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17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 FONTEM VENTURES B.V. *et al.*,
20 Plaintiffs,
21 v.
22 NJOY, INC. *et al.*,
23 Defendants.

24 Case No. CV14-1645 GW (MRWx)
25 Consolidated Case Nos.:
26 CV-14-1649, CV-14-1650, CV-14-1651,
27 CV-14-1652, CV-14-1653, CV-14-1654,
28 CV-14-1655, CV 14-8144, CV 14-8154,
CV 14-8155, CV 14-8156, CV 14-8157,
CV 14-8158, CV 14-8160, CV 14-8161,
CV 14-9263, CV 14-9266, CV 14-9267,
CV 14-9268, CV 14-9269, CV 14-9270,
CV 14-9271, CV 14-9273

**DEFENDANT LOGIC
TECHNOLOGY DEVELOPMENT
LLC'S NOTICE OF MOTION AND
MOTION FOR SUMMARY
JUDGMENT OF NON-
INFRINGEMENT**

Hearing Date: October 22, 2015
Hearing Time: 8:30 a.m.
Courtroom: Hon. George H. Wu

AND RELATED
COUNTERCLAIMS

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 22, 2015 at 8:30 a.m., or as soon thereafter as counsel may be heard in Courtroom 10 of the above-entitled Court, located at 312 N. Spring Street, Los Angeles, CA 90012, defendant Logic Technology Development LLC (“Logic”) will, and hereby does, move for summary judgment, pursuant to Fed. R. Civ. P. 56 that Logic does not infringe any asserted claims of U.S. Patent Nos. 8,393,331, and 8,490,628, and does not infringe asserted claim 2 of U.S. Patent No. 8,365,742 asserted by Plaintiffs Fontem Ventures B.V. and Fontem Holdings 1 B.V. (“Fontem or Plaintiffs”). For the reasons described in this Motion and the co-pending Defendants’ *Daubert* Motion to Exclude the Testimony of Plaintiffs’ Infringement Expert Neil Sheehan and PTO Expert John Doll that will, *inter alia*, seek to exclude testimony of Fontem’s infringement expert, Mr. Sheehan, Logic further moves for summary judgment of non-infringement of all asserted patents. Defendants CB Distributors, Inc. and DR Distributors, LLC (together, “CB/DR”) join in this Motion in its entirety. Defendants NJOY, Inc. (“NJOY”), Ballantyne Brands, LLC (“Ballantyne”), VMR Products, LLC (“VMR”), FIN Branding Group, LLC and Electronic Cigarettes International Group, Ltd. (f/k/a Victory Electronic Cigarettes Corporation), and Spark Industries, LLC (“Spark”) join in part (Section V) of the Motion. For the reasons described in CB Distributors’ co-pending motion for summary judgment of non-infringement, Logic further moves for summary judgment that its accused products do not infringe the asserted claims of U.S. Patent No. 8,899,239.

This Motion is made following the conference of counsel pursuant to Local Rule 7-3, which took place on September 8, 2015. Fontem stated that they oppose this Motion.

This Motion is based upon this Notice and Motion, and the accompanying Memorandum of Points and Authorities, Declaration of Victor de Gyarfás and exhibits thereto, Statement of Uncontroverted Facts and Conclusions of Law, all pleadings and papers on file in this action, and such other matters and arguments as may be presented to

1 the Court prior to and at the time of the hearing.

2 Dated: September 17, 2015

Respectfully submitted,

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