

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**Vari-Volt Technologies, LLC,**

**Plaintiff,**

**v.**

**Joyetech USA, Inc., a California  
corporation, and Joyetech Co., Ltd., a  
Chinese corporation,**

**Defendants.**

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**Case No. 6:16-cv-00926**

**JURY TRIAL**

**FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Vari-Volt Technologies, LLC, (“Vari-Volt”), by and through its undersigned counsel, for its Complaint against Defendants Joyetech USA, Inc. and Joyetech Co., Ltd. (collectively, “Defendants” or “Joyetech”) makes the following allegations. These allegations are made upon information and belief.

**NATURE OF THE ACTION**

1. This is an action against Defendant for infringement of one or more claims of United States Patent No. 8,781,307 (“the ‘307 Patent”).

**PARTIES**

2. Plaintiff Vari-Volt Technologies, LLC is a Texas limited liability company with its principal office located in Texas, at 211 East Tyler Street, Suite 600-A, Longview, Texas 75601.

3. Defendant Joyetech USA, Inc., is a corporation incorporated under the laws of the State of California and has an office and principal place of business at 16 Technology Drive, Suite 118, Irvine, California 92618.

4. On information and belief, Defendant Joyetech Co., Ltd., is a corporation incorporated under the laws of the People's Republic of China and has an office and principal place of business at 9th Blvd, Changxing High New Tech. Industry Zone, Shajing Town, Baoan District, ShenZhen, China.

#### **JURISDICTION AND VENUE**

5. This patent infringement action arises under the patent laws of the United States, including 35 U.S.C. §§ 271, et seq.

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § § 1331 and 1338(a) because it arises under United States Patent law.

7. This Court has personal jurisdiction over the Defendants because they (either directly or through their subsidiaries, divisions, groups or distributors) have sufficient minimum contacts with the forum as a result of business conducted within the State of Texas and this district; and/or specifically over the Defendants (either directly or through their subsidiaries, divisions, groups or distributors) because of their infringing conduct within or directed at the State of Texas and this district. At a minimum, upon information and belief, Defendants have offered for sale, both over the internet and/or at various retail stores such as the Vapor Galleria, which is located at 1400 West SW Loop 323, Suite 50, Tyler, TX 75701, in this district, consumer electronic products that infringe on one or more claims of the '307 Patent.

8. Venue is proper in this district pursuant to 28 U.S.C. §1391(c) and 1400(b) because Defendants are deemed to reside in this district. In addition, at a minimum, Defendants are subject to this Court's personal jurisdiction in that the acts and transactions including the sale of consumer electronic products, which incorporate the technology covered by the patents identified herein through the State of Texas and this district.

## **FACTS**

9. Plaintiff is the owner, by assignment, of U.S. Patent No. 8,781,307 (“the ‘307 Patent”), entitled “Variable Voltage Portable Vaporizer,” which was duly and legally issued on July 15, 2014, by the United States Patent and Trademark Office.

10. A copy of the ‘307 Patent is attached to this Complaint as Exhibit A.

11. The claims of the ‘307 Patent are valid and enforceable.

### **COUNT I: CLAIM FOR PATENT INFRINGEMENT UNDER 35 U.S.C. § 271(a) (‘307 PATENT) (AGAINST DEFENDANTS)**

12. Plaintiff hereby incorporates by reference the allegations of paragraphs 1 through 11 of this Complaint as if fully set forth herein.

13. Defendants make, have made, sell, offer for sale, use and/or import into the United States e-cigarette and vaporizer batteries, including without limitation the e-cigarette and vaporizer batteries having the following model numbers: eGo-C Twist and eGo-C Twist XL (“Accused Product(s)”).

14. Each of the Accused Product(s) is a consumer electronics device with a main body. The main body is the housing of each of the Accused Products. See Exhibit B.

15. Each of the Accused Products includes a connector for coupling the main body with an atomizer. As illustrated in Exhibit B, the “means for electrically coupling the main body with an atomizer” is the threaded connector at the top of the Accused Product which couples to the atomizer base.

16. On information and belief, each of the Accused Products includes an electronic control unit within the main body that is electrically coupled to the connector. See Exhibit B.

17. On information and belief, the electronic control unit includes a potentiometer that is electrically coupled with a voltage regulator for variably controlling an output voltage supplied to the connector. The voltage regulator is a

buck-boost voltage regulator configured to change an output voltage in response to a change in electrical resistance of the potentiometer. See Exhibit B.

18. On information and belief, the main body includes an internal Li-Ion battery which acts as a power source. The internal battery is electrically coupled to the electronic control unit.

19. Each one of the elements of the Accused Product(s), itemized in paragraphs 14-18 above, is an element in Claim 1 of the '307 patent.

20. Thus, each of the Joyetech's Accused Products infringes at least Claims 1-7 and 9-12 of the '307 patent.

21. Plaintiff has been, and will continue to be, irreparably harmed by Defendants' ongoing infringement of the '307 patent.

22. As a direct and proximate result of Defendants' infringement of the '307 Patent, Plaintiff has been and will continue to be damaged in an amount yet to be determined, including but not limited to Plaintiff's lost profits and/or a reasonable royalty.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for relief against Defendants as follows:

A. In favor of Plaintiff that Defendants have infringed one or more claims of the '307 Patent, either literally or under the doctrine of equivalents;

B. Requiring Defendants to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendants' infringement of the '307 Patent as provided under 35 U.S.C. § 284, but not less than a reasonable royalty; and

C. For such other and further relief as may be just and equitable.

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**DEMAND FOR TRIAL BY JURY**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial on all issues and causes of action triable to a jury.

DATED: June 23, 2016

Respectfully submitted,

/s/ Rasheed M. McWilliams

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