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FONTEM VENTURES B.V. and
9 FONTEM HOLDINGS 1 B.V.

10 [Defendants' Counsel listed on signature page]

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 FONTEM VENTURES B.V., a
14 Netherlands company; and FONTEM
HOLDINGS 1 B.V., a Netherlands
15 company,

16 Plaintiffs,

17 v.

18 NJOY, INC., a Delaware corporation,
19 and DOES 1-5, Inclusive,

20 Defendant.

21 AND RELATED COUNTERCLAIMS

Case No. CV14-1645 GW (MRWx)
and related cases
Case No. CV14-1649 GW (MRWx)
Case No. CV14-1650 GW (MRWx)
Case No. CV14-1651 GW (MRWx)
Case No. CV14-1652 GW (MRWx)
Case No. CV14-1653 GW (MRWx)
Case No. CV14-1654 GW (MRWx)
Case No. CV14-1655 GW (MRWx)

**SECOND REVISED JOINT CLAIM
CONSTRUCTION AND
PREHEARING STATEMENT**

22 FONTEM VENTURES B.V., a
23 Netherlands company; *etc. et al.*,

24 Plaintiffs,

25 v.

26 CB DISTRIBUTORS, INC., an Illinois
27 corporation; DR DISTRIBUTORS,
LLC, *etc. et al.*,

28 Defendants.

Case No. CV14-1649 GW (MRWx)

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FONTEM VENTURES B.V., a
Netherlands company; *etc. et al.*,

Plaintiffs,

v.

VAPOR CORP., a Delaware
corporation, *etc.*,

Defendant.

Case No. CV14-1650 GW (MRWx)

AND RELATED COUNTERCLAIMS

FONTEM VENTURES B.V., a
Netherlands company; *etc. et al.*,

Plaintiffs,

v.

FIN BRANDING GROUP, LLC, an
Illinois limited liability company;
VICTORY ELECTRONIC
CIGARETTES CORPORATION, *etc.*
et al.,

Defendants.

Case No. CV14-1651 GW (MRWx)

AND RELATED COUNTERCLAIMS

FONTEM VENTURES B.V., a
Netherlands company; *etc. et al.*,

Plaintiffs,

v.

BALLANTYNE BRANDS, LLC, *etc.*,

Defendant.

Case No. CV14-1652 GW (MRWx)

AND RELATED COUNTERCLAIMS

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FONTEM VENTURES B.V., a
Netherlands company; *etc. et al.*,

Plaintiffs,

v.

SPARK INDUSTRIES, LLC, *etc.*,

Defendant.

Case No. CV14-1653 GW (MRWx)

FONTEM VENTURES B.V., a
Netherlands company; *etc. et al.*,

Plaintiffs,

v.

LOGIC TECHNOLOGY
DEVELOPMENT LLC, *etc.*,

Defendant.

Case No. CV14-1654 GW (MRWx)

FONTEM VENTURES B.V., a
Netherlands company; *etc. et al.*,

Plaintiffs,

v.

VMR PRODUCTS, LLC, dba
V2CIGS, *etc.*,

Defendant.

Case No. CV14-1655 GW (MRWx)

AND RELATED COUNTERCLAIMS

1 After submitting the Revised Joint Claim Construction and Prehearing
2 Statement (Dkt. # 34) but prior to filing Opening Claim Construction Briefs, the
3 parties further agreed to narrow the disputes and terms requiring the Court’s
4 construction as set forth herein. Accordingly, in each of the cases in the captions
5 above (“the Related Cases”),¹ Plaintiffs Fontem Ventures B.V. and Fontem
6 Holdings 1 B.V. (together, “Fontem”), along with Defendants NJOY, Inc.
7 (“NJOY”), CB Distributors, Inc. and DR Distributors, LLC (“CB/DR”), Vapor
8 Corp. (“Vapor”), FIN Branding Group, LLC and Victory Electronic Cigarettes
9 Corporation (“FIN/Victory”), Ballantyne Brands, LLC (“Ballantyne”), Spark
10 Industries, LLC (“Spark”), Logic Technology Development LLC (“Logic”), and
11 VMR Products, LLC (“VMR”) (together, “the Defendants”) hereby submit this
12 Second Revised Joint Claim Construction and Prehearing Statement for U.S. Patent
13 Nos. 8,365,742 (the ’742 patent); 8,375,957 (the ’957 patent); 8,393,331 (the ’331
14 patent); 8,490,628 (the ’628 patent); and 8,689,805 (the ’805 patent) (“the Revised
15 Statement”) (Dkt. # 34).

16 **AMENDMENTS TO DISPUTED CLAIM CONSTRUCTIONS**

17 The Parties agreed that two of the disputed terms (“cigarette bottle assembly”
18 and “porous”) need not be construed, thereby eliminating the dispute over their
19 construction.

20 In addition, the parties made amendments relating to the proposed
21 constructions of five disputed terms (“inlet,” “a liquid permeating component
22 sleeved on the electric heater,” “liquid storage component,” “liquid supply,” and
23 “solution storage area”).

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26 ¹ CV14-1645 GW (MRW_x), Case No. CV14-1649 GW (MRW_x), CV14-
27 1650 GW (MRW_x), CV14-1651 GW (MRW_x), CV14-1652 GW (MRW_x), CV14-
28 1653 GW (MRW_x), CV14-1654 GW (MRW_x), Case No. CV14-1655 GW
(MRW_x).

1 An updated chart which reflects these amendments is set forth in Exhibit B,
2 attached.

3 The Parties may continue to meet and confer regarding the parties claim
4 constructions. The Parties also expressly reserve the right to rely on any evidence
5 identified by the other party, and any evidence obtained, or that may be obtained,
6 through claim construction discovery. The Parties expressly reserve the right to
7 amend, correct, or supplement its claim construction positions and supporting or
8 rebuttal evidence in response to any change of position by the other party, in
9 response to information received during discovery, or for other good cause.

10 **CLAIM CONSTRUCTION HEARING**

11 The parties continue to believe that three hours will be sufficient for the
12 claim construction hearing with Fontem being allocated half of the time and
13 Defendants being allocated half of the time. Subject to the Court's preference, the
14 Parties have agreed to present the disputed claim terms term-by-term, with Fontem
15 presenting first for the first term, and Defendants first for the second term, and so
16 forth. Neither side currently plans to call any witness at the claim construction
17 hearing.

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20 DATED: December 12, 2014

PERKINS COIE LLP

21
22 By: /s/ Joseph P. Hamilton
Joseph P. Hamilton

23 Attorneys for Plaintiffs and Counter-
24 Defendants
25 FONTEM VENTURES B.V. and
26 FONTEM HOLDINGS 1 B.V.
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