

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

VARTA MICROBATTERY GMBH,

Plaintiff,

v.

PEAG, LLC D/B/A JLAB AUDIO

Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff VARTA Microbattery GmbH (“VARTA”) files this Complaint for Patent Infringement of United States Patent Nos. 9,153,835; 9,496,581; 9,799,913; and 9,799,858 (collectively “the Patents-in-Suit”) against Defendant PEAG, LLC (“PEAG”) d/b/a JLab Audio, and alleges as follows:

**PARTIES**

1. VARTA is a German limited liability company headquartered at VARTA-Platz 1, 73479 Ellwangen, Baden-Württemberg, Germany.
2. PEAG is a corporation organized under the laws of the State of Delaware with a place of business in Texas and this Judicial District, including at 2591 Dallas Parkway, Frisco, TX 75034.
3. On information and belief, PEAG acquired and is the successor to JLab Audio, and continues to do business as JLab Audio.

## JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over PEAG in this action because PEAG has committed and continues to commit infringing acts within the Eastern District of Texas and has established minimum contacts with this District such that exercise of jurisdiction would not offend traditional notions of fair play and substantial justice.

6. PEAG d/b/a JLab Audio sells and offers for sale in the State of Texas and/or imports into the State of Texas the infringing products, including by placing such products into the stream of commerce through established distribution channels including internet sites with the knowledge and understanding that such products will be sold throughout the State of Texas including in this District. PEAG has purposefully availed itself of the privileges of conducting business in the State of Texas, including by deriving substantial revenues from importing and selling the infringing products here.

7. This Court has general jurisdiction over PEAG due to its continuous and systematic contacts with the State of Texas and this District, including by having a physical presence in this District at its registered address at 2591 Dallas Parkway, Frisco, TX 75034, and by conducting continuous and substantial business in the State of Texas from which PEAG has derived significant revenue.

8. Venue is proper in the Eastern District of Texas pursuant to 28 U.S.C. § 1400(b) because PEAG has committed and continues to commit acts of infringement by selling and offering to sell in and/or importing into this District the infringing products and because PEAG

has a regular and established place of business in this District at its registered address at 2591 Dallas Parkway, Frisco, TX 75034.

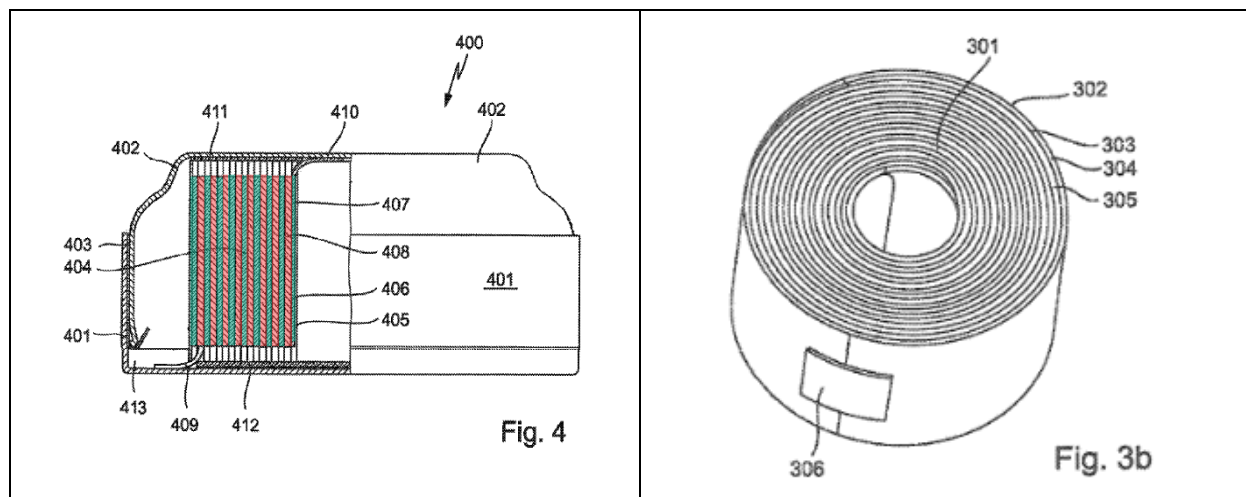
### **BACKGROUND**

9. VARTA is a leading manufacturer of microbatteries, which include batteries referred to as button cells and coin cells due to their small form factor and low height. Applications for VARTA microbatteries include, for example, watches, hearing aids, and wearable cordless devices such as wireless earphones.

10. In the mid-to-late 2000's, VARTA undertook efforts to design and develop a novel and proprietary microbattery technology with excellent mechanical strength characteristics, increased power density, and better space utilization.

11. VARTA's novel and proprietary design includes an electrode-separator assembly located between a housing cup and a housing top that includes at least one positive electrode and at least one negative electrode separated by a separator. The electrodes and the separator may be formed from flat layers that may be laminated or bonded together. The assembly is wound into a spiral winding and located in the housing so that the electrodes are disposed at essentially right angles to the flat bottom and top areas of the housing cup and housing top respectively.

12. Figures 3b and 4 of the Patents-in-Suit illustrate an example of an embodiment of the invention. The electrodes 407 of one polarity (highlighted in green) and the electrodes 408 of the other polarity (highlighted in red) are wound in a spiral configuration (shown generally in FIG. 3b). The electrodes 407, 408 may be separated from each other by separator layers 405, 406 of non-conductive material.



13. The lower housing cup and the upper housing top are fitted together to form a housing about the electrode-separator assembly.

14. Electrical contact between the electrode-separator assembly and the flat top and/or bottom areas may occur through an output conductor comprising a piece of foil resting between the spiral winding and the flat top and/or bottom areas.

15. VARTA sells and offers for sale its patented microbatteries in the United States and worldwide *inter alia* under the trademark CoinPower®.

#### THE PATENTS IN SUIT

16. VARTA spent a great deal of time, effort, and expense in the research and development that lead to the CoinPower microbatteries. Because of their outstanding performance, the CoinPower microbatteries have been highly successful and well accepted by the market across the world. In recognition of the break-through nature of its invention, VARTA was granted an international patent portfolio covering various aspects of the CoinPower microbatteries, including a number of patents in the United States, with additional patent applications still pending in the United States Patent and Trademark Office.

17. On October 6, 2015, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,153,835 (“the ’835 Patent”), entitled “Button Cells and Method for Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’835 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’835 Patent. A true and correct copy of the ’835 Patent is attached hereto as Exhibit A.

18. On November 15, 2016, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,496,581 (“the ’581 Patent”), entitled “Button Cells and Method of Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’581 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’581 Patent. A true and correct copy of the ’581 Patent is attached hereto as Exhibit B.

19. On October 24, 2017, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,799,913 (“the ’913 Patent”), entitled “Button Cells and Method of Producing Same” to the listed inventors Eduard Pytlik, Jürgen Lindner, Ulrich Barenthin, and Winfried Gaugler, all of Ellwangen, Germany. VARTA is the assignee and owner of all right, title, and interest in the ’913 Patent, including the right to sue for and recover all past, present, and future damages and to seek injunctive relief for infringement of the ’913 Patent. A true and correct copy of the ’913 Patent is attached hereto as Exhibit C.

20. The ’835 Patent, ’581 Patent, and ’913 Patent each claim priority to International Patent Application PCT/EP2010/000787 filed on February 9, 2010 on behalf of VARTA, which

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