

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

PROVISUR TECHNOLOGIES, INC.,

Plaintiff,

v.

WEBER, INC., TEXTOR, INC., WEBER
MASCHINENBAU GMBH BREIDENBACH,
WEBER MASCHINENBAU GMBH
NEUBRANDENBURG, and TEXTOR
MASCHINENBAU GMBH,

Defendants.

Civil Action No. 5:19-CV-06021

Hon. Judge Stephen R. Bough

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Provisur Technologies, Inc. (“Provisur”), by and through its counsel, complains against Defendants Weber, Inc., Textor, Inc., Weber Maschinenbau GmbH Breidenbach, Weber Maschinenbau GmbH Neubrandenburg, and Textor Maschinenbau GmbH (collectively, “Defendants”) as follows:

THE PARTIES

1. This is an action for patent infringement concerning Defendants’ commercial food slicing machines and related products that are sold and offered for sale throughout the United States and in Missouri.

2. The patent owner in this case is Provisur. Provisur is a Delaware corporation having a principal place of business at 222 North LaSalle Street, Suite 720 Chicago, Illinois, 60601. Provisur is an industry leader in global food product processing. It designs, makes, and sells food processing technology under eleven brands that have patented successful commercial

innovations for over forty years. Provisur is the owner and assignee of the seven United States patents involved in this case: U.S. Patent Nos. 8,322,537; 9,399,531; 7,065,936; 7,533,513; 6,669,005; 6,997,089; 6,320,141 (collectively, the “Patents-in-Suit”). Provisur also fully owns and operates subsidiaries, for example, Formax, Inc. (“Formax”), which are included within reference to “Provisur” herein.

3. On information and belief, Weber, Inc. is a corporation existing under the laws of Missouri with a principal place of business at 10701 N. Ambassador Dr., Kansas City, Missouri, 64153. It is a fully-owned subsidiary of Weber Maschinenbau GmbH.

4. On information and belief, Weber, Inc. is responsible for U.S. sales, technical support, parts supply, and service of food processing machinery designed and/or manufactured by Weber Maschinenbau GmbH Breidenbach and/or Weber Maschinenbau GmbH Neubrandenburg.

5. On information and belief, Textor, Inc. is a corporation existing under the laws of Missouri with a principal place of business at 10701 N. Ambassador Dr., Kansas City, Missouri, 64153.

6. On information and belief, Textor, Inc. is a fully-owned subsidiary of Textor Maschinenbau GmbH and is responsible for U.S. sales, technical support, parts supply, and service of food processing machinery designed and/or manufactured by Textor Maschinenbau GmbH. *See* <http://www.textorweb.com/index.php/us/2015-09-09-09-48-00/ueber-uns-englisch-us>.

7. On information and belief, Weber Maschinenbau GmbH Breidenbach is a German company with a principal place of business at Guenther-Weber-Straße 3, 35236 Breidenbach, Germany. Weber Maschinenbau GmbH Breidenbach is the German parent-

company of multiple food processing subsidiary entities around the world, which comprise the Weber Group.

8. On information and belief, Weber Maschinenbau GmbH Breidenbach, founded by Guenther Weber, designs, manufactures, and directs global sales and marketing of food processing machinery including, but not limited to, slicing, derinding, peeling, packaging, and skinning machines. *See* <https://www.weberweb.com/company/>.

9. On information and belief, Weber Maschinenbau GmbH Neubrandenburg is a German company with a principal place of business at Feldmark 11, 17034 Neubrandenburg, Germany.

10. On information and belief, Weber Maschinenbau GmbH Neubrandenburg is a wholly-owned subsidiary of Weber Maschinenbau GmbH Breidenbach and is engaged in the design, manufacture, and sales and marketing of food processing machinery. *See* <https://www.weberslicer.com/company/history/>.

11. On information and belief, Weber Maschinenbau GmbH Breidenbach, Weber Maschinenbau GmbH Neubrandenburg, and Weber, Inc. (collectively “Weber”) supply customers around the globe with the Weber Group’s most technologically advanced slicing machinery.

12. On information and belief, Textor Maschinenbau GmbH is a German company with a principal place of business at Gewerbestraße 2, 87787 Wolfertschwenden, Germany. *See New Home For TEXTOR* (Aug. 2008) <http://www.textorweb.com/index.php/us/2015-09-09-09-55-46/news-englisch-us?showNews=11>.

13. Textor Maschinenbau GmbH was founded as a “new brand” of the Weber Group to “target new market segments” and to provide customers with a “technological and economical

alternative” to Weber’s slicing product lines. *See* Capture New Markets With Textor (Feb. 8, 2012) <https://www.weberweb.com/news/news/article/capture-new-markets-with-textor/>.

14. On information and belief, Textor Maschinenbau GmbH designs, manufactures, and directs global sales and marketing of food processing machinery in the slicing category. Textor Maschinenbau GmbH has the same shareholders as Weber Maschinenbau GmbH Breidenbach.

15. On information and belief, like Weber, Textor Maschinenbau GmbH and Textor, Inc. (collectively, “Textor”) produce food slicing machines and related accessories such as food scanners, weighers, loaders, conveyors, and blade sharpeners. According to Textor’s website, the “contact person” for Textor in the “USA” is Jarrod McCarroll, who is also the CEO of Weber, Inc. *See* <http://www.textorweb.com/index.php/us/ansprechpartner-englisch-us>.

16. On information and belief, all of the Weber and Textor entities described in the preceding paragraphs are members of the Weber Group, led by Weber Maschinenbau GmbH Breidenbach, and are owned, operated, and/or controlled by a common group of individuals, including, but not limited to, Tobias Weber, Hubertus Weber, Guenther Weber, Hartmut Blöcher, Peter Kamm, Jörg Schmeiser, and/or Peter Schultz.

17. On information and belief, the same people own significant ownership interests in both Weber and Textor. Guenther Weber holds 26% of the shares of Weber Maschinenbau GmbH Breidenbach; Tobias Weber and Hubertus Weber each hold 37% of that entity. The distribution of shares in Textor Maschinenbau GmbH are identical to the shares of Weber Maschinenbau GmbH Breidenbach.

18. On information and belief, the managing directors of the Weber entities are also overlapping. The current managing directors of Textor Maschinenbau GmbH are Tobias Weber

and Jörg Schmeiser. The managing directors of Weber Maschinenbau GmbH Breidenbach are Tobias Weber, Jörg Schmeiser, Hartmut Blöcher, Peter Kamm, and Peter Schulz. Tobias Weber, Hartmut Blöcher and Peter Kamm in turn are managing directors of Weber Maschinenbau GmbH Neubrandenburg.

19. On information and belief, Guenther Weber founded both Weber Maschinenbau GmbH Breidenbach and Weber Maschinenbau GmbH Neubrandenburg. Both of these companies bear aspects of his name in their company name. The term “Textor,” as used by Textor Maschinenbau GmbH and Textor, Inc. in their company names, is the Latinization of the surname “Weber.”

20. On information and belief, various Weber and Textor products bear the same or very similar product names. For example, Weber offers a “Weber SmartLoader” and Textor offers the “Textor SmartLoader.” Similarly, Weber offers a “Weber LED Scanner CPS 200” and Textor offers the “Textor CPS 200 LED Scanner.”

21. The products of Weber and Textor are used in modular systems that contain other products of both Weber and Textor in various combinations.

22. On information and belief, Weber, Inc. and Textor, Inc. rely on a single, unified sales force to service U.S. customers. In 2016, a Weber and Textor executive stated that “Textor and Weber will now be represented by one sales team with the sole focus of working with North American customers to select from the wide array of Weber and Textor brands.” THE NAT’L PROVISIONER, *Weber And Textor Brands Announce Customer-Focused Change In Slicing System Sales Strategy* (Apr. 12, 2016) <https://www.provisioneronline.com/articles/103169-weber-and-textor-brands-announce-customer-focused-change-in-slicing-system-sales-strategy>.

23. There are questions of fact common to all Defendants with respect to the infringement of the asserted patents in this action. For example, on information and belief, “Defendants Accused Interleaver Products” (defined below) operate in the same way with respect to the claimed features of the U.S. Patent No. 9,399,531. In addition, “Defendants Accused SmartLoader Products” (defined below) operate in the same way with respect to the claimed features of U.S. Patent Nos. 7,065,936; 7,533,513; and 6,669,005, respectively.

BACKGROUND

24. Provisur manages global brands of food processing technology that make and sell an array of market-leading forming, slicing, defrosting, marinating, tenderizing, injecting, grinding, mixing, separation, coating, frying, cooking, and smoking products. In 2016, Provisur ranked sixth on Crain’s Chicago Business innovation list among large, corporate competitors for the quality of its patents issued in 2015, according to an analysis by OceanTomo. Provisur is consistently selected by processors for its innovative and high-quality equipment.

25. Specifically in the field of food forming and slicing, Provisur fully owns and operates Formax. Since developing the first high-capacity, food forming system more than 45 years ago, Formax has remained a leading brand in the U.S. and global food processing markets.

26. In recognition of its innovations, the United States Patent and Trademark Office (“USPTO”) has granted Provisur (including Formax) over one hundred food processing technology patents. Formax has also received domestic and international accolades for its leadership in developing innovative, advanced food processing equipment systems, including the North American Meat Institute’s Supplier of the Year Award and the Safe Food Institute’s SQF Certification.

27. Defendants have resorted to copying Provisur's cutting-edge innovations, and using slicing machine, robotic, and conveying technology invented by Provisur. Over several years, Defendants have used Provisur's patented technology to redesign and modify products they sell.

28. On information and belief, Defendants have carefully monitored Provisur's food slicing business, products, and patents for many years. Defendants are fully knowledgeable about the patents and the infringement alleged in this complaint.

29. Weber has cited Provisur patents and patent applications as prior art in their own patent applications in the United States and abroad.

30. Weber has instituted numerous challenges to Provisur patents throughout the world. Provisur has successfully defeated nearly all of these challenges.

31. Even with this knowledge of Provisur's patent portfolio, Defendants continue to commit widespread infringement of Provisur's duly granted patents.

JURISDICTION AND VENUE

32. This is an action for patent infringement under 35 U.S.C. § 271.

33. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1338, because this is a matter arising under the United States patent statutes, 35 U.S.C. § 101 *et seq.*, for infringement of United States patents.

34. This Court has personal jurisdiction over Weber, Inc. and Textor, Inc. pursuant to Federal Rule of Civil Procedure 4(k)(1) and Mo. Rev. Stat. § 506.500(1).

35. Weber, Inc. and Textor, Inc. are incorporated and maintain their principal places of business in the State of Missouri.

36. Moreover, Weber, Inc. and Textor, Inc. are located within this District and Division and have continuous and systematic contact with this District and this Division. Weber,

Inc. and Textor, Inc. make, use, sell, offer to sell, and/or import infringing food processing machinery—and instruct or direct customers regarding the use of such machinery—throughout the United States, including in the State of Missouri and including in this District and Division.

37. Weber, Inc. and Textor, Inc. have purposefully and voluntarily placed one or more of their infringing products, as described herein, into the stream of commerce with the expectation that they will be purchased by consumers within this District and Division. For example, Weber, Inc. and Textor, Inc. target their marketing to U.S. customers by way of online websites that are accessible throughout the country, including in this District and Division. These online websites provide Missouri-based corporate contact information for residents in the U.S. who are interested in purchasing Defendants' products. Weber, Inc. also maintains a North American Technology Center in Kansas City, Missouri, to, among other things, market, demonstrate, and educate customers from throughout United States about its products. Accordingly, Weber, Inc. and Textor, Inc. have sufficient minimum contacts with this District such that the exercise of jurisdiction over Weber, Inc. and Textor, Inc. will not offend traditional notions of fair play and substantial justice.

38. In addition, because Weber, Inc. and Textor, Inc. have transacted business giving rise to this action within the state of Missouri, and because Weber, Inc. and Textor, Inc. are conducting regular business within the State of Missouri, this District, and this Division, this Court has personal jurisdiction over defendants pursuant to Federal Rule of Civil Procedure 4(k)(1) and Mo. Rev. Stat. § 506.500(1).

39. This Court also has personal jurisdiction over Weber Maschinenbau GmbH Breidenbach, Weber Maschinenbau GmbH Neubrandenburg, and Textor Maschinenbau GmbH (the "German Defendants") pursuant to Federal Rule of Civil Procedure 4(k)(1) and Mo. Rev.

Stat. § 506.500(1), or, in the alternative, Federal Rule of Civil Procedure 4(k)(2). The German Defendants are responsible for the overall design, manufacture, export, advertisement, and/or distribution of infringing food processing machinery—and instruction or direction of customers regarding the use of such machinery—through the United States, including the State of Missouri and including in this District and Division.

40. For years, the German Defendants have purposefully and voluntarily placed one or more of their infringing products, as described herein, into the U.S. stream of commerce, with the expectation that they will be purchased by consumers within this District and Division and, accordingly, have maintained continuous and systematic contact with this District and this Division throughout that time. The German Defendants have targeted their marketing to U.S.-based customers by way of online, English-language websites that are accessible throughout the country, including in this District and Division, and which include corporate contact information for residents in the U.S. and this District and Division who are interested in purchasing Defendants' products.

41. The German Defendants also target U.S. customers through their attendance at U.S. tradeshows and promotional events that occur throughout the U.S., including within this District and Division. Accordingly, the German Defendants have sufficient minimum contacts with this District such that the exercise of jurisdiction over the German Defendants will not offend traditional notions of fair play and substantial justice.

42. Because the German Defendants have transacted business giving rise to this action within the state of Missouri and because Defendants are doing business within the State of Missouri, this District, and this Division, this Court has personal jurisdiction over defendants

pursuant to Federal Rule of Civil Procedure 4(k)(1) and Mo. Rev. Stat. § 506.500(1), or, in the alternative, Federal Rule of Civil Procedure 4(k)(2).

43. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b).

44. Defendants have committed acts of infringement giving rise to this action within this District and regularly conduct business in this District.

COUNT ONE
(Infringement of U.S. Patent No. 8,322,537)

45. The allegations of paragraphs 1 through 44 are realleged and reincorporated by reference as if fully set forth herein.

46. U.S. Patent No. 8,322,537 (“the ‘537 patent”), entitled “Food Product Vacancy Reduction System,” was duly issued by the USPTO on December 4, 2012, and lists named inventor Scott Lindee. A true and correct copy of the ‘537 patent is attached hereto as Exhibit A.

47. Provisur is the owner and assignee of the ‘537 patent, with the full rights to enforce the ‘537 patent and sue for damages by reason of infringement of the ‘537 patent.

48. Provisur is in compliance with the patent marking requirements contained in 35 U.S.C. § 287 with respect to the ‘537 patent.

49. The ‘537 patent describes an innovative solution that significantly improves the operation and efficiency of food product handling systems by maintaining a food product stream with a reduced number of or no food product vacancies. *See, e.g.*, Exhibit A at Col. 2:29-39. The ‘537 patent describes a food handling system having a vacancy reduction system. *See, e.g.*, Exhibit A at Col. 1:9-12. The system includes a slicing machine which cuts slices from one or more loaves and deposits the slices on an output conveyor assembly. *Id.* The vacancy reduction system operates downstream from said slicing machine and includes a main conveyor, a food

product parking station, a vacancy detector, a robot, and a controller. *See, e.g.*, Exhibit A at Col. 2:43-56. The robot moves food product from the food product parking station to vacant food product positions on the main conveyor in order to maintain a food product stream with a reduced number of or no food product vacancies. *Id.*

50. Weber has directly infringed and continues to directly infringe one or more claims of the '537 patent in violation of 35 U.S.C. § 271(a), including at least independent claim 1, by making, using, offering to sell, selling, and/or importing into the U.S. products that include, but are not limited to, the Weber PickRobot (including PickRobot Single, PickRobot Double, PickRobot Triple, PickRobot Quadruple) and the Weber SmartPicker products, for example, as listed on Weber's website, <https://www.weberweb.com/products/automation/weber-pickrobot/> ("Weber's Accused Robotics Products").

51. Weber's Accused Robotics Products operate in the same way with respect to the relevant claim elements of the '537 patent. Weber's Accused Robotics Products contain all of the elements of claims of the '537 patent, including, for example: (a) a main conveyor configured to move food products in a conveying direction in rows and at least two columns along the conveying direction; (b) a food product parking station configured to holding one or more food products; (c) a vacancy detector configured to detect a vacant food product position within the rows and at the least two columns on the main conveyor; (d) a robot operated above the main conveyor having a working range for moving between the parking station and the at least two columns on the main conveyor; (e) a controller signal-connected to the vacancy detector and configured to receive a signal from the vacancy detector indicating the vacant food product position on the conveyor, the controller signal-connected to the robot and having control instructions for instructing the robot to move at least one of the one or more food products from

the food product parking station to the vacant food product position on the main conveyor; and (f) said robot configured to carry a food product from the parking station and deposit the food product into the vacant food product position.

52. The images below correspond to videos taken from Weber's website depicting one of Weber's Accused Robotics Products, for example, Weber's SmartPicker, in action. The images and videos depict an automated vacancy reduction system, with a main conveyor, food product parking station, vacancy detector, robot, and controller, according to at least claim 1 of the '537 patent.



53. Weber also indirectly infringes one or more claims of the '537 patent in violation of 35 U.S.C. § 271(b) and/or (c) by actively inducing infringement of the '537 patent by others and/or by offering to sell or selling within the U.S. a component covered by the claims of the '537 patent that is a material part of the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use.

54. For example, Weber instructs customers of Weber's Accused Robotics Products how to install and operate the product as claimed, including through product documentation and in-person and remote customer support. Weber's instructions to its customers are also set forth in published tutorials, quick tips, upgrades and modifications, and product videos on its website and YouTube channel(s). *See* <https://www.youtube.com/user/weberslicer>. At least four videos on Weber's website, for example listed above, demonstrate Weber's Accused Robotics Products operating as claimed in the '537 patent.

55. Weber's Accused Robotics Products are designed, manufactured, imported, used and/or sold with no uses other than to operate in a way as claimed in the '537 patent.

56. On information and belief, Weber has been aware of the '537 patent since at least 2012. For example, Weber cited the application that led to the '537 patent and/or the '537 patent itself as prior art to several of its own patent applications, including at least DE102017105919A; US13490597A; US9021768B2; and US9981400B2.

57. On information and belief, Weber has been aware of its infringement of the '537 patent, as alleged in this complaint, through at least its extensive monitoring of Provisur's food slicing business, products, designs and patents, as discussed above. Weber and its principals knew it was highly likely that Weber's actions constituted infringement, or, in the alternative, Weber's infringement was so apparent that Weber should have known.

58. Weber is, therefore, liable for infringement and willful infringement of the '537 patent pursuant to 35 U.S.C. § 271.

COUNT TWO
(Infringement of U.S. Patent No. 9,399,531)

59. The allegations of paragraphs 1 through 44 are realleged and reincorporated by reference as if fully set forth herein.

60. U.S. Patent No. 9,399,531 (“the ‘531 patent”), entitled “Sheet Interleaver For Slicing Apparatus,” was duly issued by the USPTO on July 26, 2016, and lists named inventors Glen F. Pryor, Scott A. Lindee, and James E. Pasek. A true and correct copy of the ‘531 patent is attached hereto as Exhibit B.

61. Provisur is the owner and assignee of the ‘531 patent, with the full rights to enforce the ‘531 patent and sue for damages by reason of infringement of the ‘531 patent.

62. Provisur is in compliance with the patent marking requirements contained in 35 U.S.C. § 287 with respect to the ‘531 patent.

63. The ‘531 patent describes a sheet interleaver for a slicing machine that includes a supply of web material, a drawing station, a feed station, and a controller. *See, e.g.*, Exhibit B at Col. 2:25-38. Web material may be dispensed in synchronism with the slicing operation such that the material is placed between food product slices to create a stack of interleaved slices and sheets that is formed and conveyed away for packaging. *See, e.g.*, Exhibit B at Col. 2:10-24. The invention embodied by the ‘531 patent substantially improves the reliability of the placement of sheets for interleaving with product slices, particularly for high speed slicing operations. *See, e.g.*, Exhibit B at Col. 2:3-6.

64. Defendants have directly infringed and continue to directly infringe one or more claims of the ‘531 patent in violation of 35 U.S.C. § 271(a), including at least independent claim

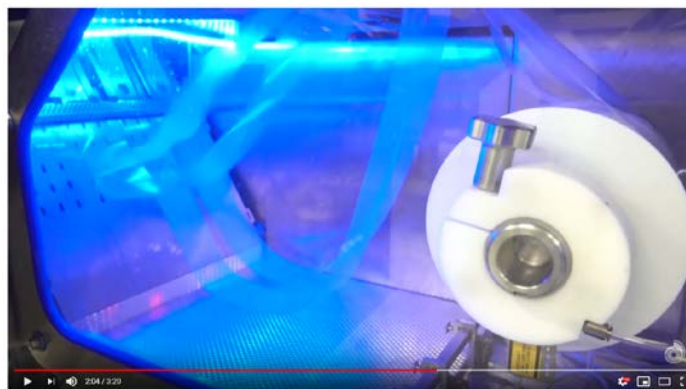
1, by making, using, offering to sell, selling, and/or importing into the U.S. food slicers with interleaving capacity, including but not limited to Weber slicers S6, 905, 804, 604, 405, and 305, and Textor slicers TS500, and TS 700, along with Textor's stand-alone interleaver product, the TI600. *See, e.g.*, <https://www.weberweb.com/products/slicer/>; <http://www.textorweb.com/index.php/us/maschinen-englisch-us/slicer> (“Defendants’ Accused Interleaver Products”).

65. For example, Textor markets its stand-alone interleaver product in a brochure which states, “The TEXTOR Interleaver TI600 allows [sic] to interleave [sic] film or paper in-between slices of a portion – simply Smart & Easy.” *See, e.g.*, <http://www.textorweb.com/images/broschueren/TI600-EN.pdf>. Weber released an article on June 20, 2012, entitled “New Interleaver For Compact Machines,” which states that “[c]ustomers intending to separate cheese slices or wafer-thin ham slices by paper or film depend on a neat and accurate Interleaver solution The Interleaver CCI Weber just reworked for use in combination with the new Slicer 404 completely excludes the disadvantages known from comparable systems.” *See* <https://www.weberweb.com/news/news/article/new-interleaver-for-compact-machines/>.

66. Defendants’ Accused Interleaver Products operate in the same way with respect to the relevant claim elements of the ‘531 patent. Defendants’ Accused Interleaver Products contain all of the elements of claims of the ‘531 patent, including, for example: (a) a supply of web material; (b) a drawing station having a first driver for drawing web material from said supply; (c) a feed station having a second driver for receiving web material from said drawing station and driving said web material through a cutting nip into said slicing plane; (d) a controller in signal-communication with said first and second drivers to drive web material at select

differential speeds by said first and second drivers such that tension of the web material between said drawing station and said feed station is controlled; (e) a non-contact sensor that senses tension of web material between said drawing station and said feed station and is in signal-communication with said controller to adjust the differential speed of said first and second drivers to maintain said tension within a pre-selected range.

67. The images below correspond to videos taken from Textor's website depicting one of Defendants' Accused Interleaver Products, for example, the TI600, in action. The images and videos depict a sheet interleaver machine with a supply of web material, a drawing station, a feed station, a controller, and a non-contact sensor.



ContiFlow - TS700 slicer with continuous portioning incl. interleaver

68. Defendants also indirectly infringe one or more claims of the '531 patent in violation of 35 U.S.C. § 271(b) and/or (c) by actively inducing infringement of the '531 patent by others and/or offering to sell or selling within the U.S. a component covered by the claims of the '531 patent that is a material part of the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use.

69. For example, on information and belief, Defendants instruct customers of Defendants' Accused Interleaver Products how to install and operate the product as claimed, including through product documentation and in-person and remote customer support. Defendants' instructions to their customers are also set forth in published tutorials, quick tips, upgrades and modifications, and product videos on its website and YouTube channel(s). *See, e.g.*, <https://www.youtube.com/user/weberslicer>; <https://www.youtube.com/channel/UC7QCpv2ISi2DkjZ1XVf17Qg>. At least two videos on Textor's website, for example listed above, demonstrate Defendants' Accused Interleaver Products operating as claimed in the '531 patent. Defendants' Accused Interleaver Products are designed, manufactured, imported, used and/or sold with no uses other than to operate in a way as claimed in the '531 patent.

70. On information and belief, Defendants have been aware of the '531 patent since at least 2013. For example, Defendants cited the application that led to the '531 patent and/or the '531 patent itself as prior art to several of their own patent applications, including at least DE102013216717A; DE102017118934A; EP2012174805A; EP2014178970A; and US9981400B2.

71. On information and belief, Defendants have been aware of their infringement of the '531 patent, as alleged in this complaint, through at least their extensive monitoring of

Provisur's food slicing business, products, designs and patents, as discussed above. Defendants and their principals knew it was highly likely that their actions constituted infringement, or, in the alternative, Defendants' infringement was so apparent that Defendants should have known.

72. Defendants are, therefore, liable for their infringement and willful infringement of the '531 patent pursuant to 35 U.S.C. § 271.

COUNT THREE
(Infringement of U.S. Patent No. 7,065,936)

73. The allegations of paragraphs 1 through 44 are realleged and reincorporated by reference as if fully set forth herein.

74. U.S. Patent No. 7,065,936 ("the '936 patent"), entitled "Fill and Packaging Apparatus," was duly issued by the USPTO on June 27, 2006, and lists named inventors Scott A. Lindee, Glenn Sandberg, and James E. Pasek. A true and correct copy of the '936 patent is attached hereto as Exhibit C.

75. Provisur is the owner and assignee of the '936 patent, with the full rights to enforce the '936 patent and sue for damages by reason of infringement of the '936 patent.

76. Provisur is in compliance with the patent marking requirements contained in 35 U.S.C. § 287 with respect to the '936 patent.

77. The '936 patent describes an apparatus for filling food product drafts into packages. *See, e.g.*, Exhibit C at Col. 1:5-7. The invention accomplishes this by providing for a retractable, or extendable, conveying surface which deposits food product drafts carried on the conveying surface into containers. *See, e.g.*, Exhibit C at Col. 2:30-58. The invention of the '936 patent, therefore, neatly and economically fills and packages drafts of thin-sliced food product. *See, e.g.*, Exhibit C at Col. 1:53-57.

78. Defendants have directly infringed and continue to directly infringe one or more claims of the '936 patent in violation of 35 U.S.C. § 271(a), including at least independent claim 1, by making, using, offering to sell, selling, and/or importing into the United States products that include, but are not limited to, Defendants' SmartLoader products, for example as listed on Defendants' websites. *See, e.g.*, <https://www.weberweb.com/products/automation/smartloader/>; *see also* <http://www.textorweb.com/index.php/us/maschinen-englisch-us/linienkomponenten-englisch-us/smartloader-englisch-us> ("Defendants' Accused SmartLoader Products").

79. For example, Defendants market their SmartLoader products as "a fully automatic side loading system for single products or individual portions. Its features and capacity are optimized for sliced products." *See, e.g.*, <https://www.weberweb.com/products/automation/smartloader/>; *see also* <http://www.textorweb.com/index.php/us/maschinen-englisch-us/linienkomponenten-englisch-us/smartloader-englisch-us> (same description).

80. Defendants' Accused SmartLoader Products operate in the same way with respect to the relevant claim elements of the '936 patent. Defendants' Accused SmartLoader Products contain all of the elements of claims of the '936 patent, including, for example: (a) a supply of open top container portions arranged in rows that are displaced along a longitudinal direction and having a first row and a longitudinally displaced second row and carried by an elongated web of film and movable by said web along said longitudinal direction into a fill station; and (b) a shuttle conveyor having a conveying surface, said shuttle conveyor comprises a device to retract and to extend said conveying surface, said conveying surface arranged above said fill station and having an end region longitudinally movable to a first position arranged to deposit food product drafts into said container portions of said first row by said conveying surface, and while said web

remains stationary, said device retracts or extends said conveying surface to reposition said end region to a second position arranged to deposit food product drafts carried on said conveying surface into said container portions of said second row.

81. The images below correspond to videos taken from a Textor website depicting one of Defendants' Accused SmartLoader Products, for example, Textor's SmartLoader, on a variety pack line with a TS700 slicer, in action. The images and videos depict an apparatus for filling food product drafts into packages, with locations containing a supply of open top container portions, a fill station area, and a conveying surface which extends and retracts to deposit food product drafts into container portions.



82. Defendants also indirectly infringe one or more claims of the '936 patent in violation of 35 U.S.C. § 271(b) and/or (c) by actively inducing infringement of the '936 patent by others and/or offering to sell or selling within the U.S. a component covered by the claims of the '936 patent that is a material part of the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use.

83. For example, Defendants instruct customers of Defendants' Accused SmartLoader Products how to install and operate the product as claimed, including through product documentation and in-person and remote customer support. Defendants' instructions to their customers are also set forth in published tutorials, quick tips, upgrades and modifications, and product videos on its website and YouTube channel(s). *See, e.g.*, <https://www.youtube.com/user/weberslicer>; <https://www.youtube.com/channel/UC7QCpv2ISi2DkjZ1XVf17Qg>. At least four videos on Textor's website, for example listed above, demonstrate Defendants' Accused SmartLoader Products operating as claimed. Defendants' Accused SmartLoader Products are designed, manufactured, imported, used and/or sold with no uses other than to operate in a way as claimed.

84. On information and belief, Defendants have been aware of the '936 patent since before the filing of this complaint. Defendants have been aware of their infringement of the '936 patent, as alleged in this complaint, through at least their extensive monitoring of Provisur's food slicing business, products, designs and patents, as discussed above. Defendants knew it was highly likely that their actions constituted infringement, or, in the alternative, Defendants' infringement was so apparent that Defendants should have known.

85. Defendants are, therefore, liable for infringement and willful infringement of the '936 patent pursuant to 35 U.S.C. § 271.

COUNT FOUR
(Infringement of U.S. Patent No. 7,533,513)

86. The allegations of paragraphs 1 through 44 are realleged and reincorporated by reference as if fully set forth herein.

87. U.S. Patent No. 7,533,513 ("the '513 patent"), entitled "Fill and Packaging Method," was duly issued by the USPTO on May 19, 2009, and lists named inventors Scott A.

Lindee, Glenn Sandberg, and James E. Pasek. A true and correct copy of the '513 patent is attached hereto as Exhibit D.

88. Provisur is the owner and assignee of the '513 patent, with the full rights to enforce the '513 patent and sue for damages by reason of infringement of the '513 patent.

89. Provisur is in compliance with the patent marking requirements contained in 35 U.S.C. § 287 with respect to the '513 patent.

90. The '513 patent describes an apparatus for filling food product drafts into packages. *See, e.g.*, Exhibit D at Col. 1:9-11. The invention accomplishes this by providing for a retractable, or extendable, conveying surface which deposits food product drafts carried on the conveying surface into containers. *See, e.g.*, Exhibit D at Col. 2:1-11. The '513 patent, therefore, neatly and economically fills and packages drafts of thin-sliced food product. *See, e.g.*, Exhibit D at Col. 1:56-59.

91. Defendants have directly infringed and continue to directly infringe one or more claims of the '513 patent in violation of 35 U.S.C. § 271(a), including at least independent claim 1, by making, using, offering to sell, selling, and/or importing into the U.S. products that include, but are not limited to, Defendants' Accused SmartLoader products, for example as listed on Defendants' websites. *See, e.g.*, <https://www.weberweb.com/products/automation/smartloader/>; *see also* <http://www.textorweb.com/index.php/us/maschinen-englisch-us/linienkomponenten-englisch-us/smartloader-englisch-us>.

92. For example, Defendants market their SmartLoader products as "a fully automatic side loading system for single products or individual portions. Its features and capacity are optimized for sliced products." *See* <https://www.weberweb.com/products/automation/smartloader/>; *see also*

<http://www.textorweb.com/index.php/us/maschinen-englisch-us/linienkomponenten-englisch-us/smartloader-englisch-us> (same description).

93. Defendants' Accused SmartLoader Products operate in the same way with respect to the relevant claim elements of the '513 patent. Defendants' Accused SmartLoader Products contain all of the elements of claims of the '513 patent, including, for example: (a) supplying open top container portions arranged in rows that are spaced-apart along a longitudinal direction and having a first row and a longitudinally spaced-apart second row and connected to move longitudinally together, said first and second rows movable together along said longitudinal direction into a fill station; and (b) providing a conveyor having a retractable and extendable conveying surface, said conveying surface arranged above said fill station and having an end region longitudinally movable to a first position arranged to deposit food product drafts into said container portions of said first row by said conveying surface, moving said end region to said first position and depositing food drafts into container portions of said first row; and (c) while said first and second rows are in said fill station, retracting or extending said conveying surface to reposition said end region to a second position arranged to deposit food product drafts carried on said conveying surface into said container portions of said second row.

94. The images below correspond to videos taken from Textor's website depicting one of Defendants' Accused SmartLoader Products, for example, Textor's SmartLoader, on a variety pack line with a TS700 slicer, in action. The images and videos depict a fill and packaging machine, with examples of locations of a supply of open top container portions, a fill station area, and a conveying surface. Also depicted is the conveyor having a retractable and extendable conveying surface, said conveying surface arranged above said fill station to deposit food product in the containers below.



95. Defendants also indirectly infringe one or more claims of the ‘513 patent in violation of 35 U.S.C. § 271(b) and/or (c) by actively inducing infringement of the ‘513 patent by others and/or offering to sell or selling within the U.S. a component covered by the claims of the ‘513 patent that is a material part of the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use.

96. For example, Defendants instruct customers of Defendants’ Accused SmartLoader Products how to install and operate the product as claimed, including through product documentation and in-person and remote customer support. Defendants’ instructions to their customers are also set forth in published tutorials, quick tips, upgrades and modifications, and product videos on its website and YouTube channel(s). *See, e.g.*, <https://www.youtube.com/user/weberslicer>; <https://www.youtube.com/channel/UC7QCpv2lSi2DkjZ1XVf17Qg>. At least four videos on Textor’s website, for example listed above, demonstrate Defendants’ Accused SmartLoader Products operating as claimed. Defendants’ Accused SmartLoader Products are designed, manufactured, imported, used and/or sold with no uses other than to operate in a way as claimed.

97. On information and belief, Defendants have been aware of the ‘513 patent since before the filing of this complaint. Defendants have been aware of their infringement of the ‘513 patent, as alleged in this complaint, through at least their extensive monitoring of Provisur’s food slicing business, products, designs and patents, as discussed above. Defendants knew it was highly likely that their actions constituted infringement, or, in the alternative, Defendants’ infringement was so apparent that Defendants should have known.

98. Defendants are, therefore, liable for infringement and willful infringement of the ‘513 patent pursuant to 35 U.S.C. § 271.

COUNT FIVE
(Infringement of U.S. Patent No. 6,669,005)

99. The allegations of paragraphs 1 through 44 are realleged and reincorporated by reference as if fully set forth herein.

100. U.S. Patent No. 6,669,005 (“the ‘005 patent”), entitled “Servo-Controlled Distribution Conveyor,” was duly issued by the USPTO on December 30, 2003, and lists named inventors Glenn Sandberg and Scott Lindee. The USPTO issued a certificate of correction to the ‘005 patent on March 19, 2019. A true and correct copy of the ‘005 patent, including the certificate of correction, is attached hereto as Exhibit E.

101. Provisur is the owner and assignee of the ‘005 patent, with the full rights to enforce the ‘005 patent and sue for damages by reason of infringement of the ‘005 patent.

102. Provisur is in compliance with the patent marking requirements contained in 35 U.S.C. § 287 with respect to the ‘005 patent.

103. The ‘005 patent describes a feed conveyor system for positioning food product from a feed conveyor onto a downstream conveyor. *See, e.g.*, Exhibit E at Col. 1:8-12. The invention accomplishes this by providing for a retractable, or extendable, conveying surface

which deposits food product from the feed conveyor onto the downstream conveyor. *See, e.g.*, Exhibit E at Col. 1:51-Col. 2:7. It provides for an easily adjustable and controllable method of moving food products from one conveying surface to another. *See, e.g.*, Exhibit E at Col. 1:43-47.

104. Defendants have directly infringed and continue to directly infringe one or more claims of the '005 patent in violation of 35 U.S.C. § 271(a), including at least independent claim 1, by making, using, offering to sell, selling, and/or importing into the U.S. products that include, but are not limited to, Defendants' Accused SmartLoader products, for example as listed on Defendants' websites. *See, e.g.*, <https://www.weberweb.com/products/automation/smartloader/>; *see also* <http://www.textorweb.com/index.php/us/maschinen-englisch-us/linienkomponenten-englisch-us/smartloader-englisch-us>.

105. For example, Defendants market their SmartLoader products as "a fully automatic side loading system for single products or individual portions. Its features and capacity are optimized for sliced products." *See, e.g.*, <https://www.weberweb.com/products/automation/smartloader/>; *see also* <http://www.textorweb.com/index.php/us/maschinen-englisch-us/linienkomponenten-englisch-us/smartloader-englisch-us> (marketing the same description).

106. Defendants' Accused SmartLoader Products operate in the same way with respect to the relevant claim elements of the '005 patent. Defendants' Accused SmartLoader Products contain all of the elements of claims of the '005 patent, including, for example: (a) an endless circulating belt having an upper conveying surface; (b) a roller controlling a belt accumulation region of said endless circulating belt, said conveying surface having an upstream region adapted to receive a stream of articles in rows across a lateral direction of said belt, said belt circulated to

move said rows in a longitudinal direction to an end of said conveying surface, wherein said endless belt is turned over at said end, wherein circulation of said belt passes said rows off of said conveying surface to be deposited onto said downstream conveyor, and a longitudinal position of said end is movable between an extended position and a retracted position passing across at least a portion of a transverse dimension of said downstream conveyor by longitudinal positioning of said roller; (c) a first electric motor and a traction system, said traction system engaged to be translated by said first electric motor, said roller mechanically connected to said traction system to be moved longitudinally thereby; (d) a second electric motor, wherein said conveying surface is circulated by mechanical communication from said second electric motor; and (e) a controller operatively connected to said first and second electric motors to precisely control the position of said end and the conveying speed of said conveying surface.

107. The images below correspond to videos taken from Textor's website depicting one of Defendants' Accused SmartLoader Products, for example, Textor's SmartLoader, on a variety pack line with a TS700 slicer, in action. The images and videos depict a fill and packaging machine, with an endless circulating belt, an upper conveying surface, an upstream region adapted to receive a stream of articles, a first electric motor, a traction system, a second electric motor and a controller.





108. Defendants also indirectly infringe one or more claims of the '005 patent by actively inducing infringement of the '005 patent in violation of 35 U.S.C. § 271(b) and/or (c) by others and/or offering to sell or selling within the U.S. a component covered by the claims of the '005 patent that is a material part of the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use.

109. For example, Defendants instruct customers of Defendants' Accused SmartLoader Products how to install and operate the product as claimed, including through product documentation and in-person and remote customer support. Defendants' instructions to their customers are also set forth in published tutorials, quick tips, upgrades and modifications, and product videos on its website and YouTube channel(s). *See, e.g.*, <https://www.youtube.com/user/weberslicer>;
<https://www.youtube.com/channel/UC7QCpv21Si2DkjZ1XVf17Qg>. At least four videos on

Textor's website, for example listed above, demonstrate Defendants' Accused SmartLoader Products operating as claimed. Defendants' Accused SmartLoader Products are designed, manufactured, imported, used and/or sold with no uses other than to operate in a way as claimed.

110. On information and belief, Defendants have been aware of the '005 patent since before the filing of this complaint. Defendants have been aware of their infringement of the '005 patent, as alleged in this complaint, through at least their extensive monitoring of Provisur's food slicing business, products, designs and patents, as discussed above. Defendants knew it was highly likely that their actions constituted infringement, or, in the alternative, Defendants' infringement was so apparent that Defendants should have known.

111. Defendants are, therefore, liable for infringement and willful infringement of the '005 patent pursuant to 35 U.S.C. § 271.

COUNT SIX
(Infringement of U.S. Patent No. 6,997,089)

112. The allegations of paragraphs 1 through 44 are realleged and reincorporated by reference as if fully set forth herein.

113. U.S. Patent No. 6,997,089 ("the '089 patent"), entitled "Optical Grading System For Slicer Apparatus," was duly issued by the USPTO on February 14, 2006, and lists named inventors Scott A. Lindee and Thomas C. Wolcott. A true and correct copy of the '089 patent is attached hereto as Exhibit F.

114. Provisur is the owner and assignee of the '089 patent, with the full rights to enforce the '089 patent and sue for damages by reason of infringement of the '089 patent.

115. Provisur is in compliance with the patent marking requirements contained in 35 U.S.C. § 287 with respect to the '089 patent.

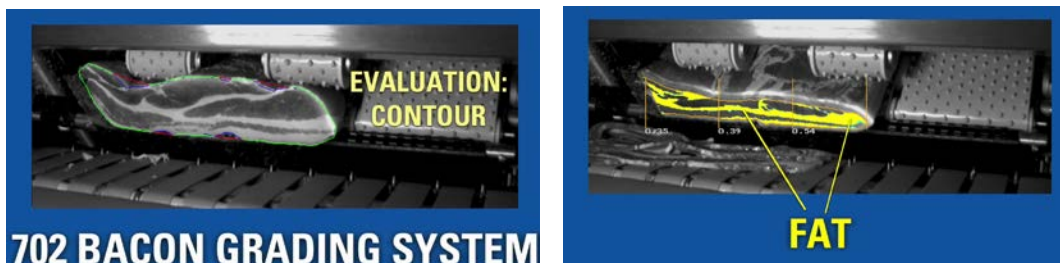
116. The '089 patent describes a method of classifying slices or a portion cut from a food product according to an optical image of the slice. *See, e.g.*, Exhibit F at Col. 1:6-9. In the patent, a slice may be passed into an image field of a digital image receiving device. *See, e.g.*, Exhibit F at Col. 2:25-46. A control generates a pixel-by-pixel image data of the slice using input from the digital image receiving device. *Id.* The control may calculate a surface area of the slice from the data, and a fat content of the slice on a pixel-by-pixel basis. *Id.* The fat content data may be compared to at least one predetermined limit, and the slice is classified accordingly. *Id.*

117. Defendants have directly infringed and continue to directly infringe one or more claims of the '089 patent in violation of 35 U.S.C. § 271(a), including at least independent claim 9, by making, using, offering to sell, selling, and/or importing into the U.S. slicers incorporating optical grading systems, for example as advertised on Defendants' websites. *See, e.g.*, <https://www.weberweb.com/products/slicer/slicer-702/> ("Defendants' Accused Optical Grading Products").

118. Defendants' Accused Optical Grading Products operate in the same way with respect to the relevant claim elements of the '089 patent. Defendants' Accused Optical Grading Products contain all of the elements of claims of the '089 patent, including, for example: (a) a high speed slicing apparatus arranged to cut off a series of slices from a food loaf; (b) a conveyor arranged to receive said slices from said slicing apparatus in a stack of slices; (c) a control having a memory section and a data processing section; (d) an image capturing device arranged above the conveyor, said image capturing device signal-connected to said control to input into said memory section a two-dimensional pixel field corresponding to an image captured of a surface area of a top slice of said stack of slices located on said conveyor, each pixel classified

by said control as either a fat or lean portion of the surface area, depending on image, said control data processing section adapted to sum fat pixels and compare said sum of fat pixels to a predetermined limit; and (e) a classifying conveyor signal-connected to said control, said classifying conveyor movable to direct the stack of slices to a destination depending on the number of fat pixels.

119. The images below correspond to videos taken from Weber's website and depict one of Defendants' Accused Optical Grading Products being used in connection with the Weber Slicer 702, including examples of locations of a conveyor arranged to receive said slices, a control, and an image capture device, and a classifying conveyor.



120. Defendants also indirectly infringe one or more claims of the '089 patent in violation of 35 U.S.C. § 271(b) and/or (c) by actively inducing infringement of the '089 patent by others and/or offering to sell or selling within the U.S. a component covered by the claims of the '089 patent that is a material part of the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use.

121. For example, Defendants instruct customers of Defendants' Accused Optical Grading Products how to install and operate the product as claimed, including through product documentation and in-person and remote customer support. Defendants' instructions to their customers is also set forth in published tutorials, quick tips, upgrades and modifications, and product videos on its website and YouTube channel(s). *See, e.g.*, <https://www.youtube.com/user/weberslicer>; <https://www.youtube.com/channel/UC7QCpv2ISi2DkjZ1XVf17Qg>. At least one video on Weber's website, for example listed above, demonstrates Defendants' Accused Optical Grading Products operating as claimed. Defendants' Accused Optical Grading Products are designed, manufactured, imported, used and/or sold with no uses other than to operate in a way as claimed.

122. On information and belief, Defendants have been aware of the '089 patent since at least 2015. For example, Defendants cited the '089 patent and/or the application that led to the '089 patent as prior art to their own patent applications, including at least DE102015122399A; DE102017112095A; US14700643A; and WO2016EP82160A.

123. On information and belief, Defendants have been aware of their infringement of the '089 patent, as alleged in this complaint, through at least their extensive monitoring of Provisur's food slicing business, products, designs and patents, as discussed above. Defendants knew it was highly likely that their actions constituted infringement, or, in the alternative, Defendants' infringement was so apparent that Defendants should have known.

124. Defendants are, therefore, liable for infringement and willful infringement of the '089 patent pursuant to 35 U.S.C. § 271.

COUNT SEVEN
(Infringement of U.S. Patent No. 6,320,141)

125. The allegations of paragraphs 1 through 44 are realleged and reincorporated by reference as if fully set forth herein.

126. U.S. Patent No. 6,320,141 (“the ‘141 patent”), entitled “Yield Monitoring System for a Slicer Apparatus,” was duly issued by the USPTO on November 20, 2001, and lists named inventors Scott Lindee and Steven III. A true and correct copy of the ‘141 patent is attached hereto as Exhibit G.

127. Provisur is the owner and assignee of the ‘141 patent, with the full rights to enforce the ‘141 patent and sue for damages by reason of infringement of the ‘141 patent.

128. Provisur is in compliance with the patent marking requirements contained in 35 U.S.C. § 287 with respect to the ‘141 patent.

129. The ‘141 patent describes a yield monitoring system for a slicing and packaging apparatus. *See, e.g.*, Exhibit G at Col. 1:6-8. In accordance with one embodiment of the system, the system includes at least one product input scale, a slicing mechanism for slicing the product, and at least one product output scale capable of weighing the product after slicing. *See, e.g.*, Exhibit G at Col. 1:66-Col. 2:16. A yield monitor is connected to electronically receive weight information corresponding to the weight of product weighed by the at least one product input scale and the at least one product output scale. *Id.* The yield monitor uses weight information to provide system yield data to a user. *Id.* Preferably, the system also includes a makeweight scale, which electronically communicates makeweight data to the yield monitor. *Id.* This system improves the state of the art by, for example, disclosing an automated system that determines and monitors the overall yield of a food processing system. *See, e.g.*, Exhibit G at Col. 1:53-56.

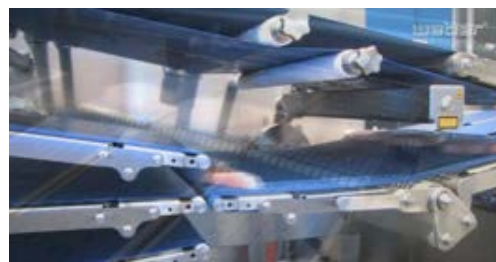
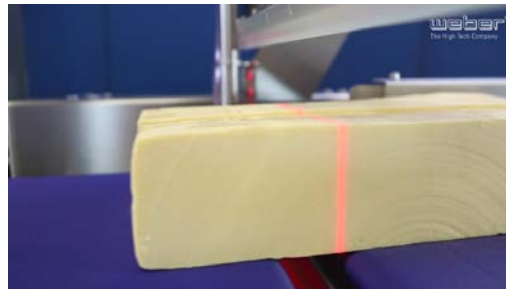
130. Defendants have directly infringed and continue to directly infringe one or more claims of the '141 patent in violation of 35 U.S.C. § 271(a), including at least independent claim 20, by making, using, offering to sell, selling, and/or importing into the U.S. weighers designed to be used in the context of infringing yield monitoring systems, for example as advertised on Defendants' websites. *See, e.g.*, <http://www.textorweb.com/index.php/us/maschinen-englisch-us/scanner-waage-englisch-us/cps-200-englisch-us> ("Defendants' Accused Yield Monitoring Products").

131. Defendants' Accused Yield Monitoring Products operate in the same way with respect to the relevant claim elements of the '141 patent. Defendants' Accused Yield Monitoring Products contain all of the elements of claims of the '141 patent, including, for example: (a) at least one product input scale; (b) a slicing mechanism for slicing the comestible product after the product has been weighed on the at least one product input scale; (c) at least one product output scale capable of weighing the product after slicing by the slicing mechanism to determine a post-processing weight; (d) at least one product makeweight scale capable of electronically communicating makeweight data; and (e) a yield monitor connected to electronically receive weight information from the at least one product input scale, the at least one product output scale, and be at least one product makeweight scale, the yield monitor using the received weight information to provide system yield data to a user.

132. The '141 patent is directed to a tangible apparatus for use in a system for slicing a comestible product. As reflected in the detailed description of the '141 patent, it describes a novel inventive concept for a yield monitoring system. Although conventional systems presented various approaches to quantifying the uniformity of the packaged product, conventional systems failed to address the quantification of system efficiency, *i.e.*, system yield.

Thus, the '141 patent describes a particular technology that was not well-understood, routine, or conventional and goes beyond what was known in the prior art before the time of invention to solve this technological problem.

133. The images below correspond to videos taken from Weber's and Textor's websites depicting Defendants' Accused Yield Monitoring Products, for example, including at least the CPS 200, in action. The images and videos depict an apparatus for use in a system for slicing a comestible product, with examples of locations of a product input scale, a slicing mechanism, an output scale, a makeweight scale, and a yield monitor.



134. Defendants also indirectly infringe one or more claims of the '141 patent in violation of 35 U.S.C. § 271(b) and/or (c) by actively inducing infringement of the '141 patent by others and/or offering to sell or selling within the U.S. a component covered by the claims of the '141 patent that is a material part of the invention and not a staple article or commodity of commerce suitable for substantial noninfringing use.

135. For example, Defendants instruct customers of Defendants' Accused Yield Monitoring Products how to install and operate the product as claimed, including through product documentation and in-person and remote customer support. Defendants' instructions to their customers are also set forth in published tutorials, quick tips, upgrades and modifications, and product videos on its website and YouTube channel(s). *See, e.g.*, <https://www.youtube.com/user/weberslicer>; <https://www.youtube.com/channel/UC7QCpv2ISi2DkjZ1XVf17Qg>. At least one video on Textor's website, for example listed above, demonstrates Defendants' Accused Yield Monitoring Products operating as claimed. Defendants' Accused Yield Monitoring Products are designed, manufactured, imported, used and/or sold with no uses other than to operate in a way as claimed.

136. On information and belief, Defendants have been aware of the '141 patent since before the filing of this complaint. Defendants have been aware of their infringement of the '141 patent, as alleged in this complaint, through at least their extensive monitoring of Provisur's food slicing business, products, designs and patents, as discussed above. Defendants knew it was highly likely that their actions constituted infringement, or, in the alternative, Defendants' infringement was so apparent that Defendants should have known.

137. Defendants are, therefore, liable for infringement and willful infringement of the '141 patent pursuant to 35 U.S.C. § 271.

* * *

138. Defendants' acts of infringement have caused damage to Provisur.

139. Provisur is entitled to recover from Defendants the damages sustained by Provisur as a result of Defendants' wrongful acts, in an amount subject to proof at trial and, in any case, no less than a reasonable royalty, pursuant to 35 U.S.C. § 284.

140. Defendants' acts of patent infringement have caused irreparable harm to Provisur and Provisur is entitled to the grant of a preliminary and permanent injunction pursuant to 35 U.S.C. § 283, enjoining Defendants, and each of their agents, employees, principals, officers, attorneys, successors and all those in active concert or participation with Defendants from further acts of infringement, contributory infringement, and inducement to infringe with respect to the '531, '936, '513, '005, '089, and '141 patents' claims.

141. Weber's acts of patent infringement have caused irreparable harm to Provisur and Provisur is entitled to the grant of a preliminary and permanent injunction pursuant to 35 U.S.C. § 283, enjoining Weber, and each of its agents, employees, principals, officers, attorneys, successors and all those in active concert or participation with Weber from further acts of infringement, contributory infringement, and inducement to infringe with respect to the '537 patent's claims.

142. Defendants' infringement of the '531, '936, '513, '005, '089, and '141 patents is willful and deliberate, justifying treble damages pursuant to 35 U.S.C. § 284.

143. Weber's infringement of the '537 patent is willful and deliberate, justifying the assessment of treble damages pursuant to 35 U.S.C. § 284.

144. This is an exceptional case, justifying the awarding of attorneys' fees and costs pursuant to 35 U.S.C. § 285.

145. Provisur reserves the right to assert additional infringement allegations as discovery progresses and in accord with the rules and deadlines of this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Provisur respectfully requests that this Court enter judgment in its favor against Defendants and grant to Provisur the following relief:

- A. Find that Weber is infringing the '537 in violation of 35 U.S.C. § 271(a), (b), and/or (c);
- B. Find that Defendants are infringing the '531, '936, '513, '005, '089, and '141 patents in violation of 35 U.S.C. § 271(a), (b), and/or (c);
- C. Enter an order preliminarily and permanently enjoining Weber, its officers, directors, agents, servants, employees, and all other persons in privity or acting in concert with it who receive actual notice of the order by personal service or otherwise, from any further acts of infringement of the '537 patent;
- D. Enter an order preliminarily and permanently enjoining Defendants, their officers, directors, agents, servants, employees, and all other persons in privity or acting in concert with them who receive actual notice of the order by personal service or otherwise, from any further acts of infringement of the '531, '936, '513, '005, '089, and '141 patents;
- E. Award Provisur damages in an amount adequate to compensate Provisur for Weber's infringement of the '537 patent;
- F. Award Provisur damages in an amount adequate to compensate Provisur for Defendants' infringement of the '531, '936, '513, '005, '089, and '141 patents;
- G. Enter an order trebling any and all damages awarded to Provisur by reason of Weber's willful infringement of the '537 patent pursuant to 35 U.S.C. § 284;

H. Enter an order trebling any and all damages awarded to Provisur by reason of Defendants' willful infringement of the '531, '936, '513, '005, '089, and '141 patents pursuant to 35 U.S.C. § 284;

I. Enter an order awarding Provisur interest on damages awarded and their costs pursuant to 35 U.S.C. § 284;

J. Enter an order finding that this is an exceptional case and awarding Provisur its reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and

K. Award such other and further relief as this Court deems proper.

JURY DEMAND

Plaintiff Provisur respectfully requests a trial by jury of all issues properly triable by jury in this action.

Dated: April 26, 2019

/s/ Craig C. Martin

Craig C. Martin (admitted *pro hac vice*)
Timothy J. Barron (admitted *pro hac vice*)
Sara. T. Horton (admitted *pro hac vice*)
Michael G. Babbitt (admitted *pro hac vice*)
Carla J. Baumel (admitted *pro hac vice*)
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654-3456
Tel: (312) 923-2776
Fax: (312) 840-7776
cmartin@jenner.com
tbarron@jenner.com
shorton@jenner.com
mbabbitt@jenner.com
cbaumel@jenner.com

Jeffrey J. Simon
State Bar No. 35558
HUSCH BLACKWELL LLP
4801 Main Street, Suite 1000
Kansas City, MO 64112
Tel: (816) 329-4711
Fax: (816) 983-8080
jeff.simon@huschblackwell.com

*Attorneys for Plaintiff
Provisur Technologies, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 26th day of April, 2019, the foregoing was filed electronically with the Clerk of the Court via the CM/ECF system, which sends notification of such filing to the following:

Jason S. Leiker (MO #53973)
Levy Craig Law Firm
A Professional Corporation
4520 Main Street, Suite 1600
Kansas City, Missouri 64111
Phone: 816.460.1835
Fax: 816.382.6606
jleiker@levycraig.com

Attorney for all Defendants

/s/ Craig C. Martin
Craig C. Martin