

2. Enersyst Development Center, L.L.C. is a Delaware Corporation having a principal place of business at 4240 International Parkway, Suite 105, Carrollton, Texas 75007.

3. Garland Commercial Industries, LLC is a Delaware Corporation having a principal place of business at 185 South Street, Freeland, PA 18224-1916. GCI has an operating division known as MerryChef USA.

4. TurboChef's First Amended Complaint named as a defendant AGA Commercial Products Inc., a Delaware Corporation having a principal place of business at 2800 220th Trail, Amana, IA 52204-2800.

5. On information and belief, on February 19, 2008, AGA Commercial Products Inc.'s business name was changed to ACP of Delaware Inc. through a charter amendment.

6. ACP of Delaware Inc. is a Delaware Corporation having a principal place of business at 225 49th Ave Dr S W, Cedar Rapids, IA 52404.

JURISDICTION AND VENUE

7. This action arises under the patent laws of the United States, Title 35 of the United States Code. The Court's jurisdiction over this action is proper under the above statutes, including 35 U.S.C. § 271 *et seq.* and 28 U.S.C. §§ 1331 and 1338(a).

8. Personal jurisdiction exists generally over GCI because it has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within the Northern District of Texas. Personal jurisdiction also exists specifically over GCI because of its acts of infringement, discussed herein, within the State of Texas and within the Northern District of Texas.

9. Personal jurisdiction exists generally over ACP because it has sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and within the Northern District of Texas. Personal jurisdiction also exists specifically over ACP because of its acts of infringement, discussed herein, within the State of Texas and within the Northern District of Texas.

10. Venue is proper in this Court under 28 U.S.C. §§ 1391(b), (c), and (d).

11. On May 10, 1994, United States Letters Patent No. 5,310,978 (“the ‘978 patent”), entitled “Method and Apparatus for Controlling the Temperature and Surface Texture of a Food Product”, was issued in compliance with law. Enersyst is the owner by assignment of the ‘978 patent.

12. On July 18, 1995, United States Letters Patent No. 5,434,390 (“the ‘390 patent”), entitled “Quick-Cookig [sic] Oven”, was issued in compliance with law. TurboChef is the owner by assignment of the ‘390 patent.

13. On April 23, 1996, United States Letters Patent No. 5,510,601 (“the ‘601 patent”), entitled “Convection Heat Transfer Apparatus”, was issued in compliance with law. Enersyst is the owner by assignment of the ‘601 patent.

14. On June 26, 2001, United States Letters Patent No. 6,250,296 (“the ‘296 patent”), entitled “Convection Oven with Circulated Air Filtration Means”, was issued in compliance with law. Enersyst is the owner by assignment of the ‘296 patent.

15. The ‘978 patent, the ‘390 patent, the ‘601 patent and the ‘296 patent are collectively referred to herein as “the Patents in Suit”.

16. GCI has infringed and is still infringing the Patents in Suit in violation of 35 U.S.C. § 271, for example, by making, using, selling, offering for sale and/or

importing one or more of its products including, but not limited to, the MerryChef 402S (“the accused GCI products”). GCI has offered for sale and/or has sold the accused GCI products to customers in the Northern District of Texas either directly or through intermediaries, and/or has placed such products in the stream of commerce to the Northern District of Texas.

17. After a reasonable opportunity for discovery, the evidence is likely to support that GCI’s infringement of the Patents in Suit has been and continues to be willful.

18. As a result of GCI’s infringement of the Patents in Suit, TurboChef has suffered and continues to suffer injury to its business and property in an amount to be determined as damages.

19. Unless an injunction is issued enjoining GCI and its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with it, from infringing the Patents in Suit, TurboChef will be irreparably harmed.

20. ACP has infringed the Patents in Suit in violation of 35 U.S.C. § 271 by, for example, making, using, selling, offering for sale and/or importing one or more of its products. ACP has offered for sale and/or has sold its products to customers in the Northern District of Texas either directly or through intermediaries, and/or has placed such products in the stream of commerce to the Northern District of Texas.

21. After a reasonable opportunity for discovery, the evidence is likely to support that ACP’s infringement of the Patents in Suit has been and continues to be willful.

22. As a result of ACP’s infringement of the Patents in Suit, TurboChef has

suffered and continues to suffer injury to its business and property in an amount to be determined as damages.

23. Unless an injunction is issued enjoining ACP and its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with it, from infringing the Patents in Suit, TurboChef will be irreparably harmed.

24. Plaintiff has complied with the notice provisions of 35 U.S.C. § 287 with respect to the Patents in Suit.

PRAYER FOR RELIEF

Wherefore, TurboChef respectfully requests entry of a judgment that includes:

- A. A finding that GCI has infringed each of the Patents in Suit;
- B. A finding that ACP has infringed each of the Patents in Suit;
- C. A preliminary and permanent injunction enjoining GCI, its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from further infringement of the Patents in Suit;
- D. A preliminary and permanent injunction enjoining ACP, its officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, from further infringement of the Patents in Suit;
- E. An award of damages in favor of TurboChef and against GCI, such damages being in an amount sufficient to fully compensate TurboChef for GCI's infringement of the Patents in Suit, and an assessment of prejudgment interest and post-judgment interest;
- F. An award of damages in favor of TurboChef and against ACP, such damages being in an amount sufficient to fully compensate TurboChef for ACP's

infringement of the Patents in Suit, and an assessment of prejudgment interest and post-judgment interest;

G. A finding by the Court that GCI's infringement of the Patents in Suit has been willful, and, pursuant to 35 U.S.C. § 284, an award of enhanced damages in the amount of three times the damages found by the fact finder to be due and owing to TurboChef;

H. A finding by the Court that ACP's infringement of the Patents in Suit has been willful, and, pursuant to 35 U.S.C. § 284, an award of enhanced damages in the amount of three times the damages found by the fact finder to be due and owing to TurboChef;

I. A finding by the Court that this is an exceptional case under 35 U.S.C. § 285 and an award to TurboChef of its costs, expenses and attorney fees in this action; and

J. Such other and further relief as the Court deems just and equitable.

DEMAND FOR JURY TRIAL

TurboChef hereby demands trial by jury of all matters triable by right of jury.

Dated: April 23, 2008

Respectfully submitted,

/s/ John M. Cone

John M. Cone
State Bar No. 04660100
Kelly Kubasta
State Bar No. 24002430
HITCHCOCK EVERT LLP
750 North St. Paul Street, Suite 1110
Dallas, Texas 75201
Telephone: (214) 953-1111
Facsimile: (214) 953-1121
jccone@hitchcockevert.com
kkubasta@hitchcockevert.com

Of Counsel:

Timothy J. Vezeau

Eric C. Cohen

Michael A. Dorfman

KATTEN MUCHIN ROSENMAN LLP

525 W. Monroe Street

Chicago, IL 60661-3693

(312) 902-5200

Attorneys for Plaintiffs TurboChef
Technologies, Inc. and Enersyst
Development Center, L.L.C.

