

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

PROGRESSIVE INTERNATIONAL
CORPORATION,

Plaintiff,

v.

Yellow Mountain Imports, Inc.,
Defendant.

Civil Action No.

COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMANDED

Plaintiff Progressive International Corp. (“Progressive”) hereby alleges as follows against
Yellow Mountain Imports, Inc. (“Yellow Mountain”).

PARTIES

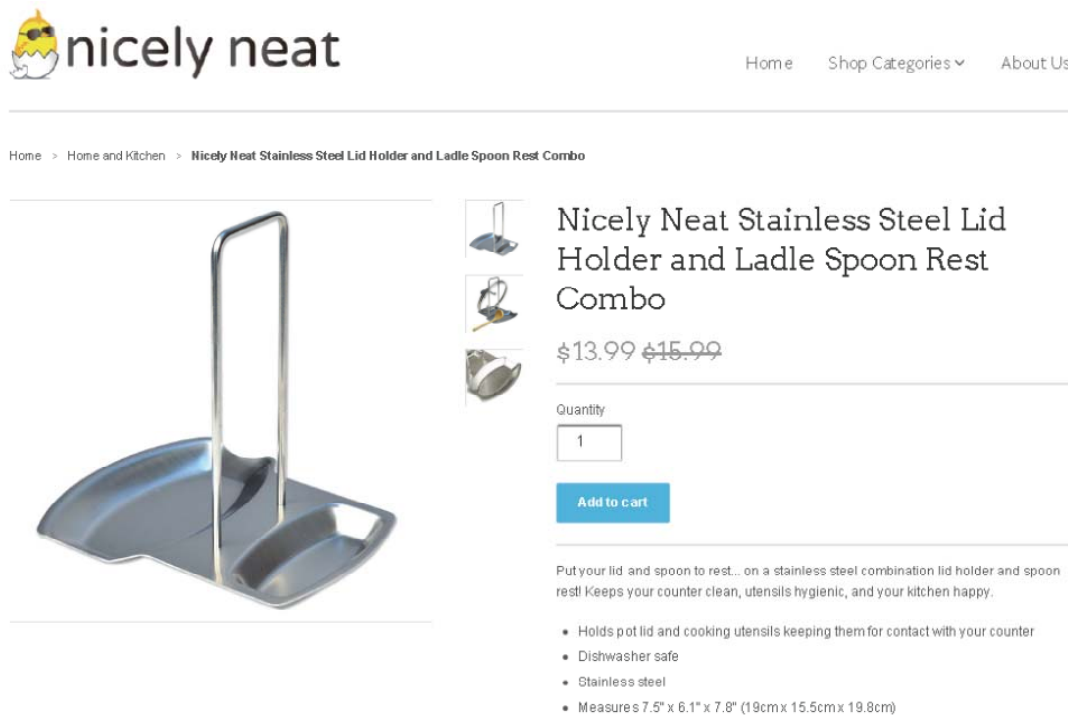
1. Progressive is a corporation organized and existing under the laws of the state of
Delaware having its principal place of business at 20435 72nd Avenue South, Suite 400, Kent,
Washington, 98032.

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.

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

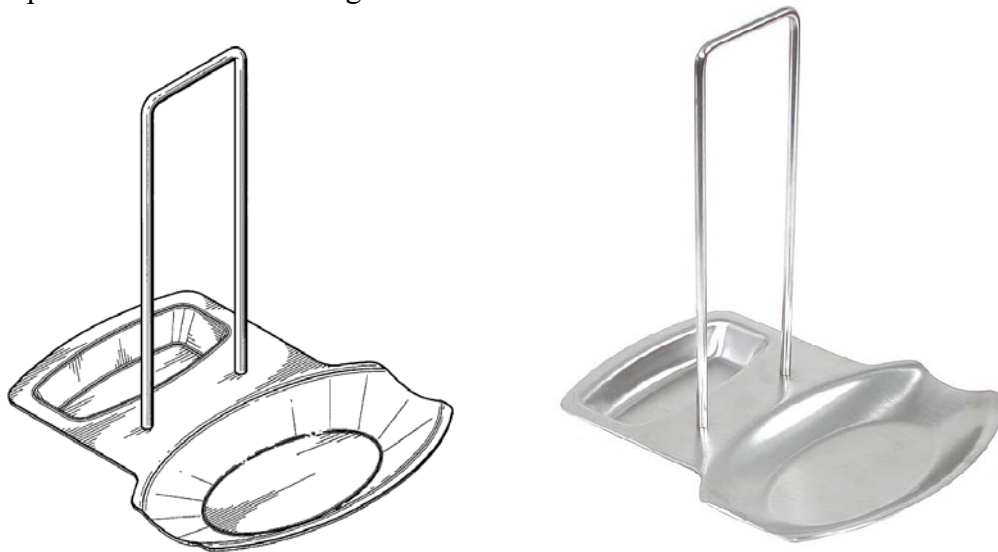
would be offered and sold throughout the United States and within this district. Yellow Mountain is therefore subject to personal jurisdiction in the Western District of Washington.

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.



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.

JURY DEMAND

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

DATED this 20th day of March, 2017.

LOWE GRAHAM JONES^{PLLC}

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.