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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

PROGRESSIVE INTERNATIONAL  
CORPORATION,

Plaintiff,

v.

NETDIRECT DISTRIBUTION LLC,  
Defendant.

Civil Action No.

COMPLAINT FOR PATENT  
INFRINGEMENT

JURY DEMANDED

Plaintiff Progressive International Corp. (“Progressive”) hereby alleges as follows against  
Netdirect Distribution LLC (“Netdirect”).

**PARTIES**

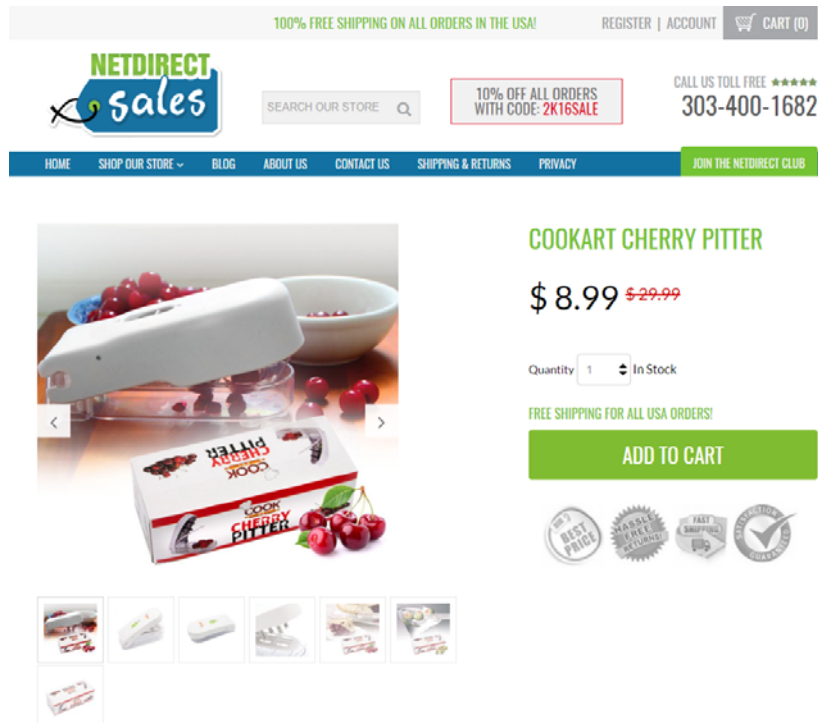
1. Progressive is a corporation organized and existing under the laws of the state of  
Delaware having its principal place of business at 20435 72<sup>nd</sup> Avenue South, Suite 400, Kent,  
Washington, 98032.

2. Upon information and belief, defendant Netdirect is a Colorado limited liability  
company having a principal place of business at 9360 Federal Boulevard, Federal Heights,  
Colorado, 80260.

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. Netdirect has offered for sale or sold a cherry pitter in the United States, including in the Western District of Washington. Netdirect does business under the trademark "CookArt," and operates several Internet sites which include cookartlove.com and netdirectsales.com. Netdirect also sells its products through an online store at amazon.com. Netdirect's online sales efforts are directed to customers nationally, including in the Western District of Washington. The netdirectsales.com website is an active site from which its products may be directly purchased using a shopping cart model. The accused cherry pitter has been offered for sale nationwide using the shopping cart website, as shown in the image below from the website at netdirectsales.com.



5. The accused cherry pitter has also been sold by Netdirect to Amazon.com, with the purpose and intent that Amazon.com would resell the product throughout the United States

1 and within this district. The cherry pitter may be purchased from Amazon.com using a shopping  
 2 cart model allowing consumers in this district to purchase the product directly, as shown below.



Cherry and Olive Pitter Stoner Core Pit Remover Seeder Press Kitchen Tool by CookArt - Holds 4 Small Cherries 4 Large Cherries Disassemble for Easy Clean  
 by CookArt  
 ★★★★★ 24 customer reviews

Price: \$11.95 ✓ Prime  
 Your cost could be \$6.95. Qualified customers get \$5 in Gift Card funds on first \$100 reload of their Amazon Gift Card Balance. [Learn more](#)

**In Stock.**  
**Want it Friday, Feb. 24?** Order within **16 hrs 5 mins** and choose **One-Day Shipping** at checkout. [Details](#)  
 Ships from and sold by Amazon.com. Gift-wrap available.

- KEEP YOUR FAMILY SAFE from cyanide poisoning by taking the pits out of all cherries!
- Pit 4 cherries at a time and SAVE TONS OF TIME
- STAY STAIN FREE with a shield that protects you from splashing juices
- Make the perfect cherry pie without spending hours pitting cherries. Get yours today by clicking the Add to Cart button on the right!

cherry pitter cherry pottar cherry and olive pitter cherry olive pitter cherry pitter best progressive cherry pitter best cherry pitter cherry chomper cherry pitter cherry pitter machine zyliss cherry pitter olive pitter

Compare with similar items  
 New (3) from \$11.95 ✓ Prime  
 Report incorrect product information.

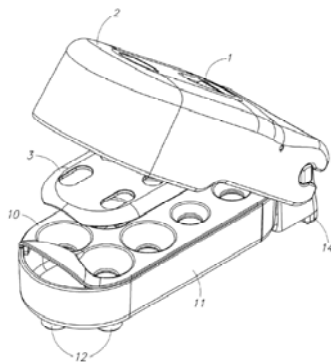
Tabletop inspiration  
 > See more

6. Netdirect is therefore subject to personal jurisdiction in the Western District of  
 12 Washington.

7. For purposes of venue, Netdirect resides in the Western District of Washington  
 14 pursuant to 28 U.S.C. § 1391(c).

**PROGRESSIVE’S PATENTED PRODUCT**

8. Progressive is the assignee of U.S. Patent No. 8,347,783 (the ‘783 patent) for a  
 17 cherry pitter. In particular, the ‘783 patent relates to a cherry pitting device having a lower  
 18 container, a fruit holder supported by the container and having at least one cavity for holding a  
 19 cherry, a lid pivotally attached to the container, a cutting rod extending downward from the lid,  
 20 and a push-off plate between the lid and the fruit holder. One of the images from the ‘783 patent  
 21 is shown below.



1 9. Progressive has sold a commercial embodiment under its patent, and its product  
2 has enjoyed commercial success. An exemplary image of a patented Progressive product is  
3 shown below. Progressive has marked its product with the number of the '783 patent.



#### NETDIRECT'S WRONGFUL CONDUCT

13 10. Netdirect has made, imported, offered for sale, and/or sold cherry pitters that  
14 infringe Progressive's patent rights. The Netdirect products are functionally identical to those  
15 made and sold by Progressive, and the similarity indicates that they were directly copied from  
16 the Progressive product.

17 11. The Netdirect product, sold under the CookArt name, is shown in exemplary  
18 images below from netdirectsales.com.



26 12. As is clear from the above images, the Netdirect cherry pitter sold under the  
27 CookArt trademark includes a lower container, a fruit holder supported by the container and

1 having at least one cavity for holding a cherry, a lid pivotally attached to the container, a cutting  
2 rod extending downward from the lid, and a push-off plate between the lid and the fruit holder.  
3 The Netdirect cherry pitter infringes at least claim 1 of the Progressive '783 patent.

4 13. Netdirect has known that its accused cherry pitters infringe the above Progressive  
5 patent. On May 3, 2016, Progressive wrote to Mr. Carlos Salguero to provide notice of the  
6 infringement, directing letter to sales@cookartlove.com, which is the contact email address  
7 provided at cookartlove.com. A follow up letter was sent on May 8, 2016, but no response to  
8 either letter was ever received.

9 14. The above notice letter was directed to DirectDeals, LLC. According to the  
10 Colorado Secretary of State records, DirectDeals LLC is the registered owner of the trademark  
11 CookArt. Upon information and belief, DirectDeals LLC has changed its name to Netdirect  
12 Distribution LLC, and the two companies are the same. In each case the principal address has  
13 remained the same, and is listed in Colorado Secretary of State databases as 9360 Federal Blvd.,  
14 Federal Heights, CO 80260. Similarly, the website at cookart.com provides the above same  
15 address as its place of business.

16 15. Despite the efforts to reach Netdirect, Netdirect has ignored Progressive's  
17 communications and its patent rights, and instead has continued to sell its products with the full  
18 knowledge that they infringe Progressive's patents. For example, even now the product is still  
19 being sold through Amazon.com and through netdirectsales.com, as shown in the images above.

20 **COUNT I: INFRINGEMENT OF DESIGN PATENT NO. 8,347,783**

21 16. Progressive repeats the allegations above.

22 17. The accused cherry pitters made, offered for sale, sold, and imported by Netdirect  
23 infringe Progressive's '783 patent.

24 18. Netdirect has not been granted any license or other authority from Progressive.

25 19. The activities by Netdirect with regard to its cherry pitter products constitute  
26 direct infringement of the '783 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<sup>PLLC</sup>

s/ 

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