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Attorneys for PLAINTIFF,
Souper Products, LLC

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

Souper Products, LLC, a California
Limited Liability Company,

Plaintiff

v.

Jammin' Butter, LLC, a Nevada
Limited Liability Company,

Defendant.

CASE No. 2:24-cv-01040

**COMPLAINT FOR TRADEMARK,
PATENT, AND COPYRIGHT
INFRINGEMENT AND UNFAIR
COMPETITION**

DEMAND FOR JURY TRIAL

**COMPLAINT FOR TRADEMARK, PATENT, AND COPYRIGHT
INFRINGEMENT AND UNFAIR COMPETITION**

Plaintiff Souper Products, LLC (“Souper” or “Plaintiff”), for its Complaint for Trademark, Patent, and Copyright Infringement and Unfair Competition against Defendant Jammin' Butter, LLC DBA That Daily Deal (“That Daily Deal” or “Defendant”), alleges as follows:

JURISDICTION AND VENUE

1. This Complaint includes a Claim for Relief for Patent Infringement arising under the Patent Laws of the United States, 35 U.S.C. §101, *et seq.*, for Defendant’s infringement of Souper’s U.S. Patents Nos. D887,460 S (the “460 Patent”) and D905,133 S (the “133 Patent”), and related claims.

2. This Complaint also includes a Claim for Relief for Copyright Infringement arising under the Copyright Laws of the United States, 17 U.S.C. §101, *et*

seq.

1 3. This Complaint also includes a Claim for Relief for Trademark
2 Infringement arising under the Trademark Laws of the United States, 15 U.S.C. §1051
3 *et seq.*

4 4. This Court has original subject matter jurisdiction over this action pursuant
5 to 28 U.S.C. §§ 1331 and 1338(a).

6 5. This Court has personal jurisdiction over Defendant because, among other
7 things, Defendant is shipping products to California, Defendant's website is accessible
8 in California; and Defendant has committed, aided, abetted, contributed to and/or
9 participated in the commission of acts giving rise to this action within this Judicial
10 District within the State of California. Therefore, Defendant has more than minimum
11 contacts with California and it is fair and reasonable for this Court to have personal
12 jurisdiction over Defendant.

13 6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) at least
14 because Defendant has done business in this district, and has (directly and/or indirectly)
15 committed acts of infringement in this district, having severe negative effect on
16 Plaintiff, who is located within this Judicial District.

THE PARTIES

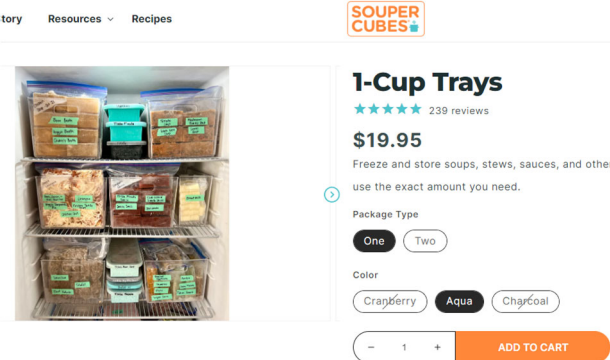
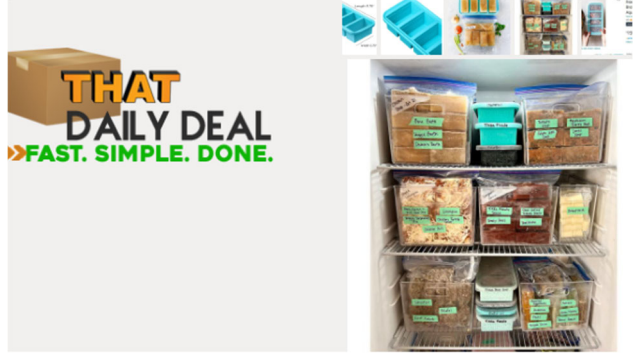
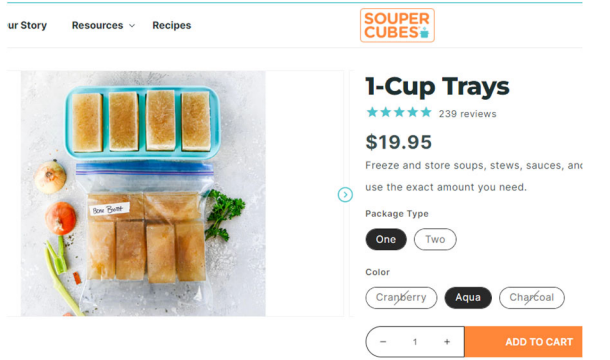
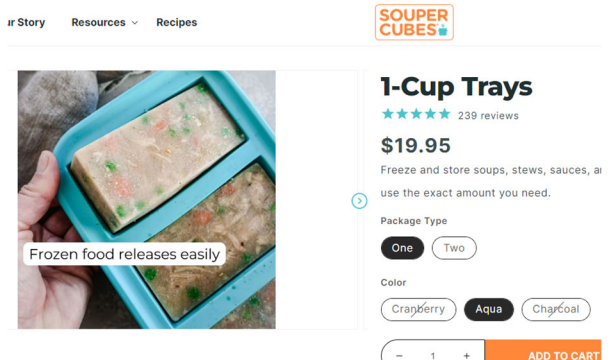
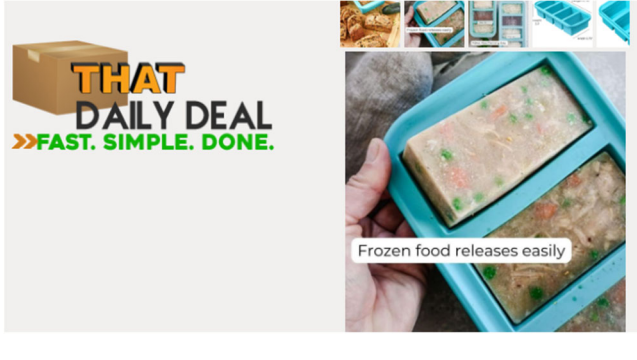
17
18 7. Plaintiff Souper Products, LLC is a California Limited Liability Company
19 with a principal place of business at 113 N San Vicente Blvd, Suite 270, Beverly Hills,
20 California 90211.

21 8. Souper was founded in 2017 and offers *inter alia*, silicone freezer trays for
22 freezing and reheating soups, stocks, and plenty of other foods under the Trademark
23 SOUPER CUBES ("the Souper Cubes").

24 9. The Souper Cubes are trays that are built with thick silicone walls and a
25 steel-embedded rim to make the tray extra sturdy. They were created to freeze and easily
26 release any type of meal preparation.

27 10. Defendant Jammin' Butter, LLC DBA That Daily Deal is a Nevada
28 Limited Liability Company with a place of business at 168 Roweland Dr, Johnson City,

19. The following Table 1 shows Defendant's use of images used to offer for sale the Infringing Products alongside Plaintiff's use of Plaintiff's images.

Plaintiff's website	Defendant's website
	
	
	

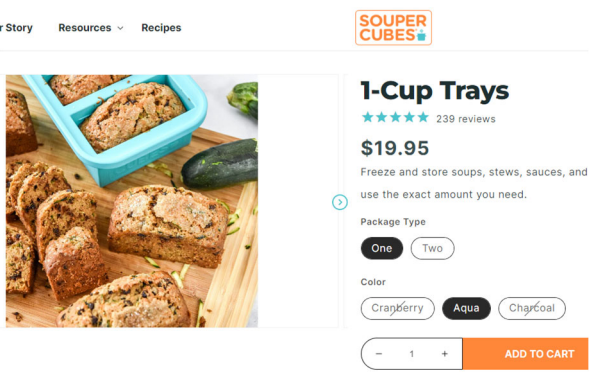
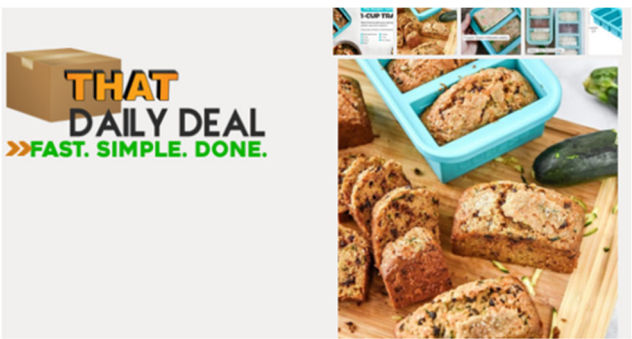
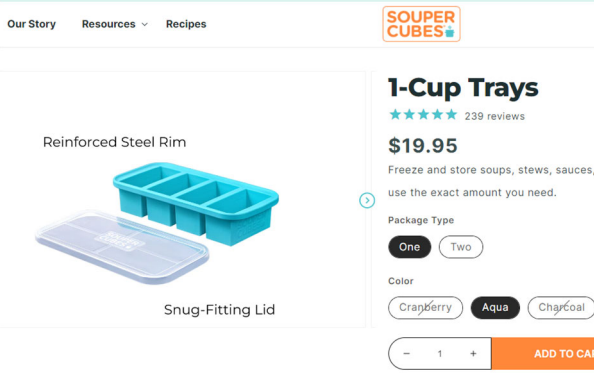
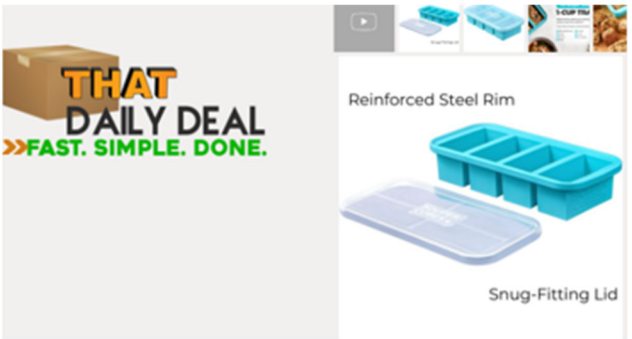
1 2 3 4 5 6 	
7 8 9 10 11 12 13 	

Table 1

20. Each of the photographs identified in Table 1, which were posted on Defendant's website, were taken directly from Plaintiff's website, and are owned by Plaintiff.

21. Defendant is not a licensed distributor of Plaintiff's Products.

22. Defendant's offer for sale of the Infringing Products was not authorized in any way by Plaintiff.

23. The Infringing Products are not products that were initially manufactured or sold by Plaintiff.

24. Defendant offered for sale the Infringing Products at a price far undercutting Plaintiff's pricing.

25. Defendant's Website is a clear attempt to pass off the Infringing Products as Plaintiff's products.

II. Souper's Registered Trademarks and That Daily Deal's Infringing Activities

26. Plaintiff is the owner of the following U.S. Trademark Registrations (collectively the "SOUPER CUBES Marks"), a true and correct copy of the SOUPER CUBES Marks' Registrations are attached hereto as Exhibit C:

- No. 6,852,394 for SOUPER CUBES, in class 21 for Bakeware; Baking dishes; Cookware, namely, ceramic baking dishes configured to receive the contents of portioned flexible freezer trays;
- No. 5,546,054 for , in class 21 for Ice cube trays;
- No. 5,545,717 for SOUPER CUBES, in class 21 for Ice cube trays.

27. Plaintiff has made extensive and continuous use of the SOUPER CUBES Marks since 2018 for the marks related to the Ice cube trays in building its well-known kitchen supply brand.

28. Plaintiff offers its goods, inter alia, via its website <https://www.soupercubes.com/> ("Plaintiff's Website"). A true and correct copy of the home page of Plaintiff's Website is attached hereto as Exhibit D.

29. Plaintiff offers products under the name "Souper Cubes" ("Plaintiff's Products" or "Souper Cubes").

30. Through extensive and costly advertising, marketing, and promotion, the SOUPER CUBES Marks have become recognized and relied upon by the relevant industry and purchasing public throughout the United States.

31. As a result, the SOUPER CUBES Marks have become a valuable asset of Plaintiff, representing substantial goodwill and reputation of Plaintiff, Plaintiff's business activities, and Plaintiff's goods.

32. Defendant had knowledge of the SOUPER CUBES Marks.

33. Defendant's infringement of the SOUPER CUBES Marks was willful.

34. Defendant intended to represent to its customers that the Infringing Products were Plaintiff's products.

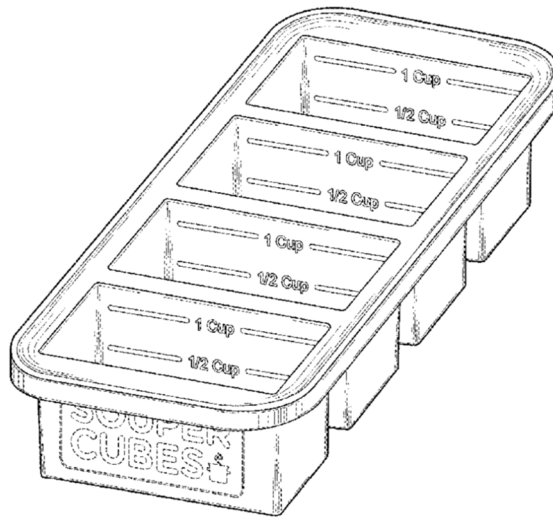
35. Plaintiff's Website even directed potential consumers to Plaintiff's

Amazon listing and enticed its customers to purchase the Infringing Product by indicating that the Infringing Product was the genuine article and being sold at a steep discount.

36. Defendant's use of the SOUPER CUBES Marks damaged Plaintiff because individuals looking for Plaintiff's well-known products were tricked into purchasing products from Defendant.

III. Souper's Registered Design Patent and That Daily Deal's Infringing Activities

37. Plaintiff is the owner of the U.S. Design Patent No. D887,460 S, titled Tray (the "'460 Patent"). A true and correct copy of the '460 Patent is attached hereto as Exhibit G.

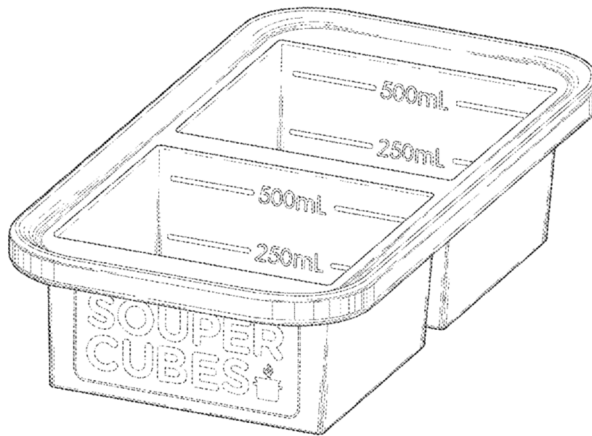


The '460 Patent

38. The '460 Patent was filed on March 6, 2018, and granted on June 16, 2020.

39. The '460 Patent covers the design of a tray.

40. Plaintiff is the owner of the U.S. Design Patent No. D905,133 S, titled Tray (the "'113 Patent"). A true and correct copy of the '113 Patent is attached hereto as Exhibit H.



The '133 Patent

41. The '133 Patent was filed on April 30, 2019, and granted on December 15, 2020.

42. The '133 Patent covers the design of a tray.

43. Plaintiff's Products practice the '460 Patent.

44. Plaintiff's Products practice the '133 Patent.

45. Plaintiff has not authorized Defendant to practice the claim of the '460 Patent.

46. Plaintiff has not authorized any other third party to practice the '460 Patent, except for those entities to whom Plaintiff has sold its products.

47. Plaintiff has not authorized Defendant to practice the claim of the '133 Patent.

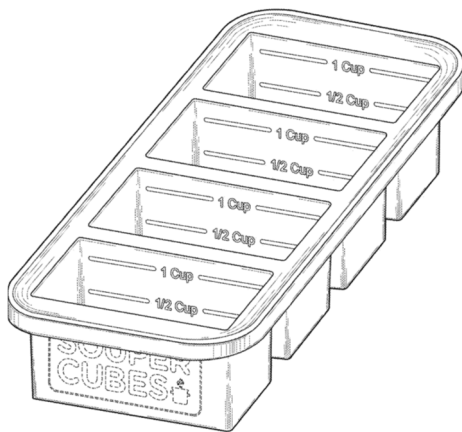
48. Plaintiff has not authorized any other third party to practice any of the claims of the '133 Patent, except for those entities to whom Plaintiff has sold its products.

49. The Infringing Products are exact duplicates of the products created, patented and sold by Plaintiff, down to the embossed SOUPER CUBES Mark.



50. The Infringing Products practice the '460 Patent.

51. By way of example, as shown below, the Infringing Products appear identical to the design claimed and protected by the '460 Patent:

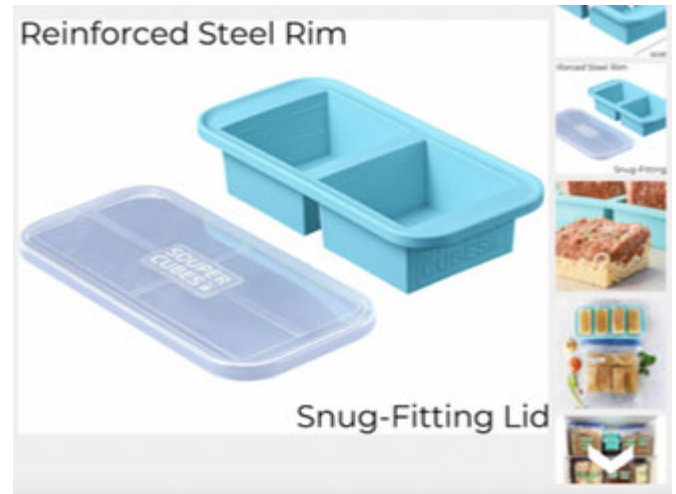
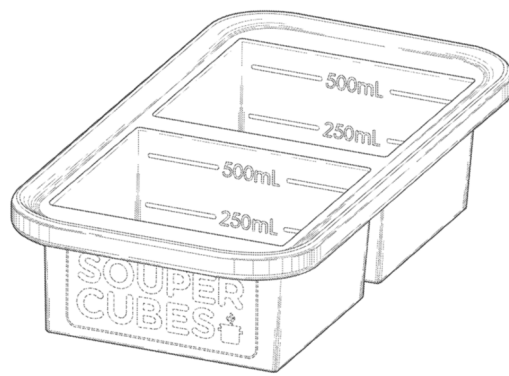


The '460 Patent

The Infringing Products

52. The Infringing Products practices the '133 Patent.

53. By way of example, as shown below, the Infringing Products appear identical to the design claimed and protected by the '133 Patent:



The '133 Patent

Infringing Product

54. Therefore, there is no doubt that the Infringing Products infringe Plaintiff's '460 Patent and '133 Patent.

55. Upon information and belief, Defendant has offered for sale and has sold the Infringing Products on its website. *See* Exhibit E.

56. Upon information and belief, Defendant has used, sold, and/or offered to sell the Infringing Products in the United States.

57. As a result of Defendant's actions, the Infringing Products, and potentially other infringing products, have been sold, offered for sale, and used in the United States to the irreparable harm of Plaintiff.

58. As a result of Defendant's infringing actions, Defendant has reaped financial profits and gains while Plaintiff has suffered financial losses.

59. Plaintiff has never requested Plaintiff's permission or authorization to practice the claims of either the '460 Patent or the '133 Patent, and Plaintiff has never authorized Defendant to do so.

60. As such, Defendant's infringing actions are in complete disregard of Plaintiff's rights.

IV. Plaintiff's Copyrights and Defendant's Infringing Activities

61. Plaintiff is the owner of U.S. Copyright No. VA 2-374-247, which covers various photographs owned by Plaintiff ("Plaintiff's Copyright"). A true and correct

copy of the U.S. Copyright No. VA 2-374-247 is attached hereto as Exhibit I.

1 62. Plaintiff's Copyrights encompass Plaintiff's photographs.

2 63. To advertise the Infringing Products, Defendant used photographs that
3 were directly stolen from Plaintiff's product listings. *See* Table 1 above and *see* Exhibit
4 E.

5 64. Defendant's use of Plaintiff's photographs, without Plaintiff's
6 authorization constitutes Copyright Infringement.

7 65. Defendant's Copyright Infringement was willful because Defendant
8 intentionally took photographs from Plaintiff's website to advertise the Infringing
9 Products without Plaintiff's authorization.

10 **V. That Daily Deal's Wrongful Actions regarding Unfair Competition.**

11 66. Upon information and belief, Defendant sells and offers to sell various
12 products that change periodically.

13 67. Upon information and belief, Defendant has sold and offered to sell
14 between at least November 6 and November 12, 2023, the Infringing Products, on its
15 online store.

16 68. Defendant's use of Plaintiff's Copyrighted materials to advertise the
17 Infringing Product is likely to confuse a reasonable consumer, by failing to distinguish
18 Defendant's products from Plaintiff's products.

19 69. Additionally, Defendant's use of the term "Super Soup Cubes" in relation
20 with freezing trays and displaying of photography showing the SOUPER CUBES
21 Marks is likely to confuse a reasonable consumer, by failing to distinguish Defendant's
22 products to Plaintiff's products.

23 70. The Infringing Products are a direct copy of Plaintiff's products and also
24 practice the '460 Patent and '133 Patent.

25 71. Defendant's promotion, display, offer, and sale of the Infringing Products
26 under the term "Super Soup Cubes" at least on its website are misleading.

27 72. Because of Defendant's unfair competition, some customers that otherwise
28 would have purchased Plaintiff's products, purchased the Infringing Products.

73. Additionally, Defendant's acts resulting in unfair competition, resulted in diverting and poaching customers from Plaintiff to Defendant's Website, which benefited from a snowball effect by also promoting other items Defendant has for sale and bringing light on the particular periodical operation of Defendant's website, increasing Defendant's profit on its overall sales.

74. As a direct and proximate result of Defendant's wrongful conduct, Plaintiff is entitled to an injunction preventing Defendant from engaging in the above-described unlawful, unfair and/or fraudulent business acts or practices, and restitution in the amount of all of Defendant's profits earned in connection the foregoing activities.

VI. Plaintiff's Actions

75. On November 8, 2023, Plaintiff sent to Defendant a Cease and Desist Letter identifying Defendant's Patent, Trademark, and Copyright Infringement, and Plaintiff requested a response, including an accounting of sales, no later than November 9, 2023. A true and correct copy of the Cease and Desist Letter is attached hereto as Exhibit F.

76. Defendant did not reply to the Cease and Desist Letter.

77. As of November 9, 2023, it appears that Defendant removed the Infringing Products from Defendant's website.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

(Direct Trademark Infringement pursuant to Section 32 of the Lanham Act)

78. Plaintiff incorporates herein by reference the allegations of the preceding paragraphs as though fully set forth herein.

79. Defendant has used the SOUPER CUBES Marks, and colorable imitations thereof, in commerce in connection with the sale, offering for sale, distribution, and advertising of Defendant's freezing tray items through Defendant's website.

80. Defendant's use of the SOUPER CUBES Marks, and colorable imitations thereof, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendant with Plaintiff, or as to the origin,

1 sponsorship, or approval of Defendant's goods, or commercial activities by Plaintiff,
2 all to the damage and detriment of Plaintiff's reputation and good will.

3 81. Defendant's use of the SOUPER CUBES Marks without Plaintiff's
4 consent constitutes direct Trademark Infringement pursuant to Section 32 of the
5 Lanham Act, 15 U.S.C. § 1114.

6 82. Plaintiff has suffered irreparable harm as a result of Defendant's tortious
7 conduct, and Plaintiff is without an adequate remedy at law. Plaintiff is thus entitled to
8 a permanent injunction restraining Defendant, its agents, employees, representatives,
9 and all other persons acting in concert with it, from engaging in further such infringing
10 acts.

11 83. Defendant's acts were done intentionally and with knowledge of Plaintiff's
12 rights, and thus constitute deliberate and willful infringement.

13 84. As a result of this Trademark Infringement, Plaintiff has sustained
14 damages in an amount to be determined at trial, plus interest, costs, and attorneys' fees.

15 **SECOND CLAIM FOR RELIEF**

16 (Direct Trademark Infringement, False Designation of Origin and Unfair Competition
17 pursuant to Section 43(a) of the Lanham Act)

18 85. Plaintiff incorporates herein by reference the allegations of the preceding
19 paragraphs as though fully set forth herein.

20 86. Defendant has used the SOUPER CUBES Marks in commerce in
21 connection with the sale, offering for sale, distribution, and advertising of Defendant'
22 freezing tray items through Defendant's website.

23 87. Defendant's use of the SOUPER CUBES Marks is likely to cause
24 confusion, or to cause mistake, or to deceive as to the affiliation, connection, or
25 association of Defendant with Plaintiff, or as to the origin, sponsorship, or approval of
26 Defendant's goods, or commercial activities by Plaintiff, all to the damage and
27 detriment of Plaintiff's reputation and good will.

28 88. Defendant's use of the SOUPER CUBES Marks without Plaintiff's
consent constitutes direct Trademark Infringement, false designation of origin and

infringes the ‘460 Patent without Plaintiff’s authorization, pursuant to 35 U.S.C. § 271 and other applicable law.

99. Defendant has infringed at least Claim 1 of the ‘460 Patent through the foregoing activities including, without limitation, making, using, offering for sale, and selling the Infringing Products in the United States.

100. Defendant’s infringement, contributory infringement, and/or knowing and intentional inducement to infringe has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for such infringement, including lost profits, but in no event not less than a reasonable royalty, as permitted under 35 U.S.C. § 284.

101. In addition, pursuant to 35 U.S.C. § 284, Plaintiff is entitled to enhanced and treble damages against Defendant together with interest at the maximum legal rate and costs as fixed by the Court.

102. Upon information and belief, Defendant’s infringement has been intentional and willful, making this an exceptional case.

103. Because this is an exceptional case, Plaintiff is entitled to recover its attorney’s fees pursuant to 35 U.S.C. §285.

104. Defendant’s infringement of the ‘460 Patent has caused irreparable harm to Souper, which has no adequate remedy at law.

FIFTH CLAIM FOR RELIEF

(Direct Infringement of U.S. Design Patent No. D905,133 S)

105. Plaintiff incorporates herein by reference the allegations of the preceding paragraphs as though fully set forth herein.

106. Defendant has used, sold, and offered to sell in the United States, at least the Infringing Products that directly, indirectly, or under the Doctrine of Equivalents, infringes the ‘133 Patent without Plaintiff’s authorization, pursuant to 35 U.S.C. § 271 and other applicable law.

107. Defendant has infringed at least Claim 1 of the ‘133 Patent through the foregoing activities including, without limitation, making, using, offering for sale, and selling the Infringing Products in the United States.

108. Defendant's infringement, contributory infringement, and/or knowing and intentional inducement to infringe has injured Plaintiff, and Plaintiff is entitled to recover damages adequate to compensate it for such infringement, including lost profits, but in no event not less than a reasonable royalty, as permitted under 35 U.S.C. § 284.

109. In addition, pursuant to 35 U.S.C. § 284, Plaintiff is entitled to enhanced and treble damages against Defendant together with interest at the maximum legal rate and costs as fixed by the Court.

110. Upon information and belief, Defendant's infringement has been intentional and willful, making this an exceptional case.

111. Because this is an exceptional case, Plaintiff is entitled to recover its attorney's fees pursuant to 35 U.S.C. §285.

112. Defendant's infringement of the '133 Patent has caused irreparable harm to Souper, which has no adequate remedy at law.

SIXTH CLAIM FOR RELIEF

(Infringement of Copyright Registration No. VA 2-374-247)

113. Plaintiff incorporates herein by reference the allegations of the preceding paragraphs as though fully set forth herein.

114. Souper owns the Copyright to Plaintiff's Copyrights.

115. In accordance with the Copyright Act, Souper has Registered the Copyright to the Souper Cubes Photographs with the Copyright Office of the United States, prior to commencement of this action.

116. Defendant has, without permission, used the Souper Cubes Photographs.

117. Defendant has infringed Souper's exclusive rights to the Souper Cubes Photographs, pursuant to 17 U.S.C. § 113.

118. The infringement of Souper's rights in each of the Copyrighted photographs constitutes a separate and distinct act of infringement.

119. Defendant's conduct was intentional and willful and undertaken with a conscious disregard of Souper's rights. Souper is entitled to statutory damages under the Copyright Act or, alternatively, compensatory damages, including but not limited

to Defendant's profits attributable to the infringement, pursuant to 17 U.S.C. § 504.
1 Souper also is entitled to its attorneys' fees and full costs pursuant to 17 U.S.C. § 505.

2 120. Defendant's conduct has caused Souper great and irreparable injury that
3 cannot fully be compensated or measured in money. Souper has no adequate remedy at
4 law. Pursuant to 17 U.S.C. § 502, P&P is entitled to a permanent injunction prohibiting
5 further infringements of their Copyright and exclusive rights.

6 **SEVENTH CLAIM FOR RELIEF**

7 (Common Law Unfair Competition)

8 121. Plaintiff incorporates herein by reference the allegations of the preceding
9 paragraphs as though fully set forth herein.

10 122. Defendant's use of the SOUPER CUBES Marks without Plaintiff's
11 consent constitutes unfair competition under common law.

12 123. Plaintiff has suffered irreparable harm as a result of Defendant's conduct,
13 and Plaintiff is without an adequate remedy at law. Plaintiff is thus entitled to a
14 permanent injunction restraining Defendant, its agents, employees, representatives, and
15 all other persons acting in concert with it from engaging in further such unlawful acts.

16 124. Defendant's acts were done intentionally and with knowledge of Plaintiff's
17 rights.

18 125. As a result of this Trademark Infringement, Plaintiff has sustained
19 damages in an amount to be determined at trial, plus interest, costs, and attorneys' fees.

20 **EIGHTH CLAIM FOR RELIEF**

21 (Unfair Competition – Cal. Bus. & Prof. Code § 17200, *et seq.*)

22 126. Plaintiff incorporates herein by reference the allegations of the preceding
23 paragraphs as though fully set forth herein.

24 127. Defendant's conduct as stated herein constitutes unfair methods of
25 competition and/or unfair, unlawful, fraudulent and/or deceptive business acts or
26 practices in the conduct of any trade or commerce in violations of California Business
27 and Professions Code § 17200.

28 128. Defendant's conduct, in violation of California Business and Professions

Code § 17200, *et seq.*, has caused public confusion, deception, mistake and infringes Plaintiff's rights, including its trademark and good will associated with it.

129. Plaintiff has suffered irreparable harm as a result of Defendant's conduct, and Plaintiff is without an adequate remedy at law. Plaintiff is thus entitled to a permanent injunction restraining Defendant, its agents, employees, representatives, and all other persons acting in concert with it from engaging in further such unlawful acts.

130. Plaintiff is entitled to restitution in the amount of all of Defendant's profits earned in connection the activities.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff pray for judgment to be entered in its favor and against Defendant as follows:

- a) That judgement be entered in favor of Souper and against That Daily Deal on each claim made in the Complaint;
- b) That the Court order that Defendant, its officers, agents, directors, servants, employees, representatives, successors, and assigns, and all persons, firms, or corporations in active concert or participation with Defendant, be immediately and permanently enjoined from:
 - a. Directly or indirectly infringing the 6,852,394 Trademark;
 - b. Directly or indirectly infringing the 5,546,054 Trademark;
 - c. Directly or indirectly infringing the 5,545,717 Trademark;
 - d. Directly or indirectly infringing the '460 Patent;
 - e. Directly or indirectly infringing the '133 Patent;
 - f. Directly or indirectly infringing the VA 2-374-247 Copyright.
- c) That Plaintiff be awarded the damages that Plaintiff has sustained and the profits that Defendant has derived as a result of its Trademark Infringement, Patent Infringement, Copyright Infringement, false designation of origin, unfair competition and other misconduct specified herein, in an amount to be determined at trial;
- d) That Plaintiff be awarded treble damages in accordance with section 35 of

the Lanham Act, 15 U.S.C. § 1117, and/or awarded exemplary or punitive damages as is deemed appropriate because of the willful and intentional nature of Defendant's conduct;

- e) That Plaintiff be awarded prejudgment interest, post judgment interest, and taxable costs of this action, including Expert Witness fees, together with attorneys' fees, pursuant to Section 35 of the Lanham Act, 15 U.S.C. § 1117;
- f) That Defendant be ordered to make restitution to Plaintiff for any unjust enrichment caused by virtue of their unlawful conduct as complained of herein; and
- g) That Plaintiff be granted such other and further relief as the Court deems just and proper.

Respectfully submitted,

HANKIN PATENT LAW, APC

Marc E. Hankin

Marc E. Hankin, Esq.
Attorneys for Plaintiff
Souper Products, LLC

Dated: February 7, 2024

DEMAND FOR JURY TRIAL

1 Souper Products, LLC hereby demands trial by jury on all claims and issues so
2 triable.

3
4 Respectfully submitted,

5 **HANKIN PATENT LAW, APC**

6 Dated: February 7, 2024

Marc E. Hankin

7 Marc E. Hankin, Esq.
8 Attorneys for Plaintiff
9 **Souper Products, LLC**
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