

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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GOFIRE, INC.,  
Petitioner,

v.

CANOPY GROWTH CORPORATION,  
Patent Owner.

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PGR2020-00044  
Patent 10,327,479 B2

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Before CHRISTOPHER L. CRUMBLEY, JEFFREY W. ABRAHAM, and  
MONTÉ T. SQUIRE, *Administrative Patent Judges*.

ABRAHAM, *Administrative Patent Judge*.

DECISION  
Denying Institution of Post-Grant Review  
*35 U.S.C. § 324(a)*

## I. INTRODUCTION

GoFire, Inc. (“Petitioner”) filed a Petition requesting post-grant review of claims 1–21 of US Patent No. 10,327,479 B2 (“the ’479 patent,” Ex. 1001). Paper 1 (“Pet.”). Canopy Growth Corporation (“Patent Owner”) filed a Patent Owner Preliminary Response to the Petition. Paper 7 (“Prelim. Resp.”).

Based on the particular circumstances of this case, we exercise our discretion under 35 U.S.C. § 325(d) and do not institute post-grant review of the challenged claims.

## II. BACKGROUND

### *A. Related Matters*

The parties identify US Patent Application No. 16/419,593, filed on May 22, 2019, as a continuation-in-part of the ’479 patent, as a related matter. Pet. 3; Paper 4, 2.

### *B. The ’479 Patent*

The ’479 patent, titled “System and Method for an Improved Personal Vapourization Device,” issued on June 25, 2019, from US Patent Application No. 15/921,144 (“the ’144 application”), filed March 14, 2018. Ex. 1001, at code (54), (45), (21), (22). The ’479 patent claims priority to US Provisional Application No. 62/471,751, filed on March 15, 2017. Ex. 1001, at code (60).

The ’479 patent is directed to an improved “vape device system” that includes a rechargeable vape device that can communicate with personal computing devices such as laptop computers, smart phones, smart watches, and other wearable devices. Ex. 1001, at code (57), 1:55–2:9. The ’479 patent indicates that its device “appeals instantly to the ‘cannabis-naive’

customer, whether medicinal or recreational,” and can comprise security settings “to prevent unauthorized use of the vape device by anyone other than the owner of the vape device, who has a prescription for medical marijuana,” and “prevent the use of the vape device in regions or jurisdictions, even by the rightful owner of the vape device, where the consumption of medical marijuana is not authorized or legal.” Ex. 1001, 1:56–58, 2:10–18. Additionally, “[t]hese security settings can be implemented to appease government or law enforcement for unauthorized use of the vape device in the consumption of cannabis products, for medical purposes or otherwise.” Ex. 1001, 2:18–22.

One embodiment of the vape device of the '479 patent is shown in Figure 1, reproduced below.

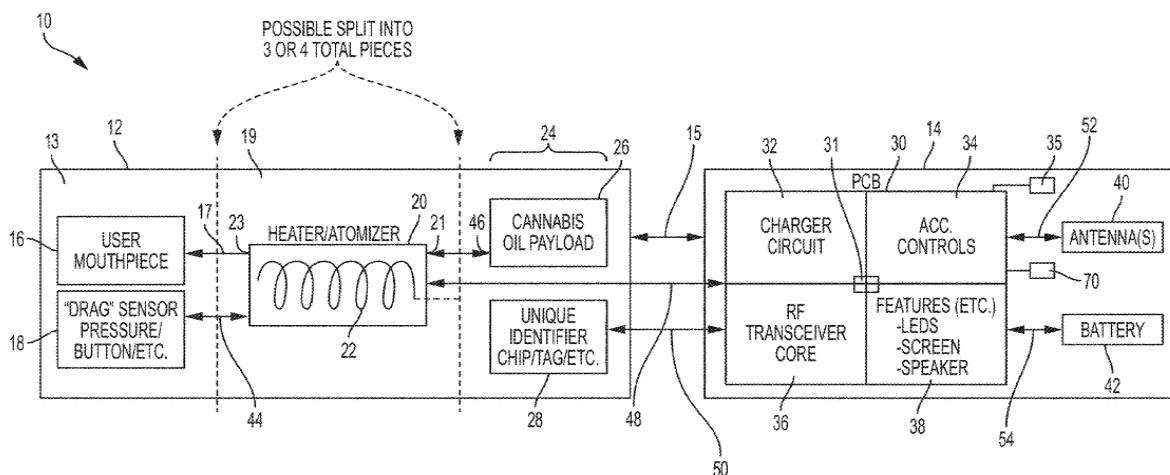


Figure 1 “is a block diagram depicting one embodiment of an improved vape device” having mouthpiece assembly 12, atomizer subassembly 19, payload section 24, and control subassembly 14. Ex. 1001, 7:31–32, 7:57–60.

Heater/atomizer 20 is disposed in atomizer subassembly 19, and comprises inlet 21 and outlet 23. Ex. 1001, 8:20–14. Inlet 21 is in communication with payload reservoir 26 in payload section 24 via fluid connector 46. Ex.

1001, 8:24–26. Outlet 23 is in communication with user mouthpiece 16.  
Ex. 1001, 8:28–29. Payload reservoir 26 may contain liquid or oil for vaporization. Ex. 1001, 8:26–28. According to the '479 patent:

In some embodiments, payload section 24 can comprise an identifier (“ID”) tag 28, which can further comprise a unique payload identifier that identifies payload reservoir 26, and also optionally, secondary data as described below. The unique payload identifier of ID tag 28 may be a serial number or tracking number for reservoir 26 as a means to identify what liquid or oil is contained in reservoir 26 so as to obtain information as to the specific parameters of operation of atomizer 20, or operational settings, that are optimal for vapourizing the specific liquid or oil contained in reservoir 26. For example, the payload identifier may be compared to a database that includes the payload identifiers from a plurality of payload reservoirs. The database may include specific operational settings and secondary data for each of the payload identifiers.

Ex. 1001, 8:30–44 (emphasis omitted). The '479 patent states that “secondary data” may include “user information, prescription information, location information, payload information, historical vape device usage information, and historical payload reservoir information.” Ex. 1001, 15:16–20. The '479 patent also indicates that the secondary data may be stored in memory remote from the vape device and the computing device, which is accessible via a global communications network. Ex. 1001, 15:20–25. Further, the “operational settings” referenced above may include “a duty cycle setting, a temperature setting, an operation time duration, a dosage setting, and a security setting.” Ex. 1001, 11:3–9.

The '479 patent explains that control subassembly 14 contains circuit board 30 that “can further comprise a microcontroller 31 configured for carrying out one or more electronic functions in respect of the operation of

vape device 10.” Ex. 1001, 9:44–48. Circuit board 30 can also comprise radio frequency transceiver circuit 36 to provide means for wireless communication of data between vape device 10 and a personal computing device. Ex. 1001, 10:23–26. The personal computing device may include an application or “app” that:

can use the unique payload identifier received from ID tag 28 as a means to determine if the person in possession of vape device 10 and computing device 72 is a permitted user (*e.g.*, application 74 can compare user information associated with the payload identifier with application user information that a user provides to application 74 to determine whether the user of application 74 is permitted to operate vape device 10 and the particular payload reservoir 26).

Ex. 1001, 14:41–49 (emphasis omitted).

### *C. Challenged Claims*

Petitioner challenges claims 1–21 of the ’479 patent. Claims 1 and 7 are the only independent claims. Independent claim 1 is illustrative, and is reproduced below:

1. A vape device system comprising:  
a vape device comprising:
  - an atomizer comprising an inlet and an outlet;
  - a mouthpiece coupled to the outlet;
  - an activation mechanism coupled to the atomizer;
  - a payload reservoir coupled to the inlet, wherein the payload reservoir is identified by a unique payload identifier that is unique to the payload reservoir, and wherein the payload reservoir is configured to hold a substance for vapourization;
  - a first processor that is configured to receive the unique payload identifier from the payload reservoir; and

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