

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

Lincoln Foodservice Products LLC,	)	Case No. 3-07CV1707-N
	)	
Plaintiff,	)	
	)	
v.	)	<b>Jury Trial Demanded</b>
	)	
TurboChef Technologies, Inc.	)	
	)	
Defendant.	)	

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**LINCOLN FOODSERVICE PRODUCTS LLC’S AMENDED COMPLAINT FOR**  
**PATENT INFRINGEMENT**

Plaintiff Lincoln Foodservice Products LLC (“Lincoln”) brings this action for patent infringement against Defendant TurboChef Technologies, Inc. (“TurboChef”) and alleges as follows:

**THE PARTIES**

1. Lincoln Foodservice Products LLC is a limited liability company organized under the laws of the State of Indiana, having its principal place of business at 1111 N. Hadley Rd., Fort Wayne, Indiana 46804.

2. Upon information and belief, TurboChef Technologies, Inc. is a Delaware Corporation having a principal place of business at 4240 International Parkway, Suite 105, Carrollton, Texas 75007.

**JURISDICTION AND VENUE**

3. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.* This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

4. This Court has personal jurisdiction over TurboChef because TurboChef conducts business in this judicial district and in the State of Texas and has committed acts of patent infringement and/or has contributed to or induced acts of patent infringement by others in this judicial district (and elsewhere in Texas and in the United States).

5. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because TurboChef is subject to personal jurisdiction in this judicial district and has regularly conducted business in this judicial district, and certain of the acts complained of herein occurred in this judicial district.

**LINCOLN'S PATENT IN SUIT**

6. On November 16, 2004, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 6,817,283 B2 entitled "High Speed Cooking Device and Method" (the "'283 patent"). A true and correct copy of the '283 patent is attached hereto as Exhibit A.

7. Lincoln is the owner of all right, title, and interest in and to the '283 patent with full and exclusive rights to bring suit to enforce it, including the right to recover for past infringement.

**COUNT ONE**  
**(Infringement of the '283 Patent)**

8. Lincoln realleges and incorporates herein the allegations of paragraphs 1 through 7 as if fully set forth herein.

9. The '283 patent is valid and enforceable.

10. Upon information and belief, in violation of 35 U.S.C. § 271, TurboChef makes, uses, offers to sell, and sells within the United States, and/or import into the United States, products that infringe the '283 patent, including, but not limited to, the Tornado.

11. Upon information and belief, in violation of 35 U.S.C. § 271, TurboChef also contributes to and/or induces infringement of the '283 patent.

12. Upon information and belief, TurboChef has willfully infringed the '283 patent.

13. Upon information and belief, TurboChef's acts of infringement of the '283 patent will continue after service of this complaint unless enjoined by the Court.

14. As a result of TurboChef's infringement, Lincoln has suffered and will suffer damages.

15. Lincoln is entitled to recover from TurboChef the damages sustained by Lincoln as a result of TurboChef's wrongful acts in an amount subject to proof at trial.

16. Unless TurboChef is enjoined by this Court from continuing its infringement of the '283 patent, Lincoln will suffer additional irreparable harm and impairment of the value of its patent rights. Thus, Lincoln is entitled to an injunction against further infringement.

### **PRAYER FOR RELIEF**

WHEREFORE, Lincoln prays for judgment and relief as follows:

- (i) That TurboChef has infringed the '283 patent;
- (ii) That TurboChef's infringement of the '283 patent has been willful;
- (iii) That TurboChef be ordered to pay damages adequate to compensate

Lincoln Foodservice Products for defendant's infringement of the '283 patent pursuant to 35 U.S.C. § 284, including an accounting;

(iv) That TurboChef be ordered to pay treble damages pursuant to 35 U.S.C. § 284;

(v) That TurboChef be ordered to pay Lincoln's attorney fees pursuant to 35 U.S.C. § 285;

(vi) That TurboChef, its officers, agents, and employees, and those persons acting in active concert or in participation with them, and their successors and assigns, be enjoined from further infringement of the '283 patent pursuant to 35 U.S.C. § 283;

(vii) That TurboChef be ordered to pay prejudgment interest;

(viii) That TurboChef be ordered to pay all of Lincoln's costs associated with this action; and

(ix) That Lincoln be granted such other and additional relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Lincoln demands a trial by jury on all issues so triable.

Dated: October 16, 2007

By: /s/ David M. Stein

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5.1(d) on October 16, 2007. Any other counsel of records will be served by U.S. mail on the same date.

/s/ David M. Stein

David M. Stein

ORC 424929-3.072008.0019