducing such infringement of the 'D411 patent.

26 25. Defendants do not, individually or collectively, have a license or permission to use
27 the 'D411 patent.

1 26. Upon information and belief, Defendants have been aware of the existence of the
2 'D411 patent and have had notice of the 'D411 patent and their ongoing conduct as a
3 consequence, among other things, of this Complaint.

4 27. The '411 patent claims a non-functional ornamental design for a pivotal manway
5 cover.

6 28. The Accused Product is a horizontally pivoting manway cover with an ornamental
7 design that infringes the 'D411 patent, as shown in the images above.

8 29. In the eye of an ordinary observer, giving such attention as a purchaser usually gives,
9 the non-functional ornamental design for a pivotal manway cover claimed in the '411 patent and
10 the Accused Products are substantially the same, with resemblance such as to deceive an
11 ordinary observer, inducing him or her to purchase an Accused Product supposing it to be the
12 design claimed in the '411 patent. Thus, Defendants have appropriated the ornamental design for
a pivotal manway cover as shown and described in the '411 patent.

13 30. On information and belief, ICC-NW, without authority, has directly infringed and
14 continues to directly infringe the 'D411 patent, under 35 U.S.C. § 271(a), at least by
15 manufacturing, importing, distributing, selling, offering for sale, and/or using within the United
States at least the Accused Products.

16 31. As a result of Defendants' infringement of the 'D411 patent, Plaintiffs have suffered
17 and will continue to suffer damages. Plaintiff are entitled to recover damages adequate to
18 compensate them for such infringement, but in no event less than a reasonable royalty, as
19 permitted under 35 U.S.C. § 284, as well as all remedies for design patent infringement
20 permitted under 35 U.S.C. § 289.

21 32. ICC-NW's infringement of the 'D411 patent is willful, making this an exceptional
22 case and entitling Plaintiffs to enhanced damages and attorneys' fees.

23 33. On information and belief, ICC-NW copied Sonoma Cast Stone's pivotal manway
24 cover design, which embodies the design claimed in Rosenblatt's 'D411 patent, to arrive at the
25 design of the Accused Product.

26 34. ICC-NW became aware of the issued claim of the '411 patent no later than
27 Rosenblatt's letter to ICC-NW dated March 20, 2023. On information and belief, ICC-NW has
28 knowingly and willfully infringed the 'D411 patent by manufacturing, importing, using, selling,

1 and offering to sell the Accused Products, including the Accused Products identified in this
2 Complaint.

3 35. Despite Defendant ICC-NW's knowledge of its imminent and actual infringement of
4 the 'D411 patent, ICC-NW has continued to manufacture, import, use, sell, and offer to sell the
5 Accused Product.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs Rosenblatt Innovations LLC and Sonoma Cast Stone Corporation
8 respectfully requests that this Court:

9 1. Adjudge that Defendants ICC-NW and Niebaum-Coppola have directly infringed,
10 literally or under the doctrine of equivalents, claim 1 of the 'D411 patent, and that the
11 manufacture, use, sale, offer for sale, and/or importation of at least the Accused Products
12 infringes claim 1 of the 'D411 patent;

13 2. Permanently enjoin ICC-NW, its officers, agents, servants and employees, and those in
14 active concert or participation with any of them, from infringing the 'D411 patent;

15 3. Award Plaintiffs damages adequate to compensate for Defendants' infringement of the
16 'D411 patent, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284,
together with prejudgment interest from the date the infringement began;

17 4. Award Plaintiffs the total profit made by ICC-NW from its infringement of the 'D411
18 patent under 35 U.S.C. § 289;

19 5. Award Plaintiffs increased damages under 35 U.S.C. § 284 for ICC-NW's willful and
20 deliberate infringement of the 'D411 patent;

21 6. Declare this to be an exceptional case under 35 U.S.C. § 285;

22 7. Award Plaintiffs their attorney fees and costs incurred in prosecuting this action,
23 together with pre-judgment and post-judgment interest; and

24 8. Grant Plaintiffs such other and further relief as this Court deems just and proper,
25 including an injunction.

JURY DEMAND

Under Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby respectfully request a trial by jury of all issues so triable.

Dated: May 16, 2023

STAINBROOK & STAINBROOK, LLP

By: /s/ Craig M. Stainbrook
Craig M. Stainbrook
craig@stainbrookllp.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I am employed in the County of Sonoma, State of California. I am over the age of eighteen years and not a party to the within entitled cause; my business address is 412 Aviation Boulevard, Suite H, Santa Rosa, California 95403.

On May 16, 2023, I served the **COMPLAINT FOR DESIGN PATENT INFRINGEMENT** on all interested parties in this action, via the following indicated means, addressed as stated on the attached service list:

BY MAIL – I deposited such envelope in the mail at Santa Rosa, California. The envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Santa Rosa, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

BY PERSONAL SERVICE – I caused each such envelope to be delivered by hand this date and leaving a true copy with the person and/or secretary at the address(es) noted below.

VIA FACSIMILE – I faxed said document, to the office(s) of the addressee(s) shown on the attached service list, and the transmission was reported as complete and without error.

BY ELECTRONIC TRANSMISSION – I transmitted a PDF version of these documents by electronic mail to the parties identified on the attached service list using the email address(es) indicated.

BY OVERNIGHT DELIVERY – I deposited such envelope for collection and delivery by Federal Express with delivery fees paid or provided for in accordance with ordinary business practices. I am “readily familiar” with the firms’ practice of collection and processing packages for overnight delivery by Federal Express. They are deposited with a facility regularly maintained by Federal Express for receipt on the same day in the ordinary course of business.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made and that this declaration was made on May 16, 2023, at Santa Rosa, California.

/jolene m. keller/
Jolene M. Keller

SERVICE LIST

Rosenblatt Innovations LLC, et al.
v. ICC Northwest, Inc., et al.
California Northern District Court Case No. TBD

NATIONAL REGISTERED AGENTS, INC. 780 Commercial Street SE, Suite 100 Salem, OR 97301 Telephone: (503) 914-1035	Registered Agent for Defendant ICC NORTHWEST, INC. (an Oregon domestic business corporation)
COGENCY GLOBAL INC. 122 E. 42 nd St., 18 th Floor New York, NY 10168 Telephone: (800) 221-0102 Facsimile: (800) 944-6607	Registered Agent for Defendant COPPOLA ESTATE WINERY, L.P. (a California limited partnership)