

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

6. Venue is proper in this district pursuant to 28 U.S.C. § 1400(b). Defendant is subject to this Court's personal jurisdiction because Defendant has a principal place of business in this judicial district, employs personnel in this judicial district and is incorporated in this District.

FACTS

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 which 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)**

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; (b) 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 infringes at least Claim 1 of the '402 Patent (hereafter “Accused Product”).

12. Defendant’s Accused Product includes, without limitation, the Prosmoke Menthol Flavored Disposable Electronic Cigarette.

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

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 '402 Patent, either literally or under the doctrine of equivalents;

B. Requiring Defendant to pay Plaintiff its damages, costs, expenses, and prejudgment 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; and

C. For 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 30, 2018

Respectfully submitted,

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