

## Eliezer Lekht

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**From:** Steven Adams <sadams@iplawusa.com>  
**Sent:** Wednesday, April 13, 2022 8:47 PM  
**To:** Joel Rothman; Eliezer Lekht; Joseph Dunne  
**Cc:** Michael Mulvaney; Jennifer Smith; Anthony Meola; Jared L. DuJack; Jeff Johnson; Matthew Daley  
**Subject:** Case No.: CV-20-02185-PHX-DJH; VPR Brands, LP v. Jupiter Research, LLC; Our File: 03507.0048US01; Your Ref.: 00581-0030; Jupiter Research, LLC's Supplemental Discovery Responses  
**Attachments:** Jupiter Supplemental Resp to VPR Amended RFAs.pdf; Defendant's 1st Supplemental Response to Plaintiff's 2nd ROGS.pdf

Good afternoon counsel,

Attached is Jupiter Research, LLC's 1<sup>st</sup> Supplemental Response to VPR's 2<sup>nd</sup> Interrogatories and VPR's Amended RFAs. If you have any questions or need additional information regarding this matter, please do not hesitate to contact our office.

**Steven Adams**, *Senior Paralegal*



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10 *Attorneys for Jupiter Research, LLC*

11 IN THE UNITED STATES DISTRICT COURT

12 DISTRICT OF ARIZONA

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

15 Plaintiff,

16 v.

17 Jupiter Research, LLC, an Arizona  
18 limited liability company,

19 Defendant.

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

**DEFENDANT'S 1<sup>ST</sup>  
SUPPLEMENTAL RESPONSE TO  
INTERROGATORY NO.6 OF  
PLAINTIFF'S SECOND SET OF  
INTERROGATORIES TO  
DEFENDANT**

[Assigned Hon. Diane J. Humetewa]

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

21 Pursuant to Rule 33, Federal Rules of Civil Procedure, Defendant submits the  
22 following objections and supplemental response to Interrogatory No. 6 of Plaintiff's  
23 Second Set of Interrogatories to Defendant.  
24

25 **PRELIMINARY STATEMENT**

1 All responses to the following interrogatories are based on information  
2 currently known to Defendant after a reasonable effort to locate information called for  
3 by these requests. Accordingly, all responses are given without prejudice to  
4 Defendant's right to produce evidence based on any additional information that may  
5 develop or come to Defendant's attention at a later time. In addition, Defendant's  
6 objections are made without prejudice to Defendant's right to assert any additional or  
7 supplemental objections should Defendant discover additional grounds for such  
8 objections. Finally, Defendant's agreement to produce some documents in response  
9 to any interrogatory does not constitute an admission that any additional documents in  
10 fact exist or are in Defendant's possession, custody or control.

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

## 20 **GENERAL OBJECTIONS**

- 21 1. Defendant objects to each interrogatory to the extent it uses vague or  
22 ambiguous terms or language. Defendant will respond to the  
23 interrogatories, upon a fair reading of the terms used therein, to the best  
24 of its understanding.  
25

2. Defendant objects to the interrogatories to the extent they seek to elicit legal conclusions. Information provided in response to these interrogatories shall not be construed to be an admission by Defendant that such information satisfies any particular legal characterization made by the interrogatories.
3. Defendant objects to the interrogatories as premature to the extent they seek disclosure of experts' identities, opinions, or reports in a manner inconsistent with the Federal Rules of Civil Procedure, Local Rules or Orders of the Court.
4. By answering the interrogatories, Defendant does not waive any applicable privilege or immunity. Specifically, Defendant objects to the interrogatories to the extent they call for information protected by the attorney-client privilege, attorney work product doctrine, or any other applicable privilege or immunity. In the event that privileged information is inadvertently disclosed by Defendant, such disclosure shall not constitute a waiver of any applicable privilege. Nor shall Defendant be precluded from challenging the use of any inadvertently disclosed privileged information during any subsequent proceedings.
5. Defendant's response or objection to any particular interrogatory is not an admission that any responsive information exists.
6. Defendant objects to the interrogatories to the extent they seek information that is publicly available, already in the possession of VPR BRANDS, L.P. or that could more easily be obtained from other sources that are more convenient, less burdensome or less expensive.

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

- 1 12. Defendant objects to the interrogatories to the extent they seek  
2 information or documents protected from disclosure under any  
3 confidentiality obligation imposed by contract, order, or understanding  
4 binding upon Defendant. Defendant further objects to the requests to  
5 the extent they seek access to information concerning, relating, or  
6 pertaining to confidential agreements, the terms of confidential  
7 agreements, or other records pertaining to confidential agreements that  
8 are protected from disclosure under any confidentiality obligation  
9 imposed by contract, order, or understanding binding upon Defendant.
- 10 13. Defendant objects to the interrogatories to the extent they seek  
11 information that consists of proprietary business information, trade  
12 secrets, or other confidential information.
- 13 14. Defendant objects to the interrogatories to the extent that they are in  
14 violation of the Federal Rules of Civil Procedure, Local Rules or Orders  
15 of the Court.
- 16 15. Defendant incorporates these general objections into each and every one  
17 of its responses to VPR BRANDS, L.P.'s interrogatories as if the  
18 General Objections were fully stated therein. Neither the inclusion of  
19 any specific objection in response to an interrogatory, nor the failure to  
20 include any general or specific objection in response to an interrogatory,  
21 shall in any way be deemed as a waiver of any General Objection made  
22 herein or that may be asserted at another date.
- 23 16. Defendant's search for information is continuing, and Defendant  
24 reserves the right to supplement its responses as additional information  
25 is located or identified.

1                   **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

- 2           17. Defendant objects to VPR BRANDS, L.P.’s Definitions and Instructions
- 3               and interrogatories to the extent that they attempt to impose any duties
- 4               or burdens beyond those allowed by the Federal Rules of Civil
- 5               Procedure and Local Rules. Defendant will conduct its search in
- 6               accordance with the Federal Rules of Civil Procedure and the Local
- 7               Rules.
- 8           18. To the extent that Defendant provides information arguably within the
- 9               scope of any definition used by VPR BRANDS, L.P. in its Definitions
- 10              and Instructions, such information by Defendant shall not be construed
- 11              to be an admission by Defendant of being within any such definition.
- 12           19. Defendant objects to VPR BRANDS, L.P.’s Definitions and Instructions
- 13              to the extent those definitions and instructions call for a legal
- 14              conclusion.
- 15           20. Defendant objects to VPR BRANDS, L.P.’s Definitions and Instructions
- 16              to the extent they are cumulative, duplicative or inconsistent.
- 17           21. Defendant objects to VPR BRANDS, L.P.’s Definitions and Instructions
- 18              to the extent they seek to include attorney work product and other
- 19              applicable privileged material.
- 20           22. Defendant objects to VPR BRANDS, L.P.’s definition of “Defendant,”
- 21              “You,” and “Yours” as overbroad to the extent they refer to any
- 22              predecessors, and successors in interest, and all other persons acting or
- 23              purporting to act on behalf of any of them.
- 24
- 25

1                   23. Defendant incorporates these objections into each and every one of its  
2                   responses to VPR BRANDS, L.P.'s interrogatories as if these objections  
3                   were fully stated therein.  
4

5                   **SPECIFIC OBJECTIONS AND RESPONSES**

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

9                   **NON-UNIFORM INTERROGATORIES**

10                  6.       If you denied any of the requests for admission served upon you  
11                  simultaneously with these interrogatories, for each of the requests for admission you  
12                  denied, please set forth the reasons for your denial, identify all persons with knowledge  
13                  of the facts that caused you to deny each request for admission, and identify all  
14                  documents supporting your denial.  
15

16                  **RFA2:** Denied for the reason that at least one of the products 1-21 does not contain an  
17                  electronic atomizer. Jordan Walker is the person with knowledge of the facts related to  
18                  this request for admission. Documents supporting this denial include the parties'  
19                  stipulated claim construction (Dkt. No. 29-1), and this denial is based on the constructions  
20                  in that stipulated claim construction. Jupiter reserves the right to revise this response  
21                  should the claim terms be construed other than as specified in the stipulated claim  
22                  construction.

23                  **RFA3:** Denied for the reason that at least one of the products 1-21 is not tubular. Jordan  
24                  Walker is the person with knowledge of the facts related to this request for admission.  
25                  Documents supporting this denial include the parties' stipulated claim construction (Dkt.  
                    No. 29-1), and this denial is based on the constructions in that stipulated claim  
                    construction. Jupiter reserves the right to revise this response should the claim terms be  
                    construed other than as specified in the stipulated claim construction.

**RFA7:** Denied for the reason that at least one of the products 1-21 does not contain  
                    diaphragm microphone. Jordan Walker is the person with knowledge of the facts related




1 to this request for admission. Documents supporting this denial include the parties'  
2 stipulated claim construction (Dkt. No. 29-1), and this denial is based on the constructions  
3 in that stipulated claim construction. Jupiter reserves the right to revise this response  
4 should the claim terms be construed other than as specified in the stipulated claim  
5 construction.

6 **RFA8:** Denied for the reason that at least one of the products 1-21 does not contain a  
7 Single Chip Micyoco. Jordan Walker is the person with knowledge of the facts related to  
8 this request for admission. Documents supporting this denial include the parties'  
9 stipulated claim construction (Dkt. No. 29-1), and this denial is based on the constructions  
10 in that stipulated claim construction. Jupiter reserves the right to revise this response  
11 should the claim terms be construed other than as specified in the stipulated claim  
12 construction.

1 I declare under penalty of perjury under the laws of the United States of  
2 America that the foregoing is true and correct.

3  
4 Executed on 4/13/22.

5  
6   
7 Jordan Walker

8  
9 DATED this 13<sup>th</sup> day of April, 2022 (signing for the objections)

10 SCHMEISER, OLSEN & WATTS LLP

11 By:

12 /Anthony L. Meola/

13 Anthony L. Meola  
14 Jeffrey W. Johnson  
15 SCHMEISER, OLSEN & WATTS, LLP  
16 18 E. University Drive, Suite 101  
17 Mesa, Arizona 85201  
18 Attorneys for Defendants  
19  
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25

1  
2  
3 **ORIGINAL** of the foregoing emailed  
this 13<sup>th</sup> day of April, 2022 to:

4 SRIPLAW  
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8 Attorneys for Plaintiff  
9

10  
11 /Steven Adams/  
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10 Attorneys for Jupiter Research, LLC

11 IN THE UNITED STATES DISTRICT COURT

12 DISTRICT OF ARIZONA

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

15 Plaintiff,

16 v.

17 Jupiter Research, LLC, an Arizona  
18 limited liability company,

19 Defendant.

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

**DEFENDANT'S SUPPLEMENTAL  
RESPONSE TO PLAINTIFF VPR  
BRANDS, LP's FIRST REQUEST  
FOR ADMISSIONS TO  
DEFENDANT  
NUMBERED 1, 2, 3, 6, 7 AND 8**

[Assigned Hon. Diane J. Humetewa]

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

21 Pursuant to Rule 36, Federal Rules of Civil Procedure, Defendant submits the following  
22 objections and responses to Plaintiff's First Request for Admissions to Defendant.

23 **PRELIMINARY STATEMENT**

24 All responses to the following requests for admission are based on information  
25 currently known to Defendant after a reasonable effort to locate information called for by

1 these requests. Accordingly, all responses are given without prejudice to Defendant's right  
2 to produce evidence based on any additional information that may develop or come to  
3 Defendant's attention at a later time. In addition, Defendant's objections are made without  
4 prejudice to Defendant's right to assert any additional or supplemental objections should  
5 Defendant discover additional grounds for such objections.

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

### 15 **GENERAL OBJECTIONS**

16 1. Defendant objects to each request for admission to the extent it uses vague  
17 or ambiguous terms or language. Defendant will respond to the requests for admission,  
18 upon a fair reading of the terms used therein, to the best of its understanding.

19 2. Defendant objects to the requests for admission to the extent they seek to  
20 elicit legal conclusions. Information provided in response to these requests for admission  
21 shall not be construed to be an admission by Defendant that such information satisfies any  
22 particular legal characterization made by the requests for admission.

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

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

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

11          6.       Defendant objects to the requests or admission to the extent they seek  
12 information that is publicly available, already in the possession of VPR BRANDS, L.P. or  
13 that could more easily be obtained from other sources that are more convenient, less  
14 burdensome or less expensive.

15          7.       Defendant objects to the requests for admission as duplicative and overly  
16 burdensome, to the extent they seek information that has already been requested in this  
17 litigation and to the extent the requests for admission seek the disclosure of the same  
18 information multiple times.

19          8.       Defendant objects to the requests for admission, definitions, and instructions  
20 to the extent they seek or call for information that is not in Defendant's possession, custody,  
21 or control.

22          9.       Defendant objects to the requests for admission to the extent they are overly  
23 broad, seek information that is not reasonably limited in time or scope, would require undue  
24 expense to answer, or call upon Defendant to investigate, collect, and disclose information  
25 that is neither relevant to the subject matter of this action nor proportional to the needs of

1 this action. Defendant is willing, however, to confer with VPR BRANDS, L.P. in an effort  
2 to resolve any disagreements between the parties relating to the scope, breadth, and  
3 relevancy of the requests for admission.

4 10. Defendant objects to the requests for admission to the extent they assume  
5 facts not in evidence, facts which do not exist, or facts that are otherwise incorrect.  
6 Defendant further objects to the requests for admission to the extent they contain  
7 inaccurate, incomplete, or misleading descriptions of facts, persons, or events underlying  
8 this action. The disclosure of information by Defendant in any response shall not constitute  
9 an agreement with, or acquiescence to, any such description.

10 11. Defendant objects to the requests for admission to the extent they seek  
11 information or documents protected from disclosure under any confidentiality obligation  
12 imposed by contract, order, or understanding binding upon Defendant. Defendant further  
13 objects to the requests to the extent they seek access to information concerning, relating,  
14 or pertaining to confidential agreements, the terms of confidential agreements, or other  
15 records pertaining to confidential agreements that are protected from disclosure under any  
16 confidentiality obligation imposed by contract, order, or understanding binding upon  
17 Defendant.

18 12. Defendant objects to the requests for admission to the extent they seek  
19 information that consists of proprietary business information, trade secrets, or other  
20 confidential information.

21 13. Defendant objects to the requests for admission to the extent that they are in  
22 violation of the Federal Rules of Civil Procedure, Local Rules or Orders of the Court.

23 14. Defendant incorporates these general objections into each and every one of  
24 its responses to VPR BRANDS, L.P.'s requests for admission as if the General Objections  
25 were fully stated therein. Neither the inclusion of any specific objection in response to a

1 request for admission, nor the failure to include any general or specific objection in  
2 response to a request for admission, shall in any way be deemed as a waiver of any General  
3 Objection made herein or that may be asserted at another date.

4 15. Defendant's search for information is continuing, and Defendant reserves the  
5 right to supplement its responses as additional information is located or identified.

6 16. Defendant responds to Plaintiff's request for admission based upon a claim  
7 construction consistent with the proposed claims construction filed as ECF document 29.1.  
8 Defendant reserves the rights to supplement its responses herein depending upon the actual  
9 claim construction ordered by the Court of determined by another Court of competent  
10 jurisdiction or the USPTO.

#### 11 **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

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

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

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

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

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



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

5           23. Responses to these Requests for Admission are based on the parties'  
6 stipulated claim construction (Dkt. No. 29-1). Jupiter reserves the right to revise these  
7 response should the claim terms be construed other than as specified in the stipulated claim  
8 construction.

9           24. Defendant incorporates these objections into each and every one of its  
10 responses to VPR BRANDS, L.P.'s requests for admission as if these objections were fully  
11 stated therein.

### 12 13                               **SPECIFIC OBJECTIONS AND RESPONSES**

14 Subject to and without waiving its General Objections and Objections to Definitions and  
15 Instructions, Defendant responds to Plaintiff's Amended Request for Admission to  
16 Defendant as follows:

#### 17                                       **REQUESTS FOR ADMISSION**

18           1. Admit that the products numbered 1 – 21 produced by Jupiter in response  
19 to VPR's first requests for inspection and listed on Exhibit 1 hereto are electronic  
20 cigarettes.

21                       **Response:** With respect to numbered products 1, 3-11, 17 and 19-21, denied; with  
22 respect to numbered products 2, 12-16 and 18, admit.  
23  
24  
25

2. Admit that the products numbered 1 – 21 produced by Jupiter in response to VPR's first requests for inspection and listed on Exhibit 1 hereto each contain an electronic atomizer.

**Response:** Denied

3. Admit that the products numbered 1 – 21 produced by Jupiter in response to VPR's first requests for inspection and listed on Exhibit 1 hereto are tubular.

**Response:** Denied.

6. Admit that the products numbered 1 – 21 produced by Jupiter in response to VPR's first requests for inspection and listed on Exhibit 1 hereto each contain an electric airflow sensor.

**Response:** Admit.

7. Admit that the products numbered 1 – 21 produced by Jupiter in response to VPR's first requests for inspection and listed on Exhibit 1 hereto each contain a diaphragm microphone.

**Response:** Denied.

8. Admit that the products numbered 1 – 21 produced by Jupiter in response to VPR's first requests for inspection and listed on Exhibit 1 hereto each contain a Single Chip Micyoco.

**Response:** Denied.

DATED this 13<sup>th</sup> day of Apr., 2022 by Jordan Walker

Jordan Walker – Jupiter Research, LLC

1  
2  
3  
4 DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

5 Respectfully submitted,

6 SCHMEISER, OLSEN & WATTS LLP

7 By:

8 /s/ Anthony L. Meola

9 Anthony L. Meola  
10 SCHMEISER, OLSEN & WATTS, LLP  
11 3 Manhattanville Rd., Suite 105  
12 Purchase, New York 10577  
13 Attorneys for Jupiter Research, LLC

14 **ORIGINAL** of the foregoing emailed  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2022 to:

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22 Attorneys for Plaintiff  
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/Steven Adams/  
Steven Adams