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8 *FONTEM VENTURES B.V.* and
FONTEM HOLDINGS 1 B.V.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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

Plaintiffs,

v.

VMR PRODUCTS, LLC, dba V2CIGS,
a Florida limited liability company, and
DOES 1-5, Inclusive,

Defendant.

Case No. CV14-8161 GW (MRWx)
**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**
DEMAND FOR JURY TRIAL

1 For its First Amended Complaint against Defendant VMR PRODUCTS,
2 LLC (“Defendant”), Plaintiff Fontem Ventures B.V. (“Fontem Ventures”) and
3 Plaintiff Fontem Holdings 1 B.V. (“Fontem Holdings”) allege as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a civil action for patent infringement arising under the patent
6 laws of the United States, 35 U.S.C. §§ 101, et seq., and in particular § 271.

7 2. This Court has subject matter jurisdiction over this patent infringement
8 action under 28 U.S.C. §§ 1331 and 1338(a).

9 3. This Court has personal jurisdiction over Defendant because it solicits
10 and conducts business in California, including the provision of goods over the
11 Internet, derives revenue from goods sold in California and within this judicial
12 district, and has committed acts of infringement in this judicial district.

13 4. Venue lies in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and
14 (c), and 1400(b).

15 **PARTIES**

16 5. Plaintiff Fontem Ventures is a company organized and existing under
17 the laws of the Netherlands, with its principal place of business at 12th Floor, 101
18 Barbara Strozzilaan, 1083 HN Amsterdam, The Netherlands. Fontem Ventures is
19 in the business of developing innovative non-tobacco products, including electronic
20 cigarettes.

21 6. Plaintiff Fontem Holdings is a company organized and existing under
22 the laws of the Netherlands, with its principal place of business at 12th Floor, 101
23 Barbara Strozzilaan, 1083 HN Amsterdam, The Netherlands.

24 7. Plaintiffs Fontem Ventures and Fontem Holdings (together, “the
25 Plaintiffs”) are informed and believe that: Defendant VMR PRODUCTS, LLC
26 (“VMR”) is a limited liability company organized and existing under the laws of
27 the State of Florida, having its principal place of business at 3050 Biscayne
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1 Boulevard, 8th Floor, Miami, Florida, 33137, USA. VMR is doing business in this
2 judicial district related to the claims asserted in this First Amended Complaint.

3 8. The true names and capacities, whether individual, corporate,
4 associate, or otherwise of defendants sued herein as DOES 1 through 5, inclusive,
5 are unknown to the Plaintiffs at the present time, and the Plaintiffs therefore sue
6 said Defendants by such fictitious names. The Plaintiffs, after obtaining leave of
7 court, if necessary, will amend this First Amended Complaint to show such true
8 names and capacities when the same have been ascertained.

9 **FIRST CAUSE OF ACTION**

10 (Infringement of U.S. Patent No. 8,863,752)

11 9. The Plaintiffs incorporate by reference the allegations contained in
12 paragraphs 1-8 above.

13 10. Plaintiff Fontem Holdings is the owner of the entire right, title, and
14 interest in and to United States Patent No. 8,863,752 (“the ’752 Patent”) and
15 Plaintiff Fontem Ventures is the exclusive licensee of the ’752 Patent. The ’752
16 Patent was duly and legally issued by the United States Patent Office on October
17 21, 2014 and is valid, subsisting, and in full force and effect. A copy of the ’752
18 Patent is attached to this First Amended Complaint as Exhibit A.

19 11. The Plaintiffs are informed and believe that: Defendant has directly
20 infringed the ’752 Patent in violation of at least 35 U.S.C. § 271(a), by itself and/or
21 through its agents, unlawfully and wrongfully making, using, importing, offering to
22 sell, and/or selling electronic cigarette products embodying one or more of the
23 inventions claimed in the ’752 Patent, within and/or from the United States without
24 permission or license from the Plaintiffs, and will continue to do so unless enjoined
25 by this Court. Examples of electronic cigarette products that directly infringe the
26 ’752 Patent either literally or under the doctrine of equivalents include, but are not
27 limited to, (1) V2 Rechargeable Electronic Cigarettes as found in the following V2
28 Starter Kits: Beginners Kit, V2 Standard Kit, V2 Standard Plus Kit, V2 Couples

1 Kit, and V2 Ultimate Kit; (2) V2 Electronic Cigarette Flavor Cartridge refill packs
2 for use with V2 Rechargeable Electronic Cigarette Batteries purchased separately
3 or as part of a V2 Starter Kit; (3) Vapor Couture Rechargeable Electronic Cigarettes
4 as found in the following Vapor Couture Starter Kits: Entrée Kit, L’Essentiel Kit,
5 L’Essentiel +1 Kit, Passeport Kit, and Maximale Kit; and (4) Vapor Couture
6 Electronic Cigarette Flavor Cartridge refill packs for use with Vapor Couture
7 Electronic Cigarette Batteries purchased separately or as part of a Vapor Couture
8 Starter Kit. Such products infringe at least claims 1, 11, 14, 16, and 19 of the ’752
9 Patent.

10 12. As a direct and proximate result of the foregoing acts of Defendant, the
11 Plaintiffs have suffered, and are entitled to, monetary damages in an amount not yet
12 determined. The Plaintiffs are also entitled to the costs of suit and interest.

13 13. Defendant’s continuing infringement has inflicted and, unless
14 restrained by this court, will continue to inflict great and irreparable harm upon the
15 Plaintiffs. The Plaintiffs have no adequate remedy at law. The Plaintiffs are
16 entitled to preliminary and permanent injunctions enjoining Defendant from
17 engaging in further acts of infringement.

18 **SECOND CAUSE OF ACTION**

19 (Infringement of U.S. Patent No. 8,893,726)

20 14. The Plaintiffs incorporate by reference the allegations contained in
21 paragraphs 1-8 above.

22 15. Plaintiff Fontem Holdings is the owner of the entire right, title, and
23 interest in and to United States Patent No. 8,893,726 (“the ’726 Patent”) and
24 Plaintiff Fontem Ventures is the exclusive licensee of the ’726 Patent. The ’726
25 Patent was duly and legally issued by the United States Patent Office on November
26 25, 2014 and is valid, subsisting, and in full force and effect. A copy of the ’726
27 Patent is attached to this First Amended Complaint as Exhibit B.
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1 16. The Plaintiffs are informed and believe that: Defendant has directly
2 infringed the '726 Patent in violation of at least 35 U.S.C. § 271(a), by itself and/or
3 through its agents, unlawfully and wrongfully making, using, importing, offering to
4 sell, and/or selling electronic cigarette products embodying one or more of the
5 inventions claimed in the '726 Patent, within and/or from the United States without
6 permission or license from the Plaintiffs, and will continue to do so unless enjoined
7 by this Court. Examples of electronic cigarette products that directly infringe the
8 '726 Patent either literally or under the doctrine of equivalents include, but are not
9 limited to, (1) V2 Auto Rechargeable Electronic Cigarettes as found in the
10 following V2 Starter Kits: Beginners Kit, V2 Standard Kit, V2 Standard Plus Kit,
11 V2 Couples Kit, and V2 Ultimate Kit; (2) V2 Electronic Cigarette Flavor Cartridge
12 refill packs for use with V2 Rechargeable Electronic Cigarette Batteries purchased
13 separately or as part of a V2 Starter Kit; (3) V2 Auto Electronic Cigarette Batteries;
14 (4) V2 Disposable Electronic Cigarettes; (5) Zig-Zag Disposable Cigarettes;
15 (6) Vapor Couture Rechargeable Electronic Cigarettes as found in the following
16 Vapor Couture Starter Kits: Entrée Kit, L'Essentiel Kit, L'Essentiel +1 Kit,
17 Passeport Kit, and Maximale Kit; (7) Vapor Couture Electronic Cigarette Flavor
18 Cartridge refill packs for use with Vapor Couture Electronic Cigarette Batteries
19 purchased separately or as part of a Vapor Couture Starter Kit; (8) Vapor Couture
20 Electronic Cigarette Batteries; and (9) Vapor Couture Disposable Electronic
21 Cigarettes. Such products infringe at least claims 1, 14, and 15 of the '726 Patent.

22 17. As a direct and proximate result of the foregoing acts of Defendant, the
23 Plaintiffs have suffered, and are entitled to, monetary damages in an amount not yet
24 determined. The Plaintiffs are also entitled to the costs of suit and interest.

25 18. Defendant's continuing infringement has inflicted and, unless
26 restrained by this court, will continue to inflict great and irreparable harm upon the
27 Plaintiffs. The Plaintiffs have no adequate remedy at law. The Plaintiffs are
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1 entitled to preliminary and permanent injunctions enjoining Defendant from
2 engaging in further acts of infringement.

3 **PRAYER FOR RELIEF**

4 The Plaintiffs request entry of judgment that:

5 A. The '752 Patent and the '726 Patent are valid and enforceable;

6 B. Defendant is liable for infringement of the '752 Patent and the '726
7 Patent under at least the provisions of 35 U.S.C. § 271(a);

8 C. Defendant and all affiliates, subsidiaries, officers, employees, agents,
9 representatives, licensees, successors, assigns, and all those acting in concert with,
10 or for or on behalf of Defendant, shall be enjoined from infringing the '752 Patent
11 and the '726 Patent;

12 D. Defendant shall pay damages to the Plaintiffs resulting from
13 Defendant's patent infringement pursuant to 35 U.S.C. § 284;

14 E. The Plaintiffs be entitled to prejudgment interest and post-judgment
15 interest on the damages; and

16 F. The Plaintiffs be awarded such other and further relief, in law or in
17 equity, as the Court deems just, equitable or appropriate.

18 DATED: November 25, 2014

Respectfully submitted,

PERKINS COIE LLP

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

Attorneys for Plaintiff
*FONTEM VENTURES B.V. and
FONTEM HOLDINGS I B.V.*

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DEMAND FOR JURY TRIAL

Plaintiffs Fontem Ventures and Fontem Holdings hereby demand a trial by jury of all issues triable by a jury.

DATED: November 25, 2014

PERKINS COIE LLP

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

Attorneys for Plaintiff
FONTM VENTURES B.V. and
FONTM HOLDINGS I B.V.