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9 FONTEM VENTURES B.V. and
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
15 HOLDINGS 1 B.V., a Netherlands
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)

**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)

1 FONTEM VENTURES B.V., a
2 Netherlands company; *etc. et al.*,
3
4 Plaintiffs,
5
6 v.
7
8 VAPOR CORP., a Delaware
9 corporation, *etc.*,
10
11 Defendant.12

Case No. CV14-1650 GW (MRWx)

13 AND RELATED COUNTERCLAIMS

14 FONTEM VENTURES B.V., a
15 Netherlands company; *etc. et al.*,
16
17 Plaintiffs,
18
19 v.
20
21 FIN BRANDING GROUP, LLC, an
22 Illinois limited liability company;
23 VICTORY ELECTRONIC
24 CIGARETTES CORPORATION, *etc.*
25 *et al.*,
26
27 Defendants.28

Case No. CV14-1651 GW (MRWx)

AND RELATED COUNTERCLAIMS

18 FONTEM VENTURES B.V., a
19 Netherlands company; *etc. et al.*,
20
21 Plaintiffs,
22
23 v.
24
25 BALLANTYNE BRANDS, LLC, *etc.*,
26
27 Defendant.28

Case No. CV14-1652 GW (MRWx)

AND RELATED COUNTERCLAIMS

1 FONTEM VENTURES B.V., a
2 Netherlands company; *etc. et al.*,
3
4 Plaintiffs,
5
6 v.
7
8 SPARK INDUSTRIES, LLC, *etc.*,
9
10 Defendant.

Case No. CV14-1653 GW (MRWx)

7 FONTEM VENTURES B.V., a
8 Netherlands company; *etc. et al.*,
9
10 Plaintiffs,
11
12 v.
13
14 LOGIC TECHNOLOGY
15 DEVELOPMENT LLC, *etc.*,
16
17 Defendant.

Case No. CV14-1654 GW (MRWx)

14 FONTEM VENTURES B.V., a
15 Netherlands company; *etc. et al.*,
16
17 Plaintiffs,
18
19 v.
20
21 VMR PRODUCTS, LLC, dba
22 V2CIGS, *etc.*,
23
24 Defendant.

Case No. CV14-1655 GW (MRWx)

21 AND RELATED COUNTERCLAIMS

1 Pursuant to the Court’s Scheduling and Case Management Order and Order
2 to limit the claims terms for construction to fifteen terms (Dkt. # 29) in each of the
3 cases in the captions above (“the Related Cases”),¹ Plaintiffs Fontem Ventures B.V.
4 and Fontem Holdings 1 B.V. (together, “Fontem”), along with Defendants NJOY,
5 Inc. (“NJOY”), CB Distributors, Inc. and DR Distributors, LLC (“CB/DR”), Vapor
6 Corp. (“Vapor”), FIN Branding Group, LLC and Victory Electronic Cigarettes
7 Corporation (“FIN/Victory”), Ballantyne Brands, LLC (“Ballantyne”), Spark
8 Industries, LLC (“Spark”), Logic Technology Development LLC (“Logic”), and
9 VMR Products, LLC (“VMR”) (together, “the Defendants”) hereby submit this
10 Revised Joint Claim Construction and Prehearing Statement for U.S. Patent Nos.
11 8,365,742 (the ’742 patent); 8,375,957 (the ’957 patent); 8,393,331 (the ’331
12 patent); 8,490,628 (the ’628 patent); and 8,689,805 (the ’805 patent). The parties
13 have met and conferred in an attempt to narrow the disputes and terms requiring the
14 Court’s construction.

15 **DISPUTED CLAIM CONSTRUCTIONS**

16 The Parties reached agreement on the construction that the Court should
17 adopt for two claim terms. The agreed-to constructions are set forth in Exhibit A,
18 attached.

19 For each disputed claim term or phrase, Exhibit B, attached, presents each
20 party’s proposed construction and identifies preliminary supporting intrinsic and
21 extrinsic evidence.

22 The Parties may continue to meet and confer regarding the parties claim
23 constructions. The Parties also expressly reserve the right to rely on any evidence
24 identified by the other party, and any evidence obtained, or that may be obtained,
25

26 ¹ CV14-1645 GW (MRWx) [Dkt. 22], Case No. CV14-1649 GW (MRWx)
27 [Dkt. 22], CV14-1650 GW (MRWx) [Dkt. 34], CV14-1651 GW (MRWx) [Dkt.
28 34], CV14-1652 GW (MRWx) [Dkt. 29], CV14-1653 GW (MRWx) [Dkt. 21],
CV14-1654 GW (MRWx) [Dkt. 29], Case No. CV14-1655 GW (MRWx) [Dkt. 31].

1 through claim construction discovery. The Parties expressly reserve the right to
2 amend, correct, or supplement its claim construction positions and supporting or
3 rebuttal evidence in response to any change of position by the other party, in
4 response to information received during claim construction discovery, or for other
5 good cause.

6 **CLAIM CONSTRUCTION HEARING**

7 The parties believe that three hours will be sufficient for the claim
8 construction hearing with Fontem being allocated half of the time and Defendants
9 being allocated half of the time. Subject to the Court's preference, the Parties have
10 agreed to present the disputed claim terms term-by-term, with Fontem presenting
11 first for the first term, and Defendants first for the second term, and so forth.
12 Neither side currently plans to call any witness at the claim construction hearing,
13 but reserve the right to do so in the future.

14 DATED: September 30, 2014

PERKINS COIE LLP

15
16 By: /s/ Joseph P. Hamilton
Joseph P. Hamilton

17 Attorneys for Plaintiffs and Counter-
18 Defendants
19 FONTEM VENTURES B.V. and
FONTEM HOLDINGS 1 B.V.

20 DATED: September 30, 2014

LATHAM & WATKINS

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