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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Anova Applied Electronics, Inc.

Plaintiff

v.

Shenzhen Jingtaitengda Technology Co., Ltd.
d/b/a "Dreamytenda"

and

Shenzhenshi Yingbozhikong Keji Youxian
Gongsi d/b/a "Mixtea360"

and

Inkbird Tech. C.L., a Chinese company

Defendants.

Case No. 2:23-cv-845

COMPLAINT FOR PATENT AND
TRADEMARK INFRINGEMENT AND
UNFAIR COMPETITION

PATENT AND TRADEMARK INFRINGEMENT COMPLAINT

Plaintiff, Anova Applied Electronics, Inc. ("Anova"), by and through its attorneys,
for its Complaint against defendants Dreamytenda, Mixtea360, and Inkbird Tech. C.L
("Inkbird Tech"), and all related aliases ("Defendants"), alleges as follows:

COMPLAINT - 1



PRELIMINARY STATEMENT

1 This is an action for infringement of Plaintiff's United States Patent No. 10,455, 967
2 ("the '967 Patent" or "the Asserted Patent" attached hereto as Exhibit 1) under the Patent
3 Act, 35 U.S.C. § 271, as well as unfair competition arising from Defendants' infringement
4 of registered Trademark Nos. 4989116 ("the '116 Mark") and 6392242 ("the '242 Mark")
5 for "PRECISION" (collectively, "the PRECISION Marks"). Copies of the registration
6 certificates of the PRECISION Marks are attached hereto as Exhibit 2 and Exhibit 3,
7 respectively. This action is premised on Defendants' unauthorized manufacture,
8 commercial use, importation, offer for sale, and sale of certain "Inkbird Precision Cooker"
9 products ("Accused Products") online in United States. Defendants' actions have caused
10 and will continue to cause substantial harm. Plaintiff seeks preliminary and permanent
11 injunctive relief, damages, and attorneys' fees and costs.
12
13
14

JURISDICTION

15
16 1. This Court has subject matter jurisdiction of this action pursuant to 28
17 U.S.C. §§ 1331 and 1338(a) because it concerns the rights of parties under the Patent Act,
18 35 U.S.C. § 271; and pursuant to 15 U.S.C. § 1121 because this action alleges violation of
19 the Lanham Act; and pursuant to 28 U.S.C. § 1332.
20

21
22 2. This Court has supplemental jurisdiction over all other claims under 28
23 U.S.C. § 1367 because all other claims are related to the same controversy that gave rise
24 to the federal causes of action alleged.
25
26
27

1 Washington. Venue is also proper under 28 U.S.C. § 1391 (c)(3) because on information
2 and belief, Defendants are not residents of the United States and may be sued in any
3 judicial district.

4
5 **PARTIES**

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

13
14 7. On information and belief, Defendants are based in China, and offer the
15 Accused Products online via the popular retailer Amazon.com.
16

17 8. On information and belief, Defendant Inkbird Tech. C.L. (“Inkbird Tech”) is a company based in China, with an address of 18 / F, Zhimei Guowei electronic
18 building, No. 68, Guowei Road, Luohu District, Shenzhen.
19

20
21 9. On information and belief, Defendant Shenzhen Jingtaitengda Technology
22 Co., Ltd. is a Chinese entity doing business on Amazon as “Dreamytenda”. Its address
23 and principal place of business is Room 601, East Side, 6th Floor, Building 713, Pengji
24 Industrial Zone, No. 2 Pengxing Road, Pengxing Community, Liantang Street, Shenzhen,
25
26
27

1 Luohu District, Guangdong Province, 518000, People’s Republic of China.
2 Dreamytenda’s Amazon Seller Profile is attached hereto as Exhibit 4.

3
4 10. On information and belief, Defendant Shenzhenshi Yingbozhikong Keji
5 Youxian Gongsu is a Chinese entity doing business on Amazon as “Mixtea360.” Its
6 address and principal place of business is Pengxing Road, Liantang Street, Luohu
7 District, and 203, the second floor of the east and west side of 713, Hao Pengji Industrial
8 Zone, is Building S and Guan G 518000, People’s Republic of China. Mixtea360’s Amazon
9 Seller Profile is attached hereto as Exhibit 5.

11
12 **FACTUAL BACKGROUND**

13 11. The “sous vide” technique of cooking involves cooking ingredients in a
14 vacuum-sealed pouch submerged in water, typically at a long time at a low temperature.

15
16 12. Anova is a global company and a global leader in kitchen appliances and
17 accessories. Anova’s Precision Cooker has become the best-selling sous vide device on
18 the market today. For its research and design efforts, Anova has been awarded multiple
19 patents, garnered industry acclaim, and is recognized as a trusted brand among
20 consumers worldwide.

21
22 13. On October 29, 2019, United States Pat. No. 1,045,967 (hereafter “the ‘967
23 Patent”), titled “Circulator Cooker,” issued to Anova Applied Electronics, Inc. The ‘967
24 Patent identified Jeff Wu as its inventor, and is directed towards a device which can be
25 partially immersed in a vessel of water, such that a heater in the vessel can maintain the
26

1 temperature of the water within a defined range to allow foodstuffs, packed in vacuum
2 sealed bags, to be immersed in the water and cooked. The device also includes a
3 circulation pump to improve the circulation of water in the vessel to reduce temperature
4 gradients within the vessel.
5

6 14. Anova has been using the PRECISION Marks in commerce in connection
7 with temperature controllers for use in cooking, namely, constant temperature
8 immersion circulators; sous-vide machines; and electric sous-vide cookers at least as early
9 as September 11, 2015.
10

11 15. Anova holds United States Trademark Registration No. 4,989,116 for
12 PRECISION for use in connection with temperature controllers for use in cooking,
13 namely, constant temperature immersion circulators, in International Class 9. The '116
14 Mark was registered by the United States Patent and Trademark Office ("USPTO") on
15 June 28, 2016 and has become incontestable within the meaning of Section 15 of the
16 Lanham Act, 15 U.S.C. § 1065.
17

18 16. Anova holds United States Trademark Registration No. 6,392,242 for
19 PRECISION for use in connection with sous-vide machines and electric sous-vide
20 cookers, in International Class 11. The '242 Mark was registered by the USPTO on June
21 22, 2021.
22

23 17. Anova has expended substantial time, money, and resources marketing,
24 advertising, and promoting its products sold under the PRECISION Marks including
25 through Anova's marketing, advertising, and promotional efforts. Attached hereto as
26

1 Exhibit 6 is a demonstrative sample of materials showing Anova’s use of the PRECISION
 2 Marks in connection with its constant temperature immersion circulators; sous-vide
 3 machines; and electric sous-vide cookers.
 4

5 18. Anova has not consented to or authorized Defendants to use the
 6 PRECISION Marks.
 7

8 19. On information and belief, Inkbird Tech operates the website
 9 www.inkbird.com. According to Inkbird Tech’s website, the company was founded in
 10 2010. Inkbird Tech offers for sale, directly sells, and imports the Inkbird Precision Sous
 11 Vide Cooker ISV-100W and the Inkbird Precision Sous Vide ISV-200W products. As
 12 shown in the attached Exhibit 7, the company states that it ships both products from
 13 warehouses located in the United States and from China.
 14

15 20. On information and belief, Inkbird Tech has been using the PRECISION
 16 Marks in its product names after Anova earned rights in the PRECISION Marks.
 17

18 21. On information and belief, the Inkbird Precision Cookers are advertised,
 19 offered for sale, and sold on Amazon.com under at least the following listing titles and
 20 Amazon Standard Identification Numbers (“ASINs”):
 21

Title of Listing	Model	ASIN
Inkbird WIFI Sous Vide Machine ISV-100W 1000 Watts Sous-Vide Precision Cooker Immersion	ISV-100W	B07RNVJZNR

1	Circulator 14 Preset Recipes on APP and Thermal Immersion, Fast-Heating with Accurate Temperature and Timer		
2			
3			
4	Inkbird WIFI Sous Vide Precision Cooker & 44PCS Electric Vacuum Sealer Sous Vide Kits Recipes on APP and 1000W Sous Vide Machine Sous Vide Starter Kits with 30PCS Sous Vide Bags Electric Pump Clips	ISV-100W	B092ZDTK5H
5			
6			
7			
8			
9			
10	WiFi Sous-Vide-Machine & Vacuum Sealer Machine, Inkbird Sous Vide Cooker 1000W w/Recipes on APP Precision Cooker Automatic Air Sous Vide Vacuum Sealing Machine with Starter Kit	ISV-100W	B08HWL9MKK
11			
12			
13			
14	INKBIRD WIFI Sous Vide Machine ISV-100W with Storage Carry Case 1000 Watts Sous-Vide Precision Cooker Immersion Circulator 14 Preset Recipes on APP, Fast-Heating with Hard EVA Protective Case	ISV-100W	B0BLS9PGG7
15			
16			
17			
18			
19	Inkbird WiFi Sous Vide Precision Cooker & Instant Read Thermometer IHT-1P, Thermal Immersion Circulator 1000 Watts Precise Cooker with Recipes on APP/Sous Vide Cooking Machine ISV-100W	ISV-100W	B08HWHC7P2
20			
21			
22			
23			
24	Inkbird WiFi Sous Vide Cooker Culinary Cooker, 1000 Watts, Recipe, Precise Temperature and Timer, Programmable Interface,	ISV-100W	B08775CY2B
25			
26			
27			

1 2	Stainless Steel Thermal Immersion Circulator for Kitchen		
3 4 5 6 7	Sous Vide Machine Inkbird Wifi Sous Vide Precision Cooker, 1000W Remote Control Immersion Circulator with APP Recipes Timer Alarm Mobile Notification 3D Water Heating Ultra-Quiet ISV-200W	ISV-200W	B08GKQFT6B
8 9 10 11	INKBIRD WIFI Sous Vide Machine ISV-200W and Sous Vide Cooker Storage Case Bag, Hard EVA Protective Case	ISV-200W	B0C38G95F7

12
13
14 22. Representative copies of the Amazon seller storefronts and their listings of
15 the Accused Products are attached as Exhibits 4 and 5.

16
17 23. Inkbird Tech also operates an online community forum on facebook.com at
18 the URL <https://www.facebook.com/groups/425146541434234> entitled "Inkbird
19 Temperature Controller Thermometer in North America" wherein upon information and
20 belief, the company provides guidance on how to use the WiFi Sous Vide Cooker ISV-
21 100W and the ISV-200W.

22
23 **COUNT I**
24 **INFRINGEMENT OF US PATENT NO. 10,455,967**

25 24. Anova repeats and realleges paragraphs 1 through 23 hereof, as if fully set
26 forth herein.

27 COMPLAINT - 9

1 25. The '967 Patent, entitled "Circulation Cooker," was duly and legally issued
2 on October 29, 2019, and names Jeff Wu as the sole inventor. A true and correct copy of
3 the '967 Patent is attached hereto as Exhibit 1. The '967 Patent was issued from the United
4 States Patent Application No. 15/890,439. The '967 Patent claims priority from United
5 States Provisional Patent Application No. 61/880,714, which was filed on September 20,
6 2013. The full continuity data of the '967 Patent is shown on the face of the patent and is
7 hereby incorporated by reference.
8

9
10 26. Anova is the assignee of the entire right, title, and interest in the '967 Patent,
11 which assignment was recorded by the US Patent and Trademark Office at Reel/Frame:
12 044911/0027 on February 13, 2018. A true and accurate copy of the assignment is attached
13 hereto as Exhibit 8.
14

15 27. The '967 Patent has been in full force and effect since its issuance. Anova
16 owns the entire right, title, and interest in and to the '967 Patent, including the right to
17 seek damages for past, current, and future infringement thereof.
18

19 28. The '967 Patent "relates generally to food cooking devices, and more
20 specifically, to a precision temperature control water heater and water circulator
21 appliance for cooking food in water baths." '967 Patent, Col. 1, Lns. 21-24.
22

23 29. The '967 Patent claims a sous-vide circulator cooker comprising:
24 a head portion comprising a display;
25 a middle portion extending along a longitudinal axis from the head
26 portion and having a pump motor therein; and
27

1 a lower portion extending along the longitudinal axis from the middle
2 portion, with the middle portion between the head portion and the
lower portion, the lower portion comprising:

3 a skirt having a proximal end attached to the middle portion and a
4 distal end located remotely along the longitudinal axis from the
5 middle portion, the skirt having one or more liquid intake openings
6 passing therethrough,

7 a heating element located within the skirt,

8 a pump housing attached at the distal end of the skirt with the
9 heating element between the pump housing and the middle portion,
10 the pump housing having an outlet opening passing therethrough,
11 wherein the outlet opening is oriented away from the longitudinal
axis, and the pump housing is rotatable about the longitudinal axis
to a plurality of different positions relative to one or more other
portions of the sous-vide circulator cooker, and

12 a pump impeller rotatably mounted within the pump housing and
13 operatively connected to the pump motor, the pump impeller being
14 configured to selectively generate a flow of liquid from the one or
15 more liquid intake openings, past the heating element, into the
pump housing, and out through the outlet opening, when the pump
housing is in the plurality of different positions.

16 30. Anova purchased both products to conduct its infringement analysis. For
17 example, on or about October 4, 2021, Anova purchased the Inkbird Precision Cooker
18 ISV-100W with the ASIN B07RWNWJZNR from Amazon.com. Anova received the product
19 on or about October 5, 2021. See Exhibit 9 for order, delivery date, and pictures of the
20 purchased Inkbird Precision Cooker ISV-100W.
21

22 31. As detailed in the '967 Claim Charts (attached as Exhibit 10), both versions
23 of the Inkbird Precision Cooker (ISV-100W and ISV-200W) infringe at least claim 1 of the
24 '967 Patent. Both Inkbird Precision Cookers are structurally identical enough to directly
25 infringe the '967 Patent for nearly the same reasons.
26

1 32. Upon information and belief, the Defendants individually and collectively
2 advertise, offer for sale, and sell the Inkbird Precision Cookers which practice the claimed
3 invention of the '967 Patent, on Amazon.com under at least the above-mentioned ASINs
4 and on its website <https://inkbird.com/collections/sous-vide>.

6 33. Defendants offer to ship and ship the Accused Products, which practice the
7 claimed invention of the '967 Patent, to customers throughout the United States including
8 the state of Washington. A copy of the Amazon.com listings of the Accused Products
9 offering the Accused Product is shown in Exhibits 4 and 5.

11 34. Copies of the product listings of the Inkbird Precision Cookers offered
12 directly at the URLs [https://inkbird.com/collections/sous-vide/products/wifi-sous-](https://inkbird.com/collections/sous-vide/products/wifi-sous-vide-cooker-isv-100w)
13 [vide-cooker-isv-100w](https://inkbird.com/collections/sous-vide/products/wifi-sous-vide-cooker-isv-100w) and [https://inkbird.com/collections/sous-vide/products/sous-](https://inkbird.com/collections/sous-vide/products/sous-vide-isv-200w)
14 [vide-isv-200w](https://inkbird.com/collections/sous-vide/products/sous-vide-isv-200w) are attached hereto as Exhibit 7.

16 35. Defendants individually and in concert with each other have thus
17 infringed, and continue to infringe, literally or under the doctrine of equivalents, Anova's
18 '967 Patent, by making, using, importing, selling and/or offering to sell in the United
19 States, including within this judicial district, the Accused Products during the
20 enforceability period of the '967 Patent in violation of 35 U.S.C § 271 (a).

22 36. Defendants individually and collectively have also indirectly infringed, and
23 continues to infringe, at least claim 1 of the '967 Patent by actively and knowingly
24 inducing others to make, use, offer to sell, import, and/or sell the Accused Product in the
25

1 United States, including within this judicial district. Third parties who offer to sell,
2 import, and/or sell the Accused Products in accordance with the Defendants instructions
3 and/or encouragement infringe the '967 Patent in violation of 35 U.S.C § 271 (a).
4

5 37. Defendants individually and collectively also induce infringement by
6 others by failing to remove or diminish the infringing features of the Accused Product.
7 Defendants individually and collectively are thus liable for infringement of the '967
8 Patent under 35 U.S.C § 271 (b).
9

10 38. The Defendants individually and collectively have also infringed, and
11 continues to infringe, the '967 Patent by contributing to the direct infringement of the '967
12 Patent. On information and belief, the Defendants individually and collectively sell, offer
13 to sell and/or import into the United States components of the Accused Products,
14 constituting a material part of the '967 invention, knowing those components to be
15 especially made or especially adapted for use in the infringement of the '967 Patent, and
16 which are neither a staple article nor a commodity of commerce suitable for substantial
17 non-infringement use. The Defendants individually and collectively are thus liable for
18 infringement under 35 U.S.C § 271 (c).
19
20

21 39. Upon information and belief, Defendants individually and collectively
22 have known of the existence of the '967 Patent, and their acts of infringement have been
23 willful and in disregard for the '967 Patent, without any reasonable basis for believing
24 that it had a right to engage in the infringing conduct.
25
26
27

1 45. As a result of its widespread, continuous, and exclusive use of the
2 PRECISION Marks to identify its products and Anova as their source, Anova owns valid
3 and subsisting federal statutory and common law rights to the PRECISION Marks.
4

5 46. Anova's PRECISION Marks is distinctive to both the consuming public and
6 Anova's trade.
7

8 47. As a result of Anova's expenditures and efforts, the PRECISION Marks
9 have come to signify the high quality of the products designated by Anova's PRECISION
10 Marks, and have acquired incalculable distinction, reputation, and goodwill belonging
11 exclusively to Plaintiff.
12

13 48. As described above, the PRECISION Marks are valid and protectable
14 trademarks. The registrations for the PRECISION Marks have been in full force and effect
15 since their issuance. Anova owns the entire right, title, and interest in and to the
16 PRECISION Marks, including the right to seek damages for past, current, and future
17 infringement thereof.
18

19 49. Defendants have infringed the PRECISION Marks by selling and
20 advertising its products using Anova's PRECISION Marks to consumers in the United
21 States.
22

23 50. Defendants individually and collectively advertise, offer for sale, and sell
24 the Inkbird Precision Cookers which infringe on the PRECISION Marks on Amazon.com.
25
26
27

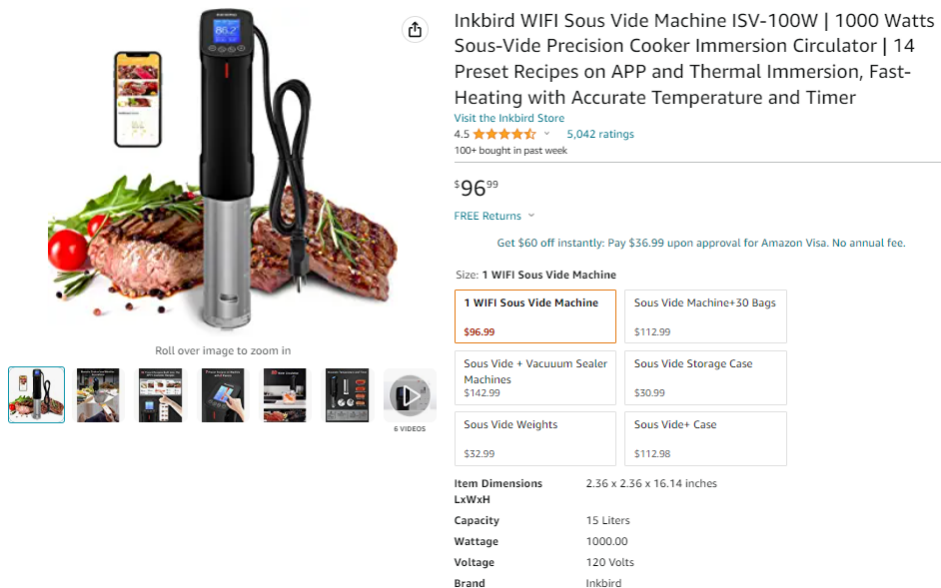
1 Listings of Defendants' infringement of the PRECISION Marks by Dreamytenda¹
2 (Shenzhen Jingtaitengda Technology Co., Ltd.), and Mixtea 360 (Shenzhenshi
3 Yingbozhikong Keji Youxian Gongsi)² are attached hereto as Exhibits 4 and 5,
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10 ¹ Exhibit 4: *Inkbird WIFI Sous Vide Machine ISV-100W | 1000 Watts Sous-Vide **Precision** Cooker Immersion*
11 *Circulator | 14 Preset Recipes on APP and Thermal Immersion, Fast-Heating with Accurate Temperature and Timer,*
12 *Amazon.com, <https://a.co/d/cRuTARQ> (last visited June 2, 2023); *Sous Vide Machine | Inkbird Wifi Sous*
13 *Vide **Precision** Cooker,1000W Remote Control Immersion Circulator with APP RecipesTimer Alarm Mobile*
14 *Notification | 3D Water Heating Ultra-Quiet ISV-200W, AMAZON.COM, <https://a.co/d/iLZ7eD1> (last visited*
15 *June 2, 2023).**

16 ² Exhibit 5: *Inkbird WIFI Sous Vide Machine ISV-100W | 1000 Watts Sous-Vide **Precision** Cooker Immersion*
17 *Circulator | 14 Preset Recipes on APP and Thermal Immersion, Fast-Heating with Accurate Temperature and Timer,*
18 *Amazon.com, <https://a.co/d/9uFaNY4> (last visited June 2, 2023) (emphasis added); *Sous Vide Machine |*
19 *Inkbird Wifi Sous Vide **Precision** Cooker,1000W Remote Control Immersion Circulator with APP RecipesTimer*
20 *Alarm Mobile Notification | 3D Water Heating Ultra-Quiet ISV-200W, Amazon.com, <https://a.co/d/5Kq1cSF>*
21 *(last visited June 2, 2023) (emphasis added); *Inkbird WiFi Sous Vide Cooker Culinary Cooker, 1000 Watts, Recipe,*
22 *Precise Temperature and Timer, Programmable Interface, Stainless Steel Thermal Immersion Circulator for Kitchen,*
23 *Amazon.com, <https://a.co/d/9ad5O2i> (last visited June 2, 2023) (emphasis added) (states "The Inkbird*
24 *wifi **Sous Vide precision cooker**" under product features); *INKBIRD WIFI Sous Vide Machine ISV-200W and*
25 *Sous Vide Cooker Storage Case Bag, Hard EVA Protective Case, Amazon.com, <https://a.co/d/05b5u4D> (last*
26 *visited June 2, 2023) (emphasis added) (states "The WiFi **Sous Vide Culinary Precision Cooker**" in*
27***

1 respectively. In almost every instance, the term “Precision” is used in the product titles,
 2 and in other instances, “Precision” is used in a manner to create a likelihood of confusion
 3 between Defendants and Anova, in violation of Anova’s rights in the PRECISION Marks.
 4

5 Just one example is pasted below:

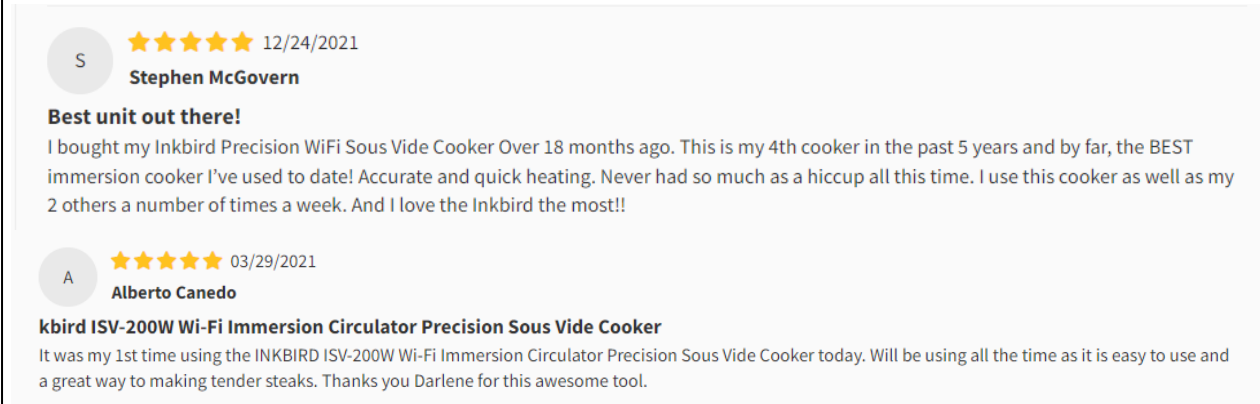


16
 17 51. On information and belief, Inkbird maintains these listing pages; and
 18 permits and encourages individuals to leave reviews for the Accused Products. Examples
 19

20 _____

21
 22
 23
 24 description); *Inkbird WiFi Sous Vide Precision Cooker & Instant Read Thermometer IHT-1P, Thermal Immersion*
 25 *Circulator 1000 Watts Precise Cooker with Recipes on APP/Sous Vide Cooking Machine ISV-100W, Amazon.com,*
 26 <https://a.co/d/9RkOh1e> (last visited June 2, 2023).
 27

1 of consumers using the Precision Marks to refer the Accused Products evidences a
2 likelihood of confusion as to the source of the products, as excerpted below (*see also*
3 Exhibit 7):
4



12 52. On information and belief, Defendant Inkbird Tech at various times has
13 directly referred to the Accused Products as “Inkbird Precision WiFi Sous Vide Cooker
14 ISV-100W with Thermal Immersion Circulator” and “Inkbird ISV-200W Wi-Fi Immersion
15 Circulator Precision Sous Vide Cooker,” thereby infringing the PRECISION Marks and
16 creating a false association with Plaintiff. Copies of screen printouts from
17 Web.Archive.org “Wayback Machine” are attached as Exhibit 11.
18

19
20 53. On information and belief, Defendant Inkbird Tech at various times has
21 used the PRECISION Marks to create online advertisements to be placed on Google.com.
22 Copies of exemplars of such advertisements are attached as Exhibit 12.
23

24 54. On information and belief, after Anova earned rights in the Precision
25 Marks, Defendants have used the Precision Marks in its product titles, thereby creating a
26

1 likelihood of confusion with the Precision Marks, and creating a false association and
2 designation of origin of the Accused Products.

3
4 55. Defendants' unauthorized use in commerce of the PRECISION Marks are
5 likely to cause confusion which constitute use of a false designation of origin and
6 misleading description and representation of fact.

7
8 56. Defendants' unauthorized use of the PRECISION Marks on or in
9 connection with its sous vide products is likely to cause confusion, or to cause mistake or
10 to deceive as to (i) the affiliation, connection, or association of Defendants with Anova,
11 (ii) the origin of the parties' respective goods, and/or (iii) the sponsorship, endorsement,
12 or approval of Defendants' goods by Anova or of Anova's goods by Defendants.

13
14 57. Defendants' unauthorized use of the PRECISION Marks on or in
15 connection with its sous vide products violates Anova's exclusive rights in its
16 PRECISION Marks and constitutes trademark infringement in violation of Section 32(1)
17 of the Lanham Act, 15 U.S.C. § 1114(1).

18
19
20 58. Upon information and belief, Defendants individually and in concert with
21 each other have committed the foregoing acts of infringement with full knowledge of
22 Anova's prior rights in the PRECISION Marks and with the willful intent to infringe and
23 cause confusion and trade on Anova's goodwill.

24
25 59. Defendants' acts of infringement of the PRECISION Marks have caused and
26 will continue to cause Anova immediate and irreparable harm unless such infringing
27

1 activities are enjoined by this Court. This includes *inter alia* loss of customers, customer
2 confusion, loss of market-share, price erosion, loss of customer goodwill, and harm to
3 Anova's reputation as a leading innovator in the kitchen appliance industry. Anova has
4 no adequate remedy at law to address these damages. Anova is thus entitled to a
5 preliminary and permanent injunction against the Defendants' further infringement of
6 the PRECISION Marks.
7

8
9 60. Anova is entitled to, among other relief, injunctive relief and an award of
10 actual damages, Defendants' profits, enhanced damages and profits, reasonable
11 attorneys' fees, and costs of the action under Sections 34 and 35 of the Lanham Act, 15
12 U.S.C. §§ 1116, 1117, together with prejudgment and post-judgment interest.
13

14
15 **COUNT III**
16 **FEDERAL UNFAIR COMPETITION**
17 **AND FALSE DESIGNATIONS OF ORIGIN AND FALSE AND MISLEADING**
18 **REPRESENTATION UNDER 15 U.S.C. § 1125(a)**

19 61. Anova repeats and realleges paragraphs 1 through 60 hereof, as if fully set
20 forth herein.

21 62. Defendants' unauthorized use of the PRECISION Marks on or in
22 connection with its sous vide products violates Anova's exclusive rights in its
23 PRECISION Marks and constitutes trademark infringement, false advertising, and unfair
24 competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).
25
26
27

1 67. As a result of the distinctiveness and widespread use and promotion
2 throughout the United States, Anova’s PRECISION Marks are distinctive and a “famous
3 mark” within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).
4

5 68. The PRECISION Marks became distinctive and famous prior to the
6 Defendants’ acts as alleged herein.
7

8 69. Defendants individually and in concert with each other have are infringing
9 on the PRECISION Marks by their above-mentioned uses.
10

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

17 71. Defendants’ acts of infringement of the PRECISION Marks have caused and
18 will continue to cause Anova immediate and irreparable harm unless such infringing
19 activities are enjoined by this Court. This includes *inter alia* loss of customers, customer
20 confusion, loss of market-share, price erosion, loss of customer goodwill, and harm to
21 Anova’s reputation as a leading innovator in the kitchen appliance industry. Anova has
22 no adequate remedy at law to address these damages. Anova is thus entitled to a
23 preliminary and permanent injunction against the Defendants’ further infringement of
24 the PRECISION Marks.
25
26
27

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

6 78. The acts of Defendants, individually and collectively, constitute the sale
7 and passing-off of its products as Anova's products, infringement, imitation and
8 misappropriation of the PRECISION Marks, unjust enrichment and unfair competition
9 with Anova in violation of its rights at common law.
10

11 79. Defendants' actions as described above regarding the PRECISION Marks
12 constitute trademark infringement in violation of Washington common law.
13

14 80. Upon information and belief, Defendants' infringement of the PRECISION
15 Marks has been, and continues to be knowing, intentional, and willful, and in deliberate
16 disregard of the PRECISION Marks.
17

18 81. Defendants' acts of infringement of the PRECISION Marks have caused and
19 will continue to cause Anova immediate and irreparable harm unless such infringing
20 activities are enjoined by this Court. This includes *inter alia* loss of customers, customer
21 confusion, loss of market-share, price erosion, loss of customer goodwill, and harm to
22 Anova's reputation as a leading innovator in the kitchen appliance industry. Anova has
23 no adequate remedy at law to address these damages. Anova is thus entitled to a
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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 82. Anova repeats and realleges paragraphs 1 through 81 hereof, as if fully set
9 forth herein.

10 83. 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
14 84. Anova has valid and protectable rights in the PRECISION Marks. Anova
15 owns the entire right, title, and interest in and to the PRECISION Marks, including the
16 right to seek damages for past, current, and future infringement thereof.

17
18 85. Defendants' individually and collectively have falsely and deceptively
19 created the impression in commerce that Defendants' goods and services are associated
20 with, sponsored by, or approved by Anova, and are likely to confuse the public as to the
21 source of Defendants' goods and services. Defendants' actions and use of the PRECISION
22 Marks injures Anova's business reputation of Anova and dilute the distinctive quality of
23 its products.
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1 86. Defendants' acts are likely to deceive the public. Defendants mislead
2 members of the public into believing that Defendants' products come from Anova and/or
3 that there is an affiliation between Anova and Defendants or between their respective
4 products and/or that Anova endorses or sponsors or has granted a license for
5 Defendants' products. Defendants' actions constitute unfair and deceptive practices
6 which affect the public interest as a result of the public confusion caused by such acts.
7

8
9 87. Defendants acts constitute the sale and passing-off of its products as
10 Anova's products, infringement, imitation and misappropriation of the PRECISION
11 Marks, and unjust enrichment and unfair competition with Anova in violation of its
12 rights under Washington and federal law.
13

14 88. Defendants' unfair acts as alleged herein have caused and will continue to
15 cause injury to Anova to its business and/or property. Defendants' unlawful
16 misrepresentations have caused harm to Anova by diverting revenues that would
17 otherwise be paid to Anova. Anova's goodwill has been undermined, and it has been
18 forced to expend substantial attorneys' fees and time addressing and undoing such harm,
19 including in this proceeding.
20

21
22 89. Upon information and belief, Defendants' infringement of the PRECISION
23 Marks has been, and continues to be knowing, intentional, and willful, and in deliberate
24 disregard of the PRECISION Marks.
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27

1 any of the foregoing persons or entities from infringing, contributing to the
2 infringement of, or inducing infringement of the '967 Patent and PRECISION
3 Marks;

4
5 C. Ordering Defendants to account and pay damages adequate to compensate Anova
6 for Defendant's infringement of the '967 Patent, including for any infringing acts
7 not presented at trial and pre-judgment and post-judgment interest and costs,
8 pursuant to 35 U.S.C. § 284;

9
10 D. Ordering an accounting for any infringing sales not presented at trial and an
11 award by the court of additional damages for any such infringing sales;

12
13 E. Ordering that the damages award be increased up to three times the actual amount
14 assessed, pursuant to 35 U.S.C. § 284;

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

18
19 G. Directing Defendants to use its best efforts to recall from trade and other third
20 parties any and all infringing goods and to cease any marketing, advertising and
21 promotional materials using products that bear the same confusingly similar
22 variations of the PRECISION Marks in the United States;

23
24 H. Directing Defendants to file with the Court and serve on counsel for Plaintiff,
25 within thirty days after entry of any injunction issued by the Court in this action,
26

1 a sworn statement as provided in 15 U.S.C. § 1116 setting forth in detail the manner
2 and form in which Defendants have complied with the injunction;

3
4 I. Directing Defendants to deliver up to Anova for destruction or other disposition,
5 within thirty days of the entry of final judgment herein, any and all infringing
6 goods and any promotional, marketing, advertising, and promotional materials
7 used in connection with the sale or marketing of any goods or services, now or
8 hereafter in its possession, custody or control;

9
10 J. Directing that Defendants account to and pay over to Anova any and all profits
11 derived by Defendants from the sale of goods or services bearing the PRECISION
12 Marks in accordance with Section 35(a) of the Lanham Act (15 U.S.C. § 1117(a)),
13 enhanced as appropriate to compensate Plaintiff for the damages caused thereby.
14

15 K. Awarding Anova a monetary judgment against the Defendants for Anova's
16 damages and Defendant's profits pursuant to 15 U.S.C. § 1117;

17
18 L. Trebling the amount of such award on account of Defendants' willful, intentional,
19 and bad faith conduct pursuant to 15 U.S.C. § 1117;

20 M. Awarding Anova a monetary judgment against the Defendants for Anova's
21 damages and due to Defendant's unfair competition.
22

23 N. Awarding Anova punitive damages against the Defendants due to Defendants'
24 unfair competition.
25
26
27

1 O. Awarding Anova interest, including prejudgment and post-judgment interest, on
2 the foregoing sums; and

3 P. Awarding such other and further relief as this Court deems just and proper.
4

5 DATED June 6, 2023
6

7 TBILLICK LAW^{PLLC}

8 By  _____
9

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