

**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-06037
v.)	
)	Jury Trial Demanded
SAGO TECHNOLOGY, INC. dba JAK)	
ECIG,)	
)	
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 Sago Technology, Inc. dba JAK ECIG (“Sago” 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 Sago is an Illinois Corporation, with its principal place of business located at 180 S Western Ave., Carpentersville, Illinois 60110. Upon information and belief, Sago 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, 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 JAK electronic cigarette devices—including Disposable, Rechargeable, and EPIC 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 JAK 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 JAK 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, JAK Rechargeable ECIG products, JAK Disposable ECIG products, and JAK EPIC Series products (collectively, "the JAK ECIG Products"). Representative claim charts demonstrating how the JAK ECIG Products infringe one or more representative claims of the '742 Patent are attached as Exhibits 1A and 1B.

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

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