

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**

LIGHTWIRE, LLC,
a California limited liability company

Case No.:

Plaintiff,

v.

VPR BRANDS, LP
a Delaware limited partnership

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

LIGHTWIRE, LLC (“Plaintiff”) brings this complaint against VPR BRANDS, LP (“VPR” or “Defendant”), and as grounds therefore alleges as follows:

NATURE OF THE ACTION

1. This is an action under 35 U.S.C. § 271 for infringement of United States Patent No. 7,614,402 (“the ‘402 Patent”) (copy attached as **Exhibit “A”**).

THE PARTIES

2. Plaintiff Lightwire, LLC is a California limited liability company having a principal place of business at 177 E. Colorado Blvd., Suite 200, Pasadena, California 91101.

3. Defendant VPR is a Delaware limited partnership having a principal place of business of 3001 Griffin Rd., Fort Lauderdale, Florida 33312.

JURISDICTION AND VENUE

4. 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.

5. This Court has personal jurisdiction over the Defendant because, *inter alia*, it has a principal place of business in the State of Florida; regularly conducts business in the State of Florida; and continues to commit acts of patent infringement in the State of Florida, including by making, using, offering to sell, and/or selling infringing products within the State of Florida including in this district.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c) and 1400(b). Defendant is subject to this Court's personal jurisdiction because, *inter alia*, Defendant has committed and continues to commit acts of patent infringement including making, using, offering to sell, and/or selling infringing products in this district, and/or importing infringing products into this district; Defendant has a principal place of business in this district, and Defendant employs personnel in this district.

'402 PATENT

7. Plaintiff is the owner, by assignment, of U.S. Patent No. 7,614,402 ("the '402" Patent), entitled "Simulated Cigarette," which was duly and legally issued on November 10, 2009. A true and correct copy of the '402 Patent is attached as Exhibit "A".

8. The claims of the '402 Patent are valid and enforceable.

COUNT I: CLAIM FOR PATENT INFRINGEMENT UNDER 35 U.S.C. § 271(a) and (b)

9. Plaintiff hereby incorporates by reference the allegations of paragraphs 1 through 8 of this Complaint as if fully set forth herein.

10. Claim 1 of the '402 Patent covers: "A simulated cigarette for use as a smoking cessation aid, said simulated cigarette comprising a cylindrical member having a predetermined size and shape, said cylindrical member having a first and second portion; a filter member formed at an end of said first portion of said cylindrical member, said filter member having a predetermined size and shape capable of being comfortably held between a user's lips; (c) an opening within an end of said

filter member; (d) a hollow portion formed within said filter member; and (e) a flavoring means placed within said hollow portion, said flavoring means capable of dispersing flavoring through said opening of said filter member and into a user's mouth upon the application of pressure to said filter member to aid in the reduction of a user's urge for a cigarette; wherein said hollow portion comprises a plastic tube which extends through said filter member for containing said flavoring means therein.”

11. Defendant manufactures, imports into the United States, offers for sale, and/or sells cigarette-like devices which infringe at least Claim 1 of the ‘402 Patent (hereafter “Accused Product”).

12. Defendant’s Accused Product includes, without limitation, all of the elements claimed in claim 1 of the ‘402 Patent.

13. A claim chart comparing Claim 1 of the ‘402 Patent to the Accused Product is attached as Exhibit “B”.

14. Such infringement has been and is willful and deliberate.

15. The Plaintiff has been damaged by the acts of infringement complained of herein.

16. The Plaintiff has no adequate remedy without intervention of this Court.

17. This case is “exceptional” within the meaning of 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Defendant as follows:

A. A judgment in favor of Plaintiff that Defendant has infringed one or more claims of the ‘402 Patent, either literally or under the doctrine of equivalents;

B. A judgment in favor of Plaintiff that Defendant has induced infringement of one or more claims of the ‘402 Patent;

C. A judgment in favor of Plaintiff requiring Defendant to pay Plaintiff its damages, costs, expenses and pre-judgment and post-judgment interest for Defendant's infringement of the '402 Patent as provided under 35 U.S.C. § 284, but not less than a reasonable royalty;

D. An injunction in favor of Plaintiff prohibiting Defendant from further engaging in the acts of infringement complained of herein;

E. An award of attorney's fees and costs as permitted by 35 U.S.C. § 285; and

F. Such other and further relief as may be just and equitable.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff hereby demands a trial by jury on all issues triable of right by a jury.

By: /s/ Kevin P. Crosby
Kevin P. Crosby, Esq.
Florida Bar No. 654360
kevin.crosby@gray-robinson.com
GRAYROBINSON, P.A.
Counsel for Plaintiff Lightwire, LLC
401 East Las Olas Boulevard, Suite 1000
Fort Lauderdale, Florida 33301
Telephone: (954) 761-8111
Facsimile: (954) 761-8112