

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

PROGRESSIVE INTERNATIONAL  
CORPORATION,

Plaintiff,

v.

AMGTM LLC and CUL Distributors, LLC,  
Defendants.

Civil Action No. 2:17-CV-00448-RAJ

FIRST AMENDED COMPLAINT FOR  
PATENT INFRINGEMENT

JURY DEMANDED

Plaintiff Progressive International Corp. (“Progressive”) hereby alleges as follows against  
AMGTM LLC (“AMGTM”) and CUL Distributors, LLC (“CUL Distributors”).

**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<sup>nd</sup> Avenue South, Suite 400, Kent,  
Washington, 98032.

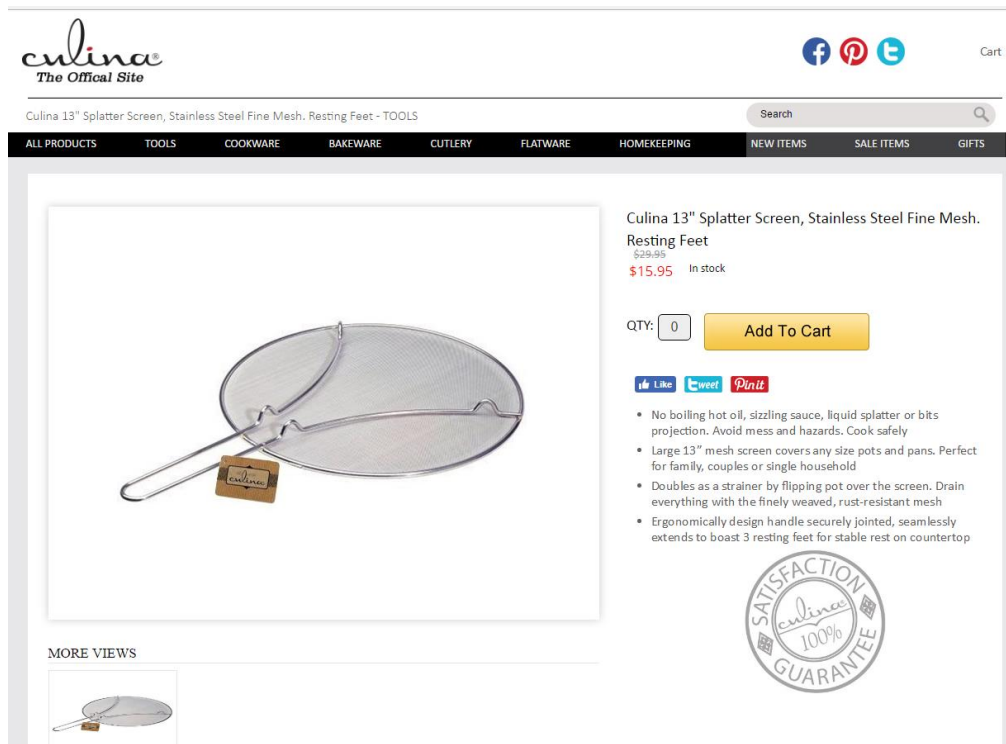
2. Upon information and belief, defendant AMGTM is a Nevada limited liability  
company having an address at 8051 La Jolla Scenic Dr. North, La Jolla, California, 92039.

3. Upon information and belief, defendant CUL Distributors is a California limited  
liability company having an address at 12525 Kirkham Court, Poway, California 92064.

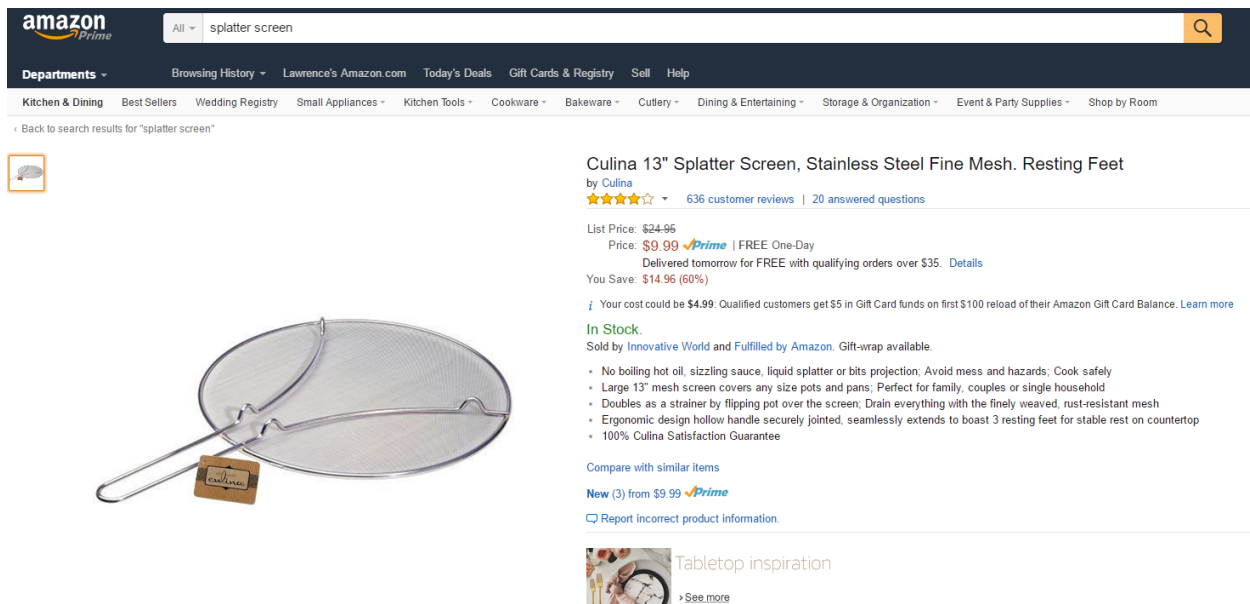
## JURISDICTION AND VENUE

4. 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.

5. AMGTM and/or CUL Distributors have offered for sale or sold a splatter screen in the United States, including in the Western District of Washington. AMGTM and CUL Distributors do business under the trademark “Culina” in which AMGTM owns the trademark and AMGTM and/or CUL Distributors operates an Internet site at culinacollection.com. AMGTM and/or CUL Distributors also sells its products through an online store at amazon.com. The online sales efforts are directed to customers nationally, including in the Western District of Washington. The culinacollection.com website is an active site from which its products may be directly purchased using a shopping cart model. The accused splatter screen has been offered for sale nationwide using the shopping cart website, as shown in the image from the website at culinacollection.com.



6. The accused splatter screen has also been sold by AMGTM and/or CUL Distributors or other retailers through Amazon.com, with the purpose and intent that the product would be offered and sold throughout the United States and within this district. The splatter screen may be purchased from Amazon.com using a shopping cart model allowing consumers in this district to purchase the product directly, as shown below.

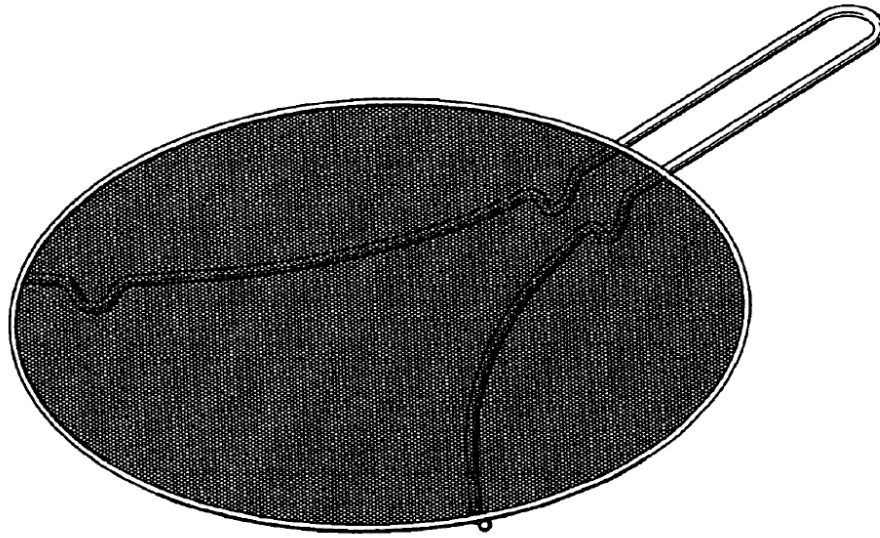


7. AMGTM and CUL Distributors are therefore subject to personal jurisdiction in the Western District of Washington.

8. For purposes of venue, AMGTM resides in the Western District of Washington pursuant to 28 U.S.C. § 1391(c). CUL Distributors acknowledges that venue is proper in this district or does not dispute that venue is proper.

### PROGRESSIVE'S PATENTED PRODUCT

9. Progressive is the assignee of U.S. Patent No. D494,427 (the '427 patent) claiming an ornamental design for a splatter screen. One of the images from the '427 patent is shown below.



*Fig. 1.*

10. Progressive has sold a commercial embodiment under the above patent, and its product has enjoyed commercial success. An exemplary image of a patented Progressive product is shown below. Progressive has marked its product with the number of the '427 patent.



#### **DEFENDANTS' WRONGFUL CONDUCT**

11. AMGTM and/or CUL Distributors have made, imported, offered for sale, and/or sold splatter screens that infringe Progressive's patent rights. The infringing products are identical to those made and sold by Progressive, and identical to the design claimed in the '427 patent.

1           12.     The AMGTM and/or CUL Distributors product, sold under the Culina brand name,  
2 is shown below.



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12           13.     As is clear from the above images, the infringing splatter screen sold under the  
13 Culina trademark is an exact copy of the Progressive splatter screen, and infringes the '427 patent.

14           14.     AMGTM and CUL Distributors have known that their splatter screens infringe the  
15 above Progressive patent. On October 29, 2015, counsel for Progressive wrote to counsel for  
16 AMGTM to provide notice of the infringement. Thereafter, counsel for AMGTM suggested that a  
17 resolution could be reached, responding with a letter dated November 18, 2015 that counsel would  
18 work toward a “friendly resolution.” Counsel for Progressive participated in a telephone  
19 conference and then sent communications to counsel for AMGTM on several occasions thereafter,  
20 but counsel for AMGTM ignored Progressive’s further attempts to discuss the matter even after  
21 insisting that AMGTM was represented by counsel.

22           15.     Despite an exchange of letters, emails and a phone conference regarding the  
23 infringement, AMGTM abruptly and without explanation simply ceased all communications and  
24 has ignored Progressive’s effort to enforce its patent rights. Instead, AMGTM has continued to  
25 sell its products with the full knowledge that they infringe Progressive’s patents. For example,  
26 even now the product is still being sold through Amazon.com and through culinacollection.com,  
27 as shown in the images above.

1           16.     Upon information and belief, AMGTm and CUL Distributors are both owned  
 2 solely or principally by the same single individual, Mr. Abraham Greenboim. In addition, both  
 3 AMGTm and CUL Distributors are represented by the same counsel, Mr. Nicholas Myers. CUL  
 4 Distributors has therefore been aware of the fact of infringement and Progressive's assertion of  
 5 infringement at all relevant times beginning on or about October 29, 2015 and continuing  
 6 thereafter. CUL Distributors nonetheless continued to sell its products with full knowledge of the  
 7 infringement.

8                   **COUNT I: INFRINGEMENT OF DESIGN PATENT NO. D494,427**

9           17.     Progressive repeats the allegations above.

10          18.     The accused splatter screens made, offered for sale, sold, and imported by AMGTm  
 11 and/or CUL Distributors infringe Progressive's '427 patent.

12          19.     AMGTm and CUL Distributors have not been granted any license or other  
 13 authority from Progressive.

14          20.     The activities by AMGTm and/or CUL Distributors with regard to their splatter  
 15 screen products constitute direct infringement of the '427 patent pursuant to 35 U.S.C. § 271.

16          21.     As a direct result of the infringing activity by AMGTm and/or CUL Distributors,  
 17 Progressive has suffered, and will continue to suffer, damages in an amount to be established at  
 18 trial. In addition, Progressive has suffered, and continues to suffer, irreparable harm for which  
 19 there is no adequate remedy at law.

20          22.     The infringement by AMGTm and/or CUL Distributors was with full knowledge  
 21 of the Progressive patent, and has continued despite that knowledge. AMGTm's and/or CUL  
 22 Distributors' infringement is in willful disregard of Progressive's patent rights.

23  
 24                   **REQUEST FOR RELIEF**

25           Progressive requests the following alternative and cumulative relief:

- 26           1.     That AMGTm and CUL Distributors be preliminarily and permanently enjoined  
 27 and restrained from directly or indirectly making, using, importing, exporting,

1 offering for sale, or selling infringing splatter screens or colorable imitations  
2 thereof;

- 3 2. That AMGTM and CUL Distributors pay damages adequate to compensate  
4 Progressive for the infringement by AMGTM and/or CUL Distributors, and in no  
5 event less than a reasonable royalty for the use of the invention;
- 6 3. That the damages award be trebled pursuant to 35 U.S.C. § 284;
- 7 4. That Progressive be granted its reasonable attorneys' fees pursuant to  
8 35 U.S.C. § 285 or other applicable laws;
- 9 5. That Progressive be awarded prejudgment interest, postjudgment interest, and  
10 costs; and
- 11 6. Such other and further relief as the Court may deem just and proper.

12 **JURY DEMAND**

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

14 DATED this 28<sup>th</sup> day of February, 2018.

15 LOWE GRAHAM JONES<sup>PLLC</sup>

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24 *Corp.*

**CERTIFICATE OF SERVICE**

I certify that on February 28, 2018 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will electronically send notification of such filing to:

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s/ Lawrence D. Graham

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