

FILED  
ASHEVILLE, NC

MAY 07 2024

# UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

U.S. DISTRICT COURT  
W. DISTRICT OF N.C.

Asheville Division

SAI ROSE an Individual

Case No. 1:24-cv-139-MR  
(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Jury Trial: (check one)  Yes  No

-v-

AFG DISTRIBUTION Inc.  
dba Pulsar Vaporizers

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

## COMPLAINT FOR A CIVIL CASE

### I. The Parties to This Complaint

#### A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Sai Rose
Street Address	1629 Chanterelle Dr. Unit A
City and County	Mckinleyville, Humboldt
State and Zip Code	California 95519
Telephone Number	707-630-2488
E-mail Address	Thirdrail@gmail.com

#### B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name AFG Distribution dba Pulsar Vaporizers  
Job or Title *(if known)* \_\_\_\_\_  
Street Address 59 Bingham Rd.  
City and County Asheville, Buncombe  
State and Zip Code North Carolina 28806  
Telephone Number 828-252-5228  
E-mail Address *(if known)* matthewb@afgdistribution.com

Defendant No. 2

Name \_\_\_\_\_  
Job or Title *(if known)* \_\_\_\_\_  
Street Address \_\_\_\_\_  
City and County \_\_\_\_\_  
State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
E-mail Address *(if known)* \_\_\_\_\_

Defendant No. 3

Name \_\_\_\_\_  
Job or Title *(if known)* \_\_\_\_\_  
Street Address \_\_\_\_\_  
City and County \_\_\_\_\_  
State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
E-mail Address *(if known)* \_\_\_\_\_

Defendant No. 4

Name \_\_\_\_\_  
Job or Title *(if known)* \_\_\_\_\_  
Street Address \_\_\_\_\_  
City and County \_\_\_\_\_  
State and Zip Code \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
E-mail Address *(if known)* \_\_\_\_\_

**II. Basis for Jurisdiction**

Federal courts are courts of limited jurisdiction (limited power). Generally, only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case arising under the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than \$75,000 is a diversity of citizenship case. In a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff.

What is the basis for federal court jurisdiction? *(check all that apply)*

- Federal question
- Diversity of citizenship

Fill out the paragraphs in this section that apply to this case.

**A. If the Basis for Jurisdiction Is a Federal Question**

List the specific federal statutes, federal treaties, and/or provisions of the United States Constitution that are at issue in this case.

35 USC § 271-284-285

**B. If the Basis for Jurisdiction Is Diversity of Citizenship**

1. The Plaintiff(s)

a. If the plaintiff is an individual

The plaintiff, *(name)* \_\_\_\_\_, is a citizen of the State of *(name)* \_\_\_\_\_.

b. If the plaintiff is a corporation

The plaintiff, *(name)* \_\_\_\_\_, is incorporated under the laws of the State of *(name)* \_\_\_\_\_, and has its principal place of business in the State of *(name)* \_\_\_\_\_.

*(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)*

2. The Defendant(s)

a. If the defendant is an individual

The defendant, *(name)* \_\_\_\_\_, is a citizen of the State of *(name)* \_\_\_\_\_. Or is a citizen of *(foreign nation)* \_\_\_\_\_.

b. If the defendant is a corporation

The defendant, (name) \_\_\_\_\_, is incorporated under the laws of the State of (name) \_\_\_\_\_, and has its principal place of business in the State of (name) \_\_\_\_\_.

Or is incorporated under the laws of (foreign nation) \_\_\_\_\_, and has its principal place of business in (name) \_\_\_\_\_.

*(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)*

3. The Amount in Controversy

The amount in controversy—the amount the plaintiff claims the defendant owes or the amount at stake—is more than \$75,000, not counting interest and costs of court, because *(explain)*:

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**III. Statement of Claim**

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

AFG Distribution dba Pulsar Vaporizers is one defendant. Defendant was notified of the patent pending in 2016, 2017, 2020 and April 2023 when the patent was fully granted and enforceable. Defendant still engages in sales as of April 2024. Intentional infringement implies the party was aware of the patent protection when selling it, willful infringement implies stubbornness by the defendant, when they continue to engage in sales after being notified to cease and desist. Defendant's actions are both intentional and willful based on the evidence provided in the complaint.

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**IV. Relief**

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

In patent infringement, Plaintiff can be awarded treble damages for a 6-year period from October 2017 to October 2023 or pursuant to applicable law, including but not limited to 35 U.S.C. § 284, which allows for the award of up to three times the compensatory damages. These damages include, but are not limited to, lost profits, diminished market share, and additional costs incurred by Plaintiff during this extended period.

Unless enjoined by the Court, Defendants will continue to infringe the granted patent. Defendants continue to engage in marketing and sales as of April 2024 based on their website and sales team at AFG Distribution. A financial audit must be done to determine a damage amount.

**V. Certification and Closing**

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

**A. For Parties Without an Attorney**

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 04/30/2024

Signature of Plaintiff



Printed Name of Plaintiff

Sai Rose

**B. For Attorneys**

Date of signing: \_\_\_\_\_

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Street Address

State and Zip Code

Telephone Number

E-mail Address

**UNITED STATES DISTRICT COURT WESTERN DISTRICT OF  
NORTH CAROLINA  
(Asheville Division)**

FILED  
ASHEVILLE, NC

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U.S. DISTRICT COURT  
W. DISTRICT OF N.C.

SAI ROSE, an  
individual, Plaintiff, v.

AFG DISTRIBUTION Inc.,  
dba PULSAR VAPORIZERS,  
a North Carolina corporation,  
Defendant.

Case No: 1:24-cv-139-MR

Judge: Reidinger

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**VERIFIED COMPLAINT FOR DAMAGES AND  
PERMANENT INJUNCTIVE RELIEF**

Plaintiff Sai Rose, an individual, ("Plaintiff"), hereby alleges the following Complaint against Defendant AFG DISTRIBUTION Inc., dba Pulsar Vaporizers as follows:

**Count [I]: WILLFUL INFRINGEMENT OF PATENT NO. US 10,779,573**

and as grounds for support thereof, states as follows:

**INTRODUCTION**

1. Plaintiff invented a novel vaporizer and filed a patent application on the same. Defendant stole Plaintiff's vaporizer, adding only their branding, and continued to sell the vaporizer as their own. Plaintiff notified Defendant of the infringement and requested Defendant to cease and desist 10/3/2016 (EXHIBIT D). Defendant instead disregarded Plaintiff's efforts and continued selling fraudulent products to this date 4/2024. Defendant, after being informed of the infringement, began using individual claims and creating other products not limited to (EXHIBIT I), in which afterwards Defendant willfully advertised

those infringing products as their own and made available to their clients and customers globally.

2. When contacting Pulsar based on BBB provided information, AFG is the representing company for both. They are considered one defendant as they operate as a single entity in practice and is difficult to distinguish for infringement purposes. When contacting support Mr. Rose was told they operate from the same location.

3. Mr. Rose was not able to begin enforcing his patent until after April 2023. Mr. Rose spent until November 2023 trying to obtain a lawyer with no luck. Mr. Rose has a comprehension disability that qualifies under ADA, so it has taken Mr. Rose this entire time to complete this complaint entirely on his own.

4. All rights including the assignee status, have always been the rights of Mr. Rose. As documented with the USPTO (EXHIBIT L). This Complaint follows.

### **PARTIES**

5. Plaintiff is an individual.

6. Defendant AFG DISTRIBUTION Inc., dba Pulsar Vaporizers is a company with its principal place of business at 59 Bingham Rd. Asheville, NC 28806.

7. Due to the complexities of tracking all sources and entities engaged in the present factual allegations, PLAINTIFF reserves the right to add individuals and/or corporations upon discovery.

### **JURISDICTION AND VENUE**

8. Pursuant to the U.S. Supreme Court's decision in *Heartland LLC v. Kraft Foods Group Brands LLC*, Case No. 16-341 (May 22, 2017), venue is restricted to judicial districts in which

either (1) the defendant is incorporated, or (2) the defendant maintains a regular and established place of business where acts of infringement have occurred (28 U.S.C. § 1400(b))

9. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391.

10. All conditions precedent to this action have been met through performance, waiver, or otherwise

### **FACTUAL ALLEGATIONS**

11. Mr. Rose first began engineering and designing vaporizers about 2009. By 2012 Mr. Rose had been working professionally with a company in America and Shenzhen. End of 2015, Plaintiff started engineering, designing vaporizers and other products from scratch.

12. Defendant is the direct contact between Paul Xing of Shenzhen Crossing for purchasing new products, which is also Mr. Rose's manufacturer and contact which all met at TPE in 2016.

13. Defendant AFG/Pulsar met Mr. Rose at the Las Vegas Expo called TPE. Paul Xing of Shenzhen Crossing introduced the Plaintiff and Defendant in 2016.

14. Paul Xing brought the Defendant, AFG/Pulsar representative to my TPE booth (EXHIBIT H), as Pulsar Vaporizers had interest in branding the SAIONARA.

15. While Mr. Rose spoke to the defendant, he became aware Pulsar would have wanted it branded with their logo and company information. At that point Mr. Rose explained that would require a special licensing agreement. There would be a fee to remove the SAIONARA logo and information to be replaced with the Pulsar information and logo. There would also be a royalty fee within the licensing agreement for each sold. Defendant saw the patent pending on the Saionara (EXHIBIT A), so defendant was fully aware. Defendant also listed the patent pending on their infringing device as well.



16. The AFG/Pulsar representative returned back to the Pulsar booth they had setup at the TPE event.

17. Plaintiff filed a provisional patent filed in 2016. He engaged in marketing, promoting at retail stores and distributors nationwide through extensive car & air travel state to state including expos.

18. October of 2016, the manager at Haight & Ashbury informed Plaintiff that Defendant, under the name Pulsar Barb fire, was selling the identical product. Similar reports came from around the country. All were unsure if Plaintiff had copied Pulsar or if Pulsar had copied Plaintiff. Retailers were apprehensive to make further purchases until the patent was granted, so retailers and wholesalers stopped purchasing.

19. Defendant appeared to falsely take claim to manufacturing it (EXHIBIT J), by leading consumers to believe China 'only' assembles the product. (EXHIBIT J) also acknowledges it was designed in USA.

20. (EXHIBIT A) demonstrates Defendant had prior knowledge of the patent before engaging in the sales. The bottom of the Defendant device says it has a Patent Pending and was Engineered in California, same as the SAIONARA 573' device. Verifying the conversation that took place at the TPE event prior.

21. (EXHIBITS A-B-C) are claim charts that demonstrates the Pulsar Barb Fire is identical to the 573' aka SAIONARA. In fact, Defendant purchases the 573's parts from his manufacturer and has their logo and company information added, before the 573' information and logo could be added. Undermining Plaintiff's ability to sell and compete with his own product. Constituting theft.

22. Plaintiff contacted Paul Xing, the manufacturer for both Plaintiff and Defendant, who feigned ignorance about the situation.

23. Plaintiff subsequently contacted Defendant seemed open to resolving the issue (EXHIBIT D-E-F).

24. During an exchange of emails, it was evident Defendant was not taking responsibility.

25. Defendant was made aware of all infringing activity herein on or about October 2016 via direct phone and email contact. Mr. Rose's mother Patricia Sarlas made a purchase of the infringing product to have proof the defendant is willfully infringing on the 573' patent (EXHIBIT K) and will not stop.

26. When the patent was finally granted and enforceable, on April 2023, Mr. Rose immediately notified the Defendant (EXHIBIT G). Mr. Rose has attempted to resolve this matter up to April 2024 by phone to ensure Defendant is aware Mr. Rose will be filing this complaint if there is no response by April 29 2024 end of business day.

**COUNT [I]: WILLFUL INFRINGEMENT OF  
PATENT NO. US 10,779,573**

27. Plaintiff incorporates and realleges all previous factual allegations herein by reference.

28. Defendant orchestrated the purchase of Plaintiff's patented invention for use in its own product for sale.

29. Defendant sold products that incorporated Plaintiff's patented invention without the consent of Plaintiff and without compensating Plaintiff.

30. Defendant produced the infringing product that was sold in violation of Plaintiff's patent rights.

31. Defendant or an agent of Defendant, acting under Defendant's direction and control, have been and currently are infringing the '573 patent in violation of 35 U.S.C. § 271 and all causes of action thereunder.

32. Defendant's infringement includes selling, offering to sell in this judicial district and elsewhere throughout the United States, and importing into and exporting from the United States the Barb Fire Wax and Flower, without a license or authority from Plaintiff.

33. Defendant's actions have resulted in damage and injury to Plaintiff.

34. Plaintiff is informed and believes, and on this basis alleges, that Defendant has been and currently are as of 4/2024 contributorily infringing the granted patents, in violation of 35 U.S.C. § 271(c).

35. As a manufacturer and distributor, Defendant is selling or offering for sale to third parties, in this judicial district and throughout the United States, components that embody a material part of the inventions described in the granted patents.

36. These components are known by Defendant to be especially made or especially adapted for use in infringement of the granted patent and are not staple articles or commodities suitable for substantial, non-infringing use. This includes, at least, the Barb Fire Wax and Flower.

37. Defendant has done so without a license or authority from Plaintiff, even after Plaintiff initially contacted the Defendant about a licensing agreement, and that the infringing products are being sold through AFG Distribution and Pulsar Vaporizers website and sales.

38. Defendant's actions are deemed willful, as Defendant was aware of the circumstances and chose not to comply with Plaintiff's calls and letters from 2016, 2020, 2023 and 2024.

39. Plaintiff is informed and believes, and on this basis alleges, that Defendant has infringed and will infringe the granted patents by using the infringing products in violation of 35 U.S.C. § 271(a).

40. Plaintiff is informed and believes, and on this basis alleges, that the acts of infringement by the Defendant has been, and continue to be, willful, intentional, and in conscious disregard of Plaintiff's rights in the granted patents.

41. Unless enjoined by the Court, Defendant will and has continued to infringe the granted patents.

42. As a direct and proximate result of Defendant's willful infringement of the granted patents, Plaintiff has suffered and will continue to suffer irreparable injury for which there is no adequate remedy at law.

43. Plaintiff has also been damaged in an amount yet to be determined. The damages suffered by Plaintiff include, but are not limited to, the loss of sales revenue resulting from the unauthorized sales of the Barb Fire Wax and Flower Vaporizers – attached to power supply and possibly more devices, as covered by "The '573 Patent" (Patent US 10,779,573 - Conjunctive Airflow Atomizer for Concentrates).

44. Plaintiff seeks compensatory damages in an amount equal to the sales revenue generated by Defendant through the unauthorized sale of the infringing products, the specific amount of damages will be determined during the course of litigation, and Plaintiff reserves the right to amend this Complaint to include the precise amount of damages as ascertained through discovery.

45. Plaintiff seeks treble damages for a 6-year period from October 2017 to October 2023 or pursuant to applicable law, including but not limited to 35 U.S.C. § 284, which allows for the award of up to three times the compensatory damages.

46. These damages include, but are not limited to, lost profits, diminished market share, and additional costs incurred by Plaintiff during this extended period, as well as what Mr. Rose could have invested in along the way if the infringement had not taken place.

47. Since Defendant was aware of the circumstances and chose not to comply with cease & desist and/or demand letters 2016, 2020, and most recently April 2023 and 2024. Defendant's actions are intentional and the stubbornness causes it to be willful.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Mr. Rose's, prayer for relief as follows:

- A. A judgment that the granted patent is valid and enforceable;
- B. A judgment that the Defendant's infringement on the granted patents is willful and intentional; judgment the granted patent is infringed by Defendant;
- C. A judgment that Mr. Rose was impoverished, by the Defendant willfully & intentionally infringing on his '573 patent, forcing him to seek financial help from family and friends, and prolonging the process to get his patent granted without error, and the extended time to finish this complaint;
- D. An order preliminarily and permanently enjoining Defendant and its subsidiaries, parents, officers, directors, agents, servants, employees, affiliates, attorneys, and all others in active concert or participation with any of the foregoing, from further acts of infringement of the granted patents;

E. An accounting for damages resulting from Defendant's infringement of the granted patents and the trebling of such damages because of the willful nature of Defendant's intentional infringement;

F. A judgment awarding damages to Plaintiff for its costs, ADA Accommodations for Mr. Rose, disbursements, expert witness fees, extended time and attorney's fees and costs incurred in prosecuting this action, with interest, including damages for an exceptional case pursuant to 35 U.S.C. § 285 and as otherwise provided by law; An assessment of interest on damages; Plaintiff seeks any other relief the court deems just and proper. Plaintiff reserves the right to amend this civil claim with more damages and counts.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff requests a trial by jury on all issues.

Under the penalty of perjury, I declare that the facts alleged therein are true and correct to the best of my knowledge and belief.

Respectfully submitted,



Date:4/30/24

Sai Rose  
1629 Chanterelle Dr. Unit A  
Mckinleyville, CA 95519  
Phone: (707) 630-2488  
Thirdrail@gmail.com