

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FONTEM VENTURES B.V.,)	
FONTEM HOLDINGS 1 B.V.,)	
)	
Plaintiffs,)	
)	Civil Action No.: 1:20-cv-06050
v.)	
)	Jury Trial Demanded
ECO-CIGS, INC.,)	
)	
Defendant.)	

COMPLAINT

Plaintiffs Fontem Ventures B.V. (“Fontem Ventures”) and Fontem Holdings 1 B.V. (“Fontem Holdings”) (together, “Fontem” or “Plaintiffs”) allege the following claims against Defendant Eco-Cigs, Inc. (“Eco-Cigs” or “Defendant”):

THE PARTIES

1. Plaintiff Fontem Ventures is a company organized and existing under the laws of the Netherlands, with its principal place of business at Radarweg 60, Amsterdam, 1043 NT, The Netherlands. Fontem Ventures is in the business of developing and selling innovative non-tobacco products, including electronic cigarettes.

2. Plaintiff Fontem Holdings is a company organized and existing under the laws of the Netherlands, with its principal place of business at Radarweg 60, Amsterdam, 1043 NT, The Netherlands.

3. Upon information and belief, Defendant Eco-Cigs is an Illinois Corporation, with its principal place of business located at 453 W Fullerton Ave. Elmhurst IL 60126 or 8725 Keystone Ave., Skokie, Illinois 60076. Upon information and belief, Eco-Cigs does business in this judicial district related to the claims asserted in this Complaint.

4. Upon information and belief, Defendant makes, sells, offers for sale in the United States, and/or imports into the United States, electronic vaping devices, including electronic cigarettes.

JURISDICTION AND VENUE

5. This is a civil action for patent infringement arising under Title 35 of the United States Code, and in particular 35 U.S.C. §§ 271, 282, 284, and 285.

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

7. This Court has personal jurisdiction over Defendant because it is registered to do business in Illinois, it solicits and conducts business in Illinois, including the provision of goods, derives revenue from goods sold in Illinois and within this judicial district, and has committed acts of infringement in this judicial district, including, but not limited to, offering to sell and selling the accused products in this judicial district.

8. Venue lies in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and (c), and 1400(b).

PATENTS-IN-SUIT

9. Plaintiffs bring this action against Defendant for infringement of U.S. Patent No. 8,365,742 (“the ’742 Patent”) (Exhibit 1), U.S. Patent No. 8,375,957 (“the ’957 Patent”) (Exhibit 2), U.S. Patent No. 8,490,628 (“the ’628 Patent”) (Exhibit 3), U.S. Patent No. 8,863,752 (“the ’752 Patent”) (Exhibit 4), U.S. Patent No. 8,893,726 (“the ’726 Patent”) (Exhibit 5), U.S. Patent No. 9,320,300 (“the ’300 Patent”) (Exhibit 6), U.S. Patent No. 9,326,549 (“the ’549 Patent”) (Exhibit 7), U.S. Patent No. 9,326,550 (“the ’550 Patent”) (Exhibit 8), U.S. Patent No. 9,326,551 (“the ’551 Patent”) (Exhibit 9), U.S. Patent No. 9,339,062 (“the ’062 Patent”) (Exhibit 10), U.S. Patent No. 9,364,027 (“the ’027 Patent”) (Exhibit 11), U.S. Patent No. 9,370,205 (“the ’205

Patent”) (Exhibit 12), U.S. Patent No. 9,456,632 (“the ’632 Patent”) (Exhibit 13), U.S. Patent No. 9,717,278 (“the ’278 Patent”) (Exhibit 14), U.S. Patent No. 10,143,238 (“the ’238 Patent”) (Exhibit 15), U.S. Patent No. 10,178,881 (“the ’881 Patent”) (Exhibit 16), U.S. Patent No. 10,238,144 (“the ’144 Patent”) (Exhibit 17), U.S. Patent No. 10,327,478 (“the ’478 Patent”) (Exhibit 18), and U.S. Patent No. 10,349,682 (“the ’682 Patent”) (Exhibit 19) (collectively, the “Patents-in-Suit”).

10. The nineteen (19) Patents-in-Suit relate to electronic vaping devices that create inhalable vapor without tar to provide the habitual actions of smoking missing in nicotine substitutes like the patch and gum.

DEFENDANT’S KNOWLEDGE OF THE PATENTS-IN-SUIT

11. Plaintiffs previously filed patent infringement actions based upon many of the Patents-in-Suit against many other companies including some of the largest companies in the vaping industry in the following consolidated District Court cases: *Fontem Ventures B.V. et al. v. NJOY, Inc. et al.*, Case No. 2:14-cv-01645 (C.D. Cal.) (lead case), *Fontem Ventures B.V. v. Nu Mark LLC*, Case No. 1:16-cv-01261 (M.D.N.C) (lead case), and *Fontem Ventures B.V. v. R.J. Reynolds Vapor Co.*, Case No. 1:16-cv-01255 (M.D.N.C) (lead case) (together, “Plaintiffs’ prior patent infringement actions”). Plaintiffs’ prior patent infringement actions were well publicized in the vaping industry and involved products similar to Defendant’s products. Upon information and belief, Defendant had prior knowledge of Plaintiffs’ previous patent infringement actions or had been willfully blind thereto, prior knowledge of the patents asserted in those actions or had been willfully blind thereto, and prior knowledge of Plaintiffs’ rights in the asserted patents or had been willfully blind thereto.

12. Upon information and belief, Defendant has monitored Plaintiffs' patents and related patent applications because of Plaintiffs' prior patent infringement actions, and thus had prior knowledge of the patents that were not asserted in the prior patent infringement actions, including Plaintiffs' rights in those patents, or had been willfully blind thereto.

13. On September 25, 2020, October 2, 2020, and October 6, 2020, counsel for Fontem sent a cease and desist letter to the Defendant ("the Demand Letter", attached as Exhibit A) demanding that Defendant immediately cease and desist from selling its ECO-CIGS electronic cigarette devices—including Rechargeable and Sapphyre products—because each such product infringes at least one or more of the Patents-in-Suit. The Demand Letter identifies the Patents-in-Suit and states that a claim chart demonstrating how the ECO-CIGS electronic cigarette devices infringe a representative claim from each of the Patents-in-Suit is attached thereto. Representative claim charts are attached as exhibits as indicated in each of Counts I–XIX below.

14. To date, neither Fontem nor its counsel have received any response from Defendant to the Demand Letter.

15. Upon information and belief, Defendant continues to sell the ECO-CIGS electronic cigarette devices despite having actual notice that those devices infringe the Patents-in-Suit upon receipt of the Demand Letter.

COUNT I
Patent Infringement of U.S. Patent No. 8,365,742

16. Plaintiffs incorporate by reference the allegations contained in paragraphs **Error!** **Reference source not found.**–15 above.

17. Plaintiff Fontem Holdings is the owner of the entire right, title, and interest in and to the '742 Patent (Exhibit 1). Fontem Holdings has granted Fontem Ventures an exclusive

license to the '742 Patent, including the right to sublicense the '742 Patent. The '742 Patent was duly and legally issued by the USPTO on February 5, 2013, and is valid, subsisting, and in full force and effect.

18. Defendant has directly infringed, literally and/or under the doctrine of equivalents, one or more claims of the '742 Patent in violation of 35 U.S.C. § 271(a) by, itself and/or through its agents, unlawfully and wrongfully making, using, importing, offering to sell, and/or selling electronic cigarette products embodying one or more of the inventions claimed in the '742 Patent, within, from and/or into the United States without permission or license from Plaintiffs, and will continue to do so unless enjoined by this Court.

19. Examples of products that directly infringe the '742 Patent include, but are not limited to, ECO-CIGS Rechargeable products and Sapphyre products (collectively, “the ECO-CIGS Products”). A representative claim chart demonstrating how the ECO-CIGS Products infringe a representative claim of the '742 Patent is attached as Exhibit 1A.

20. At all relevant times, Defendant and the public in general have had notice of the '742 Patent because Plaintiffs have marked the packaging of their products embodying the '742 Patent in accordance with 35 U.S.C. § 287.

21. Upon information and belief, Defendant had prior knowledge of the '742 Patent, and of Plaintiffs' rights therein, or had been willfully blind thereto, based upon the Plaintiffs' prior patent infringement actions brought against other companies in the vaping industry. Defendant also had actual knowledge of the '742 Patent, and of Plaintiffs' rights therein, upon receipt of the Demand Letter.

22. Having prior knowledge of the '742 Patent, Defendant has also contributed to the infringement of the '742 Patent in violation of 35 U.S.C. § 271(c) by, itself and/or through its

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.