

JURISDICTION AND VENUE

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

5. 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.

6. This Court has personal jurisdiction over the Defendant 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 Defendant (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, Defendant has 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.

7. Venue is proper in this district pursuant to 28 U.S.C. §1391(c) and 1400(b) because Defendant is deemed to reside in this district. In addition, at a minimum, Defendant is 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

8. 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.

9. A copy of the '307 Patent is attached to this Complaint as Exhibit A.

10. 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 DEFENDANT)

11. Plaintiff hereby incorporates by reference the allegations of paragraphs 1 through 10 of this Complaint as if fully set forth herein.

12. Defendant sells, offers for sale, uses and/or imports into the United States e-cigarette and vaporizer batteries, including without limitation the e-cigarette and vaporizer batteries having the following model numbers: Vision Spinner Battery Mini; Vision Spinner Battery I; Vision Spinner Battery II; Spinner Plus Battery; and Spinner Plus Limited “Graffiti” Version (“Accused Product(s)”).

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. Thus, each of the Defendant's Accused Products infringes on at least Claim 1 of the '307 patent.

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

21. As a direct and proximate result of Defendant's 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 Defendant as follows:

A. In favor of Plaintiff that Defendant has infringed one or more claims of the '307 Patent;

B. Requiring Defendant to pay Plaintiff its damages, costs, expenses, and prejudgment and post-judgment interest for Defendant's 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: July 25, 2016

Respectfully submitted,

/s/ Rasheed M. McWilliams

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