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**U.S. District Court
Northern District of Ohio (Cleveland)
CIVIL DOCKET FOR CASE #: 1:06-cv-02622-PAG
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Vita-Mix Corporation v. Back to Basics Products, Inc., et al. Date Filed: 10/30/2006
Assigned to: Judge Patricia A. Gaughan Date Terminated: 07/02/2008
Case in other court: Federal Circuit, 08-01479 Jury Demand: Both
Cause: 35:271 Patent Infringement Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff**Vita-Mix Corporation**

represented by **David T. Movius**
McDonald Hopkins
Ste. 2100
600 Superior Avenue, E
Cleveland, OH 44114
216-430-2029
Fax: 216-348-5474
Email:
dmovius@mcdonaldhopkins.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Pat. # 5,302,021
6,527,473

Michael L. Snyder
McDonald Hopkins
Ste. 2100
600 Superior Avenue, E
Cleveland, OH 44114
216-348-5400
Fax: 216-348-5474
Email:
msnyder@mcdonaldhopkins.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David B. Cupar
McDonald Hopkins
Ste. 2100
600 Superior Avenue, E
Cleveland, OH 44114
216-348-5400
Fax: 216-348-5474
Email: dcupar@mcdonaldhopkins.com
ATTORNEY TO BE NOTICED

11/07/2006	<u>4</u>	Case Management Conference Scheduling Order with case management conference set on 12/19/2006 at 08:30 a.m. to be held telephonically by Hon. Patricia A. Gaughan. Signed by Judge Patricia A. Gaughan on 11/07/06. (D, MB) (Entered: 11/07/2006)
11/20/2006	<u>5</u>	Unopposed Motion for extension of time until December 20, 2006 to answer , <i>plead or otherwise respond to Plaintiff's Complaint</i> filed by Back to Basics Products, Inc.. Related document(s) <u>1</u> . (Christopher, S.) (Entered: 11/20/2006)
11/22/2006		Order [non-document]: Defendant's Motion for extension of time to answer, plead or otherwise respond to Plaintiff's Complaint is granted to 12/20/06. <u>5</u> Approved by Judge Patricia A. Gaughan on 11/21/06.(L-C, S) (Entered: 11/22/2006)
12/14/2006	<u>6</u>	Motion to continue <i>the Case Management Conference and for an Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint</i> filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B)(Christopher, S.) (Entered: 12/14/2006)
12/14/2006	<u>7</u>	Opposition to Motion to continue <i>the Case Management Conference and for an Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint</i> filed by Vita-Mix Corporation. Related document(s) <u>6</u> . (Attachments: # <u>1</u> Exhibit # <u>2</u> Exhibit # <u>3</u> Exhibit)(Cupar, David) (Entered: 12/14/2006)
12/14/2006	<u>8</u>	Report of Parties' Planning Mccting filed by Vita-Mix Corporation. Related document(s) <u>4</u> . (Cupar, David) (Entered: 12/14/2006)
12/14/2006	<u>9</u>	Reply to response to Motion to continue <i>the Case Management Conference and for an Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint</i> filed by Back to Basics Products, Inc.. Related document(s) <u>6</u> . (Christopher, S.) (Entered: 12/14/2006)
12/15/2006		Order [non-document]: Motion to continue the Case Management Conference is granted to 1/22/2007 at 08:45 AM. Motion for Extension of Time to Answer or Otherwise Respond to Plaintiff's Complaint is granted to 1/19/07. Approved by Judge Patricia A. Gaughan on 12/15/06. (Related Doc # <u>6</u>)(L-C, S) (Entered: 12/15/2006)
01/18/2007	<u>10</u>	Report of Parties' Planning Meeting. Parties do not consent to this case being assigned to the magistrate judge. filed by Vita-Mix Corporation, Back to Basics Products, Inc.. (Christopher, S.) (Entered: 01/18/2007)
01/19/2007	<u>11</u>	<i>Defendant's Answer to Complaint with Jury Demand</i> (Related Doc # <u>1</u>), Counterclaim against <i>Plaintiff</i> Vita-Mix Corporation filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Exhibit A)(Wick, Jennifer) Modified on 1/25/2007 added attorney Charles Lyon(Gadomski, Yvonne). (Entered: 01/19/2007)
01/19/2007	<u>12</u>	Motion to bifurcate <i>Damages and Willfulness and to Stay All Related Discovery</i> filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Brief in Support # <u>2</u> Exhibit A# <u>3</u> Exhibit B# <u>4</u> Exhibit C# <u>5</u> Exhibit D# <u>6</u>

		Exhibit E)(Wick, Jennifer) (Entered: 01/19/2007)
01/24/2007	<u>13</u>	Case Management Order: Case Management Conference held on 1/22/07. Case assigned to the Complex Track. Case is suitable for ECF. Non-expert discovery due by 7/31/07. Expert Reports exchanged by 8/17/07 for plaintiff and 9/7/07 for defendant and Expert discovery due by 10/12/07. Additional deadlines: Infringement contentions and claim construction chart 4/13/07. Prior act contentions 4/13/07. Advice of counsel defense deadline 4/20/07. Meet and confer regarding terms in dispute and identify the disputed terms to the Court 5/25/07. Markman briefs 6/08/07. Rebuttal briefs 6/22/07. Outstanding discovery requests are to be answered by the defendant on or before 2/09/07. Parties to be Joined and Pleading Amendments due by 5/4/07. Dispositive Motions due by 11/16/07. Status Conference set for 6/14/07 at 09:30 AM. Parties are required to appear in person. (If parties are not required to appear in person, they must be available by telephone.) Counsel must appear in person unless otherwise ordered by the Court. Signed by Judge Patricia A. Gaughan on 1/22/07. (LC,S) (Entered: 01/24/2007)
02/02/2007	<u>14</u>	Opposition to <u>12</u> Motion to bifurcate <i>Damages and Willfulness and to Stay All Related Discovery</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit 1, January 17, 2007 Press Release Entitled "Kitchen-Gadget Giant Buys Back to Basics")(Cupar, David) (Entered: 02/02/2007)
02/08/2007	<u>15</u>	<i>Plaintiff's Reply to Counterclaim</i> (Related Doc # <u>11</u>) filed by Vita-Mix Corporation. (Cupar, David) (Entered: 02/08/2007)
02/20/2007	<u>16</u>	Reply to <u>12</u> Motion to bifurcate <i>Damages and Willfulness and to Stay All Related Discovery</i> filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Exhibit A - 10/28/92 Response to Office Action# <u>2</u> Exhibit B - 1/25/93 Office Action)(Wick, Jennifer) (Entered: 02/20/2007)
02/21/2007	<u>17</u>	Proposed Order <i>Joint Protective Order</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit)(Movius, David) (Entered: 02/21/2007)
02/21/2007	<u>18</u>	Motion to strike <i>Back to Basics Products, Inc's Reply in Support of its Motion to Bifurcate</i> filed by Vita-Mix Corporation. (Movius, David) (Entered: 02/21/2007)
02/21/2007		Order [non-document]: Defendant's Motion to Bifurcate Damages and Willfulness and to Stay All Related Discovery is DENIED. However, the Court will consider Bifurcation at trial with the same jury determining all issues. Approved by Judge Patricia A. Gaughan on 2/21/07. (Related Doc # <u>12</u>)(LC,S) (Entered: 02/21/2007)
02/22/2007		Order [non-document]: Plaintiff's Motion to Strike Back to Basics Products, Inc's Reply in Support of its Motion to Bifurcate is DENIED. Approved by Judge Patricia A. Gaughan on 2/21/07. (Related Doc # <u>18</u>) (LC,S) (Entered: 02/22/2007)
02/26/2007	<u>19</u>	Joint Protective Order. Signed by Judge Patricia A. Gaughan on 2/23/07. (Attachments: # <u>1</u> Exhibit A)(LC,S) (Entered: 02/26/2007)

03/06/2007		Financial Transaction in the amount of \$300.00 received for motion to appear pro hac vice by attorneys Larry Laycock, Clint Duke and Robert Aycock, Receipt # 14660007002 (C,BA) (Entered: 03/06/2007)
03/06/2007	<u>20</u>	Motion for attorney Clinton E. Duke to Appear Pro Hac Vice filed by Back to Basics Products, Inc. \$100 Filing fee paid; receipt number 14660007002. (Attachments: # <u>1</u> Affidavit of Clinton E. Duke)(Wick, Jennifer) Modified text 3/9/2007 (C, K). (Entered: 03/06/2007)
03/06/2007	<u>21</u>	Motion for attorney Robert E. Aycock to Appear Pro Hac Vice filed by Back to Basics Products, Inc. \$100 Filing fee paid; receipt number 14660007002. (Attachments: # <u>1</u> Affidavit of Robert E. Aycock)(Wick, Jennifer) Modified text 3/9/2007 (C, K). (Entered: 03/06/2007)
03/06/2007	<u>22</u>	Motion for attorney Larry R. Laycock to Appear Pro Hac Vice filed by Back to Basics Products, Inc. \$100.00 Filing fee paid; receipt number 14660007002. (Attachments: # <u>1</u> Affidavit of Larry R. Laycock)(Wick, Jennifer) Modified text 3/9/2007 (C, K). (Entered: 03/06/2007)
03/07/2007		Order [non-document] granting Motion for appearance pro hac vice by attorney Clinton E. Duke for Back to Basics Products, Inc. (Related Doc # <u>20</u>) Approved by Judge Patricia A. Gaughan on 3/7/07.(LC,S) (Entered: 03/07/2007)
03/07/2007		Order [non-document] granting Motion for appearance pro hac vice by attorney Robert E. Aycock for Back to Basics Products, Inc. (Related Doc # <u>21</u>) Approved by Judge Patricia A. Gaughan on 3/7/07.(LC,S) (Entered: 03/07/2007)
03/07/2007		Order [non-document] granting Motion for appearance pro hac vice by attorney Larry R. Laycock for Back to Basics Products, Inc. (Related Doc # <u>22</u>) Approved by Judge Patricia A. Gaughan on 3/7/07.(LC,S) (Entered: 03/07/2007)
05/04/2007	<u>23</u>	Motion to amend complaint filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A, Proposed First Amended Complaint# <u>2</u> Exhibit B, May 2, 2007 Letter from David B. Cupar, Esq. to Clinton E. Duke, Esq.# <u>3</u> Exhibit C, May 3, 2007 Letter from Clinton E. Duke, Esq. to David B. Cupar, Esq.# <u>4</u> Exhibit D, May 3, 2007 Letter from David B. Cupar, Esq. to Clinton E. Duke, Esq.# <u>5</u> Exhibit E, May 3, 2007 Letter from Clinton E. Duke, Esq. to David B. Cupar, Esq.# <u>6</u> Exhibit F, Proposed Order)(Cupar, David) (Entered: 05/04/2007)
05/07/2007		Order [non-document]: Plaintiff's Motion for Leave to File Amended Complaint is granted. Pursuant to the Case Management Conference Order, parties may amend the pleadings on or before 5/4/07 without leave of Court. Approved by Judge Patricia A. Gaughan on 5/7/07. (Related Doc # <u>23</u>)(LC,S) (Entered: 05/07/2007)
05/17/2007	<u>24</u>	First Amended complaint for <i>patent infringement</i> against Back to Basics Products, Inc. Focus Products Group, LLC, Focus Electrics, LLC, and West Bend HOUsewares, LLC Filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A, U.S. Patent No. 5,302,021# <u>2</u> Exhibit B,

		Back to Basics Advertisements# <u>3</u> Exhibit C, Back to Basics Packaging# <u>4</u> Exhibit D, U.S. Patent No. 6,527,433# <u>5</u> Exhibit E, Information Disclosure Statement for U.S. Patent No. 6,527,433# <u>6</u> Exhibit F, May 1, 2002 Office Action for U.S. Patent No. 6,527,433# <u>7</u> Exhibit G, August 1, 2002 Response to Office Action for U.S. Patent No. 6,527,433) (Cupar, David) Modified to add new party defendants on 5/31/2007 (C, Br). (Entered: 05/17/2007)
05/25/2007	<u>25</u>	Joint Notice of Disputed Claim Terms filed by all parties. (Cupar, David) (Entered: 05/25/2007)
05/29/2007	<u>26</u>	Praecipe for Issuance filed by Vita-Mix Corporation. Related document (s) <u>24</u> . (Attachments: # <u>1</u> Summons # <u>2</u> Summons # <u>3</u> Summons) (Fitzgerald, Ryan) (Entered: 05/29/2007)
05/31/2007	<u>27</u>	Notice of Letter to Court Pursuant to Local Rule 37.1 filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A, Letter to the Honorable Patricia A. Gaughan# <u>2</u> Exhibit 1, Plaintiff's First Consolidated Set of Discovery Requests# <u>3</u> Exhibit 2, February 21, 2007 letter to Jennifer Wick, Esq. from David T. Movius, Esq.# <u>4</u> Exhibit 3, Back to Basics' response to Interrogatory No. 3# <u>5</u> Exhibit 4, Back to Basics' response to Interrogatory No. 4# <u>6</u> Exhibit 5, Defendant/Counterclaimant Back to Basics Products, Inc.'s First Supplemental Responses and Objections to Plaintiff's First Consolidated Set of Discovery Requests# <u>7</u> Exhibit 6, Defendant/Counterclaimant Back to Basics Products, Inc.'s Initial Prior Art Contentions# <u>8</u> Exhibit 7, Back to Basics' First Set of Requests for Admission to Vita-Mix Corporation# <u>9</u> Exhibit 8, Back to Basics' Second Set of Requests for Admission to Vita-Mix Corporation) (Movius, David) (Entered: 05/31/2007)
05/31/2007	<u>28</u>	Summons issued to counsel for service upon Focus Products Group, LLC, Focus Electrics, LLC, and West Bend Housewares, LLC. (C,B) (Entered: 05/31/2007)
06/01/2007	<u>29</u>	Notice of Filing Letter with the Court in Response to Vita-Mix's May 31, 2007 Letter filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Exhibit Responsive Letter to Court# <u>2</u> Exhibit A to Responsive Letter to Court# <u>3</u> Exhibit B to Responsive Letter to Court)Related document(s) <u>27</u> .(Aycock, Robert) (Entered: 06/01/2007)
06/04/2007	<u>30</u>	Order: Plaintiff's requested delay in Markman briefing, request to delay depositions, request to compel responses to Interrogatories and production of sample devices, and request to avoid responding to the Requests for Admission are all DENIED. Signed by Judge Patricia A. Gaughan on 6/4/07. (Related Docs. <u>29</u> , <u>27</u> .(LC,S) (Entered: 06/04/2007)
06/04/2007	<u>31</u>	Motion for extension of time until June 11, 2007 to answer (With Consent) filed by Back to Basics Products, Inc.. Related document(s) <u>24</u> . (Aycock, Robert) (Entered: 06/04/2007)
06/05/2007		Order [non-document]: Defendant Back to Basics Products, Inc.'s Motion for Extension of Time to answer Plaintiff's First Amended

		Complaint is granted to 6/11/07. Approved by Judge Patricia A. Gaughan on 6/5/07. (Related Doc. <u>31</u>)(LC,S) (Entered: 06/05/2007)
06/07/2007	<u>32</u>	Unopposed Motion for leave <i>for additional page length for Markman Brief</i> filed by Back to Basics Products, Inc. (Aycock, Robert) Modified text on 6/8/2007 (S, He). (Entered: 06/07/2007)
06/08/2007	<u>33</u>	Markman Brief filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit 1 - U.S. Patent No. 5,302,021# <u>2</u> Exhibit 2 - Back to Basics' Response to Vita-Mix's Interrogatory No. 3# <u>3</u> Exhibit 3 - U.S. Patent No. 2,284,155# <u>4</u> Exhibit 4 - U.S. Patent No. 3,368,800# <u>5</u> Exhibit 5 - Transcript of November 7, 2005 Proceedings before The Honorable Kathleen M. O'Malley# <u>6</u> Exhibit 6 - Notice of Filing Joint Claim Chart (Case No. 1:04-CV-2059))(Movius, David) (Entered: 06/03/2007)
06/08/2007	<u>34</u>	Markman Brief filed by Back to Basics Products, Inc.. (Duke, Clinton) (Entered: 06/08/2007)
06/08/2007	<u>35</u>	Affidavit/Declaration of <i>Clinton E. Duke in Support of Defendant Back to Basics' Markman Brief</i> filed by Back to Basics Products, Inc.. Related document(s) <u>34</u> . (Attachments: # <u>1</u> Exhibit Exhibit A, U.S. Pat. No. 5,302,021# <u>2</u> Exhibit Exhibit B, Vita-Mix Corporation's Preliminary Infringement Contentions and Claim Construction# <u>3</u> Exhibit Exhibit C, U.S. Pat. App. No. 07/860,892# <u>4</u> Exhibit Exhibit D, U.S. Pat. App. No. 08/059,954# <u>5</u> Exhibit Exhibit E, Color Coded Claim Comparison Chart# <u>6</u> Exhibit Exhibit F, Dictionary Definitions from the Random House Webster's College Dictionary)(Duke, Clinton) (Entered: 06/08/2007)
06/11/2007	<u>36</u>	Return of Service Executed upon Focus Electrics, LLC by Special Process Server on 6/6/2007 filed by Vita-Mix Corporation Related document(s) <u>1</u> . (Attachments: # <u>1</u> Affidavit Special Process Server) (Cupar, David) (Entered: 06/11/2007)
06/11/2007	<u>37</u>	Return of Service Executed upon Focus Products Group, LLC by Special Process Server on 6/6/2007 filed by Vita-Mix Corporation Related document(s) <u>1</u> . (Attachments: # <u>1</u> Affidavit Special Process Server) (Cupar, David) (Entered: 06/11/2007)
06/11/2007	<u>38</u>	Return of Service Executed upon West Bend Housewares, LLC by Special Process Server on 6/6/2007 filed by Vita-Mix Corporation Related document(s) <u>1</u> . (Attachments: # <u>1</u> Affidavit Special Process Server)(Cupar, David) (Entered: 06/11/2007)
06/11/2007	40	Answer, with jury demand, to Amended Complaint (Related Doc # <u>24</u>), Counterclaim against Vita-Mix Corporation (FILED UNDER SEAL) filed by Back to Basics Products, Inc.. (C,B) Modified text on 6/12/2007 (C, Br). (Entered: 06/12/2007)
06/12/2007		Order [non-document]: Defendant's Unopposed Motion for Extension of Length of Memorandum Relating to Markman Briefs is Granted. Approved by Judge Patricia A. Gaughan on 6/12/07. (Related Doc # <u>32</u>) (LC,S) (Entered: 06/12/2007)

06/12/2007	<u>39</u>	Joint Status Report filed by Vita-Mix Corporation. (Movius, David) (Entered: 06/12/2007)
06/13/2007	<u>41</u>	Supplement to <i>Status Report</i> filed by Vita-Mix Corporation. (Movius, David) (Entered: 06/13/2007)
06/13/2007	<u>42</u>	Motion to strike <i>Back to Basics Products, Inc.'s Amended Counterclaim</i> filed by Vita-Mix Corporation. Related document(s) 40 . (Attachments: # <u>1</u> Exhibit 1, June 4, 2007 e-mail from Robert Aycock, Esq. to David Cupar, Esq.# <u>2</u> Exhibit 2, June 4, 2007 e-mail from David Cupar, Esq. to Robert Aycock, Esq.# <u>3</u> Exhibit 3, June 6, 2007 e-mail from Clint Duke, Esq. to David Cupar, Esq.)(Movius, David) Modified on 6/21/2007 (Leno-Clifford, Stella). DOCUMENT WITHDRAWN PER ORDER OF 6/21/07. (Entered: 06/13/2007)
06/13/2007	<u>43</u>	Motion to strike <i>Back to Basics Products, Inc.'s Markman Brief</i> filed by Vita-Mix Corporation. Related document(s) 34 . (Attachments: # <u>1</u> Exhibit 1, Back to Basics' Response to Interrogatory No. 3# <u>2</u> Exhibit 2, Back to Basics' Second Supplemental Responses and Objections to Plaintiff's First Consolidated Set of Discovery Requests)(Movius, David) (Entered: 06/13/2007)
06/18/2007	<u>44</u>	Minutes/Order: Status Conference was held. Attorneys are to contact the Court on June 18, 2007 to report the status of their negotiations. Signed by Judge Patricia A. Gaughan on 6/14/07.(LC,S) (Entered: 06/18/2007)
06/19/2007	<u>45</u>	Minutes/Order: The Court has been informed that this case has not settled. Status Conference, with parties present, is set 11/14/2007 at 09:00 AM. Signed by Judge Patricia A. Gaughan on 6/18/07. (LC,S) (Entered: 06/19/2007)
06/20/2007	<u>46</u>	Notice of <i>Withdrawal of Its Motion to Strike Back to Basics Products, Inc.'s Amended Counterclaim</i> filed by Vita-Mix Corporation. Related document(s) <u>42</u> .(Cupar, David) (Entered: 06/20/2007)
06/20/2007	<u>47</u>	Consent Motion for extension of time until Wednesday, June 27, 2007 to File Responsive Claim Construction Briefs filed by Vita-Mix Corporation. (Movius, David) (Entered: 06/20/2007)
06/21/2007		Order [non-document]: Vita-Mix Corporation's Motion to Strike Back to Basics Products, Inc.'s Amended Counterclaim is WITHDRAWN. See Doc. <u>46</u> . Approved by Judge Patricia A. Gaughan on 6/21/07.(Related Doc # <u>42</u>)(LC,S) (Entered: 06/21/2007)
06/21/2007		Order [non-document]: Vita-Mix Corporation's Consented Motion for Additional Time to File Responsive Claim Construction Briefs is granted for 3 days. Approved by Judge Patricia A. Gaughan on 6/21/07. (Related Doc. <u>47</u>) (LC,S) (Entered: 06/21/2007)
06/26/2007	<u>48</u>	Motion for attorney David R. Wright to Appear Pro Hac Vice Filing fee 100, receipt number 2527020. filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Affidavit of David R. Wright# <u>2</u> Proposed Order) (Wick, Jennifer) (Entered: 06/26/2007)

06/26/2007	<u>49</u>	Motion to dismiss party <i>Focus Products Group, LLC and West Bend Housewares, LLC</i> filed by Focus Products Group, LLC, West Bend Housewares, LLC. Related document(s) <u>24</u> . (Attachments: # <u>1</u> Brief in Support of Motion to Dismiss Claims Against Focus Products Group, LLC and West Bend Housewares, LLC# <u>2</u> Affidavit of David Beine# <u>3</u> Proposed Order)(Duke, Clinton) (Entered: 06/26/2007)
06/26/2007	<u>50</u>	Answer to Amended Complaint (Related Doc # <u>24</u> , <u>19</u>), Counterclaim against Vita-Mix Corporation filed by Focus Electrics, LLC. (E,P) (FILED UNDER SEAL) Modified on 6/27/2007 (E, P). (Entered: 06/27/2007)
06/27/2007		Order [non-document] granting Motion for admission pro hac vice of attorney David R. Wright for Defendant Back to Basics Products, Inc. Approved by Judge Patricia A. Gaughan on 6/26/07.(LC,S) (Related Doc # <u>48</u>) (Entered: 06/27/2007)
06/27/2007	<u>51</u>	Markman Brief (<i>Rebuttal</i>) filed by Vita-Mix Corporation. Related document(s) <u>34</u> . (Attachments: # <u>1</u> Exhibit A - Prosecution History for Application Serial No. 07/860,892# <u>2</u> Exhibit B - Prosecution History for Application Serial No. 08/059,954# <u>3</u> Exhibit C - Back to Basics' Responses to Request to Admit Nos. 1 & 9# <u>4</u> Exhibit D - Packaging for Back to Basics' Smoothie Jr.)(Movius, David) (Entered: 06/27/2007)
06/27/2007	<u>52</u>	Markman Brief (<i>Rebuttal</i>) filed by Back to Basics Products, Inc.. Related document(s) <u>33</u> . (Aycok, Robert) (Entered: 06/27/2007)
07/02/2007	<u>53</u>	Consented Motion for extension of time until 7/16/2007 to answer <i>Counterclaim of Back to Basics Products, Inc.</i> filed by Vita-Mix Corporation. Related document(s) <u>40</u> . (Movius, David) Modified docket text on 7/3/2007 (R, N). (Entered: 07/02/2007)
07/02/2007	<u>54</u>	Opposition to <u>43</u> Motion to strike <i>Back to Basics Products, Inc.'s Markman Brief</i> filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Affidavit of Clinton E. Duke# <u>2</u> Exhibit A# <u>3</u> Exhibit B# <u>4</u> Exhibit C) (Duke, Clinton) (Entered: 07/02/2007)
07/09/2007		Order [non-document]: Vita-Mix Corporation's Consented Motion for Additional Time to Reply to the Counterclaims to the First Amended Complaint filed by Basic Holdings, Inc., f/k/a Back to Basics Products, Inc. is granted to 7/16/2007. Approved by Judge Patricia A. Gaughan on 7/9/07.(Related Doc. <u>53</u>) (LC,S) (Entered: 07/09/2007)
07/13/2007	<u>55</u>	Motion to compel the Depositions of Edward G. Greive and Vita-Mix filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Proposed Order)(Duke, Clinton) Modified docket text on 7/17/2007 (R, N). (Entered: 07/13/2007)
07/13/2007	<u>56</u>	Memorandum In Support of <u>55</u> Motion to compel the Depositions of Edward G. Greive and Vita-Mix filed by Back to Basics Products, Inc.. (Duke, Clinton) Modified docket text on 7/17/2007 (R, N). (Entered: 07/13/2007)

07/13/2007	<u>57</u>	Affidavit/Declaration of Clinton E. Duke in Support of Back to Basics' Motion to Compel the Depositions of Edward G. Greive and Vita-Mix filed by Back to Basics Products, Inc.. Related document(s) <u>55</u> . (Attachments: # <u>1</u> Exhibit A-S# <u>2</u> Exhibit T-Z# <u>3</u> Exhibit AA-FF)(Duke, Clinton) (Entered: 07/13/2007)
07/16/2007	<u>58</u>	Motion for Clarification of Defendant's Motion to Dismiss or, in the Alternative, for Summary Judgment filed by Vita-Mix Corporation. Related document(s) <u>49</u> . (Cupar, David) (Entered: 07/16/2007)
07/16/2007	<u>59</u>	Motion to dismiss <i>Inequitable Conduct Counterclaims</i> filed by Vita-Mix Corporation. Related document(s) <u>50</u> , <u>40</u> . (Movius, David) (Entered: 07/16/2007)
07/16/2007	<u>60</u>	Reply to Counterclaim of <i>Back to Basics Products, Inc.</i> (Related Doc # <u>40</u>) filed by Vita-Mix Corporation. (Movius, David) (Entered: 07/16/2007)
07/16/2007	<u>61</u>	Reply to Counterclaim of <i>Focus Electrics, LLC</i> (Related Doc # <u>50</u>) filed by Vita-Mix Corporation. (Movius, David) (Entered: 07/16/2007)
07/16/2007	<u>62</u>	Reply in support of <u>43</u> Motion to strike <i>Back to Basics Products, Inc.'s Markman Brief</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A - Vita-Mix Corporations Preliminary Infringement Contentions and Claim Construction)(Movius, David) (Entered: 07/16/2007)
07/16/2007	<u>63</u>	Motion for extension of filed by Vita-Mix Corporation. Related document(s) <u>13</u> . (Attachments: # <u>1</u> Exhibit A - Vita Mixs First Consolidated Set of Discovery Requests# <u>2</u> Exhibit B - January 16, 2007 Press Release# <u>3</u> Exhibit C - Vita Mixs Second Consolidated Set of Discovery Requests# <u>4</u> Exhibit D - Back to Basics February 9, 2007 Response to Vita-Mix's First Consolidated Set of Discovery Requests# <u>5</u> Exhibit E - Feb. 21, 2007 letter from David Movius, Esq., to Jennifer Wick, Esq.# <u>6</u> Exhibit F - Feb. 23, 2007 e-mail from Robert Aycock, Esq., to David Movius, Esq.# <u>7</u> Exhibit G - Back to Basics Amended Responses and Objections to Plaintiffs First Consolidated Set of Discovery Requests# <u>8</u> Exhibit H - Back to Basics Responses and Objections to Plaintiffs Second Consolidated Set of Discovery Requests# <u>9</u> Exhibit I - May 2, 2007 letter from David Cupar, Esq., to Clint Duke, Esq.# <u>10</u> Exhibit J - June 19, 2007 e-mail from David Cupar, Esq., to Robert Aycock, Esq.# <u>11</u> Exhibit K - Back to Basics June 20, 2007 Privilege Log# <u>12</u> Exhibit L - July 6, 2007 letter from David Cupar, Esq., to David Wright, Esq., et al.# <u>13</u> Exhibit M - July 3, 2007 letter from David Cupar, Esq., to David Wright, Esq., et al.# <u>14</u> Exhibit N - July 10, 2007 letter from Robert Aycock, Esq., to David Movius, Esq.# <u>15</u> Exhibit O - Back to Basics July 12, 2007 Privilege Log# <u>16</u> Exhibit P - July 13, 2007 letter from David Movius, Esq., to Robert Aycock, Esq.# <u>17</u> Exhibit Q - July 10, 2007 e-mail from David Movius, Esq. to Clinton Duke, Esq. and Robert Aycock, Esq.# <u>18</u> Exhibit R - June 29, 2007 letter from David Movius, Esq., to Jennifer Wick, Esq.)(Movius, David) (Entered: 07/16/2007)

07/18/2007	<u>64</u>	Motion for protective order <i>and to Quash Subpoena of Edward Greive, Esq.</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A - Back to Basics' July 3, 2007 Subpoena of Edward Greive, Esq.)(Movius, David) (Entered: 07/18/2007)
07/18/2007	65	Memorandum In Support of <u>63</u> Motion for extension of deadlines filed by Vita-Mix Corporation.(Related Document# <u>19</u>) (FILED UNDER SEAL) (E,P) (Entered: 07/19/2007)
07/26/2007	66	Memorandum In Opposition to <u>64</u> Plaintiff's Motion for protective order <i>and to Quash Subpoena of Edward Greive, Esq.</i> (FILED UNDER SEAL) filed by Back to Basics Products, Inc. (C,B) (Entered: 07/27/2007)
07/26/2007	67	Opposition, with Declaration & Exhibits in support, to <u>59</u> Plaintiff's Motion to dismiss <i>Inequitable Conduct Counterclaims</i> (FILED UNDER SEAL) filed by Focus Electrics, LLC, and Back to Basics Products, Inc. (C,B) (Entered: 07/27/2007)
07/27/2007	<u>68</u>	Joint Motion for extension of The Remaining Deadlines Included in the Court's Case Management Order until Approximately 75 Days Following Each Deadline as it is Currently Set; Non-Expert Discovery Deadline - September 21, 2007, Initial Expert Report Deadline - October 26, 2007, Rebuttal Expert Report Deadline - November 12, 2007, Expert Discovery Deadline - December 7, 2007, Dispositive Motion Deadline - December 21, 2007; Withdrawal of Vita-Mix's Motion for Extension of Deadlines; Withdrawal of Defendants' Motion to Compel filed by all parties. Related document(s) <u>13</u> . (Duke, Clinton) (Entered: 07/27/2007)
07/30/2007	<u>69</u>	Opposition to 49 Motion to dismiss party <i>Focus Products Group, LLC and West Bend Housewares, LLC Memorandum in Opposition to Motion to Dismiss Claims Against Focus Products Group, LLC and West Bend Housewares, LLC or, in the Alternative, for Summary Judgment</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit Exhibit A - Press Release# 2 Exhibit Declaration of David T. Movius)(Movius, David) (Entered: 07/30/2007)
08/03/2007	<u>70</u>	Marginal Order granting <u>68</u> Motion to Extend Deadlines; Non Expert Discovery due by 9/21/2007., Initial Expert Reports exchanged 10/26/07, rebuttal expert reports due 11/12/07, and Expert Discovery completed by 12/7/07. Dispositive Motions due by 12/21/2007. Signed by Judge Patricia A. Gaughan on 8/2/07.(C,B) (Entered: 08/06/2007)
08/03/2007	<u>71</u>	Marginal Order withdrawing Motion to compel discovery (Related Doc # <u>55</u>). Signed by Judge Patricia A. Gaughan on 8/2/07.(C,B) (Entered: 08/06/2007)
08/03/2007	<u>72</u>	Marginal Order mooting <u>63</u> Motion to Extend Deadlines; re <u>70</u> Order on Motion to extend deadlines,. Signed by Judge Patricia A. Gaughan on 8/2/07.(C,B) (Entered: 08/06/2007)
08/06/2007	<u>73</u>	Reply in support of <u>64</u> Motion for protective order <i>and to Quash Subpoena of Edward Greive, Esq.</i> filed by Vita-Mix Corporation.

		(Attachments: # <u>1</u> Exhibit A, Defendant Focus Electrics, LLC's Responses to Plaintiff's First Consolidated Set of Discovery Requests# <u>2</u> Exhibit B, U.S. Patent No. 1,407,789# <u>3</u> Exhibit C, U.S. Patent No. 1,460,125# <u>4</u> Exhibit D, U.S. Patent No. 4,305,670# <u>5</u> Exhibit E, U.S. Patent No. 3,548,280# <u>6</u> Exhibit F, Declaration of Edward G. Greive, Esq.)(Cupar, David) (Entered: 08/06/2007)
08/06/2007	<u>74</u>	Reply in support of <u>59</u> Motion to dismiss <i>Inequitable Conduct Counterclaims</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit 1, Defendant Focus Electrics, LLC's Responses to Plaintiff's First Consolidated Set of Discovery Requests# <u>2</u> Exhibit 2, Jumpsport, Inc. v. Jumpking, Inc., 2004 U.S. Dist. LEXIS 29963 (N.D. Cal. March 18, 2004))(Movius, David) (Entered: 08/06/2007)
08/13/2007	<u>75</u>	Reply in support of <u>49</u> Motion to dismiss party <i>Focus Products Group, LLC and West Bend Housewares, LLC</i> filed by Focus Products Group, LLC, West Bend Housewares, LLC. (Attachments: # <u>1</u> Proposed Order Dismissing All Claims Against Focus Products Group, LLC)(Duke, Clinton) (Entered: 08/13/2007)
08/13/2007	<u>76</u>	Answer to Amended Complaint (Related Doc # <u>24</u>), Counterclaim against Vita-Mix Corporation, <i>with Jury Demand</i> , (FILED UNDER SEAL) filed by West Bend Housewares, LLC. (C,B) (Entered: 08/13/2007)
08/15/2007	<u>77</u>	Memorandum Opinion and Order : Plaintiff's Motion for Protective Order and to Quash Subpoena of Edward Greive, Esq. is DENIED. Signed by Judge Patricia A. Gaughan on 8/14/07. (Related Doc. <u>64</u>) (LC,S) (Entered: 08/15/2007)
08/20/2007	<u>78</u>	Motion for Leave to File Surreply in Opposition to Defendant's Motion to Dismiss Claims or, in the Alternative, for Summary Judgment filed by Vita-Mix Corporation. Related document(s) <u>49</u> . (Attachments: # <u>1</u> Plaintiff's Surreply in Opposition to Defendant's Motion to Dismiss Claims or, in the Alternative, for Summary Judgment)(Cupar, David) (Entered: 08/20/2007)
08/21/2007	<u>79</u>	Opposition to <u>78</u> Motion for Leave to File Surreply in Opposition to Defendant's Motion to Dismiss Claims or, in the Alternative, for Summary Judgment filed by Focus Products Group, LLC. (Duke, Clinton) (Entered: 08/21/2007)
09/04/2007	<u>80</u>	Answer to Defendant West Bend Housewares, LLC's Counterclaim filed by Vita-Mix Corporation. Related document(s) <u>76</u> . (Movius, David) (Entered: 09/04/2007)
09/10/2007	<u>81</u>	Memorandum Opinion and Order : Plaintiff's motion to strike is DENIED. Claim 1 of the '021 Patent is construed to mean: A method of preventing the formation of an air pocket around rotating blades positioned in a pitcher of a blender but not including a method of stirring to disperse, dislodge, or break-up an air pocket after it has begun to form, the air pocket being created from an air channel of a cross-sectional size defined by a member associated with the blades, comprising the steps of

Ryan M. Fitzgerald
McDonald Hopkins
Ste. 2100
600 Superior Avenue, E
Cleveland, OH 44114
216-348-5400
Fax: 216-348-5474
Email:
rfitzgerald@mcdonaldhopkins.com
ATTORNEY TO BE NOTICED

V.

Defendant

Back to Basics Products, Inc.

represented by **S. Paige Christopher**
Calfee, Halter & Griswold - Cleveland
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, OH 44114
216-622-8388
Fax: 216-241-0816
Email: pchristopher@calfee.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Charles B. Lyon
Calfee, Halter & Griswold
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, OH 44114
216-622-8510
Fax: 216-241-0816
Email: clyon@calfee.com
ATTORNEY TO BE NOTICED

Clinton E. Duke
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
801-533-9800
Fax: 801-328-1707
Email: cduke@wnlaw.com
ATTORNEY TO BE NOTICED

David R. Wright
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

		supplying a fluid into the pitcher, and positioning a device that can be inserted into a blender, having a cross-sectional size approximating the cross-sectional size of the member, adjacent to and above the rotating blades while maintaining the device free of contact with the pitcher thereby preventing the formation of an air pocket in the fluid around the rotating blades. Signed by Judge Patricia A. Gaughan on 9/10/07. (Related Docs. 33 34 51 52 43) (LC,S) Modified on 9/18/2007 (H, D). (Entered: 09/10/2007)
09/21/2007	82	Joint Motion for extension of Deadlines filed by Vita-Mix Corporation. Related document(s) 13 . (Movius, David) (Entered: 09/21/2007)
09/24/2007		Order [non-document]: Second Joint Motion for Extension of Deadlines is Granted. However, there will be no further extensions. Status conference of 11/14/07 is continued to 1/23/2008 at 09:00 AM. 82 Approved by Judge Patricia A. Gaughan on 9/24/07. (LC,\$) (Entered: 09/24/2007)
09/27/2007	83	Memorandum Opinion and Order: Focus Products' motion to dismiss all claims is DENIED. Focus Products' alternative motion for summary judgment on all claims is DENIED without prejudice. Plaintiffs motion for leave to file a sur-reply is DENIED. Plaintiff's motion for clarification is DENIED as moot. Plaintiff's motion to dismiss the inequitable conduct counterclaims is DENIED. Signed by Judge Patricia A. Gaughan on 9/27/07. (Related Doc. 49 , 58 , 78 , 59) (LC,S) (Entered: 09/27/2007)
10/09/2007	84	Motion for conference/hearing (<i>Expedited</i>) filed by Vita-Mix Corporation. (Movius, David) (Entered: 10/09/2007)
10/10/2007	85	Minutes/Order: Vita-Mix Corporation's Motion for Expedited Status Conference will be treated as a Motion to Compel. Brief in opposition is due on or before 10/15/07. Reply Brief is due 10/17/07. Signed by Judge Patricia A. Gaughan on 10/10/07. re 84 (LC,S) (Entered: 10/10/2007)
10/11/2007	86	Answer , with jury demand, to Amended Complaint (Related Doc # 24), Counterclaim against Vita-Mix Corporation (FILED UNDER SEAL) filed by Focus Products Group, LLC. (C,B) (Entered: 10/11/2007)
10/15/2007	87	Opposition to 84 Motion for conference/hearing (<i>Expedited</i>) considered as a Motion to Compel filed by all defendants. (Attachments: # 1 Affidavit of Brian Beesley# 2 Affidavit of Jason Mayti# 3 Affidavit of Jerzy Link# 4 Affidavit of Robert Aycock# 5 Exhibit A, Responses to Discovery Requests# 6 Exhibit B, Notices of Production# 7 Exhibit C, Discovery Requests# 8 Exhibit D, 7-03-07 correspondence# 9 Exhibit E, 7-10-07 correspondence# 10 Exhibit -F, 7-10-07 correspondence# 11 Exhibit G, 7-12-07 correspondence# 12 Exhibit H, 7-20-07 correspondence# 13 Exhibit I, 7-06-07 correspondence# 14 Exhibit J, Notices of Production# 15 Exhibit K, 8-24-07 correspondence# 16 Exhibit L, Notices of Production# 17 Exhibit M, 9-17-07 correspondence)(Duke, Clinton) (Entered: 10/15/2007)
10/17/2007	88	Reply in support of 84 Motion for conference/hearing

		<i>(Expedited) /Motion to Compel</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A - October 16, 2007 E-Mail from Robert Aycock, Esq., to David Movius, Esq.# <u>2</u> Exhibit B - October 16, 2007 Letter from David Movius, Esq., to Robert Aycock, Esq.# <u>3</u> Exhibit C - October 17, 2007 Letter from Clinton Duke, Esq.# <u>4</u> Exhibit D - October 5, 2007 Letter from David Movius, Esq., to Robert Aycock, Esq.) (Movius, David) (Entered: 10/17/2007)
10/24/2007	<u>89</u>	Order: This matter is before the Court upon Plaintiff's Motion for Expedited Status Conference. (Doc. <u>84</u>) The Court previously entered an Order stating that the motion would be treated as a motion to compel. (Doc. <u>85</u>) The motion is GRANTED in PART and DENIED in PART. Signed by Judge Patricia A. Gaughan on 10/24/07. (LC,S) (Entered: 10/24/2007)
10/29/2007	<u>90</u>	Motion for summary judgment of <i>noninfringement</i> filed by all defendants. (Attachments: # <u>1</u> Brief in Support # <u>2</u> Affidavit of Clinton E. Duke# <u>3</u> Exhibit A, '021 Patent# <u>4</u> Exhibit B, Interrogatory Responses# <u>5</u> Exhibit C, Infringement Contentions# <u>6</u> Exhibit D, Interrogatories# <u>7</u> Exhibit E, 4-18-07 Correspondence# <u>8</u> Exhibit F, Interrogatories# <u>9</u> Exhibit G, Interrogatory Responses# <u>10</u> Exhibit H, Interrogatory Responses# <u>11</u> Exhibit I, 7-27-07 Correspondence# <u>12</u> Exhibit J, Document Requests# <u>13</u> Exhibit K, 8-10-07 Correspondence# <u>14</u> Exhibit L, '433 Patent# <u>15</u> Exhibit M, User's Guide# <u>16</u> Exhibit N, User's Guide# <u>17</u> Exhibit O, Instruction Manual# <u>18</u> Exhibit P, Packaging Art# <u>19</u> Exhibit Q, Notice of Manual Filing of CD# <u>20</u> Exhibit R, 9-12-07 Opinion in ACCO Brands v. ABA Locks# <u>21</u> Exhibit S, 6-20-07 Deposition of Tom Daniels# <u>22</u> Exhibit T, Packaging Art# <u>23</u> Exhibit U, Packaging Art# <u>24</u> Exhibit V, Packaging Art# <u>25</u> Proposed Order Granting Summary Judgment of Noninfringement)(Duke, Clinton) (Entered: 10/29/2007)
10/30/2007	<u>91</u>	Exhibit Q (CD) to Declaration of Clinton E. Duke in support of motion for summary judgment of noninfringement (Complete Document on file in the Clerk's Office) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. Related document(s) <u>90</u> . (C,B) (Entered: 10/31/2007)
10/31/2007	<u>92</u>	Reply to <i>Focus Products Group, LLC's Counterclaims</i> filed by Vita-Mix Corporation. Related document(s) <u>86</u> . (Fitzgerald, Ryan) (Entered: 10/31/2007)
11/06/2007	<u>93</u>	Motion to compel discovery <i>or for sanctions</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A, Defendants' August 8, 2007 Privilege Log# <u>2</u> Exhibit B, October 29, 2007 letter from David Movius, Esq., to Robert Aycock, Esq.# <u>3</u> Exhibit C, October 31, 2007 letter from Robert Aycock, Esq., to David Movius, Esq.# <u>4</u> Exhibit D, November 3, 2007 e-mail from David Movius, Esq., to Robert Aycock, Esq.# <u>5</u> Exhibit E, November 5, 2007 letter from Clinton Duke, Esq., to David Movius, Esq.) (Movius, David) (Entered: 11/06/2007)
11/06/2007	<u>94</u>	Opposition to <u>93</u> Motion to compel discovery <i>or for sanctions</i> filed by

		all defendants. (Attachments: # <u>1</u> Affidavit of Clinton E. Duke# <u>2</u> Exhibit 1-11/06/07 email# <u>3</u> Exhibit 2-11/06/07 email# <u>4</u> Exhibit 3-11/06/07 email and privilege log# <u>5</u> Exhibit 4-Sawgrass v BASF# <u>6</u> Exhibit 5-Kovacs v Hershey# <u>7</u> Exhibit 6-10/26/07 letter# <u>8</u> Exhibit 7-11/05/07 email)(Duke, Clinton) (Entered: 11/06/2007)
11/16/2007	<u>95</u>	Consent Motion for extension of Time to File Reply Brief until November 20, 2007 filed by Plaintiff Vita-Mix Corporation. Related document(s) <u>93</u> . (Movius, David) (Entered: 11/16/2007)
11/20/2007		Order [non-document]: Plaintiff's Consent Motion for extension of Time to File Reply Brief is granted to November 20, 2007. Approved by Judge Patricia A. Gaughan on 11/19/07. re <u>95</u> (LC,S) (Entered: 11/20/2007)
11/20/2007	<u>96</u>	Notice of <i>Withdrawal of Motion to Compel or for Sanctions</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A - Defendants' Updated Privilege Log)Related document(s) <u>93</u> .(Movius, David) (Entered: 11/20/2007)
11/26/2007		Order [non-document]: Vita-Mix Corporation's Motion to Compel Privilege Log or for Sanctions is WITHDRAWN. Approved by Judge Patricia A. Gaughan on 11/26/07. (Related Doc # <u>93</u>)(LC,S) (Entered: 11/26/2007)
12/03/2007	<u>97</u>	Motion for extension of time until 2/19/08 to <i>oppose defendants' motion for summary judgment, or in the alternative for relief Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure</i> filed by Plaintiff Vita-Mix Corporation. Related document(s) <u>90</u> . (Attachments: # <u>1</u> Declaration of David T. Movius, Esq.)(Movius, David) Modified text 12/10/2007 (C,KA). (Entered: 12/03/2007)
12/17/2007	<u>98</u>	Opposition to <u>97</u> Motion for extension of time until 2/19/08 to <i>oppose defendants' motion for summary judgment, or in the alternative for relief Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (Attachments: # <u>1</u> Declaration of Robert E. Aycock, # <u>2</u> Exhibit A-Letter dated 11/26/07, # <u>3</u> Exhibit B-Interrogatory Response, # <u>4</u> Exhibit C-Unpublished Opinion, Clark v. Roche)(Aycock, Robert) Modified text 1/7/2008 (K,K). (Entered: 12/17/2007)
12/31/2007	<u>99</u>	Reply in support of its <u>97</u> Motion for extension of time until 2/19/08 to <i>oppose defendants' motion for summary judgment, or in the alternative for relief Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure</i> , filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit 1 - Transcript of Rule 30(b)(6) Report of John Barnard, # <u>2</u> Exhibit 2 - Vita-Mix's Answers and Objections to Back to Basics' First and Second Sets of Requests for Admission, # <u>3</u> Exhibit 3 - Expert Report on Patent Infringement by Dr. Lee A. Swanger, Ph.D, # <u>4</u> Exhibit 4 - Report of Consumer Behaviors in Using a Back to Basics Blender for the First Time to Prepare a Drink by Mark B. Traylor, # <u>5</u> Exhibit 5 - (Rough)

		Transcript of Deposition of Dale Oldroyd, # <u>6</u> Exhibit 6 - Clark v. Roche, Case No. 03cv0666, Clerk's Minutes Regarding Rule 16 Settlement Conference) (Movius, David). Modified text 1/7/2008 (K,K). Modified text on 7/18/2008 (H, SP). (Entered: 12/31/2007)
01/04/2008		Order [non-document]: Plaintiff Vita-Mix Corporation's Motion Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure is granted. Brief in Opposition is due 2/19/08. Approved by Judge Patricia A. Gaughan on 1/4/08. (Related Doc # <u>97</u>) (LC,S) (Entered: 01/04/2008)
01/15/2008	<u>100</u>	Motion for order to preclude evidence filed by Plaintiff Vita-Mix Corporation. (Movius, David) Modified text 2/5/2008 (C,KA). (Entered: 01/15/2008)
01/15/2008	<u>101</u>	Notice of filing under seal filed by Vita-Mix Corporation. Related document(s) <u>100</u> .(Movius, David) (Entered: 01/15/2008)
01/15/2008	<u>102</u>	Motion to compel discovery pursuant to Federal Rule of Evidence 612 filed by Plaintiff Vita-Mix Corporation. (Movius, David) (Entered: 01/15/2008)
01/15/2008	<u>103</u>	Notice of Filing Under Seal filed by Vita-Mix Corporation. Related document(s) <u>102</u> .(Movius, David) (Entered: 01/15/2008)
01/15/2008	<u>104</u>	Memorandum In Support of <u>102</u> Motion to compel production of documents pursuant to Federal Rule of Evidence 612 (FILED UNDER SEAL) filed by Vita-Mix Corporation. Related document # <u>19</u> . (C,B) (Entered: 01/16/2008)
01/15/2008	<u>105</u>	Memorandum In Support of <u>100</u> Motion to preclude (FILED UNDER SEAL) filed by Vita-Mix Corporation. Related document <u>19</u> . (C,B) (Entered: 01/16/2008)
01/21/2008	<u>106</u>	Joint Status Report filed by Vita-Mix Corporation. (Movius, David) (Entered: 01/21/2008)
01/24/2008	<u>107</u>	Minutes/Order : Settlement Conference was held. Final Pretrial is set 8/21/2008 at 09:30 AM. Trial set for 9/15/2008 at 09:30 AM. Signed by Judge Patricia A. Gaughan on 1/23/08. (LC,S) (Entered: 01/24/2008)
02/01/2008	<u>108</u>	Opposition to <u>102</u> Motion to compel discovery pursuant to Federal Rule of Evidence 612 filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Exhibit A (Deposition Testimony), # <u>2</u> Exhibit B (Deposition Testimony))(Aycok, Robert) (Entered: 02/01/2008)
02/01/2008	<u>109</u>	Opposition to <u>100</u> Motion for order to preclude evidence filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Exhibit A (7/6/07 Letter), # <u>2</u> Exhibit B (Responses to Interrogatories), # <u>3</u> Exhibit C (Objections), # <u>4</u> Exhibit D (Expert Report), # <u>5</u> Exhibit E (Rebuttal Expert Report) (Aycok, Robert) Modified text 2/5/2008 (C,KA). (Entered: 02/01/2008)
02/15/2008	<u>110</u>	Reply to response to <u>100</u> Motion for order to preclude evidence filed by Vita-Mix Corporation. (Movius, David) Modified text 2/19/2008 (C,KA). (Entered: 02/15/2008)

02/15/2008	<u>111</u>	Reply to response to 102 Motion to compel discovery <i>pursuant to Federal Rule of Evidence 612</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A - Declaration of David T. Movius)(Movius, David) (Entered: 02/15/2008)
02/19/2008	<u>112</u>	Cross Motion for summary judgment filed by Plaintiff Vita-Mix Corporation. (Movius, David) (Entered: 02/19/2008)
02/19/2008	<u>113</u>	Notice of <i>manual Filing</i> filed by Vita-Mix Corporation. (Movius, David) Modified text 2/20/2008 (C,K,A). (Entered: 02/19/2008)
02/19/2008	114	Memorandum In Opposition to <u>90</u> Motion for summary judgment of <i>noninfringement</i> ; and Memorandum In Support of <u>112</u> Cross Motion for summary judgment, (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 02/20/2008)
02/22/2008	115	Memorandum Opinion and Order : Plaintiff's motion to preclude is DENIED and plaintiff's motion to compel is GRANTED. Signed by Judge Patricia A. Gaughan on 2/22/08. rc <u>100</u> , <u>102</u> (LC,S) (Entered: 02/22/2008)
02/22/2008	<u>116</u>	Motion for summary judgment of <i>Invalidity of Claim 1 of the '021 Patent as Anticipated Pursuant to 35 USC Section 102 and Obviousness Pursuant to 35 USC Section 103</i> filed by Focus Products Group, I.L.C., Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Lyon, Charles) (Entered: 02/22/2008)
02/22/2008	117	Motion for partial summary judgment to <i>Limit Vita-Mix's Damages to the Amount that Defendants Would Have Paid to Implement a Non-Infringing Alternative</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Lyon, Charles) (Entered: 02/22/2008)
02/22/2008	<u>118</u>	Motion for summary judgment of <i>No Trademark Infringement</i> filed by Focus Products Group, I.L.C., Focus Electrics, I.L.C., West Bend Housewares, LLC, Back to Basics Products, Inc.. (Lyon, Charles) (Entered: 02/22/2008)
02/22/2008	<u>119</u>	Motion for summary judgment on <i>Defendants Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Affirmative Defenses</i> filed by Plaintiff Vita-Mix Corporation. (Cupar, David) (Entered: 02/22/2008)
02/22/2008	<u>120</u>	Notice of <i>Filing Memorandum In Support of Motion for Summary Judgment on Defendants' Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Defenses Under Seal</i> filed by Vita-Mix Corporation. (Cupar, David) (Entered: 02/22/2008)
02/22/2008	<u>121</u>	Motion for summary judgment on <i>Defendants' Third and Fourth Counterclaims</i> filed by Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation. (Cupar, David) (Entered: 02/22/2008)
02/22/2008	<u>122</u>	Notice of <i>Filing Memorandum in Support of Motion for Summary</i>

		<i>Judgment on Defendants' Third and Fourth Counterclaims Under Seal</i> filed by Vita-Mix Corporation. (Cupar, David) (Entered: 02/22/2008)
02/22/2008	<u>123</u>	Motion for summary judgment <i>on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct</i> filed by Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Plaintiff Vita-Mix Corporation. (Cupar, David) (Entered: 02/22/2008)
02/22/2008	<u>124</u>	<i>Notice of Filing Memorandum in Support of Motoin for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct Under Seal</i> filed by Vita-Mix Corporation. (Cupar, David) (Entered: 02/22/2008)
02/22/2008	<u>125</u>	Motion for summary judgment <i>on Defendants' First Counterclaim and Affirmative Defenses of Patent Invalidity and Memorandum in Support Thereof</i> filed by Plaintiff Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A, U.S. Patent No. 5,302,021, # <u>2</u> Exhibit B, Defendant Focus Electrics, LLC's Responses to Plaintiff's First Consolidated Set of Discovery Requests, # <u>3</u> Exhibit C, Defendant West Bend Housewares, LLC's Responses and Objections to Plaintiff's Second Consolidated Set of Discovery Requests, # <u>4</u> Exhibit D, Expert Report of Majid Rashidi, # <u>5</u> Exhibit E, Majid Rashidi Deposition Transcript, # <u>6</u> Exhibit F, Sitrick v. Dreamworks, LLC, _ F.3d _, 2008 WL269443 (Fed. Cir. 2008)) (Cupar, David) (Entered: 02/22/2008)
02/22/2008	<u>126</u>	Motion for summary judgment <i>of all claims</i> filed by Defendant Focus Products Group, LLC. (Attachments: # <u>1</u> Brief in Support of Defendant Focus Products' Motion for Summary Judgment of All Claims Brought Against It)(Duke, Clinton) (Entered: 02/22/2008)
02/22/2008	<u>127</u>	Affidavit/Declaration of David T. Movius in support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Affirmative Defenses, Motion for Summary Judgment on Defendants' Third and Fourth Counterclaims, Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct, and Motion for Summary Judgment on Defendants' First Counterclaim and Affirmative Defenses of Patent Invalidity filed by Vita-Mix Corporation. Related document(s) <u>123</u> , <u>125</u> , <u>119</u> , <u>121</u> . (Movius, David) (Entered: 02/22/2008)
02/22/2008	<u>128</u>	Memorandum In Support of <u>123</u> Motion for summary judgment <i>on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct</i> (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) Modified filing date on 2/25/2008 (C,B). (Entered: 02/25/2008)
02/22/2008	<u>129</u>	Memorandum In Support of <u>119</u> Motion for summary judgment <i>on Defendants Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Affirmative Defenses</i> (FILED UNDER SEAL) filed by Vita-Mix Corporation. Related document(s), <u>19</u> . (C,B)

		(Entered: 02/25/2008)
02/22/2008	130	Memorandum In Support of <u>121 Motion</u> for summary judgment on <i>Defendants Third and Fourth counterclaims</i> (FILED UNDER SEAL) filed by Vita-Mix Corporation. Related document(s) <u>19</u> . (C,B) Modified text on 2/25/2008 (C,B). (Entered: 02/25/2008)
02/22/2008	131	Memorandum of Points and Authorities In Support of <u>118 Motion</u> for summary judgment of <i>No Trademark Infringement</i> (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) <u>19</u> (C,B) (Entered: 02/25/2008)
02/22/2008	132	Memorandum of Points and Authorities In Support of <u>116 Motion</u> for summary judgment of <i>Invalidity of Claim 1 of the '021 Patent as Anticipated Pursuant to 35 USC Section 102 and Obviousness Pursuant to 35 USC Section 103</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) <u>19</u> . (C,B) (Entered: 02/25/2008)
02/22/2008	133	Memorandum, with Duke Declaration, In Support of <u>117 Motion</u> for partial summary judgment to <i>Limit Vita-Mix's Damages to the Amount that Defendants Would Have Paid to Implement a Non-Infringing Alternative</i> (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) <u>19</u> . (C,B) (Entered: 02/25/2008)
02/26/2008	<u>134</u>	<u>Motion</u> to clarify the Court's February 22, 2008 Order filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Duke, Clinton) (Entered: 02/26/2008)
03/04/2008		Pursuant to General Order 2008-06, and in order to facilitate the efficient and timely administration of justice, Magistrate Judge Patricia A. Hemann (who retired effective February 29, 2008) is withdrawn and Magistrate Judge Gregory A. White is assigned. Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge White. (K,K) (Entered: 03/04/2008)
03/07/2008	<u>135</u>	Unopposed <u>Motion</u> for extension of March 4, 2008 Deadline for Defendants to File Their Reply Brief in Support of Their Motion for Summary Judgment of Noninfringement until March 7, 2008 filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Attachments: # <u>1</u> Affidavit of Robert E. Aycock, #2 reply in support of motion for summary judgment of non infringement (Under Seal), #3 Declaration of Clinton Duke in reply in support of motion for summary judgment of non infringement (Under Seal)) (Duke, Clinton) Modified to add attachments on 3/10/2008 (C,B). (Entered: 03/07/2008)
03/11/2008	<u>136</u>	Attorney Appearance by George R. Hoskins filed by on behalf of Focus

		Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Hoskins, George) (Entered: 03/11/2008)
03/11/2008	<u>137</u>	Emergency Motion for leave to <i>File Defendants' Motion for Entry of an Order to Show Cause Why Vita-Mix and its Counsel Should not be Sanctioned for Failure to Comply With Discovery Obligations</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Attachments: # <u>1</u> Affidavit of Clinton E. Duke, # <u>2</u> Exhibit 1 - Motion for Order to Show Cause, # <u>3</u> Exhibit 2 - Supporting Memorandum, # <u>4</u> Exhibit 3 - Declaration of Clinton E. Duke, # <u>5</u> Exhibit 4 - Documents Marked V-01300-V-01307, # <u>6</u> Exhibit 5 - Documents Marked V-1307-V01312, # <u>7</u> Exhibit 6 - April 18, 2007 letter, # <u>8</u> Exhibit 7 - July 27, 2007 letter, # <u>9</u> Exhibit 8 - August 10, 2007 letter, # <u>10</u> Exhibit 9 - March 7, 2008 email, # <u>11</u> Exhibit 10 - March 7, 2008 letter, # <u>12</u> Exhibit 11 - March 9, 2008 emails, # <u>13</u> Exhibit 12 - March 10, 2008 email, # <u>14</u> Exhibit 13 - May 15, 2007 Hearing Transcript)(Duke, Clinton) (Entered: 03/11/2008)
03/11/2008	<u>138</u>	Motion to show cause <i>Why Vita-Mix and its Counsel Should not be Sanctioned for Failure to Comply with Discovery Obligations</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Hoskins, George) Modified on 3/25/2008 (LC,S). (DOCUMENT STRICKEN PER DOC. # <u>153</u>) (Entered: 03/11/2008)
03/11/2008	139	Memorandum of Points and Authorities In Support of <u>138</u> Motion to show cause <i>Why Vita-Mix and its Counsel Should not be Sanctioned for Failure to Comply with Discovery Obligations</i> (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Basic Holding, Inc., fka Back to Basics Products, Inc.. (C,B) Modified on 3/12/2008 (C,B). (Entered: 03/12/2008)
03/11/2008	140	Declaration of Clinton E. Duke in support of motion for sanctions for failure to comply with discovery obligations (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) <u>138</u> . (C,B) (Entered: 03/12/2008)
03/13/2008		Order [non-document]: Defendants' Unopposed Motion to Extend Time to File their Reply in Support of their Motion for Summary Judgment of Noninfringement Pursuant to Fed. R. Civ. P. 6(b)(1)(B) is Granted to 3/7/08. <u>135</u> Approved by Judge Patricia A. Gaughan on 3/11/08.(LC,S) (Entered: 03/13/2008)
03/14/2008	<u>141</u>	Motion to strike <i>Motion for Entry of an Order to Show Cause, Memorandum in Support, and Declaration of Clint Duke</i> filed by Plaintiff Vita-Mix Corporation. Related document(s) 139 , <u>138</u> , 140 . (Movius, David) (Entered: 03/14/2008)
03/14/2008	<u>142</u>	Memorandum In Support of <u>141</u> Motion to strike <i>Motion for Entry of an Order to Show Cause, Memorandum in Support, and Declaration of</i>

		<i>Clint Duke</i> and in Opposition to Defendants' <u>137</u> "Emergency" Motion for Leave to File Motion for Entry of an Order to Show Cause filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit 1 - U.S. Patent No. 7,063,456, # <u>2</u> Exhibit 2 - U.S. Patent No. 7,267,478, # <u>3</u> Exhibit 3 - K-TEC Case Invalidity Contentions, # <u>4</u> Exhibit 4 - March 10, 2008 e-mail from David T. Movius, Esq., to Clint Duke, Esq., # <u>5</u> Exhibit 5, Vita-Mix's Responses to Document Request Nos. 38, 57, 66, 79, 81 & 82) (Movius, David) Modified text 3/17/2008 (K,K). (Entered: 03/14/2008)
03/14/2008	<u>143</u>	Response to <u>134</u> Motion to clarify <i>the Court's February 22, 2008 Order</i> filed by Vita-Mix Corporation. (Movius, David) (Entered: 03/14/2008)
03/17/2008	<u>144</u>	Reply to response to <u>134</u> Motion to clarify <i>the Court's February 22, 2008 Order</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Attachments: # <u>1</u> Exhibit A - Transcript of November 28, 2007 Personal Deposition of Tom Daniels, # <u>2</u> Exhibit B - Transcript of November 28, 2007 30(b)(6) Deposition of Tom Daniels)(Duke, Clinton) (Entered: 03/17/2008)
03/18/2008	<u>145</u>	Order : This matter is before the Court upon defendants' motion for clarification of the Court's February 22, 2008 Order. (Doc. <u>134</u>). Defendants' motion for clarification is GRANTED. Signed by Judge Patricia A. Gaughan on 3/18/08. (LC,S) (Entered: 03/18/2008)
03/18/2008	146	Reply Brief, to 114 Plaintiff's memorandum in opposition, In Support of <u>90</u> Motion for summary judgment of <i>noninfringement</i> (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (C,B) (Entered: 03/19/2008)
03/18/2008	147	Declaration of Clinton E. Duke in support of 146 reply brief in support of motion for summary judgment of noninfringement (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. Related document (s) <u>19</u> , <u>90</u> , 146 . (C,B) (Entered: 03/19/2008)
03/20/2008	<u>148</u>	Motion to strike <i>Expert Report of Plaintiff's Putative Expert, Mark B. Traylor, Ph.D.</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Attachments: # <u>1</u> Brief in Support, # <u>2</u> Affidavit of Clinton E. Duke in Support of Defendants' Objection and Motion to Strike, # <u>3</u> Exhibit 1 to Declaration of Clinton E. Duke - Expert Report of Mark B. Traylor, Ph.D., # <u>4</u> Exhibit 2 to Declaration of Clinton E. Duke in Support of Motion to Strike - excerpts from 2/5/08 deposition of Mark B. Traylor, Ph.D.)(Hoskins, George) (Additional attachment(s) added on 3/27/2008: # <u>5</u> Exhibit 3 (filed manually, see document <u>152</u>)) (C,B). Modified on 3/27/2008 (C,B). (Entered: 03/20/2008)
03/20/2008	150	Opposition to 112 Vita Mix Corporation's Cross Motion for summary judgment of infringement (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares,

		LLC, Back to Basics Products, Inc. (C,B) (Entered: 03/21/2008)
03/20/2008	151	Declaration of Clinton E. Duke In Support of Defendants' Opposition to Vita Mix Corporation's cross-motion for summary judgment of infringement (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) <u>19</u> , <u>117</u> , <u>150</u> . (C,B) (Entered: 03/21/2008)
03/20/2008	<u>152</u>	Exhibit 3 to Declaration of Clinton E. Duke in support of objection and motion to strike expert report of Plaintiff's Putative Expert, Mark B. Traylor, PhD (document on file, one CD) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) <u>148</u> . (C,B) (Entered: 03/21/2008)
03/21/2008	<u>149</u>	Joint Motion for extension of to File Oppositions to Pending Motions for Summary Judgment until March 31, 2008 filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc., Plaintiff Vita-Mix Corporation. Related document(s) <u>123</u> , <u>116</u> , <u>125</u> , <u>118</u> , <u>119</u> , <u>117</u> , <u>121</u> , <u>126</u> . (Movius, David) (Entered: 03/21/2008)
03/24/2008		Order [non-document]: Joint Motion for Extension of Deadline to File Oppositions to Pending Motons for Summary Judgment is Granted. <u>149</u> Approved by Judge Patricia A. Gaughan on 3/24/08. (LC,S) (Entered: 03/24/2008)
03/25/2008	<u>153</u>	Order : This matter is before the Court upon defendants' emergency motion for leave to file a motion for entry of an order to show cause why sanctions should not be levied against plaintiff (Doc. <u>137</u>) ("defendants' motion for leave") and plaintiff's motion to strike defendants' motion for such order (Doc. <u>141</u>) ("plaintiff's motion to strike"). Defendants' motion for leave is DENIED and plaintiff's motion to strike is GRANTED. Signed by Judge Patricia A. Gaughan on 3/25/08. (Related Doc # <u>138</u>) (LC,S) (Entered: 03/25/2008)
03/26/2008	<u>154</u>	Notice of New Federal Circuit Case Authority filed by Back to Basics Products, Inc.. (Attachments: # <u>1</u> Exhibit A)Related document(s) <u>90</u> . (Aycock, Robert) (Entered: 03/26/2008)
03/26/2008	<u>155</u>	Motion for leave to file surreply in opposition to defendant's reply to its motion for summary judgment of noninfringement filed by Plaintiff Vita-Mix Corporation. Related document(s) <u>146</u> . (Attachments: # <u>1</u> Exhibit A, surreply (Filed Under Seal)(Cupar, David) Modified text on 3/27/2008 (C,B). (Entered: 03/26/2008)
03/28/2008	156	Opposition to <u>155 Motion for leave to file surreply in opposition to defendant's reply to its motion for summary judgment of noninfringement (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (C,B) (Entered: 03/28/2008)</u>

801-533-9800
Fax: 801-328-1707
Email: dwright@wnlaw.com
ATTORNEY TO BE NOTICED

George R. Hoskins
Calfee, Halter & Griswold
1400 McDonald Investment Center
800 Superior Avenue, NE
Cleveland, OH 44114-2688
216-622-8566
Fax: 216-241-0816
Email: ghoskins@calfee.com
ATTORNEY TO BE NOTICED

Jennifer Buckley Wick
Calfee, Halter & Griswold - Cleveland
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, OH 44114
216-622-8823
Fax: 216-241-0516
Email: jwick@calfee.com
ATTORNEY TO BE NOTICED

Larry R. Laycock
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
801-533-9800
Fax: 801-328-1707
Email: llaycock@wnlaw.com
ATTORNEY TO BE NOTICED

Robert E. Aycock
Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111
801-533-9800
Fax: 801-328-1707
Email: raycock@wnlaw.com
ATTORNEY TO BE NOTICED

Defendant

Focus Products Group, LLC

represented by **Charles B. Lyon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

03/31/2008	<u>157</u>	Motion to strike Defendant's Infringement Agruments in Their Motion for Summary Judgment of Invalidity filed by Plaintiff Vita-Mix Corporation. (Movius, David) (Entered: 03/31/2008)
03/31/2008	<u>158</u>	Notice of Filing Under Seal filed by Vita-Mix Corporation. Related document(s) <u>157</u> .(Movius, David) (Entered: 03/31/2008)
03/31/2008	<u>159</u>	Notice of Filing Under Seal filed by Vita-Mix Corporation. (Movius, David) (Entered: 03/31/2008)
03/31/2008	<u>160</u>	Notice of Filing Under Seal Memorandum in Opposition to Defendant's Motion for Summary Judgment of No Trademark Infringement filed by Vita-Mix Corporation. (Cupar, David) (Entered: 03/31/2008)
03/31/2008	<u>161</u>	Notice of Filing Under Seal Opposition to Focus Products Group's Motion for Summary Judgment On All Claims Brought Against It filed by Vita-Mix Corporation. (Cupar, David) (Entered: 03/31/2008)
03/31/2008	<u>162</u>	Notice of Filing Under Seal Memorandum in Opposition to Defendant's Motion for Summary Judgment of Invalidity of Claim 1 of the 021 Patent filed by Vita-Mix Corporation. (Cupar, David) (Entered: 03/31/2008)
03/31/2008	<u>163</u>	Opposition to <u>125</u> Motion for summary judgment on Defendants' First Counterclaim and Affirmative Defenses of Patent Invalidity and Memorandum in Support Thereof filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Attachments: # <u>1</u> Affidavit of Clinton E. Duke, # <u>2</u> Exhibit A - CDS Corp. v. Dell, Inc., # <u>3</u> Exhibit B - Excerpt from the Prosecution History of the '021 Patent, # <u>4</u> Exhibit C - Expert Report of Majid Rashidi, # <u>5</u> Exhibit D - 1/25/08 Deposition of Majid Rashidi, # <u>6</u> Exhibit E - U.S. Patent No. 2,757,909, # <u>7</u> Exhibit F - U.S. Patent No. 5,302,021, # <u>8</u> Exhibit G - U.S. Patent No. 4,561,782, # <u>9</u> Exhibit H - U.S. Patent No. 3,346,029, # <u>10</u> Exhibit I - Recipes and Instructions for Vita-Mix 3600/4000, # <u>11</u> Exhibit J - 6/11/99 Vita-Mix Memorandum, # <u>12</u> Exhibit K - 3/15/01 Vita-Mix Memorandum, # <u>13</u> Exhibit L - U.S. Patent No. 7,063,456)(Duke, Clinton) (Entered: 03/31/2008)
03/31/2008	164	Opposition to <u>121</u> Vita-Mix Corporation's Motion for summary judgment on Defendants' Third and Fourth Counterclaims filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (Filed Under Seal) Related document 19 . (K,K) (Entered: 04/01/2008)
03/31/2008	165	Declaration of Clinton E. Duke in support of Defendant's 164 Opposition to Vita-Mix Corporation's <u>121</u> Motion for summary Judgment on Defendant's Third and Fourth Counterclaims filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (Filed Under Seal.) Related documents <u>19</u> , <u>121</u> , <u>164</u> . (K,K) (Entered: 04/01/2008)
03/31/2008	166	Opposition to <u>119</u> Vita-Mix Corporation's Motion for summary judgment on Defendants Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Affirmative Defenses filed by

		Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (Filed Under Seal.) Related document <u>19</u> . (K,K) (Entered: 04/01/2008)
03/31/2008	167	Declaration of Clinton E. Duke in Support of Defendant's 164 Opposition to Vita-Mix Corporation's <u>119</u> Motion for Summary Judgment on Defendant's Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Affirmative Defenses filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (Filed Under Seal.) Related document <u>19</u> , 166 , <u>119</u> . (K,K) (Entered: 04/01/2008)
03/31/2008	168	Opposition to <u>123</u> Vita-Mix Corporation's Motion for summary judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (Filed Under Seal.) Related document <u>19</u> . (K,K) (Entered: 04/01/2008)
03/31/2008	169	Declaration of Clinton E. Duke in Support of Defendant's 168 Opposition to Vita-Mix Corporation's <u>123</u> Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (Filed Under Seal.) Related documents <u>19</u> , <u>123</u> , 168 . (K,K) (Entered: 04/01/2008)
03/31/2008	170	Memorandum In Support of <u>157</u> Motion to strike Defendant's Infringement Arguments in Their Motion for Summary Judgment of Invalidity, <u>116</u> (FILED UNDER SEAL.) filed by Vita-Mix Corporation. (C,B) (Entered: 04/01/2008)
03/31/2008	171	Memorandum In Opposition to <u>116</u> Motion for summary judgment of Invalidity of Claim 1 of the '021 Patent as Anticipated Pursuant to 35 USC Section 102 and Obviousness Pursuant to 35 USC Section 103 (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 04/01/2008)
03/31/2008	172	Opposition to <u>126</u> Motion for summary judgment of all claims (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 04/01/2008)
03/31/2008	173	Memorandum In Opposition to <u>117</u> Motion for partial summary judgment to Limit Vita-Mix's Damages to the Amount that Defendants Would Have Paid to Implement a Non-Infringing Alternative (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 04/01/2008)
03/31/2008	174	Memorandum In Opposition to <u>118</u> Motion for summary judgment of No Trademark Infringement (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 04/01/2008)
04/01/2008		(Court only) Staff Notes: Phoned attorneys Cupar/Movius (left message

		w/Cupar) to let him/them know the notices of filing things under seal are unnecessary and only clutter the docket. Related document(s) <u>160</u> , <u>120</u> , <u>101</u> , <u>159</u> , <u>122</u> , <u>103</u> , <u>162</u> , <u>124</u> , <u>158</u> , <u>113</u> , <u>161</u> . (C,KA) (Entered: 04/01/2008)
04/02/2008	<u>175</u>	Unopposed Motion for extension of Time to File Reply Brief until April 7, 2008 filed by Plaintiff Vita-Mix Corporation. Related document(s) <u>150</u> . (Movius, David) (Entered: 04/02/2008)
04/03/2008		Order [non-document]: Plaintiff's Unopposed Motion for extension of Time to File Reply Brief is granted to April 7, 2008. Approved by Judge Patricia A. Gaughan on 4/2/08. (LC,S) <u>175</u> (Entered: 04/03/2008)
04/07/2008	<u>176</u>	Reply In Support to response to <u>112</u> Cross Motion for summary judgment (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 04/07/2008)
04/07/2008	<u>177</u>	Opposition to <u>148</u> Motion to strike <i>Expert Report of Plaintiff's Putative Expert, Mark B. Traylor, Ph.D.</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit 1 - Traylor Consumer Survey, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3 - Craig Joseph Deposition Pages)(Cupar, David) (Entered: 04/07/2008)
04/08/2008	<u>178</u>	Notice of manual filing of exhibit filed by Vita-Mix Corporation. Related document(s) <u>177</u> .(Cupar, David) (Entered: 04/08/2008)
04/08/2008	<u>179</u>	Reply to response to <u>155</u> Motion for leave to file surreply in opposition to defendant's reply to its motion for summary judgment of noninfringement filed by Vita-Mix Corporation. (Movius, David) (Entered: 04/08/2008)
04/08/2008	<u>180</u>	Exhibit 2 to Memorandum in Opposition to Defendants' motion to strike expert report of Mark B. Taylor, PhD. (Document on file, 2 DVD's) filed by Vita-Mix Corporation. Related document(s) <u>177</u> . (C,B) (Entered: 04/09/2008)
04/14/2008	<u>181</u>	Opposition to <u>157</u> Motion to strike <i>Defendant's Infringement Agruments in Their Motion for Summary Judgment of Invalidity</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Attachments: # <u>1</u> Affidavit of Clinton E. Duke in Support, # <u>2</u> Exhibit A - CDS v. Dell)(Duke, Clinton) (Entered: 04/14/2008)
04/14/2008	<u>182</u>	Reply Brief In Support of <u>126</u> Motion for summary judgment of all claims (FILED UNDER SEAL) filed by Focus Products Group, LLC. (C,B) Modified text on 4/15/2008 (C,B). (Entered: 04/15/2008)
04/14/2008	<u>184</u>	Reply Brief In Support of <u>116</u> Motion for summary judgment of <i>Invalidity of Claim 1 of the '021 Patent as Anticipated Pursuant to 35 USC Section 102 and Obviousness Pursuant to 35 USC Section 103</i> (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (C,B) (Entered: 04/15/2008)

04/14/2008	185	Declaration of Clinton E. Duke in support of reply brief in support of Defendants' motion for summary judgment of invalidity of claim 1 (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) 184 . (C,B) (Entered: 04/15/2008)
04/14/2008	186	Reply Brief In Support of <u>118 Motion</u> for summary judgment of <i>No Trademark Infringement</i> (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (C,B) (Entered: 04/15/2008)
04/14/2008	187	Declaration of Clinton E. Duke in support of reply brief in support of motion for summary judgment of no trademark infringement (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) 186 . (C,B) (Entered: 04/15/2008)
04/14/2008	188	Reply Memorandum In Support of <u>117 Motion</u> for partial summary judgment to <i>Limit Vita-Mix's Damages to the Amount that Defendants Would Have Paid to Implement a Non-Infringing Alternative</i> (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (C,B) (Entered: 04/15/2008)
04/14/2008	189	Declaration of Clinton E. Duke in support of reply memorandum in support of motion for partial summary judgment to limit Plaintiff's damages (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) 188 . (C,B) (Entered: 04/15/2008)
04/14/2008	190	Reply In Support to response to <u>121 Motion</u> for summary judgment on <i>Defendants' Third and Fourth Counterclaims</i> (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 04/15/2008)
04/14/2008	191	Reply In Support to response to <u>123 Motion</u> for summary judgment on <i>Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct</i> (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 04/15/2008)
04/14/2008	192	Reply In Support to response to <u>119 Motion</u> for summary judgment on <i>Defendants Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Affirmative Defenses</i> (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 04/15/2008)
04/15/2008	183	Declaration of Clinton E. Duke in support of Reply Brief In Support filed by Focus Products Group, LLC. (FILED UNDER SEAL) Related document(s) 182 . (C,B) Modified on 4/15/2008 (C,B). (Entered: 04/15/2008)
04/17/2008	<u>193</u>	Motion for leave to <i>File Surreply to Vita-Mix Corp.'s Reply in Support of Cross-Motion for Summary Judgment of Infringement</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) 176 . (Wick,

		Jennifer) (Additional attachment(s) added on 4/18/2008: # <u>1</u> Exhibit A: Surreply to Plaintiff's reply in support of cross-motion for summary judgment of infringement (FILED UNDER SEAL)) (C,B). Surreply not signed (only certificate of service), attorney notified. Modified on 4/18/2008 (C,B). (Entered: 04/17/2008)
04/17/2008	<u>194</u>	Reply to response to <u>125 Motion</u> for summary judgment on <i>Defendants' First Counterclaim and Affirmative Defenses of Patent Invalidity and Memorandum in Support Thereof</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A, Deposition Transcript of Majid Rashidi) (Cupar, David) (Entered: 04/17/2008)
04/21/2008	<u>195</u>	Reply to response to <u>148 Motion</u> to strike <i>Expert Report of Plaintiff's Putative Expert, Mark B. Traylor, Ph.D.</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. (Attachments: # <u>1</u> Affidavit of Clinton E. Duke, # <u>2</u> Manual Filing of Exhibit A - video clips, # <u>3</u> Manual Filing of Exhibit B - video clips, # <u>4</u> Exhibit C - American Flange v. Reike, # <u>5</u> Exhibit D - February 2, 2008 Deposition of Craig Joseph, # <u>6</u> Exhibit E - June 11, 1999 internal Vita-Mix memorandum, # <u>7</u> Exhibit F - March 15, 2001 internal Vita-Mix memorandum)(Duke, Clinton) (Entered: 04/21/2008)
04/28/2008	<u>196</u>	Reply to response to <u>157 Motion</u> to strike <i>Defendant's Infringement Arguments in Their Motion for Summary Judgment of Invalidity</i> filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit)(Cupar, David) (Entered: 04/28/2008)
05/05/2008	197	Memorandum In Opposition to <u>193 Defendants' Motion</u> for leave to <i>File Surreply to Vita-Mix Corp.'s Reply in Support of Cross-Motion for Summary Judgment of Infringement (FILED UNDER SEAL)</i> filed by Vita-Mix Corporation. (C,B) (Entered: 05/06/2008)
05/07/2008	<u>198</u>	Motion for leave to <i>file Surreply to Reply in Support of Motion to Strike Infringement Arguments From Motion for Summary Judgment of Invalidity ()</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc., Back to Basics Products, Inc., Focus Electrics, LLC, West Bend Housewares, LLC, Focus Products Group, LLC, Back to Basics Products, Inc., Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Plaintiff Vita-Mix Corporation. Related document(s) <u>196</u> . (Attachments: # <u>1</u> Exhibit A - Proposed Surreply to Reply in Support of Motion to Strike Infringement Arguments From Motion for Summary Judgment of Invalidity)(Duke, Clinton) Removed ex parte restriction on 5/12/08 per attorney's call to help desk and re-generated NEF (P, S). (Entered: 05/07/2008)
05/14/2008	199	Reply Brief In Support of <u>193 Motion</u> for leave to <i>File Surreply to Vita-Mix Corp.'s Reply in Support of Cross-Motion for Summary Judgment of Infringement (FILED UNDER SEAL)</i> filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc. (C,B) (Entered: 05/15/2008)

05/27/2008	<u>200</u>	Opposition to 198 Motion for leave to file <i>Surreply to Reply in Support of Motion to Strike Infringement Arguments From Motion for Summary Judgment of Invalidity</i> filed by Vita-Mix Corporation. (Cupar, David) (Entered: 05/27/2008)
06/05/2008	<u>201</u>	Reply to response to 198 Motion for leave to file <i>Surreply to Reply in Support of Motion to Strike Infringement Arguments From Motion for Summary Judgment of Invalidity</i> filed by all defendants. (Attachments: # <u>1</u> Exhibit A - Ocean Innovations, Inc. v. Jet Dock Systems, Inc.)(Duke, Clinton) (Entered: 06/05/2008)
07/02/2008	<u>202</u>	Memorandum Opinion and Order: Defendant Focus Products' motion for summary judgment on all claims is GRANTED. Defendants' motion for summary judgment of no patent infringement is GRANTED. Plaintiff's cross-motion for summary judgment of patent infringement is DENIED. Defendants' motion to strike the expert report of Dr. Traylor is GRANTED. Plaintiff's motion for leave to file a surreply is GRANTED. Defendants' motion for leave to file a surreply is DENIED. Defendants' motion to limit patent infringement damages is MOOT. Defendants' motion for summary judgment of patent invalidity is DENIED. Plaintiff's motion for summary judgment of no patent invalidity is GRANTED. Plaintiff's motion to strike defendants' infringement arguments made in connection with patent invalidity is GRANTED. Defendants' motion for leave to file a surreply to plaintiff's motion to strike is DENIED. Plaintiff's motion for summary judgment of no inequitable conduct is GRANTED. Plaintiff's motion for summary judgment on certain of defendants' affirmative defenses is GRANTED. Plaintiff's motion for summary judgment of no unfair trade practices is GRANTED. Defendants' motion for summary judgment of no trademark infringement is GRANTED. Judge Patricia A. Gaughan on 7/1/08. re <u>123</u> , <u>112</u> , <u>157</u> , <u>116</u> , <u>125</u> , <u>148</u> , <u>118</u> , <u>119</u> , <u>198</u> , <u>117</u> , <u>121</u> , <u>90</u> , <u>126</u> , <u>155</u> . (LC,S) (Entered: 07/02/2008)
07/02/2008	<u>203</u>	Judgment Entry: The Court, having granted defendant Focus Products Group, LLC's motion for summary judgment on all claims (Doc. <u>126</u>), having granted defendants' motion for summary judgment of no patent infringement (Doc. <u>90</u>), having denied plaintiff's cross-motion for summary judgment of patent infringement (Doc. <u>112</u>), having granted plaintiff's motion for summary judgment that Claim 1 of U.S. Patent No. 5,302,021 is not invalid (Doc. <u>125</u>), having denied defendants' motion for summary judgment that Claim 1 is invalid (Doc. <u>116</u>), having granted plaintiff's motion for summary judgment of no inequitable conduct (Doc. <u>123</u>), having granted plaintiff's motion for summary judgment of, inter alia, patent misuse (Doc. <u>119</u>), having granted plaintiff's motion for summary judgment of no deceptive trade practices (Doc. <u>121</u>), and having granted defendants' motion for summary judgment of no trademark infringement (Doc. <u>118</u>), hereby enters judgment in favor of defendants on Counts One, Two, Three and Four of plaintiff's first Amended Complaint and hereby enters judgment in favor of plaintiff on defendants' First, Second, Third and Fourth Counterclaims. Judge Patricia A. Gaughan on 7/1/08. (LC,S) re <u>202</u>

		(Entered: 07/02/2008)
07/16/2008	<u>204</u>	NOTICE OF APPEAL to the US Court of Appeals for the Federal Circuit from the <u>202</u> Memorandum, Opinion and Order and <u>203</u> Judgment Entry of 7/2/08 and from the <u>81</u> Memorandum, Opinion and Order of 9/10/07, filed by Vita-Mix Corporation. (Filing fee of \$455 paid, receipt number 0647000000003109891) (Movius, David). Modified text on 7/18/2008 (H, SP). (Entered: 07/16/2008)
07/16/2008	<u>205</u>	Bill of costs filed by all defendants. (Attachments: # <u>1</u> Affidavit of Clinton E. Duke, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit I, # <u>11</u> Exhibit J, # <u>12</u> Exhibit K, # <u>13</u> Exhibit L)(Duke, Clinton) (Entered: 07/16/2008)
07/16/2008	2 <u>206</u>	Motion for attorney fees and expenses pursuant to Rule 54(d)(2), 15:1117 & 35:285 (FILED UNDER SEAL) filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) <u>19</u> . (C,B) (Entered: 07/17/2008)
07/24/2008	<u>207</u>	Acknowledgment from the USCA for Federal Circuit of receipt of <u>204</u> Notice of Appcal (USCA# 08-1479). Date filed in USCA 7/22/08. (H, SP) (Entered: 07/25/2008)
07/25/2008	<u>208</u>	Unopposed Motion for extension of time until August 6, 2008 to Respond to Defendants' Motion for Attorneys' Fees and Expenses filed by Plaintiff Vita-Mix Corporation. Related document(s) <u>206</u> . (Cupar, David) (Entered: 07/25/2008)
07/29/2008		Order[non-document] : Vit-Mix Corp. unopposed motion for extension to time to respond to Defendants' motion for attorneys' fees and expenses is granted to 8/06/08. <u>208</u> Approved by Judge Patricia A. Gaughan on 7/29/08.(D,MB) (Entered: 07/29/2008)
08/01/2008	<u>209</u>	NOTICE OF CROSS APPEAL to the Federal Circuit Court of Appeals from the <u>202</u> Memorandum, Opinion and Order and <u>203</u> Judgment Entry of 7/2/08, filed by defendants Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC and Back to Basics Products, Inc. (Filing fee of \$455 paid, receipt number 0647000000003137016) (Aycock, Robert). Modified text and added links on 8/5/2008 (H, SP). (Entered: 08/01/2008)
08/06/2008	<u>210</u>	Memorandum In Opposition to <u>206</u> Defendants' Motion for attorney fees (FILED UNDER SEAL) filed by Vita-Mix Corporation. (C,B) (Entered: 08/07/2008)
08/07/2008	<u>211</u>	Costs Taxed in the amount of \$103,684.45 and included in the judgment. Geri M. Smith, Clerk by Stella Leno-Clifford, Deputy Clerk. Related document(s) <u>205</u> . (LC,S) (Entered: 08/07/2008)
08/08/2008	<u>212</u>	Unopposed Motion for extension of Time to Respond to Plaintiff's Opposition to Defendants' Motion for Attorneys' Fees and Expenses until

		August 22, 2008 filed by Focus Products Group, LLC, Focus Electrics, LLC, West Bend Housewares, LLC, Back to Basics Products, Inc.. Related document(s) 210 . (Duke, Clinton) (Entered: 08/08/2008)
08/11/2008		Order [non-document]: Defendants' Unopposed Motion for extension of Time to Respond to Plaintiff's Opposition to Defendants' Motion for Attorneys' Fees and Expenses is Granted to 8/22/08. Judge Patricia A. Gaughan on 8/11/08. (LC,S) 212 , 210 (Entered: 08/11/2008)
08/14/2008	213 213	Motion to strike <i>Back to Basics' Bill of Costs and the Clerk of Court's Taxation of Back to Basics' Costs</i> filed by Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Plaintiff Vita-Mix Corporation. (Movius, David) (Entered: 08/14/2008)
08/14/2008	214 214	Motion to strike <i>Back to Basics' Costs (Memorandum in Support)</i> filed by Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Plaintiff Vita-Mix Corporation. Related document(s) 213 . (Movius, David) (Entered: 08/14/2008)
08/14/2008	215 215	Motion to set aside <i>and Review Back to Basics' Bill of Costs Pursuant to Fed. R. 54(d)</i> filed by Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Vita-Mix Corporation, Plaintiff Vita-Mix Corporation. (Movius, David) (Entered: 08/14/2008)
08/14/2008	216	Memorandum In Support of <u>215</u> Motion to set aside <i>and Review Back to Basics' Bill of Costs Pursuant to Fed. R. 54(d)</i> Motion to set aside <i>and Review Back to Basics' Bill of Costs Pursuant to Fed. R. 54(d)</i> filed by Vita-Mix Corporation. (Attachments: # 1 Exhibit Unreported Cases) (Movius, David) (Entered: 08/14/2008)
08/14/2008	217	Bill of costs filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Itemization of Costs, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E)(Movius, David) (Entered: 08/14/2008)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

VITA-MIX CORPORATION, : CIVIL ACTION NO.:
 :
 Plaintiff, : JUDGE:
 :
 v. :
 :
 BACK TO BASICS PRODUCTS, INC. :
 : DEMAND FOR JURY TRIAL
 Defendant. :
 :

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Vita-Mix Corporation ("Vita-Mix"), for its complaint against defendant Back to Basics Products, Inc. ("Back to Basics"), alleges and states as follows:

I. INTRODUCTION

1. This is an action for damages and injunctive relief to remedy the infringement by Back to Basics of United States Letters Patent No. 5,302,021 (the "'021 Patent"), and for false designation of origin under § 43(a) of the Lanham Act, violation of the Ohio Deceptive Trade Practices Act, common law trademark infringement and unfair competition.

II. THE PARTIES

2. Vita-Mix is an Ohio corporation with its principal place of business at 8615 Usher Road, Olmsted Township, Ohio 44138.

3. Vita-Mix designs, manufactures, and sells blenders for the consumer and professional markets. Vita-Mix's blenders and mixers can perform dozens of specialized kitchen functions that include: grinding grain, cooking soup, mixing juice for whole fruits and vegetables, kneading dough, creating frozen drinks, and making ice cream. Vita-Mix's blenders and mixers are quality engineered for outstanding durability and versatility.

4. Back to Basics is a Utah corporation with its principal place of business in Bluffdale, Utah.

5. Back to Basics manufactures, uses, offers for sale, sells, and imports kitchen products, including blenders.

III. JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this patent infringement action pursuant to 35 U.S.C. §§ 271 and 281, and 28 U.S.C. §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Back to Basics because Back to Basics regularly sells and distributes products in this judicial district that infringe claim 1 of the '021 Patent, Back to Basics regularly solicits business in Ohio and in this judicial district, Back to Basics regularly engages in a persistent course of conduct by conducting business in Ohio and in this judicial district, and Back to Basics regularly derives revenue from goods sold and used in Ohio and in this judicial district.

8. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because the events giving rise to Vita-Mix's claim of patent infringement against Back to Basics occurred in this district. Venue also is proper in this judicial district pursuant to 28 U.S.C. § 1391(c) because this Court has personal jurisdiction over Back to Basics, and pursuant to 28 U.S.C. § 1400(b) because Back to Basics has sold its products to numerous retailers with stores located in this judicial district that sell Back to Basics' products, including but not limited to Costco Wholesale Corporation, Target Corporation, Wal-Mart Stores, Inc., Dillards, Inc., and Sears, Roebuck and Co., and because Back to Basics has committed, and continues to commit, acts of infringement in this judicial district.

Jennifer Buckey Wick
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Clinton E. Duke
(See above for address)
ATTORNEY TO BE NOTICED

George R. Hoskins
(See above for address)
ATTORNEY TO BE NOTICED

Robert E. Aycock
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Focus Electrics, LLC

represented by **Charles B. Lyon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Clinton E. Duke
(See above for address)
ATTORNEY TO BE NOTICED

George R. Hoskins
(See above for address)
ATTORNEY TO BE NOTICED

Jennifer Buckey Wick
(See above for address)
ATTORNEY TO BE NOTICED

Robert E. Aycock
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

West Bend Housewares, LLC

represented by **Charles B. Lyon**
(See above for address)
ATTORNEY TO BE NOTICED

Clinton E. Duke
(See above for address)
ATTORNEY TO BE NOTICED

George R. Hoskins

IV. FACTUAL BACKGROUND

A. Vita-Mix and Its '021 Patent

9. On April 12, 1994, the '021 Patent, entitled "Method of Preventing the Formation of an Air Pocket in a Blender," was duly and legally issued to Vita-Mix. A true and accurate copy of the '021 Patent is attached hereto as Exhibit A.

10. At all times since April 12, 1994, Vita-Mix has been, and continues to be, the sole owner of all right, title and interest in and to the '021 Patent, including the exclusive right to recover for infringement of the '021 Patent.

11. Claim 1 of the '021 Patent recites a method of preventing the formation of an air pocket, as follows:

A method of preventing the formation of an air pocket around rotating blades positioned in a pitcher of a blender, the air pocket being created from an air channel of a cross-sectional size defined by a member associated with the blades, comprising the steps of supplying a fluid into the pitcher, and positioning a plunger, having a cross-sectional size approximating the cross-sectional size of the member, adjacent to and above the rotating blades while maintaining the plunger free of contact with the pitcher thereby preventing the formation of an air pocket in the fluid around the rotating blades.

B. Back to Basics' Infringing Blenders

12. Back to Basics has manufactured, offered for sale, sold, used, or imported, and continues to manufacture, offer for sale, sell, use or import, one or more blenders that are capable of infringing claim 1 of the '021 Patent, including, but not limited to, the blenders depicted on Back to Basics' advertisements on its *www.backtobasicsproducts.com* website; true and accurate exemplars of which are attached as Exhibit B (collectively, "Blenders").

13. Upon information and belief, Back to Basics previously manufactured, offered for sale, sold or imported Blenders that are no longer sold by Back to Basics and are not shown in the advertisements attached as Exhibit B.

14. In use, Back to Basics' Blenders are capable of preventing the formation of an air pocket around the rotating blades.

15. Back to Basics has advertised on its packaging for the Blenders that the Blenders include a "stir stick" capable of breaking up "air pockets." A true and accurate exemplar of such advertising on Back to Basics' Blender packaging is attached as Exhibit C.

16. Back to Basics also has advertised on its website *www.backtobasicsproducts.com* that the Blenders have a stir stick that is capable of breaking up "air pockets."

17. Back to Basics also has stated in the instruction manual for the Blenders that such Blenders include a stir stick capable of breaking up "air pockets."

18. Back to Basics' Blenders include a pitcher.

19. Back to Basics' Blenders include rotating blades.

20. In use, Back to Basics' Blenders are capable of forming an air pocket around the rotating blades.

21. The air pocket that Back to Basics' Blenders are capable of forming during use is created from an air channel of a cross-sectional size defined by a member associated with the blades.

22. In use, the stir stick of Back to Basics' Blenders is positioned adjacent to and above the rotating blades.

23. The stir stick of Back to Basics' Blenders has a cross-sectional size approximating the cross-sectional size of a member associated with the blades.

24. The stir stick of Back to Basics' Blenders can be maintained free of contact with the pitcher.

25. The stir stick of Back to Basics' Blenders is capable of preventing the formation of an air pocket.

26. Back to Basics' manufacture, offer for sale, sale, use and importation of the Blenders has been without the permission or consent of Vita-Mix.

27. Vita-Mix has not licensed or otherwise granted Back to Basics any rights under the '021 Patent.

C. Back to Basics' Infringement Has Been Willful

28. Back to Basics is the exclusive licensee of U.S. Patent No. 6,527,433 (the "'433 Patent") entitled "Beverage mixer with pivoting stir stick and cup indentation," which issued on March 4, 2003, a copy of which is attached as Exhibit D.

29. The '433 Patent issued on U.S. Patent Application Serial No. 10/012,239 (the "'239 Application"), which was filed on November 13, 2001.

30. Back to Basics has been the exclusive licensee of the '433 Patent or the '239 Application since at least March 4, 2003.

31. The first page of the '433 Patent cites the '021 Patent.

32. Thomas E. Daniels, Jr., is the sole named inventor of the '433 Patent.

33. Thomas E. Daniels, Jr., was or has been an officer of Back to Basics since at least 2001.

34. Thomas E. Daniels, Jr., was or has been a shareholder of Back to Basics since at least 2001.

35. Upon information and belief, Thomas E. Daniels, Jr., conceived of and reduced to practice the invention of the '433 Patent within the scope of his employment with Back to Basics.

36. The '433 Patent depicts a preferred embodiment Blender that includes a stir stick identified as 62 in Figure 2, as follows:

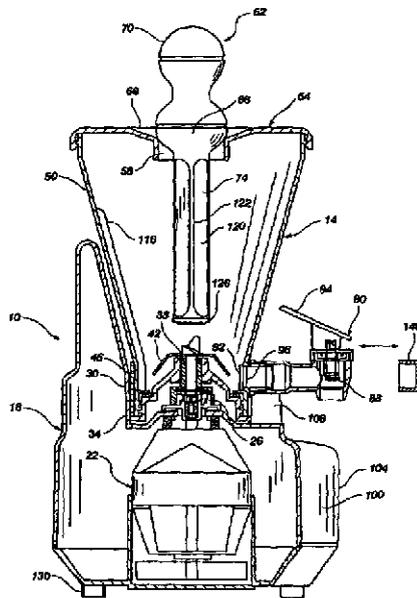


Fig. 2

37. Thomas E. Daniels, Jr., cited the '021 Patent to the United States Patent and Trademark Office ("USPTO") during the pendency of the '239 Application.

38. In connection with the prosecution of the '239 Application, Thomas E. Daniels, Jr., submitted an Information Disclosure Statement to the USPTO citing the '021 Patent on or around November 13, 2001, a true and accurate copy of which is attached as Exhibit E.

39. During the prosecution of the '239 Application, the USPTO issued an Office Action on or around May 1, 2002. A true and accurate copy of the May 1, 2002 Office Action is attached as Exhibit F.

40. The May 1, 2002 Office Action includes a rejection of claim 21 of the '239 Application under 35 U.S.C. 102(b) by the '021 Patent.

41. Claim 21 of the '239 Application recited the following:

a stir stick, extendable through the opening in the lid and into the container, and to be pivotable with respect to the lid.... the stir stick being selectively pivotable and configured to disturb the vortex action of the contents in the container when pivoted.

42. The May 1, 2002 Office Action states that the '021 Patent includes a "stir stick 10."

43. Figure 2 of the '433 Patent depicts each and every limitation recited in rejected claim 21 of the '239 Application.

44. In response to the USPTO's rejection of claim 21 of the '239 Application based on the '021 Patent, Thomas E. Daniels, Jr., cancelled claim 21 of the '239 Application. A true and accurate copy of Thomas E. Daniels, Jr.'s response is attached as Exhibit G.

45. Back to Basics has continuously and systematically marked the Blenders with the '433 Patent subsequent to its issuance.

46. The Blenders include "a stir stick, extendable through the opening in the lid and into the container, and to be pivotable with respect to the lid.... the stir stick being selectively pivotable and configured to disturb the vortex action of the contents in the container when pivoted" as recited by claim 21 of the '239 Application.

47. Because the Blenders fall within the scope of Claim 21 of the '239 Application, Back to Basics has known that the Blenders fall within the scope of claim 1 of the '021 Patent since at least November 13, 2001.

48. Despite having known that the Blenders fall within the scope of claim 1 of the '021 Patent since at least November 13, 2001, Back to Basics has failed to exercise due care to avoid infringement of claim 1 of the '021 Patent and its infringement of claim 1 of the '021 Patent has been willful.

D. Vita-Mix's 5000 and SUPER 5000 Marks

49. Vita-Mix has, for a number of years used the marks "5000" and "SUPER 5000" in commerce in connection with its blender products and related accessories (collectively, the "5000 Mark").

50. As a result of Vita-Mix' widespread, continuous and longstanding use of the 5000 Mark, the 5000 Mark has become well known nationwide and around the world and is associated in the minds of consumers with blenders and related accessories manufactured or sold by or on behalf of Vita-Mix.

51. Without the authorization or permission of Vita-Mix, Back to Basics is and has been offering and selling blenders and/or accessories using the 5000 Mark known as the "Blender Solution 5000." A true and accurate copy of an advertisement for Back to Basics' "Blender Solution 5000" blender is attached as Exhibit B.

52. Unauthorized use of the 5000 Mark by Back to Basics has caused Vita-Mix substantial and irreparable injury by depriving Vita-Mix of its absolute right to determine the manner in which the 5000 Mark is represented to the general public through merchandising and marketing.

53. Back to Basics has unlawfully exploited the commercial value Vita-Mix has developed in the 5000 Mark and has caused actual confusion and/or the likelihood of further confusion as to the origin of the products being sold by Back to Basics and Vita-Mix's sponsorship of or affiliation with Back to Basics.

54. Vita-Mix has been and will continue to be irreparably damaged until such time as this Court enjoins Back to Basics' unlawful use of the 5000 Mark.

V. COUNT 1 – PATENT INFRINGEMENT

55. Vita-Mix incorporates by reference the preceding paragraphs as if fully alleged herein.

56. Back to Basics has been and is now directly infringing, contributorily infringing, and inducing infringement of claim 1 of the '021 Patent by making, using, importing, offering for sale, or selling blenders that are capable of practicing the method of claim 1 of the '021 Patent within this judicial district and elsewhere in the United States.

57. Back to Basics has knowingly infringed the '021 Patent and Back to Basics' direct, contributory, and inducement of infringement has been and is willful and deliberate, and Back to Basics will continue its infringing activities unless restrained by this Court.

58. Back to Basics has profited and will continue to profit by its infringing activities.

59. Vita-Mix has been damaged by Back to Basics' infringing activities and will continue to be irreparably injured unless these infringing activities are enjoined by this Court.

**VI. COUNT 2 – FALSE DESIGNATION OF ORIGIN
UNDER § 43(a) OF THE LANHAM ACT – 15 U.S.C. § 1125(a)**

60. Vita-Mix incorporates by reference the preceding paragraphs as if fully alleged herein.

61. Back to Basics' use of Vita-Mix's 5000 Mark on its blender products constitutes false designation of origin under 15 U.S.C. § 1125(a), *i.e.*, § 43(a) of the Lanham Act.

62. Defendants' false designation of origin is and has been likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Back to Basics with Vita-Mix, or as to the origin, sponsorship, or approval of the goods at issue.

63. Defendants' false designation of origin was committed with knowledge that such conduct was intended to be used to cause confusion, or to cause mistake, or to deceive.

64. Back to Basics' unauthorized use of Vita-Mix's 5000 Mark has caused and, unless restrained, will continue to cause great and irreparable injury to Vita-Mix, Vita-Mix's 5000 Mark, the products sold under the 5000 Mark, and to the business and good will represented thereby, in an amount that cannot be presently ascertained, leaving Vita-Mix with no adequate remedy at law. Vita-Mix is therefore entitled to injunctive relief under 15 U.S.C. § 1125(a).

65. The nature and result of Back to Basics' improper use of Vita-Mix's 5000 Mark is to enable Back to Basics to deceive the public into believing that this trademark has an affiliation connection or association with Back to Basics, or that Vita-Mix has sponsored, endorsed or approved of Back to Basics' products or advertising. Vita-Mix has no control over the quality of the products sold or advertising by Back to Basics in association with Vita-Mix's 5000 Mark.

66. Back to Basics' actions demonstrate a willful intent to trade on the reputation and goodwill associated with Vita-Mix's trademarks, thereby entitling Vita-Mix to recover Back to Basics' profits, treble damages, costs, and reasonable attorney's fees under 15 U.S.C. §§ 1125(a), 1116, and 1117.

VII. COUNT 3 – OHIO DECEPTIVE TRADE PRACTICES ACT

67. Vita-Mix incorporates by reference the preceding paragraphs as if fully alleged herein.

68. As a cause of action and ground for relief, Vita-Mix alleges deceptive trade practices by Back to Basics' deceptive representation of Vita-Mix's 5000 Mark under Ohio Rev. Code §§ 4165.01 and 4165.02.

69. Back to Basics' use of Vita-Mix's 5000 Mark causes likelihood of confusion or misunderstanding, and is a deceptive representation that Back to Basics' products have a source, sponsorship, approval, status, affiliation, or connection that they do not have.

70. Back to Basics' use of Vita-Mix's 5000 Mark is likely to confuse and deceive the public by misrepresenting that Vita-Mix is a source or sponsor for or is affiliated or connected with or has approved or endorsed Back to Basics' products provided under Vita-Mix's trademarks within the meaning of Ohio Rev. Code § 4165.02, thereby causing Vita-Mix immediate and irreparable damage.

71. The nature and likely result of Back to Basics' deceptive trade practices in using Vita-Mix's 5000 Mark is to enable Back to Basics to deceive the public into believing that Vita-Mix is a source or sponsor for, or is affiliated or connected with or has approved of, Back to Basics' products and commercial activities using Vita-Mix's 5000 Mark.

72. Unless enjoined, Back to Basics' deceptive trade practices will continue to cause great and irreparable injury to Vita-Mix and to its 5000 Mark, and to the business and goodwill represented thereby, in an amount that cannot be presently ascertained, leaving Vita-Mix no adequate remedy at law. Vita-Mix is therefore entitled to injunctive relief and damages under Ohio Rev. Code § 4165.03.

73. Back to Basics' conduct constitutes false or misleading descriptions of fact in Back to Basics' commercial advertising, promotion or sale of its blender products that misrepresent the nature, characteristics or qualities of Vita-Mix's goods, services, or commercial activities. Back to Basics' conduct therefore constitutes deceptive trade practices that entitle Vita-Mix to monetary relief for damages under Ohio Rev. Code § 4165.02.

**VIII. COUNT 4 – COMMON LAW TRADEMARK
INFRINGEMENT AND UNFAIR COMPETITION**

74. Vita-Mix incorporates by reference the preceding paragraphs as if fully alleged herein.

75. As a cause of action and ground for relief, Back to Basics has infringed Vita-Mix's 5000 Mark as set forth in Ohio common law for trademark infringement. Back to Basics also has unfairly competed by attempting to trade on Vita-Mix's 5000 Mark as set forth in Ohio common law for unfair competition.

76. Back to Basics' use of Vita-Mix's 5000 Mark is likely to cause confusion, mistake and deception in the mind of the public and wholesalers, retailers, distributors, and end users of Back to Basics' products and is intended to falsely represent to Back to Basics' benefit an affiliation, connection, association, sponsorship, endorsement or approval of Back to Basics' products by Vita-Mix. Vita-Mix has no control over either Back to Basics' use of Vita-Mix's 5000 Mark or the quality of Back to Basics' products or advertisements.

77. Back to Basics' intentional and willful trademark infringement and unfair competition has caused and will continue to cause Vita-Mix immediate and irreparable damage unless enjoined. Vita-Mix is therefore entitled to injunctive relief and recovery of all damages caused by Back to Basics' actions.

WHEREFORE, Vita-Mix prays that this Court:

(See above for address)
ATTORNEY TO BE NOTICED

Jennifer Buckey Wick
(See above for address)
ATTORNEY TO BE NOTICED

Robert E. Aycock
(See above for address)
ATTORNEY TO BE NOTICED

Counter-Claimant

Back to Basics Products, Inc.

represented by **S. Paige Christopher**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Clinton E. Duke
(See above for address)
ATTORNEY TO BE NOTICED

David R. Wright
(See above for address)
ATTORNEY TO BE NOTICED

Jennifer Buckey Wick
(See above for address)
ATTORNEY TO BE NOTICED

Larry R. Laycock
(See above for address)
ATTORNEY TO BE NOTICED

Robert E. Aycock
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter-Defendant

Vita-Mix Corporation

represented by **David T. Movius**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael L. Snyder
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

A. Enter judgment that Back to Basics has directly infringed claim 1 of United States Letters Patent No. 5,302,021;

B. Enter judgment that Back to Basics has contributorily infringed claim 1 of United States Letters Patent No. 5,302,021;

C. Enter judgment that Back to Basics has induced infringement of claim 1 of United States Letters Patent No. 5,302,021;

D. Enter judgment that Back to Basics has committed acts of false designation of origin under 15 U.S.C. § 1125(a) of the Lanham Act;

E. Enter judgment that Back to Basics has committed acts of deceptive trade practices under Ohio Rev. Code §§ 4165.01 and 4165.02.

F. Enter judgment that Back to Basics has committed acts of trademark infringement and unfair competition under the laws of the State of Ohio;

G. Preliminarily and permanently enjoin Back to Basics, its officers, directors, managers, employees, affiliates, agents, representatives, corporate parents and those in privity with Back to Basics from further infringement of United States Letters Patent No. 5,302,021;

H. Award Vita-Mix all of its damages caused by Back to Basics' acts of infringement, together with interest and costs as provided for under 35 U.S.C. § 284;

I. Order an accounting of Back to Basics' profits arising out of its infringing activities and award Vita-Mix those profits;

J. Find Back to Basics' infringement to be willful and increase the damages to three times the amount found or assessed pursuant to 35 U.S.C. § 284;

K. Enter judgment that this case is exceptional and awards Vita-Mix its attorneys' fees in this action pursuant to 35 U.S.C. § 285;

L. Preliminarily and permanently enjoin Back to Basics and its agents, employees, servants, attorneys, successors and assigns and all others acting in privity or concert therewith from directly or indirectly using the 5000 Mark in connection with its goods and services in any manner that is confusingly similar to or in any way similar to Vita-Mix's 5000 Mark or passing off its goods and services as those of Vita-Mix;

M. Order Back to Basics to pay compensatory damages to Vita-Mix for injuries and damages sustained caused by Back to Basics acts of false designation of origin, that this case be declared exceptional, that Back to Basics be required to pay Vita-Mix all profits derived by Back to Basics for all damages caused to Vita-Mix by the acts forming the basis for this Complaint and that such damage be trebled under 15 U.S.C. § 1117 in view of the willful and deliberate acts described herein;

N. Order (1) Back to Basics to pay compensatory damages to Vita-Mix for injuries and damages caused by Back to Basics acts of deceptive trade practices; (2) that this case be declared exceptional; (3) that Back to Basics be required to pay Vita-Mix all profits derived by Back to Basics for all damages caused to Vita-Mix by the acts forming the basis for this Complaint; and (4) that such damage be enhanced in view of the willful and deliberate acts described herein;

O. Order (1) Back to Basics to pay Vita-Mix's compensatory damages for injuries and damages caused by Back to Basics acts of trademark infringement and unfair competition under the common laws of the State of Ohio; (2) that this case be declared exceptional; (3) that Back to Basics be required to pay Vita-Mix all profits derived by Back to Basics for all damages caused to Vita-Mix by the acts forming the basis for this Complaint; and (4) that such damage be enhanced in view of the willful and deliberate acts described herein;

P. Order Back to Basics to pay all of Vita-Mix's litigation expenses including attorneys' fees and costs of this action; and

Q. Award Vita-Mix such other and further relief as the Court may deem just and equitable.

JURY DEMAND

Vita-Mix hereby requests trial by jury of all issues so triable.

Respectfully submitted,

Dated: October 30, 2006



Michael L. Snyder (Ohio Reg. No. 0040990)

msnyder@mcdonaldhopkins.com

David T. Movius (Ohio Reg. No. 0070132)

dmovius@mcdonaldhopkins.com

David B. Cupar (Ohio Reg. No. 0071622)

dcupar@mcdonalhopkins.com

McDONALD HOPKINS CO., LPA

2100 Bank One Center

600 Superior Avenue, E.

Cleveland, Ohio 44114

Telephone: (216) 348-5400

Attorneys for Plaintiff Vita-Mix Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Vita-Mix Corp.,)	CASE NO. 1:06 CV 2622
)	
Plaintiff,)	JUDGE PATRICIA A. GAUGHAN
)	
vs.)	
)	
Basic Holdings, Inc., <i>et al.</i> ,)	<u>Judgment Entry</u>
)	
Defendants.)	

The Court, having granted defendant Focus Products Group, LLC's motion for summary judgment on all claims (Doc. 126), having granted defendants' motion for summary judgment of no patent infringement (Doc. 90), having denied plaintiff's cross-motion for summary judgment of patent infringement (Doc. 112), having granted plaintiff's motion for summary judgment that Claim 1 of U.S. Patent No. 5,302,021 is not invalid (Doc. 125), having denied defendants' motion for summary judgment that Claim 1 is invalid (Doc. 116), having granted plaintiff's motion for summary judgment of no inequitable conduct (Doc. 123), having granted plaintiff's motion for summary judgment of, *inter alia*, patent misuse (Doc. 119), having granted plaintiff's motion for summary judgment of no deceptive trade practices (Doc. 121), and having granted

defendants' motion for summary judgment of no trademark infringement (Doc. 118), hereby enters judgment in favor of defendants on Counts One, Two, Three and Four of plaintiff's first Amended Complaint and hereby enters judgment in favor of plaintiff on defendants' First, Second, Third and Fourth Counterclaims.

IT IS SO ORDERED.

/s/ Patricia A. Gaughan
PATRICIA A. GAUGHAN
United States District Judge

Dated: 7/1/08

David B. Cupar
(See above for address)
ATTORNEY TO BE NOTICED

Counter-Claimant

Back to Basics Products, Inc.

represented by **S. Paige Christopher**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Charles B. Lyon
(See above for address)
ATTORNEY TO BE NOTICED

Clinton E. Duke
(See above for address)
ATTORNEY TO BE NOTICED

David R. Wright
(See above for address)
ATTORNEY TO BE NOTICED

Jennifer Buckey Wick
(See above for address)
ATTORNEY TO BE NOTICED

Larry R. Laycock
(See above for address)
ATTORNEY TO BE NOTICED

Robert E. Aycock
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter-Defendant

Vita-Mix Corporation

represented by **David T. Movius**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael L. Snyder
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David B. Cupar
(See above for address)
ATTORNEY TO BE NOTICED

Ryan M. Fitzgerald
(See above for address)
ATTORNEY TO BE NOTICED

Counter-Claimant

Focus Electrics, LLC

represented by **Charles B. Lyon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Clinton E. Duke
(See above for address)
ATTORNEY TO BE NOTICED

Jennifer Buckley Wick
(See above for address)
ATTORNEY TO BE NOTICED

Robert E. Aycock
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter-Defendant

Vita-Mix Corporation

represented by **David T. Movius**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael L. Snyder
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David B. Cupar
(See above for address)
ATTORNEY TO BE NOTICED

Ryan M. Fitzgerald
(See above for address)
ATTORNEY TO BE NOTICED

Counter-Claimant

West Bend Housewares, LLC

represented by **Clinton E. Duke**
(See above for address)
ATTORNEY TO BE NOTICED

Jennifer Buckley Wick
(See above for address)
ATTORNEY TO BE NOTICED

Robert E. Aycock
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter-Defendant

Vita-Mix Corporation

represented by **David T. Movius**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael L. Snyder
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David B. Cupar
(See above for address)
ATTORNEY TO BE NOTICED

Ryan M. Fitzgerald
(See above for address)
ATTORNEY TO BE NOTICED

Counter-Claimant

Focus Products Group, LLC

represented by **Charles B. Lyon**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jennifer Buckley Wick
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Clinton E. Duke
(See above for address)
ATTORNEY TO BE NOTICED

Robert E. Aycock
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counter-Defendant**Vita-Mix Corporation**

represented by **David T. Movius**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Michael L. Snyder
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

David B. Cupar
 (See above for address)
ATTORNEY TO BE NOTICED

Ryan M. Fitzgerald
 (See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/30/2006	<u>1</u>	Complaint with jury demand against Back to Basics Products, Inc. (Filing fee 350 receipt number 2194591.). Filed by Vita-Mix Corporation. (Attachments: # <u>1</u> Exhibit A, U.S. Patent No. 5,302,021# <u>2</u> Exhibit B, Back to Basics Advertisements# <u>3</u> Exhibit C, Back to Basics Packaging# <u>4</u> Exhibit D, U.S. Patent No. 6,527,433# <u>5</u> Exhibit E, Information Disclosure Statement for U.S. Patent No. 6,527,433# <u>6</u> Exhibit F, May 1, 2002 Office Action for U.S. Patent No. 6,527,433# <u>7</u> Exhibit G, August 1, 2002 Response to Office Action for U.S. Patent No. 6,527,433# <u>8</u> Civil Cover Sheet # <u>9</u> Summons for Defendant Back to Basics Products, Inc.)(Cupar, David) (Entered: 10/30/2006)
10/30/2006		(Court only) Utility Event adding attorney Michael L. Snyder for Vita-Mix Corporation, David T. Movius for Vita-Mix Corporation. (C, BA) (Entered: 10/30/2006)
10/30/2006		Judge Patricia A. Gaughan assigned to case. (C, BA) (Entered: 10/30/2006)
10/30/2006		Random Assignment of Magistrate Judge pursuant to Local Rule 3.1. In the event of a referral, case will be assigned to Magistrate Judge Hemann. (C, BA) (Entered: 10/30/2006)
10/30/2006	<u>2</u>	Summons and Magistrate Consent Form issued to counsel for service upon Back to Basics Products, Inc. (Attachments: # <u>1</u> Magistrate Consent Form) (C, BA) (Entered: 10/30/2006)
11/01/2006	<u>3</u>	Return of Service Executed upon Back to Basics Products, Inc. by Personal Service on Statutory Agent on October 31, 2006 filed by Vita-Mix Corporation Related document(s) <u>1</u> , <u>2</u> . (Cupar, David) (Entered: 11/01/2006)