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

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

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

15 Plaintiffs,

16 v.

17 NJOY, INC., a Delaware corporation,
18 and DOES 1-5, Inclusive,

19 Defendant.
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Case No. cv14-8144

**COMPLAINT FOR PATENT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 For its Complaint against Defendant NJOY, INC. (“Defendant”), Plaintiff
2 Fontem Ventures B.V. (“Fontem Ventures”) and Plaintiff Fontem Holdings 1 B.V.
3 (“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 Strozzi laan, 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 Strozzi laan, 1083 HN Amsterdam, The Netherlands.

24 7. Plaintiffs Fontem Ventures and Fontem Holdings (together, “the
25 Plaintiffs”) are informed and believe that: Defendant NJOY, INC. (“NJOY”) is a
26 corporation organized and existing under the laws of the State of Delaware, having
27 its principal place of business at 15211 N. Kierland Blvd., Scottsdale, AZ, 85254,
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1 USA. NJOY is doing business in this judicial district related to the claims asserted
2 in this 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 Complaint to show such true names and
8 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 the 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) NJOY Recharge Electronic Cigarettes as found in NJOY Recharge
28 Starter Kits; and (2) NJOY Replacement Flavor Chambers for use with NJOY

1 Recharge Electronic Cigarette Batteries purchased separately or as part of an NJOY
2 Starter Kit. Such products infringe at least claims 1, 11, 14, 16, and 19 of the '752
3 Patent.

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

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

12 **PRAYER FOR RELIEF**

13 The Plaintiffs request entry of judgment that:

14 A. The '752 Patent is valid and enforceable;

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

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

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

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

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

1 DATED: October 21, 2014

Respectfully submitted,

2 **PERKINS COIE LLP**

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

6 Attorneys for Plaintiff
7 *Fontem Ventures B.V. and*
8 *Fontem Holdings 1 B.V.*

DEMAND FOR JURY TRIAL

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

DATED: October 21, 2014

PERKINS COIE LLP

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

Attorneys for Plaintiff
Fontem Ventures B.V. and
Fontem Holdings 1 B.V.