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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Puff Corp., a Delaware corporation,

Plaintiff,

vs.

SHO Products, LLC, a New York
limited liability company; and
MasterMinded, Inc., a California
Corporation,

Defendants.

Case No. _____

PUFF CORP.'S COMPLAINT

Jury Trial Demanded

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1 Plaintiff Puff Corp. (“Puffco” or “Plaintiff”) alleges for its Complaint against
2 Defendants SHO Products, LLC (“SHO Products”) and MasterMinded, Inc.
3 (“MasterMinded”) (collectively, “Defendants”) as follows:

4 **NATURE OF THE CASE**

5 1. Defendants have engaged in deliberate, willful, and ongoing
6 infringement of Puffco’s well-established patent rights in, to, and under U.S. Patent
7 No. 10,517,334, titled “Portable Electronic Vaporizing Device” (the “334 Patent”),
8 by marketing, selling, offering for sale, and/or importing into the United States the
9 infringing Carta device, as described below.

10 **PARTIES**

11 2. Plaintiff Puffco is a Delaware corporation with its principal place of
12 business at 1201 West 5th Street, Suite 800, Los Angeles, CA 90017.

13 3. Upon information and belief, Defendant SHO Products is a New York
14 limited liability company with its principal place of business at 1602 Lockness
15 Place, Torrance, California 90501.

16 4. Upon information and belief, Defendant MasterMinded is a California
17 corporation with its principal place of business at 1417 W Pico Blvd, Los Angeles,
18 California 90015.

19 5. Upon information and belief, SHO Products manages, operates, and/or
20 controls MasterMinded, and the SHO Products Chief Executive Officer (“CEO”)
21 and Chief Financial Officer (“CFO”) also act or acted as the CEO and CFO of
22 MasterMinded during the relevant time period.

23 **JURISDICTION AND VENUE**

24 6. The Court has subject matter jurisdiction over these claims pursuant to
25 28 U.S.C. §§ 1331 and 1338 because these claims arise under the patent laws of the
26 United States, as enacted under Title 35 of the United States Code.

27 7. The Court has personal jurisdiction over Defendant SHO Products
28 because its principal place of business is located in this District, it committed acts of

1 infringement in this District, and it marketed and sold the infringing products to
2 consumers in this District.

3 8. The Court has personal jurisdiction over Defendant MasterMinded
4 because its principal place of business is located in this District, it committed acts of
5 infringement in this District, and it marketed and sold the infringing products to
6 consumers in this District.

7 9. Venue is proper in this district under 28 U.S.C. 1400(b) because
8 Defendants reside in this District, and/or because Defendants committed acts of
9 infringement in this District and have a regular and established place of business in
10 this District.

11 **BACKGROUND**

12 **I. PUFFCO BACKGROUND**

13 10. Puffco is a leading developer and provider of consumption platforms
14 for concentrates and portable vaporizing devices. Puffco has won numerous awards
15 from well-known organizations and conferences in the vaporizing industry,
16 including High Times (1st place for best vaporizer, 2015, and multiple Cannabis
17 Cup awards in 2016 and 2017), Hempcon (best vaporizer 2016), and Spannabis
18 (best vaporizer, silver, 2017), for the outstanding innovation and quality of its
19 product design.

20 11. In 2018, the Puffco product development team developed a new and
21 innovative portable vaporizing device that would ultimately be marketed as the
22 Puffco Peak[®]. An example of the Puffco Peak[®] is shown below
23 (<https://www.puffco.com/products/the-peak>).

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12. In 2020, Puffco began marketing and selling the Puffco Peak Pro device. An example of the Puffco Peak Pro is shown below.



1 13. Generally speaking, the Puffco Peak[®] and Puffco Peak Pro vaporizing
2 devices include an atomizer, a base and a mouthpiece, with the atomizer and
3 mouthpiece being removably attachable to the base. A vaporizable product loaded
4 into the atomizer is at least partially vaporized by heating of the vaporizable product
5 in the atomizer. The vaporized product travels from the atomizer to the mouthpiece
6 through a conduit housed in the base, and the vaporized product exits the
7 mouthpiece for inhalation by a user of the product. The removability of the
8 mouthpiece and atomizer with respect to the base, in addition to other aspects of the
9 device, provide for an improved user experience over previous vaporizing devices.

10 14. Following its introduction into the marketplace in 2018, the Puffco
11 Peak[®] immediately generated interest and acclaim. Unsolicited media coverage has
12 referred to the Peak product as “the world’s most coveted cannabis accessory.” *See*
13 <https://www.leafly.com/news/industry/how-the-puffco-peak-squashes-bugs-haters>.
14 Forbes.com has lauded the Puffco Peak[®] as “Handheld Exuberance.” *See*
15 [https://www.forbes.com/sites/warrenbobrow/2019/02/20/the-puffco-peak-smart-rig-](https://www.forbes.com/sites/warrenbobrow/2019/02/20/the-puffco-peak-smart-rig-handheld-exuberance/#41bb142234c5)
16 [handheld-exuberance/#41bb142234c5](https://www.forbes.com/sites/warrenbobrow/2019/02/20/the-puffco-peak-smart-rig-handheld-exuberance/#41bb142234c5). High Times proclaimed that with the Puffco
17 Peak[®] “the future of dabbing has arrived.” *See* [https://hightimes.com/products/](https://hightimes.com/products/review-puffco-peak-promises-great-dabs-modern-package/)
18 [review-puffco-peak-promises-great-dabs-modern-package/](https://hightimes.com/products/review-puffco-peak-promises-great-dabs-modern-package/). The Puffco Peak[®]
19 quickly went on to become a market leader for its category of vaporizing device,
20 and a top seller for Puffco.

21 15. The Puffco Peak Pro similarly received immediate interest and acclaim.
22 Unsolicited media coverage has referred to the Puffco Peak Pro device as “the most
23 futuristic dabbing device yet” and “a cannabis delivery system for the 23rd century.”
24 *See* <https://mashable.com/article/puffco-peak-pro-review/>; *see also*
25 <https://www.laweekly.com/first-look-puffco-talks-new-peak-pro/> (“The world’s
26 most famous electronic dab rig is back for round two.”);
27 <https://time.com/6114276/best-tech-gifts-holidays-2021/> (“Puffco’s Peak Pro
28 electronic vaporizer is the BMW of bongs”).

16. As the popularity of the Puffco Peak® and Puffco Peak Pro increased, so did attempts to copy and imitate the underlying invention. As one industry article described it:

Like most industries, true innovation in the device arena occurs rarely, creating a domino effect of knockoffs in varying degrees of quality. The Peak is the perfect example of a lightning rod invention that changed the world of concentrates, and launched a thousand look-alikes in the process.

See <https://weedmaps.com/news/2021/07/behind-the-quest-for-the-perfect-dab/>.

II. PUFFCO'S '334 PATENT

17. Puffco has carefully protected its inventions and cutting-edge technologies with a range of intellectual property rights, including by pursuing design and utility patent protection.

18. On December 31, 2019, the U.S. Patent and Trademark Office (“the Patent Office”) issued the ‘334 Patent to Puffco to cover its groundbreaking vaporizing device technology. A true and correct copy of the ‘334 Patent is attached hereto as Exhibit A.

19. The Patent Office carefully examined the ‘334 Patent, and in doing so, the Patent Office found that the inventions described and claimed in the ‘334 Patent are both new and not obvious in light of prior patents, publications, and other art, and determined that the claimed systems and methods are inventive and patentable.

20. The claims of the ‘334 Patent are generally directed to a portable vaporizing device with an atomizer and mouthpiece that are each independently removably attachable to the base. For example, claim 1 of the ‘334 Patent recites:

A portable electronic vaporizing device comprising:

a base having a gas flow path conduit therein and a housing for one or more components for electrically connecting to a power source and/or controlling the device, the gas flow path conduit comprising a conduit inlet and a conduit outlet;

1 a mouthpiece that is removably attachable to the base, the
2 mouthpiece comprising:

3 a mouthpiece housing comprising one or more mouthpiece walls
4 at least partly defining a mouthpiece internal flow path
5 through the mouthpiece housing;

6 an inhalation outlet formed in a region of the one or more
7 mouthpiece walls; and

8 at least one mouthpiece inlet capable of being placed in
9 communication with the conduit outlet of the base upon
10 attachment of the mouthpiece to the base, to receive a flow
11 of gas into the mouthpiece from the base; and

12 an atomizer that is removably attachable to the base, the atomizer
13 comprising:

14 an atomizer inlet configured to receive a flow of gas into the
15 atomizer;

16 an atomizer housing comprising one or more atomizer housing
17 walls that at least partially define an atomizer internal flow
18 path therein;

19 a container within the atomizer housing that is capable of holding
20 a vaporizable product,

21 a heating element capable of heating the vaporizable product held
22 in the container, the heating element being configured to be
23 electrically connected to the one or more components for
24 electrically connecting to the power source and/or
25 controlling the device that are housed in the base;

26 a first container inlet capable of introducing gas into the container
27 to entrain vaporizable product;

28 one or more second container outlets capable of flowing the gas
having the vaporizable product entrained therein into
atomizer internal flow path; and

one or more atomizer outlets capable of receiving the flow of gas
from the atomizer internal flow path, and providing the flow
of gas to the conduit inlet of the base,

1 wherein the flow of gas having the vaporizable product entrained
2 therein flows from the atomizer internal flow path and through the gas
3 flow conduit inlet of the base to the mouthpiece inlet, and along the
4 mouthpiece internal flow path to the inhalation outlet.

5 21. The ‘334 Patent relates back to a provisional patent application filed on
6 January 14, 2019, as well as a Patent Cooperation Treaty (PCT) application also
7 filed on January 14, 2019.

8 22. Both the Puffco Peak[®] and Puffco Peak Pro vaporizing devices practice
9 the invention claimed in the ‘334 Patent.

10 23. On November 23, 2021, following entry of summary judgment in
11 Puffco’s favor on the issue of infringement, the United States District Court for the
12 Central District of California, Case No. CV 20-358, the Honorable George H. Wu
13 presiding, entered a Final Consent Judgment and Entry of Permanent Injunction
14 (“Consent Judgment”) decreeing, among other things, that claims of the ‘334 Patent
15 are valid and enforceable and that a different third-party’s vaporizing device
16 infringes the ‘334 Patent. The Consent Judgment also included a permanent
17 injunction prohibiting the infringer and others from, among other things, making,
18 offering to sell, or selling in the U.S., or importing into the U.S., the infringing
19 vaporizing device.

20 **III. DEFENDANTS HAD NOTICE OF THE ‘334 PATENT**

21 24. Upon information and belief, SHO Products received notice of the ‘334
22 Patent at least as early as January 3, 2020, and again on February 17, 2022, by virtue
23 of letters from Puffco’s counsel notifying SHO Products of the issuance of the ‘334
24 Patent. The letters requested that SHO Products immediately cease all infringing
25 activity with respect to the ‘334 Patent, including cessation of all sales, marketing,
26 importation into the United States, and promotion of devices that infringe the ‘334
27 Patent, including the infringing Carta device discussed below.

28 25. Upon information and belief, MasterMinded received notice of the ‘334
Patent at least as early as January 3, 2020, and again on February 17, 2022, by virtue

1 of letters from Puffco's counsel notifying SHO Products of the issuance of the '334
2 Patent. The letters requested that MasterMinded immediately cease all infringing
3 activity with respect to the '334 Patent, including cessation of all sales, marketing,
4 importation into the United States, and promotion of devices that infringe the '334
5 Patent, including the infringing Carta device discussed below.

6 **IV. DEFENDANTS' MARKETING AND SALE OF THE INFRINGING**
7 **DEVICE**

8 26. Upon information and belief, SHO Products describes itself as involved
9 in the "distribution and marketing of premium products in the growing head shop,
10 smoke shop, dispensary channels" with "a growing distribution footprint of over
11 5,000 smoke shops and dispensaries throughout the United States."

12 27. Upon information and belief, SHO Products is also involved with
13 operating, managing, and/or controlling several website and distribution channels,
14 including the brand "Master Minded Distribution" and related website
15 <https://master-minded.com/>, as well as the brand "Focus V" and related website
16 <https://focusv.com/>, among others.

17 28. One of the products that SHO Products began marketing, selling,
18 importing, and/or distributing in the United States is the Focus V Carta Electronic
19 Rig Kit (the "Carta 1" or "Carta OG"), as shown below:
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29. Upon information and belief, SHO Products also began marketing, selling, importing, and/or distributing in the United States an updated version of the device named the Focus V Carta 2 Electronic Rig Kit (the “Carta 2”), as shown below:

CARTA ACCESSORIES **FOCUS V** EXPLORE CARE CENTER

CARTA 2 SIGN UP

CARTA

CARTA 2 IS COMING.

Don't miss out at your chance to pre-order.

1 The Carta 1, Carta 2, and similar devices by other names are collectively
2 referred to herein as the “Carta.”

3 30. Upon information and belief, SHO Products has offered to sell or sold
4 within the United States, or imported into the United States, the Carta device, and
5 continues to do so.

6 31. Upon information and belief, MasterMinded has offered to sell or sold
7 within the United States, or imported into the United States, the Carta device, and
8 continues to do so.

9 32. The Carta device practices each element of one or more of claims 1-13
10 of the ‘334 Patent, as further described below. By way of non-limiting example, a
11 chart setting out the elements of claim 1 of the ‘334 Patent, and some, but not all,
12 representative corresponding infringing elements of the Carta, is attached hereto as
13 Exhibit B. The chart in Exhibit B is for illustrative purposes only, and Puffco
14 reserves the right to amend or modify the descriptions therein based on further
15 investigation or discovery.

16 33. Despite receiving Letters from Puffco notifying SHO Products and
17 MasterMinded of the issuance of the ‘334 Patent, and demanding the cessation of all
18 marketing, sales, offers to sell, and/or importation into the U.S. of the Carta device,
19 on information and belief, SHO Products and MasterMinded continue to market,
20 offer for sale, sell, and/or import into the United States the Carta device.

21 **COUNT ONE**

22 **PATENT INFRINGEMENT**

23 34. Puffco incorporates by reference and realleges the averments set forth
24 in the preceding paragraphs as if fully restated and incorporated herein.

25 35. On December 31, 2019, the Patent Office duly and legally issued the
26 ‘334 Patent.

1 36. Puffco is the owner, by assignment, of all right, title, and interest in and
2 to the '334 Patent, including, but not limited to, the right to recover damages for past
3 and future infringement.

4 37. The infringing Carta device meets each element of one or more of
5 claims 1-13 of the '334 Patent. By way of non-limiting example, a chart setting out
6 the elements of claim 1 of the '334 Patent, and some, but not all, representative
7 corresponding infringing elements of the Carta, is attached hereto as Exhibit B.

8 38. SHO Products has been, and is, directly and/or indirectly infringing,
9 literally and/or under the doctrine of equivalents, the '334 Patent in violation of 35
10 U.S.C. § 271 by, among other things, selling, offering for sale, and/or importing into
11 the United States the Carta device as described above.

12 39. MasterMinded has been, and is, directly and/or indirectly infringing,
13 literally and/or under the doctrine of equivalents, the '334 Patent in violation of 35
14 U.S.C. § 271 by, among other things, selling, offering for sale, and/or importing into
15 the United States the Carta device as described above.

16 40. At all relevant times, on information and belief, SHO Products' and
17 MasterMinded's acts of infringement of the '334 Patent have been committed and
18 are being committed willfully with full knowledge and notice of Puffco's rights in
19 and to the '334 Patent including, but not limited to, the claims set forth therein

20 41. As a direct and proximate result of SHO Products' and MasterMinded's
21 infringement of the '334 Patent, Puffco has suffered and continues to suffer damage.
22 Among other things, Puffco is entitled to recover as damages from SHO Products
23 and MasterMinded, jointly and severally, Puffco's lost profits, and no less than a
24 reasonable royalty, in an amount to be determined at trial.

25 42. As a direct and proximate result of SHO Products' and MasterMinded's
26 acts of infringement, Puffco has been irreparably harmed and will continue to be
27 harmed unless and until the infringing acts are enjoined and restrained by order of
28 this Court.

REQUEST FOR RELIEF

Wherefore, Puffco respectfully requests that this Court enter judgment and provide relief as follows:

A. Enter a judgment that SHO Products and MasterMinded, and each of them, have infringed and are infringing one or more claims of the '334 Patent;

B. That Puffco be awarded damages against SHO Products and MasterMinded pursuant to 35 U.S.C. § 284 that are adequate to compensate Puffco for the infringement of Puffco's '334 Patent, but in no event less than a reasonable royalty for the use made of the claimed invention together with interest and costs;

C. Permanently enjoin, under 35 U.S.C. § 283, SHO Products and MasterMinded, and each of their officers, agents, servants, employees, attorneys, successors, and assigns and all other persons in active concert or participation with any of them from infringing the '334 Patent;

D. Declare that SHO Products and MasterMinded's infringement was and is willful from the time they each respectively became aware of the infringing nature of the Carta product, and awarding treble damages for the period of such willful infringement of the '334 Patent, pursuant to 35 U.S.C. § 284;

E. Declare this an exceptional case within the meaning of 35 U.S.C. § 285 and award Puffco its reasonable attorneys' fees, costs, and expenses;

F. Order SHO Products and MasterMinded to each provide a full accounting of all infringing sales and revenues, together with post judgment interest and prejudgment interest from the first date of infringement, of the '334 Patent;

G. Award Puffco pre-judgment and post-judgment interest on the damages awarded;

H. Award Puffco its costs and reasonable attorneys' fees, expenses and costs, incurred in connection with this action; and

I. Award Puffco any and all further legal and equitable relief that the Court may deem just and proper under the circumstances.

DEMAND FOR JURY TRIAL

Puffco hereby demands a trial by jury of all issues so triable by a jury in this action.

Dated: March 28, 2022

BRYAN CAVE LEIGHTON PAISNER LLP

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