

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CARAWAY HOME, INC.)	
)	
Plaintiff,)	CIVIL ACTION NO.:
)	
v.)	
)	
SENSIO INC. D/B/A MADE BY GATHER)	<u>JURY TRIAL</u>
)	<u>DEMANDED</u>
Defendant.)	

COMPLAINT

Plaintiff Caraway Home, Inc. (“Caraway” or “Plaintiff”), by and through its attorneys, hereby alleges for its Complaint against Sensio Inc. d/b/a Made by Gather (“Gather” or “Defendant”), maker of the “Beautiful by Drew Barrymore” kitchenware product line, on personal knowledge as to its own activities and on information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement, trade dress infringement, unfair competition, false designation of origin, trade dress dilution, common law trade dress infringement, common law unfair competition, and related claims under the statutory and common law of the State of New York.

2. Plaintiff has revolutionized the manufacture of designer cookware, and created an iconic differentiated design that has resonated with the mass market. What was once humble kitchen cookware has been turned into a masterpiece, blurring the lines

between art and cookware, and achieving Caraway's original mission to create distinctive cookware in the design. Caraway's modern, sleekly designed cookware has won awards and received accolades from major media publications, bloggers, social media influencers and even Oprah Winfrey. Caraway is a consistent fixture in the press, has amassed a stronger social media following than almost all other cookware brands, and is one of the highest rated and reviewed cookware brands on the market with over 50,000 5-Star Reviews.

3. Caraway's plaudits were not merely on paper – the market rewarded Caraway with unprecedented sales and success, resulting in one of the most successful product introductions for modern brands, with revenue growth at an unprecedented rate. Its success is driven by marketing itself based upon its design uniqueness. In what was clearly an attempt to gain a competitive edge against Caraway, and to benefit from Caraway's distinctive trade dress and design, the Defendant has copied Caraway's aesthetic, infringing Plaintiff's trade dress and patents in the process.

4. Plaintiff has thus been forced to file this action to vindicate its rights.

PARTIES

5. Plaintiff is a Delaware corporation with a place of business at 147 W. 26th Street Floor 4, New York, New York 10001. Plaintiff designs, manufactures and sells cookware and related items.

6. Upon information and belief, Defendant Sensio Inc. d/b/a Made by Gather is a New York company with a principal place of business at 261 Madison Avenue, 25th Floor, New York, New York 10016-2303.

7. Upon information and belief, Gather is the owner and manufacturer of the Beautiful by Drew Barrymore kitchenware product line offered for sale through Walmart and Amazon.^{1,2} Upon further information and belief, famous actor Drew Barrymore is the spokesperson of the “Beautiful by Drew Barrymore” brand.

JURISDICTION AND VENUE

8. This action arises under the Patent Laws of the United States, 35 U.S.C. § 100 *et seq.*, the Trademark Laws of the United States, 15 U.S.C. § 1051 *et seq.* (the “Lanham Act”) as well as the laws of the State of New York.

9. Subject matter jurisdiction over the claims is conferred upon this Court by 15 U.S.C. § 1121 (Lanham Act), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1367 (supplemental jurisdiction), and 28 U.S.C. § 1338(a) (patent jurisdiction).

10. This Court has personal jurisdiction over Defendant because, upon information and belief, Defendant maintains continuous and systematic contacts within the state, maintain retail stores, warehouses and/or distribution centers within this state, derive substantial revenue from the state, and has committed acts giving rise to this action within New York and within this District.

11. The exercise of personal jurisdiction comports with Defendant’s right to due process, because it has purposefully availed itself of the privilege of conducting

¹ https://www.walmart.com/ip/Beautiful-12pc-Cookware-Set-White-Icing-by-Drew-Barrymore/1821551567?selected=true&irgwc=1&sourceid=imp_yNOWGuwOTxyNT-KyI53LzzeXUKDQdoUhUXRa2U0&veh=aff&wmlspartner=imp_3006986&clickid=yNOWGuwOTxyNT-KyI53LzzeXUKDQdoUhUXRa2U0&sharedid=&affiliates_ad_id=565706&campaign_id=9383

² https://www.amazon.com/Ceramic-Non-Stick-Cookware-Cornflower-Barrymore/dp/B0BVY548CV/ref=sr_1_1?crid=1H0XAWNCJGRS2&keywords=beautiful%2Bby%2Bdrew%2Bbarrymore%2Bcookware&qid=1698722093&sprefix=beautiful%2Bby%2Bdrew%2Bbarrymore%2Bcookwar%2Caps%2C109&sr=8-1&ufe=app_do%3Aamzn1.fos.f5122f16-c3e8-4386-bf32-63e904010ad0&th=1

activities within the Southern District of New York, such that it should reasonably anticipate being haled into court here.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), and 28 U.S.C. § 1400, at least because Plaintiff resides within this District.

PLAINTIFF’S BRAND RECOGNITION

13. Plaintiff has quickly become one of the most well-known, admired and respected modern consumer brands as a whole, and has become the face of a new generation of cookware. Over one thousand (1000) mainstream news articles have discussed Caraway since November 2019.

14. Media coverage for Caraway’s cookware has been overpowering, with well-known and respected media outlets highlighting its quality, design, and above-all its unique aesthetic. Good Housekeeping ranked Caraway’s cookware set the most stylish ceramic cookware set of 2020 that “come in an array of eye-catching earthy colors...designed to be displayed” and “these pots and pans will surely make a statement atop your stove...the slim lid with flat handles are pretty.” *See* Exhibit A. Food & Wine stated in an article titled “These Are the Prettiest Nonstick Pots and Pans I’ve Ever Cooked With” that Caraway’s products are unique in “how stylish it is. Seriously, the pots and pans are so cute they actually make me want to cook more. Unlike most pots and pans, these pretty pieces come in a variety of Instagram-worthy colors.” *See* Exhibit B. Hunker raves about the uniqueness and beauty of Caraway’s design, stating “have you ever seen a more beautiful set?...not only does it come in a unique hue, but the handles are also super sleek.” *See* Exhibit C. Spruce Eats ranked Caraway as the best designed cookware in 2020, stating “Caraway probably has the most visually appealing cookware out

there...If we had to judge on design alone, we were pretty much sold right away.” *See* Exhibit D. Departures wrote about Caraway’s “cult following,” Travel and Leisure stated that Caraway has become a “household name,” Apartment Therapy has talked about Caraway’s “loyal fanbase,” and Real Simple wrote about a new color Caraway launched “based on the popularity of Caraway...they’re bound to sell quickly.”

15. Oprah Winfrey has named Caraway’s cookware on her “Entertaining *O* List,” a nationally-followed, highly coveted, monthly curated list of only a handful of items that “we think are just great.” Oprah emphasized that Caraway’s “fabulously sophisticated colors . . . mean they are gorgeous.” *See* Exhibit A.

16. Popsugar’s article entitled “I Tried the Internet-Famous Caraway Cookware Set, and I Can Confirm It’s Worth the Hype” enthuses “[d]id I mention how pretty this cookware is? I feel comfortable leaving it out on the stove because of its Instagram-worthy design.” *See* Exhibit B.

17. HuffPost emphasized that they could not get enough of Caraway’s cookware. *See* Exhibit C (“we picked out the prettiest pastel cookware we could find on the internet”). Daily Beast echoed this, adding that Caraway’s cookware is “a statement piece to say the least...they are poppy yet well-designed, and you have the choice of six [colors], which might just be the most difficult decision you’ve made in a while. *See* Exhibit D.

18. Reviewed.com compares Caraway cookware to the beauty of an Apple iPhone: “Caraway gives you an immediate high-quality impression, much like the one you get when you open a new iPhone. The pieces themselves are heavyweight, sleek, attractive with beautiful gleaming stainless-steel handles.” While renowned interior designer Kelly

Wearstler stated that Caraway is “a true game changer, and the pieces come coated in stylish color options.”

19. According to Refinery29, “Sexy and cookware aren’t terms we’re apt to pair, but a new brand [Caraway] just seamlessly melded the two together in a majorly accessible way...The ceramic goods are available in five separate color options that aren’t commonly seen across the current cookware scene...making kitchen clutter look like chic décor.” *See* Exhibit E.

20. Caraway has achieved Inc.’s “Best In Business” Award for 2020 as one of only three companies in the Consumer Products category, alongside Allbirds and Bombas.

21. Caraway was able to achieve such recognition due to its jaw-dropping and unique aesthetic and design. Indeed, Caraway’s website sessions have now grown to over 30 million sessions since 2019, with over one billion impressions on social media.

22. According to Google Trends, “Caraway Cookware” is searched more than popular household brands like “Le Creuset Cookware,” “Williams Sonoma Cookware,” “Rachael Ray Cookware,” and “All Clad Cookware.” While “Caraway Cookware” is searched 90,500 times per month, competitors such as Defendant are only around 7% of that for cookware, at 6,600 times per month. The monthly searches for “Caraway Cookware” are greater than entire categories of cookware, such as “non stick cookware” and “ceramic cookware” as well as “cookware” itself.

23. Caraway cookware has over fifty thousand (50,000) 5-star reviews, making it one of the most highly reviewed cookware brands.

24. Many national retailers have recognized Caraway’s distinctive designs, and awarded Caraway distribution programs. Caraway sells in nationally known and

recognized retailers including Target, Bloomingdales, Macys, Crate & Barrel, Nordstrom, The Container Store, Costco, Anthropologie, The Home Depot, Zola, and others.

PLAINTIFF’S TRADE DRESS

25. Plaintiff’s unique design is made up of distinctive, non-functional aesthetic features that together comprise Plaintiff’s unique cookware design. Through continued use and extensive media coverage, a sampling of which is set forth above, Plaintiff’s Caraway cookware designs have become well-known indicators of the origin and quality of Caraway’s cookware products.

26. Plaintiff is also the owner of four federal registrations for its trade dress, U.S. Registration Nos. 7095737 (Exhibit H), 7095738 (Exhibit I), 7095739 (Exhibit J), and 7095740 (Exhibit K) (collectively referred to as “Plaintiff’s Registrations”).

27. Caraway offers for sale its Cookware Set (and individual cookware pieces), as shown below:



FIG. 1 - Cookware Set

28. The Cookware Set and individual cookware pieces are currently made up of various components, including a Fry Pan, Sauce Pan with Lid, Sauté Pan with Lid, and Dutch Oven with Lid, each with their own unique design features, as set forth below.

29. Caraway has enjoyed significant sales of its Cookware Set (and individual cookware pieces) throughout the United States, and in New York state. Though its sales are confidential, Caraway's growth rate, and absolute revenue, rival those of the most successful direct-to-consumer brands in their early years, including Casper, Warby Parker, Away Luggage, Hims+Hers, and Allbirds. Caraway has invested significantly in the design, development, manufacture, and marketing of its Cookware. Caraway's success has been driven, in large part, by Caraway's painstaking curation and investment in its groundbreaking cookware design.

30. Caraway's Cookware Sets (and individual cookware pieces) incorporate numerous distinctive and non-functional features that identify, to consumers, that the Cookware and its components are made by Caraway. As a result of at least its continuous and exclusive use of these designs, as well as its marketing, advertising, sales and media coverage, Caraway has acquired secondary meaning in its designs, and also owns trade dress rights in the designs and appearance of its Cookware Sets (and individual cookware pieces), which consumers have known to be uniquely associated with Caraway.

31. FIGS. 2-3, below, illustrate a Caraway Fry Pan (the "Fry Pan"), FIG. 4 illustrates the Caraway Sauce Pan (the "Sauce Pan"), FIGS. 5-6 illustrate the Caraway Sauté Pan (the "Sauté Pan"), and FIG. 7 illustrates the Caraway Dutch Oven (the "Dutch Oven") (collectively, the "Caraway Pans"). Caraway possesses trade dress rights in the overall look and appearance in the Caraway Pans, including, the visual flow of the handles; the curves, tapers and lines in the Caraway Pans; the design, style and visual appearance of these curves (including the flattened curve of the lid shown on FIG. 5), tapers and lines in the Caraway Pans; the visual connection and relationship between the curves, tapers and lines in the Caraway Pans; the style, design and appearance of design aspects of the Caraway Pans' handle; the design and appearance of the deep bowl-shape with high sidewalls of the Fry Pan interior; the design and appearance of the glossy finish exterior of the Caraway Pans; the design and appearance of the gloss finish throughout the Caraway Pans, including on the interior, and exterior; both the gloss and brushed finish on the Caraway pans' handles; and the design, appearance and lines of the Fry Pan brushed handle.



FIG. 2 – Caraway Fry Pan



FIG. 3 – Caraway Fry Pan



FIG 4 – Caraway Sauce Pan



FIG. 5 – Caraway Sauté Pan



FIG. 6 – Caraway Sauté Pan



FIG. 7 – Caraway Dutch Oven

32. Caraway further has trade dress rights in the overall look and appearance of the Caraway Pan's handle and its U-shaped, wide-stance space attaching the handle to the rounded pan; the visual appearance of the curves, tapers and lines associated therewith; the design, style, visual appearances, curves, tapers and lines of the open space formed between the edge of the handle at its center, and the pan; the design, style, visual appearances, curves, tapers and lines of the two attachment portions of the handle to the pan; the design, style, visual appearances, curves, tapers and lines of the flattened top side of the handle; the design, style, visual appearances, curves, tapers and lines of the rounded underside of the handle; the design, style, visual appearances, curves, tapers and lines of the handle being thinner at the end closer to the pan, and thicker farther from the pan; and the design, style, visual appearances, brushed metallic finish, curves, tapers and lines of the thick distal hole formed at the distal end of the handle.

33. Caraway further has trade dress rights in the overall look and appearance of the Caraway Pan lid, and in particular its flattened, disc-shape, to provide for a more aesthetically pleasing look distinct than glass and stainless steel.

34. Moreover, Caraway has trade dress rights in the overall look and appearance of the Caraway Pan lid handle, and in particular its design, style, visual appearance, curves, low profile shape, and smooth surface having a noticeable lack of rivets. This Caraway pan lid and pan lid handle are shown below in FIGS. 8-9.



FIG. 8



FIG. 9

35. Caraway further has trade dress rights in the overall look and appearance of the disc-shaped flat lid; and the visual appearance of the curves, tapers and lines associated therewith.

36. Caraway has trade dress rights in the overall look and appearance of the Caraway side and front handles, and in particular their design, style, visual appearance, curves, low profile shape. An example of Caraway's side handle is shown below in FIGS. 10-11:



FIG. 10 – Caraway Side Handle



FIG. 11 – Caraway Front Handle

37. Caraway further has trade dress rights in the overall look, design and appearance, of its white colored cookware, shown below in FIG. 12.



FIG. 12 – Caraway’s White Cookware Set

38. Caraway further has trade dress rights in the overall look, design and appearance, of its green colored cookware, shown below in FIGs. 12-13:



FIG. 12 – Caraway’s Sage Cookware Set



FIG. 13 – Caraway’s Silt Green Cookware Set

39. Caraway further has trade dress rights in the overall look, design and appearance, of its black colored cookware, shown below in FIG. 14.



FIG. 14 – Caraway’s Black Cookware Set

40. Caraway further has trade dress rights in the overall look, design and appearance, of its blue colored cookware, shown below in FIG. 15.



FIG. 15 – Caraway’s Slate Cookware Set

DEFENDANT’S INFRINGING ACTIVITIES

41. Defendant advertises, offers for sale, and sells its “Beautiful 12pc Ceramic Non-Stick Cookware Set” (the “Infringing Products”) on Walmart’s online storefront, as well as in physical Walmart retail locations. Attached in Exhibit F is a true and accurate screenshot of Defendant’s Walmart listing of the Infringing Products.

42. Prior to selling the Infringing products, Defendant sold its “Beautiful 10 PC Cookware Set” an image of which is included below:



FIG. 16 - Beautiful 10 PC Cookware Set

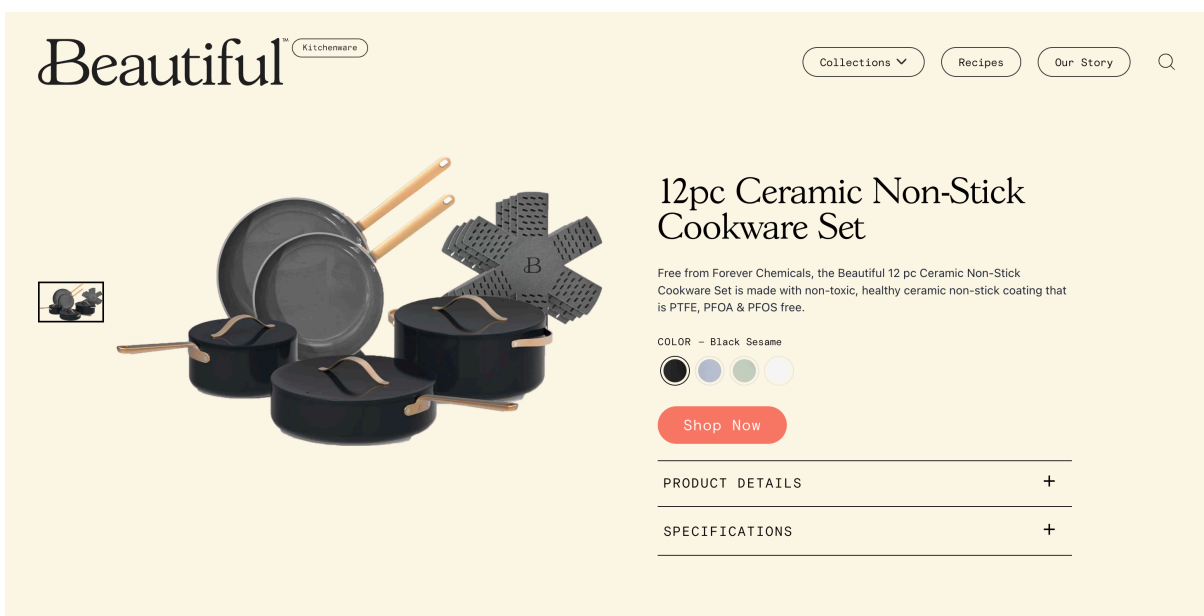
43. Upon information and belief, Defendant terminated the above cookware line because of its underwhelming sales performance. Subsequently, in an effort to recover lost sales, the Defendant chose to adopt a new strategy: replicating Caraway’s designs, which have already demonstrated significant success.

44. After recognizing Caraway’s success in its cutting edge cookware products, Defendant changed the design of its cookware products to reflect the design shown in the Infringing Products, having an aesthetic that was intentionally representative of Caraway’s design - glossy colored cookware with brushed metallic handles, flat lid shapes, curved lid and side handles, similarly shaped fry pan, sauce pan, sauté pan, Dutch oven, and pan handles (including a U-shaped connector and tapering), and similar photography and marketing materials.

45. In marketing Defendant’s Infringing Products, Defendant brazenly flaunted its Infringing Products as having a “[s]leek design with gold die-cast handles”

and “[f]lat die-cast lids for cohesive look and cooking control;” features Defendant directly copied from Caraway.

46. Defendant’s copying of Caraway’s designs did not stop with the Infringing Products. In yet further attempts to replicate Caraway’s brand and steal from Caraway’s established success, Defendant designed several aspects of its website based on Caraway. These aspects include the layout of Caraway’s product pages, and Caraway’s unique font. Such imitation is evidenced by the images below:





47. Due to Defendant's blatant and willful copying and infringement, Plaintiff suffered harm in the form of lost sales of potential customers and the value of its brand was significantly diminished due to the lower cost and quality of the Infringing Products.

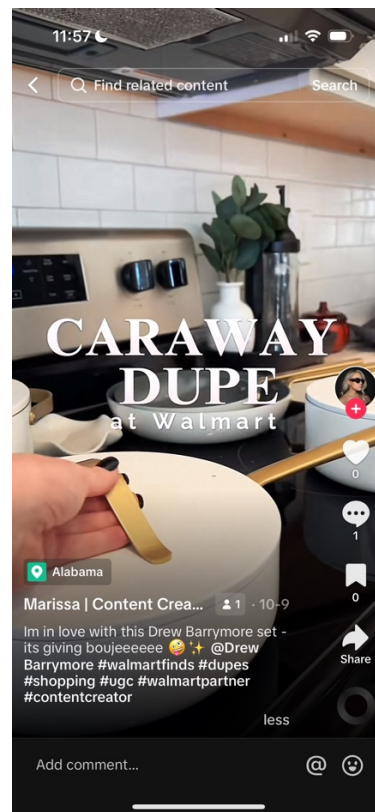
48. Upon information and belief, Defendant willfully copied Plaintiff's Caraway Pans, despite the trade dress and patent rights of Plaintiff, as set forth herein.

49. Defendant has purposefully advertised, promoted, manufactured, imported, offered for sale, sold, distributed, and continues to advertise, promote, manufacture, import, offer for sale, sell and distribute cookware, e.g., the Infringing Products, that violates Caraway's rights, including the rights protected by Caraway's trade dress and patent rights.

50. Defendant's Infringing Products are confusingly similar imitations of Caraway's cookware and are offered in substantially the same form. Defendant's actions have been without the authorization of Caraway.

51. Shown below are examples of Defendant's Infringing Products. As a result of Defendant's activities related to its Infringing Products, there is a strong likelihood of confusion, and indeed actual confusion, between Defendant and its products on the one hand, and Caraway and its products on the other.

52. Indeed, such confusion is particularly evident across social media. Below are several screenshots taken from the Instagram social media platform showing confusion between Caraway's products and the Infringing Products:





53. The similarities between Caraway’s cookware products and the Infringing Products are unmistakable. In an alarming trend of referring to the Infringing Products as a cheaper version of Caraway’s cookware products, an article by IN THE KNOW stated “you may notice that this set looks pretty similar to another Instagram-famous brand, Caraway. However, it costs nearly a third of the price.” *See* Exhibit G.

54. FIG. 10 illustrates a comparison of various products from Defendant and Caraway, illustrating the extent of infringement.

Caraway	Defendant
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55. In particular, Defendant utilizes Caraway's trade dress related to its handles, color, and unique lid designs.

56. Caraway used its trade dress extensively and continuously before Defendant began advertising, promoting, selling, offering for to sell, manufacturing, importing, or distributing its Infringing Products. Upon information and belief, this extensive use caused Defendant to identify Caraway cookware as its motivation in branding and launching. Moreover, Caraway's trade dress has become famous and acquired secondary meaning in the United States in general, and New York in particular, before Defendant commenced its unlawful use. Consumers associate the above-identified trade dress with Caraway and understand that such products are made by Caraway.

COUNT I:
TRADE DRESS INFRINGEMENT UNDER § 43(a) OF THE LANHAM ACT,
15 U.S.C. § 1125(a)

57. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

58. Defendant's advertisement, promotion, manufacture, import, offering for sale, selling and distributing the Infringing Products violate § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), by infringing Caraway's trade dress. Defendant's use of Caraway's trade dress and/or colorable imitations thereof is likely to cause, and has caused, confusion, mistake, or deception as to the affiliation, connection, and/or association of Defendant with Caraway and as to the origin, sponsorship and/or approval of the Infringing Products, at least by creating the false and misleading impression that its Infringing Products are manufactured by, authorized by or otherwise associated with Caraway.

59. Caraway's trade dress is entitled to protection under the Lanham Act. Caraway's trade dress includes unique, distinctive, and non-functional designs.

60. Caraway has extensively and continuously promoted and used its trade dress in the United States. Through that extensive and continuous use, Caraway's trade dress has become a well-known indicator of the origin and quality of Caraway's cookware products, and has also acquired substantial secondary meaning in the marketplace.

Caraway's Lids

Precise Explanation of Lid Trade Dress

61. Caraway's lids are formed in a flattened, disc-shape, to provide for a more aesthetically pleasing look distinct from glass and stainless steel. This feature is shown below.



Distinctiveness of the Lid Trade Dress

62. Caraway’s lids are distinctive due to their radical departure from conventional lid designs. Conventional pot/pan lids, such as the one shown below, are formed of stainless steel or glass, with a domed top. Caraway’s lids are formed of a unique material, aluminum, which is rarely found in conventional lids. Moreover, Caraway’s lids are flat, whereas conventional lids are generally domed. This flatness causes a unique, pancake/disc shape, with thickness, shown above. Conventional lids are domed to allow condensation to slide off and to the side, not on the hand of a user. The flat lid shape is quite distinctive. A search of Google for “flat lid pots and pans” returns only silicone pot covers for temporary use, or stainless steel. No aluminum lids are found.



Non-Functionality of the Lid Trade Dress

63. Caraway's trade dress, as embodied in its lids, is non-functional. Glass lids are the preferred lids for pots and pans, in order to see the contents of the pot and pan (i.e., the food or boiling water). Caraway's lids do not offer that functionality. Glass also causes condensation to roll off and slide down the lid, allowing hot steam and vapor to move off to the sides. Yet, Caraway's lids, not being formed of glass, do not offer this functional benefit.

64. Conventional lids are domed, to further enable condensation to roll to the sides, preventing burning of a hand in the middle. Due to Caraway's flat shape lids, this advantage is not realized, and instead, Caraway's flat shaped-lid must be handled with additional care, due to the lack of this functional benefit.

65. In some alternatives, conventional lids are formed of stainless steel. Here too, they are generally domed. Such lids are often light-weight and thin, making them easier to handle and more ergonomic.

66. Caraway's lids are formed of aluminum, a much heavier and non-ergonomic material. This gives the lids their unique, pancake/disc shape.

67. Stainless steel or glass lids are cheap and easy to make. On the other hand, aluminum lids are expensive, requiring a paint or non-stick coating on the under side. The coating makes manufacturing more difficult, ultimately resulting in higher tooling and manufacturing costs, without any functional benefit.

68. Caraway's lids can pose increased difficulty to a novice cook, due to their heavy nature and non-dome shape. Moreover, the lids' disc shape makes them less than ideal for cooking since water runs into the food and drips on the counter. The heaviness of the lid is of no functional benefit, instead making it more cumbersome to remove and place the lid on a pan. Instead, the heaviness of the lid is solely for aesthetics.

69. Caraway's lids are therefore non-functional.

Side and Front Handles

Precise Explanation of Side and Front Handle Trade Dresses

70. Caraway's side and front handles are formed from cast steel, in a brushed, metallic finish with an elongated "U" design. This feature is shown below. This conforms with the signature metallic look of all metal on Caraway pots and pans.





Distinctiveness of the Side and Front Handle Trade Dress

71. Caraway's U-shaped side and front handles are distinctive due to their radical departure from existing handle designs. Conventional pot/pan handles are formed of either plastic, such as nylon, or steel. Caraway's side and front handles are formed using cast processing. This results in the metallic, brushed look, shown above, and also makes them more costly to manufacture. Further, the handles become heavier, contrary to the common desire to decrease the weight of pots and pans. The process of manufacturing the U-shape, and the brushed look, via the cast processing, not only results in a more difficult manufacturing process, but also leads to increased manufacturing time and costs. Conventional steel handles are brushed. However, Caraway's steel handles are distinctly brushed metal. Conventional steel handles are not brushed because applying such texture adds complexity to the manufacturing process.

72. Conventional side and front handles, such as those shown below, are either shiny, matted or plastic. For the few that may be brushed, they are not formed of such a heavy, thick weighted metal.



Non-Functionality of the Side and Front Handle Trade Dresses

73. Caraway's trade dress, as embodied in its side and front handles, is non-functional. Cast steel handles often retain heat, making them non-ideal to grab and hold while being used. Brushed handles are not functionally efficient, and are often avoided and replaced by matted, plastic, or shiny metal finishes. Shiny/polished metal is cheaper and simpler to manufacture, requires less labor, does not require skilled artisans, and does not show scratches or dents. Brushed handles, such as those used by Caraway, result in greater errors in manufacturing, higher costs, retain and show fingerprints, dents and scratches, and require a technical brushing process with every handle. This results in a more complex supply chain, and requires Caraway to manually train and teach its factories on manufacturing. Due to the U-Shape, factories must also increase manufacturing time by requiring the handle to be rotated to address the U-shaped crevices. Caraway's U-shape requires a defined edge, resulting in greater difficulty in manufacturing.

74. Caraway's side and front handles further result in a gripping portion of the handle that is closer to the pan body compared to traditional cookware. That is, due to the

reduced space between the pan body and handle, the handle itself gets hotter and retains more heat, requiring care when handling.

75. Caraway's side and front handles are therefore non-functional.

Lid Handles

Precise Explanation of Lid Handle Trade Dress

76. Caraway' lid handles are formed from cast steel, in a brushed, metallic finish with an elongated "U" design. This feature is shown below. This conforms with the brushed, metallic look of all metal on Caraway pots and pans.



Distinctiveness of the Lid Handle Trade Dress

77. Caraway's lid handles are distinctive due to their radical departure from existing handle designs. Conventional lid handles are formed of either plastic, such as nylon, or steel. Caraway's lid handles are formed using cast processing. This results in a brushed, metallic look. Further, the handles become heavier, contrary to the common desire to decrease the weight of pots and pans. The process of manufacturing the U-shape, via the cast processing, not only results in a more difficult manufacturing process, but also leads to increased manufacturing time and costs.

78. Conventional lid handles, such as those shown below, are either matted or plastic. For the few that are brushed, they are not formed of such a heavy, thick weighted metal as that used by Caraway.



Non-Functionality of the Lid Handle Trade Dress

79. Caraway's trade dress, as embodied in its lid handles, is non-functional. Cast steel lid handles often retain heat, making them non-ideal to grab and hold while being used. Brushed lid handles are not functionally efficient, and are often avoided and replaced by shiny metal finishes. Shiny metal is cheaper and simpler to manufacture, requires less labor, does not require skilled artisans, and does not show scratches or dents. Brushed lid handles, such as those used by Caraway, result in greater errors in manufacturing, higher costs, retain and show fingerprints, dents and scratches, and require a technical brushing process with every handle. This results in a more complex supply chain, and requires Caraway to manually train its factories on manufacturing. Due to the U-Shape, factories must also increase manufacturing time by requiring the lid handle to be rotated to address the U-shaped crevices. Caraway's U-shape requires a defined edge, resulting in greater difficulty in manufacturing.

80. Caraway's lid handle further results in a gripping portion of the handle that is closer to the pan lid compared to traditional cookware. That is, due to the reduced space between the pan lid and handle, the handle itself gets hotter and retains more heat, requiring care when handling.

81. Therefore, Caraway's lid handle is not functional.

Elongated Side Handles

Precise Explanation of Elongated Side Handle Trade Dress

82. Caraway's elongated side handles are formed from cast steel, in a brushed, metallic finish. The elongated side handle includes a flat top and curved bottom, which is narrower closer to the pan body and gets wider as it moves toward the distal hole end, and incorporates an elongated "U" design that does not sit flush against the pan. This feature is shown below. This conforms with the brushed, metallic look of all metal on Caraway pots and pans.





Distinctiveness of the Elongated Side Handle Trade Dress

83. Caraway's elongated side handles are distinctive due to their radical departure from existing elongated side handle designs. Conventional side handles are formed of either plastic, such as nylon, or steel. Caraway's elongated side handles are formed using a cast processing. This results in a brushed, metallic look, and also makes them more costly to manufacture. Further, the elongated side handles become heavier, contrary to the common desire to decrease the weight of pots and pans. The process of manufacturing the U-shape, and the brushed look, via the cast processing, not only results in a more difficult manufacturing process, but also leads to increased manufacturing time and costs, due to the need to hollow out the center of the elongated side handle and welding together the handle before polishing.

84. Caraway's elongated side handles are unique in their flat top and curved underside. Conventional elongated side handles, such as those shown below, are either matted or plastic. For the few that are brushed, they are not formed of such a heavy, thick weighted metal as that used by Caraway.

Non-Functionality of the Lid Handle Trade Dress

85. Caraway's trade dress, as embodied in its elongated side handles, is non-functional. Cast steel elongated side handles often retain heat, making them non-ideal to grab and hold while being used. Brushed elongated side handles are not functionally efficient, and are often avoided and replaced by shiny metal finishes. Shiny metal is cheaper and simpler to manufacture, requires less labor, does not require skilled artisans, and does not show scratches or dents. Brushed elongated side handles, such as those used by Caraway, result in greater errors in manufacturing, higher costs, retain and show fingerprints, dents and scratches, and require a technical brushing process with every handle. This results in a more complex supply chain, and requires Caraway to manually train its factories on manufacturing. Due to the U-Shape, factories must also increase manufacturing time by requiring the elongated side handle to be rotated to address the U-shaped crevices and tapered shape. Caraway's U-shape requires a defined edge, resulting in greater difficulty in manufacturing.

86. Caraway's elongated side handle further results in a gripping portion of the handle that is closer to the pan compared to traditional cookware. That is, due to the reduced space between the pan and handle, the handle itself gets hotter and retains more heat, requiring care when handling.

87. Therefore, Caraway's elongated side handle is not functional.

Body Shape

Precise Explanation of Body Shape Trade Dress

88. Caraway's pot and pan body shapes are formed of soft and curved edges at the bottom edges of the pans, where the base rolls into the body walls. This results in a smaller base plate, and causes a soft angle to form at the curve below the pan. Thus, the

walls of the Caraway pots and pans slope at a point closer to the center of the base, as opposed to closer to the walls.



Distinctiveness of the Body Shape Trade Dress

89. Caraway's body shapes are distinctive due to their radical departure from existing cookware body shapes. Conventional pot and pan bodies, shown below, are formed with a fully flat base, and attempt to maximize the diameter of the straight lined base to extend as far as possible. This allows for a larger induction plate to be placed on the bottom of the pans.



Non-Functionality of the Body Shape Trade Dress

90. Caraway's trade dress, as embodied in its pot and pan body shape, is non-functional. Conventional pots and pans include a longer and flatter surface, resulting in more contact with the stovetop and therefore quicker cooking time. Additionally, the longer and flatter bottom surface of conventional pans allow for the ability to cook larger single pieces of food. Caraway, on the other hand, utilizes smaller base plates in order to create the soft angle, thereby resulting in a smaller cooking surface, smaller induction plate and causes a large portion of the base to not be covered with a steel plate. Instead, the Caraway pots and pans are covered by paint, which does not increase cooking efficiency, and may scratch off if not used correctly.

91. Therefore, Caraway's body shape is not functional.

92. Defendant's use of Caraway's trade dress has caused and, unless enjoined, will continue to cause substantial and irreparable injury to Caraway for which Caraway has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with Caraway's trade dress with Caraway and Caraway's cookware products.

93. Upon information and belief, Defendant's use of Caraway's trade dress and colorable imitations thereof has been intentional, willful, and malicious. Defendant's bad faith is evidenced at least by the similarity of its Infringing Products to Caraway's trade dress, as demonstrated above, and by Defendant's continuing disregard for Caraway's rights.

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

COUNT II:
TRADE DRESS INFRINGEMENT UNDER § 32 OF THE LANHAM ACT,
15 U.S.C. § 1114

95. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

96. Plaintiff's U.S. Registration No. 7095737 protects "a three-dimensional configuration of a sauté pan with a pan handle featuring a distal hole and a space formed between the handle and pan, an exterior handle, a pan lid featuring a hole and a pan lid handle. The broken lines depicting the bottom edges of the pan lid and the bottom and sides of the pan show the position of the mark on the goods and are not part of the mark. The shading lines emphasize the three-dimensional nature of the mark but are not claimed as features of the mark." Exhibit H.

97. Plaintiff's U.S. Registration No. 7095738 protects "a three-dimensional configuration of a fry pan with a pan handle featuring a distal hole and a space formed between the handle and pan and a pan lid featuring a hole and a pan lid handle. The broken lines depicting the bottom edges of the pan lid and the bottom and sides of the pan show the position of the mark on the goods and are not part of the mark. The shading lines emphasize the three-dimensional nature of the mark but are not claimed as features of the mark." Exhibit I.

98. Plaintiff's U.S. Registration No. 7095739 protects "a three-dimensional configuration of a Dutch oven with a rounded design and two U-shaped handles and a Dutch oven lid featuring a hole, a lie-flat lid shape, and a U-shaped handle. The broken lines depicting the bottom edges of the lid and the bottom and sides of the Dutch oven show the position of the mark on the goods and are not part of the mark. The shading lines

emphasize the three-dimensional nature of the mark but are not claimed as features of the mark.” Exhibit J.

99. Plaintiff’s U.S. Registration No. 7095740 protects “a three-dimensional configuration of a sauce pan with a pan handle featuring a distal hole and a semicircular shape formed between the handle and the pan, a sauce pan lid featuring a hole, a lie-flat lid shape, and a U-shaped handle. The broken lines depicting the bottom edges of the pan lid and the bottom and sides of the pan show the position of the mark on the goods and are not part of the mark. The shading lines emphasize the three-dimensional nature of the mark but are not claimed as features of the mark.” Exhibit K.

100. Defendant’s making, marketing, using, selling, and offering for sale of the Infringing Products embodying Plaintiff’s Registrations is an unauthorized use in commerce of Plaintiff’s Registrations protected by Plaintiff’s Registrations.

101. Defendant’s actions as described herein are likely to cause, and have caused, confusion, mistake, or deception as to the origin and source of Plaintiff’s goods and the Infringing Products, which are in direct competition with each other.

102. Defendant’s infringing acts have damaged, and will continue to damage, Plaintiff’s business, reputation, and good will and is likely to discourage current and potential customers, distributors, retailers, investors, and members of the public from dealing with Plaintiff. Defendant’s conduct has caused, and unless restrained and enjoined will continue to cause, irreparable harm to Plaintiff that cannot be adequately compensated or measured by money alone. Plaintiff has no adequate remedy at law.

103. Defendant is liable under 15 U.S.C. § 1114 for infringement of Plaintiff’s Registrations. Under the Lanham Act, Plaintiff is entitled to preliminary and permanent

injunctive relief enjoining Defendant's continued infringement of Plaintiff's Registrations and recalling all Infringing Products sold or distributed by Defendant.

104. Pursuant to 15 U.S.C. § 1118, Defendant should be ordered to deliver all units of the Infringing Products to Plaintiff or Plaintiff's designee to be destroyed.

COUNT III:
UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN UNDER § 43(a)
OF THE LANHAM ACT, 15 U.S.C. § 1125(a)

105. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

106. Defendant's activities as described above constitute infringement of Caraway's trade dress, false designations of origin, and unfair competition, in violation of 15 U.S.C. § 1125(a).

107. Defendant's acts of false designations of origin and unfair competition have caused and, unless enjoined, will continue to cause substantial and irreparable injury to Caraway for which Caraway has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with Caraway's trade dress with Caraway and Caraway's cookware products.

108. Upon information and belief, Defendant's false designations of origin and unfair competition have been intentional, willful, and malicious. Defendant's bad faith is evidenced at least by the similarity of its Infringing Products to Caraway's, as demonstrated above, and by Defendant's continuing disregard for Caraway's rights.

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

COUNT IV:
COMMON LAW TRADE DRESS INFRINGEMENT

110. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

111. Defendant's advertisement, promotion, manufacture, import, offering for sale, selling and distributing the Infringing Products in direct competition with Caraway constitutes common law trade dress infringement, at least because of Defendant's use of Caraway'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 Defendant's with Caraway and as to the origin, sponsorship and/or approval of Defendant's Infringing Products, at least by creating the false and misleading impression that its Infringing Products are manufactured by, authorized by or otherwise associated with Caraway.

112. Caraway's trade dress is entitled to protection under the common law. Caraway's trade dress includes unique, distinctive, and non-functional designs. Caraway has extensively and continuously promoted and used its trade dress in the United States. Through that extensive and continuous use, Caraway's trade dress has become a well-known indicator of the origin and quality of Caraway's cookware products, and has also acquired substantial secondary meaning in the marketplace.

113. Defendant's use of Caraway's trade dress has caused and, unless enjoined, will continue to cause substantial and irreparable injury to Caraway for which Caraway has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with Caraway's trade dress with Caraway and Caraway's cookware products.

114. Upon information and belief, Defendant's use of Caraway's trade dress and colorable imitations thereof has been intentional, willful, and malicious. Defendant's bad faith is evidenced at least by the similarity of its Infringing Products to Caraway's, as demonstrated above, and by Defendant's continuing disregard for Caraway's rights.

115. Caraway is entitled to injunctive relief, and Caraway is entitled to recover at least Defendant's profits, Caraway's actual damages, enhanced damages, costs, and reasonable attorney fees.

**COUNT V:
COMMON LAW UNFAIR COMPETITION**

116. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

117. Defendant's advertisement, promotion, manufacture, import, offering for sale, selling and distributing the Infringing Products in direct competition with Caraway constitutes common law unfair competition, at least because of Defendant's use of Caraway'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 Defendant's with Caraway and as to the origin, sponsorship and/or approval of Defendant's Infringing Products, at least by creating the false and misleading impression that its Infringing Products are manufactured by, authorized by or otherwise associated with Caraway.

118. Caraway's trade dress is entitled to protection under the common law. Caraway's trade dress includes unique, distinctive, and non-functional designs. Caraway has extensively and continuously promoted and used its trade dress in the United States. Through that extensive and continuous use, Caraway's trade dress has become a well-

known indicator of the origin and quality of Caraway's cookware products, and has also acquired substantial secondary meaning in the marketplace.

119. Defendant's use of Caraway's trade dress has caused and, unless enjoined, will continue to cause substantial and irreparable injury to Caraway for which Caraway has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with Caraway's trade dress with Caraway and Caraway's cookware products.

120. Upon information and belief, Defendant's use of Caraway's trade dress and colorable imitations thereof has been intentional, willful, and malicious. Defendant's bad faith is evidenced at least by the similarity of its Infringing Products to Caraway's, as demonstrated above, and by Defendant's continuing disregard for Caraway's rights.

121. Caraway is entitled to injunctive relief, and Caraway is entitled to recover at least Defendant's profits, Caraway's actual damages, enhanced damages, costs, and reasonable attorney fees.

COUNT VI:
DECEPTIVE PRACTICES AND FALSE ADVERTISING
UNDER NEW YORK GEN. BUS. LAW §§ 349-350

122. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

123. Defendant's acts constitute false advertising and deceptive acts and practices, in violation of New York General Business Law §§ 349-350.

124. Defendant's advertisement, promotion, manufacture, import, offering for sale, selling and distributing the Infringing Products in direct competition with Caraway constitutes activity likely to cause confusion, mistake and deception for and to consumers

as to the source of Caraway's products, such that consumers may believe Defendant's cookware products are sponsored by, endorsed by, approved by, licensed by, authorized by, or affiliated or connected with Caraway.

125. Defendant has acted willfully and deliberately and has profited and been unjustly enriched by sales they would not otherwise have made but for their unlawful conduct.

126. Defendant has, by virtue of the foregoing, caused Caraway to suffer injuries for which, unless enjoined, Caraway will continue to suffer substantial and irreparable injury for which Caraway has no adequate remedy at law, including at least substantial and irreparable injury to the goodwill and reputation for quality associated with Caraway's trade dress with Caraway and Caraway's cookware products.

127. Upon information and belief, Defendant's actions have been intentional, willful, and malicious. Defendant's bad faith is evidenced at least by the similarity of its Infringing Products to Caraway's, as demonstrated above, and by Defendant's continuing disregard for Caraway's rights.

128. Caraway is entitled to injunctive relief, and Caraway is entitled to recover at least Defendant's profits, Caraway's actual damages, enhanced damages, costs, and reasonable attorney fees.

COUNT VII:
TRADEMARK DILUTION AND INJURY TO BUSINESS REPUTATION
UNDER NEW YORK GEN. BUS. LAW § 360-L

129. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

130. Defendant's acts constitute trademark dilution and injury to business reputation, in violation of New York General Business Law § 360-L.

131. Caraway's trade dress is distinctive and famous within the meaning of New York General Business Law §§ 360-L, and were famous prior to the acts committed by Defendant discussed herein.

132. Defendant's use of the trade dress has diluted, or is likely to dilute, and unless enjoined will continue to dilute, the distinctive quality of the trade dress by destroying the exclusive association between the trade dress and Caraway's cookware, or otherwise lessening the capacity of the trade dress to exclusively identify Caraway and its cookware, and otherwise injure the business reputation of Caraway.

133. Defendant has acted willfully and deliberately and have profited and been unjustly enriched by sales they would not otherwise have made but for their unlawful conduct.

134. Defendant has caused Caraway to suffer injuries for which it is entitled to recover compensatory damages including, but not limited to, Caraway's lost profits.

135. Defendant's acts are causing and continue to cause Caraway irreparable harm in the nature of loss of control over its reputation and loss of substantial consumer goodwill. This irreparable harm to Caraway will continue, without any adequate remedy at law, unless and until Defendant's unlawful conduct is enjoined by this Court.

136. Caraway has been and will continue to be harmed by Defendant's conduct in an amount to be determined at trial.

COUNT VIII:
DESIGN PATENT INFRINGEMENT OF DESIGN PATENT NO. D917,226
UNDER 35 U.S.C. § 271

137. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

138. United States Design Patent No. D917,226 (the “‘226 Patent”), entitled “Cookware Lid Handle,” was filed as Serial No. 29/709,070 on October 11, 2019, and named Jordan Nathan, Benjamin Gross, Kenneth Young and Bret Recor as inventors. Attached as Exhibit L is a true and correct copy of the ‘226 Patent.

139. The ‘226 Patent is directed to “the ornamental design for a cookware lid handle.”

140. Plaintiff is the assignee of all right, title, and interest in and to the ‘226 Patent.

141. The ‘226 Patent issued on April 27, 2021.

142. The ‘226 Patent covers a lid handle design, such as shown in FIGS. 1 and 3 of the issued patent:

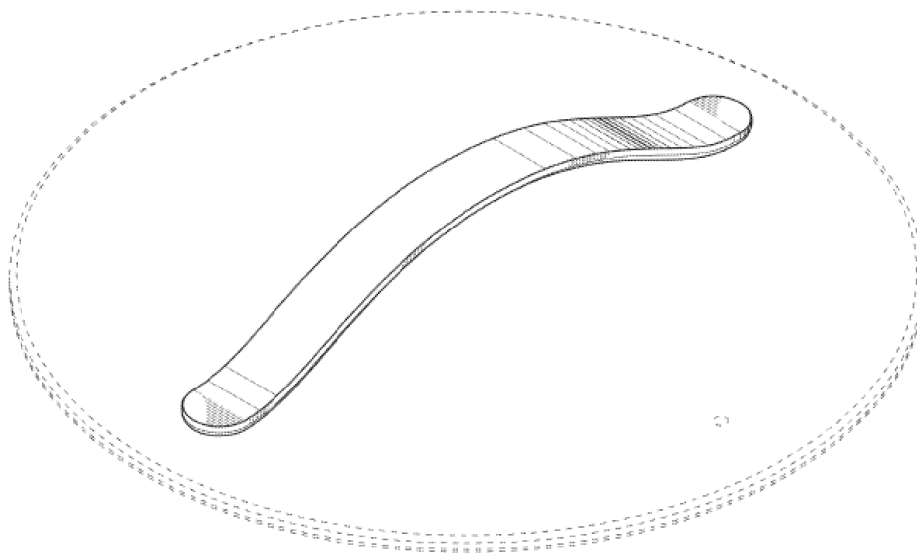
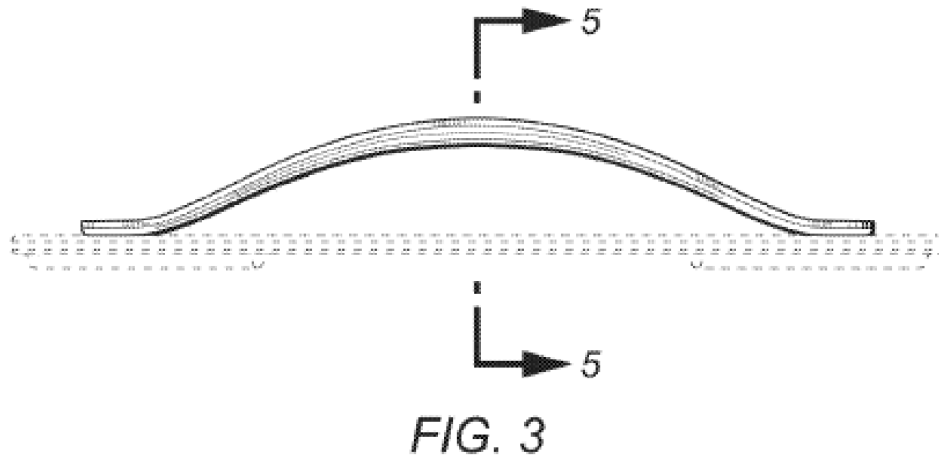


FIG. 1



143. Defendant infringes the '226 Patent at least through their offer for sale, importation, manufacture, design, and marketing of the Infringing Products.

144. Defendant offers for sale Infringing Products with a handle that, to the ordinary observer, is substantially the same, thereby deceiving observers to believe that the Defendant's lid handle is the one offered by Plaintiff. Defendant's lid handle design is shown below:





145. The Infringing Products incorporate this patented design. Defendant’s infringement of the ‘226 Patent is willful, with wanton disregard of the protection afforded under the patent laws.

146. Defendant’s continued marketing, sales, manufacturing and offering for sale of the Infringing Products constitutes willful infringement.

147. Upon information and belief, Defendant possesses knowledge of the ‘226 Patent.

148. Caraway is entitled to injunctive relief, and Caraway is entitled to recover at least Defendant’s profits, Caraway’s actual damages, enhanced damages, costs, and reasonable attorney fees.

COUNT IX:
DESIGN PATENT INFRINGEMENT OF DESIGN PATENT NO. D953,102
UNDER 35 U.S.C. § 271

149. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

150. United States Design Patent No. D953,102 (the “‘102 Patent”), entitled “Cookware Lid,” was filed as Serial No. 29/780,165 on April 22, 2021, and named Jordan

Nathan, Benjamin Gross, Kenneth Young and Bret Recor as inventors. Attached as Exhibit M is a true and correct copy of the '102 Patent.

151. The '102 Patent is directed to “the ornamental design for a cookware lid.”

152. Plaintiff is the assignee of all right, title, and interest in and to the '102 Patent.

153. The '102 Patent issued on May 31, 2022.

154. The '102 Patent covers a lid design, such as shown in FIG. 1 of the issued patent:

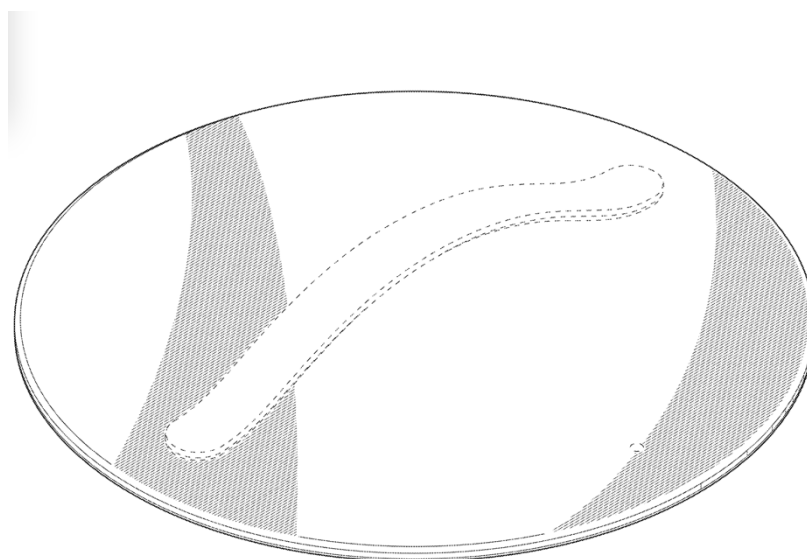


FIG. 1

155. Defendant infringes the '102 Patent at least through their offer for sale, importation, manufacture, design, and marketing of the Infringing Products.

156. Defendant offers for sale Infringing Products with a lid that, to the ordinary observer, is substantially the same, thereby deceiving observers to believe that the

Defendant's lid is the one offered by Plaintiff. A copy of Defendant's lid design is shown below:



157. The Infringing Products incorporate this patented design. Defendant's infringement of the '102 Patent is willful, with wanton disregard of the protection afforded under the patent laws.

158. Defendant's continued marketing, sales, manufacturing and offering for sale of the Infringing Products constitutes willful infringement.

159. Upon information and belief, Defendant possesses knowledge of the '102 Patent.

160. Caraway is entitled to injunctive relief, and Caraway is entitled to recover at least Defendant's profits, Caraway's actual damages, enhanced damages, costs, and reasonable attorney fees.

COUNT X:
DESIGN PATENT INFRINGEMENT OF DESIGN PATENT NO. D917,421
UNDER 35 U.S.C. § 271

161. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

162. United States Design Patent No. D921,421 (the "'421 Patent"), entitled "Cookware Lid," was filed as Serial No. 29/709,068 on October 11, 2019, and named

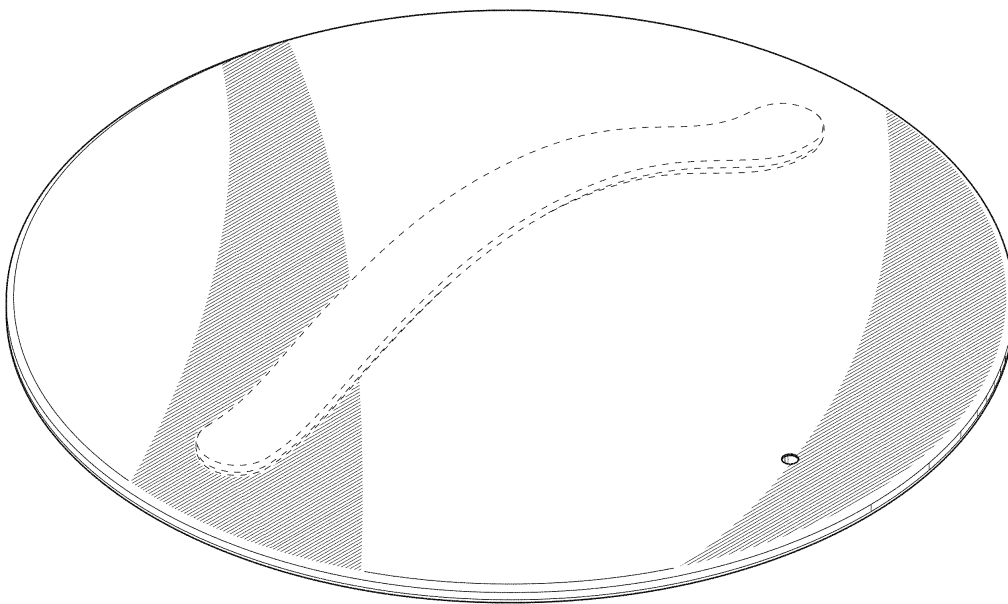
Jordan Nathan, Benjamin Gross, Kenneth Young and Bret Recor as inventors. Attached as Exhibit N is a true and correct copy of the '421 Patent.

163. The '421 Patent is directed to “the ornamental design for [a] cookware lid.”

164. Plaintiff is the assignee of all right, title, and interest in and to the '421 Patent.

165. The '421 Patent issued on June 8, 2021.

166. The '421 Patent covers a lid design, such as shown in FIG. 1 of the issued patent:



167. Defendant infringes the '421 Patent at least through their offer for sale, importation, manufacture, design, and marketing of the Infringing Products.

168. Defendant offers for sale Infringing Products with a lid that, to the ordinary observer, is substantially the same, thereby deceiving observers to believe that the Defendant's lid is the one offered by Plaintiff. Copies of Defendant's lid design are shown below:



169. The Infringing Products incorporate this patented design. Defendant’s infringement of the ‘421 Patent is willful, with wanton disregard of the protection afforded under the patent laws.

170. Defendant’s continued marketing, sales, manufacturing and offering for sale of the Infringing Products constitutes willful infringement.

171. Upon information and belief, Defendant possesses knowledge of the ‘421 Patent.

172. Caraway is entitled to injunctive relief, and Caraway is entitled to recover at least Defendant’s profits, Caraway’s actual damages, enhanced damages, costs, and reasonable attorney fees.

COUNT XI:
DESIGN PATENT INFRINGEMENT OF DESIGN PATENT NO. D918,647
UNDER 35 U.S.C. § 271

173. Plaintiff re-alleges and incorporates the allegations in each of the paragraphs in this Complaint as if fully set forth herein.

174. United States Design Patent No. D918,647 (the “‘647 Patent”), entitled “Cookware Side Handle,” was filed as Serial No. 29/790.082 on October 11, 2019, and

named Jordan Nathan, Benjamin Gross, Kenneth Young and Bret Recor as inventors. Attached as Exhibit O is a true and correct copy of the '647 Patent.

175. The '647 Patent is directed to “the ornamental design for a cookware side handle.”

176. Plaintiff is the assignee of all right, title, and interest in and to the '647 Patent.

177. The '647 Patent issued on May 11, 2021.

178. The '647 Patent covers a side handle design, such as shown in FIG. 1 of the issued patent:

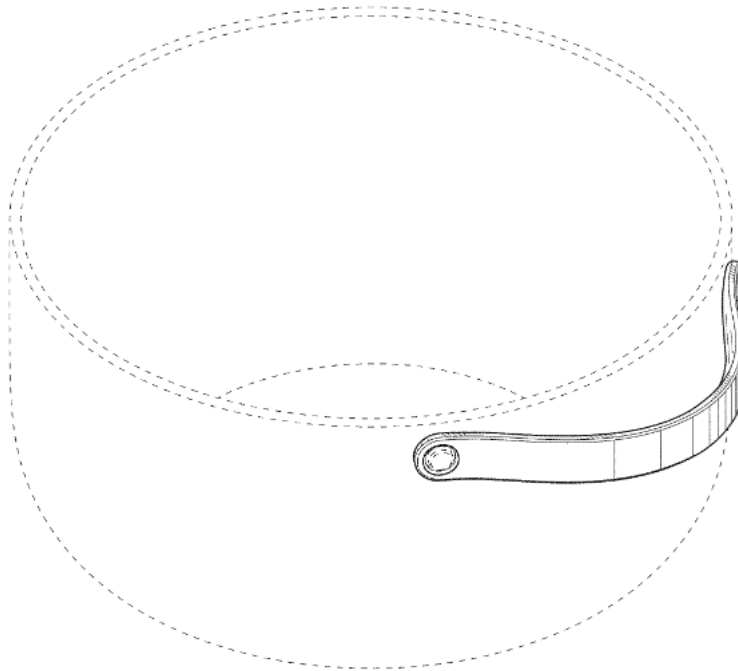


FIG. 1

179. Defendant infringes the '647 Patent at least through their offer for sale, importation, manufacture, design, and marketing of the Infringing Products.

180. Defendant offers for sale the Infringing Products with a handle that, to the ordinary observer, is substantially the same, thereby deceiving observers to believe that the Defendant's pot is the one offered by Plaintiff. Copies of Defendant's handle design are shown below:



PRAYER FOR RELIEF

WHEREFORE, Caraway respectfully requests that the Court:

A. Grant judgment in favor of Caraway and Defendant on all of Caraway's claims;

B. Preliminarily and permanently enjoin and restrain Defendant, its officers, agents, subsidiaries, servants, partners, employees, attorneys, investors, consultants and all others in active concert or participation with them, from:

- a. Making any use of the trade dress, or any designation of origin confusingly similar thereto, including offering to sell, selling, distributing, or importing into the U.S. cookware incorporating the trade dress;
- b. Infringing or diluting any of the trade dress;
- c. Infringing any Caraway patents;
- d. Unfairly competing with Caraway in the manufacture, importation, advertising, offering for sale, sale, shipment and/or distribution of cookware;
- e. Disposing of, destroying, moving, secreting, relocating and/or transferring any and all of Defendant's stock of the Infringing Products or cookware incorporating the trade dress, without court direction;
- f. Disposing of, destroying, moving, secreting, relocating and/or transferring any information, records, and/or documents in Defendant's possession pertaining to their purchase, importation, receipt, advertising, offering for sale, sale, shipment and/or distribution of cookware incorporating the trade dress; and,
- g. Assisting, aiding or abetting any other person or business entity in engaging in or performing any of the aforementioned activities.

C. Order Defendant to, at Defendant's expense, withdraw from the market, account for and properly destroy any and all products bearing the trade dress;

D. Order Defendant, pursuant to 15 U.S.C. § 1116, to serve on Caraway within thirty (30) days after service on Defendant of preliminary or permanent injunctive orders, a report in writing, under oath, setting forth in detail the manner and form in which Defendant has complied with the injunction.

E. Order Defendant to account for, and pay over to Caraway, Defendant's profits and all damages sustained by Caraway;

F. Increase the amount of damages and/or profits awarded to Caraway, as provided by law;

G. Award Caraway such treble and punitive damages for Defendant's willful and intentional acts of unfair competition, design patent infringement, and infringement of Caraway's rights that the Court shall deem just and proper;

H. Award Caraway the fees, costs and disbursements, and interest, expended in connection with any actions taken to investigate and confirm the claims made herein;

I. Award Caraway its reasonable attorneys' fees, costs, disbursements, and interest, as provided by law; and

J. Grant such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment, Plaintiff demands a trial by jury on all claims and issues so triable.

[SIGNATURE PAGE FOLLOWS]

Dated: November 3, 2023

Caraway Home, Inc.,

/s/ Andrew D. Bochner
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