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13 Attorneys for Plaintiff
14 JUUL LABS, INC.

15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**
17 **SAN FRANCISCO DIVISION**

18 JUUL LABS, INC., a Delaware corporation,
19 Plaintiff,
20 v.
21 ZHIP LAB CO., LTD., a Chinese corporation;
22 ZLAB S.A., a Uruguayan corporation;
SHENZHEN YIBO TECHNOLOGY CO.,
LTD., a Chinese corporation;
23 THE ELECTRIC TOBACCONIST, LLC, a
Colorado corporation;
24 VAPOR 4 LIFE HOLDINGS, INC., an Illinois
25 corporation;
26 Defendants.

Case No. 3:18-cv-06094 EMC

**PLAINTIFF JUUL LABS, INC.'S FIRST
AMENDED COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

Complaint filed: October 3, 2018
Trial Date: none set

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiff Juul Labs, Inc. (“Juul” or “Plaintiff”) files this First Amended Complaint against
3 Ziip Lab Co., Ltd. (“Ziip China”), ZLab S.A. (“Ziip Labs”), Shenzhen Yibo Technology Co.,
4 Ltd. (“Yibo”), The Electric Tobacconist, LLC (“Electric Tobacconist”), and Vapor 4 Life
5 Holdings, Inc. (“V4L”) (collectively “Defendants”) and alleges as follows:

6 **NATURE OF THIS ACTION**

7 1. This is a civil action arising out of Defendants’ patent infringement in violation of
8 the Patent Laws of the United States, 35 U.S.C. §§ 271 and 281-285.

9 **PARTIES**

10 2. Juul is a privately-held corporation organized and existing under the laws of
11 Delaware, having a principal place of business at 560 20th Street, San Francisco, CA 94107.

12 3. Ziip China is a Chinese corporation with its principal place of business at E
13 district 4F, 5 building, Wen Ge Industrial Zone, Heshuikou, Gongming St., Guangming New
14 District, Shenzhen City, Guangdong Province, China 518106.

15 4. Ziip Labs is an Uruguayan corporation with its principal place of business at Ave.
16 Golero, 911 Office 27, Punta del Este – Maldonado – Uruguay, 20100.

17 5. Yibo is a Chinese corporation with its principal place of business at E district 4F,
18 5 building, Wen Ge Industrial Zone, Heshuikou Gongming St., Guangming New District
19 Shenzhen City, Guangdong Province China 518106.

20 6. Electric Tobacconist is a Colorado corporation with its principal place of business
21 at 3235 Prairie Avenue, Boulder, CO 80301.

22 7. V4L is an Illinois corporation with its principal place of business at 4080
23 Commercial Avenue, Suite A, Northbrook, IL 60062.

24 **JURISDICTION AND VENUE**

25 8. This Court has subject-matter jurisdiction over Juul’s patent-infringement claims
26 under 28 U.S.C. §§ 1331 and 1338(a).

27 9. This Court has personal jurisdiction over Ziip China at least because, on
28 information and belief, Ziip China has purposefully imported the accused Ziip devices and pods,

1 as well as Plus Pods, into California, made those products available for sale through an
2 established distribution chain (including the www.electrictobacconist.com website and the
3 www.pluspods.com website), and Juul's cause of action for patent infringement arises out of
4 these activities. See Ex.1 [print out of Ziip devices and pods on electrictobacconist website]; Ex.
5 2 [shipping information from Electric Tobacconist Website]; Ex.3 [receipt of Ziip device]; See
6 Ex. 4 [print out of Plus Pods on www.pluspods.com]; Ex. 5 [shipping information from
7 www.pluspods.com].

8 10. This Court has personal jurisdiction over Ziip Labs at least because, on
9 information and belief, Ziip Labs has purposefully imported the accused Ziip devices and pods,
10 as well as Plus Pods, into California, made those products available for sale through an
11 established distribution chain (including the www.electrictobacconist.com website and the
12 www.pluspods.com website), and Juul's cause of action for patent infringement arises out of
13 these activities. See Ex. 1 [print out of Ziip devices and pods on electrictobacconist website]; Ex.
14 2 [shipping information from Electric Tobacconist Website]; Ex. 3 [receipt of Ziip device]; See
15 Ex. 4 [print out of Plus Pods on www.pluspods.com]; Ex. 5 [shipping information from
16 www.pluspods.com].

17 11. This Court has personal jurisdiction over Yibo at least because, on information
18 and belief, Yibo has purposefully imported the accused Ziip devices and pods, as well as Plus
19 Pods, into California, made those products available for sale through an established distribution
20 chain (including the www.electrictobacconist.com website and the www.pluspods.com website),
21 and Juul's cause of action for patent infringement arises out of these activities. See Ex. 1 [print
22 out of Ziip devices and pods on electrictobacconist website]; Ex. 2 [shipping information from
23 Electric Tobacconist Website]; Ex. 3 [receipt of Ziip device]; See Ex. 4 [print out of Plus Pods
24 on www.pluspods.com]; Ex. 5 [shipping information from www.pluspods.com].

25 12. This Court has personal jurisdiction over Electric Tobacconist at least because
26 Electric Tobacconist has purposefully distributed the accused Ziip devices and pods into
27 California, made those products available for sale through an established distribution chain
28 (including the www.electrictobacconist.com website), and Juul's cause of action for patent

1 infringement arises out of these activities. See Ex. 1 [print out of ZiiP devices and pods on
2 electrictobacconist website]; Ex. 2 [shipping information from Electric Tobacconist Website].

3 13. This Court has personal jurisdiction over V4L at least because V4L has
4 purposefully distributed the accused ZiiP devices and pods into California, made those products
5 available for sale through an established distribution chain (including the www. vapor4life.com
6 website), and Juul's cause of action for patent infringement arises out of these activities. See Ex.
7 17 [print out of ZiiP devices on vapor4life website]; Ex. 18 [print out of ZiiP pods on vapor4life
8 website].

9 14. Venue is proper for ZiiP China, Yibo, and ZiiP Labs in this District under 28
10 U.S.C. § 1391(b)(3) at least because no other venue is proper, ZiiP China, Yibo, and ZiiP Labs
11 have committed acts of infringement in this District, and this Court has personal jurisdiction over
12 ZiiP China, Yibo, and ZiiP Labs. *Atlantic Marine Construction Co. v. United States District*
13 *Court for the W.D. of Texas*, 571 U.S. 49, 57 (2013) (“The statute thereby ensures that so long as
14 a federal court has personal jurisdiction over the defendant, venue will always lie somewhere.”).

15 **INTRADISTRICT ASSIGNMENT**

16 15. This is an Intellectual Property Action subject to district-wide assignment in
17 accordance with Civil Local Rule 3.2(c).

18 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 10,070,669**

19 16. Juul re-alleges and incorporates by reference Paragraphs 1-12 above, as if fully
20 set forth herein.

21 17. On September 11, 2018, the United States Patent and Trademark Office duly and
22 lawfully issued United States Patent Number 10,070,669, entitled “Cartridge for Use with a
23 Vaporizer Device,” to inventors James Monsees, Adam Bowen, Nichols Jay Hatton, Steven
24 Christensen, Kevin Lomeli, Ariel Atkins, and Aaron Keller. The '669 patent issued from U.S.
25 Application No. 15/820,370, filed November 21, 2017. There are no fees currently due with
26 respect to the '669 patent.

27 18. The '669 patent was duly assigned to Juul, which is the assignee of all right, title,
28 and interest in and to the '669 patent and possesses the exclusive right of recovery for past,

1 present, and future infringement. Each and every claim of the '669 patent is valid and
2 enforceable. A true and correct copy of the '669 patent is attached as Exhibit 6.

3 19. Juul virtually marks its products with the appropriate patent numbers, including
4 the '669 patent.

5 20. On information and belief, Ziip China, Ziip Labs, Yibo, Electric Tobacconist, and
6 V4L manufacture, use, import, distribute, offer to sell, and/or sell in the United States the Ziip
7 devices and pods, as well as Plus Pods, that infringe the '669 patent under 35 U.S.C. § 271(a).
8 Specifically, the Ziip devices and pods, as well as Plus Pods, infringe claims 1, 2, 4, 5, 7-9, 12,
9 13, 16, 17, 20, and 21 of the '669 patent at least because these devices and pods include each and
10 every limitation of these claims either literally or under the doctrine of equivalents. Exemplary
11 claim charts for the Ziip devices and pods, as well as Plus Pods, are attached as Exhibits 7 and 8.

12 21. By their actions, Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and
13 V4L's infringement of the '669 patent has irreparably harmed Juul. Unless Ziip China's, Ziip
14 Labs', Yibo's, Electric Tobacconist's, and V4L's infringing acts are enjoined by this Court, Juul
15 will continue to suffer additional irreparable injury. Juul has no adequate remedy at law.

16 22. By their actions, Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and
17 V4L's infringement of the '669 patent has damaged, and continues to damage, Juul in an amount
18 yet to be determined, of at least a reasonable royalty and/or lost profits that Juul would have
19 made but for Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and V4L's infringing acts.

20 **COUNT II: INFRINGEMENT OF U.S. PATENT NO. 10,058,130**

21 23. Juul re-alleges and incorporates by reference Paragraphs 1-22 above, as if fully
22 set forth herein.

23 24. On August 28, 2018, the United States Patent and Trademark Office duly and
24 lawfully issued United States Patent Number 10,058,130, entitled "Cartridge for Use with a
25 Vaporizer Device," to inventors James Monsees, Adam Bowen, Nichols Jay Hatton, Steven
26 Christensen, Kevin Lomeli, Ariel Atkins, and Aaron Keller. The '130 patent issued from U.S.
27 Application No. 15/813,089, filed November 14, 2017. There are no fees currently due with
28 respect to the '130 patent.

1 25. The '130 patent was duly assigned to Juul, which is the assignee of all right, title,
2 and interest in and to the '130 patent and possesses the exclusive right of recovery for past,
3 present, and future infringement. Each and every claim of the '130 patent is valid and
4 enforceable. A true and correct copy of the '130 patent is attached as Exhibit 9.

5 26. Juul virtually marks its products with the appropriate patent numbers, including
6 the '130 patent.

7 27. On information and belief, Ziip China, Ziip Labs, Yibo, Electric Tobacconist, and
8 V4L manufacture, use, import, distribute, offer to sell, and/or sell in the United States the Ziip
9 devices and pods, as well as Plus Pods, that infringe the '130 patent under 35 U.S.C. § 271(a).
10 Specifically, the Ziip devices and pods, as well as Plus Pods, infringe claims 1, 2, 4-10, 16, 19,
11 21, and 27 of the '130 patent at least because these devices and pods include each and every
12 limitation of these claims either literally or under the doctrine of equivalents. Exemplary claim
13 charts for the Ziip devices and pods, as well as Plus Pods, are attached as Exhibits 10 and 11.

14 28. By their actions, Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and
15 V4L's infringement of the '130 patent has irreparably harmed Juul. Unless Ziip China's, Ziip
16 Labs', Yibo's, Electric Tobacconist's, and V4L's infringing acts are enjoined by this Court, Juul
17 will continue to suffer additional irreparable injury. Juul has no adequate remedy at law.

18 29. By their actions, Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and
19 V4L's infringement of the '130 patent has damaged, and continues to damage, Juul in an amount
20 yet to be determined, of at least a reasonable royalty and/or lost profits that Juul would have
21 made but for Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and V4L's infringing acts.

22 **COUNT III: INFRINGEMENT OF U.S. PATENT NO. 10,045,568**

23 30. Juul re-alleges and incorporates by reference Paragraphs 1-29 above, as if fully
24 set forth herein.

25 31. On August 14, 2018, the United States Patent and Trademark Office duly and
26 lawfully issued United States Patent Number 10,045,568, entitled "Vaporization Device Systems
27 and Methods," to inventors James Monsees, Adam Bowen, Nichols Jay Hatton, Steven
28 Christensen, Kevin Lomeli, and Ariel Atkins. The '568 patent issued from U.S. Application No.

1 15/832,749, filed December 5, 2017. There are no fees currently due with respect to the '568
2 patent.

3 32. The '568 patent was duly assigned to Juul, which is the assignee of all right, title,
4 and interest in and to the '568 patent and possesses the exclusive right of recovery for past,
5 present, and future infringement. Each and every claim of the '568 patent is valid and
6 enforceable. A true and correct copy of the '568 patent is attached as Exhibit 12.

7 33. Juul virtually marks its products with the appropriate patent numbers, including
8 the '568 patent.

9 34. On information and belief, Ziip China, Ziip Labs, Yibo, Electric Tobacconist, and
10 V4L manufacture, use, import, distribute, offer to sell, and/or sell in the United States the Ziip
11 devices and pods, as well as Plus Pods, that infringe the '568 patent under 35 U.S.C. § 271(a).
12 Specifically, the Ziip devices and pods, as well as Plus Pods, infringe claims 1-3, 5-9, 12, and
13 17-20 of the '568 patent at least because these devices and pods include each and every
14 limitation of these claims either literally or under the doctrine of equivalents. Exemplary claim
15 charts for the Ziip devices and pods, as well as Plus Pods, are attached as Exhibits 13 and 14.

16 35. By their actions, Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and
17 V4L's infringement of the '568 patent has irreparably harmed Juul. Unless Ziip China's, Ziip
18 Labs', Yibo's, Electric Tobacconist's, and V4L's infringing acts are enjoined by this Court, Juul
19 will continue to suffer additional irreparable injury. Juul has no adequate remedy at law.

20 36. By their actions, Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and
21 V4L's infringement of the '568 patent has damaged, and continues to damage, Juul in an amount
22 yet to be determined, of at least a reasonable royalty and/or lost profits that Juul would have
23 made but for Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and V4L's infringing acts.

24 **COUNT IV: INFRINGEMENT OF U.S. PATENT NO. 10,076,139**

25 37. Juul re-alleges and incorporates by reference Paragraphs 1-36 above, as if fully
26 set forth herein.

27 38. On September 18, 2018, the United States Patent and Trademark Office duly and
28 lawfully issued United States Patent Number 10,076,139, entitled "Vaporizer Apparatus," to

1 inventors James Monsees, Adam Bowen, Steven Christensen, Joshua Morenstein, and
2 Christopher Nicholas HibmaCronan. The '139 patent issued from U.S. Application No.
3 15/257,760, filed September 6, 2016. There are no fees currently due with respect to the '139
4 patent.

5 39. The '139 patent was duly assigned to Juul, which is the assignee of all right, title,
6 and interest in and to the '139 patent and possesses the exclusive right of recovery for past,
7 present, and future infringement. Each and every claim of the '139 patent is valid and
8 enforceable. A true and correct copy of the '139 patent is attached as Exhibit 15.

9 40. Juul virtually marks its products with the appropriate patent numbers, including
10 the '139 patent.

11 41. On information and belief, Ziip China, Ziip Labs, Yibo, Electric Tobacconist, and
12 V4L manufacture, use, import, distribute, offer to sell, and/or sell in the United States the Ziip
13 devices and pods that infringe the '139 patent under 35 U.S.C. § 271(a). Specifically, the Ziip
14 devices and pods infringe claims 1-4, 9-11, 13, 14, 19-21, 24, 28, and 29 of the '139 patent at
15 least because these devices and pods include each and every limitation of these claims either
16 literally or under the doctrine of equivalents. An exemplary claim chart for the Ziip devices and
17 pods is attached as Exhibit 16.

18 42. By their actions, Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and
19 V4L's infringement of the '139 patent has irreparably harmed Juul. Unless Ziip China's, Ziip
20 Labs', Yibo's, Electric Tobacconist's, and V4L's infringing acts are enjoined by this Court, Juul
21 will continue to suffer additional irreparable injury. Juul has no adequate remedy at law.

22 43. By their actions, Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and
23 V4L's infringement of the '139 patent has damaged, and continues to damage, Juul in an amount
24 yet to be determined, of at least a reasonable royalty and/or lost profits that Juul would have
25 made but for Ziip China's, Ziip Labs', Yibo's, Electric Tobacconist's, and V4L's infringing acts.

26 **COUNT V: INFRINGEMENT OF U.S. PATENT NO. 10,104,915**

27 44. Juul re-alleges and incorporates by reference Paragraphs 1-43 above, as if fully
28 set forth herein.

1 45. On October 23, 2018, the United States Patent and Trademark Office duly and
2 lawfully issued United States Patent Number 10,104,915, entitled “Securely Attaching
3 Cartridges for Vaporizer Devices,” to inventors Adam Bowen, Steven Christensen, James
4 Monsees, Joshua Morenstein, and Christopher Nicholas HibmaCronan. The ’915 patent issued
5 from U.S. Application No. 15/815,666, filed November 16, 2017. There are no fees currently due
6 with respect to the ’915 patent.

7 46. The ’915 patent was duly assigned to Juul, which is the assignee of all right, title,
8 and interest in and to the ’915 patent and possesses the exclusive right of recovery for past,
9 present, and future infringement. Each and every claim of the ’915 patent is valid and
10 enforceable. A true and correct copy of the ’915 patent is attached as Exhibit 19.

11 47. Juul virtually marks its products with the appropriate patent numbers, including
12 the ’915 patent.

13 48. On information and belief, Ziip China, Ziip Labs, Yibo, Electric Tobacconist, and
14 V4L manufacture, use, import, distribute, offer to sell, and/or sell in the United States the Ziip
15 devices and pods that infringe the ’915 patent under 35 U.S.C. § 271(a). For example, the Ziip
16 devices and pods infringe claims 1-4, 6, 9, 11, 12, 18, 19, and 20 of the ’915 patent at least
17 because these devices and pods include each and every limitation of these claims either literally
18 or under the doctrine of equivalents. An exemplary claim chart for the Ziip devices and pods is
19 attached as Exhibit 20.

20 49. By their actions, Ziip China’s, Ziip Labs’, Yibo’s, Electric Tobacconist’s, V4L’s
21 infringement of the ’915 patent has irreparably harmed Juul. Unless Ziip China’s, Ziip Labs’,
22 Yibo’s, Electric Tobacconist’s, and V4L’s infringing acts are enjoined by this Court, Juul will
23 continue to suffer additional irreparable injury. Juul has no adequate remedy at law.

24 50. By their actions, Ziip China’s, Ziip Labs’, Yibo’s, Electric Tobacconist’s, and
25 V4L’s infringement of the ’915 patent has damaged, and continues to damage, Juul in an amount
26 yet to be determined, of at least a reasonable royalty and/or lost profits that Juul would have
27 made but for Ziip China’s, Ziip Labs’, Yibo’s, Electric Tobacconist’s, and V4L’s infringing acts.
28

PRAYER FOR RELIEF

1
2 WHEREFORE, Plaintiff requests judgment against Ziip China, Ziip Labs, Yibo, Electric
3 Tobacconist, V4L as follows:

4 A. That Ziip U.S., Ziip China, Ziip Uruguay, Yibo, Electric Tobacconist, and V4L,
5 and all of their subsidiaries, affiliates, officers, agents, servants, employees, attorneys, and their
6 heirs, successors and assigns, and all persons acting in concert or participation with Ziip China,
7 Ziip Labs, Yibo, Electric Tobacconist, and V4L and each of them, be immediately enjoined and
8 restrained, preliminarily and permanently, without bond, from manufacturing, distributing,
9 selling or offering to sell in the United States or importing into the United States products
10 infringing the claims of the patents-at-issue; and deliver to Plaintiff all products that infringe the
11 patents-at-issue;

12 B. A judgment by the Court that Ziip China, Ziip Labs, Yibo, Electric Tobacconist,
13 and V4L have infringed U.S. Patent Nos. 10,070,669; 10,058,130; 10,045,568; 10,076,139; and
14 10,104,915;

15 C. An award of damages for infringement of U.S. Patent Nos. 10,070,669;
16 10,058,130; 10,045,568; 10,076,139; and 10,104,915 together with prejudgment interest and
17 costs, said damages to be trebled by reason of the intentional and willful nature of Ziip China's,
18 Ziip Labs', Yibo's, Electric Tobacconist's, and V4L's infringement, as provided by 35 U.S.C. §
19 284;

20 D. A determination that this case is "exceptional" under 35 U.S.C. § 285, and an
21 award of Plaintiff's reasonable attorneys' fees;

22 E. That any monetary award includes pre- and post-judgment interest at the highest
23 rate allowed by law;

24 F. For costs of suit; and

25 ///

1 G. For such other or further relief as the Court deems just and proper.
2

3 Dated: October 26, 2018

PROCOPIO, CORY, HARGREAVES
& SAVITCH LLP

4
5 /s/ Robert H. Sloss

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25
26
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28 Attorneys for Plaintiff
JUUL LABS, INC.

JURY DEMAND

Under Rule 38 of the Federal Rules of Civil Procedure, Plaintiff respectfully demands a trial by jury of any issues triable of right by a jury.

Dated: October 26, 2018

PROCOPIO, CORY, HARGREAVES
& SAVITCH LLP

/s/ Robert H. Sloss

Robert H. Sloss

Victor M. Felix

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