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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

ANOVA APPLIED ELECTRONICS, INC.

Plaintiff

v.

Perch Acquisition Co 1 LLC d/b/a "SOUSVIDE  
ART," a Delaware corporation;

WEDGE AND WAGON, LLC, a Delaware  
corporation;

MAKAROV DMYTRO, a Ukrainian individual;

VOLOSHYNA IRYNA, a Ukrainian individual;

Jinantaizhuofurundianzishangmaoyouxiangongsi

d/b/a "LEKOZA," a Chinese corporation;

Maksym Mosinian d/b/a "GARNEASE," a  
Ukrainian corporation;

HONG KONG XING HUA TECHNOLOGY CO.,  
LIMITED d/b/a "UPESITOM," a Hong Kong  
corporation; and

Dongguanshi yingsheng keji youxiangongsi  
d/b/a/ "CAUKINS," a Chinese corporation

Defendants.

Case No. 2:23-cv-00843

COMPLAINT FOR PATENT AND  
TRADEMARK INFRINGEMENT  
AND UNFAIR COMPETITION



1           2.     This Court has supplemental jurisdiction over all other claims under 28  
2 U.S.C. § 1367 because all other claims are related to the same controversy that gave rise  
3 to the federal causes of action alleged.  
4

5           3.     This Court has personal jurisdiction over Defendants because they  
6 purposefully and intentionally conducted business with Amazon and directed  
7 communications and other conduct to Amazon.com, Inc. (“Amazon”) (headquartered  
8 in Seattle, Washington) that were knowingly and intentionally calculated to inflict  
9 damage and harm upon Plaintiff, and which transactions are the subject of this  
10 Complaint. As described more fully below, Defendants committed tortious acts of using,  
11 offering to sell, selling, and/or importing infringing products to customers and/or  
12 potential customers within the State of Washington. Defendants’ activities with respect  
13 to the products they sell in the State of Washington constitute at least patent infringement,  
14 trademark infringement, false designation of origin, and unfair competition. On  
15 information and belief, Defendants’ customers and potential customers reside in the State  
16 of Washington, and on information and belief, Defendants are transacting business and  
17 benefitting from the Washington market, including for example, through sales and  
18 importing of infringing products that occur within Washington. Alternatively, this Court  
19 may exercise personal jurisdiction over Defendants residing outside of the United States  
20 under Federal Rule of Civil Procedure 4(k)(2). The Court’s exercise of personal  
21 jurisdiction over Defendants in this action is consistent with the United States  
22 Constitution for at least the same reasons stated above.  
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1 **VENUE**

2 4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)-(c)  
3 and § 1400(b) because actions that gave rise to this Complaint were directed to Seattle,  
4 Washington. Venue is also proper under 28 U.S.C. § 1391 (c)(3) because on information  
5 and belief, Defendants are not residents of the United States and may be sued in any  
6 judicial district.  
7

8 **PARTIES**

9  
10 5. ANOVA APPLIED ELECTRONICS, INC. (“Anova”) is a corporation  
11 formed under the laws of the state of Delaware with its principal place of business located  
12 in San Francisco, California. Anova has been doing business, including in the state of  
13 Washington, since 2013. Plaintiff Anova manufactures and sells sous vide circulation  
14 cookers, including its Precision Cooker Nano, Precision Cooker, and Precision Cooker  
15 Pro models, including through Amazon.com.  
16

17 6. On information and belief, Defendants are based in Delaware, Ukraine,  
18 and China; and offer the Accused Product online via the popular retailer Amazon.com.  
19

20 7. On information and belief, Defendant Perch Acquisition Co 1 LLC  
21 (“Perch”) is a Delaware limited liability company. Its address and principal place of  
22 business is 112 S. French Street, Suite 105-11, Wilmington, DE, 19801. On information and  
23 belief, Perch is operating as “SOUSVIDE ART” on Amazon and has an ownership interest  
24 in the “SOUSVIDE ART” Trademark (Serial No. 88135187). A copy of Perch’s corporate  
25 entity status from Delaware’s Secretary of State website is attached as Exhibit 4. A copy  
26

1 of Perch's Amazon.com Seller Profile and product listings of the Accused Product is  
2 attached as Exhibit 5.

3 8. On information and belief, Defendant Wedge and Wagon LLC ("Wedge  
4 and Wagon") is a Delaware limited liability company. According to the USPTO's public  
5 Trademark States & Document Retrieval ("TSDR") system containing the SOUSVIDE  
6 ART trademark application documents, Wedge and Wagon owns by assignment  
7 Trademark Registration No. 5871441 for SOUSVIDE ART ("SOUSVIDE ART Mark").  
8 According to TSDR records, Wedge and Wagon maintains an address of 667 Boylston St.  
9 3<sup>rd</sup> Floor, Suite 301, in Boston, MA 02116. A copy of Wedge and Wagon's corporate entity  
10 status from Delaware's Secretary of State website is attached as Exhibit 6. True and  
11 accurate copies of certain TSDR records for the SOUSVIDE ART Mark are attached hereto  
12 as Exhibit 7.

13 9. According to TSDR records (Exhibit 6), Makarov Dmytro is a Ukrainian  
14 individual with the last known address of 81/25 Kanatnaya Str. Odesa, Ukraine 65012.  
15 Makarov is listed as a registrant of the SOUSVIDE ART Trademark.

16 10. According to TSDR records, Voloshyna Iryna is a Ukrainian individual with  
17 the last known address of 2/13 Ilfa and Petrova str. Odesa, Ukraine. Voloshyna is listed  
18 as a registrant of the SOUSVIDE ART Trademark.

19 11. On information and belief, Defendant  
20 jinantaizhuofurundianzishangmaoyouxiangongsi is a Chinese entity doing business on  
21 Amazon as "Lekoza Direct." Its address and principal place of business is Room 1106,  
22 11th Floor, Block B, Qilu Software Park Venture Plaza, Jinan City, High-tech Zone,  
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1 Shandong Province, 250098, People’s Republic of China. Lekoza Direct’s Amazon Seller  
2 Profile and listings of the Accused Product are attached as Exhibit 8.

3 12. On information and belief, Defendant Maksym Mosinian is a Ukrainian  
4 individual operating on Amazon as “Garnease.” Its address and principal place of  
5 business is street Fontanska Doroha, building 65, flat 20, Odesa, Odeska, Ukraine 65062.  
6 Garnease’s Amazon Seller Profile and listings of the Accused Product are attached as  
7 Exhibit 9.  
8

9 13. On information and belief, Defendant HONG KONG XING HUA  
10 TECHNOLOGY CO., LIMITED, is a Chinese entity doing business on Amazon as  
11 “Upesitom” with a “Workhard55” username. Its address and principal place of business  
12 is RM 2914C 29/F HO KING COMM CTR, 2-16 Fa Yuen St, Monkok, KLN, 999077, Hong  
13 Kong. Upesitom’s Amazon Seller Profile is attached hereto as Exhibit 10.  
14

15 14. On information and belief, dongguanshi yingsheng keji youxiangongsi is a  
16 Chinese entity doing business on Amazon as “Caukins.” Its address and principal place  
17 of business is Country Garden Tianlushan Garden, No. 16 Dongshen South Road, Room  
18 1904, Unit 2, Building 108, Dongguan City, Tangxia Town, Guangdong Province, 523728,  
19 People’s Republic of China. Caukins’ Amazon Seller Profile is attached hereto as Exhibit  
20 11.  
21  
22

23 **FACTUAL BACKGROUND**

24 15. The “sous vide” technique of cooking involves cooking ingredients in a  
25 vacuum-sealed pouch submerged in water, typically at a long time at a low temperature.  
26  
27

1           16. Anova is a global company and a global leader in kitchen appliances and  
2 accessories. Anova’s Precision Cooker has become the best-selling sous vide device on  
3 the market today. For its research and design efforts, Anova has been awarded multiple  
4 patents, garnered industry acclaim, and is recognized as a trusted brand among  
5 consumers worldwide.  
6

7           17. On October 29, 2019, United States Pat. No. RE496,267 (hereafter “the RE267  
8 Patent”), titled “Circulator Cooker with Alarm System,” issued to Anova Applied  
9 Electronics, Inc. The RE267 Patent identifies Jeff Wu and Frank Wu as its inventors, and  
10 is directed towards a device which can be partially immersed in a vessel of water, such  
11 that a heater in the vessel can maintain the temperature of the water within a defined  
12 range to allow foodstuffs, packed in vacuum sealed bags, to be immersed in the water  
13 and cooked. The device also includes a circulation pump to improve the circulation of  
14 water in the vessel to reduce temperature gradients within the vessel.  
15  
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17           18. Anova holds United States Trademark Registration No. 4,989,116 for  
18 PRECISION for use in connection with temperature controllers for use in cooking,  
19 namely, constant temperature immersion circulators, in International Class 9. The ‘116  
20 Mark was registered by the United States Patent and Trademark Office (“USPTO”) on  
21 June 28, 2016 and has become incontestable within the meaning of Section 15 of the  
22 Lanham Act, 15 U.S.C. § 1065.  
23

24           19. Anova holds United States Trademark Registration No. 6,392,242 for  
25 PRECISION for use in connection with sous-vide machines and electric sous-vide  
26

1 cookers, in International Class 11. The '242 Mark was registered by the USPTO on June  
2 22, 2021.

3 20. Anova has been using the PRECISION Marks in commerce in connection  
4 with temperature controllers for use in cooking, namely, constant temperature  
5 immersion circulators; sous-vide machines; and electric sous-vide cookers at least as early  
6 as September 11, 2015.

8 21. Anova has expended substantial time, money, and resources marketing,  
9 advertising, and promoting its products sold under the PRECISION Marks including  
10 through Anova's marketing, advertising, and promotional efforts. Attached hereto as  
11 Exhibit 12 is a representative sample of materials showing Anova's use of the PRECISION  
12 Marks in connection with its constant temperature immersion circulators; sous-vide  
13 machines; and electric sous-vide cookers.

15 22. Anova has not consented to or authorized Defendants to use the  
16 PRECISION Marks.

18 23. On information and belief, Defendant Sousvide Art operates the website  
19 <https://www.sousvideart.com/>. See Exhibit 13. A copy of the publicly available ICANN  
20 record identifying Mr. Chris Bell as registrant of the <https://www.sousvideart.com/> is  
21 attached as Exhibit 14. On information and belief, according to what appears to be his  
22 LinkedIn profile page, <https://www.linkedin.com/in/bellchris/>, Mr. Bell is the Founder  
23 and CEO of Perch Brands. See Exhibit 15. Further, on information and belief, according  
24 to the sousvideart.com website, "Sousvide Art is part of the Perch family of brands."  
25  
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1 24. A true and accurate copy of a printout of the Perch website advertising,  
 2 offering, and selling the Accused Product as attached as Exhibit 16.

3 25. According to the USPTO’s public TSDR records containing the SOUSVIDE  
 4 ART trademark application documents, Defendants Sousvide Art, Wedge and Wagon,  
 5 Makaraov Dmytro, and Voloshyna Iryna have been selling sous-vide cookers with the  
 6 SOUSVIDE ART Trademark since May 23, 2018. Sousvide Art offers for sale, directly  
 7 sells, and imports the Sousvide Art Precision Cookers. *See* Exhibit 6.  
 8

9 26. On information and belief, the Sousvide Art Precision Cookers are  
 10 advertised, offered for sale, and sold on Amazon.com under at least the following listing  
 11 titles and Amazon Standard Identification Numbers (“ASINs”):  
 12

Title of Listing	ASIN
SOUSVIDE ART Precision Cooker Kit (Regular Cooker Kit) - Sous Vide Machine Immersion Cookers Circulator, 15 Vacuum Seal Bags, Vacuum Pump, Digital Timer, Temp Control, Sous Vide Cooker, Gift for Chefs	B077GXV153
SOUSVIDE ART Precision Cooker Kit (Deluxe Cooker Kit) - Sous Vide Machine Immersion Cookers Circulator, 30 Vacuum Seal Bags, Vacuum Pump, Digital Timer, Temp Control, Sous Vide Cooker, Gift for Chefs	B081B4SR7F
Sous Vide Machine, Lekoza Joule Sous Vide Cooker 1100 Watts, Ultra-quiet Fast-Heating Wifi Connect Preset Recipes on APP Immersion Circulator Precise Cooker with Accurate Temperature and Timer	B0BYW3FCKN
Sous Vide Cooker Kit All In One  Sous Vide Immersion Circulator Slim Design 1000W Precise Temperature with Vacuum Sealer Machine and	B09DB331CW

1	Sous Vide Vacuum Bags   24 Month Warranty   Deluxe Edition	
2	Sous Vide Cooker Starter Kit   All In One   Sous Vide Immersion Circulator Slim Design 1000W, 20 3	B09DB6WCTQ
4	Sous Vide Reusable Vacuum Bags, Electric Pump, Sous Vide Clips, Cookbook   Special Edition	
5	Upesitom Sous Vide Cooker, 1100W Sous Vide Precision Machine, IPX7 Waterproof Immersion 6	B0B79CX89V
7	Circulator with Temperature Control, Digital Timer, Low Noise & Fast Heating	
8	Upestiom Sous Vide Cooker 1100 W Sous Vide Machine, Immersion Circulation Precision Sous 9	B0C2XYCCKW
10	Vide Machine with Temperature Control, Digital Timer, IPX7 Waterproof, Low Noise & Fast Heating	
11	CAUKINS Sous Vide Machine Precision Cooker : Sous Vide Cooker 1100 Watts Immersion Sous Vide 12	B0BP12J5XL
13	Low Temperature Cooker Immersion Circulator for Sous Vide	
14	CAUKINS Sous Vide Machine Suvee Cooker : Sous-vide 1100 Watts Sous Vide Cooker Sous Vide 15	B0BMVYTPVB
16	Kit Immersion Circulators for Precision Cooker	

17

18 **COUNT I**

19 **INFRINGEMENT OF U.S. REISSUE PATENT NO. RE49,267**

20 27. Anova repeats and realleges paragraphs 1 through 26 hereof, as if fully set  
forth herein.

21 28. The RE267 Patent, entitled "Circulation Cooker with Alarm System," was  
22 duly and legally reissued on November 1, 2022, and names Jeff Wu and Frank Wu as the  
23 inventors. The RE267 Patent was issued from the United States Patent Application No.  
24 16/913,418. The RE267 Patent claims priority from United States Provisional Patent  
25 Application No. 61/911,384, which was filed on December 3, 2013 and Provisional Patent  
26

1 Application No. 61/764,984. The full continuity data of the RE267 Patent is shown on the  
2 face of the patent and is hereby incorporated by reference.

3 29. The RE267 Patent is a reissue patent from U.S. Pat. No. 9,826, 855 (“the ‘855  
4 Patent”) which issued on November 28, 2017. The application for the ‘855 Patent was filed  
5 on December 3, 2014.  
6

7 30. Anova is the assignee of the entire right, title, and interest in the RE267  
8 Patent, which assignment was recorded by the US Patent and Trademark Office at  
9 Reel/Frame: 057299/0681 on August 26, 2021. A true and accurate copy of the assignment  
10 is attached hereto as Exhibit 17.  
11

12 31. Anova owns the entire right, title, and interest in and to the RE267 Patent,  
13 including the right to seek damages for past, current, and future infringement thereof.

14 32. The RE267 Patent “relates generally to food cooking devices, and more  
15 specifically, to precision temperature control water heaters and water pump circulator  
16 appliances having an alarm system, or alert system, or both.” RE267 Patent, Col. 1, Lns.  
17 25-29.  
18

19 33. Claim 1 of the RE267 Patent reads as follows:

20 A fluidic temperature control device for sous-vide cooking comprising:

21 an upper portion and a middle portion including a controller, a display device,  
22 an input device coupled to the controller and a motor coupled to the controller;

23 a lower portion releasably connected to the upper and the middle portions, the  
24 lower portion housing a fluid agitation device coupled to the motor and passing  
25 through a heating element, the heating element coupled to the controller, and  
26 the lower portion configured with a plurality of vertical perforations and a  
27 plurality of horizontal perforations and for at least partial immersion in a fluid.

1 34. On or about November 1, 2022, Anova purchased the Sousvide Art  
2 Precision Cooker from Amazon.com. Anova received the product on or about November  
3 3, 2022. Copies of the order receipt, delivery confirmation, and pictures of the item are  
4 attached as Exhibit 18.

5  
6 35. As detailed in the RE267 Claim Chart (attached as Exhibit 19), the Sousvide  
7 Art Precision Cooker infringes at least claim 1 of the RE267 Patent.

8 36. On information and belief, the Defendants individually and collectively  
9 advertise, offer for sale, and sell the Sousvide Art Precision Cookers which practice the  
10 claimed invention of the RE267 Patent, on Amazon.com under at least the above-  
11 mentioned ASINs and on <https://www.sousvideart.com/>,  
12 <https://www.sousvideart.com/>, and [https://www.perch-brands.com/product-  
13 page/sous-vide-cooker-immersion-circulator-regular](https://www.perch-brands.com/product-page/sous-vide-cooker-immersion-circulator-regular) .  
14

15 37. Defendants offer to ship and ship the Accused Product, which practice the  
16 claimed invention of the RE267 Patent, to customers throughout the United States  
17 including the state of Washington.

18  
19 38. On information and belief, at least Defendant Sousvide Art operates an  
20 online community forum on Facebook.com wherein Defendant Sousvide Art provides  
21 guidance on how to use the Accused Product. See  
22 <https://www.facebook.com/sousvideart/> .  
23

24 39. According to TSDR records, on September 27, 2018, Makarov Dmytro,  
25 Voloshyna Iryna, and Wedge and Wagon LLC applied for registration for the SOUSVIDE  
26 ART Mark on a Section 1A “Actual Use in Commerce” basis and represented to the  
27

1 USPTO that the first use in commerce of the SOUSVIDE ART Mark was on May 23, 2018.  
2 *See* Exhibit 7. Makarov Dmytro, Voloshyna Iryna, and Wedge and Wagon submitted a  
3 specimen that represents as of May 23, 2018, these defendants were selling the Accused  
4 Product in commerce. *See* Exhibit 7. Acting individually and collectively (and in  
5 connection with other Defendants), Makarov Dmytro, Voloshyna Iryna, and Wedge and  
6 Wagon have been infringing on the Patents since at least May 23, 2018.

8 40. Defendants individually and in concert with each other have thus  
9 infringed, and continue to infringe, literally or under the doctrine of equivalents, Anova's  
10 RE267 Patent, by making, using, importing, selling and/or offering to sell in the United  
11 States, including within this judicial district, the Accused Product during the  
12 enforceability period of the RE267 Patent in violation of 35 U.S.C § 271 (a).  
13

14 41. Defendants individually and collectively have also indirectly infringed, and  
15 continues to infringe, at least claim 1 of the RE267 Patent by actively and knowingly  
16 inducing others to make, use, offer to sell, import, and/or sell the Accused Product in the  
17 United States, including within this judicial district. Third parties who offer to sell,  
18 import, and/or sell the Accused Product in accordance with the Defendants instructions  
19 and/or encouragement infringe the RE267 Patent in violation of 35 U.S.C § 271 (a).  
20

21 42. Defendants individually and collectively also induce infringement by  
22 others by failing to remove or diminish the infringing features of the Accused Product.  
23 Defendants individually and collectively are thus liable for infringement of the RE267  
24 Patent under 35 U.S.C § 271 (b).  
25  
26  
27

1           43. The Defendants individually and collectively have also infringed, and  
2 continue to infringe, the RE267 Patent by contributing to the direct infringement of the  
3 RE267 Patent. On information and belief, the Defendants individually and collectively  
4 sell, offer to sell and/or import into the United States components of the Accused  
5 Product, constituting a material part of the RE267 invention, knowing those components  
6 to be especially made or especially adapted for use in the infringement of the RE267  
7 Patent, and which are neither a staple article nor a commodity of commerce suitable for  
8 substantial non-infringement use. The Defendants individually and collectively are thus  
9 liable for infringement under 35 U.S.C § 271 (c).  
10  
11

12           44. On information and belief, Defendants individually and collectively have  
13 known of the existence of the RE267 Patent, and their acts of infringement have been  
14 willful and in disregard for the RE267 Patent, without any reasonable basis for believing  
15 that it had a right to engage in the infringing conduct.  
16

17           45. On information and belief, Defendants' infringement have been, and  
18 continues to be knowing, intentional, and willful.

19           46. Defendants' acts of infringement of the RE267 Patent have caused and will  
20 continue to cause Anova damages for which they Anova is entitled to compensation  
21 pursuant to 35 U.S.C. § 284.  
22

23           47. Defendants' acts of infringement of the RE267 Patent have caused and will  
24 continue to cause Anova immediate and irreparable harm unless such infringing  
25 activities are enjoined by this Court pursuant to 35 U.S.C. § 283. This includes *inter alia*  
26 loss of customers, loss of market-share, price erosion, loss of customer goodwill, and  
27

1 harm to Anova's reputation as a leading innovator in the kitchen appliance industry.  
2 Anova has no adequate remedy at law to address these damages. Anova is thus entitled  
3 to a preliminary and permanent injunction against the Defendants' further infringement  
4 of the RE267 Patent.  
5

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

9 **COUNT II**  
10 **FEDERAL TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114**

11 49. Anova repeats and realleges paragraphs 1 through 48 hereof, as if fully set  
12 forth herein.

13 50. As a result of its widespread, continuous, and exclusive use of the  
14 PRECISION Marks to identify its products and Anova as their source, Anova owns valid  
15 and subsisting federal statutory and common law rights to the PRECISION Marks.

16 51. Anova's PRECISION Marks is distinctive to both the consuming public and  
17 Anova's trade.  
18

19 52. As a result of Anova's expenditures and efforts, the PRECISION Marks  
20 have come to signify the high quality of the products designated by Anova's PRECISION  
21 Marks, and have acquired incalculable distinction, reputation, and goodwill belonging  
22 exclusively to Plaintiff.  
23

24 53. As described above, the PRECISION Marks are valid and protectable  
25 trademarks. The registrations for the PRECISION Marks have been in full force and effect  
26 since their issuance. Anova owns the entire right, title, and interest in and to the  
27

1 PRECISION Marks, including the right to seek damages for past, current, and future  
2 infringement thereof.

3 54. Defendants have infringed the PRECISION Marks by selling and  
4 advertising its products using Anova's PRECISION Marks to consumers in the United  
5 States.  
6

7 55. Defendants individually and collectively advertise, offer for sale, and sell  
8 the Precision Cookers which infringe on the PRECISION Marks on Amazon.com.  
9 Listings of Defendants' infringement of the PRECISION Marks by Perch Acquisition Co  
10 1 LLC d/b/a Sousvide Art,<sup>1</sup> Upesitom (HONG KONG XING HUA TECHNOLOGY CO.,  
11 LIMITED),<sup>2</sup> and Caukins (dongguanshi yingsheng keji youxiangongsi)<sup>3</sup> are attached  
12 hereto as Exhibits 5, 10, and 11, respectively. In every instance, the term "Precision" is  
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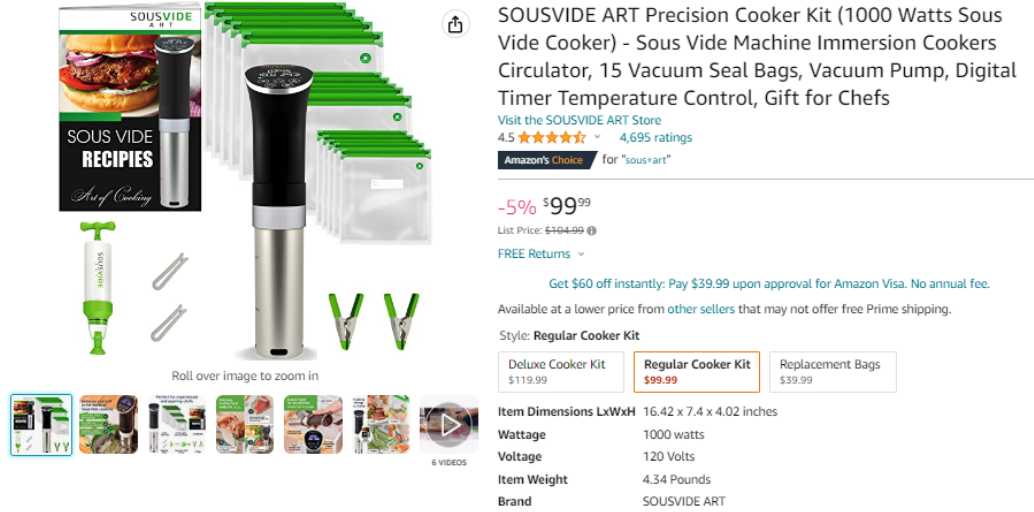
17  
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20 <sup>1</sup> SOUSVIDE ART Precision Cooker Kit (1000 Watts Sous Vide Cooker) - Sous Vide Machine Immersion Cookers  
21 Circulator, 15 Vacuum Seal Bags, Vacuum Pump, Digital Timer Temperature Control, Gift for Chefs, Amazon.com,  
22 <https://a.co/d/fHiFYzW> (last accessed June 2, 2023); SOUSVIDE ART Precision Cooker Kit (Deluxe Cooker Kit) -  
Sous Vide Machine Immersion Cookers Circulator, 30 Vacuum Seal Bags, Vacuum Pump, Digital Timer, Temp Control,  
Sous Vide Cooker, Gift for Chefs, Amazon.com, <https://a.co/d/9Tzt2Qp> (last accessed June 2, 2023).

23 <sup>2</sup> Upesitom Sous Vide Cooker, 1100W Sous Vide Precision Machine, IPX7 Waterproof Immersion Circulator with  
24 Temperature Control, Digital Timer, Low Noise & Fast Heating, Amazon.com, <https://a.co/d/bF3YY8L> (last visited  
June 2, 2023); Upestitom Sous Vide Cooker 1100 W Sous Vide Machine, Immersion Circulation Precision Sous Vide  
Machine with Temperature Control, Digital Timer, IPX7 Waterproof, Low Noise & Fast Heating, Amazon.com,  
25 <https://a.co/d/0vOeQmh> (last visited June 2, 2023)

26 <sup>3</sup> CAUKINS Sous Vide Machine Precision Cooker : Sous Vide Cooker 1100 Watts Immersion Sous Vide Low Temperature  
27 Cooker Immersion Circulator for Sous Vide, Amazon.com, <https://a.co/d/7woS8PG> (last visited June 2, 2023);  
CAUKINS Sous Vide Machine Suvee Cooker Sous-vide 1100 Watts Sous Vide Cooker Sous Vide Kit Immersion Circulators  
for Precision Cooker, Amazon.com, <https://a.co/d/a5oz0Hp> (last visited June 2, 2023).



1 used in the product titles in direct infringement of the PRECISION Marks. Just one  
2 example is pasted below:



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14 56. On information and belief, Garnease is responsible for the product  
15 information and FAQ portions of its listings; both of which use PRECISION Marks to  
16 refer the Accused Product. For example, on information and belief, Garnese refers to the  
17 Accused Product as a “sous vide precision cooker” as shown below (see also Exhibit 9):  
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### Looking for specific info?

Q precision X

All Product Information Customer Q&A's Customer Reviews

U0001f538 Sous Vide Cooker Starter Kit SPECIAL EDITION includes sous vide cooker immersion circulator with precision temperature 1000w slim design, 20 pcs sous vide vacuum reusable bags of 4 sizes, sous vide electric pump, 4 sous vide clips, 2 sealing clips, sous vide recipes

See 1 matches from product info >

#### Customer questions & answers

**Q: Temperature is reached, but it constantly beeps regardless of water level and it doesn't show remaining time. Why is it doing this?**

**A:** It seems you received the sous vide cooker with a factory defect.

Despite all the GARNEASE® items passing three-stage quality control, a small percentage of defective items is possible.

The customer can exchange the defective sous vide precision cooker or return it and get a full refund within 30 days from the purcha... see more

By Amazon Customer in the United States on April 18, 2022

**Q: I recently received the sous vide cooker starter kit. The vacuum pump does not work. Is it possible to get just the vacuum pump exchanged?**

**A:** The GARNEASE® vacuum pump (that comes with sous vide cooker starter kit) is rechargeable, so it must be charged before the first use. To do this, use the charging cable included in the kit.

Stages of practical use:

1. Place your product in sous vide reusable vacuum bag and seal it carefully with the white plastic cli... see more

By Amazon Customer in the United States on April 12, 2022

See 2 matching Q&A >

#### Customer Reviews

★★★★★ Can't over cook meat.

By Joseph Heidekrueger in the United States on February 21, 2023

Since it only heats the meat in vacuum bags at precise temps it can't overcook. If you get thicker cuts of meat just leave it in the pot longer.... see more

See 1 matching customer reviews >

57. On information and belief, after Anova earned rights in the PRECISION Marks, Defendants have been using the PRECISION Marks, thereby creating a likelihood of confusion with the PRECISION Marks, and creating a false association and designation of origin of the Accused Product.

58. Defendants' unauthorized use of the PRECISION Marks on or in connection with its sous vide products is likely to cause confusion, or to cause mistake or to deceive as to (i) the affiliation, connection, or association of Defendants with Anova, (ii) the origin of the parties' respective goods, and/or (iii) the sponsorship, endorsement, or approval of Defendants' goods by Anova or of Anova's goods by Defendants.

1 59. Defendants' unauthorized use of the PRECISION Marks on or in  
2 connection with its sous vide products violates Anova's exclusive rights in its  
3 PRECISION Marks and constitutes trademark infringement in violation of Section 32(1)  
4 of the Lanham Act, 15 U.S.C. § 1114(1).  
5

6 60. On information and belief, Defendants individually and in concert with  
7 each other have committed the foregoing acts of infringement with full knowledge of  
8 Anova's prior rights in the PRECISION Marks and with the willful intent to infringe and  
9 cause confusion and trade on Anova's goodwill.  
10

11 61. Defendants' acts of infringement of the PRECISION Marks have caused and  
12 will continue to cause Anova immediate and irreparable harm unless such infringing  
13 activities are enjoined by this Court. This includes *inter alia* loss of customers, customer  
14 confusion, loss of market-share, price erosion, loss of customer goodwill, and harm to  
15 Anova's reputation as a leading innovator in the kitchen appliance industry. Anova has  
16 no adequate remedy at law to address these damages. Anova is thus entitled to a  
17 preliminary and permanent injunction against the Defendants' further infringement of  
18 the PRECISION Marks.  
19

20 62. Anova is entitled to, among other relief, injunctive relief and an award of  
21 actual damages, Defendants' profits, enhanced damages and profits, reasonable  
22 attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15  
23 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.  
24

25  
26 **COUNT III**  
**FEDERAL UNFAIR COMPETITION**

1           **AND FALSE DESIGNATIONS OF ORIGIN AND FALSE AND MISLEADING**  
2           **REPRESENTATION UNDER 15 U.S.C. § 1125(a)**

3           63.     Anova repeats and realleges paragraphs 1 through 62 hereof, as if fully set  
4     forth herein.

5           64.     Defendants' unauthorized use of the PRECISION Marks on or in  
6     connection with its sous vide products violates Anova's exclusive rights in its  
7     PRECISION Marks and constitutes trademark infringement, false advertising, and unfair  
8     competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).  
9

10           65.     Defendants' acts of infringement of the PRECISION Marks have caused and  
11     will continue to cause Anova immediate and irreparable harm unless such infringing  
12     activities are enjoined by this Court. This includes *inter alia* loss of customers, customer  
13     confusion, loss of market-share, price erosion, loss of customer goodwill, and harm to  
14     Anova's reputation as a leading innovator in the kitchen appliance industry. Anova has  
15     no adequate remedy at law to address these damages. Anova is thus entitled to a  
16     preliminary and permanent injunction against the Defendants' further infringement of  
17     the PRECISION Marks.  
18

19           66.     Upon information and belief, Defendants' infringement of the PRECISION  
20     Marks has been, and continues to be knowing, intentional, and willful, and in deliberate  
21     disregard of the PRECISION Marks.  
22

23           67.     Anova is entitled to, among other relief, an award of actual damages,  
24     Defendants' profits, enhanced damages and profits, reasonable attorneys' fees, and costs  
25  
26  
27

1 of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116 and 1117,  
2 together with prejudgment and post-judgment interest.

3  
4 COUNT IV  
5 DILUTION IN VIOLATION OF 15 U.S.C. § 1125(c)

6 68. Anova repeats and realleges paragraphs 1 through 67 hereof, as if fully set  
7 forth herein.

8 69. As a result of the distinctiveness and widespread use and promotion  
9 throughout the United States, Anova's PRECISION Marks are distinctive and a "famous  
10 mark" within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

11 70. The PRECISION Marks became distinctive and famous prior to the  
12 Defendants' acts as alleged herein.

13 71. Defendants individually and in concert with each other have are infringing  
14 on the PRECISION Marks in commerce.

15 72. Defendants' use of the PRECISION Marks has diluted and tarnished and  
16 will, unless enjoined, continue to dilute and tarnish the distinctive quality of the  
17 PRECISION Marks by undermining and damaging the valuable goodwill associated  
18 therewith in violation of Section 43(c) of the United States Trademark Act, 15 U.S.C. §  
19 1125(c).

20 73. Defendants' acts of infringement of the PRECISION Marks have caused and  
21 will continue to cause Anova immediate and irreparable harm unless such infringing  
22 activities are enjoined by this Court. This includes *inter alia* loss of customers, customer  
23  
24  
25  
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1 confusion, loss of market-share, price erosion, loss of customer goodwill, and harm to  
2 Anova's reputation as a leading innovator in the kitchen appliance industry. Anova has  
3 no adequate remedy at law to address these damages. Anova is thus entitled to a  
4 preliminary and permanent injunction against the Defendants' further infringement of  
5 the PRECISION Marks.  
6

7 74. On information and belief, Defendants' infringement of the PRECISION  
8 Marks has been, and continues to be knowing, intentional, and willful, and in deliberate  
9 disregard of the PRECISION Marks.  
10

11 75. Anova is entitled to, among other relief, an award of actual damages,  
12 Defendants' profits, enhanced damages and profits, reasonable attorneys' fees, and costs  
13 of the action under Sections 34 and 35 of the Lanham Act, 15 U.S.C. §§ 1116 and 1117,  
14 together with prejudgment and post-judgment interest.  
15

16 **COUNT V**  
17 **TRADEMARK INFRINGEMENT AT COMMON LAW**

18 76. Anova repeats and realleges paragraphs 1 through 75 hereof, as if fully set  
19 forth herein.

20 77. As described above, the PRECISION Marks are valid and protectable  
21 trademarks, and have earned common law protections since they were first used in  
22 commerce. Anova owns the entire right, title, and interest in and to the PRECISION  
23 Marks, including the right to seek damages for past, current, and future infringement  
24 thereof.  
25  
26  
27

1 78. Defendants individually and collectively have infringed the PRECISION  
2 Marks by adopting the PRECISION Marks in connection with advertising and selling  
3 sous vide devices in commerce.

4 79. Defendants individually and in concert with each other have engaged in  
5 trade and commerce in the commonwealth of Washington. This trade and commerce  
6 includes the sale, marketing and advertising of its sous vide cookers in connection with  
7 the PRECISION Marks.  
8

9 80. The acts of Defendants, individually and collectively, constitute the sale  
10 and passing-off of its products as Anova's products, infringement, imitation and  
11 misappropriation of the PRECISION Marks, unfair competition with Anova in violation  
12 of its rights at common law.  
13

14 81. Defendants' actions as described above regarding the PRECISION Marks  
15 constitute trademark infringement in violation of Washington common law.  
16

17 82. On information and belief, Defendants' infringement of the PRECISION  
18 Marks has been, and continues to be knowing, intentional, and willful, and in deliberate  
19 disregard of the PRECISION Marks.

20 83. Defendants' acts of infringement of the PRECISION Marks have caused and  
21 will continue to cause Anova immediate and irreparable harm unless such infringing  
22 activities are enjoined by this Court. This includes *inter alia* loss of customers, customer  
23 confusion, loss of market-share, price erosion, loss of customer goodwill, and harm to  
24 Anova's reputation as a leading innovator in the kitchen appliance industry. Anova has  
25 no adequate remedy at law to address these damages. Anova is thus entitled to a  
26

1 preliminary and permanent injunction against the Defendants' further infringement of  
2 the PRECISION Marks.

3  
4 **COUNT VI**  
5 **COMMON LAW UNFAIR COMPETITION AND UNFAIR AND DECEPTIVE**  
6 **TRADE PRACTICES UNDER WASHINGTON STATE LAW, RCW 19.86.020 ET**  
7 **SEQ.**

8 84. Anova repeats and realleges paragraphs 1 through 83 hereof, as if fully set  
9 forth herein.

10 85. Defendants' acts as alleged herein constitute deceptive trade practices  
11 under the common law and statutory laws of the State of Washington, including, but not  
12 limited to RCW 19.86.020.

13 86. Anova has valid and protectable rights in the PRECISION Marks. Anova  
14 owns the entire right, title, and interest in and to the PRECISION Marks, including the  
15 right to seek damages for past, current, and future infringement thereof.

16 87. Defendants' individually and collectively have falsely and deceptively  
17 created the impression in commerce that Defendants' goods and services are associated  
18 with, sponsored by, or approved by Anova, and are likely to confuse the public as to the  
19 source of Defendants' goods and services. Defendants' actions and use of the PRECISION  
20 Marks injures Anova's business reputation of Anova and dilute the distinctive quality of  
21 its products.

22 88. Defendants' acts are likely to deceive the public. Defendants mislead  
23 members of the public into believing that Defendants' products come from Anova and/or  
24



1 that there is an affiliation between Anova and Defendants or between their respective  
2 products and/or that Anova endorses or sponsors or has granted a license for  
3 Defendants' products. Defendants' actions constitute unfair and deceptive practices  
4 which affect the public interest as a result of the public confusion caused by such acts.  
5

6 89. Defendants' acts constitute the sale and passing-off of its products as  
7 Anova's products, infringement, imitation and misappropriation of the PRECISION  
8 Marks, and unjust enrichment and unfair competition with Anova in violation of its  
9 rights under Washington and federal law.  
10

11 90. Defendants' unfair acts as alleged herein have caused and will continue to  
12 cause injury to Anova to its business and/or property. Defendants' unlawful  
13 misrepresentations have caused harm to Anova by diverting revenues that would  
14 otherwise be paid to Anova. Anova's goodwill has been undermined, and it has been  
15 forced to expend substantial attorneys' fees and time addressing and undoing such harm,  
16 including in this proceeding.  
17

18 91. On information and belief, Defendants' infringement of the PRECISION  
19 Marks has been, and continues to be knowing, intentional, and willful, and in deliberate  
20 disregard of the PRECISION Marks.  
21

22 92. Defendants' acts of infringement of the PRECISION Marks have caused and  
23 will continue to cause Anova immediate and irreparable harm unless such infringing  
24 activities are enjoined by this Court. This includes inter alia loss of customers, customer  
25 confusion, loss of market-share, price erosion, loss of customer goodwill, and harm to  
26 Anova's reputation as a leading innovator in the kitchen appliance industry. Anova has  
27

1 no adequate remedy at law to address these damages. Anova is thus entitled to a  
2 preliminary and permanent injunction against the Defendants' further infringement of  
3 the PRECISION Marks.  
4

5 **JURY DEMAND**

6  
7 93. Pursuant to Rule 8 of the Federal Rules of Civil Procedure, Anova demands  
8 a trial by jury on all issues triable as such.  
9

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, Anova requests judgment against Defendants as follows:  
12

- 13 A. Adjudging that Defendants have infringed, actively induced infringement of,  
14 and/or contributorily infringed the RE267 Patent, in violation of 35 U.S.C. § 271(a),  
15 (b), and/or (c);  
16  
17 B. Granting an injunction, preliminarily and permanently, enjoining Defendants,  
18 their employees, agents, officers, directors, attorneys, successors, affiliates,  
19 subsidiaries, and assigns, and all of those in active concert and participation with  
20 any of the foregoing persons or entities from infringing, contributing to the  
21 infringement of, or inducing infringement of the RE267 Patent and PRECISION  
22 Marks;  
23  
24 C. Ordering Defendants to account and pay damages adequate to compensate Anova  
25 for Defendant's infringement of the RE267 Patent, including for any infringing acts  
26  
27

1 not presented at trial and pre-judgment and post-judgment interest and costs,  
2 pursuant to 35 U.S.C. § 284;

3  
4 D. Ordering an accounting for any infringing sales not presented at trial and an  
5 award by the court of additional damages for any such infringing sales;

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

8  
9 F. Declaring this case exceptional and awarding Anova its reasonable attorney's fees  
10 and expenses pursuant to 35 U.S.C. § 285 and/or 15 U.S.C. § 1117;

11 G. Directing Defendants to use its best efforts to recall from trade and other third  
12 parties any and all infringing goods and to cease any marketing, advertising and  
13 promotional materials using products that bear the confusingly similar variations  
14 of the PRECISION Marks in the United States;

15  
16 H. Directing Defendants to file with the Court and serve on counsel for Plaintiff,  
17 within thirty days after entry of any injunction issued by the Court in this action,  
18 a sworn statement as provided in 15 U.S.C. § 1116 setting forth in detail the manner  
19 and form in which Defendants have complied with the injunction;

20  
21 I. Directing Defendants to deliver up to Anova for destruction or other disposition,  
22 within thirty days of the entry of final judgment herein, any and all infringing  
23 goods and any promotional, marketing, advertising, and promotional materials  
24 used in connection with the sale or marketing of any goods or services, now or  
25 hereafter in its possession, custody or control;  
26

- 1 J. Directing that Defendants account to and pay over to Anova any and all profits  
2 derived by Defendants from the sale of goods or services bearing the PRECISION  
3 Marks in accordance with Section 35(a) of the Lanham Act (15 U.S.C. § 1117(a)),  
4 enhanced as appropriate to compensate Plaintiff for the damages caused thereby.  
5  
6 K. Awarding Anova a monetary judgment against the Defendants for Anova's  
7 damages and Defendant's profits pursuant to 15 U.S.C. § 1117;  
8  
9 L. Trebling the amount of such award on account of Defendants' willful, intentional,  
10 and bad faith conduct pursuant to 15 U.S.C. § 1117;  
11  
12 M. Awarding Anova a monetary judgment against the Defendants for Anova's  
13 damages and due to Defendant's unfair competition.  
14  
15 N. Awarding Anova punitive damages against the Defendants due to Defendants'  
16 unfair competition.  
17  
18 O. Awarding Anova interest, including prejudgment and post-judgment interest, on  
19 the foregoing sums; and  
20  
21 P. Awarding such other and further relief as this Court deems just and proper.

22 DATED June 6, 2023.

23 TBILLICK LAW<sup>PLLC</sup>

24  
25 By  \_\_\_\_\_

26 Tim J. Billick, WSBA No. 46690

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