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**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA**

Lightwire, LLC, a California Limited Liability Company,

Plaintiff,

v.

Spark Industries, LLC a California Limited Liability Company,

Defendant.

) Case No. 2:18-cv-05003

)  
)  
) **COMPLAINT FOR**  
) **INFRINGEMENT OF U.S.**  
) **PATENT NO. 7,614,402**

) **DEMAND FOR JURY TRIAL**

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Lightwire, LLC, (“Lightwire” or “Plaintiff”), by and through its  
3 undersigned counsel, for its Complaint (“Complaint”) against Defendant Spark  
4 Industries, LLC (“Spark” or “Defendant”) makes the following allegations upon  
5 information and belief:

6 **NATURE OF THE ACTION**

7 1. This is an action against Defendant for infringement of one or more  
8 claims of United States Patent No. 7,614,402 (the “402 Patent”).

9 **PARTIES**

10 2. Plaintiff Lightwire, LLC is a limited liability company organized under  
11 the laws of the State of California, with its principal place of business at 177 E  
12 Colorado Blvd., Ste. 200, Pasadena, CA 91101.

13 3. Spark Industries, LLC is a limited liability company organized under the  
14 laws of California, which has an office and principal place of business at 750 Calle  
15 Plano, Camarillo, CA 93012.

16 **JURISDICTION AND VENUE**

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

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

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

26 7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1391(c),  
27 and 1400(b). Defendant’s infringement occurs at least in part within this district in  
28 that infringing products are at least offered for sale in this district. Defendant

1 maintains an established and regular presence in this judicial district with its office in  
2 Camarillo, CA.

3 **FACTS**

4 8. Plaintiff is the owner, by assignment, of the '402 Patent, entitled  
5 "Simulated Cigarette," which was duly and legally issued on November 10, 2009 by  
6 the United States Patent and Trademark Office ("USPTO").

7 9. A copy of the '402 Patent is attached to this Complaint as **Exhibit A**.

8 10. The claims of the '402 Patent are valid and enforceable, as the claims are  
9 directed to novel patent-eligible subject matter relating to a physical device.

10 11. A true and correct copy of the USPTO's assignment record is attached to  
11 this Complaint as **Exhibit B**, showing the recordation of Plaintiff's sole ownership  
12 interest in the '402 Patent.

13 **COUNT I: PATENT INFRINGEMENT - NINA**

14 **UNDER 35 U.S.C. § 271(b) ('402 PATENT)**

15 12. Plaintiff hereby incorporates by reference the allegations of paragraphs  
16 1 through 11 of this Complaint, as if fully set forth herein.

17 13. Claim 1 of the '402 Patent covers "a simulated cigarette for use as a  
18 smoking cessation aid, said simulated cigarette comprising a cylindrical member  
19 having a first and second portion, a filter member formed at an end of said first portion  
20 of said cylindrical member, said filter member having a predetermined size and shape  
21 capable of being comfortably held between a user's lips, an opening within an end of  
22 said filter member, a hollow portion formed within said filter member, and a flavoring  
23 means placed within said hollow portion, said flavoring means capable of dispersing  
24 flavoring through said opening of said filter member and into a user's mouth upon  
25 application of pressure to said filter member to aid in the reduction of a user's urge  
26 for a cigarette, wherein said hollow portion comprises a plastic tube which extends  
27 through said filter member for containing said flavoring means therein."

28 14. Defendant manufactures, imports into the United States, offers for sale,

1 and/or sells simulated cigarettes, which read upon the limitations of Claim 1 of the  
2 ‘402 Patent, and thus infringe at least Claim 1 of the ‘402 Patent (hereafter “Accused  
3 Product(s)”).

4 15. Defendant’s Accused Products include, without limitation, the ‘CIG<sup>2</sup>O  
5 Soft Tip Mini Kit Menthol’ product.

6 16. A claim chart comparing Claim 1 of the ‘402 Patent to an Accused  
7 Product is attached hereto as **Exhibit C**.

8 17. The Accused Product exhibited in the claim chart is an electronic  
9 cigarette starter kit that includes an electronic cigarette that, when used, simulates  
10 holding an actual cigarette in a user’s mouth and / or hand, and is sold as a way of  
11 satisfying a customer’s “emergency cravings” while ceasing the use of conventional  
12 cigarettes. *See* Ex. C, p. 1.

13 18. The Accused Product exhibited in the claim chart is in the shape of a tube  
14 of a predetermined size, where the tube includes a first fluid storage portion and a  
15 second power storage portion that stores, amongst other elements, the battery. *See*  
16 Ex. C, p. 2.

17 19. The Accused Product exhibited in the claim chart includes a filter  
18 member replicating the look and tactile sensation of a filter of a traditional cigarette,  
19 which can be comfortably held between a user’s lips, to thus provide a “Cigarette-like  
20 Experience.” *See* Ex. C, p. 3.

21 20. The Accused Product exhibited in the claim chart includes an outlet in  
22 the outwardly-facing end of the simulated filter of the first fluid storage portion. *See*  
23 Ex. C, p. 4.

24 21. The Accused Product exhibited in the claim chart includes a cylindrical  
25 hollow space inside the simulated filter where a fluid-saturated wick is stored. *See*  
26 Ex. C, p. 5.

27 22. The Accused Product exhibited in the claim chart includes menthol  
28 flavoring that a user can taste when inhaling through the outlet in the outwardly-face

1 end of the simulated filter. *See* Ex. C, p. 6.

2 23. The Accused Product exhibited in the claim chart relies on a plastic tube  
3 to form the hollow space needed to contain the liquid flavoring-impregnated wick.  
4 *See* Ex. C, p. 7.

5 24. Each of the features exhibited by the Accused Product – as described in  
6 in paragraphs 17-23 above – read on each and every limitation in Claim 1 of the ‘402  
7 Patent.

8 25. Thus, at least the sale, use, manufacture, and/or offer for sale of  
9 Defendant’s Accused Product – as exhibited in the claim chart attached as Exhibit C  
10 to the Complaint – constitutes direct infringement of at least Claim 1 of the ‘402  
11 Patent.

12 26. Plaintiff has been, and will continue to be, irreparably harmed by  
13 Defendant’s ongoing acts of direct infringement of the ‘402 Patent.

14 27. As a direct and proximate result of Defendant’s direct infringement of  
15 the ‘402 Patent, Plaintiff has been and will continue to be damaged in an amount yet  
16 to be determined, including but not limited to a reasonable royalty.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for relief against Defendant as follows:

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

21 **B.** Requiring Defendant to pay Plaintiff its damages, costs, expenses, and  
22 prejudgment and post-judgment interest for Defendant’s infringement of the ‘402  
23 Patent as provided under 35 U.S.C. § 284, but not less than a reasonable royalty; and

24 **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 5, 2018

Respectfully submitted,  
**COTMAN IP LAW GROUP, PLC**  
By: /s/ Jayson S. Sohi  
Jayson S. Sohi  
  
*Attorneys for Plaintiff Lightwire, LLC*