

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION
Case No. 0:18-cv-60917-BB**

LIGHTWIRE, LLC,
a California limited liability company,

Plaintiff,

v.

CHRISTOPHER BRANDING, an individual
doing business as FUMVAPING.COM;
TAMPA FUM, CORP., a Florida corporation
doing business as FUMVAPING.COM; and
Francis K. Villei II, an individual doing
business as FUMVAPING.COM,

JURY TRIAL REQUESTED

Defendants.

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

LIGHTWIRE, LLC (“Plaintiff”) brings this complaint against Christopher Branding, an individual doing business as FUMVAPING.COM (“Branding”), TAMPA FUM, [sic] CORP., a Florida corporation doing business as FUMVAPING.COM (“Tampa FUM”), and Francis K. Villei II, an individual doing business as FUMVAPING.COM (“Villei”) (collectively, “Defendants”), 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 Branding is an individual who resides, on information and belief, at 7164 NW 66th Terrace, Parkland, Florida 33067, and, also on information and belief, Defendant Branding has a regular and established place of business of 12175 NW 39th Street, Coral Springs, Florida 33065 and has committed acts of infringement in this District.

4. Defendant Tampa FUM, [*sic*] Corp. is a Florida corporation with a principal business address of 20535 Grand Vista Lane, Tampa, Florida 33647, and, upon information and belief has committed acts of infringement in this District.

5. Defendant Villei is an individual who resides, on information and belief, at 20535 Grand Vista Lane, Tampa, Florida 33674, and, also on information and belief, has committed acts of infringement in this District.

JURISDICTION AND VENUE

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 all Defendants because, on information and belief, *inter alia*, they have a principal place of business in the State of Florida; regularly conduct business in the State of Florida; and continue to commit acts of patent infringement in the State of Florida, including by making, using, offering to sell, importing, exporting and/or selling infringing products within the State of Florida including in this District.

8. Defendants directly, or through subsidiaries, affiliates or related companies or intermediaries (including distributors, retailers and others), have purposefully and voluntarily placed one or more infringing products into commerce in Florida with the expectation that it/they will be sold to and used by consumers in this District and in Florida generally

9. Upon information and belief, Defendant Tampa FUM is incorporated in Florida; it conducts substantial business within this state; has a principal place of business in this District;

regularly conducts business in Florida, including in this District; has committed and continues to commit acts of patent infringement, including making, using, offering to sell, importing, exporting and/or selling infringing products in and from this District; has a regular and established place of business in this District; employs personnel in this District; directly or through subsidiaries, affiliates or related companies or intermediaries (including distributors, retailers and others), ships, distributes, offers for sale, sells, designs, manufactures, imports, exports and advertises products and/or services that directly and/or indirectly infringe the '282 Patent in this District; and directly, or through subsidiaries, affiliates or related companies or intermediaries (including distributors, retailers and others), has purposefully and voluntarily placed one or more infringing products into commerce with the expectation that it/they will be sold to and used by consumers in this District and in Florida generally.

10. Venue is proper in this district pursuant to 28 U.S.C. §1400(b) because Defendant Tampa FUM is incorporated in Florida.

'402 PATENT

11. 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.

12. 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)**

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

14. 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."

15. Defendants manufacture, import into or export from the United States, offer for sale, and/or sell cigarette-like devices under the "FUM Disposables" brand which infringe at least Claim 1 of the '402 Patent (hereafter "Accused Product").

16. Defendants' Accused Product includes, without limitation, all of the elements claimed in claim 1 of the '402 Patent.

17. A claim chart comparing Claim 1 of the '402 Patent to the Accused Product is attached as Exhibit B.

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

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

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

21. This case is "exceptional" within the meaning of 35 U.S.C. § 285.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Defendants as follows:

- A. A judgment in favor of Plaintiff that Defendants have 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 Defendants have induced infringement of one or more claims of the '402 Patent;
- C. A judgment in favor of Plaintiff requiring Defendants to pay Plaintiff its damages, costs, expenses and pre-judgment and post-judgment interest for Defendants' 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 Defendants 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.

Dated: May 2, 2018

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