

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

YETI Coolers, LLC,

Plaintiff,

v.

Bote, LLC,

Defendant.

Case No. 8:23-cv-370

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR:**

- (1) – (31) PATENT
INFRINGEMENT IN
VIOLATION OF 35 U.S.C. § 271**
- (32) TRADE DRESS
INFRINGEMENT IN
VIOLATION OF 15 U.S.C.
§ 1125(a);**
- (33) TRADE DRESS DILUTION IN
VIOLATION OF 15 U.S.C.
§ 1125(c);**
- (34) UNFAIR COMPETITION AND
FALSE DESIGNATION OF
ORIGIN IN VIOLATION OF 15
U.S.C. § 1125(a);**
- (35) TRADE DRESS DILUTION IN
VIOLATION OF FLA. STAT.
§ 495.151;**
- (36) TRADE DRESS DILUTION IN
VIOLATION OF TEX. BUS. &
COM. CODE § 16.103;**
- (37) COMMON LAW TRADE
DRESS INFRINGEMENT;**
- (38) COMMON LAW UNFAIR
COMPETITION;**
- (39) COMMON LAW
MISAPPROPRIATION; AND**
- (40) UNJUST ENRICHMENT**

AND DEMAND FOR A JURY TRIAL.

COMPLAINT AND DEMAND FOR A JURY TRIAL

Plaintiff, YETI Coolers, LLC (“YETI”), for its Complaint against Bote, LLC (“Bote”), alleges as follows:

The Parties

1. YETI is a company organized and existing under the laws of the State of Delaware with a principal place of business at 7601 Southwest Parkway, Austin, TX 78735.

2. On information and belief, Bote, LLC is a company organized and existing under the laws of the State of Florida with a place of business at 2401 Dr. Martin Luther King Jr Street N., Saint Petersburg, Florida 33704.

Jurisdiction and Venue

3. This is an action for patent infringement, trade dress infringement, trade dress dilution, unfair competition and false designation of origin, misappropriation, and unjust enrichment. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*; the Trademark Act of 1946, 15 U.S.C. § 1051, *et seq.* (“the Lanham Act”); the Florida Statutes; the Texas Business & Commerce Code; federal common law; and state common law, including the law of Florida and the law of Texas.

4. This Court has subject matter jurisdiction over this action pursuant to at least 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331, 1338(a) & (b), and 1367(a).

5. This Court has personal jurisdiction over Bote because, *inter alia*, Bote is a company organized and existing under the laws of the State of Florida. This Court also has personal jurisdiction over Bote because, *inter alia*, Bote is purposefully and intentionally availing itself of the privileges of doing business in the State of Florida, including in this District. Among other things, Bote has a regular and established place of business in this District, Bote has advertised, marketed, promoted, offered for sale, sold, distributed, manufactured, and/or imported, and continues to advertise, market, promote, offer for sale, sell, distribute, manufacture, and/or import infringing products to customers and/or potential customers, including in this District, and Bote's unlawful acts that give rise to this lawsuit and harm to YETI have occurred and are occurring in the State of Florida, including in this District.

6. Venue is proper in this District pursuant to at least 28 U.S.C. §§ 1391(a)-(d) and 28 U.S.C. § 1400(b).

General Allegations – YETI's Intellectual Property

7. For years, YETI has continuously engaged in the design, development, manufacture, promotion, and sale of its: (1) Hopper® soft-sided coolers, (2) Camino® bags, and (3) drinkware products, including its 20 oz. Rambler® Tumblers, 30 oz. Rambler® Tumblers, 36 oz. Rambler® Water Bottles, Rambler® 12 oz. Colster® Can Coolers, and Rambler® 12 oz. Colster® Slim Can Coolers.

YETI has invested substantial resources into the research, design, and development of these products. YETI's research, design, and development have led to many innovative product designs and technologies, including designs and technologies at issue in this lawsuit.

8. For example, YETI owns U.S. Patent No. 9,139,352 (“the ’352 Patent”) related to an insulating container; U.S. Patent No. 10,994,918 (“the ’918 Patent”) related to an insulating device and method for forming an insulating device; U.S. Patent No. 11,186,422 (“the ’422 Patent”) related to an insulating device and method for forming an insulating device; and U.S. Patent No. 11,172,741 (“the ’741 Patent”) related to a tote bag. YETI also owns U.S. Design Patent No. D822,997 (“the ’997 Patent”), U.S. Design Patent No. D822,998 (“the ’998 Patent”), U.S. Design Patent No. D822,999 (“the ’999 Patent”), all related to bags; U.S. Design Patent No. D784,775 (“the ’775 Patent”), U.S. Design Patent No. D799,906 (“the ’906 Patent”), U.S. Design Patent No. D804,256 (“the ’256 Patent”), U.S. Design Patent No. D807,125 (“the ’125 Patent”), U.S. Design Patent No. D807,126 (“the ’126 Patent”), U.S. Design Patent No. D823,646 (“the ’646 Patent”), U.S. Design Patent No. D875,479 (“the ’479 Patent”), U.S. Design Patent No. D899,870 (“the ’870 Patent”), U.S. Design Patent No. D941,638 (“the ’638 Patent”), and U.S. Design Patent No. D960,661 (“the ’661 Patent”), all related to bottles; U.S. Design Patent No. D760,586 (“the ’586 Patent”), U.S. Design Patent No. D843,212 (“the ’212 Patent”),

both related to lids; U.S. Design Patent No. D752,397 (“the ’397 Patent”), U.S. Design Patent No. D779,285 (“the ’285 Patent”), U.S. Design Patent No. D779,892 (“the ’892 Patent”), U.S. Design Patent No. D780,530 (“the ’530 Patent”), U.S. Design Patent No. D780,531 (“the ’531 Patent”), U.S. Design Patent No. D780,532 (“the ’532 Patent”), U.S. Design Patent No. D780,533 (“the ’533 Patent”), U.S. Design Patent No. D786,025 (“the ’025 Patent”), U.S. Design Patent No. D826,003 (“the ’003 Patent”), U.S. Design Patent No. D829,058 (“the ’058 Patent”), U.S. Design Patent No. D888,505 (“the ’505 Patent”), and U.S. Design Patent No. D920,746 (“the ’746 Patent”), all related to beverage holders.

9. The ’352 Patent is titled “Insulating Container.” On September 22, 2015, the ’352 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the ’352 Patent. A copy of the ’352 Patent is attached as Exhibit 1.

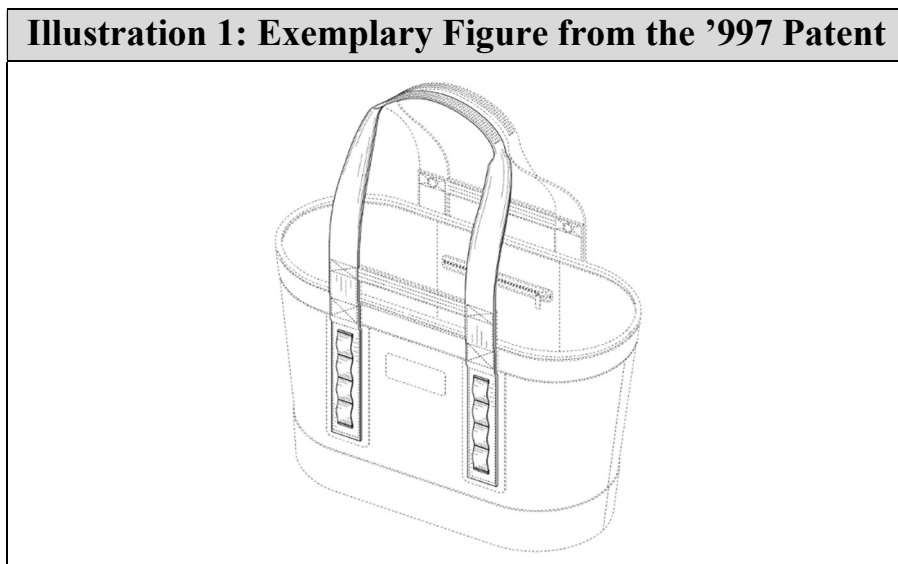
10. The ’918 Patent is titled “Insulating Device and Method for Forming Insulating Device.” On May 4, 2021, the ’918 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the ’918 Patent. A copy of the ’918 Patent is attached as Exhibit 2.

11. The ’422 Patent is titled “Insulating Device and Method for Forming Insulating Device.” On November 30, 2021, the ’422 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and

interest to the '422 Patent. A copy of the '422 Patent and a copy of the Certificate of Correction are attached as Exhibits 3 and 4, respectively.

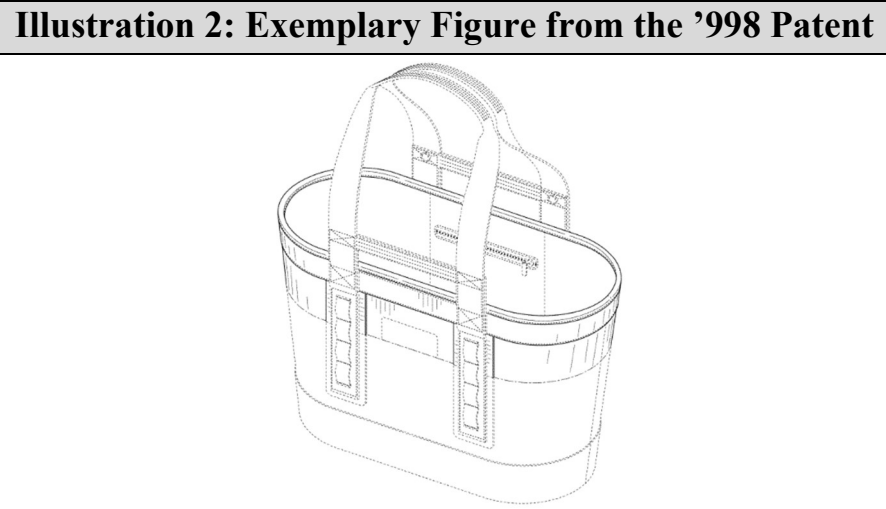
12. The '741 Patent is titled "Tote Bag." On November 16, 2021, the '741 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '741 Patent. A copy of the '741 Patent and a copy of the Certificate of Correction are attached as Exhibits 5 and 6, respectively.

13. The '997 Patent is titled "Bag." On July 17, 2018, the '997 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '997 Patent. A copy of the '997 Patent is attached as Exhibit 7. An exemplary figure from the '997 Patent is shown in Illustration 1 below:

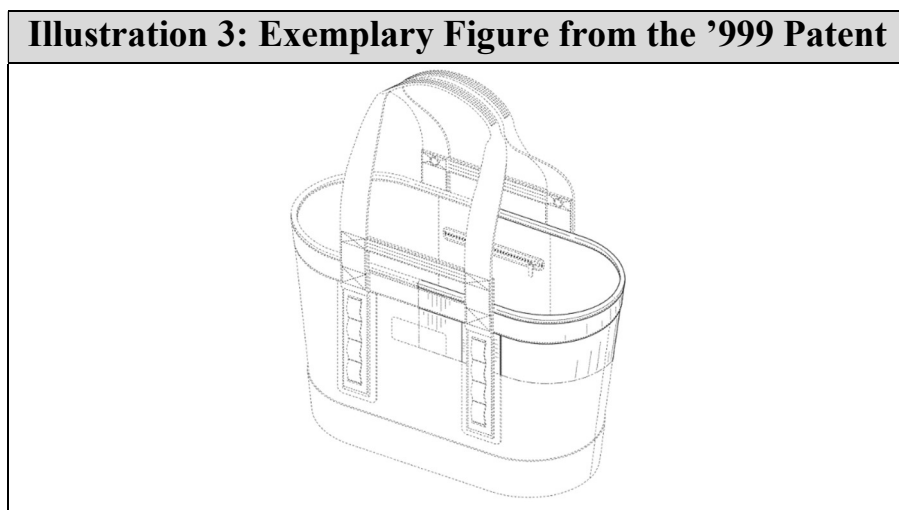


14. The '998 Patent is titled "Bag." On July 17, 2018, the '998 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire

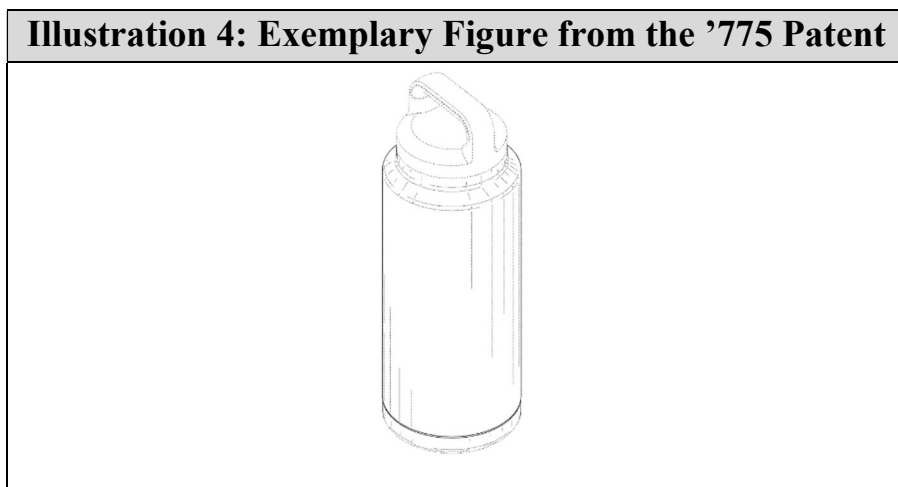
right, title, and interest to the '998 Patent. A copy of the '998 Patent is attached as Exhibit 8. An exemplary figure from the '998 Patent is shown in Illustration 2 below:



15. The '999 Patent is titled "Bag." On July 17, 2018, the '999 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '999 Patent. A copy of the '999 Patent is attached as Exhibit 9. An exemplary figure from the '999 Patent is shown in Illustration 3 below:

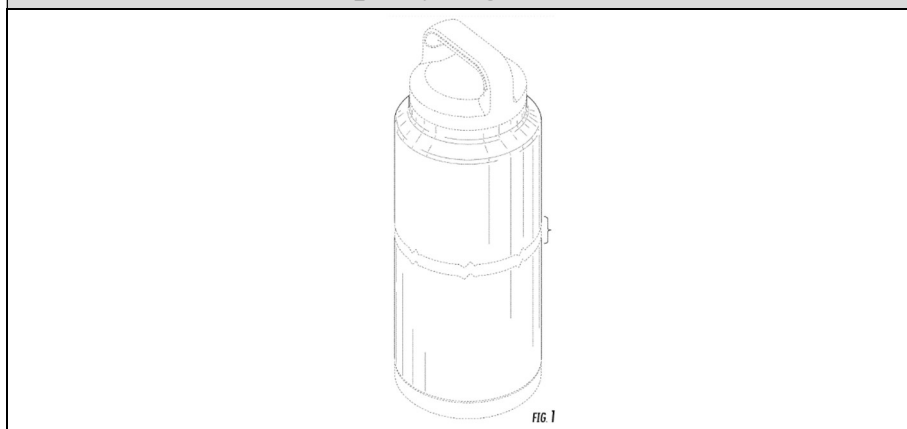


16. The '775 Patent is titled "Bottle." On April 25, 2017, the '775 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '775 Patent. A copy of the '775 Patent is attached as Exhibit 10. An exemplary figure from the '775 Patent is shown in Illustration 4 below:



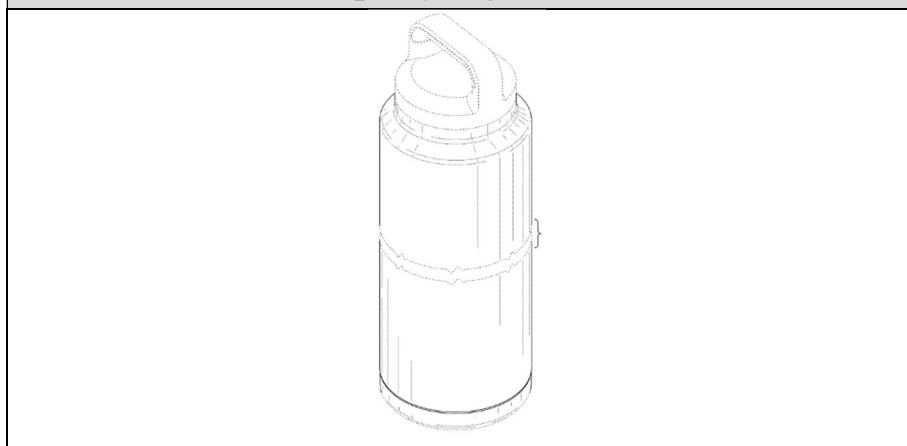
17. The '906 Patent is titled "Bottle." On October 17, 2017, the '906 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '906 Patent. A copy of the '906 Patent is attached as Exhibit 11. An exemplary figure from the '906 Patent is shown in Illustration 5 below:

Illustration 5: Exemplary Figure from the '906 Patent



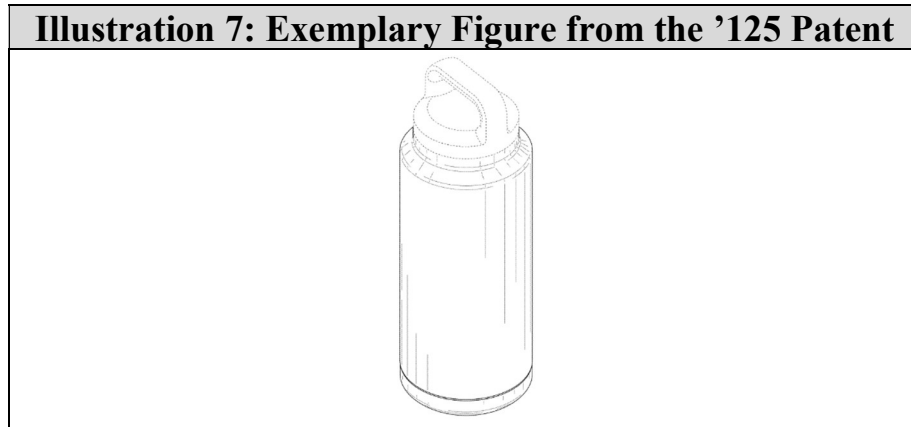
18. The '256 Patent is titled "Bottle." On December 5, 2017, the '256 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '256 Patent. A copy of the '256 Patent is attached as Exhibit 12. An exemplary figure from the '256 Patent is shown in Illustration 6 below:

Illustration 6: Exemplary Figure from the '256 Patent

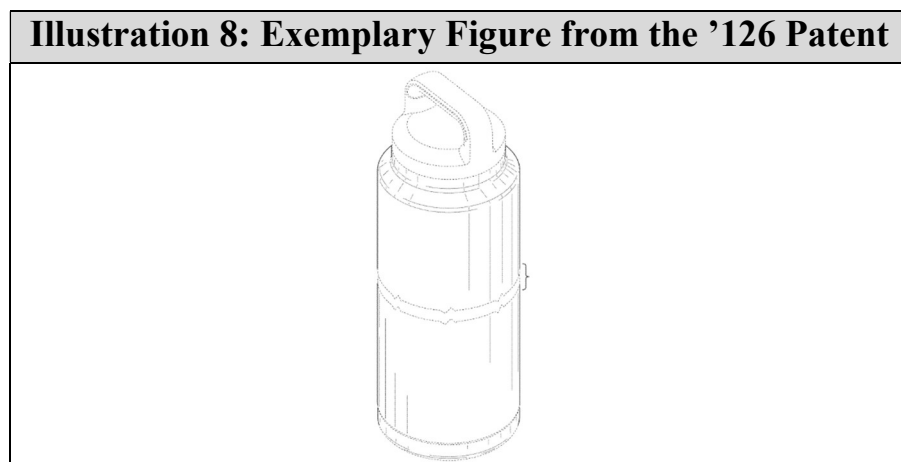


19. The '125 Patent is titled "Bottle." On January 9, 2018, the '125 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire

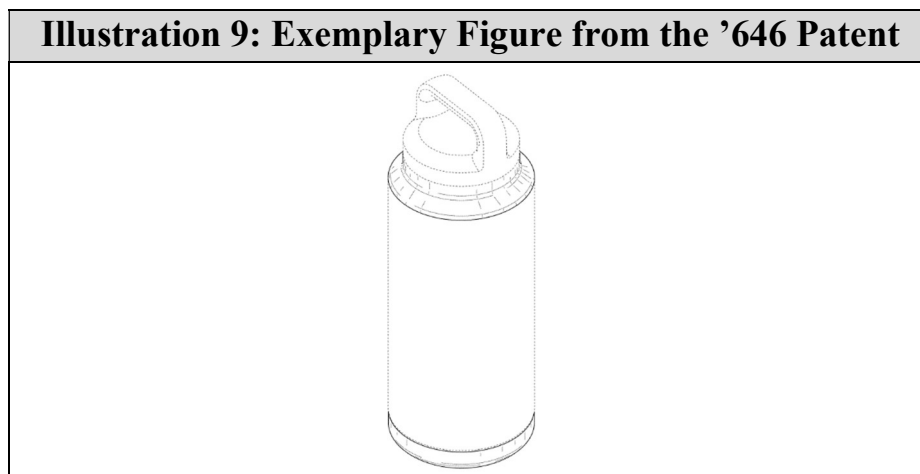
right, title, and interest to the '125 Patent. A copy of the '125 Patent is attached as Exhibit 13. An exemplary figure from the '125 Patent is shown in Illustration 7 below:



20. The '126 Patent is titled “Bottle.” On January 9, 2018, the '126 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '126 Patent. A copy of the '126 Patent is attached as Exhibit 14. An exemplary figure from the '126 Patent is shown in Illustration 8 below:



21. The '646 Patent is titled "Bottle." On July 24, 2018, the '646 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '646 Patent. A copy of the '646 Patent is attached as Exhibit 15. An exemplary figure from the '646 Patent is shown in Illustration 9 below:



22. The '479 Patent is titled "Bottle." On February 18, 2020, the '479 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '479 Patent. A copy of the '479 Patent is attached as Exhibit 16. An exemplary figure from the '479 Patent is shown in Illustration 10 below:

Illustration 10: Exemplary Figure from the '479 Patent

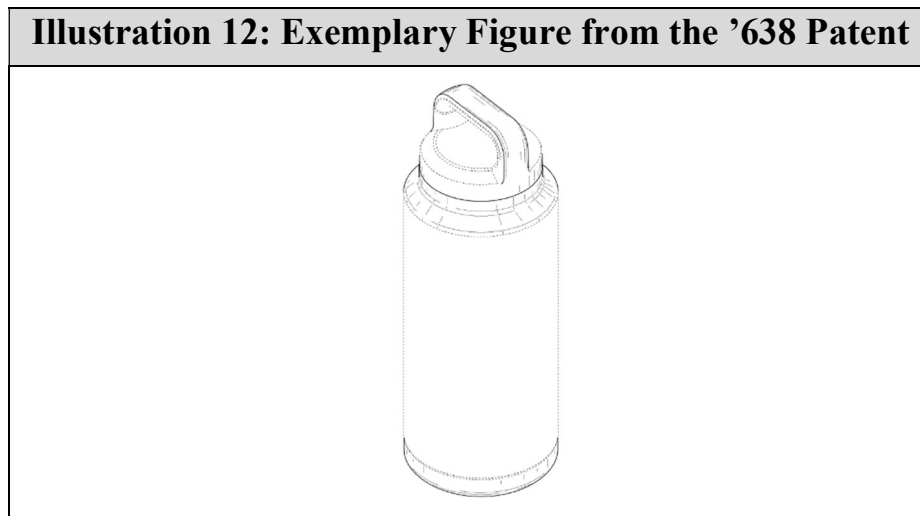


23. The '870 Patent is titled "Bottle." On October 27, 2020, the '870 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '870 Patent. A copy of the '870 Patent is attached as Exhibit 17. An exemplary figure from the '870 Patent is shown in Illustration 11 below:

Illustration 11: Exemplary Figure from the '870 Patent

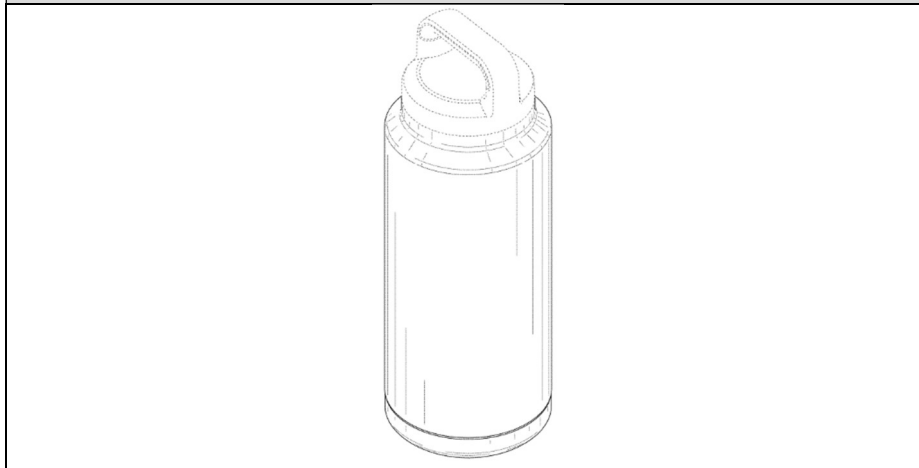


24. The '638 Patent is titled "Bottle." On January 25, 2022, the '638 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '638 Patent. A copy of the '638 Patent is attached as Exhibit 18. An exemplary figure from the '638 Patent is shown in Illustration 12 below:



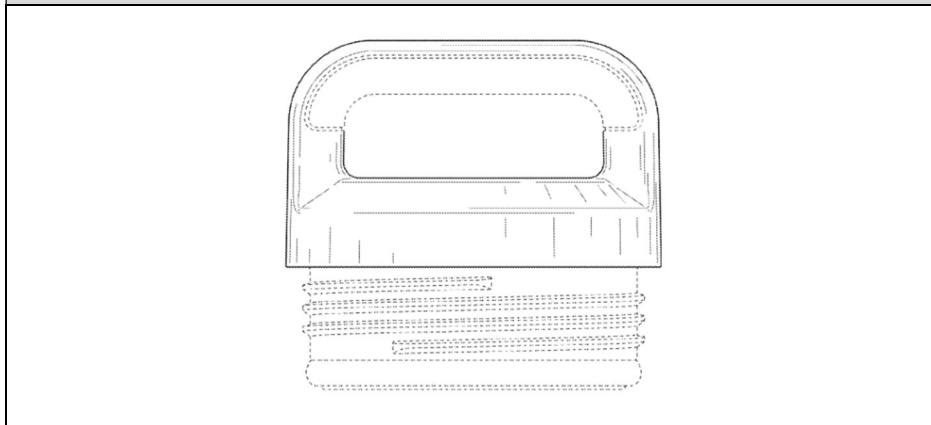
25. The '661 Patent is titled "Bottle." On August 16, 2022, the '661 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '661 Patent. A copy of the '661 Patent is attached as Exhibit 19. An exemplary figure from the '661 Patent is shown in Illustration 13 below:

Illustration 13: Exemplary Figure from the '661 Patent

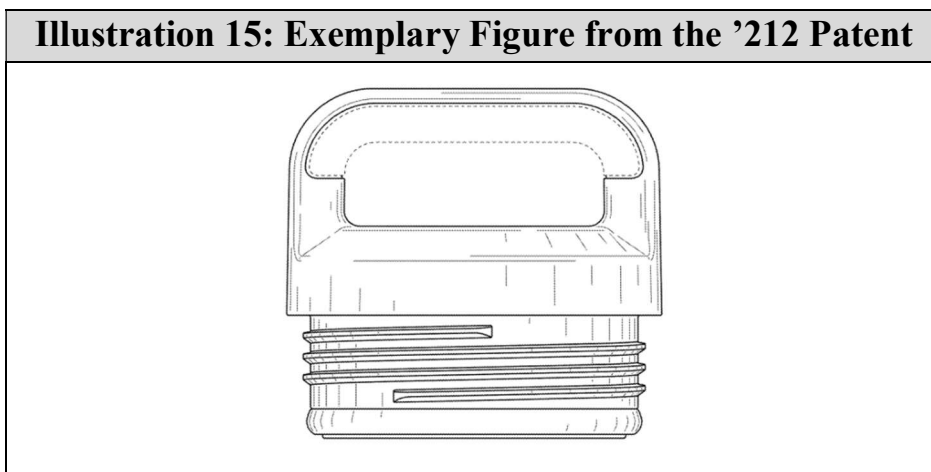


26. The '586 Patent is titled "Lid." On July 5, 2016, the '586 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '586 Patent. A copy of the '586 Patent is attached as Exhibit 20. An exemplary figure from the '586 Patent is shown in Illustration 14 below:

Illustration 14: Exemplary Figure from the '586 Patent

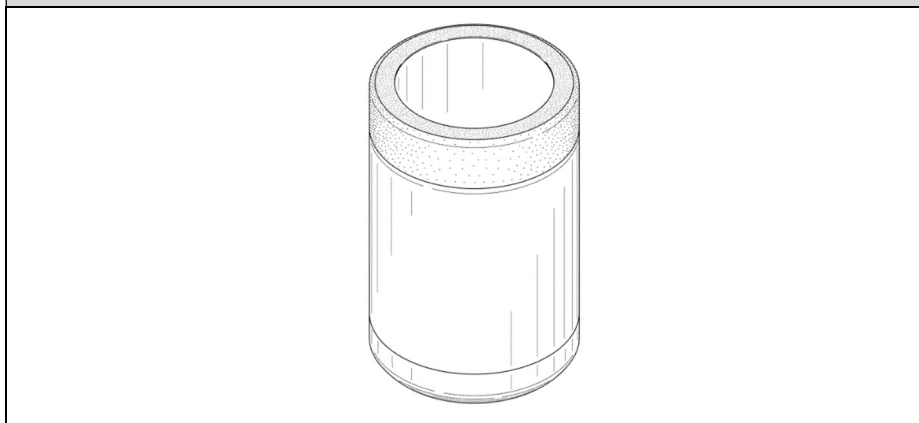


27. The '212 Patent is titled "Lid." On March 19, 2019, the '212 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '212 Patent. A copy of the '212 Patent is attached as Exhibit 21. An exemplary figure from the '212 Patent is shown in Illustration 15 below:



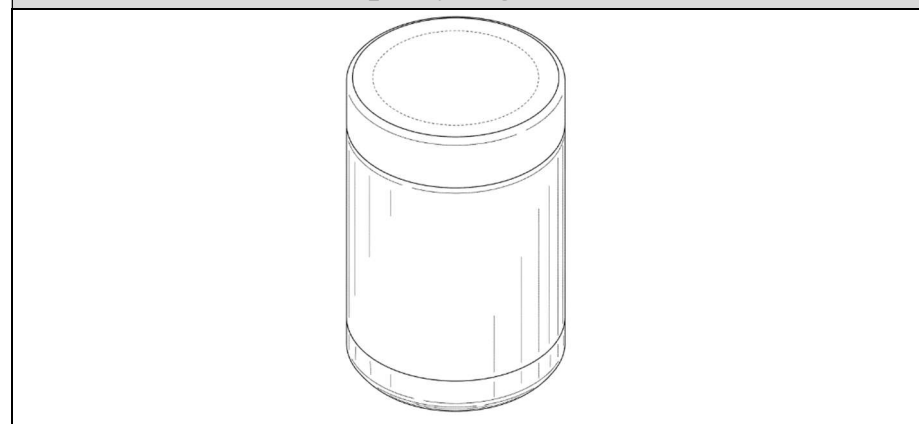
28. The '397 Patent is titled "Beverage Holder." On March 29, 2016, the '397 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '397 Patent. A copy of the '397 Patent is attached as Exhibit 22. An exemplary figure from the '397 Patent is shown in Illustration 16 below:

Illustration 16: Exemplary Figure from the '397 Patent



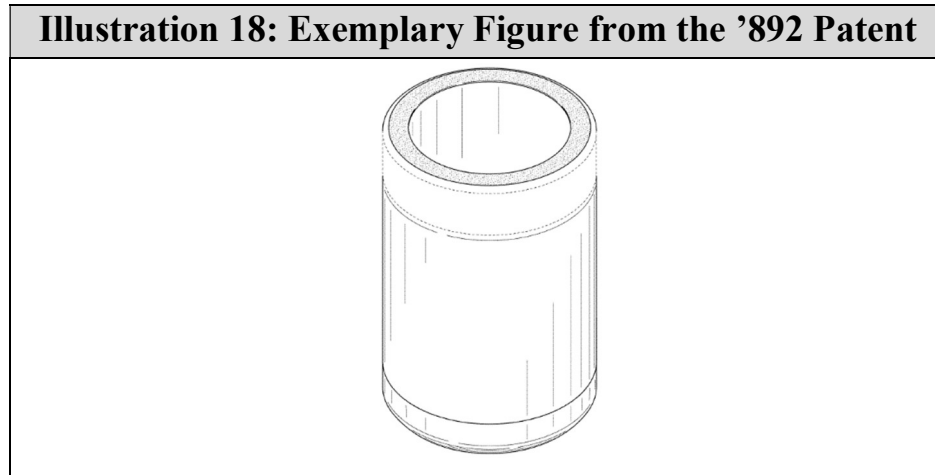
29. The '285 Patent is titled "Beverage Holder." On February 21, 2017, the '285 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '285 Patent. A copy of the '285 Patent is attached as Exhibit 23. An exemplary figure from the '285 Patent is shown in Illustration 17 below:

Illustration 17: Exemplary Figure from the '285 Patent

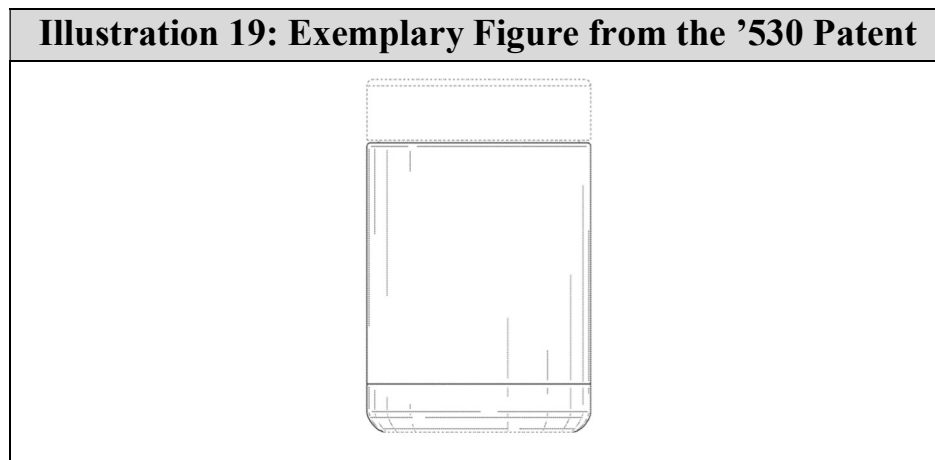


30. The '892 Patent is titled "Beverage Holder." On February 28, 2017, the '892 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '892 Patent. A copy of the '892 Patent

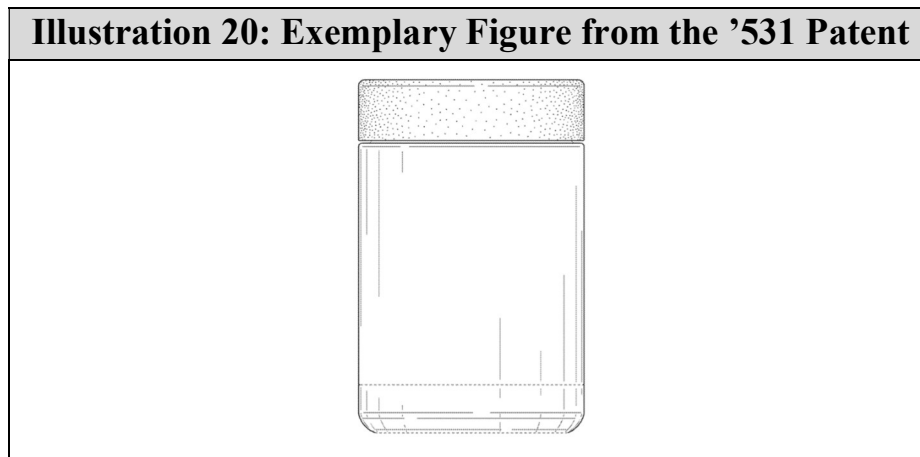
is attached as Exhibit 24. An exemplary figure from the '892 Patent is shown in Illustration 18 below:



31. The '530 Patent is titled "Beverage Holder." On March 7, 2017, the '530 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '530 Patent. A copy of the '530 Patent is attached as Exhibit 25. An exemplary figure from the '530 Patent is shown in Illustration 19 below:



32. The '531 Patent is titled "Beverage Holder." On March 7, 2017, the '531 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '531 Patent. A copy of the '531 Patent is attached as Exhibit 26. An exemplary figure from the '531 Patent is shown in Illustration 20 below:



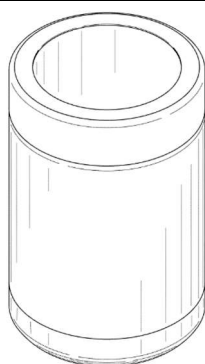
33. The '532 Patent is titled "Beverage Holder." On March 7, 2017, the '532 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '532 Patent. A copy of the '532 Patent is attached as Exhibit 27. An exemplary figure from the '532 Patent is shown in Illustration 21 below:

Illustration 21: Exemplary Figure from the '532 Patent



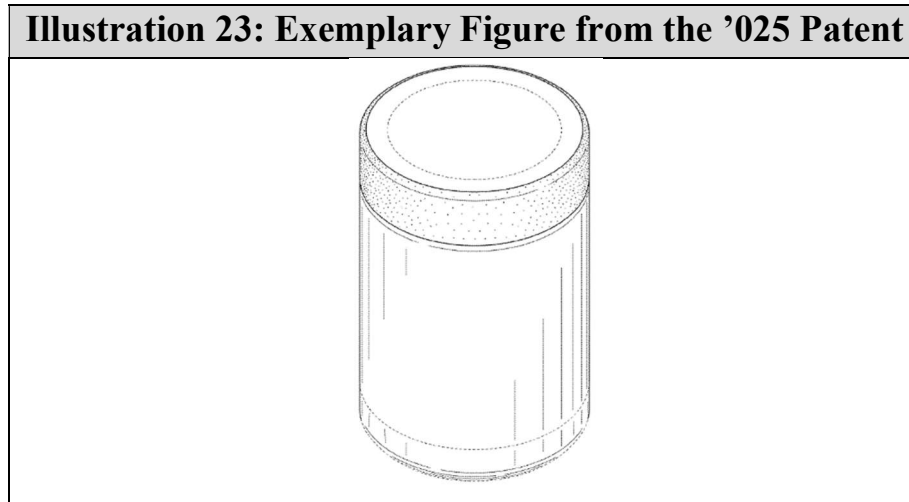
34. The '533 Patent is titled "Beverage Holder." On March 7, 2017, the '533 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '533 Patent. A copy of the '533 Patent is attached as Exhibit 28. An exemplary figure from the '533 Patent is shown in Illustration 22 below:

Illustration 22: Exemplary Figure from the '533 Patent

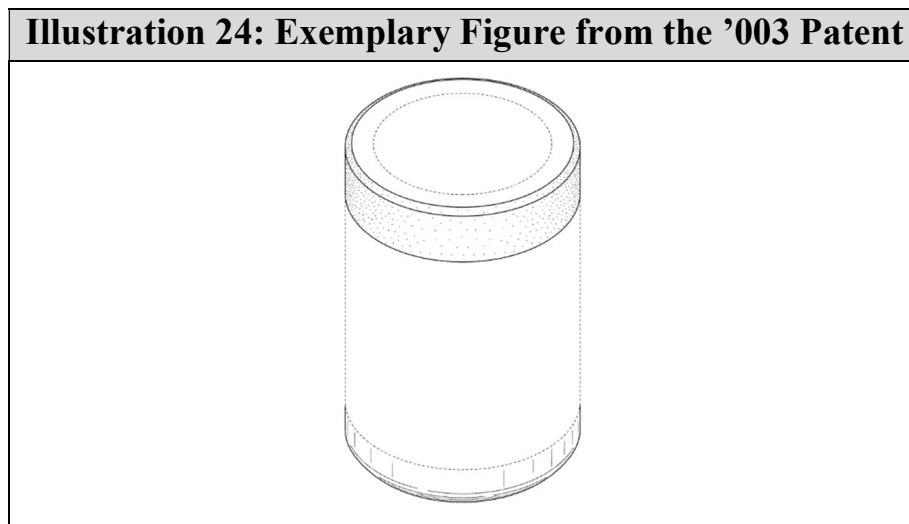


35. The '025 Patent is titled "Beverage Holder." On May 9, 2017, the '025 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '025 Patent. A copy of the '025 Patent is

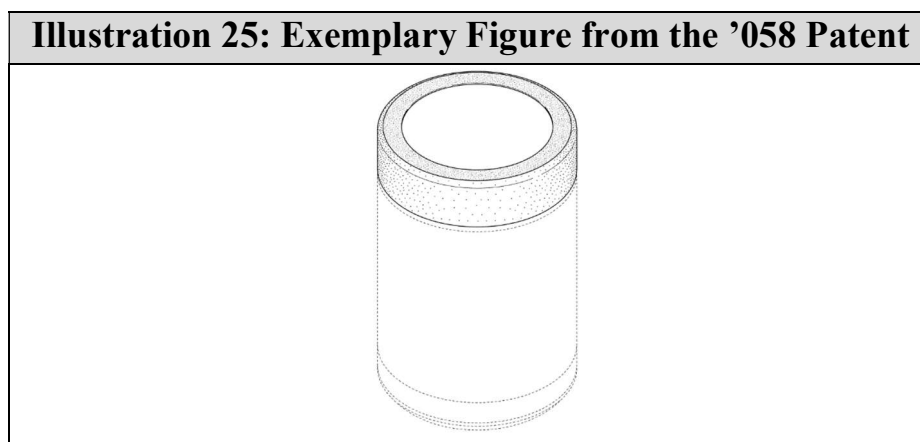
attached as Exhibit 29. An exemplary figure from the '025 Patent is shown in Illustration 23 below:



36. The '003 Patent is titled “Beverage Holder.” On August 21, 2018, the '003 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '003 Patent. A copy of the '003 Patent is attached as Exhibit 30. An exemplary figure from the '003 Patent is shown in Illustration 24 below:

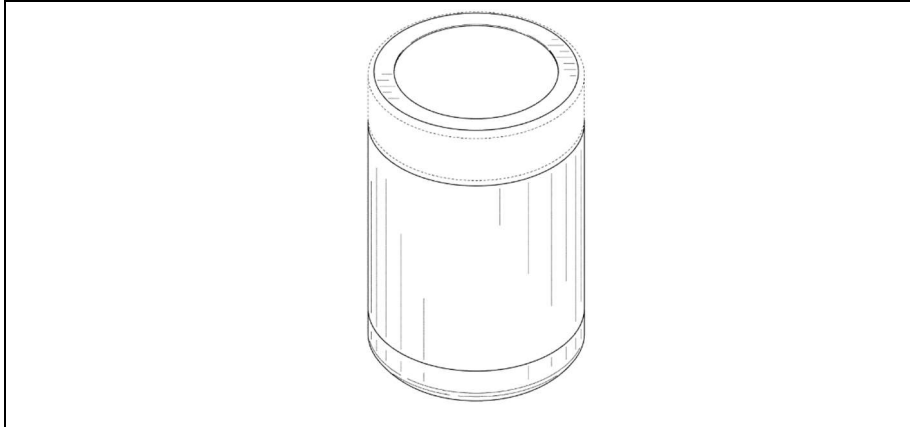


37. The '058 Patent is titled "Beverage Holder." On September 25, 2018, the '058 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '058 Patent. A copy of the '058 Patent is attached as Exhibit 31. An exemplary figure from the '058 Patent is shown in Illustration 25 below:



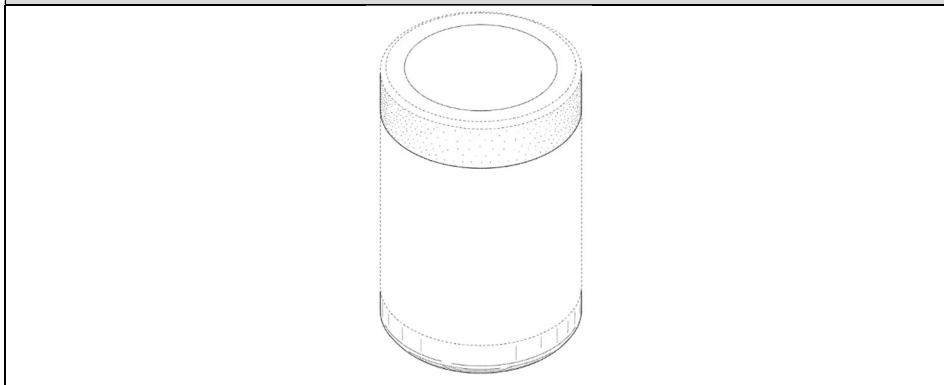
38. The '505 Patent is titled "Beverage Holder." On June 30, 2020, the '505 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '505 Patent. A copy of the '505 Patent is attached as Exhibit 32. An exemplary figure from the '505 Patent is shown in Illustration 26 below:

Illustration 26: Exemplary Figure from the '505 Patent



39. The '746 Patent is titled "Beverage Holder." On June 1, 2021, the '746 Patent was duly and legally issued by the U.S. Patent Office to YETI. YETI owns the entire right, title, and interest to the '746 Patent. A copy of the '746 Patent and a copy of the Certificate of Correction are attached as Exhibits 33 and 34, respectively. An exemplary figure from the '746 Patent is shown in Illustration 27 below:

Illustration 27: Exemplary Figure from the '746 Patent



40. YETI created unique, distinctive, and non-functional designs to use with YETI's Rambler® drinkware. YETI has extensively and continuously

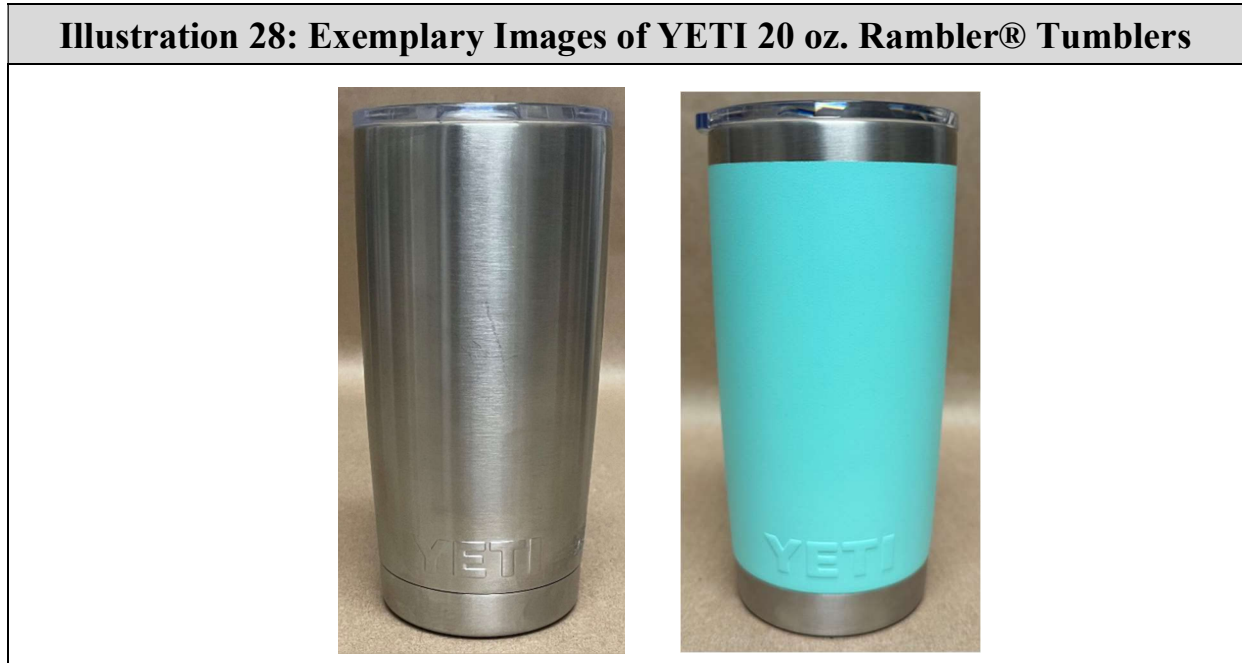
promoted and used these designs for years in the United States, in Florida, and in Texas. Through that extensive and continuous promotion and use, YETI's designs have become well-known indicators of the origin and quality of YETI's Rambler® drinkware. YETI's designs have also acquired substantial secondary meaning in the marketplace and has become famous. As discussed in more detail below, YETI owns trade dress rights relating to its Rambler® drinkware designs.

41. YETI has enjoyed significant sales of its Rambler® drinkware throughout the United States, including sales to customers in the State of Florida and in the state of Texas. YETI has invested significant resources in the design, development, manufacture, advertising, and marketing of its Rambler® drinkware. The design and features of YETI's Rambler® drinkware have received widespread and unsolicited public attention. For example, YETI's Rambler® drinkware products have been featured in numerous newspaper, magazine, and Internet articles.

42. The designs of the Rambler® drinkware have distinctive and non-functional features that identify to consumers that the origin of the drinkware is YETI. As a result of at least YETI's continuous and exclusive use of the designs of the Rambler® drinkware, YETI's marketing, advertising, and sales of its Rambler® drinkware, and the highly valuable goodwill, substantial secondary meaning, and fame acquired as a result, YETI owns trade dress rights in the design and appearance

of its Rambler® drinkware, which consumers have come to uniquely associate with YETI.

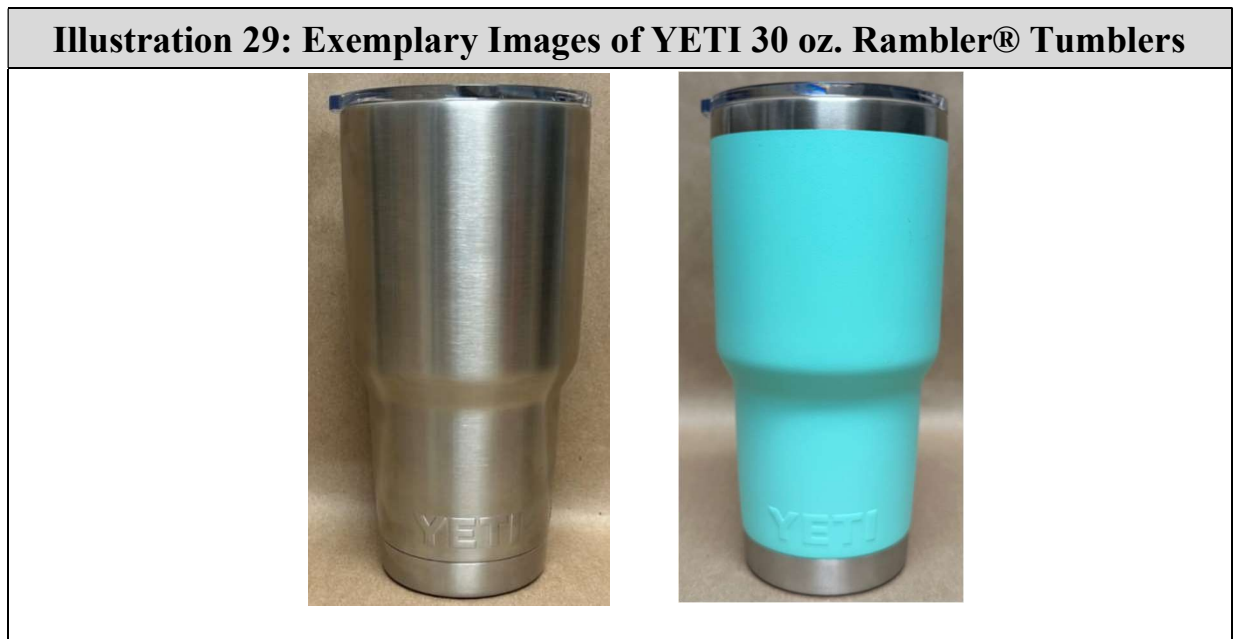
43. Exemplary images of YETI 20 oz. Rambler® Tumblers are shown below:



44. YETI has trade dress rights in the overall look, design, and appearance of the YETI 20 oz. Rambler® Tumbler, which includes the design and appearance of the curves, tapers, and lines in the YETI 20 oz. Rambler® Tumbler; the design and appearance of the profile of the YETI 20 oz. Rambler® Tumbler; the design and appearance of the walls of the YETI 20 oz. Rambler® Tumbler; the design and appearance of the rim of the YETI 20 oz. Rambler® Tumbler; the design, appearance, and placement of the taper in the side wall of the YETI 20 oz. Rambler®

Tumbler; the design, appearance, and placement of the style line around the base of the YETI 20 oz. Rambler® Tumbler; the design, appearance, and placement of the tab on the lid of the YETI 20 oz. Rambler® Tumbler; the design, appearance, and placement of the drinking opening on the lid of the YETI 20 oz. Rambler® Tumbler; the design, appearance, and placement of the top plane of the lid of the YETI 20 oz. Rambler® Tumbler; the design, appearance, and placement of the side walls of the lid of the YETI 20 oz. Rambler® Tumbler; the color contrast and color combinations of the YETI 20 oz. Rambler® Tumbler and tumbler lid of the YETI 20 oz. Rambler® Tumbler; and the relationship of these features to each other and to other features.

45. Exemplary images of YETI 30 oz. Rambler® Tumblers are shown below:



46. YETI has trade dress rights in the overall look, design, and appearance of the YETI 30 oz. Rambler® Tumbler, which includes the design and appearance of the curves, tapers, and lines in the YETI 30 oz. Rambler® Tumbler; the design and appearance of the profile and the YETI 30 oz. Rambler® Tumbler; the design and appearance of the walls of the YETI 30 oz. Rambler® Tumbler; the design and appearance of the rim of the YETI 30 oz. Rambler® Tumbler; the design, appearance, and placement of the taper in the sidewall of the YETI 30 oz. Rambler® Tumbler; the design, appearance, and placement of the upper portion, mid portion, and bottom portion of the side wall of the YETI 30 oz. Rambler® tumbler; the design, appearance, and placement of the style line around the base of the YETI 30 oz. Rambler® Tumbler; the design, appearance, and placement of the tab on the lid of the YETI 30 oz. Rambler® Tumbler; the design, appearance, and placement of the drinking opening on the lid of the YETI 30 oz. Rambler® Tumbler; the design, appearance, and placement of the top plane of the lid of the YETI 30 oz. Rambler® Tumbler; the design, appearance, and placement of the side walls of the lid of the YETI 30 oz. Rambler® Tumbler; the color contrast and color combinations of the YETI 30 oz. Rambler® Tumbler and tumbler lid of the YETI 30 oz. Rambler® Tumbler; and the relationship of these features to each other and to other features.

47. Exemplary images of YETI 36 oz. Rambler® Water Bottles are shown below:

Illustration 30: Exemplary Images of YETI 36 oz. Rambler® Water Bottles



48. YETI has trade dress rights in the overall look, design, and appearance of the YETI 36 oz. Rambler® Water Bottle, which includes the design and appearance of the curves, tapers, and lines in the YETI 36 oz. Rambler® Water Bottle; the design and appearance of the profile of the YETI 36 oz. Rambler® Water Bottle; the design and appearance of the walls of the YETI 36 oz. Rambler® Water

Bottle; the design and appearance of the rim of the YETI 36 oz. Rambler® Water Bottle; the design, appearance, and placement of the taper in the side wall of the YETI 36 oz. Rambler® Water Bottle; the design, appearance, and placement of the upper portion, mid portion, and bottom portion of the side wall of the YETI 36 oz. Rambler® Water Bottle; the design, appearance, and placement of the style line around the base of the YETI 36 oz. Rambler® Water Bottle; the design, appearance, and placement of the taper in the lid of the YETI 36 oz. Rambler® Water Bottle; the design, appearance, and placement of the handle on the lid of the YETI 36 oz. Rambler® Water Bottle; the design, appearance, and placement of the top plane of the lid of the YETI 36 oz. Rambler® Water Bottle; the design, appearance, and placement of the side walls of the lid of the YETI 36 oz. Rambler® Water Bottle; the color contrast and color combinations of the YETI 36 oz. Rambler® Water Bottle and the lids of the YETI 36 oz. Rambler® Water Bottle; and the relationships of these features to each other and to other features.

49. Exemplary images of YETI Rambler® 12 oz. Colster® Can Coolers and Rambler® 12 oz. Colster® Slim Can Coolers are shown below:

Illustration 31: Exemplary Images of YETI Rambler® 12 oz. Colster® Can Coolers and Rambler® 12 oz. Colster® Slim Can Coolers



50. YETI has trade dress rights in the overall look, design, and appearance of the YETI Rambler® Colster® Can Cooler, which includes the design and appearance of the curves and lines in the YETI Rambler® Colster® Can Cooler; the design and appearance of the profile of the YETI Rambler® Colster® Can Cooler; the design and appearance of the walls of the YETI Rambler® Colster® Can Cooler; the design and appearance of the rim of the YETI Rambler® Colster® Can Cooler; the design, appearance, and placement of the top plane of the upper band of the YETI Rambler® Colster® Can Cooler; the design, appearance, and placement of the side walls of the upper band of the YETI Rambler® Colster® Can Cooler; the color contrast and color combinations of the YETI Rambler® Colster® Can Cooler and the upper band of the YETI Rambler® Colster® Can Cooler; and the relationship of these features to each other and to other features.

51. As a result of YETI's exclusive, continuous, and substantial use, advertising, and sales of its Rambler® drinkware products bearing YETI's trade dress, and the publicity and attention that has been paid to YETI's trade dress, YETI's trade dress has become famous and has acquired valuable goodwill and substantial secondary meaning in the marketplace, as consumers have come to uniquely associate YETI's trade dress as a source identifier of YETI.

General Allegations – Bote's Unlawful Activities

52. Bote has purposefully advertised, marketed, promoted, offered for sale, sold, distributed, manufactured, and/or imported, and continues to purposefully advertise, market, promote, offer for sale, sell, distribute, manufacture, and/or import, products that violate YETI's rights, including YETI's patent and trade dress rights. Bote's infringing products are confusingly similar imitations of YETI's products. Bote's actions have all been without the authorization of YETI.

53. As discussed in more detail below, Bote is selling soft-sided cooler products, bag products, and drinkware products that infringe YETI's patent rights. Bote is not authorized to use YETI's patented technologies. Bote is also selling drinkware products that infringe YETI's trade dress rights. Bote is trying to confuse consumers into thinking that its drinkware products are associated with, sponsored by, or approved by YETI, when they are not. Bote's actions are unlawful, and they must stop. Bote must also compensate YETI for Bote's violations of the law.

54. Bote’s infringing products include its KULA Softy 2.5 Cooler, KULA Softy 5 Cooler, and Highwater Tote. Bote’s infringing products also include its MAGNETumbler 20oz with Lid, MAGNETumbler 32oz with Lid, MAGNEBottle 36oz with Cap, MAGNEKoozie 12oz Shorty, and MAGNEKoozie 12oz Slim (collectively, “Infringing Drinkware Products”). Bote’s infringing products are shown on Bote’s principal website, <https://www.boteboard.com/>, and exemplary images of Bote’s infringing products are also shown below:

Illustration 32: Exemplary Images of Bote’s KULA Softy 2.5 Cooler, Including Cross-Sectional Views



Illustration 33: Exemplary Images of Bote's KULA Softy 5 Cooler, Including Cross-Sectional Views

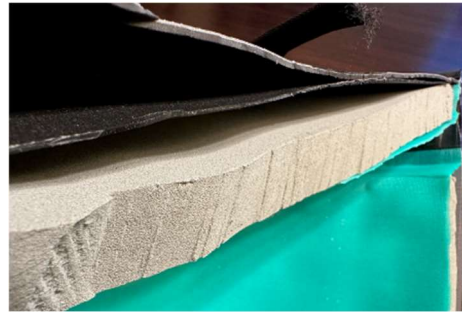


Illustration 34: Exemplary Image of Hang Tag on Bote's KULA Softy 2.5 Cooler and KULA Softy 5 Cooler

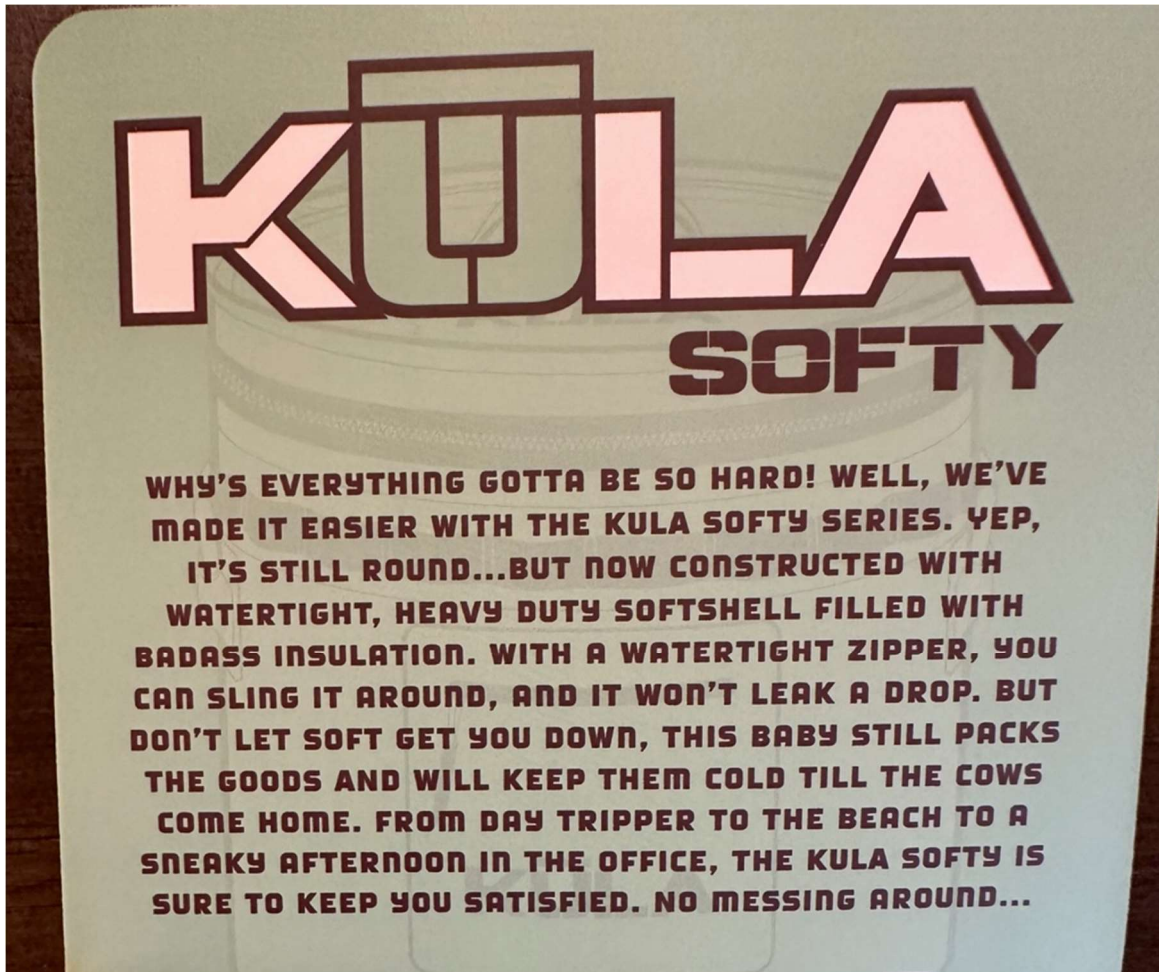


Illustration 35: Exemplary Images of Bote's Highwater Tote



Illustration 36: Exemplary Images of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim



Illustration 37: Exemplary Image of Bote's MAGNETumbler 20oz with Lid



Illustration 38: Exemplary Image of Bote's MAGNETumbler 32oz with Lid



Illustration 39: Exemplary Images of Bote’s MAGNEBottle 36oz with Cap



55. As shown, for example, in Illustration 34 above, Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler are sold with marketing materials, including hang tags that describe each product as “constructed with watertight, heavy duty softshell filled with badass insulation” and as having “a watertight zipper” that “won’t leak a drop.”

56. As a result of Bote’s activities related to its MAGNETumbler 20oz with lid, MAGNETumbler 32oz with lid, MAGNEBottle 36 oz with cap, MAGNEKoozie 12oz Shorty, and MAGNEKoozie 12oz Slim, there is a likelihood of confusion between Bote and its products on the one hand, and YETI and its products on the other hand.

57. YETI used its trade dress extensively and continuously before Bote began advertising, promoting, offering to sell, selling, distributing, manufacturing, and/or importing into the United States its Infringing Drinkware Products. Moreover, YETI's trade dress became famous and acquired secondary meaning in the United States, including in the State of Florida and in the State of Texas, before Bote commenced its unlawful use of YETI's trade dress.

58. Finally, in or around December 2010, Bote and YETI entered into a relationship in which Bote was authorized to promote and sell YETI products. For several years, Bote promoted and sold YETI products, including through Bote's principal website and through social media. Subsequently, YETI ended its relationship with Bote. Nevertheless, Bote has continued to leverage YETI's name and products. For example, Bote's principal website states that "[i]t has availability of ... premier third party accessories such as ... YETI coolers...."

59. Bote has, at the same time, introduced its infringing products. Specifically, Bote released its KULA Softy 2.5 Cooler and KULA Softy 5 Cooler after YETI had released its Hopper® soft-sided cooler products, Bote released its Highwater Tote after YETI had released its Camino® bag products, Bote released its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, Bote released its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, Bote released its MAGNEBottle 36oz with Cap after

YETI had released its 36 oz. Rambler® Water Bottle, and Bote released its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler.

60. In short, the history between Bote and YETI, as well as Bote's conduct, show that Bote was aware of YETI, YETI's products, including YETI's soft-sided cooler products, bag products, and drinkware products, and YETI's rights, that Bote targeted YETI and purposefully intended to harm YETI, and that Bote's unlawful activities have been intentional, willful, and malicious.

Count I:
Patent Infringement of U.S. Patent No. 9,139,352 Under 35 U.S.C. § 271

61. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

62. Bote has infringed and continues to infringe the '352 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's infringing KULA Softy 2.5 Cooler and KULA Softy 5 Cooler, which include each and every element of one or more claims of the '352 Patent, either literally or through the doctrine of equivalents, including at least claim 1.

63. For example, claim 1 of the '352 Patent recites "[a]n insulating container" comprising "an outer shell; an inner liner forming a storage compartment;

a foam layer floating in between the outer shell and the inner liner, the foam layer providing insulation; an opening extending through the outer shell and the inner liner; a closure adapted to substantially seal the opening, the closure being substantially waterproof so as to resist liquid from exiting the opening when the insulating container is in any orientation.”

64. Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products infringe at least claim 1 of the ’352 Patent because they are insulating containers that include all of the claim elements of at least claim 1, either literally or through the doctrine of equivalents, including “an outer shell,” “an inner liner forming a storage compartment,” “a foam layer floating in between the outer shell and the inner liner,” “the foam layer providing insulation,” “an opening extending through the outer shell and the inner liner,” and “a closure adapted to substantially seal the opening, the closure being substantially waterproof so as to resist liquid from exiting the opening when the insulating container is in any orientation.”

65. For example, Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products are insulating containers that have an outer shell and an inner liner, with the inner liner forming a storage compartment, an opening extending through the outer shell and the inner liner, and a closure adapted to substantially seal the opening. Bote also claims that its coolers have “a watertight zipper” that “won’t leak a drop.”

Bote also claims that its coolers have “insulation,” and this insulation includes a foam layer floating in between the outer shell and the inner liner.

66. Bote’s acts of infringement have been without express or implied license by YETI, are in violation of YETI’s rights, and will continue unless enjoined by this Court.

67. On information and belief, Bote’s infringement of the ’352 patent has been intentional, willful, and malicious. Bote’s bad faith is evidenced at least by Bote’s knowledge of YETI, YETI products, and YETI’s rights; Bote’s timing in releasing the KULA Softy 2.5 Cooler and KULA Softy 5 Cooler after YETI had released its Hopper® soft-sided cooler products; by the similarity of the infringing products to YETI’s patented technology; and by Bote’s continuing disregard for YETI’s rights.

68. On information and belief, this is an exceptional case in view of Bote’s unlawful activities, including Bote’s intentional, willful, and malicious infringement.

69. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, and 285.

70. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count II:
Patent Infringement of U.S. Patent No. 10,994,918 Under 35 U.S.C. § 271

71. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

72. Bote has infringed and continues to infringe the '918 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's infringing KULA Softy 2.5 Cooler and KULA Softy 5 Cooler, which include each and every element of one or more claims of the '918 Patent, either literally or through the doctrine of equivalents, including at least claim 1.

73. For example, claim 1 of the '918 Patent recites “[a]n insulating device” comprising “an outer shell; an inner liner forming a storage compartment; an insulating layer positioned in between the outer shell and the inner liner, wherein the insulating layer provides insulation for the storage compartment, and wherein the insulating layer is an unattached foam layer; an opening configured to allow access to the storage compartment; and a closure adapted to substantially seal the opening, wherein the closure is substantially waterproof so as to resist liquid from exiting the opening when the insulating device is in any orientation, wherein the insulating

device further comprises a lid assembly, and wherein the lid assembly includes: a lid assembly outer shell, a lid assembly reinforcement patch, a lid assembly reinforcement panel, a lid assembly insulating layer, a lid assembly inner liner, and a top handle, wherein the top handle extends horizontally when the insulating device is in an upright position and the closure is in the closed position, wherein the lid assembly reinforcement patch defines a first area, wherein the lid assembly reinforcement panel extends parallel to the top handle, wherein the lid assembly reinforcement panel defines a second area, wherein the lid assembly reinforcement panel is more rigid than the lid assembly inner liner and the lid assembly reinforcement panel is more rigid than the lid assembly outer shell, wherein the top handle is sewn to the lid assembly, wherein the lid assembly reinforcement patch is positioned between the top handle and an upper surface of the lid assembly outer shell, wherein the lid assembly reinforcement patch is secured to the upper surface of the lid assembly outer shell with an adhesive or welding, wherein the lid assembly reinforcement panel is positioned below a lower surface of the lid assembly outer shell, and wherein the second area is greater than the first area such that the lid assembly reinforcement panel is configured to assist in preventing the lid assembly from bowing when the insulating device is carried in an upright position.”

74. Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products infringe at least claim 1 of the ’918 Patent because they are insulating devices that

include all of the claim elements of at least claim 1, either literally or through the doctrine of equivalents, including “an outer shell,” “an inner liner forming a storage compartment,” “an insulating layer positioned in between the outer shell and the inner liner, wherein the insulating layer provides insulation for the storage compartment, and wherein the insulating layer is an unattached foam layer,” “an opening configured to allow access to the storage compartment,” “a closure adapted to substantially seal the opening,” “the closure is substantially waterproof so as to resist liquid from exiting the opening when the insulating device is in any orientation,” “a lid assembly,” “the lid assembly includes: a lid assembly outer shell, a lid assembly reinforcement patch, a lid assembly reinforcement panel, a lid assembly insulating layer, a lid assembly inner liner, and a top handle,” “the top handle extends horizontally when the insulating device is in an upright position and the closure is in the closed position,” “the lid assembly reinforcement patch defines a first area,” “the lid assembly reinforcement panel extends parallel to the top handle,” “the lid assembly reinforcement panel defines a second area,” “the lid assembly reinforcement panel is more rigid than the lid assembly inner liner and the lid assembly reinforcement panel is more rigid than the lid assembly outer shell,” “the top handle is sewn to the lid assembly,” “the lid assembly reinforcement patch is positioned between the top handle and an upper surface of the lid assembly outer shell,” “the lid assembly reinforcement patch is secured to the upper surface of the

lid assembly outer shell with an adhesive or welding,” “the lid assembly reinforcement panel is positioned below a lower surface of the lid assembly outer shell,” and “the second area is greater than the first area such that the lid assembly reinforcement panel is configured to assist in preventing the lid assembly from bowing when the insulating device is carried in an upright position.”

75. For example, Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products are insulating devices that have an outer shell, an inner liner forming a storage compartment, an opening configured to allow access to the storage compartment, a closure adapted to substantially seal the opening, and a lid assembly that includes a lid assembly outer shell, a lid assembly reinforcement patch, a lid assembly reinforcement panel, a lid assembly insulating layer, a lid assembly inner liner, and a top handle. In Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products, the top handle is sewn to the lid assembly and extends horizontally when the insulating device is in an upright position and the closure is in the closed position, the lid assembly reinforcement panel extends parallel to the top handle, the lid assembly reinforcement panel is positioned below a lower surface of the lid assembly outer shell, and the lid assembly reinforcement panel is more rigid than the lid assembly inner liner and the lid assembly reinforcement panel is more rigid than the lid assembly outer shell. In Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products, the lid assembly reinforcement patch is positioned between the top

handle and an upper surface of the lid assembly outer shell and the lid assembly reinforcement patch is secured to the upper surface of the lid assembly outer shell with an adhesive or welding. In Bote's KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products, the lid assembly reinforcement patch defines a first area, the lid assembly reinforcement panel defines a second area, and the second area is greater than the first area such that the lid assembly reinforcement panel is configured to assist in preventing the lid assembly from bowing when the insulating device is carried in an upright position. Finally, Bote claims that its coolers have "a watertight zipper" that "won't leak a drop." Bote also claims that its coolers have "insulation," and this insulating layer is positioned in between the outer shell and the inner liner, provides insulation for the storage compartment, and is an unattached foam layer.

76. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

77. On information and belief, Bote's infringement of the '918 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the KULA Softy 2.5 Cooler and KULA Softy 5 Cooler after YETI had released its Hopper® soft-sided cooler products; by the similarity of the infringing

products to YETI's patented technology; and by Bote's continuing disregard for YETI's rights.

78. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

79. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, and 285.

80. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count III:

Patent Infringement of U.S. Patent No. 11,186,422 Under 35 U.S.C. § 271

81. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

82. Bote has infringed and continues to infringe the '422 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's infringing KULA Softy 2.5 Cooler and KULA Softy 5 Cooler, which include each and every element of one or more claims of the '422 Patent, either literally or through the doctrine of equivalents, including at least claim 1.

83. For example, claim 1 of the '422 Patent recites “[a]n insulating device” comprising “an outer shell; an inner liner forming a storage compartment; an insulating layer positioned in between the outer shell and the inner liner, wherein the insulating layer provides insulation for the storage compartment; an opening configured to allow access to the storage compartment; and a closure adapted to substantially seal the opening, a base, wherein the insulating device further comprises a lid assembly, and wherein the lid assembly includes: a lid assembly outer shell, a lid assembly reinforcement patch, a lid assembly reinforcement panel, a lid assembly insulating layer, a lid assembly inner liner, and a top handle, wherein the top handle extends horizontally when the insulating device is in an upright position and the closure is in a closed position, wherein the lid assembly reinforcement patch defines a first area, wherein the lid assembly reinforcement panel defines a second area different from the first area, wherein the lid assembly reinforcement panel is more rigid than the lid assembly inner liner and the lid assembly reinforcement panel is more rigid than the lid assembly outer shell, wherein the lid assembly reinforcement patch is positioned between the top handle and the lid assembly outer shell, wherein the lid assembly reinforcement patch is secured to an upper surface of the lid assembly outer shell, wherein the lid assembly reinforcement panel is positioned below the lid assembly outer shell, and wherein

the base is more rigid than the outer shell and the base is more rigid than the inner liner.”

84. Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products infringe at least claim 1 of the ’422 Patent because they are insulating devices that include all of the claim elements of at least claim 1, either literally or through the doctrine of equivalents, including “an outer shell,” “an inner liner forming a storage compartment,” “an insulating layer positioned in between the outer shell and the inner liner, wherein the insulating layer provides insulation for the storage compartment,” “an opening configured to allow access to the storage compartment,” “a closure adapted to substantially seal the opening,” “a base,” “a lid assembly,” “the lid assembly includes: a lid assembly outer shell, a lid assembly reinforcement patch, a lid assembly reinforcement panel, a lid assembly insulating layer, a lid assembly inner liner, and a top handle,” “the top handle extends horizontally when the insulating device is in an upright position and the closure is in a closed position,” “the lid assembly reinforcement patch defines a first area,” “the lid assembly reinforcement panel defines a second area different from the first area,” “the lid assembly reinforcement panel is more rigid than the lid assembly inner liner and the lid assembly reinforcement panel is more rigid than the lid assembly outer shell,” “the lid assembly reinforcement patch is positioned between the top handle and the lid assembly outer shell,” “the lid assembly reinforcement patch is secured to an

upper surface of the lid assembly outer shell,” “the lid assembly reinforcement panel is positioned below the lid assembly outer shell,” and “the base is more rigid than the outer shell and the base is more rigid than the inner liner.”

85. For example, Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products are insulating devices that have an outer shell, an inner liner forming a storage compartment, an opening configured to allow access to the storage compartment, a closure adapted to substantially seal the opening, a base, and a lid assembly that includes a lid assembly outer shell, a lid assembly reinforcement patch, a lid assembly reinforcement panel, a lid assembly insulating layer, a lid assembly inner liner, and a top handle. In Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products, the top handle extends horizontally when the insulating device is in an upright position and the closure is in the closed position, the lid assembly reinforcement patch is positioned between the top handle and the lid assembly outer shell, the lid assembly reinforcement patch is secured to an upper surface of the lid assembly outer shell, and the lid assembly reinforcement panel is positioned below the lid assembly outer shell. In Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products, the lid assembly reinforcement patch defines a first area, the lid assembly reinforcement panel defines a second area, and the second area is different than the first area. In Bote’s KULA Softy 2.5 Cooler and KULA Softy 5 Cooler products, the lid assembly reinforcement panel is more rigid than the lid

assembly inner liner, the lid assembly reinforcement panel is more rigid than the lid assembly outer shell, and the base is more rigid than the outer shell, and the base is more rigid than the inner liner. Bote claims that its coolers have “insulation,” and this insulating layer is positioned in between the outer shell and the inner liner, provides insulation for the storage compartment, and is an unattached foam layer.

86. Bote’s acts of infringement have been without express or implied license by YETI, are in violation of YETI’s rights, and will continue unless enjoined by this Court.

87. On information and belief, Bote’s infringement of the ’422 patent has been intentional, willful, and malicious. Bote’s bad faith is evidenced at least by Bote’s knowledge of YETI, YETI products, and YETI’s rights; Bote’s timing in releasing the KULA Softy 2.5 Cooler and KULA Softy 5 Cooler after YETI had released its Hopper® soft-sided cooler products; by the similarity of the infringing products to YETI’s patented technology; and by Bote’s continuing disregard for YETI’s rights.

88. On information and belief, this is an exceptional case in view of Bote’s unlawful activities, including Bote’s intentional, willful, and malicious infringement.

89. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, and 285.

90. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count IV:
Patent Infringement of U.S. Patent No. 11,172,741 Under 35 U.S.C. § 271

91. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

92. Bote has infringed and continues to infringe the '741 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's infringing Highwater Tote, which includes each and every element of one or more claims of the '741 Patent, either literally or through the doctrine of equivalents, including at least claim 13.

93. For example, claim 13 of the '741 Patent recites "[a] tote bag" comprising "an outer shell comprising a sidewall defining a top, an opening, a front, and a back; a plurality of straps; a plurality of reinforcement patches; a semi-rigid base defining a bottom of the bag, wherein the outer shell and the semi-rigid base form a storage compartment, and wherein the opening is configured to allow access

to the storage compartment; an inner pocket attached to an upper portion of the sidewall, wherein the inner pocket comprises a zipper, wherein the zipper is configured to open and close the inner pocket, and wherein the inner pocket is waterproof; a closure device configured to secure the opening; a top binding configured to surround an opening circumference at the top of the outer shell; and a top tape material extending below the top binding and configured to surround the opening circumference at the top of an interior of the outer shell and wherein the top tape material extends along a top of a material forming the inner pocket attached to the upper portion of the sidewall.”

94. Bote’s Highwater Tote infringes at least claim 13 of the ’741 Patent because it is a tote bag that includes all of the claim elements of at least claim 13, either literally or through the doctrine of equivalents, including “an outer shell comprising a sidewall defining a top, an opening, a front, and a back,” “a plurality of straps,” “a plurality of reinforcement patches,” “a semi-rigid base defining a bottom of the bag, wherein the outer shell and the semi-rigid base form a storage compartment, and wherein the opening is configured to allow access to the storage compartment,” “an inner pocket attached to an upper portion of the sidewall, wherein the inner pocket comprises a zipper, wherein the zipper is configured to open and close the inner pocket, and wherein the inner pocket is waterproof,” “a closure device configured to secure the opening,” “a top binding configured to surround an opening

circumference at the top of the outer shell,” and “a top tape material extending below the top binding and configured to surround the opening circumference at the top of an interior of the outer shell and wherein the top tape material extends along a top of a material forming the inner pocket attached to the upper portion of the sidewall.”

95. For example, Bote’s Highwater Tote is a tote bag that has an outer shell comprising a sidewall that defines a top, front, and back, as well as an opening that is configured to allow access to the storage compartment. Bote’s Highwater Tote also has a plurality of straps, a plurality of reinforcement patches, a semi-rigid base defining a bottom of the bag, a waterproof inner pocket attached to an upper portion of the sidewall, a storage compartment formed from the outer shell and semi-rigid base, a closure device configured to secure the opening, a top binding configured to surround an opening circumference at the top of the outer shell, and a top tape material that extends below the top binding, is configured to surround the opening circumference at the top of an interior of the outer shell, and extends along a top of a material forming the inner pocket attached to the upper portion of the sidewall. In Bote’s Highwater Tote, the inner pocket comprises a zipper and the zipper is configured to open and close the inner pocket.

96. Bote’s acts of infringement have been without express or implied license by YETI, are in violation of YETI’s rights, and will continue unless enjoined by this Court.

97. On information and belief, Bote's infringement of the '741 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the Highwater Tote after YETI had released its Camino® bag products; by the similarity of the infringing products to YETI's patented technology; and by Bote's continuing disregard for YETI's rights.

98. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

99. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, and 285.

100. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count V:
Patent Infringement of U.S. Patent No. D822,997 Under 35 U.S.C. § 271

101. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

102. Bote has infringed and continues to infringe the '997 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's Highwater Tote, which is covered by the claim of the '997 Patent.

103. Bote's Highwater Tote infringes the '997 Patent because the overall appearance of Bote's Highwater Tote is substantially the same as the overall appearance of the design of the '997 Patent, and an ordinary observer would perceive the overall appearance of Bote's Highwater Tote to be substantially the same as the overall appearance of the design of the '997 Patent.

104. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

105. On information and belief, Bote's infringement of the '997 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the Highwater Tote after YETI had released its Camino® bags; the similarity of Bote's Highwater Tote to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

106. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

107. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

108. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count VI:
Patent Infringement of U.S. Patent No. D822,998 Under 35 U.S.C. § 271

109. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

110. Bote has infringed and continues to infringe the '998 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's Highwater Tote, which is covered by the claim of the '998 Patent.

111. Bote's Highwater Tote infringes the '998 Patent because the overall appearance of Bote's Highwater Tote is substantially the same as the overall appearance of the design of the '998 Patent, and an ordinary observer would perceive the overall appearance of Bote's Highwater Tote to be substantially the same as the overall appearance of the design of the '998 Patent.

112. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

113. On information and belief, Bote's infringement of the '998 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the Highwater Tote after YETI had released its Camino® bags; the similarity of Bote's Highwater Tote to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

114. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

115. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

116. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count VII:
Patent Infringement of U.S. Patent No. D822,999 Under 35 U.S.C. § 271

117. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

118. Bote has infringed and continues to infringe the '999 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's Highwater Tote, which is covered by the claim of the '999 Patent.

119. Bote's Highwater Tote infringes the '999 Patent because the overall appearance of Bote's Highwater Tote is substantially the same as the overall appearance of the design of the '999 Patent, and an ordinary observer would perceive the overall appearance of Bote's Highwater Tote to be substantially the same as the overall appearance of the design of the '999 Patent.

120. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

121. On information and belief, Bote's infringement of the '999 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the Highwater Tote after YETI had released its Camino® bags; the similarity of Bote's Highwater Tote to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

122. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

123. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

124. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count VIII:

Patent Infringement of U.S. Patent No. D784,775 Under 35 U.S.C. § 271

125. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

126. Bote has infringed and continues to infringe the '775 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '775 Patent.

127. Bote's MAGNEBottle 36oz with Cap infringes the '775 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '775 Patent, and an ordinary

observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '775 Patent.

128. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

129. On information and belief, Bote's infringement of the '775 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

130. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

131. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

132. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count IX:
Patent Infringement of U.S. Patent No. D799,906 Under 35 U.S.C. § 271

133. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

134. Bote has infringed and continues to infringe the '906 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '906 Patent.

135. Bote's MAGNEBottle 36oz with Cap infringes the '906 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '906 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '906 Patent.

136. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

137. On information and belief, Bote's infringement of the '906 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

138. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

139. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

140. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count X:

Patent Infringement of U.S. Patent No. D804,256 Under 35 U.S.C. § 271

141. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

142. Bote has infringed and continues to infringe the '256 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '256 Patent.

143. Bote's MAGNEBottle 36oz with Cap infringes the '256 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '256 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '256 Patent.

144. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

145. On information and belief, Bote's infringement of the '256 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights, at least through its relationship with YETI; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

146. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

147. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

148. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XI:

Patent Infringement of U.S. Patent No. D807,125 Under 35 U.S.C. § 271

149. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

150. Bote has infringed and continues to infringe the '125 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '125 Patent.

151. Bote's MAGNEBottle 36oz with Cap infringes the '125 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '125 Patent, and an ordinary

observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '125 Patent.

152. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

153. On information and belief, Bote's infringement of the '125 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

154. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

155. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

156. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XII:
Patent Infringement of U.S. Patent No. D807,126 Under 35 U.S.C. § 271

157. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

158. Bote has infringed and continues to infringe the '126 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '126 Patent.

159. Bote's MAGNEBottle 36oz with Cap infringes the '126 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '126 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '126 Patent.

160. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

161. On information and belief, Bote's infringement of the '126 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

162. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

163. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

164. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XIII:
Patent Infringement of U.S. Patent No. D823,646 Under 35 U.S.C. § 271

165. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

166. Bote has infringed and continues to infringe the '646 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '646 Patent.

167. Bote's MAGNEBottle 36oz with Cap infringes the '646 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '646 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '646 Patent.

168. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

169. On information and belief, Bote's infringement of the '646 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

170. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

171. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

172. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XIV:

Patent Infringement of U.S. Patent No. D875,479 Under 35 U.S.C. § 271

173. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

174. Bote has infringed and continues to infringe the '479 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '479 Patent.

175. Bote's MAGNEBottle 36oz with Cap infringes the '479 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '479 Patent, and an ordinary

observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '479 Patent.

176. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

177. On information and belief, Bote's infringement of the '479 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

178. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

179. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

180. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XV:
Patent Infringement of U.S. Patent No. D899,870 Under 35 U.S.C. § 271

181. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

182. Bote has infringed and continues to infringe the '870 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '870 Patent.

183. Bote's MAGNEBottle 36oz with Cap infringes the '870 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '870 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '870 Patent.

184. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

185. On information and belief, Bote's infringement of the '870 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

186. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

187. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

188. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XVI:
Patent Infringement of U.S. Patent No. D941,638 Under 35 U.S.C. § 271

189. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

190. Bote has infringed and continues to infringe the '638 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '638 Patent.

191. Bote's MAGNEBottle 36oz with Cap infringes the '638 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '638 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '638 Patent.

192. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

193. On information and belief, Bote's infringement of the '638 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

194. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

195. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

196. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XVII:
Patent Infringement of U.S. Patent No. D960,661 Under 35 U.S.C. § 271

197. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

198. Bote has infringed and continues to infringe the '661 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '661 Patent.

199. Bote's MAGNEBottle 36oz with Cap infringes the '661 Patent because the overall appearance of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '661 Patent, and an ordinary

observer would perceive the overall appearance of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '661 Patent.

200. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

201. On information and belief, Bote's infringement of the '661 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

202. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

203. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

204. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XVIII:
Patent Infringement of U.S. Patent No. D760,586 Under 35 U.S.C. § 271

205. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

206. Bote has infringed and continues to infringe the '586 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '586 Patent.

207. Bote's MAGNEBottle 36oz with Cap infringes the '586 Patent because the overall appearance of the lid of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '586 Patent, and an ordinary observer would perceive the overall appearance of the lid of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '586 Patent.

208. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

209. On information and belief, Bote's infringement of the '586 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

210. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

211. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

212. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XIX:

Patent Infringement of U.S. Patent No. D843,212 Under 35 U.S.C. § 271

213. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

214. Bote has infringed and continues to infringe the '212 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEBottle 36oz with Cap, which is covered by the claim of the '212 Patent.

215. Bote's MAGNEBottle 36oz with Cap infringes the '212 Patent because the overall appearance of the lid of Bote's MAGNEBottle 36oz with Cap is substantially the same as the overall appearance of the design of the '212 Patent, and an ordinary observer would perceive the overall appearance of the lid of Bote's MAGNEBottle 36oz with Cap to be substantially the same as the overall appearance of the design of the '212 Patent.

216. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

217. On information and belief, Bote's infringement of the '212 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEBottle 36oz with cap after YETI had released its 36 oz. Rambler® Water Bottle; the similarity of Bote's MAGNEBottle 36oz with cap to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

218. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

219. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

220. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XX:

Patent Infringement of U.S. Patent No. D752,397 Under 35 U.S.C. § 271

221. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

222. Bote has infringed and continues to infringe the '397 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '397 Patent.

223. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '397 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall

appearance of the design of the '397 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '397 Patent.

224. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

225. On information and belief, Bote's infringement of the '397 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

226. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

227. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

228. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXI:

Patent Infringement of U.S. Patent No. D779,285 Under 35 U.S.C. § 271

229. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

230. Bote has infringed and continues to infringe the '285 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '285 Patent.

231. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '285 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '285 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie

12oz Slim to be substantially the same as the overall appearance of the design of the '285 Patent.

232. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

233. On information and belief, Bote's infringement of the '285 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

234. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

235. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

236. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXII:
Patent Infringement of U.S. Patent No. D779,892 Under 35 U.S.C. § 271

237. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

238. Bote has infringed and continues to infringe the '892 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '892 Patent.

239. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '892 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '892 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '892 Patent.

240. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

241. On information and belief, Bote's infringement of the '892 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

242. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

243. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

244. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXIII:
Patent Infringement of U.S. Patent No. D780,530 Under 35 U.S.C. § 271

245. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

246. Bote has infringed and continues to infringe the '530 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '530 Patent.

247. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '530 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '530 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '530 Patent.

248. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

249. On information and belief, Bote's infringement of the '530 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in

releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

250. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

251. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

252. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXIV:

Patent Infringement of U.S. Patent No. D780,531 Under 35 U.S.C. § 271

253. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

254. Bote has infringed and continues to infringe the '531 Patent at least by using, selling, offering to sell, making, and/or importing into the United States

Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '531 Patent.

255. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '531 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '531 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '531 Patent.

256. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

257. On information and belief, Bote's infringement of the '531 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

258. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

259. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

260. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXV:

Patent Infringement of U.S. Patent No. D780,532 Under 35 U.S.C. § 271

261. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

262. Bote has infringed and continues to infringe the '532 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '532 Patent.

263. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '532 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall

appearance of the design of the '532 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '532 Patent.

264. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

265. On information and belief, Bote's infringement of the '532 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

266. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

267. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

268. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXVI:
Patent Infringement of U.S. Patent No. D780,533 Under 35 U.S.C. § 271

269. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

270. Bote has infringed and continues to infringe the '533 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '533 Patent.

271. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '533 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '533 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie

12oz Slim to be substantially the same as the overall appearance of the design of the '533 Patent.

272. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

273. On information and belief, Bote's infringement of the '533 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

274. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

275. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

276. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXVII:
Patent Infringement of U.S. Patent No. D786,025 Under 35 U.S.C. § 271

277. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

278. Bote has infringed and continues to infringe the '025 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '025 Patent.

279. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '025 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '025 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '025 Patent.

280. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

281. On information and belief, Bote's infringement of the '025 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

282. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

283. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

284. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXVIII:
Patent Infringement of U.S. Patent No. D826,003 Under 35 U.S.C. § 271

285. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

286. Bote has infringed and continues to infringe the '003 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '003 Patent.

287. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '003 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '003 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '003 Patent.

288. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

289. On information and belief, Bote's infringement of the '003 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in

releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

290. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

291. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

292. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXIX:
Patent Infringement of U.S. Patent No. D829,058 Under 35 U.S.C. § 271

293. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

294. Bote has infringed and continues to infringe the '058 Patent at least by using, selling, offering to sell, making, and/or importing into the United States

Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '058 Patent.

295. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '058 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '058 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '058 Patent.

296. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

297. On information and belief, Bote's infringement of the '058 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

298. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

299. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

300. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXX:

Patent Infringement of U.S. Patent No. D888,505 Under 35 U.S.C. § 271

301. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

302. Bote has infringed and continues to infringe the '505 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '505 Patent.

303. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '505 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall

appearance of the design of the '505 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to be substantially the same as the overall appearance of the design of the '505 Patent.

304. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

305. On information and belief, Bote's infringement of the '505 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

306. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

307. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

308. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXXI:
Patent Infringement of U.S. Patent No. D920,746 Under 35 U.S.C. § 271

309. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

310. Bote has infringed and continues to infringe the '746 Patent at least by using, selling, offering to sell, making, and/or importing into the United States Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim, which are covered by the claim of the '746 Patent.

311. Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim infringe the '746 Patent because the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim is substantially the same as the overall appearance of the design of the '746 Patent, and an ordinary observer would perceive the overall appearance of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie

12oz Slim to be substantially the same as the overall appearance of the design of the '746 Patent.

312. Bote's acts of infringement have been without express or implied license by YETI, are in violation of YETI's rights, and will continue unless enjoined by this Court.

313. On information and belief, Bote's infringement of the '746 patent has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing the MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz. Colster® Can Cooler and Rambler® 12 oz. Colster® Slim Can Cooler; the similarity of Bote's MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim to YETI's patented design; and by Bote's continuing disregard for YETI's rights.

314. On information and belief, this is an exceptional case in view of Bote's unlawful activities, including Bote's intentional, willful, and malicious infringement.

315. YETI has been, is being, and will continue to be injured and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under at least 35 U.S.C. §§ 281, 284, 285, and 289.

316. Bote also has caused, is causing, and will continue to cause irreparable harm to YETI for which there is no adequate remedy at law and for which YETI is entitled to injunctive relief under at least 35 U.S.C. § 283.

Count XXXII:
Trade Dress Infringement Under § 43(a) of the Lanham Act, 15 U.S.C.
§ 1125(a)

317. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

318. Bote's advertisements, promotions, offers to sell, sales, distribution, manufacture, and/or importing of the Infringing Drinkware Products violate § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), by infringing YETI's trade dress. Bote's use of YETI's trade dress and/or colorable imitations thereof is likely to cause confusion, mistake, or deception as to the affiliation, connection, and/or association of Bote with YETI and as to the origin, sponsorship, and/or approval of the Infringing Drinkware Products, at least by creating the false and misleading impression that the Infringing Drinkware Products are manufactured by, authorized by, or otherwise associated with YETI.

319. YETI's trade dress is entitled to protection under the Lanham Act. YETI's trade dress includes unique, distinctive, and non-functional designs. YETI has extensively and continuously promoted and used its trade dress in the United States. Through that extensive and continuous use, YETI's trade dress has become

a well-known indicator of the origin and quality of YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace. Moreover, YETI's trade dress acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress in connection with the Infringing Drinkware Products.

320. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused and, unless enjoined, will continue to cause substantial and irreparable injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI.

321. On information and belief, Bote's use of YETI's trade dress and/or colorable imitations thereof has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz

Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

322. YETI is entitled to injunctive relief, and YETI is entitled to recover at least Bote's profits, YETI's actual damages, enhanced damages, costs, and reasonable attorney fees under at least 15 U.S.C. §§ 1125(a), 1116, and 1117.

Count XXXIII:
Trade Dress Dilution Under § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c)

323. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

324. Based on the activities described above, including, for example, Bote's advertising, marketing, promoting, offering for sale, selling, distributing, manufacturing, and/or importing the Infringing Drinkware Products, Bote is likely to dilute, has diluted, and continues to dilute YETI's famous trade dress in violation of § 43(c) of the Lanham Act, 15 U.S.C. § 1125(c). Bote's use of YETI's trade dress and/or colorable imitations thereof is likely to cause, and has caused, dilution of Bote's famous trade dress at least by eroding the public's exclusive identification of YETI's famous trade dress with YETI and YETI's products, by lessening the capacity of YETI's famous trade dress to identify and distinguish YETI's products, by associating YETI's trade dress with products of inferior quality, and by impairing the distinctiveness of YETI's famous trade dress.

325. YETI's trade dress is famous and is entitled to protection under the Lanham Act. YETI's trade dress includes a unique, distinctive, and non-functional design. YETI's trade dress has acquired distinctiveness through YETI's extensive and continuous promotion and use of YETI's trade dress in the United States. Through that extensive and continuous use, YETI's trade dress has become a famous well-known indicator of the origin and quality of YETI's products throughout the United States, and is widely recognized by the general consuming public as a designation of the source of YETI and YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace. Moreover, YETI's trade dress became famous and acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress in connection with the Infringing Drinkware Products.

326. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused, and, unless enjoined, will continue to cause, substantial and irreparable injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI.

327. On information and belief, Bote's use of YETI's trade dress and/or colorable imitations thereof has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's

rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

328. YETI is entitled to injunctive relief, and YETI is also entitled to recover at least Bote's profits, YETI's actual damages, enhanced profits and damages, costs, and reasonable attorney fees under at least 15 U.S.C. §§ 1125(c), 1116, and 1117.

**Count XXXIV:
Unfair Competition and False Designation of Origin Under § 43(a)
of the Lanham Act, 15 U.S.C. § 1125(a)**

329. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

330. Bote's advertisements, marketing, promotions, offers to sell, sales, distribution, manufacture, and/or importing of the Infringing Drinkware Products, in direct competition with YETI, violate § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and constitute unfair competition and false designation of origin, at least because Bote has obtained an unfair advantage as compared to YETI through Bote's

use of YETI's trade dress, and because such use is likely to cause consumer confusion as to the origin, sponsorship, and/or affiliation of Bote's Infringing Drinkware Products, at least by creating the false and misleading impression that its Infringing Drinkware Products are manufactured by, authorized by, or otherwise associated with YETI.

331. YETI's trade dress is entitled to protection under the Lanham Act. YETI's trade dress includes a unique, distinctive, and non-functional design. YETI has extensively and continuously promoted and used its trade dress in the United States. Through that extensive and continuous use, YETI's trade dress has become a well-known indicator of the origin and quality of YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace. Moreover, YETI's trade dress acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress in connection with the Infringing Drinkware Products.

332. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused and, unless enjoined, will continue to cause substantial and irreparable injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI.

333. On information and belief, Bote's use of YETI's trade dress and/or colorable imitations thereof has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

334. YETI is entitled to injunctive relief, and YETI is also entitled to recover at least Bote's profits, YETI's actual damages, enhanced damages, costs, and reasonable attorney fees under at least 15 U.S.C. §§ 1125(a), 1116, and 1117.

Count XXXV:
Trade Dress Dilution Under Fla. Stat. § 495.151

335. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

336. Based on the activities described above, including, for example, Bote's advertising, marketing, promoting, offering for sale, selling, distributing, manufacturing, and/or importing the Infringing Drinkware Products, Bote is likely

to dilute, has diluted, and continues to dilute YETI's trade dress in violation of § 495.151 of the Florida Statutes. Bote's use of YETI's trade dress and/or colorable imitations thereof is likely to cause, and has caused, dilution of YETI's famous trade dress at least by eroding the public's exclusive identification of YETI's famous trade dress with YETI, by lessening the capacity of YETI's famous trade dress to identify and distinguish YETI's products, by associating YETI's trade dress with products of inferior quality, and by impairing the distinctiveness of YETI's famous trade dress.

337. YETI's trade dress is famous and is entitled to protection under Florida law. YETI's trade dress includes unique, distinctive, and non-functional designs. YETI has extensively and continuously promoted and used its trade dress in the United States and in the State of Florida. Through that extensive and continuous use, YETI's trade dress has become a famous, well-known indicator of the origin and quality of YETI's products in the United States and in the State of Florida generally, and YETI's trade dress is widely recognized by the public throughout Florida as a designation of the source of YETI and YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace, including in the State of Florida. Moreover, YETI's trade dress became famous and acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress in connection with the Infringing Drinkware Products.

338. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused, and, unless enjoined, will continue to cause, substantial and irreparable injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI.

339. On information and belief, Bote's use of YETI's trade dress and/or colorable imitations thereof has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

340. YETI is entitled to injunctive relief under at least Fla. Stat. § 495.151, and YETI is also entitled to any additional remedies provided for by Florida Law.

Count XXXVI:
Trade Dress Dilution Under Tex. Bus. & Com. Code § 16.103

341. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

342. Based on the activities described above, including, for example, Bote's advertising, marketing, promoting, offering for sale, selling, distributing, manufacturing, and/or importing the Infringing Drinkware Products, Bote is likely to dilute, has diluted, and continues to dilute YETI's trade dress in violation of § 16.103 of the Texas Business & Commerce Code. Bote's use of YETI's trade dress and/or colorable imitations thereof is likely to cause, and has caused, dilution of YETI's famous trade dress at least by eroding the public's exclusive identification of YETI's famous trade dress with YETI, by lessening the capacity of YETI's famous trade dress to identify and distinguish YETI's products, by associating YETI's trade dress with products of inferior quality, and by impairing the distinctiveness of YETI's famous trade dress.

343. YETI's trade dress is famous and is entitled to protection under Texas law. YETI's trade dress includes unique, distinctive, and non-functional designs. YETI has extensively and continuously promoted and used its trade dress in the United States and in the State of Texas. Through that extensive and continuous use, YETI's trade dress has become a famous, well-known indicator of the origin and

quality of YETI's products in the United States and in the State of Texas generally and in geographic areas in Texas, and YETI's trade dress is widely recognized by the public throughout Texas and in geographic areas in Texas as a designation of the source of YETI and YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace, including in the State of Texas and in geographic areas in Texas. Moreover, YETI's trade dress became famous and acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress in connection with the Infringing Drinkware Products.

344. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused, and, unless enjoined, will continue to cause, substantial and irreparable injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI.

345. On information and belief, Bote's use of YETI's trade dress and/or colorable imitations thereof has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and

releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

346. YETI is entitled to injunctive relief, and YETI is also entitled to recover at least Bote's profits, YETI's actual damages, enhanced profits and damages, and reasonable attorney fees under at least Tex. Bus. & Com. Code § 16.104.

Count XXXVII:
Common Law Trade Dress Infringement

347. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

348. Bote's advertisements, marketing, promotions, offers to sell, sales, distribution, manufacture, and/or importing of the Infringing Drinkware Products, in direct competition with YETI, constitute common law trade dress infringement, at least because Bote's use of YETI's trade dress and/or colorable imitations thereof is likely to cause consumer confusion as to the origin, sponsorship, and/or affiliation of its Infringing Drinkware Products, at least by creating the false and misleading impression that its Infringing Drinkware Products are manufactured by, authorized by, or otherwise associated with YETI.

349. YETI's trade dress is entitled to protection under the common law. YETI's trade dress includes a unique, distinctive, and non-functional design. YETI

has extensively and continuously promoted and used its trade dress in the United States and the State of Florida. Through that extensive and continuous use, YETI's trade dress has become a well-known indicator of the origin and quality of YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace. Moreover, YETI's trade dress acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress in connection with its Infringing Drinkware Products.

350. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused and, unless enjoined, will continue to cause substantial and irreparable injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI.

351. On information and belief, Bote's use of YETI's trade dress and/or colorable imitations thereof has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after

YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

352. YETI is entitled to injunctive relief, and YETI is also entitled to recover at least YETI's damages, Bote's profits, punitive damages, costs, and reasonable attorney fees.

Count XXXVIII:
Common Law Unfair Competition

353. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

354. Bote's advertisements, marketing, promotions, offers to sell, sales, distribution, manufacture, and/or importing of the Infringing Drinkware Products, in direct competition with YETI, constitute common law unfair competition, at least by palming off/passing off of Bote's goods, by simulating YETI's trade dress in an intentional and calculated manner that is likely to cause consumer confusion as to origin, sponsorship, and/or affiliation of Bote's infringing products, at least by creating the false and misleading impression that its Infringing Drinkware Products are manufactured by, authorized by, or otherwise associated with YETI. Bote has also interfered with YETI's business.

355. YETI's trade dress is entitled to protection under the common law. YETI's trade dress includes a unique, distinctive, and non-functional design. YETI

has extensively and continuously promoted and used YETI's trade dress for years in the United States and the State of Florida. Through that extensive and continuous use, YETI's trade dress has become a well-known indicator of the origin and quality of YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace. Moreover, YETI's trade dress acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress in connection with its Infringing Drinkware Products.

356. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused and, unless enjoined, will continue to cause substantial and irreparable injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI.

357. On information and belief, Bote's use of YETI's trade dress and/or colorable imitations thereof has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after

YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

358. YETI is entitled to injunctive relief, and YETI is also entitled to recover at least YETI's damages, Bote's profits, punitive damages, costs, and reasonable attorney fees.

Count XXXIX:
Common Law Misappropriation

359. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

360. Bote's advertisements, promotions, offers to sell, sales, distribution, manufacture, and/or importing of the Infringing Drinkware Products, in direct competition with YETI, constitute common law misappropriation.

361. YETI created the products covered by YETI's trade dress through extensive time, labor, effort, skill, and money. Bote has wrongfully used YETI's trade dress and/or colorable imitations thereof in direct competition with YETI and gained a special advantage because Bote was not burdened with the expenses incurred by YETI. Bote has commercially damaged YETI, at least by causing consumer confusion as to origin, sponsorship, and/or affiliation of Bote's infringing products, by creating the false and misleading impression that its Infringing

Drinkware Products are manufactured by, authorized by, or otherwise associated with YETI, and by taking away sales that YETI would have made.

362. YETI's trade dress is entitled to protection under the common law. YETI's trade dress includes unique, distinctive, and non-functional designs. YETI has extensively and continuously promoted and used YETI's trade dress for years in the United States and the State of Florida. Through that extensive and continuous use, YETI's trade dress has become a well-known indicator of the origin and quality of YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace. Moreover, YETI's trade dress acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress in connection with its Infringing Drinkware Products.

363. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused and, unless enjoined, will continue to cause substantial and irreparable commercial injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI. Moreover, as a result of its misappropriation, Bote has profited and, unless such conduct is enjoined by this Court, will continue to profit by misappropriating the time, effort, and money that YETI invested in establishing the reputation and goodwill associated with YETI's trade dress, YETI's products, and YETI.

364. Bote's misappropriation of YETI's trade dress and/or colorable imitations thereof has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

365. YETI is entitled to injunctive relief, and YETI is also entitled to recover at least YETI's damages, Bote's profits, punitive damages, costs, and reasonable attorney fees.

Count XL:
Unjust Enrichment

366. YETI realleges and incorporates the allegations set forth in paragraphs 1 through 60 as though fully set forth herein.

367. Bote's advertisements, promotions, offers to sell, sales, distribution, manufacture, and/or importing of its Infringing Drinkware Products, in direct competition with YETI, constitute unjust enrichment, at least because Bote has

wrongfully obtained benefits at YETI's expense. Bote has also, *inter alia*, operated with an undue advantage.

368. YETI created the products covered by YETI's trade dress through extensive time, labor, effort, skill, and money. Bote has wrongfully used and is wrongfully using YETI's trade dress, and/or colorable imitations thereof, in direct competition with YETI, and has gained and is gaining a wrongful benefit by undue advantage through such use. Bote has not been burdened with the expenses incurred by YETI, yet Bote is obtaining the resulting benefits for its own business and products.

369. YETI's trade dress is entitled to protection under the common law. YETI's trade dress includes unique, distinctive, and non-functional designs. YETI has extensively and continuously promoted and used YETI's trade dress for years in the United States and the State of Florida. Through that extensive and continuous use, YETI's trade dress has become a well-known indicator of the origin and quality of YETI's products. YETI's trade dress has also acquired substantial secondary meaning in the marketplace. Moreover, YETI's trade dress acquired this secondary meaning before Bote commenced its unlawful use of YETI's trade dress and colorable imitations thereof in connection with its infringing products.

370. Bote's use of YETI's trade dress and/or colorable imitations thereof has caused and, unless enjoined, will continue to cause substantial and irreparable

commercial injury to YETI for which YETI has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with YETI's trade dress, YETI's products, and YETI. YETI accumulated this goodwill and reputation through extensive time, labor, effort, skill, and investment. Bote has wrongfully obtained and is wrongfully obtaining a benefit at YETI's expense by taking undue advantage and free-riding on YETI's efforts and investments, and enjoying the benefits of YETI's hard-earned goodwill and reputation.

371. Bote's unjust enrichment at YETI's expense has been intentional, willful, and malicious. Bote's bad faith is evidenced at least by Bote's knowledge of YETI, YETI products, and YETI's rights; Bote's timing in releasing its MAGNETumbler 20oz with Lid after YETI had released its 20 oz. Rambler® Tumbler, releasing its MAGNETumbler 32oz with Lid after YETI had released its 30 oz. Rambler® Tumbler, releasing its MAGNEBottle 36oz with Cap after YETI had released its 36 oz. Rambler® Water Bottle, and releasing its MAGNEKoozie 12oz Shorty and MAGNEKoozie 12oz Slim after YETI had released its Rambler® 12 oz Colster® Can Cooler and Rambler® 12 oz Slim Colster® Can Cooler; the similarity of Bote's Infringing Drinkware Products to YETI's trade dress, and by Bote's continuing disregard for YETI's rights.

372. YETI is entitled to injunctive relief, and YETI is also entitled to recover at least Bote's profits.

Demand for Jury Trial

YETI hereby demands a jury trial on all issues so triable.

Relief Sought

WHEREFORE, Plaintiff YETI respectfully prays for:

1. Judgment that Bote has (i) infringed the '352 Patent in violation of § 271 of Title 35 of the United States Code; (ii) infringed the '918 Patent in violation of § 271 of Title 35 of the United States Code; (iii) infringed the '422 Patent in violation of § 271 of Title 35 of the United States Code; (iv) infringed the '741 Patent in violation of § 271 of Title 35 of the United States Code; (v) infringed the '997 Patent in violation of § 271 of Title 35 of the United States Code; (vi) infringed the '998 Patent in violation of § 271 of Title 35 of the United States Code; (vii) infringed the '999 Patent in violation of § 271 of Title 35 of the United States Code; (viii) infringed the '775 Patent in violation of § 271 of Title 35 of the United States Code; (ix) infringed the '906 Patent in violation of § 271 of Title 35 of the United States Code; (x) infringed the '256 Patent in violation of § 271 of Title 35 of the United States Code; (xi) infringed the '125 Patent in violation of § 271 of Title 35 of the United States Code; (xii) infringed the '126 Patent in violation of § 271 of Title 35 of the United States Code; (xiii) infringed the '646 Patent in violation of § 271 of

Title 35 of the United States Code; (xiv) infringed the '479 Patent in violation of § 271 of Title 35 of the United States Code; (xv) infringed the '870 Patent in violation of § 271 of Title 35 of the United States Code; (xvi) infringed the '638 Patent in violation of § 271 of Title 35 of the United States Code; (xvii) infringed the '661 Patent in violation of § 271 of Title 35 of the United States Code; (xviii) infringed the '586 Patent in violation of § 271 of Title 35 of the United States Code; (xix) infringed the '212 Patent in violation of § 271 of Title 35 of the United States Code; (xx) infringed the '397 Patent in violation of § 271 of Title 35 of the United States Code; (xxi) infringed the '285 Patent in violation of § 271 of Title 35 of the United States Code; (xxii) infringed the '892 Patent in violation of § 271 of Title 35 of the United States Code; (xxiii) infringed the '530 Patent in violation of § 271 of Title 35 of the United States Code; (xxiv) infringed the '531 Patent in violation of § 271 of Title 35 of the United States Code; (xxv) infringed the '532 Patent in violation of § 271 of Title 35 of the United States Code; (xxvi) infringed the '533 Patent in violation of § 271 of Title 35 of the United States Code; (xxvii) infringed the '025 Patent in violation of § 271 of Title 35 of the United States Code; (xxviii) infringed the '003 Patent in violation of § 271 of Title 35 of the United States Code; (xxix) infringed the '058 Patent in violation of § 271 of Title 35 of the United States Code; (xxx) infringed the '505 Patent in violation of § 271 of Title 35 of the United States Code; (xxxii) infringed the '746 Patent in violation of § 271 of Title 35 of the

United States Code; (xxxii) infringed YETI's trade dress in violation of § 1125(a) of Title 15 in the United States Code; (xxxiii) diluted YETI's trade dress in violation of § 1125(c) of Title 15 in the United States Code; (xxxiv) engaged in unfair competition and false designation of origin in violation of § 1125(a) of Title 15 in the United States Code; (xxxv) diluted YETI's trade dress in violation of Fla. Stat. § 495.151; (xxxvi) diluted YETI's trade dress in violation of Tex. Bus. & Com. Code § 16.103; (xxxvii) violated YETI's common law rights in YETI's trade dress; (xxxviii) engaged in common law unfair competition; (xxxix) engaged in common law misappropriation; (xl) been unjustly enriched at YETI's expense, and that all of these wrongful activities by Bote were willful;

2. An injunction against further infringement of YETI's patents, further infringement and dilution of YETI's trade dress, and further acts of unfair competition, misappropriation, and unjust enrichment by Bote, and each of its agents, employees, servants, attorneys, successors and assigns, and all others in privity or acting in concert with any of them, pursuant to at least 35 U.S.C. § 283, 15 U.S.C. § 1116, Fla. Stat. § 495.151, and Tex. Bus. & Com. Code § 16.104;

3. An Order directing Bote to recall all infringing products sold and/or distributed and provide a full refund for all recalled infringing products;

4. An Order directing the destruction of (i) all Infringing Drinkware Products, including all recalled Infringing Drinkware Products, (ii) any other

products that use a copy, reproduction, or colorable imitation of YETI's trade dress in Bote's possession or control, (iii) all plates, molds, and other means of making the Infringing Drinkware Products in Bote's possession, custody, or control, and (iv) all advertising materials related to the Infringing Drinkware Products in Bote's possession, custody, or control, including on the Internet, pursuant to at least 15 U.S.C. § 1118;

5. An Order directing Bote to publish a public notice providing proper attribution of YETI's trade dress to YETI, and to provide a copy of this notice to all customers, distributors, and/or others from whom the Infringing Drinkware Products are recalled;

6. An Order barring importation of the Infringing Drinkware Products and/or colorable imitations thereof into the United States, and barring entry of the Infringing Drinkware Products and/or colorable imitations thereof into any customhouse of the United States, pursuant to at least 15 U.S.C. § 1125(b);

7. An award of damages adequate to compensate YETI for Bote's patent infringements pursuant at least to 35 U.S.C. § 284, and an award for Bote's profits from its patent infringements pursuant at least to 35 U.S.C. § 289, together with prejudgment interest and costs and reasonable attorney fees, pursuant at least to 35 U.S.C. §§ 284 and 285;

8. An award of Bote's profits, YETI's actual damages, enhanced damages, punitive damages, exemplary damages, costs, prejudgment and post judgment interest, and reasonable attorney fees pursuant to at least 15 U.S.C. §§ 1125(a), 1125(c), 1116, and 1117, and Tex. Bus. & Com. Code § 16.104; and

9. Such other and further relief as this Court deems just and proper.

Dated: February 17, 2023

Respectfully submitted,

By: /s/David S. Johnson

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