

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

CASE NO.:

VPR BRANDS, LP,

Plaintiff,

v.

POP VAPOR CO., LLC,

Defendant.

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff VPR BRANDS, LP by and through its undersigned counsel, brings this Complaint against Defendant POP VAPOR CO., LLC, for Patent Infringement, and in support, alleges as follows:

NATURE OF THE LAWSUIT

1. This action is for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 271, *et seq.*, to enjoin and obtain damages resulting from defendant's unauthorized manufacture, use, sale, offer to sell and/or importation into the United States for subsequent use or sale of products, methods, processes, services and/or systems that infringe one or more claims of United States Patent Number 8,205,622 entitled "Electronic Cigarette." Plaintiff seeks injunctive relief to prevent defendant from continuing to infringe plaintiff's patent

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and recovery of monetary damages resulting from defendant's past infringement of the patent.

JURISDICTION AND VENUE

2. This Court has original and exclusive subject matter jurisdiction pursuant to 28 U.S.C. § 1331; 28 U.S.C. § 1338; and 35 U.S.C. § 271.

3. This Court has personal jurisdiction over Defendant.

4. Venue is proper in this district pursuant to 28 U.S.C. § 1400(b).

THE PLAINTIFF

5. Plaintiff, VPR Brands, LP ("VPR"), is a Delaware limited partnership authorized to do business in Florida with a principal place of business located at 3001 Griffin Road, Fort Lauderdale, FL 33312.

THE DEFENDANT

6. Pop Vapor Co., LLC ("Pop Vapor") is a Georgia limited liability company with its principal place of business at 3017 Bolling Way NE, Atlanta, GA 30305, and can be served by serving its Registered Agent, Cogency Global Inc., 900 Old Roswell Lakes Parkway, Suite 310, Roswell, GA, 30076.

FACTS

7. VPR is a technology company whose assets include issued U.S. and Chinese patents for atomization-related products, including technology for medical marijuana oil vaporizers, dab pen and flower vaporizer products and components.

8. VPR is engaged in product development for the vapor or vaping market, including e-liquids, vaporizers and electronic cigarettes (also known as e-cigarettes) which are devices which deliver nicotine and or cannabis and cannabidiol (CBD) through atomization or vaping, and without smoke and other chemical constituents typically found in traditional products.

9. VPR is a vaping market leader specializing in vaporizers and accessories for essential oils, cannabis concentrates and extracts (CBD), as well as electronic cigarettes containing nicotine.

10. VPR owns all right, title and interests in, and/or has standing to sue for infringement of United States Patent Number 8,205,622 (the '622 Patent) entitled "Electronic Cigarette." A copy of the '622 Patent is attached hereto as **Exhibit 1**.

11. The '622 Patent discloses an electronic cigarette or diffuser consisting of an electronic inhaler and an electronic atomizer.

12. The electronic inhaler contains a rechargeable or non-rechargeable power source such as a battery, which supplies electric power to the electronic inhaler. In addition to the power source, the inhaler also includes an electric airflow sensor to detect air movement generated by a user's inhaling or puffing act. The sensor's role is to collect an airflow signal that triggers the electronic cigarette

to supply electric power to the inhaler and atomizer connected through an electric connector.

13. Inside the electronic atomizer are an electric connector, electric heating wire, liquid container, and atomizer cap with an air-puffing hole. The user inhales through the air puffing hole at an end of the electronic cigarette to create an air inflow, which triggers the atomization process that converts a solution to a gas emulating the smoking process.

DEFENDANT'S PRODUCTS

14. Pop Vapor makes, uses, imports, offers for sale and sells one or more electronic diffuser products under the POP VAPOR brand that practice all the steps of at least one claim of the '622 Patent.

15. One of Pop Vapor's electronic diffuser products is known as POP. Examples of POP products are shown below:



16. Pop Vapor's POP is an electronic diffuser that contains a rechargeable battery that functions as a power source which supplies electric power to an electronic inhaler. In addition to the power source, the inhaler also includes an electric airflow sensor to detect air movement generated by a user's inhaling or puffing act.

17. The POP product also contains an electronic atomizer with an electric connector, electric heating wire, liquid container, and atomizer cap with an air-puffing hole.

18. The user inhales through the air puffing hole at an end of the POP product to create an air inflow, which triggers the atomization process that converts a solution to a gas emulating the smoking process.

19. Pop Vapor also makes, uses, imports, offers for sale and sells one or more electronic diffuser products under the POP VAPOR brand that operate in an identical fashion to the RELIEVE product. These products are called POP HIT BAR 4000, POP HIT FLEX 3000, POP HIT BAR 4000 ZERO, POP HIT EXTRA 3000 TFN, POP PRO, AND POP HIT SOLO 5500.

20. The electronic diffuser products that Pop Vapor imports, makes, uses, offers to sell and sells, including but not limited to the POP products, and the other Pop Vapor products substantially similar to the POP products, infringe one or more claims of the '622 Patent.

21. At all times during which defendant imported, made, used, offered to sell and sold electronic diffuser products that infringe one or more claims of the '622 Patent, defendant had knowledge of the '622 Patent.

22. Plaintiff has been irreparably harmed by defendant's infringement of VPR's valuable patent rights.

23. Defendant's unauthorized, infringing use of VPR's patent cigarette has threatened the value of their intellectual property because defendant's conduct results in VPR's loss of its lawful patent rights to exclude others from importing, making, using, selling, offering to sell and/or importing the patented inventions.

24. Defendant's disregard for VPR's property rights similarly threatens VPR's relationships with potential licensees of this intellectual property.

25. Defendant will derive a competitive advantage from using VPR's patented technology without paying compensation for such use.

26. Unless and until defendant's continued acts of infringement are enjoined, VPR will suffer further irreparable harm for which there is no adequate remedy at law.

COUNT I
DIRECT INFRINGEMENT OF U.S. PATENT NO. 8,205,622

27. VPR realleges paragraphs 1 through 26 of this Complaint, as fully and completely as if set forth herein.

28. Within the six years preceding the filing of this Complaint, Pop Vapor has directly infringed at least one claim of U.S. Patent No. 8,205,622 by the activities referred to in this Complaint in violation of 35 U.S.C. § 271(a).

29. Without limiting the foregoing, Defendant has infringed at least claim 13 of the '622 Patent as described in the Claim Chart attached hereto as **Exhibit 2**.

30. Pop Vapor's activities alleged in this Count have been without license, permission, or authorization from VPR.

31. The activities of Pop Vapor as set forth in this Count have been to the injury, detriment and irreparable harm to VPR.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff VPR Brands, LP demands judgment and relief against Defendant POP VAPOR, LLC and respectfully requests that the Court:

A. Enter a finding of infringement against Defendant under each of the patents asserted in this Complaint;

B. Award in favor of Plaintiff and against Defendant such damages as Plaintiff may have suffered but in no event less than a reasonable royalty pursuant to 35 U.S.C. § 284;

C. Award in favor of Plaintiff and against Defendant an enhancement of damages;

D. Find that this is an exceptional case;

- E. Enter an injunction preliminarily and permanently enjoining infringement;
- F. Award Plaintiff its attorneys' fees against Defendant under 35 U.S.C. § 285;
- G. Award Plaintiff its costs; against Defendant, and
- H. Award in favor of Plaintiff and against Defendant such other and further relief as to the Court appears just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: September 6, 2024

Respectfully submitted,

/s/Joel B. Rothman

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