



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

D1 JASPER HOLDINGS LP, D1 SPV JL MASTER LP, JAY BLOCKER LTD., JAY DOMESTIC LLC, GCCU II LLC, TOCU XX LLC, OC II FIE VIII LP, JL SPV HOLDINGS, LLC, EMS J-INV LLC, DISRUPTIVE TECHNOLOGY SOLUTIONS XIV, LLC, DISRUPTIVE TECHNOLOGY SOLUTIONS XVI, LLC—SERIES A, DISRUPTIVE TECHNOLOGY SOLUTIONS XVI, LLC—SERIES B, and DISRUPTIVE TECHNOLOGY SOLUTIONS XVI, LLC—SERIES C,

Plaintiffs,

v.

JUUL LABS, INC. and JL TAO LLC,

Defendants.

C.A. No. 2023-1060-NAC

PUBLIC VERSION FILED:

May 7, 2024

PLAINTIFFS' PROPOSED POST-TRIAL FINDINGS OF FACT

I. The Parties and Relevant Non-Parties.¹

1. Plaintiffs D1 Jasper Holdings LP, D1 SPV JL Master LP, Jay Blocker Ltd., Jay Domestic LLC, GCCU II LLC, TOCU XX LLC, OC II FIE VIII LP, JL

¹ Subject to the resolution of any evidentiary objections, the record in this action consists of the facts to which the parties stipulated in the Pre-Trial Stipulation and Order (D.I. 234) (the "PTO"); the deposition transcripts lodged with the Court; the trial testimony and exhibits used at trial; the exhibits cited in the parties' pre-trial briefs (D.I.s 223, 224, 238, and 239); and the exhibits cited in the parties' opening and answering post-trial briefs. The trial transcript is cited as "[Last Name] Tr. ___." Deposition transcripts are cited as "[Last Name] Dep. ___."

SPV Holdings, LLC, EMS J-INV LLC, Disruptive Technology Solutions XIV, LLC, Disruptive Technology Solutions XVI, LLC–Series A, Disruptive Technology Solutions XVI, LLC–Series B, and Disruptive Technology Solutions XVI, LLC–Series C (“Plaintiffs”) are investment vehicles affiliated with or managed by D1 Capital Partners (“D1”), Sculptor Capital Management (“Sculptor”), Pacific Investment Management Company (“PIMCO”), GCM Grosvenor (“GCM”), EMS Capital (“EMS”), and Disruptive Technology Advisers (“DTA”).²

2. Plaintiffs purchased convertible notes from defendant JUUL Labs, Inc. (“JUUL” or the “Company”) in 2019 and/or 2020 pursuant to a Note Purchase Agreement, dated August 2, 2019 (the “NPA”), and a Note and Warrant Purchase Agreement, dated February 3, 2020 (the “NWPA”).³ A convertible note is a debt security that can be converted into equity in circumstances prescribed by the governing note purchase agreement.⁴

3. In 2007, Adam Bowen and James Monsees co-founded Ploom, Inc. (“Ploom”), which developed vaporization devices.⁵ Ploom was subsequently

² PTO ¶¶ 9-16.

³ *Id.* Because, as described herein, the relevant NPA and NWPA terms are substantially identical, references may be made only to the NWPA for simplicity.

⁴ Goldstein Dep. 16:19-25.

⁵ Bowen Dep. 19:5-18, 20:2-6, 22:8-17.

renamed Pax Labs, Inc. (“Pax”).⁶ The JUUL e-cigarette was developed at Pax.⁷ In 2017, JUUL was created through a spin-off transaction with Pax.⁸ JUUL is a Delaware corporation headquartered in Washington, D.C.⁹ JUUL manufactures electronic nicotine delivery systems.¹⁰

4. Bowen is a co-founder of JUUL¹¹ and, through entities including PHR Investments LLC (“PHR”), is one of its largest stockholders.¹² He was a JUUL director and employee until his resignation on July 10, 2023.¹³ As of December 2022, Bowen owned 2.61% of JUUL,¹⁴ which stake increased to 2.90% as of August 2023,¹⁵ and to 13.01% after October 27, 2023, the date of the initial closing of the financing at issue in this case (the “Insider Financing”).¹⁶ Bowen formed PHR Investments LLC (“PHR”) in order to participate in the Backstop Agreement and subsequently the Insider Financing.¹⁷ There is no dispute that Bowen controls PHR.¹⁸

⁶ *Id.*

⁷ Bowen Dep. 21:16-19; Monsees Dep. 13:9-17.

⁸ Monsees Dep. 13:9-20; Bowen Dep. 22:8-17.

⁹ PTO ¶ 6.

¹⁰ *Id.* ¶ 29.

¹¹ Bowen Dep. 19:5-11.

¹² JX-1166 at cell V3556.

¹³ JX-835 at 2; JX-841; JX-845; Bowen Dep. 24:22-26:16.

¹⁴ JX-693 (native).

¹⁵ JX-933 at 11.

¹⁶ JX-1166 at cells V36-V37, V3556, V4061-V4062.

¹⁷ Bowen Tr. 296:10-297:9.

¹⁸ *Id.* 297:13-14; JX-1189 at 7 (Resp. No. 3).

5. Monsees is a co-founder of JUUL and, through entities including JLI Invest, LLC (“JLI Invest”), is one of its largest stockholders.¹⁹ Monsees was a JUUL director until his resignation in March 2020.²⁰ As of December 2022, Monsees owned 2.61% of JUUL,²¹ which stake increased to 2.90% as of August 2023²² and to 8.96% after the initial closing of the Insider Financing.²³ Monsees’s investment vehicle JLI Invest was formed in order to participate in the Backstop Agreement and Insider Financing.²⁴ Monsees is the sole manager of JLI Invest, which is wholly owned by the Monsees Living Trust (SP), of which Monsees is a Trustee.²⁵ It is undisputed that Monsees controls JLI Invest.²⁶

6. Riaz Valani has been an investor in and director of JUUL and its predecessor entities since 2007,²⁷ entering with an investment of “hundreds of thousands of dollars.”²⁸ He is JUUL’s largest stockholder, including through the entity BIH Fund 2 LLC (“BIH Fund 2”).²⁹ According to JUUL’s cap tables, as of

¹⁹ Bowen Dep. 19:5-8; JX-150 at 4; JX-933 at 11; JX-1166 at cells V1879, V2105, V4354; Monsees Tr. 309:13-16.

²⁰ PTO ¶ 17.

²¹ JX-693 (native).

²² JX-933 at 11.

²³ JX-1166 at cells V1879, V2105, V4354.

²⁴ Monsees Tr. 319:9-14, 321:18-21.

²⁵ JX-621 at 3, 8-9.

²⁶ JX-1189 at 7 (Resp. No. 2).

²⁷ Valani Dep. 23:13-17; Valani Tr. 88:8-12.

²⁸ Valani Dep. 25:5-9.

²⁹ Valani Tr. 86:13-20; JX-1166 at cells V578-V579, V3572-V3573, V3708.

December 2022, Valani owned 10.76% of JUUL.³⁰ His stake increased to 11.97% in August 2023³¹ and to approximately 25% after the initial closing of the Insider Financing.³² Valani has invested in JUUL through multiple investment vehicles, including Ploom Investment, LLC (“Ploom Investment”), Ploom Investment II, LLC (“Ploom Investment II”), BIH Fund LLC (“BIH Fund”),³³ and BIH Fund 2.³⁴

7. BIH Fund 2 is beneficially owned by Valani and his family.³⁵ BIH Fund 2 is managed by Gwendolyn Moy, whom Valani hired more than a decade ago as an employee of Valani’s Global Asset Capital, which manages investments exclusively for Valani and his family.³⁶ Valani testified that he could not identify a single instance in which he recommended that Moy take an action with respect to BIH Fund 2 that she declined.³⁷

8. Nick Pritzker invested in JUUL in 2011 through a trust for his benefit³⁸ and joined JUUL’s Board of Directors (the “Board”) in 2013.³⁹ Pritzker’s trusts made additional investments in JUUL in 2015 and 2017, per Pritzker’s

³⁰ JX-693 (native).

³¹ JX-933 at 11.

³² JX-1166 at cells V578-V579, V3572-V3573, V3708.

³³ JX-933 at 11.

³⁴ Valani Tr. 86:13-20.

³⁵ *Id.* 87:12-14.

³⁶ Valani Dep. 20:14-22, 27:8-16, 42:4-5.

³⁷ *Id.* 173:11-14.

³⁸ Pritzker Tr. 174:8-12.

³⁹ *Id.* 176:6-12.

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