

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

ReFUUL, LLC,

Plaintiff,

v.

**BRIK CHARGER, LLC, A
FLORIDA CORPORATION, ERIC
LUCAS EPSTEIN, AND
ALEXANDER FJELLBERG
SWERDLOWE**

Defendants.

Civil Action No.

_____-Civ

TRIAL BY JURY DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

1. Plaintiff ReFUUL, LLC (“Plaintiff”) files this Complaint for patent infringement against Brik Charger, LLC (“Defendant Brik Charger, LLC”), Defendant Eric Lucas Epstein (“Defendant Epstein”), and Defendant Alexander Fjellberg Swerdlowe (“Defendant Swerdlowe”) (collectively, “Defendants”), and alleges the following:

THE PARTIES

2. Plaintiff ReFUUL, LLC is a limited liability corporation organized and existing under the laws of the state of Delaware that maintains its principal place of business at 205 N.9th Street, #3E, Brooklyn, NY 11211.

3. Defendant Brik Charger, LLC, upon information and belief, is a limited liability corporation organized and existing under the laws of the state of Florida that maintains its principal place of business at 1600 Michigan Avenue, No. 7, Miami Beach FL 33139.

4. Defendants Eric Lucas Epstein and Alexander Fjellberg Swerdlowe are, upon information and belief, residents of Florida, including within this judicial district, and work and operate their business, Brik Charger, LLC, at 1600 Michigan Avenue, No. 7, Miami Beach FL 33139, wherein both Defendant Epstein and Defendant Swerdlowe are listed as managers of Defendant Brik Charger, LLC.

JURISDICTION AND VENUE

5. This action arises under the patent laws of the United States, Title 35 of the United States Code.

6. This Court has exclusive subject matter jurisdiction over this case for patent infringement under 28 U.S.C §§ 1331 and 1338(a).

7. This Court has personal jurisdiction over Defendant Brik Charger, LLC because it has engaged in systematic and continuous business activities in this District and is incorporated in this District's state. As described below, Defendant Brik Charger, LLC, through and at the direction of its principals, Defendant Epstein and Defendant Swerdlowe, has committed acts of patent infringement giving rise to this action within this District.

8. Venue is proper in this District for Defendants under 28 U.S.C. § 1400(b) and 28 U.S.C. § 1391 §§ (b) and (c) because Defendants reside in this District. In addition, Defendants have committed acts of patent infringement resulting in harm to the Plaintiff in this District and is believed to have a regular and established place of business in this judicial district.

PATENT-IN-SUIT

9. Plaintiff is the assignee of all right, title and interest in United States Patent No. 10,537,140 ("the Patent-in-Suit" or "the '140 patent"); including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit.

Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement on the Patent-in-Suit by Defendants.

THE ‘140 PATENT

10. The ‘140 patent is entitled “A Recharging Case for Use with a Vaporization Device.” The Patent-in-Suit issued on January 21, 2020. The application leading to the ‘140 patent was filed on February 18, 2019, and received the benefit of priority under 35 U.S.C § 119 to United States Provisional Patent Application No. 62/661, 602 filed on April 23, 2018, and entitled, “Charging Case for Electronic Vaporizer.” A true and correct copy of the ‘140 patent is attached hereto as Exhibit 1 and incorporated herein by reference.

COUNT 1: DIRECT INFRINGEMENT OF THE ‘140 PATENT UNDER 35 U.S.C § 271(a)

11. Plaintiff incorporates paragraphs 1-10 herein by reference.

12. The ‘140 patent is valid and enforceable.

13. **Direct Infringement.** Defendants sell the “BRIK for JUUL” (“the Exemplary Defendant Product”) vaporizer on their website (<https://brikcharger.com/products/portable-charger>, *See*, Exhibit 2). As seen in Exhibit 2 and with reference to the claim chart in Exhibit 3, Defendants have been and continue to directly infringe, literally or by the doctrine of equivalents, one or more claims of the ‘140 patent in at least this District by making, using, offering to sell, selling, and/or importing, without limitation, at least the Exemplary Defendant Product identified in the chart incorporated into this Count (*See*, Exhibit 3). Exhibit 3 includes charts comparing the Exemplary ‘140 patent claims to the Exemplary Defendant Product. As set forth in these charts, the Exemplary Defendant Product practices the technology claimed in the ‘140 patent. Accordingly, the Exemplary Defendant Product incorporated in these charts and depicted in the screenshot

attached to this Complaint as Exhibit 2 satisfies all of the elements on the Exemplary '140 patent claims.

14. On information and belief, numerous devices, other than the Exemplary Defendant Production, are also believed to infringe the claims of the '140 patent have been made, used, sold, imported, and offered for sale by Defendants and/or its customers.

15. Defendants continue to make, use, test, sell, offer for sale, market, and/or import into the United States the Exemplary Defendant Product that infringes the '140 patent. On information and belief, Defendants have also continued to sell the Exemplary Defendant Product and distribute product literature via their website, including to end users who use its product in the customary and intended manner that infringes the '140 patent. *See* Exhibit 4 which allows an end user to gather information and purchase the Exemplary Defendant Product. To that end, it is believed that Defendant Epstein and Defendant Swerdlowe are the controlling and motivating force behind the infringements referenced herein.

As such, Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement.

COUNT 2: INDUCED INFRINGEMENT OF THE '140 PATENT UNDER 35 U.S.C § 271(b)

16. Plaintiff incorporates paragraphs 1-15 herein by reference.

17. **Actual Knowledge of Infringement.** A cease-and-desist letter was sent to Defendants on July 30, 2021, to Defendants' place of business. A true and correct copy of the cease-and-desist letter is attached hereto as Exhibit 4 and incorporated herein by reference.

18. The service of this Complaint and the cease-and-desist letter in conjunction with the attached claims charts and references cited, constitute actual knowledge of infringement as alleged here.

19. **Induced Infringement.** At least since receiving the cease-and-desist letter and, in addition, being served by this Complaint and corresponding claim charts, Defendant has actively, knowingly, and intentionally continued to induce infringement of the '140 Patent, literally or by the doctrine of equivalents, by selling Exemplary Defendant Product to other users for use in end-user products in a manner that infringes one or more claims of the '140 Patent. Exemplary Defendant Product is available on Defendant's website (<https://brikcharger.com/products/portable-charger>). Exemplary Defendant Product is also available, for example, in third party websites (https://www.amazon.com/BRIK-Portable-Carrying-Case-Accessory/dp/B08M5PWHY2/ref=sr_1_3?dchild=1&keywords=brick+charger+juul&qid=1635948283&sr=8-3, *See*, Exhibit 5).

20. Even with the knowledge of infringement on the '140 patent and on information and belief, Defendant continues to make available for purchase Exemplary Defendant Product specifically intending other users to infringe the '140 patent.

21. Plaintiff is entitled to recover damages adequate to compensate for Defendant's infringement.

JURY DEMAND

22. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff respectfully requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the following relief:

A. A judgment that the '140 patent is valid and enforceable;

- B. A judgment that Defendant has infringed directly and indirectly, and willfully, one or more claims of the '140 patent;
- C. An accounting of all damages not presented at trial;
- D. A judgment that awards Plaintiff all appropriate damages under 35 U.S.C § 284 for Defendant continuing or future infringement, up until the date such judgment is entered with respect to the '140 patent, including pre-or post-judgment interests, costs, and disbursements as justified under 35 U.S.C § 284;
- E. To adequately compensate Plaintiff for Defendant's infringement, an accounting:
 - a. that this case be declared exceptional within the meaning of 35 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys' fees against Defendant that it incurs in prosecuting this action;
 - b. that Plaintiff be awarded costs, and expenses that it incurs in prosecuting this action; and
 - c. that Plaintiff be awarded such further relief at law or in equity as the Court deems just and proper.

Dated: January 6, 2022

Respectfully submitted,

/s/ Mark C. Johnson
Mark C. Johnson (FBN: 84365)
Email: MJ@JohnsonDalal.com
JOHNSON | DALAL
Attorneys for Plaintiffs
200 South Andrews Avenue
Museum Plaza, Suite 100
Fort Lauderdale, Florida 33301
Telephone: (954) 507-4500
Facsimile: (954) 507-4502

Keegan M. Caldwell
pro hac vice admission pending

keegan@caldwellip.com

Edgardo J. Mantilla

pro hac vice admission pending

ed@caldwellip.com

Caldwell Intellectual Property Law

200 Clarendon St., 59th Floor,

Boston, MA 02116

(857) 496-8913