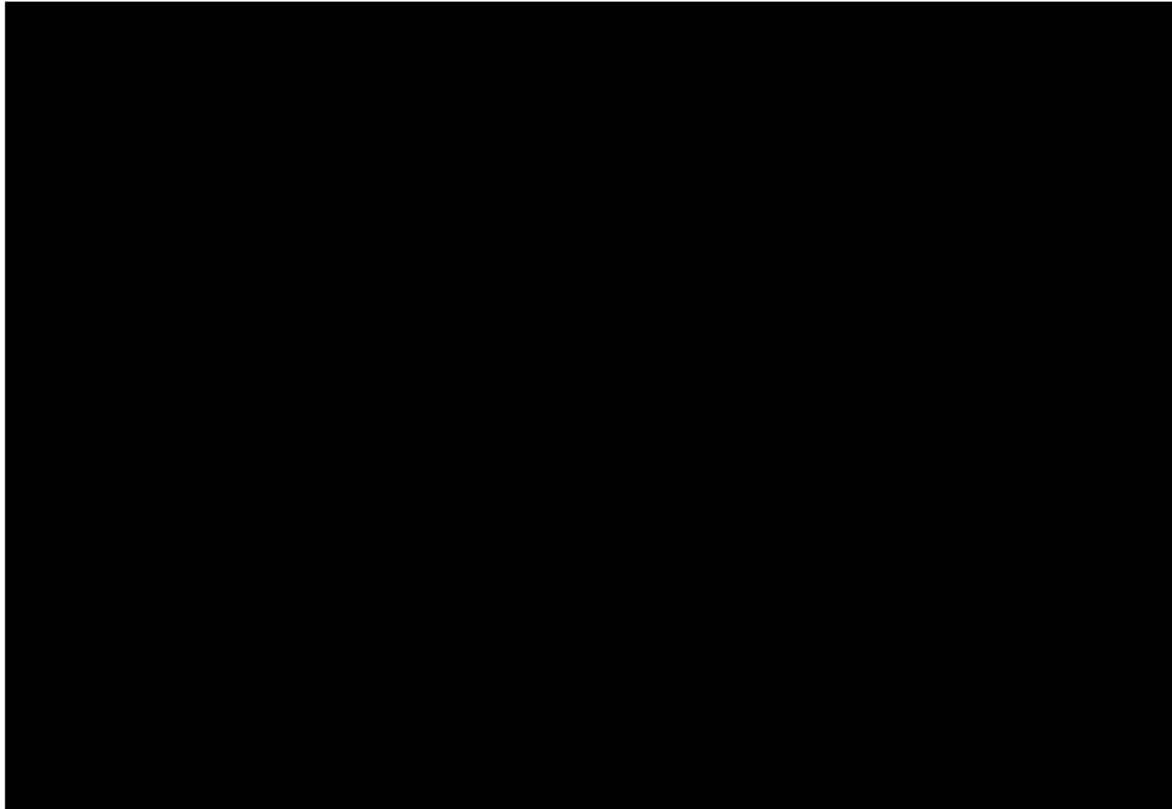


# **EXHIBIT 3**

## **(PUBLIC)**



**CONFIDENTIAL BUSINESS INFORMATION – SUBJECT TO PROTECTIVE ORDER**



158. As demonstrated by [REDACTED] and Mr. McAlexander's own analysis, the VUSE Vibe [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Accordingly, the VUSE Vibe does not infringe claims 16 and 22-25 of the '374 Patent.

**XI. THIRD-PARTY PRODUCTS**

159. I have also been asked to provide my opinions and analysis regarding whether two third-party products, the JUUL and MarkTen Elite, practice the asserted claims of the '545 Patent. It is my opinion that both of those products practice one or more of the asserted claims of the '545 Patent to the extent that the Reynolds Accused VUSE Products do.

160. Mr. McAlexander opines that the JUUL and MarkTen Elite products each practiced one or more asserted claims of the '545 Patent, based on his review of [REDACTED] [REDACTED]. (McAlexander Report at ¶¶ 681-682). I have reviewed [REDACTED]

**CONFIDENTIAL BUSINESS INFORMATION – SUBJECT TO PROTECTIVE ORDER**

[REDACTED]. Based on my independent review of [REDACTED], I conclude that the JUUL and MarkTen Elite each practiced one or more asserted claims of the '545 Patent to the extent that the Accused VUSE Products do.

161. For example, as Mr. McAlexander notes in his report, [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] (JUUL: RJREDVA\_001271814-1877 at RJREDVA\_001271842, RJREDVA\_001271845-1846, RJREDVA\_001271853-1854, RJREDVA\_001271858-1870; RJREDVA\_001271556-1566 at RJREDVA\_001271557-1564; RJREDVA\_001271567-1599 at RJREDVA\_001271568, RJREDVA\_001271584. MarkTen: RJREDVA\_000948368 at RJREDVA\_000948369-8372.)

162. [REDACTED]

[REDACTED] (RJREDVA\_001271814-1877 at RJREDVA\_001271843.)

[REDACTED]

(*Id.* at RJREDVA\_001271818.) [REDACTED]

[REDACTED] (*Id.* at RJREDVA

001271853-1854.) JUUL's website also confirms the battery is lithium ion.<sup>4</sup> A web search of the number listed on the battery, 451248, shows the same battery and further confirms the battery

<sup>4</sup> <https://support.juul.com/s/article/What-kind-of-battery-is-in-the-device-UnitedStates#:~:text=JUUL%20uses%20a%20lithium%20Dion,under%20hot%20or%20cold%20conditions>

**CONFIDENTIAL BUSINESS INFORMATION – SUBJECT TO PROTECTIVE ORDER**

is lithium ion.<sup>5</sup> [REDACTED]

[REDACTED] (*Id.* at RJREDVA

001271856.) [REDACTED]

[REDACTED] (*Id.* at RJREDVA 001271858-1859.) The battery is shown below:



(*Id.* at RJREDVA 001271854.)

163. [REDACTED]

[REDACTED] (*Id.* at RJREDVA 001271843.)

<sup>5</sup> <https://www.made-in-china.com/showroom/4bdbf1855fab97a1/product-detailwOjmHlsPAnWf/China-451248-Battery-3-7V-200mAh-Electronic-Cigarette-Li-Polymer-Cell-Li-ion-Battery-High-Quality-and-Low-Price.html>

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.