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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

VPR BRANDS, L.P., a Delaware
limited partnership,

Plaintiff,

v.

Jupiter Research, LLC, an Arizona
limited liability company,

Defendant.

Case No. CV-20-02185-PHX-DJH

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO
DEFENDANTS**

[Assigned Hon. Diane J. Humetewa]

TO: VPR BRANDS, L.P. AND ITS ATTORNEYS:

Pursuant to Rule 34, Federal Rules of Civil Procedure, Defendant submits the following objections and responses to Plaintiff's Requests for Production to Defendant.

PRELIMINARY STATEMENT

All responses to the following requests for production are based on information currently known to Defendant after a reasonable effort to locate information called for by these requests. Accordingly, all responses are given without prejudice to Defendant's

1 right to produce evidence based on any additional information that may develop or come
2 to Defendant's attention at a later time. In addition, Defendant's objections are made
3 without prejudice to Defendant's right to assert any additional or supplemental
4 objections should Defendant discover additional grounds for such objections. Finally,
5 Defendant's agreement to produce some documents in response to any request for
6 production does not constitute an admission that any additional documents in fact exist
7 or are in Defendant's possession, custody or control.

8 Defendant makes these objections and responses without in any manner waiving:
9 (1) the right to object to the use of any response for any purpose in this action or any
10 other actions on grounds of privilege, relevancy, materiality, or any other appropriate
11 basis; (2) the right to object to any other requests for production involving or relating to
12 the subject matter of the responses herein; and (3) the right to revise, correct,
13 supplement, or clarify any of the responses provided below at any time. A partial
14 response to any request for production that has been objected to, in whole or in part, is
15 not intended to be a waiver of any objection. All objections as to relevance, authenticity,
16 or admissibility of any document are expressly reserved.

17 **GENERAL OBJECTIONS**

- 18 1. Defendant objects to each request for production to the extent it uses vague
19 or ambiguous terms or language. Defendant will respond to the requests
20 for production, upon a fair reading of the terms used therein, to the best of
21 its understanding.
- 22 2. Defendant objects to the requests for production to the extent they seek to
23 elicit legal conclusions. Information provided in response to these requests
24 for production shall not be construed to be an admission by Defendant that
25

1 such information satisfies any particular legal characterization made by the
2 interrogatories.

3 3. Defendant objects to the requests for production as premature to the extent
4 they seek disclosure of experts' identities, opinions, or reports in a manner
5 inconsistent with the Federal Rules of Civil Procedure, Local Rules or
6 Orders of the Court.

7 4. By answering the requests for production, Defendant does not waive any
8 applicable privilege or immunity. Specifically, Defendant objects to the
9 requests for production to the extent they call for information protected by
10 the attorney-client privilege, attorney work product doctrine, or any other
11 applicable privilege or immunity. In the event that privileged information
12 is inadvertently disclosed by Defendant, such disclosure shall not
13 constitute a waiver of any applicable privilege. Nor shall Defendant be
14 precluded from challenging the use of any inadvertently disclosed
15 privileged information during any subsequent proceedings.

16 5. Defendant's response or objection to any particular request for production
17 is not an admission that any responsive information exists.

18 6. Defendant objects to the requests for production to the extent they seek
19 information that is publicly available, already in the possession of VPR
20 BRANDS, L.P. or that could more easily be obtained from other sources
21 that are more convenient, less burdensome or less expensive.

22 7. Defendant objects to the requests for production as duplicative and overly
23 burdensome, to the extent they seek information that has already been
24 requested in this litigation and to the extent the requests for production
25 seek the disclosure of the same information multiple times.

- 1 8. Defendant objects to the requests for production, definitions, and
2 instructions to the extent they seek or call for information that is not in
3 Defendant's possession, custody, or control.
- 4 9. Defendant objects to the requests for production to the extent they are
5 overly broad, seek information that is not reasonably limited in time or
6 scope, would require undue expense to answer, or call upon Defendant to
7 investigate, collect, and disclose information that is neither relevant to the
8 subject matter of this action nor proportional to the needs of this action.
9 Defendant is willing, however, to confer with VPR BRANDS, L.P. in an
10 effort to resolve any disagreements between the parties relating to the
11 scope, breadth, and relevancy of the requests for production.
- 12 10. Defendant objects to the requests for production to the extent they call for
13 the production of "any" or "all" document(s) or thing(s) as overly broad
14 and unnecessarily burdensome.
- 15 11. Defendant objects to the requests for production to the extent they assume
16 facts not in evidence, facts which do not exist, or facts that are otherwise
17 incorrect. Defendant further objects to the requests for production to the
18 extent they contain inaccurate, incomplete, or misleading descriptions of
19 facts, persons, or events underlying this action. The disclosure of
20 information by Defendant in any response shall not constitute an
21 agreement with, or acquiescence to, any such description.
- 22 12. Defendant objects to the requests for production to the extent they seek
23 information or documents protected from disclosure under any
24 confidentiality obligation imposed by contract, order, or understanding
25 binding upon Defendant. Defendant further objects to the requests to the

1 extent they seek access to information concerning, relating, or pertaining to
2 confidential agreements, the terms of confidential agreements, or other
3 records pertaining to confidential agreements that are protected from
4 disclosure under any confidentiality obligation imposed by contract, order,
5 or understanding binding upon Defendant.

6 13. Defendant objects to the requests for production to the extent they seek
7 information that consists of proprietary business information, trade secrets,
8 or other confidential information.

9 14. Defendant objects to the requests for production to the extent that they are
10 in violation of the Federal Rules of Civil Procedure, Local Rules or Orders
11 of the Court.

12 15. Defendant incorporates these general objections into each and every one of
13 its responses to VPR BRANDS, L.P.'s requests for production as if the
14 General Objections were fully stated therein. Neither the inclusion of any
15 specific objection in response to a request for production, nor the failure to
16 include any general or specific objection in response to a request for
17 production, shall in any way be deemed as a waiver of any General
18 Objection made herein or that may be asserted at another date.

19 16. Defendant's search for information is continuing, and Defendant reserves
20 the right to supplement its responses as additional information is located or
21 identified.

22 **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

23 17. Defendants object to VPR BRANDS, L.P.'s Definitions and Instructions
24 and requests for production to the extent that they attempt to impose any
25 duties or burdens beyond those allowed by the Federal Rules of Civil

1 Procedure and Local Rules. Defendant will conduct its search in
2 accordance with the Federal Rules of Civil Procedure and the Local Rules.

3 18. To the extent that Defendant provides information arguably within the
4 scope of any definition used by VPR BRANDS, L.P. in its Definitions and
5 Instructions, such information by Defendant shall not be construed to be an
6 admission by Defendant of being within any such definition.

7 19. Defendant objects to VPR BRANDS, L.P.'s Definitions and Instructions to
8 the extent those definitions and instructions call for a legal conclusion.

9 20. Defendant objects to VPR BRANDS, L.P.'s Definitions and Instructions to
10 the extent they are cumulative, duplicative or inconsistent.

11 21. Defendant objects to VPR BRANDS, L.P.'s Definitions and Instructions to
12 the extent they seek to include attorney work product and other applicable
13 privileged material.

14 22. Defendant objects to VPR BRANDS, L.P.'s definition of "Defendant,"
15 "You," and "Your" as overbroad to the extent they refer to any
16 predecessors, and successors in interest, and all other persons acting or
17 purporting to act on behalf of any of them.

18 23. Defendant incorporates these objections into each and every one of its
19 responses to VPR BRANDS, L.P.'s requests for production as if these
20 objections were fully stated therein.

21 22 **SPECIFIC OBJECTIONS AND RESPONSES**

23 Subject to and without waiving its General Objections and Objections to Definitions and
24 Instructions, Defendant responds to Plaintiff's Requests for Production to Defendants as
25 follows:

1
2 **REQUEST FOR PRODUCTION NO. 1:** Documents and ESI sufficient to
3 identify all the different types, styles, items or skus of electronic cigarettes you sold
4 under the trademark or tradename LIQUID 6 from the date six years prior to the date of
5 the filing of the complaint in this case through and including the date of your response.

6 **RESPONSE:** Defendant provides Documents DEF000001-DEF000004 marked as
7 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
8 which are responsive to this request.
9

10 **REQUEST FOR PRODUCTION NO. 2:** Documents and ESI sufficient to
11 identify all the different types, styles, items or skus of electronic cigarettes you sold
12 under trademarks or tradenames other than LIQUID 6 from the date six years prior to the
13 date of the filing of the complaint in this case through and including the date of your
14 response.

15 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
16 broad, and seeks information that is not reasonably limited in time or scope, which would
17 require undue expense to answer, based on Plaintiff's request for documents related to "all
18 the different types, styles, items or skus of electronic cigarettes you sold under trademarks
19 or tradenames other than LIQUID 6." By answering this request, Defendant does not waive
20 any applicable privilege or immunity. In the event that privileged information is
21 inadvertently disclosed by Defendant, such disclosure shall not constitute a waiver of any
22 applicable privilege or immunity, nor shall Defendant be precluded from challenging the
23 use of any inadvertently disclosed privileged information during any subsequent
24 proceedings.
25

1 Subject to and without waiver of the foregoing general and specific objections, and
2 reserving the right to assert additional objections, Defendant responds as follows:

3 Defendant provides Documents DEF000005-DEF000062 marked as
4 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
5 which are responsive to this request.

6
7 **REQUEST FOR PRODUCTION NO. 3:** Documents and ESI sufficient to
8 identify all the trademarks or tradenames under which you sold electronic cigarettes from
9 the date six years prior to the date of the filing of the complaint in this case through and
10 including the date of your response.

11 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
12 broad, and seeks information that is not reasonably limited in time or scope, which would
13 require undue expense to answer, based on Plaintiff's request for "all the trademarks or
14 tradenames." By answering this request, Defendant does not waive any applicable
15 privilege or immunity. In the event that privileged information is inadvertently disclosed
16 by Defendant, such disclosure shall not constitute a waiver of any applicable privilege or
17 immunity, nor shall Defendant be precluded from challenging the use of any inadvertently
18 disclosed privileged information during any subsequent proceedings.

19 Subject to and without waiver of the foregoing general and specific objections, and
20 reserving the right to assert additional objections, Defendant responds as follows:

21 Defendant provides Documents DEF000001-DEF000136.002 which are marked
22 as CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES
23 ONLY which are responsive to this request.

24
25 **REQUEST FOR PRODUCTION NO. 4:** Documents and ESI sufficient to
identify all the manufacturers and suppliers of the different types, styles, items or skus of

1 electronic cigarettes you made, manufactured, marketed, imported, sold, or offered for
2 sale under any trademark or tradename from the date six years prior to the date of the
3 filing of the complaint in this case through and including the date of your response.

4 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
5 broad, and seeks information that is not reasonably limited in time or scope, which would
6 require undue expense to answer, based on Plaintiff's request for "all the manufacturers
7 and suppliers of the different types, styles, items or skus of electronic cigarettes."
8 Defendant objects to this discovery request to the extent it seeks information that consists
9 of proprietary business information, trade secrets, or other confidential information.
10 Defendant objects to this discovery request to the extent it calls for information protected
11 by the attorney-client privilege, attorney work product doctrine, or any other applicable
12 privilege or immunity. By answering this request, Defendant does not waive any
13 applicable privilege or immunity. In the event that privileged information is inadvertently
14 disclosed by Defendant, such disclosure shall not constitute a waiver of any applicable
15 privilege or immunity, nor shall Defendant be precluded from challenging the use of any
16 inadvertently disclosed privileged information during any subsequent proceedings.

17 Subject to and without waiver of the foregoing general and specific objections, and
18 reserving the right to assert additional objections, Defendant responds as follows:

19 Defendant provides Documents DEF000137-DEF000138 marked as
20 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
21 which are responsive to this request.

22
23 **REQUEST FOR PRODUCTION NO. 5:** Documents and ESI sufficient to
24 establish all revenue earned by you from the sale of each and every item identified in
25 response to requests 1 and 2 above, by item and by calendar quarter from the date six

1 years prior to the date of the filing of the complaint in this case through and including
2 the date of your response.

3 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
4 broad, and seeks information that is not reasonably limited in time or scope, which would
5 require undue expense to answer, based on Plaintiff's request for "all revenue earned by
6 you from the sale of each and every item identified in response to requests 1 and 2 above."
7 Defendant objects to this discovery request to the extent it seeks information that consists
8 of proprietary business information, trade secrets, or other confidential information.
9 Defendant objects to this discovery request to the extent it calls for information protected
10 by the attorney-client privilege, attorney work product doctrine, or any other applicable
11 privilege or immunity. By answering this request, Defendant does not waive any
12 applicable privilege or immunity. In the event that privileged information is inadvertently
13 disclosed by Defendant, such disclosure shall not constitute a waiver of any applicable
14 privilege or immunity, nor shall Defendant be precluded from challenging the use of any
15 inadvertently disclosed privileged information during any subsequent proceedings.

16 Subject to and without waiver of the foregoing general and specific objections, and
17 reserving the right to assert additional objections, Defendant responds as follows:

18 Defendant provides Documents DEF001158-DEF001161 marked as
19 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
20 which are responsive to this request.

21
22 **REQUEST FOR PRODUCTION NO. 6:** Documents and ESI sufficient to show
23 all advertisements and marketing material used in connection with the sale of each and
24 every item identified in response to requests 1 and 2 above, from the date six years prior
25

1 to the date of the filing of the complaint in this case through and including the date of
2 your response.

3 **RESPONSE:** Defendant provides Documents DEF000139-DEF000151 which
4 are responsive to this request.

5
6 **REQUEST FOR PRODUCTION NO. 7:** Documents and ESI sufficient to show
7 all catalogues, circulars, leaflets, direct mail solicitations, e-mail solicitations or blasts,
8 newspapers, magazines, brochures, telephone directories, or websites that describe each
9 and every item identified in response to requests 1 and 2 above, from the date six years
10 prior to the date of the filing of the complaint in this case through and including the date
11 of your response.

12 **RESPONSE:** Defendant provides Documents DEF000152-DEF000791.009
13 which are responsive to this request.

14 **REQUEST FOR PRODUCTION NO. 8:** Documents and ESI sufficient to show
15 all drawings, specs, sketches, plans, blueprints, or schematics of the accused device
16 showing how the accused device operates.

17 **RESPONSE:** Defendant objects to this discovery request to the extent it seeks
18 information that consists of proprietary business information, trade secrets, or other
19 confidential information. Defendant objects to this discovery request to the extent it calls
20 for information protected by the attorney-client privilege, attorney work product doctrine,
21 or any other applicable privilege or immunity. By answering this request, Defendant does
22 not waive any applicable privilege or immunity. In the event that privileged information
23 is inadvertently disclosed by Defendant, such disclosure shall not constitute a waiver of
24 any applicable privilege or immunity, nor shall Defendant be precluded from challenging
25

1 the use of any inadvertently disclosed privileged information during any subsequent
2 proceedings.

3 Subject to and without waiver of the foregoing general and specific objections, and
4 reserving the right to assert additional objections, Defendant responds as follows:

5 Defendant provides Documents DEF000796-DEF000809 marked as
6 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
7 which are responsive to this request.

8
9 **REQUEST FOR PRODUCTION NO. 9:** Documents and ESI sufficient to show
10 all drawings, specs, sketches, plans, blueprints, or schematics of all prototypes and
11 earlier versions of the accused device showing how those prototypes and earlier versions
12 operated.

13 **RESPONSE:** Defendant objects to this discovery request to the extent it seeks
14 information that consists of proprietary business information, trade secrets, or other
15 confidential information. Defendant objects to this discovery request to the extent it calls
16 for information protected by the attorney-client privilege, attorney work product doctrine,
17 or any other applicable privilege or immunity. By answering this request, Defendant does
18 not waive any applicable privilege or immunity. In the event that privileged information
19 is inadvertently disclosed by Defendant, such disclosure shall not constitute a waiver of
20 any applicable privilege or immunity, nor shall Defendant be precluded from challenging
21 the use of any inadvertently disclosed privileged information during any subsequent
22 proceedings.

23 Subject to and without waiver of the foregoing general and specific objections, and
24 reserving the right to assert additional objections, Defendant responds as follows:

1 Defendant provides Documents DEF000796-DEF000809 marked as
2 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
3 which are responsive to this request.
4

5 **REQUEST FOR PRODUCTION NO. 10:** Documents and ESI sufficient to show
6 all drawings, specs, sketches, plans, blueprints, or schematics of each and every item
7 identified in response to requests 1 and 2 above showing how those devices operate.

8 **RESPONSE:** Defendant objects to this discovery request to the extent it seeks
9 information that consists of proprietary business information, trade secrets, or other
10 confidential information. Defendant objects to this discovery request to the extent it calls
11 for information protected by the attorney-client privilege, attorney work product doctrine,
12 or any other applicable privilege or immunity. By answering this request, Defendant does
13 not waive any applicable privilege or immunity. In the event that privileged information
14 is inadvertently disclosed by Defendant, such disclosure shall not constitute a waiver of
15 any applicable privilege or immunity, nor shall Defendant be precluded from challenging
16 the use of any inadvertently disclosed privileged information during any subsequent
17 proceedings.

18 Subject to and without waiver of the foregoing general and specific objections, and
19 reserving the right to assert additional objections, Defendant responds as follows:

20 Defendant provides Documents DEF000792-DEF000855 marked as
21 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
22 which are responsive to this request.

23 **REQUEST FOR PRODUCTION NO. 11:** Documents and ESI that refer or relate
24 to communications between you and any prospective, potential, or actual customers that
25

1 relate to the accused device or any other related product or device that discuss how the
2 accused device operates.

3 **RESPONSE:** Defendant objects to this discovery request to the extent it is
4 overly broad, and seeks information that is not reasonably limited in time or scope,
5 which would require undue expense to answer, based on Plaintiff's request for
6 "Documents and ESI that refer or relate to communications." Defendant objects to this
7 discovery request to the extent it seeks information that consists of proprietary business
8 information, trade secrets, or other confidential information. Defendant objects to this
9 discovery request to the extent it calls for information protected by the attorney-client
10 privilege, attorney work product doctrine, or any other applicable privilege or immunity.

11 Defendant does not have documents responsive to this request as Defendant
12 currently understands the request. Defendant is willing to confer with Plaintiff in an
13 effort to fully understand the request and resolve any disagreements between the parties
14 relating to the scope, breadth, and relevancy of this discovery request. Defendant
15 continues to gather documents through the discovery process and will supplement this
16 response as documents are gathered.

17 **REQUEST FOR PRODUCTION NO. 12:** Documents and ESI that refer or relate
18 to communications between you and any prospective, potential, or actual customers that
19 relate to each and every item identified in response to requests 1 and 2 above that
20 discuss how those items operate.

21 **RESPONSE:** Defendant objects to this discovery request to the extent it is
22 overly broad, and seeks information that is not reasonably limited in time or scope,
23 which would require undue expense to answer, based on Plaintiff's request for
24 "Documents and ESI that refer or relate to communications." Defendant objects to this
25 discovery request to the extent it seeks information that consists of proprietary business
information, trade secrets, or other confidential information. Defendant objects to this

1 discovery request to the extent it calls for information protected by the attorney-client
2 privilege, attorney work product doctrine, or any other applicable privilege or immunity.

3 Defendant does not have documents responsive to this request as Defendant
4 currently understands the request. Defendant is willing to confer with Plaintiff in an
5 effort to fully understand the request and resolve any disagreements between the parties
6 relating to the scope, breadth, and relevancy of this discovery request. Defendant
7 continues to gather documents through the discovery process and will supplement this
8 response as documents are gathered.

9
10 **REQUEST FOR PRODUCTION NO. 13:** All documents and ESI that refer or
11 relate to any patents or patent applications filed by you or on your behalf for electronic
12 cigarette(s), including the file histories and correspondence with the United States Patent
13 and Trademark Office and any foreign patent office.

14 **RESPONSE:** Defendant objects to this discovery request to the extent it is
15 overly broad, and seeks information that is not reasonably limited in time or scope,
16 which would require undue expense to answer, based on Plaintiff's request for "All
17 documents and ESI that refer or relate to any patents or patent applications filed by you
18 or on your behalf for electronic cigarette(s)." Defendant objects to this discovery
19 request to the extent it seeks information that consists of proprietary business
20 information, trade secrets, or other confidential information. Defendant objects to this
21 discovery request to the extent it calls for information protected by the attorney-client
22 privilege, attorney work product doctrine, or any other applicable privilege or immunity.
23 By answering this request, Defendant does not waive any applicable privilege or
24 immunity. In the event that privileged information is inadvertently disclosed by
25 Defendant, such disclosure shall not constitute a waiver of any applicable privilege or

1 immunity, nor shall Defendant be precluded from challenging the use of any
2 inadvertently disclosed privileged information during any subsequent proceedings.

3 This discovery request also calls upon Defendant to investigate, collect, and
4 disclose information that is not relevant to the subject matter of this action. Defendant is
5 willing, however, to confer with Plaintiff in an effort to resolve any disagreements
6 between the parties relating to the scope, breadth, and relevancy of this discovery
7 request. Defendant further objects to this discovery request to the extent it uses vague or
8 ambiguous terms or language.

9
10 **REQUEST FOR PRODUCTION NO. 14:** All documents and ESI showing all
11 communications pertaining to the patent-in-suit.

12 **RESPONSE:** Defendant objects to this discovery request to the extent it is
13 overly broad, and seeks information that is not reasonably limited in time or scope,
14 which would require undue expense to answer, based on Plaintiff's request for "All
15 documents and ESI showing all communications pertaining to the patent-in-suit."
16 Defendant objects to this discovery request to the extent it seeks information that
17 consists of proprietary business information, trade secrets, or other confidential
18 information. Defendant objects to this discovery request to the extent it calls for
19 information protected by the attorney-client privilege, attorney work product doctrine, or
20 any other applicable privilege or immunity. By answering this request, Defendant does
21 not waive any applicable privilege or immunity. In the event that privileged information
22 is inadvertently disclosed by Defendant, such disclosure shall not constitute a waiver of
23 any applicable privilege or immunity, nor shall Defendant be precluded from
24 challenging the use of any inadvertently disclosed privileged information during any
25 subsequent proceedings.

This discovery request also calls upon Defendant to produce privileged
documents. Defendant is willing, however, to confer with Plaintiff in an effort to

1 resolve any disagreements between the parties relating to the scope, breadth, and
2 relevancy of this discovery request. Defendant further objects to this discovery request
3 to the extent it uses vague or ambiguous terms or language.

4 Defendant provides Documents DEF000856-DEF000862, which it believes are
5 the type of documents responsive to this request, and there are other communications
6 between Plaintiff's counsel and Defendant's counsel that can be produced if this is truly
7 the documents being sought through this request.

8
9 **REQUEST FOR PRODUCTION NO. 15:** Documents and ESI sufficient to show
10 your profit and loss statements from the date six years prior to the date of the filing of
11 the complaint in this case through and including the date of your response.

12 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
13 broad, and seeks information that is not reasonably limited in time or scope, which would
14 require undue expense to answer, based on Plaintiff's request for "profit and loss
15 statements from the date six years prior to the date of the filing of the complaint."
16 Defendant objects to this discovery request to the extent it seeks information that consists
17 of proprietary business information, trade secrets, or other confidential information.
18 Defendant objects to this discovery request to the extent it calls for information protected
19 by the attorney-client privilege, attorney work product doctrine, or any other applicable
20 privilege or immunity. By answering this request, Defendant does not waive any
21 applicable privilege or immunity. In the event that privileged information is inadvertently
22 disclosed by Defendant, such disclosure shall not constitute a waiver of any applicable
23 privilege or immunity, nor shall Defendant be precluded from challenging the use of any
24 inadvertently disclosed privileged information during any subsequent proceedings.

25 Subject to and without waiver of the foregoing general and specific objections, and
reserving the right to assert additional objections, Defendant responds as follows:

1 Defendant provides Documents DEF001158-DEF001161 marked as
2 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
3 which are responsive to this request.
4

5 **REQUEST FOR PRODUCTION NO. 16:** All documents and ESI showing your
6 first awareness of the patent-in-suit.

7 **RESPONSE:** Defendant was first aware of the patent-in-suit when the filed
8 complaint was sent to Defendant and therefore no other documents need to be provided.
9

10 **REQUEST FOR PRODUCTION NO. 17:** All documents and ESI containing legal
11 opinions pertaining to the patent-in-suit.

12 **RESPONSE:** Defendant objects to this discovery request to the extent it is
13 overly broad, and seeks information that is not reasonably limited in time or scope,
14 which would require undue expense to answer, based on Plaintiff's request for "All
15 documents and ESI containing legal opinions pertaining to the patent-in-suit."
16 Defendant objects to this discovery request to the extent it seeks information that
17 consists of proprietary business information, trade secrets, or other confidential
18 information. Defendant objects to this discovery request to the extent it calls for
19 information protected by the attorney-client privilege, attorney work product doctrine, or
20 any other applicable privilege or immunity. By answering this request, Defendant does
21 not waive any applicable privilege or immunity. In the event that privileged information
22 is inadvertently disclosed by Defendant, such disclosure shall not constitute a waiver of
23 any applicable privilege or immunity, nor shall Defendant be precluded from
24 challenging the use of any inadvertently disclosed privileged information during any
25 subsequent proceedings.

This discovery request also calls upon Defendant to produce privileged documents. Defendant is willing, however, to confer with Plaintiff in an effort to

1 resolve any disagreements between the parties relating to the scope, breadth, and
2 relevancy of this discovery request. Defendant further objects to this discovery request
3 to the extent it uses vague or ambiguous terms or language.
4

5 **REQUEST FOR PRODUCTION NO. 18:** All documents and ESI concerning
6 claims of infringement asserted against you for patents other than the patent-in-suit.

7 **RESPONSE:** There are no document responsive to this request.
8

9 **REQUEST FOR PRODUCTION NO. 19:** All documents and ESI concerning the
10 patentability, validity, invalidity, enforceability, or unenforceability of the patent-in-suit.

11 **RESPONSE:** Defendant provides Documents DEF000915-DEF001135 which
12 are responsive to this request. Defendant continues to gather documents through the
13 discovery process and will supplement this response as documents are gathered.
14

15 **REQUEST FOR PRODUCTION NO. 20:** All documents and ESI containing prior
16 art to the patent-in-suit or that you contend would anticipate or otherwise render obvious
17 any claim or claims of the patent-in-suit.

18 **RESPONSE:** Defendant provides Documents DEF000915-DEF001135 which
19 are responsive to this request. Defendant continues to gather documents through the
20 discovery process and will supplement this response as documents are gathered.
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1 **REQUEST FOR PRODUCTION NO. 21:** All documents and ESI concerning
2 actual or perceived differences or similarities between the scope and content of the prior
3 art and the claimed subject matter of the patent-in-suit.

4 **RESPONSE:** Defendant provides Documents DEF000915-DEF001135 which
5 are responsive to this request. Defendant continues to gather documents through the
6 discovery process and will supplement this response as documents are gathered.

7
8 **REQUEST FOR PRODUCTION NO. 22:** All documents and ESI containing
9 patent or literature searches run or conducted by you or on your behalf relating to the
10 patent-in-suit.

11 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
12 broad, and seeks information that is not reasonably limited in time or scope, which would
13 require undue expense to answer, based on Plaintiff's request for "profit and loss
14 statements from the date six years prior to the date of the filing of the complaint."
15 Defendant objects to this discovery request to the extent it seeks information that consists
16 of proprietary business information, trade secrets, or other confidential information.
17 Defendant objects to this discovery request to the extent it calls for information protected
18 by the attorney-client privilege, attorney work product doctrine, or any other applicable
19 privilege or immunity. By answering this request, Defendant does not waive any
20 applicable privilege or immunity. In the event that privileged information is inadvertently
21 disclosed by Defendant, such disclosure shall not constitute a waiver of any applicable
22 privilege or immunity, nor shall Defendant be precluded from challenging the use of any
23 inadvertently disclosed privileged information during any subsequent proceedings.

24 This discovery request also calls upon Defendant to produce privileged
25 documents. Defendant is willing, however, to confer with Plaintiff in an effort to
resolve any disagreements between the parties relating to the scope, breadth, and

1 relevancy of this discovery request. Defendant further objects to this discovery request
2 to the extent it uses vague or ambiguous terms or language.

3
4 **REQUEST FOR PRODUCTION NO. 23:** All documents and ESI containing
5 license agreements between you and any third parties relating to the accused device.

6 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
7 broad, and seeks information that is not reasonably limited in time or scope, which would
8 require undue expense to answer, based on Plaintiff's request of "license agreements
9 between you and any third parties" and Plaintiff's definition of "Third Party." Defendant
10 objects to this discovery request to the extent it seeks information that consists of
11 proprietary business information, trade secrets, or other confidential information.
12 Defendant objects to this discovery request to the extent it calls for information protected
13 by the attorney-client privilege, attorney work product doctrine, or any other applicable
14 privilege or immunity. By answering this request, Defendant does not waive any
15 applicable privilege or immunity. In the event that privileged information is inadvertently
16 disclosed by Defendant, such disclosure shall not constitute a waiver of any applicable
17 privilege or immunity, nor shall Defendant be precluded from challenging the use of any
18 inadvertently disclosed privileged information during any subsequent proceedings.

19 Subject to and without waiver of the foregoing general and specific objections, and
20 reserving the right to assert additional objections, Defendant responds as follows:

21 Defendant provides Documents DEF000863-DEF000906 marked as
22 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
23 which are responsive to this request.

1
2 **REQUEST FOR PRODUCTION NO. 24:** All documents and ESI containing
3 license agreements between you and any third parties relating to any item identified in
4 response to requests 1 and 2 above.

5 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
6 broad, and seeks information that is not reasonably limited in time or scope, which would
7 require undue expense to answer, based on Plaintiff's request of "license agreements
8 between you and any third parties" and Plaintiff's definition of "Third Party." Defendant
9 objects to this discovery request to the extent it seeks information that consists of
10 proprietary business information, trade secrets, or other confidential information.
11 Defendant objects to this discovery request to the extent it calls for information protected
12 by the attorney-client privilege, attorney work product doctrine, or any other applicable
13 privilege or immunity. By answering this request, Defendant does not waive any
14 applicable privilege or immunity. In the event that privileged information is inadvertently
15 disclosed by Defendant, such disclosure shall not constitute a waiver of any applicable
16 privilege or immunity, nor shall Defendant be precluded from challenging the use of any
17 inadvertently disclosed privileged information during any subsequent proceedings.

18 Subject to and without waiver of the foregoing general and specific objections, and
19 reserving the right to assert additional objections, Defendant responds as follows:

20 Defendant provides Documents DEF000863-DEF000906 marked as
21 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
22 which are responsive to this request.
23
24
25

1
2
3 **REQUEST FOR PRODUCTION NO. 25:** All documents and ESI you content
4 support any denials in your Answer.

5 **RESPONSE:** Defendant provides Documents DEF000915-DEF001135 which
6 are responsive to this request. Defendant continues to gather documents through the
7 discovery process and will supplement this response as documents are gathered.

8
9 **REQUEST FOR PRODUCTION NO. 26:** All documents and ESI you content
10 support your affirmative defenses.

11 **RESPONSE:** Defendant provides Documents DEF000915-DEF001135 which
12 are responsive to this request. Defendant continues to gather documents through the
13 discovery process and will supplement this response as documents are gathered.

14 **REQUEST FOR PRODUCTION NO. 27:** All documents and ESI you content
15 support your counterclaims.

16 **RESPONSE:** Defendant provides Documents DEF000915-DEF001135 which
17 are responsive to this request. Defendant continues to gather documents through the
18 discovery process and will supplement this response as documents are gathered.

19
20 **REQUEST FOR PRODUCTION NO. 28:** All documents and ESI you identified in
21 your Rule 26 Initial Disclosures served in this case.

22 **RESPONSE:** All Documents produced by Defendant with this response are
23 responsive to this request.
24
25

1 **REQUEST FOR PRODUCTION NO. 29:** All documents and ESI you intend to
2 use at trial.

3 **RESPONSE:** Discovery is ongoing, and Defendant is not certain which of the
4 documents provided to Defendant or provided by Defendant will be used at trial.
5 Defendant continues to gather documents through the discovery process and will
6 supplement this response as documents are gathered and decisions are finalized with
7 respect to utilization of documents at trial.

8
9 **REQUEST FOR PRODUCTION NO. 30:** All documents and ESI identified in
10 your Answers to Interrogatories.

11 **RESPONSE:** All Documents produced by Defendant with this response are
12 responsive to this request. Defendant continues to gather documents through the
13 discovery process and will supplement this response as documents are gathered.

14 **REQUEST FOR PRODUCTION NO. 31:** Your insurance policies providing
15 coverage for the claims in this lawsuit.

16 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
17 broad, and seeks information that is not reasonably limited in time or scope, which would
18 require undue expense to answer, based on Plaintiff's request of "your insurance policies
19 providing coverage for the claims in this lawsuit." Defendant objects to this discovery
20 request to the extent it seeks information that consists of proprietary business information,
21 trade secrets, or other confidential information. Defendant objects to this discovery
22 request to the extent it calls for information protected by the attorney-client privilege,
23 attorney work product doctrine, or any other applicable privilege or immunity. By
24 answering this request, Defendant does not waive any applicable privilege or immunity.
25 In the event that privileged information is inadvertently disclosed by Defendant, such

1 disclosure shall not constitute a waiver of any applicable privilege or immunity, nor shall
2 Defendant be precluded from challenging the use of any inadvertently disclosed privileged
3 information during any subsequent proceedings.

4 Subject to and without waiver of the foregoing general and specific objections, and
5 reserving the right to assert additional objections, Defendant responds as follows:

6 Defendant provides Documents DEF000907-DEF000914 marked as
7 CONFIDENTIAL and/or HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY
8 which are responsive to this request.

9
10 **REQUEST FOR PRODUCTION NO. 32:** All reservations of rights letters or
11 denials from your insurance companies regarding the claims in this lawsuit.

12 **RESPONSE:** Defendant objects to this discovery request to the extent it is overly
13 broad, and seeks information that is not reasonably limited in time or scope, which would
14 require undue expense to answer, based on Plaintiff's request of "All reservations of rights
15 letters or denials." Defendant objects to this discovery request to the extent it seeks
16 information that consists of proprietary business information, trade secrets, or other
17 confidential information. Defendant objects to this discovery request to the extent it calls
18 for information protected by the attorney-client privilege, attorney work product doctrine,
19 or any other applicable privilege or immunity. By answering this request, Defendant does
20 not waive any applicable privilege or immunity. In the event that privileged information
21 is inadvertently disclosed by Defendant, such disclosure shall not constitute a waiver of
22 any applicable privilege or immunity, nor shall Defendant be precluded from challenging
23 the use of any inadvertently disclosed privileged information during any subsequent
24 proceedings.

25 Subject to and without waiver of the foregoing general and specific objections, and
reserving the right to assert additional objections, Defendant responds as follows:

1 There are no document responsive to this request.

2
3 **REQUEST FOR PRODUCTION NO. 33:** All documents and ESI containing
4 testimonials you received from users of the accused device.

5 **RESPONSE:** There are no document responsive to this request.

6
7 **REQUEST FOR PRODUCTION NO. 34:** All documents and ESI containing
8 testimonials you received from users of any item identified in response to requests 1 and
9 2 above.

10 **RESPONSE:** There are no document responsive to this request.

11
12
13 DATED this 13th day of April, 2021 (signing for the objections)

14 SCHMEISER, OLSEN & WATTS LLP

15 By:

16
17 /Sean K. Enos/

18 Sean K. Enos
19 Jeffrey W. Johnson
20 SCHMEISER, OLSEN & WATTS, LLP
21 18 E. University Drive, Suite 101
22 Mesa, Arizona 85201
23 Attorneys for Defendants
24
25

1
2 **ORIGINAL** of the foregoing emailed
3 this 13th day of April, 2021 to:

4 SRIPLAW
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10 Attorneys for Defendant

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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

VPR BRANDS, L.P., a Delaware
limited partnership,

Plaintiff,

v.

Jupiter Research, LLC, an Arizona
limited liability company,

Defendant.

Case No. CV-20-02185-PHX-DJH

**DEFENDANTS' RESPONSE TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO
DEFENDANTS**

[Assigned Hon. Diane J. Humetewa]

TO: VPR BRANDS, L.P. AND ITS ATTORNEYS:

Pursuant to Rule 33, Federal Rules of Civil Procedure, Defendants submit the following objections and responses to Plaintiff's First Set of Interrogatories to Defendants.

PRELIMINARY STATEMENT

All responses to the following interrogatories are based on information currently known to Defendant after a reasonable effort to locate information called for by these requests. Accordingly, all responses are given without prejudice to

1 Defendant's right to produce evidence based on any additional information that may
2 develop or come to Defendant's attention at a later time. In addition, Defendant's
3 objections are made without prejudice to Defendant's right to assert any additional or
4 supplemental objections should Defendant discover additional grounds for such
5 objections. Finally, Defendant's agreement to produce some documents in response
6 to any interrogatory does not constitute an admission that any additional documents in
7 fact exist or are in Defendant's possession, custody or control.

8 Defendant makes these objections and responses without in any manner
9 waiving: (1) the right to object to the use of any response for any purpose in this
10 action or any other actions on grounds of privilege, relevancy, materiality, or any
11 other appropriate basis; (2) the right to object to any other interrogatories involving or
12 relating to the subject matter of the responses herein; and (3) the right to revise,
13 correct, supplement, or clarify any of the responses provided below at any time. A
14 partial response to any interrogatory that has been objected to, in whole or in part, is
15 not intended to be a waiver of any objection. All objections as to relevance,
16 authenticity, or admissibility of any document are expressly reserved.

17 **GENERAL OBJECTIONS**

- 18 1. Defendant objects to each interrogatory to the extent it uses vague or
19 ambiguous terms or language. Defendant will respond to the
20 interrogatories, upon a fair reading of the terms used therein, to the best
21 of its understanding.
- 22 2. Defendant objects to the interrogatories to the extent they seek to elicit
23 legal conclusions. Information provided in response to these
24 interrogatories shall not be construed to be an admission by Defendant
25

1 that such information satisfies any particular legal characterization made
2 by the interrogatories.

- 3 3. Defendant objects to the interrogatories as premature to the extent they
4 seek disclosure of experts' identities, opinions, or reports in a manner
5 inconsistent with the Federal Rules of Civil Procedure, Local Rules or
6 Orders of the Court.
- 7 4. By answering the interrogatories, Defendant does not waive any
8 applicable privilege or immunity. Specifically, Defendant objects to the
9 interrogatories to the extent they call for information protected by the
10 attorney-client privilege, attorney work product doctrine, or any other
11 applicable privilege or immunity. In the event that privileged
12 information is inadvertently disclosed by Defendant, such disclosure
13 shall not constitute a waiver of any applicable privilege. Nor shall
14 Defendant be precluded from challenging the use of any inadvertently
15 disclosed privileged information during any subsequent proceedings.
- 16 5. Defendant's response or objection to any particular interrogatory is not
17 an admission that any responsive information exists.
- 18 6. Defendant objects to the interrogatories to the extent they seek
19 information that is publicly available, already in the possession of VPR
20 BRANDS, L.P. or that could more easily be obtained from other sources
21 that are more convenient, less burdensome or less expensive.
- 22 7. Defendant objects to the interrogatories as duplicative and overly
23 burdensome, to the extent they seek information that has already been
24 requested in this litigation and to the extent the interrogatories seek the
25 disclosure of the same information multiple times.

- 1 8. Defendant objects to the interrogatories, definitions, and instructions to
2 the extent they seek or call for information that is not in Defendant's
3 possession, custody, or control.
- 4 9. Defendant objects to the interrogatories to the extent they are overly
5 broad, seek information that is not reasonably limited in time or scope,
6 would require undue expense to answer, or call upon Defendant to
7 investigate, collect, and disclose information that is neither relevant to
8 the subject matter of this action nor proportional to the needs of this
9 action. Defendant is willing, however, to confer with VPR BRANDS,
10 L.P. in an effort to resolve any disagreements between the parties
11 relating to the scope, breadth, and relevancy of the interrogatories.
- 12 10. Defendant objects to the interrogatories to the extent they call for the
13 production of "any" or "all" document(s) or thing(s) as overly broad and
14 unnecessarily burdensome.
- 15 11. Defendant objects to the interrogatories to the extent they assume facts
16 not in evidence, facts which do not exist, or facts that are otherwise
17 incorrect. Defendant further objects to the interrogatories to the extent
18 they contain inaccurate, incomplete, or misleading descriptions of facts,
19 persons, or events underlying this action. The disclosure of information
20 by Defendant in any response shall not constitute an agreement with, or
21 acquiescence to, any such description.
- 22 12. Defendant objects to the interrogatories to the extent they seek
23 information or documents protected from disclosure under any
24 confidentiality obligation imposed by contract, order, or understanding
25 binding upon Defendant. Defendant further objects to the requests to

1 the extent they seek access to information concerning, relating, or
2 pertaining to confidential agreements, the terms of confidential
3 agreements, or other records pertaining to confidential agreements that
4 are protected from disclosure under any confidentiality obligation
5 imposed by contract, order, or understanding binding upon Defendant.

6 13. Defendant objects to the interrogatories to the extent they seek
7 information that consists of proprietary business information, trade
8 secrets, or other confidential information.

9 14. Defendant objects to the interrogatories to the extent that they are in
10 violation of the Federal Rules of Civil Procedure, Local Rules or Orders
11 of the Court.

12 15. Defendant incorporates these general objections into each and every one
13 of its responses to VPR BRANDS, L.P.'s interrogatories as if the
14 General Objections were fully stated therein. Neither the inclusion of
15 any specific objection in response to an interrogatory, nor the failure to
16 include any general or specific objection in response to an interrogatory,
17 shall in any way be deemed as a waiver of any General Objection made
18 herein or that may be asserted at another date.

19 16. Defendant's search for information is continuing, and Defendant
20 reserves the right to supplement its responses as additional information
21 is located or identified.

22 **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

23 17. Defendant objects to VPR BRANDS, L.P.'s Definitions and Instructions
24 and interrogatories to the extent that they attempt to impose any duties
25 or burdens beyond those allowed by the Federal Rules of Civil

1 Procedure and Local Rules. Defendant will conduct its search in
2 accordance with the Federal Rules of Civil Procedure and the Local
3 Rules.

4 18. To the extent that Defendant provides information arguably within the
5 scope of any definition used by VPR BRANDS, L.P. in its Definitions
6 and Instructions, such information by Defendant shall not be construed
7 to be an admission by Defendant of being within any such definition.

8 19. Defendant objects to VPR BRANDS, L.P.'s Definitions and Instructions
9 to the extent those definitions and instructions call for a legal
10 conclusion.

11 20. Defendant objects to VPR BRANDS, L.P.'s Definitions and Instructions
12 to the extent they are cumulative, duplicative or inconsistent.

13 21. Defendant objects to VPR BRANDS, L.P.'s Definitions and Instructions
14 to the extent they seek to include attorney work product and other
15 applicable privileged material.

16 22. Defendant objects to VPR BRANDS, L.P.'s definition of "Defendant,"
17 "You," and "Yours" as overbroad to the extent they refer to any
18 predecessors, and successors in interest, and all other persons acting or
19 purporting to act on behalf of any of them.

20 23. Defendant incorporates these objections into each and every one of its
21 responses to VPR BRANDS, L.P.'s interrogatories as if these objections
22 were fully stated therein.

23
24 **SPECIFIC OBJECTIONS AND RESPONSES**
25

Subject to and without waiving its General Objections and Objections to Definitions and Instructions, Defendant responds to Plaintiff's First Set of Interrogatories to Defendant as follows:

NON-UNIFORM INTERROGATORIES

INTERROGATORY NO. 1: Please provide the name(s), residence and business address and occupation of the person answering these Interrogatories.

ANSWER:

Employee Name	Job Title	Residence Address
Noah Andersen	Lead Graphic Designer	5615 N 7th St Apt 29, Phoenix, AZ 85014
Hunter Rohrer	Graphic Designer	1246 E. Captain Dreyfus Ave. Phoenix, AZ 85022
Jordan Walker	Director of Engineering	3819 N. 28th St., Phoenix, AZ 85016
Bob Crompton	Executive Vice President	2801 E. Camelback Rd. #180, Phoenix, AZ 85016

INTERROGATORY NO. 2: Please provide the name, address, telephone number, place of employment and job title of any person who has, claims to have or whom you believe may have knowledge or information pertaining to any fact alleged in the pleadings (as defined in Federal Rule of Civil Procedure (7(a)) filed in this action, or any fact underlying the subject matter of this action.

ANSWER:

Employee Name	Job Title	Phone Number	Residence Address	Nature/Substance of Knowledge
Noah Andersen	Lead Graphic Designer	+1 480-867-6100 Ext.127	5615 N 7th St Apt 29, Phoenix, AZ 85014	Party(s) responsible for the storage and creation of marketing materials

Hunter Rohrer	Graphic Designer	+1 (602) 574-8761	1246 E. Captain Dreyfus Ave. Phoenix, AZ 85022	Party(s) responsible for the storage and creation of marketing materials
Jordan Walker	Director of Engineering	+1 480-867-6100 Ext. 128	3819 N. 28th St., Phoenix, AZ 85016	Jupiter Research Engineering/Technical Expert
Bob Crompton	Executive Vice President	+1 480-867-6100 Ext. 105	2801 E. Camelback Rd. #180, Phoenix, AZ 85016	Jupiter Research Founder
Mark Scatterday	CEO and Founder	+1 480-867-6100 Ext. 106	5455 E Lincoln Drive, Unit #3008, Paradise Valley, AZ 85253	Jupiter Research Founder

INTERROGATORY NO. 3: To the extend not listed in your response to Interrogatory No. 2, please provide the name, address, telephone number, place of employment and job title of any person who has, claims to have or whom you believe may have knowledge or information pertaining to any defense, affirmative defense, and/or counterclaim now or hereafter asserted in this Action.

ANSWER: None

INTERROGATORY NO. 4: Please state the specific nature and substance of the knowledge that you believe the person(s) identified in your response to Interrogatory No. 2 may have.

ANSWER:

Mark Scatterday: Product creation and development; specific elements of said products and their function.

Bob Crompton: Product development; sales, marketing, and operations.

1 Jordan Walker: Product development and specific elements of said products and their
2 function.

3
4
5 **INTERROGATORY NO. 5:** Please state the specific nature and substance of the
6 knowledge that you believe the person(s) identified in your response to Interrogatory
7 No. 3 may have.

8 **ANSWER:** None

9
10 **INTERROGATORY NO. 6:** Please provide the name of each person whom you
11 may use as a fact witness at trial.

12 **ANSWER:** Mark Scatterday, Bob Compton and Jordan Walker

13
14 **INTERROGATORY NO. 7:** Please state in detail the substance of the facts to be
15 provided by each person whom you may use as a fact witness at trial.

16 **ANSWER:** See the answer to interrogatory 4 above. Additional details will be
17 provided as discovery proceeds and decisions are made regarding the facts each
18 person will testify to.

19
20 **INTERROGATORY NO. 8:** Please identify each document that you may use as
21 an exhibit at trial.

22 **ANSWER:** As discovery proceeds additional details will be provided regarding the
23 documents to be used as exhibits at trial.

1 **INTERROGATORY NO. 9:** Please describe in detail the development of the
2 accused products, including but not limited to, how the accused products were first
3 conceived, the date of conception, the date of first marketing, and the date of first
4 manufacture.

5 **ANSWER:**

6
7 In January of 2015 founders Mark Scatterday and Bob Crompton first conceived the now
8 Liquid 9 (L9) platform. The L9 device's main functional technology was based on open
9 market e-cigarette (e-cig) platforms, but they wanted to add some additional functionality
10 such as magnetic connections and haptic feedback. The highlight of the technology was
11 within the cartridges, that had a tamper proof septum fill and a CCELL™ ceramic
12 atomizer. The high performance, high quality device paired with the high performance,
13 high quality cartridge was a key market differentiator. Through 2015 and most of 2016,
14 the Jupiter Research team worked with the manufacturer, on the development and design
15 of the Liquid 9 platform. Following the first commercial production in June 2016, the L9
16 platform was first marketed at a tradeshow in August 2016. This was where the L9 was
17 born into the public market. Unfortunately, the magnetic connection was not widely
18 popular due to an existing 510 threaded market that was widely used in the e-cig space.
19 To appeal to the open 510 market, the manufacturer conceived a 510 threaded device and
20 cartridge platform in January 2016 that would eventually become the Liquid 6 (L6)
21 platform. In January 2017, Jupiter Research released the Liquid 6 platform to the market
22 purely as a manufacturer, CCELL™, distributor.

23 **INTERROGATORY NO. 10:** Please identify all of your individual items or skus
24 made, marketed or under development by you for the accused products.

25 **ANSWER:** See response to RFP regarding SKUs for Liquid 6

1 **INTERROGATORY NO. 11:** Please identify all of your individual items or skus
2 for electronic cigarettes made, marketed or under development by you, other than the
3 accused products, that feature an atomizer, a power source such as a battery, and a
4 container such as a cartridge or tank.

5 **ANSWER:** See response to RFP regarding SKUs for other than the accused product.
6
7

8 DATED this 13th day of April, 2021 (signing for the objections)

9 SCHMEISER, OLSEN & WATTS LLP

10 By:

11
12 /Sean K. Enos

13 Sean K. Enos
14 Jeffrey W. Johnson
15 SCHMEISER, OLSEN & WATTS, LLP
16 18 E. University Drive, Suite 101
17 Mesa, Arizona 85201
18 Attorneys for Defendants
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20
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22
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1
2
3 **ORIGINAL** of the foregoing emailed
this 13th day of April, 2021 to:

4 SRIPLAW
5 Joel B. Rothman (No. JR0352)
6 21301 Powerline Road
Suite 100
7 Boca Raton, FL 33433
Email: joel@sriplaw.com
8 Attorneys for Plaintiff
9

10
11 /Steven Adams/
Steven Adams
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