

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

FEY INDUSTRIES, INC.,)	
)	0:19-cv-1758
Plaintiff,)	
)	
v.)	<u>COMPLAINT</u>
)	
KITCHENDAO Information)	Jury Trial Demanded
Technology Co., Ltd.)	
)	
Defendant.)	
)	

COMPLAINT

Plaintiff, Fey Industries, Inc., for its Complaint against Defendant KitchenDao Information Technology Co., Ltd., states:

THE PARTIES

1. Plaintiff, Fey Industries, Inc. (“Fey Industries”) is a Minnesota corporation having its principal place of business at 200 4th Avenue North, Edgerton, Minnesota 56128. Fey Industries is a citizen and resident of Minnesota.

2. Defendant KitchenDao Information Technology Co., Ltd. (“KitchenDao”) is, upon information and belief, a Chinese corporation having a principal place of business at Suite 1203, North Tower of Continental Center, No. 1068 XinGangDong Road, HaiZhu District, GuangZhou, China 510335 and B9-3 Yin Ling Science and Technology Industrial Park, Jian Cheng District, Yangjiang, Guangdong, China 529931. KitchenDao operates a website at www.kitchendao.com. KitchenDao also sells its infringing products into the United States, including in this District, via Amazon.com. Upon information and belief, KitchenDao is not a resident of any judicial district in the United States.

JURISDICTION AND VENUE

3. This is a claim of patent infringement arising under the Acts of Congress relating to patents, 35 U.S.C. §§ 271, 281-285, and 289. This Court has exclusive subject matter jurisdiction over Plaintiff's patent infringement claims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over Defendant. KitchenDao maintains a website at www.kitchendao.com, accessible with this District, that advertises its products, including the infringing products. KitchenDao sells its products, including the infringing products, into this District via at least Amazon.com.

(https://www.amazon.com/gp/product/B0753F42SB/ref=ppx_yo_dt_b_asin_title_o04_s02?ie=UTF8&psc=1) KitchenDao has purposefully directed its activities within this District and Fey Industries' claims arise out of KitchenDao's activities directed at and within Minnesota.

5. Venue is proper in this District under 28 U.S.C. § 1391(c)(3). Defendant KitchenDao, as a Chinese company, is not a resident of the United States. Therefore, KitchenDao may be sued in any judicial district. As a foreign corporation, 28 U.S.C. § 1400(b) does not apply.

FACTS

6. Fey Industries is an industry leader in providing branded and packaging products, including kitchen products, that enhance the image of other organizations to their users and customers.

7. Fey Industries' core technologies include: injection molding, thin gauge thermoforming, RF heat sealing, and sonic welding along with decoration methods of digital printing, laser engraving, hotstamping, pad printing, and screen printing.

8. Fey Industries manufactures and sells items under its various trademarked brands.

9. Fey Industries sells The World's Best Pizza Cutter™ (registration pending) as part of its Mi-Line® of products. The World's Best Pizza Cutter™ is one of Fey Industries' bestselling products.

10. Fey Industries has protected The World's Best Pizza Cutter™ through several patents, including at least United States Patent No. D519,334.

11. Upon information and belief, Defendant is engaged in the business of manufacturing, selling, offering to sell, and/or importing kitchen products.

<http://www.kitchendao.com/index.php?g=&m=article&a=index&id=21&cid=16>

12. Defendant offers for sale and sells its Pizza Cutter Roller on its website (<http://www.kitchendao.com/index.php?g=&m=article&a=index&id=34&cid=8>) and through at least some of its retail partners including Amazon.com

(https://www.amazon.com/gp/product/B0753F42SB/ref=ppx_yo_dt_b_asin_title_o04_s02?ie=UTF8&psc=1).

13. Fey Industries has not authorized Defendant under any of its patents.

CLAIM:
PATENT INFRINGEMENT U.S. PATENT NO. D519,334

14. Fey Industries repeats the allegations of paragraphs 1-13 of this Complaint.

15. On April 25, 2006, United States Patent No. D519,334 entitled "Pizza Cutter" was duly and legally issued to inventor Steven L. Molenaar and was assigned to Molenaar, Inc. It was subsequently assigned to Fey Industries on June 7, 2013 (Reel/Frame No. 030598/0088). Fey

Industries is now the owner of the entire right, title and interest in and to United States Patent No. D519,334 and has been and still is the owner thereof. United States Patent No. D519,334 is attached as Exhibit A.

16. United States Patent No. D519,334 covers an ornamental design for a pizza cutter.

17. Defendant has infringed and continues to infringe United States Patent No. D519,334 by making, using, offering to sell, or selling in the United States, and/or importing into the United States products infringing the ornamental design covered by United States Patent No. D519,334 in violation of 35 U.S.C. § 271, including but not limited to Defendant's Pizza Cutter Roller product.

18. Defendant has applied the patented design, or a colorable imitation thereof, to an article of manufacture, including but not limited to Defendant's Swing Pizza Cutter product, for the purpose of sale and has sold or exposed for sale an article of manufacture, including but not limited to Defendant's Swing Pizza Cutter product, to which the patented design or a colorable imitation has been applied in violation of 35 U.S.C. § 289.

19. The ornamental design of Defendant's Swing Pizza Cutter is the same or substantially the same as the ornamental design of United States Patent No. D519,334. The designs are so similar as to be nearly identical such that an ordinary observer, giving such attention as a purchaser usually gives, would be so deceived by the substantial similarity between the designs so as to be induced to purchase Defendant's products believing them to be substantially the same as the design protected by United States Patent No. D519,334.

20. A side-by-side comparison of United States Patent No. D519,334's patented design and an exemplary specimen of Defendant's Swing Pizza Cutter is shown below:

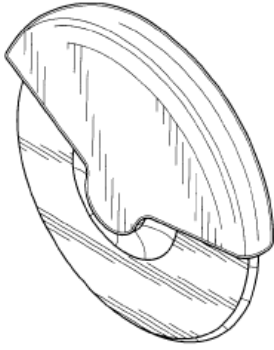

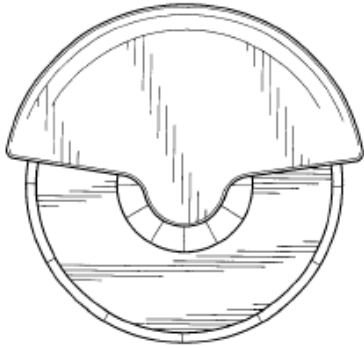

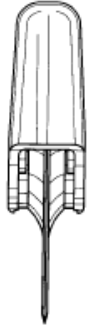
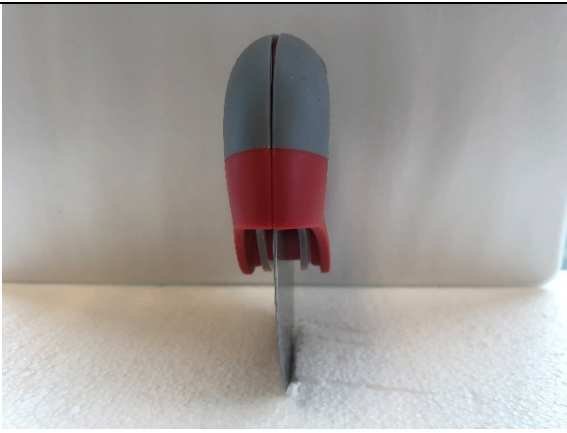
D519,334	KitchenDao's Swing Pizza Cutter
<p>FIG.1</p> 	
<p>FIG.2</p> 	
<p>FIG.3</p> 	

FIG.4

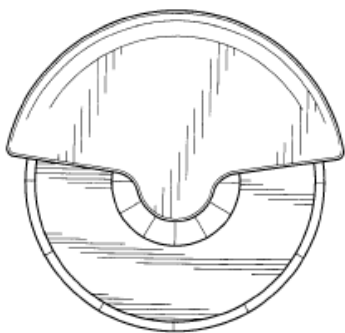


FIG.5

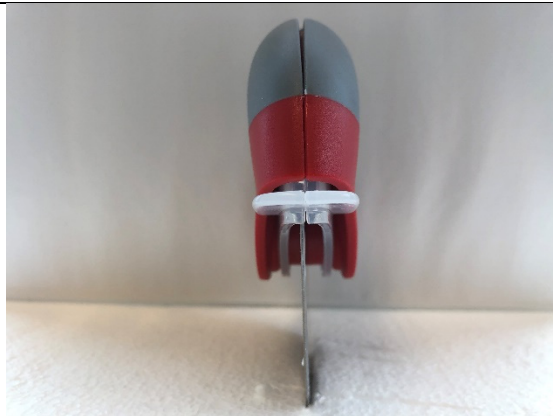
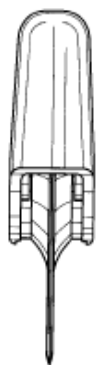
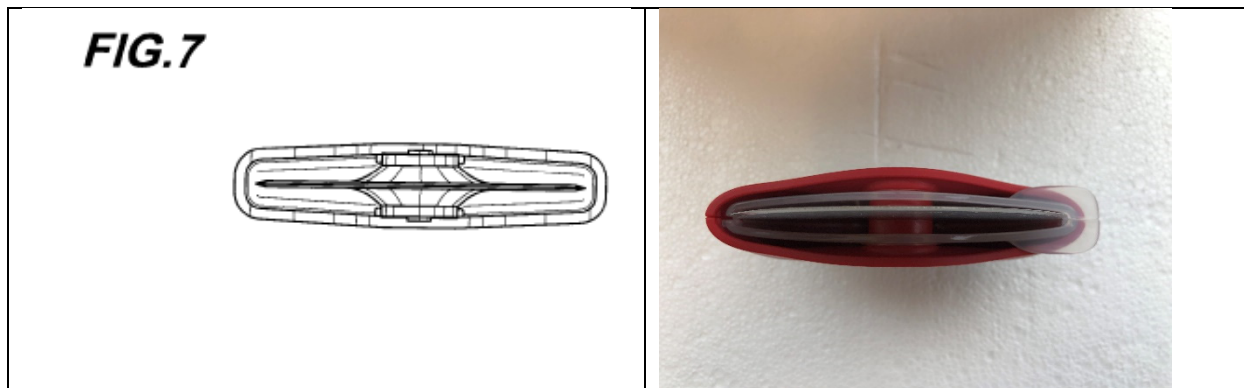


FIG.6





21. Fey Industries has not authorized Defendant under United States Patent No. D519,334.
22. Fey Industries has complied with the notice provision of the patent statutes by placing a notice of United States Patent No. D519,334 on products covered by the patent.
23. Fey Industries has been damaged by Defendant's infringement of United States Patent No. D519,334 and will continue to be damaged in the future unless Defendant is permanently enjoined from infringing said patent.
24. Fey Industries has also suffered monetary damages caused by Defendant's infringement in an amount to be proven at trial.
25. Fey Industries is entitled to a complete accounting of all revenue and profits derived by Defendant's unlawful conduct alleged herein, including without limitation, Defendant's total profit pursuant to 35 U.S.C. § 289.

PRAYER FOR RELIEF

Fey Industries respectfully requests a jury trial for this matter.

WHEREFORE, the Plaintiff, Fey Industries Inc., prays that the Court enter an order and judgment:

- A. that Defendant has infringed United States Patent No. D519,334.

B. preliminarily and permanently enjoining and restraining Defendant, its directors, members, officers, agents, servants, employees, subsidiaries, affiliates, and all persons in active concert or participation with, through, or under them, at first during the pendency of this action and thereafter perpetually from making, using, offering to sell, or selling in the United States, and/or importing into the United States products infringing United States Patent No. D519,334.

C. awarding Fey Industries damages under 35 U.S.C. §§ 284 and 289, including Defendant's total profit pursuant to 35 U.S.C. § 289.

D. awarding Fey Industries its attorneys' fees as provided by 35 U.S.C. § 285.

E. awarding Fey Industries such other relief as the Court may deem just and proper.

Respectfully Submitted,

Date: July 2, 2019

s/Anthony R. Zeuli
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