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8 *FONTM VENTURES B.V.* and
FONTM HOLDINGS I B.V.

9
10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12

13 FONTM VENTURES B.V., a
Netherlands company; and FONTM
14 HOLDINGS I B.V., a Netherlands
company

15 Plaintiffs,

16 v.

17 LOGIC TECHNOLOGY
18 DEVELOPMENT LLC, a Florida
limited liability company, and DOES 1-
19 5, Inclusive,

20 Defendant.
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Case No. CV14-9271 GW (MRWx)

**FIRST AMENDED COMPLAINT
FOR PATENT INFRINGEMENT**

DEMAND FOR JURY TRIAL

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

5 **JURISDICTION AND VENUE**

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

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

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

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

16 **PARTIES**

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

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

25 7. Plaintiffs Fontem Ventures and Fontem Holdings (together, “the
26 Plaintiffs”) are informed and believe that: Defendant LOGIC TECHNOLOGY
27 DEVELOPMENT LLC. (“LOGIC”) is a limited liability company organized and
28 existing under the laws of the State of Florida, having its principal place of business

1 at 2004 N.W. 25th Ave., Pompano Beach, Florida, 33069, USA. LOGIC is doing
2 business in this judicial district related to the claims asserted in this First Amended
3 Complaint.

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

10 **FIRST CAUSE OF ACTION**

11 (Infringement of U.S. Patent No. 8,899,239)

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

14 10. Plaintiff Fontem Holdings is the owner of the entire right, title, and
15 interest in and to United States Patent No. 8,899,239 ("the '239 Patent") and
16 Plaintiff Fontem Ventures is the exclusive licensee of the '239 Patent. The '239
17 Patent was duly and legally issued by the United States Patent Office on December
18 2, 2014 and is valid, subsisting, and in full force and effect. A copy of the '239
19 Patent is attached to this First Amended Complaint as Exhibit A.

20 11. Defendant has knowledge of the '239 Patent, and of the Plaintiffs'
21 rights therein, at least as of the date of service for this First Amended Complaint.

22 12. The Plaintiffs are informed and believe that: Defendant directly
23 infringes the '239 Patent in violation of at least 35 U.S.C. § 271(a), by itself and/or
24 through its agents, unlawfully and wrongfully making, using, importing, offering to
25 sell, and/or selling electronic cigarette products embodying one or more of the
26 inventions claimed in the '239 Patent, within and/or from the United States without
27 permission or license from the Plaintiffs, and will continue to do so unless enjoined
28 by this Court. Examples of electronic cigarette products that directly infringe the

1 '239 Patent either literally or under the doctrine of equivalents include, but are not
2 limited to, (1) LOGIC Rechargeable Electronic Cigarettes as found in the LOGIC
3 Power Series Starter Kit, (2) LOGIC Refill Cartomizers, including LOGIC Black
4 Label Cartomizers, LOGIC Platinum Label Cartomizers, LOGIC Gold Label
5 Cartomizers, and LOGIC Zero Label Cartomizers; (3) LOGIC Power Series
6 Batteries; and (4) LOGIC Disposable Electronic Cigarettes, including LOGIC
7 Black Label Disposable, LOGIC Platinum Label Disposable, LOGIC Gold Label
8 Disposable, and LOGIC Zero Label Disposable. Such products infringe at least
9 claims 1 and 13 of the '239 Patent.

10 13. The Plaintiffs are informed and believe that: Defendant induces
11 infringement of the '239 Patent in violation of at least 35 U.S.C. § 271(b) by, itself
12 and/or through its agents, inducing acts by its customers that constitute the direct
13 infringement of one or more claims of the '239 Patent, within and/or from the
14 United States without permission or license from the Plaintiffs, and will continue to
15 do so unless enjoined by this Court. For example, Defendant induces acts by its
16 customers that constitute direct infringement of the '239 Patent based on electronic
17 cigarette products that include, but are not limited to, (1) LOGIC Rechargeable
18 Electronic Cigarettes as found in the LOGIC Power Series Starter Kit, (2) LOGIC
19 Refill Cartomizers, including LOGIC Black Label Cartomizers, LOGIC Platinum
20 Label Cartomizers, LOGIC Gold Label Cartomizers, and LOGIC Zero Label
21 Cartomizers; (3) LOGIC Power Series Batteries; and (4) LOGIC Disposable
22 Electronic Cigarettes, including LOGIC Black Label Disposable, LOGIC Platinum
23 Label Disposable, LOGIC Gold Label Disposable, and LOGIC Zero Label
24 Disposable.

25 14. The Plaintiffs are informed and believe that: Having knowledge of the
26 '239 Patent at least as of the date of service for this First Amended Complaint,
27 Defendant provides instructions to use its electronic cigarette products in a manner
28 known to be infringing. For example, Defendant maintains a website that instructs

1 its customers on how its electronic cigarette products work.¹ Defendant's website
 2 specifically directs customers to use Defendant's electronic cigarette products in a
 3 manner that infringes one or more claims of the '239 Patent, explaining, for
 4 example, that Defendant's electronic cigarette products have an "indicator LED"
 5 shown at the end of the battery component, and that a user need only "remove the
 6 battery and cartridge from packaging, remove two plastic end caps on each end of
 7 the small cartridge, and twist the small cartridge onto the battery."² Defendant
 8 knows that its actions induce infringement of the '239 Patent, because for example,
 9 it knows that the use of its electronic cigarette products infringes the '239 Patent.
 10 Based on Defendant's instructions to its customers on its website, Defendant
 11 induces actions by its customers that directly infringe at least claim 17 of the '239
 12 Patent.

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

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

21 **SECOND CAUSE OF ACTION**

22 (Infringement of U.S. Patent No. 8,910,641)

23 17. The Plaintiffs incorporate by reference the allegations contained in
 24 paragraphs 1-8 above.

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 27 ¹ See, e.g., <http://store.logiccig.com/about-logic/>;
 28 <http://store.logiccig.com/faqs/#six> ("How do I use Logic?") (last visited December 16, 2014).
² *Id.*

1 18. Plaintiff Fontem Holdings is the owner of the entire right, title, and
2 interest in and to United States Patent No. 8,910,641 (“the ’641 Patent”) and
3 Plaintiff Fontem Ventures is the exclusive licensee of the ’641 Patent. The ’641
4 Patent was duly and legally issued by the United States Patent Office on December
5 16, 2014 and is valid, subsisting, and in full force and effect. A copy of the ’641
6 Patent is attached to this First Amended Complaint as Exhibit B.

7 19. The Plaintiffs are informed and believe that: Defendant directly
8 infringes the ’641 Patent in violation of at least 35 U.S.C. § 271(a), by itself and/or
9 through its agents, unlawfully and wrongfully making, using, importing, offering to
10 sell, and/or selling electronic cigarette products embodying one or more of the
11 inventions claimed in the ’641 Patent, within and/or from the United States without
12 permission or license from the Plaintiffs, and will continue to do so unless enjoined
13 by this Court. Examples of electronic cigarette products that directly infringe the
14 ’641 Patent either literally or under the doctrine of equivalents include, but are not
15 limited to, (1) LOGIC Rechargeable Electronic Cigarettes as found in the LOGIC
16 Power Series Starter Kit, (2) LOGIC Refill Cartomizers, including LOGIC Black
17 Label Cartomizers, LOGIC Platinum Label Cartomizers, LOGIC Gold Label
18 Cartomizers, and LOGIC Zero Label Cartomizers; (3) LOGIC Power Series
19 Batteries; and (4) LOGIC Disposable Electronic Cigarettes, including LOGIC
20 Black Label Disposable, LOGIC Platinum Label Disposable, LOGIC Gold Label
21 Disposable, and LOGIC Zero Label Disposable. Such products infringe at least
22 claims 1 and 17 of the ’641 Patent.

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

26 21. Defendant’s continuing infringement has inflicted and, unless
27 restrained by this court, will continue to inflict great and irreparable harm upon the
28 Plaintiffs. The Plaintiffs have no adequate remedy at law. The Plaintiffs are

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 '239 Patent and the '641 Patent are valid and enforceable;

6 B. Defendant is liable for infringement of the '239 Patent under at least
7 the provisions of 35 U.S.C. § 271(a) and (b) and is liable for infringement of the
8 '641 Patent under at least the provisions of 35 U.S.C. § 271(a);

9 C. Defendant and all affiliates, subsidiaries, officers, employees, agents,
10 representatives, licensees, successors, assigns, and all those acting in concert with,
11 or for or on behalf of Defendant, shall be enjoined from infringing the '239 Patent
12 and the '641 Patent;

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

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

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

19 DATED: December 16, 2014

Respectfully submitted,

20 **PERKINS COIE LLP**

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

23 Attorneys for Plaintiff
24 *FONTM VENTURES B.V. and*
25 *FONTM 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: December 16, 2014

PERKINS COIE LLP

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

Attorneys for Plaintiff
Fontem Ventures B.V. and
Fontem Holdings I B.V.