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PATENTS, TRADEMARKS & COPYRIGHTS

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ALBERT L. SCHMEISER
MANAGING PARTNER
ADMITTED IN NEW YORK AND IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

December 19, 2019

Mr. Joel B. Rothman
SR IP Law
21301 Powerline Road, Suite 100
Boca Raton, FL 33433

Re: Response to Cease and Desist of November 8, 2019

Dear Mr. Rothman,

Our firm represents Jupiter Research , LLC regarding all of their Intellectual Property matters. This correspondence is in response to your letter on November 8, 2019 providing notice of U.S. Patent No. 8,205,622 and claiming infringement. At Jupiter's request we have carefully reviewed your analysis, the prosecution history of the '622 Patent and our client's Liquid 6 product. The prosecution history was extremely informative in determining the elements of your client's invention that were patentable.

As you are aware, most of the elements of your claims are disclosed in the patents to Counts and Susa. As explained in the final office action under "Allowable Subject Matter" and confirmed in the Notice of Allowability it was the "Single Chip Mickeyo" that was the basis for the allowance of claims 2-6. After additional amendments an allowance was issued for claim 1 because "neither Counts nor Susa teach or suggest using a diaphragm microphone as the airflow sensor". As stated by the Examiner in the Notice of Allowability:

The following is an examiner's statement of reasons for allowance: Counts et al. (US 5,060,671) and Susa et al. (EP 0845220 A1) are considered the closest prior art to the invention. It is noted that while prior art exists to teach electronic cigarettes having the atomizing solution soaked into a media (see Robinson et al. US 2008/0092912), neither Counts nor Susa teach or suggest using a diaphragm microphone as the airflow sensor.

Claims 2-6 teach that the electronic cigarette includes a Single Chip Mickeyo Chip to control the atomization. Although SUSA teaches using a circuit board to control the operation, SUSA does not teach or suggest specifically using a Single Chip Mickeyo to control the atomization in the electronic cigarette. It is noted that "Single Chip Mickeyo" has been interpreted to be a type of chip and not a trademark.

Mr. Joel B. Rothman
SR IP Law
December 19, 2019
Page 2

It should be noted that independent claims 12 and 13, require the Single Chip Micyoco, and claim 16 requires a circuit board for a Single Chip Micyoco. Independent claim 17 requires a diaphragm microphone. Accordingly, the stated reasons for allowance are present in all of the claims.

Without delving further into the claims we focused on these two reasons for the allowance. It should have been clear during your analysis of the Liquid 6 product that it includes neither a Single Chip Micyoco nor a diaphragm microphone. Given that these elements were essential for patentability there would be no application of the Doctrine of Equivalents to cover the Liquid 6 product. Accordingly, the Liquid 6 product does not read on the claims of the '662 patent and does not infringe.

We believe this should satisfy any concerns you may have had. Nevertheless, should you wish to discuss the matter further please contact me.

Very truly yours,



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