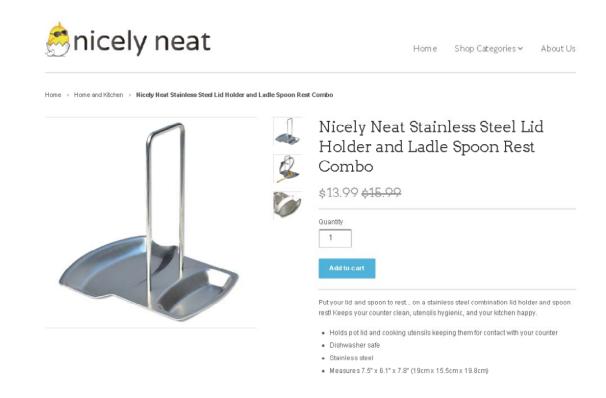
	Case 2:17-cv-00449-RSM Doo	cument 1	Filed 03/21/17	Page 1 of 6	
1 2 3 4 5 6 7					
8	UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE				
 9 10 11 12 13 14 15 16 17 18 	PROGRESSIVE INTERNATIONAL CORPORATION, Plaintiff, v. Yellow Mountain Imports, Inc., Defendant. Plaintiff Progressive International Co Yellow Mountain Imports, Inc. ("Yellow Mo	orp. ("Progr	Civil Action No. COMPLAINT FOF NFRINGEMENT URY DEMANDE	D	
19 20	PARTIES 1. Progressive is a corporation organized and existing under the laws of the state of Delaware having its principal place of business at 20435 72 nd Avenue South, Suite 400, Kent, Washington, 98032. 2. Upon information and belief, defendant Yellow Mountain is a Nevada corporation having a principal place of business at 1930 Village Center Circle, #3-9999, Las Vegas, Nevada 89134.				
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27	COMPLAINT - 1 Civil Action No. PROG-6-1027 P01 Complaint			Ton Fifth Avenue, Suite Seattle, Washington 98	e 4800 8104
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JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281 and 289. Accordingly, original jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331.

4. Yellow Mountain has offered for sale or sold a spoon rest in the United States, including in the Western District of Washington. Yellow Mountain does business under the trademark "Nicely Neat," and operates an Internet site at nicelyneat.com. Yellow Mountain also sells its products online at amazon.com and ebay.com. Yellow Mountain's online sales efforts are directed to customers nationally, including in the Western District of Washington. The nicelyneat.com website is an active site from which its products may be directly purchased using a shopping cart model. The accused spoon rest has been offered for sale nationwide using the shopping cart website, as shown in the image from the website at nicelyneat.com.



5. The accused spoon rest has also been sold by Yellow Mountain or other resellers through Amazon.com, ebay.com, and other outlets, with the purpose and intent that the product

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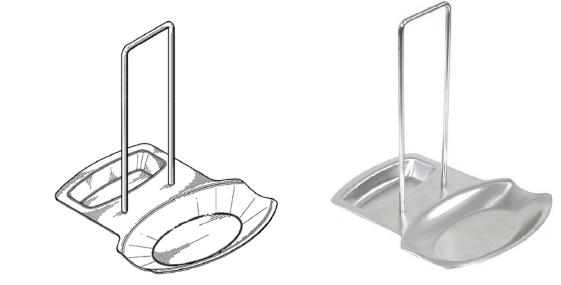
would be offered and sold throughout the United States and within this district. Yellow Mountain is therefore subject to personal jurisdiction in the Western District of Washington.

6. For purposes of venue, Yellow Mountain resides in the Western District of Washington pursuant to 28 U.S.C. § 1391(c).

PROGRESSIVE'S PATENTED PRODUCT

7. Progressive is the assignee of U.S. Patent No. D475,898 (the '898 patent) claiming an ornamental design for a combined spoon and lid rest.

8. Progressive has sold a commercial embodiment under the above patent, and its product has enjoyed commercial success. Progressive has marked its product with the number of the '898 patent. An image from the '898 patent is below at the left; an image of the Progressive commercial product is below at the right.



YELLOW MOUNTAIN'S WRONGFUL CONDUCT

9. Yellow Mountain has made, imported, offered for sale, and/or sold spoon rests that infringe Progressive's patent rights. The Yellow Mountain products are identical to those made and sold by Progressive, and identical to the design claimed in the '898 patent.

10. The Yellow Mountain product, sold under the Nicely Neat brand name, is shown

below.

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11. As is clear from the above image, the Yellow Mountain spoon rest sold under the Nicely Neat trademark is an exact copy of the Progressive spoon rest, and infringes the '427 patent.

12. Yellow Mountain has known that its spoon rests infringe the above Progressive patent. On October 21, 2015, counsel for Progressive wrote to Mr. Pong Yen, president of Yellow Mountain, to provide notice of the infringement. Mr. Yen acknowledged the sales but would not otherwise compensate Progressive for the infringement. On information and belief, Yellow Mountain continued to sell the accused products even after having notice of the infringement.

COUNT I: INFRINGEMENT OF DESIGN PATENT NO. D475,898

13. Progressive repeats the allegations above.

14. The accused spoon rests made, offered for sale, sold, and imported by Yellow Mountain infringe Progressive's '898 patent.

15. Yellow Mountain has not been granted any license or other authority from Progressive.

16. The activities by Yellow Mountain with regard to its spoon rest products constitute direct infringement of the '898 patent pursuant to 35 U.S.C. § 271.

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17. As a direct result of the infringing activity by Yellow Mountain, Progressive has suffered, and will continue to suffer, damages in an amount to be established at trial. In addition, Progressive has suffered, and continues to suffer, irreparable harm for which there is no adequate remedy at law.

18. The infringement by Yellow Mountain was with full knowledge of the Progressive patent, and has continued despite that knowledge. Yellow Mountain's infringement is in willful disregard of Progressive's patent rights.

REQUEST FOR RELIEF

Progressive requests the following alternative and cumulative relief:

- 1. That Yellow Mountain be preliminarily and permanently enjoined and restrained from directly or indirectly making, using, importing, exporting, offering for sale, or selling infringing spoon rests or colorable imitations thereof;
 - 2. That Yellow Mountain pay damages adequate to compensate Progressive for the infringement by the Yellow Mountain, and in no event less than a reasonable royalty for the use of the invention;
 - 3. That the damages award be trebled pursuant to 35 U.S.C. § 284;
 - 4. That Progressive be granted its reasonable attorneys' fees pursuant to 35 U.S.C. § 285 or other applicable laws;
 - 5. That Progressive be awarded prejudgment interest, postjudgment interest, and costs; and
 - 6. Such other and further relief as the Court may deem just and proper.

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JURY DEMAND

Progressive demands a jury trial on all issues triable by jury.

DATED this 20th day of March, 2017.

LOWE GRAHAM JONES

Unumphral s/

Lawrence D. Graham, WSBA No. 25402 Graham@LoweGrahamJones.com 701 Fifth Avenue, Suite 4800 Seattle, Washington 98104 T: 206.381.3300 F: 206.381.3301 *Attorneys for Progressive International Corp.*

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