

1 Michael J. Wise, Bar No. 143501  
 2 Mwise@perkinscoie.com  
 3 Joseph P. Hamilton, Bar No. 211544  
 4 JHamilton@perkinscoie.com  
 5 Lara J. Dueppen, Bar No. 259075  
 6 LDueppen@perkinscoie.com  
 7 Courtney M. Prochnow, Bar No. 292093  
 8 CProchnow@perkinscoie.com  
 9 PERKINS COIE LLP  
 10 1888 Century Park East, Suite 1700  
 11 Los Angeles, CA 90067-1721  
 12 Telephone: 310.788.9900  
 13 Facsimile: 310.788.3399

10 UNITED STATES DISTRICT COURT  
 11 CENTRAL DISTRICT OF CALIFORNIA

13 FONTEM VENTURES B.V., a  
 14 Netherlands company; and FONTEM  
 15 HOLDINGS 1 B.V., a Netherlands  
 16 company,

16 Plaintiffs,

17 v.

18 NU MARK LLC, a Virginia Limited  
 19 Liability Company,

20 Defendant.

Case No. 2:16-cv-4537

**COMPLAINT FOR PATENT  
 INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

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1 For their Complaint (“Complaint”) against Defendant Nu Mark LLC (“Nu  
2 Mark” or “Defendant”), Plaintiff Fontem Ventures B.V. (“Fontem Ventures”) and  
3 Plaintiff Fontem Holdings 1 B.V. (“Fontem Holdings”) allege as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a civil action for patent infringement arising under Title 35 of  
6 the United States Code, and in particular 35 U.S.C. §§ 271, 282, 284, and 285.

7 2. This Court has subject matter jurisdiction over this patent infringement  
8 action under 28 U.S.C. §§ 1331 and 1338(a).

9 3. This Court has personal jurisdiction over Defendant because it solicits  
10 and conducts business in California, including the provision of goods, derives  
11 revenue from goods sold in California and within this judicial district, and has  
12 committed acts of infringement in this judicial district, including but not limited to  
13 offering to sell and selling the accused products in this judicial district.

14 4. Venue lies in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and  
15 (c), and 1400(b).

16 **PARTIES**

17 5. Plaintiff Fontem Ventures is a company organized and existing under  
18 the laws of the Netherlands, with its principal place of business at Barbara  
19 Strozziilaan 101, 12th Floor, 1083 HN Amsterdam, The Netherlands. Fontem  
20 Ventures is in the business of developing and selling innovative non-tobacco  
21 products, including electronic cigarettes.

22 6. Plaintiff Fontem Holdings is a company organized and existing under  
23 the laws of the Netherlands, with its principal place of business at Barbara  
24 Strozziilaan 101, 12th Floor, 1083 HN Amsterdam, The Netherlands.

25 7. Upon information and belief, Defendant Nu Mark LLC is a Limited  
26 Liability Company organized and existing under the laws of the State of Virginia,  
27 having its principal place of business at 6603 West Broad Street, Richmond  
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1 Virginia 23230. Nu Mark is doing business in this judicial district related to the  
2 claims asserted in this Complaint.

3 8. Upon information and belief, Nu Mark is wholly-owned by Altria  
4 Group, Inc. (“Altria”) such that Nu Mark is an affiliate or subsidiary of Altria.

5 **FIRST CLAIM FOR RELIEF**

6 (Infringement of U.S. Patent No. 9,320,300)

7 9. Plaintiffs incorporate by reference the allegations contained in  
8 paragraphs 1–8 above.

9 10. Fontem Holdings is the owner of the entire right, title, and interest in  
10 and to United States Patent No. 9,320,300 (“the ’300 Patent”) (Exhibit A). Fontem  
11 Holdings has granted Fontem Ventures an exclusive license to the ’300 Patent,  
12 including the right to sublicense the ’300 Patent. The ’300 Patent was duly and  
13 legally issued by the United States Patent and Trademark Office (“USPTO”) on  
14 April 26, 2016, and is valid, subsisting, and in full force and effect.

15 11. Defendant has directly infringed the ’300 Patent in violation of 35  
16 U.S.C. § 271(a) by, itself and/or through its agents, unlawfully and wrongfully  
17 making, using, importing, offering to sell, and/or selling electronic cigarette  
18 products embodying one or more of the inventions claimed in the ’300 Patent, in  
19 this judicial district and within, from and/or into the United States without  
20 permission or license from Plaintiffs, and will continue to do so unless enjoined by  
21 this Court.

22 12. Examples of electronic cigarette products that directly infringe the  
23 ’300 Patent include, but are not limited to, the MarkTen Products, MarkTenXL  
24 Products, and GreenSmoke Products.

25 13. The photographs of the MarkTen Products, MarkTenXL Products, and  
26 GreenSmoke Products set forth herein accurately show the features of those  
27 products.  
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1           14. The MarkTen Products, MarkTenXL Products, and GreenSmoke  
2 Products infringe the '300 Patent both literally and/or under the doctrine of  
3 equivalents.

4           15. The MarkTen Products, MarkTenXL Products, and GreenSmoke  
5 Products infringe at least claims 1–16 of the '300 Patent.

6           **MarkTen**

7           16. As shown in the photographs of paragraphs 17 through 22 below, the  
8 MarkTen meets every limitation recited in claim 1 of the '300 Patent.

9           17. The MarkTen is an electronic cigarette as recited in claim 1 of the '300  
10 Patent.



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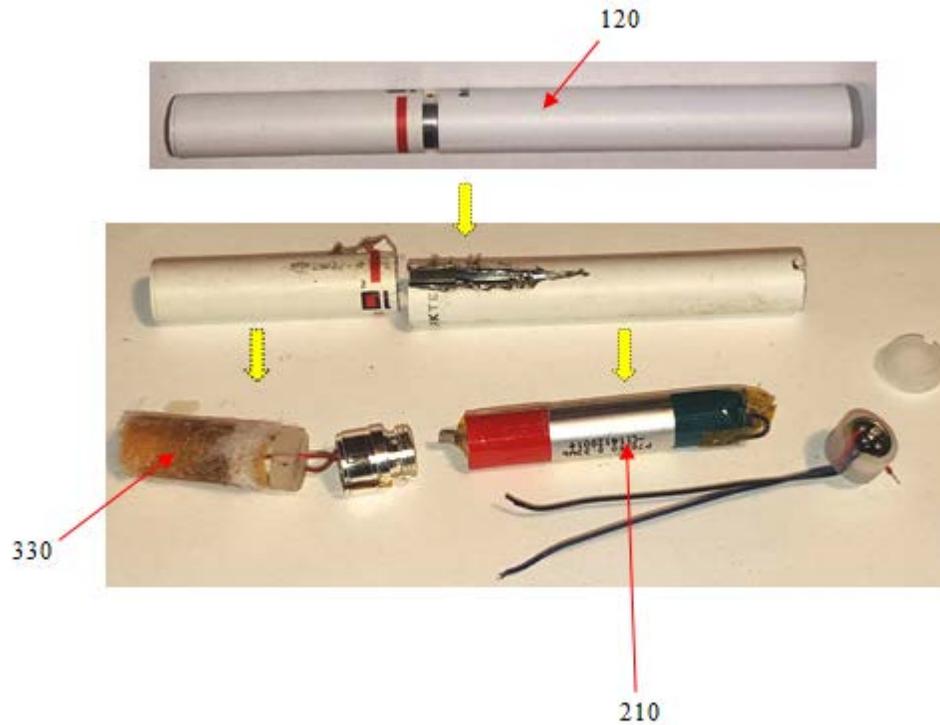
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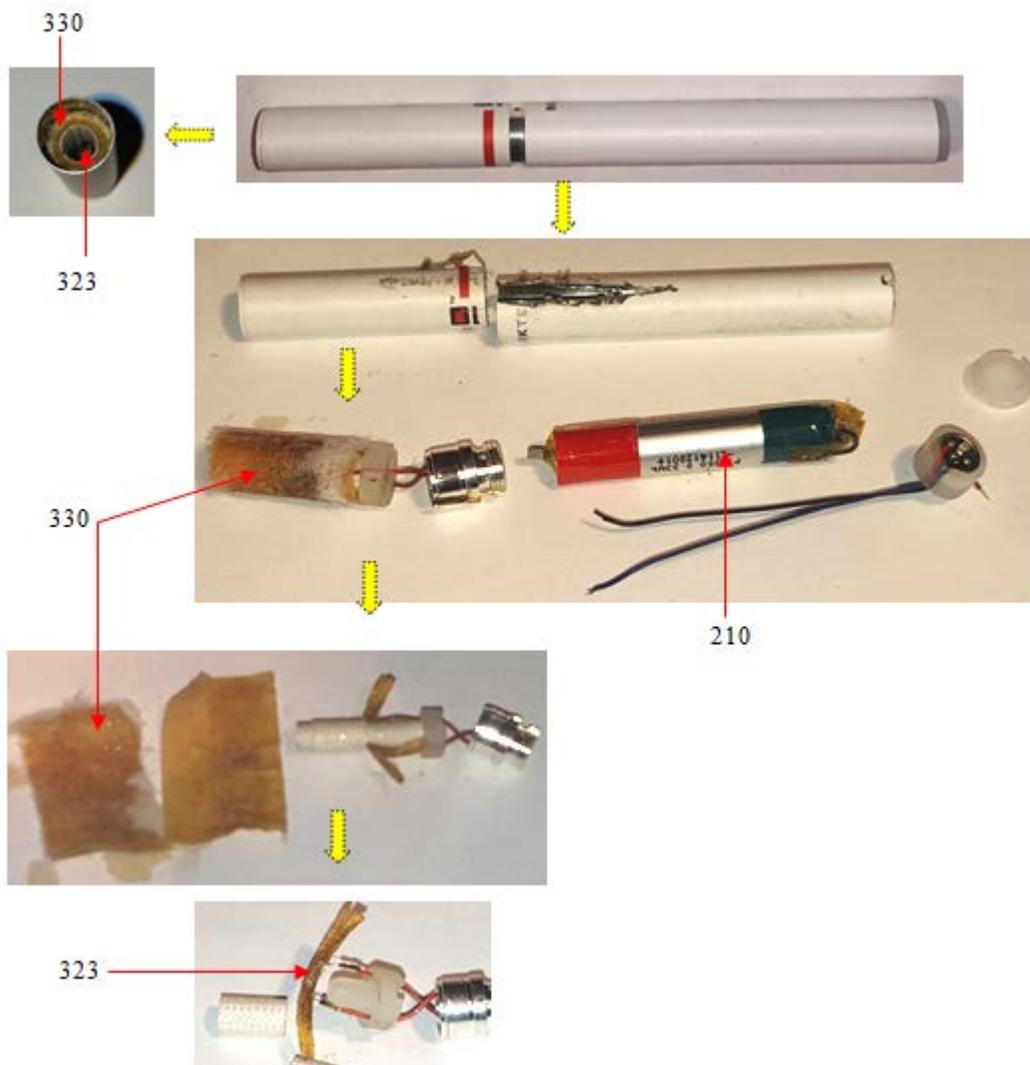
23           18. The MarkTen includes “a housing [120]” as recited in claim 1 of the  
24 '300 Patent.



1           19. The MarkTen includes “a battery [210], and a liquid storage  
2 component [330] containing liquid, within the housing [120]” as recited in claim 1  
3 of the '300 Patent.

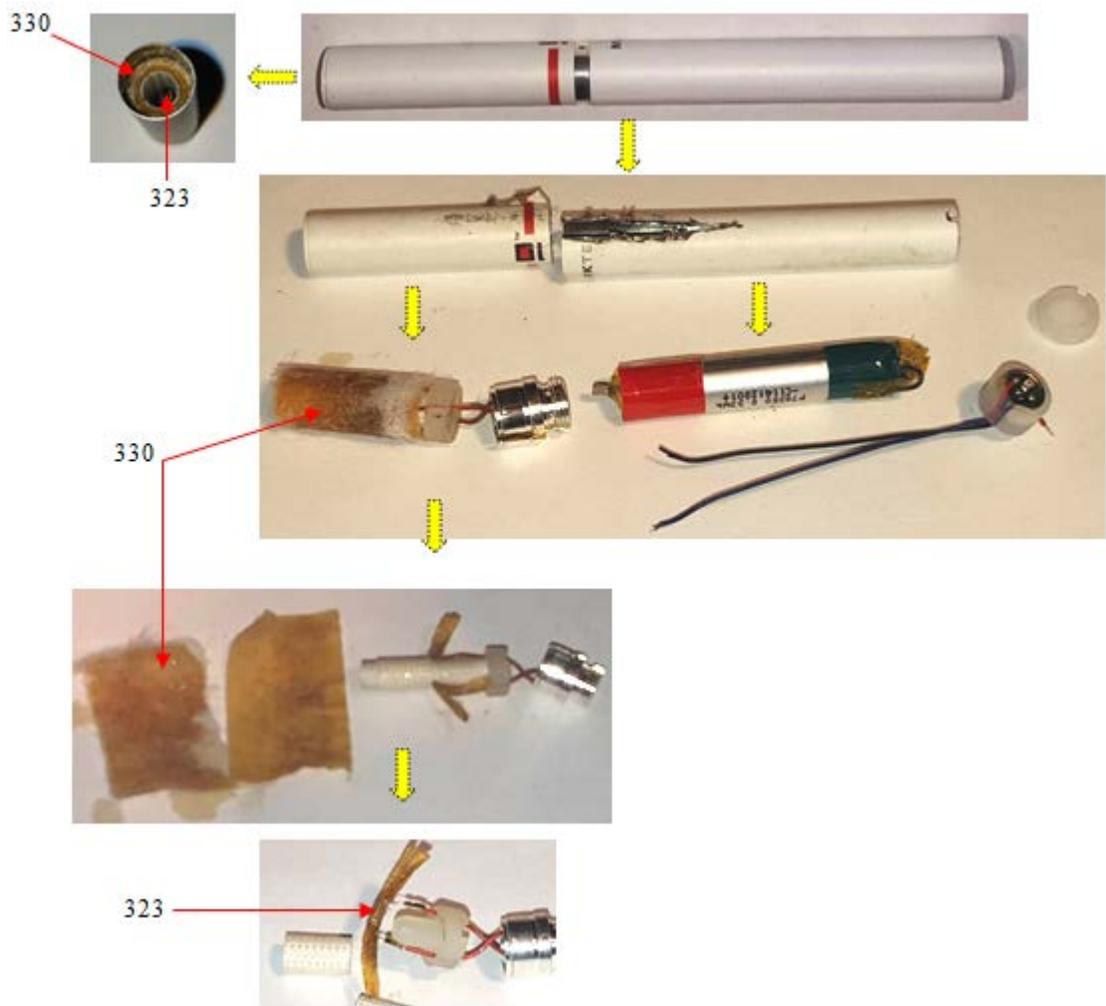


1           20. The MarkTen includes “a wire coil [323] electrically connectable to  
2 the battery [210] for atomizing liquid from the liquid storage component [330],  
3 with the wire coil [323] surrounded by the liquid storage component [330]” as  
4 recited in claim 1 of the '300 Patent.

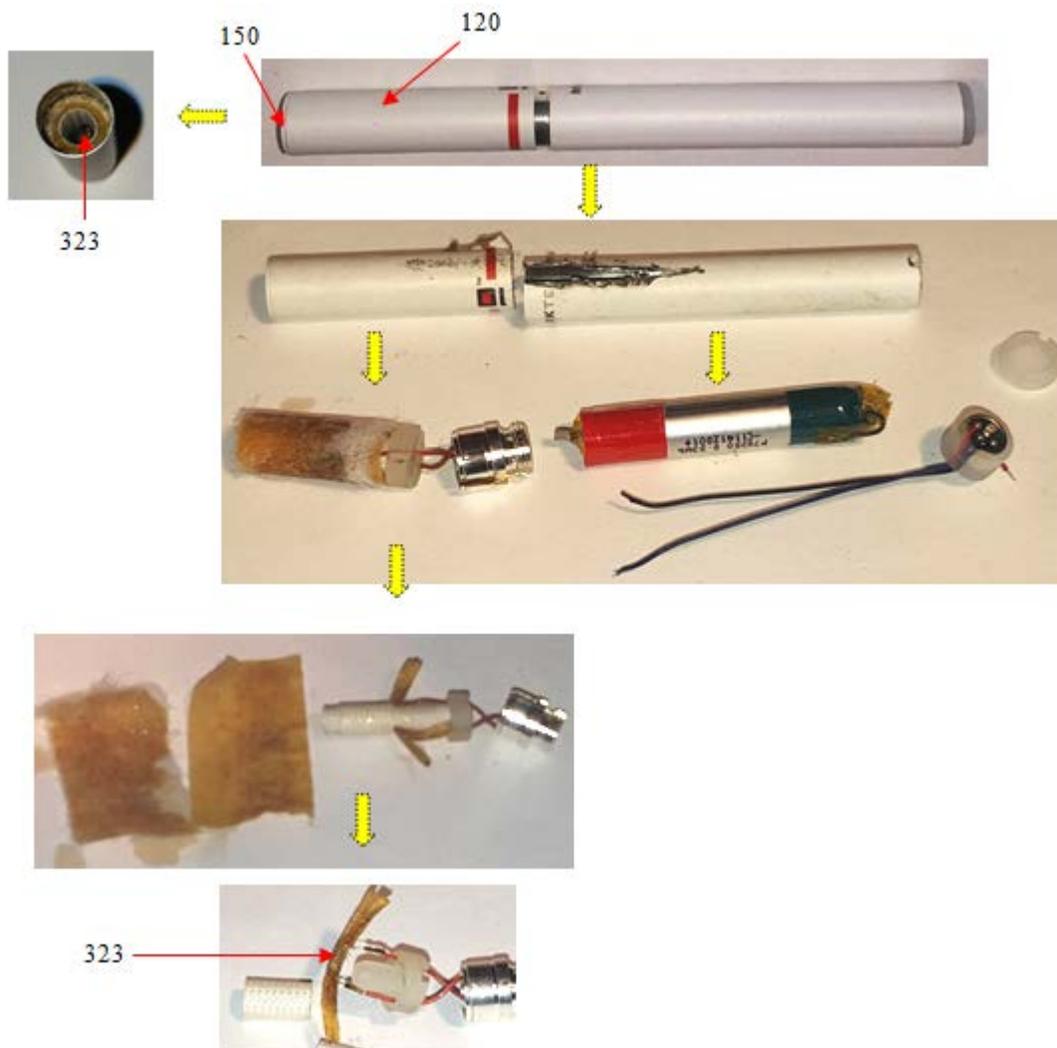


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1           21. The MarkTen includes “a channel extending centrally through the  
2 liquid storage component [330], with the wire coil [323] in the channel and having  
3 a diameter less than the channel” as recited in claim 1 of the '300 Patent.  
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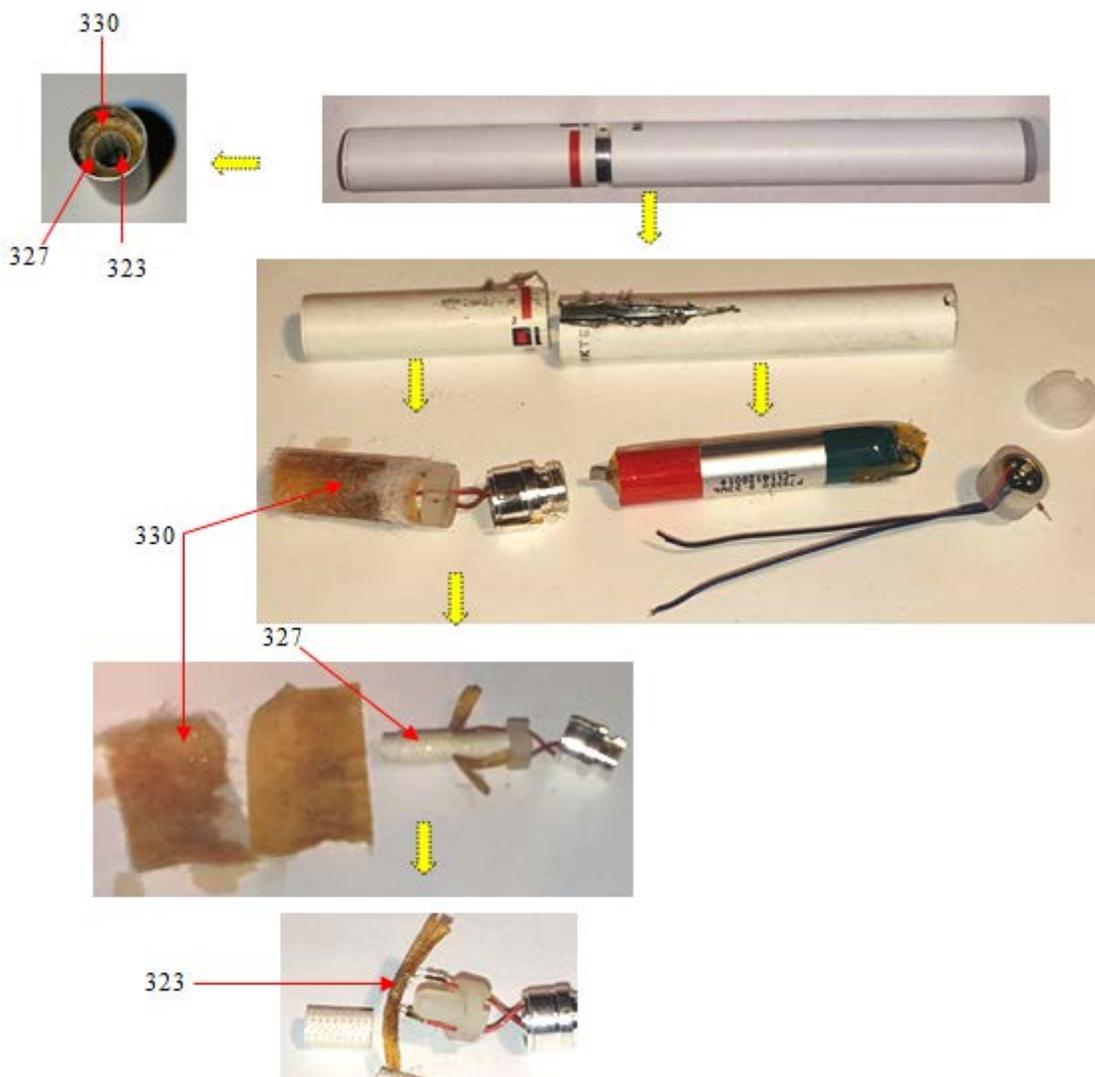


1           22. The MarkTen includes “the channel forming part of an airflow path  
2 within the housing [120] providing a continuous passageway from the wire coil  
3 [323] to an inhalation port [150], and the channel having a uniform diameter  
4 between the wire coil [323] and the inhalation port [150]” as recited in claim 1 of  
5 the '300 Patent.



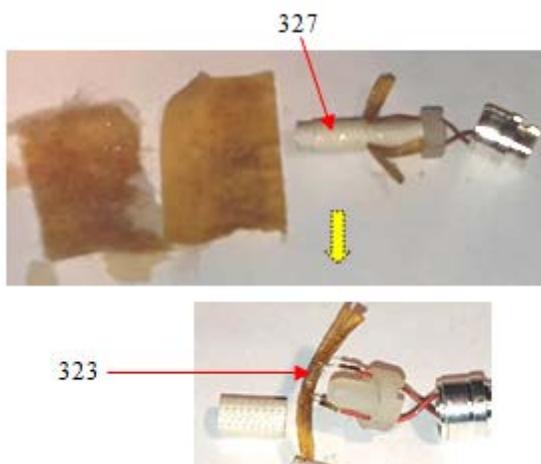
1           23. As shown in the photographs of paragraph 24 below, the MarkTen  
2 meets every limitation recited in claim 2 of the '300 Patent as follows:

3           24. The MarkTen includes “a porous component [327] surrounding and in  
4 contact with the wire coil [323], and the liquid storage component [330]  
5 surrounding the porous component [327]” as recited in claim 2 of the '300 Patent.  
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1           25. As shown in the photographs of paragraph 26 below, the MarkTen  
2 meets every limitation recited in claim 3 of the '300 Patent as follows:

3           26. The MarkTen includes “the porous component [327] longer than the  
4 wire coil [323]” as recited in claim 3 of the '300 Patent.



16           27. As shown in the photographs of paragraph 28 below, the MarkTen  
17 meets every limitation recited in claim 4 of the '300 Patent as follows:

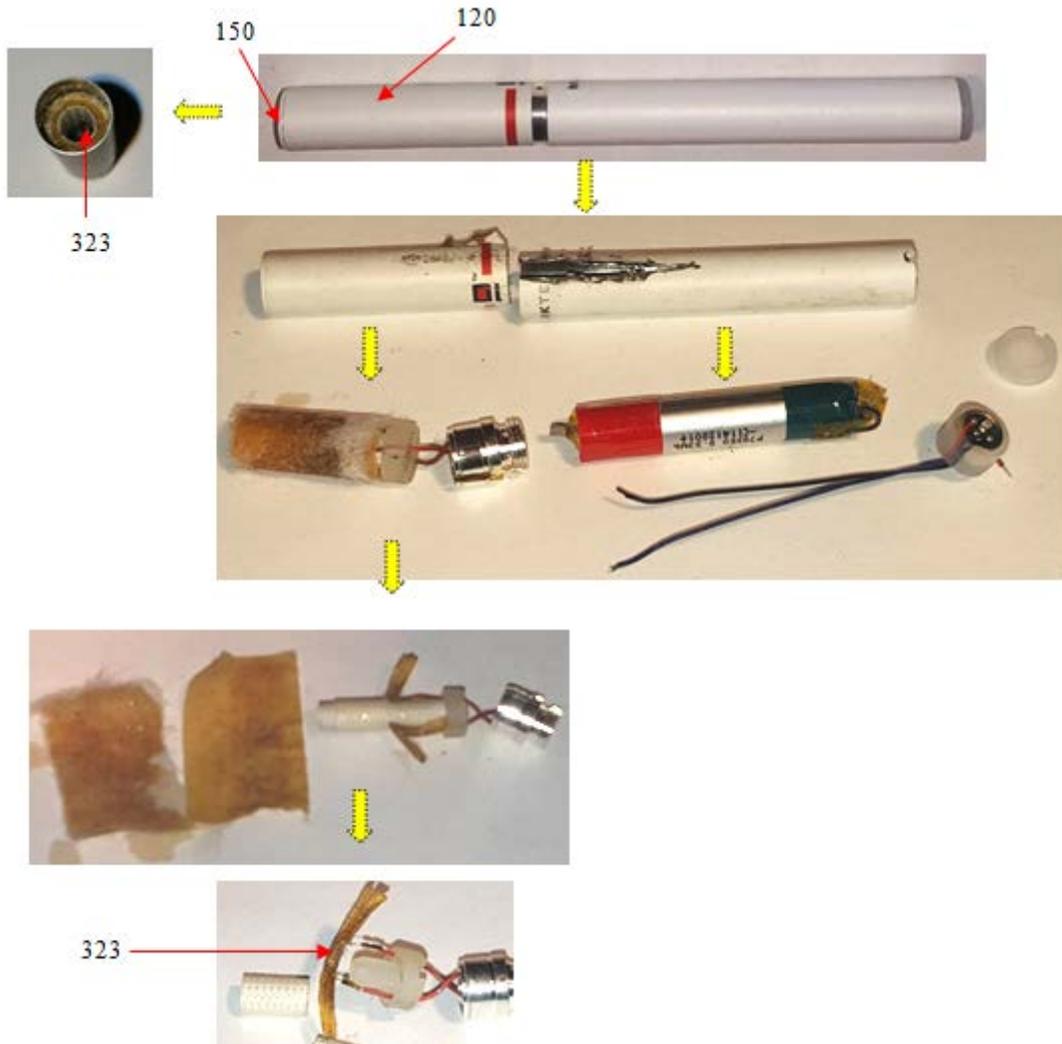
18           28. The MarkTen includes “the channel having internal surfaces [340]  
19 wetted via the liquid, for cooling vapor flowing through the channel” as recited in  
20 claim 4 of the '300 Patent.



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29. As shown in the photographs of paragraph 30 below, the MarkTen meets every limitation recited in claim 5 of the '300 Patent as follows:

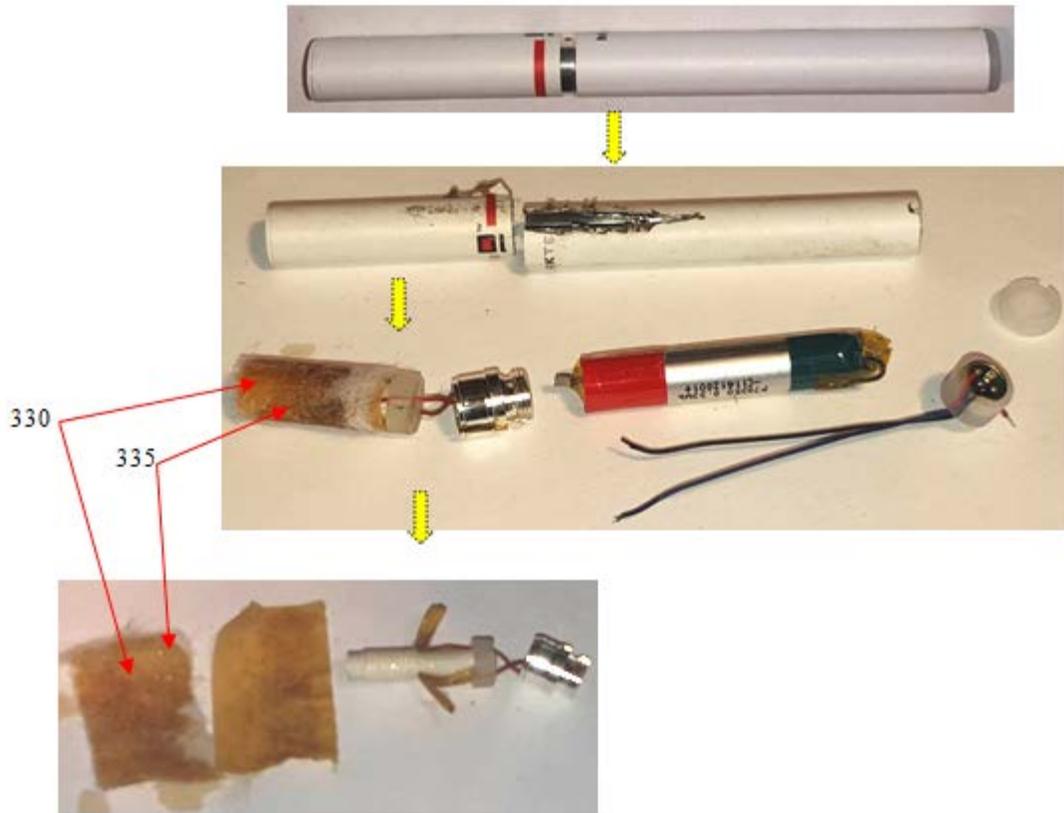
30. The MarkTen includes “the airflow path centrally located within the housing [120]” as recited in claim 5 of the '300 Patent.



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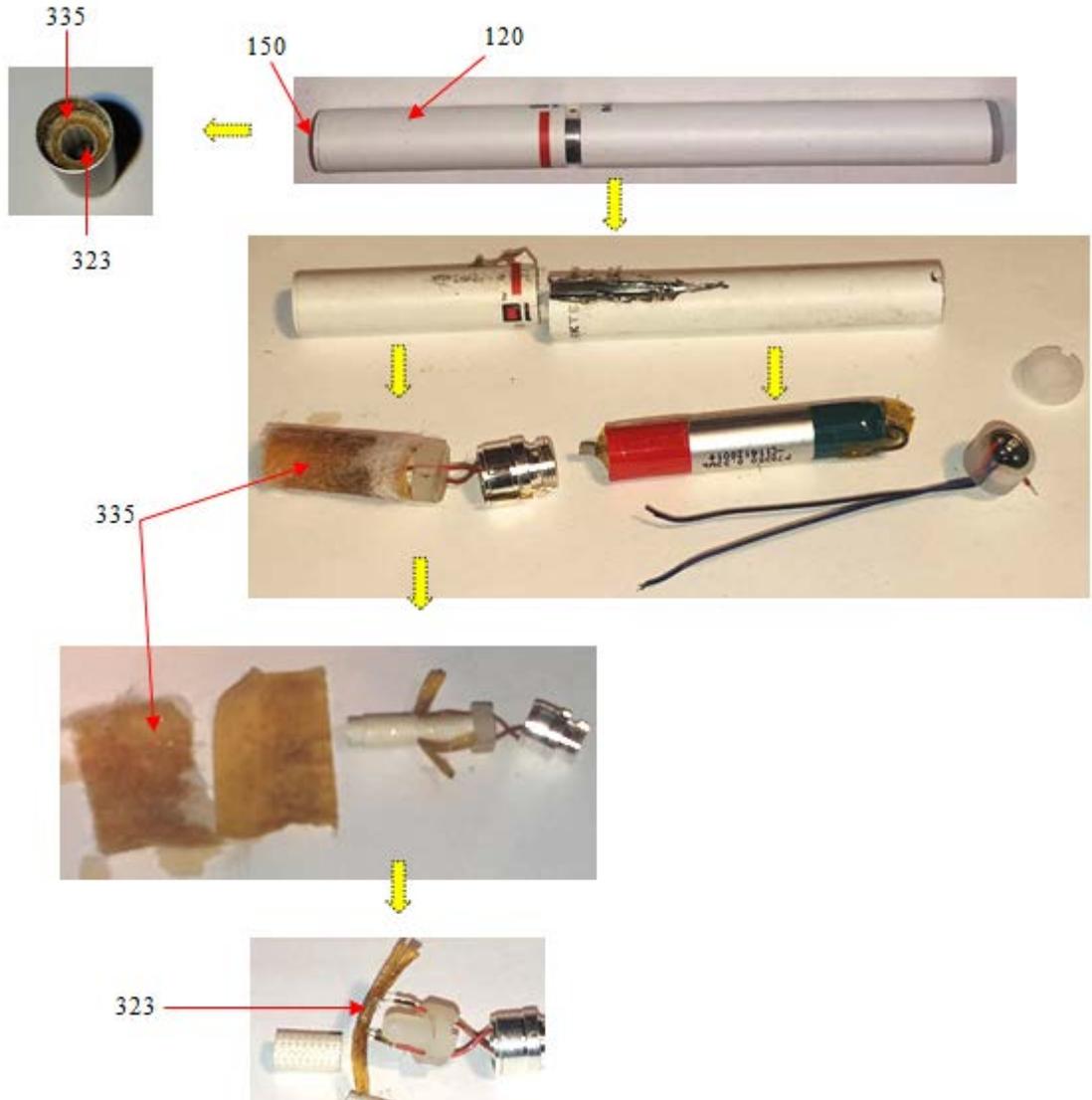
31. As shown in the photographs of paragraph 32 below, the MarkTen meets every limitation recited in claim 6 of the '300 Patent as follows:

32. The MarkTen includes “the liquid storage component [330] comprising a fiber material [335]” as recited in claim 6 of the '300 Patent.



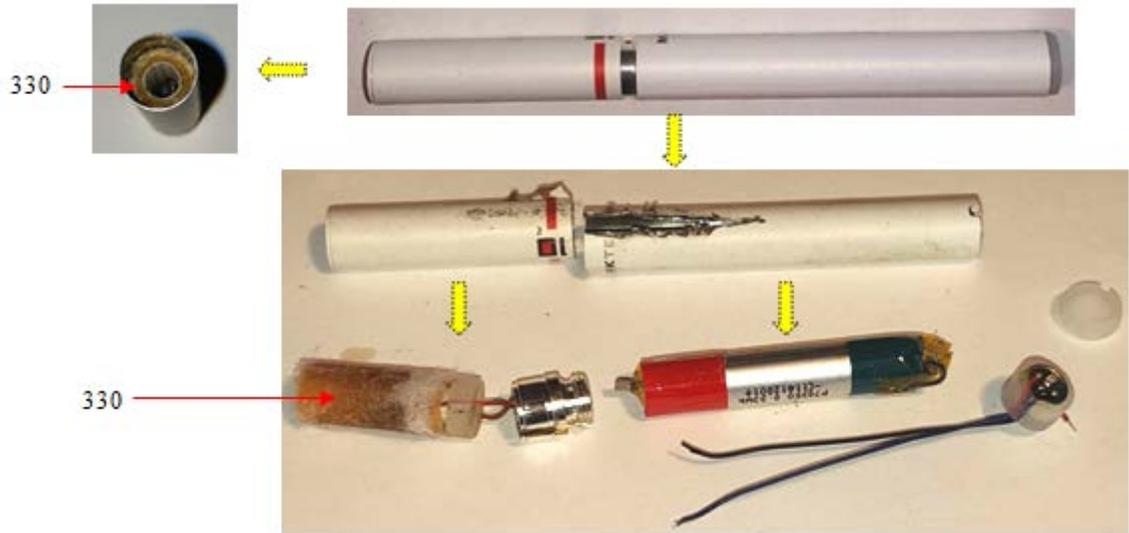
1 33. As shown in the photographs of paragraph 34 below, the MarkTen  
2 meets every limitation recited in claim 7 of the '300 Patent as follows:

3 34. The MarkTen includes "the channel formed as an opening through the  
4 fiber material [335]" as recited in claim 7 of the '300 Patent.



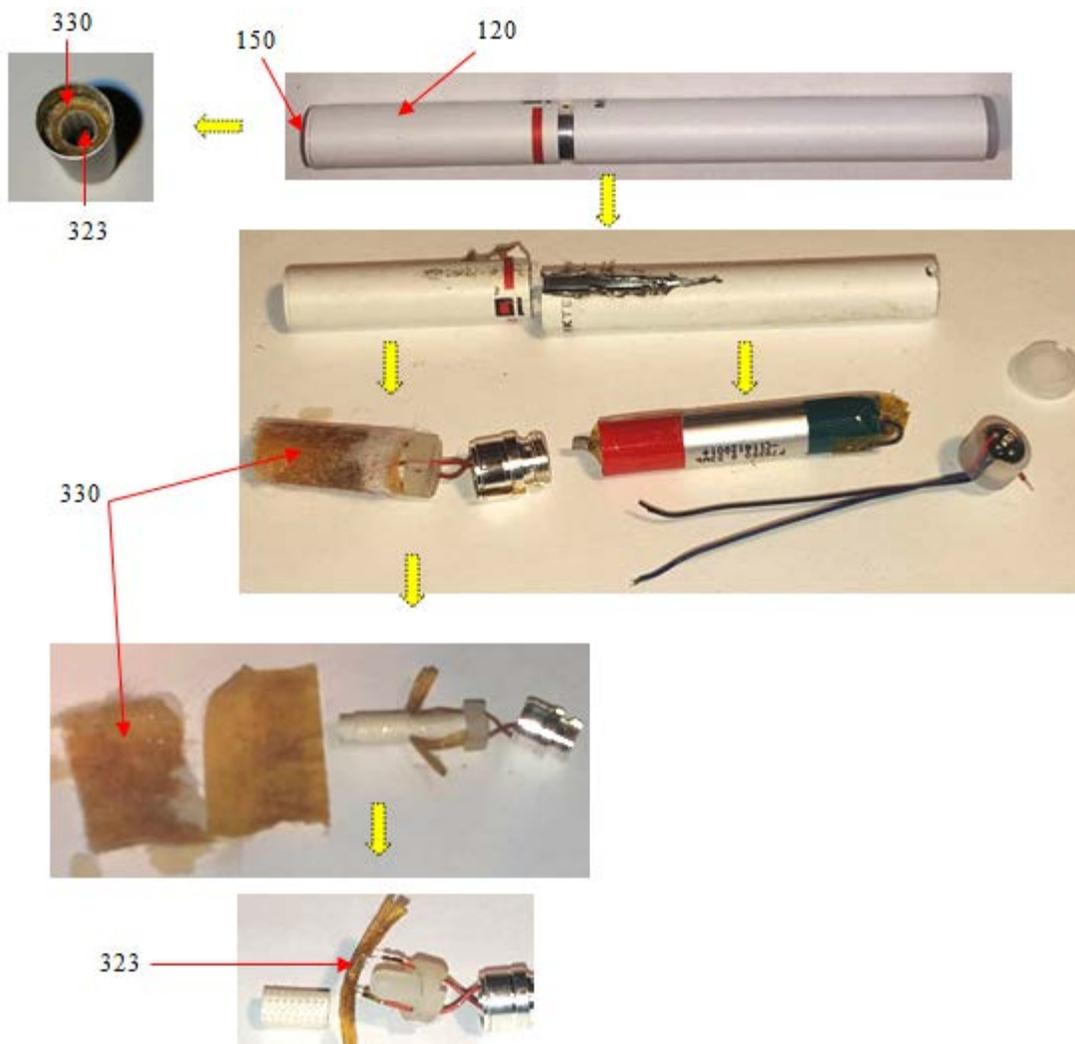
1           35. As shown in the photographs of paragraph 36 below, the MarkTen  
2 meets every limitation recited in claim 8 of the '300 Patent as follows:

3           36. The MarkTen includes “the liquid storage component [330]  
4 comprising a hollow elongated cylinder having an annular cross section co-axial  
5 with the channel” as recited in claim 8 of the '300 Patent.



1 37. As shown in the photographs of paragraph 38 below, the MarkTen  
2 meets every limitation recited in claim 9 of the '300 Patent as follows:

3 38. The MarkTen includes "the channel is cylindrical" as recited in claim  
4 9 of the '300 Patent.



25 39. As shown in the photographs of paragraphs 40 through 44 below, the  
26 MarkTen meets every limitation recited in claim 10 of the '300 Patent as follows:

27 40. The MarkTen is an electronic cigarette as recited in claim 10 of the  
28 '300 Patent.

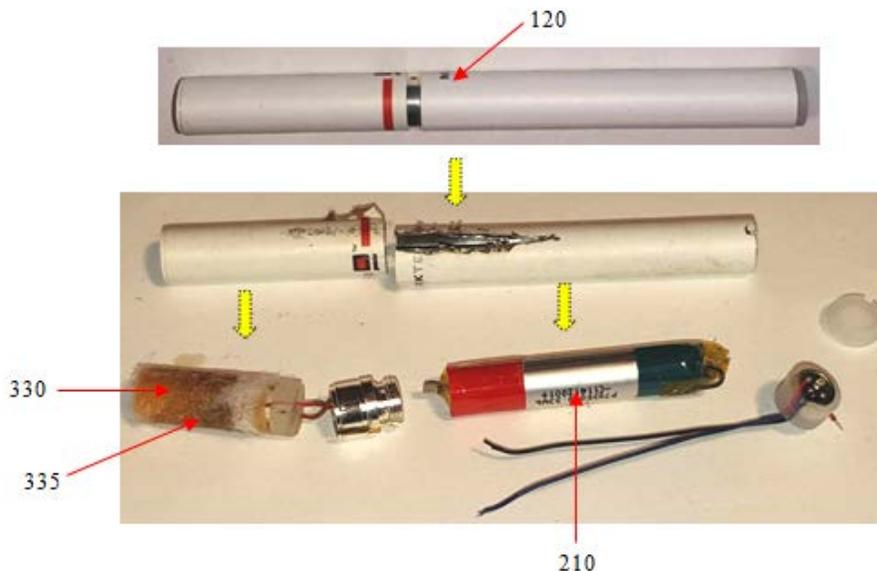
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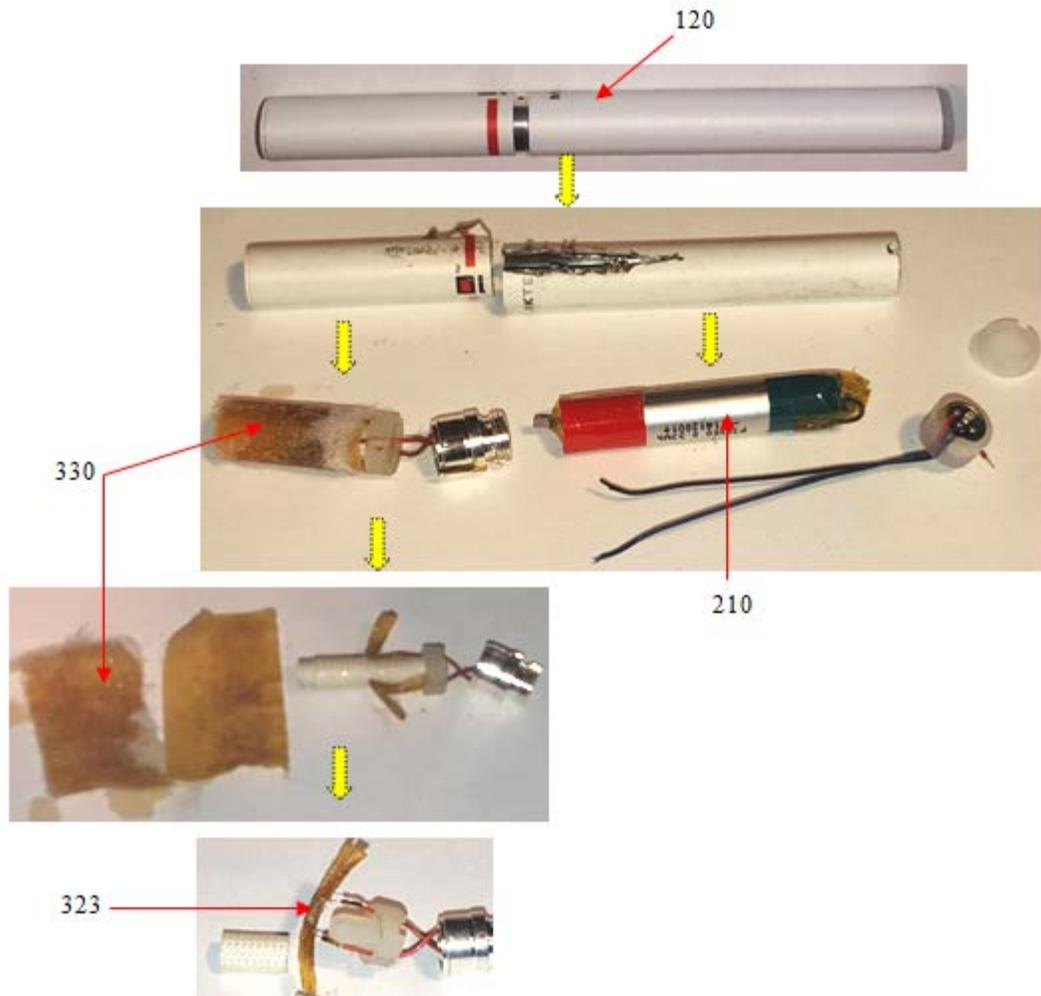
41. The MarkTen includes “a housing [120] having an inhalation port [150]” as recited in claim 10 of the ’300 Patent.



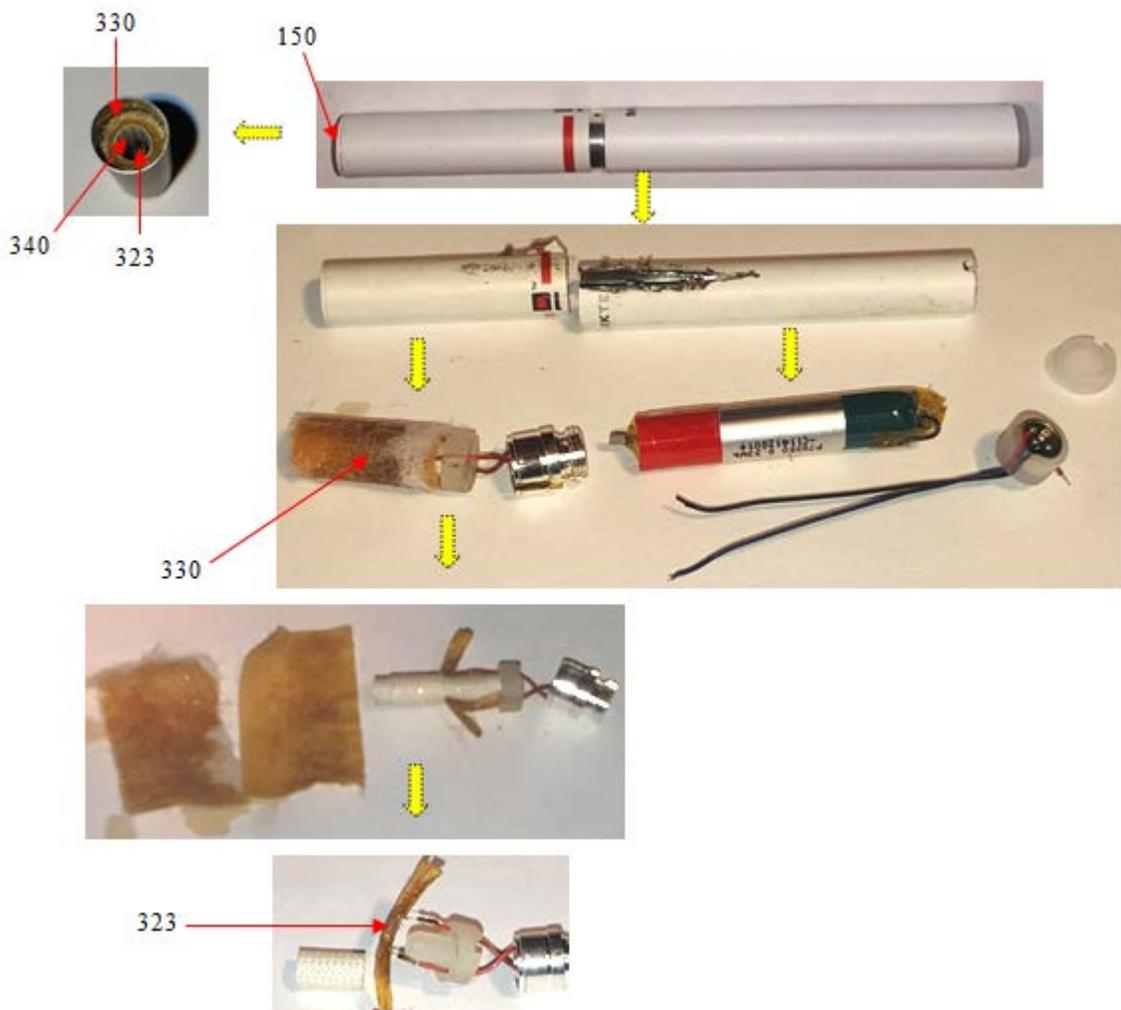
42. The MarkTen includes “a battery [210] and a liquid storage component [330] within the housing [120], with the liquid storage component [330] comprising a fiber material [335] and holding a liquid” as recited in claim 10 of the ’300 Patent.



1           43. The MarkTen includes “an electric heater comprising a wire coil [323]  
2 in the housing [120] connectable to the battery [210] for creating vapor from liquid  
3 provided from the liquid storage component [330]” as recited in claim 10 of the  
4 ’300 Patent.

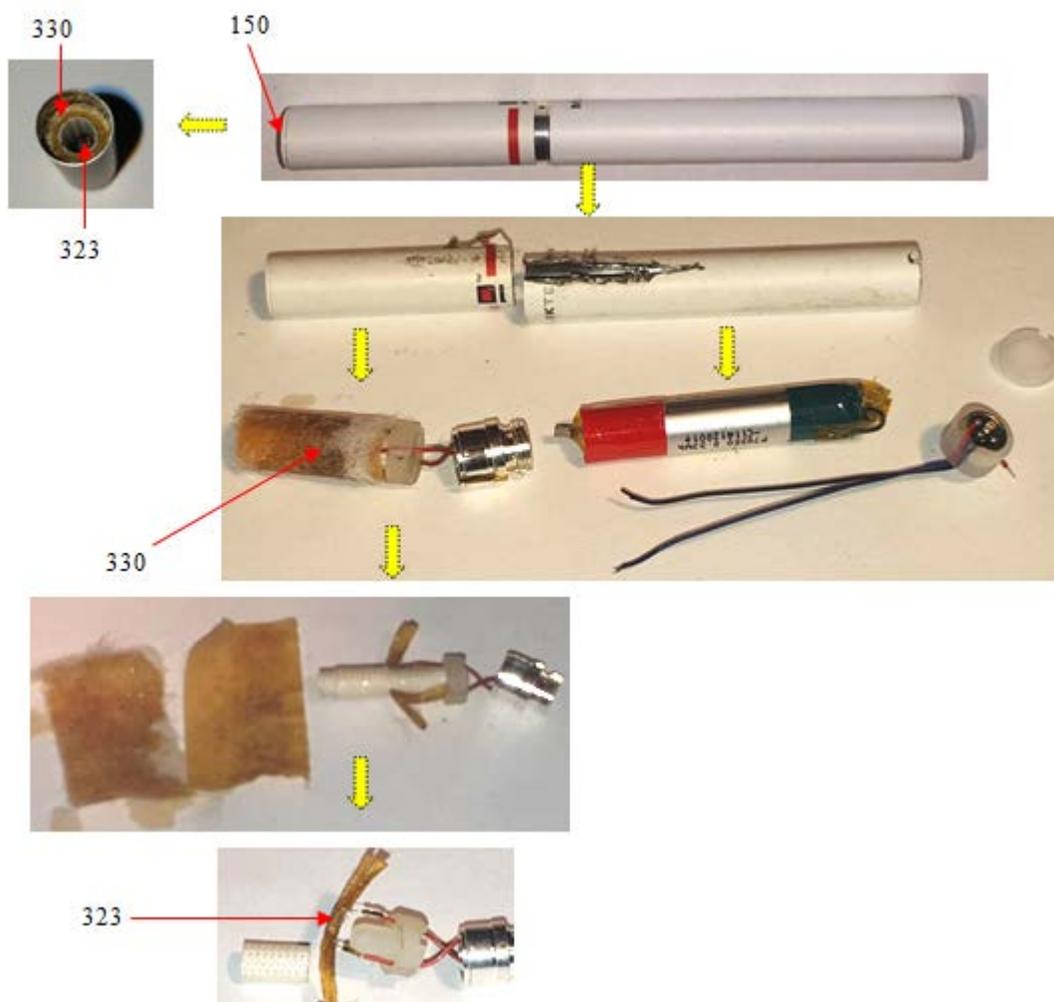


1           44. The MarkTen includes “an open cylindrical channel through the fiber  
2 material of the liquid storage component [330] from a first end of the liquid  
3 storage component [330] to a second end of the liquid storage component [330],  
4 the channel having surfaces [340] wetted via the liquid, and with the wire coil  
5 [323] in the channel and the wire coil [323] having a diameter less than the  
6 channel, and the channel providing a continuous passageway from the wire coil  
7 [323] to the inhalation port [150]” as recited in claim 10 of the '300 Patent.



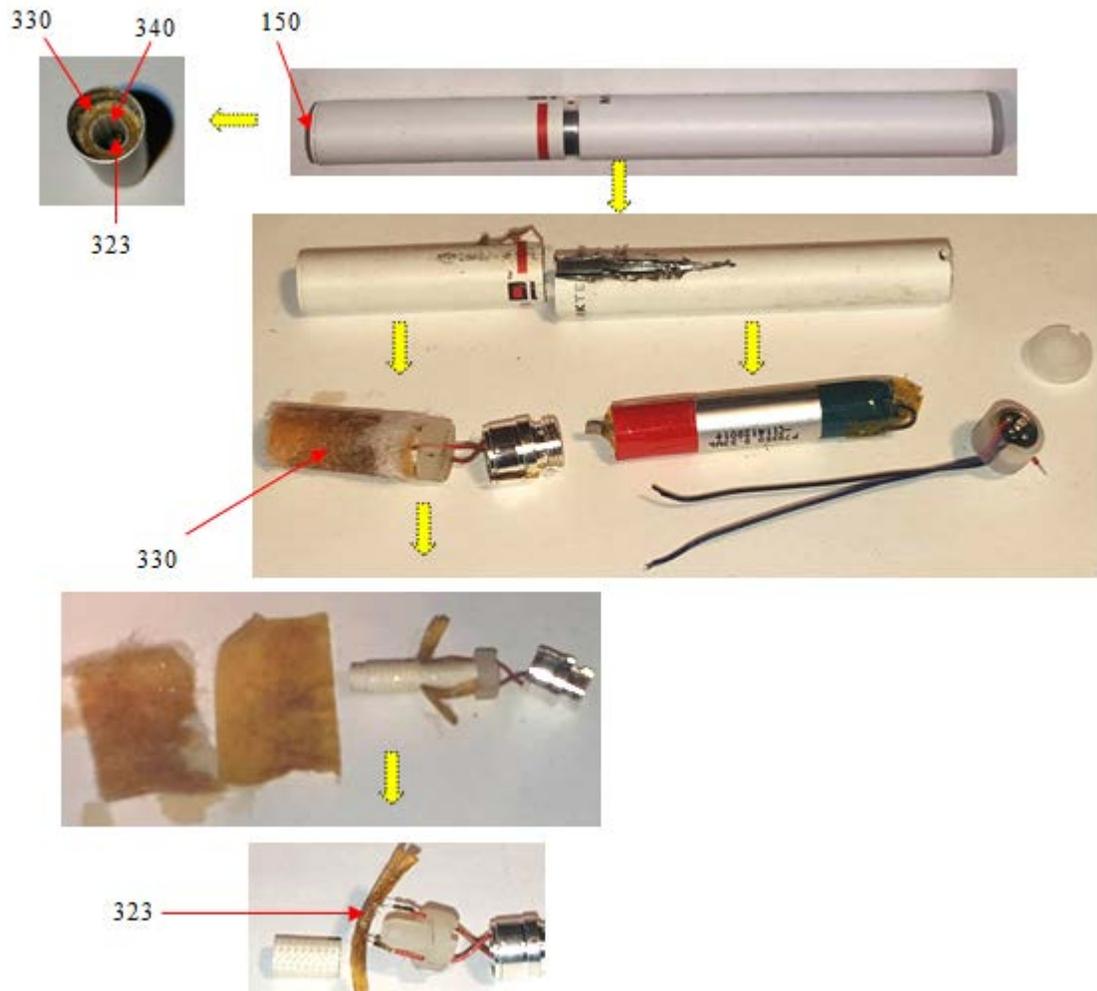
1 45. As shown in the photographs of paragraph 46 below, the MarkTen  
2 meets every limitation recited in claim 11 of the '300 Patent as follows:

3 46. The MarkTen includes “the channel having a uniform diameter  
4 between the wire coil [323] to the inhalation port [150]” as recited in claim 11 of  
5 the '300 Patent.



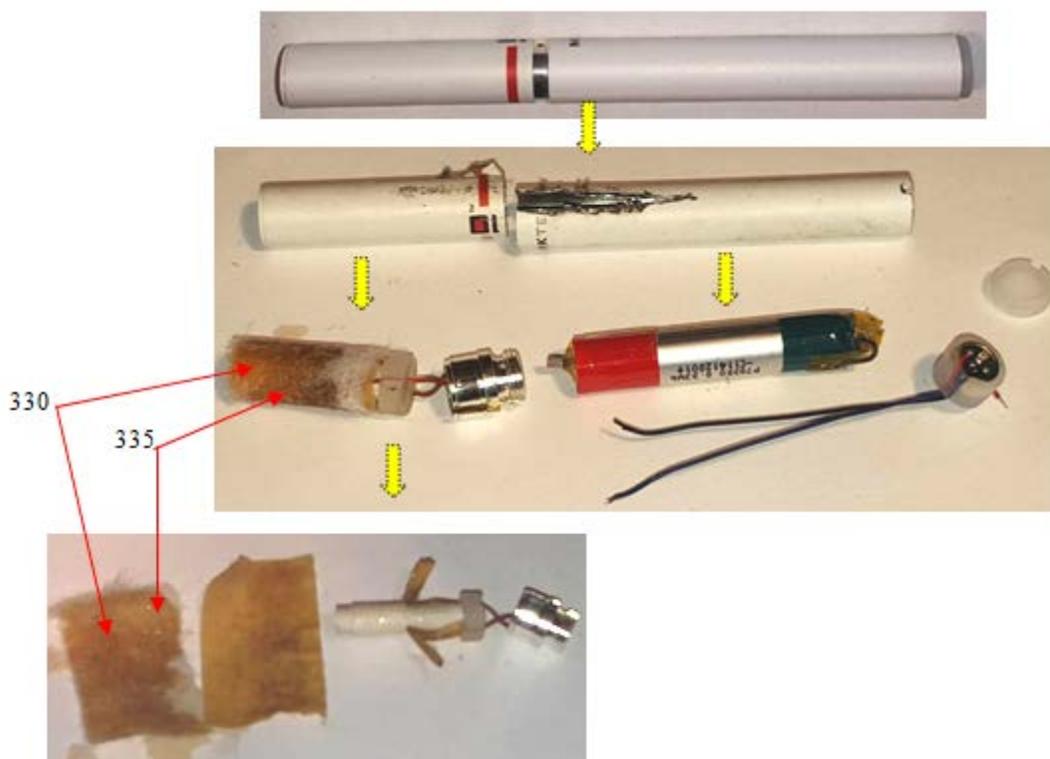
1 47. As shown in the photographs of paragraph 48 below, the MarkTen  
2 meets every limitation recited in claim 12 of the '300 Patent as follows:

3 48. The MarkTen includes "the wetted internal surfaces [340] of the  
4 channel cooling vapor flowing through the channel" as recited in claim 12 of the  
5 '300 Patent.



1           49. As shown in the photographs of paragraph 50 below, the MarkTen  
2 meets every limitation recited in claim 13 of the '300 Patent as follows:

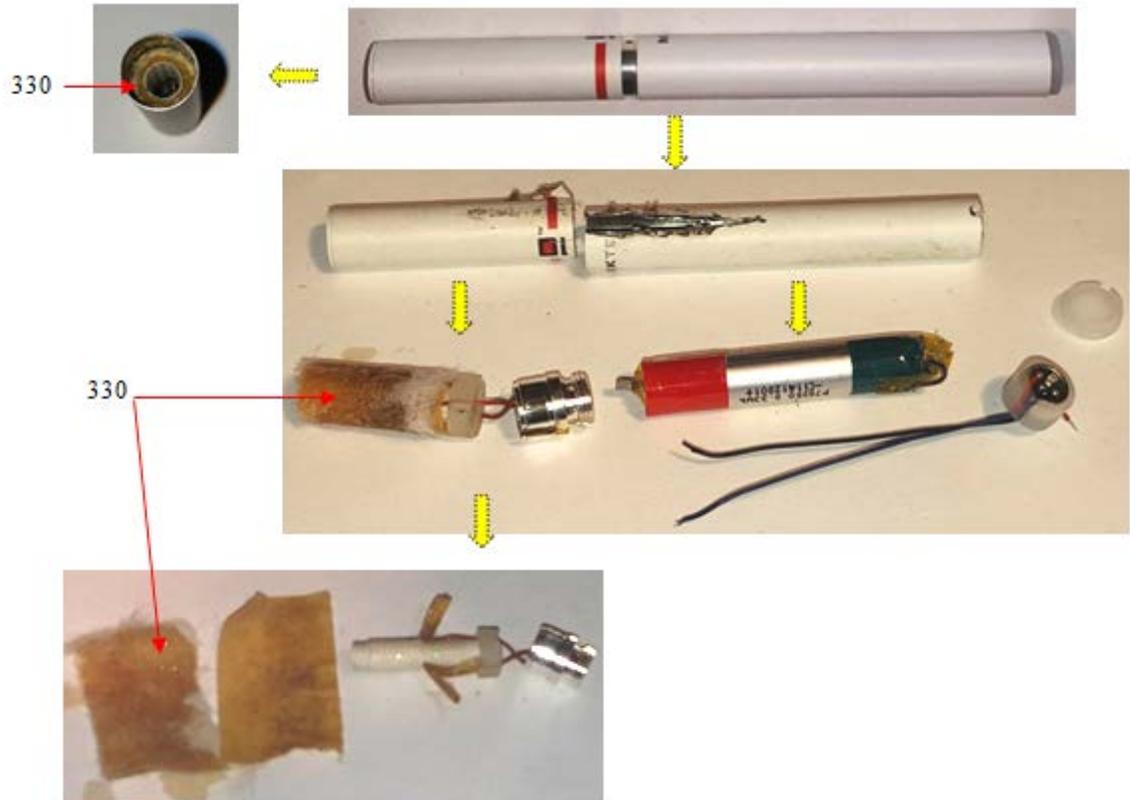
3           50. The MarkTen includes “the liquid storage component [330]  
4 comprising a fiber material [335]” as recited in claim 13 of the '300 Patent.



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51. As shown in the photographs of paragraph 52 below, the MarkTen meets every limitation recited in claim 14 of the '300 Patent as follows:

52. The MarkTen includes “the liquid storage component [330] comprising a hollow elongated cylinder having an annular cross section” as recited in claim 14 of the '300 Patent.



1           53. As shown in the photographs of paragraphs 54 through 58 below, the  
2 MarkTen meets every limitation recited in claim 15 of the '300 Patent as follows:

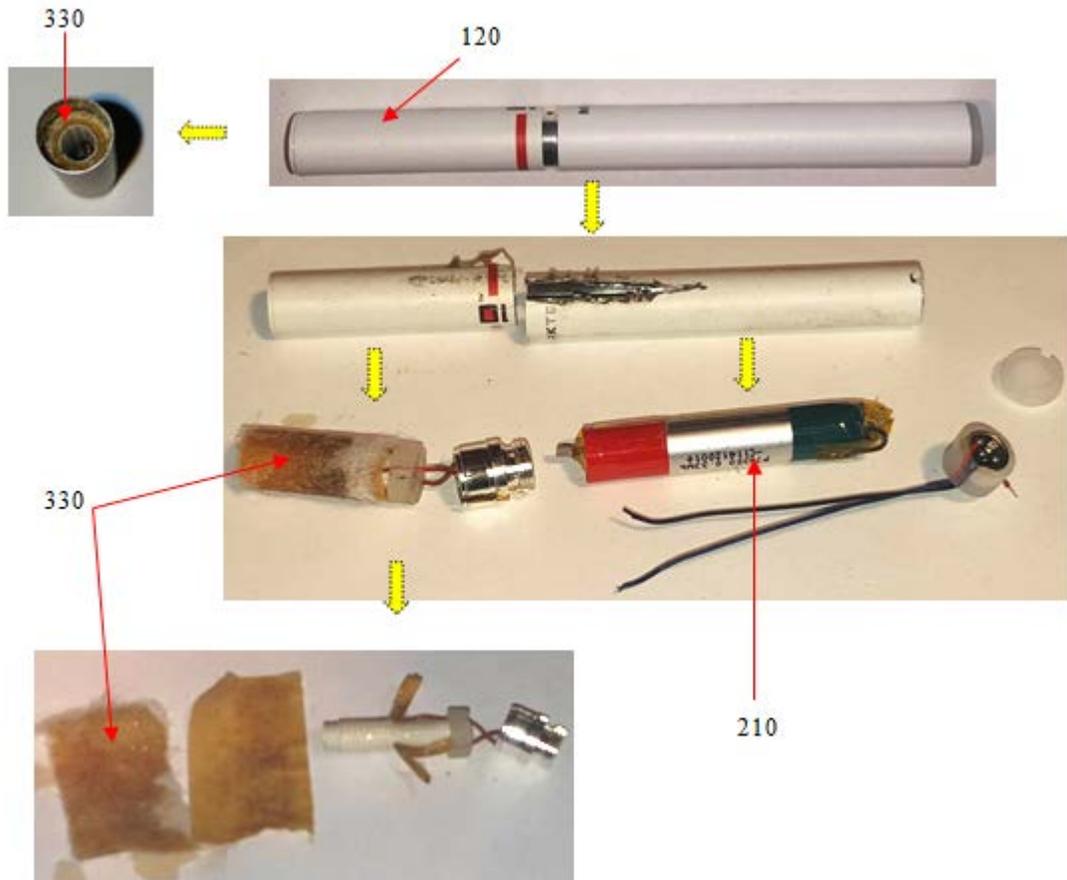
3           54. The MarkTen is an electronic cigarette as recited in claim 15 of the  
4 '300 Patent.



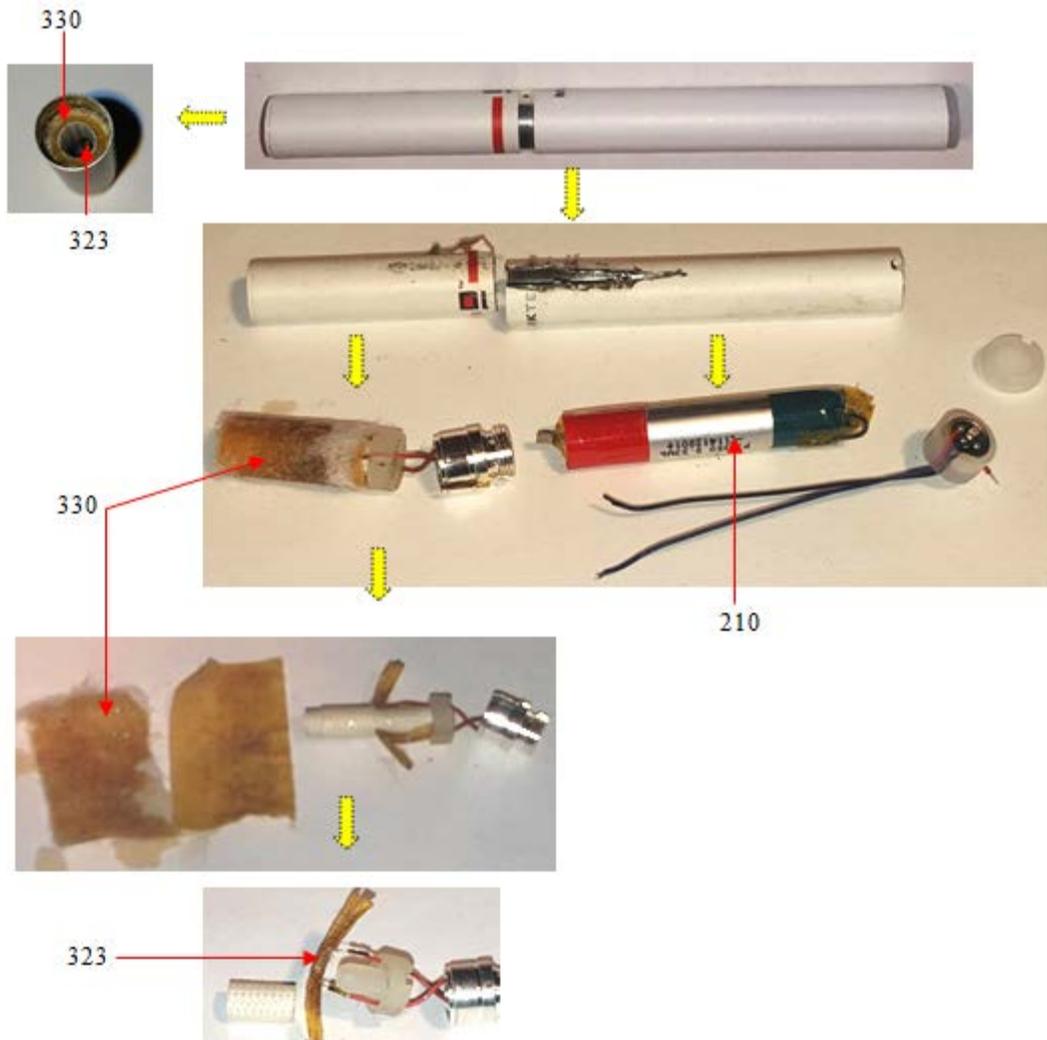
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16           55. The MarkTen includes “a housing [120]” as recited in claim 15 of the  
17 '300 Patent.



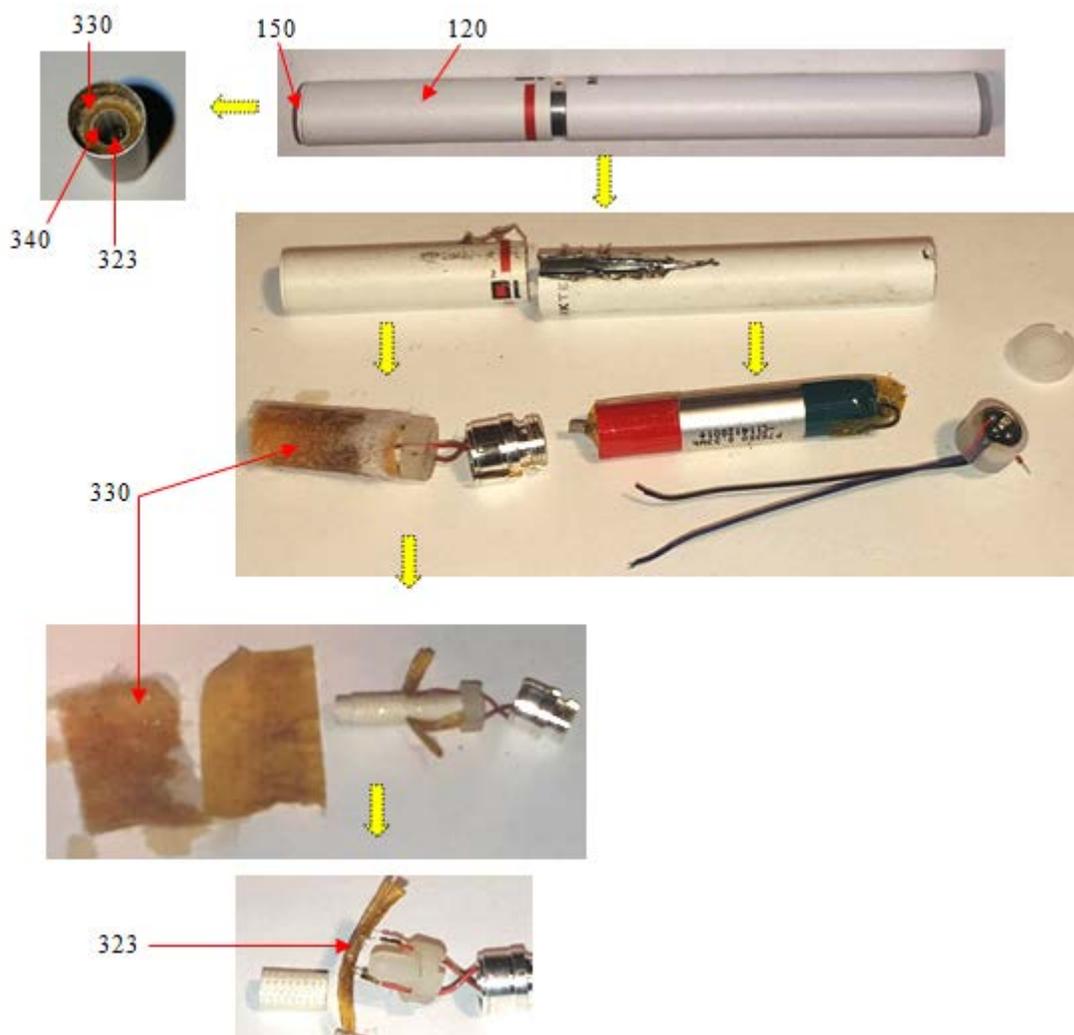
1           56. The MarkTen includes “a battery [210], and a liquid storage  
2 component [330] holding a liquid, within the housing [120], and the liquid storage  
3 component [330] comprising a hollow elongated cylinder having an annular cross  
4 section” as recited in claim 15 of the '300 Patent.



1           57. The MarkTen includes “a wire coil [323] electrically connected to the  
2 battery [210] for atomizing liquid from the liquid storage component [330], with  
3 the wire coil [323] surrounded by the liquid storage component [330]” as recited in  
4 claim 15 of the '300 Patent.

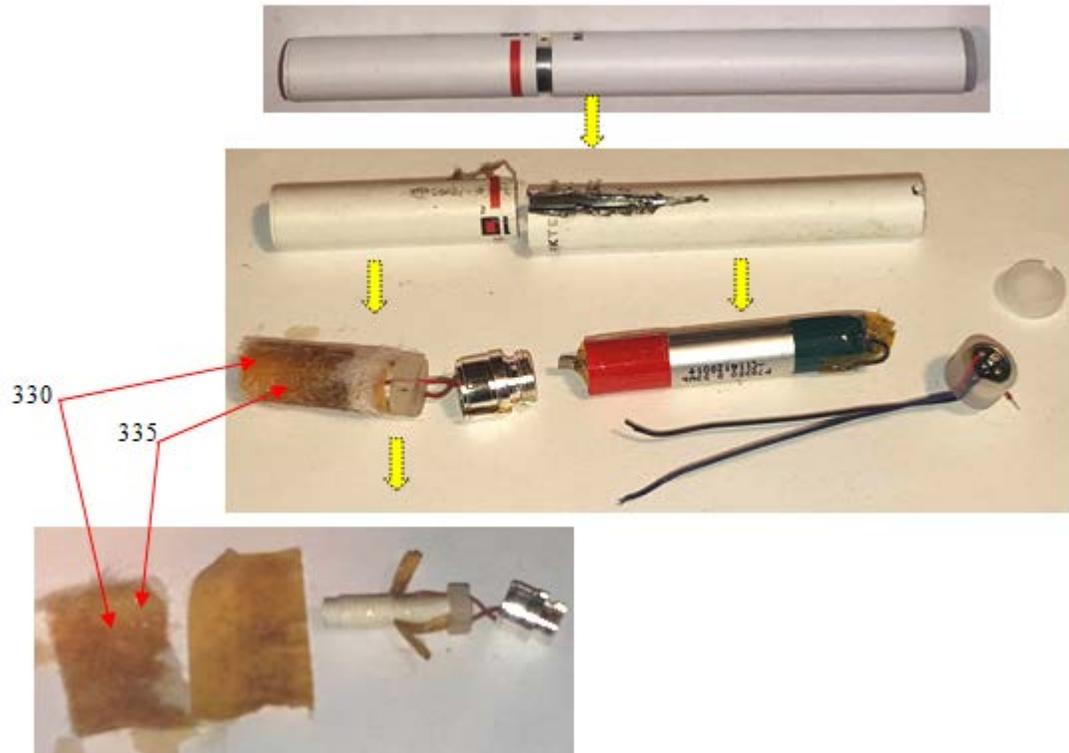


1           58. The MarkTen includes “a cylindrical central channel through the liquid  
2 storage component [330] having surfaces [340] wetted via the liquid, with the wire  
3 coil [323] in the channel and having a diameter less than the channel; and the  
4 channel forming part of an airflow path within the housing [120], and the channel  
5 providing a continuous and open passageway from the wire coil [323] to an  
6 inhalation port [150], and the channel having a uniform diameter between the wire  
7 coil [323] and the inhalation port [150]” as recited in claim 15 of the '300 Patent.



1           59. As shown in the photographs of paragraph 60 below, the MarkTen  
2 meets every limitation recited in claim 16 of the '300 Patent as follows:

3           60. The MarkTen includes "the liquid storage component [330]  
4 comprising a fiber material [335]" as recited in claim 16 of the '300 Patent.



19  
20 **MarkTenXL**

21           61. As shown in the photographs of paragraphs 62 through 67 below, the  
22 MarkTenXL meets every limitation recited in claim 1 of the '300 Patent.

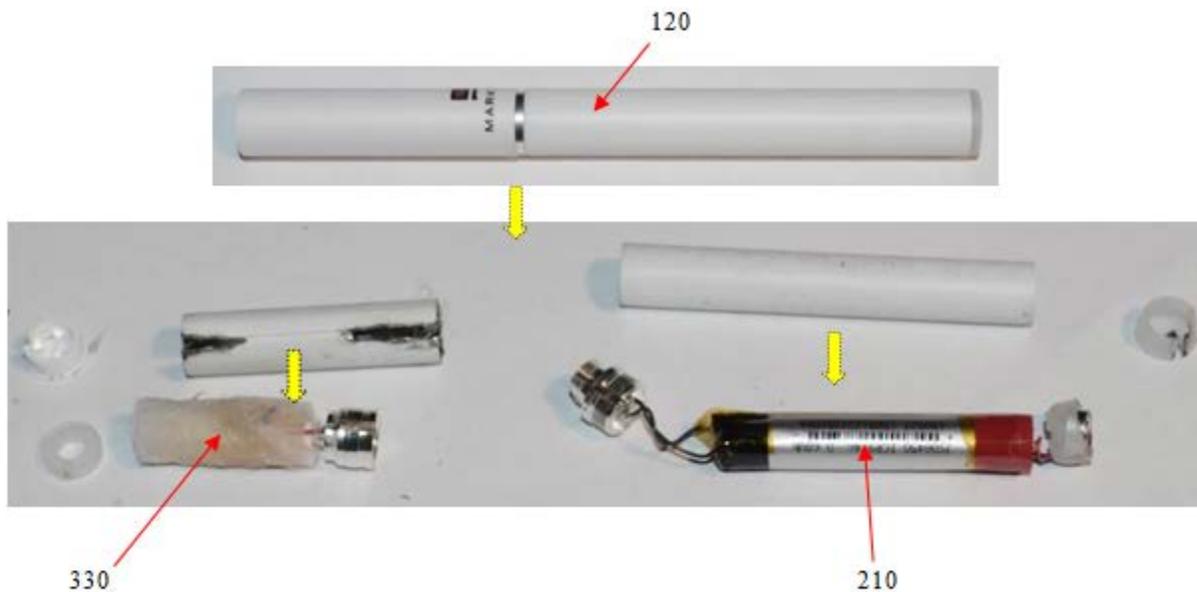
23           62. The MarkTenXL is an electronic cigarette as recited in claim 1 of the  
24 '300 Patent.



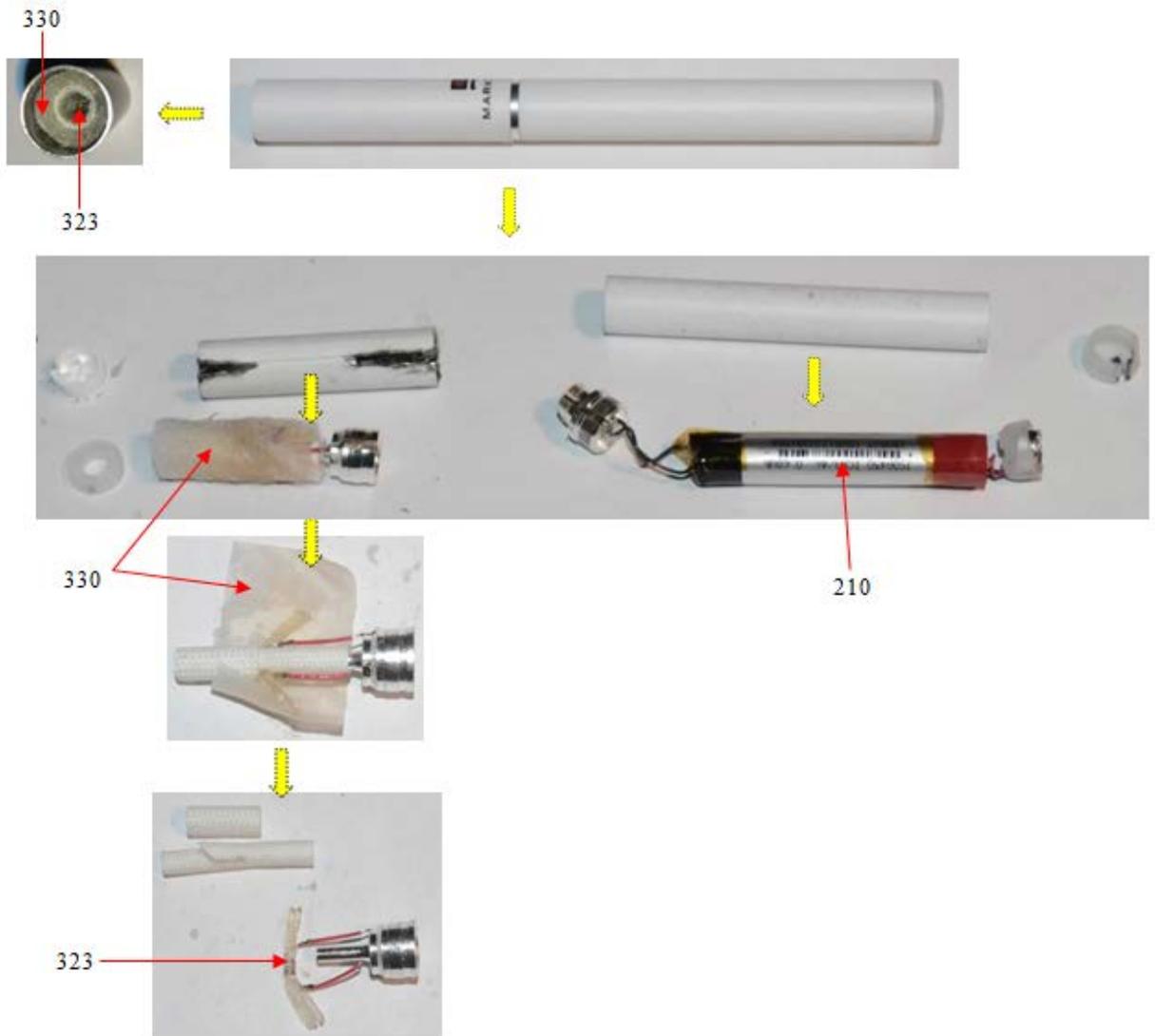
1           63. The MarkTenXL includes “a housing [120]” as recited in claim 1 of  
2 the '300 Patent.



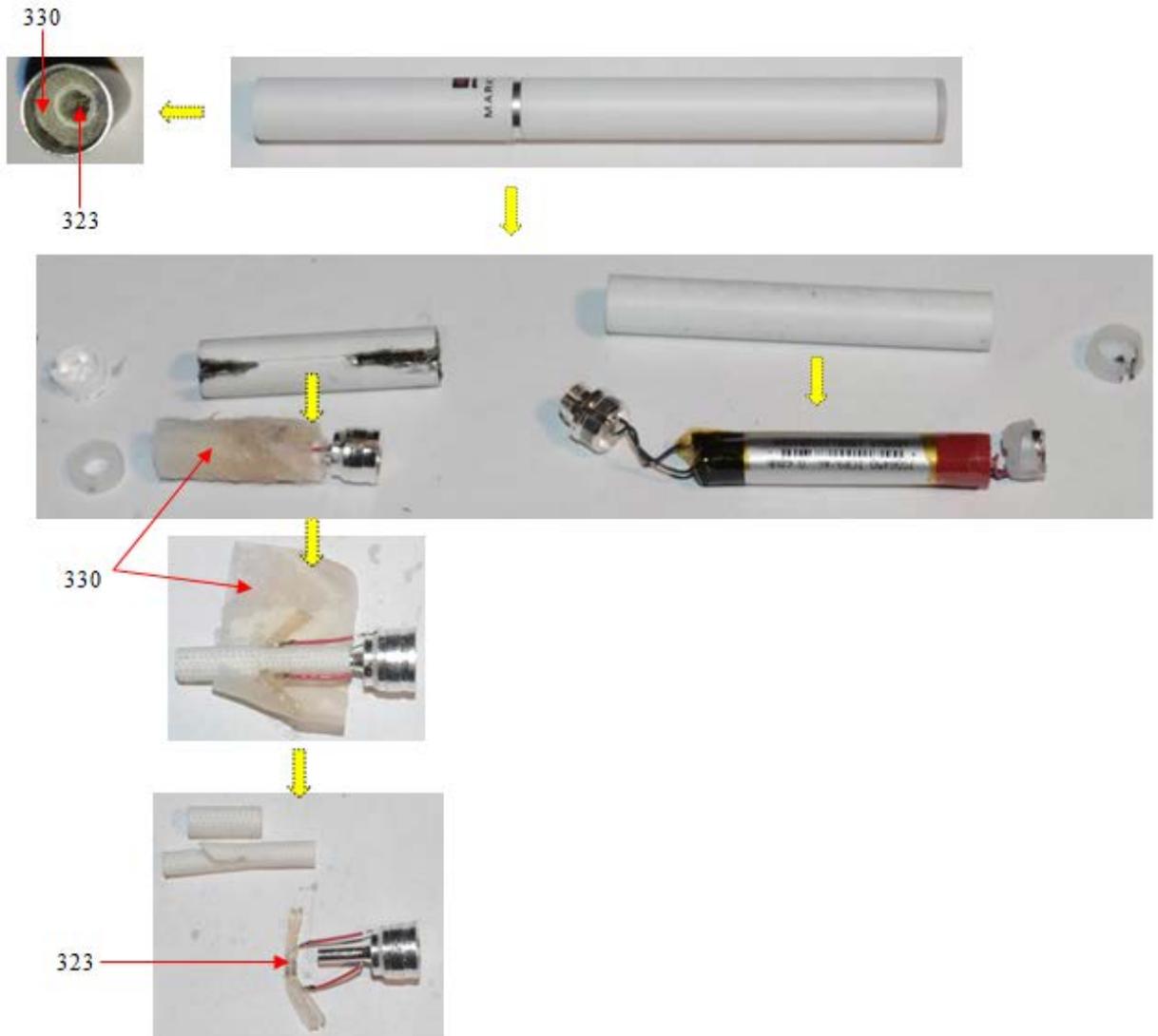
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8           64. The MarkTenXL includes “a battery [210], and a liquid storage  
9 component [330] containing liquid, within the housing [120]” as recited in claim 1  
10 of the '300 Patent.



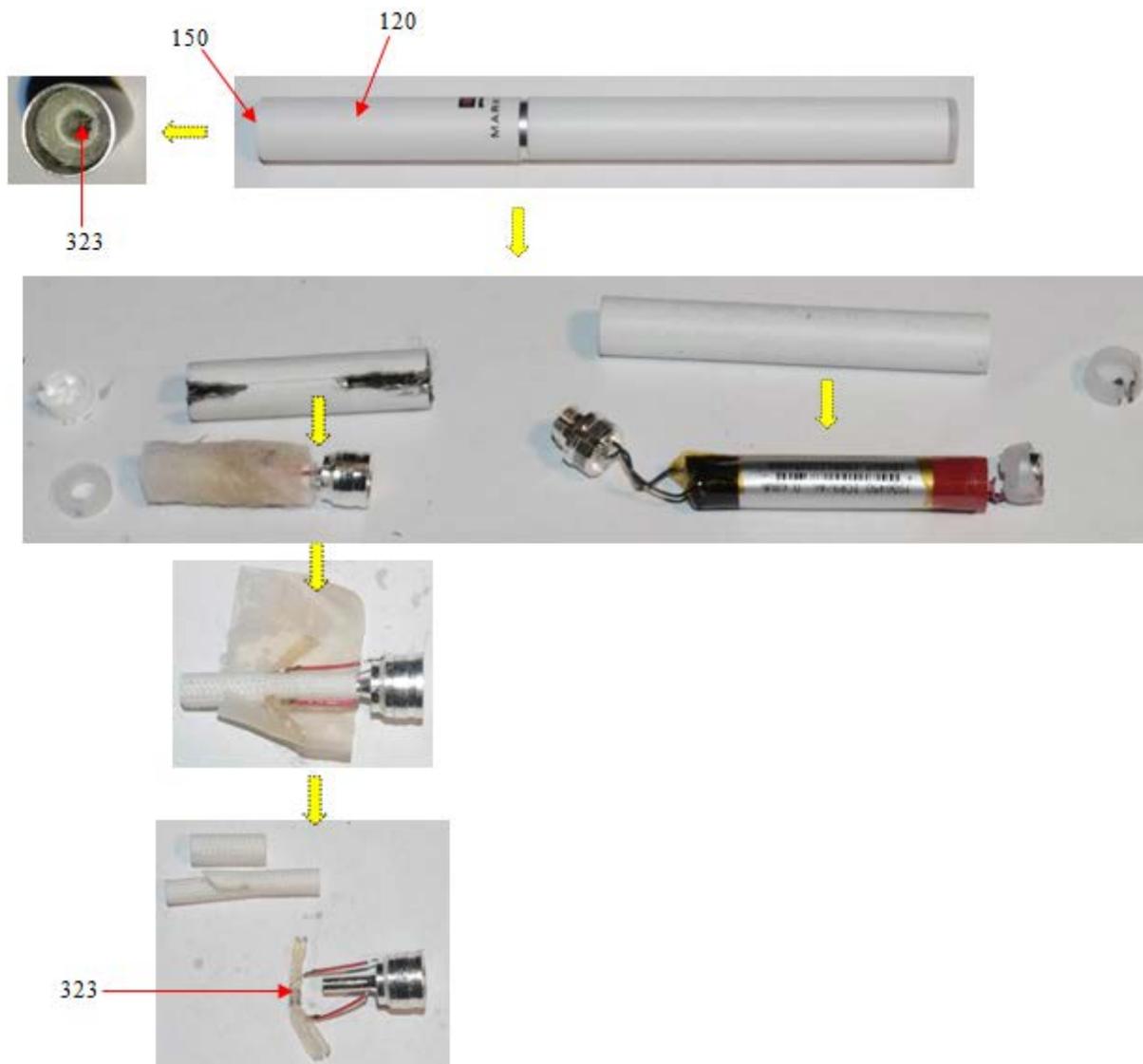
1           65. The MarkTenXL includes “a wire coil [323] electrically connectable to  
2 the battery [210] for atomizing liquid from the liquid storage component [330],  
3 with the wire coil [323] surrounded by the liquid storage component [330]” as  
4 recited in claim 1 of the '300 Patent.



1           66. The MarkTenXL includes “a channel extending centrally through the  
2 liquid storage component [330], with the wire coil [323] in the channel and having  
3 a diameter less than the channel” as recited in claim 1 of the '300 Patent.



1           67. The MarkTenXL includes “the channel forming part of an airflow path  
2 within the housing [120] providing a continuous passageway from the wire coil  
3 [323] to an inhalation port [150], and the channel having a uniform diameter  
4 between the wire coil [323] and the inhalation port [150]” as recited in claim 1 of  
5 the '300 Patent.



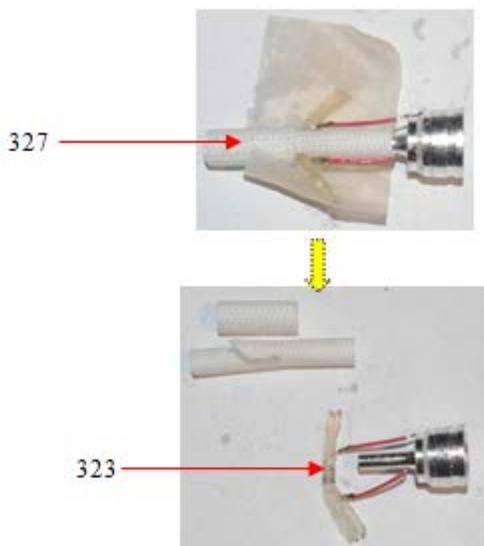
1           68. As shown in the photographs of paragraph 69 below, the MarkTenXL  
2 meets every limitation recited in claim 2 of the '300 Patent as follows:

3           69. The MarkTenXL includes “a porous component [327] surrounding and  
4 in contact with the wire coil [323], and the liquid storage component [330]  
5 surrounding the porous component [327]” as recited in claim 2 of the '300 Patent.



1           70. As shown in the photographs of paragraph 71 below, the MarkTenXL  
2 meets every limitation recited in claim 3 of the '300 Patent as follows:

3           71. The MarkTenXL includes “the porous component [327] longer than  
4 the wire coil [323]” as recited in claim 3 of the '300 Patent.



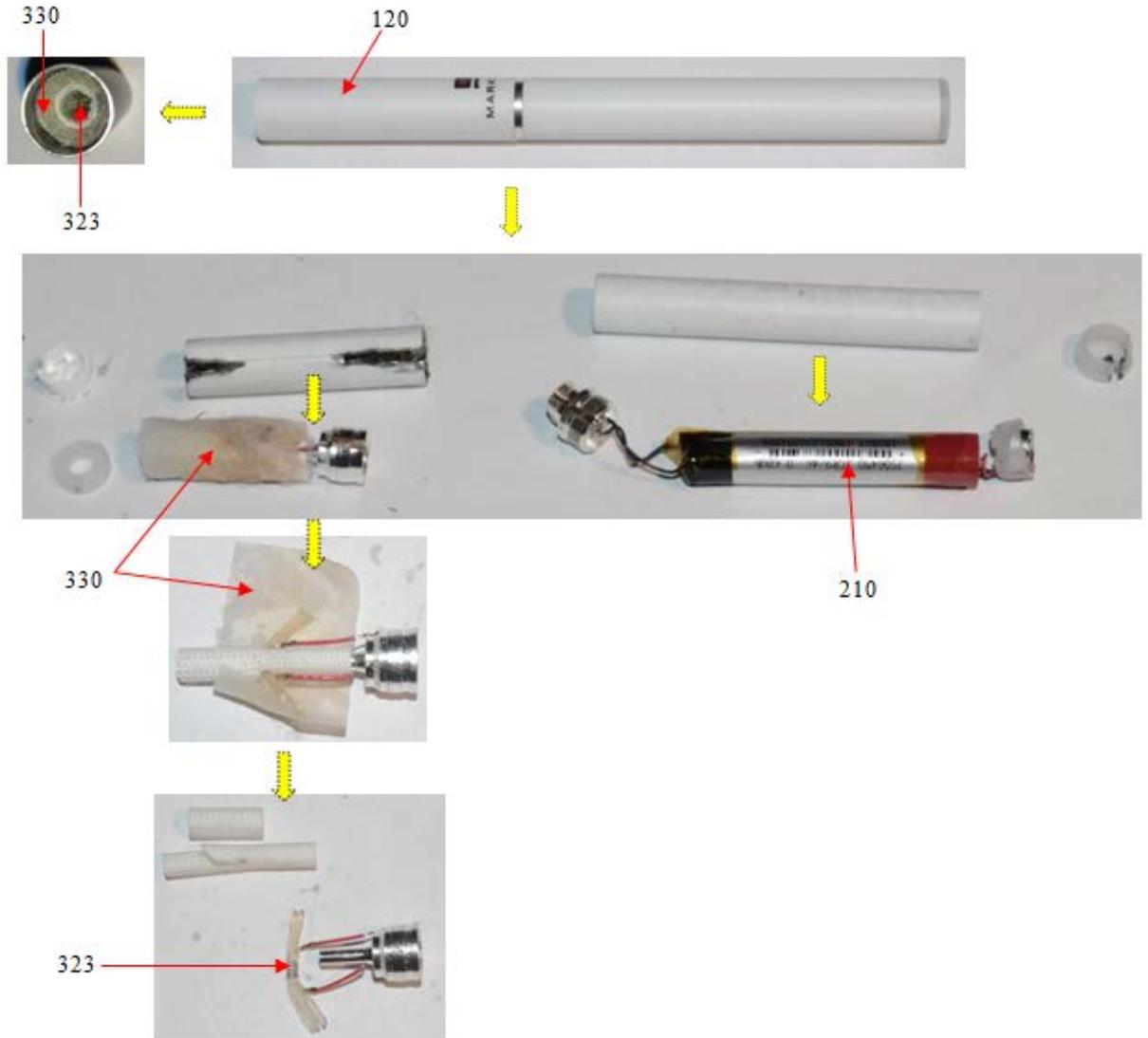
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16           72. As shown in the photographs of paragraph 73 below, the MarkTenXL  
17 meets every limitation recited in claim 4 of the '300 Patent as follows:

18           73. The MarkTenXL includes “the channel having internal surfaces [340]  
19 wetted via the liquid, for cooling vapor flowing through the channel” as recited in  
20 claim 4 of the '300 Patent.



1           74. As shown in the photographs of paragraph 75 below, the MarkTenXL  
2 meets every limitation recited in claim 5 of the '300 Patent as follows:

3           75. The MarkTenXL includes “the airflow path centrally located within  
4 the housing [120]” as recited in claim 5 of the '300 Patent.



1           76. As shown in the photographs of paragraph 77 below, the MarkTenXL  
2 meets every limitation recited in claim 6 of the '300 Patent as follows:

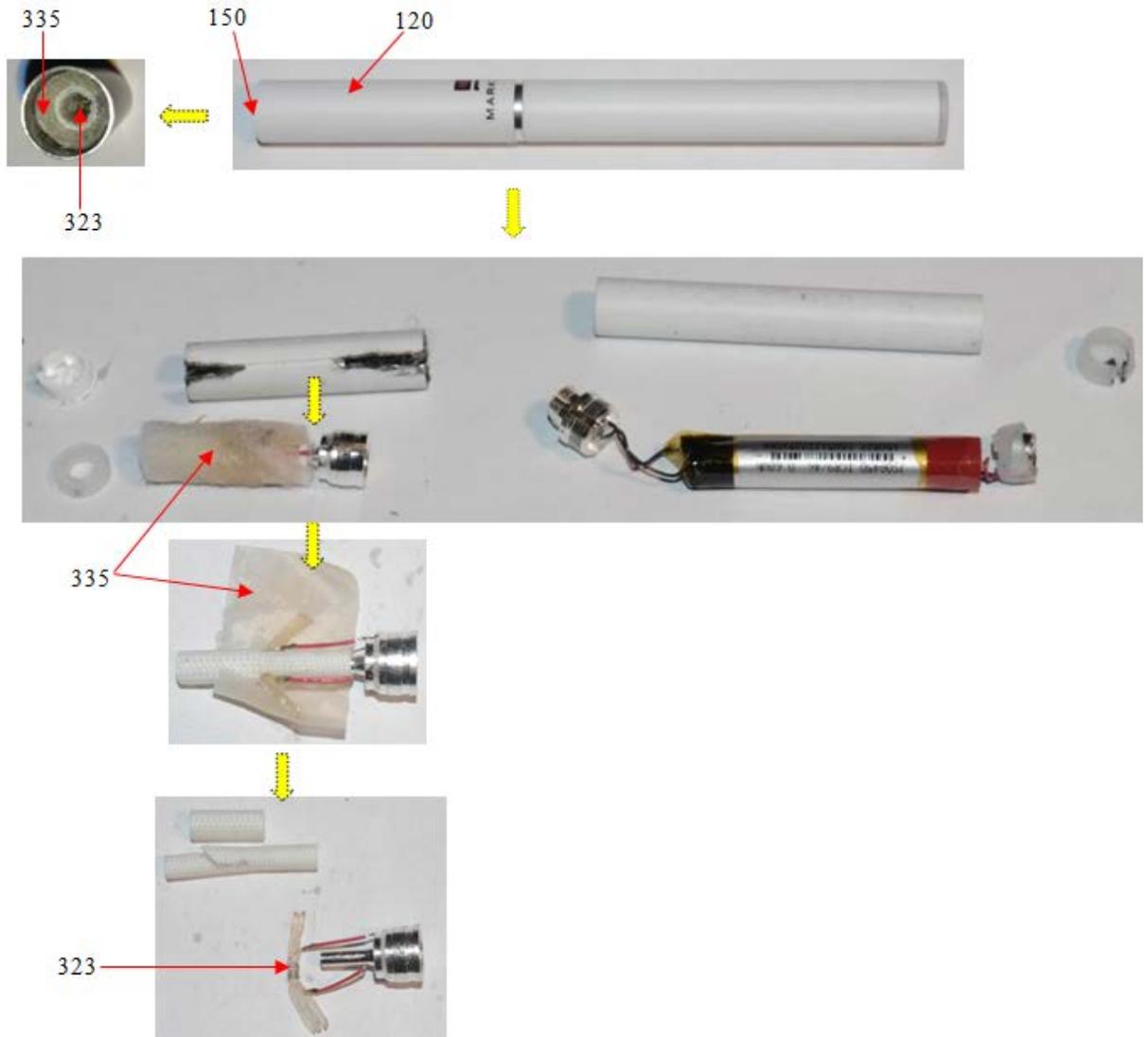
3           77. The MarkTenXL includes “the liquid storage component [330]  
4 comprising a fiber material [335]” as recited in claim 6 of the '300 Patent.

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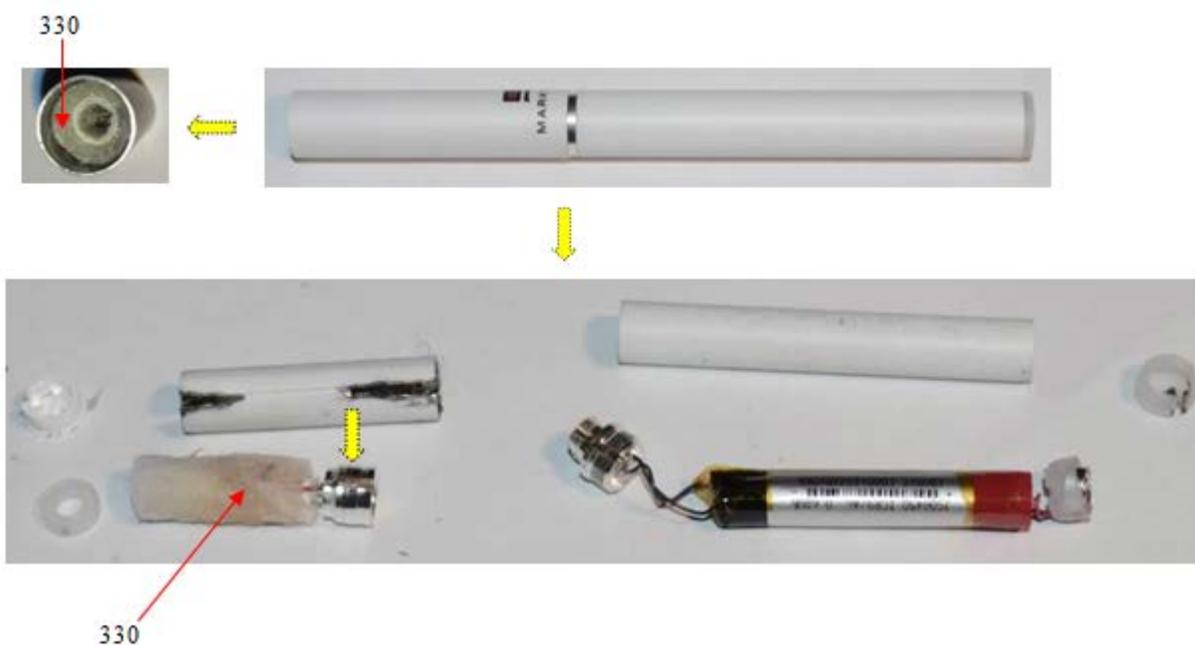
1           78. As shown in the photographs of paragraph 79 below, the MarkTenXL  
2 meets every limitation recited in claim 7 of the '300 Patent as follows:

3           79. The MarkTenXL includes “the channel formed as an opening through  
4 the fiber material [335]” as recited in claim 7 of the '300 Patent.



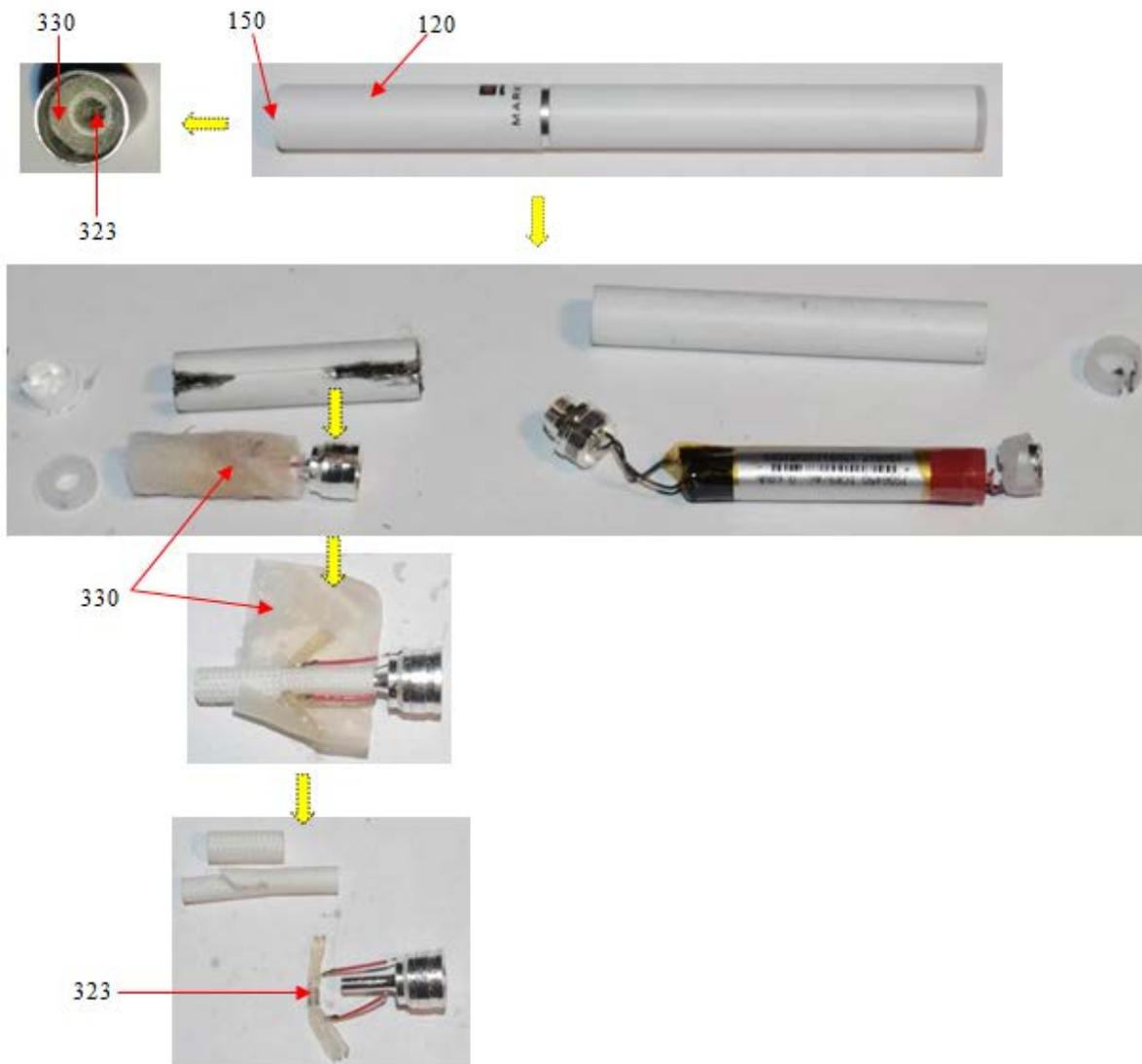
1           80. As shown in the photographs of paragraph 81 below, the MarkTenXL  
2 meets every limitation recited in claim 8 of the '300 Patent as follows:

3           81. The MarkTenXL includes “the liquid storage component [330]  
4 comprising a hollow elongated cylinder having an annular cross section co-axial  
5 with the channel” as recited in claim 8 of the '300 Patent.



1           82. As shown in the photographs of paragraph 83 below, the MarkTenXL  
2 meets every limitation recited in claim 9 of the '300 Patent as follows:

3           83. The MarkTenXL includes "the channel is cylindrical" as recited in  
4 claim 9 of the '300 Patent.



24           84. As shown in the photographs of paragraphs 85 through 89 below, the  
25 MarkTenXL meets every limitation recited in claim 10 of the '300 Patent as  
26 follows:

27           85. The MarkTenXL is an electronic cigarette as recited in claim 10 of the  
28 '300 Patent.

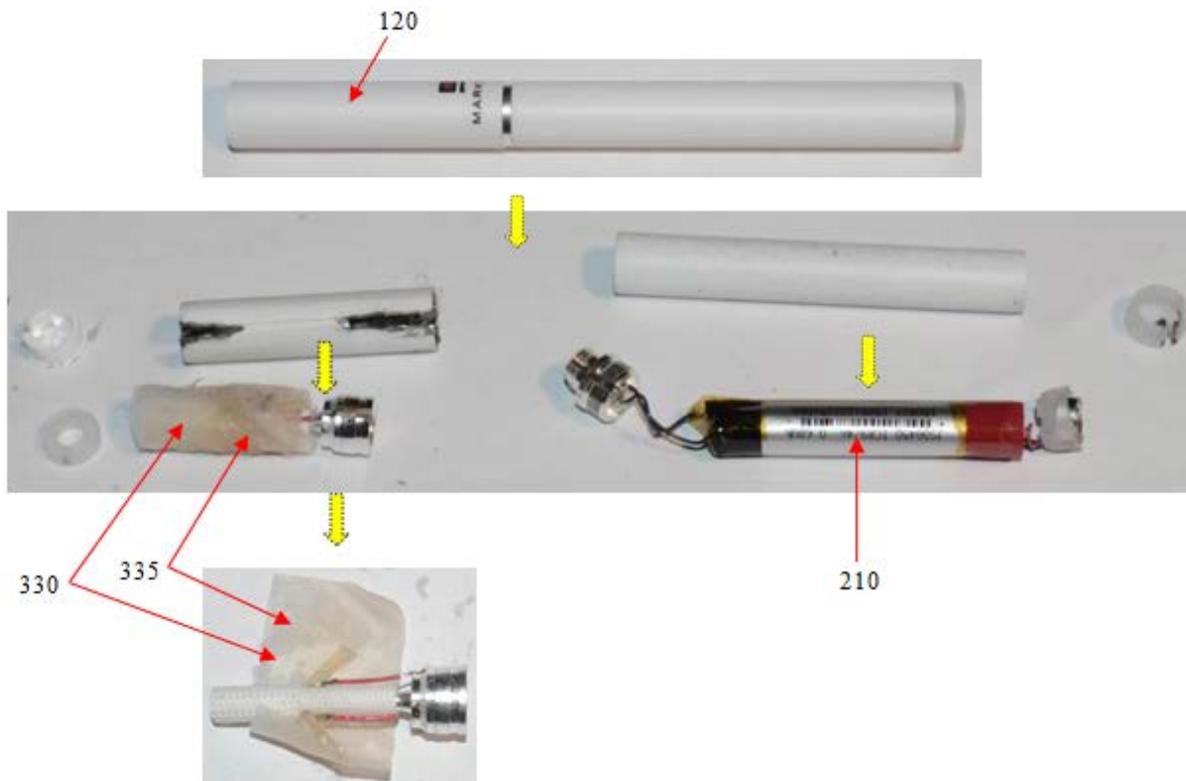
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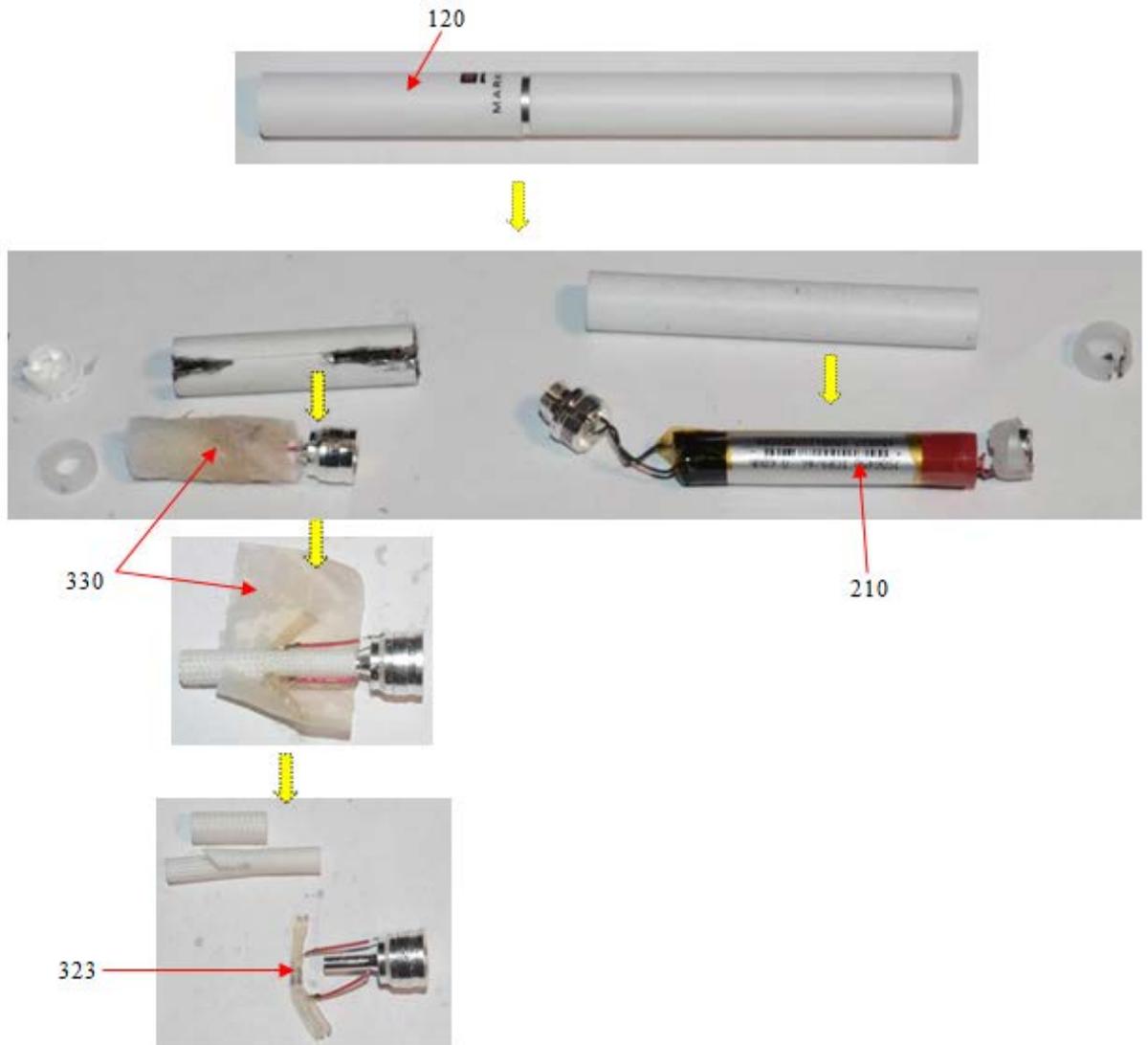
86. The MarkTenXL includes “a housing [120] having an inhalation port [150]” as recited in claim 10 of the ’300 Patent.



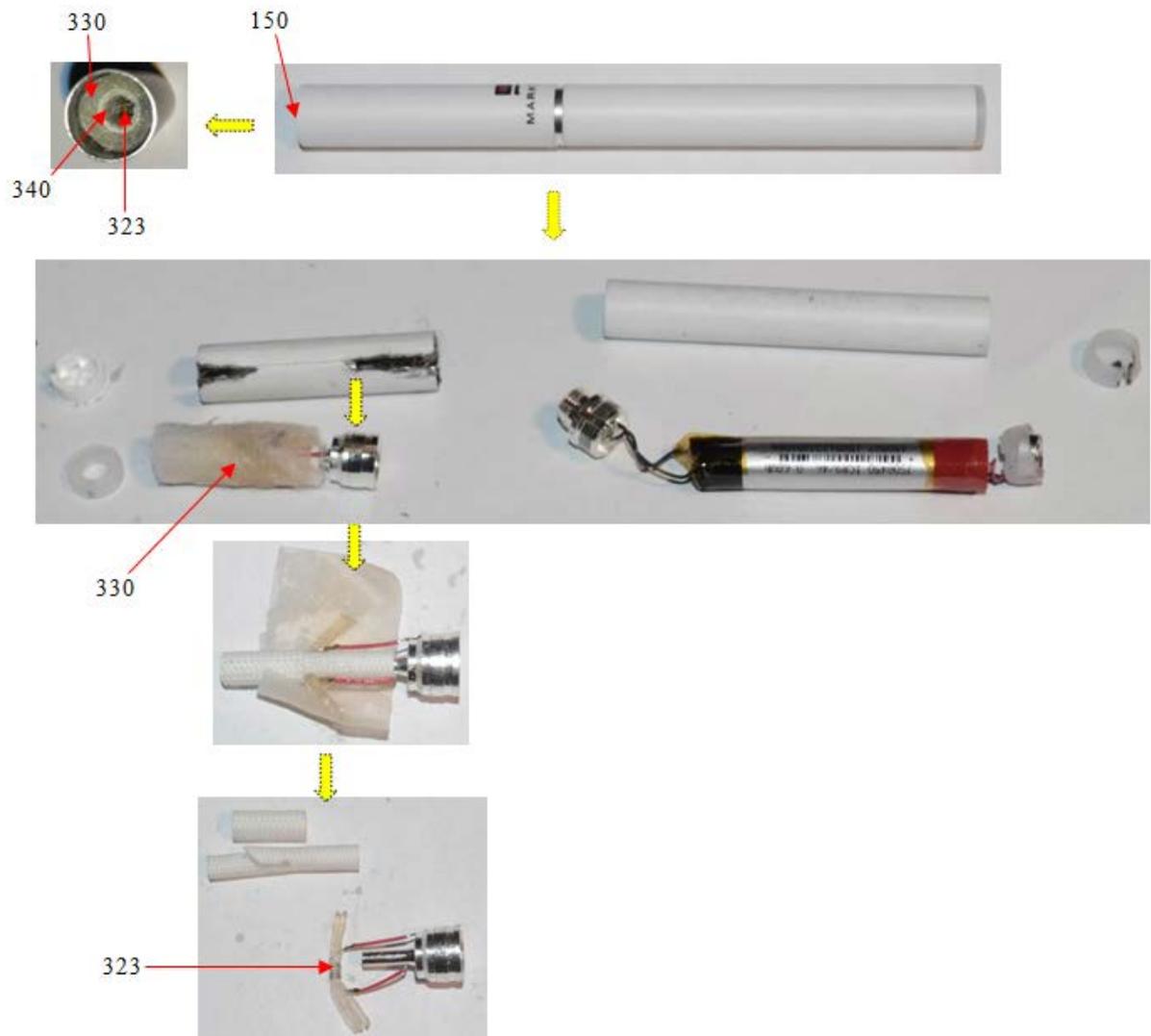
87. The MarkTenXL includes “a battery [210] and a liquid storage component [330] within the housing [120], with the liquid storage component [330] comprising a fiber material [335] and holding a liquid” as recited in claim 10 of the ’300 Patent.



1           88. The MarkTenXL includes “an electric heater comprising a wire coil  
2 [323] in the housing [120] connectable to the battery [210] for creating vapor from  
3 liquid provided from the liquid storage component [330]” as recited in claim 10 of  
4 the '300 Patent.

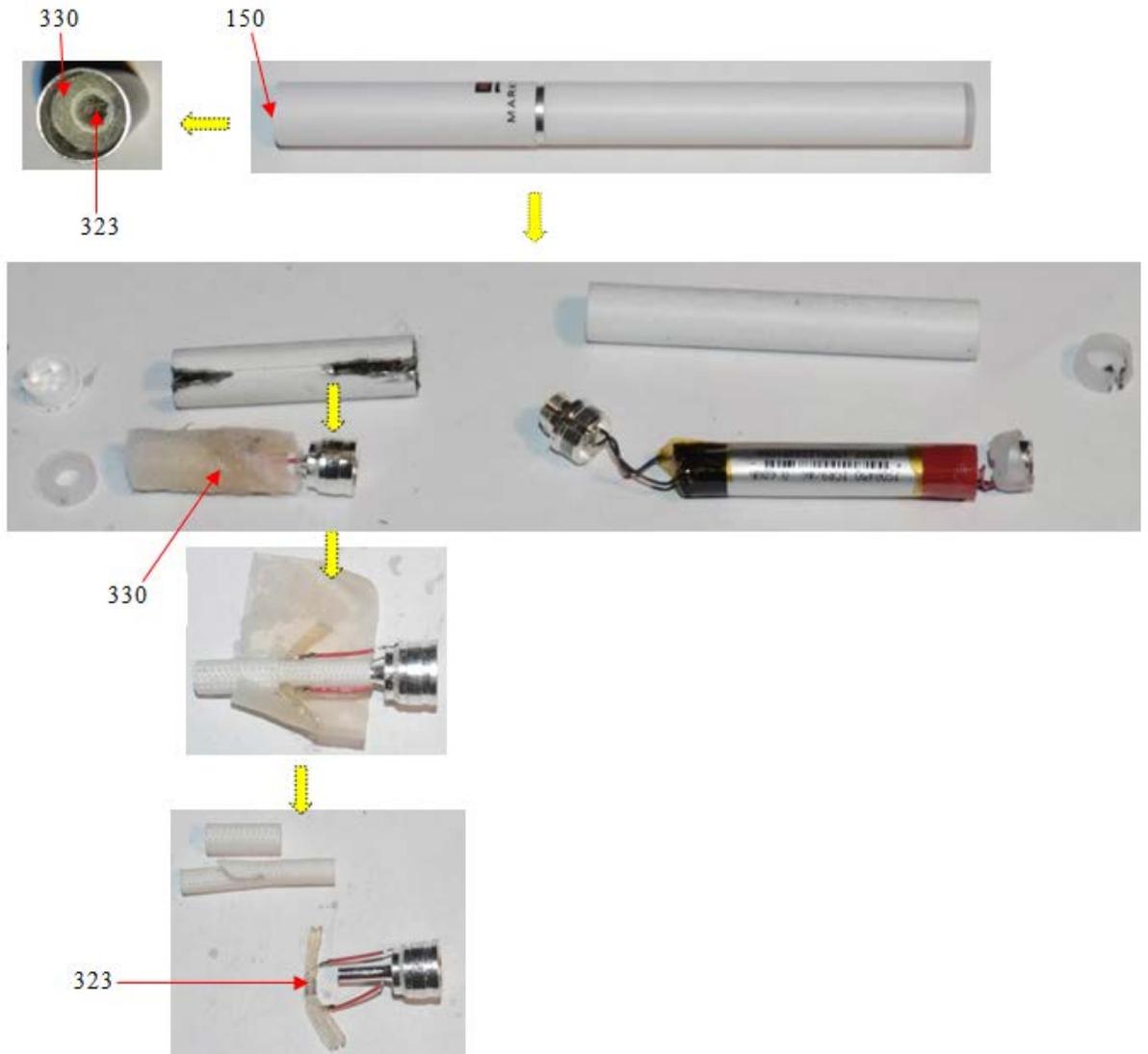


1           89. The MarkTenXL includes “an open cylindrical channel through the  
2 fiber material of the liquid storage component [330] from a first end of the liquid  
3 storage component [330] to a second end of the liquid storage component [330],  
4 the channel having surfaces [340] wetted via the liquid, and with the wire coil  
5 [323] in the channel and the wire coil [323] having a diameter less than the  
6 channel, and the channel providing a continuous passageway from the wire coil  
7 [323] to the inhalation port [150]” as recited in claim 10 of the '300 Patent.



1 90. As shown in the photographs of paragraph 91 below, the MarkTenXL  
2 meets every limitation recited in claim 11 of the '300 Patent as follows:

3 91. The MarkTenXL includes “the channel having a uniform diameter  
4 between the wire coil [323] to the inhalation port [150]” as recited in claim 11 of  
5 the '300 Patent.



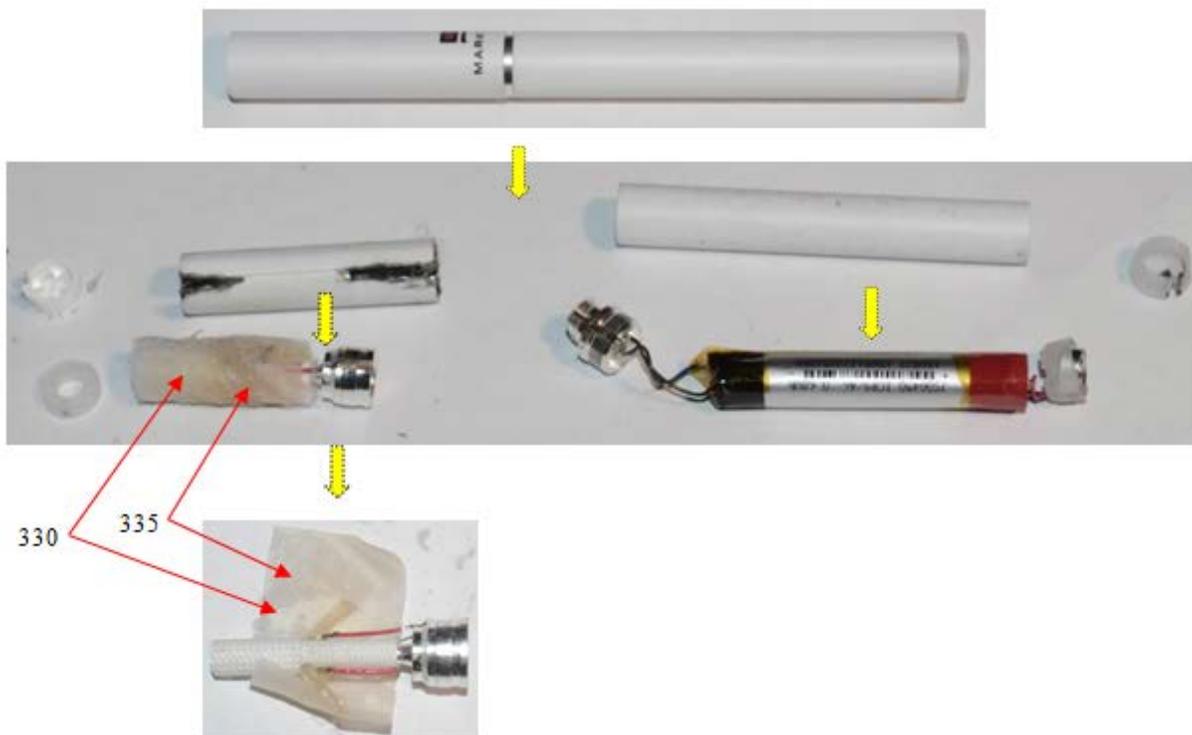
1 92. As shown in the photographs of paragraph 93 below, the MarkTenXL  
2 meets every limitation recited in claim 12 of the '300 Patent as follows:

3 93. The MarkTenXL includes "the wetted internal surfaces [340] of the  
4 channel cooling vapor flowing through the channel" as recited in claim 12 of the  
5 '300 Patent.



1           94. As shown in the photographs of paragraph 95 below, the MarkTenXL  
2 meets every limitation recited in claim 13 of the '300 Patent as follows:

3           95. The MarkTenXL includes “the liquid storage component [330]  
4 comprising a fiber material [335]” as recited in claim 13 of the '300 Patent.



1           96. As shown in the photographs of paragraph 97 below, the MarkTenXL  
2 meets every limitation recited in claim 14 of the '300 Patent as follows:

3           97. The MarkTenXL includes “the liquid storage component [330]  
4 comprising a hollow elongated cylinder having an annular cross section” as recited  
5 in claim 14 of the '300 Patent.



20           98. As shown in the photographs of paragraphs 99 through 103 below, the  
21 MarkTenXL meets every limitation recited in claim 15 of the '300 Patent as  
22 follows:

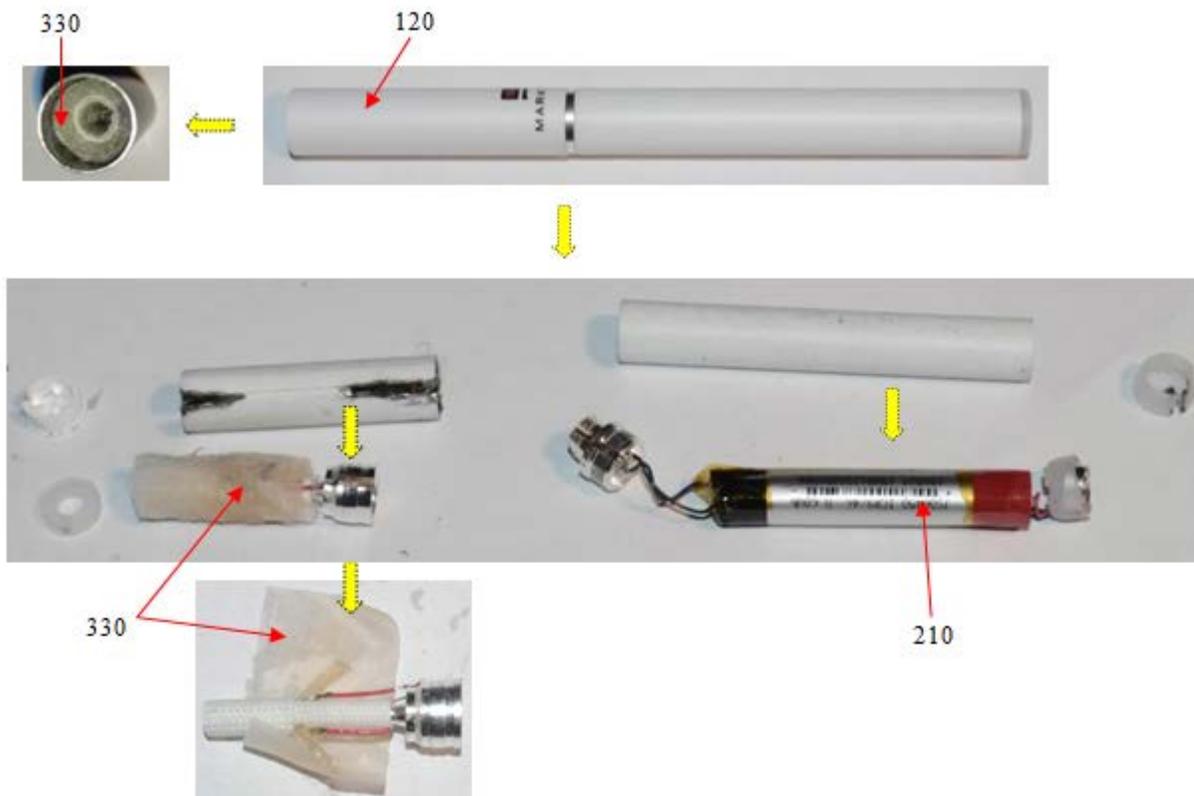
23           99. The MarkTenXL is an electronic cigarette as recited in claim 15 of the  
24 '300 Patent.



1            100. The MarkTenXL includes “a housing [120]” as recited in claim 15 of  
2 the '300 Patent.



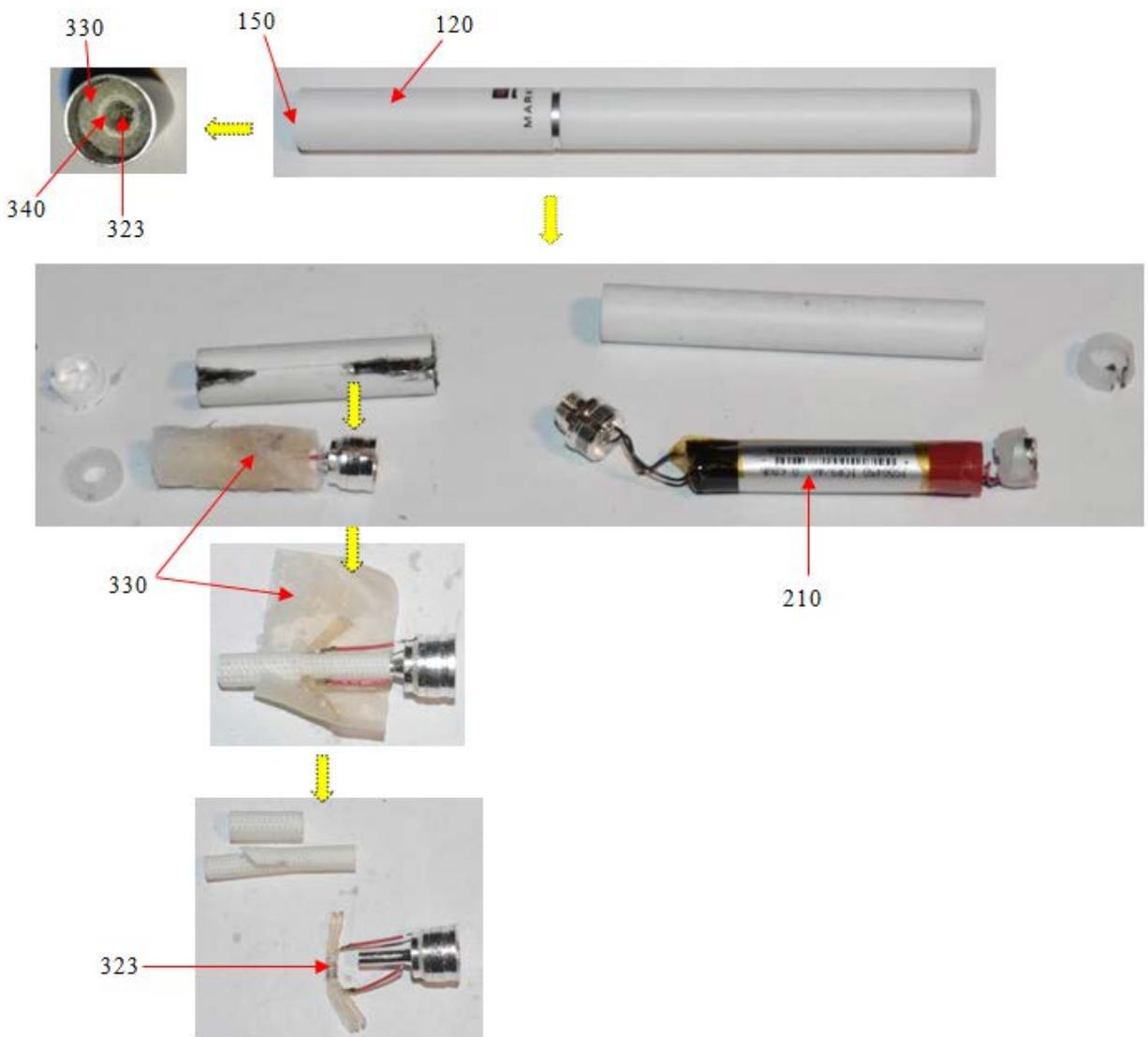
7            101. The MarkTenXL includes “a battery [210], and a liquid storage  
8 component [330] holding a liquid, within the housing [120], and the liquid storage  
9 component [330] comprising a hollow elongated cylinder having an annular cross  
10 section” as recited in claim 15 of the '300 Patent.



1           102. The MarkTenXL includes “a wire coil [323] electrically connected to  
2 the battery [210] for atomizing liquid from the liquid storage component [330],  
3 with the wire coil [323] surrounded by the liquid storage component [330]” as  
4 recited in claim 15 of the '300 Patent.

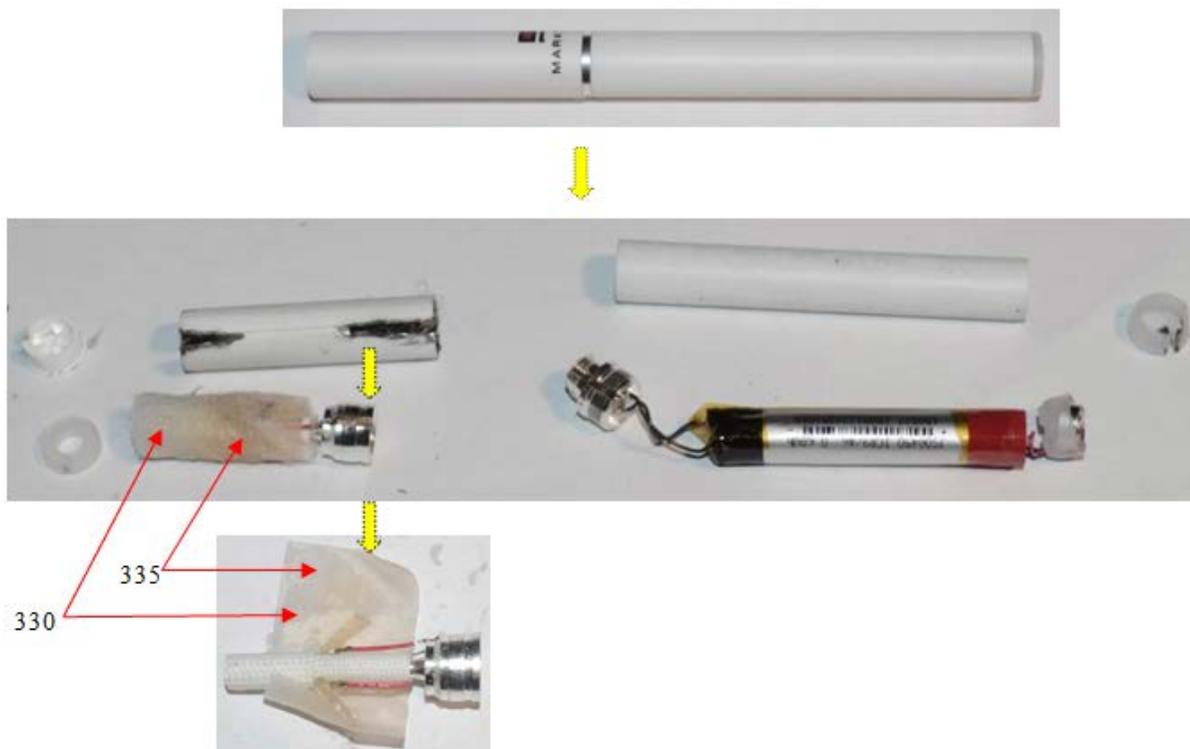


1           103. The MarkTenXL includes “a cylindrical central channel through the  
2 liquid storage component [330] having surfaces [340] wetted via the liquid, with  
3 the wire coil [323] in the channel and having a diameter less than the channel; and  
4 the channel forming part of an airflow path within the housing [120], and the  
5 channel providing a continuous and open passageway from the wire coil [323] to  
6 an inhalation port [150], and the channel having a uniform diameter between the  
7 wire coil [323] and the inhalation port [150]” as recited in claim 15 of the '300  
8 Patent.



1 104. As shown in the photographs of paragraph 105 below, the MarkTenXL  
2 meets every limitation recited in claim 16 of the '300 Patent as follows:

3 105. The MarkTenXL includes "the liquid storage component [330]  
4 comprising a fiber material [335]" as recited in claim 16 of the '300 Patent.



18  
19 **GreenSmoke**

20 106. As shown in the photographs of paragraphs 107 through 112 below,  
21 the GreenSmoke meets every limitation recited in claim 1 of the '300 Patent.

22 107. The GreenSmoke is an electronic cigarette as recited in claim 1 of the  
23 '300 Patent.

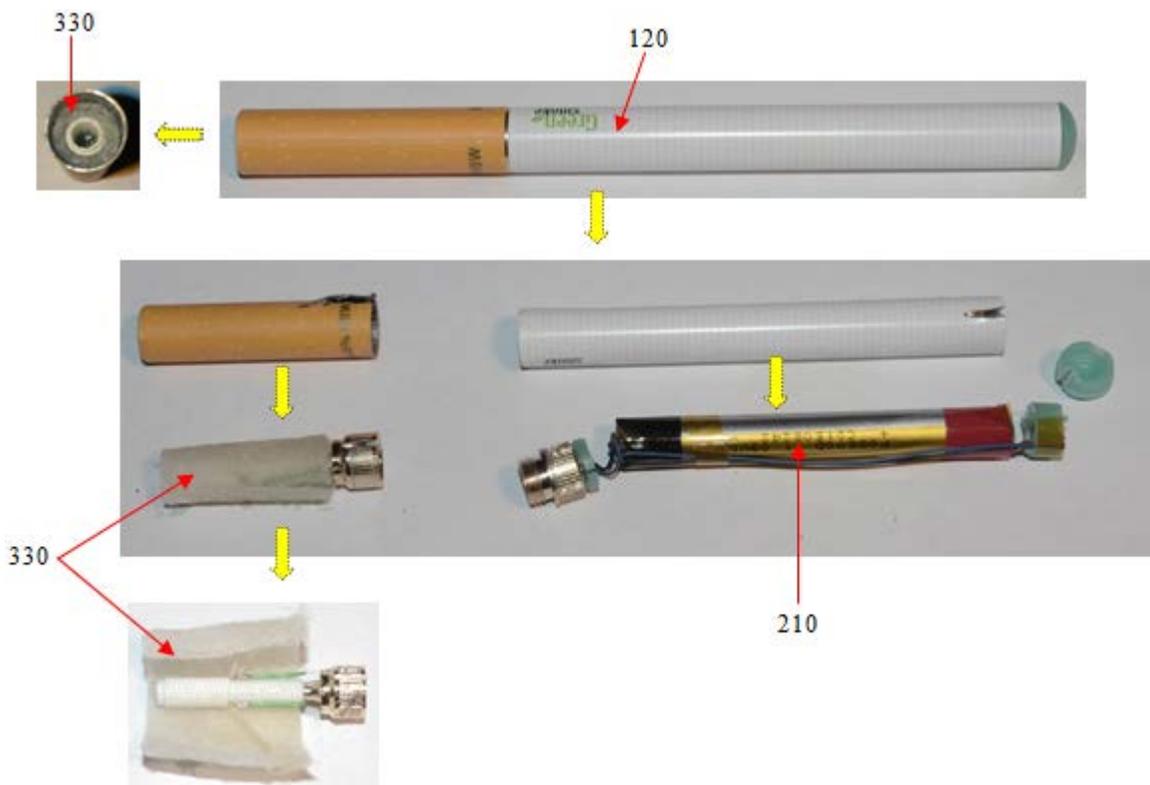


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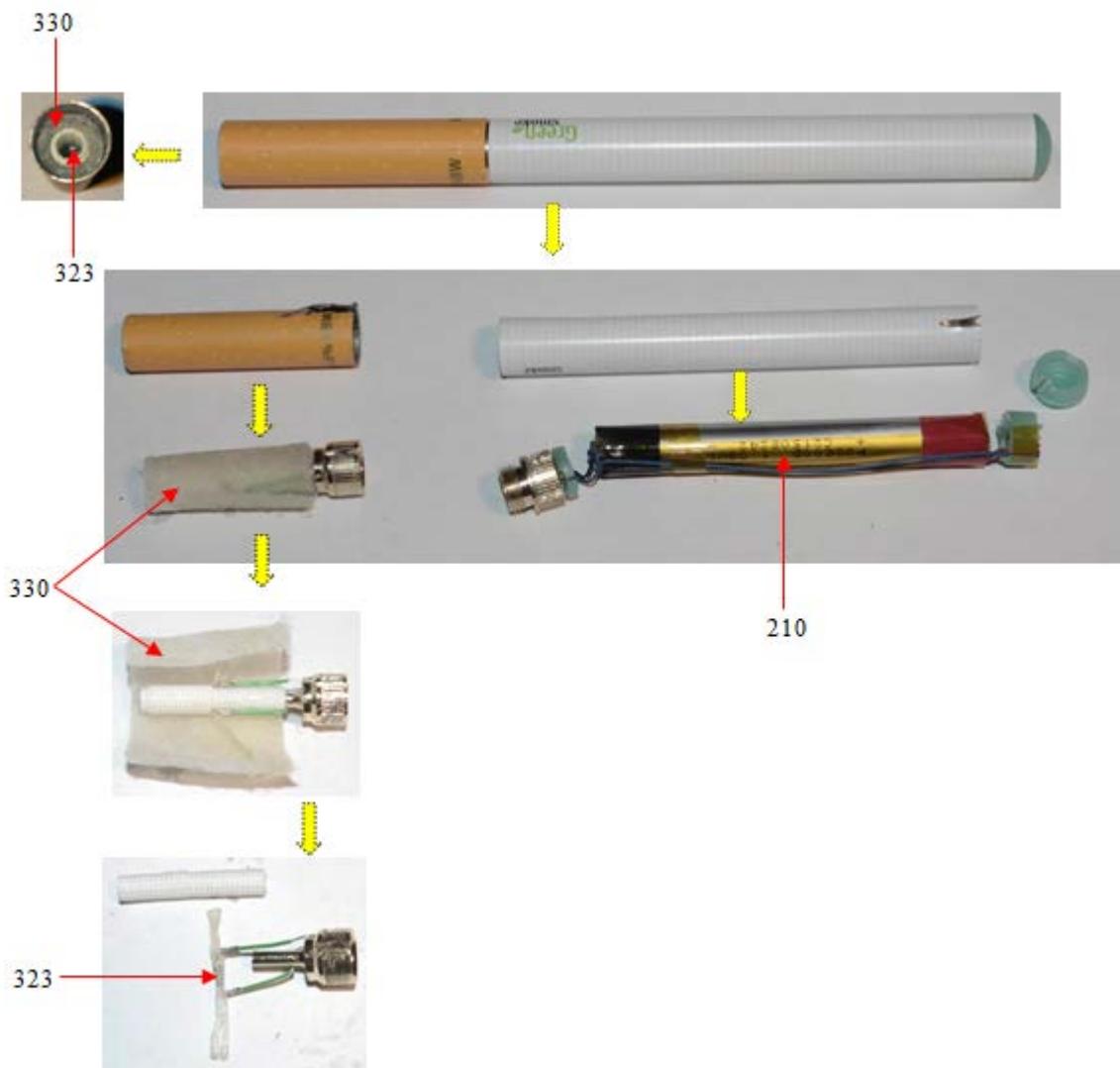
108. The GreenSmoke includes “a housing [120]” as recited in claim 1 of the '300 Patent.



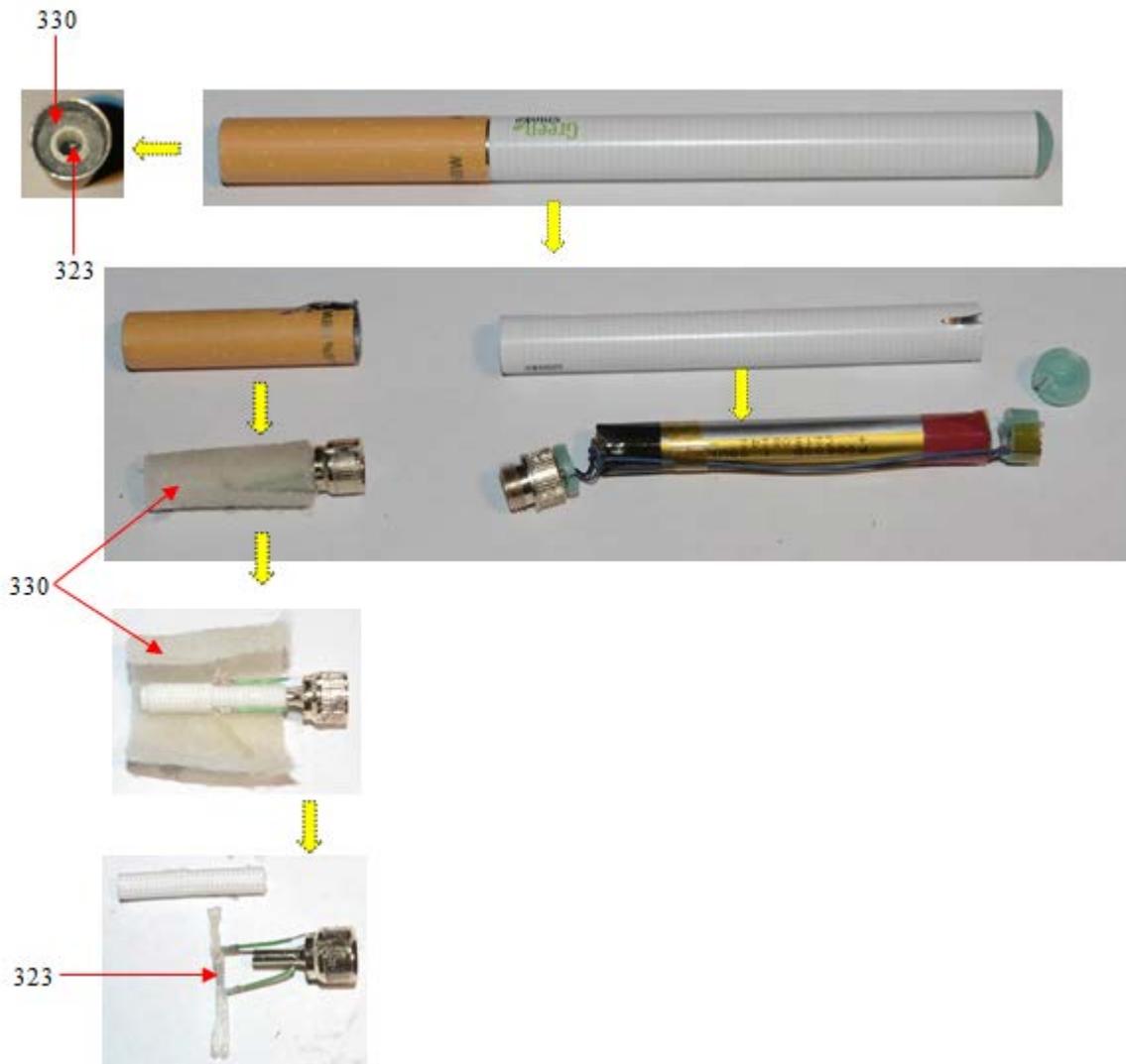
109. The GreenSmoke includes “a battery [210], and a liquid storage component [330] containing liquid, within the housing [120]” as recited in claim 1 of the '300 Patent.



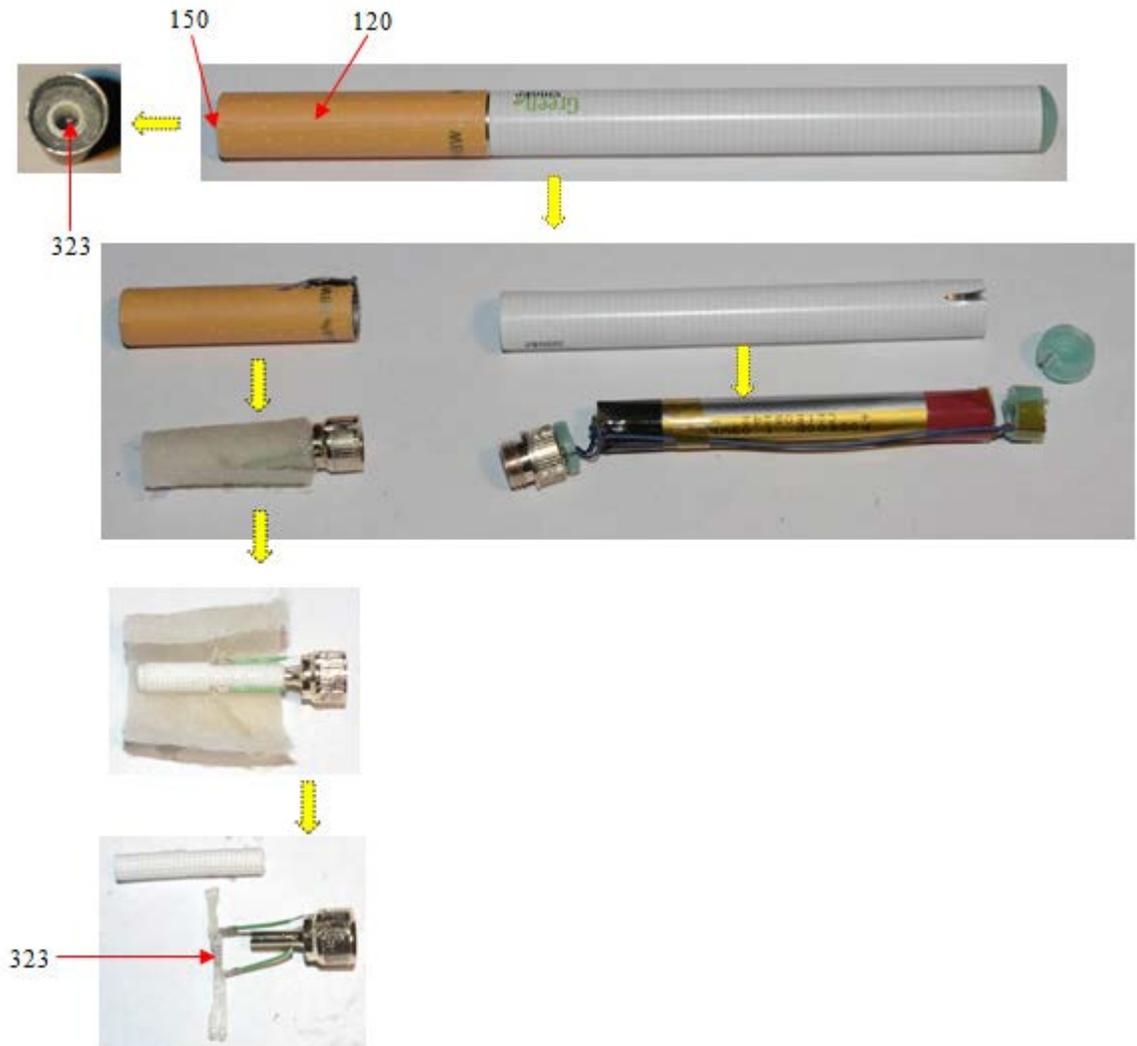
1            110. The GreenSmoke includes “a wire coil [323] electrically connectable  
2 to the battery [210] for atomizing liquid from the liquid storage component [330],  
3 with the wire coil [323] surrounded by the liquid storage component [330]” as  
4 recited in claim 1 of the '300 Patent.



1            111. The GreenSmoke includes “a channel extending centrally through the  
2 liquid storage component [330], with the wire coil [323] in the channel and having  
3 a diameter less than the channel” as recited in claim 1 of the '300 Patent.



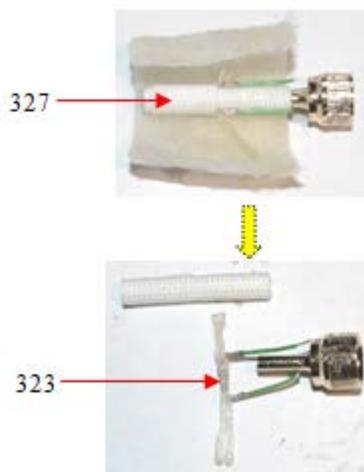
1           112. The GreenSmoke includes “the channel forming part of an airflow  
2 path within the housing [120] providing a continuous passageway from the wire  
3 coil [323] to an inhalation port [150], and the channel having a uniform diameter  
4 between the wire coil [323] and the inhalation port [150]” as recited in claim 1 of  
5 the '300 Patent.





1            115. As shown in the photographs of paragraph 116 below, the  
2 GreenSmoke meets every limitation recited in claim 3 of the '300 Patent as  
3 follows:

4            116. The GreenSmoke includes “the porous component [327] longer than  
5 the wire coil [323]” as recited in claim 3 of the '300 Patent.



17            117. As shown in the photographs of paragraph 118 below, the  
18 GreenSmoke meets every limitation recited in claim 4 of the '300 Patent as  
19 follows:

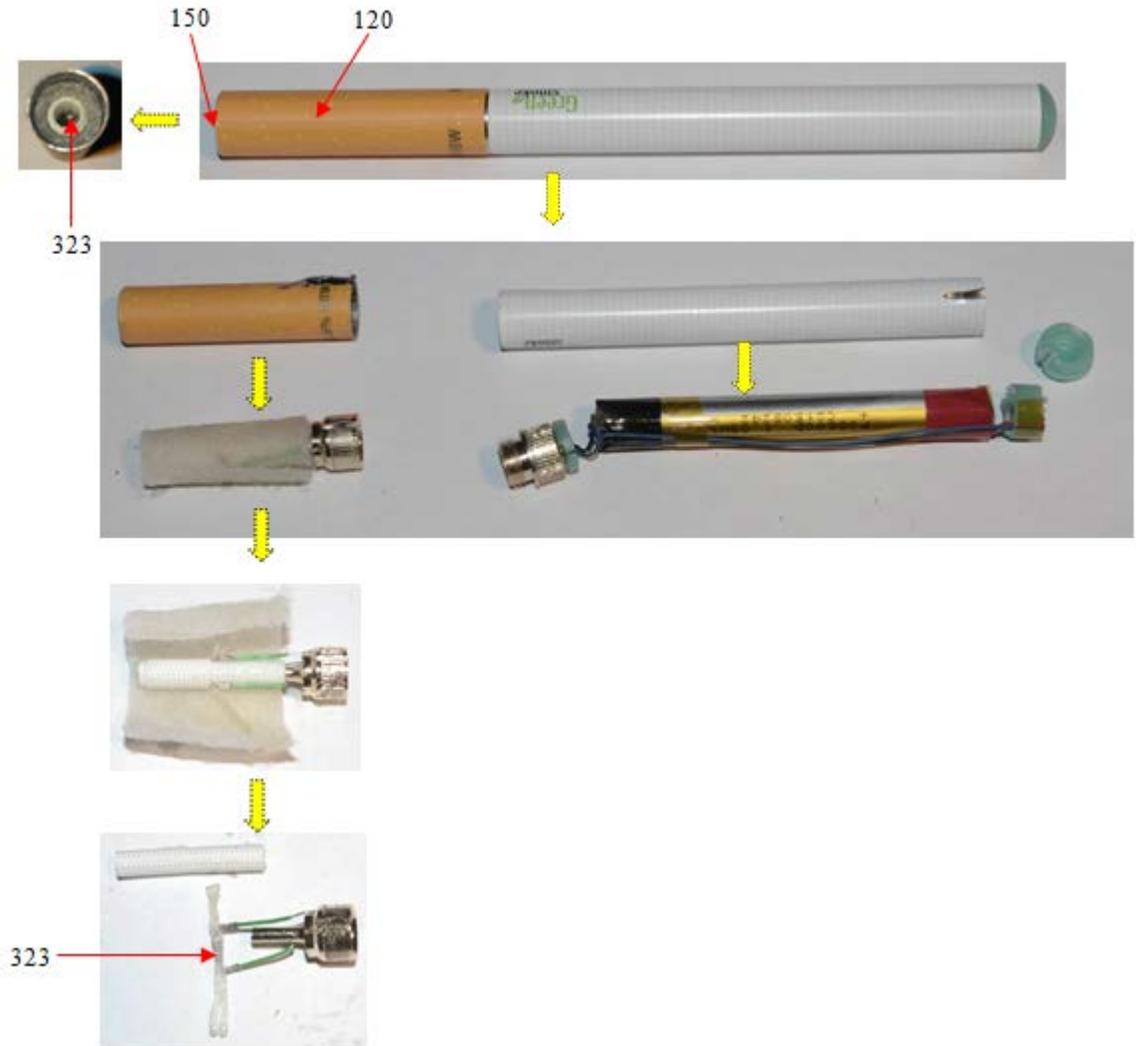
20            118. The GreenSmoke includes “the channel having internal surfaces [340]  
21 wetted via the liquid, for cooling vapor flowing through the channel” as recited in  
22 claim 4 of the '300 Patent.



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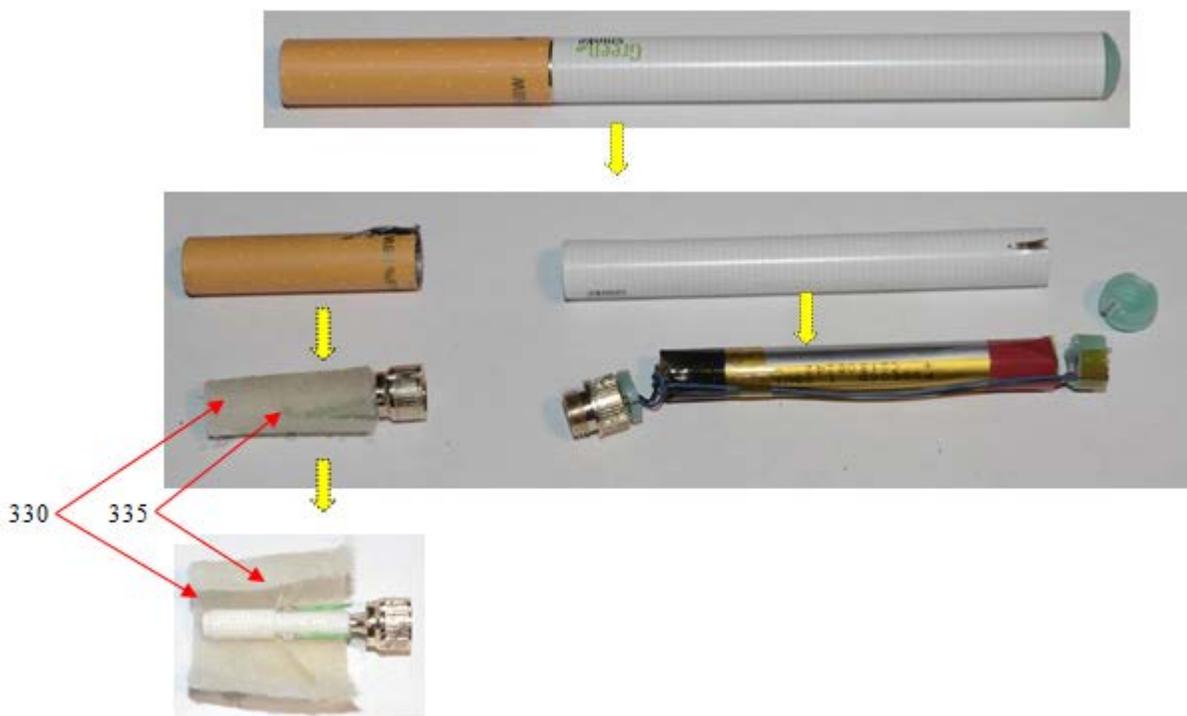
119. As shown in the photographs of paragraph 120 below, the GreenSmoke meets every limitation recited in claim 5 of the '300 Patent as follows:

120. The GreenSmoke includes “the airflow path centrally located within the housing [120]” as recited in claim 5 of the '300 Patent.



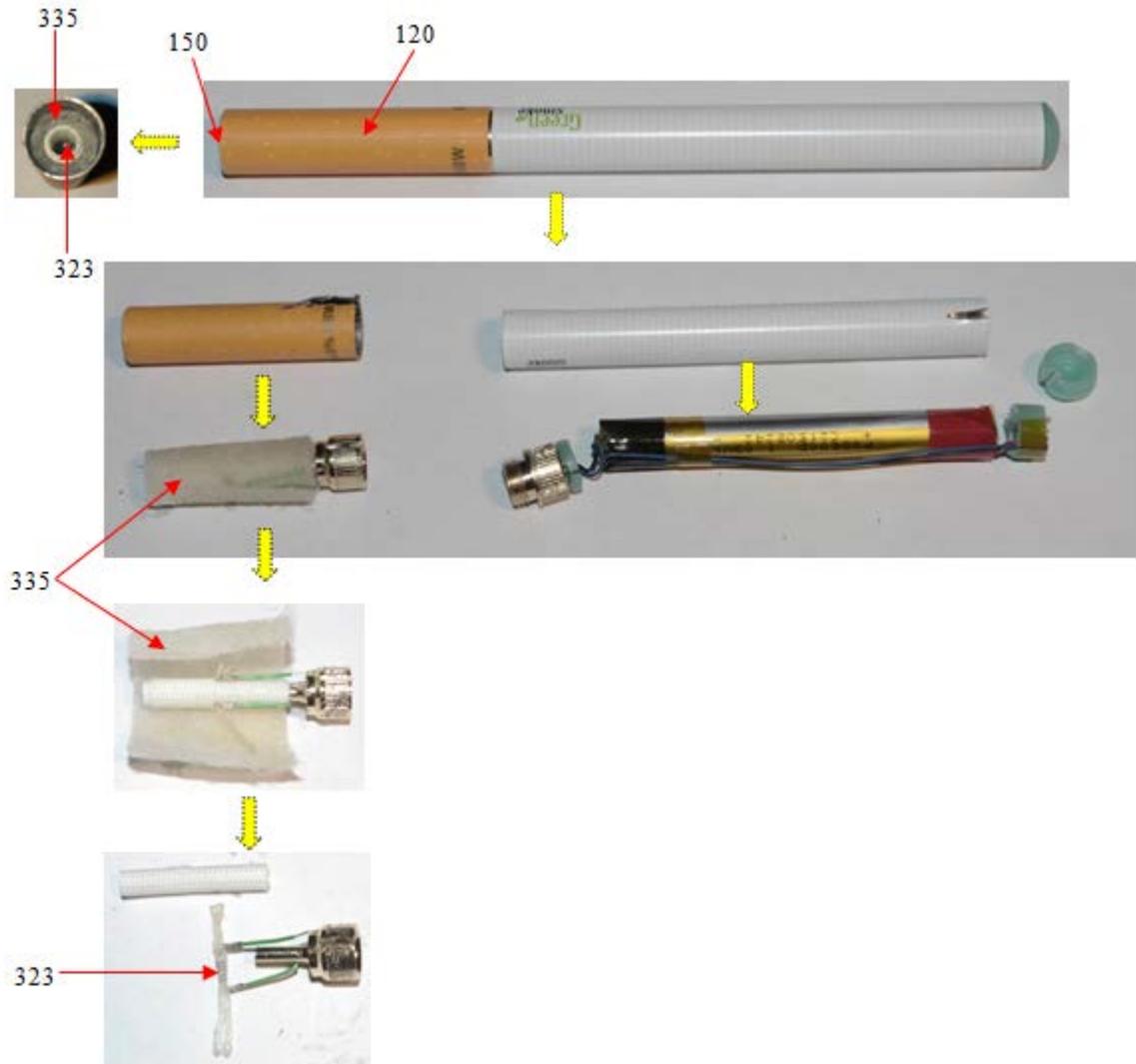
1            21. As shown in the photographs of paragraph 122 below, the  
2 GreenSmoke meets every limitation recited in claim 6 of the '300 Patent as  
3 follows:

4            122. The GreenSmoke includes “the liquid storage component [330]  
5 comprising a fiber material [335]” as recited in claim 6 of the '300 Patent.



1            123. As shown in the photographs of paragraph 124 below, the  
2 GreenSmoke meets every limitation recited in claim 7 of the '300 Patent as  
3 follows:

4            124. The GreenSmoke includes “the channel formed as an opening through  
5 the fiber material [335]” as recited in claim 7 of the '300 Patent.



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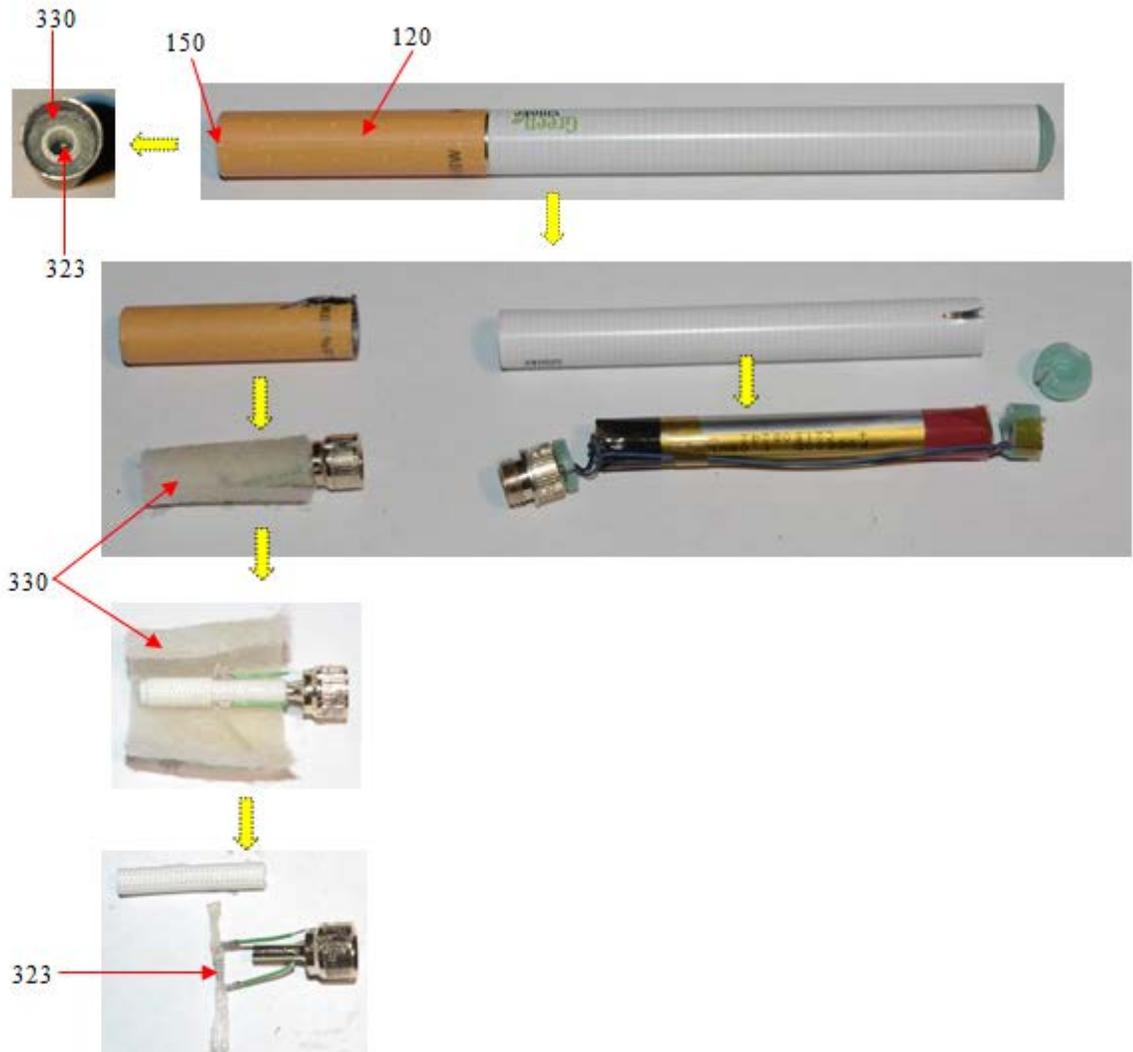
1            125. As shown in the photographs of paragraph 126 below, the  
2 GreenSmoke meets every limitation recited in claim 8 of the '300 Patent as  
3 follows:

4            126. The GreenSmoke includes “the liquid storage component [330]  
5 comprising a hollow elongated cylinder having an annular cross section co-axial  
6 with the channel” as recited in claim 8 of the '300 Patent.



1            127. As shown in the photographs of paragraph 128 below, the  
2 GreenSmoke meets every limitation recited in claim 9 of the '300 Patent as  
3 follows:

4            128. The GreenSmoke includes "the channel is cylindrical" as recited in  
5 claim 9 of the '300 Patent.



1 129. As shown in the photographs of paragraphs 130 through 134 below,  
2 the GreenSmoke meets every limitation recited in claim 10 of the '300 Patent as  
3 follows:

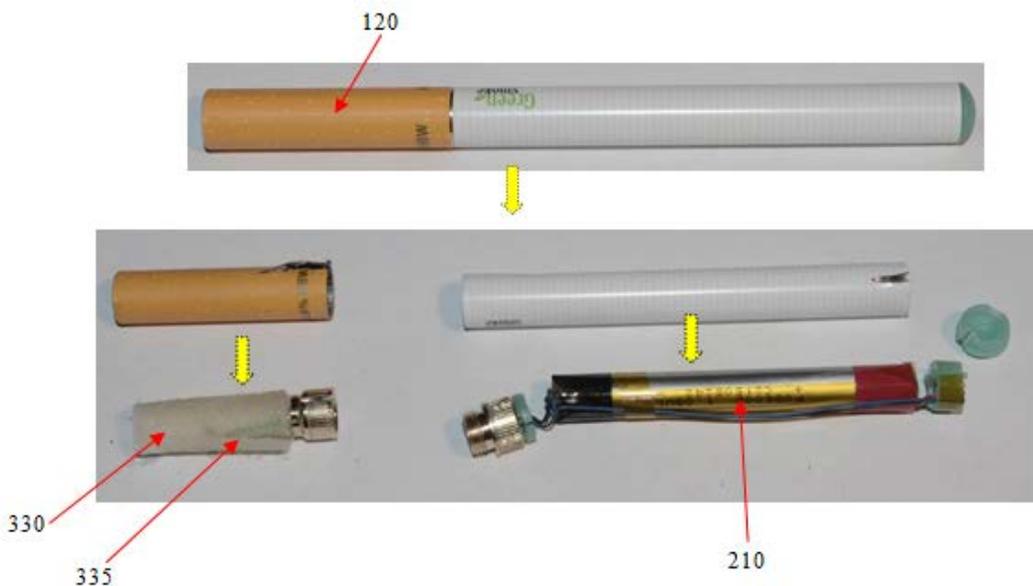
4 130. The GreenSmoke is an electronic cigarette as recited in claim 10 of the  
5 '300 Patent.



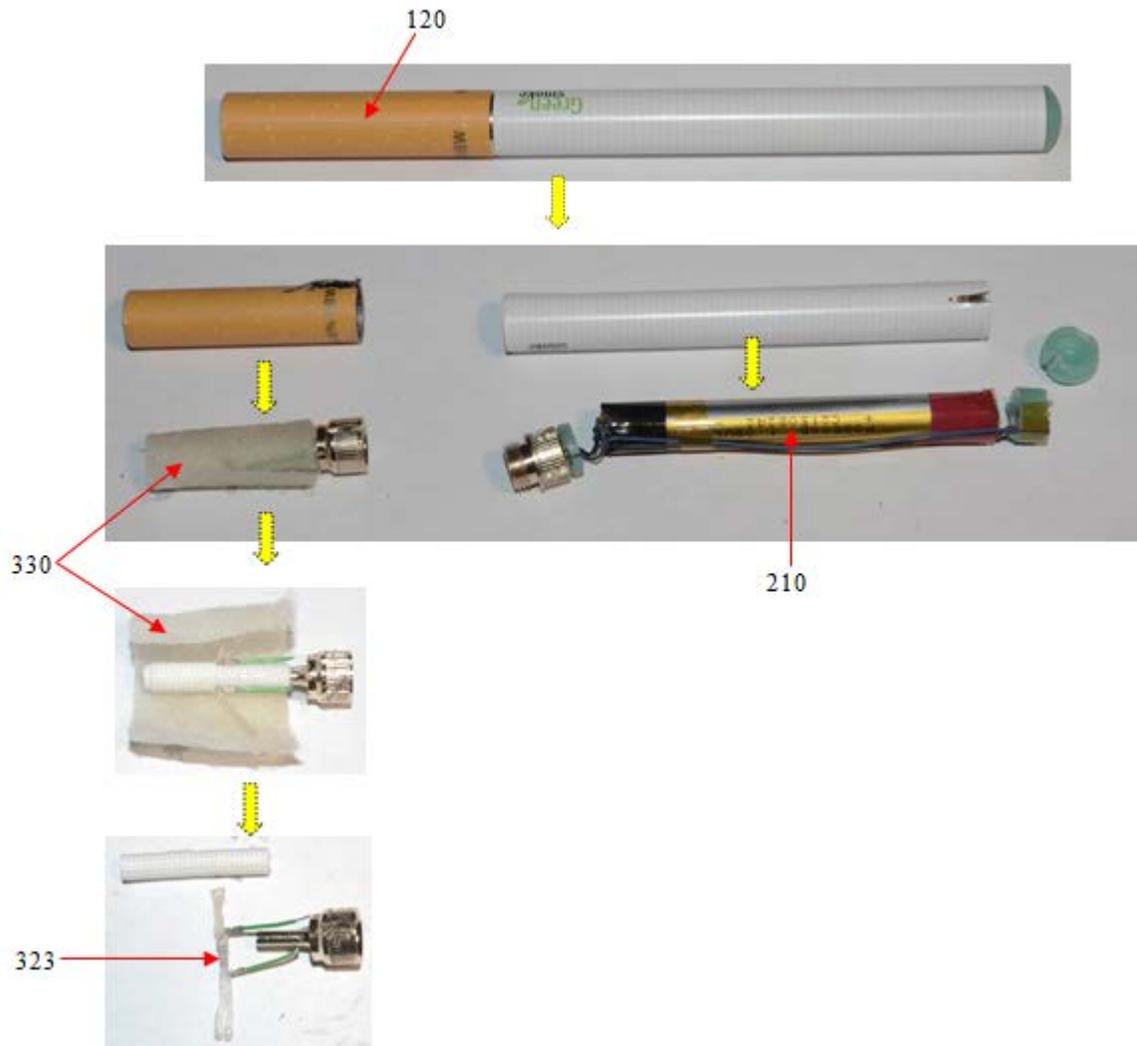
9 131. The GreenSmoke includes “a housing [120] having an inhalation port  
10 [150]” as recited in claim 10 of the '300 Patent.



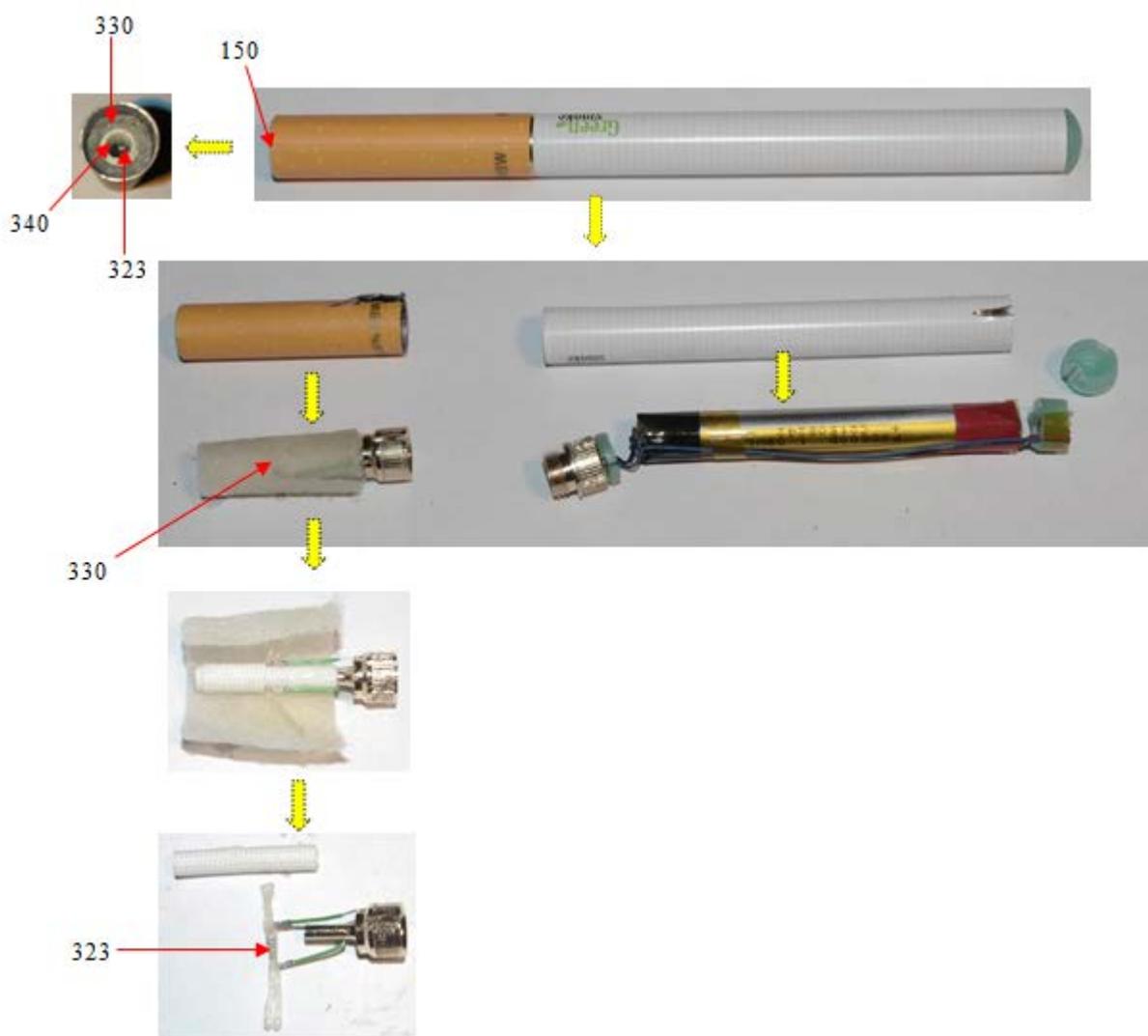
14  
15 132. The GreenSmoke includes “a battery [210] and a liquid storage  
16 component [330] within the housing [120], with the liquid storage component  
17 [330] comprising a fiber material [335] and holding a liquid” as recited in claim 10  
18 of the '300 Patent.



1           133. The GreenSmoke includes “an electric heater comprising a wire coil  
2 [323] in the housing [120] connectable to the battery [210] for creating vapor from  
3 liquid provided from the liquid storage component [330]” as recited in claim 10 of  
4 the '300 Patent.



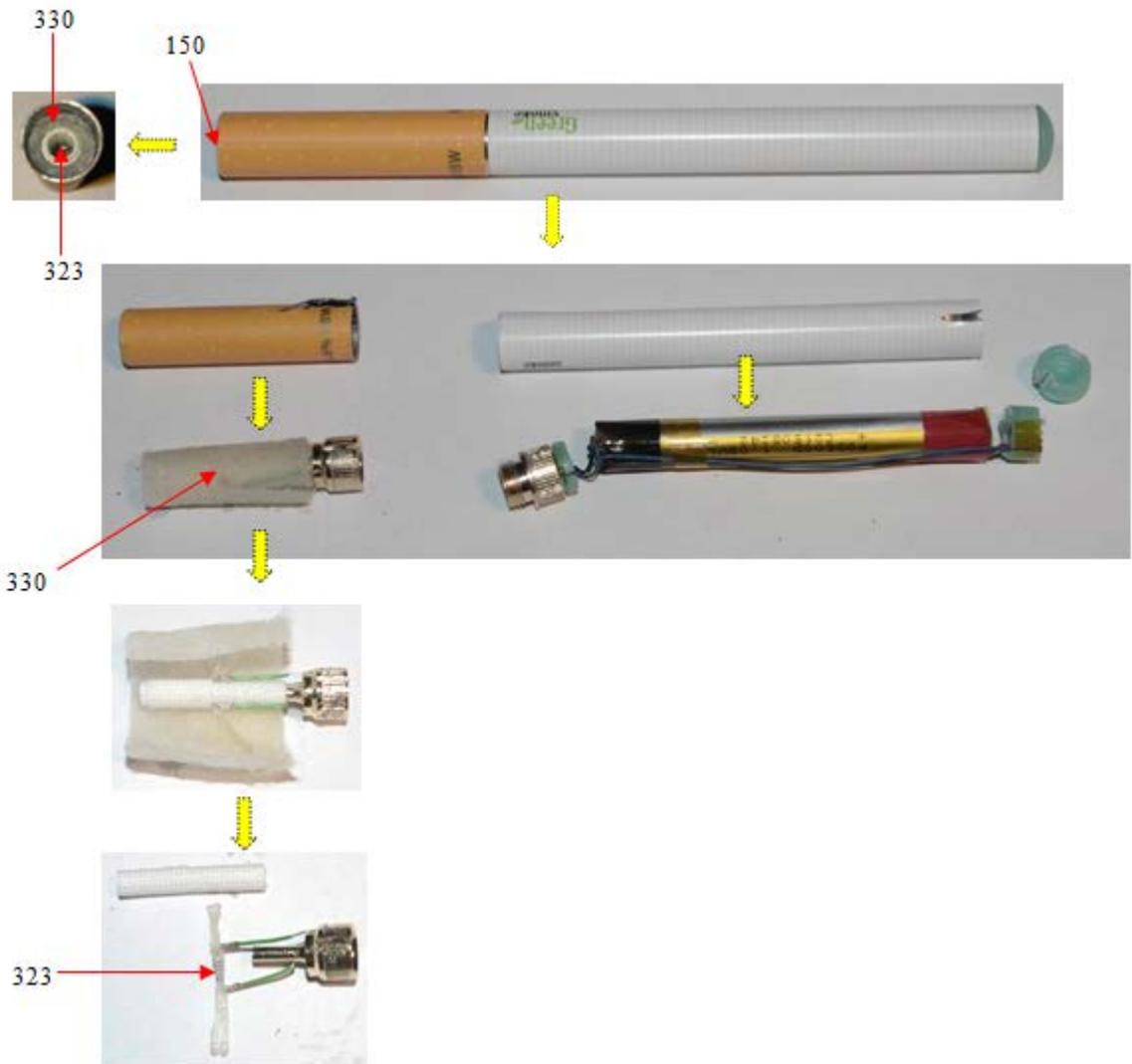
1           134. The GreenSmoke includes “an open cylindrical channel through the  
2 fiber material of the liquid storage component [330] from a first end of the liquid  
3 storage component [330] to a second end of the liquid storage component [330],  
4 the channel having surfaces [340] wetted via the liquid, and with the wire coil  
5 [323] in the channel and the wire coil [323] having a diameter less than the  
6 channel, and the channel providing a continuous passageway from the wire coil  
7 [323] to the inhalation port [150]” as recited in claim 10 of the '300 Patent.



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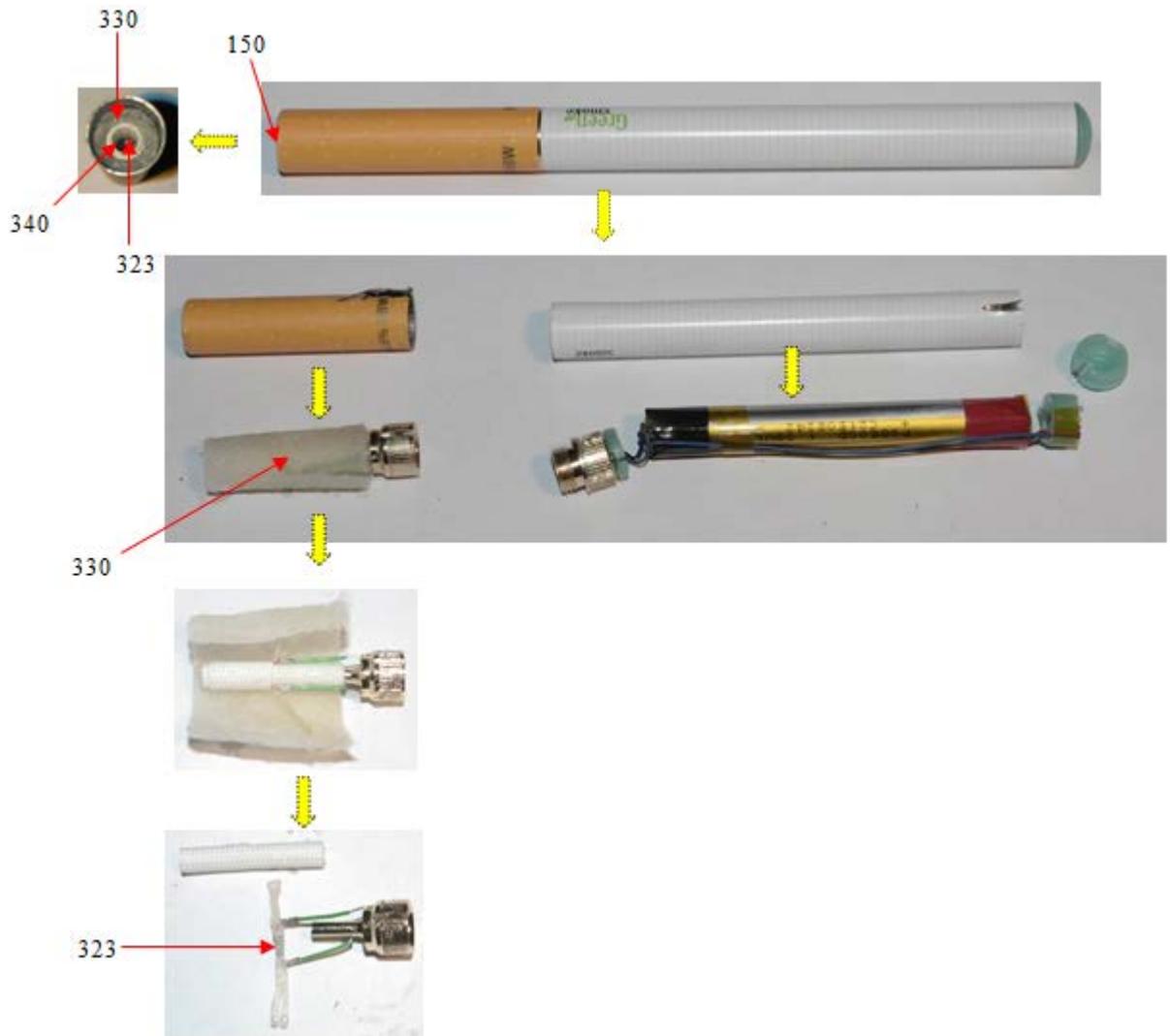
135. As shown in the photographs of paragraph 136 below, the GreenSmoke meets every limitation recited in claim 11 of the '300 Patent as follows:

136. The GreenSmoke includes “the channel having a uniform diameter between the wire coil [323] to the inhalation port [150]” as recited in claim 11 of the '300 Patent.



1           137. As shown in the photographs of paragraph 138 below, the  
2 GreenSmoke meets every limitation recited in claim 12 of the '300 Patent as  
3 follows:

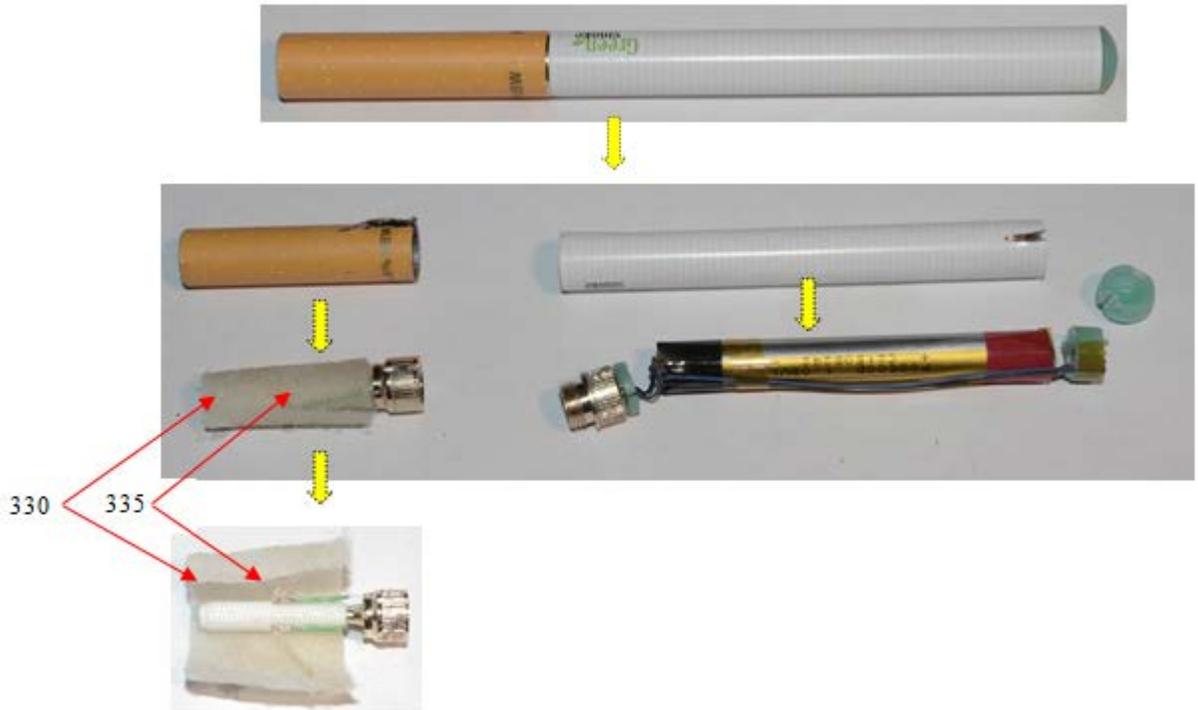
4           138. The GreenSmoke includes “the wetted internal surfaces [340] of the  
5 channel cooling vapor flowing through the channel” as recited in claim 12 of the  
6 '300 Patent.



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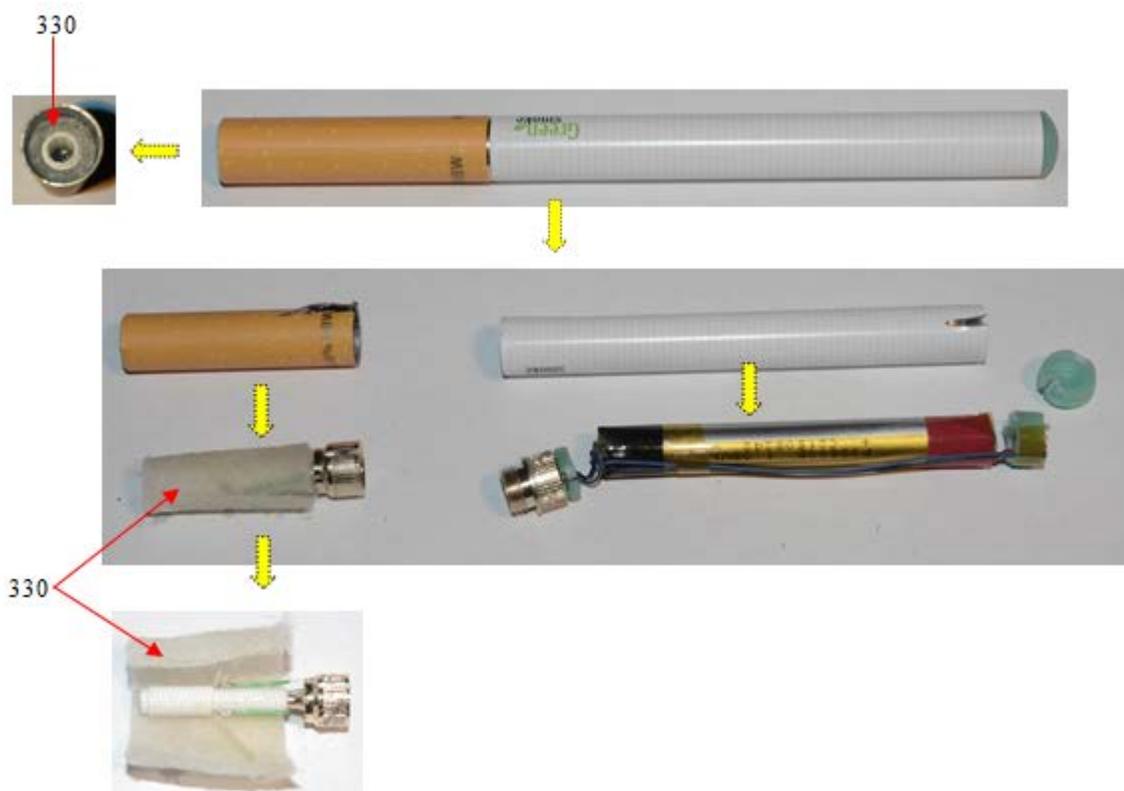
139. As shown in the photographs of paragraph 140 below, the GreenSmoke meets every limitation recited in claim 13 of the '300 Patent as follows:

140. The GreenSmoke includes "the liquid storage component [330] comprising a fiber material [335]" as recited in claim 13 of the '300 Patent.



1 141. As shown in the photographs of paragraph 142 below, the  
2 GreenSmoke meets every limitation recited in claim 14 of the '300 Patent as  
3 follows:

4 142. The GreenSmoke includes "the liquid storage component [330]  
5 comprising a hollow elongated cylinder having an annular cross section" as recited  
6 in claim 14 of the '300 Patent.



21 143. As shown in the photographs of paragraphs 144 through 148 below,  
22 the GreenSmoke meets every limitation recited in claim 15 of the '300 Patent as  
23 follows:

24 144. The GreenSmoke is an electronic cigarette as recited in claim 15 of the  
25 '300 Patent.

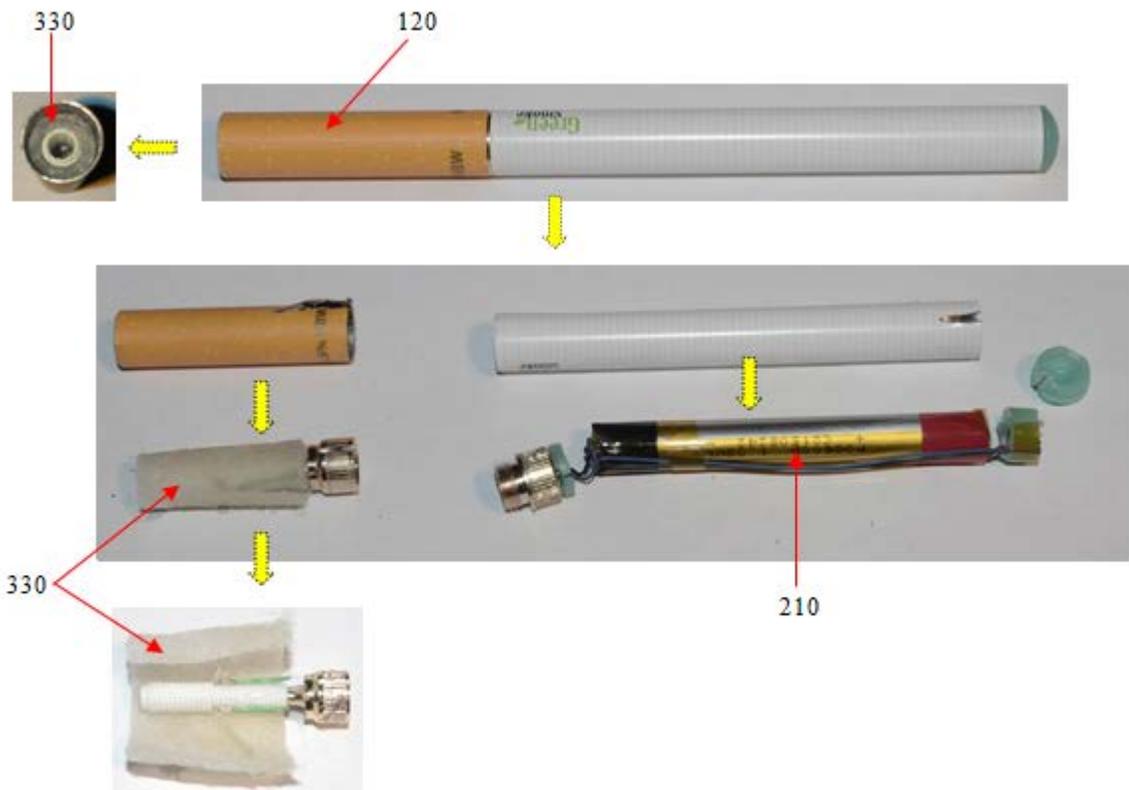


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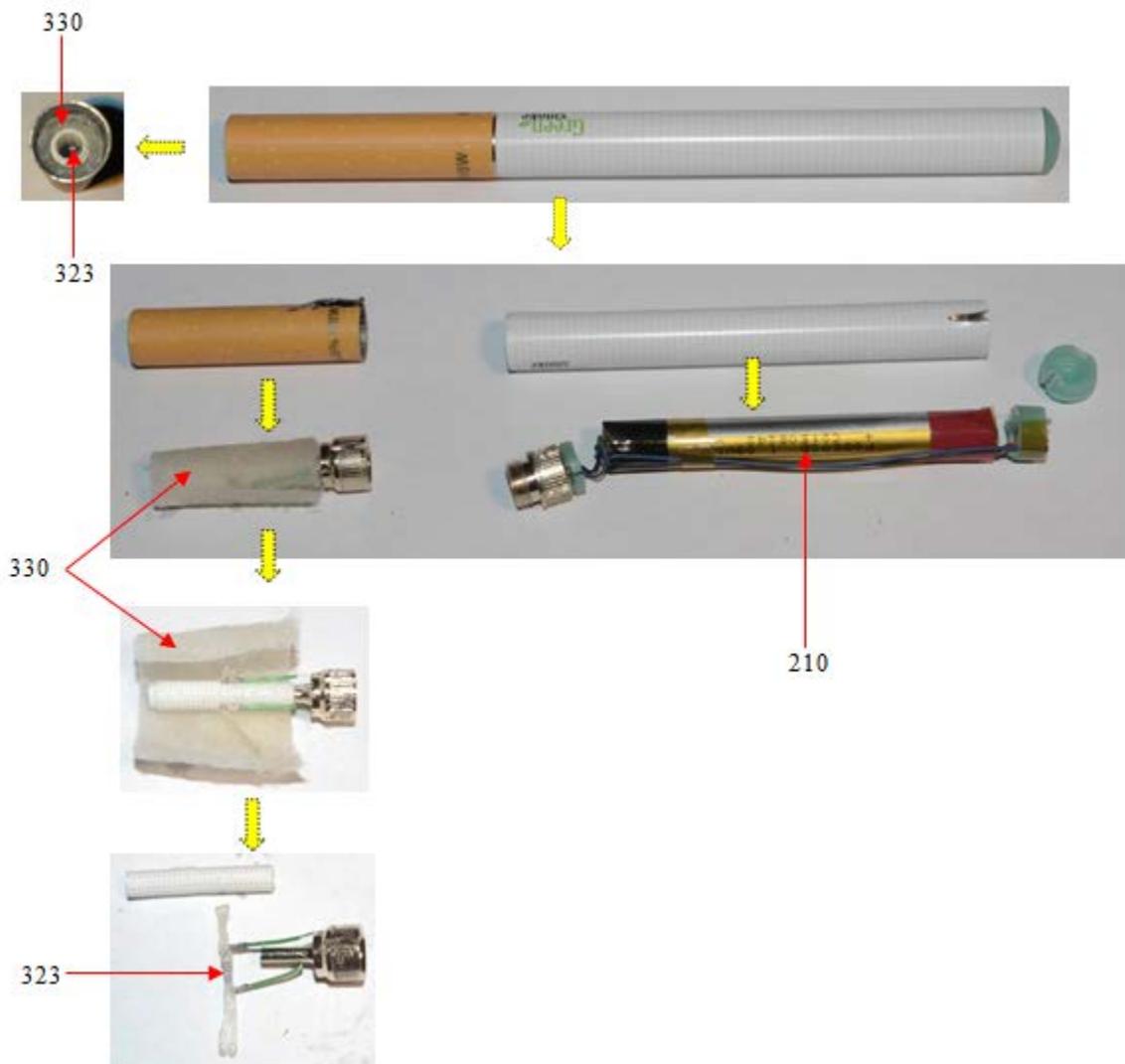
145. The GreenSmoke includes “a housing [120]” as recited in claim 15 of the '300 Patent.



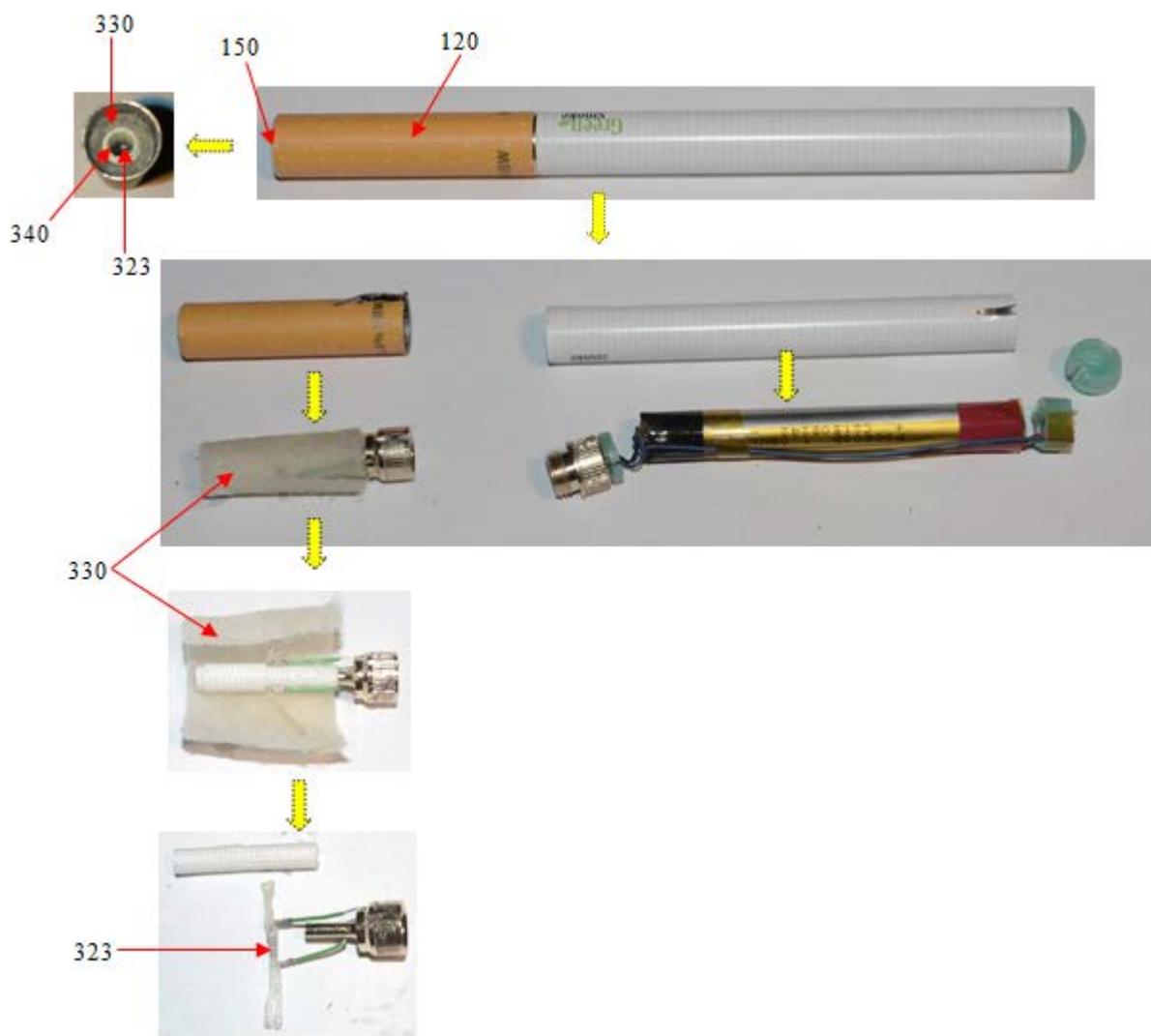
146. The GreenSmoke includes “a battery [210], and a liquid storage component [330] holding a liquid, within the housing [120], and the liquid storage component [330] comprising a hollow elongated cylinder having an annular cross section” as recited in claim 15 of the '300 Patent.



1           147. The GreenSmoke includes “a wire coil [323] electrically connected to  
2 the battery [210] for atomizing liquid from the liquid storage component [330],  
3 with the wire coil [323] surrounded by the liquid storage component [330]” as  
4 recited in claim 15 of the '300 Patent.

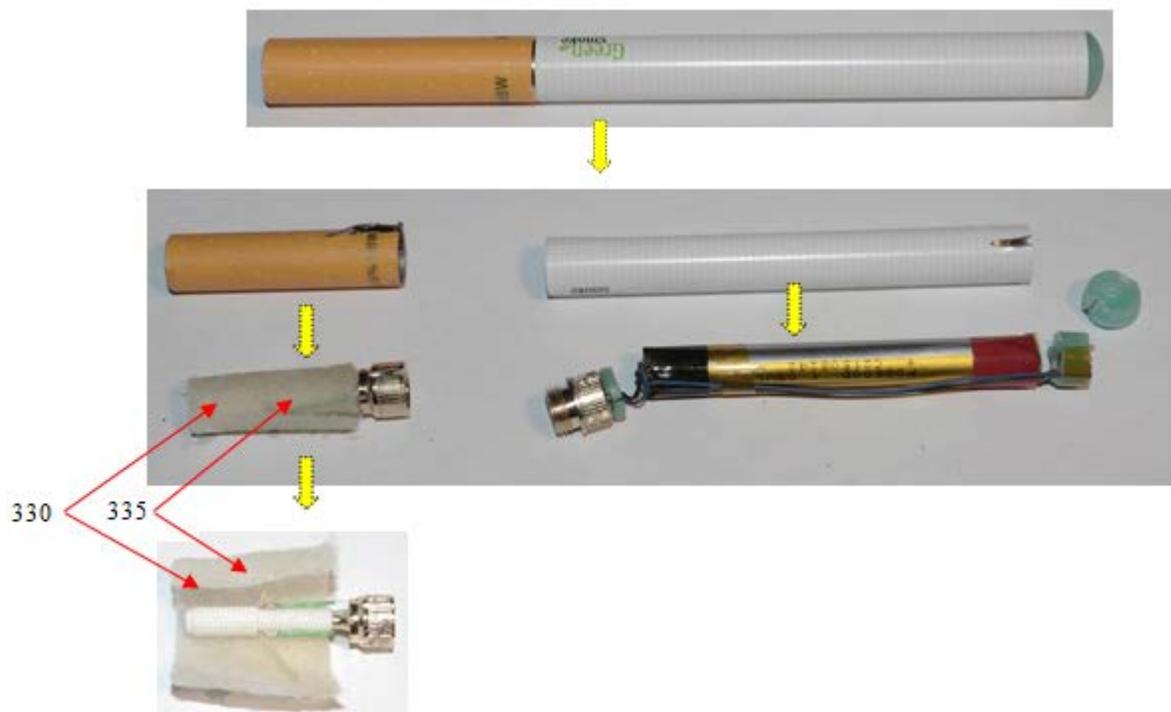


1           148. The GreenSmoke includes “a cylindrical central channel through the  
2 liquid storage component [330] having surfaces [340] wetted via the liquid, with  
3 the wire coil [323] in the channel and having a diameter less than the channel; and  
4 the channel forming part of an airflow path within the housing [120], and the  
5 channel providing a continuous and open passageway from the wire coil [323] to  
6 an inhalation port [150], and the channel having a uniform diameter between the  
7 wire coil [323] and the inhalation port [150]” as recited in claim 15 of the '300  
8 Patent.



1            149. As shown in the photographs of paragraph 150 below, the  
2 GreenSmoke meets every limitation recited in claim 16 of the '300 Patent as  
3 follows:

4            150. The GreenSmoke includes “the liquid storage component [330]  
5 comprising a fiber material [335]” as recited in claim 16 of the '300 Patent.



20            151. Defendant has also contributed to the infringement of the '300 Patent  
21 in violation of 35 U.S.C. § 271(c) by, itself and/or through its agents, contributing  
22 to the direct infringement of the '300 Patent by its customers by unlawfully and  
23 wrongfully making, using, importing, offering to sell, and/or selling electronic  
24 cigarette components having no substantially non-infringing use, which, when  
25 used by its customers, result in direct infringement of the '300 Patent, in this  
26 judicial district and within, from and/or into the United States without permission  
27 or license from Plaintiffs, and will continue to do so unless enjoined by this Court.

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1           152. Examples of electronic cigarette components that have no substantial  
2 noninfringing uses and that contribute to the direct infringement of the '300 Patent  
3 include, but are not limited to, the MarkTen Products, MarkTenXL Products, and  
4 GreenSmoke Products.

5           153. Having knowledge of the '300 Patent, at least as of the filing of this  
6 Complaint, Defendant is aware that the purchase and use of the MarkTen Products,  
7 MarkTenXL Products, and GreenSmoke Products and components of the MarkTen  
8 Products, MarkTenXL Products, and GreenSmoke Products by Defendant's  
9 customers results in direct infringement of the '300 Patent.

10           154. Defendant instructs users on how to use the MarkTen Products,  
11 MarkTenXL Products, and GreenSmoke Products.<sup>1</sup>

12           155. Defendant instructs users to use a replacement MarkTen or  
13 MarkTenXL Cartridge when a MarkTen or MarkTenXL Cartridge is depleted, or  
14 to use a replacement MarkTen or MarkTenXL Battery when a MarkTen or  
15 MarkTenXL Battery is depleted.

16           156. Defendant further instructs users that "MarkTen® e-vapor products are  
17 designed to work together[,]” and that “[u]sing MarkTen® e-vapor products with  
18 non-MarkTen® e-vapor products may be unsafe, and is not advised.”<sup>2</sup>

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22           <sup>1</sup> See, e.g., MarkTen® Product Information Guide,  
23 [https://www.markten.com/skin/frontend/markten/default/uploads/current-gen-](https://www.markten.com/skin/frontend/markten/default/uploads/current-gen-product-info-guide.pdf)  
24 [product-info-guide.pdf](https://www.markten.com/skin/frontend/markten/default/uploads/current-gen-product-info-guide.pdf) (last visited June 22, 2016) (Exhibit I); MarkTen®XL  
25 [Product Information Guide,](https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf)  
26 [https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-](https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf)  
27 [guide.pdf](https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf) (last visited June 22, 2016) (Exhibit J); How to Use Your E-Cig Kit,  
28 <https://www.greensmoke.com/ecig-info/how-to-use-your-e-cig-starter-kit.html> (last  
visited June 22, 2016) (Exhibit K).

<sup>2</sup> Why do I have to use your cartridges only with your batteries, and  
your batteries only with your cartridges? <https://www.markten.com/faq> (last visited  
June 22, 2016) (Exhibit L).

1           157. Defendant further instructs that “[c]ustomers should note that using  
2 MarkTen® e-vapor products with another brand's e-vapor products will invalidate  
3 the warranty.”<sup>3</sup>

4           158. Defendant instructs users to use a replacement GreenSmoke Cartridge  
5 when a GreenSmoke Cartridge is depleted, or to use a replacement GreenSmoke  
6 Battery when a GreenSmoke Battery is depleted.<sup>4</sup>

7           159. As such, Defendant knows that the MarkTen, MarkTenXL, and  
8 GreenSmoke Products and components of the MarkTen, MarkTenXL, and  
9 GreenSmoke Products, including, but not limited to, the MarkTen, MarkTenXL,  
10 and GreenSmoke Cartridge, and MarkTen, MarkTenXL, and GreenSmoke Battery  
11 when sold separately, have no substantial non-infringing uses other than to provide  
12 users with the ability to assemble and use an electronic cigarette that infringes the  
13 ’300 Patent, and, therefore, that they are especially made or adapted for use in  
14 infringement of the ’300 Patent.

15           160. As a direct and proximate result of the foregoing acts of Defendant,  
16 Plaintiffs have suffered, and are entitled to, monetary damages in an amount not  
17 yet determined, which include but are not limited to, lost profits on the infringing  
18 sales Plaintiffs may have made and reasonable royalties on sales not made.  
19 Plaintiffs are also entitled to their costs of suit and interest.

20           161. Defendant’s continuing infringement has inflicted and, unless  
21 restrained by this Court, will continue to inflict irreparable harm upon Plaintiffs,  
22 such as reduction of Plaintiffs’ proper market share and deprivation of Plaintiffs’  
23 rights to exclude others. Plaintiffs have no adequate remedy at law. Plaintiffs are  
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25  
26           <sup>3</sup> *Id.*

27           <sup>4</sup> *See, e.g.,* How Do Green Smoke® E-Cigarettes Work?  
28 <https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html> (last  
visited June 22, 2016) (Exhibit M).

1 entitled to injunctive relief enjoining Defendant from engaging in further acts of  
2 infringement.

3 **SECOND CLAIM FOR RELIEF**

4 (Infringement of U.S. Patent No. 9,326,548)

5 162. Plaintiffs incorporate by reference the allegations contained in  
6 paragraphs 1–161 above.

7 163. Fontem Holdings is the owner of the entire right, title, and interest in  
8 and to United States Patent No. 9,326,548 (“the ’548 Patent”) (Exhibit B). Fontem  
9 Holdings has granted Fontem Ventures an exclusive license to the ’548 Patent,  
10 including the right to sublicense the ’548 Patent. The ’548 Patent was duly and  
11 legally issued by the USPTO on May 3, 2016, and is valid, subsisting, and in full  
12 force and effect.

13 164. Defendant has directly infringed the ’548 Patent in violation of 35  
14 U.S.C. § 271(a) by, itself and/or through its agents, unlawfully and wrongfully  
15 making, using, importing, offering to sell, and/or selling electronic cigarette  
16 products embodying one or more of the inventions claimed in the ’548 Patent, in  
17 this judicial district and within, from and/or into the United States without  
18 permission or license from Plaintiffs, and will continue to do so unless enjoined by  
19 this Court.

20 165. Examples of electronic cigarette products that directly infringe the  
21 ’548 Patent include, but are not limited to, the MarkTen Products, MarkTenXL  
22 Products, and GreenSmoke Products.

23 166. The MarkTen Products, MarkTenXL Products, and GreenSmoke  
24 Products infringe the ’548 Patent both literally and/or under the doctrine of  
25 equivalents.

26 167. The MarkTen Products infringe at least claims 1–2, 5–9, and 11–13 of  
27 the ’548 Patent.  
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1           168. The MarkTenXL Products and GreenSmoke Products infringe at least  
2 claims 1–14 of the '548 Patent.

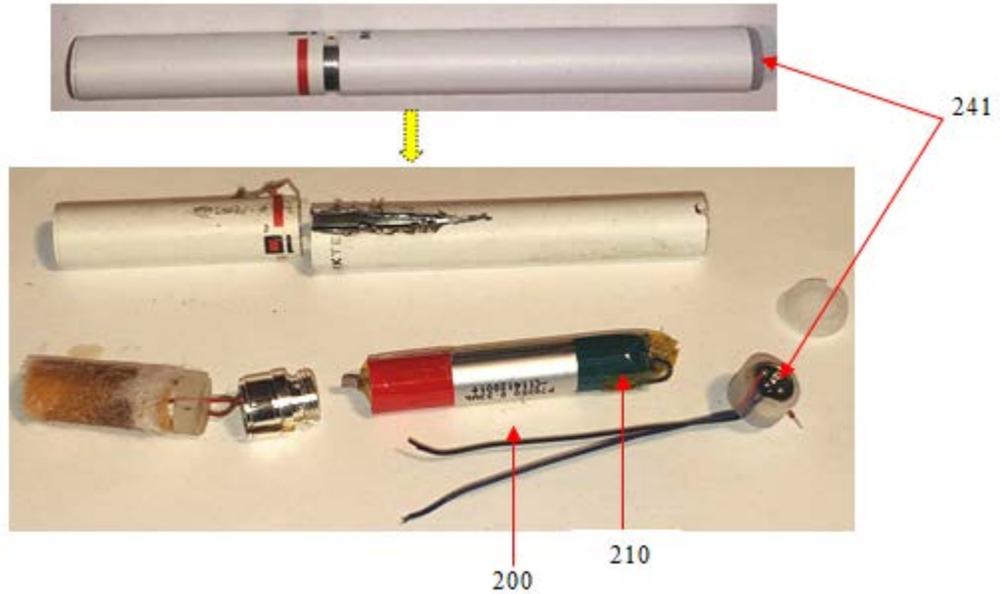
3           **MarkTen**

4           169. As shown in the photographs of paragraphs 170 through 177 below,  
5 the MarkTen meets every limitation recited in claim 1 of the '548 Patent.

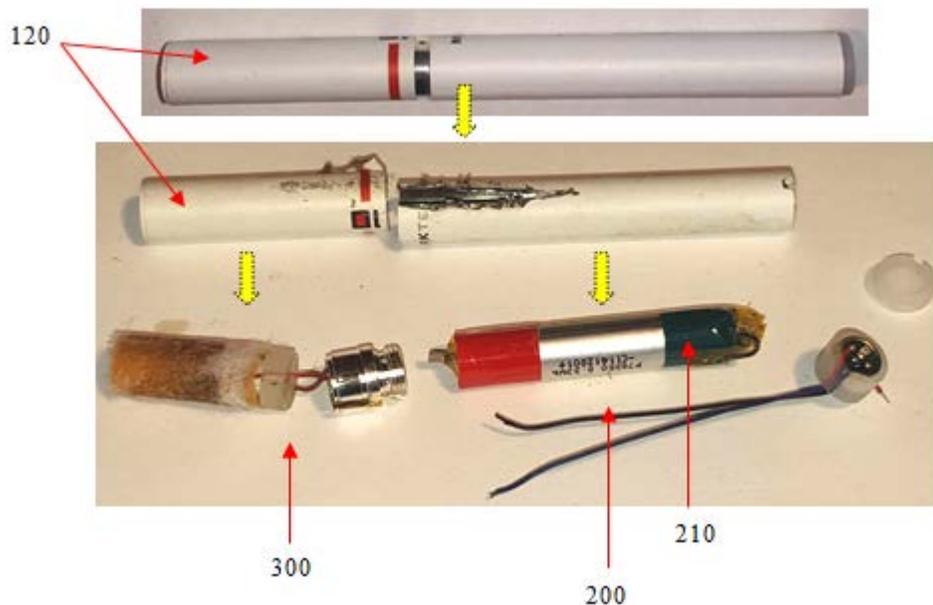
6           170. The MarkTen is an electronic cigarette as recited in claim 1 of the '548  
7 Patent.



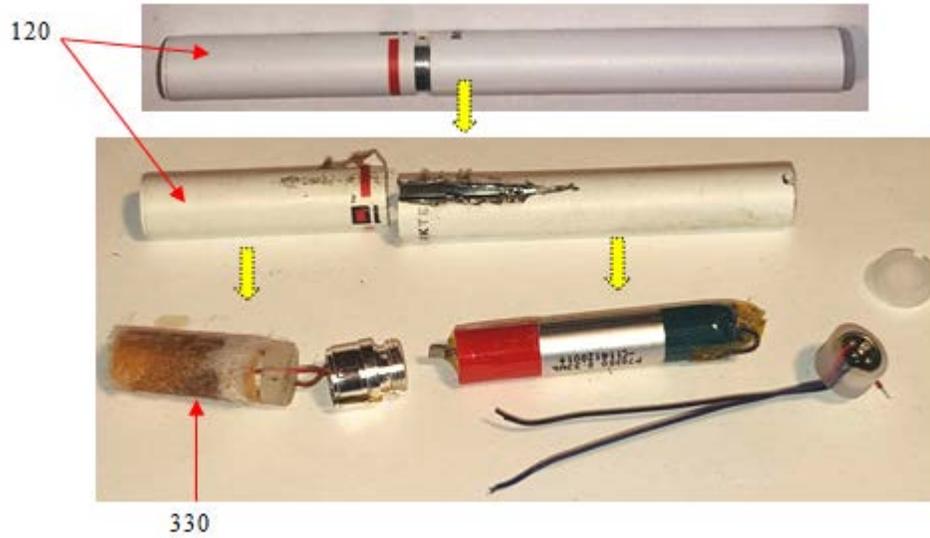
1 171. The MarkTen includes “a battery assembly [200] having a cylindrical  
2 battery [210] and an operating indicator [241]” as recited in claim 1 of the ’548  
3 Patent.



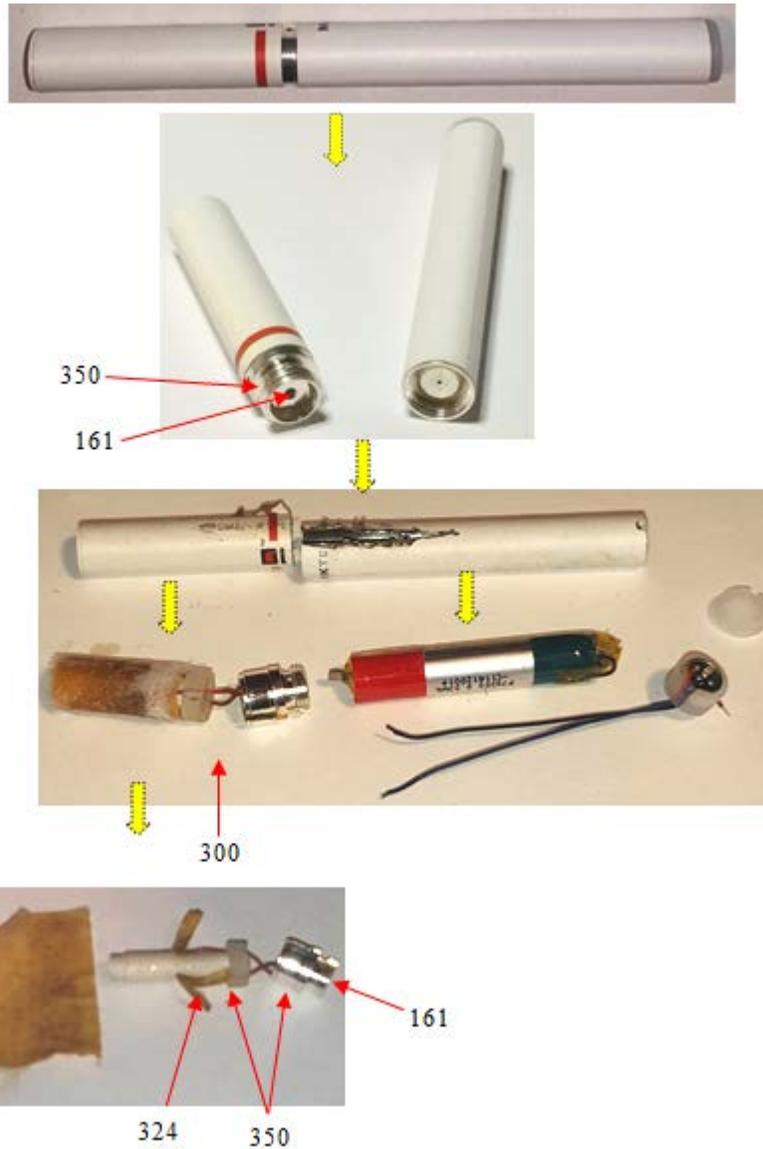
15 172. The MarkTen includes “an atomizer assembly [300] in an elongated  
16 cylindrical housing [120], with the battery assembly [200] electrically connected to  
17 the atomizer assembly [300], and with the cylindrical battery [210] coaxial with  
18 the atomizer assembly [300]” as recited in claim 1 of the ’548 Patent.



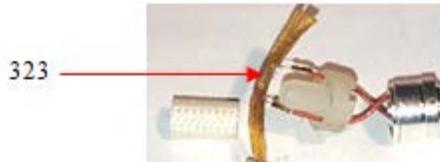
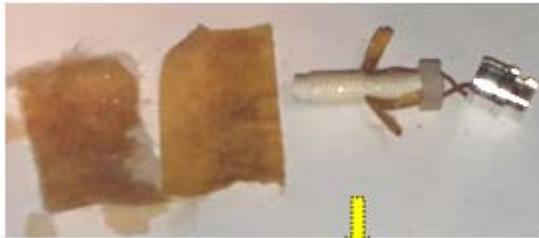
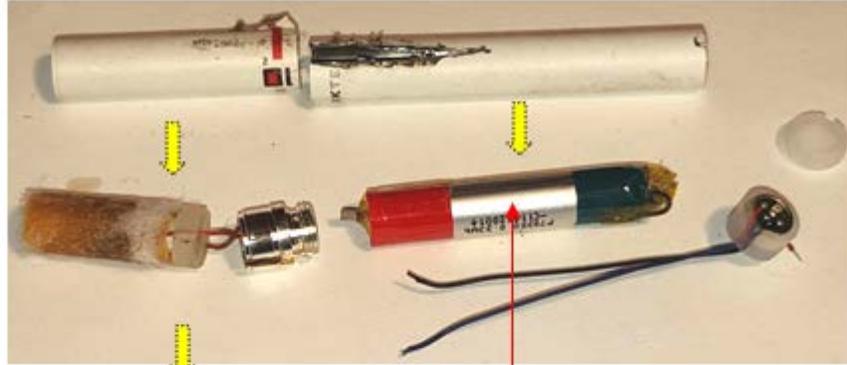
1            173. The MarkTen includes “a liquid storage component [330] in the  
2 housing [120]” as recited in claim 1 of the ’548 Patent.  
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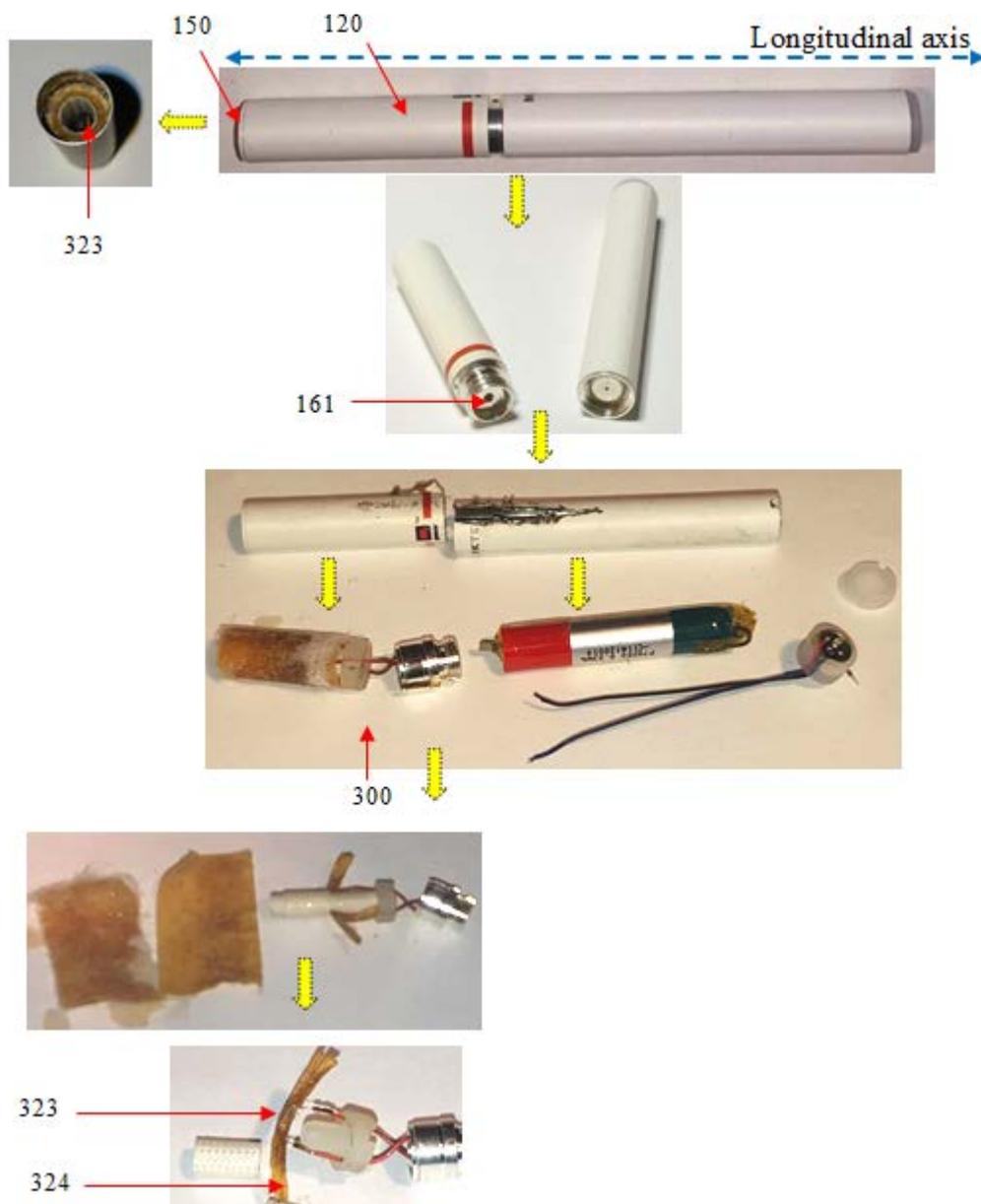
1           174. The MarkTen includes “the atomizer assembly [300] including a  
2 porous component [324] set on a frame [350] having a run-through hole [161]” as  
3 recited in claim 1 of the ’548 Patent.  
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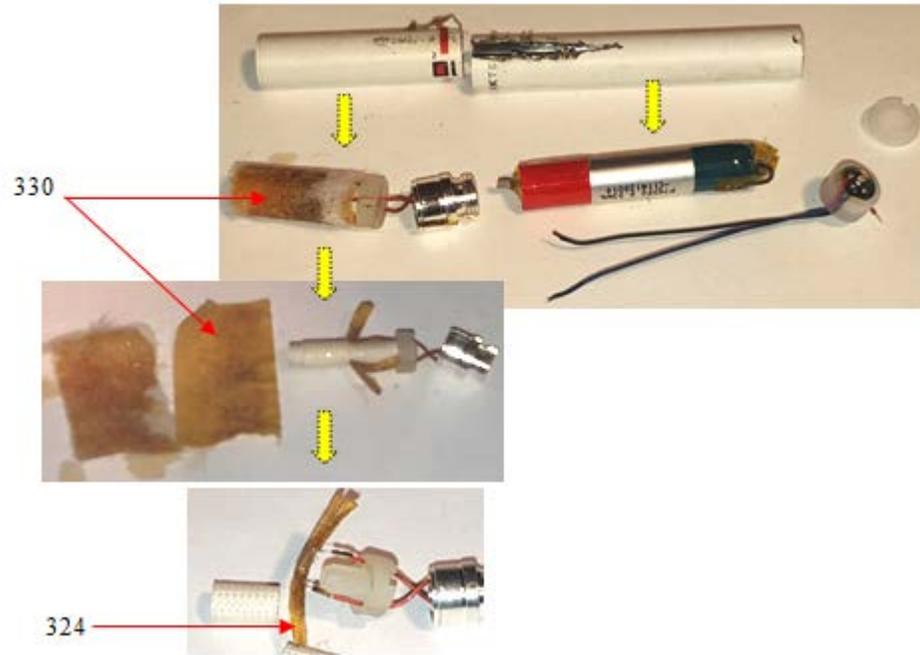
1           175. The MarkTen includes “a heating wire coil [323] electrically  
2 connected to the battery [210]” as recited in claim 1 of the ’548 Patent.  
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1           176. The MarkTen includes “an air flow path in the atomizer assembly  
2 [300] parallel to a longitudinal axis of the housing [120], with the air flow path  
3 through the run-through hole [161] to an outlet [150], with the heating wire coil  
4 [323] wound on the porous component [324] and in the air flow path and with the  
5 heating wire coil [323] oriented perpendicular to the longitudinal axis” as recited  
6 in claim 1 of the '548 Patent.

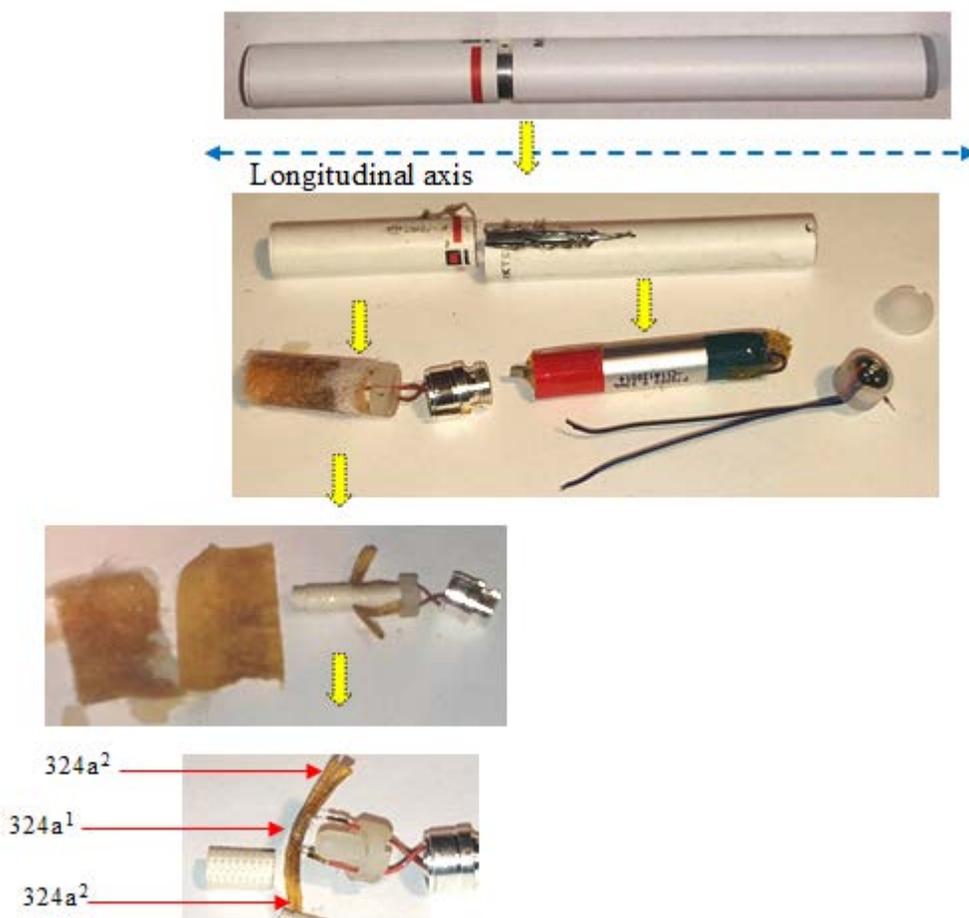


1           177. The MarkTen includes “the porous component [324] in contact with  
2 the liquid storage component [330]” as recited in claim 1 of the ’548 Patent.  
3



1 178. As shown in the photographs of paragraph 179 below, the MarkTen  
2 meets every limitation recited in claim 2 of the '548 Patent as follows:

3 179. The MarkTen includes “the porous component [324] having a first  
4 section [324a<sup>1</sup>] perpendicular to the longitudinal axis and having a second section  
5 [324a<sup>2</sup>] parallel to the longitudinal axis<sup>5</sup>” as recited in claim 2 of the '548 Patent.



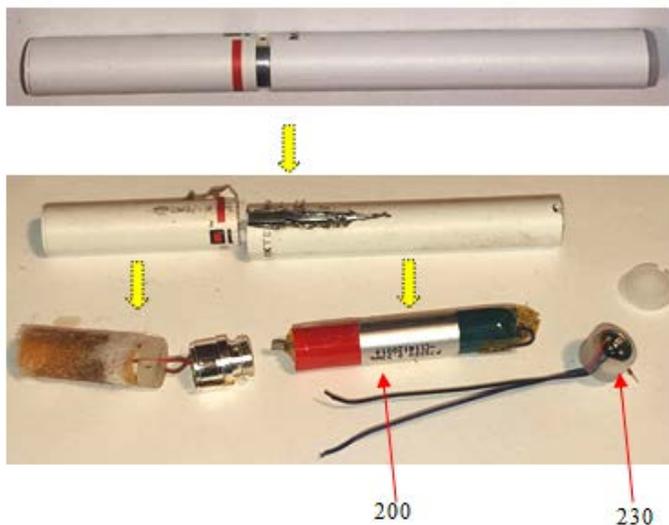
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<sup>5</sup> The second section of the porous component [324a<sup>2</sup>] is parallel to the longitudinal axis of the housing [120] in the assembled product.

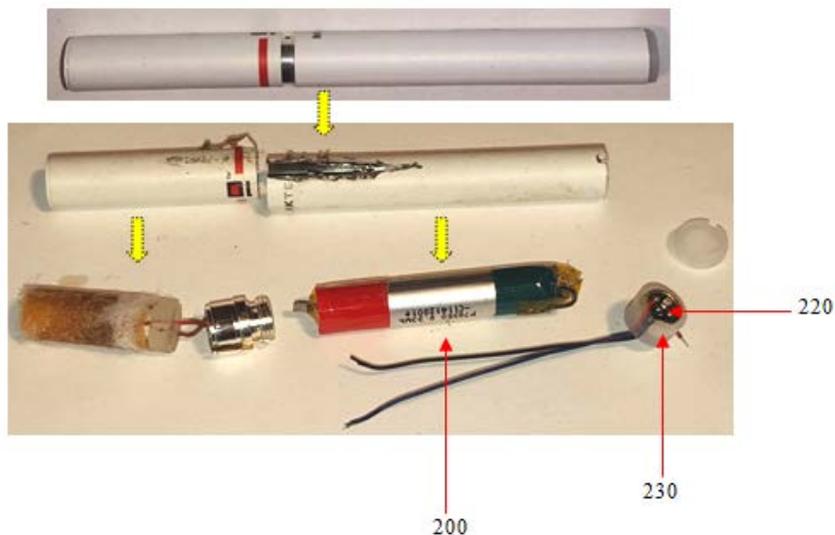
1 180. As shown in the photographs of paragraph 181 below, the MarkTen  
2 meets every limitation recited in claim 5 of the '548 Patent as follows:

3 181. The MarkTen includes "the battery assembly [200] further including  
4 an air flow sensor [230]" as recited in claim 5 of the '548 Patent.



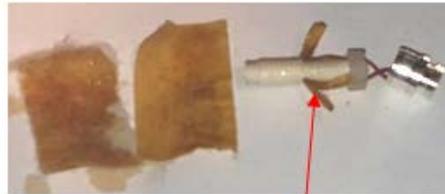
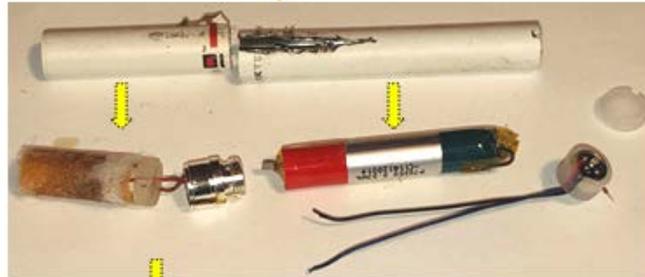
15 182. As shown in the photographs of paragraph 183 below, the MarkTen  
16 meets every limitation recited in claim 6 of the '548 Patent as follows:

17 183. The MarkTen includes "the battery assembly [200] further comprising  
18 an electronic circuit board [220] electrically connected to the air flow sensor  
19 [230]" as recited in claim 6 of the '548 Patent.



1           184. As shown in the photographs of paragraph 185 below, the MarkTen  
2 meets every limitation recited in claim 7 of the '548 Patent as follows:

3           185. The MarkTen includes “wherein the porous component [324] is  
4 cylindrical” as recited in claim 7 of the '548 Patent.



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1 186. As shown in the photographs of paragraphs 187 through 193 below,  
2 the MarkTen meets every limitation recited in claim 8 of the '548 Patent as  
3 follows:

4 187. The MarkTen is an electronic cigarette as recited in claim 8 of the '548  
5 Patent.



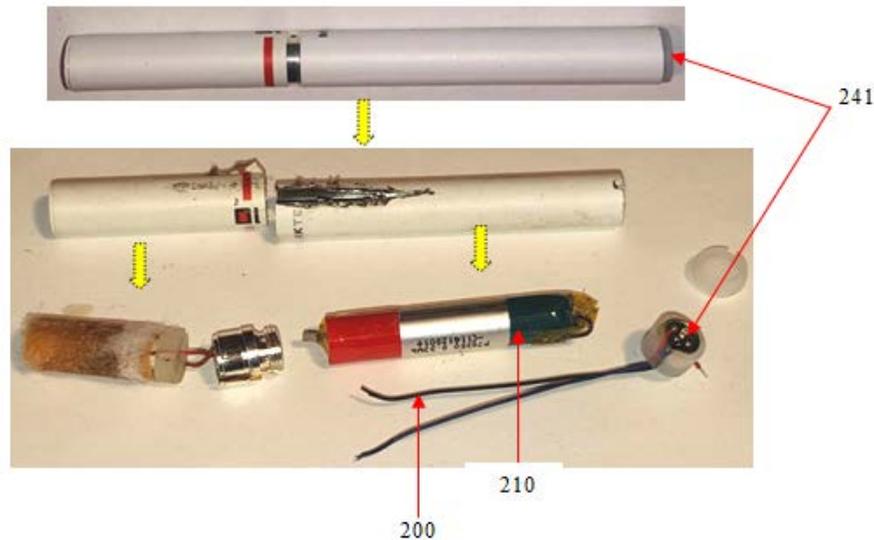
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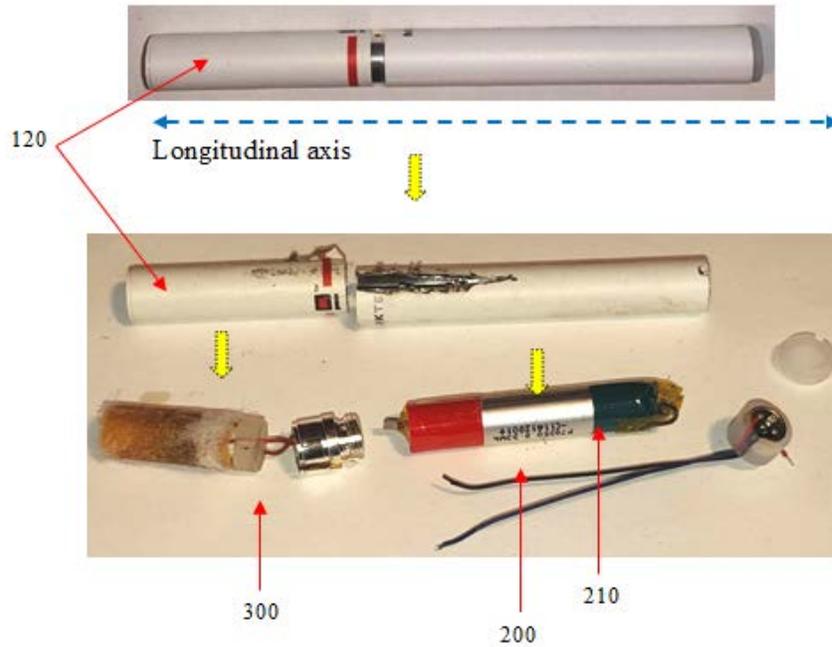
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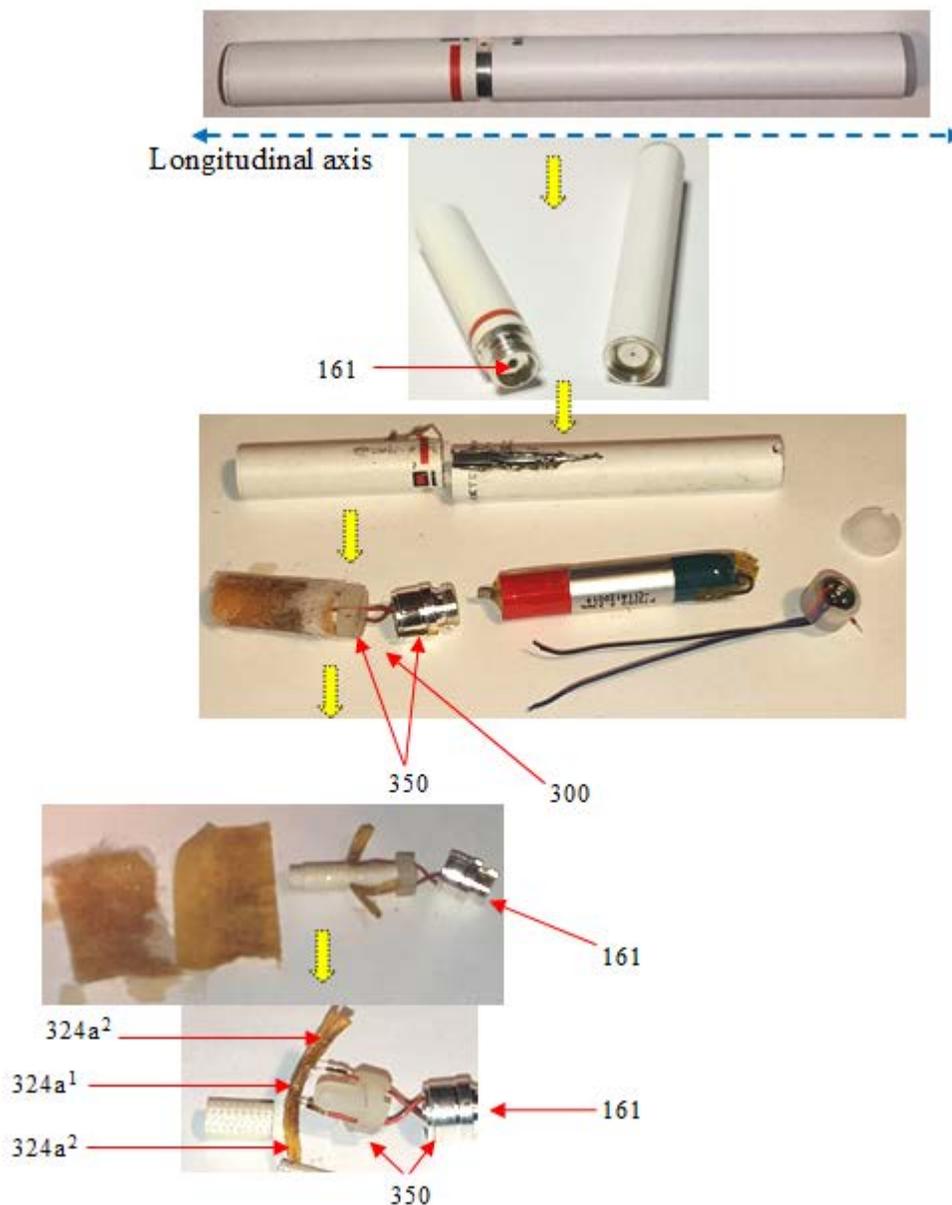
14 188. The MarkTen includes “a battery assembly [200] having a cylindrical  
15 battery [210] and an operating indicator [241]” as recited in claim 8 of the '548  
16 Patent.



1 189. The MarkTen includes “an atomizer assembly [300] in an elongated  
2 cylindrical housing [120] having a longitudinal axis, with the battery assembly  
3 [200] electrically connected to the atomizer assembly [300], and with the  
4 cylindrical battery [210] coaxial with the atomizer assembly [300]” as recited in  
5 claim 8 of the '548 Patent.



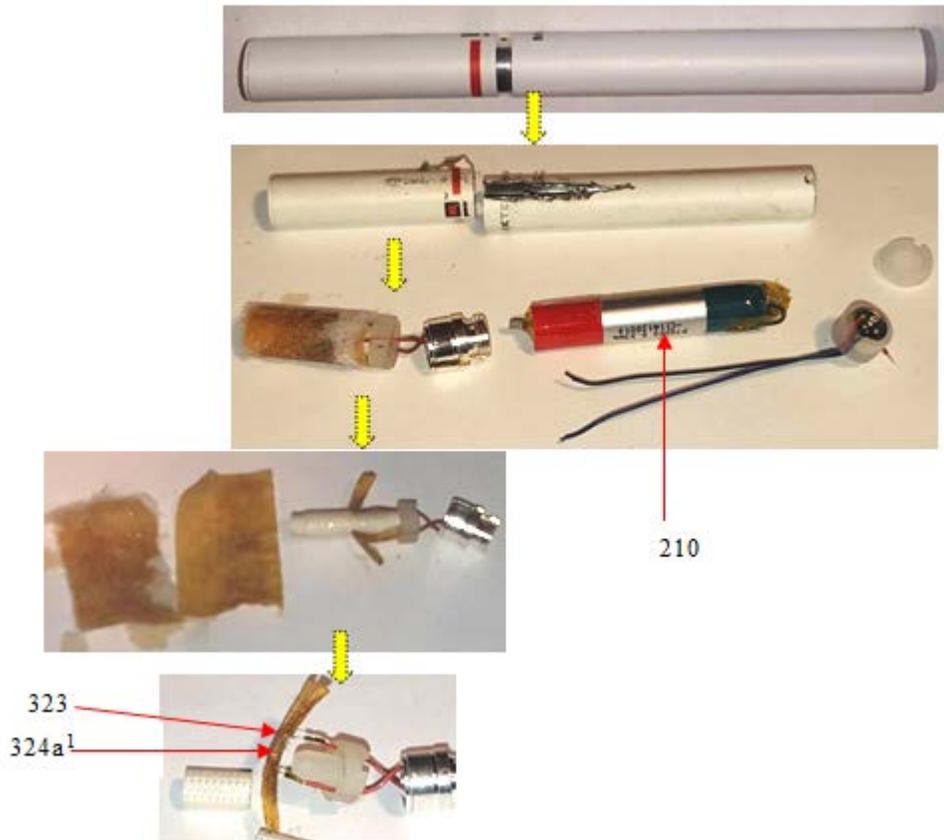
1           190. The MarkTen includes “the atomizer assembly [300] including a  
 2 porous component [324] having a first section [324a<sup>1</sup>] perpendicular to the  
 3 longitudinal axis and a second section [324a<sup>2</sup>] parallel to the longitudinal axis<sup>6</sup>,  
 4 with the porous component [324] set on a frame [350] having a run-through hole  
 5 [161]” as recited in claim 8 of the ’548 Patent.



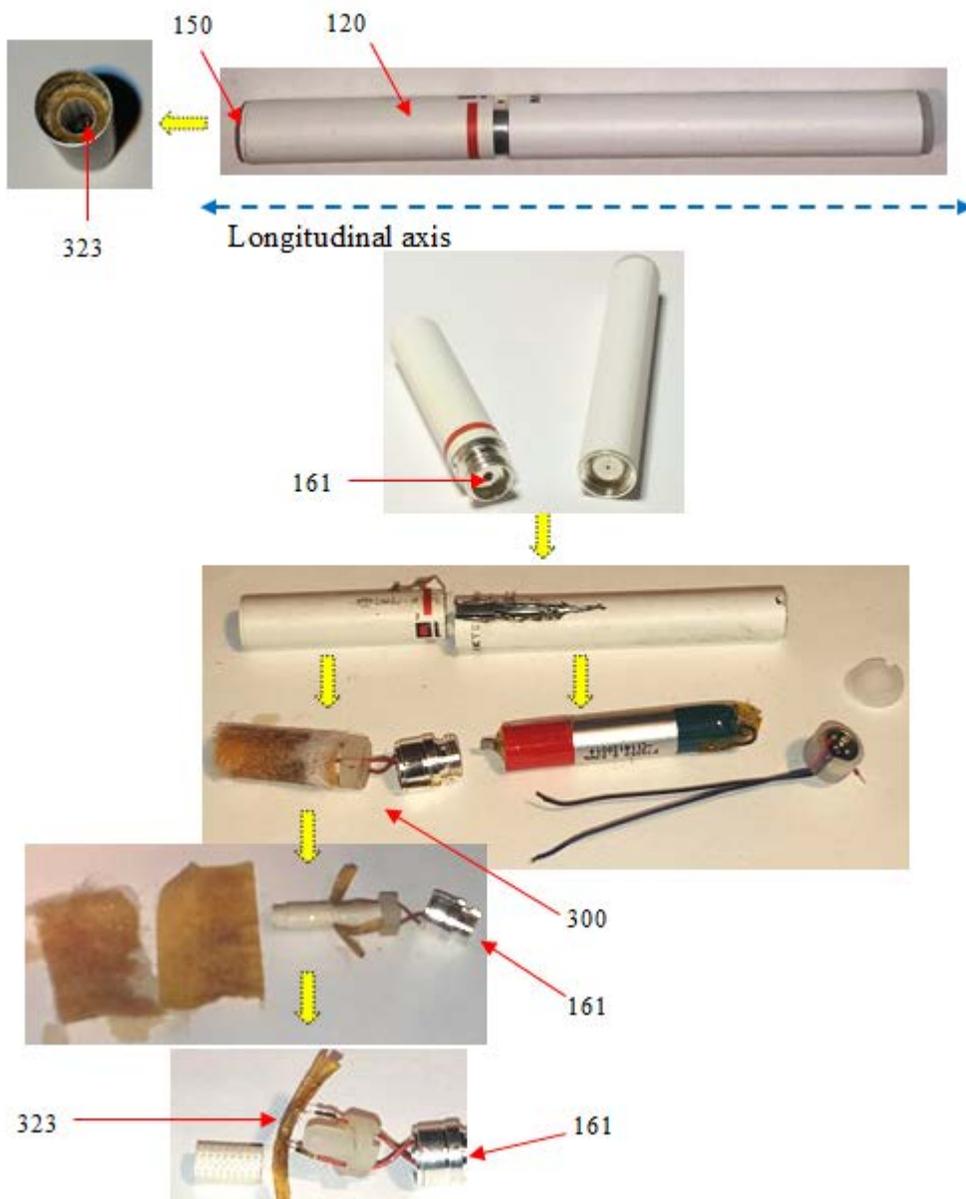

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27           <sup>6</sup> The second section of the porous component [324a<sup>2</sup>] is parallel to the  
 28 longitudinal axis of the housing [120] in the assembled product.

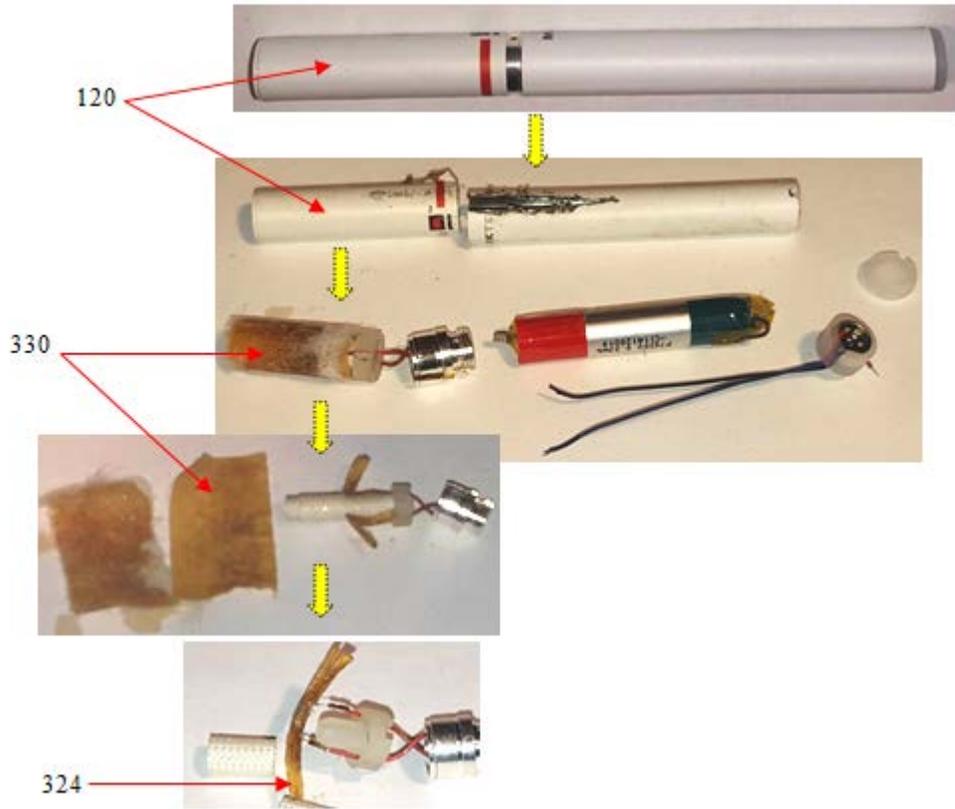
1            191. The MarkTen includes “a heating wire coil [323] wound on the first  
2 section [324a<sup>1</sup>] of the porous component [324] and electrically connected to the  
3 battery [210]” as recited in claim 8 of the ’548 Patent.



1           192. The MarkTen includes “an air flow path in the atomizer assembly  
2 [300] parallel to the longitudinal axis, with the air flow path through the run-  
3 through hole [161] to an outlet [150], and the heating wire coil [323] in the air flow  
4 path and oriented perpendicular to the longitudinal axis” as recited in claim 8 of  
5 the '548 Patent.

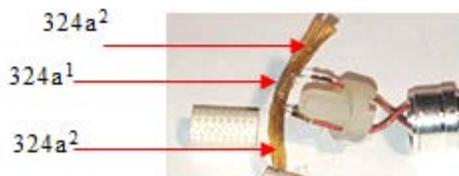
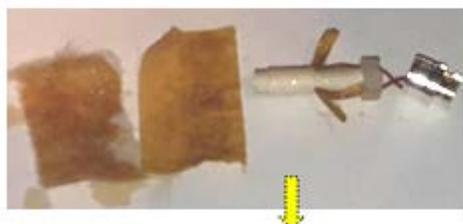
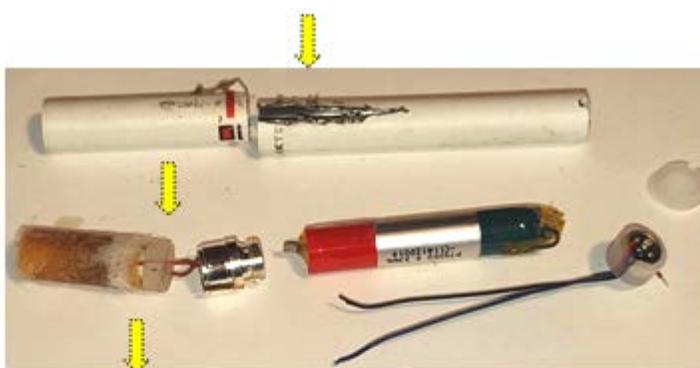


1           193. The MarkTen includes “a liquid storage component [330] in the  
2 housing [120] in contact with the porous component [324]” as recited in claim 8 of  
3 the '548 Patent.  
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1 194. As shown in the photographs of paragraph 195 below, the MarkTen  
2 meets every limitation recited in claim 9 of the '548 Patent as follows:

3 195. The MarkTen includes “the second section [324a<sup>2</sup>] of the porous  
4 component [324] on opposite sides of the first section [324a<sup>1</sup>] of the porous  
5 component [324]” as recited in claim 9 of the '548 Patent.



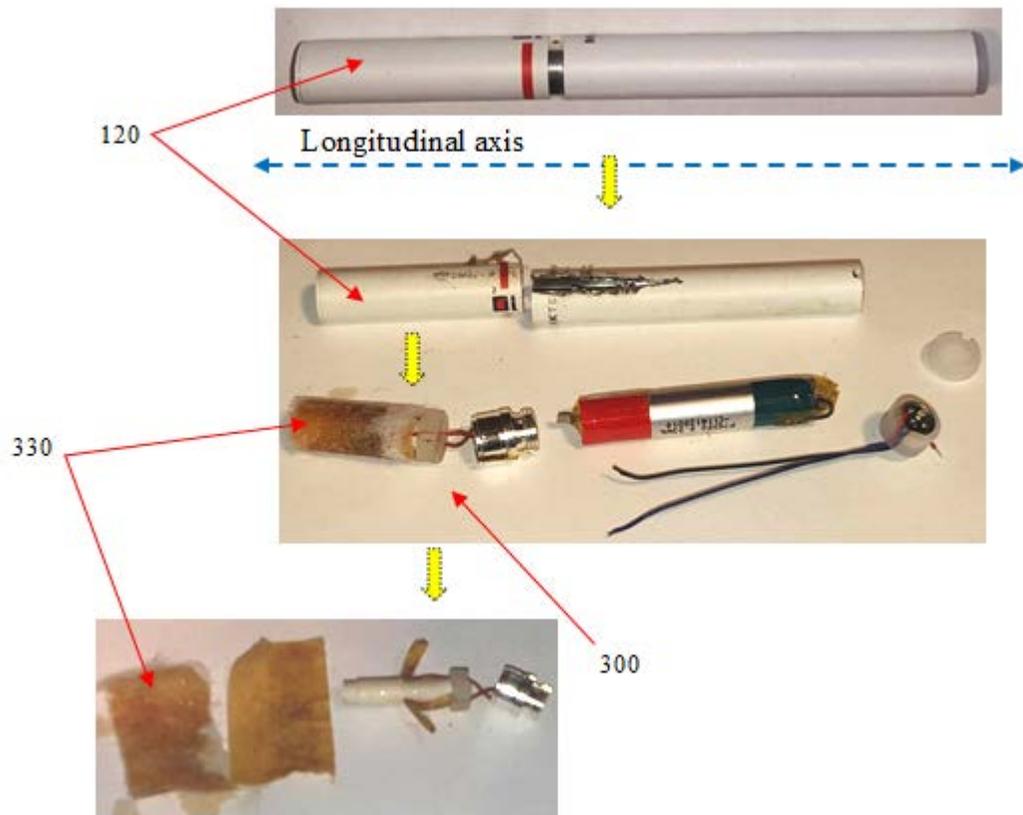
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24 196. As shown in the photographs of paragraphs 197 through 204 below,  
25 the MarkTen meets every limitation recited in claim 11 of the '548 Patent as  
26 follows:

27 197. The MarkTen is an electronic cigarette as recited in claim 11 of the  
28 '548 Patent.

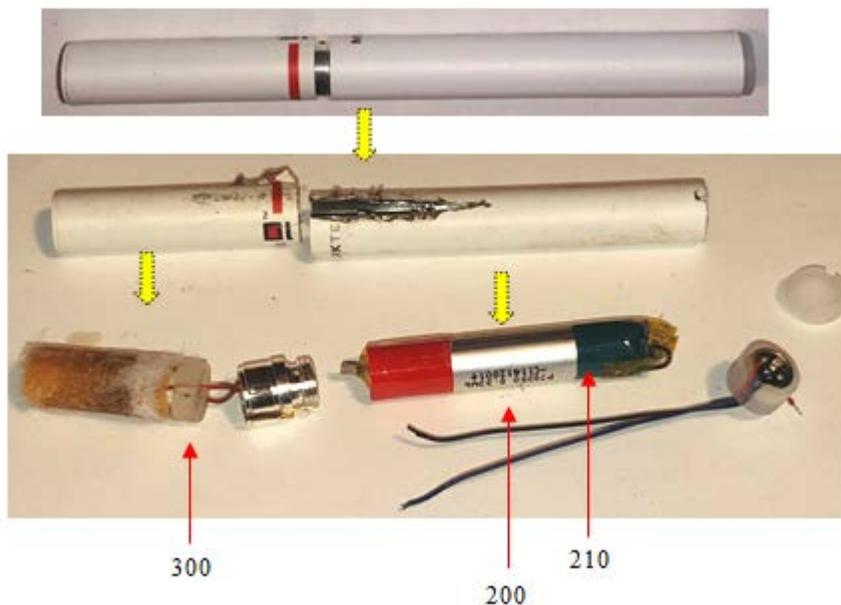
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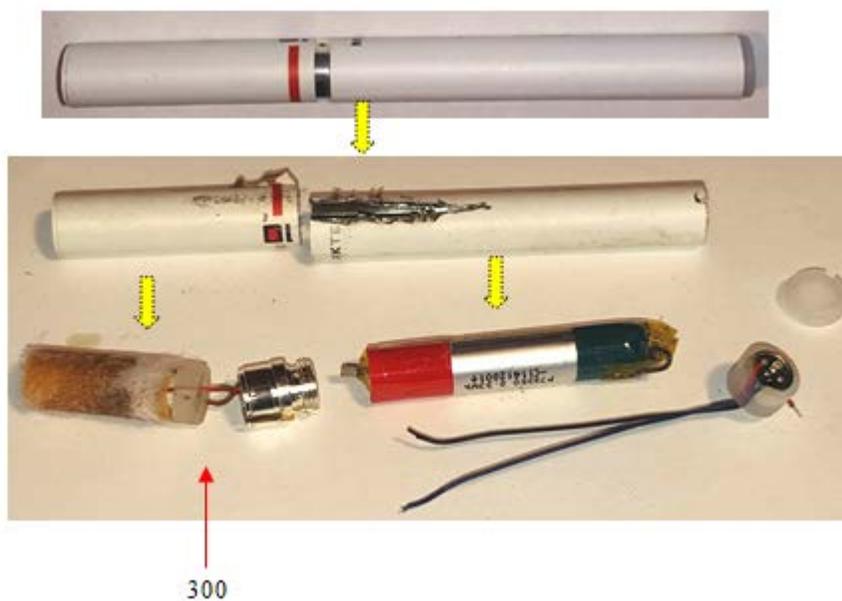
198. The MarkTen includes “an atomizer assembly [300] and a liquid storage component [330] in an elongated cylindrical housing [120] having a longitudinal axis” as recited in claim 11 of the '548 Patent.



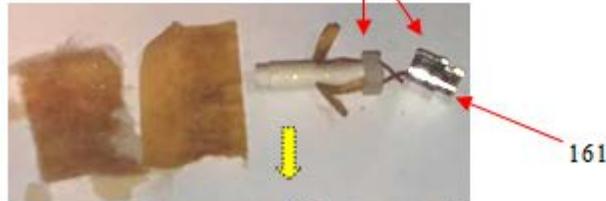
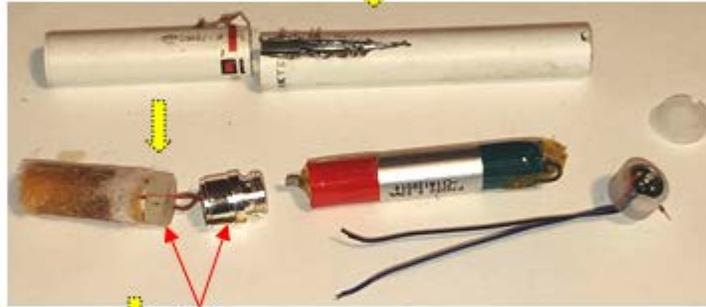
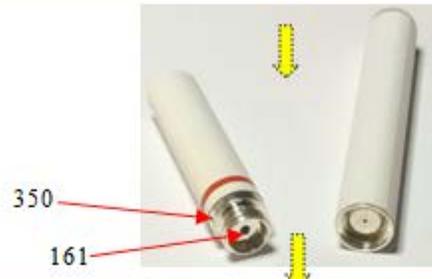
1            199. The MarkTen includes “battery assembly [200] electrically connected  
2 to the atomizer assembly [300], and with the battery assembly [200] including a  
3 cylindrical battery [210] coaxial with the atomizer assembly [300]” as recited in  
4 claim 11 of the ’548 Patent.



16            200. The MarkTen includes “the atomizer assembly [300]” as recited in  
17 claim 11 of the ’548 Patent.

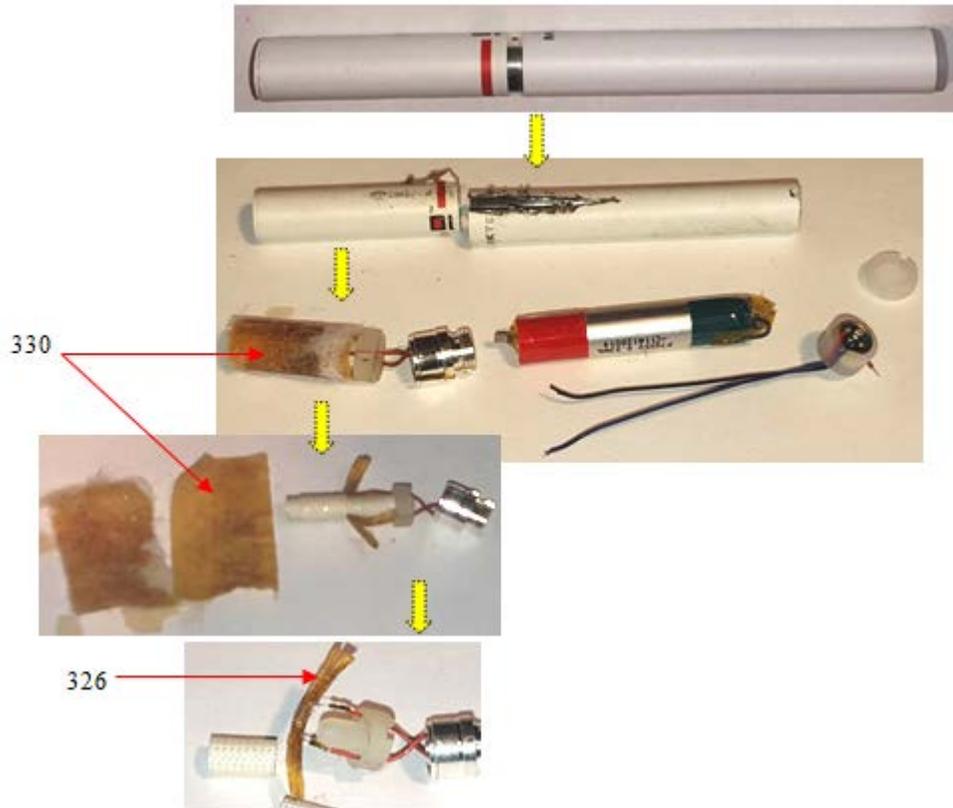


1           201. The MarkTen includes “a frame [350] comprising a cylindrical base  
2 having a run-through hole [161]” as recited in claim 11 of the '548 Patent.  
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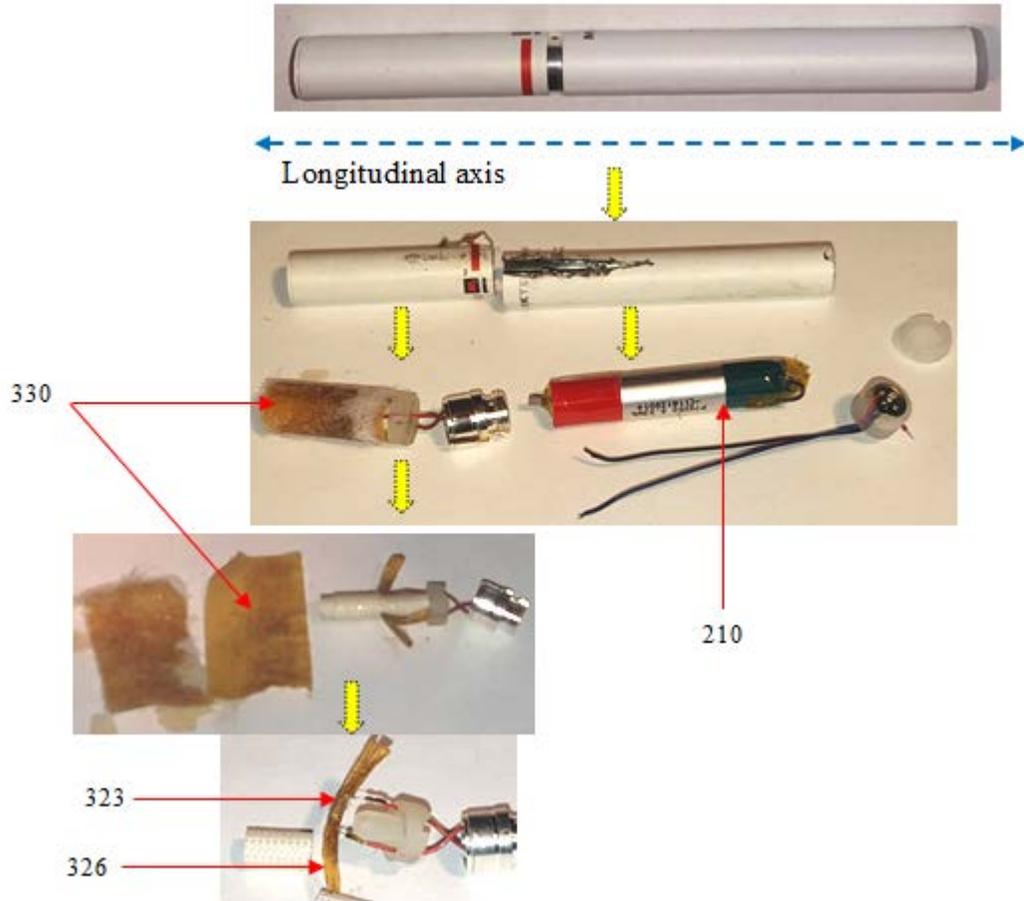


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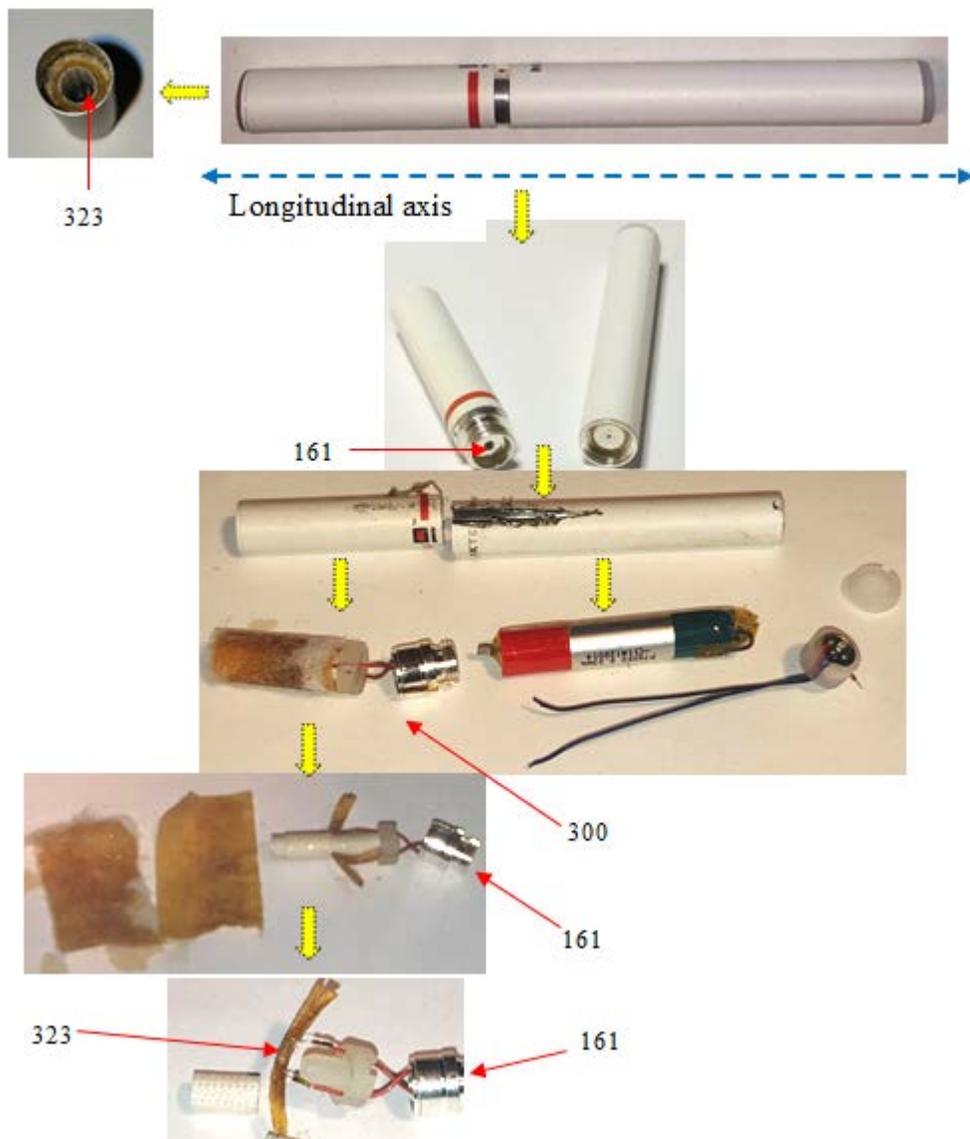
1           202. The MarkTen includes “a fiber member [326] in contact with the  
2 liquid storage component [330]” as recited in claim 11 of the '548 Patent.  
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1           203. The MarkTen includes “a heating wire coil [323] wound on the fiber  
2 member [326] and oriented perpendicular to the longitudinal axis, and the heating  
3 wire coil [323] electrically connected to the battery [210], with the fiber member  
4 [326] moving liquid from the liquid storage component [330] to the heating wire  
5 coil [323] by capillary action” as recited in claim 11 of the '548 Patent.

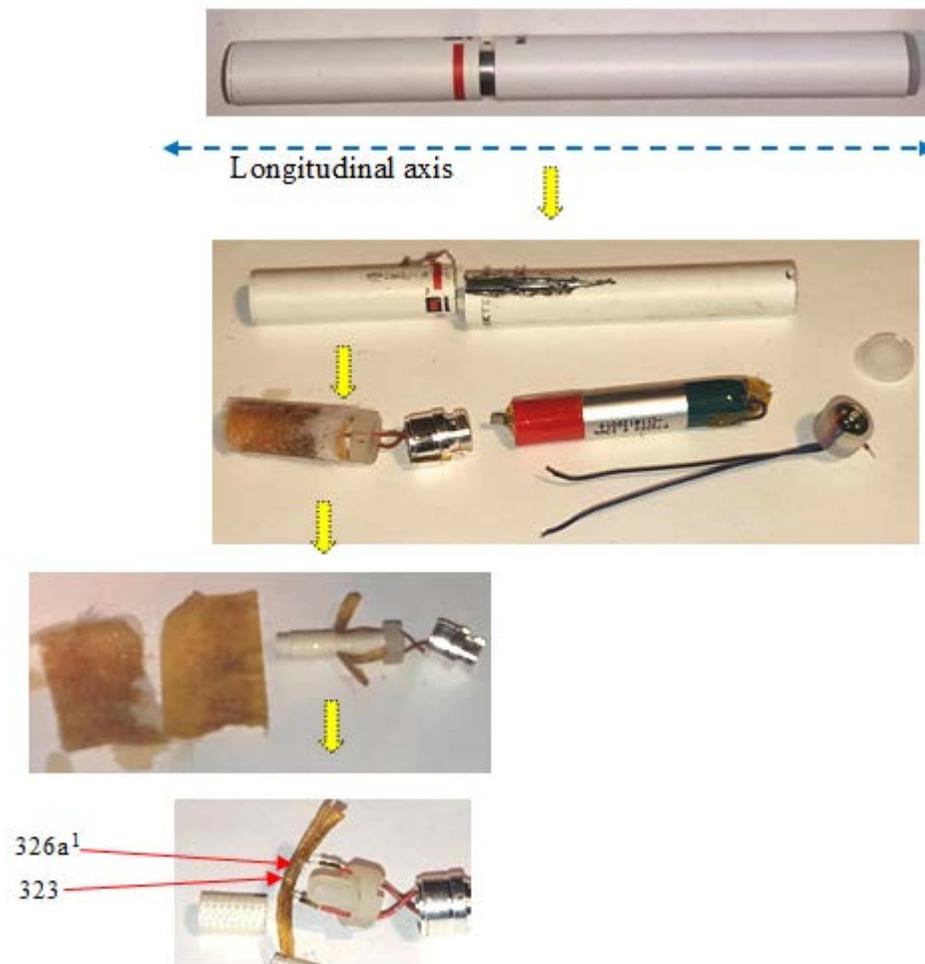


1           204. The MarkTen includes “an air flow path parallel to the longitudinal  
2 axis through the atomizer assembly [300], with the air flow path passing through  
3 the run-through hole [161], and with the heating wire coil [323] in the air flow path  
4 and perpendicular to the longitudinal axis” as recited in claim 11 of the ’548  
5 Patent.



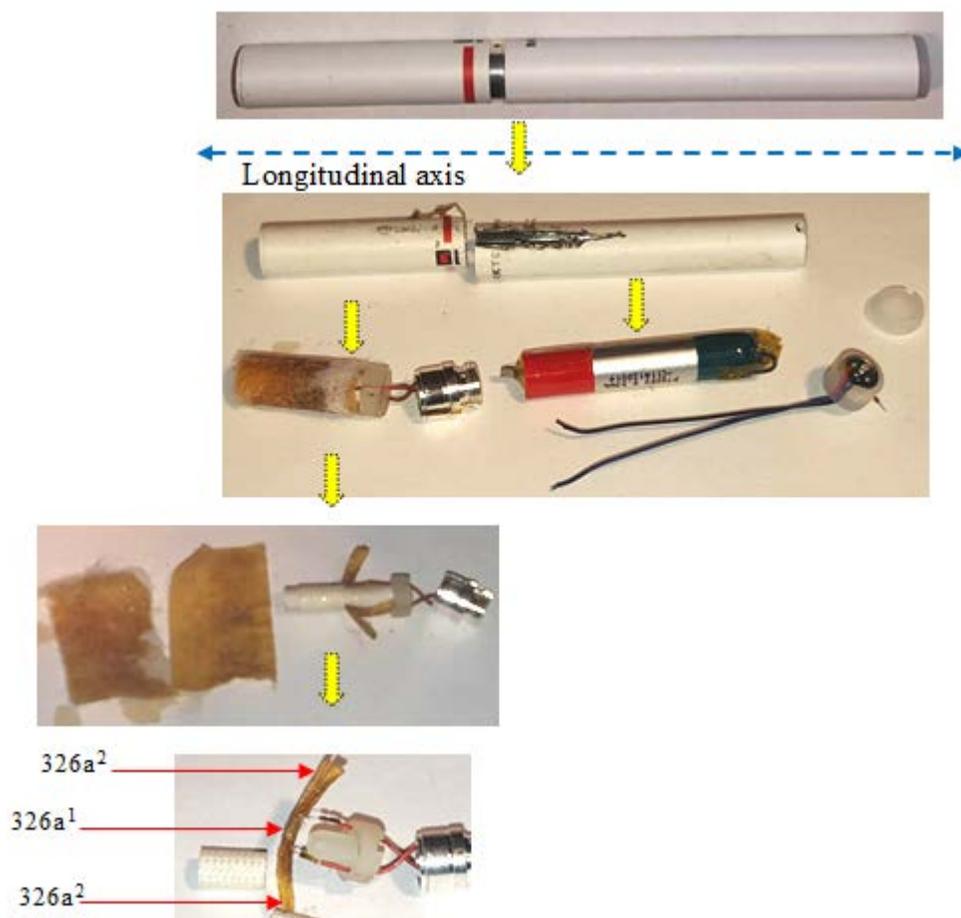
1           205. As shown in the photographs of paragraph 206 below, the MarkTen  
2 meets every limitation recited in claim 12 of the '548 Patent as follows:

3           206. The MarkTen includes “a first part [326a<sup>1</sup>] of the fiber member [326]  
4 perpendicular to the longitudinal axis and the heating wire coil [323] wrapped on  
5 the first part [326a<sup>1</sup>]” as recited in claim 12 of the '548 Patent.



1 207. As shown in the photographs of paragraph 208 below, the MarkTen  
2 meets every limitation recited in claim 13 of the '548 Patent as follows:

3 208. The MarkTen includes “the fiber member [326] having a first section  
4 [326a<sup>1</sup>] perpendicular to the longitudinal axis and having a second section [326a<sup>2</sup>]  
5 parallel to the longitudinal axis<sup>7</sup>” as recited in claim 13 of the '548 Patent.



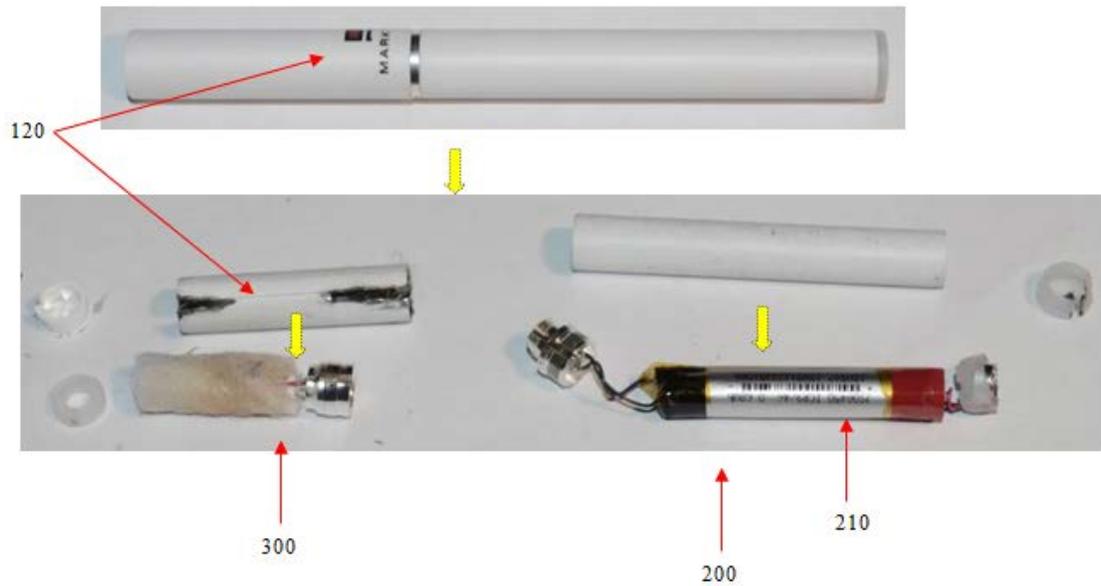
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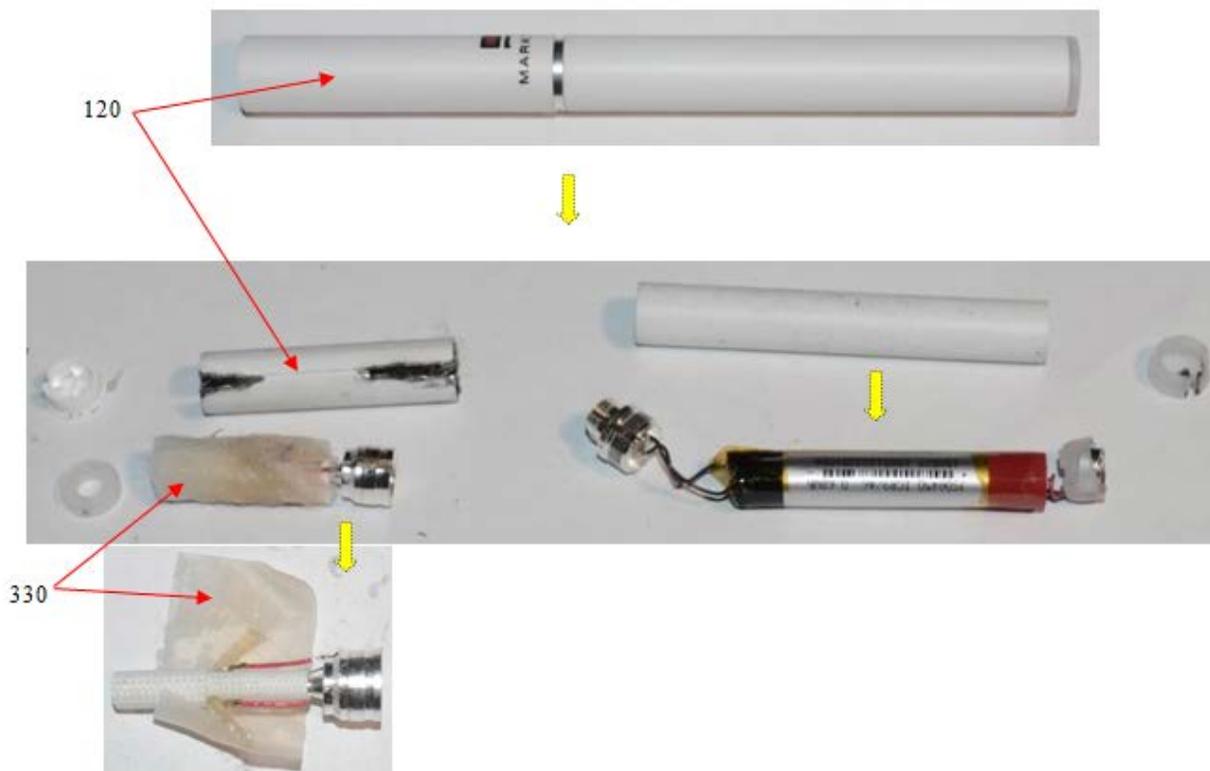
<sup>7</sup> The second section of the fiber member [326a<sup>2</sup>] is parallel to the longitudinal axis of the housing [120] in the assembled product.



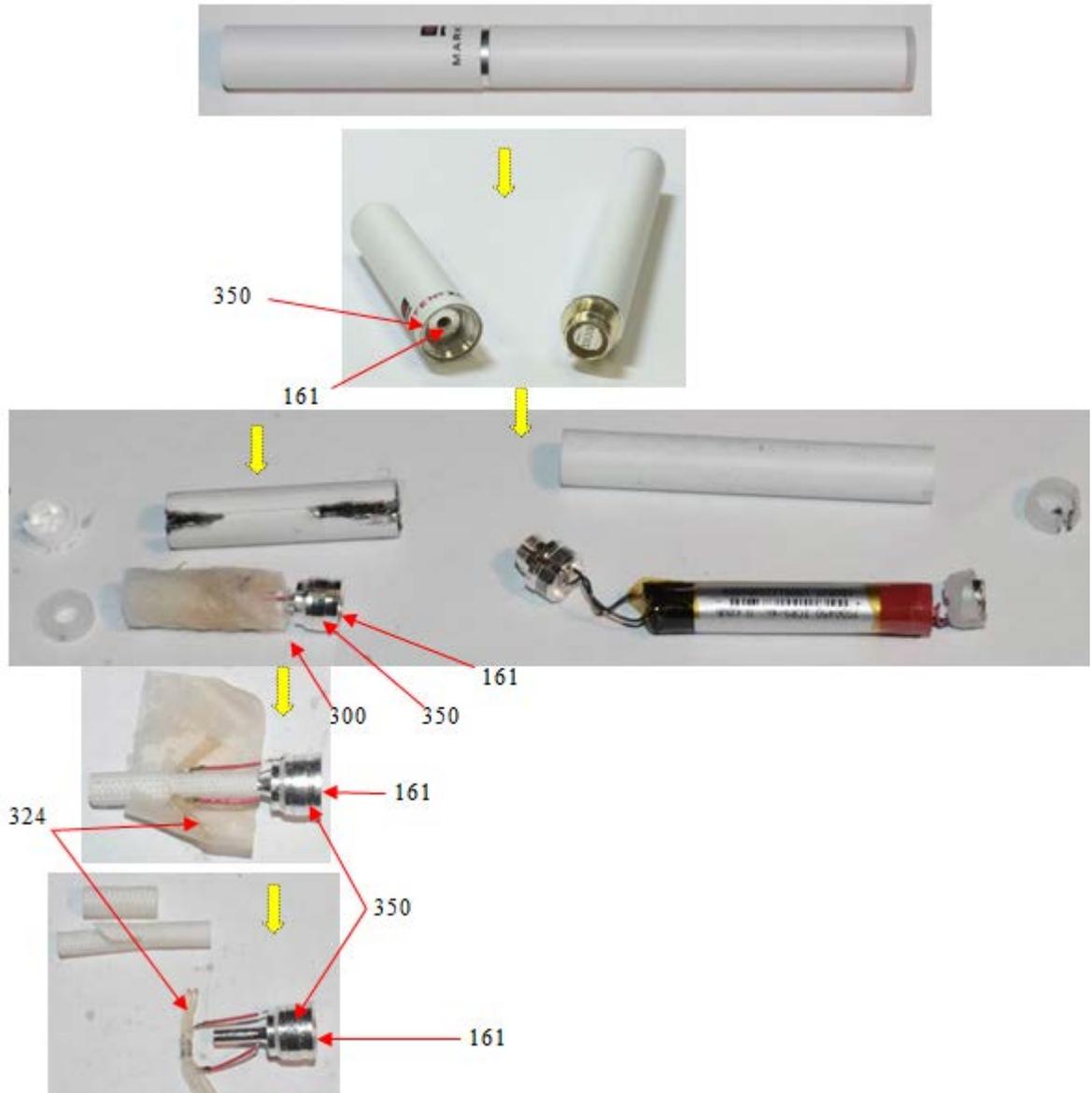
1           212. The MarkTenXL includes “an atomizer assembly [300] in an  
2 elongated cylindrical housing [120], with the battery assembly [200] electrically  
3 connected to the atomizer assembly [300], and with the cylindrical battery [210]  
4 coaxial with the atomizer assembly [300]” as recited in claim 1 of the ’548 Patent.



1           213. The MarkTenXL includes “a liquid storage component [330] in the  
2 housing [120]” as recited in claim 1 of the ’548 Patent.



1           214. The MarkTenXL includes “the atomizer assembly [300] including a  
2 porous component [324] set on a frame [350] having a run-through hole [161]” as  
3 recited in claim 1 of the ’548 Patent.  
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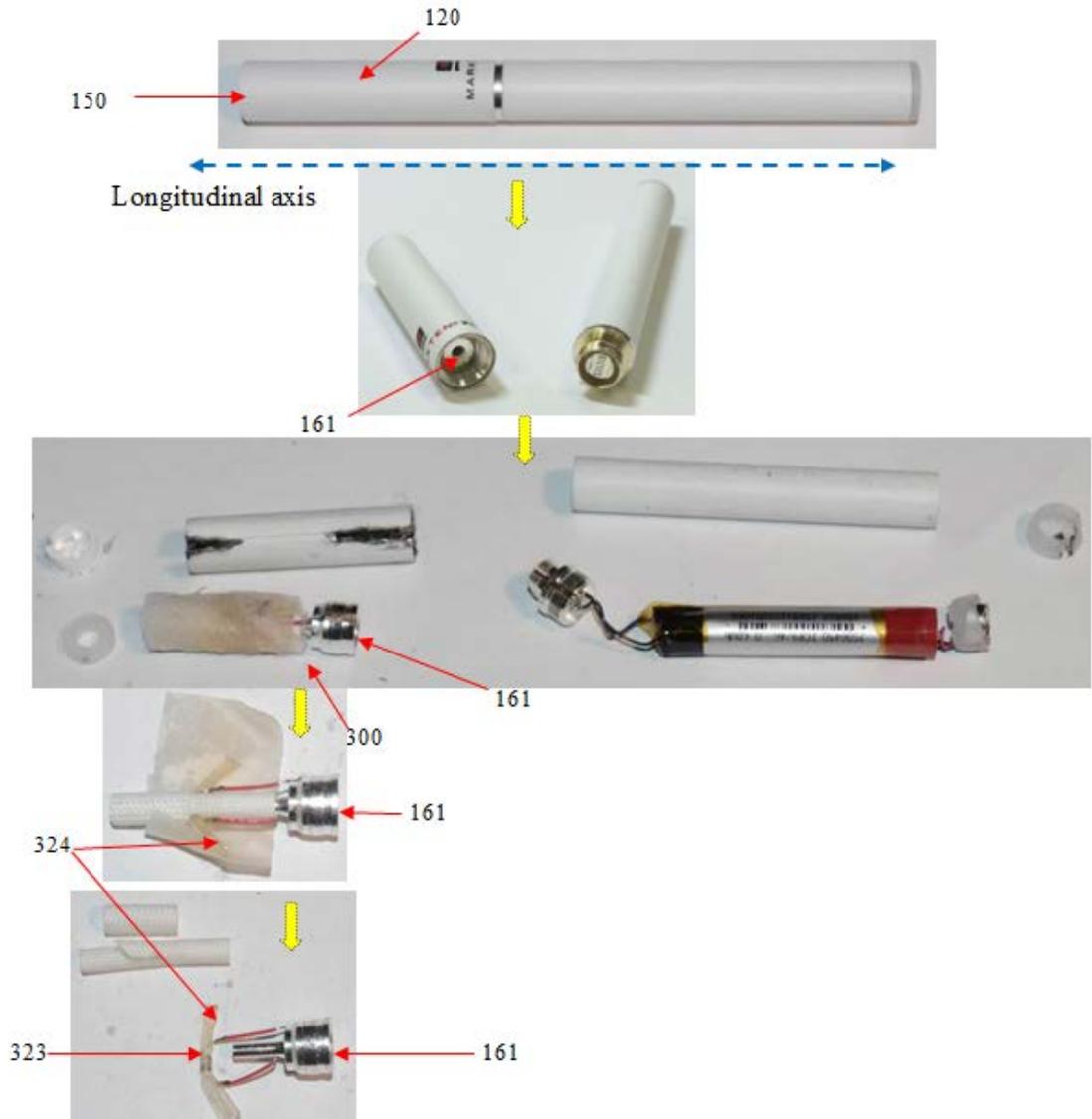


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215. The MarkTenXL includes “a heating wire coil [323] electrically connected to the battery [210]” as recited in claim 1 of the ’548 Patent.



1           216. The MarkTenXL includes “an air flow path in the atomizer assembly  
2 [300] parallel to a longitudinal axis of the housing [120], with the air flow path  
3 through the run-through hole [161] to an outlet [150], with the heating wire coil  
4 [323] wound on the porous component [324] and in the air flow path and with the  
5 heating wire coil [323] oriented perpendicular to the longitudinal axis” as recited  
6 in claim 1 of the '548 Patent.

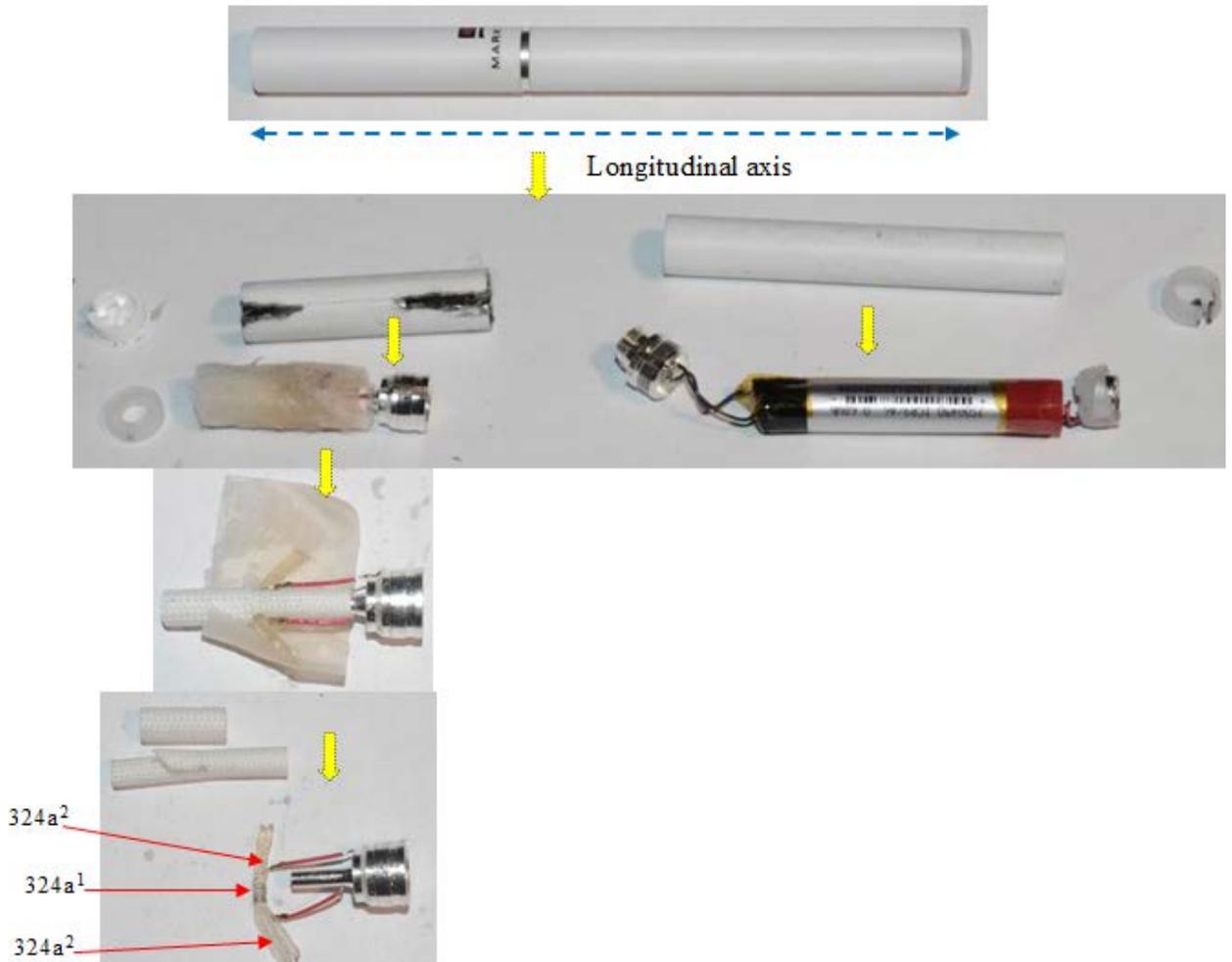


1           217. The MarkTenXL includes “the porous component [324] in contact  
2 with the liquid storage component [330]” as recited in claim 1 of the '548 Patent.  
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1 218. As shown in the photographs of paragraph 219 below, the MarkTenXL  
2 meets every limitation recited in claim 2 of the '548 Patent as follows:

3 219. The MarkTenXL includes “the porous component [324] having a first  
4 section [324a<sup>1</sup>] perpendicular to the longitudinal axis and having a second section  
5 [324a<sup>2</sup>] parallel to the longitudinal axis<sup>8</sup>” as recited in claim 2 of the '548 Patent.



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<sup>8</sup> The second section of the porous component [324a<sup>2</sup>] is parallel to the longitudinal axis of the housing [120] in the assembled product.

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220. As shown in the photographs of paragraph 221 below, the MarkTenXL meets every limitation recited in claim 3 of the '548 Patent as follows:

221. The MarkTenXL includes “the frame [350] having a cylindrical first section [350a<sup>1</sup>] and a second section [350a<sup>2</sup>], with the second section [350a<sup>2</sup>] between the first section [350a<sup>1</sup>] and the outlet [150], and with the second section [350a<sup>2</sup>] longer than the first section [350a<sup>1</sup>]” as recited in claim 3 of the '548 Patent.



1           222. As shown in the photographs of paragraph 223 below, the MarkTenXL  
2 meets every limitation recited in claim 4 of the '548 Patent as follows:

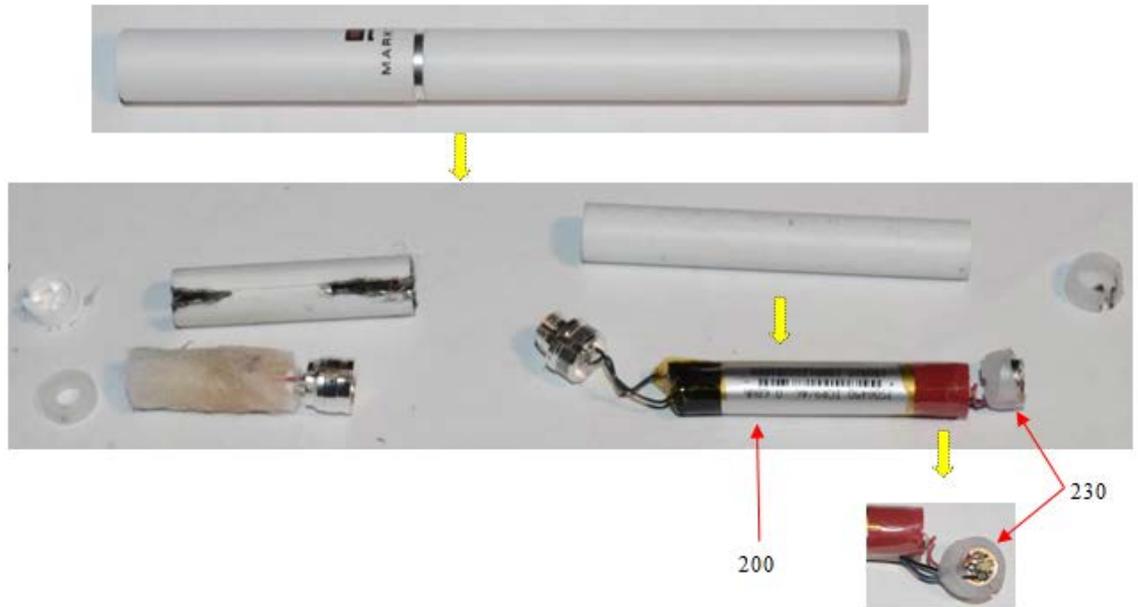
3           223. The MarkTenXL includes “wherein the first section [350a<sup>1</sup>] of the  
4 frame [350] is a cylindrical base section” as recited in claim 4 of the '548 Patent.



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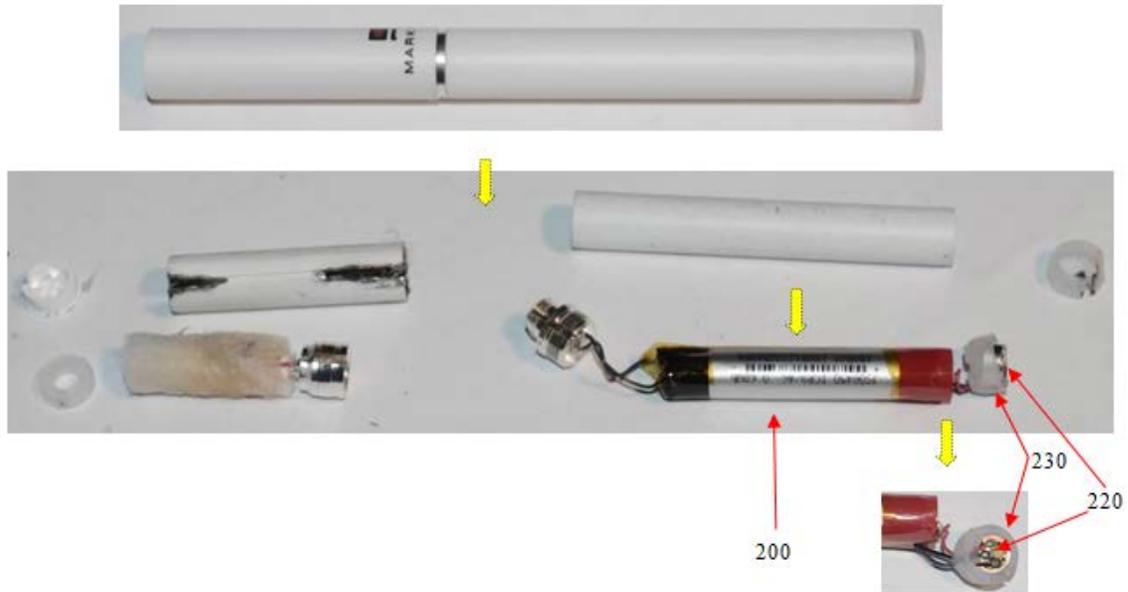
224. As shown in the photographs of paragraph 225 below, the MarkTenXL meets every limitation recited in claim 5 of the '548 Patent as follows:

225. The MarkTenXL includes “the battery assembly [200] further including an air flow sensor [230]” as recited in claim 5 of the '548 Patent.



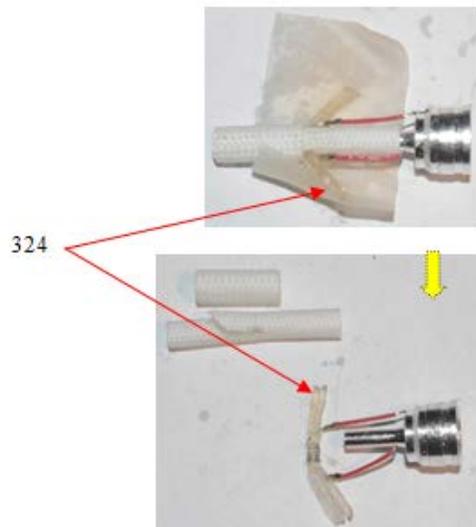
1 226. As shown in the photographs of paragraph 227 below, the MarkTenXL  
2 meets every limitation recited in claim 6 of the '548 Patent as follows:

3 227. The MarkTenXL includes “the battery assembly [200] further  
4 comprising an electronic circuit board [220] electrically connected to the air flow  
5 sensor [230]” as recited in claim 6 of the '548 Patent.



16 228. As shown in the photographs of paragraph 229 below, the MarkTenXL  
17 meets every limitation recited in claim 7 of the '548 Patent as follows:

18 229. The MarkTenXL includes “wherein the porous component [324] is  
19 cylindrical” as recited in claim 7 of the '548 Patent.

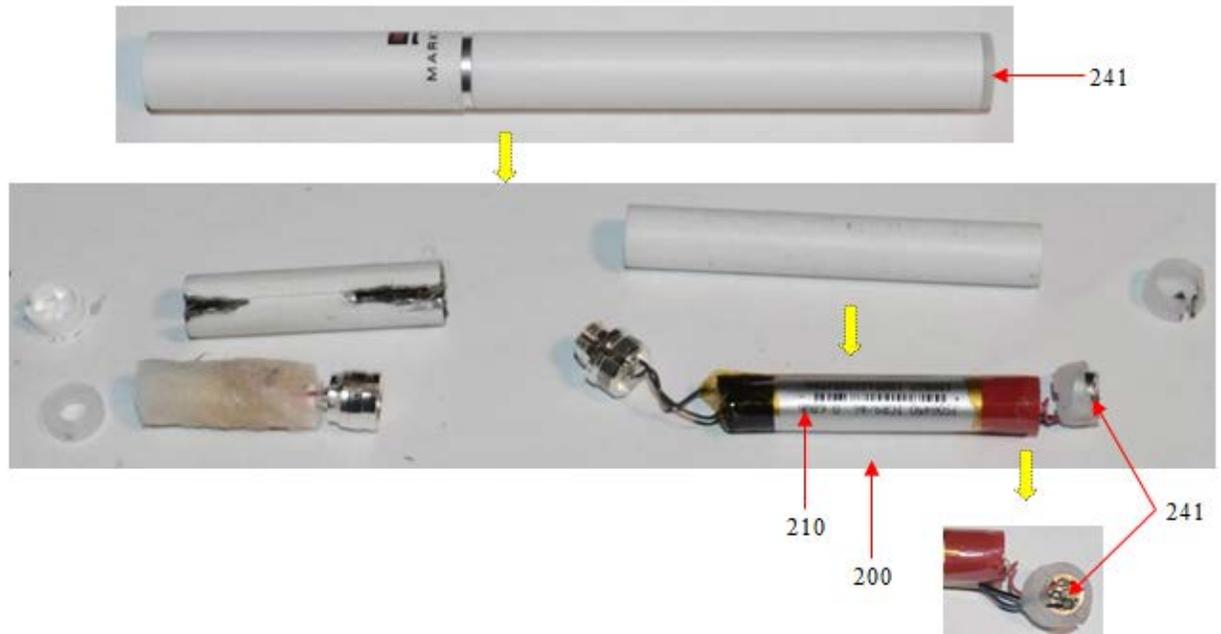


1           230. As shown in the photographs of paragraphs 231 through 237 below,  
2 the MarkTenXL meets every limitation recited in claim 8 of the '548 Patent as  
3 follows:

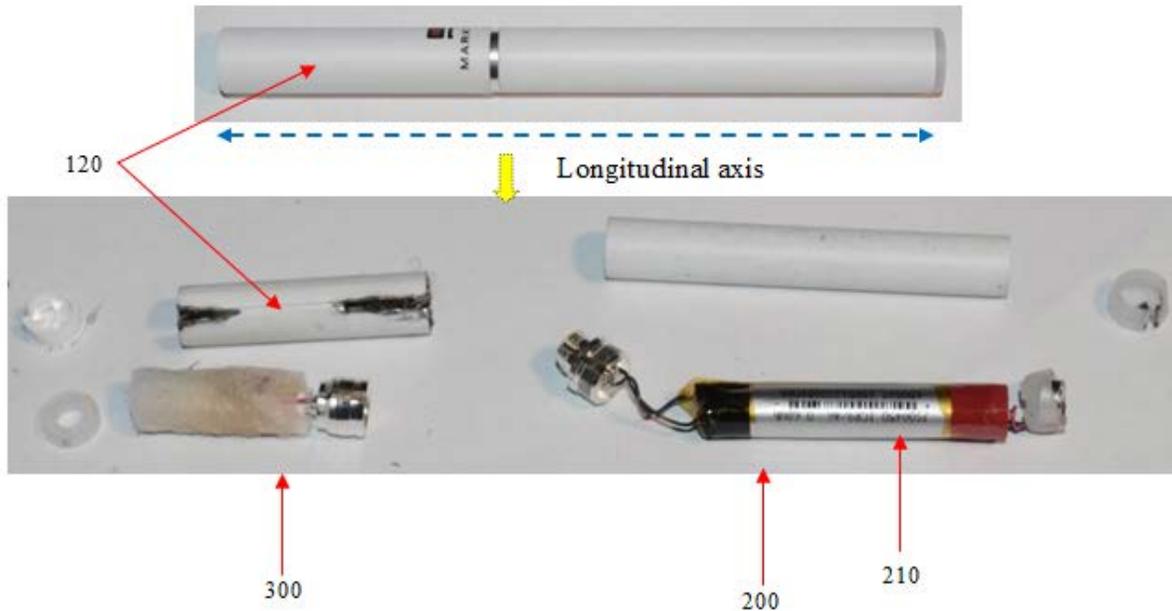
4           231. The MarkTenXL is an electronic cigarette as recited in claim 8 of the  
5 '548 Patent.



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11           232. The MarkTenXL includes “a battery assembly [200] having a  
12 cylindrical battery [210] and an operating indicator [241]” as recited in claim 8 of  
13 the '548 Patent.

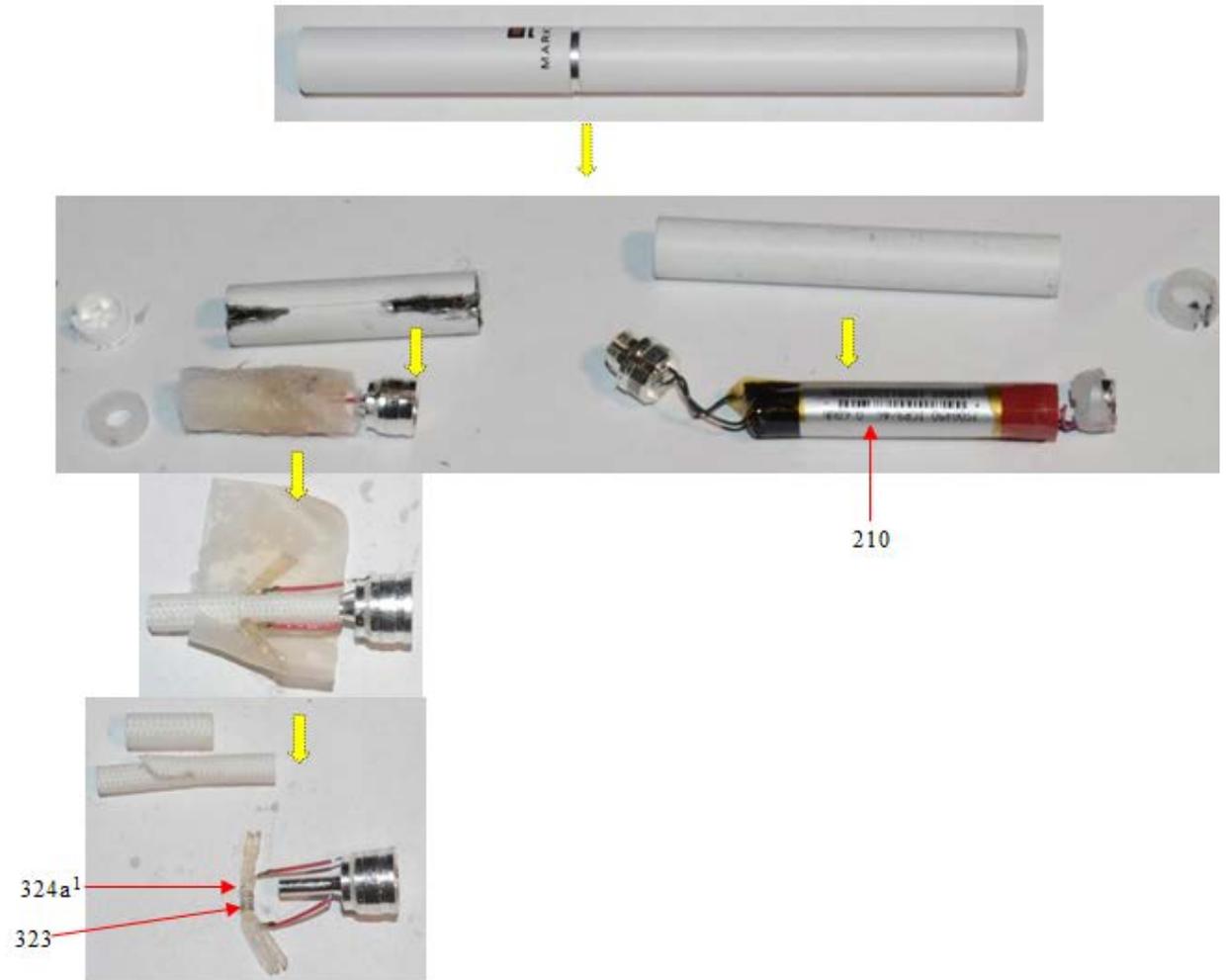


1           233. The MarkTenXL includes “an atomizer assembly [300] in an  
2 elongated cylindrical housing [120] having a longitudinal axis, with the battery  
3 assembly [200] electrically connected to the atomizer assembly [300], and with the  
4 cylindrical battery [210] coaxial with the atomizer assembly [300]” as recited in  
5 claim 8 of the ’548 Patent.

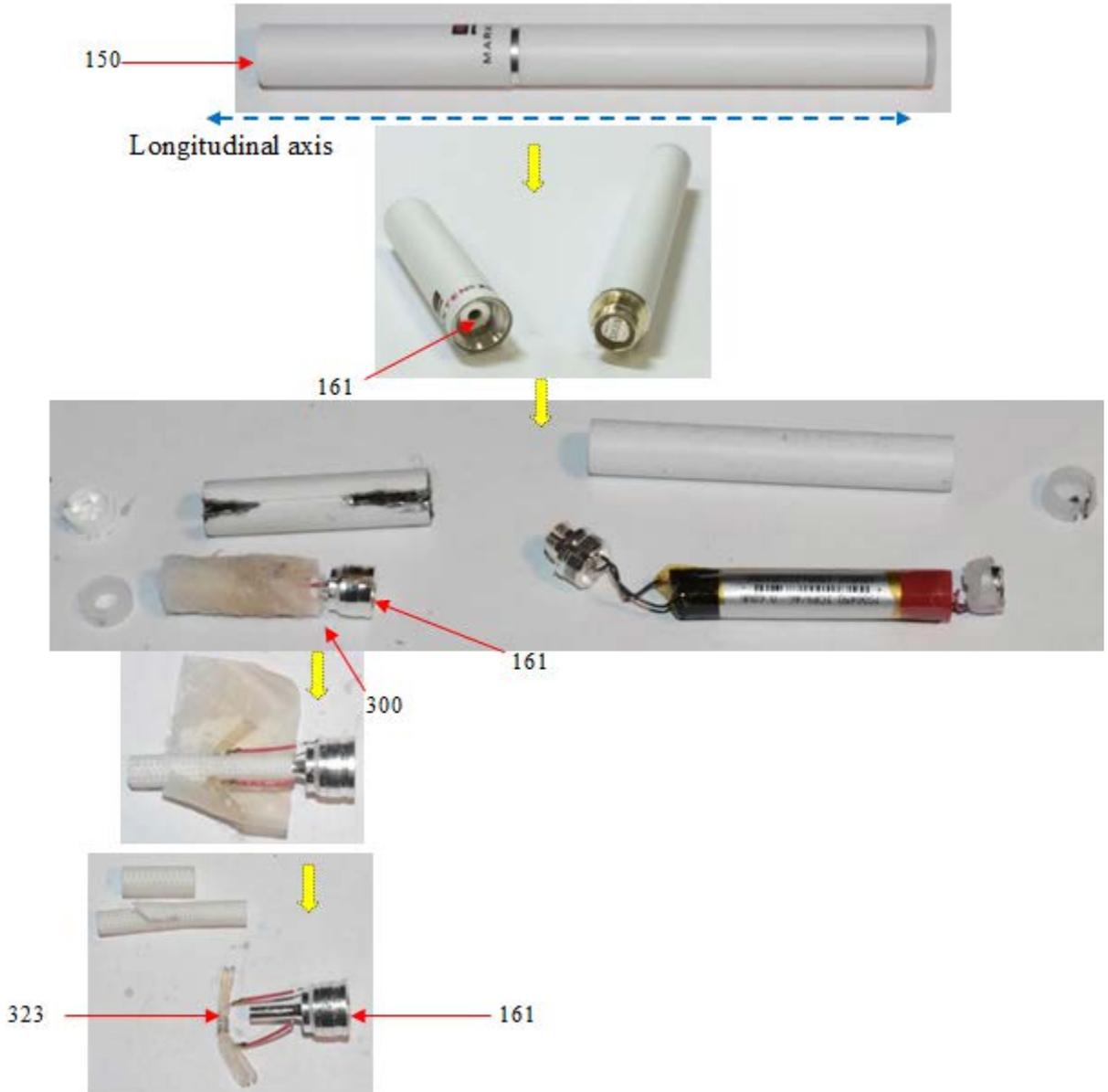




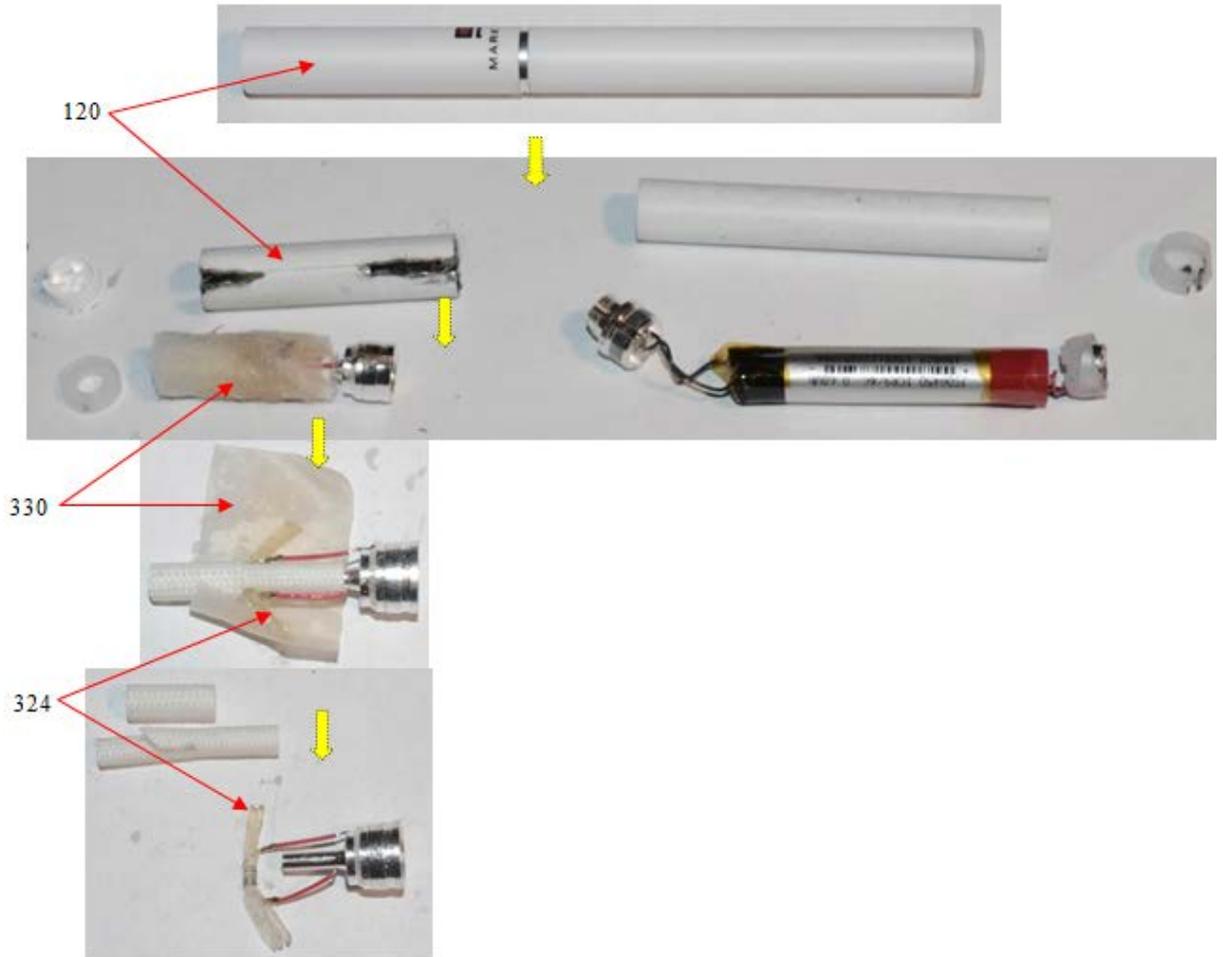
1           235. The MarkTenXL includes “a heating wire coil [323] wound on the first  
2 section [324a<sup>1</sup>] of the porous component [324] and electrically connected to the  
3 battery [210]” as recited in claim 8 of the ’548 Patent.



1           236. The MarkTenXL includes “an air flow path in the atomizer assembly  
2 [300] parallel to the longitudinal axis, with the air flow path through the run-  
3 through hole [161] to an outlet [150], and the heating wire coil [323] in the air flow  
4 path and oriented perpendicular to the longitudinal axis” as recited in claim 8 of  
5 the '548 Patent.

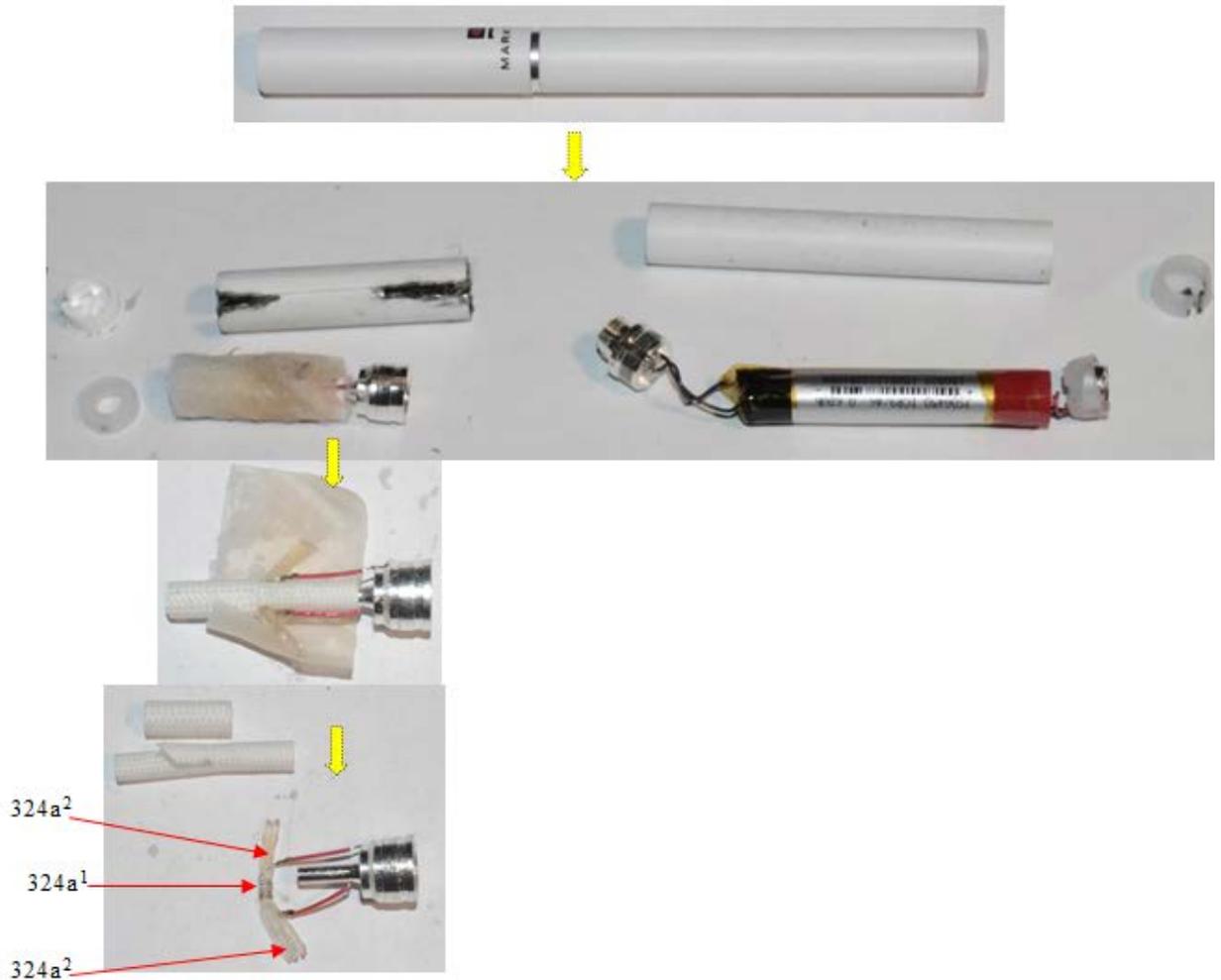


1           237. The MarkTenXL includes “a liquid storage component [330] in the  
2 housing [120] in contact with the porous component [324]” as recited in claim 8 of  
3 the '548 Patent.  
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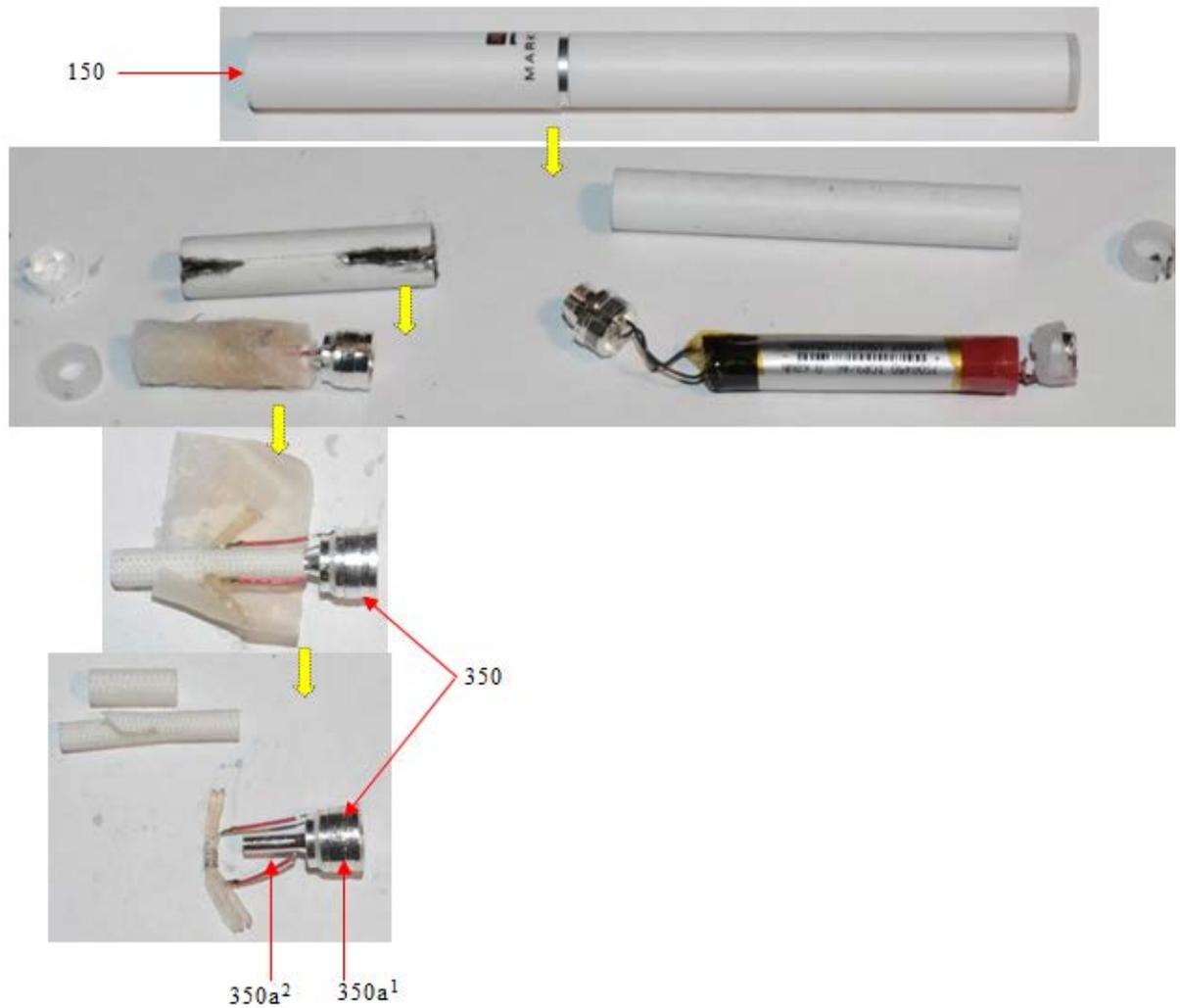
1           238. As shown in the photographs of paragraph 239 below, the MarkTenXL  
2 meets every limitation recited in claim 9 of the '548 Patent as follows:

3           239. The MarkTenXL includes “the second section [324a<sup>2</sup>] of the porous  
4 component [324] on opposite sides of the first section [324a<sup>1</sup>] of the porous  
5 component [324]” as recited in claim 9 of the '548 Patent.



1           240. As shown in the photographs of paragraph 241 below, the MarkTenXL  
2 meets every limitation recited in claim 10 of the '548 Patent as follows:

3           241. The MarkTenXL includes “the frame [350] having a cylindrical first  
4 section [350a<sup>1</sup>] and a second section [350a<sup>2</sup>], with the second section [350a<sup>2</sup>]  
5 between the first section [350a<sup>1</sup>] and the outlet [150], and with the second section  
6 [350a<sup>2</sup>] longer than the first section [350a<sup>1</sup>]” as recited in claim 10 of the '548  
7 Patent.

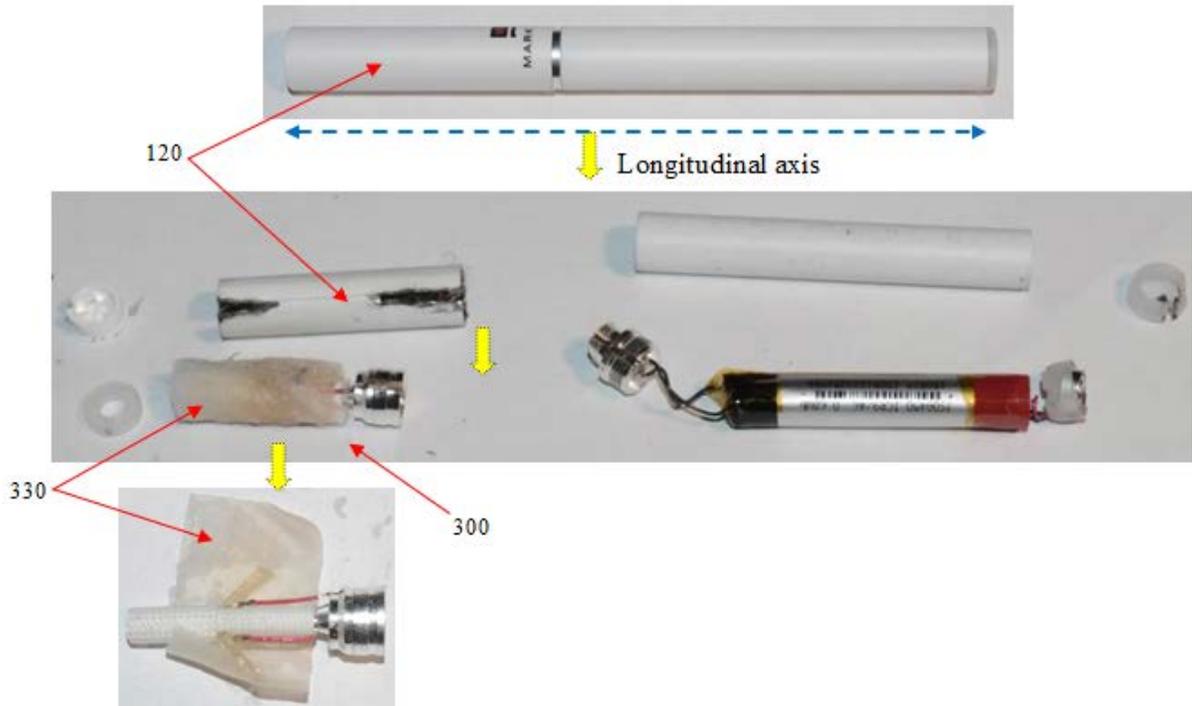


1           242. As shown in the photographs of paragraphs 243 through 250 below,  
2 the MarkTenXL meets every limitation recited in claim 11 of the '548 Patent as  
3 follows:

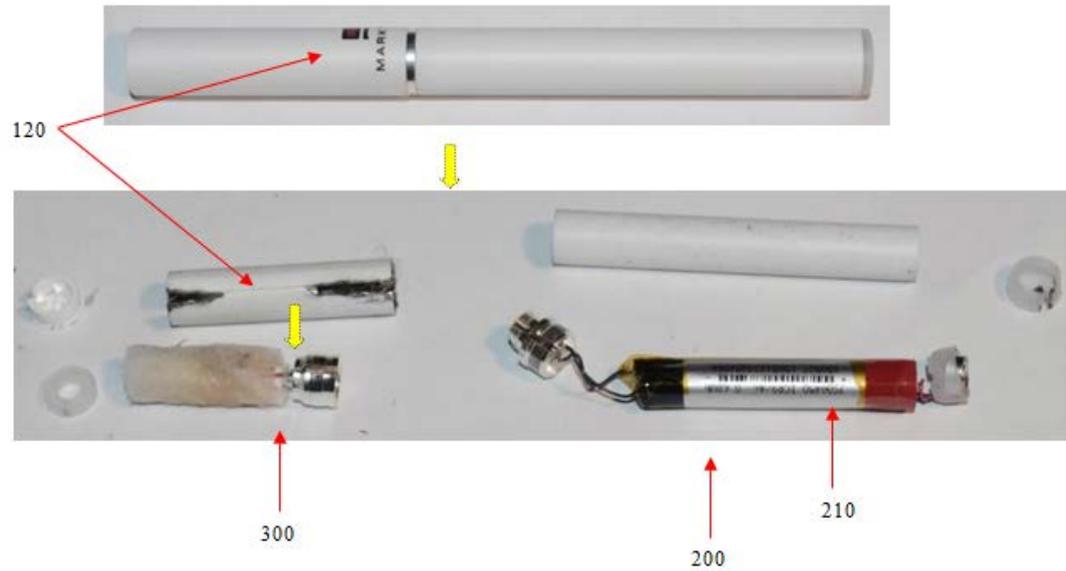
4           243. The MarkTenXL is an electronic cigarette as recited in claim 11 of the  
5 '548 Patent.



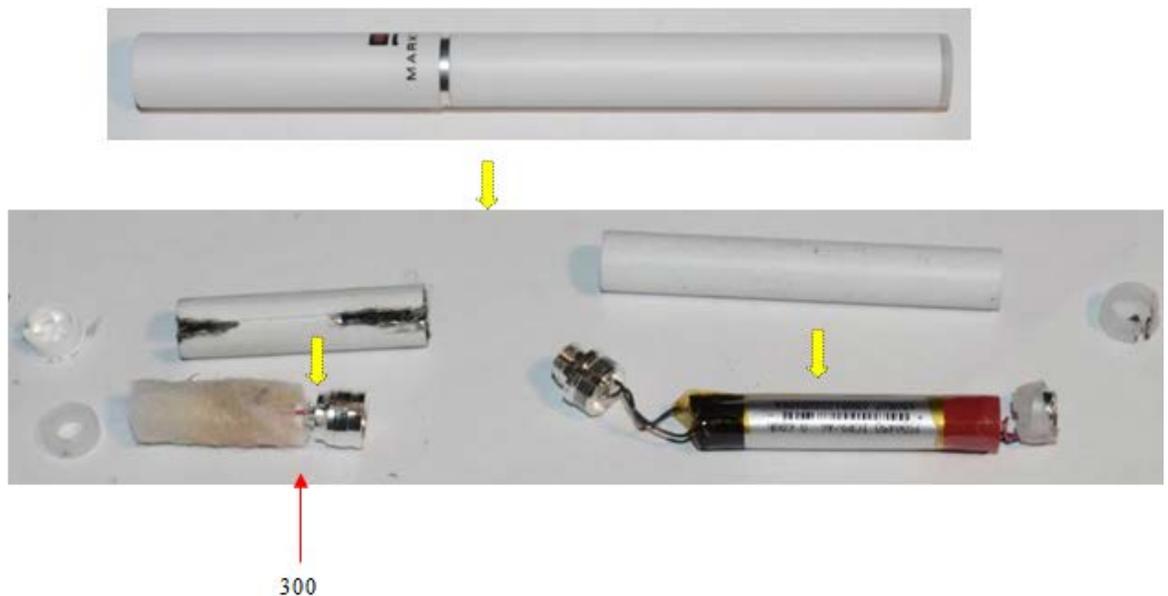
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10           244. The MarkTenXL includes “an atomizer assembly [300] and a liquid  
11 storage component [330] in an elongated cylindrical housing [120] having a  
12 longitudinal axis” as recited in claim 11 of the '548 Patent.



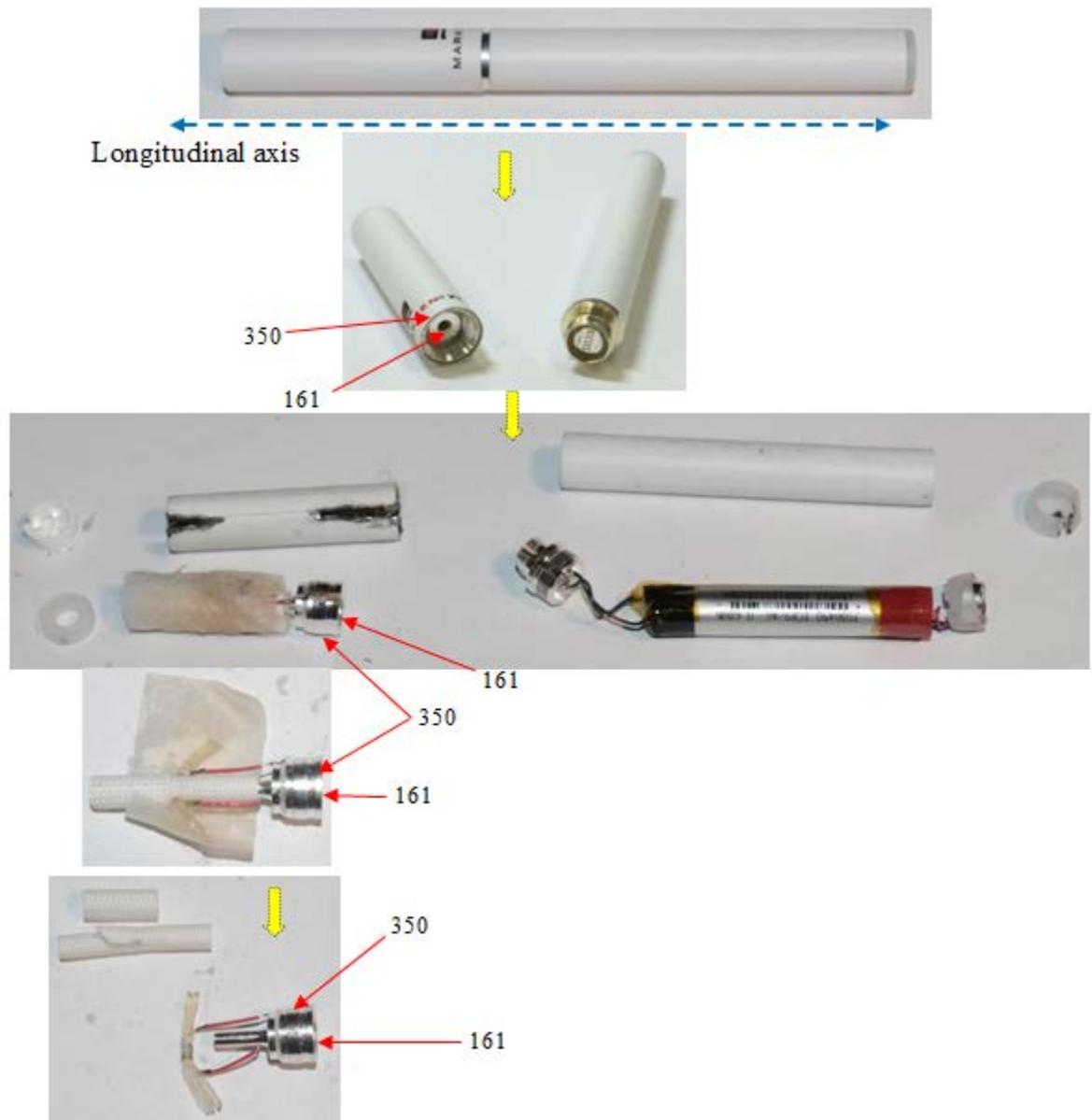
1           245. The MarkTenXL includes “battery assembly [200] electrically  
2 connected to the atomizer assembly [300], and with the battery assembly [200]  
3 including a cylindrical battery [210] coaxial with the atomizer assembly [300]” as  
4 recited in claim 11 of the ’548 Patent.



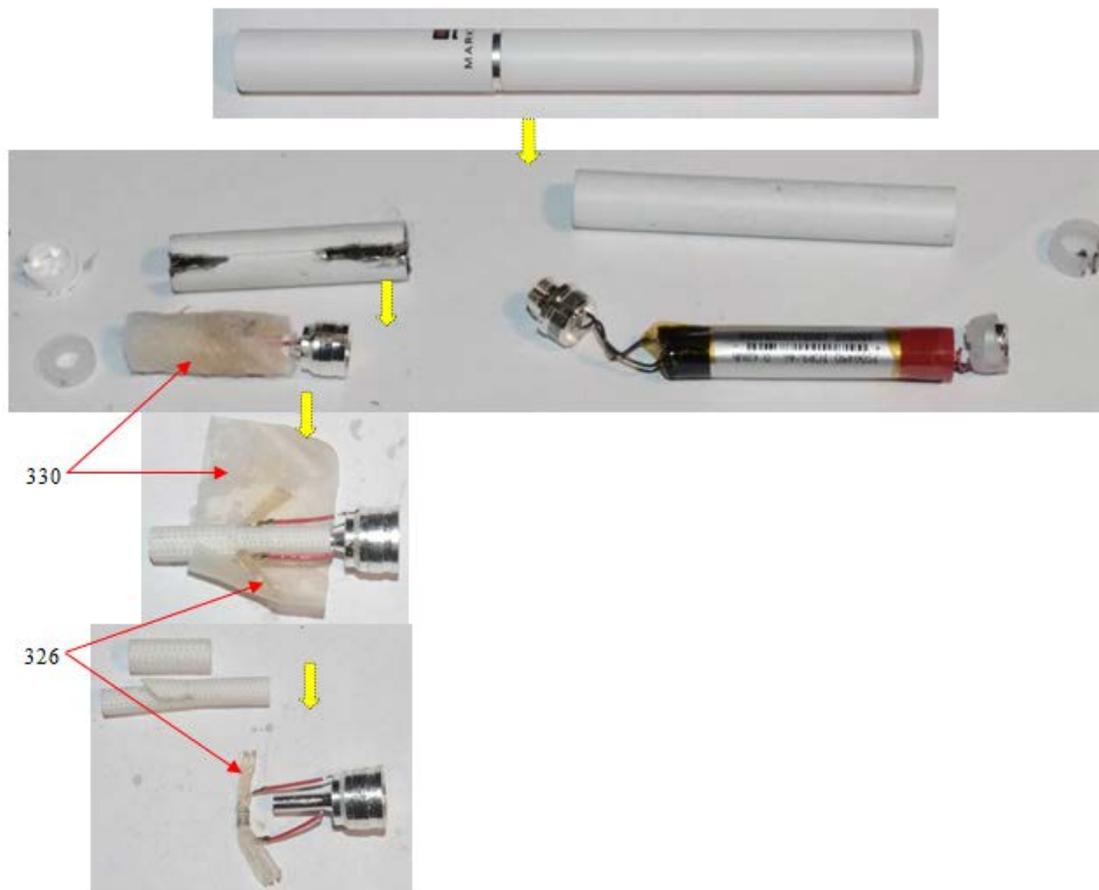
15           246. The MarkTenXL includes “the atomizer assembly [300]” as recited in  
16 claim 11 of the ’548 Patent.



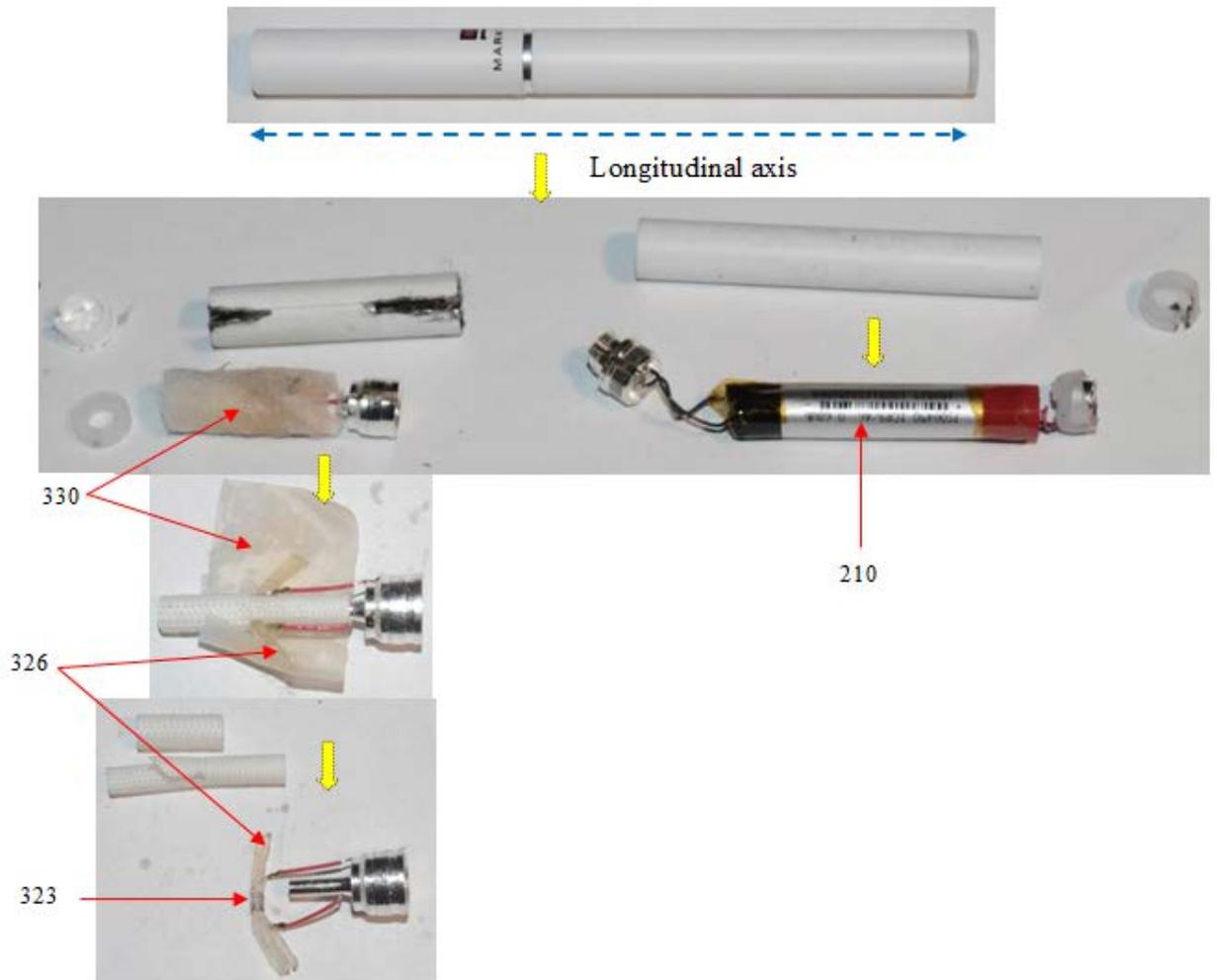
1           247. The MarkTenXL includes “a frame [350] comprising a cylindrical  
2 base having a run-through hole [161]” as recited in claim 11 of the ’548 Patent.



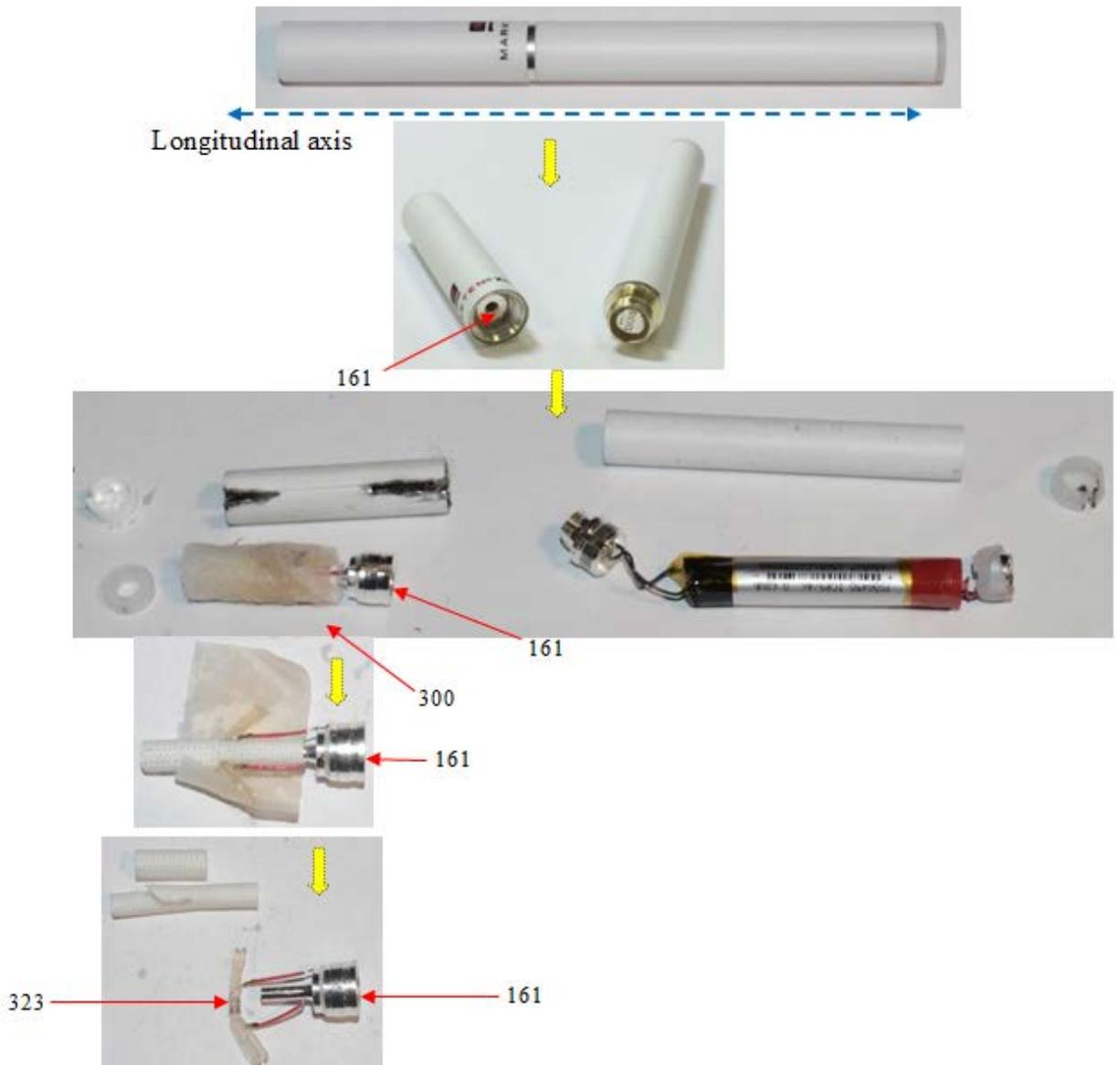
1           248. The MarkTenXL includes “a fiber member [326] in contact with the  
2 liquid storage component [330]” as recited in claim 11 of the '548 Patent.



1           249. The MarkTenXL includes “a heating wire coil [323] wound on the  
2 fiber member [326] and oriented perpendicular to the longitudinal axis, and the  
3 heating wire coil [323] electrically connected to the battery [210], with the fiber  
4 member [326] moving liquid from the liquid storage component [330] to the  
5 heating wire coil [323] by capillary action” as recited in claim 11 of the ’548  
6 Patent.

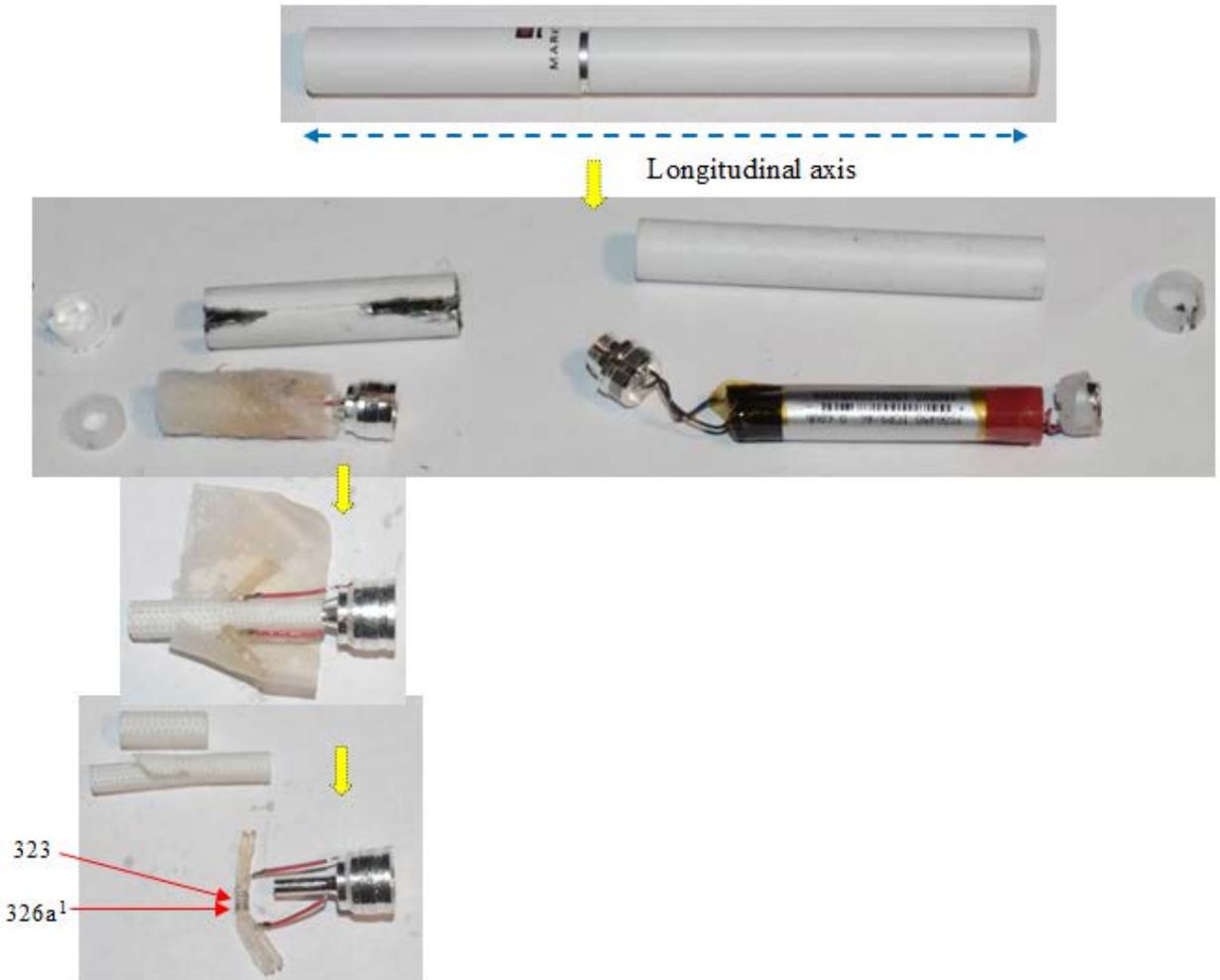


1           250. The MarkTenXL includes “an air flow path parallel to the longitudinal  
2 axis through the atomizer assembly [300], with the air flow path passing through  
3 the run-through hole [161], and with the heating wire coil [323] in the air flow path  
4 and perpendicular to the longitudinal axis” as recited in claim 11 of the ’548  
5 Patent.



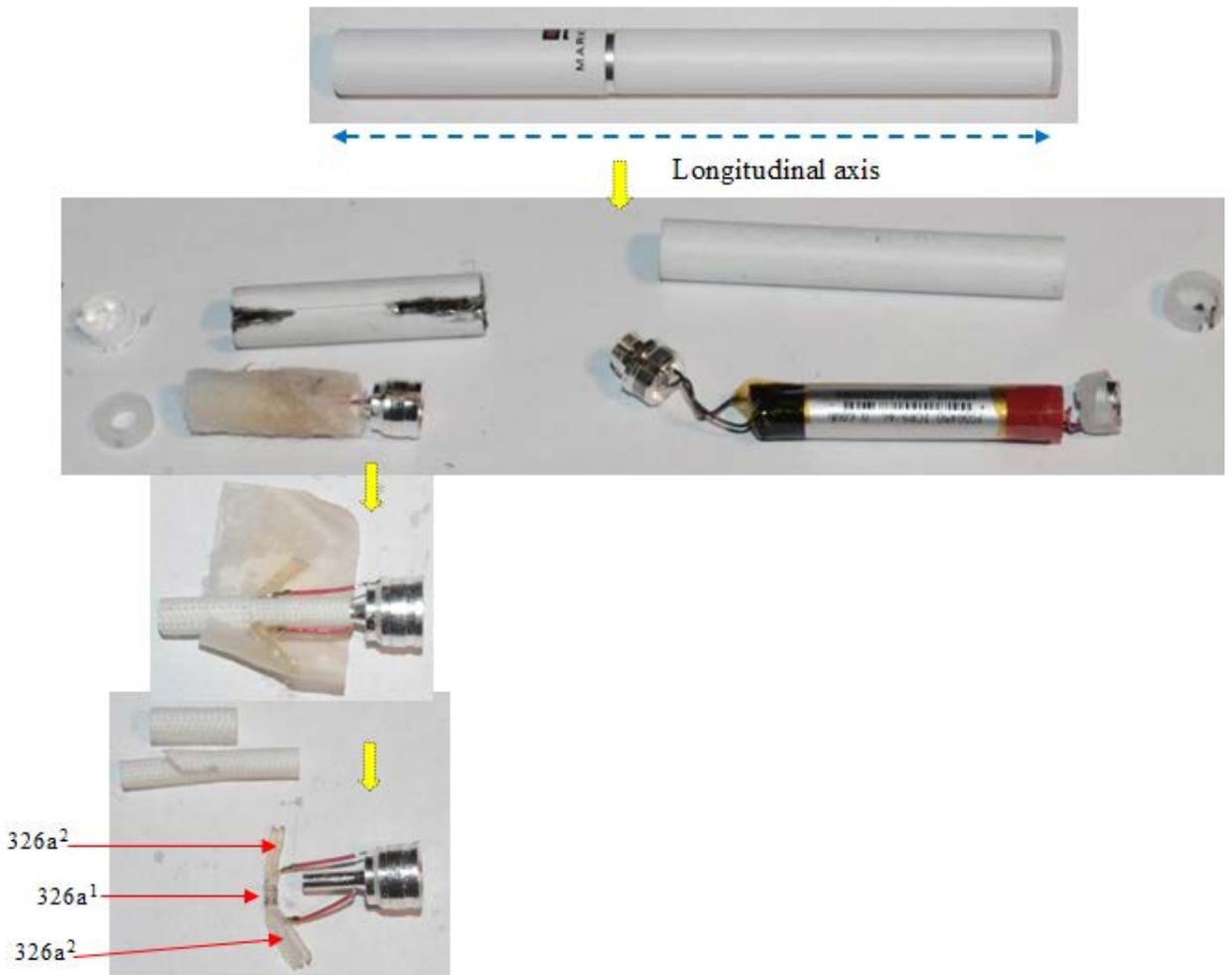
1           251. As shown in the photographs of paragraph 252 below, the MarkTenXL  
2 meets every limitation recited in claim 12 of the '548 Patent as follows:

3           252. The MarkTenXL includes “a first part [326a<sup>1</sup>] of the fiber member  
4 [326] perpendicular to the longitudinal axis and the heating wire coil [323]  
5 wrapped on the first part [326a<sup>1</sup>]” as recited in claim 12 of the '548 Patent.



1 253. As shown in the photographs of paragraph 254 below, the MarkTenXL  
2 meets every limitation recited in claim 13 of the '548 Patent as follows:

3 254. The MarkTenXL includes “the fiber member [326] having a first  
4 section [326a<sup>1</sup>] perpendicular to the longitudinal axis and having a second section  
5 [326a<sup>2</sup>] parallel to the longitudinal axis<sup>10</sup>” as recited in claim 13 of the '548 Patent.



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<sup>10</sup> The second section of the fiber member [326a<sup>2</sup>] is parallel to the longitudinal axis of the housing [120] in the assembled product.



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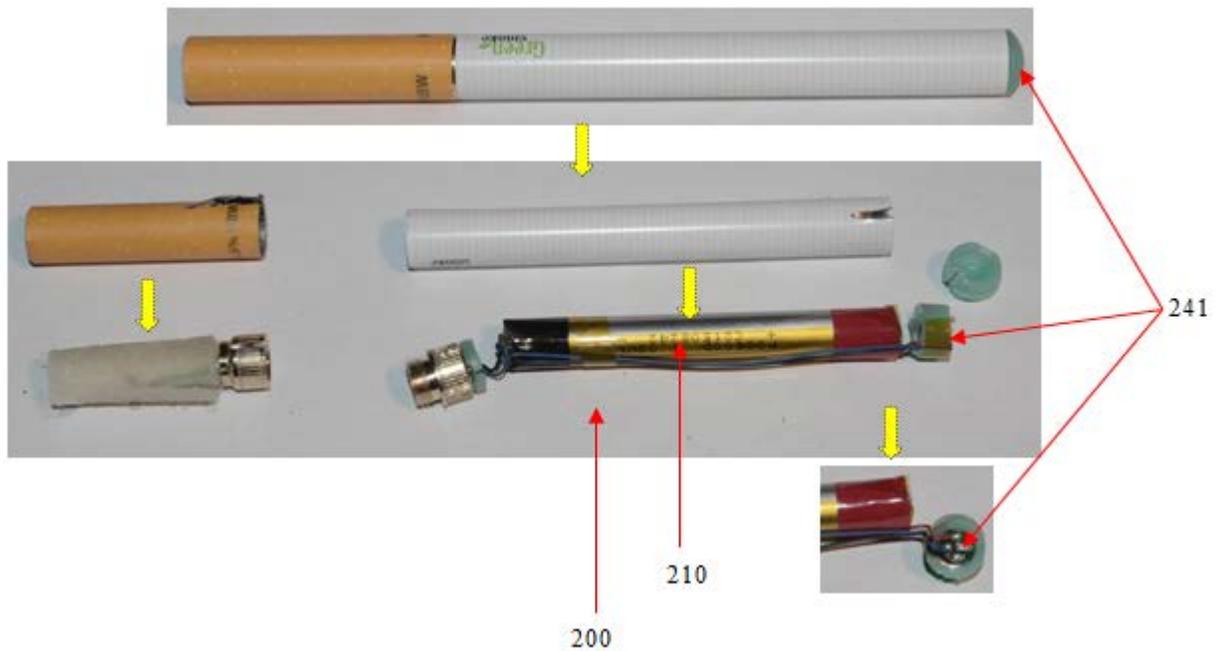
## GreenSmoke

257. As shown in the photographs of paragraphs 258 through 265 below, the GreenSmoke meets every limitation recited in claim 1 of the '548 Patent.

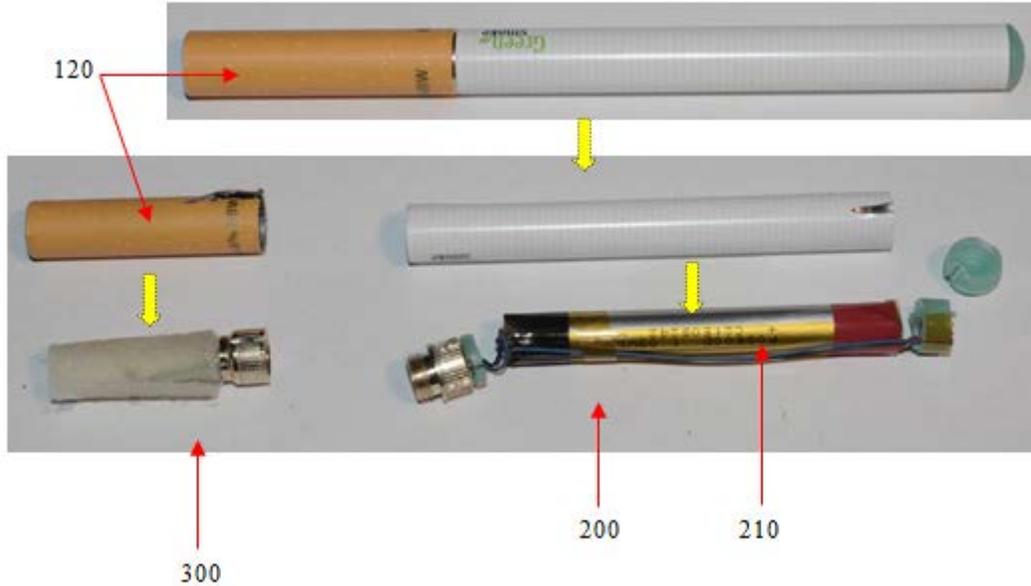
258. The GreenSmoke is an electronic cigarette as recited in claim 1 of the '548 Patent.



259. The GreenSmoke includes “a battery assembly [200] having a cylindrical battery [210] and an operating indicator [241]” as recited in claim 1 of the '548 Patent.



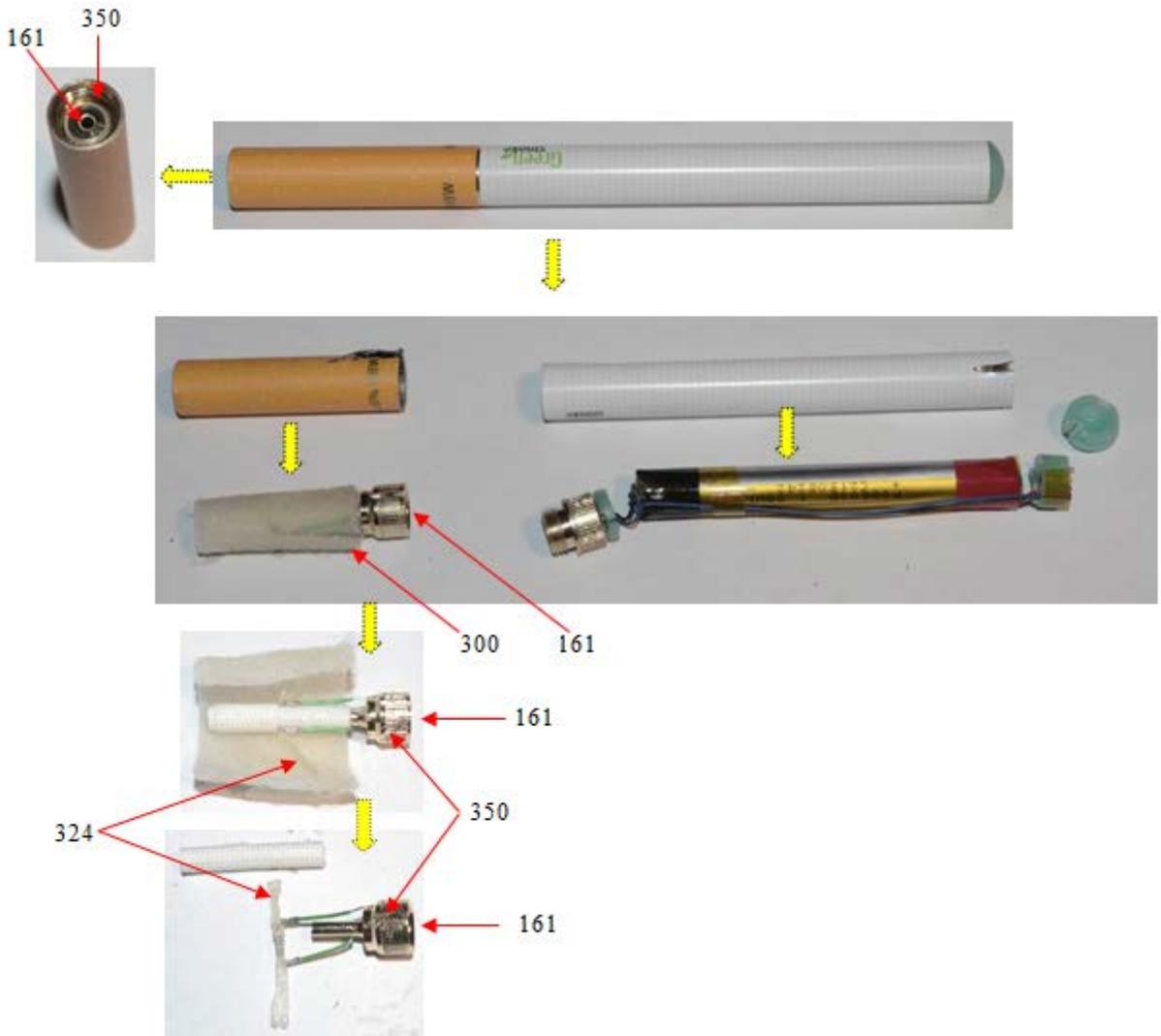
1           260. The GreenSmoke includes “an atomizer assembly [300] in an  
2 elongated cylindrical housing [120], with the battery assembly [200] electrically  
3 connected to the atomizer assembly [300], and with the cylindrical battery [210]  
4 coaxial with the atomizer assembly [300]” as recited in claim 1 of the ’548 Patent.



16           261. The GreenSmoke includes “a liquid storage component [330] in the  
17 housing [120]” as recited in claim 1 of the ’548 Patent.



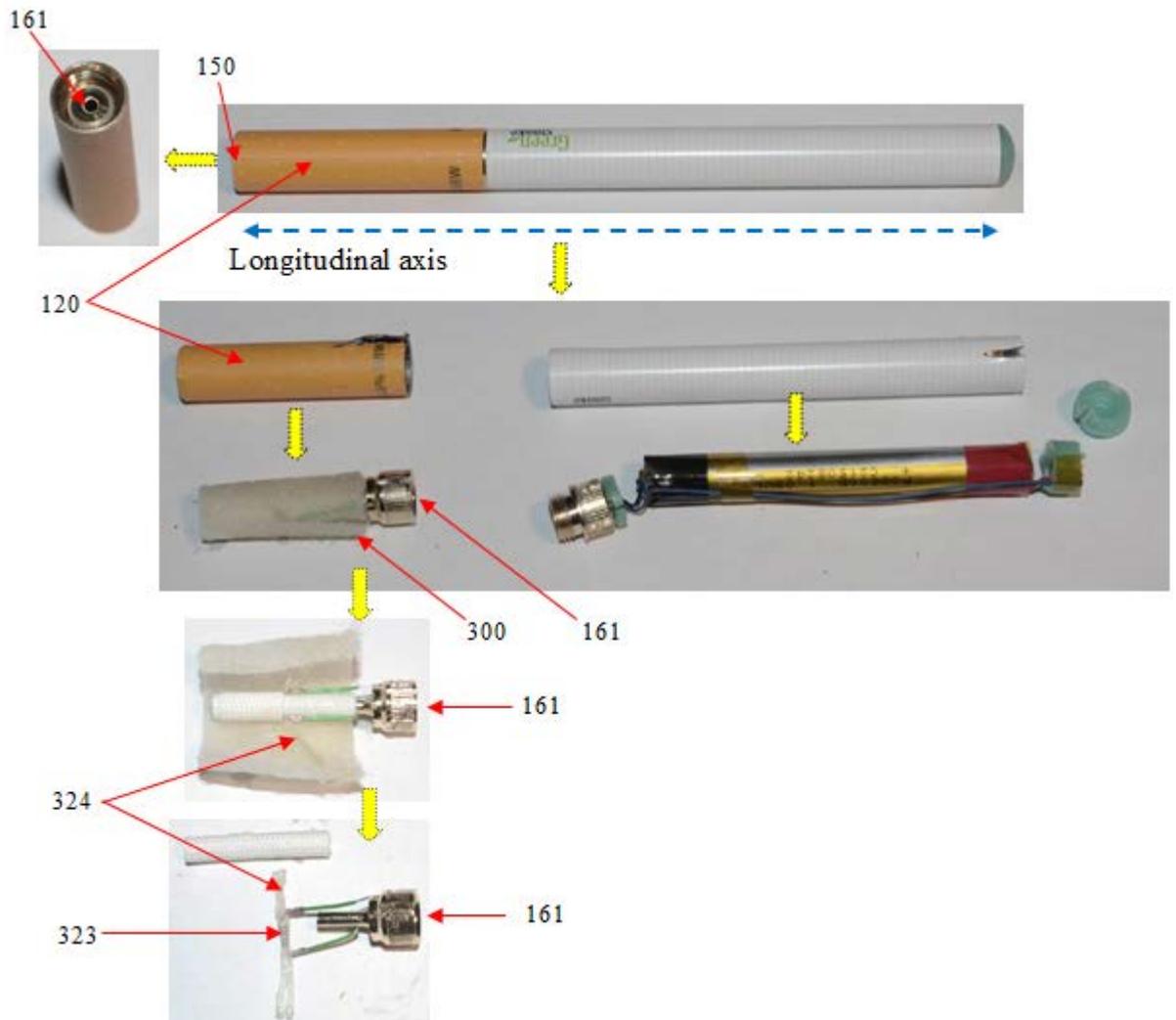
1           262. The GreenSmoke includes “the atomizer assembly [300] including a  
2 porous component [324] set on a frame [350] having a run-through hole [161]” as  
3 recited in claim 1 of the ’548 Patent.  
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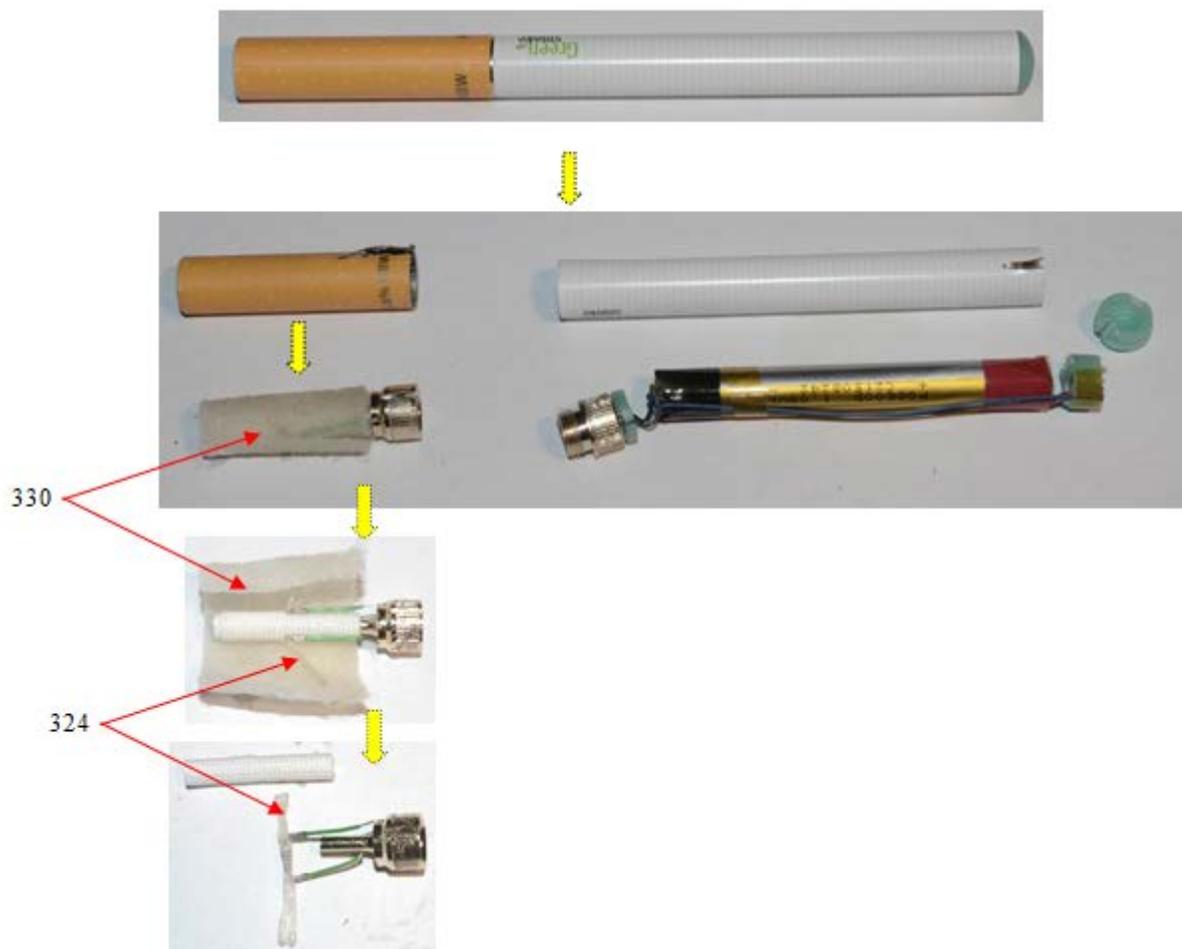
1           263. The GreenSmoke includes “a heating wire coil [323] electrically  
2 connected to the battery [210]” as recited in claim 1 of the ’548 Patent.  
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1           264. The GreenSmoke includes “an air flow path in the atomizer assembly  
2 [300] parallel to a longitudinal axis of the housing [120], with the air flow path  
3 through the run-through hole [161] to an outlet [150], with the heating wire coil  
4 [323] wound on the porous component [324] and in the air flow path and with the  
5 heating wire coil [323] oriented perpendicular to the longitudinal axis” as recited  
6 in claim 1 of the '548 Patent.

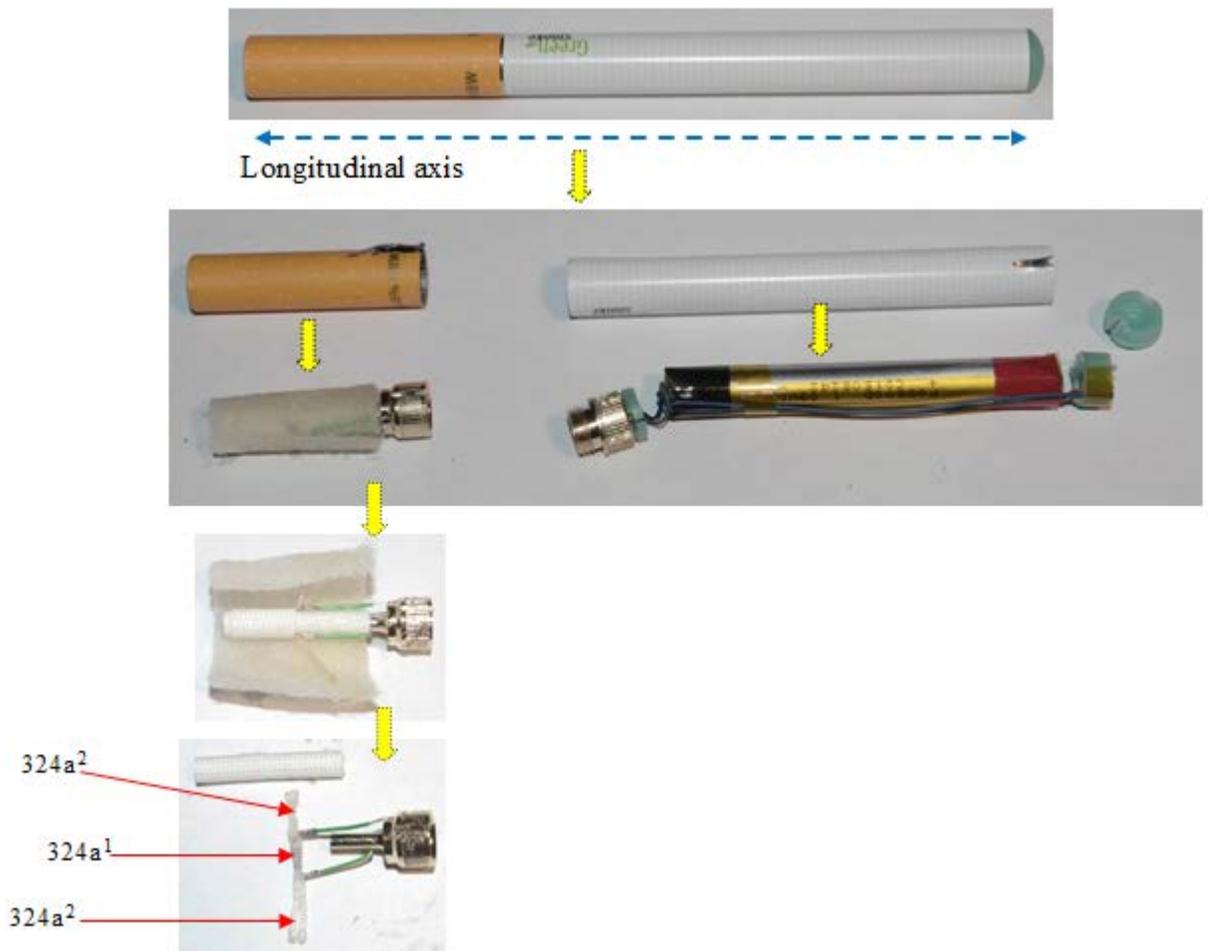


1           265. The GreenSmoke includes “the porous component [324] in contact  
2 with the liquid storage component [330]” as recited in claim 1 of the '548 Patent.



1           266. As shown in the photographs of paragraph 267 below, the  
2 GreenSmoke meets every limitation recited in claim 2 of the '548 Patent as  
3 follows:

4           267. The GreenSmoke includes “the porous component [324] having a first  
5 section [324a<sup>1</sup>] perpendicular to the longitudinal axis and having a second section  
6 [324a<sup>2</sup>] parallel to the longitudinal axis<sup>11</sup>” as recited in claim 2 of the '548 Patent.



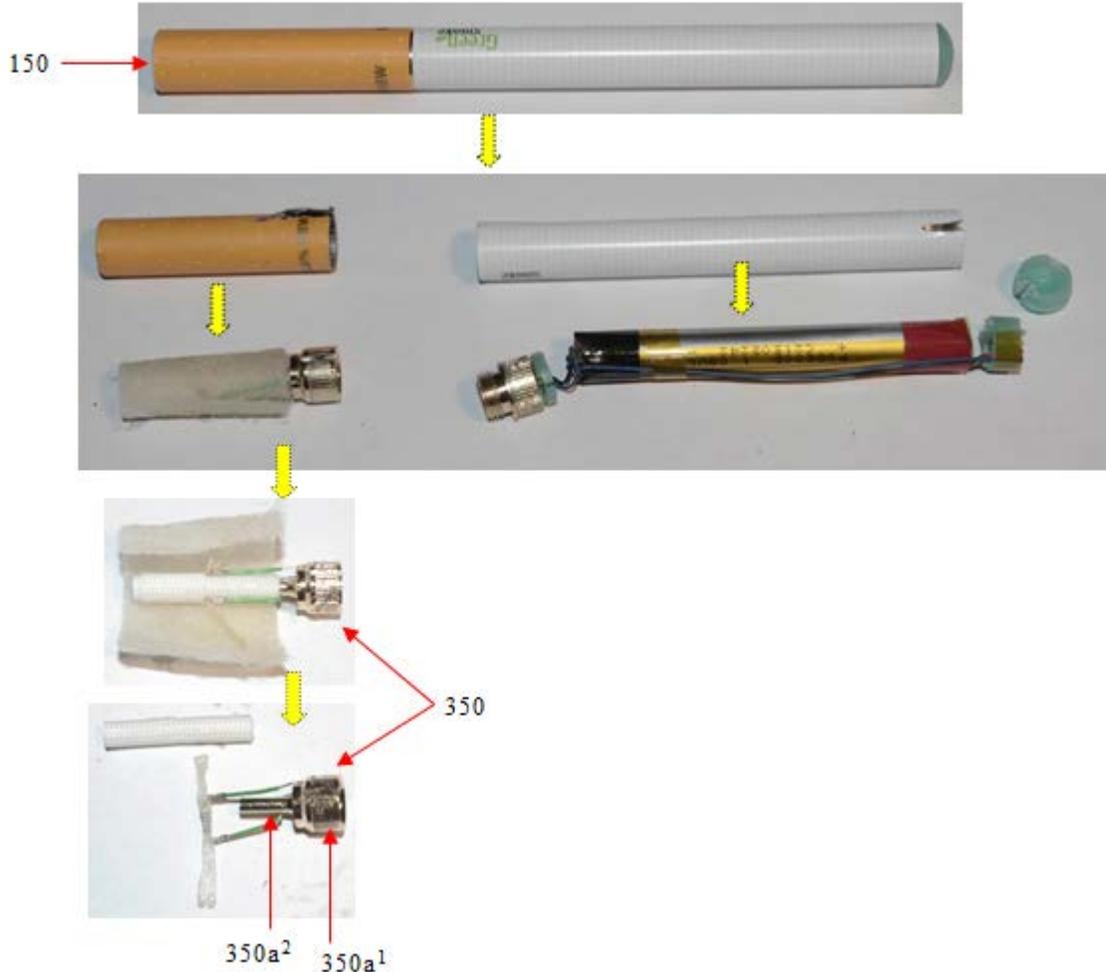
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<sup>11</sup> The second section of the porous component [324a<sup>2</sup>] is parallel to the longitudinal axis of the housing [120] in the assembled product.

1           268. As shown in the photographs of paragraph 269 below, the  
2 GreenSmoke meets every limitation recited in claim 3 of the '548 Patent as  
3 follows:

4           269. The GreenSmoke includes "the frame [350] having a cylindrical first  
5 section [350a<sup>1</sup>] and a second section [350a<sup>2</sup>], with the second section [350a<sup>2</sup>]  
6 between the first section [350a<sup>1</sup>] and the outlet [150], and with the second section  
7 [350a<sup>2</sup>] longer than the first section [350a<sup>1</sup>]" as recited in claim 3 of the '548  
8 Patent.



1           270. As shown in the photographs of paragraph 271 below, the  
2 GreenSmoke meets every limitation recited in claim 4 of the '548 Patent as  
3 follows:

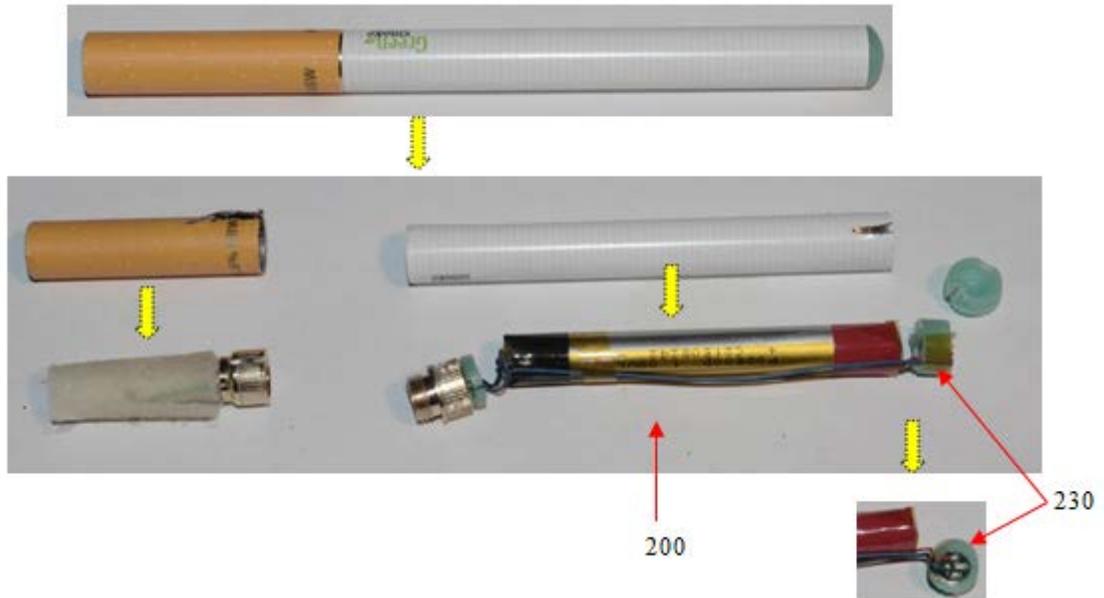
4           271. The GreenSmoke includes "wherein the first section [350a<sup>1</sup>] of the  
5 frame [350] is a cylindrical base section" as recited in claim 4 of the '548 Patent.



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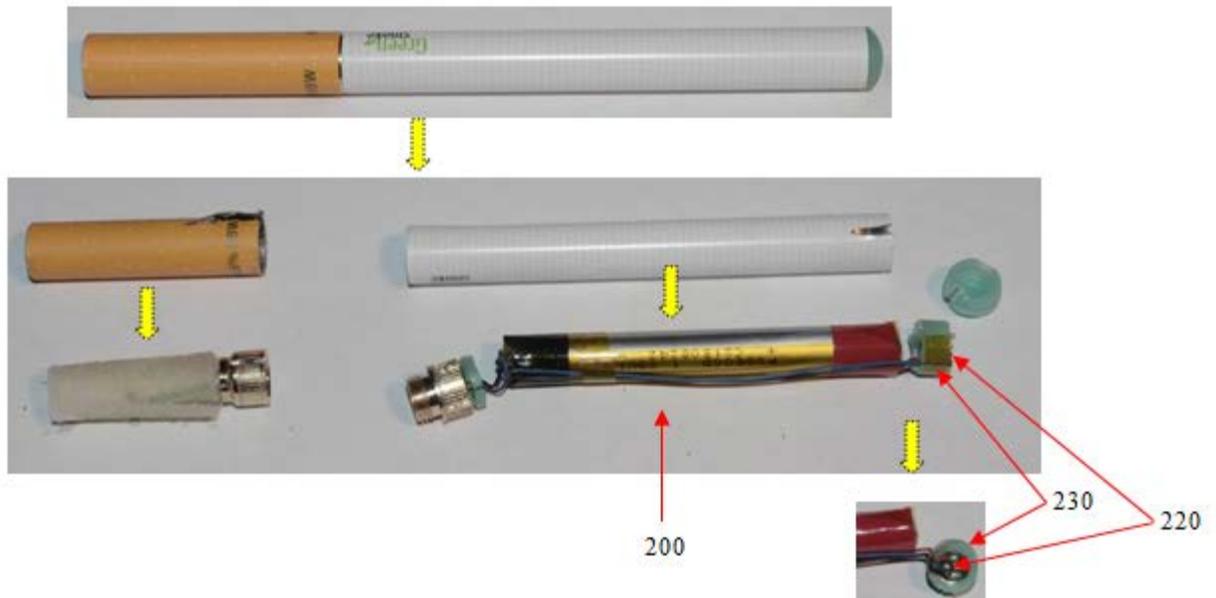
272. As shown in the photographs of paragraph 273 below, the GreenSmoke meets every limitation recited in claim 5 of the '548 Patent as follows:

273. The GreenSmoke includes “the battery assembly [200] further including an air flow sensor [230]” as recited in claim 5 of the '548 Patent.



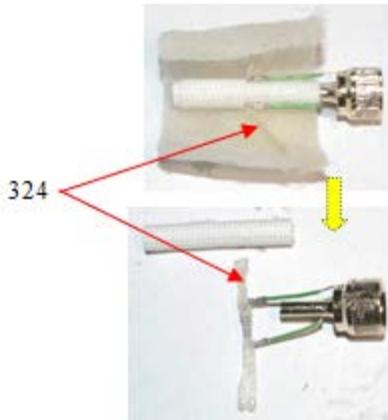
1           274. As shown in the photographs of paragraph 275 below, the  
2 GreenSmoke meets every limitation recited in claim 6 of the '548 Patent as  
3 follows:

4           275. The GreenSmoke includes “the battery assembly [200] further  
5 comprising an electronic circuit board [220] electrically connected to the air flow  
6 sensor [230]” as recited in claim 6 of the '548 Patent.



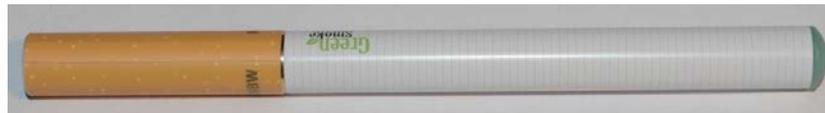
1           276. As shown in the photographs of paragraph 277 below, the  
2 GreenSmoke meets every limitation recited in claim 7 of the '548 Patent as  
3 follows:

4           277. The GreenSmoke includes “wherein the porous component [324] is  
5 cylindrical” as recited in claim 7 of the '548 Patent.



14           278. As shown in the photographs of paragraphs 279 through 285 below,  
15 the GreenSmoke meets every limitation recited in claim 8 of the '548 Patent as  
16 follows:

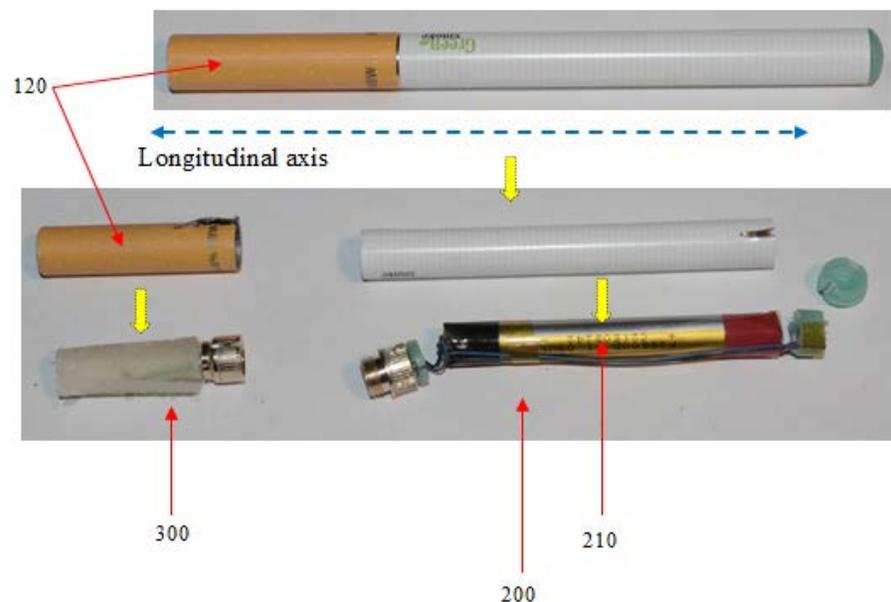
17           279. The GreenSmoke is an electronic cigarette as recited in claim 8 of the  
18 '548 Patent.



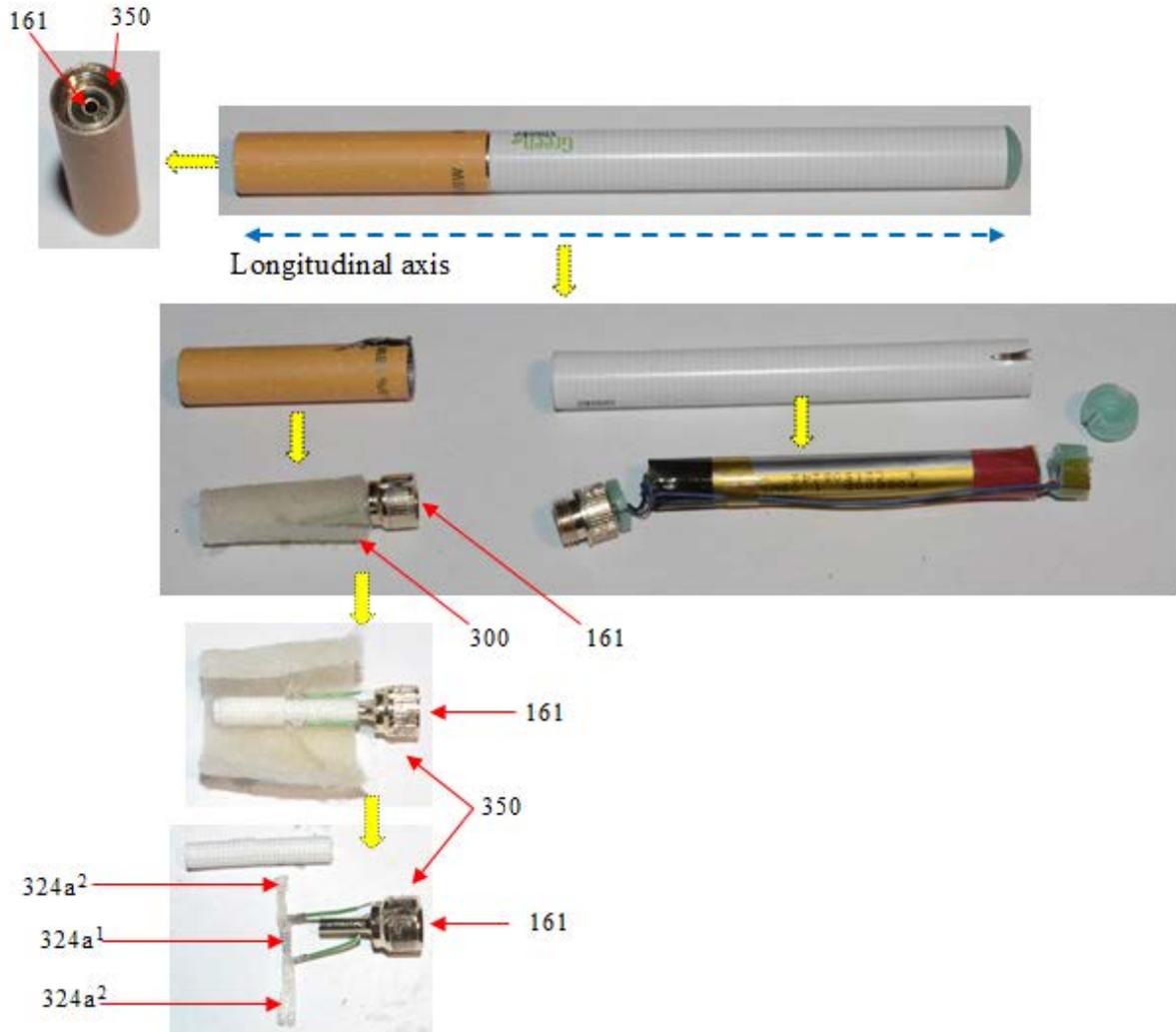
1           280. The GreenSmoke includes “a battery assembly [200] having a  
2 cylindrical battery [210] and an operating indicator [241]” as recited in claim 8 of  
3 the '548 Patent.



14           281. The GreenSmoke includes “an atomizer assembly [300] in an  
15 elongated cylindrical housing [120] having a longitudinal axis, with the battery  
16 assembly [200] electrically connected to the atomizer assembly [300], and with the  
17 cylindrical battery [210] coaxial with the atomizer assembly [300]” as recited in  
18 claim 8 of the '548 Patent.

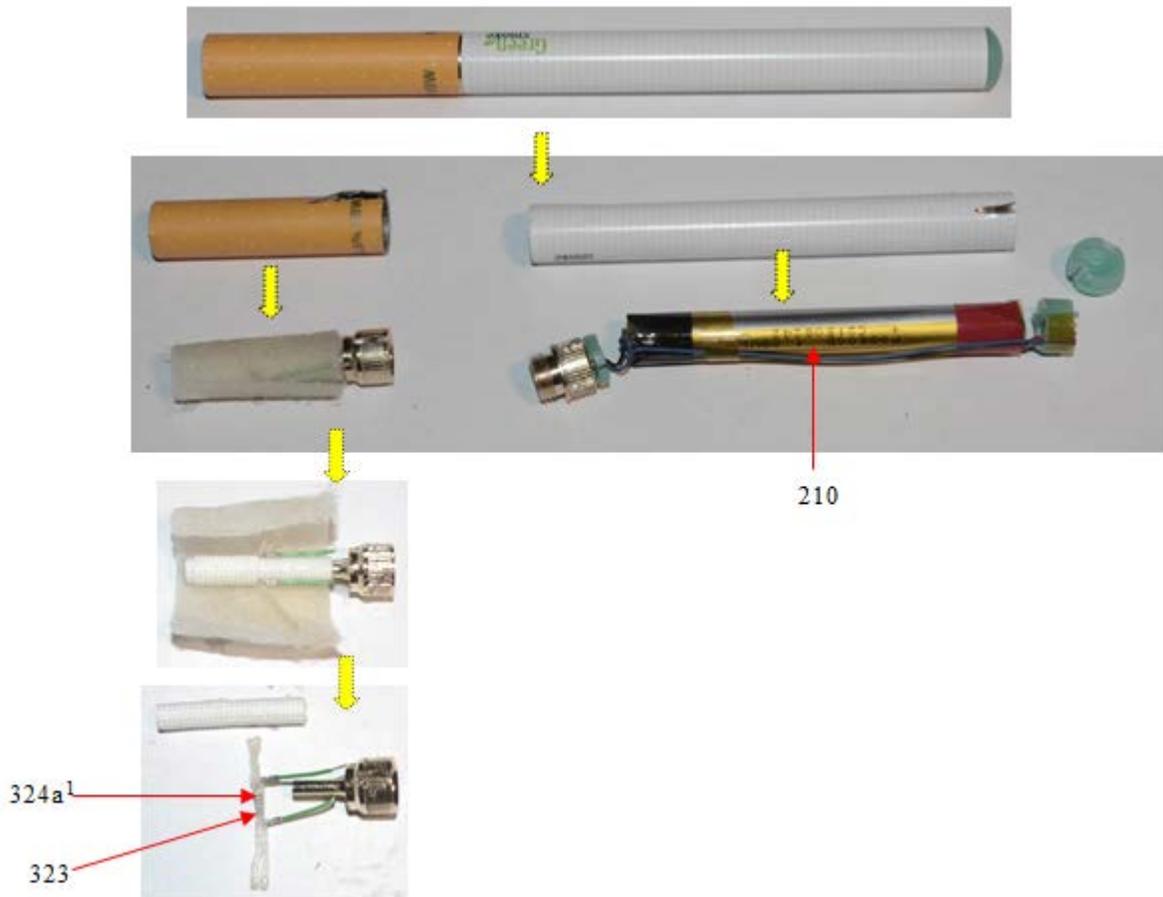


1           282. The GreenSmoke includes “the atomizer assembly [300] including a  
 2 porous component [324] having a first section [324a<sup>1</sup>] perpendicular to the  
 3 longitudinal axis and a second section [324a<sup>2</sup>] parallel to the longitudinal axis<sup>12</sup>,  
 4 with the porous component [324] set on a frame [350] having a run-through hole  
 5 [161]” as recited in claim 8 of the ’548 Patent.

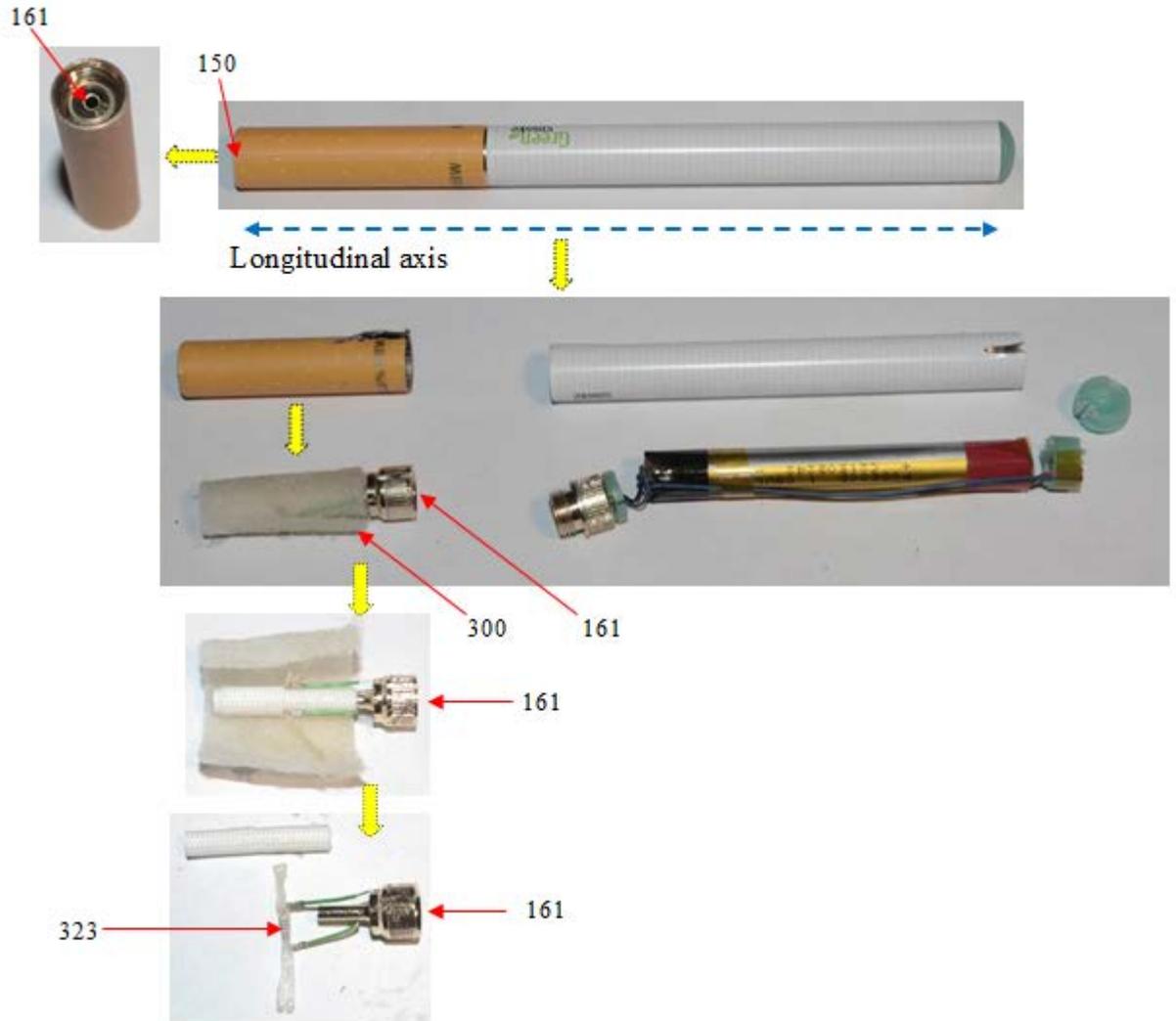


12 The second section of the porous component [324a<sup>2</sup>] is parallel to the longitudinal axis of the housing [120] in the assembled product.

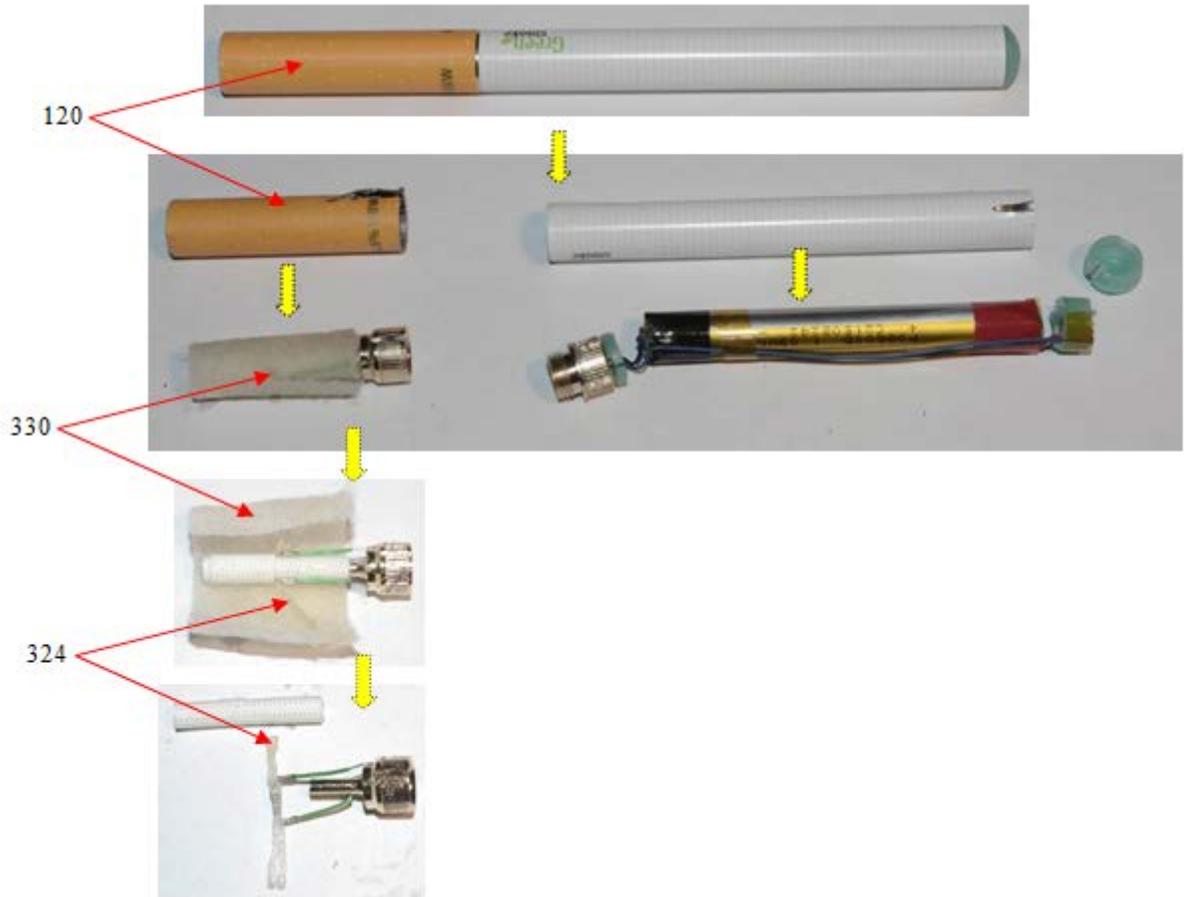
1           283. The GreenSmoke includes “a heating wire coil [323] wound on the  
2 first section [324a<sup>1</sup>] of the porous component [324] and electrically connected to  
3 the battery [210]” as recited in claim 8 of the ’548 Patent.



1           284. The GreenSmoke includes “an air flow path in the atomizer assembly  
2 [300] parallel to the longitudinal axis, with the air flow path through the run-  
3 through hole [161] to an outlet [150], and the heating wire coil [323] in the air flow  
4 path and oriented perpendicular to the longitudinal axis” as recited in claim 8 of  
5 the '548 Patent.



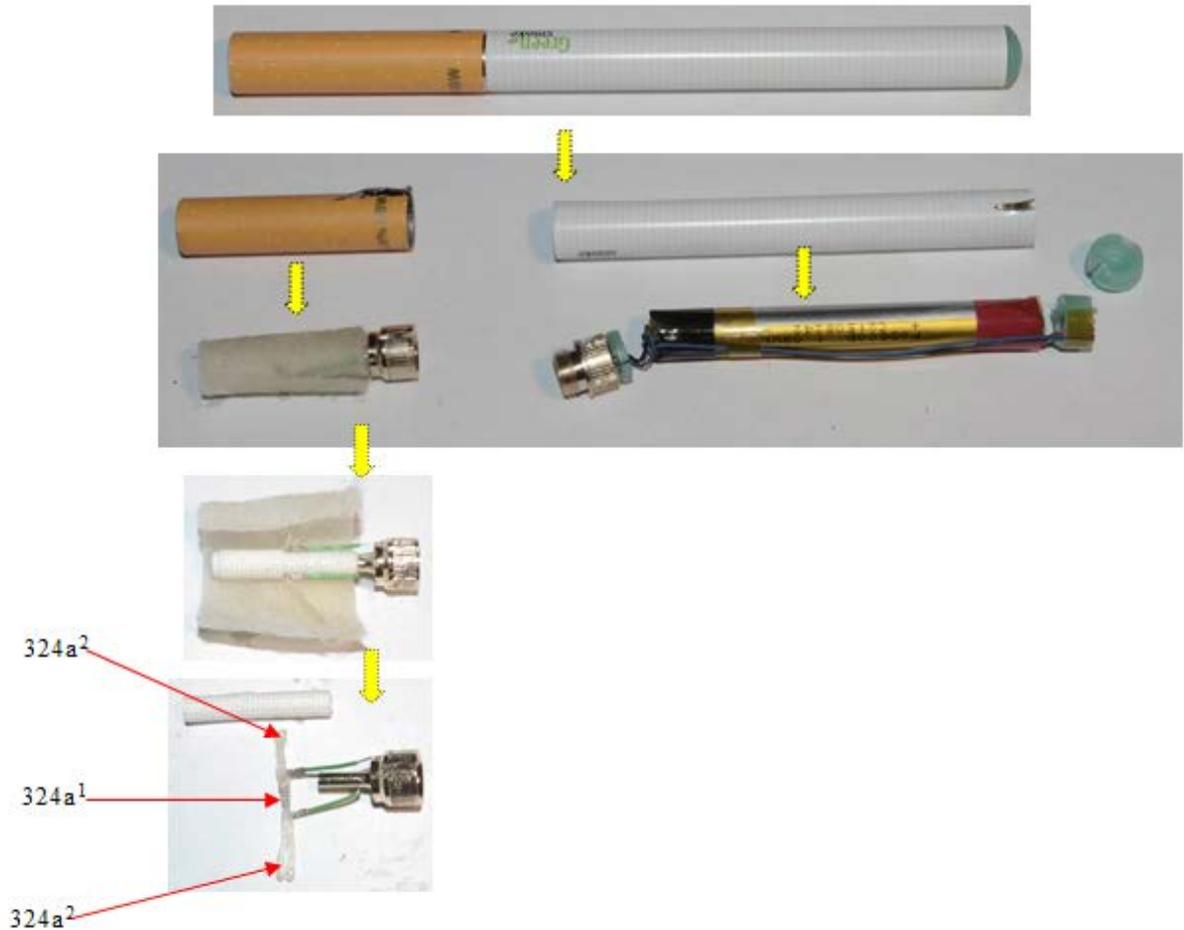
1           285. The GreenSmoke includes “a liquid storage component [330] in the  
2 housing [120] in contact with the porous component [324]” as recited in claim 8 of  
3 the '548 Patent.  
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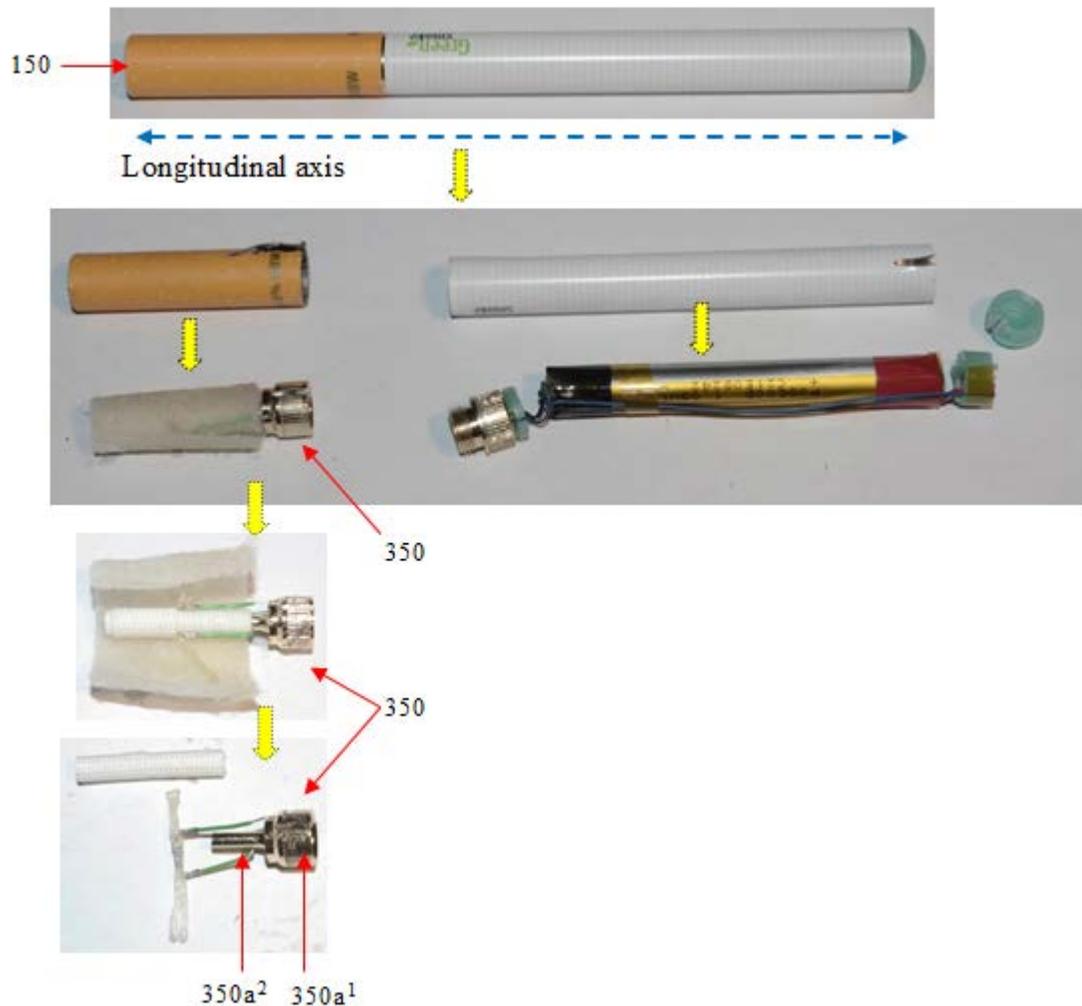
286. As shown in the photographs of paragraph 287 below, the GreenSmoke meets every limitation recited in claim 9 of the '548 Patent as follows:

287. The GreenSmoke includes “the second section [324a<sup>2</sup>] of the porous component [324] on opposite sides of the first section [324a<sup>1</sup>] of the porous component [324]” as recited in claim 9 of the '548 Patent.



1           288. As shown in the photographs of paragraph 289 below, the  
2 GreenSmoke meets every limitation recited in claim 10 of the '548 Patent as  
3 follows:

4           289. The GreenSmoke includes "the frame [350] having a cylindrical first  
5 section [350a<sup>1</sup>] and a second section [350a<sup>2</sup>], with the second section [350a<sup>2</sup>]  
6 between the first section [350a<sup>1</sup>] and the outlet [150], and with the second section  
7 [350a<sup>2</sup>] longer than the first section [350a<sup>1</sup>]" as recited in claim 10 of the '548  
8 Patent.

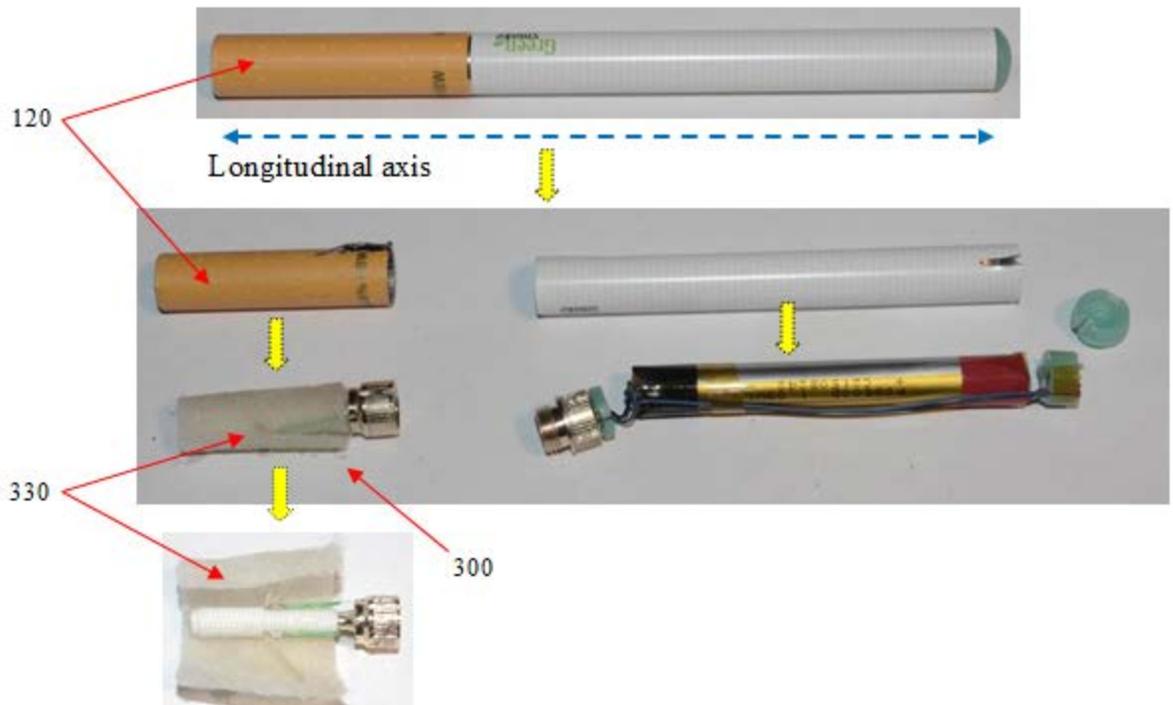


1           290. As shown in the photographs of paragraphs 291 through 298 below,  
2 the GreenSmoke meets every limitation recited in claim 11 of the '548 Patent as  
3 follows:

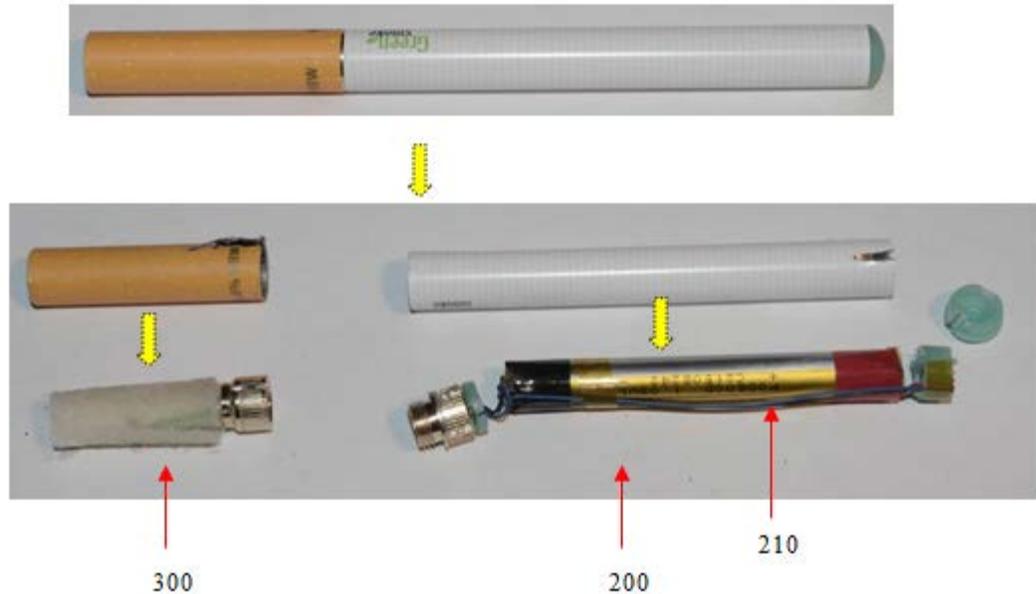
4           291. The GreenSmoke is an electronic cigarette as recited in claim 11 of the  
5 '548 Patent.



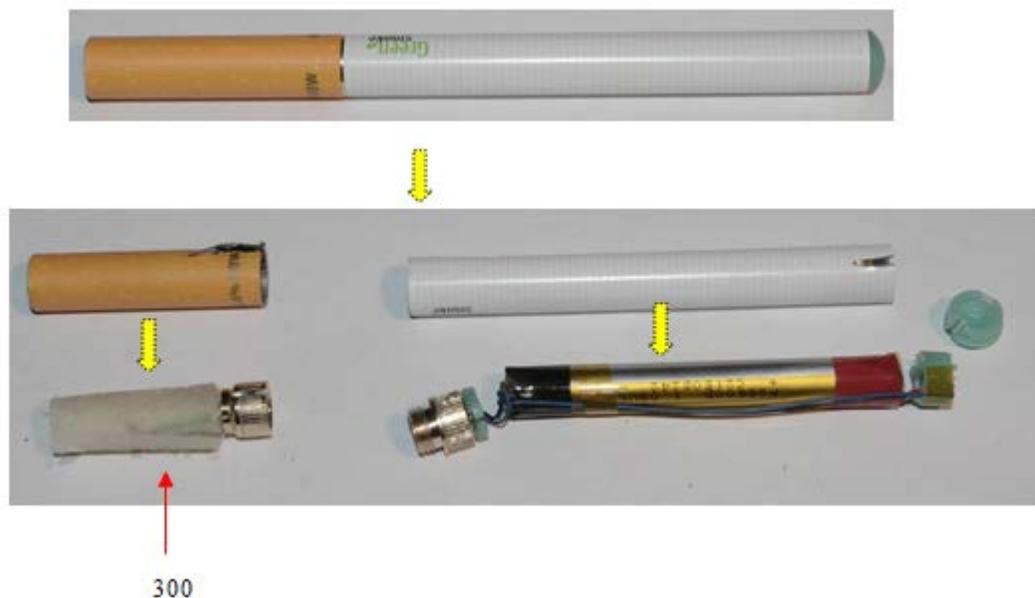
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10           292. The GreenSmoke includes “an atomizer assembly [300] and a liquid  
11 storage component [330] in an elongated cylindrical housing [120] having a  
12 longitudinal axis” as recited in claim 11 of the '548 Patent.



1           293. The GreenSmoke includes “battery assembly [200] electrically  
2 connected to the atomizer assembly [300], and with the battery assembly [200]  
3 including a cylindrical battery [210] coaxial with the atomizer assembly [300]” as  
4 recited in claim 11 of the ’548 Patent.

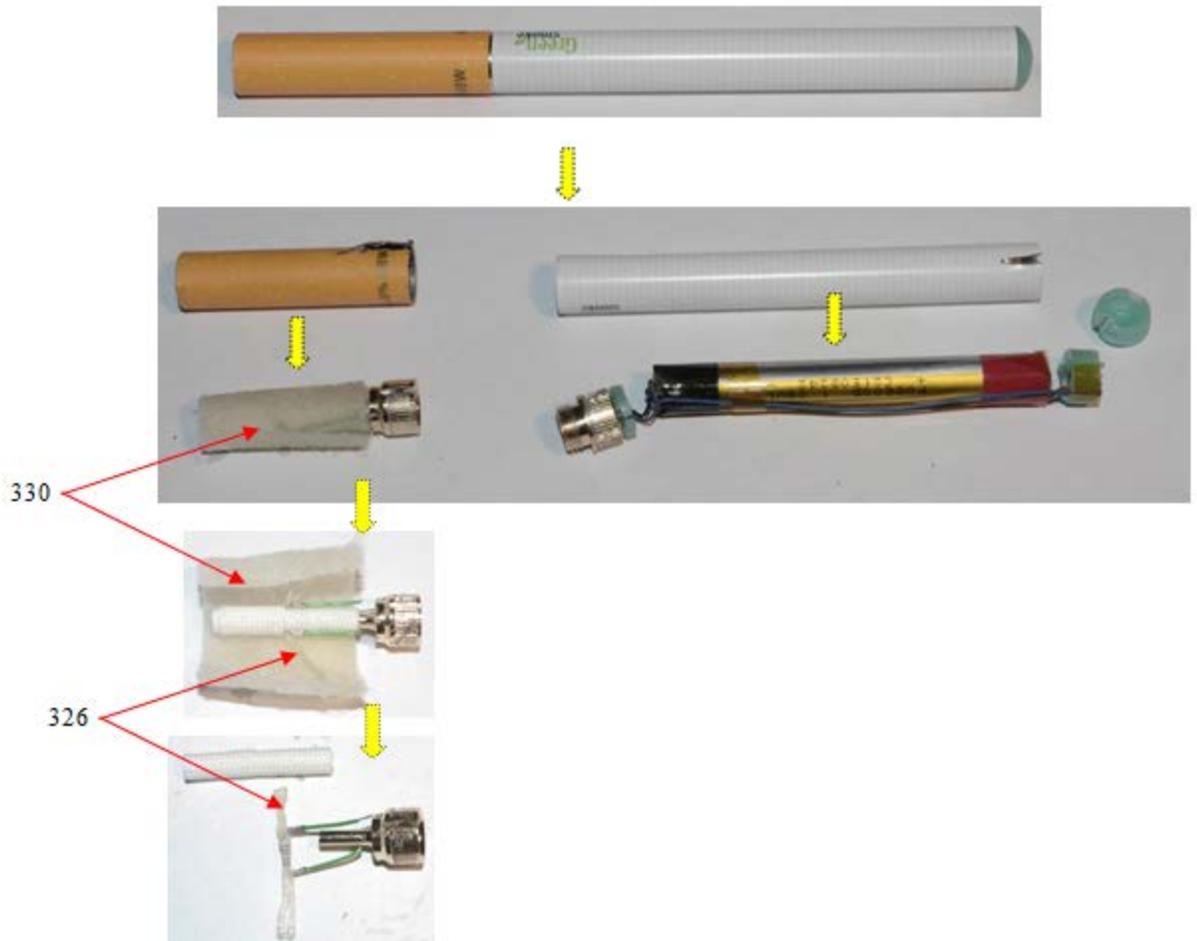


16           294. The GreenSmoke includes “the atomizer assembly [300]” as recited in  
17 claim 11 of the ’548 Patent.

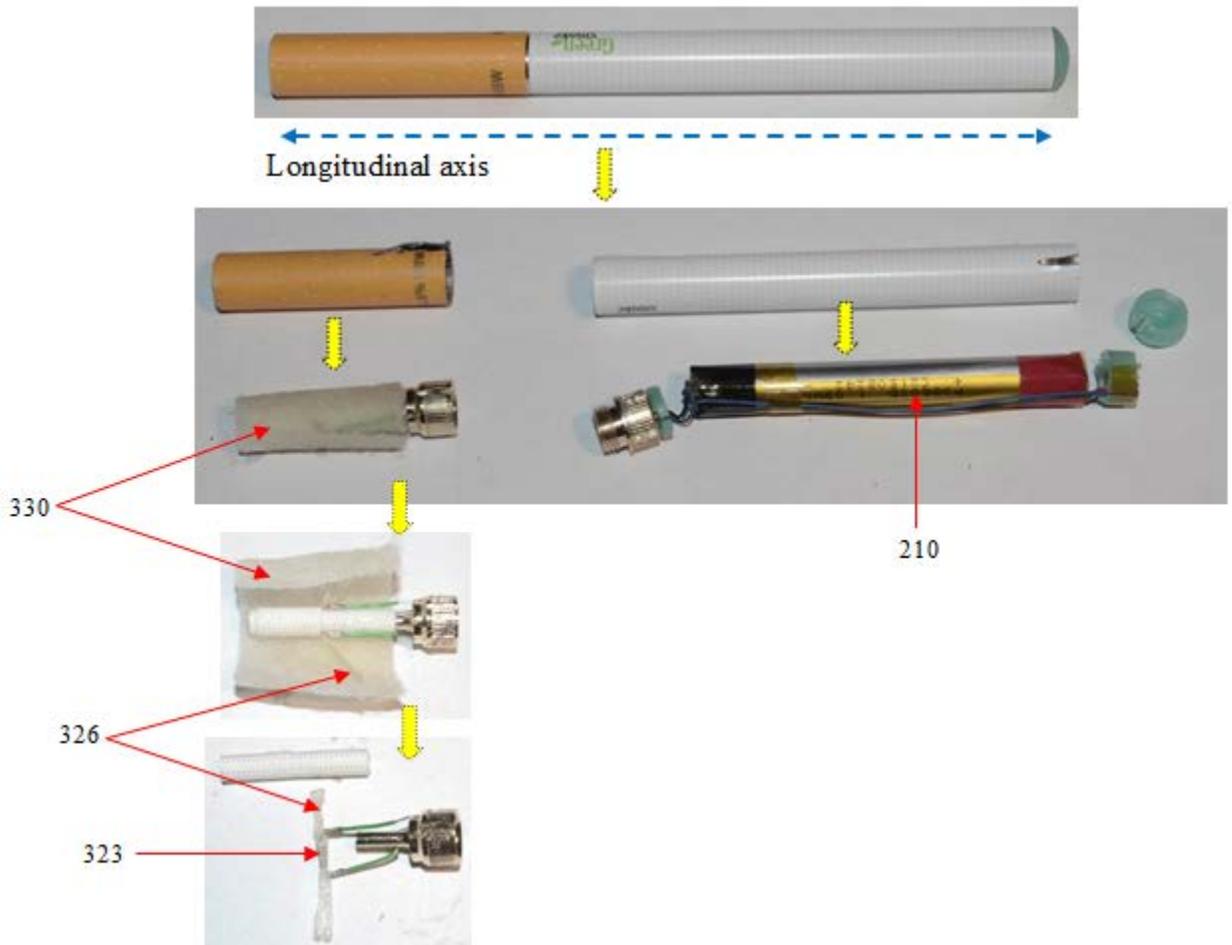




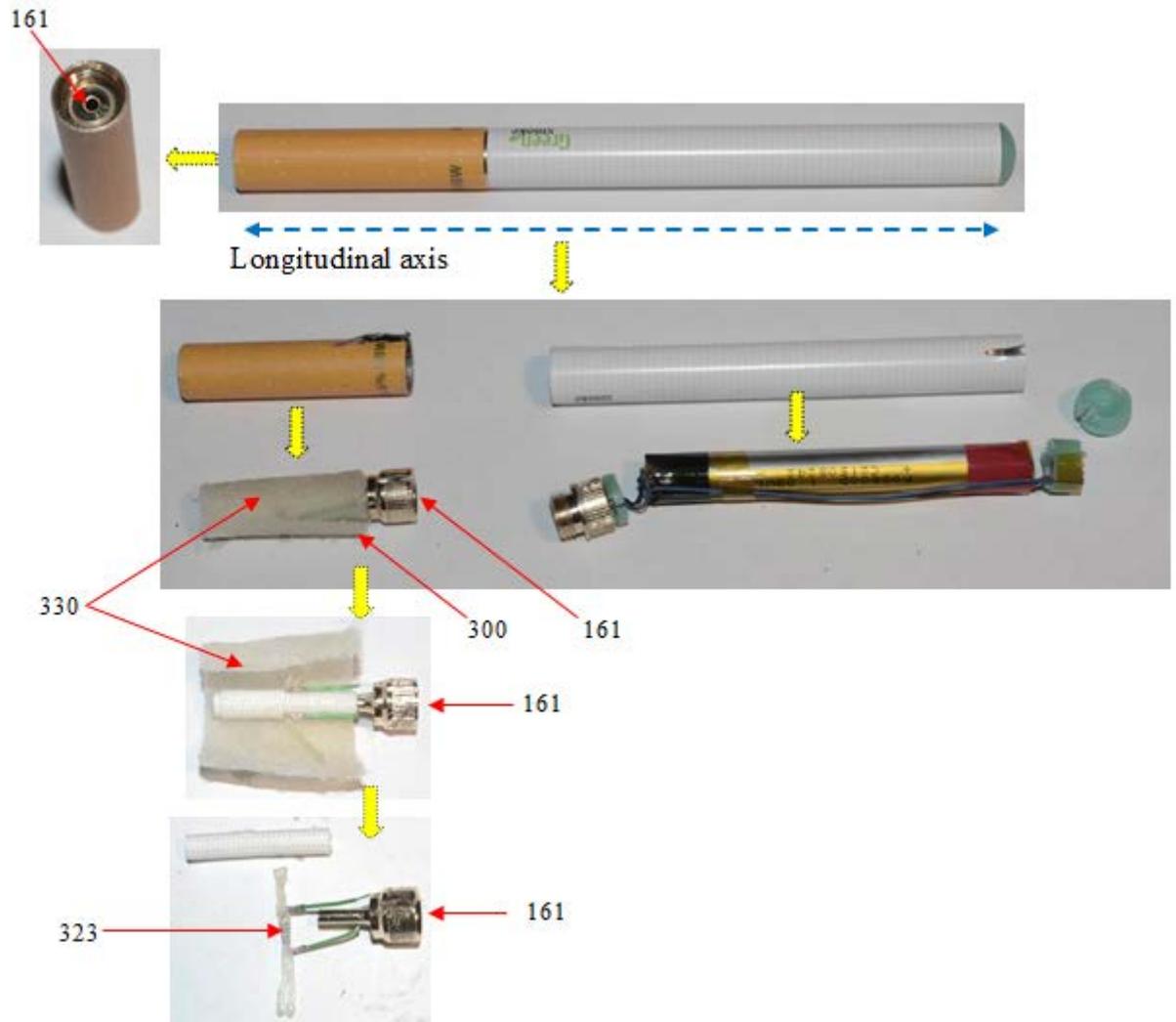
1           296. The GreenSmoke includes “a fiber member [326] in contact with the  
2 liquid storage component [330]” as recited in claim 11 of the ’548 Patent.  
3



1           297. The GreenSmoke includes “a heating wire coil [323] wound on the  
2 fiber member [326] and oriented perpendicular to the longitudinal axis, and the  
3 heating wire coil [323] electrically connected to the battery [210], with the fiber  
4 member [326] moving liquid from the liquid storage component [330] to the  
5 heating wire coil [323] by capillary action” as recited in claim 11 of the ’548  
6 Patent.

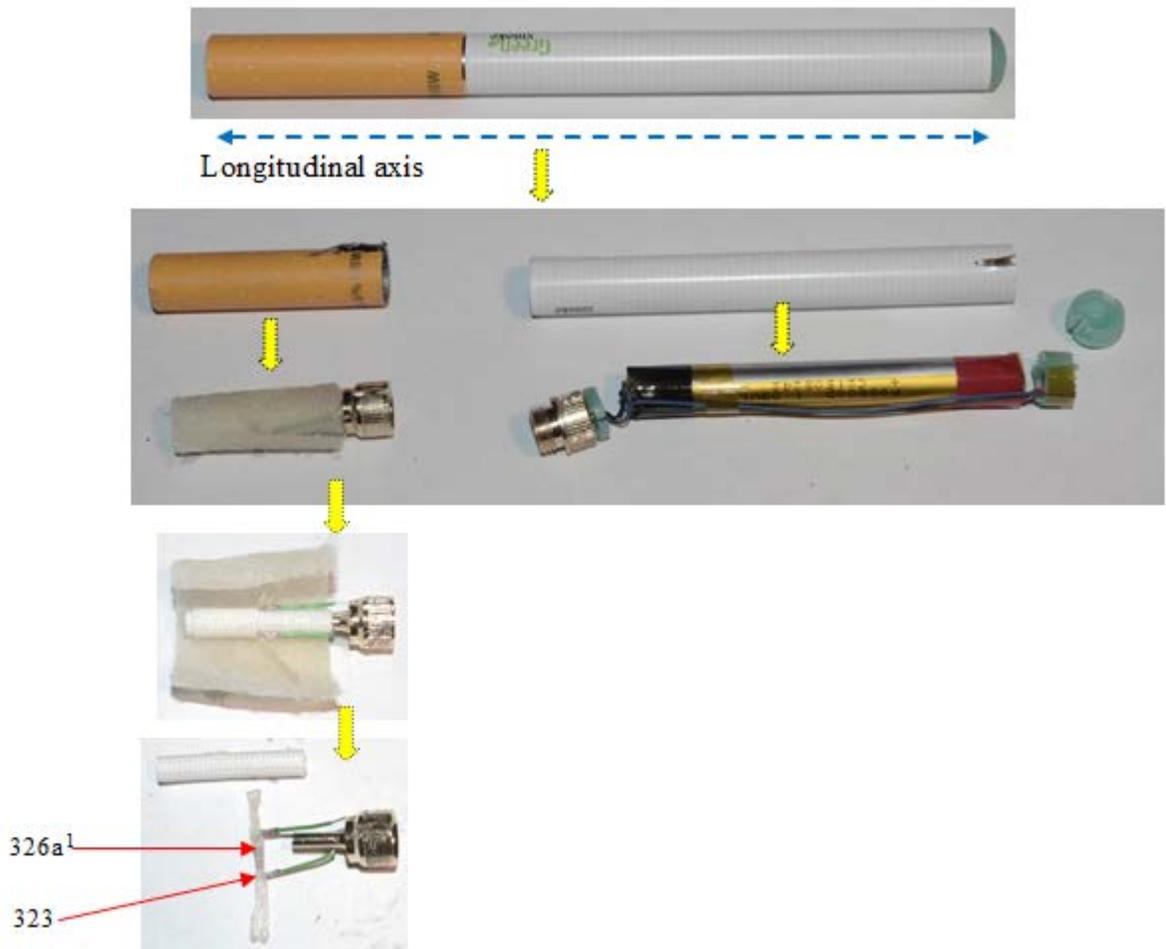


1           298. The GreenSmoke includes “an air flow path parallel to the longitudinal  
2 axis through the atomizer assembly [300], with the air flow path passing through  
3 the run-through hole [161], and with the heating wire coil [323] in the air flow path  
4 and perpendicular to the longitudinal axis” as recited in claim 11 of the ’548  
5 Patent.



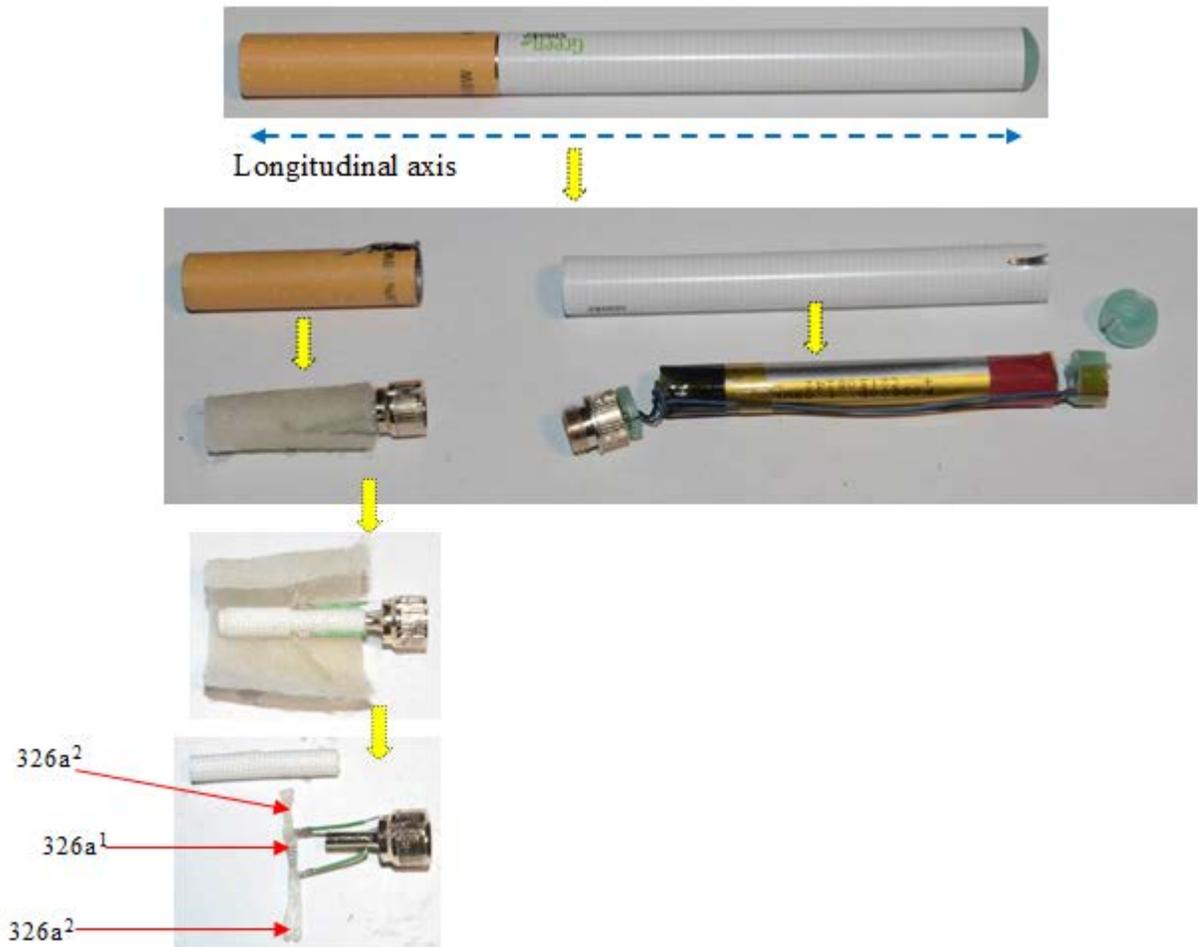
1           299. As shown in the photographs of paragraph 300 below, the  
2 GreenSmoke meets every limitation recited in claim 12 of the '548 Patent as  
3 follows:

4           300. The GreenSmoke includes “a first part [326a<sup>1</sup>] of the fiber member  
5 [326] perpendicular to the longitudinal axis and the heating wire coil [323]  
6 wrapped on the first part [326a<sup>1</sup>]” as recited in claim 12 of the '548 Patent.



1 301. As shown in the photographs of paragraph 302 below, the  
2 GreenSmoke meets every limitation recited in claim 13 of the '548 Patent as  
3 follows:

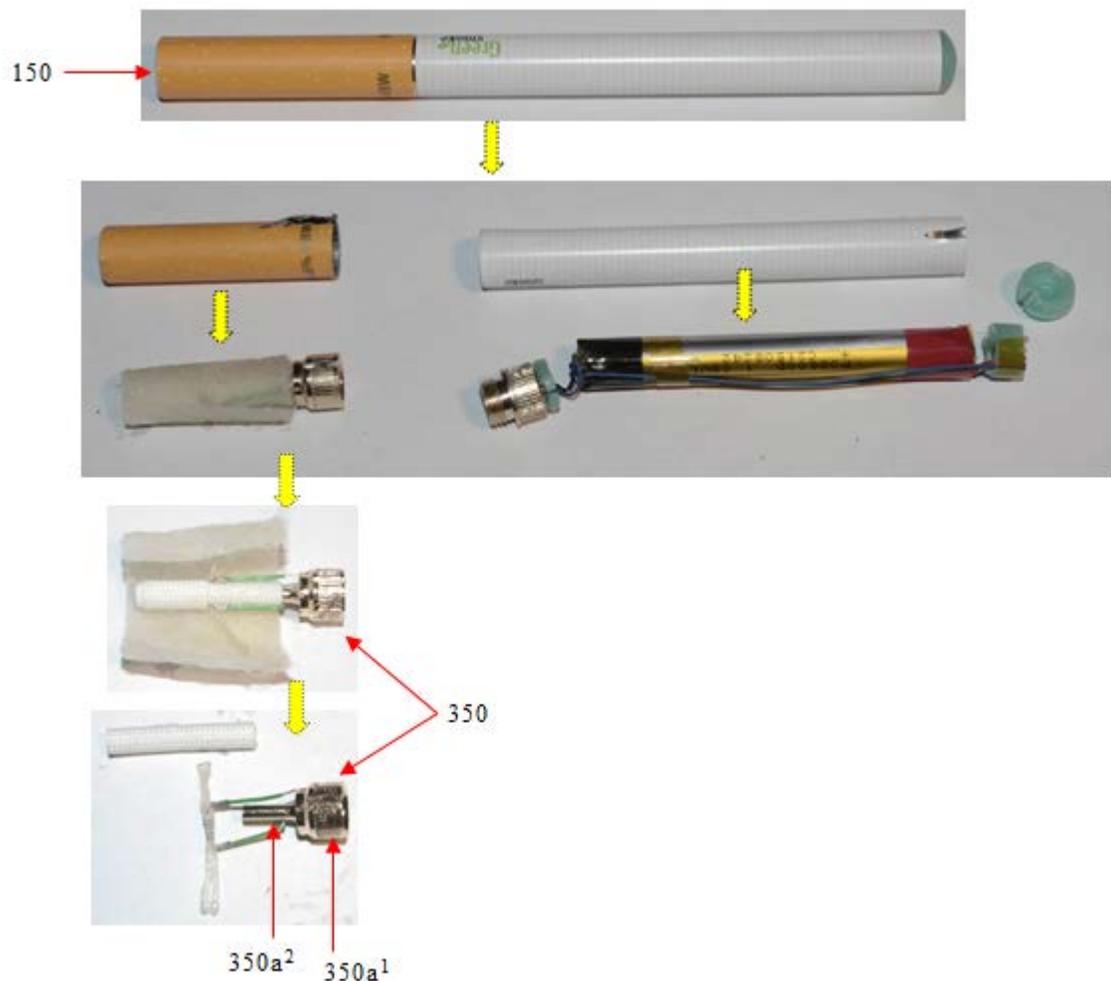
4 302. The GreenSmoke includes "the fiber member [326] having a first  
5 section [326a<sup>1</sup>] perpendicular to the longitudinal axis and having a second section  
6 [326a<sup>2</sup>] parallel to the longitudinal axis<sup>13</sup>" as recited in claim 13 of the '548 Patent.



27  
28 <sup>13</sup> The second section of the fiber member [326a<sup>2</sup>] is parallel to the longitudinal axis of the housing [120] in the assembled product.

1           303. As shown in the photographs of paragraph 304 below, the  
2 GreenSmoke meets every limitation recited in claim 14 of the '548 Patent as  
3 follows:

4           304. The GreenSmoke includes "the frame [350] having a cylindrical first  
5 section [350a<sup>1</sup>] and a second section [350a<sup>2</sup>], with the second section [350a<sup>2</sup>]  
6 between the first section [350a<sup>1</sup>] and the outlet [150], and with the second section  
7 [350a<sup>2</sup>] longer than the first section [350a<sup>1</sup>]" as recited in claim 14 of the '548  
8 Patent.



1           305. Defendant has also contributed to the infringement of the '548 Patent  
2 in violation of 35 U.S.C. § 271(c) by, itself and/or through its agents, contributing  
3 to the direct infringement of the '548 Patent by its customers by unlawfully and  
4 wrongfully making, using, importing, offering to sell, and/or selling electronic  
5 cigarette components having no substantially non-infringing use, which, when  
6 used by its customers, result in direct infringement of the '548 Patent, in this  
7 judicial district and within, from and/or into the United States without permission  
8 or license from Plaintiffs, and will continue to do so unless enjoined by this Court.

9           306. Examples of electronic cigarette components that have no substantial  
10 noninfringing uses and that contribute to the direct infringement of the '548 Patent  
11 include, but are not limited to, the MarkTen Products, MarkTenXL Products, and  
12 GreenSmoke Products.

13           307. Having knowledge of the '548 Patent, at least as of the filing of this  
14 Complaint, Defendant is aware that the purchase and use of the MarkTen Products,  
15 MarkTenXL Products, and GreenSmoke Products and components of the MarkTen  
16 Products, MarkTenXL Products, and GreenSmoke Products by Defendant's  
17 customers results in direct infringement of the '548 Patent.

18           308. Defendant instructs users on how to use the MarkTen Products,  
19 MarkTenXL Products, and GreenSmoke Products.<sup>14</sup>

20           309. Defendant instructs users to use a replacement MarkTen or  
21 MarkTenXL Cartridge when a MarkTen or MarkTenXL Cartridge is depleted, or  
22

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23  
24           <sup>14</sup> See, e.g., MarkTen® Product Information Guide,  
25 <https://www.markten.com/skin/frontend/markten/default/uploads/current-gen-product-info-guide.pdf> (last visited June 22, 2016) (Exhibit I); MarkTen®XL  
26 Product Information Guide,  
27 <https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf> (last visited June 22, 2016) (Exhibit J); How to Use Your E-Cig Kit,  
28 <https://www.greensmoke.com/ecig-info/how-to-use-your-e-cig-starter-kit.html> (last visited June 22, 2016) (Exhibit K).

1 to use a replacement MarkTen or MarkTenXL Battery when a MarkTen or  
2 MarkTenXL Battery is depleted.

3 310. Defendant further instructs users that “MarkTen® e-vapor products are  
4 designed to work together[,]” and that “[u]sing MarkTen® e-vapor products with  
5 non-MarkTen® e-vapor products may be unsafe, and is not advised.”<sup>15</sup>

6 311. Defendant further instructs that “[c]ustomers should note that using  
7 MarkTen® e-vapor products with another brand's e-vapor products will invalidate  
8 the warranty.”<sup>16</sup>

9 312. Defendant instructs users to use a replacement GreenSmoke Cartridge  
10 when a GreenSmoke Cartridge is depleted, or to use a replacement GreenSmoke  
11 Battery when a GreenSmoke Battery is depleted.<sup>17</sup>

12 313. As such, Defendant knows that the MarkTen, MarkTenXL, and  
13 GreenSmoke Products and components of the MarkTen, MarkTenXL, and  
14 GreenSmoke Products, including, but not limited to, the MarkTen, MarkTenXL,  
15 and GreenSmoke Cartridge, and MarkTen, MarkTenXL, and GreenSmoke Battery  
16 when sold separately, have no substantial non-infringing uses other than to provide  
17 users with the ability to assemble and use an electronic cigarette that infringes the  
18 ’548 Patent, and, therefore, that they are especially made or adapted for use in  
19 infringement of the ’548 Patent.

20 314. As a direct and proximate result of the foregoing acts of Defendant,  
21 Plaintiffs have suffered, and are entitled to, monetary damages in an amount not  
22 yet determined, which include but are not limited to, lost profits on the infringing  
23

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24 <sup>15</sup> Why do I have to use your cartridges only with your batteries, and  
25 your batteries only with your cartridges? <https://www.markten.com/faq> (last visited  
26 June 22, 2016) (Exhibit L).

<sup>16</sup> *Id.*

27 <sup>17</sup> *See, e.g.,* How Do Green Smoke® E-Cigarettes Work?  
28 <https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html> (last  
visited June 22, 2016) (Exhibit M).

1 sales Plaintiffs may have made and reasonable royalties on sales not made.  
2 Plaintiffs are also entitled to their costs of suit and interest.

3 315. Defendant's continuing infringement has inflicted and, unless  
4 restrained by this Court, will continue to inflict irreparable harm upon Plaintiffs,  
5 such as reduction of Plaintiffs' proper market share and deprivation of Plaintiffs'  
6 rights to exclude others. Plaintiffs have no adequate remedy at law. Plaintiffs are  
7 entitled to injunctive relief enjoining Defendant from engaging in further acts of  
8 infringement.

9 **THIRD CLAIM FOR RELIEF**

10 (Infringement of U.S. Patent No. 9,326,549)

11 316. Plaintiffs incorporate by reference the allegations contained in  
12 paragraphs 1–315 above.

13 317. Fontem Holdings is the owner of the entire right, title, and interest in  
14 and to United States Patent No. 9,326,549 ("the '549 Patent") (Exhibit C). Fontem  
15 Holdings has granted Fontem Ventures an exclusive license to the '549 Patent,  
16 including the right to sublicense the '549 Patent. The '549 Patent was duly and  
17 legally issued by the USPTO on May 3, 2016, and is valid, subsisting, and in full  
18 force and effect.

19 318. Defendant has directly infringed the '549 Patent in violation of 35  
20 U.S.C. § 271(a) by, itself and/or through its agents, unlawfully and wrongfully  
21 making, using, importing, offering to sell, and/or selling electronic vaporizing  
22 device products embodying one or more of the inventions claimed in the '549  
23 Patent, in this judicial district and within, from and/or into the United States  
24 without permission or license from Plaintiffs, and will continue to do so unless  
25 enjoined by this Court.

26 319. Examples of electronic vaporizing device products that directly  
27 infringe the '549 Patent include, but are not limited to, the MarkTen Products,  
28 MarkTenXL Products, and GreenSmoke Products.

1           320. The MarkTen Products, MarkTenXL Products, and GreenSmoke  
2 Products infringe the '549 Patent both literally and/or under the doctrine of  
3 equivalents.

4           321. The MarkTen Products, MarkTenXL Products, and GreenSmoke  
5 Products infringe at least claims 1–4, 6–9, 11–23, and 25–27 of the '549 Patent.

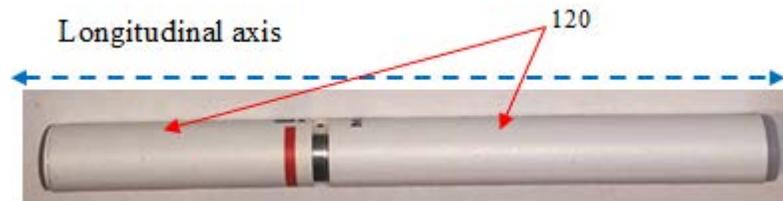
6           **MarkTen**

7           322. As shown in the photographs of paragraphs 323 through 333 below,  
8 the MarkTen meets every limitation recited in claim 1 of the '549 Patent.

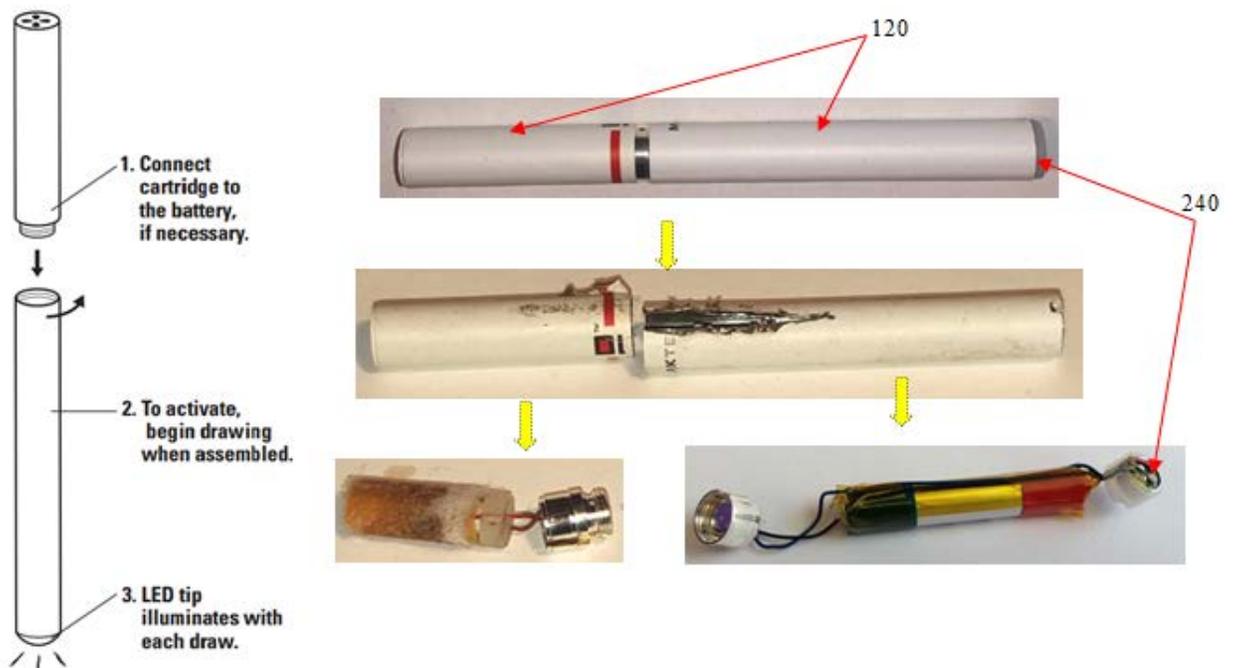
9           323. The MarkTen is an electronic vaporizing device as recited in claim 1  
10 of the '549 Patent.



1 324. The MarkTen includes “a cylindrical housing [120] having a  
 2 longitudinal axis, a first end and a second end” as recited in claim 1 of the ’549  
 3 Patent.



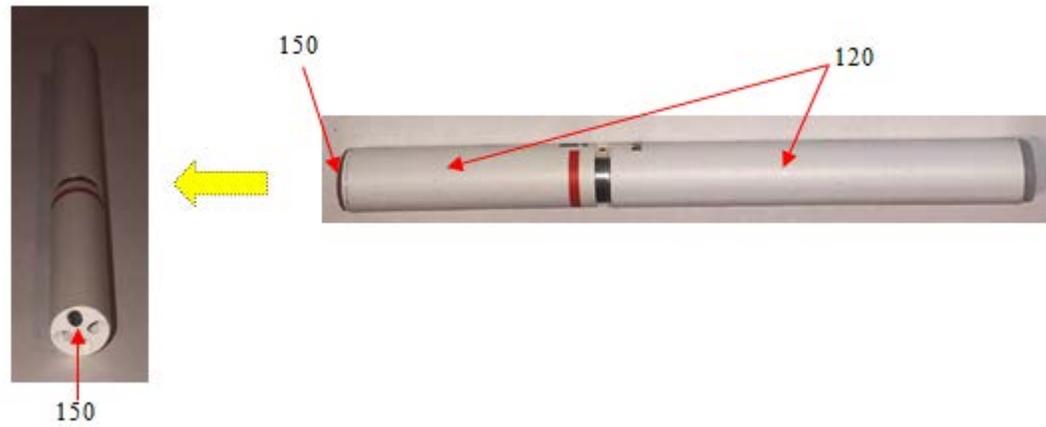
10 325. The MarkTen includes “an LED [240] at a first end of the cylindrical  
 11 housing [120] to simulate a cigarette” as recited in claim 1 of the ’549 Patent.



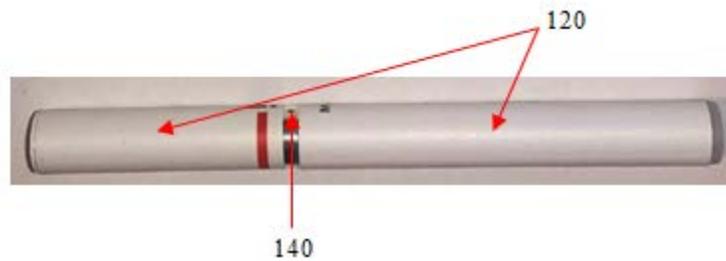
- Each time you draw on the MarkTen® e-vapor device, the red LED on the tip will illuminate to indicate the product is working properly.

26 MarkTen Product Information Guide, [http://www.nu-mark.com/our-products/mark-ten/Documents/MarkTen\\_Product\\_Information\\_Guide.pdf](http://www.nu-mark.com/our-products/mark-ten/Documents/MarkTen_Product_Information_Guide.pdf) (last visited June 22, 2016).

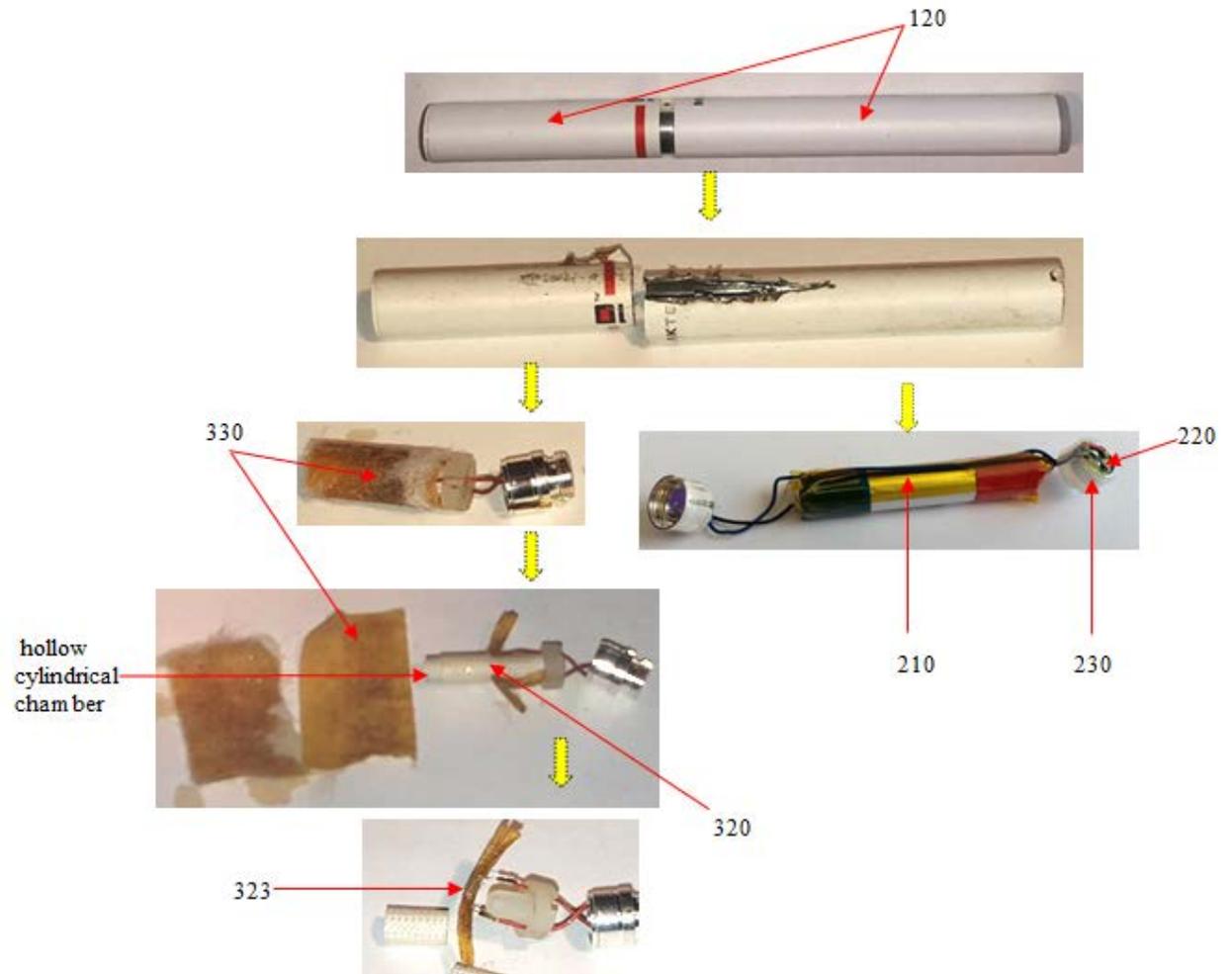
1           326. The MarkTen includes “an outlet [150] at the second end of the  
2 cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.



13           327. The MarkTen includes “an air inlet [140] for allowing air to flow into  
14 the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.

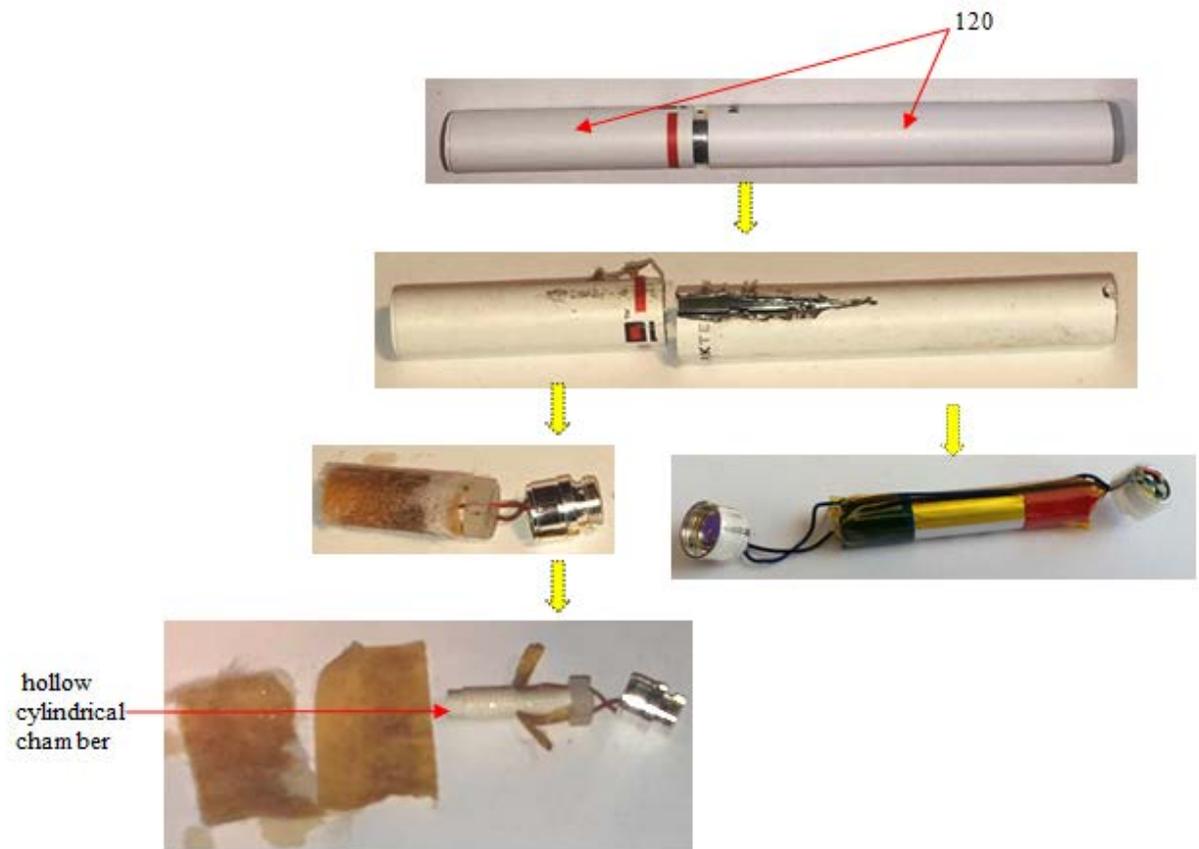


1            328. The MarkTen includes “a battery [210], an electronic circuit board  
2 [220], a sensor [230], an atomizer [320] comprising a hollow cylindrical chamber  
3 and a heating wire [323], and a liquid-supply [330] within the cylindrical housing  
4 [120]” as recited in claim 1 of the ’549 Patent.

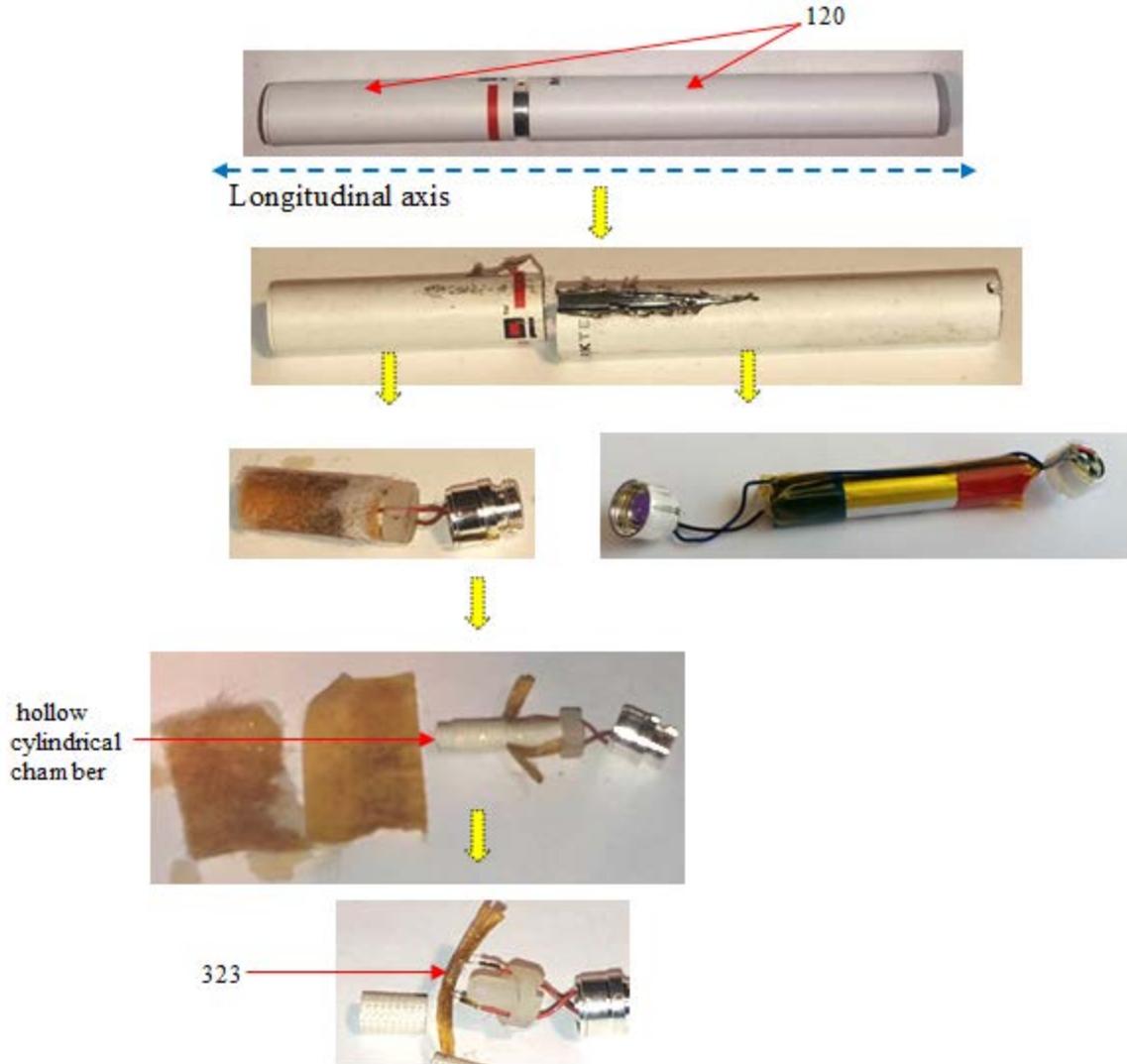


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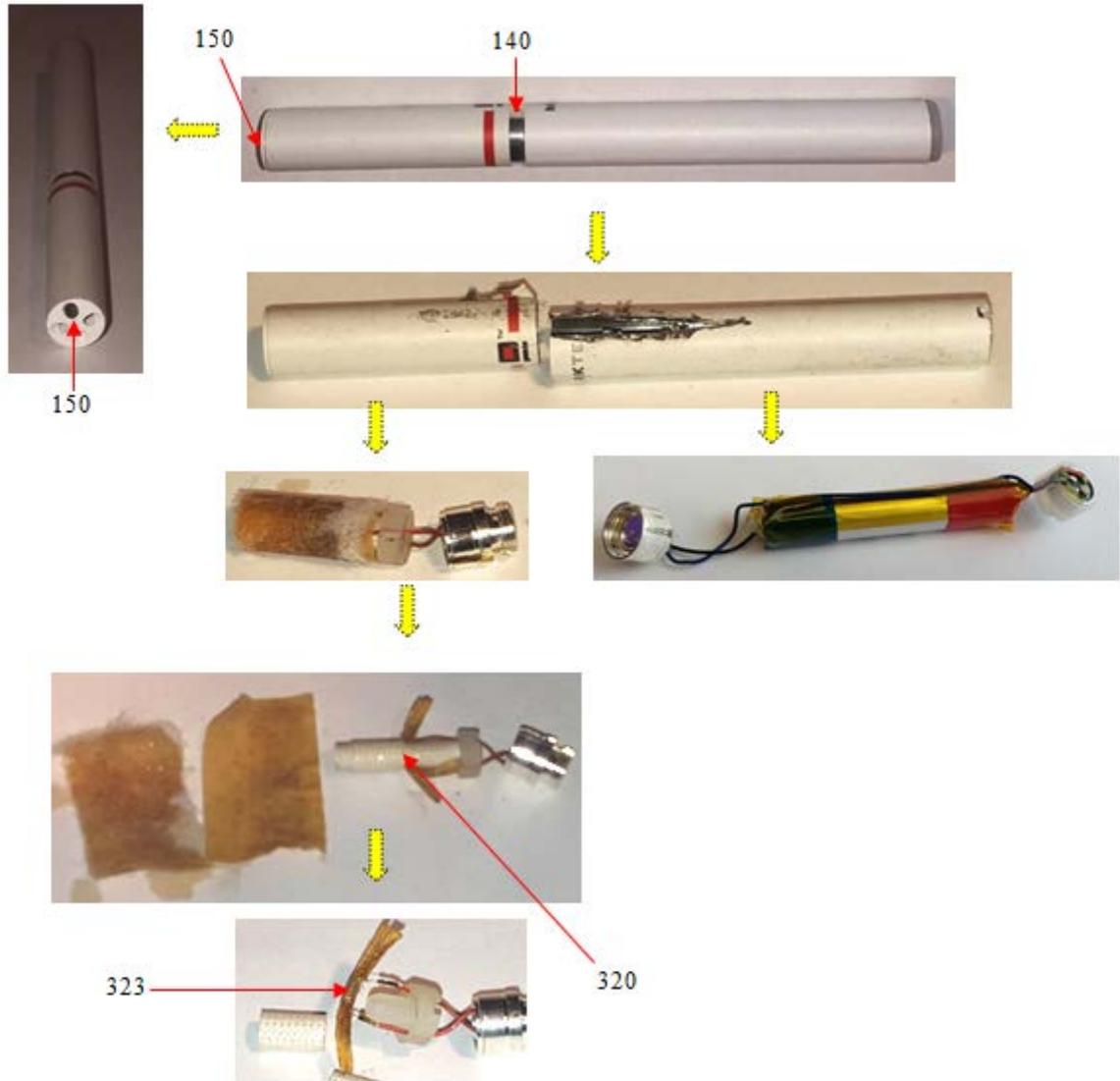
1           329. The MarkTen includes “the hollow cylindrical chamber co-axial with  
2 the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.  
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1           330. The MarkTen includes “the heating wire [323] extending across the  
2 cylindrical chamber perpendicular to the longitudinal axis of the cylindrical  
3 housing [120]” as recited in claim 1 of the ’549 Patent.

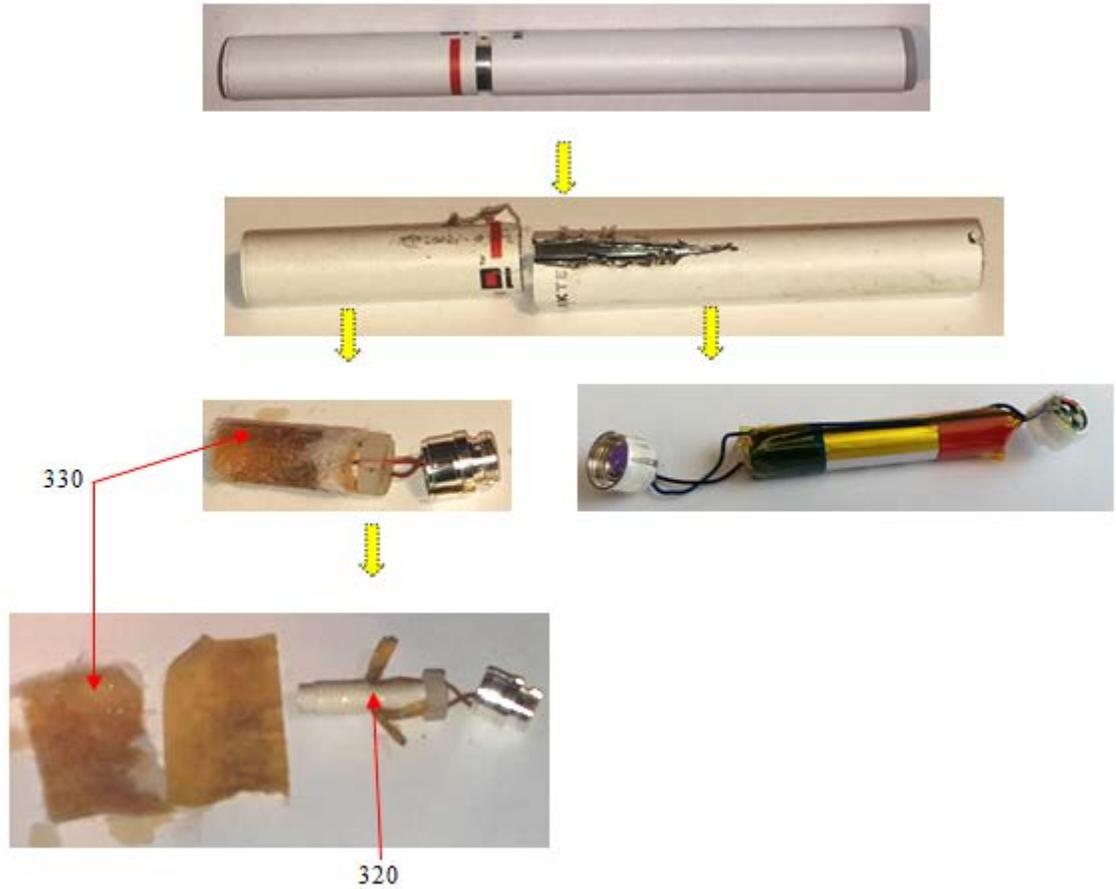


1           331. The MarkTen includes “an air stream passage between the inlet [140]  
2 and the outlet [150], with the air stream passage leading to the atomizer [320] to  
3 allow air to pass through the atomizer [320] and across the heating wire [323]” as  
4 recited in claim 1 of the ’549 Patent.



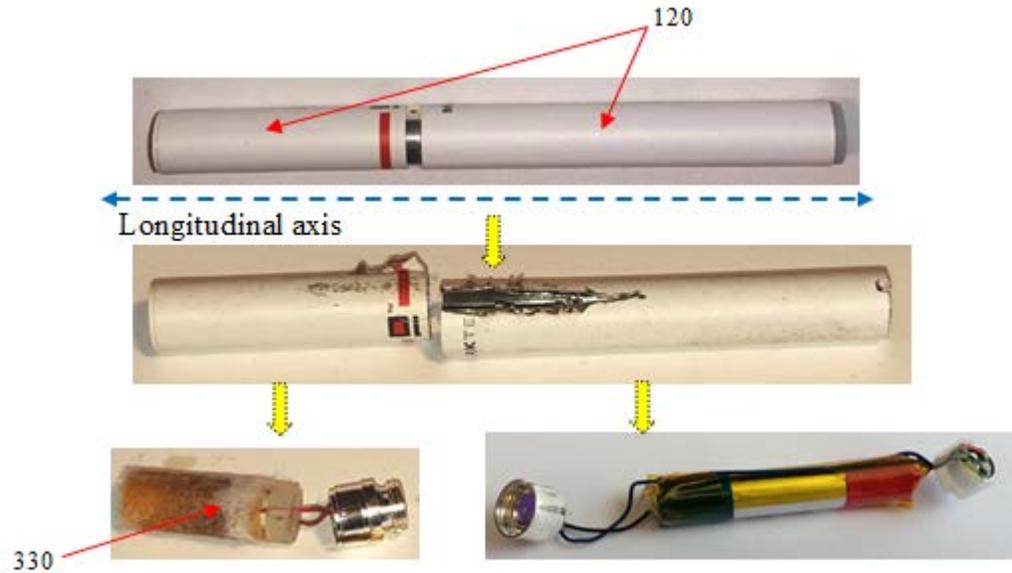
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1           332. The MarkTen includes “the liquid-supply [330] in physical contact  
2 with the atomizer [320]” as recited in claim 1 of the ’549 Patent.



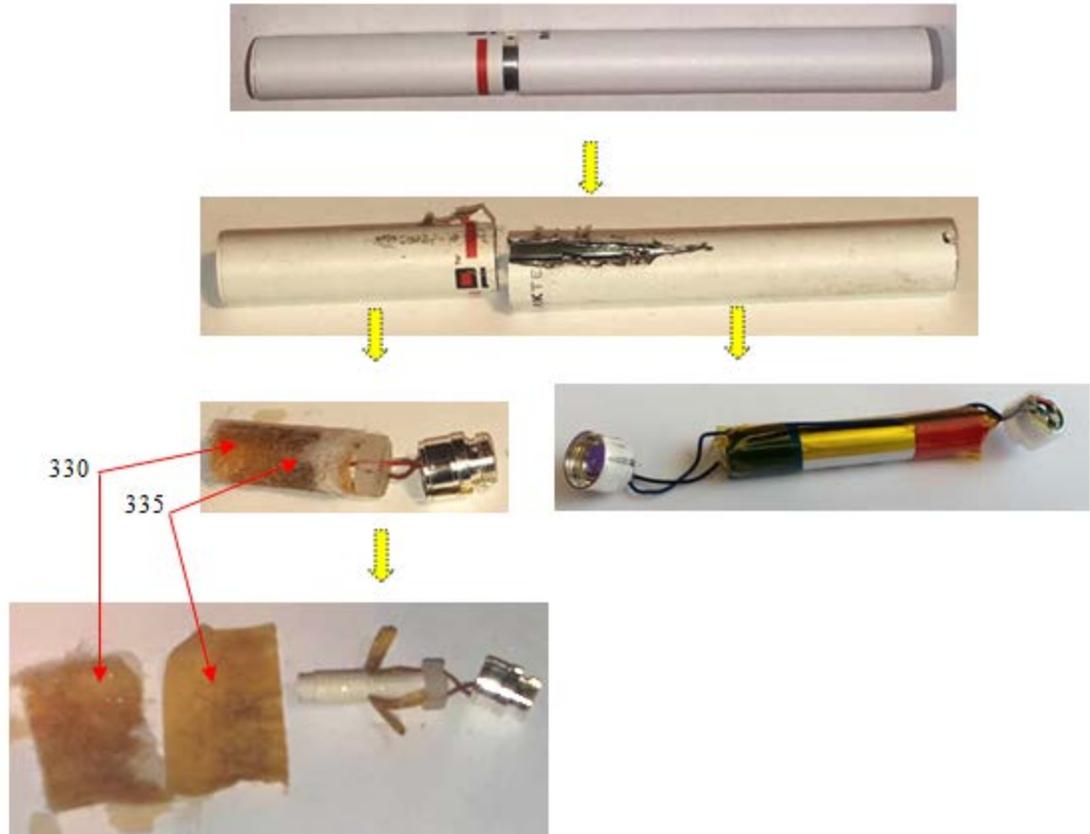
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333. The MarkTen includes “wherein the liquid-supply [330] is cylindrical and parallel to the longitudinal axis of the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.



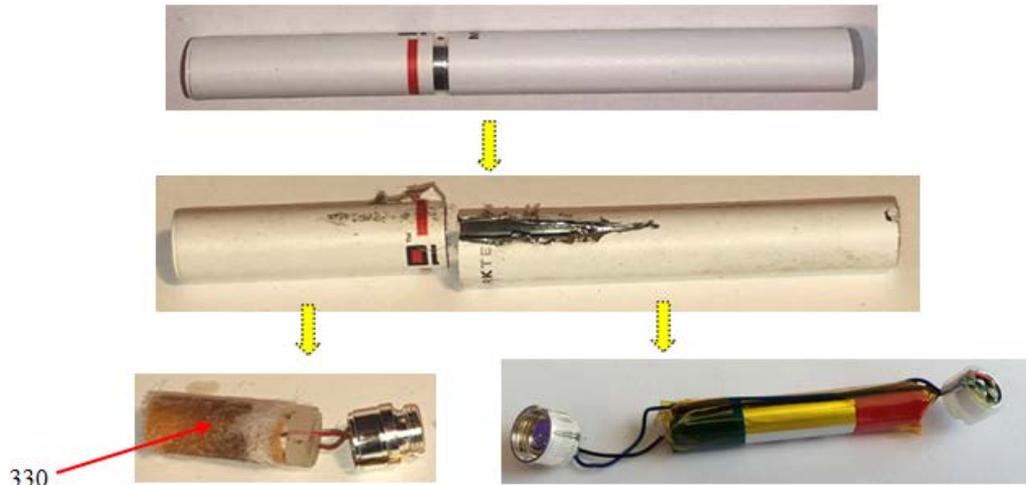
1           334. As shown in the photographs of paragraph 335 below, the MarkTen  
2 meets every limitation recited in claim 2 of the '549 Patent.

3           335. The MarkTen includes “the liquid supply [330] comprising a fiber  
4 material [335]” as recited in claim 2 of the '549 Patent.



1 336. As shown in the photographs of paragraph 337 below, the MarkTen  
2 meets every limitation recited in claim 3 of the '549 Patent.

3 337. The MarkTen includes "the liquid-supply [330] comprising propylene  
4 glycol" as recited in claim 3 of the '549 Patent.

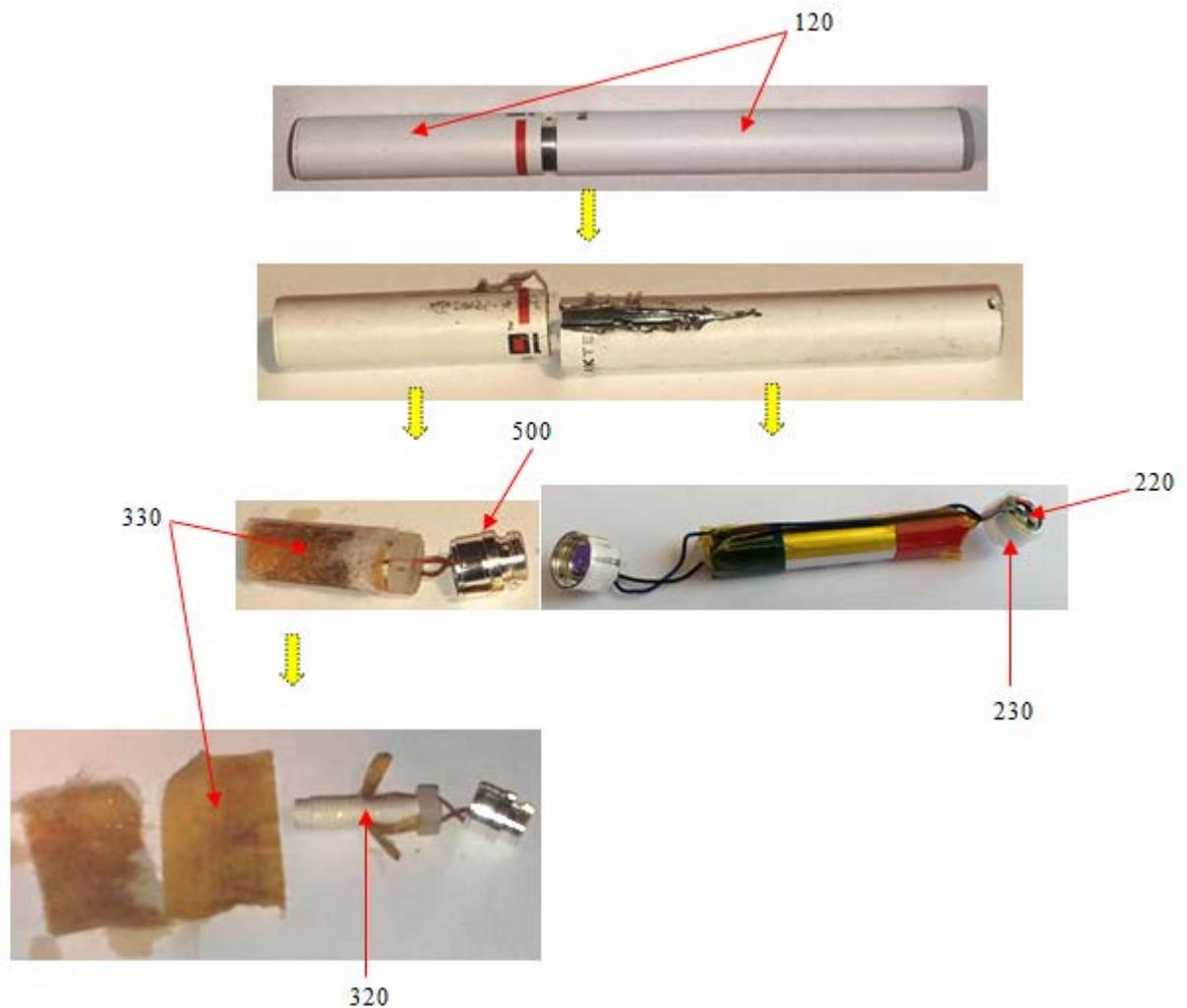


17 **Product Information**

18 **Ingredients:** MarkTen® e-vapor devices and cartridges contain tobacco-derived nicotine, propylene glycol, and additional flavor ingredients.  
19 Product Information, <https://www.markten.com/additional-info> (last visited June  
20 22, 2016).  
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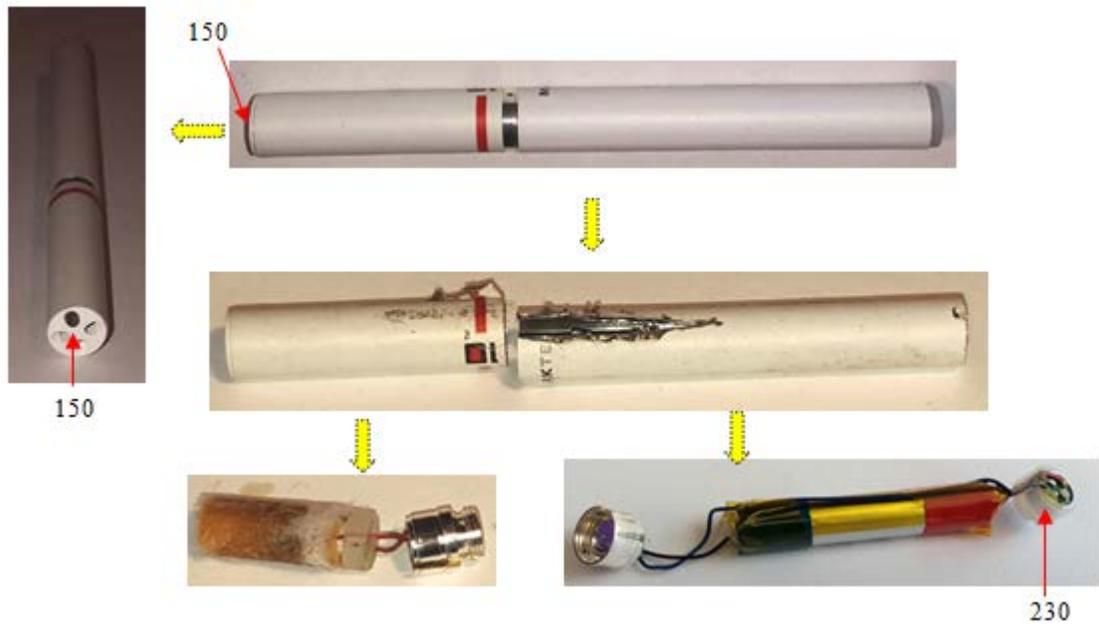
1 338. As shown in the photographs of paragraph 339 below, the MarkTen  
2 meets every limitation recited in claim 4 of the '549 Patent.

3 339. The MarkTen “further including a separator [500] in the cylindrical  
4 housing [120], with the electronic circuit board [220] and the sensor [230] on a  
5 first side of the separator [500], and with the atomizer [320] and the liquid-supply  
6 [330] on a second side of the separator [500], opposite from the first side” as  
7 recited in claim 4 of the '549 Patent.



1           340. As shown in the photographs of paragraph 341 below, the MarkTen  
2 meets every limitation recited in claim 6 of the '549 Patent.

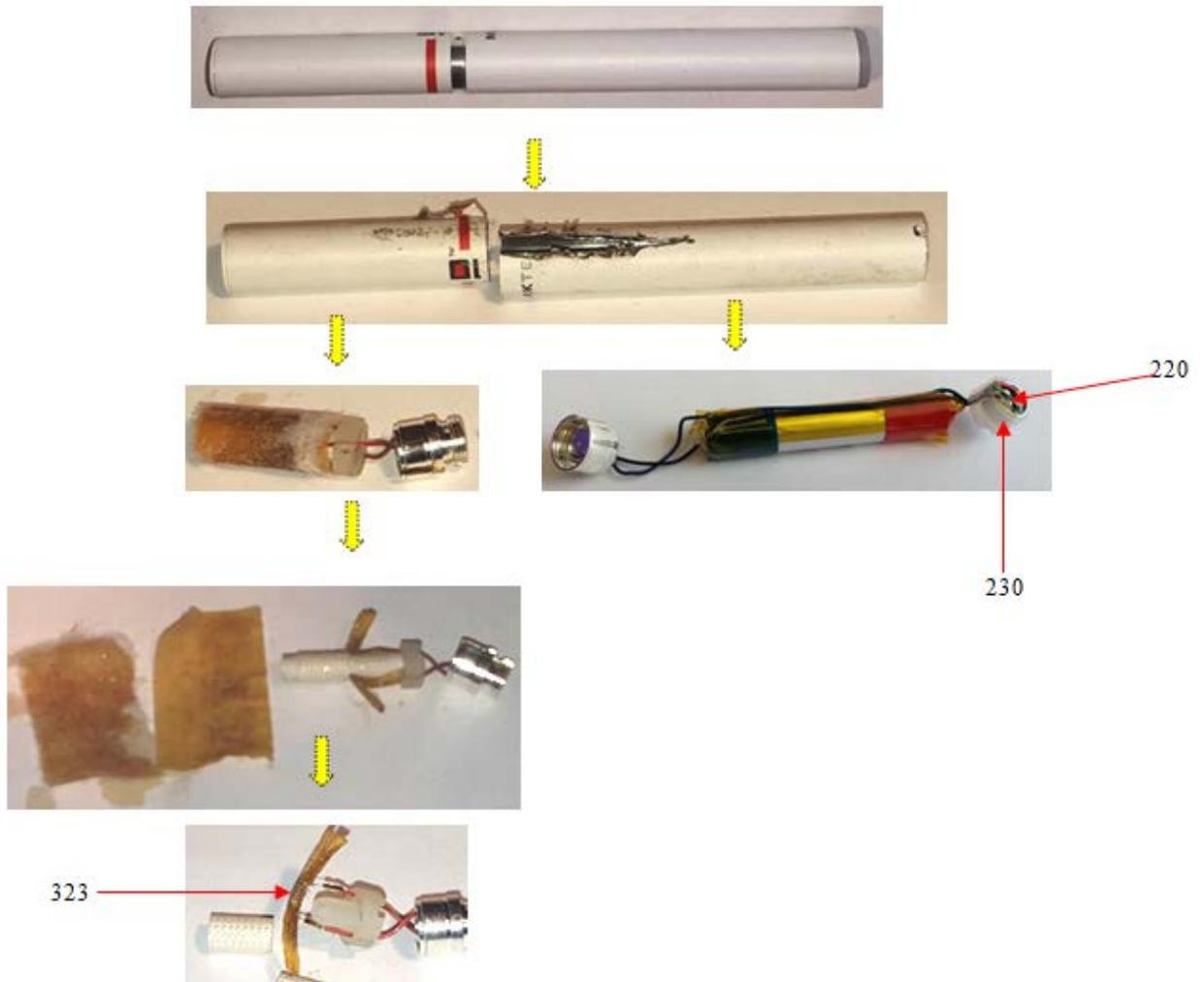
3           341. The MarkTen includes “wherein the sensor [230] creates an output  
4 signal which is proportional to suction force on the outlet [150]” as recited in claim  
5 6 of the '549 Patent.



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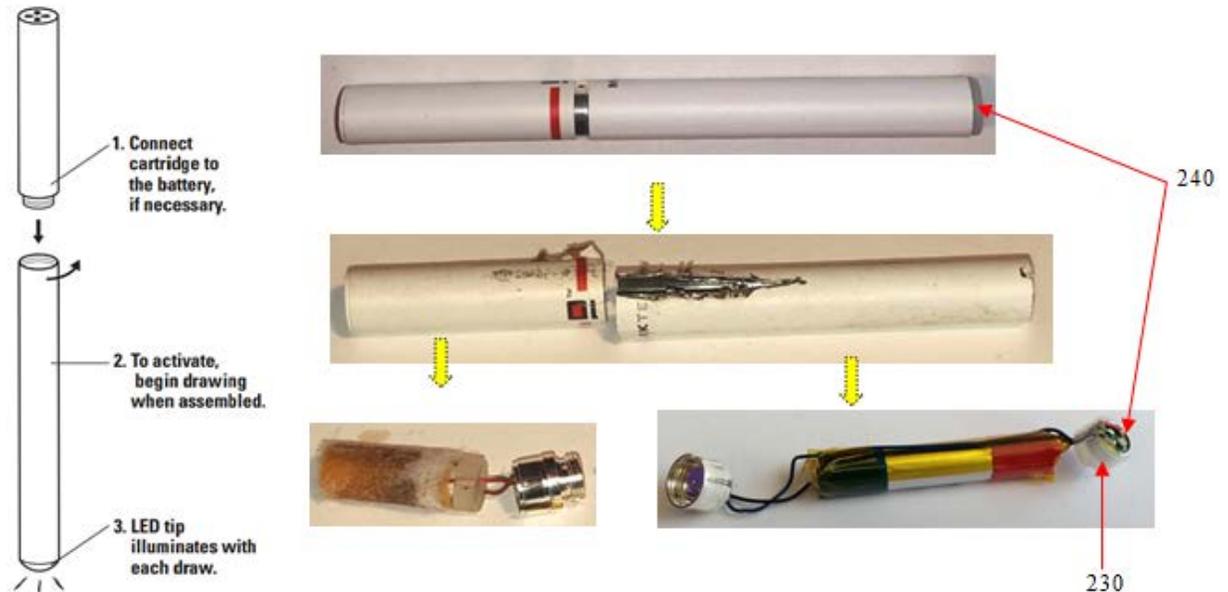
1 342. As shown in the photographs of paragraph 343 below, the MarkTen  
2 meets every limitation recited in claim 7 of the '549 Patent.

3 343. The MarkTen includes “wherein the electronic circuit board [220]  
4 provides electric current to the heating wire [323] for a time interval dependent on  
5 the suction force sensed by the sensor [230]” as recited in claim 7 of the '549  
6 Patent.



1 344. As shown in the photographs of paragraph 345 below, the MarkTen  
2 meets every limitation recited in claim 8 of the '549 Patent.

3 345. The MarkTen includes “wherein illumination of the LED [240] is  
4 dependent on the suction force sensed by the sensor [230], to simulate an  
5 appearance of a cigarette” as recited in claim 8 of the '549 Patent.



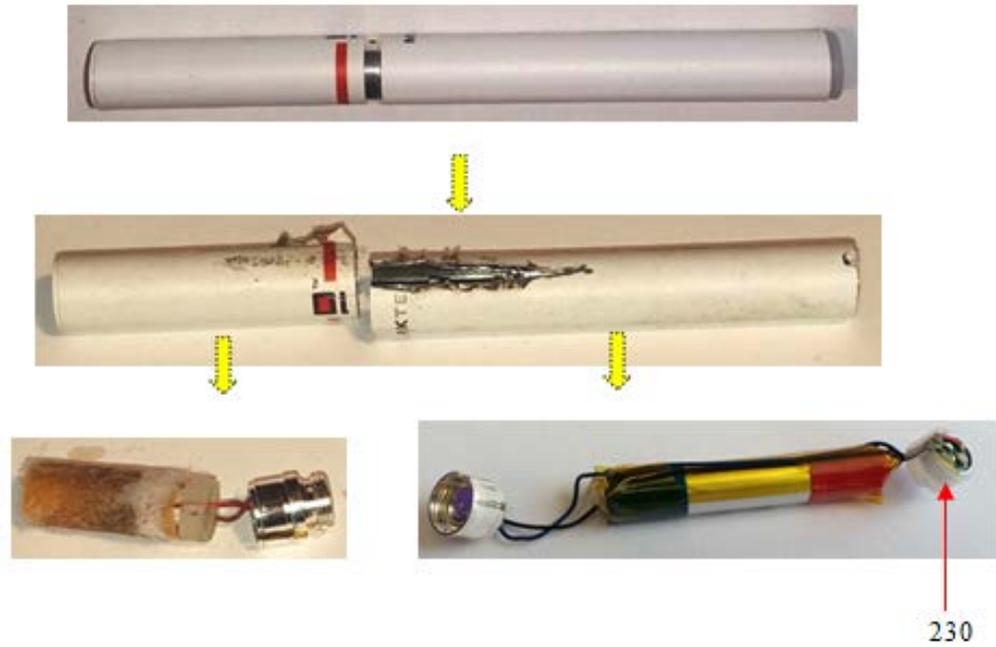
- 16 • Each time you draw on the MarkTen® e-vapor  
17 device, the red LED on the tip will illuminate  
18 to indicate the product is working properly.

19 MarkTen Product Information Guide, [http://www.nu-mark.com/our-products/mark-ten/Documents/MarkTen\\_Product\\_Information\\_Guide.pdf](http://www.nu-mark.com/our-products/mark-ten/Documents/MarkTen_Product_Information_Guide.pdf) (last visited June 22,  
20 2016).

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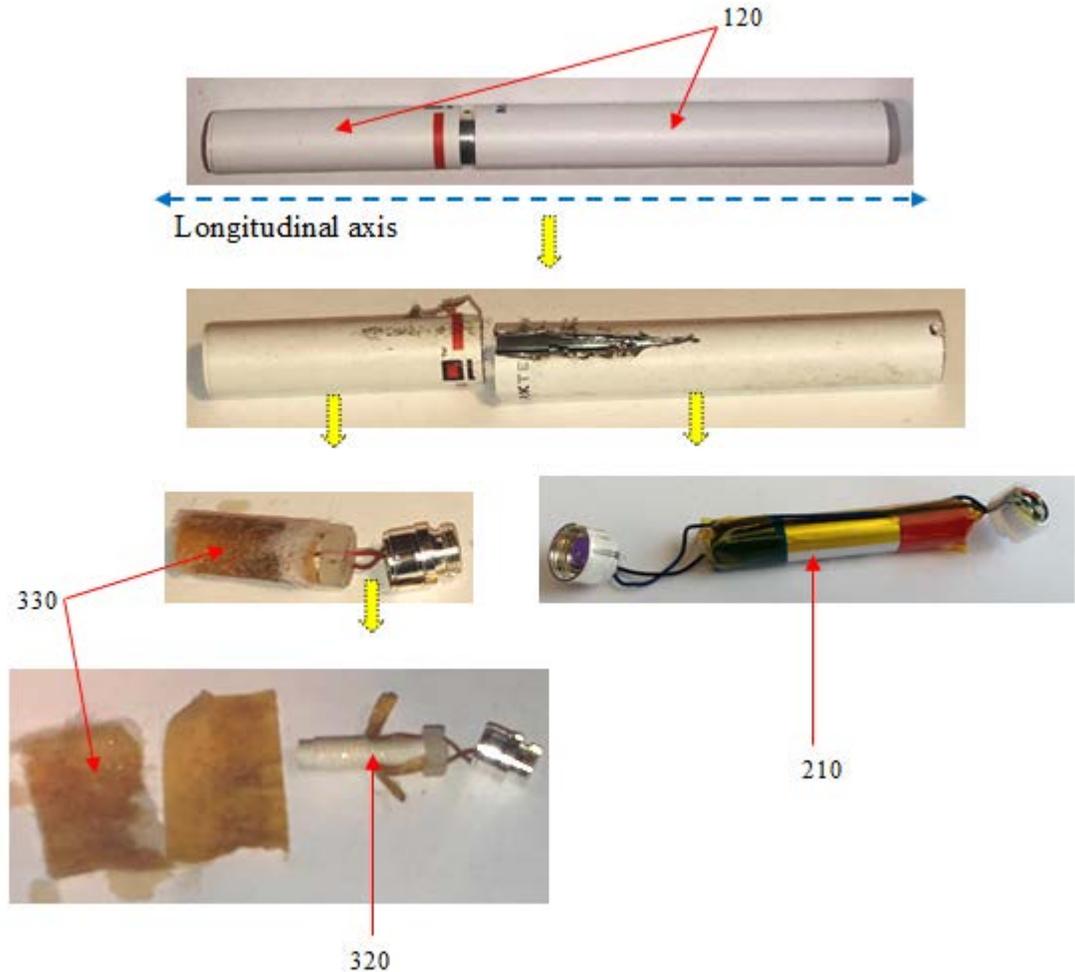
346. As shown in the photographs of paragraph 347 below, the MarkTen meets every limitation recited in claim 9 of the '549 Patent.

347. The MarkTen includes “wherein the sensor [230] comprises a pressure sensor” as recited in claim 9 of the '549 Patent.



1 348. As shown in the photographs of paragraph 349 below, the MarkTen  
2 meets every limitation recited in claim 11 of the '549 Patent.

3 349. The MarkTen includes “the battery [210], the liquid-supply [330] and  
4 the cylindrical chamber of the atomizer [320] co-axial with the longitudinal axis of  
5 the cylindrical housing [120]” as recited in claim 11 of the '549 Patent.

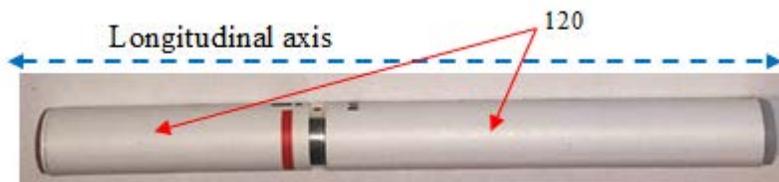


1 350. As shown in the photographs of paragraphs 351 through 361 below,  
2 the MarkTen meets every limitation recited in claim 12 of the '549 Patent.

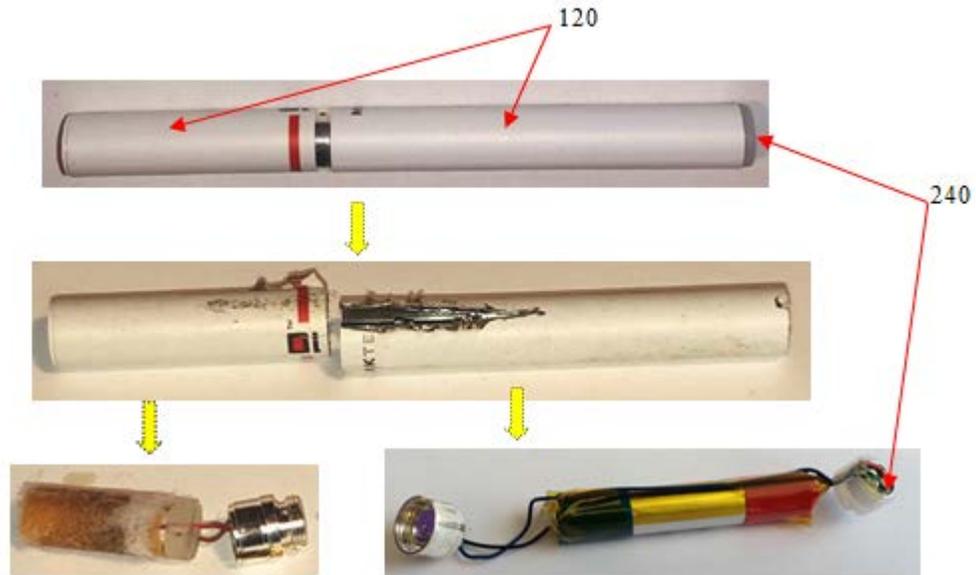
3 351. The MarkTen is an electronic vaporizing device as recited in claim 12  
4 of the '549 Patent.



15  
16 352. The MarkTen includes “a cylindrical housing [120] having a  
17 longitudinal axis, a first end and a second end” as recited in claim 12 of the '549  
18 Patent.



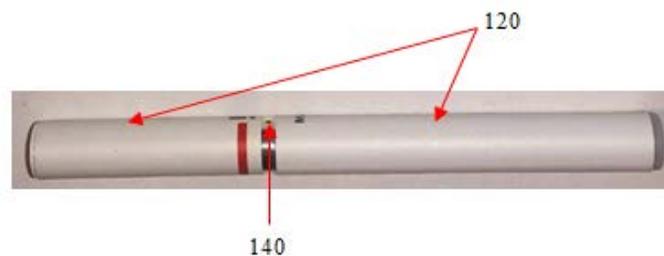
1           353. The MarkTen includes “an LED [240] at a first end of the cylindrical  
2 housing [120]” as recited in claim 12 of the ’549 Patent.



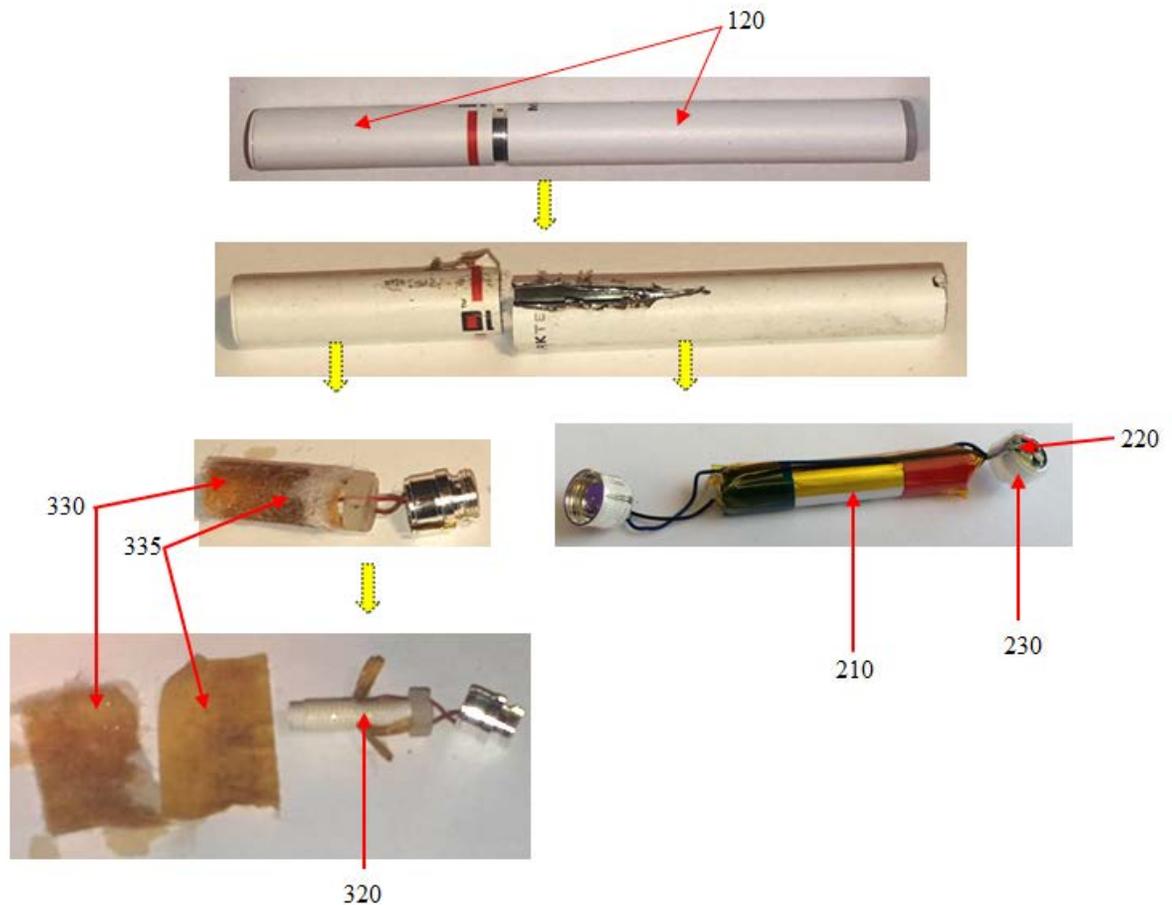
13           354. The MarkTen includes “an outlet [150] at the second end of the  
14 cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



22           355. The MarkTen includes “an air inlet [140] for allowing air to flow into  
23 the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



1           356. The MarkTen includes “a battery [210], an electronic circuit board  
2 [220], a sensor [230], an atomizer [320], and a liquid-supply [330] within the  
3 cylindrical housing [120], wherein the liquid-supply [330] includes a liquid and a  
4 fiber material [335], with the liquid containing propylene glycol, and wherein the  
5 liquid supply [330] is cylindrical and parallel to the longitudinal axis of the  
6 cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.

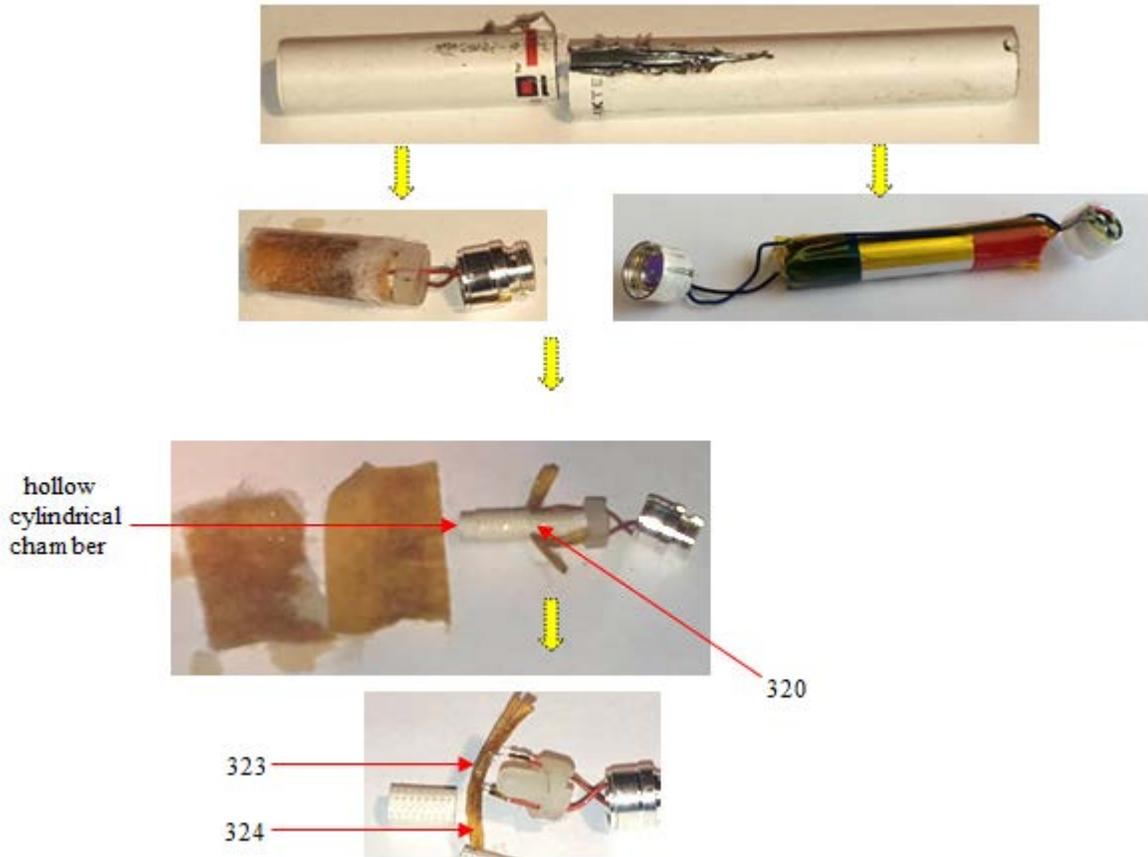


## Product Information

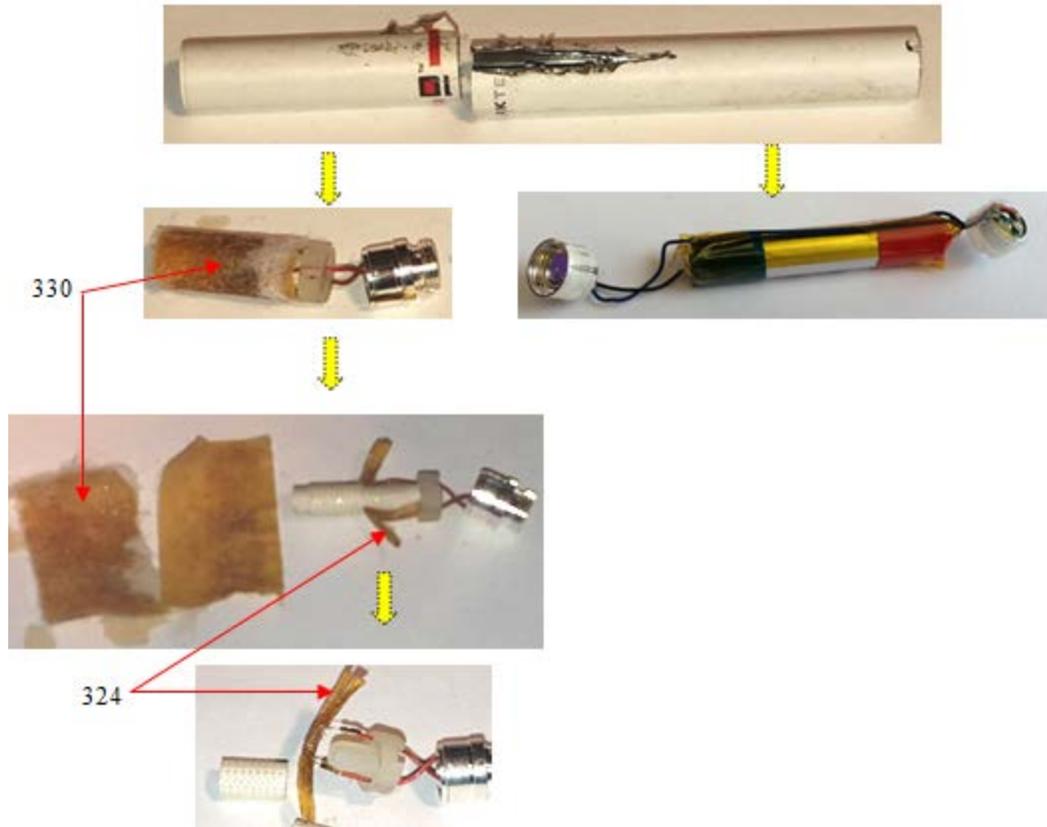
**Ingredients:** MarkTen® e-vapor devices and cartridges contain tobacco-derived nicotine, propylene glycol, and additional flavor ingredients.

Product Information, <https://www.markten.com/additional-info> (last visited June 22, 2016).

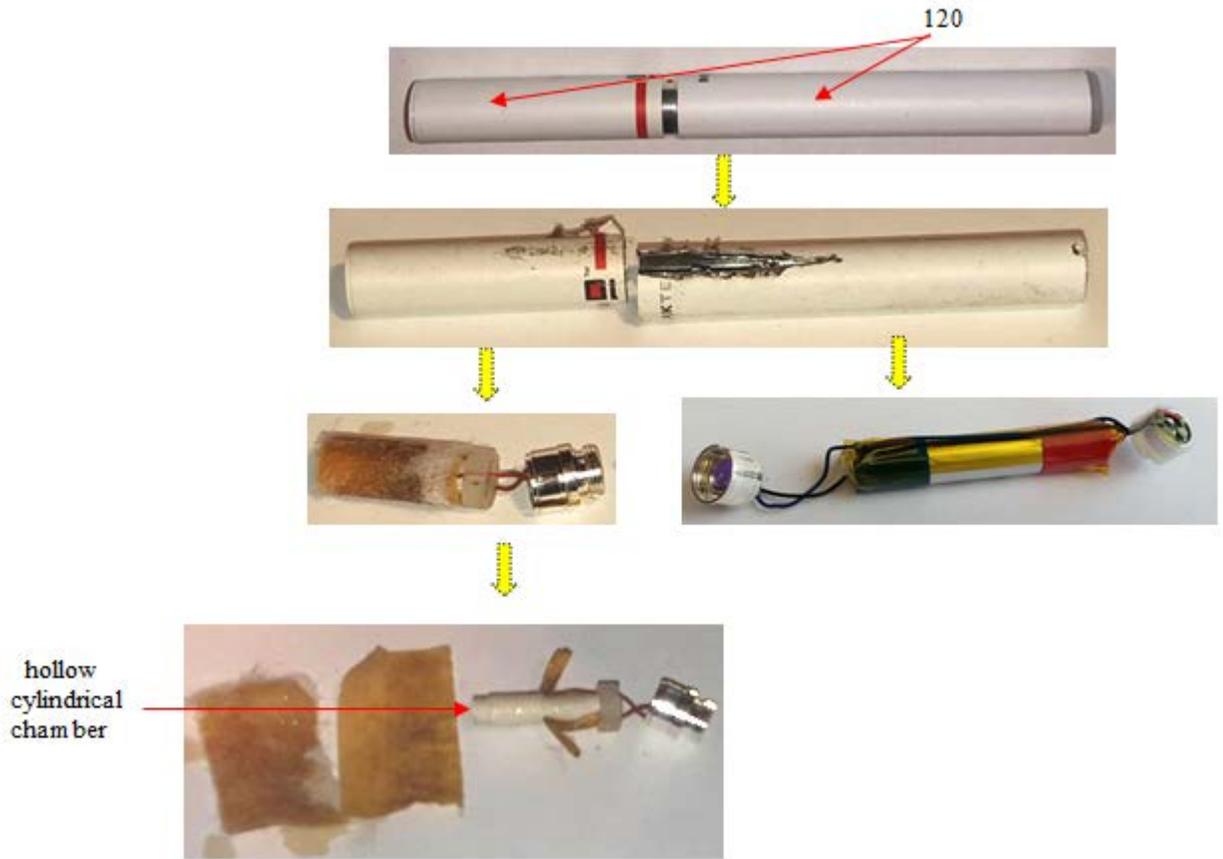
1           357. The MarkTen includes “the atomizer [320] comprises a porous  
2 component [324], a hollow cylindrical chamber and a heating wire [323]” as  
3 recited in claim 12 of the ’549 Patent.



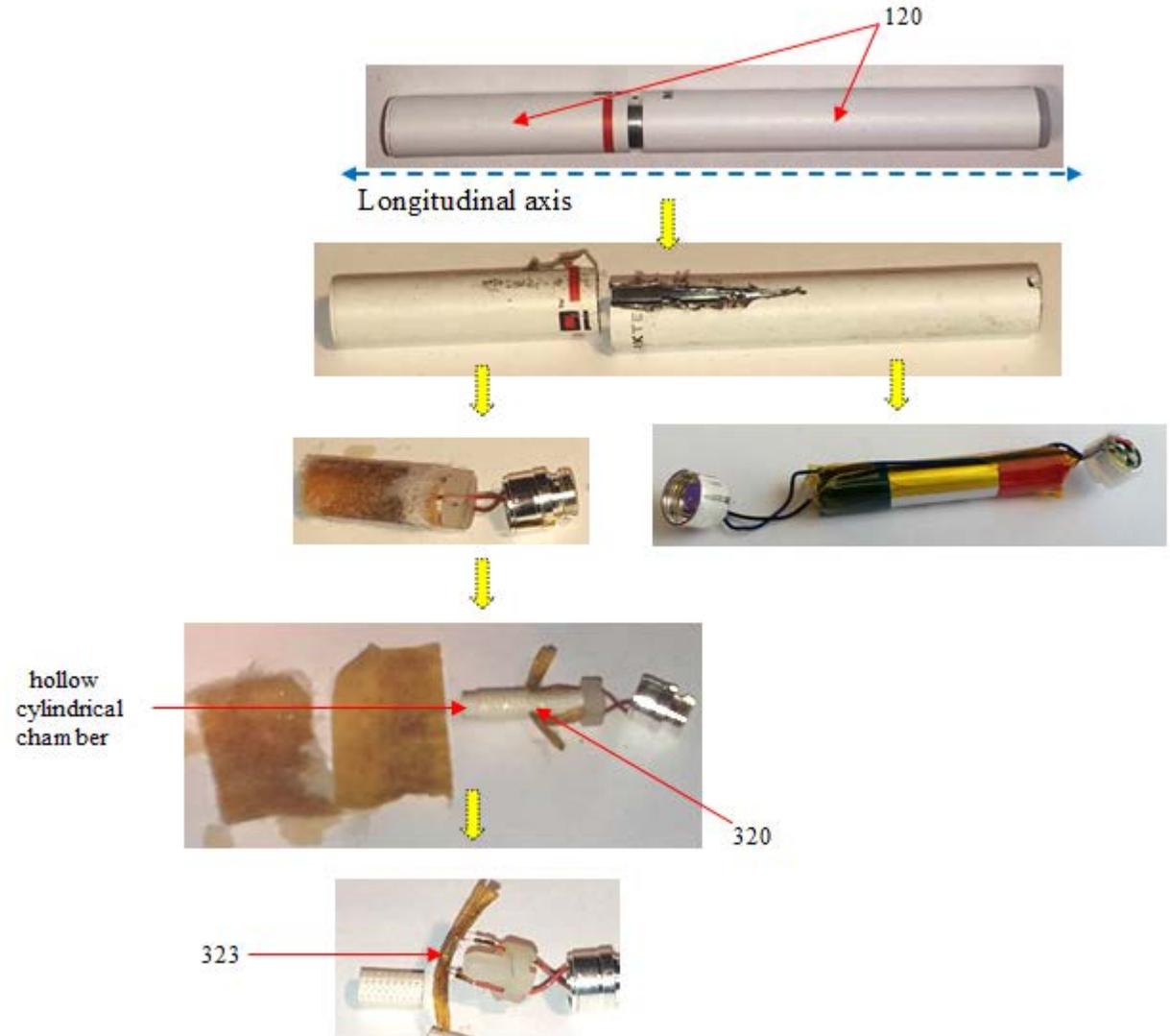
1           358. The MarkTen includes “the porous component [324] is in physical  
2 contact with the liquid in the liquid supply [330]” as recited in claim 12 of the ’549  
3 Patent.



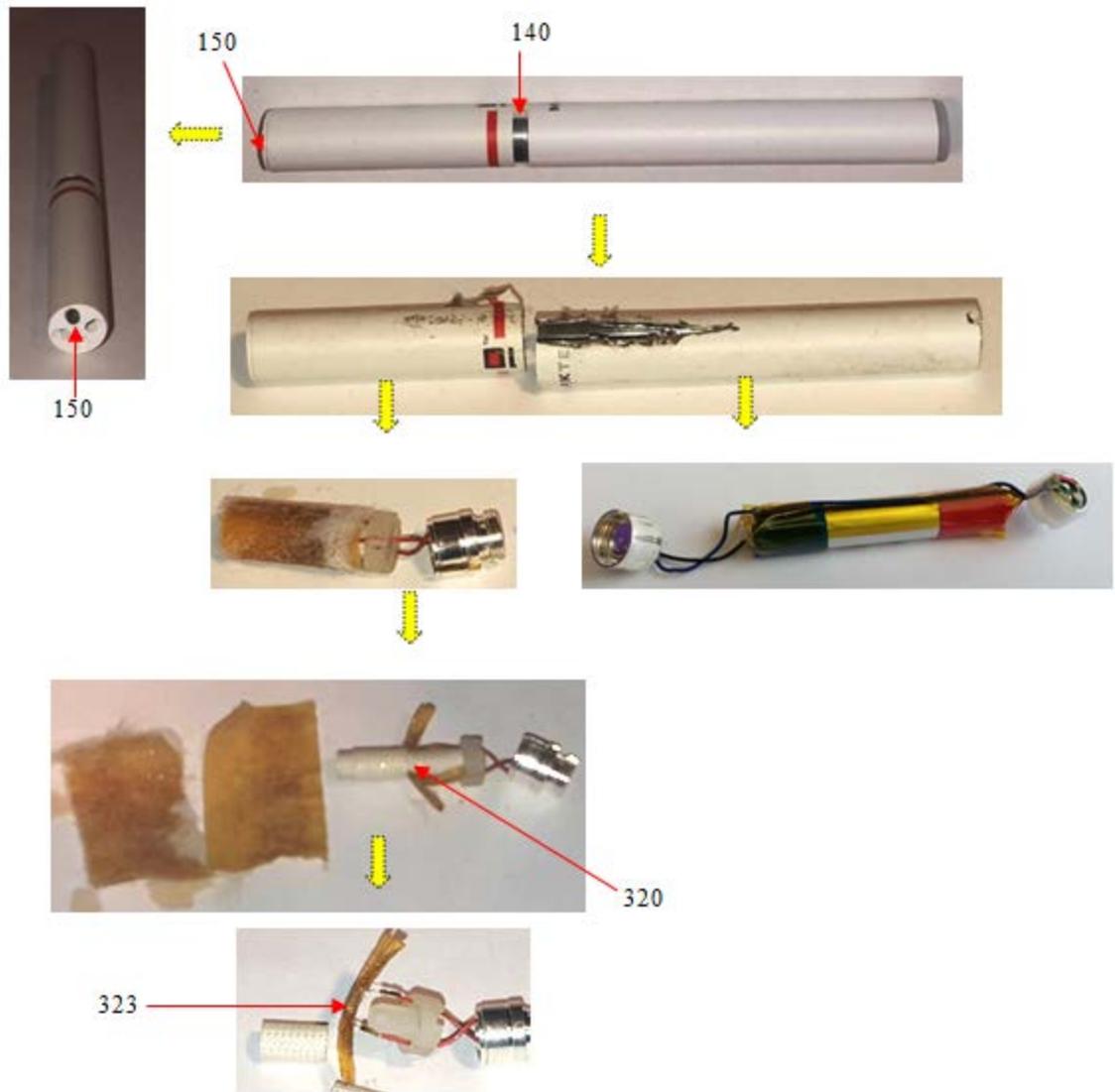
1           359. The MarkTen includes “the hollow cylindrical chamber is co-axial  
2 with the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



1           360. The MarkTen includes “the heating wire [323] extending across the  
2 cylindrical chamber of the atomizer [320] perpendicular to the longitudinal axis of  
3 the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.

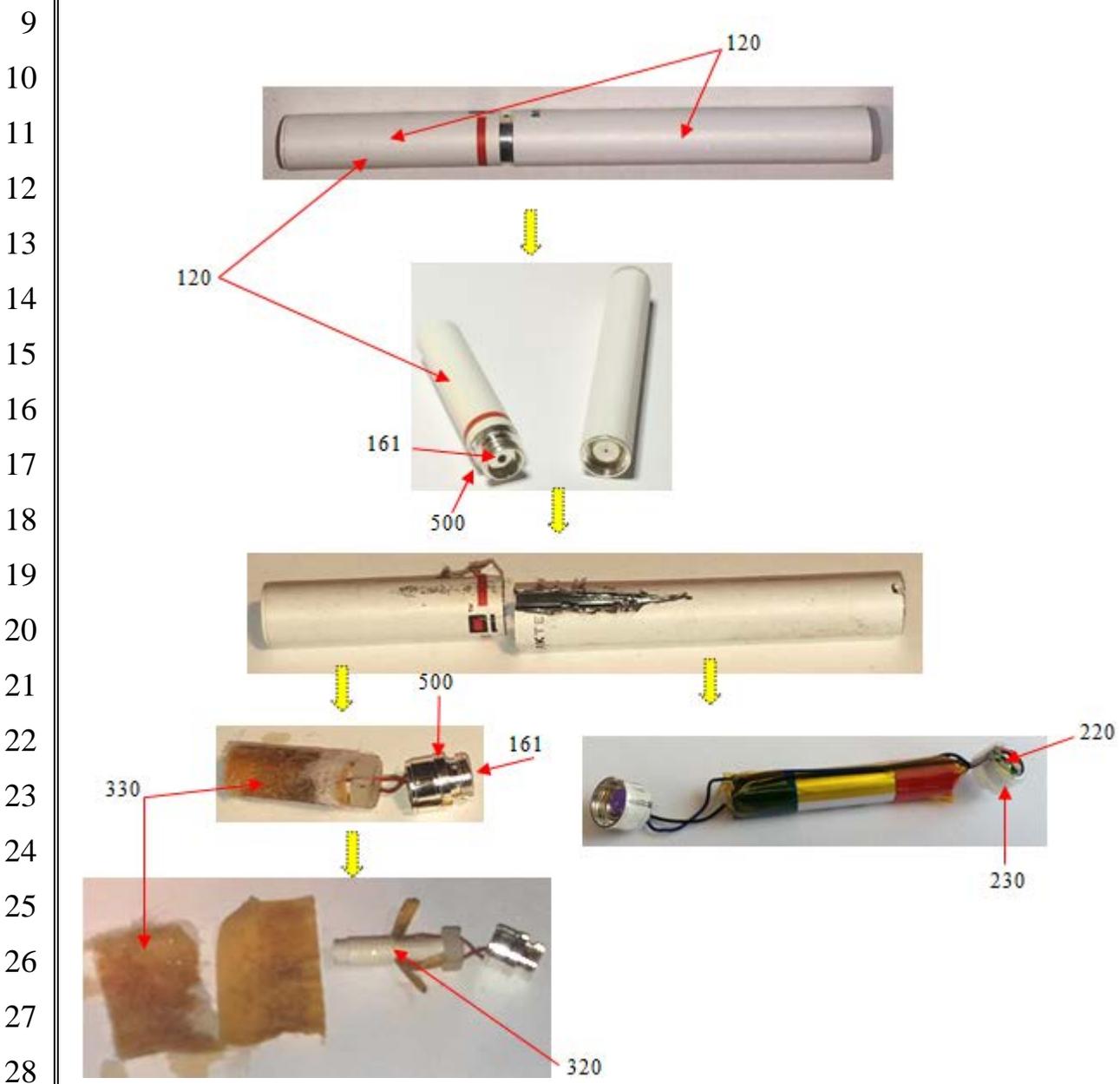


1           361. The MarkTen includes “an air stream passage from the inlet [140]  
2 through the cylindrical chamber of the atomizer [320] to the outlet [150], and the  
3 heating wire [323] positioned in the air stream passage” as recited in claim 12 of  
4 the '549 Patent.



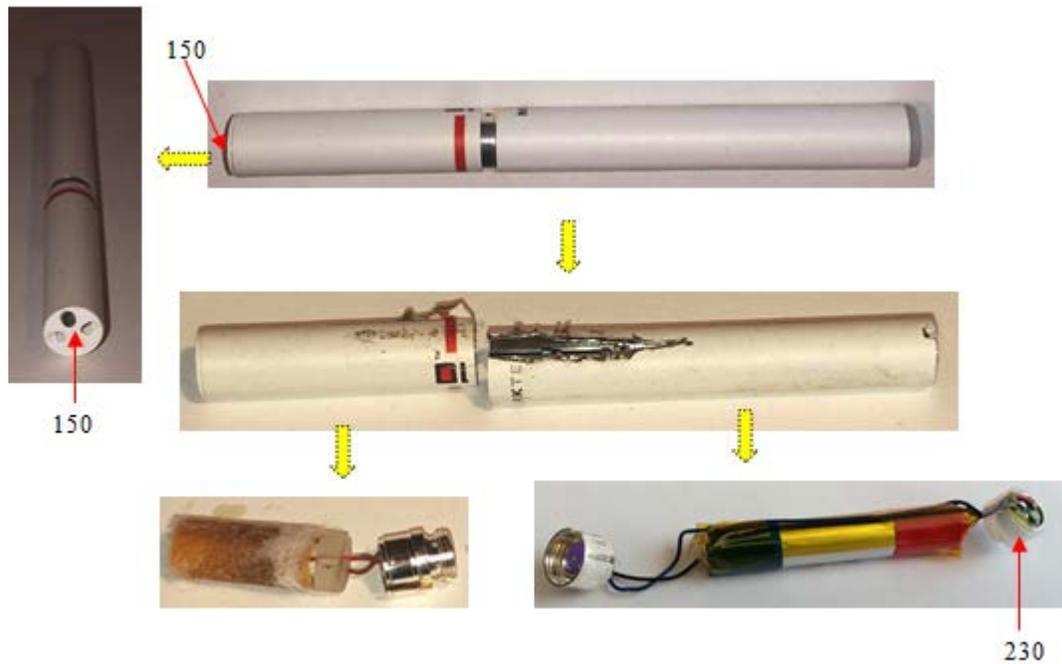
1 362. As shown in the photographs of paragraph 363 below, the MarkTen  
2 meets every limitation recited in claim 13 of the '549 Patent.

3 363. The MarkTen "further comprising a separator in the cylindrical  
4 housing [120], with the electronic circuit board [220] and the sensor [230] on a  
5 first side of the separator [500], and with the atomizer [320] and the liquid-supply  
6 [330] on a second side of the separator [500], opposite from the first side, and with  
7 the separator [500] having a through hole [161] from the first side to the second  
8 side" as recited in claim 13 of the '549 Patent.



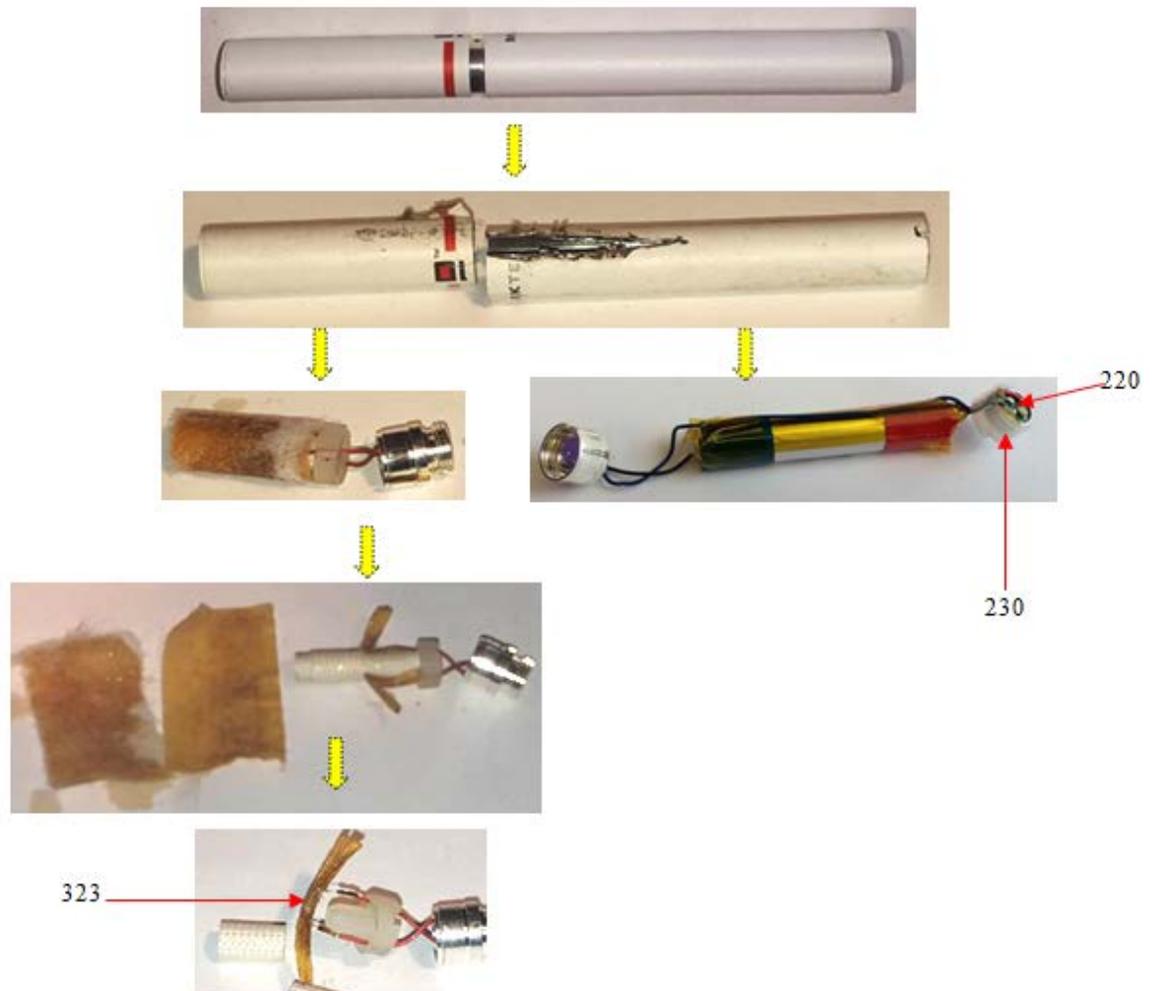
1           364. As shown in the photographs of paragraph 365 below, the MarkTen  
2 meets every limitation recited in claim 14 of the '549 Patent.

3           365. The MarkTen includes “wherein the sensor [230] creates an output  
4 signal which is proportional to suction force on the outlet [150]” as recited in claim  
5 14 of the '549 Patent.



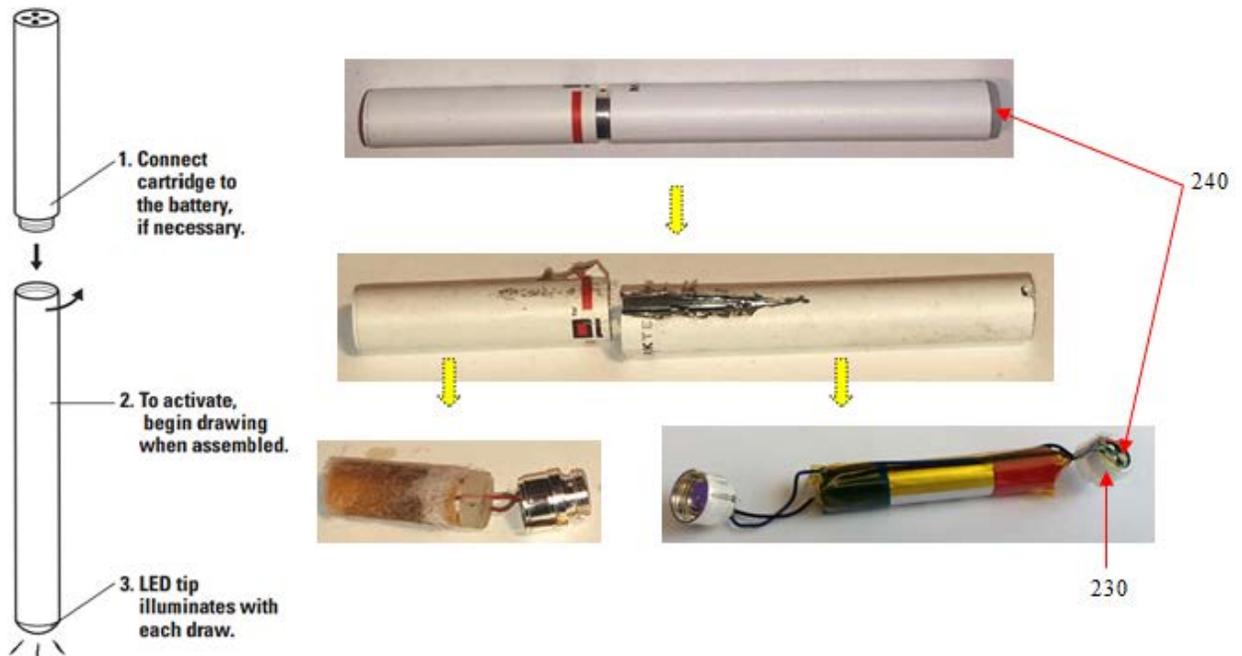
1           366. As shown in the photographs of paragraph 367 below, the MarkTen  
2 meets every limitation recited in claim 15 of the '549 Patent.

3           367. The MarkTen includes “wherein the electronic circuit board [220]  
4 provides electric current to the heating wire [323] for a time interval dependent on  
5 the suction force sensed by the sensor [230]” as recited in claim 15 of the '549  
6 Patent.



1 368. As shown in the photographs of paragraph 369 below, the MarkTen  
2 meets every limitation recited in claim 16 of the '549 Patent.

3 369. The MarkTen includes “wherein illumination of LED [240] is  
4 dependent on the suction force sensed by the sensor [230], to simulate an  
5 appearance of a cigarette” as recited in claim 16 of the '549 Patent.



- 17
- Each time you draw on the MarkTen® e-vapor device, the red LED on the tip will illuminate to indicate the product is working properly.
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20 MarkTen Product Information Guide, [http://www.nu-mark.com/our-products/mark-](http://www.nu-mark.com/our-products/mark-ten/Documents/MarkTen_Product_Information_Guide.pdf)  
21 [ten/Documents/MarkTen\\_Product\\_Information\\_Guide.pdf](http://www.nu-mark.com/our-products/mark-ten/Documents/MarkTen_Product_Information_Guide.pdf) (last visited June 22,  
22 2016).

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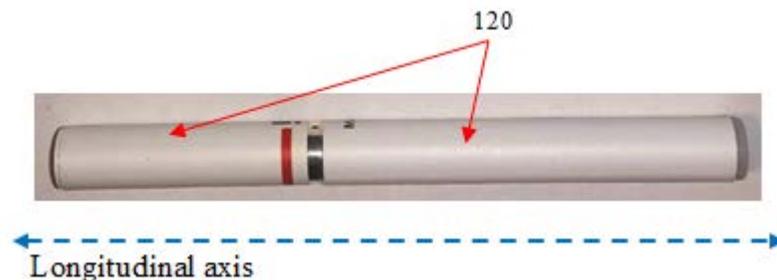
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1 370. As shown in the photographs of paragraphs 371 through 380 below,  
2 the MarkTen meets every limitation recited in claim 17 of the '549 Patent.

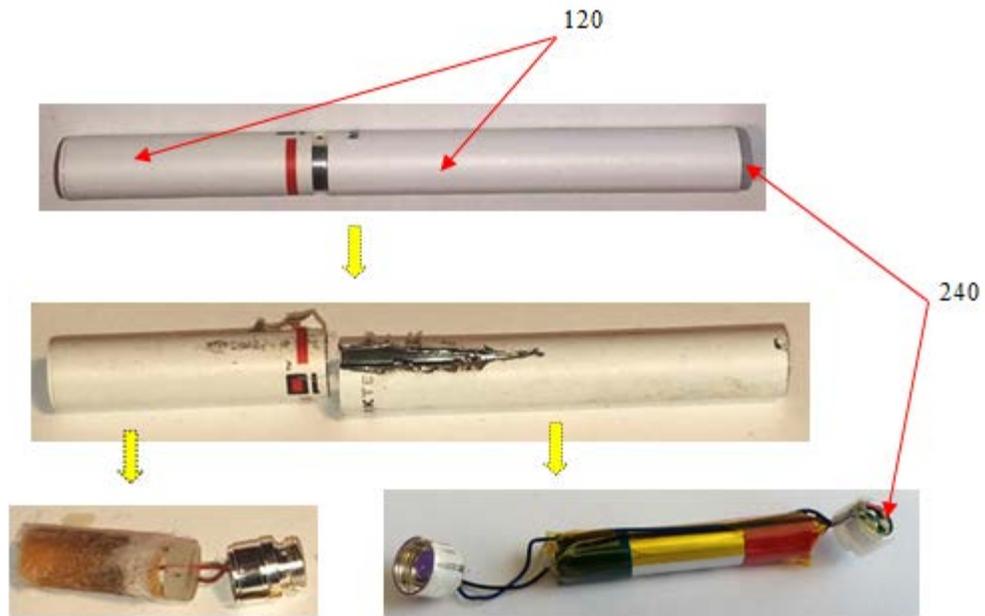
3 371. The MarkTen is an electronic vaporizing device as recited in claim 17  
4 of the '549 Patent.



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16 372. The MarkTen includes “a cylindrical housing [120] having a  
17 longitudinal axis, a first end and a second end” as recited in claim 17 of the '549  
18 Patent.



1 373. The MarkTen includes “an LED [240] at the first end of the cylindrical  
2 housing [120]” as recited in claim 17 of the ’549 Patent.

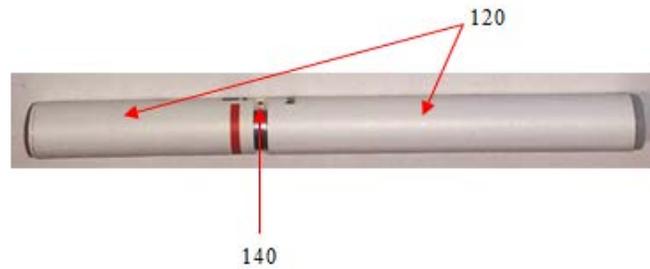


15 374. The MarkTen includes “an outlet [150] at the second end of the  
16 cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.

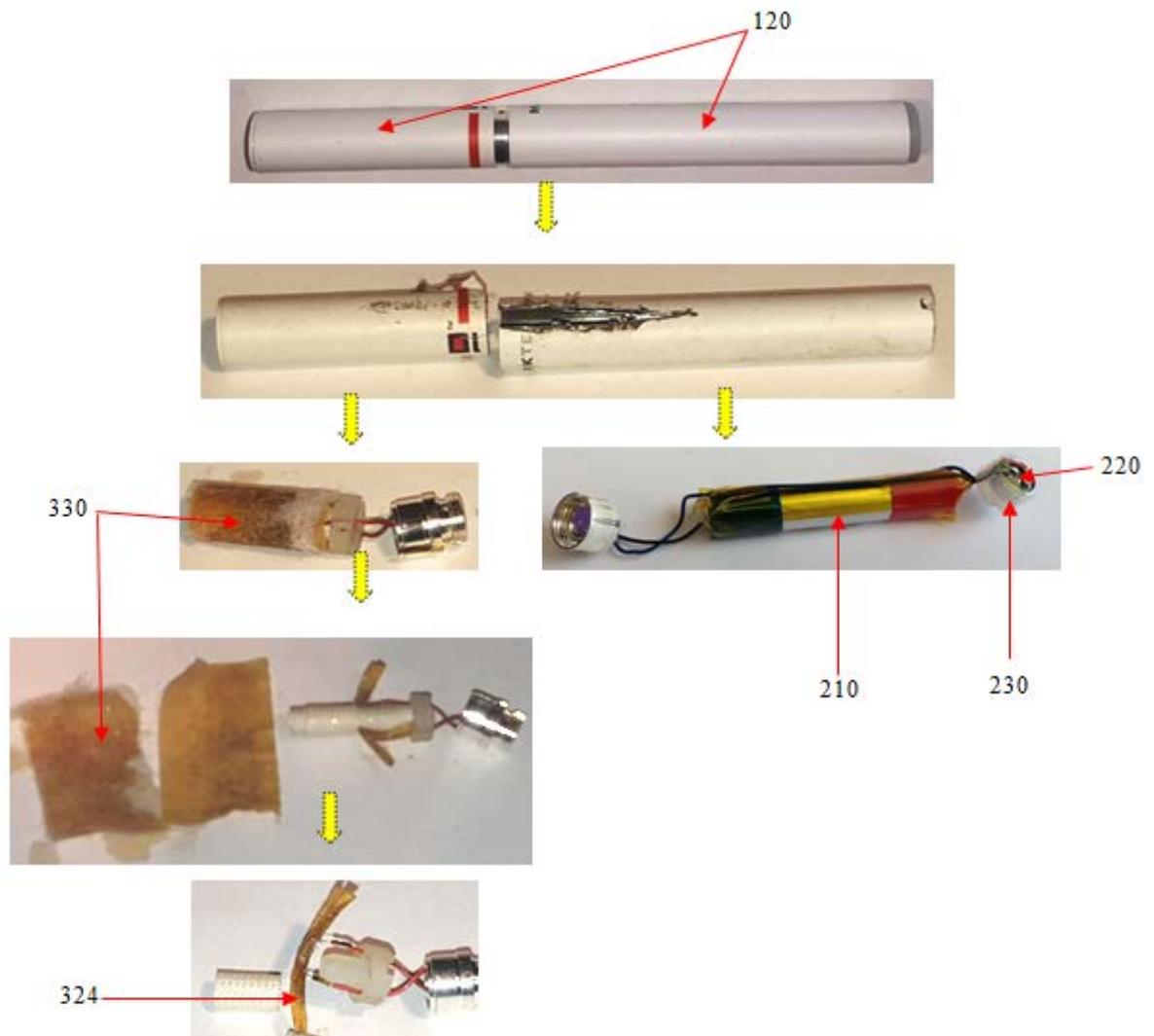


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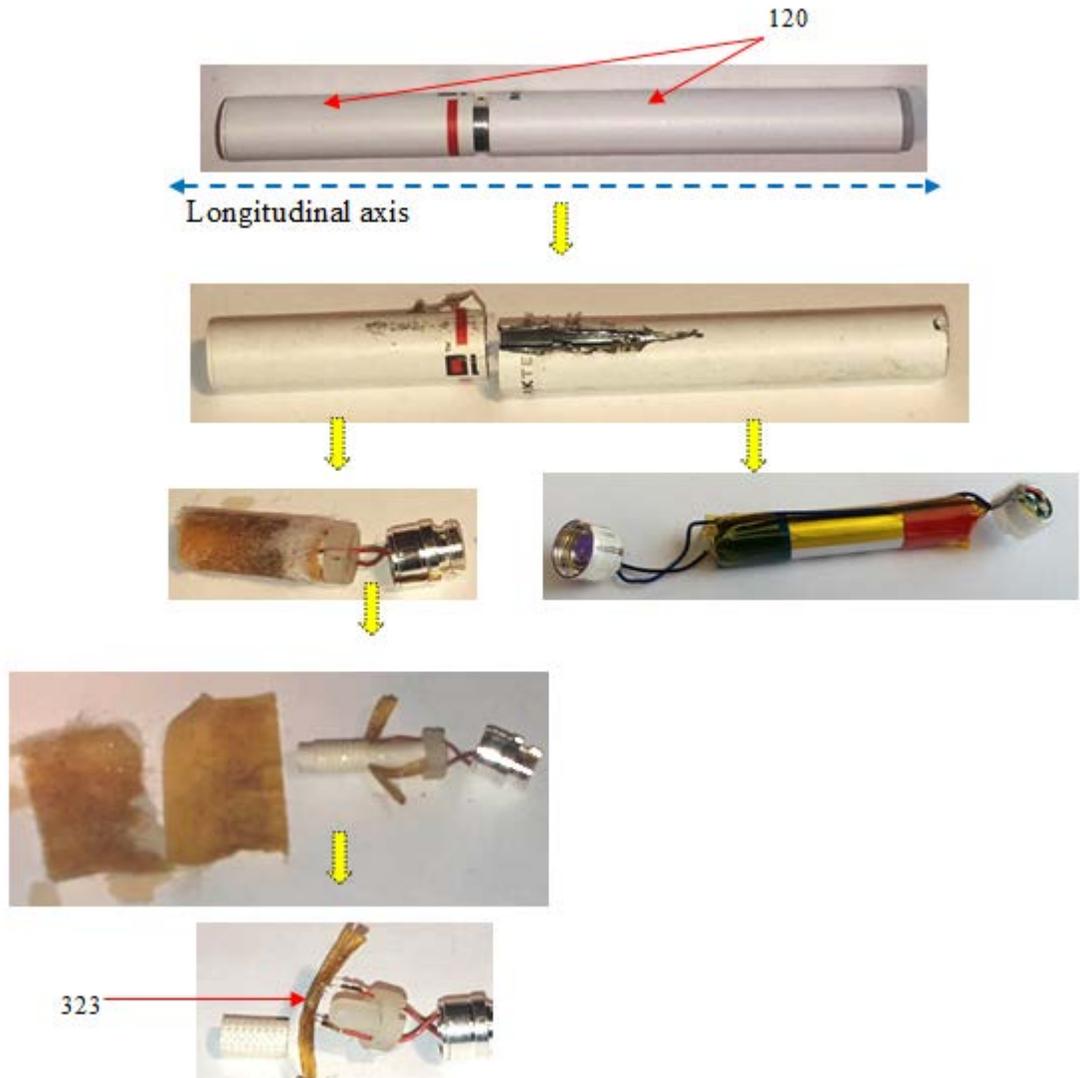
375. The MarkTen includes “an air inlet [140] for allowing air to flow into the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.



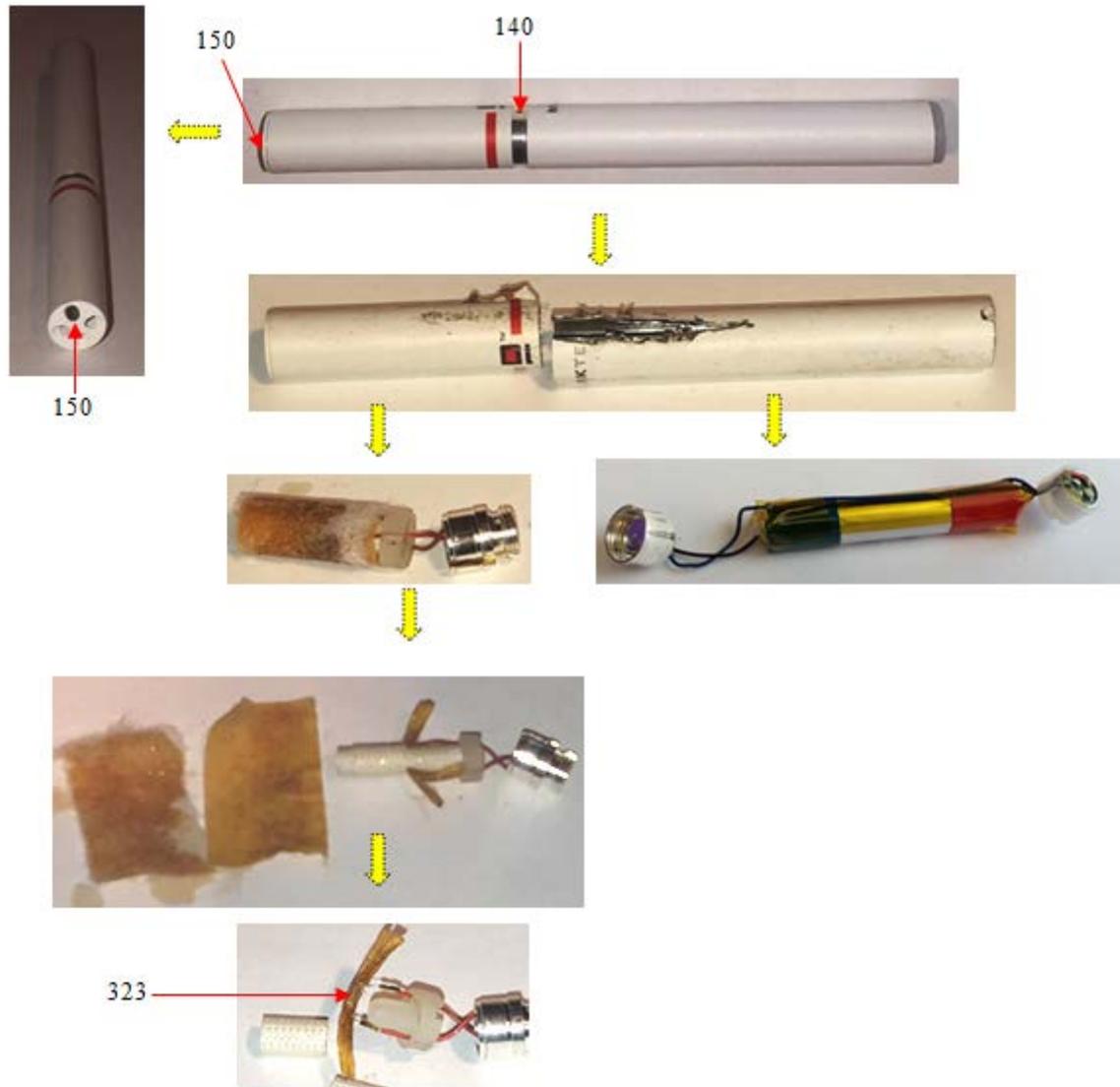
376. The MarkTen includes “a battery [210], an electronic circuit board [220], a sensor [230], a porous component [324], and a liquid-supply [330] within the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.



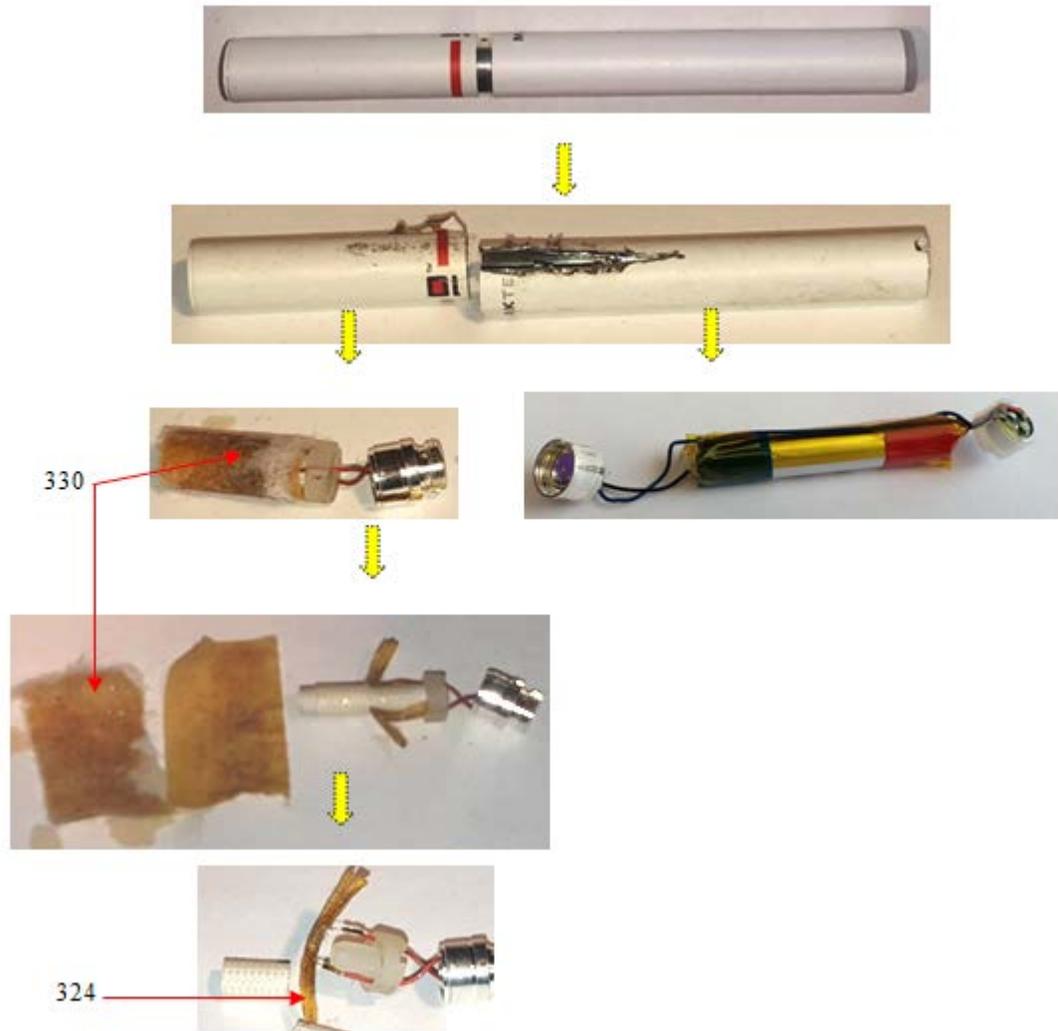
1           377. The MarkTen includes “a heating wire [323] positioned perpendicular  
2 to the longitudinal axis of the cylindrical housing [120]” as recited in claim 17 of  
3 the '549 Patent.



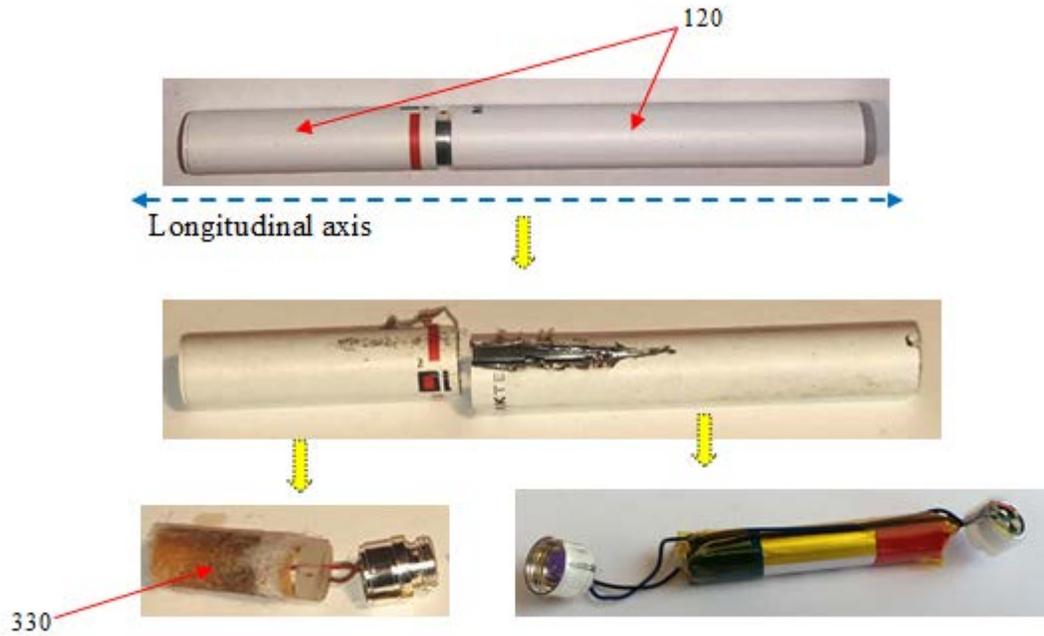
1           378. The MarkTen includes “an air passage between the inlet [140] to the  
2 outlet [150], with the heating wire [323] in the air passage and positioned for air to  
3 flow over the heating wire [323]” as recited in claim 17 of the ’549 Patent.



1           379. The MarkTen includes “the liquid-supply [330] in physical contact  
2 with the porous component [324], to move liquid from the liquid-supply [330] to  
3 the porous component [324]” as recited in claim 17 of the ’549 Patent.



1           380. The MarkTen includes “wherein the liquid-supply [330] is cylindrical  
2 and arranged parallel to the longitudinal axis of the cylindrical housing [120]” as  
3 recited in claim 17 of the ’549 Patent.

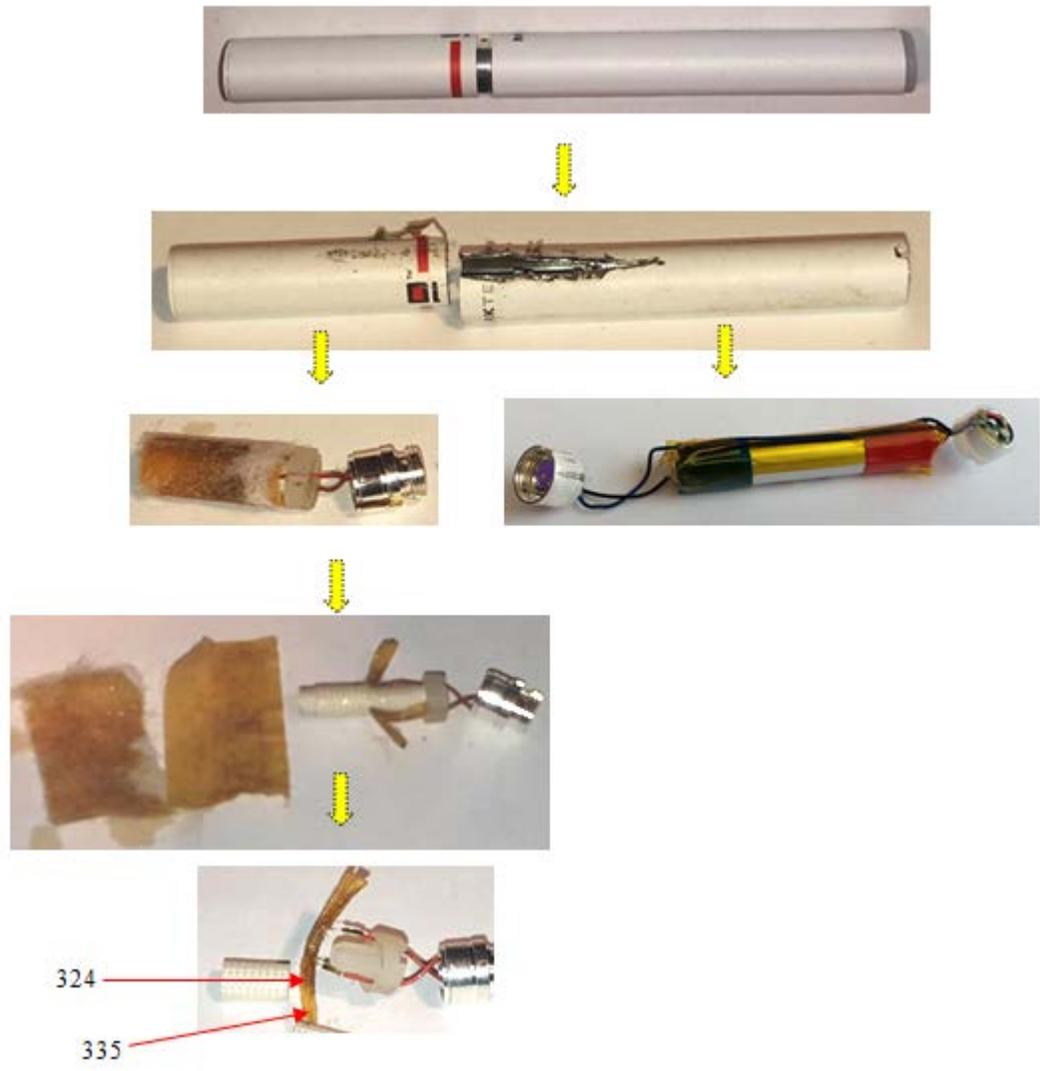


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1           381. As shown in the photographs of paragraph 382 below, the MarkTen  
2 meets every limitation recited in claim 18 of the '549 Patent.

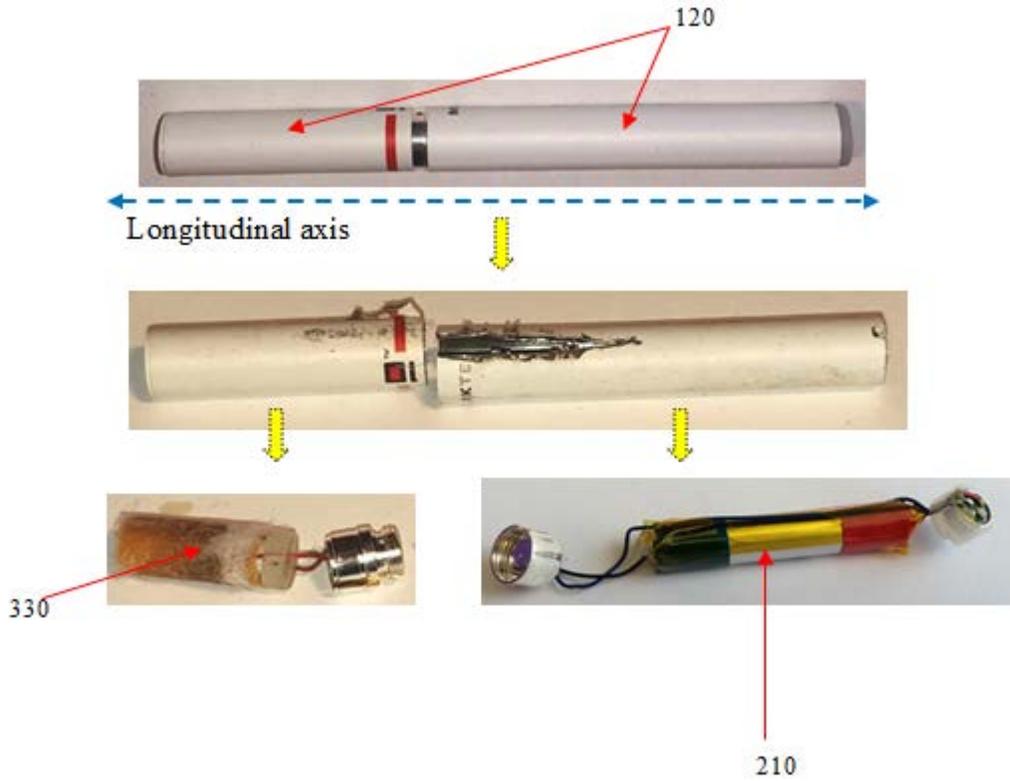
3           382. The MarkTen includes “the porous component [324] comprising a  
4 fiber material [335]” as recited in claim 18 of the '549 Patent.

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1 383. As shown in the photographs of paragraph 384 below, the MarkTen  
2 meets every limitation recited in claim 19 of the '549 Patent.

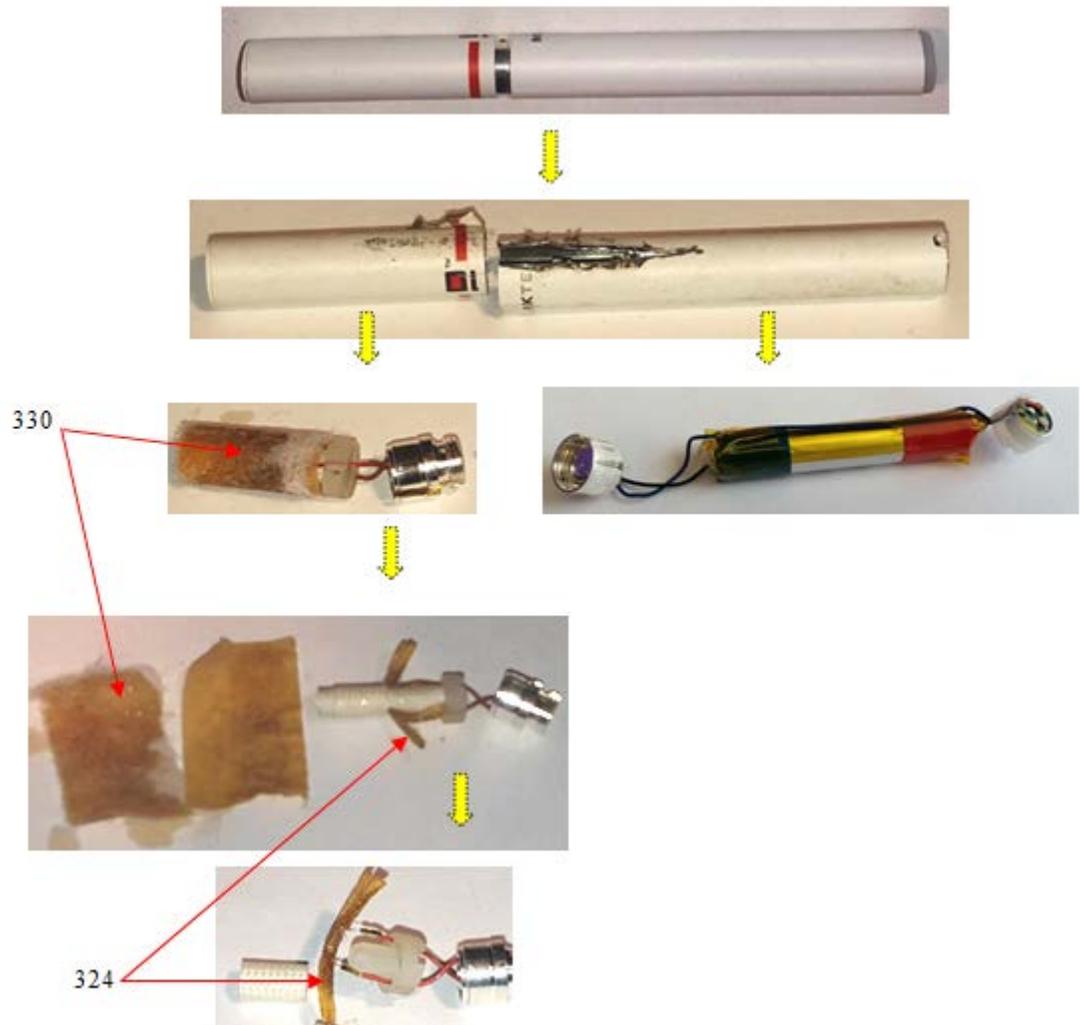
3 384. The MarkTen includes “the battery [210] and the liquid-supply [330]  
4 co-axial with the longitudinal axis of the cylindrical housing [120]” as recited in  
5 claim 19 of the '549 Patent.



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385. As shown in the photographs of paragraph 386 below, the MarkTen meets every limitation recited in claim 20 of the '549 Patent.

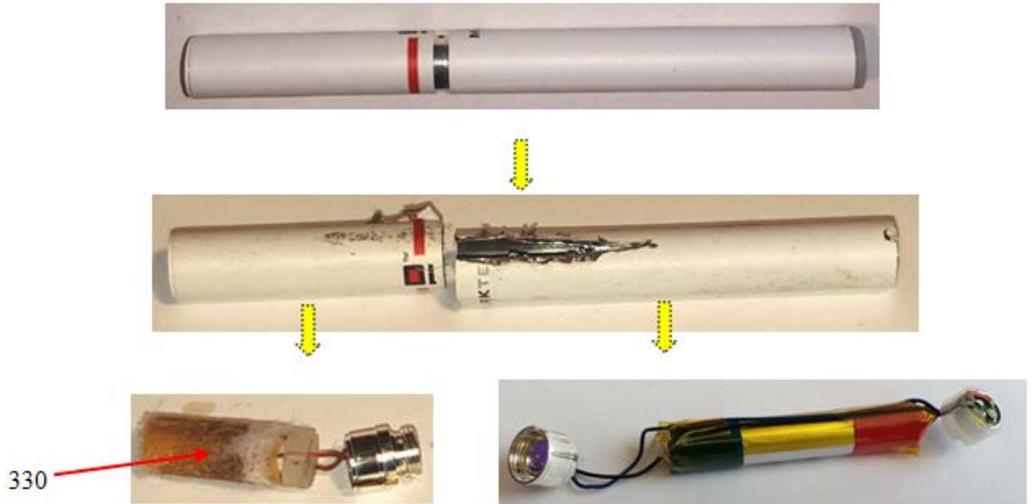
386. The MarkTen includes “at least one end of the porous component [324] projecting into the liquid-supply [330]” as recited in claim 20 of the '549 Patent.



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387. As shown in the photographs of paragraph 388 below, the MarkTen meets every limitation recited in claim 21 of the '549 Patent.

388. The MarkTen includes “the liquid-supply [330] comprising propylene glycol” as recited in claim 21 of the '549 Patent.



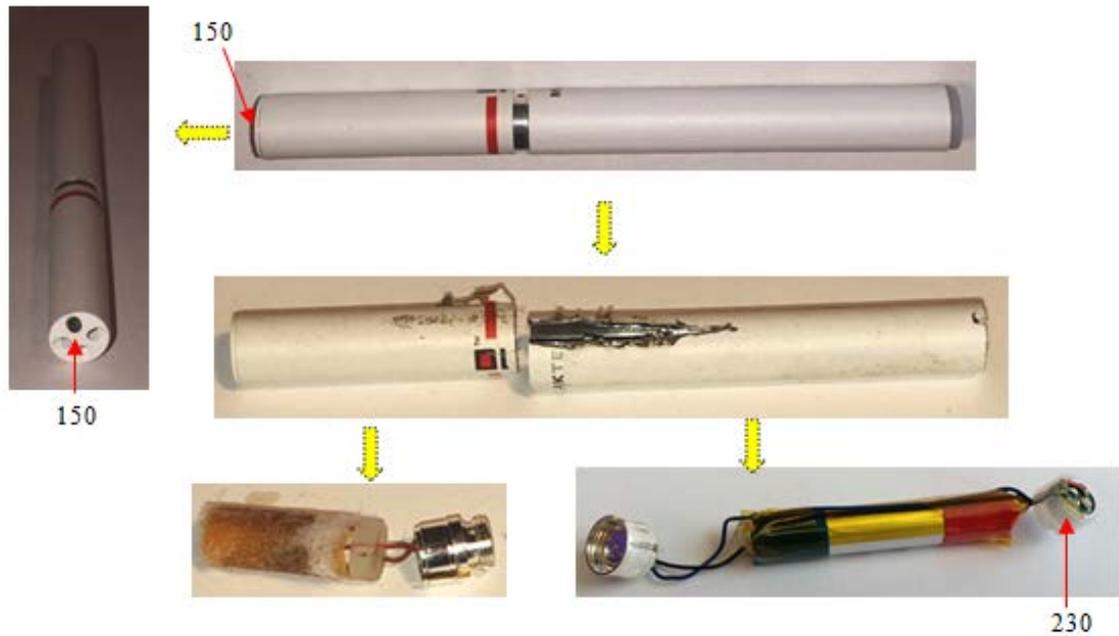
## Product Information

**Ingredients:** MarkTen® e-vapor devices and cartridges contain tobacco-derived nicotine, propylene glycol, and additional flavor ingredients.

Product Information, <https://www.markten.com/additional-info> (last visited June 22, 2016).

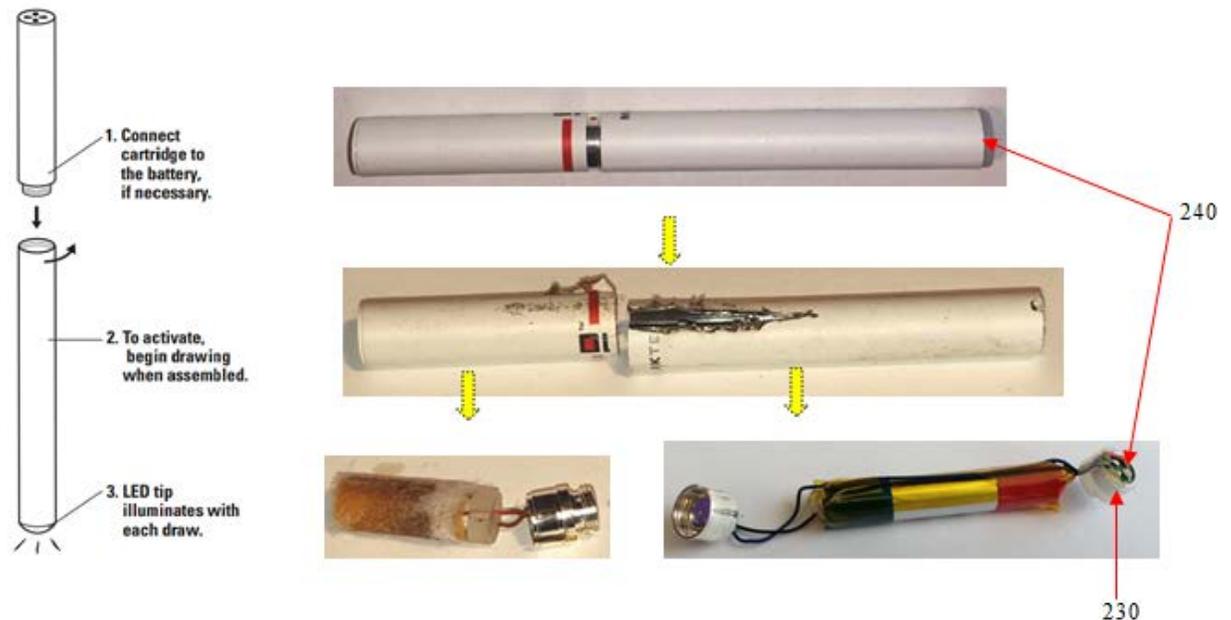
1           389. As shown in the photographs of paragraph 390 below, the MarkTen  
2 meets every limitation recited in claim 22 of the '549 Patent.

3           390. The MarkTen includes “wherein the sensor [230] creates an output  
4 signal which is proportional to suction force on the outlet [150]” as recited in claim  
5 22 of the '549 Patent.



1 391. As shown in the photographs of paragraph 392 below, the MarkTen  
2 meets every limitation recited in claim 23 of the '549 Patent.

3 392. The MarkTen includes “wherein illumination of LED [240] is  
4 dependent on the suction force sensed by the sensor [230], to simulate an  
5 appearance of a cigarette” as recited in claim 23 of the '549 Patent.

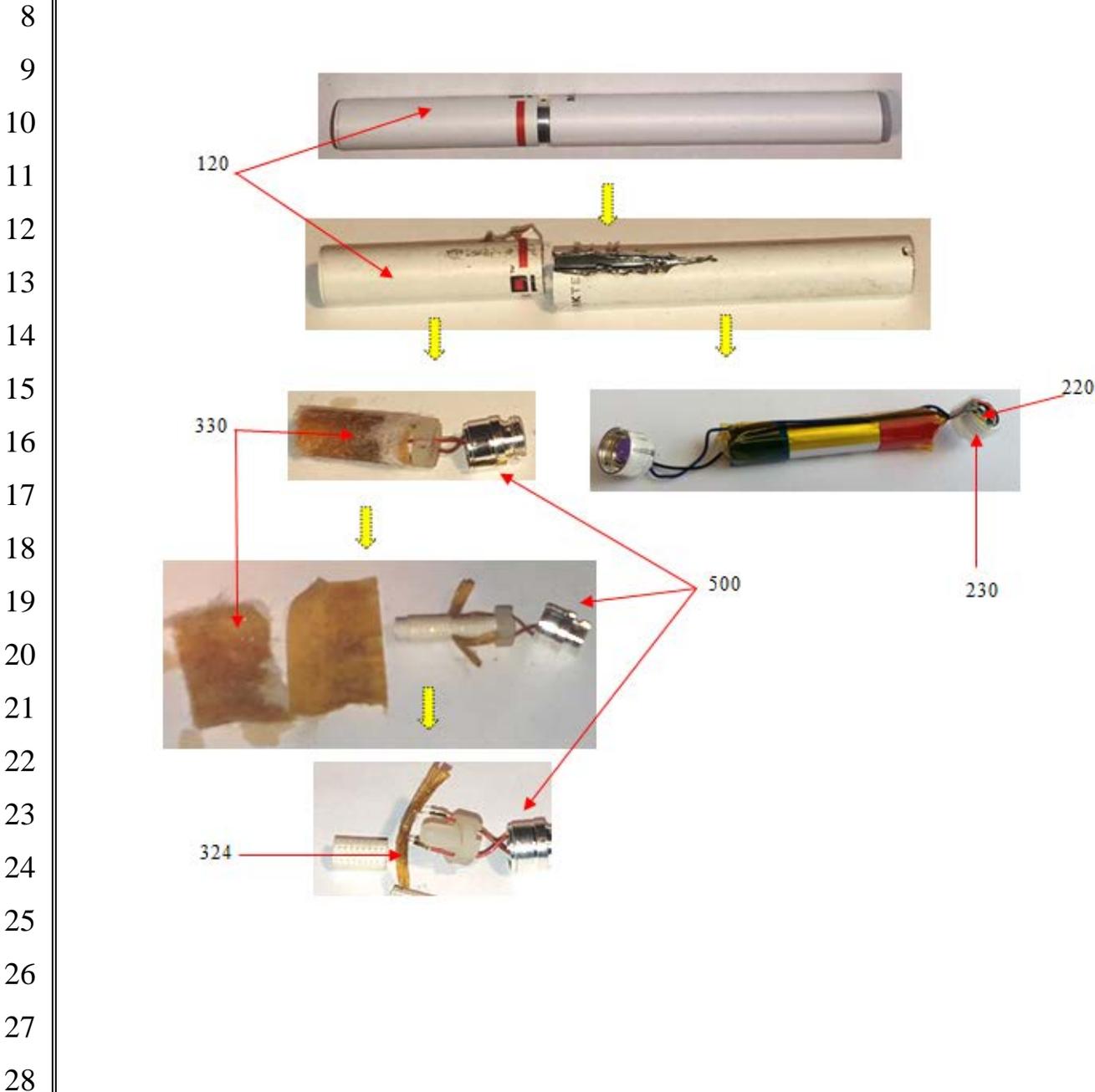


- Each time you draw on the MarkTen® e-vapor device, the red LED on the tip will illuminate to indicate the product is working properly.

MarkTen Product Information Guide, [http://www.nu-mark.com/our-products/mark-ten/Documents/MarkTen\\_Product\\_Information\\_Guide.pdf](http://www.nu-mark.com/our-products/mark-ten/Documents/MarkTen_Product_Information_Guide.pdf) (last visited June 22, 2016).

1 393. As shown in the photographs of paragraph 394 below, the MarkTen  
2 meets every limitation recited in claim 25 of the '549 Patent.

3 394. The MarkTen “further including a separator [500] in the cylindrical  
4 housing [120], with the electronic circuit board [220], and the sensor [230] on a  
5 first side of the separator, and with the porous component [324] and the liquid-  
6 supply [330] on a second side of the separator, opposite from the first side” as  
7 recited in claim 25 of the '549 Patent.



1           395. As shown in the photographs of paragraph 396 below, the MarkTen  
2 meets every limitation recited in claim 26 of the '549 Patent.

3           396. The MarkTen includes “the separator [500] having a through hole  
4 [161] from the first side to the second side” as recited in claim 26 of the '549  
5 Patent.



19           500

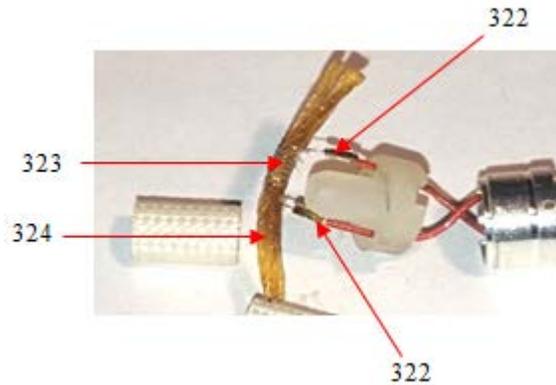


22           161



1 397. As shown in the photograph of paragraph 398 below, the MarkTen  
2 meets every limitation recited in claim 27 of the '549 Patent.

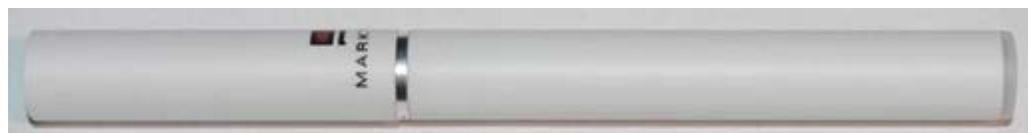
3 398. The MarkTen includes “wherein the heating wire [323] has leads [322]  
4 extending out of the porous component [324]” as recited in claim 27 of the '549  
5 Patent.



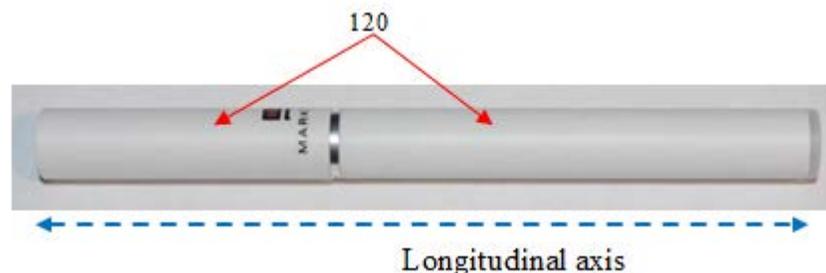
12 **MarkTenXL**

13 399. As shown in the photographs of paragraphs 400 through 410 below,  
14 the MarkTenXL meets every limitation recited in claim 1 of the '549 Patent.

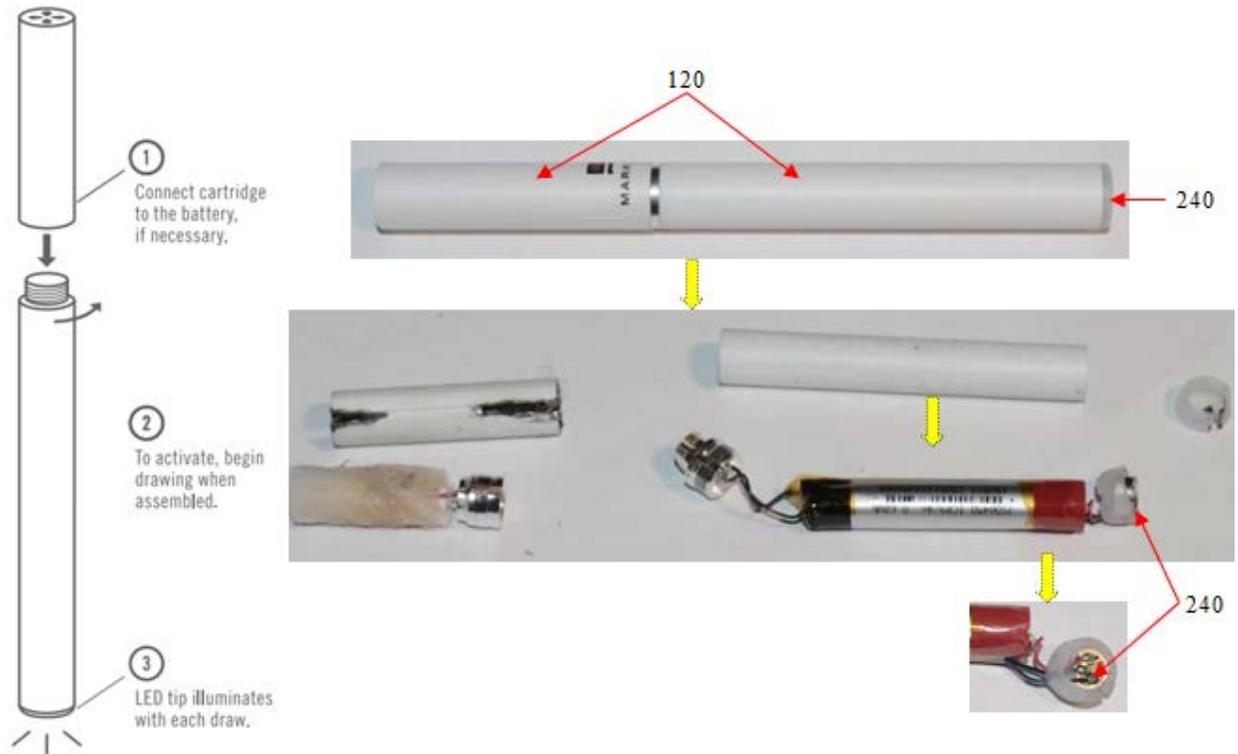
15 400. The MarkTenXL is an electronic vaporizing device as recited in claim  
16 1 of the '549 Patent.



20 401. The MarkTenXL includes “a cylindrical housing [120] having a  
21 longitudinal axis, a first end and a second end” as recited in claim 1 of the '549  
22 Patent.



1           402. The MarkTenXL includes “an LED [240] at a first end of the  
2 cylindrical housing [120] to simulate a cigarette” as recited in claim 1 of the ’549  
3 Patent.

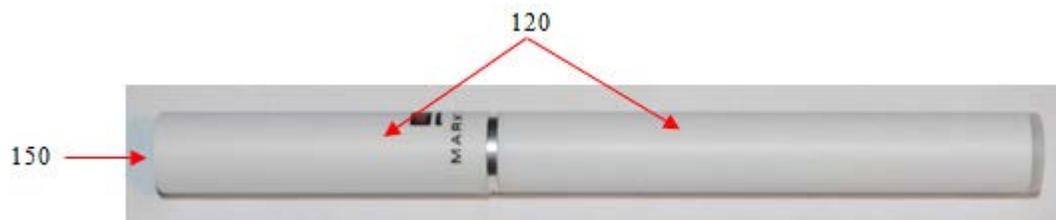


17 MarkTenXL Product Information Guide,  
18 <https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf> (last visited June 22, 2016).

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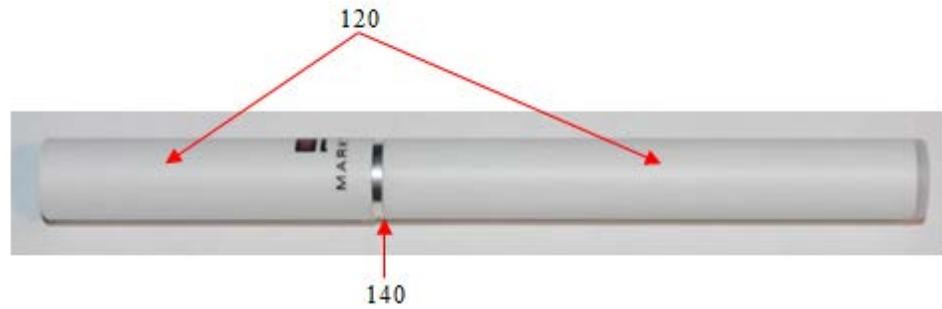
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21           403. The MarkTenXL includes “an outlet [150] at the second end of the  
22 cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.

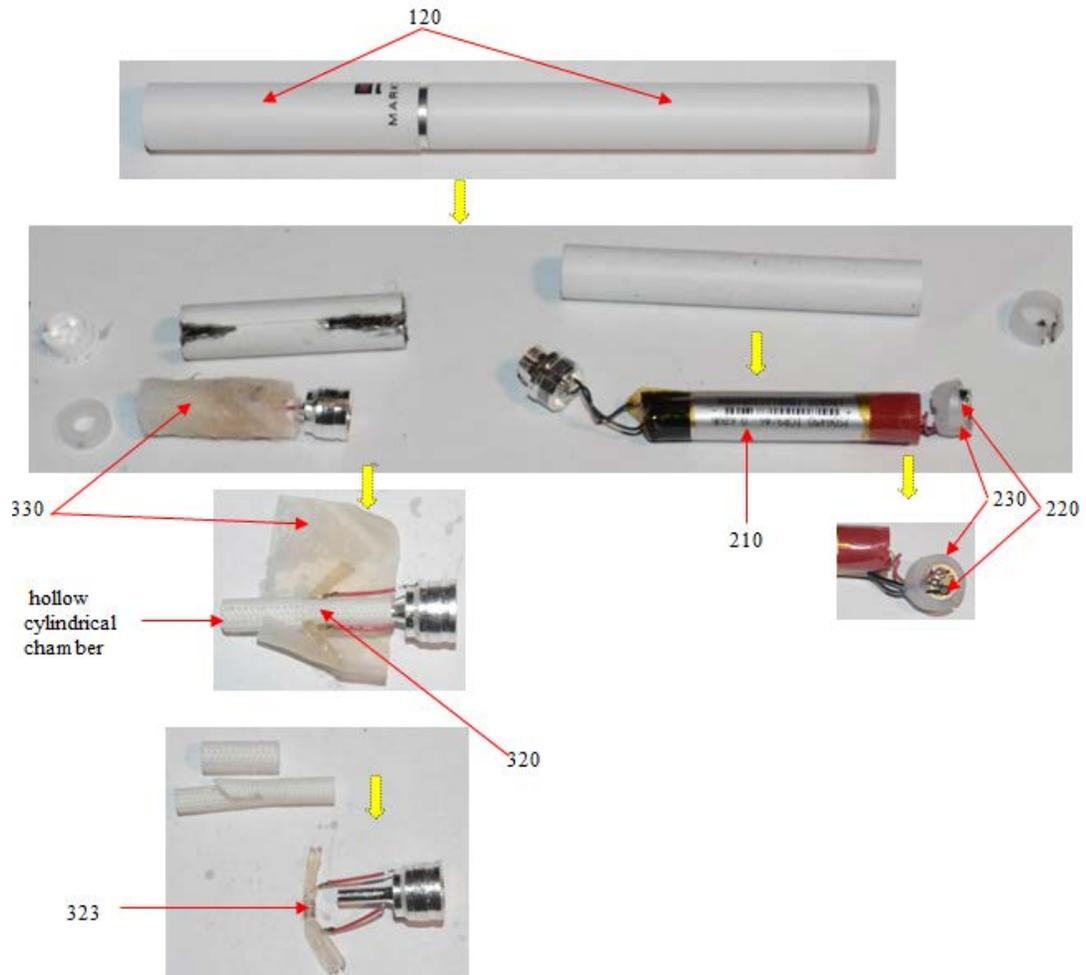


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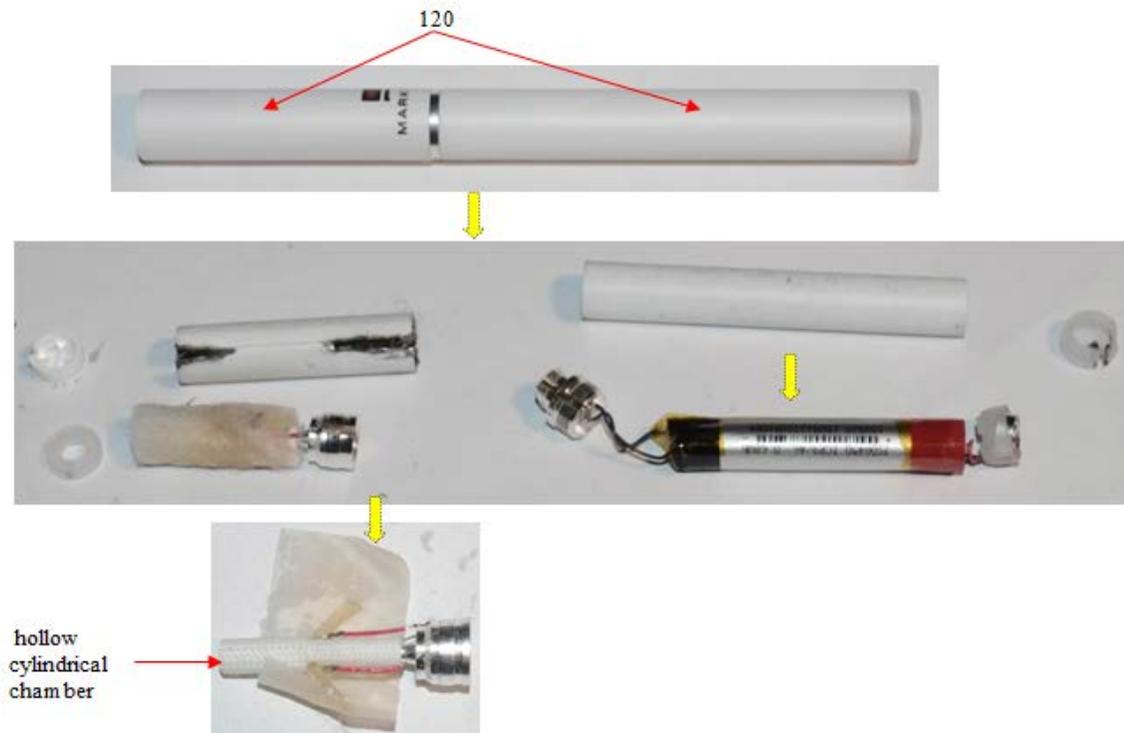
404. The MarkTenXL includes “an air inlet [140] for allowing air to flow into the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.



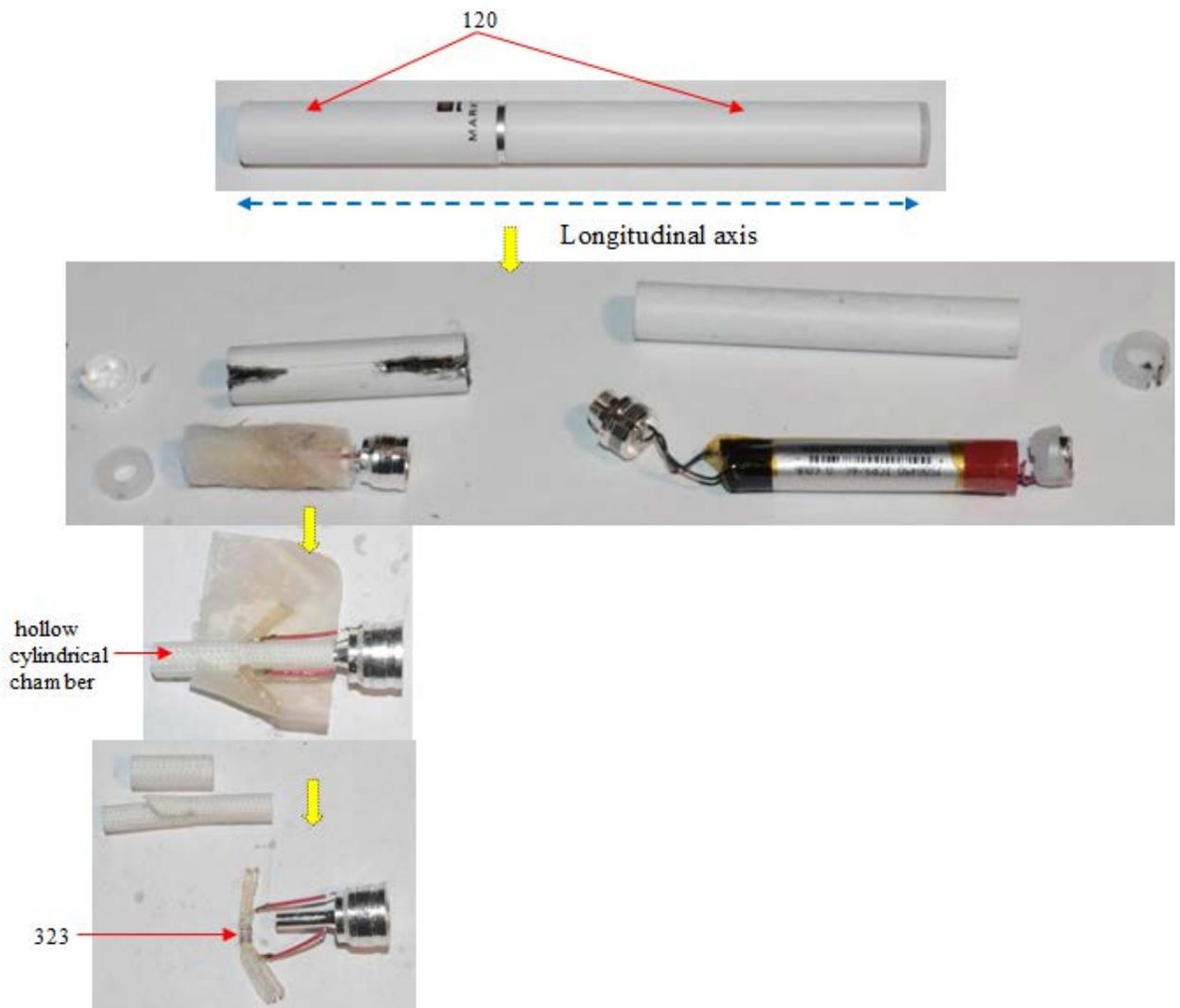
405. The MarkTenXL includes “a battery [210], an electronic circuit board [220], a sensor [230], an atomizer [320] comprising a hollow cylindrical chamber and a heating wire [323], and a liquid-supply [330] within the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.



1           406. The MarkTenXL includes “the hollow cylindrical chamber co-axial  
2 with the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.  
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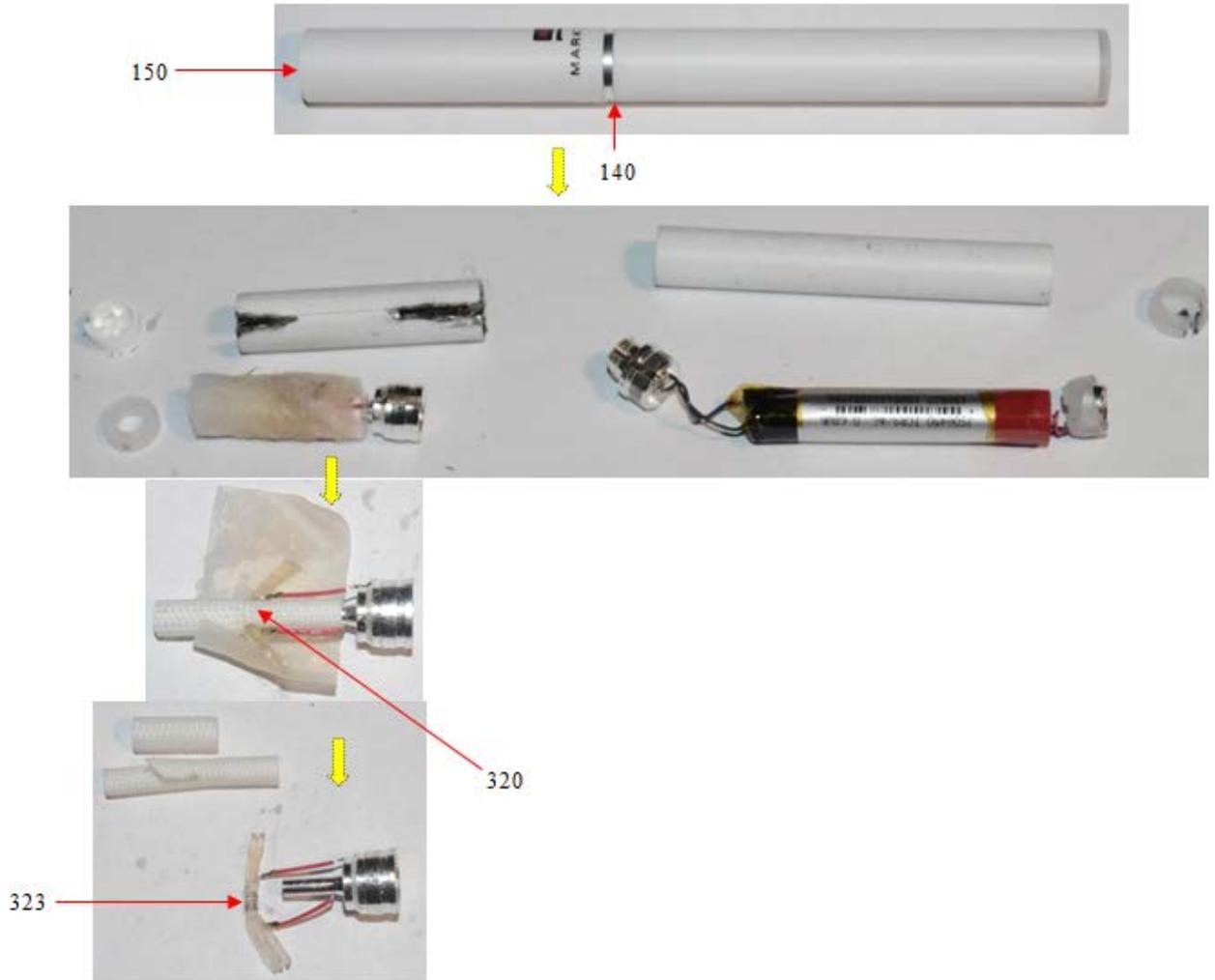


1           407. The MarkTenXL includes “the heating wire [323] extending across the  
2 cylindrical chamber perpendicular to the longitudinal axis of the cylindrical  
3 housing [120]” as recited in claim 1 of the ’549 Patent.



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408. The MarkTenXL includes “an air stream passage between the inlet [140] and the outlet [150], with the air stream passage leading to the atomizer [320] to allow air to pass through the atomizer [320] and across the heating wire [323]” as recited in claim 1 of the ’549 Patent.



1           409. The MarkTenXL includes “the liquid-supply [330] in physical contact  
2 with the atomizer [320]” as recited in claim 1 of the ’549 Patent.





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413. As shown in the photographs of paragraph 414 below, the MarkTenXL meets every limitation recited in claim 3 of the '549 Patent.

414. The MarkTenXL includes “the liquid-supply [330] comprising propylene glycol” as recited in claim 3 of the '549 Patent.



**PRODUCT INGREDIENTS**

*MarkTen® XL Classic* e-vapor products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol and Flavors.

*MarkTen® XL Fusion* products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol, Water and Flavors.

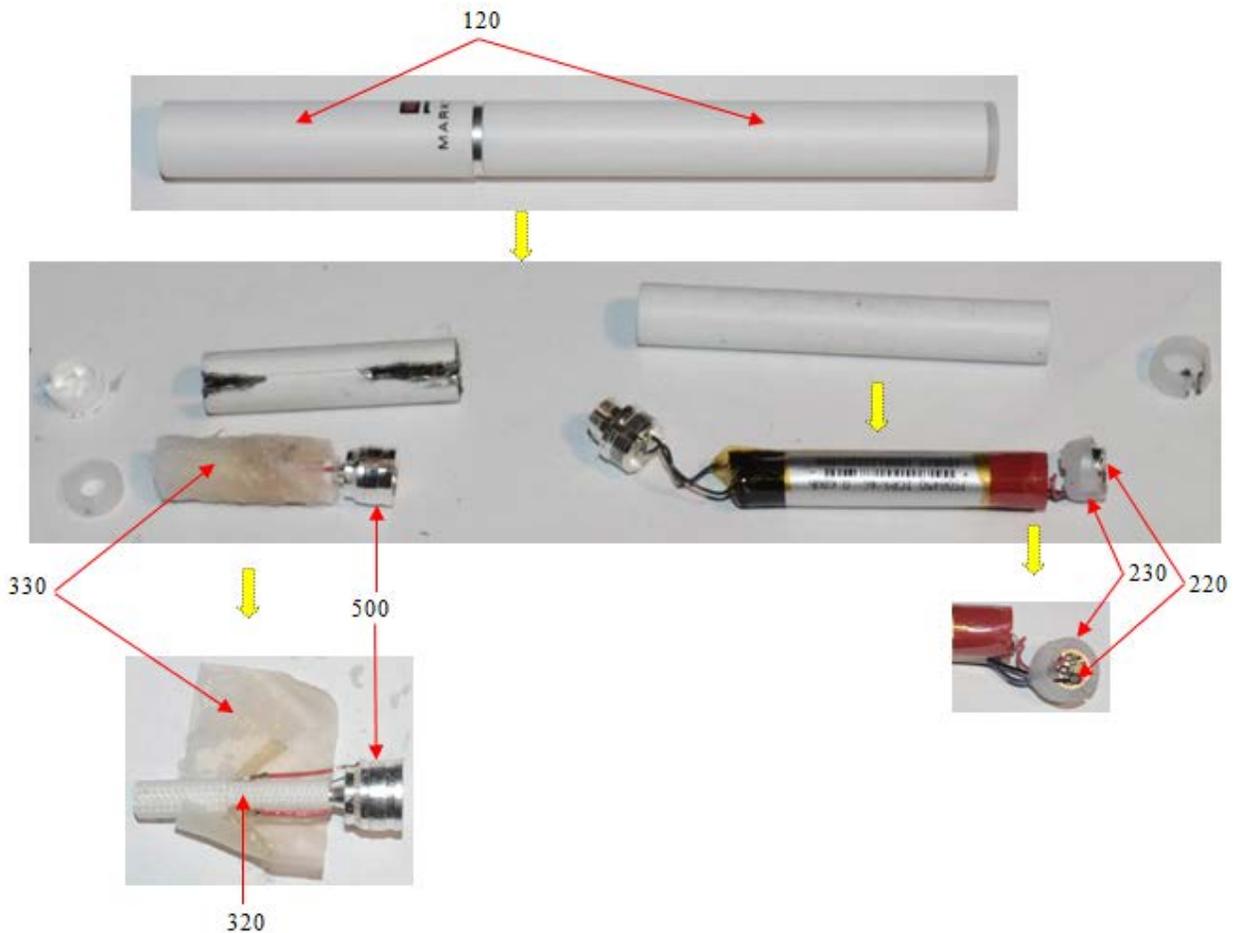
*MarkTen® XL Menthol and Winter Mint* e-vapor products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol, Water, Menthol and Flavors.

MarkTen® XL E-VAPOR, <http://www.nu-mark.com/our-products/mark-ten/Pages/default.aspx> (last visited June 22, 2016).

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415. As shown in the photographs of paragraph 416 below, the MarkTenXL meets every limitation recited in claim 4 of the '549 Patent.

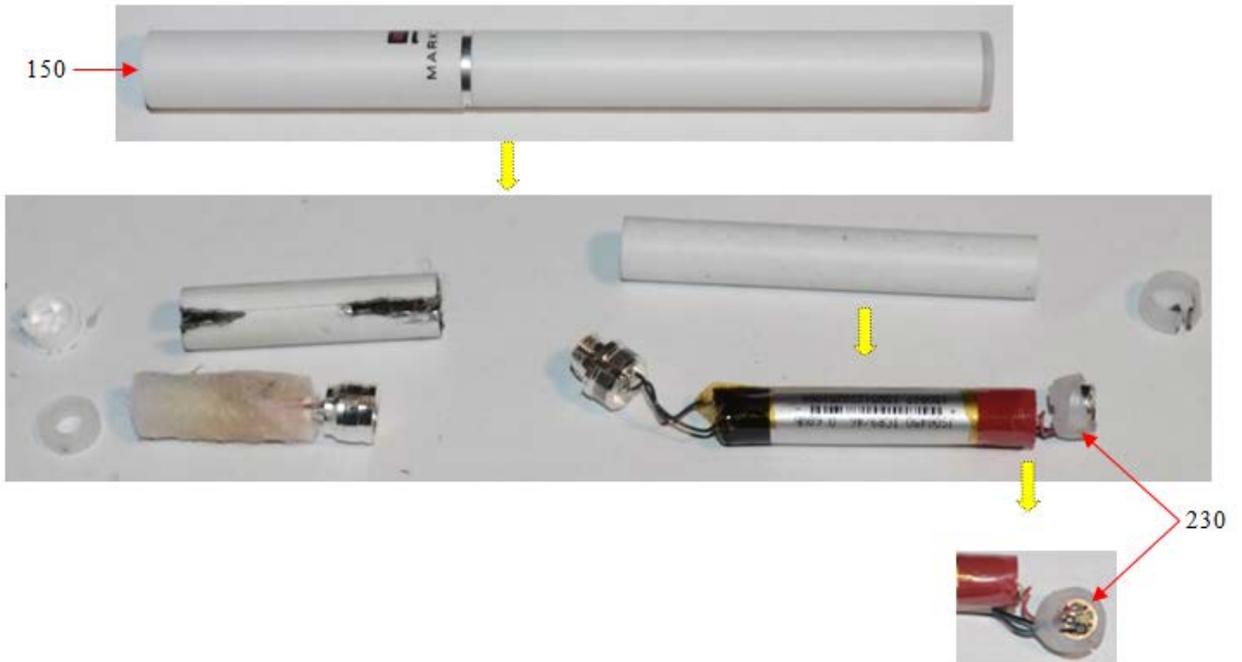
416. The MarkTenXL “further including a separator [500] in the cylindrical housing [120], with the electronic circuit board [220] and the sensor [230] on a first side of the separator [500], and with the atomizer [320] and the liquid-supply [330] on a second side of the separator [500], opposite from the first side” as recited in claim 4 of the '549 Patent.



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417. As shown in the photographs of paragraph 418 below, the MarkTenXL meets every limitation recited in claim 6 of the '549 Patent.

418. The MarkTenXL includes “wherein the sensor [230] creates an output signal which is proportional to suction force on the outlet [150]” as recited in claim 6 of the '549 Patent.



1 419. As shown in the photographs of paragraph 420 below, the MarkTenXL  
2 meets every limitation recited in claim 7 of the '549 Patent.

3 420. The MarkTenXL includes “wherein the electronic circuit board [220]  
4 provides electric current to the heating wire [323] for a time interval dependent on  
5 the suction force sensed by the sensor [230]” as recited in claim 7 of the '549  
6 Patent.



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1 421. As shown in the photographs of paragraph 422 below, the MarkTenXL  
2 meets every limitation recited in claim 8 of the '549 Patent.

3 422. The MarkTenXL includes “wherein illumination of the [240] is  
4 dependent on the suction force sensed by the sensor [230], to simulate an  
5 appearance of a cigarette” as recited in claim 8 of the '549 Patent.



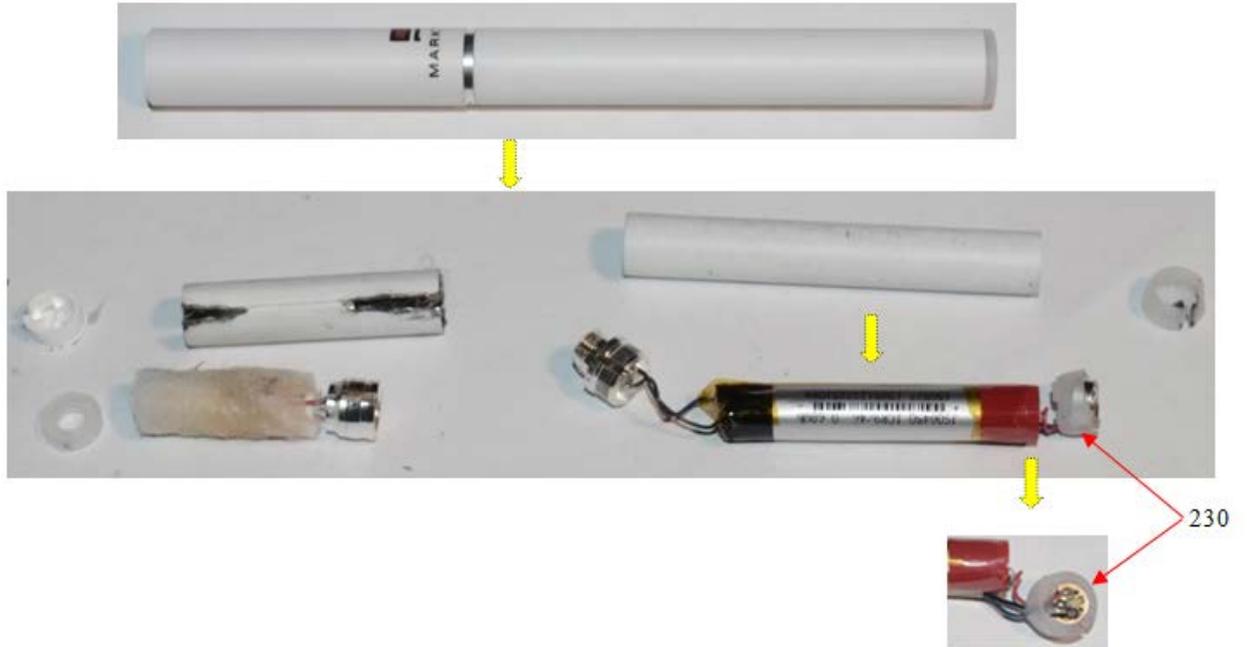
19 MarkTenXL Product Information Guide,  
20 [https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-](https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf)  
21 [guide.pdf](https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf) (last visited June 22, 2016).

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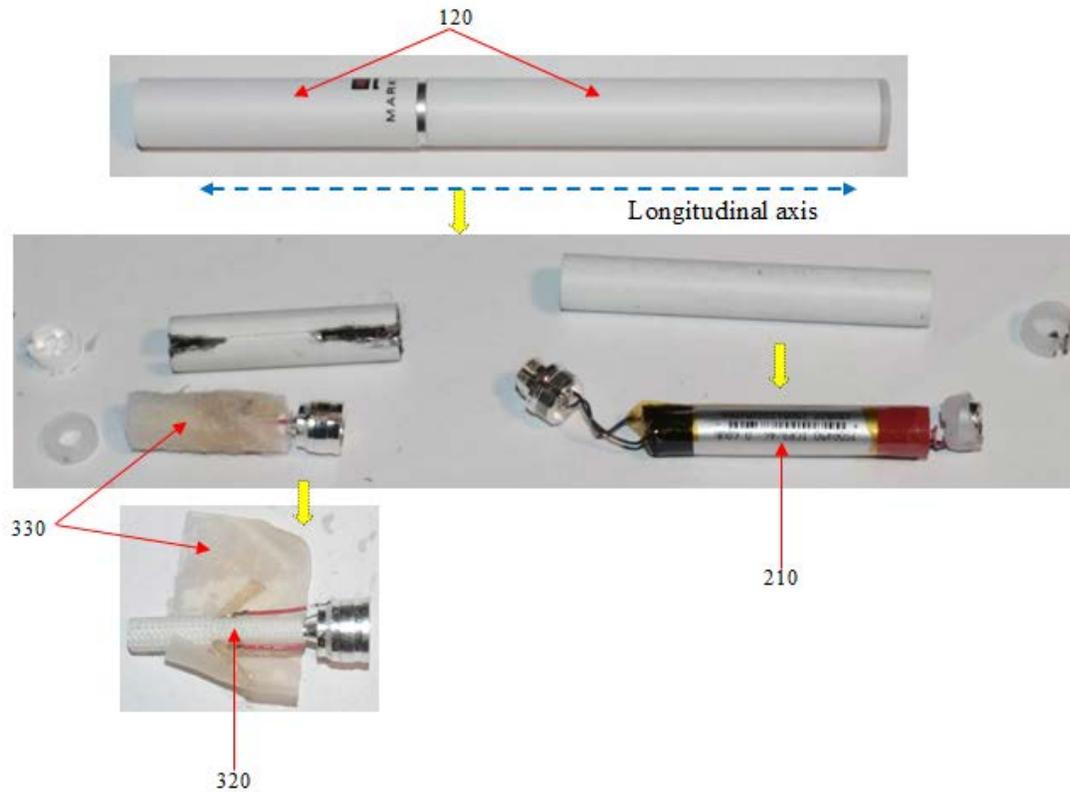
423. As shown in the photographs of paragraph 424 below, the MarkTenXL meets every limitation recited in claim 9 of the '549 Patent.

424. The MarkTenXL includes “wherein the sensor [230] comprises a pressure sensor” as recited in claim 9 of the '549 Patent.



1 425. As shown in the photographs of paragraph 426 below, the MarkTenXL  
2 meets every limitation recited in claim 11 of the '549 Patent.

3 426. The MarkTenXL includes “the battery [210], the liquid-supply [330]  
4 and the cylindrical chamber of the atomizer [320] co-axial with the longitudinal  
5 axis of the cylindrical housing [120]” as recited in claim 11 of the '549 Patent.

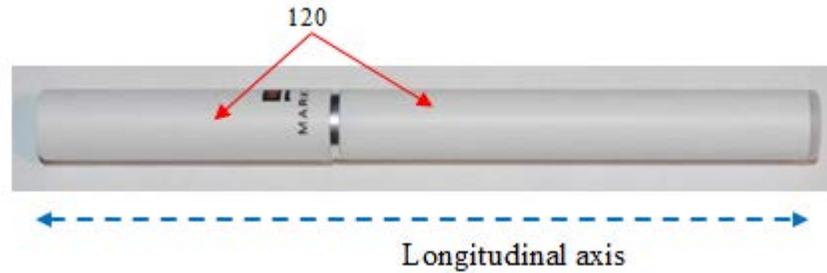


20 427. As shown in the photographs of paragraphs 428 through 438 below,  
21 the MarkTenXL meets every limitation recited in claim 12 of the '549 Patent.

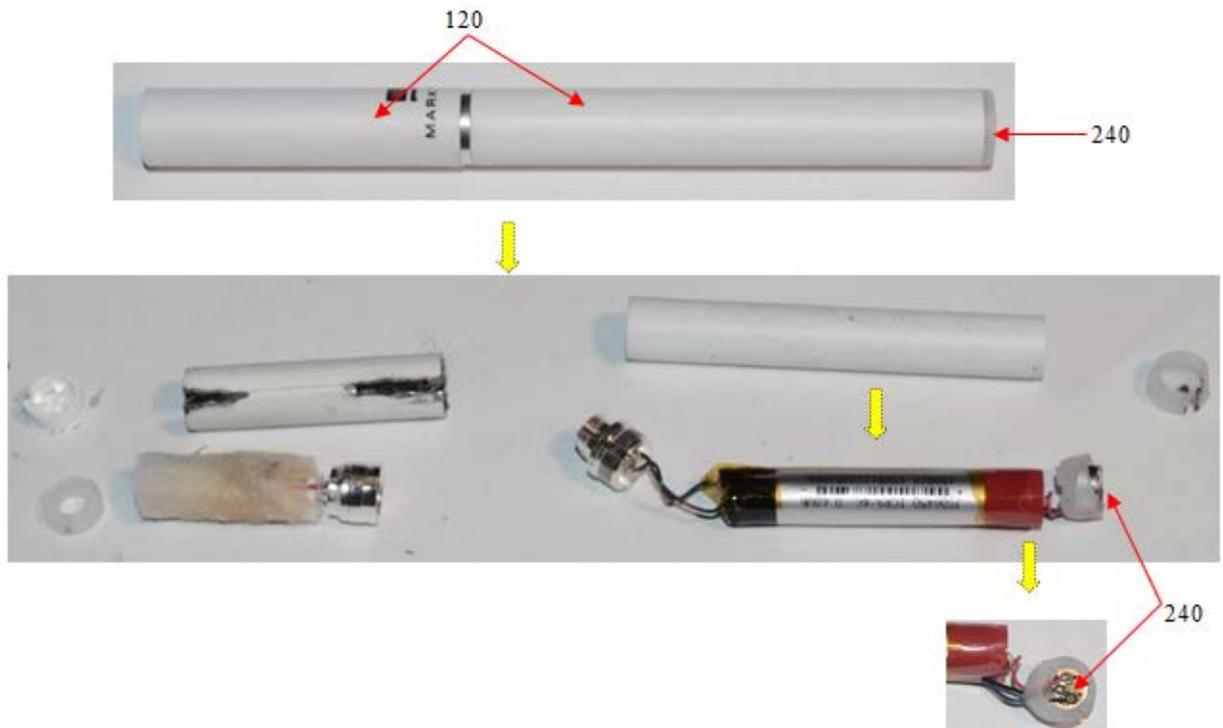
22 428. The MarkTenXL is an electronic vaporizing device as recited in claim  
23 12 of the '549 Patent.



1           429. The MarkTenXL includes “a cylindrical housing [120] having a  
2 longitudinal axis, a first end and a second end” as recited in claim 12 of the ’549  
3 Patent.

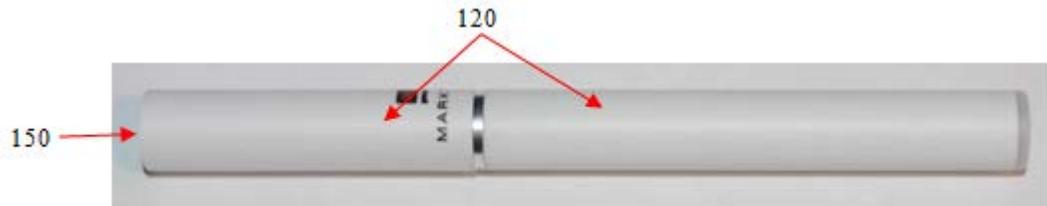


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10           430. The MarkTenXL includes “an LED [240] at a first end of the  
11 cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.

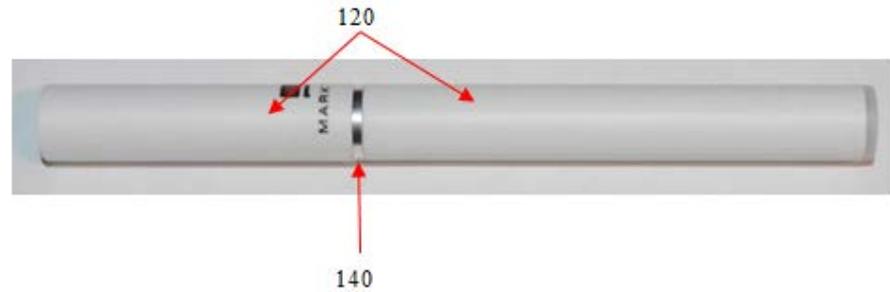


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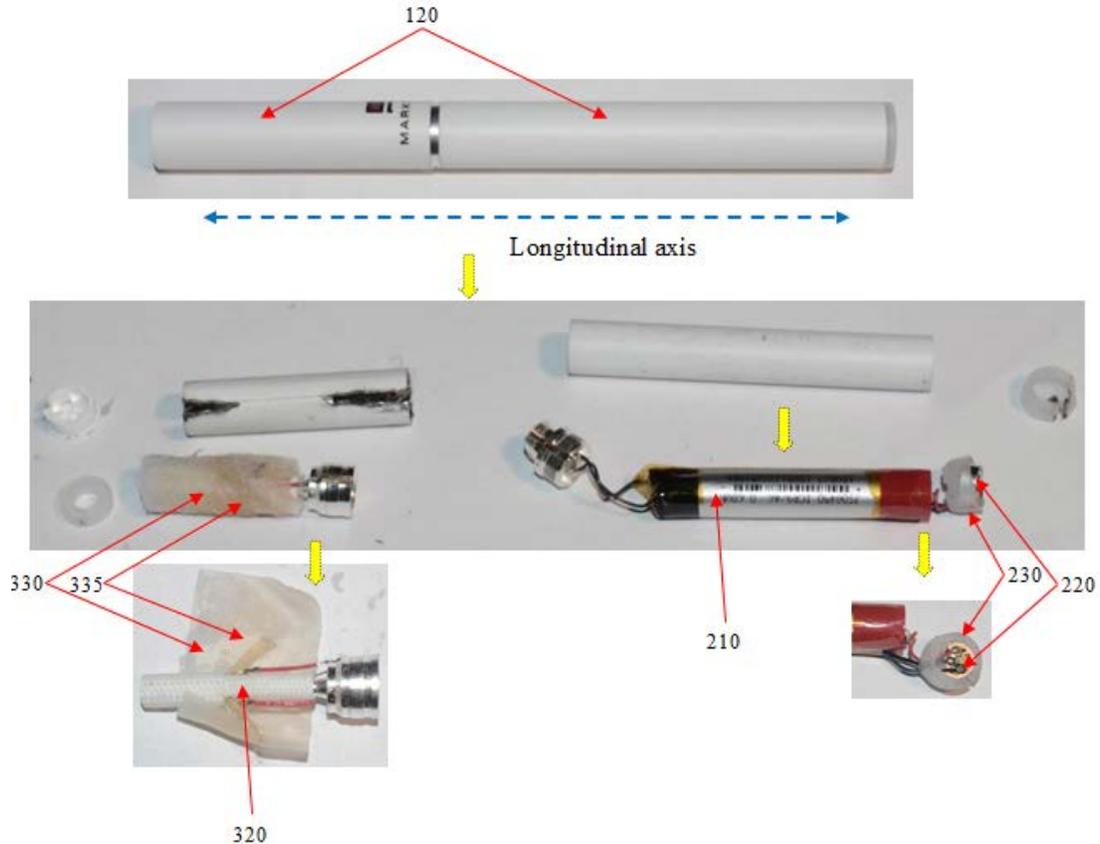
431. The MarkTenXL includes “an outlet [150] at the second end of the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



432. The MarkTenXL includes “an air inlet [140] for allowing air to flow into the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



1           433. The MarkTenXL includes “a battery [210], an electronic circuit board  
 2 [220], a sensor [230], an atomizer [320], and a liquid-supply [330] within the  
 3 cylindrical housing [120], wherein the liquid-supply [330] includes a liquid and a  
 4 fiber material [335], with the liquid containing propylene glycol, and wherein the  
 5 liquid supply [330] is cylindrical and parallel to the longitudinal axis of the  
 6 cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



21 **PRODUCT INGREDIENTS**

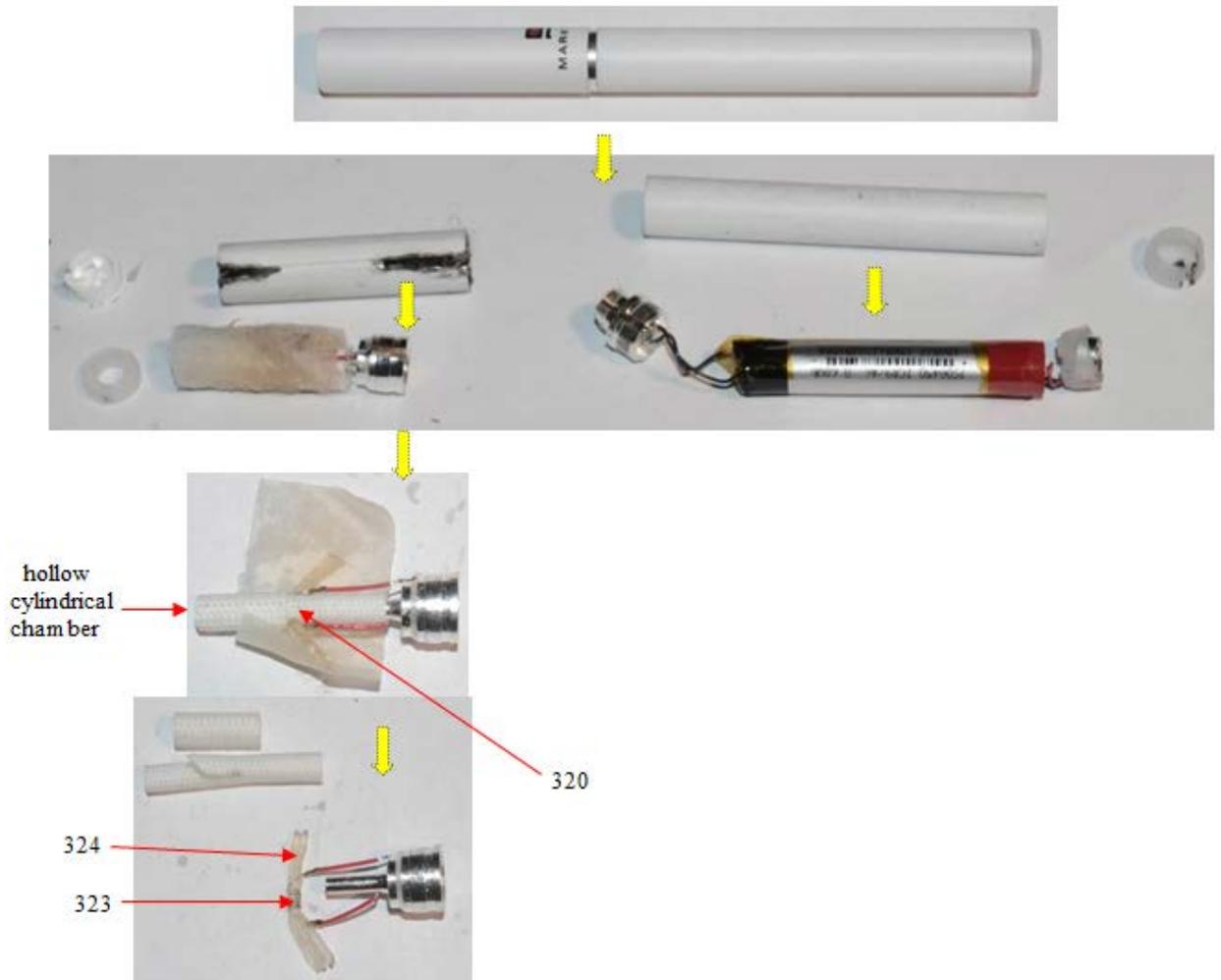
22 *MarkTen® XL Classic e-vapor products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol and Flavors.*

23 *MarkTen® XL Fusion products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol, Water and Flavors.*

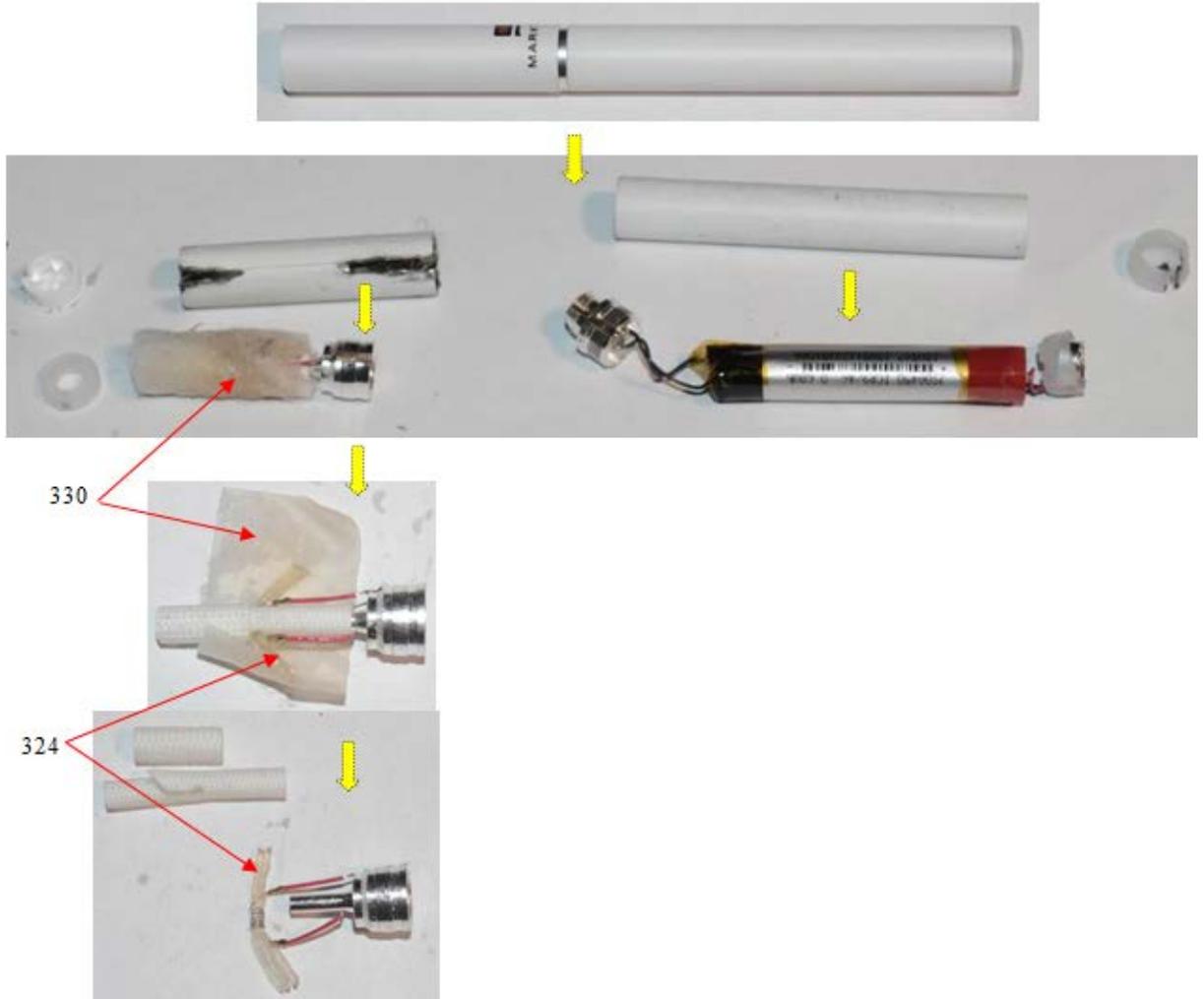
24 *MarkTen® XL Menthol and Winter Mint e-vapor products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol, Water, Menthol and Flavors.*

25 **MarkTen® XL E-VAPOR**, [http://www.nu-mark.com/our-products/mark-](http://www.nu-mark.com/our-products/mark-ten/Pages/default.aspx)  
 26 [ten/Pages/default.aspx](http://www.nu-mark.com/our-products/mark-ten/Pages/default.aspx) (last visited June 22, 2016).

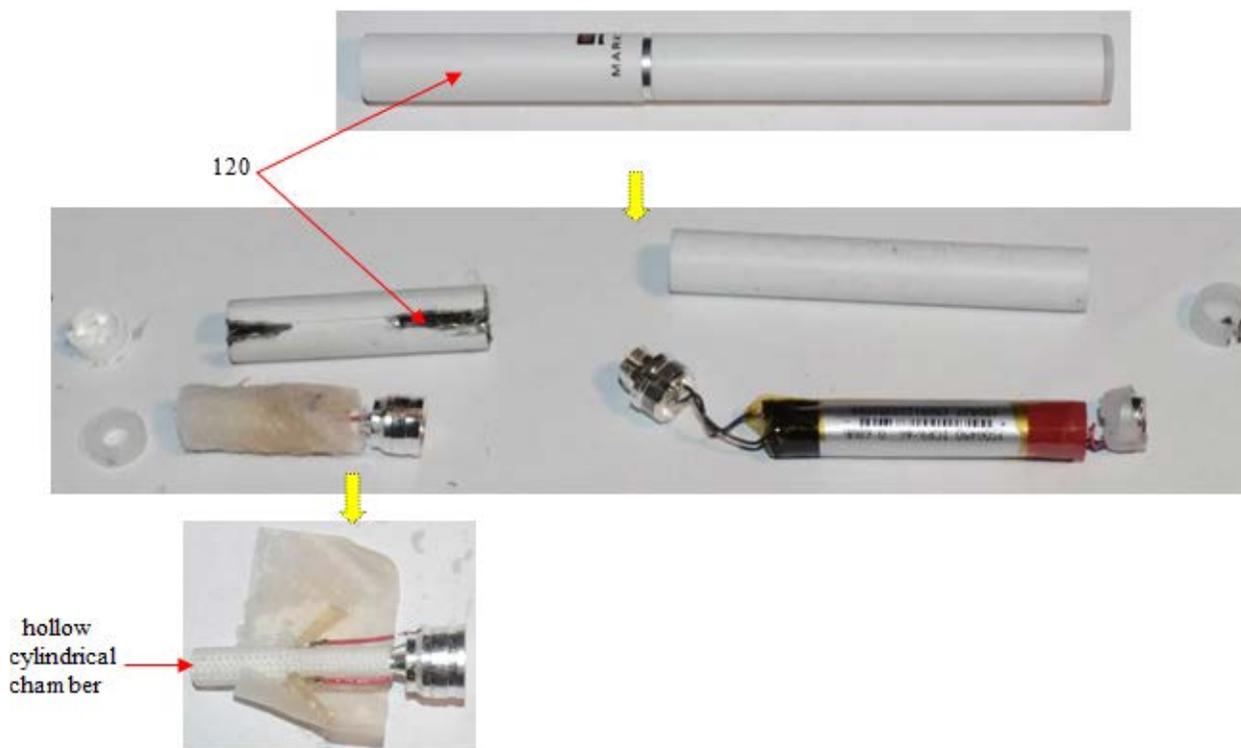
1           434. The MarkTenXL includes “the atomizer [320] comprises a porous  
2 component [324], a hollow cylindrical chamber and a heating wire [323]” as  
3 recited in claim 12 of the ’549 Patent.  
4



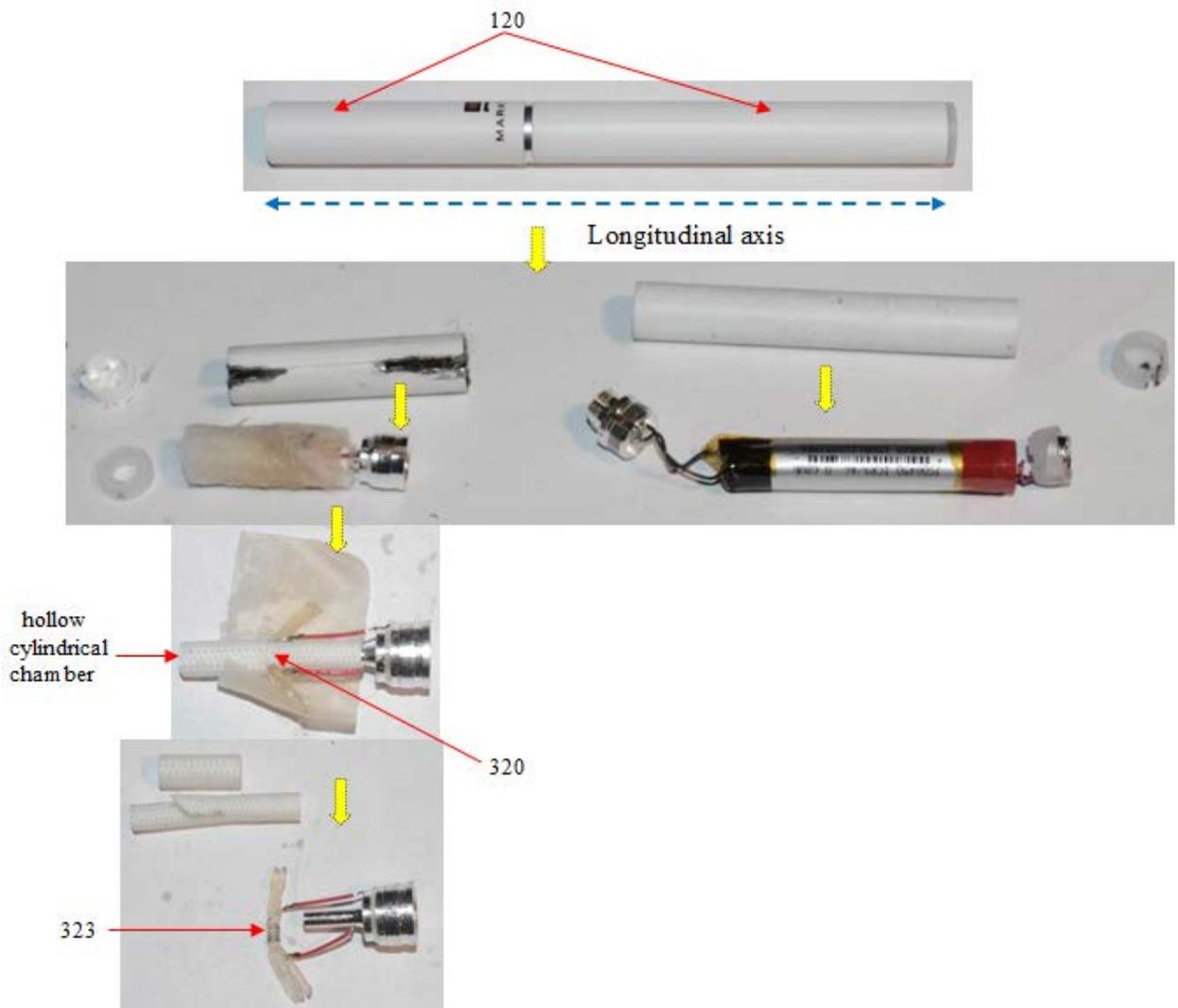
1           435. The MarkTenXL includes “the porous component [324] is in physical  
2 contact with the liquid in the liquid supply [330]” as recited in claim 12 of the ’549  
3 Patent.



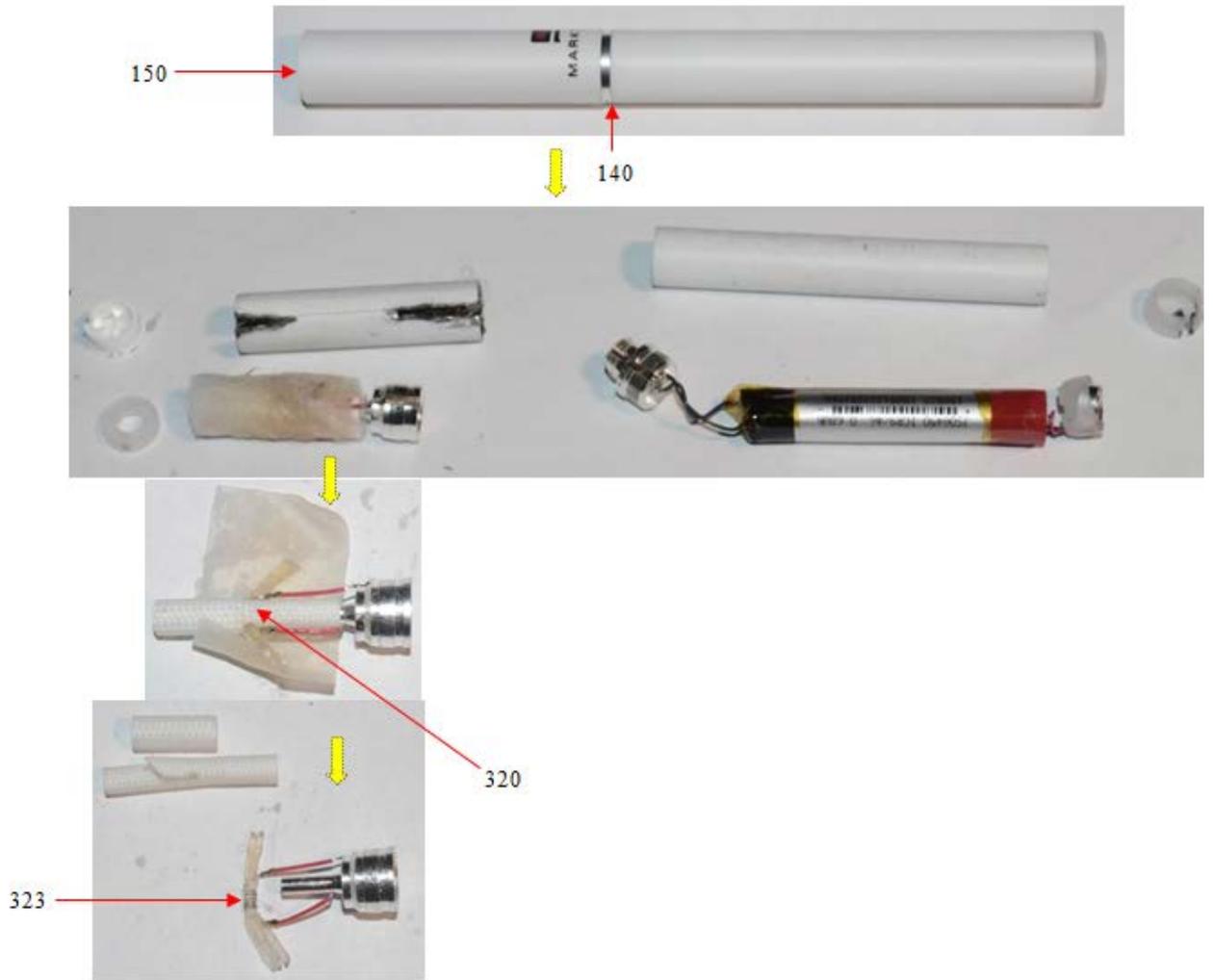
1           436. The MarkTenXL includes “the hollow cylindrical chamber is co-axial  
2 with the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



1           437. The MarkTenXL includes “the heating wire [323] extending across the  
2 cylindrical chamber of the atomizer [320] perpendicular to the longitudinal axis of  
3 the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



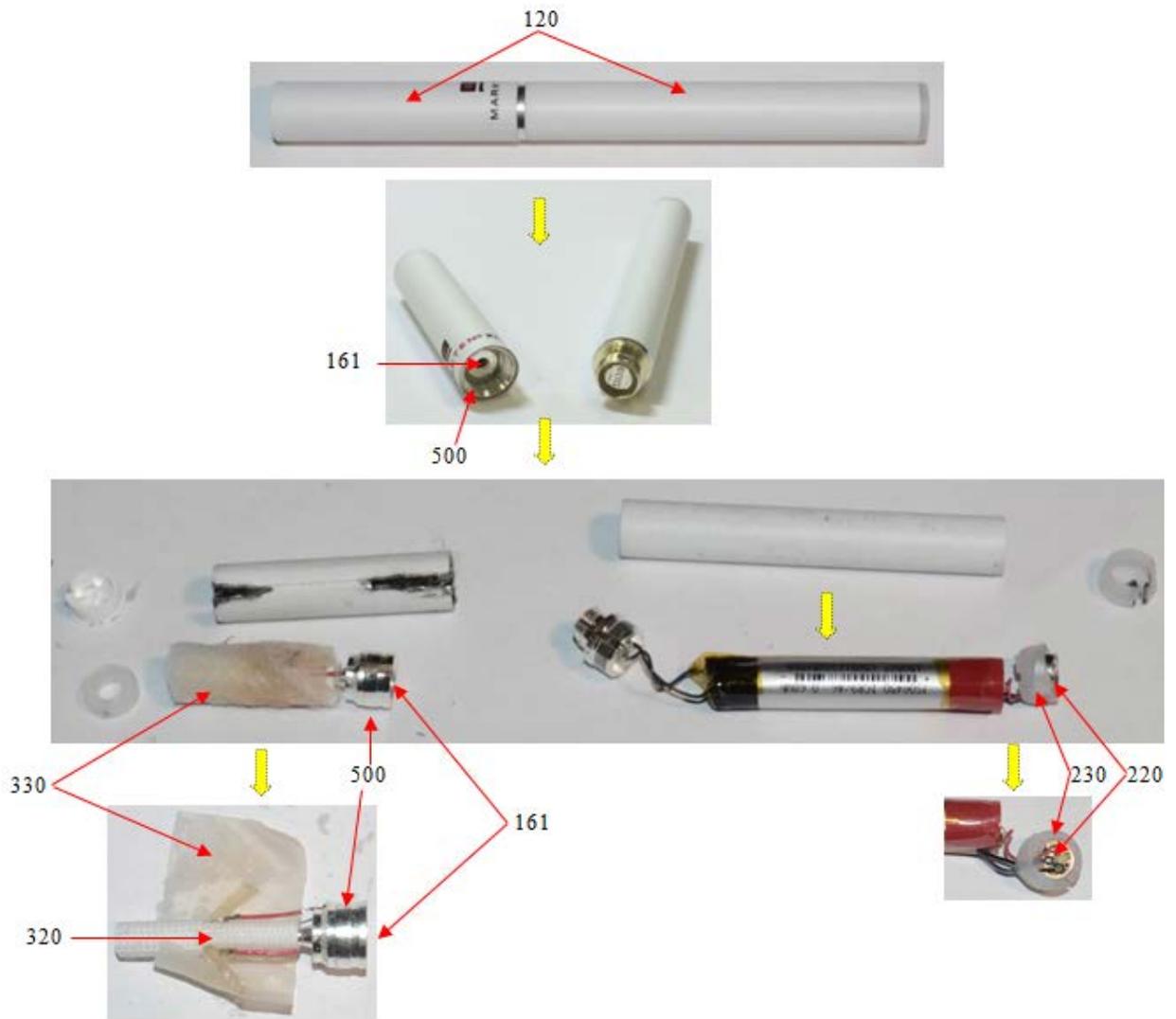
1           438. The MarkTenXL includes “an air stream passage from the inlet [140]  
2 through the cylindrical chamber of the atomizer [320] to the outlet [150], and the  
3 heating wire [323] positioned in the air stream passage” as recited in claim 12 of  
4 the '549 Patent.



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1 439. As shown in the photographs of paragraph 440 below, the MarkTenXL  
2 meets every limitation recited in claim 13 of the '549 Patent.

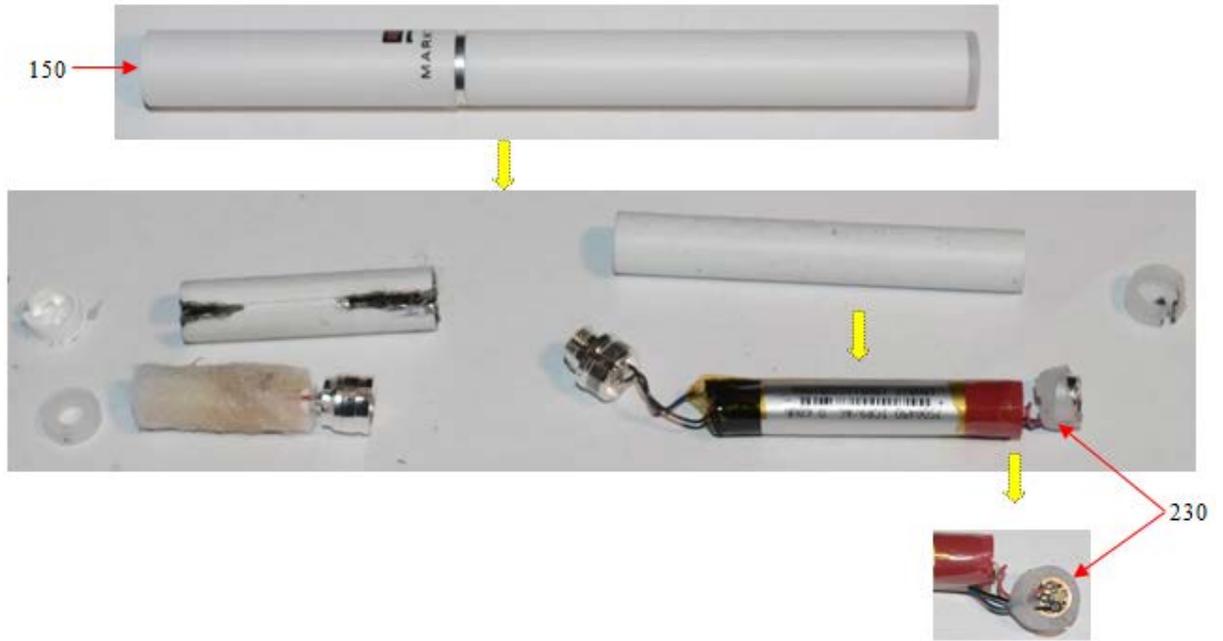
3 440. The MarkTenXL “further comprising a separator [500] in the  
4 cylindrical housing [120], with the electronic circuit board [220] and the sensor  
5 [230] on a first side of the separator [500], and with the atomizer [320] and the  
6 liquid-supply [330] on a second side of the separator [500], opposite from the first  
7 side, and with the separator [500] having a through hole [161] from the first side to  
8 the second side” as recited in claim 13 of the '549 Patent.



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441. As shown in the photographs of paragraph 442 below, the MarkTenXL meets every limitation recited in claim 14 of the '549 Patent.

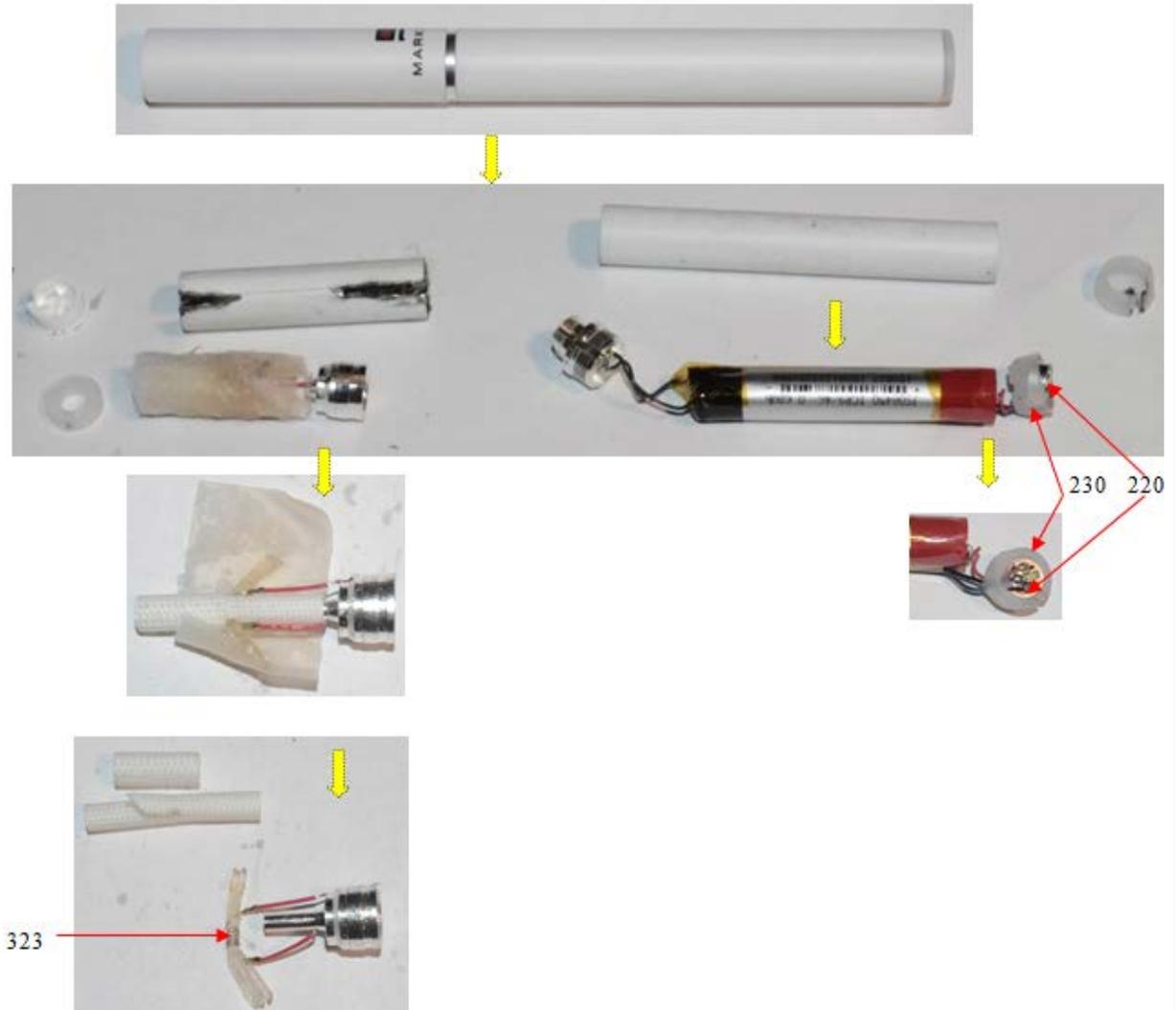
442. The MarkTenXL includes “wherein the sensor [230] creates an output signal which is proportional to suction force on the outlet [150]” as recited in claim 14 of the '549 Patent.



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443. As shown in the photographs of paragraph 444 below, the MarkTenXL meets every limitation recited in claim 15 of the '549 Patent.

444. The MarkTenXL includes “wherein the electronic circuit board [220] provides electric current to the heating wire [323] for a time interval dependent on the suction force sensed by the sensor [230]” as recited in claim 15 of the '549 Patent.



1 445. As shown in the photographs of paragraph 446 below, the MarkTenXL  
2 meets every limitation recited in claim 16 of the '549 Patent.

3 446. The MarkTenXL includes “wherein illumination of LED [240] is  
4 dependent on the suction force sensed by the sensor [230], to simulate an  
5 appearance of a cigarette” as recited in claim 16 of the '549 Patent.



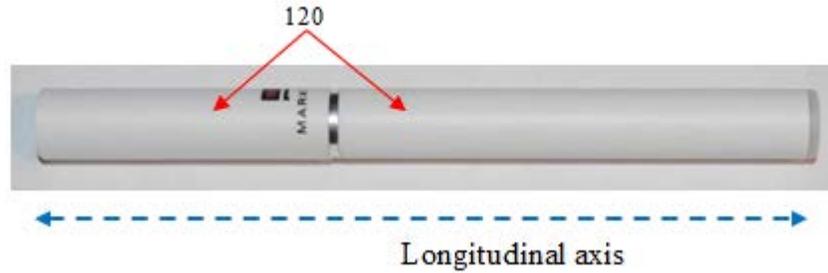
20 MarkTenXL Product Information Guide,  
21 [https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-](https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf)  
22 [guide.pdf](https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf) (last visited June 22, 2016).

23 447. As shown in the photographs of paragraphs 448 through 457 below,  
24 the MarkTenXL meets every limitation recited in claim 17 of the '549 Patent.

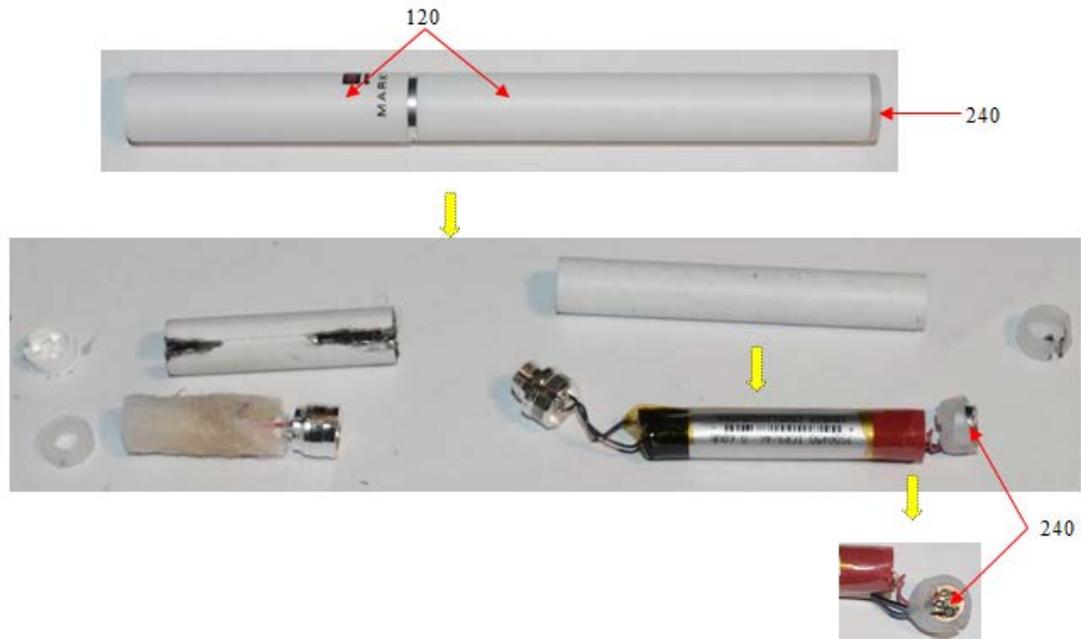
25 448. The MarkTenXL is an electronic vaporizing device as recited in claim  
26 17 of the '549 Patent.



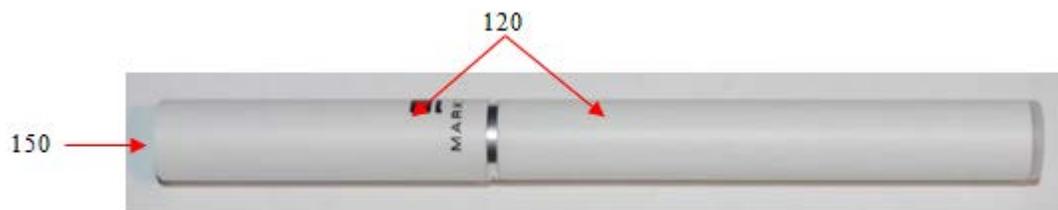
1 449. The MarkTenXL includes “a cylindrical housing [120] having a  
2 longitudinal axis, a first end and a second end” as recited in claim 17 of the ‘549  
3 Patent.



9 450. The MarkTenXL includes “an LED [240] at the first end of the  
10 cylindrical housing [120]” as recited in claim 17 of the ‘549 Patent.

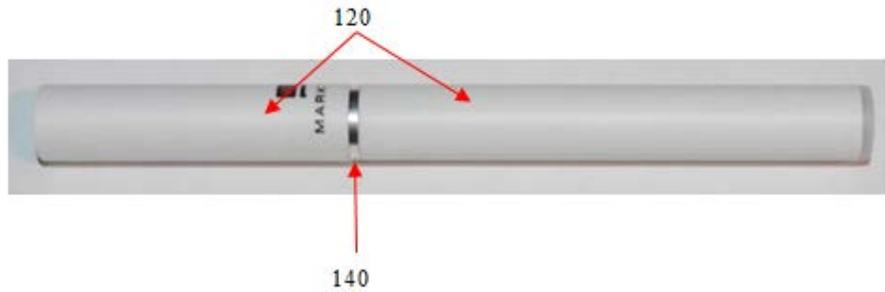


22 451. The MarkTenXL includes “an outlet [150] at the second end of the  
23 cylindrical housing [120]” as recited in claim 17 of the ‘549 Patent.

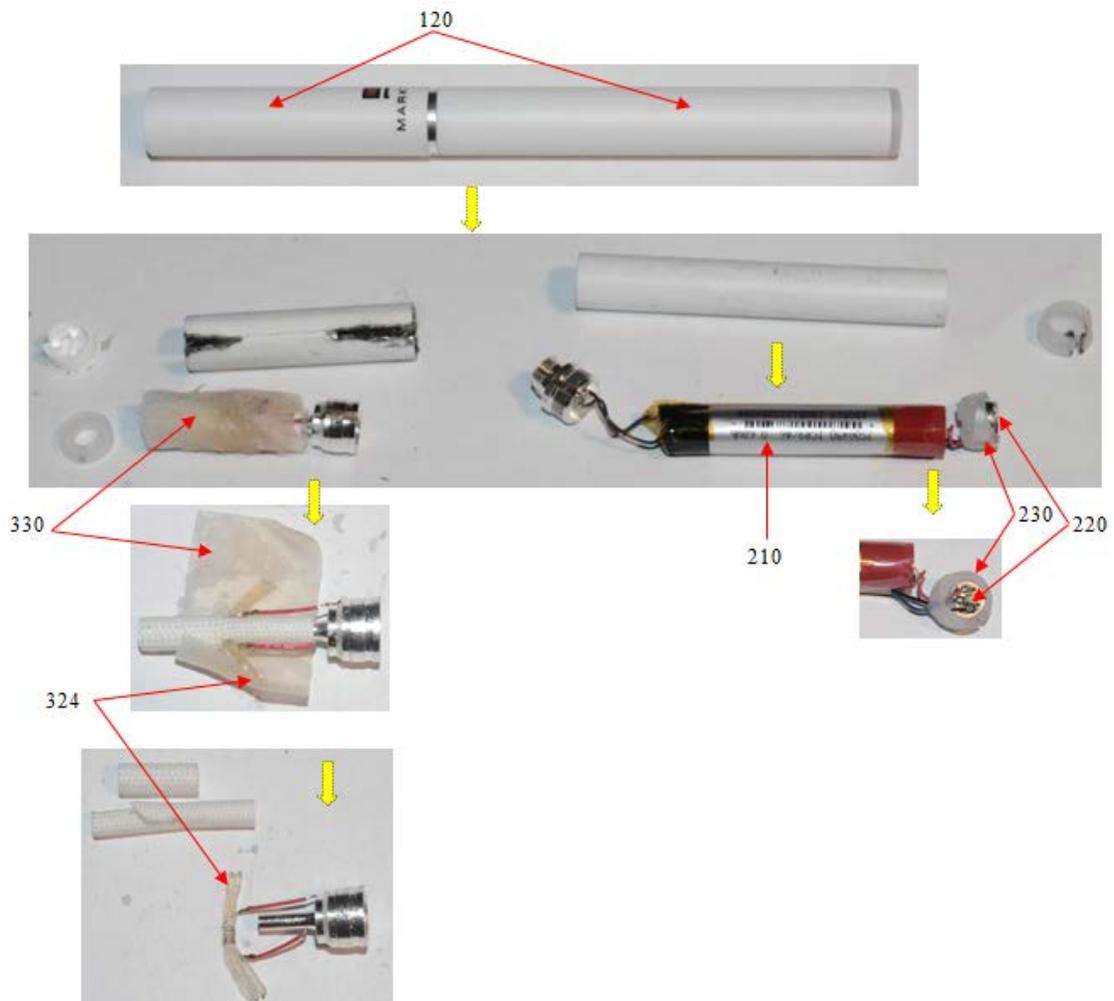


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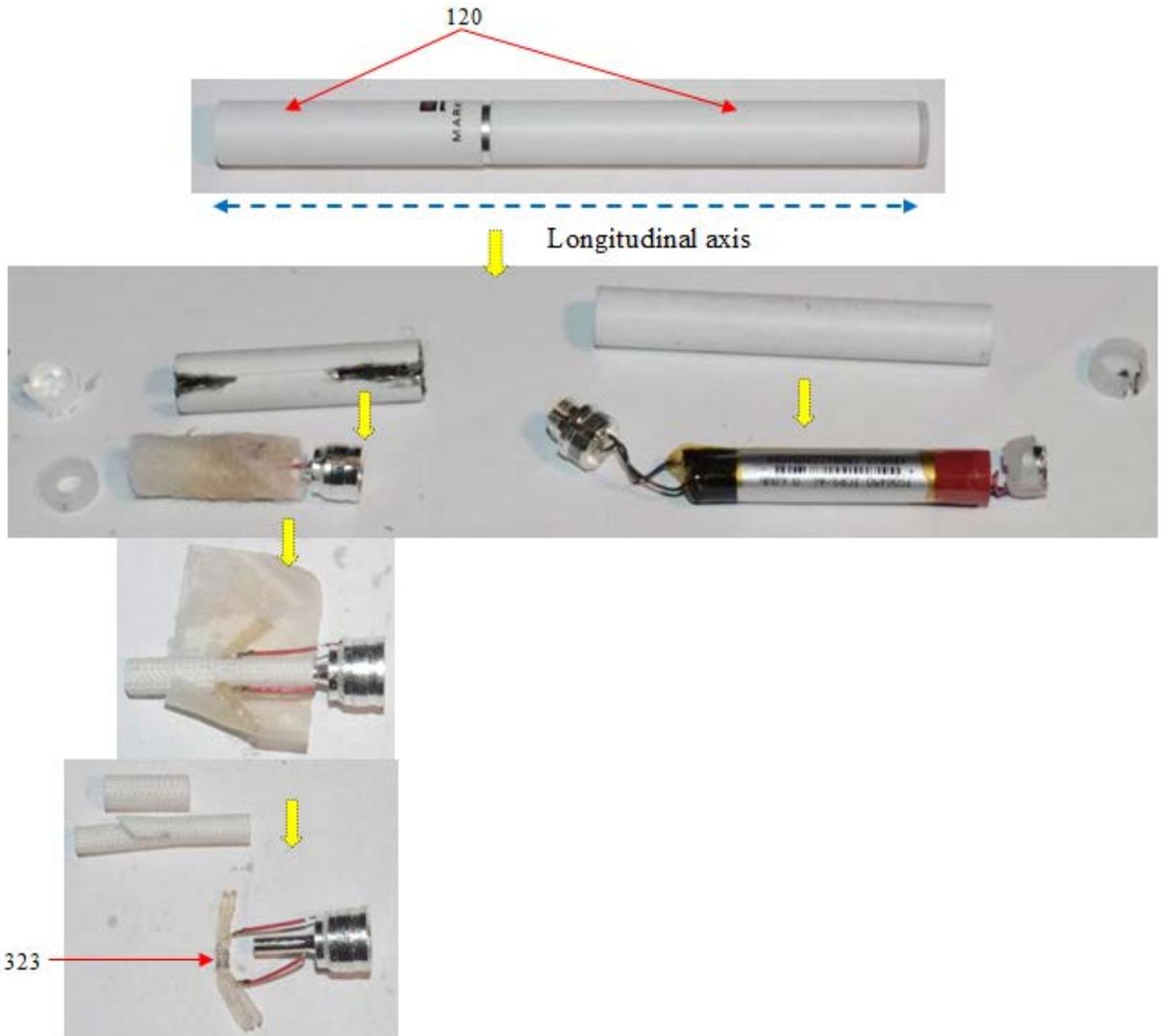
452. The MarkTenXL includes “an air inlet [140] for allowing air to flow into the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.



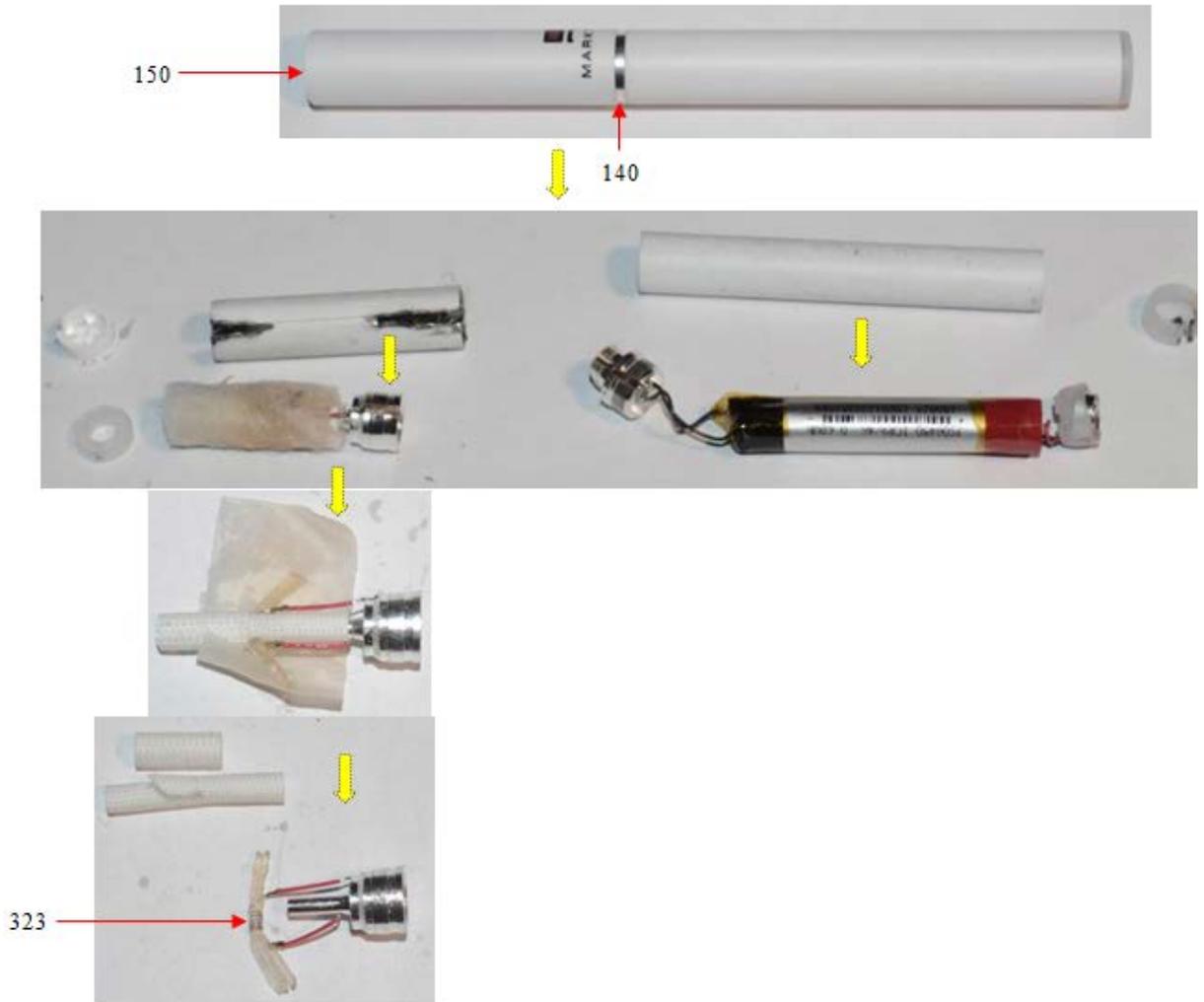
453. The MarkTenXL includes “a battery [210], an electronic circuit board [220], a sensor [230], a porous component [324], and a liquid-supply [330] within the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.



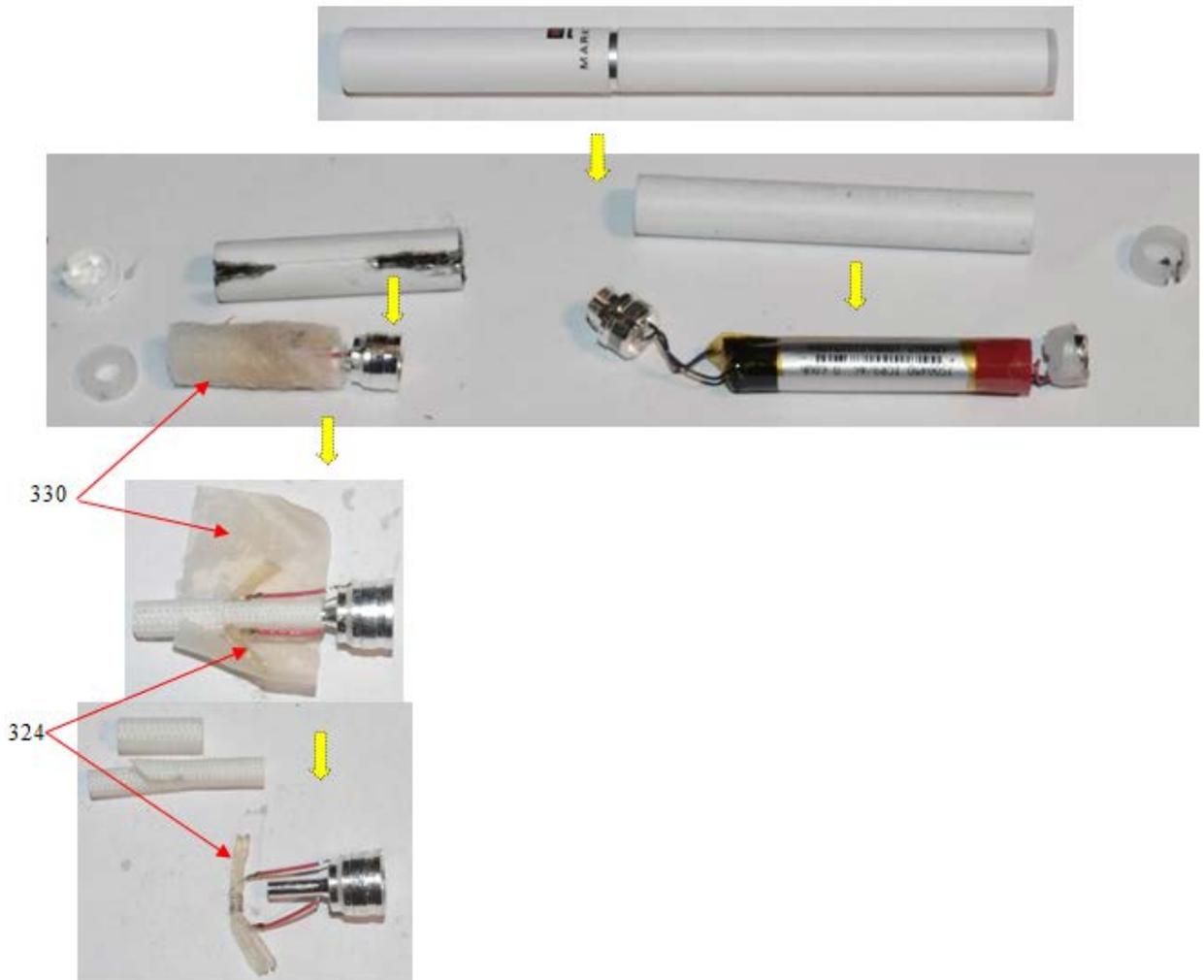
1           454. The MarkTenXL includes “a heating wire [323] positioned  
2 perpendicular to the longitudinal axis of the cylindrical housing [120]” as recited  
3 in claim 17 of the ’549 Patent.



1           455. The MarkTenXL includes “an air passage between the inlet [140] to  
2 the outlet [150], with the heating wire [323] in the air passage and positioned for  
3 air to flow over the heating wire [323]” as recited in claim 17 of the ’549 Patent.  
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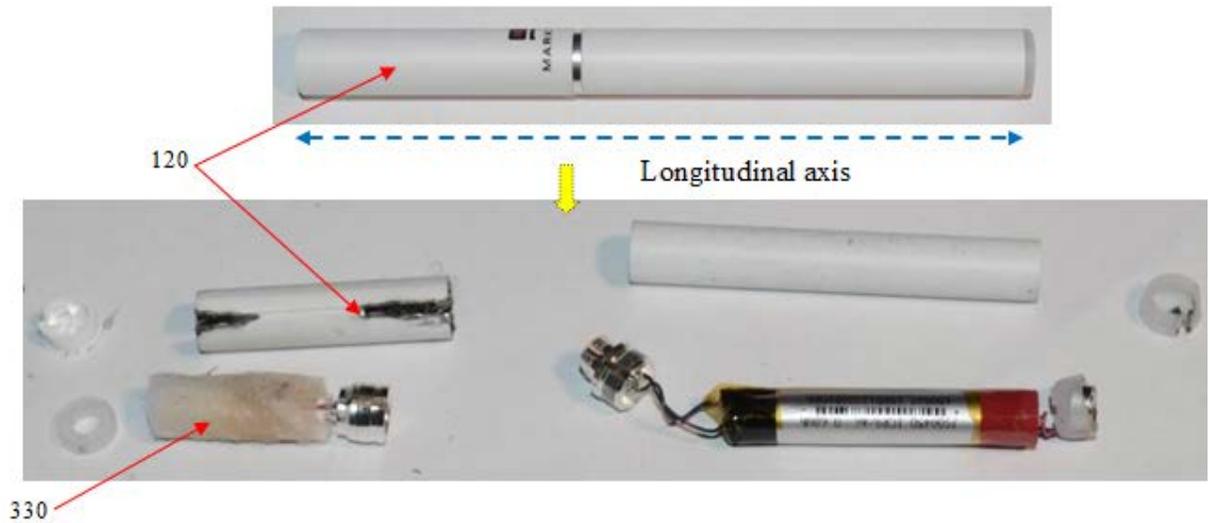


1           456. The MarkTenXL includes “the liquid-supply [330] in physical contact  
2 with the porous component [324], to move liquid from the liquid-supply [330] to  
3 the porous component [324]” as recited in claim 17 of the ’549 Patent.



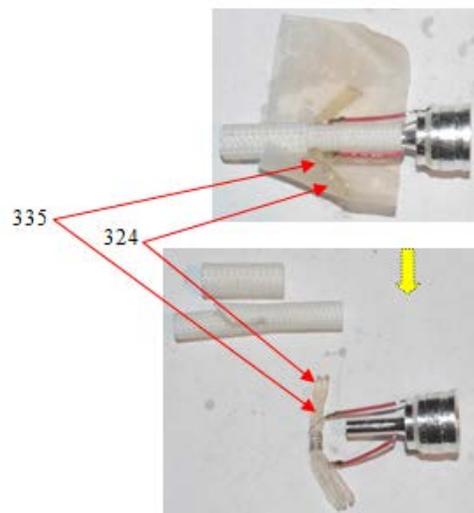
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457. The MarkTenXL includes “wherein the liquid-supply [330] is cylindrical and arranged parallel to the longitudinal axis of the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.



458. As shown in the photographs of paragraph 459 below, the MarkTenXL meets every limitation recited in claim 18 of the ’549 Patent.

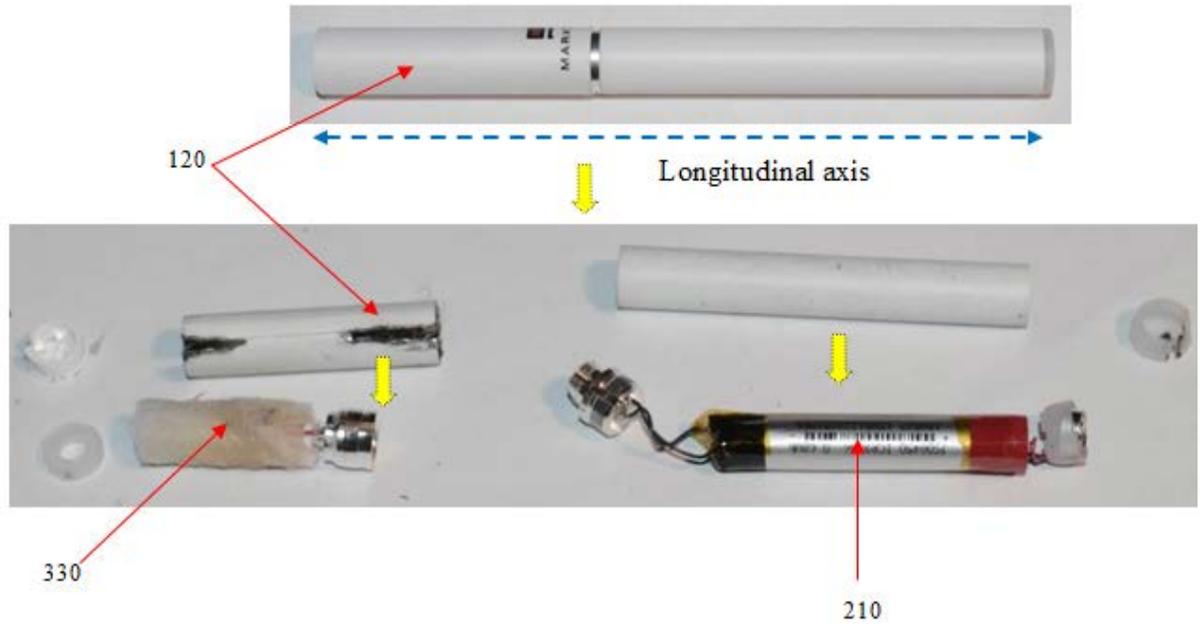
459. The MarkTenXL includes “the porous component [324] comprising a fiber material [335]” as recited in claim 18 of the ’549 Patent.



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460. As shown in the photographs of paragraph 461 below, the MarkTenXL meets every limitation recited in claim 19 of the '549 Patent.

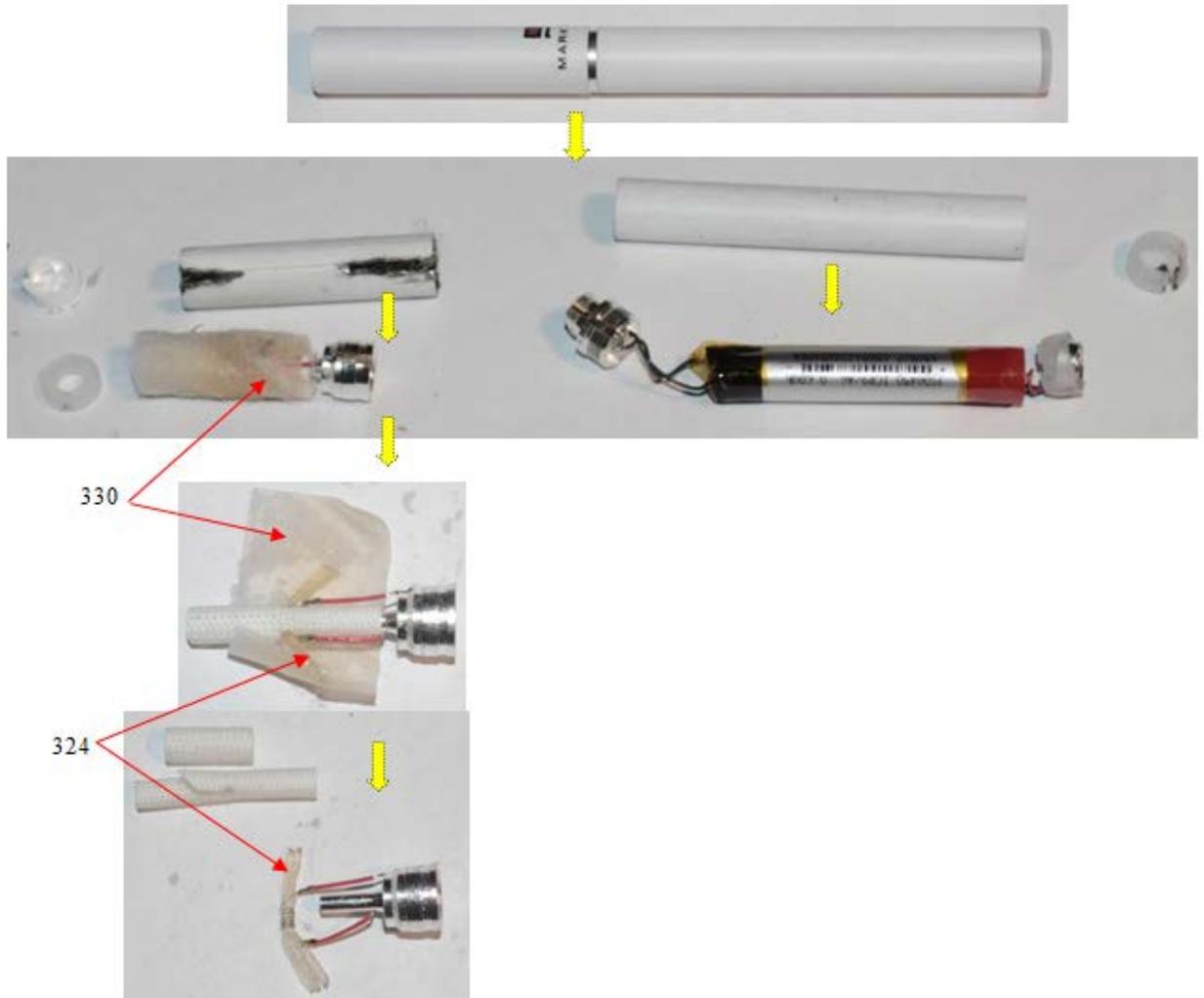
461. The MarkTenXL includes “the battery [210] and the liquid-supply [330] co-axial with the longitudinal axis of the cylindrical housing [120]” as recited in claim 19 of the '549 Patent.



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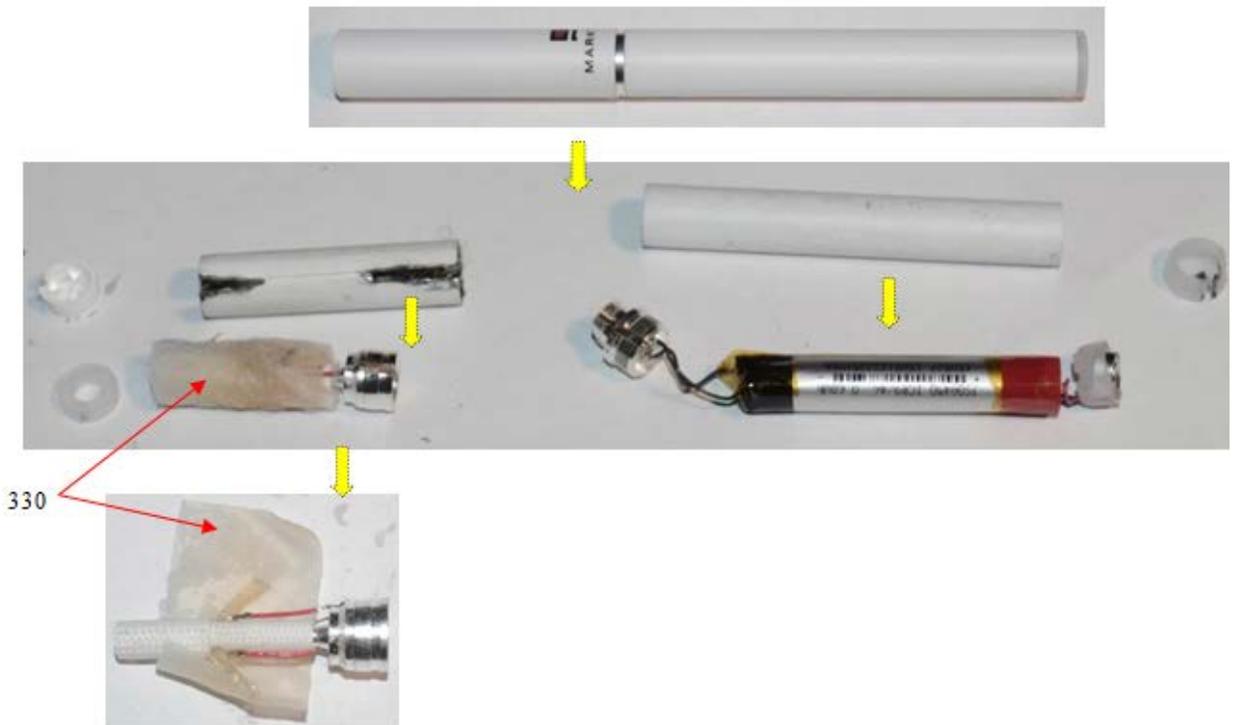
462. As shown in the photographs of paragraph 463 below, the MarkTenXL meets every limitation recited in claim 20 of the '549 Patent.

463. The MarkTenXL includes “at least one end of the porous component [324] projecting into the liquid-supply [330]” as recited in claim 20 of the '549 Patent.



1 464. As shown in the photographs of paragraph 465 below, the MarkTenXL  
2 meets every limitation recited in claim 21 of the '549 Patent.

3 465. The MarkTenXL includes "the liquid-supply [330] comprising  
4 propylene glycol" as recited in claim 21 of the '549 Patent.



18 **PRODUCT INGREDIENTS**

19 *MarkTen® XL Classic e-vapor products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol and Flavors.*

20 *MarkTen® XL Fusion products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol, Water and Flavors.*

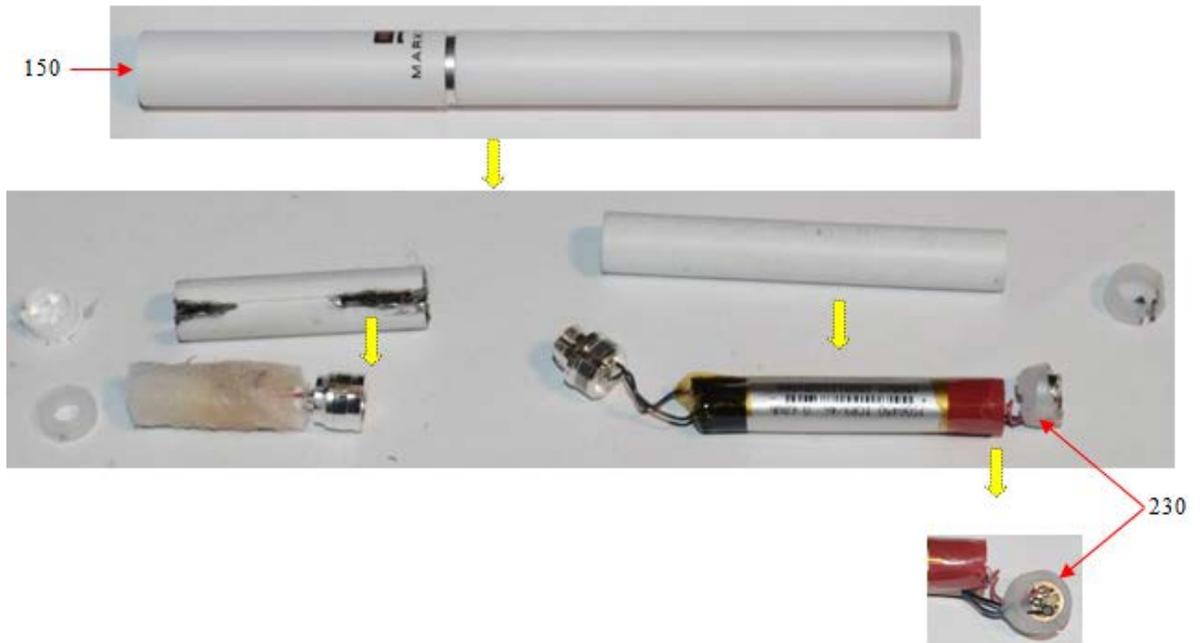
21 *MarkTen® XL Menthol and Winter Mint e-vapor products contain Tobacco-derived nicotine, Glycerol, Propylene Glycol, Water, Menthol and Flavors.*

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23 MarkTen® XL E-VAPOR, <http://www.nu-mark.com/our-products/mark-ten/Pages/default.aspx> (last visited June 22, 2016).

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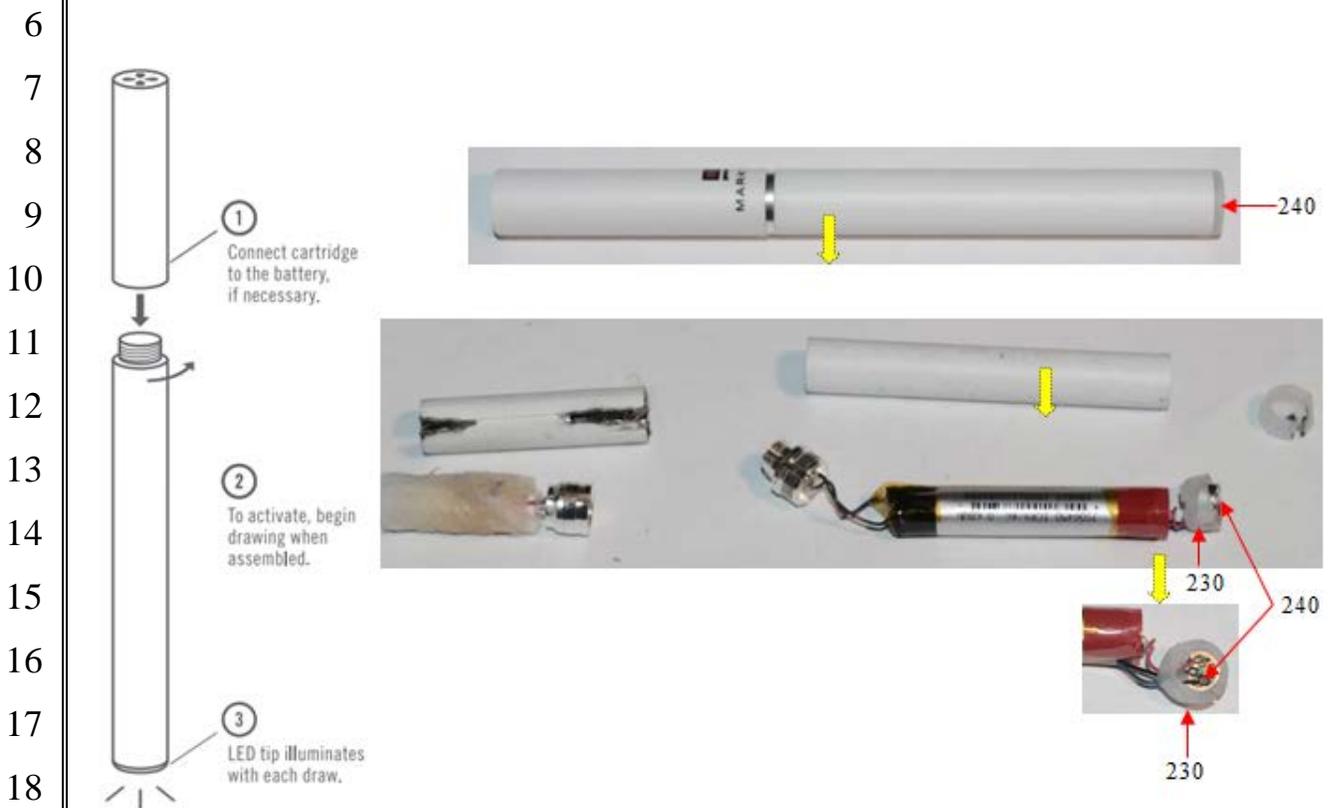
466. As shown in the photographs of paragraph 467 below, the MarkTenXL meets every limitation recited in claim 22 of the '549 Patent.

467. The MarkTenXL includes “wherein the sensor [230] creates an output signal which is proportional to suction force on the outlet [150]” as recited in claim 22 of the '549 Patent.



1 468. As shown in the photographs of paragraph 469 below, the MarkTenXL  
2 meets every limitation recited in claim 23 of the '549 Patent.

3 469. The MarkTenXL includes “wherein illumination of LED [240] is  
4 dependent on the suction force sensed by the sensor [230], to simulate an  
5 appearance of a cigarette” as recited in claim 23 of the '549 Patent.

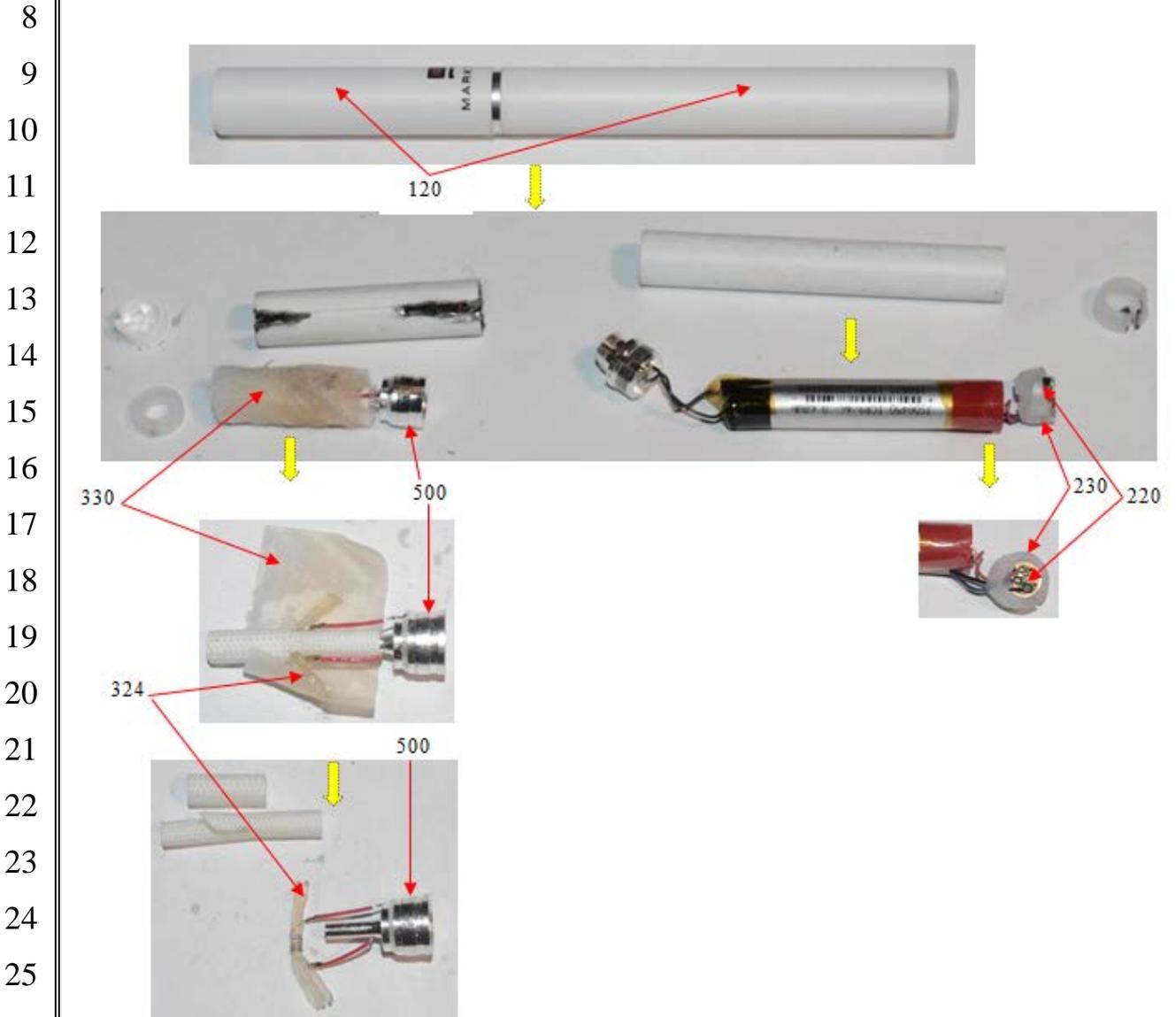


20 MarkTenXL Product Information Guide,  
21 <https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf> (last visited June 22, 2016).

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1 470. As shown in the photographs of paragraph 471 below, the MarkTenXL  
2 meets every limitation recited in claim 25 of the '549 Patent.

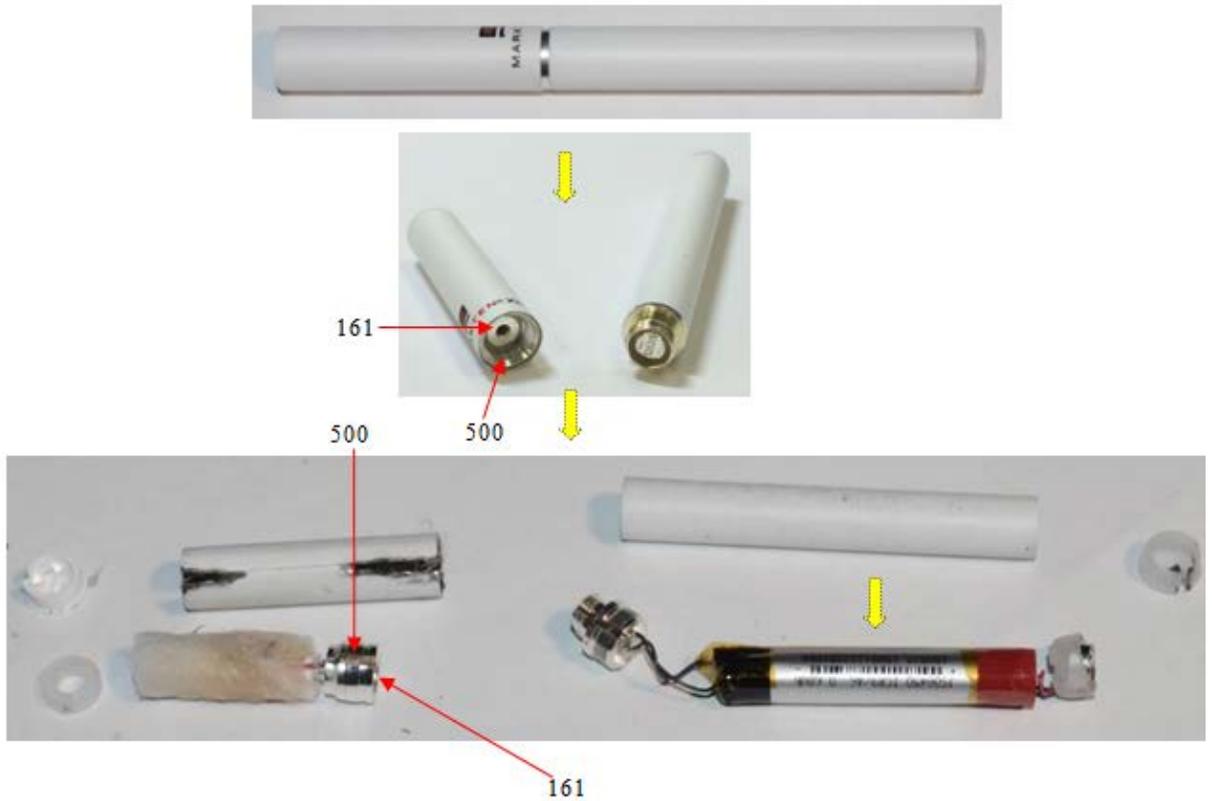
3 471. The MarkTenXL "further including a separator [500] in the cylindrical  
4 housing [120], with the electronic circuit board [220], and the sensor [230] on a  
5 first side of the separator [500], and with the porous component [324] and the  
6 liquid-supply [330] on a second side of the separator [500], opposite from the first  
7 side" as recited in claim 25 of the '549 Patent.



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472. As shown in the photographs of paragraph 473 below, the MarkTenXL meets every limitation recited in claim 26 of the '549 Patent.

473. The MarkTenXL includes “the separator [500] having a through hole [161] from the first side to the second side” as recited in claim 26 of the '549 Patent.



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474. As shown in the photographs of paragraph 475 below, the MarkTenXL meets every limitation recited in claim 27 of the '549 Patent.

475. The MarkTenXL includes “the heating wire [323] has leads [322] extending out of the porous component [324]” as recited in claim 27 of the '549 Patent.



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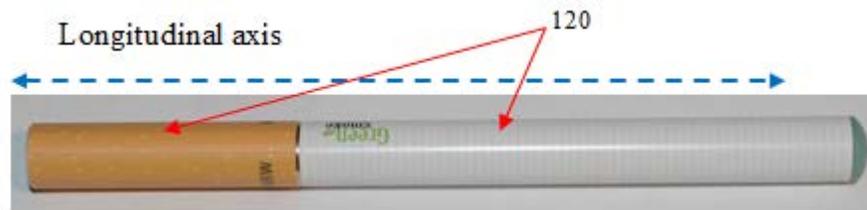
**GreenSmoke**

476. As shown in the photographs of paragraphs 477 through 487 below, the GreenSmoke meets every limitation recited in claim 1 of the '549 Patent.

477. The GreenSmoke is an electronic vaporizing device as recited in claim 1 of the '549 Patent.



478. The GreenSmoke includes “a cylindrical housing [120] having a longitudinal axis, a first end and a second end” as recited in claim 1 of the '549 Patent.



1           479. The GreenSmoke includes “an LED [240] at a first end of the  
2 cylindrical housing [120] to simulate a cigarette” as recited in claim 1 of the ’549  
3 Patent.



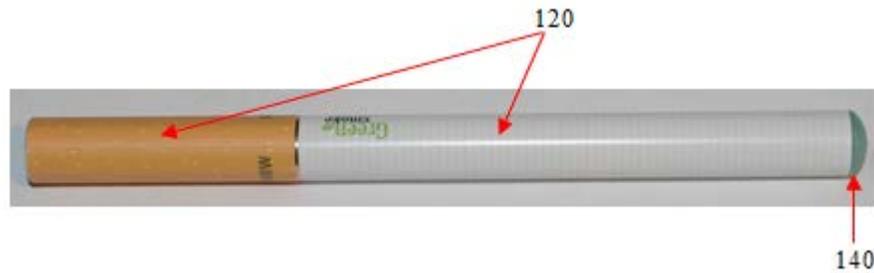
19 How Do Green Smoke® E-Cigarettes Work?, [https://www.greensmoke.com/ecig-](https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html)  
20 [info/how-electronic-cigarettes-work.html](https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html) (last visited June 22, 2016).

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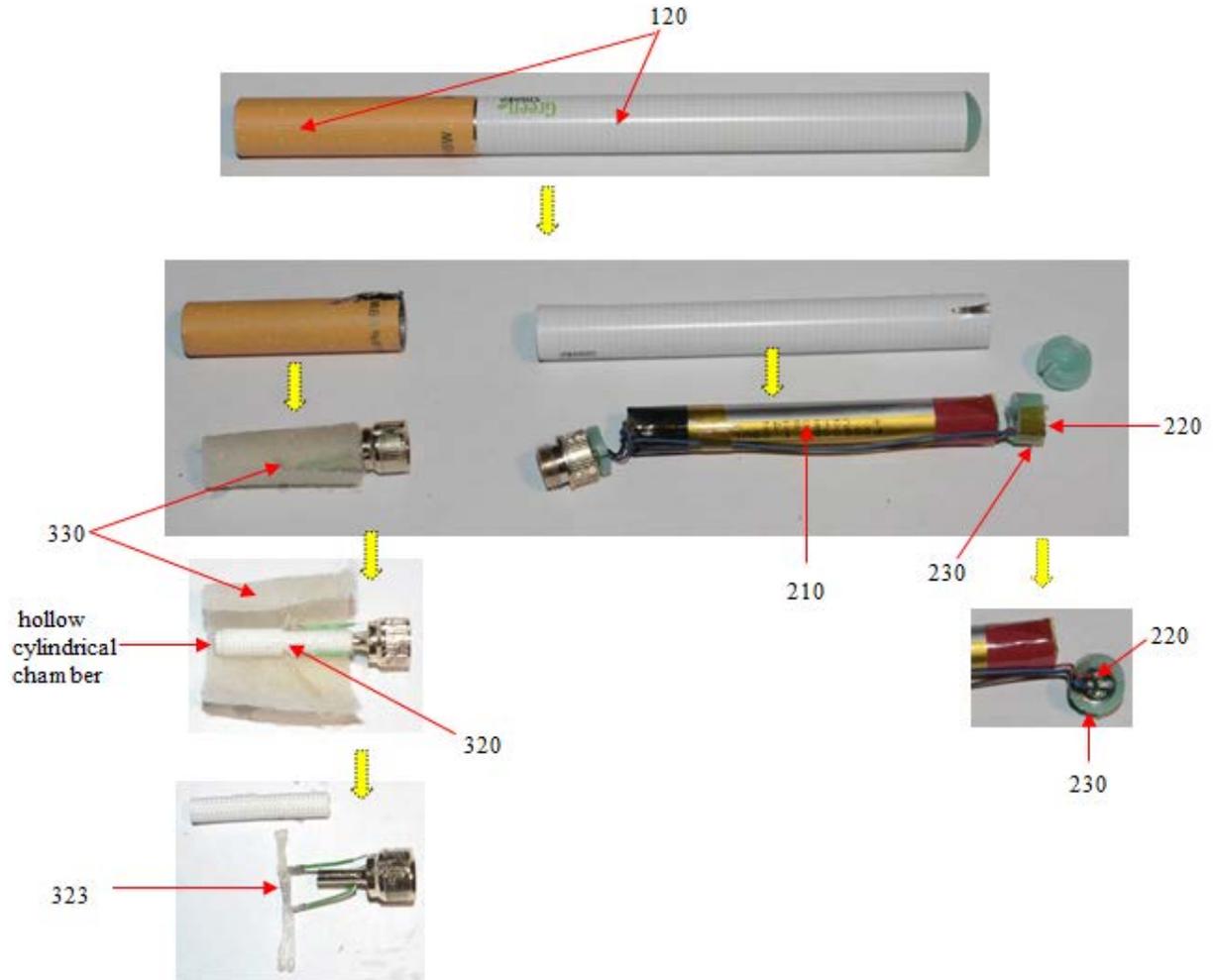
480. The GreenSmoke includes “an outlet [150] at the second end of the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.



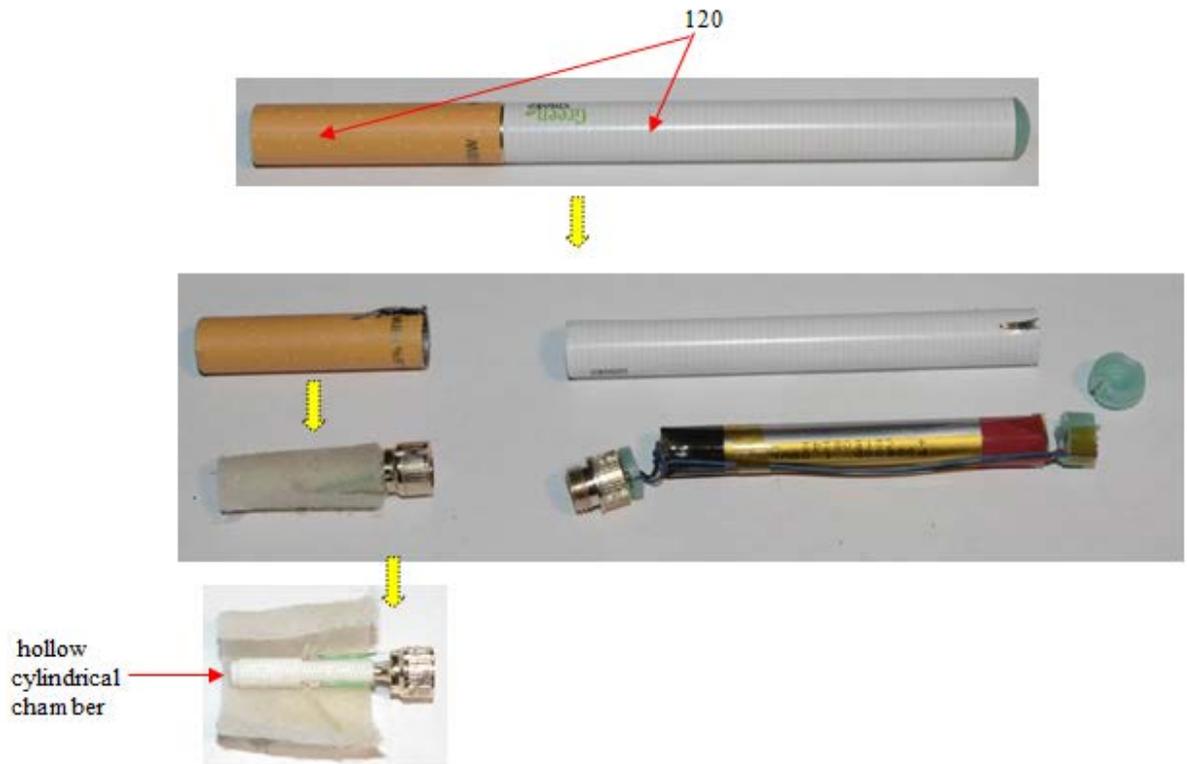
481. The GreenSmoke includes “an air inlet [140] for allowing air to flow into the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.



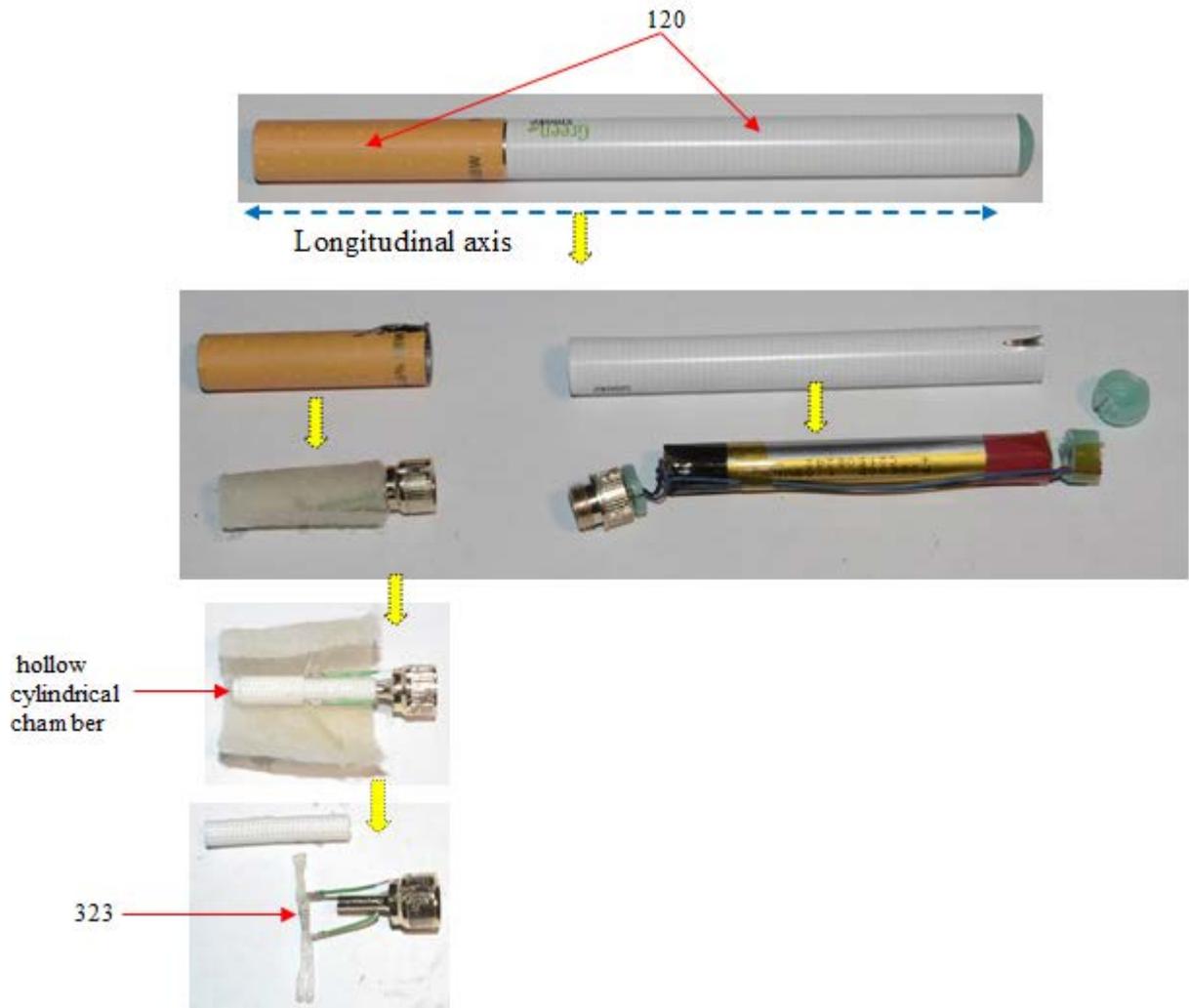
1           482. The GreenSmoke includes “a battery [210], an electronic circuit board  
2 [220], a sensor [230], an atomizer [320] comprising a hollow cylindrical chamber  
3 and a heating wire [323], and a liquid-supply [330] within the cylindrical housing  
4 [120]” as recited in claim 1 of the ’549 Patent.



1           483. The GreenSmoke includes “the hollow cylindrical chamber co-axial  
2 with the cylindrical housing [120]” as recited in claim 1 of the ’549 Patent.  
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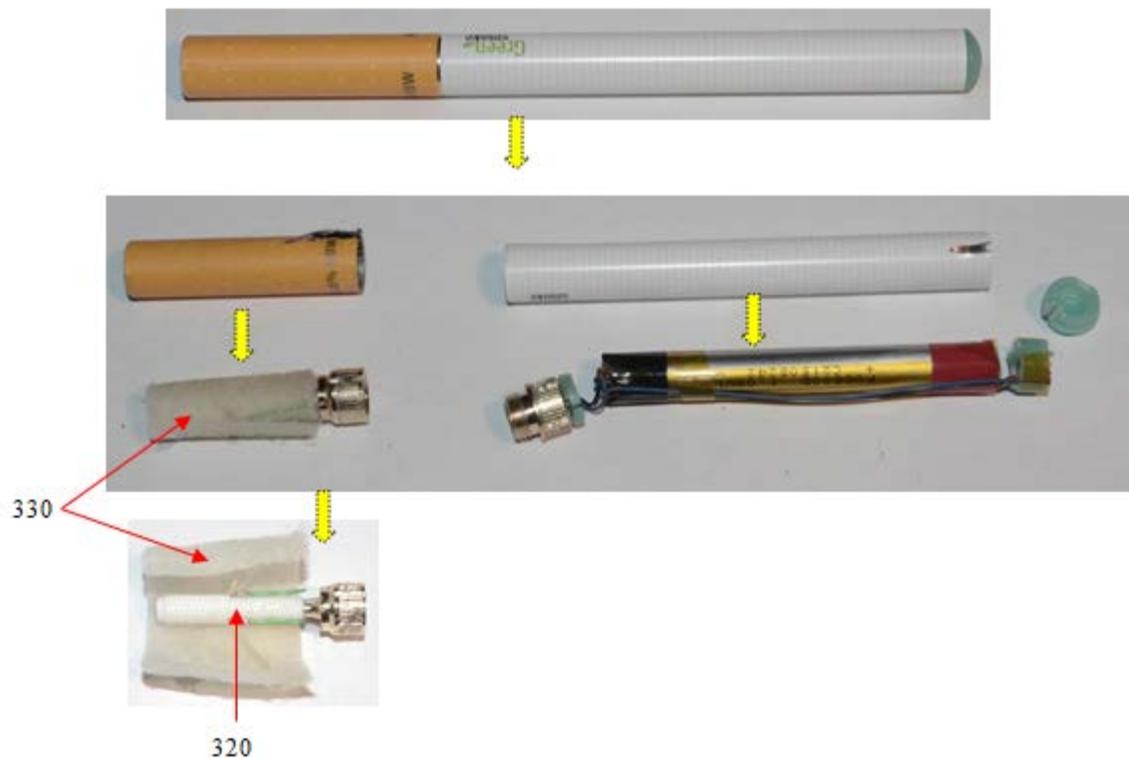
1           484. The GreenSmoke includes “the heating wire [323] extending across  
2 the cylindrical chamber perpendicular to the longitudinal axis of the cylindrical  
3 housing [120]” as recited in claim 1 of the ’549 Patent.



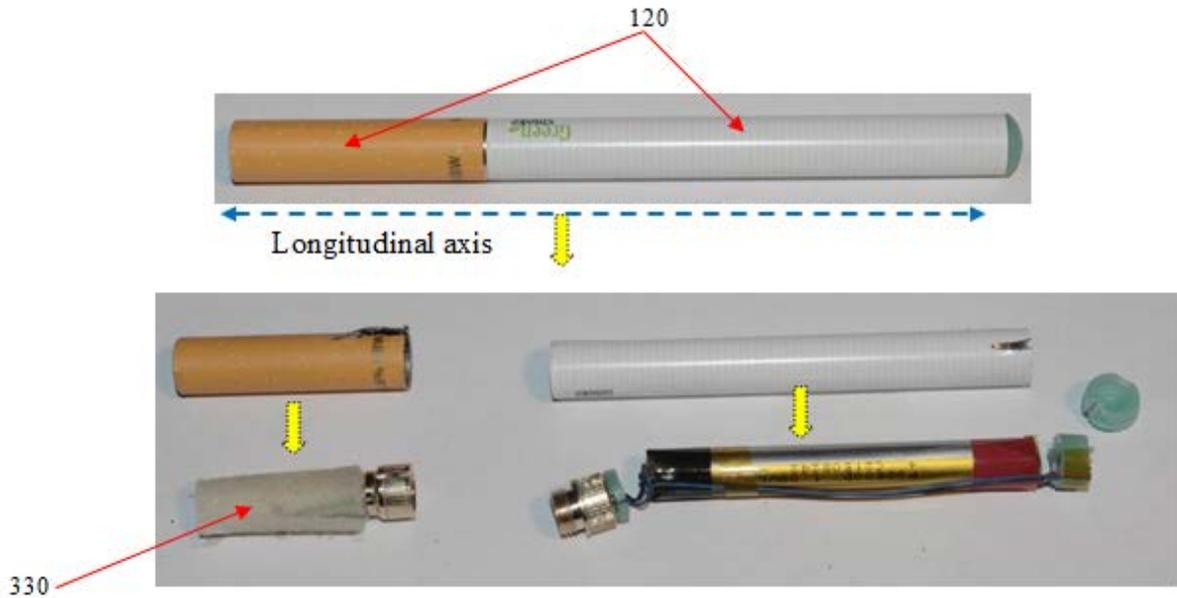


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486. The GreenSmoke includes “the liquid-supply [330] in physical contact with the atomizer [320]” as recited in claim 1 of the ’549 Patent.



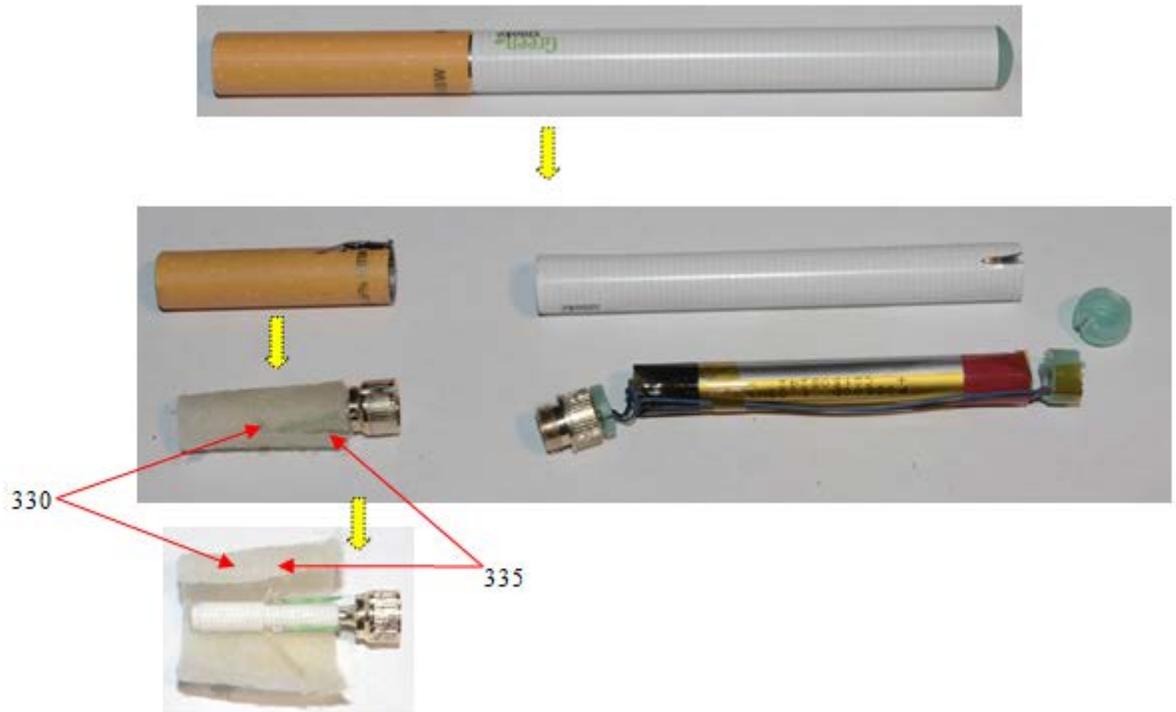
1           487. The GreenSmoke includes “the liquid-supply [330] is cylindrical and  
2 parallel to the longitudinal axis of the cylindrical housing [120]” as recited in claim  
3 1 of the '549 Patent.



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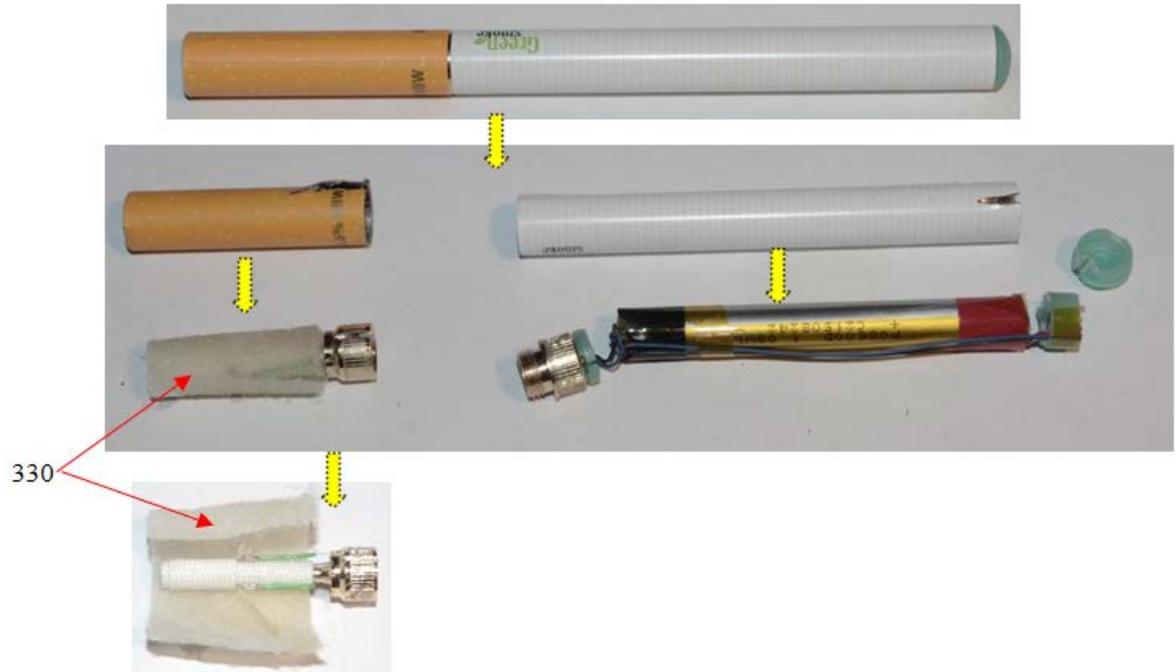
488. As shown in the photographs of paragraph 489 below, the GreenSmoke meets every limitation recited in claim 2 of the '549 Patent.

489. The GreenSmoke includes “the liquid supply [330] comprising a fiber material [335]” as recited in claim 2 of the '549 Patent.



1 490. As shown in the photographs of paragraph 491 below, the  
2 GreenSmoke meets every limitation recited in claim 3 of the '549 Patent.

3 491. The GreenSmoke includes "the liquid-supply [330] comprising  
4 propylene glycol" as recited in claim 3 of the '549 Patent.



17 - What's inside the vapor?

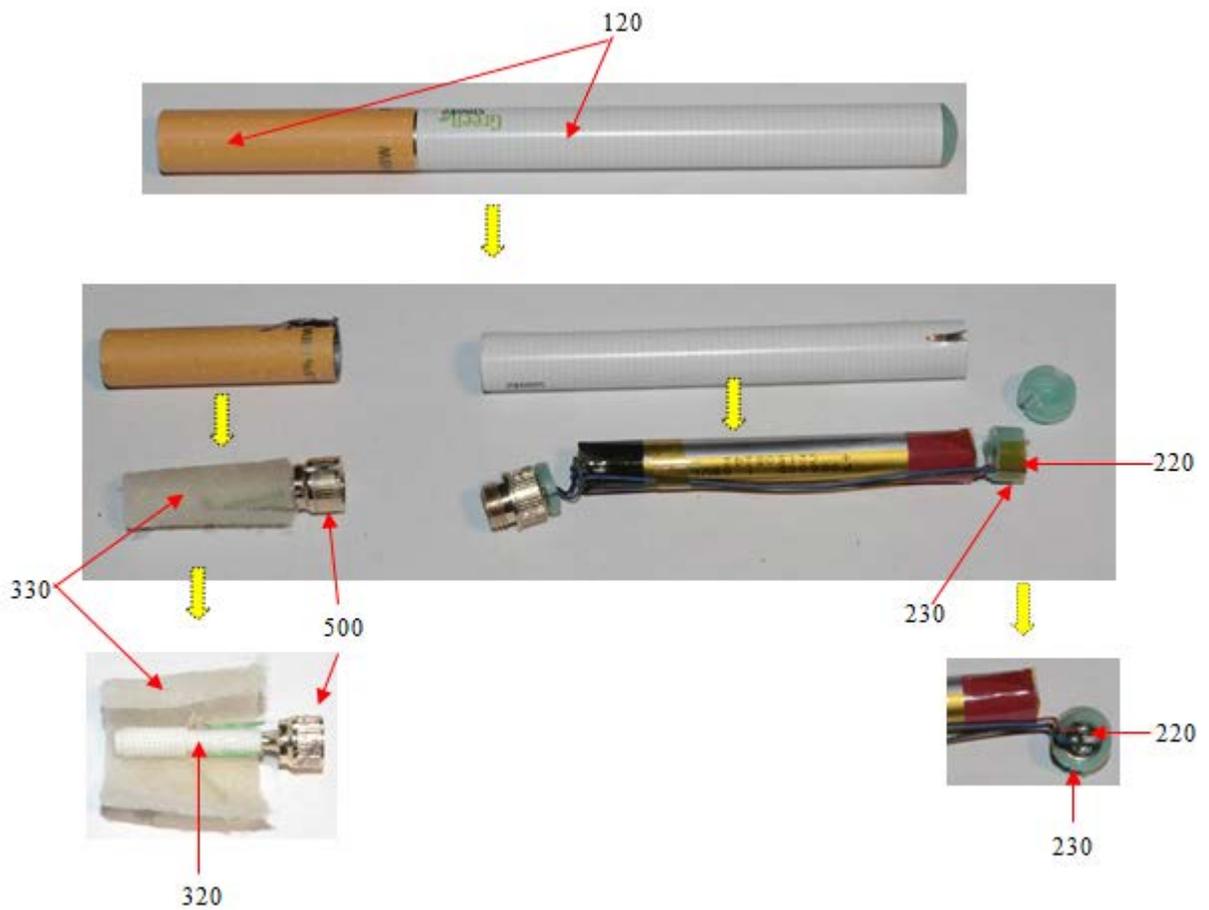
18 The vapor consists of tobacco-derived nicotine (excluding 0% nicotine  
19 cartridges), glycerol, propylene glycol, and flavorings.

20 Propylene glycol and glycerol form a thick, clear liquid that produces the  
21 vapor effect. The vapor in Green Smoke® e-cigarettes also contains our full-  
22 bodied flavor blends.

23 Frequently [sic] Asked Questions | Green Smoke® E-Vapor,  
24 <https://www.greensmoke.com/faq.html> (last visited June 22, 2016).

1 492. As shown in the photographs of paragraph 493 below, the  
2 GreenSmoke meets every limitation recited in claim 4 of the '549 Patent.

3 493. The GreenSmoke "further including a separator [500] in the cylindrical  
4 housing [120], with the electronic circuit board [220] and the sensor [230] on a  
5 first side of the separator [500], and with the atomizer [320] and the liquid-supply  
6 [330] on a second side of the separator [500], opposite from the first side" as  
7 recited in claim 4 of the '549 Patent.



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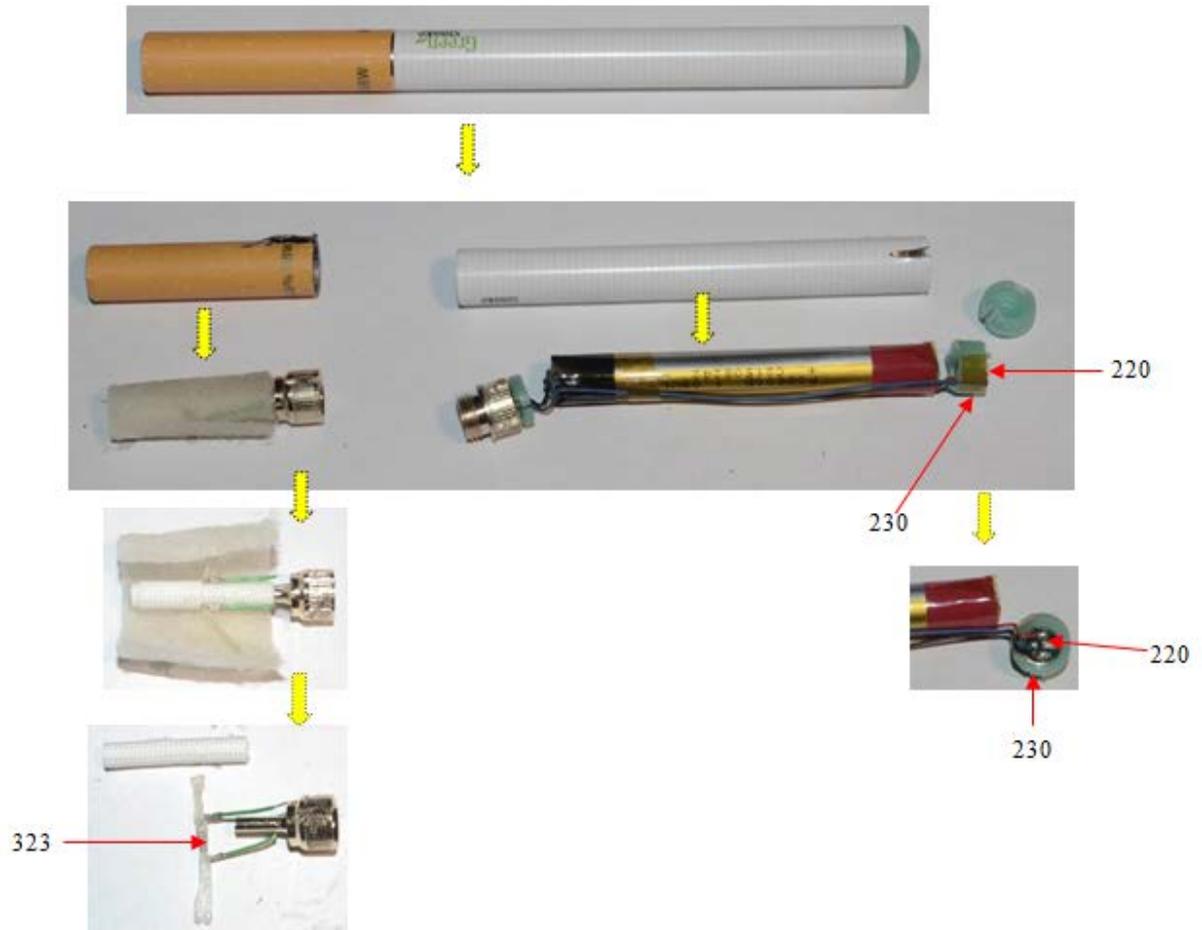
494. As shown in the photographs of paragraph 495 below, the GreenSmoke meets every limitation recited in claim 6 of the '549 Patent.

495. The GreenSmoke includes “the sensor [230] creates an output signal which is proportional to suction force on the outlet [150]” as recited in claim 6 of the '549 Patent.



1 496. As shown in the photographs of paragraph 497 below, the  
2 GreenSmoke meets every limitation recited in claim 7 of the '549 Patent.

3 497. The GreenSmoke includes "the electronic circuit board [220] provides  
4 electric current to the heating wire [323] for a time interval dependent on the  
5 suction force sensed by the sensor [230]" as recited in claim 7 of the '549 Patent.



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498. As shown in the photographs of paragraph 499 below, the GreenSmoke meets every limitation recited in claim 8 of the '549 Patent.

499. The GreenSmoke includes “wherein illumination of the LED [240] is dependent on the suction force sensed by the sensor [230], to simulate an appearance of a cigarette” as recited in claim 8 of the '549 Patent.

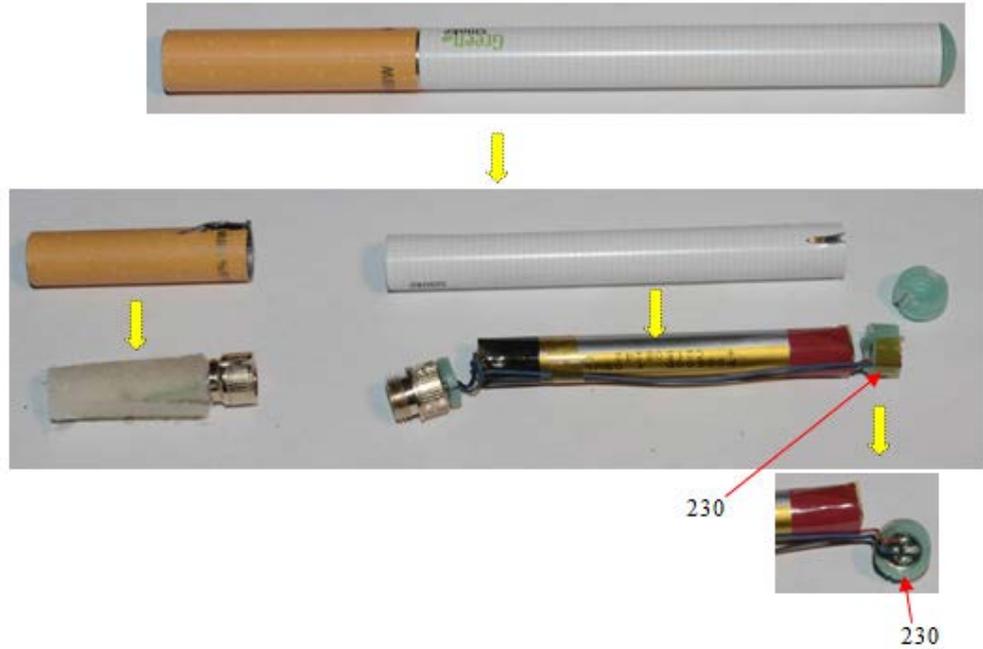


How Do Green Smoke® E-Cigarettes Work?, <https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html> (last visited June 22, 2016).

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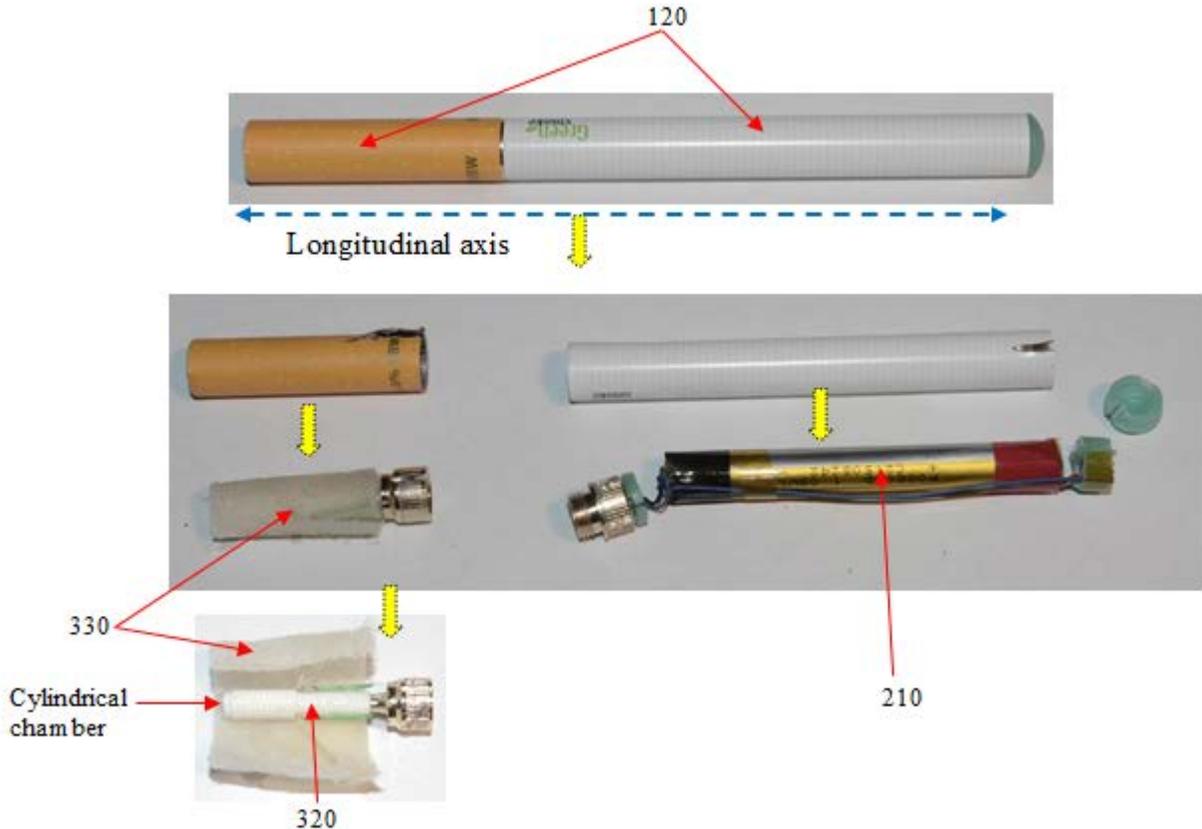
500. As shown in the photographs of paragraph 501 below, the GreenSmoke meets every limitation recited in claim 9 of the '549 Patent.

501. The GreenSmoke includes "the sensor [230] comprises a pressure sensor" as recited in claim 9 of the '549 Patent.



1           502. As shown in the photographs of paragraph 503 below, the  
2 GreenSmoke meets every limitation recited in claim 11 of the '549 Patent.

3           503. The GreenSmoke includes “the battery [210], the liquid-supply [330]  
4 and the cylindrical chamber of the atomizer [320] co-axial with the longitudinal  
5 axis of the cylindrical housing [120]” as recited in claim 11 of the '549 Patent.

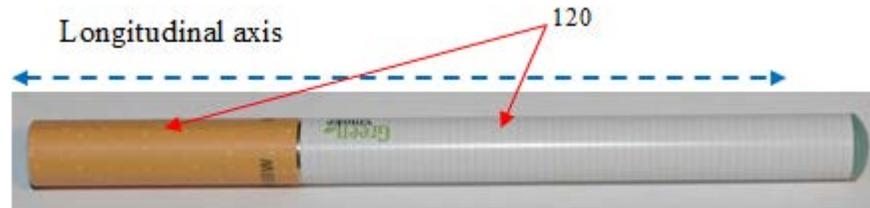


20           504. As shown in the photographs of paragraphs 505 through 515 below,  
21 the GreenSmoke meets every limitation recited in claim 12 of the '549 Patent.

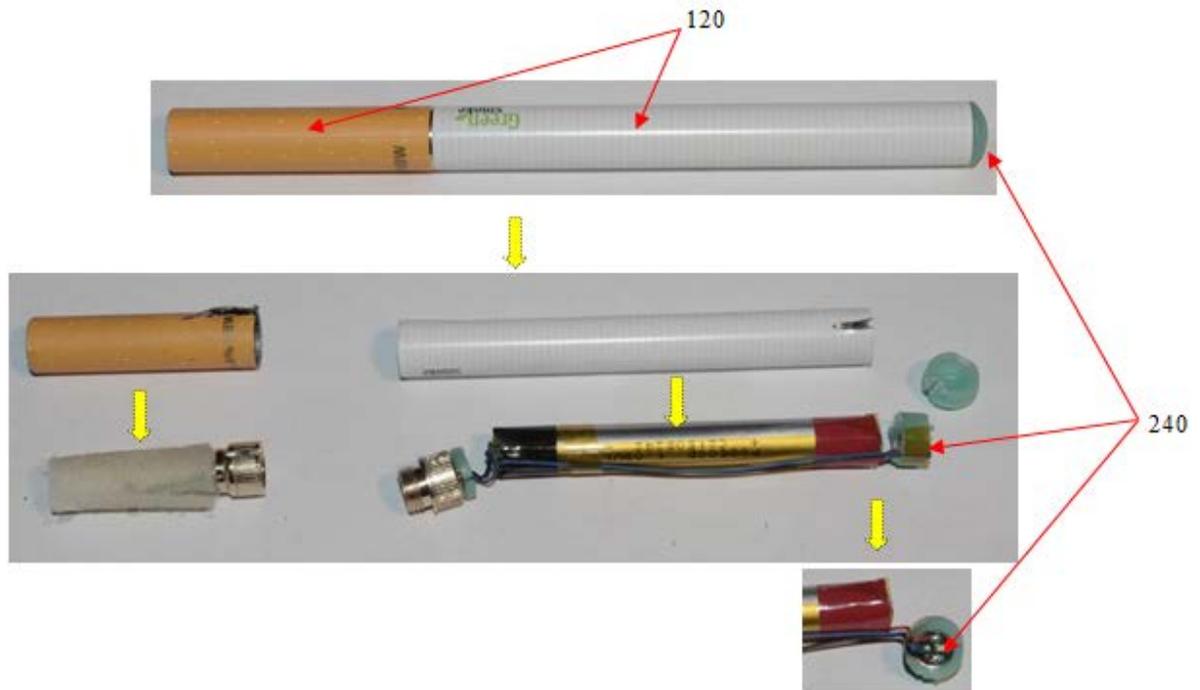
22           505. The GreenSmoke is an electronic vaporizing device as recited in claim  
23 12 of the '549 Patent.



1           506. The GreenSmoke includes “a cylindrical housing [120] having a  
2 longitudinal axis, a first end and a second end” as recited in claim 12 of the ’549  
3 Patent.



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9           507. The GreenSmoke includes “an LED [240] at a first end of the  
10 cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.

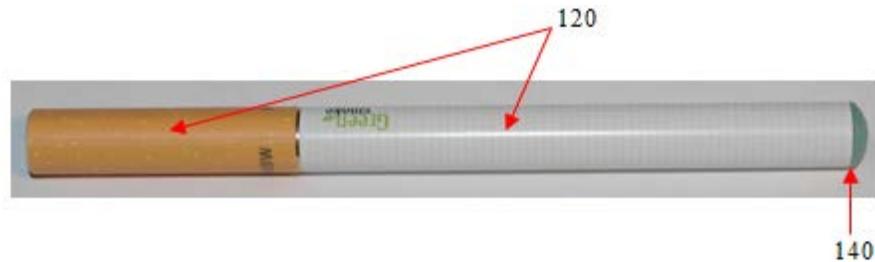


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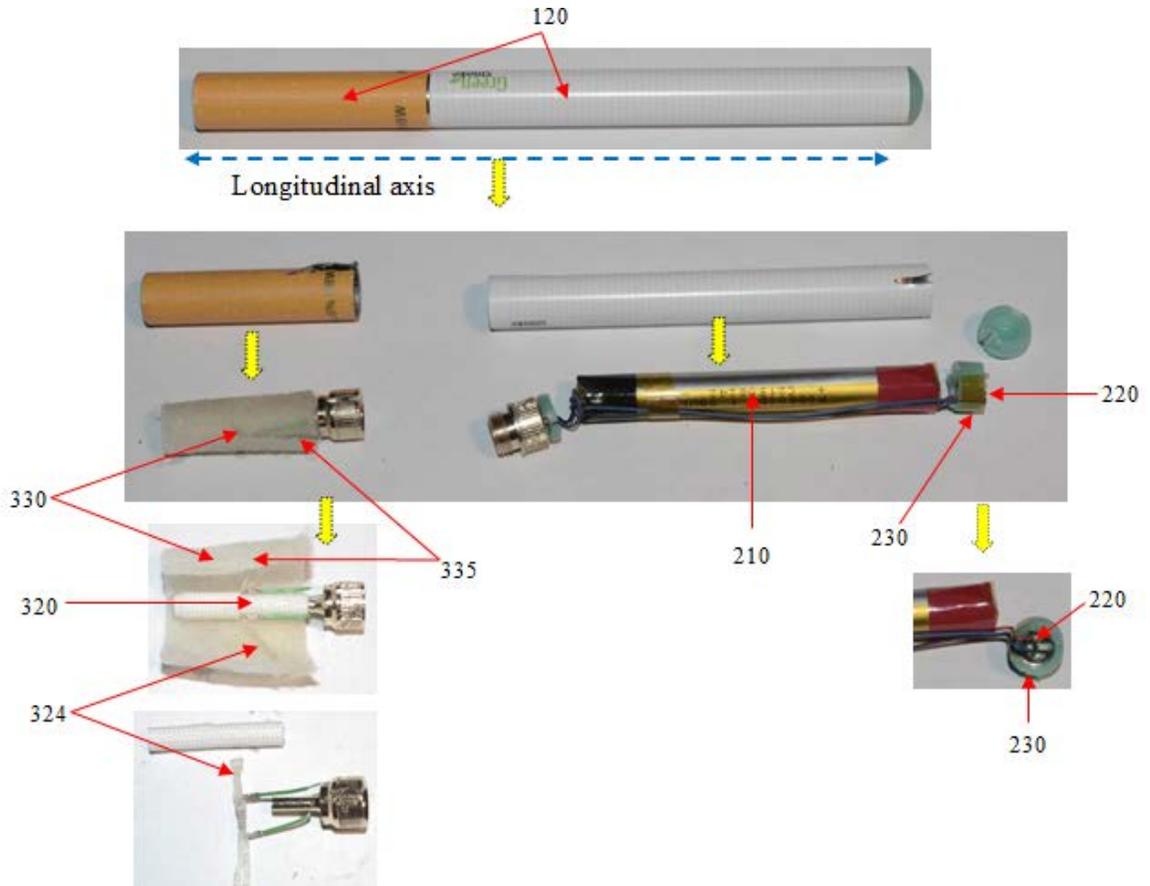
508. The GreenSmoke includes “an outlet [150] at the second end of the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



509. The GreenSmoke includes “an air inlet [140] for allowing air to flow into the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



1           510. The GreenSmoke includes “a battery [210], an electronic circuit board  
 2 [220], a sensor [230], an atomizer [320], and a liquid-supply [330] within the  
 3 cylindrical housing [120], wherein the liquid-supply [330] includes a liquid and a  
 4 fiber material [335], with the liquid containing propylene glycol, and wherein the  
 5 liquid supply [330] is cylindrical and parallel to the longitudinal axis of the  
 6 cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



22 - What's inside the vapor?

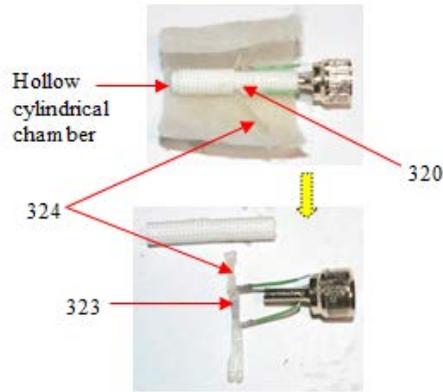
23 The vapor consists of tobacco-derived nicotine (excluding 0% nicotine  
 24 cartridges), glycerol, propylene glycol, and flavorings.

25 Propylene glycol and glycerol form a thick, clear liquid that produces the  
 26 vapor effect. The vapor in Green Smoke® e-cigarettes also contains our full-  
 bodied flavor blends.

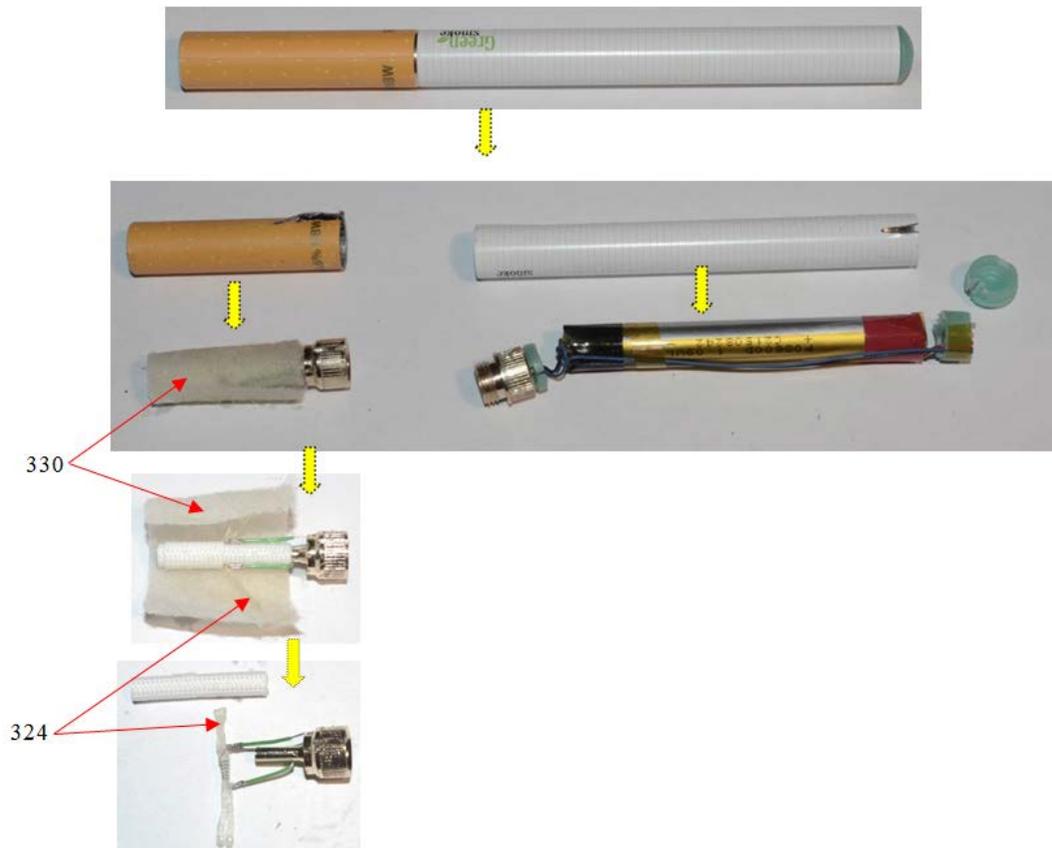
27 Frequently [sic] Asked Questions | Green Smoke® E-Vapor,  
 28 <https://www.greensmoke.com/faq.html> (last visited June 22, 2016).

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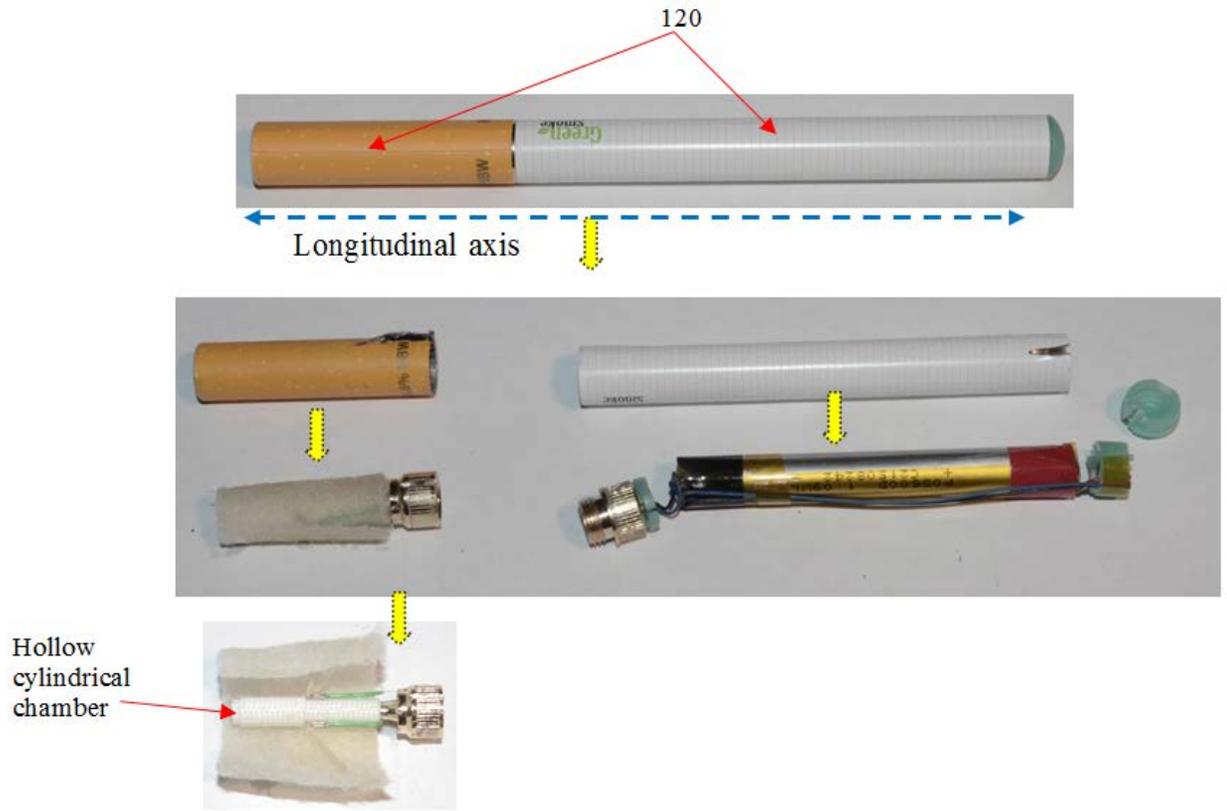
511. The GreenSmoke includes “the atomizer [320] comprises a porous component [324], a hollow cylindrical chamber and a heating wire [323]” as recited in claim 12 of the ’549 Patent.



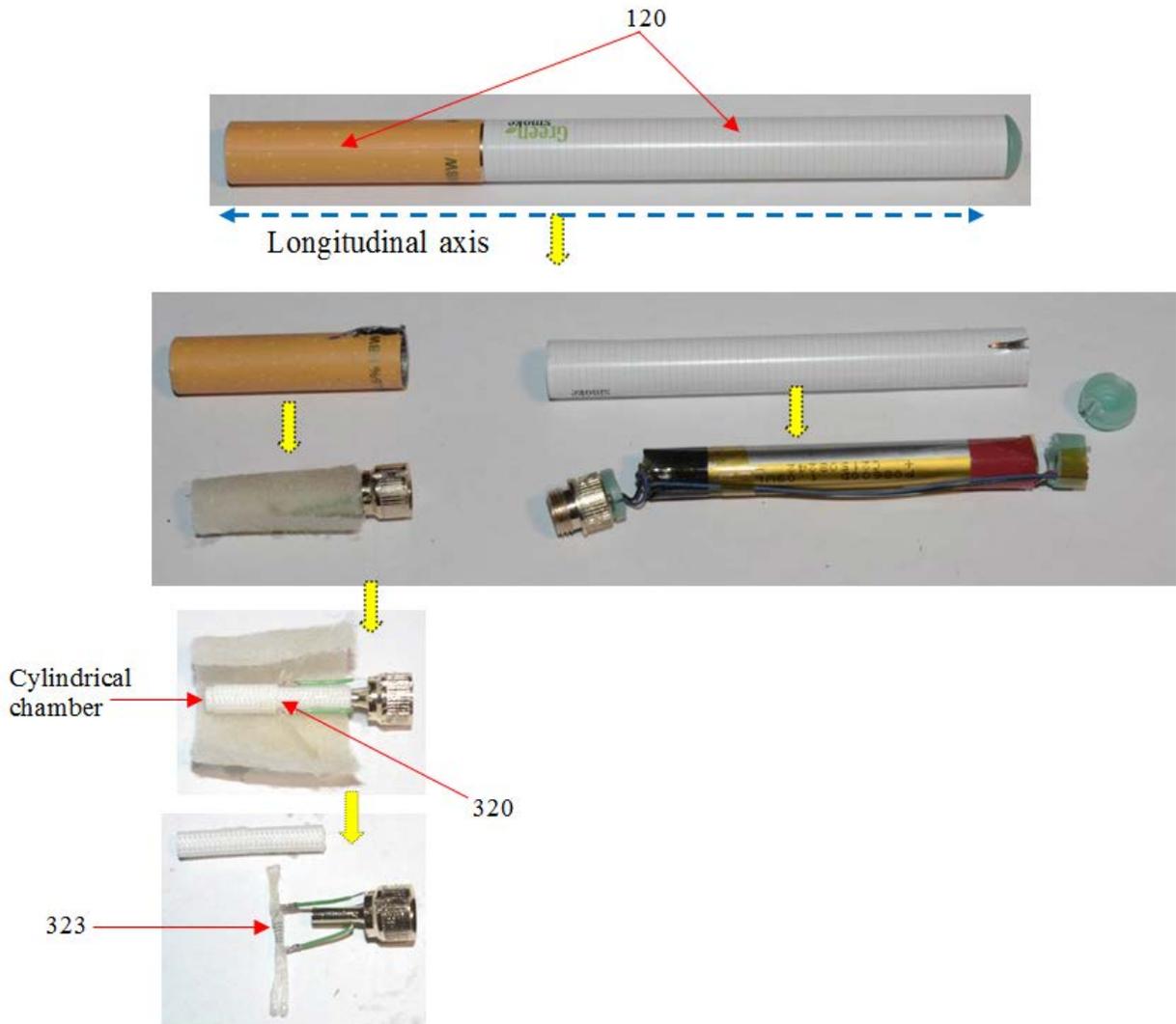
512. The GreenSmoke includes “the porous component [324] is in physical contact with the liquid in the liquid supply [330]” as recited in claim 12 of the ’549 Patent.



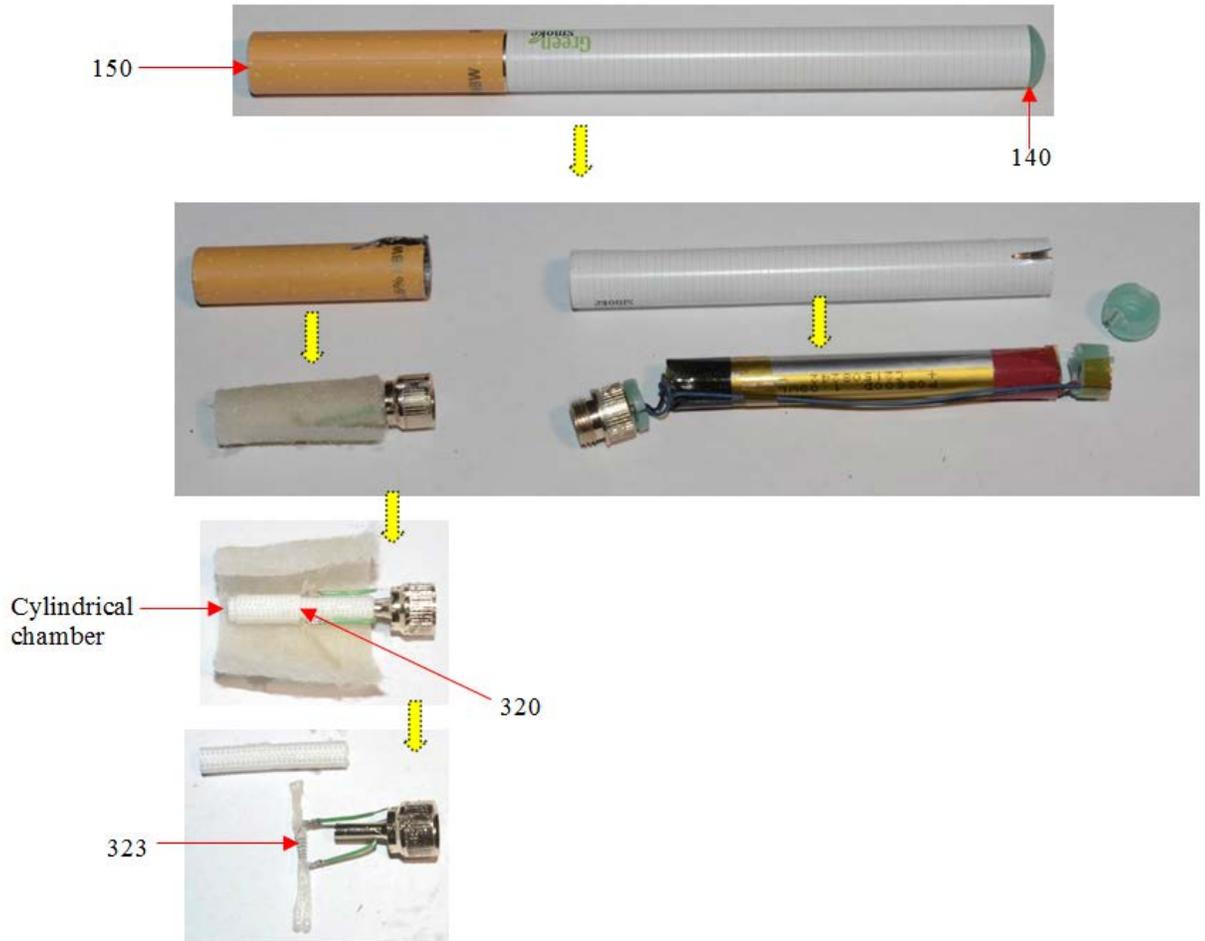
1           513. The GreenSmoke includes “the hollow cylindrical chamber is co-axial  
2 with the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



1           514. The GreenSmoke includes “the heating wire [323] extending across  
2 the cylindrical chamber of the atomizer [320] perpendicular to the longitudinal axis  
3 of the cylindrical housing [120]” as recited in claim 12 of the ’549 Patent.



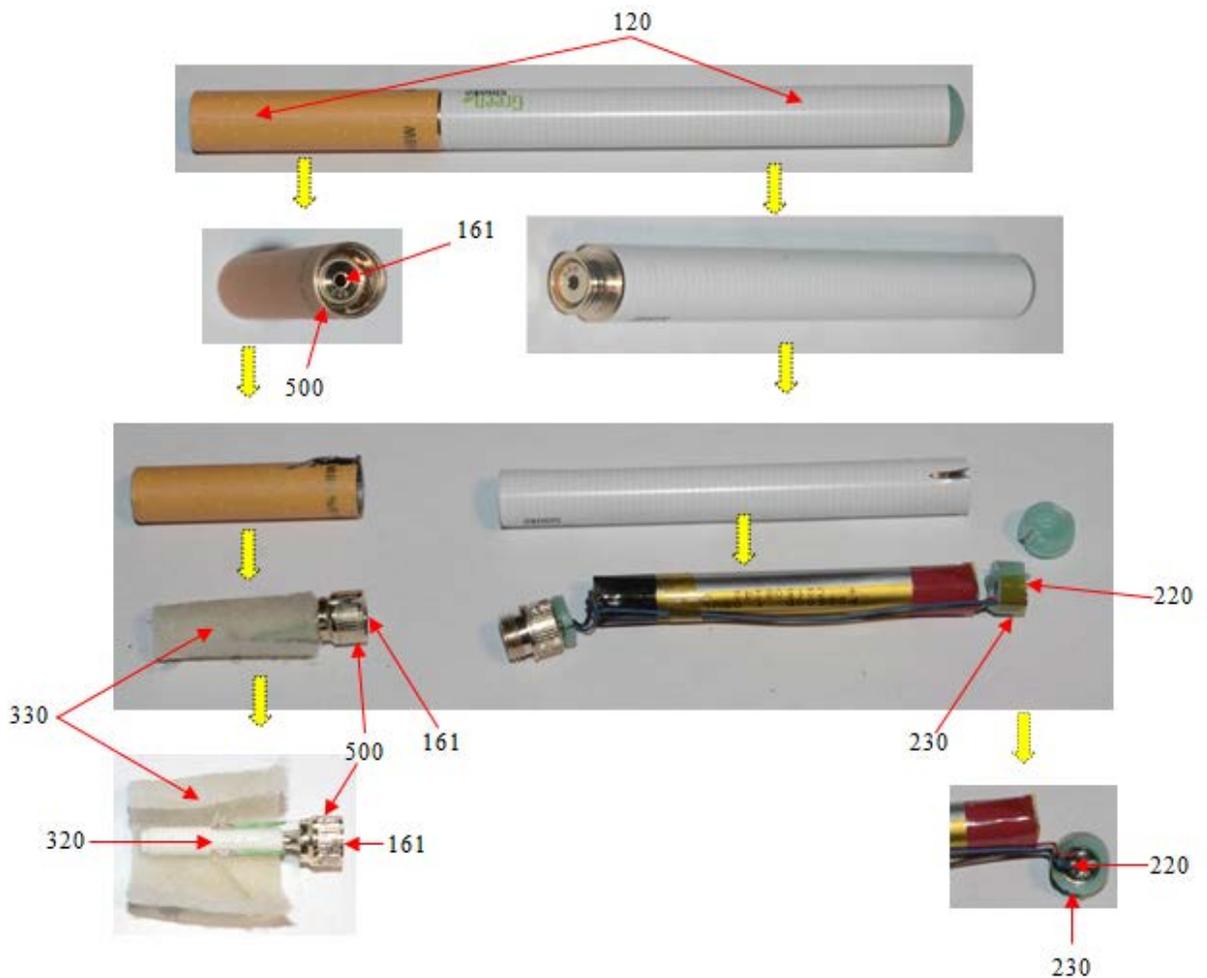
1           515. The GreenSmoke includes “an air stream passage from the inlet [140]  
2 through the cylindrical chamber of the atomizer [320] to the outlet [150], and the  
3 heating wire [323] positioned in the air stream passage” as recited in claim 12 of  
4 the '549 Patent.



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1 516. As shown in the photographs of paragraph 517 below, the  
2 GreenSmoke meets every limitation recited in claim 13 of the '549 Patent.

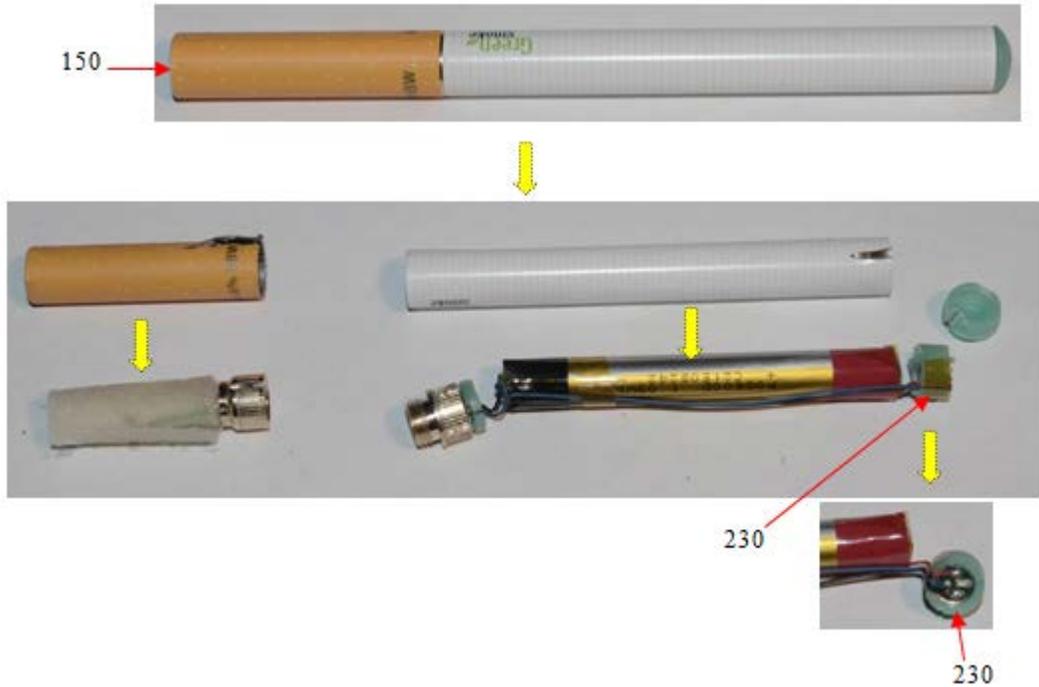
3 517. The GreenSmoke "further comprising a separator [500] in the  
4 cylindrical housing [120], with the electronic circuit board [220] and the sensor  
5 [230] on a first side of the separator [500], and with the atomizer [320] and the  
6 liquid-supply [330] on a second side of the separator [500], opposite from the first  
7 side, and with the separator [500] having a through hole [161] from the first side to  
8 the second side" as recited in claim 13 of the '549 Patent.



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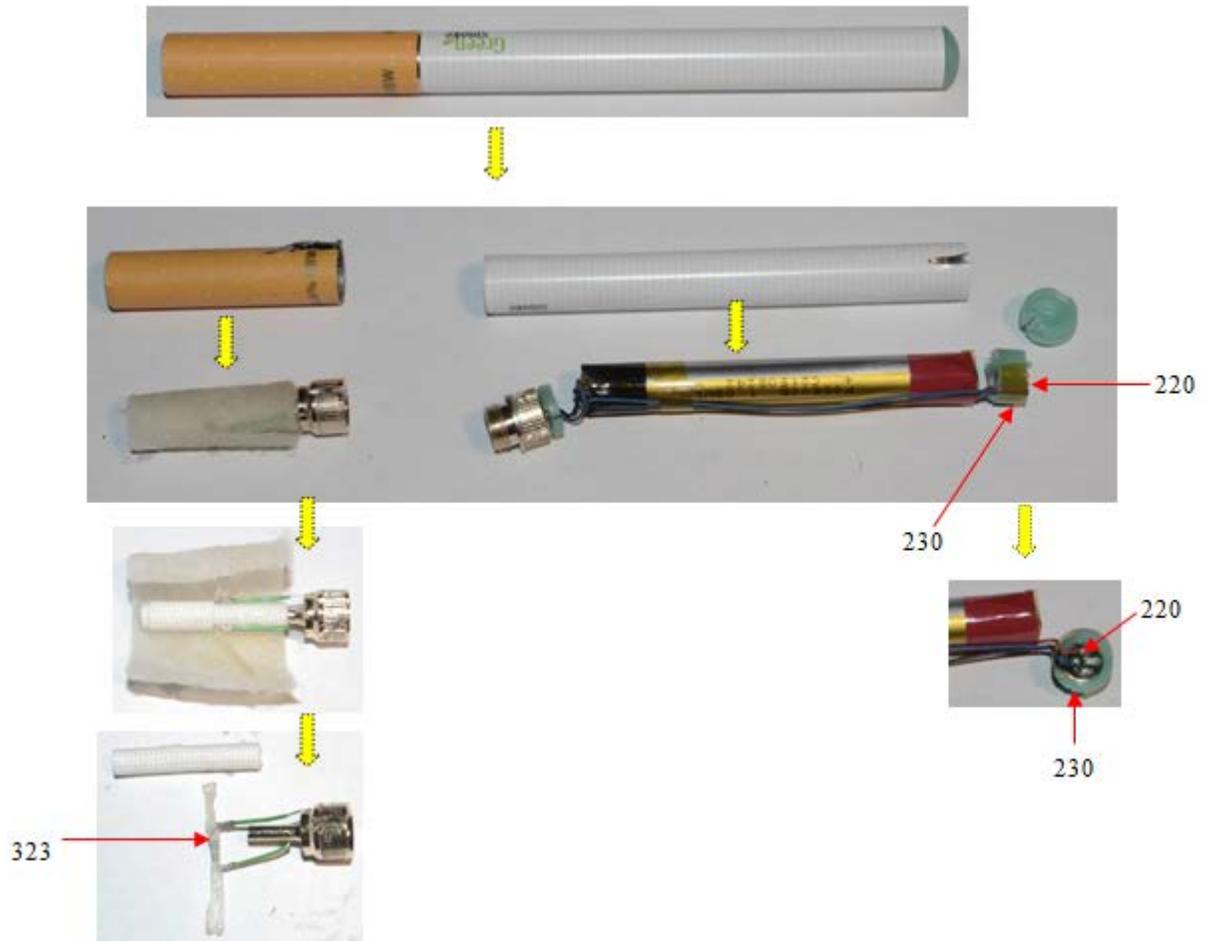
518. As shown in the photographs of paragraph 519 below, the GreenSmoke meets every limitation recited in claim 14 of the '549 Patent.

519. The GreenSmoke includes “ the sensor [230] creates an output signal which is proportional to suction force on the outlet [150]” as recited in claim 14 of the '549 Patent.



1           520. As shown in the photographs of paragraph 521 below, the  
2 GreenSmoke meets every limitation recited in claim 15 of the '549 Patent.

3           521. The GreenSmoke includes “the electronic circuit board [220] provides  
4 electric current to the heating wire [323] for a time interval dependent on the  
5 suction force sensed by the sensor [230]” as recited in claim 15 of the '549 Patent.



1 522. As shown in the photographs of paragraph 523 below, the  
2 GreenSmoke meets every limitation recited in claim 16 of the '549 Patent.

3 523. The GreenSmoke includes "wherein illumination of LED [240] is  
4 dependent on the suction force sensed by the sensor [230], to simulate an  
5 appearance of a cigarette" as recited in claim 16 of the '549 Patent.



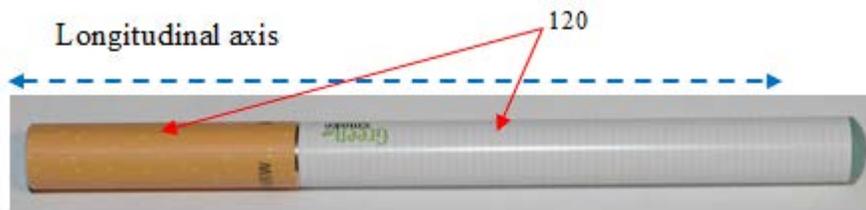
21 How Do Green Smoke® E-Cigarettes Work?, [https://www.greensmoke.com/ecig-](https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html)  
22 [info/how-electronic-cigarettes-work.html](https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html) (last visited June 22, 2016).

1           524. As shown in the photographs of paragraphs 525 through 534 below,  
2 the GreenSmoke meets every limitation recited in claim 17 of the '549 Patent.

3           525. The GreenSmoke is an electronic vaporizing device as recited in claim  
4 17 of the '549 Patent.



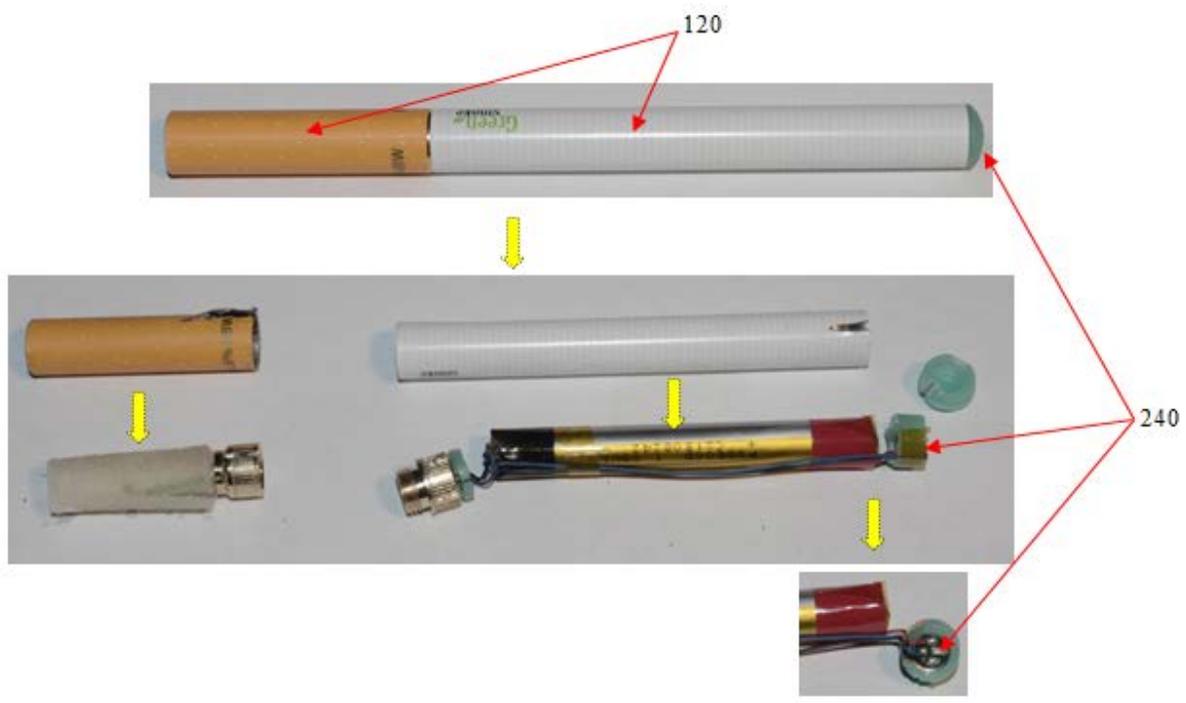
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11           526. The GreenSmoke includes “a cylindrical housing [120] having a  
12 longitudinal axis, a first end and a second end” as recited in claim 17 of the '549  
13 Patent.



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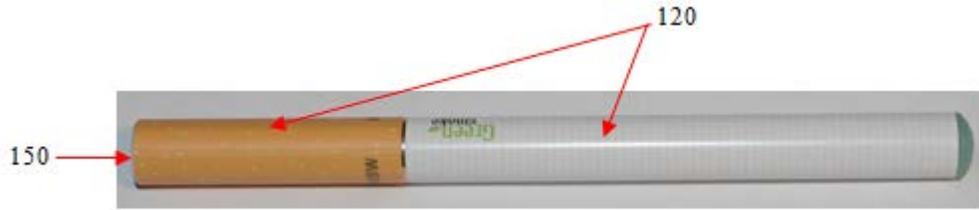
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527. The GreenSmoke includes “an LED [240] at the first end of the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.

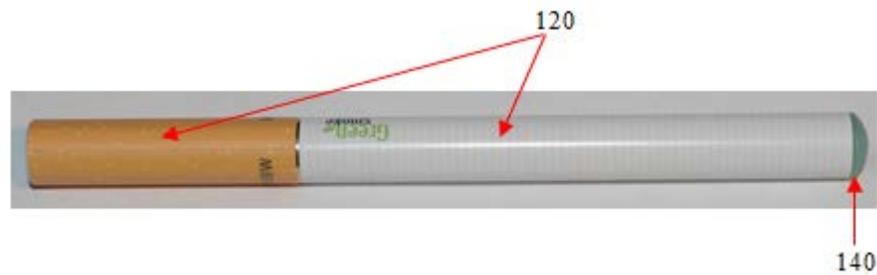


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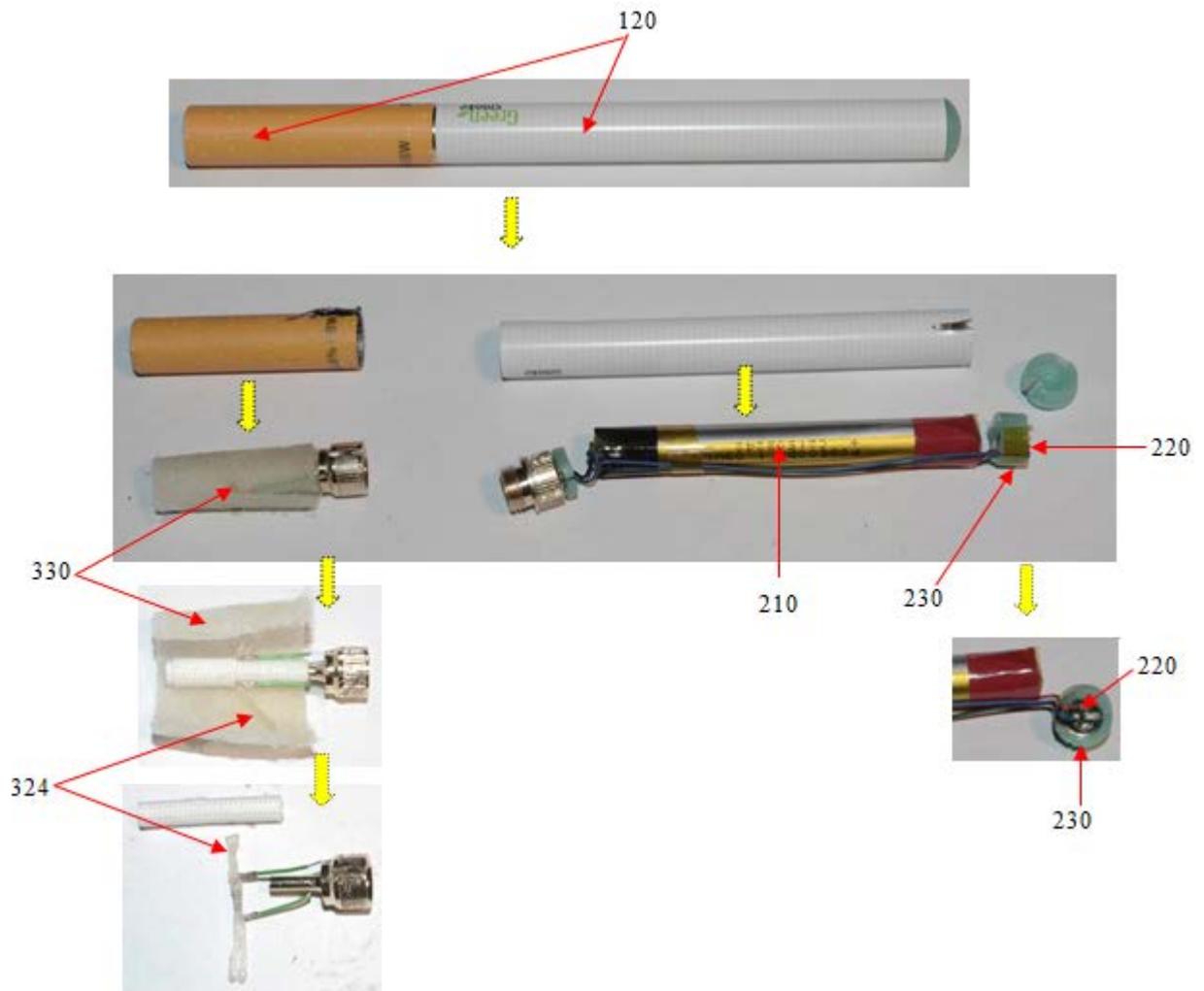
528. The GreenSmoke includes “an outlet [150] at the second end of the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.



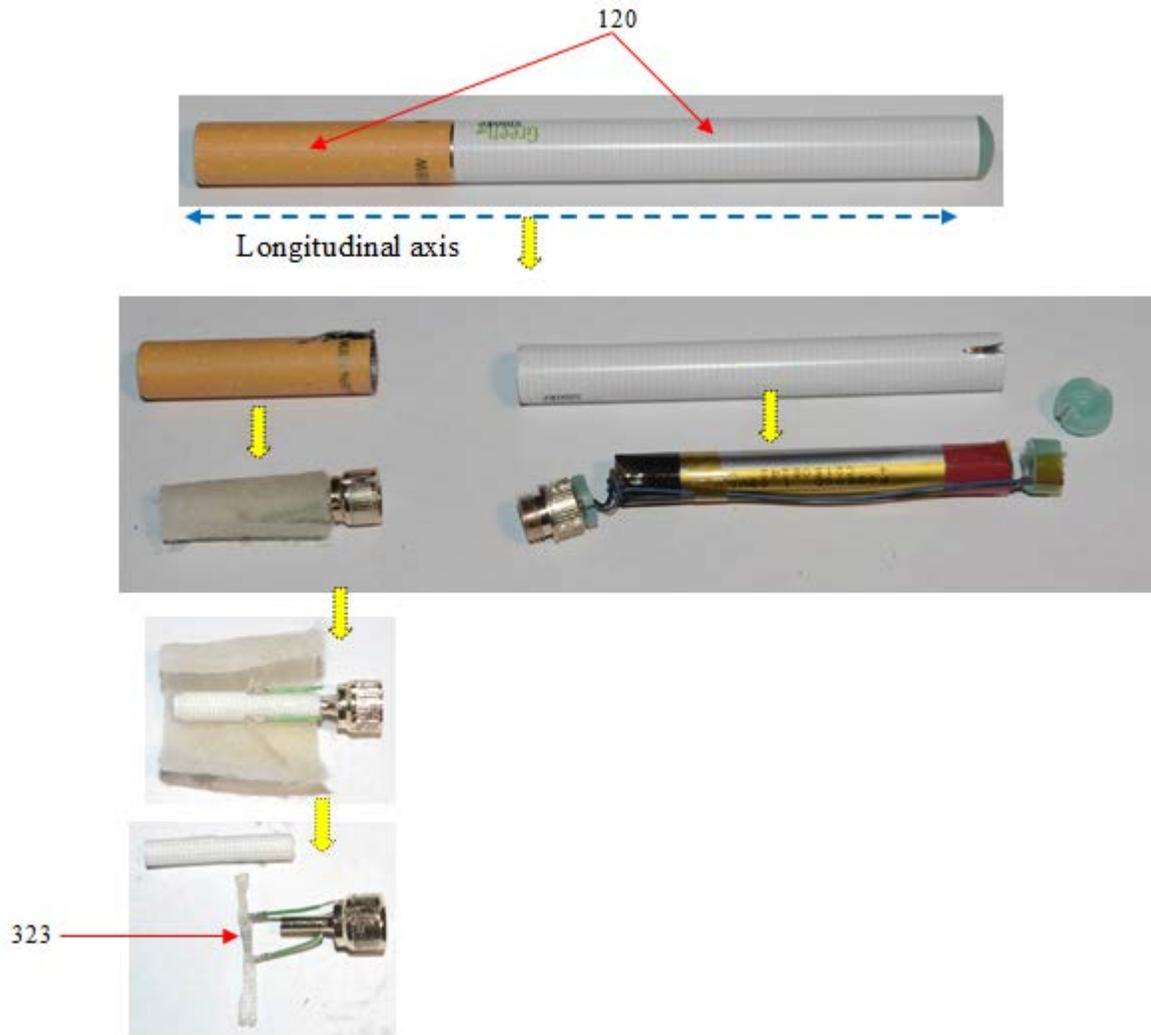
529. The GreenSmoke includes “an air inlet [140] for allowing air to flow into the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.



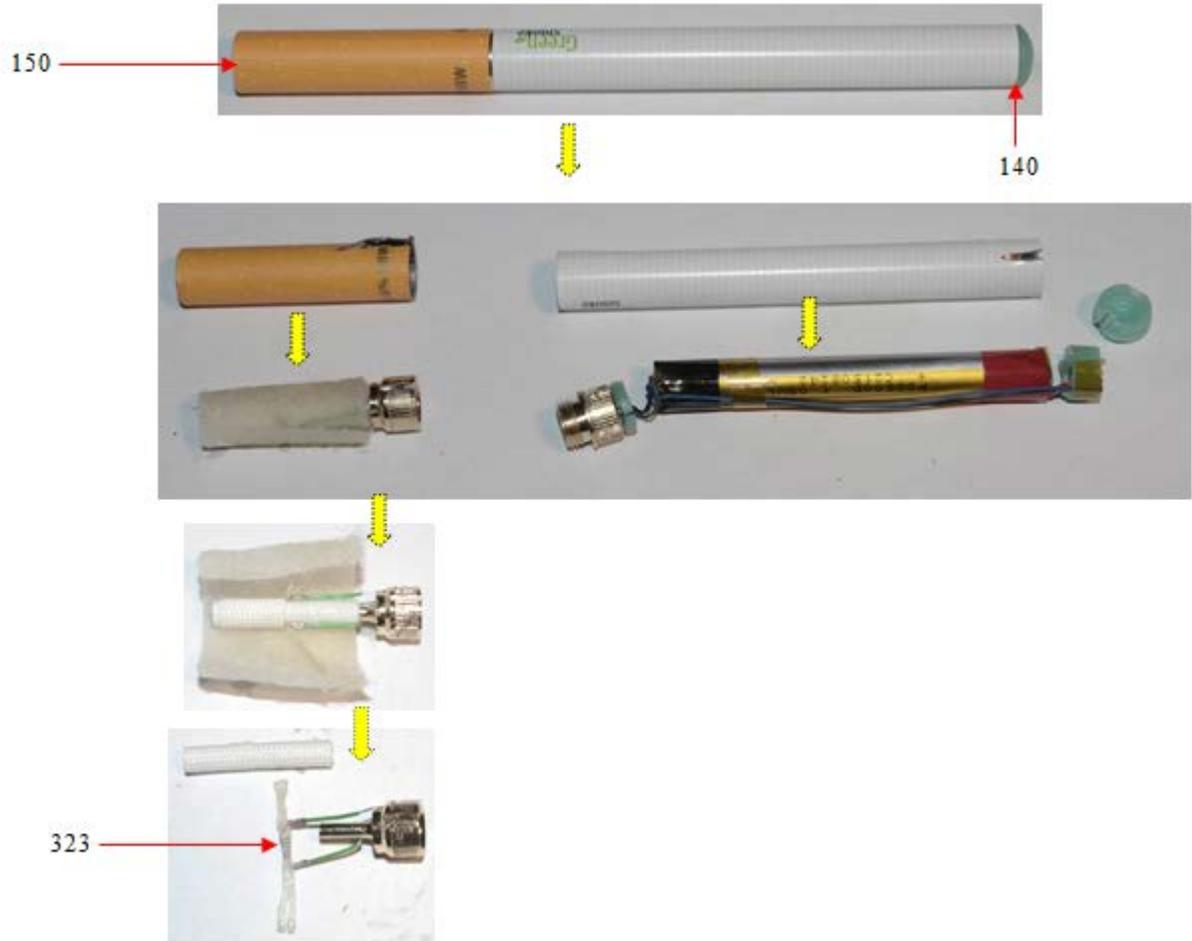
1           530. The GreenSmoke includes “a battery [210], an electronic circuit board  
2 [220], a sensor [230], a porous component [324], and a liquid-supply [330] within  
3 the cylindrical housing [120]” as recited in claim 17 of the ’549 Patent.



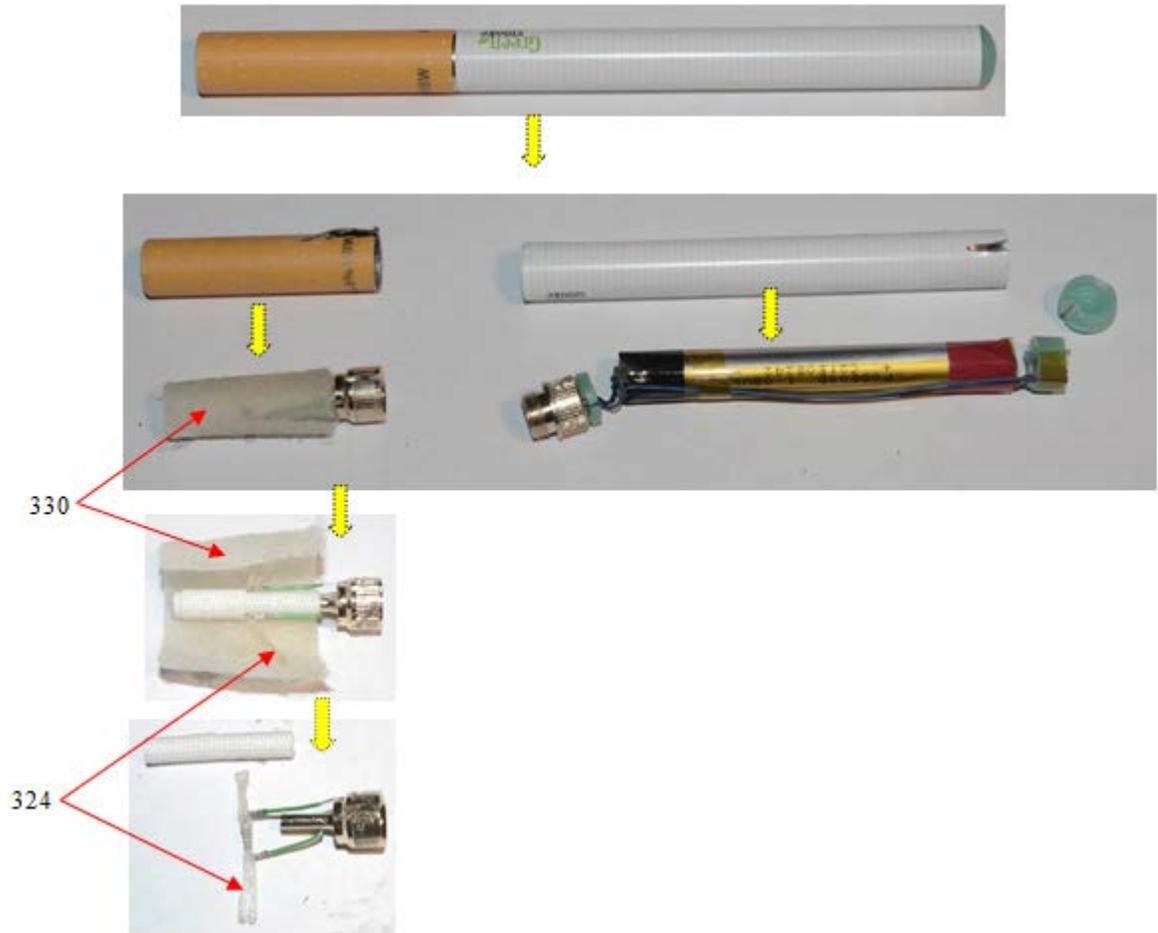
1           531. The GreenSmoke includes “a heating wire [323] positioned  
2 perpendicular to the longitudinal axis of the cylindrical housing [120]” as recited  
3 in claim 17 of the ’549 Patent.  
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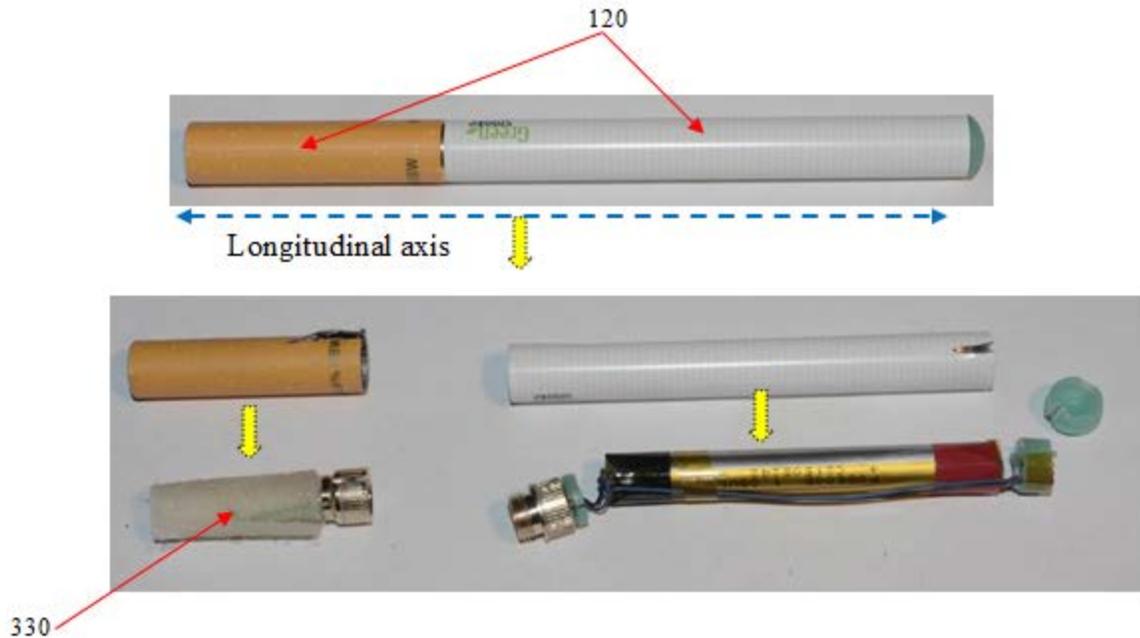
1           532. The GreenSmoke includes “an air passage between the inlet [140] to  
2 the outlet [150], with the heating wire [323] in the air passage and positioned for  
3 air to flow over the heating wire [323]” as recited in claim 17 of the ’549 Patent.



1           533. The GreenSmoke includes “the liquid-supply [330] in physical contact  
2 with the porous component [324], to move liquid from the liquid-supply [330] to  
3 the porous component [324]” as recited in claim 17 of the ’549 Patent.  
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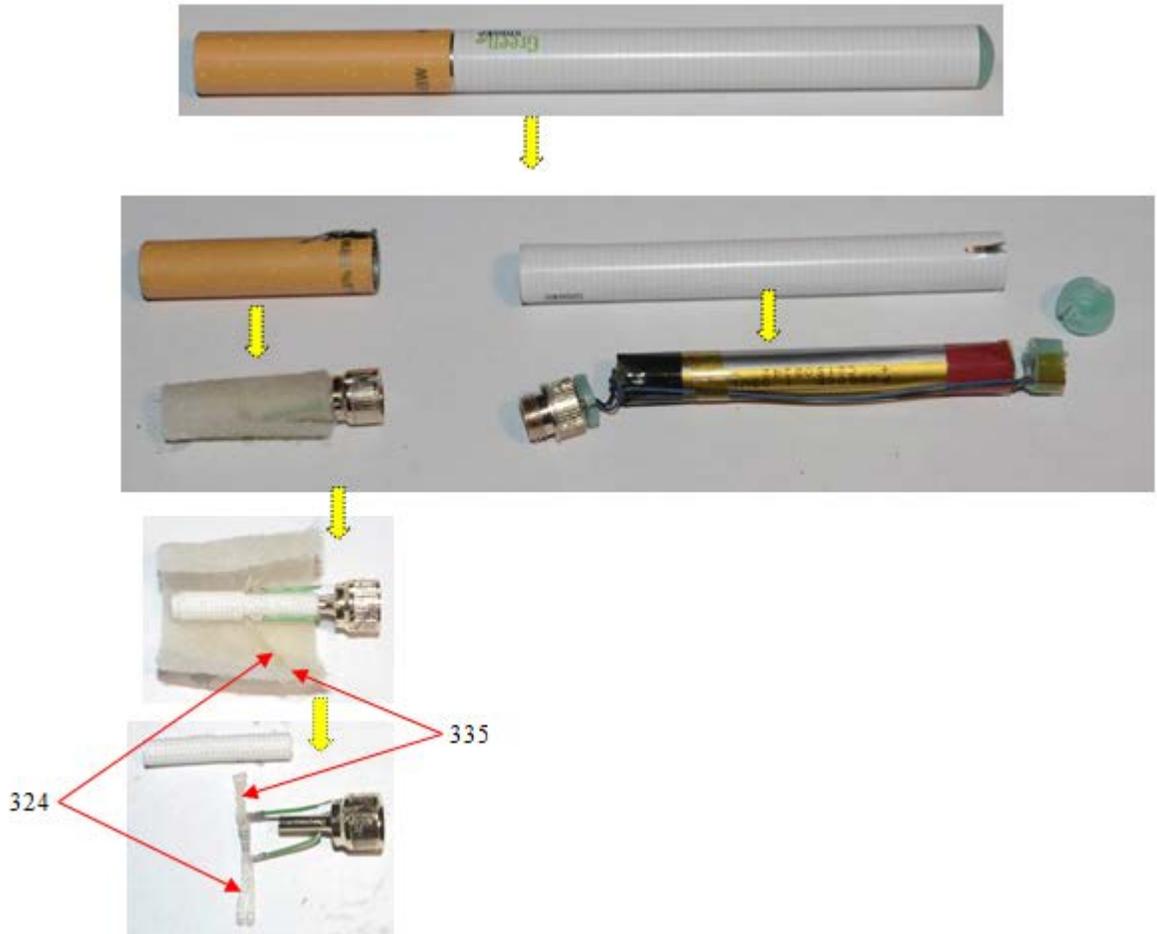
1           534. The GreenSmoke includes “wherein the liquid-supply [330] is  
2 cylindrical and arranged parallel to the longitudinal axis of the cylindrical housing  
3 [120]” as recited in claim 17 of the ’549 Patent.



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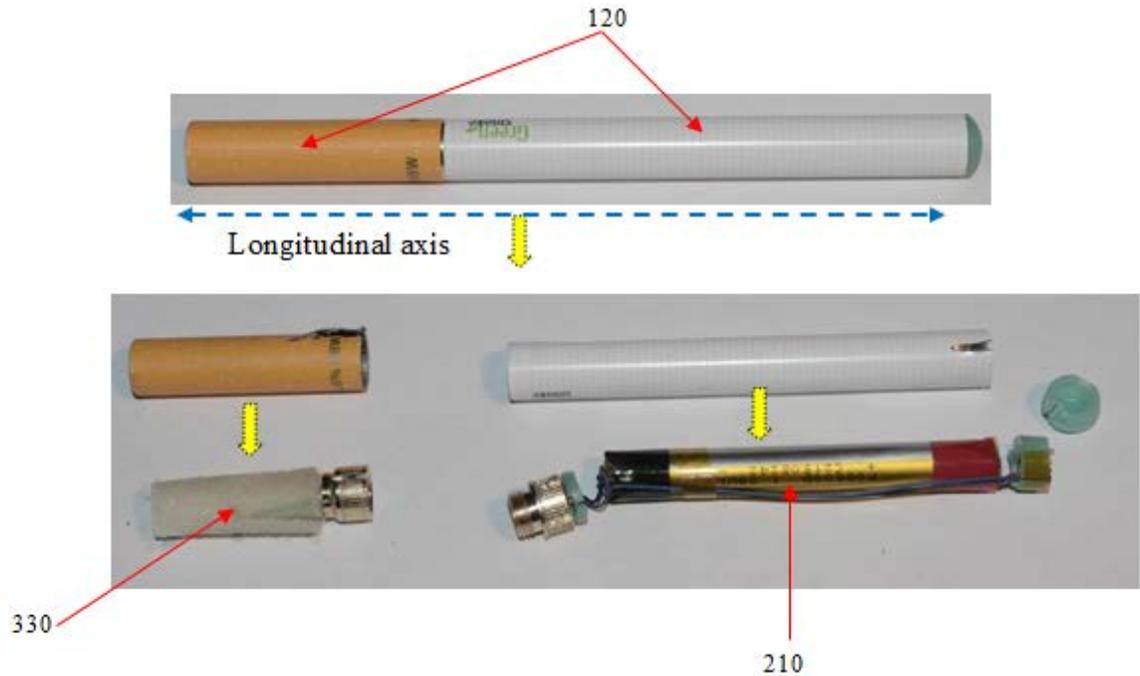
535. As shown in the photographs of paragraph 536 below, the GreenSmoke meets every limitation recited in claim 18 of the '549 Patent.

536. The GreenSmoke includes “the porous component [324] comprising a fiber material [335]” as recited in claim 18 of the '549 Patent.



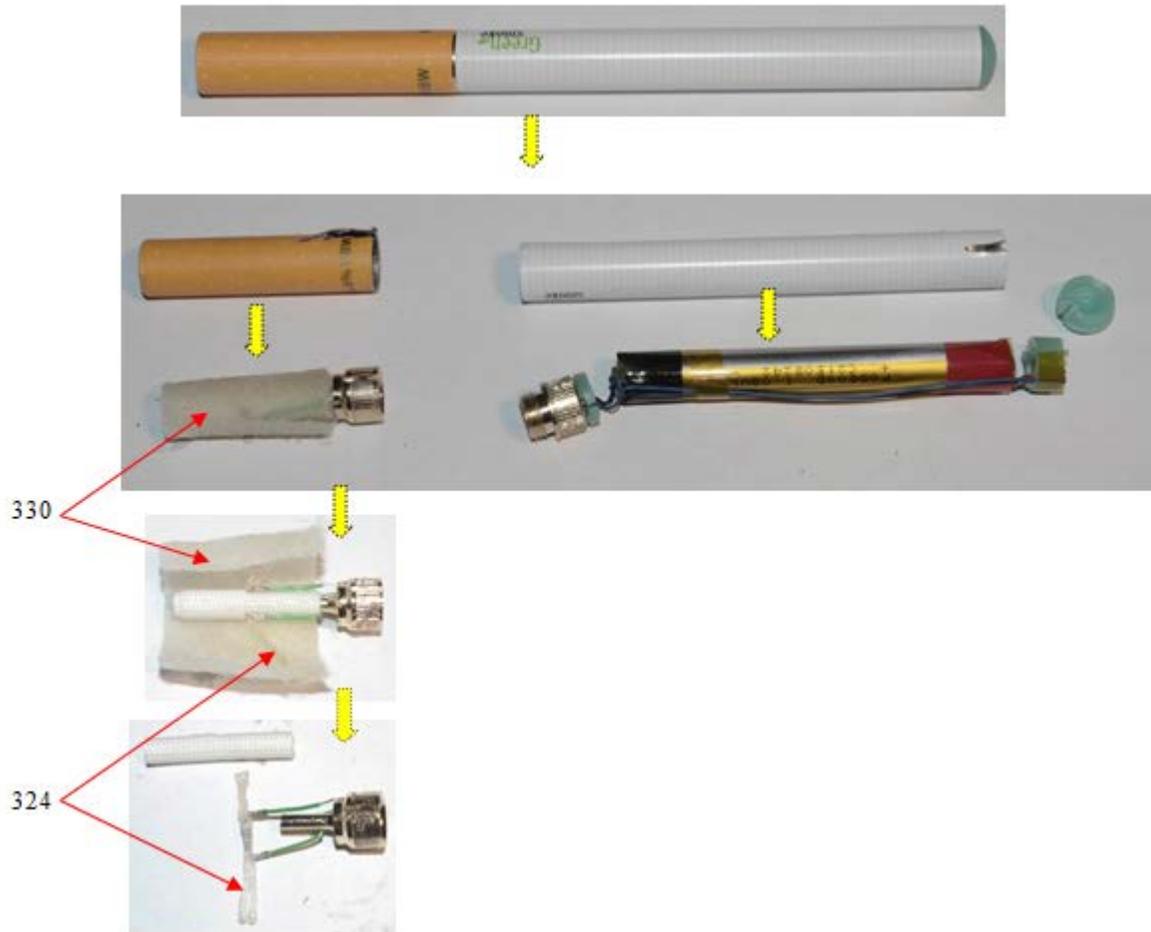
1 537. As shown in the photographs of paragraph 538 below, the  
2 GreenSmoke meets every limitation recited in claim 19 of the '549 Patent.

3 538. The GreenSmoke includes "the battery [210] and the liquid-supply  
4 [330] co-axial with the longitudinal axis of the cylindrical housing [120]" as  
5 recited in claim 19 of the '549 Patent.



1           539. As shown in the photographs of paragraph 540 below, the  
2 GreenSmoke meets every limitation recited in claim 20 of the '549 Patent.

3           540. The GreenSmoke includes "at least one end of the porous component  
4 [324] projecting into the liquid-supply [330]" as recited in claim 20 of the '549  
5 Patent.



1 541. As shown in the photographs of paragraph 542 below, the  
2 GreenSmoke meets every limitation recited in claim 21 of the '549 Patent.

3 542. The GreenSmoke includes "the liquid-supply [330] comprising  
4 propylene glycol" as recited in claim 21 of the '549 Patent.



20 - What's inside the vapor?

21 The vapor consists of tobacco-derived nicotine (excluding 0% nicotine  
22 cartridges), glycerol, propylene glycol, and flavorings.

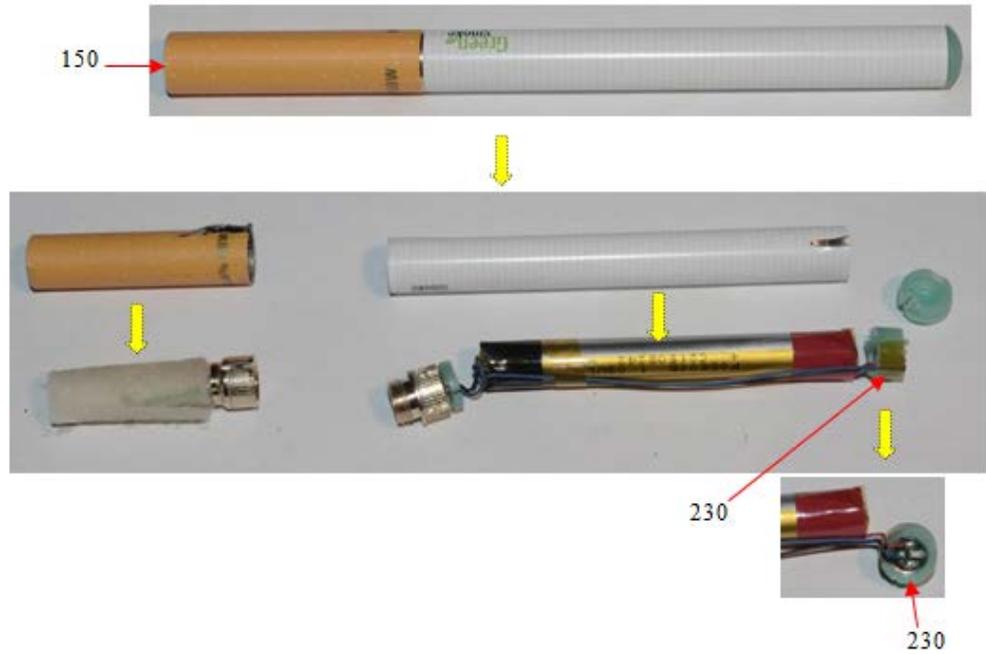
23 Propylene glycol and glycerol form a thick, clear liquid that produces the  
24 vapor effect. The vapor in Green Smoke® e-cigarettes also contains our full-  
25 bodied flavor blends.

26 Frequently [sic] Asked Questions | Green Smoke® E-Vapor,  
27 <https://www.greensmoke.com/faq.html> (last visited June 22, 2016).  
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543. As shown in the photographs of paragraph 544 below, the GreenSmoke meets every limitation recited in claim 22 of the '549 Patent.

544. The GreenSmoke includes “wherein the sensor [230] creates an output signal which is proportional to suction force on the outlet [150]” as recited in claim 22 of the '549 Patent.



1 545. As shown in the photographs of paragraph 546 below, the  
2 GreenSmoke meets every limitation recited in claim 23 of the '549 Patent.

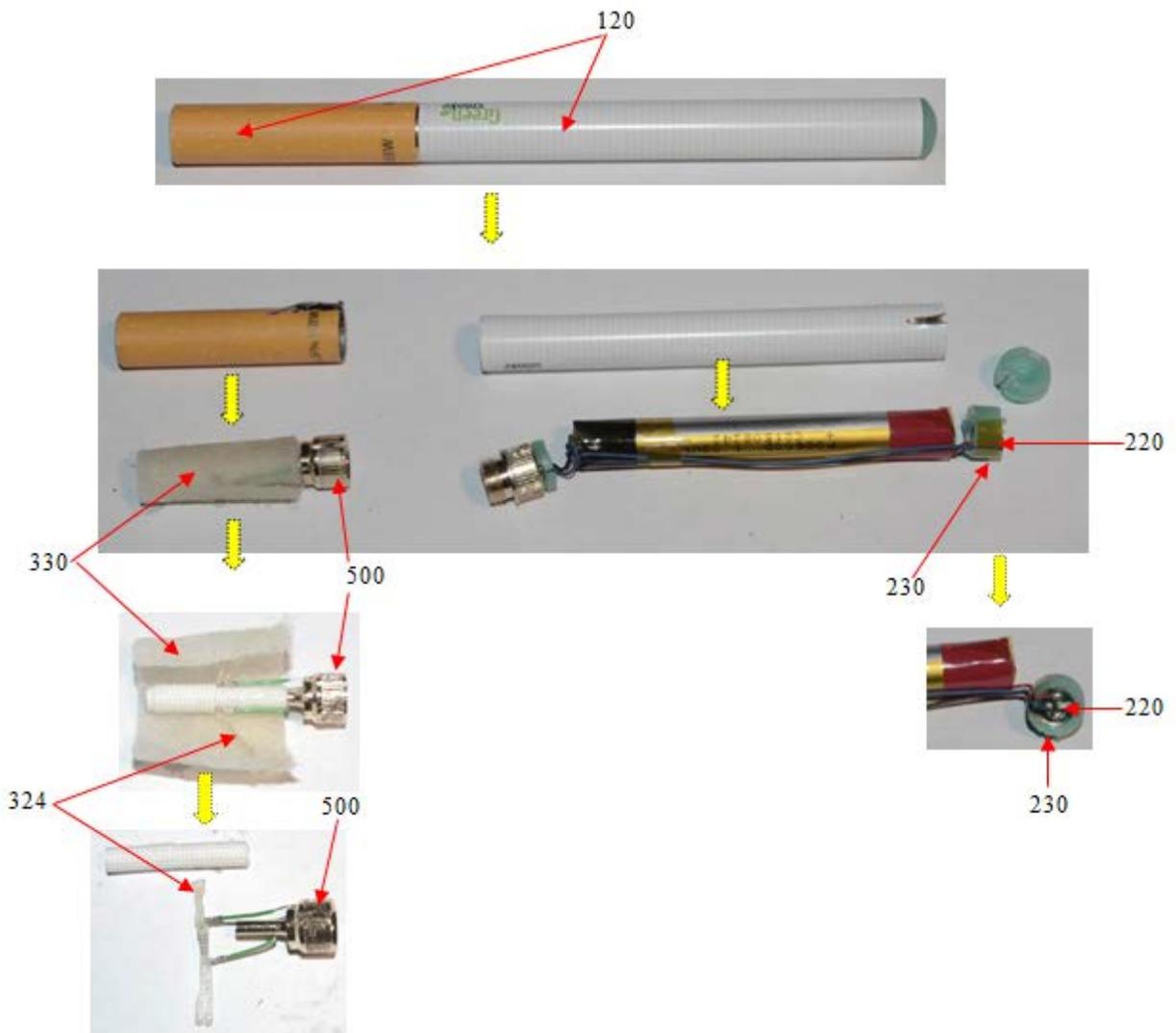
3 546. The GreenSmoke includes "wherein illumination of LED [240] is  
4 dependent on the suction force sensed by the sensor [230], to simulate an  
5 appearance of a cigarette" as recited in claim 23 of the '549 Patent.



How Do Green Smoke® E-Cigarettes Work?, <https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html> (last visited June 22, 2016).

1 547. As shown in the photographs of paragraph 548 below, the  
2 GreenSmoke meets every limitation recited in claim 25 of the '549 Patent.

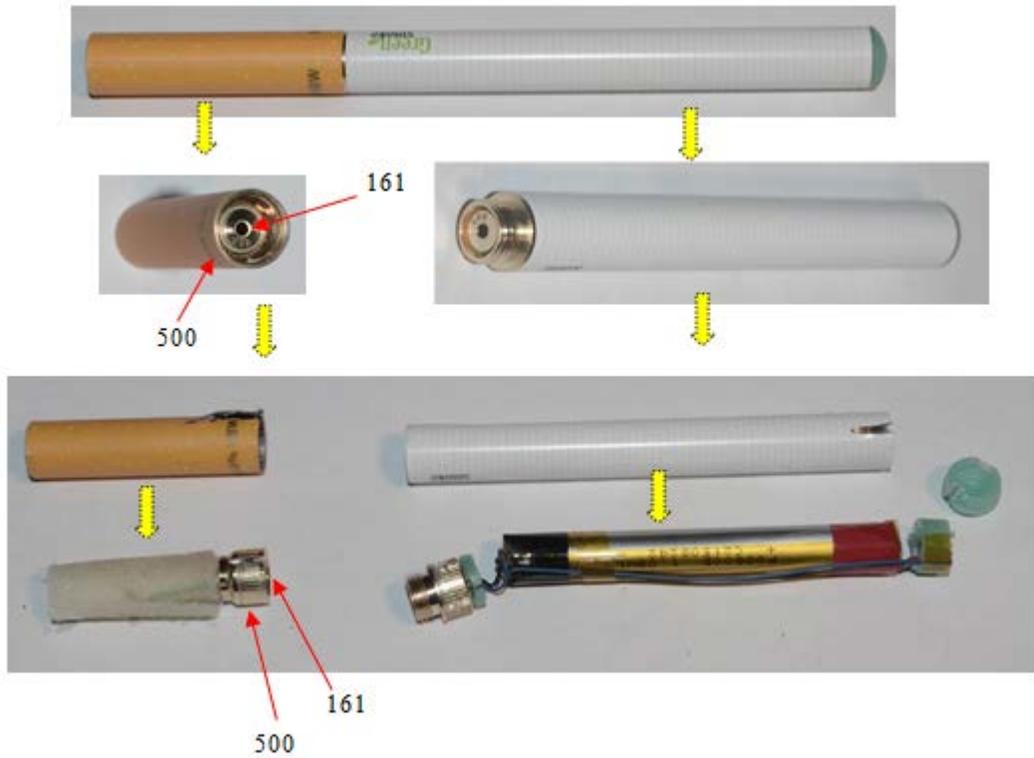
3 548. The GreenSmoke "further including a separator [500] in the cylindrical  
4 housing [120], with the electronic circuit board [220], and the sensor [230] on a  
5 first side of the separator [500], and with the porous component [324] and the  
6 liquid-supply [330] on a second side of the separator [500], opposite from the first  
7 side" as recited in claim 25 of the '549 Patent.



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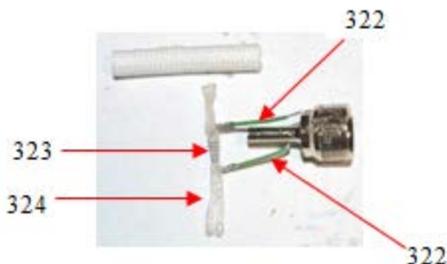
549. As shown in the photographs of paragraph 550 below, the GreenSmoke meets every limitation recited in claim 26 of the '549 Patent.

550. The GreenSmoke includes “the separator [500] having a through hole [161] from the first side to the second side” as recited in claim 26 of the '549 Patent.



1           551. As shown in the photograph of paragraph 552 below, the GreenSmoke  
2 meets every limitation recited in claim 27 of the '549 Patent.

3           552. The GreenSmoke includes “wherein the heating wire [323] has leads  
4 [322] extending out of the porous component [324]” as recited in claim 27 of the  
5 '549 Patent.



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11           553. Defendant has also contributed to the infringement of the '549 Patent  
12 in violation of 35 U.S.C. § 271(c) by, itself and/or through its agents, contributing  
13 to the direct infringement of the '549 Patent by its customers by unlawfully and  
14 wrongfully making, using, importing, offering to sell, and/or selling electronic  
15 vaporizing device components having no substantially non-infringing use, which,  
16 when used by its customers, result in direct infringement of the '549 Patent, in this  
17 judicial district and within, from and/or into the United States without permission  
18 or license from Plaintiffs, and will continue to do so unless enjoined by this Court.

19           554. Examples of electronic vaporizing device components that have no  
20 substantial noninfringing uses and that contribute to the direct infringement of the  
21 '549 Patent include, but are not limited to, the MarkTen Products, MarkTenXL  
22 Products, and GreenSmoke Products.

23           555. Having knowledge of the '549 Patent, at least as of the filing of this  
24 Complaint, Defendant is aware that the purchase and use of the MarkTen Products,  
25 MarkTenXL Products, and GreenSmoke Products and components of the MarkTen  
26 Products, MarkTenXL Products, and GreenSmoke Products by Defendant's  
27 customers results in direct infringement of the '549 Patent.  
28

1           556. Defendant instructs users on how to use the MarkTen Products,  
2 MarkTenXL Products, and GreenSmoke Products.<sup>18</sup>

3           557. Defendant instructs users to use a replacement MarkTen or  
4 MarkTenXL Cartridge when a MarkTen or MarkTenXL Cartridge is depleted, or  
5 to use a replacement MarkTen or MarkTenXL Battery when a MarkTen or  
6 MarkTenXL Battery is depleted.

7           558. Defendant further instructs users that “MarkTen® e-vapor products are  
8 designed to work together[,]” and that “[u]sing MarkTen® e-vapor products with  
9 non-MarkTen® e-vapor products may be unsafe, and is not advised.”<sup>19</sup>

10           559. Defendant further instructs that “[c]ustomers should note that using  
11 MarkTen® e-vapor products with another brand's e-vapor products will invalidate  
12 the warranty.”<sup>20</sup>

13           560. Defendant instructs users to use a replacement GreenSmoke Cartridge  
14 when a GreenSmoke Cartridge is depleted, or to use a replacement GreenSmoke  
15 Battery when a GreenSmoke Battery is depleted.<sup>21</sup>

16           561. As such, Defendant knows that the MarkTen, MarkTenXL, and  
17 GreenSmoke Products and components of the MarkTen, MarkTenXL, and  
18 GreenSmoke Products, including, but not limited to, the MarkTen, MarkTenXL,

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19  
20           <sup>18</sup> See, e.g., MarkTen® Product Information Guide,  
21 <https://www.markten.com/skin/frontend/markten/default/uploads/current-gen-product-info-guide.pdf> (last visited June 22, 2016) (Exhibit I); MarkTen®XL  
22 Product Information Guide,  
23 <https://www.markten.com/skin/frontend/markten/default/uploads/XL-product-info-guide.pdf> (last visited June 22, 2016) (Exhibit J); How to Use Your E-Cig Kit,  
24 <https://www.greensmoke.com/ecig-info/how-to-use-your-e-cig-starter-kit.html> (last visited June 22, 2016) (Exhibit K).

25           <sup>19</sup> Why do I have to use your cartridges only with your batteries, and  
26 your batteries only with your cartridges? <https://www.markten.com/faq> (last visited June 22, 2016) (Exhibit L).

27           <sup>20</sup> *Id.*

28           <sup>21</sup> See, e.g., How Do Green Smoke® E-Cigarettes Work?  
<https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html> (last visited June 22, 2016) (Exhibit M).

1 and GreenSmoke Cartridge, and MarkTen, MarkTenXL, and GreenSmoke Battery  
2 when sold separately, have no substantial non-infringing uses other than to provide  
3 users with the ability to assemble and use an electronic vaporizing device that  
4 infringes the '549 Patent, and, therefore, that they are especially made or adapted  
5 for use in infringement of the '549 Patent.

6 562. As a direct and proximate result of the foregoing acts of Defendant,  
7 Plaintiffs have suffered, and are entitled to, monetary damages in an amount not  
8 yet determined, which include but are not limited to, lost profits on the infringing  
9 sales Plaintiffs may have made and reasonable royalties on sales not made.

10 Plaintiffs are also entitled to their costs of suit and interest.

11 563. Defendant's continuing infringement has inflicted and, unless  
12 restrained by this Court, will continue to inflict irreparable harm upon Plaintiffs,  
13 such as reduction of Plaintiffs' proper market share and deprivation of Plaintiffs'  
14 rights to exclude others. Plaintiffs have no adequate remedy at law. Plaintiffs are  
15 entitled to injunctive relief enjoining Defendant from engaging in further acts of  
16 infringement.

17 **FOURTH CLAIM FOR RELIEF**

18 (Infringement of U.S. Patent No. 9,326,550)

19 564. Plaintiffs incorporate by reference the allegations contained in  
20 paragraphs 1–563 above.

21 565. Fontem Holdings is the owner of the entire right, title, and interest in  
22 and to United States Patent No. 9,326,550 ("the '550 Patent") (Exhibit D). Fontem  
23 Holdings has granted Fontem Ventures an exclusive license to the '550 Patent,  
24 including the right to sublicense the '550 Patent. The '550 Patent was duly and  
25 legally issued by the USPTO on May 3, 2016, and is valid, subsisting, and in full  
26 force and effect.

27 566. Defendant has directly infringed the '550 Patent in violation of 35  
28 U.S.C. § 271(a) by, itself and/or through its agents, unlawfully and wrongfully

1 making, using, importing, offering to sell, and/or selling vaporizing device  
2 products embodying one or more of the inventions claimed in the '550 Patent, in  
3 this judicial district and within, from and/or into the United States without  
4 permission or license from Plaintiffs, and will continue to do so unless enjoined by  
5 this Court.

6 567. Examples of vaporizing device products that directly infringe the '550  
7 Patent include, but are not limited to, the MarkTen Products and GreenSmoke  
8 Products.

9 568. The MarkTen Products and GreenSmoke Products infringe the '550  
10 Patent both literally and/or under the doctrine of equivalents.

11 569. The MarkTen Products infringe at least claims 1–7 and 10 of the '550  
12 Patent.

13 570. The GreenSmoke Products infringe at least claims 1–2 and 7–8 of the  
14 '550 Patent.

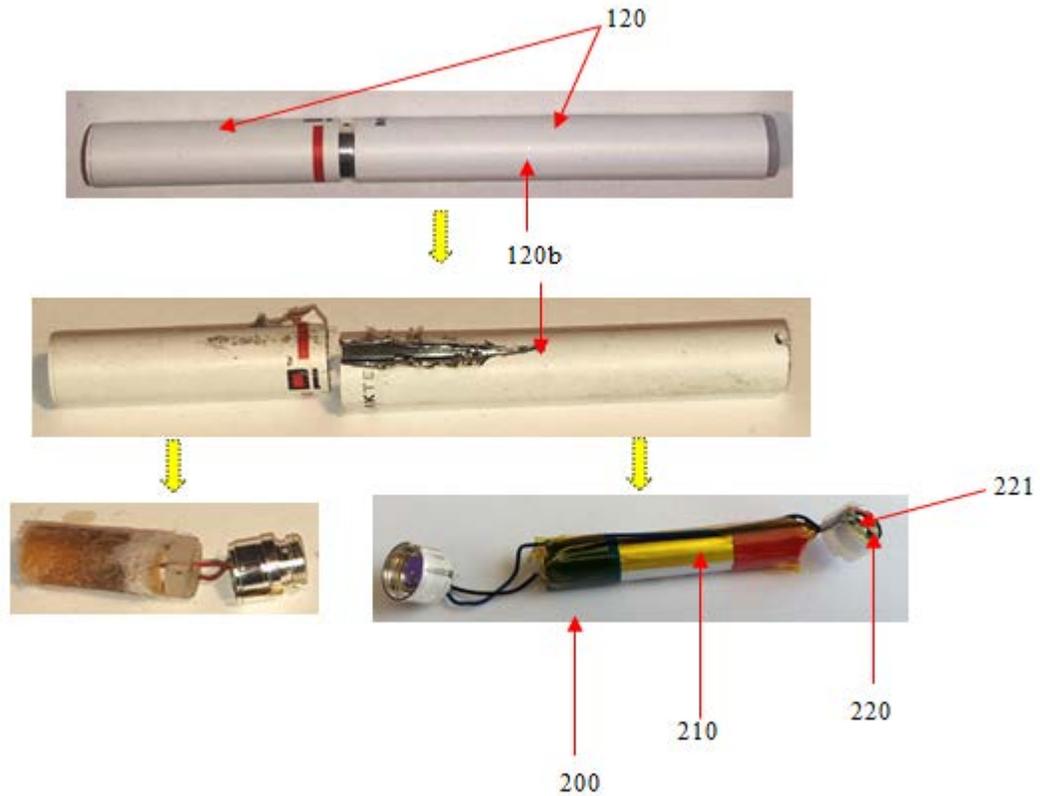
### 15 **MarkTen**

16 571. As shown in the photographs of paragraphs 572 through 581 below,  
17 the MarkTen meets every limitation recited in claim 1 of the '550 Patent.

18 572. The MarkTen is a vaporizing device comprising an electronic cigarette  
19 as recited in claim 1 of the '550 Patent.



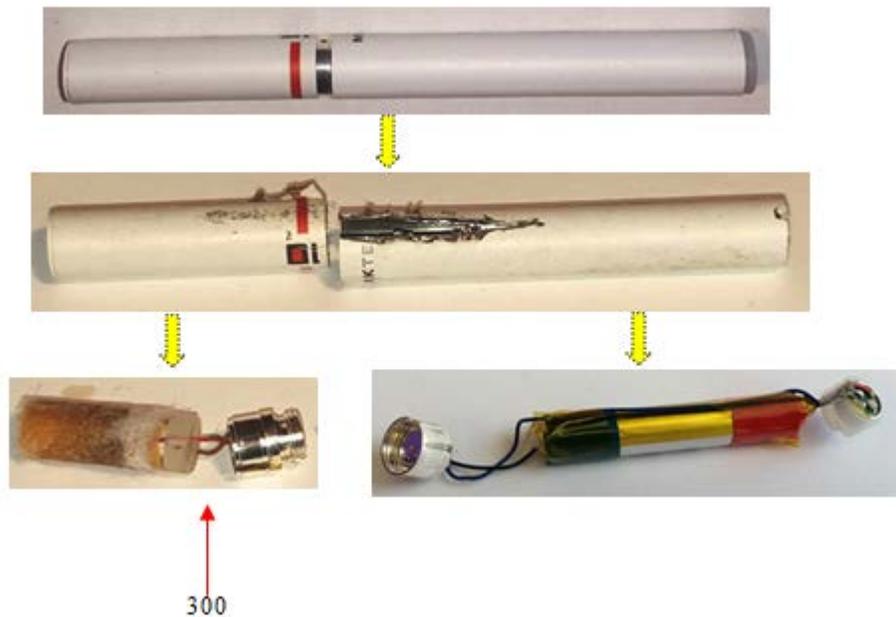
1           573. The MarkTen includes “a battery assembly [200] comprising a tubular  
2 battery assembly housing [120b] having a first end and a second end, with a  
3 battery [210] and a micro-controller unit [221] electrically connected to a circuit  
4 board [220] within the battery assembly housing [120b]” as recited in claim 1 of  
5 the '550 Patent.



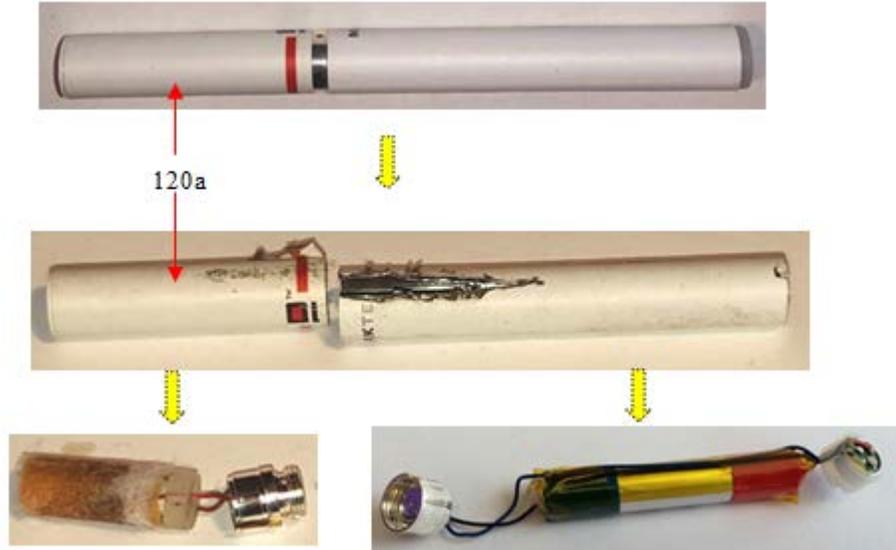
1           574. The MarkTen includes “a first screw thread electrode [160b] on the  
2 first end of the battery assembly housing [120b], with a first through hole [161b] at  
3 a center of the first screw thread electrode [160b]” as recited in claim 1 of the ’550  
4 Patent.



15           575. The MarkTen includes “an atomizer assembly [300]” as recited in  
16 claim 1 of the ’550 Patent.

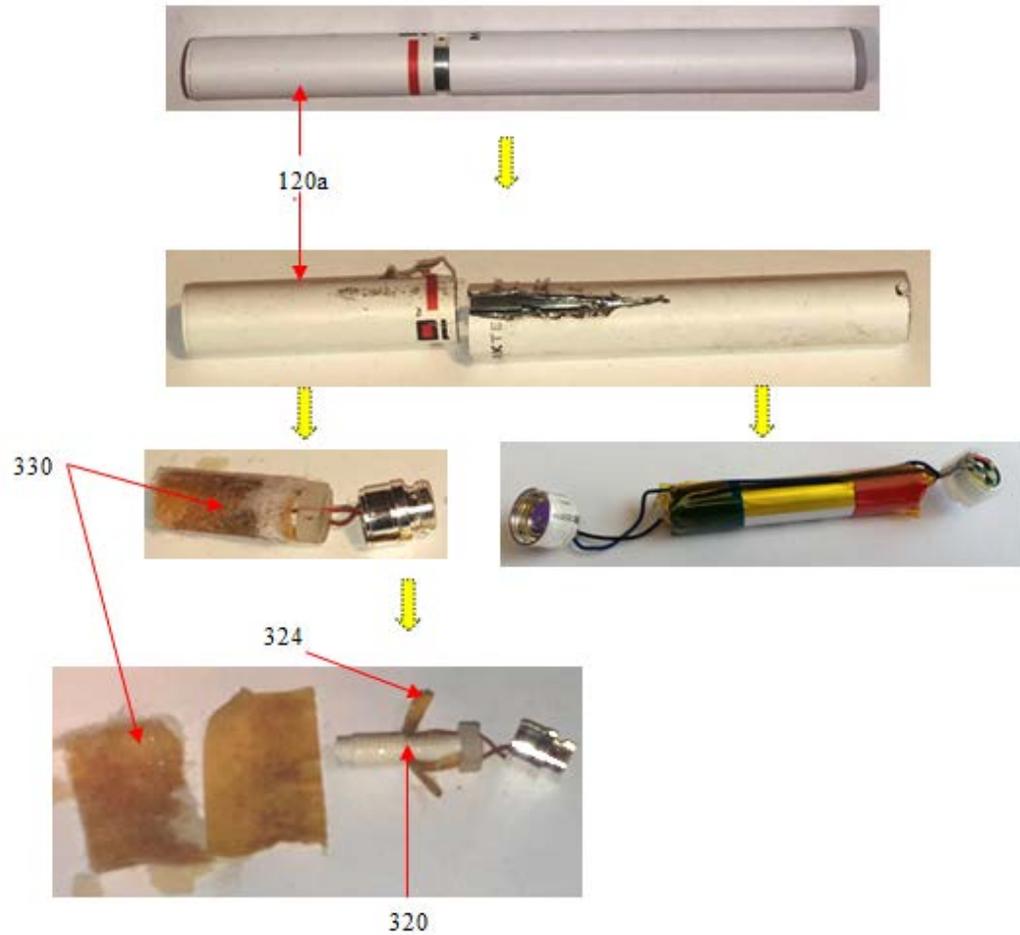


1           576. The MarkTen includes “a tubular atomizer assembly housing [120a]  
2 having a first end and a second end” as recited in claim 1 of the ’550 Patent.  
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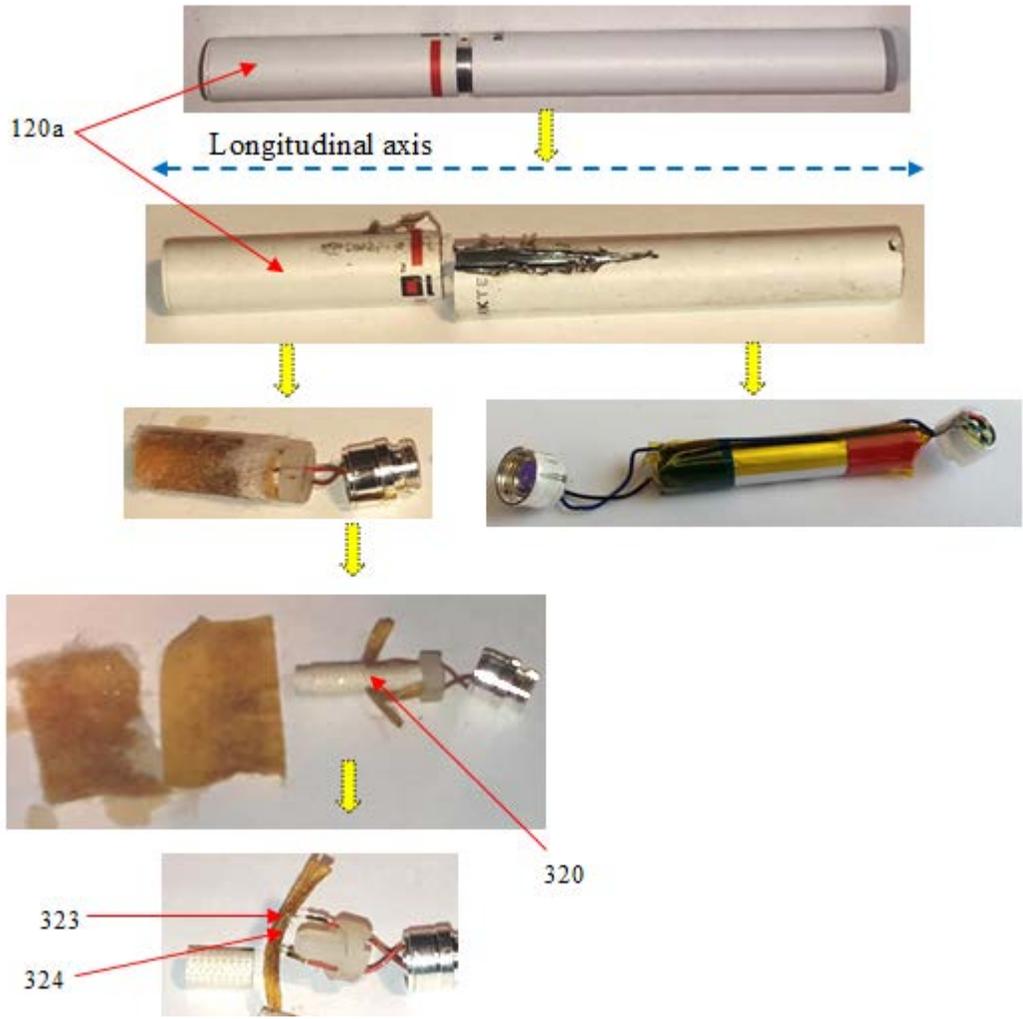


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577. The MarkTen includes “an atomizer [320] having a porous body [324], and a liquid supply [330] in the tubular atomizer assembly housing [120a]” as recited in claim 1 of the ’550 Patent.

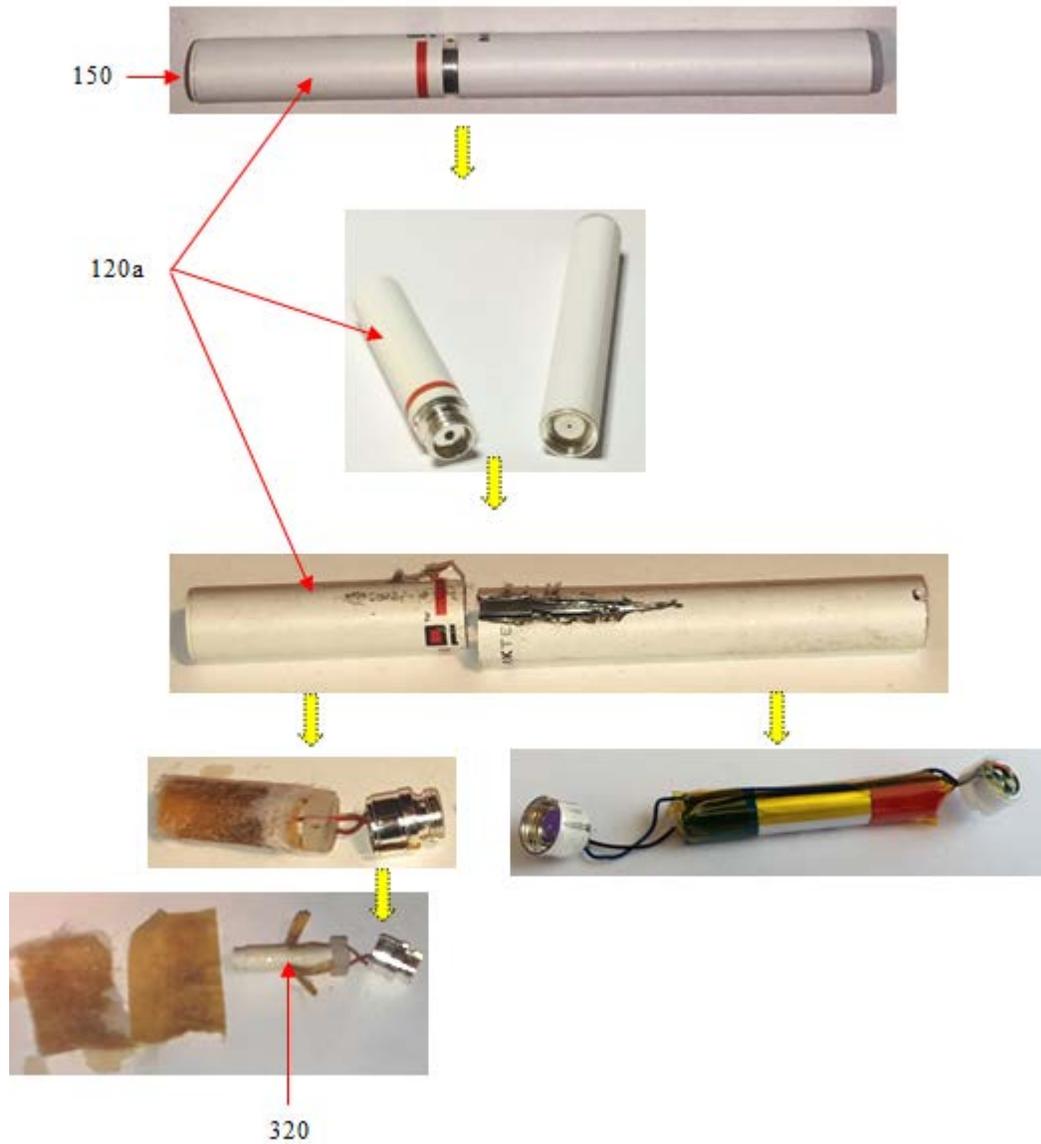


1           578. The MarkTen includes “the atomizer [320] including a heater wire  
2 [323] wound on a part of the porous body [324] which is perpendicular to a  
3 longitudinal axis of the tubular atomizer assembly housing [120a]” as recited in  
4 claim 1 of the ’550 Patent.

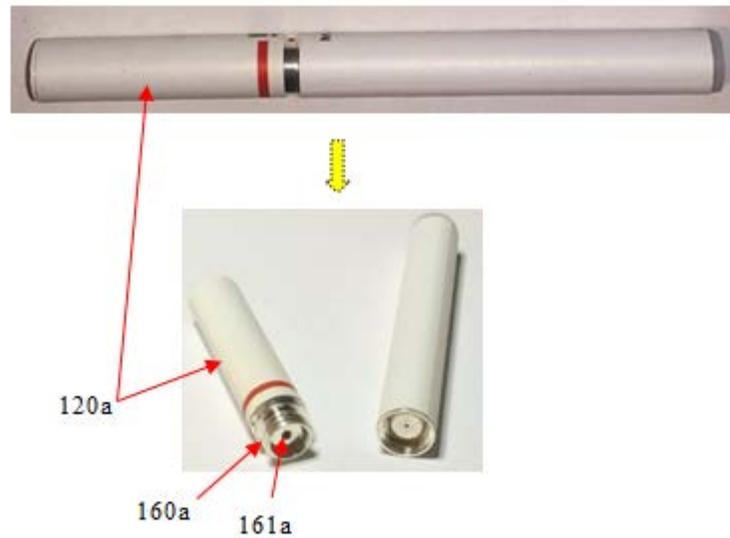


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579. The MarkTen includes “an airflow path through an opening in the atomizer [320] to a suction nozzle [150] at the second end of the tubular atomizer assembly housing [120a]” as recited in claim 1 of the ’550 Patent.

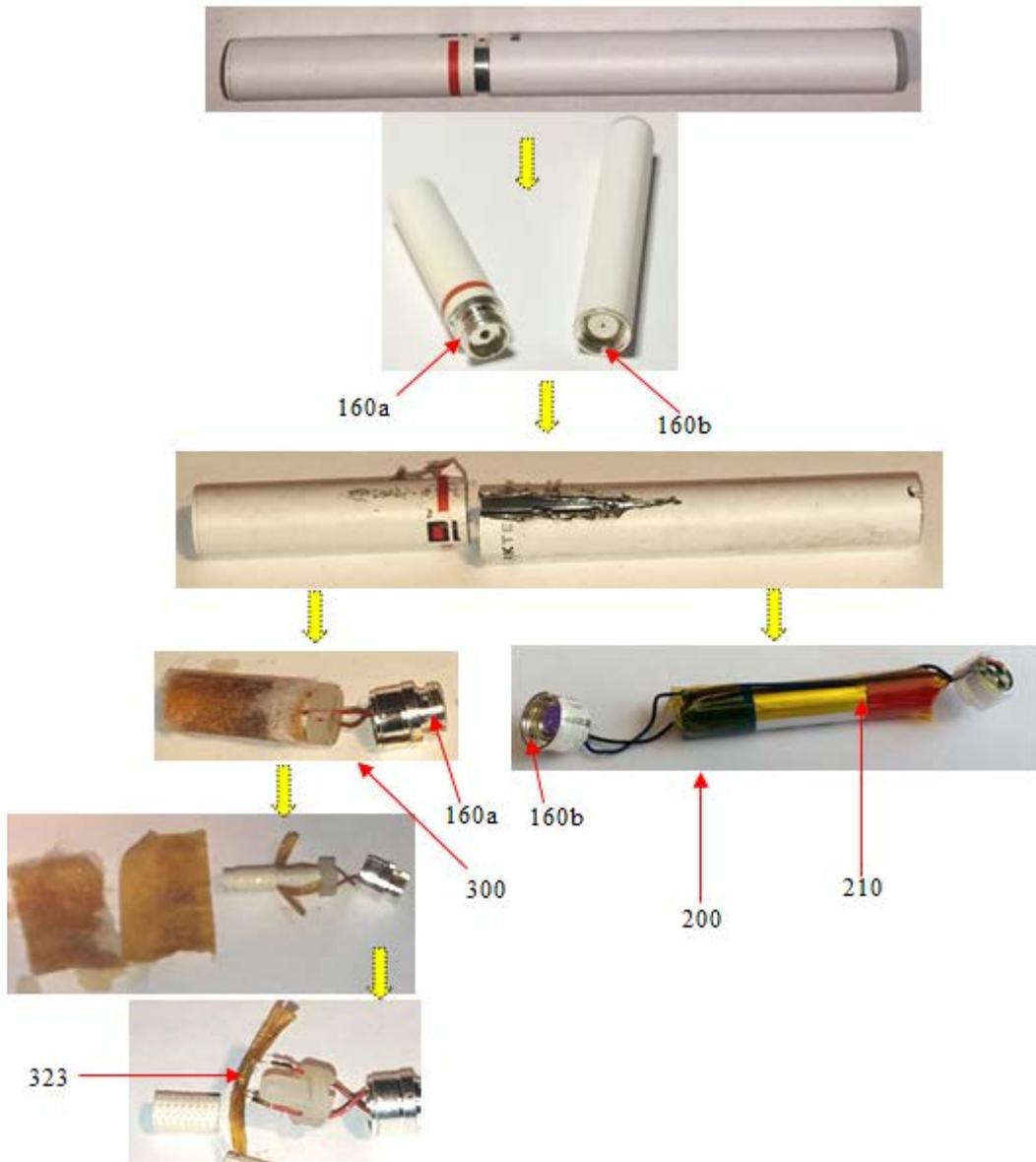


1           580. The MarkTen includes “a second screw thread electrode [160a] on the  
2 second end of the atomizer assembly housing [120a], with a second through hole  
3 [161a] at a center of the second screw thread electrode [160a]” as recited in claim  
4 1 of the '550 Patent.



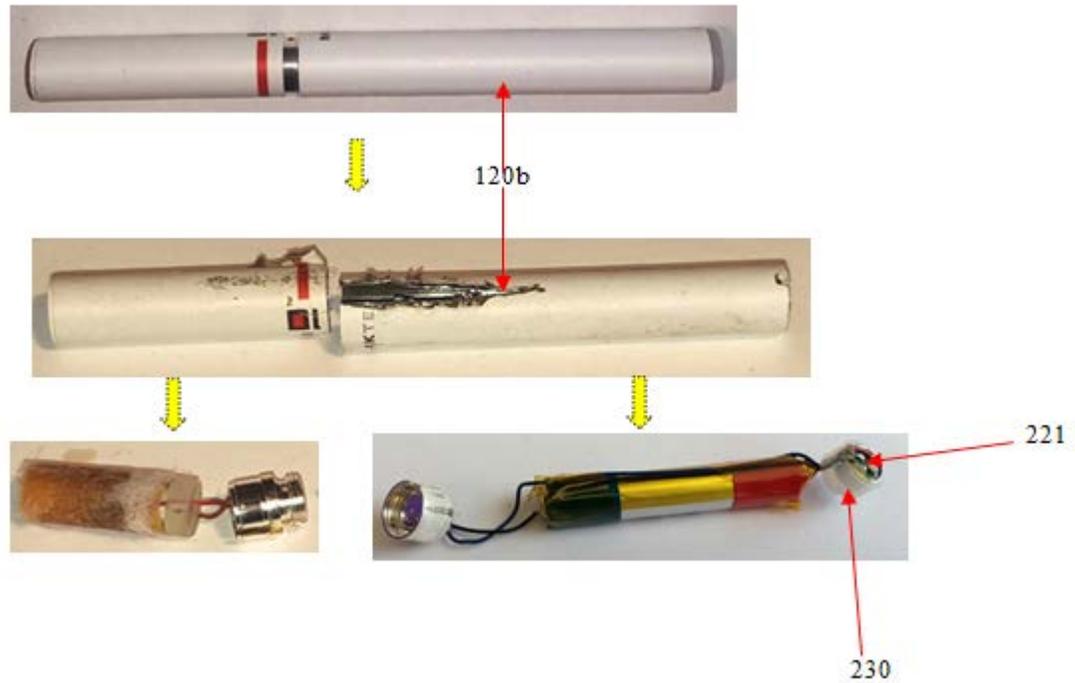
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581. The MarkTen includes “the battery assembly [200] and the atomizer assembly [300] mechanically connected to form the electronic cigarette by engagement of the first screw thread electrode [160b] with the second screw thread electrode [160a], and with electricity conducted from the battery [210] to the heater wire [323] through the first [160b] and second screw thread electrodes [160a] for heating the heater wire [323]” as recited in claim 1 of the ’550 Patent.



1 582. As shown in the photographs of paragraph 583 below, the MarkTen  
2 meets every limitation recited in claim 2 of the '550 Patent.

3 583. The MarkTen "further including a sensor [230] in the battery assembly  
4 housing [120b], with the sensor [230] electrically connected to the micro-controller  
5 unit [221]" as recited in claim 2 of the '550 Patent.



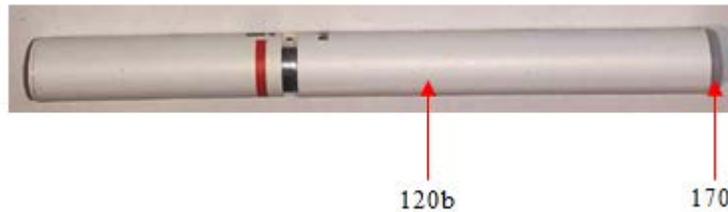
18 584. As shown in the photograph of paragraph 585 below, the MarkTen  
19 meets every limitation recited in claim 3 of the '550 Patent.

20 585. The MarkTen "further including a pressure balancing hole [170] in the  
21 battery assembly housing [120b]" as recited in claim 3 of the '550 Patent.



1           586. As shown in the photograph of paragraph 587 below, the MarkTen  
2 meets every limitation recited in claim 4 of the '550 Patent.

3           587. The MarkTen includes “the pressure balancing hole [170] at the  
4 second end of the battery assembly housing [120b]” as recited in claim 4 of the  
5 '550 Patent.



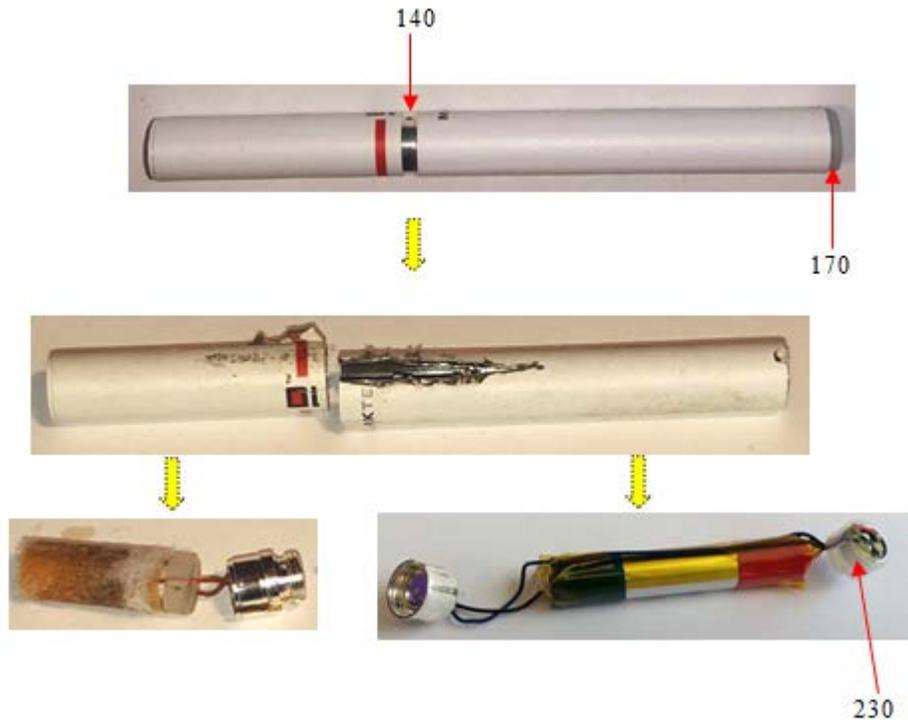
13           588. As shown in the photographs of paragraph 589 below, the MarkTen  
14 meets every limitation recited in claim 5 of the '550 Patent.

15           589. The MarkTen “further including an air inlet [140] at the second screw  
16 thread electrode [160a]” as recited in claim 5 of the '550 Patent.



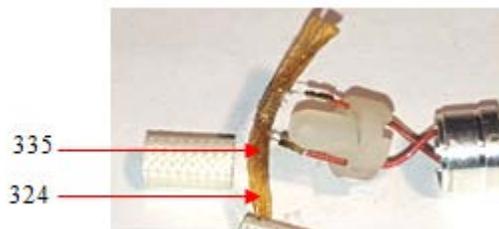
1           590. As shown in the photographs of paragraph 591 below, the MarkTen  
2 meets every limitation recited in claim 6 of the '550 Patent.

3           591. The MarkTen includes “the pressure balancing hole [170] on a first  
4 side of the sensor [230] and the air inlet [140] on a second side of the sensor [230],  
5 opposite from the first side of the sensor [230]” as recited in claim 6 of the '550  
6 Patent.



19           592. As shown in the photograph of paragraph 593 below, the MarkTen  
20 meets every limitation recited in claim 7 of the '550 Patent.

21           593. The MarkTen includes “the porous body [335] comprising a fiber  
22 material [324]” as recited in claim 7 of the '550 Patent.



1           594. As shown in the photographs of paragraph 595 below, the MarkTen  
2 meets every limitation recited in claim 10 of the '550 Patent.

3           595. The MarkTen includes “wherein the first screw thread electrode [160b]  
4 surrounds and is concentric with the second screw thread electrode [160a]” as  
5 recited in claim 10 of the '550 Patent.



15           **GreenSmoke**

16           596. As shown in the photographs of paragraphs 597 through 606 below,  
17 the GreenSmoke meets every limitation recited in claim 1 of the '550 Patent.

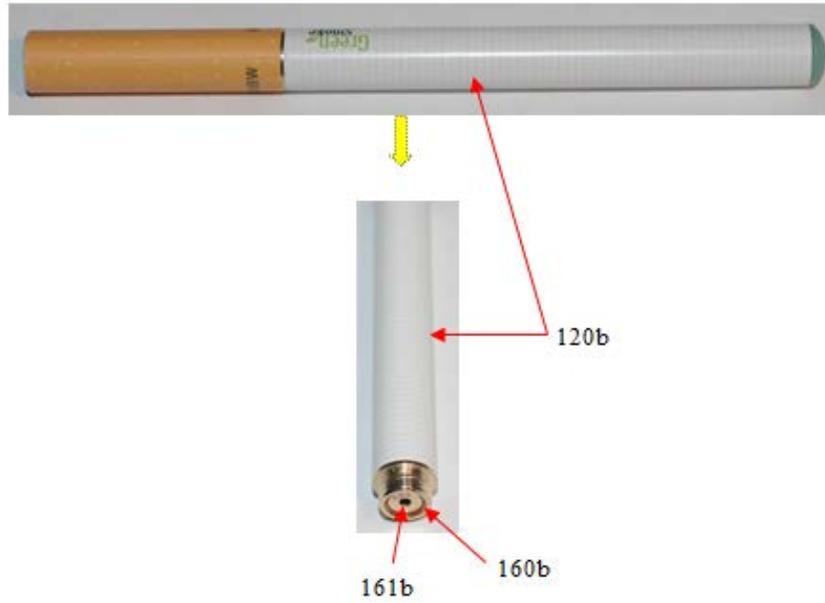
18           597. The GreenSmoke is a vaporizing device comprising an electronic  
19 cigarette as recited in claim 1 of the '550 Patent.



1           598. The GreenSmoke includes “a battery assembly [200] comprising a  
2 tubular battery assembly housing [120b] having a first end and a second end, with  
3 a battery [210] and a micro-controller unit [221] electrically connected to a circuit  
4 board [220] within the battery assembly housing [120b]” as recited in claim 1 of  
5 the '550 Patent.



1           599. The GreenSmoke includes “a first screw thread electrode [160b] on the  
2 first end of the battery assembly housing [120b], with a first through hole [161b] at  
3 a center of the first screw thread electrode [160b]” as recited in claim 1 of the ’550  
4 Patent.



16           600. The GreenSmoke includes “an atomizer assembly [300]” as recited in  
17 claim 1 of the ’550 Patent.



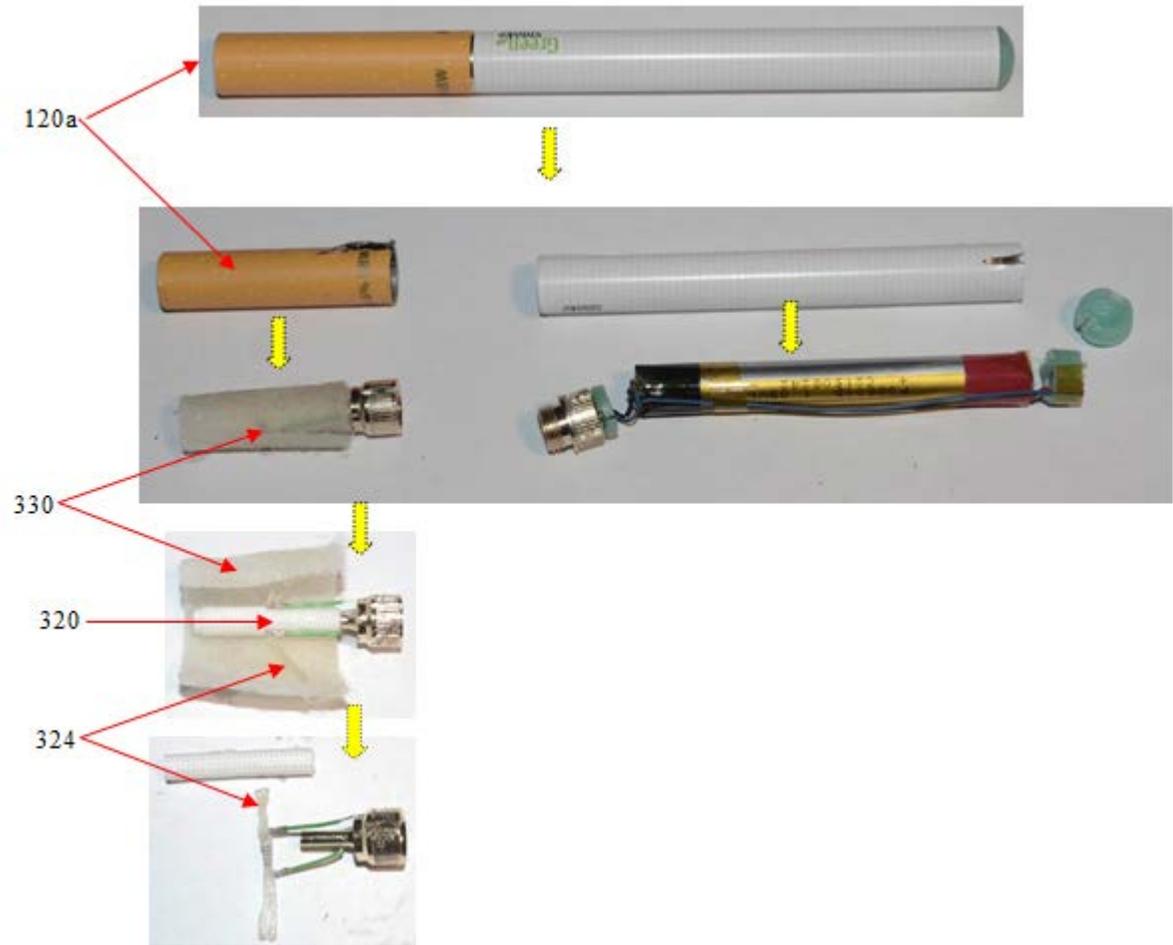
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601. The GreenSmoke includes “a tubular atomizer assembly housing [120a] having a first end and a second end” as recited in claim 1 of the '550 Patent.

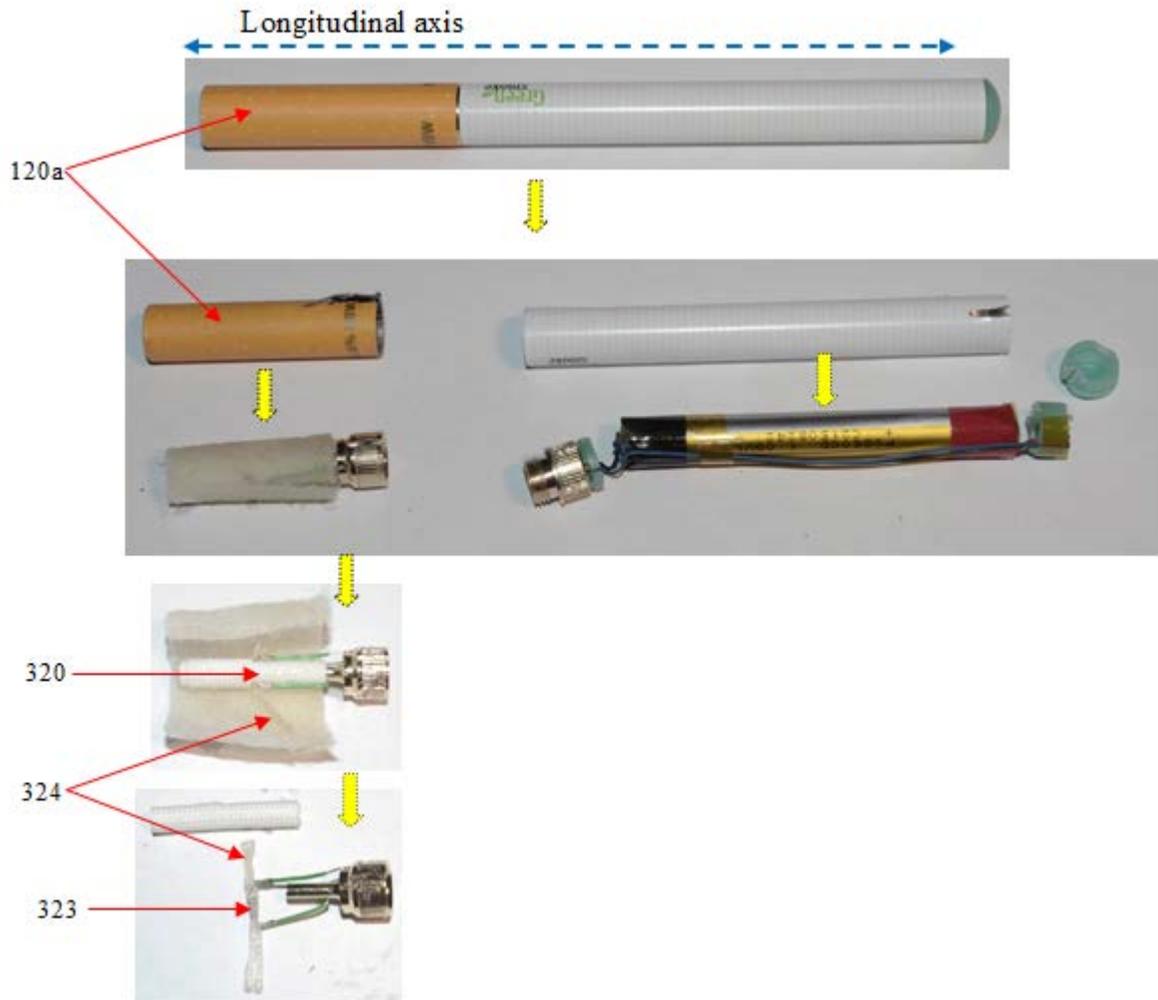


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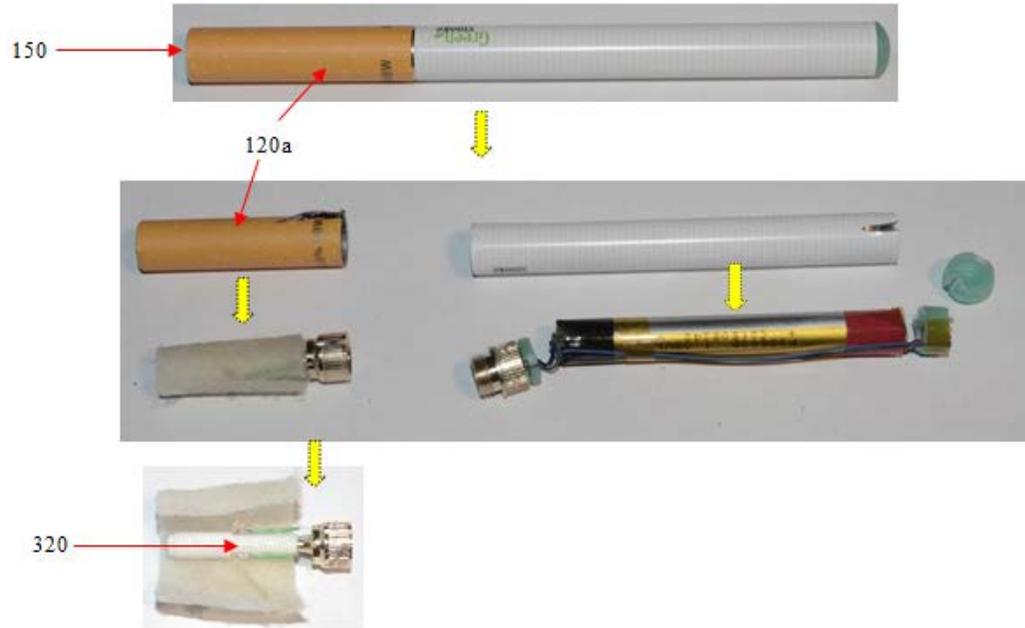
602. The GreenSmoke includes “an atomizer [320] having a porous body [324], and a liquid supply [330] in the tubular atomizer assembly housing [120a]” as recited in claim 1 of the ’550 Patent.



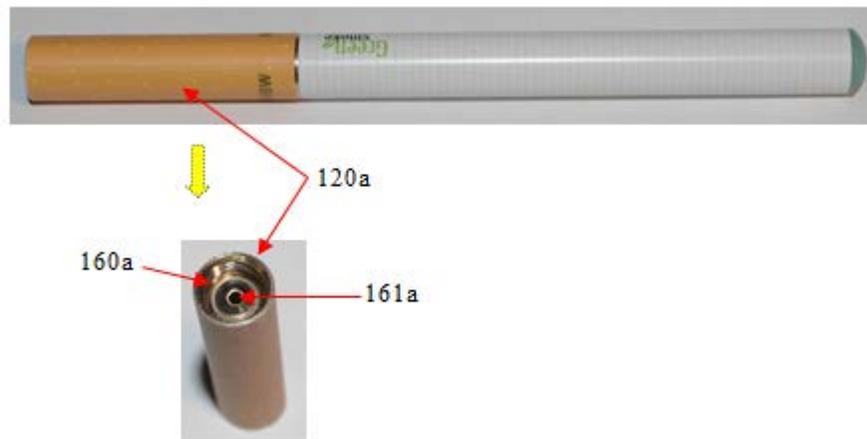
1           603. The GreenSmoke includes “the atomizer [320] including a heater wire  
2 [323] wound on a part of the porous body [324] which is perpendicular to a  
3 longitudinal axis of the tubular atomizer assembly housing [120a]” as recited in  
4 claim 1 of the ’550 Patent.



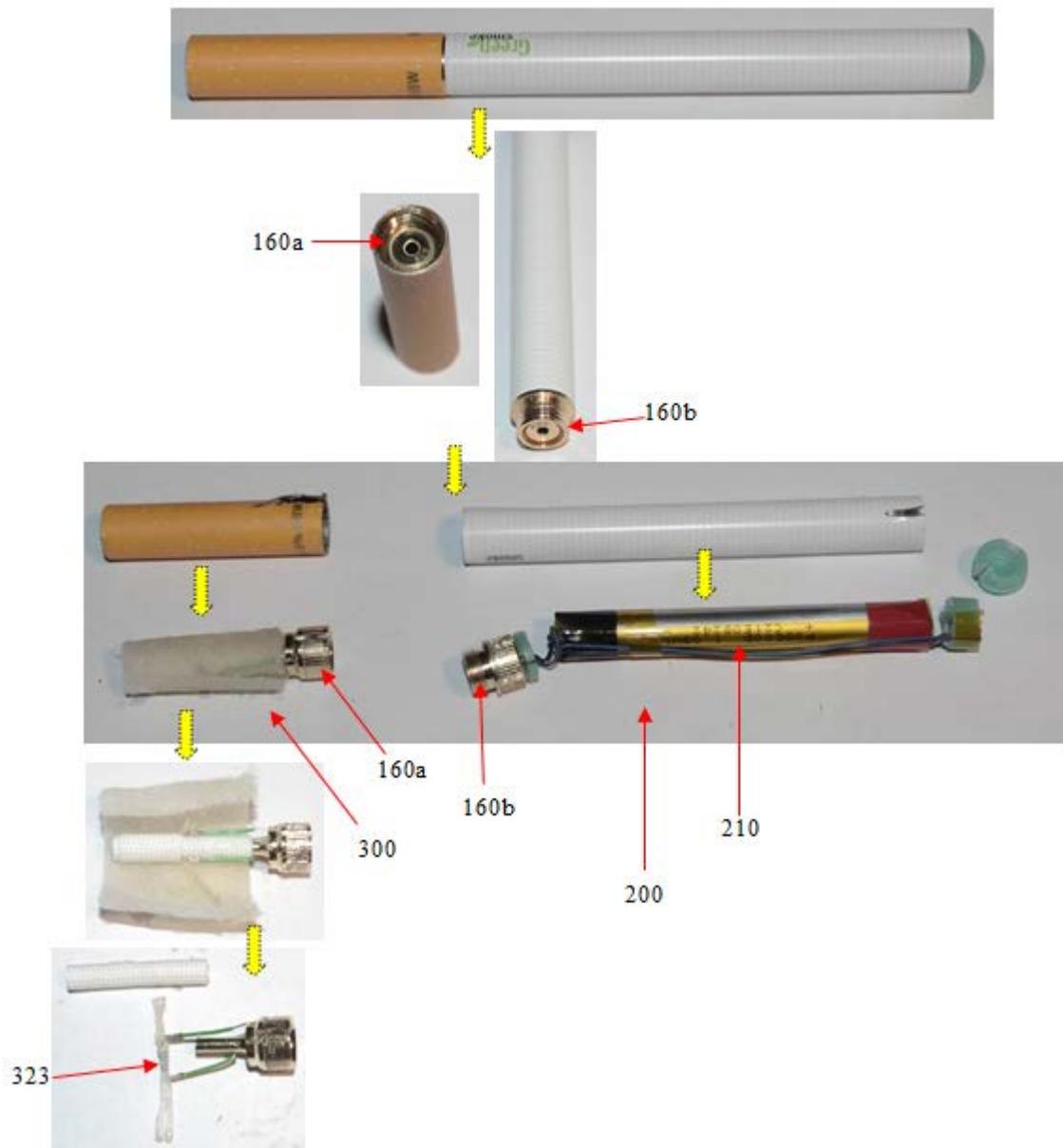
1           604. The GreenSmoke includes “an airflow path through an opening in the  
2 atomizer [320] to a suction nozzle [150] at the second end of the tubular atomizer  
3 assembly housing [120a]” as recited in claim 1 of the ’550 Patent.



15  
16           605. The GreenSmoke includes “a second screw thread electrode [160a] on  
17 the second end of the atomizer assembly housing [120a], with a second through  
18 hole [161a] at a center of the second screw thread electrode [160a]” as recited in  
19 claim 1 of the ’550 Patent.

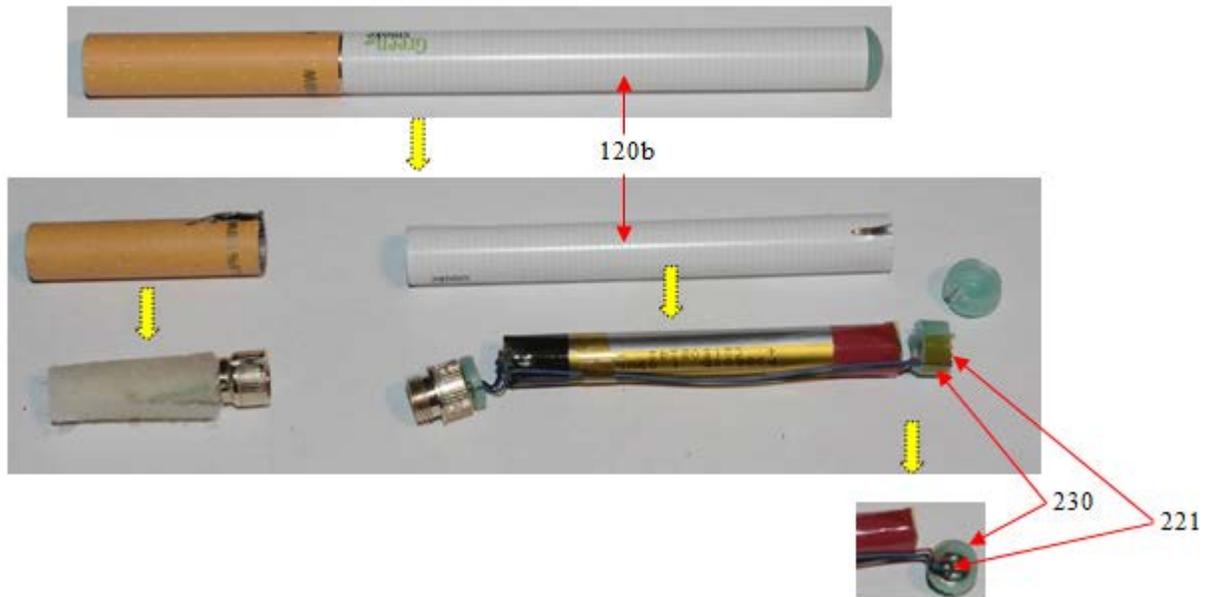


1           606. The GreenSmoke includes “the battery assembly [200] and the  
2 atomizer assembly [300] mechanically connected to form the electronic cigarette  
3 by engagement of the first screw thread electrode [160b] with the second screw  
4 thread electrode [160a], and with electricity conducted from the battery [210] to  
5 the heater wire [323] through the first [160b] and second [160a] screw thread  
6 electrodes for heating the heater wire [323]” as recited in claim 1 of the ’550  
7 Patent.



1           607. As shown in the photographs of paragraph 608 below, the  
2 GreenSmoke meets every limitation recited in claim 2 of the '550 Patent.

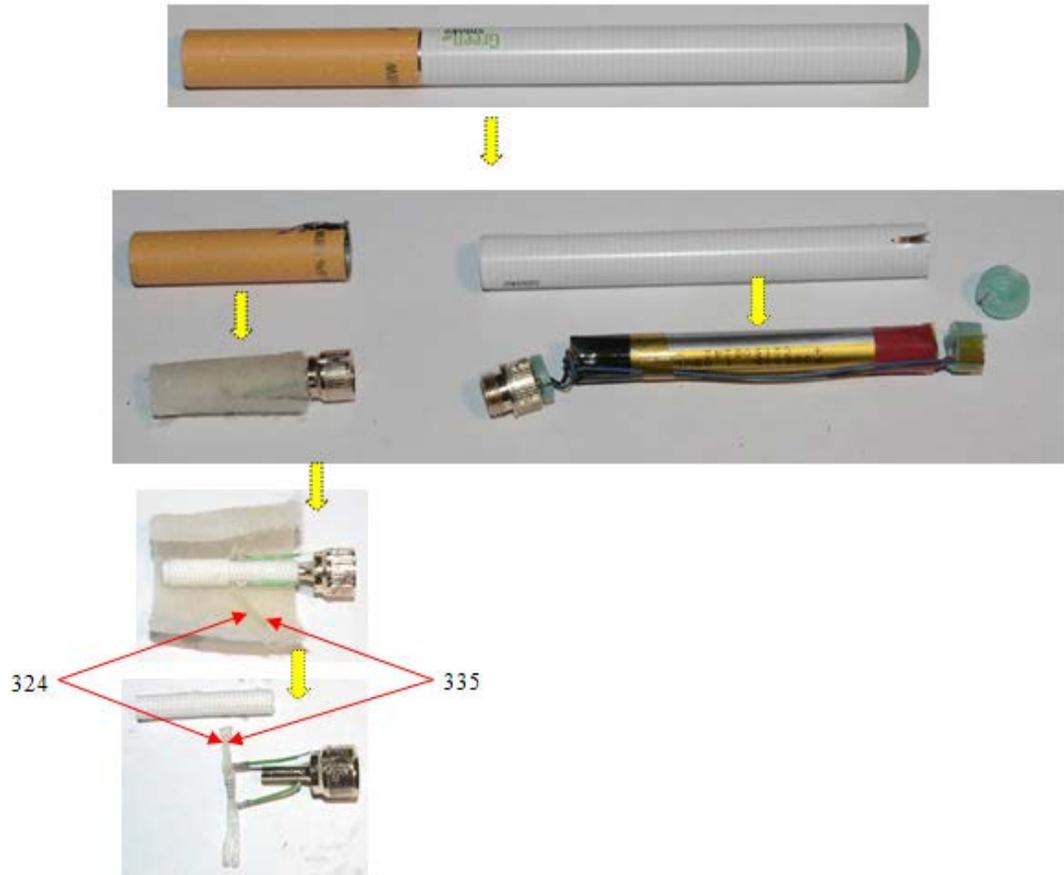
3           608. The GreenSmoke "further including a sensor [230] in the battery  
4 assembly housing [120b], with the sensor [230] electrically connected to the  
5 micro-controller unit [221]" as recited in claim 2 of the '550 Patent.



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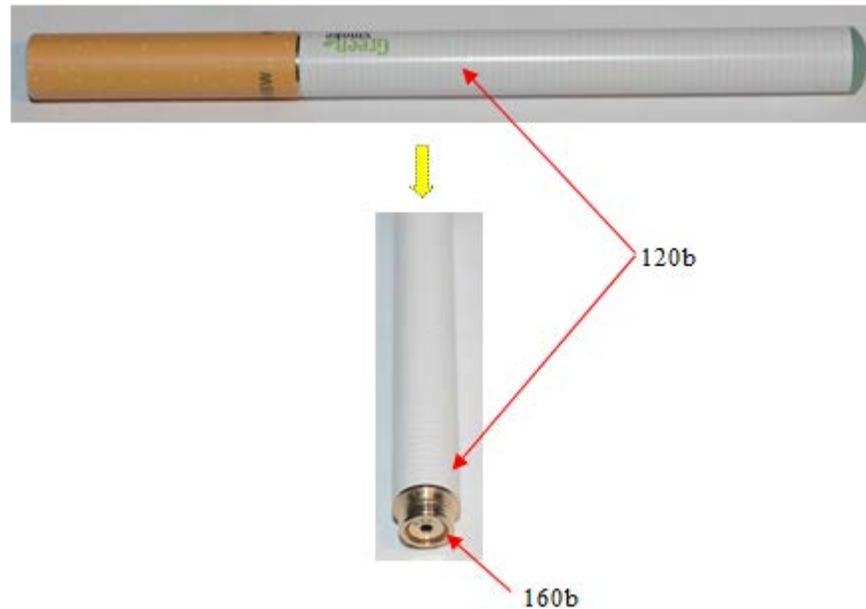
609. As shown in the photographs of paragraph 610 below, the GreenSmoke meets every limitation recited in claim 7 of the '550 Patent.

610. The GreenSmoke includes “the porous body [324] comprising a fiber material [335]” as recited in claim 7 of the '550 Patent.



1           611. As shown in the photographs of paragraph 612 below, the  
2 GreenSmoke meets every limitation recited in claim 8 of the '550 Patent.

3           612. The GreenSmoke includes “the first screw thread electrode [160b]  
4 having external screw threads on an outside surface of the tubular battery assembly  
5 housing [120b]” as recited in claim 8 of the '550 Patent.



17           613. Defendant has also contributed to the infringement of the '550 Patent  
18 in violation of 35 U.S.C. § 271(c) by, itself and/or through its agents, contributing  
19 to the direct infringement of the '550 Patent by its customers by unlawfully and  
20 wrongfully making, using, importing, offering to sell, and/or selling vaporizing  
21 device components having no substantially non-infringing use, which, when used  
22 by its customers, result in direct infringement of the '550 Patent, in this judicial  
23 district and within, from and/or into the United States without permission or  
24 license from Plaintiffs, and will continue to do so unless enjoined by this Court.

25           614. Examples of vaporizing device components that have no substantial  
26 noninfringing uses and that contribute to the direct infringement of the '550 Patent  
27 include, but are not limited to, the MarkTen Products and GreenSmoke Products.  
28

1           615. Having knowledge of the '550 Patent, at least as of the filing of this  
2 Complaint, Defendant is aware that the purchase and use of the MarkTen Products  
3 and GreenSmoke Products and components of the MarkTen Products and  
4 GreenSmoke Products by Defendant's customers results in direct infringement of  
5 the '550 Patent.

6           616. Defendant instructs users on how to use the MarkTen Products and  
7 GreenSmoke Products.<sup>22</sup>

8           617. Defendant instructs users to use a replacement MarkTen Cartridge  
9 when a MarkTen Cartridge is depleted, or to use a replacement MarkTen Battery  
10 when a MarkTen Battery is depleted.

11           618. Defendant further instructs users that "MarkTen® e-vapor products are  
12 designed to work together[,]” and that “[u]sing MarkTen® e-vapor products with  
13 non-MarkTen® e-vapor products may be unsafe, and is not advised.”<sup>23</sup>

14           619. Defendant further instructs that “[c]ustomers should note that using  
15 MarkTen® e-vapor products with another brand's e-vapor products will invalidate  
16 the warranty.”<sup>24</sup>

17           620. Defendant instructs users to use a replacement GreenSmoke Cartridge  
18 when a GreenSmoke Cartridge is depleted, or to use a replacement GreenSmoke  
19 Battery when a GreenSmoke Battery is depleted.<sup>25</sup>

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22           <sup>22</sup> See, e.g., MarkTen® Product Information Guide,  
23 <https://www.markten.com/skin/frontend/markten/default/uploads/current-gen-product-info-guide.pdf> (last visited June 22, 2016) (Exhibit I); How to Use Your E-Cig Kit, <https://www.greensmoke.com/ecig-info/how-to-use-your-e-cig-starter-kit.html> (last visited June 22, 2016) (Exhibit K).

24           <sup>23</sup> Why do I have to use your cartridges only with your batteries, and  
25 your batteries only with your cartridges? <https://www.markten.com/faq> (last visited  
26 June 22, 2016) (Exhibit L).

27           <sup>24</sup> *Id.*  
28           <sup>25</sup> See, e.g., How Do Green Smoke® E-Cigarettes Work?  
<https://www.greensmoke.com/ecig-info/how-electronic-cigarettes-work.html> (last  
visited June 22, 2016) (Exhibit M).