

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN CARTRIDGES FOR
ELECTRONIC NICOTINE DELIVERY
SYSTEMS AND COMPONENTS THEREOF**

Investigation No. 337-TA-1141

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW INITIAL
DETERMINATIONS TO TERMINATE THE INVESTIGATION WITH RESPECT TO
CERTAIN RESPONDENTS DUE TO SETTLEMENT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined not to review any of five (5) initial determinations (“IDs”) (Order Nos. 46-50) terminating the investigation with respect to certain respondents due to settlement agreements.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2382. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<https://www.usitc.gov>). The public record for this investigation may be viewed on the Commission’s Electronic Docket Information System (“EDIS”) (<https://edis.usitc.gov>). Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On December 27, 2018, the Commission instituted the present investigation based on a complaint filed by Juul Labs, Inc. (“Juul”) of San Francisco, California. 83 FR 66746-747 (Dec. 27, 2018). The complaint alleges a violation of 19 U.S.C. 1337, as amended (“Section 337”), in the importation, sale for importation, and sale in the United States after importation of certain cartridges used in electronic nicotine delivery systems and components thereof that allegedly infringe one or more of the asserted claims of U.S. Patent Nos. 10,058,129; 10,104,915; 10,111,470; 10,117,465; and 10,117,466. *Id.* The complaint also alleges the existence of a domestic industry. *Id.* The notice of investigation named 23 respondents. *Id.* The Office of Unfair Import Investigations (“OUII”) was also named as a party. *Id.*

The Commission previously found four respondents to be in default, namely, DripTip Vapes LLC, Shenzhen OVNS Technology Co., Ltd, Shenzhen Haka Flavor Technology Co., Ltd., and Shenzhen OCIGA Technology Co., Ltd. (collectively, the “Defaulting Respondents”). Order No. 26 (May 3, 2019), *not rev’d*, Comm’n Notice (May 31, 2019). On September 9, 2019, Juul filed a declaration seeking entry of a limited exclusion order and cease and desist order against each Defaulting Respondent. On December 9, 2019, Juul filed a renewed request for relief against the Defaulting Respondents.

The Commission also previously terminated certain respondents due to settlement agreements or consent orders. *See, e.g.*, Order No. 44 (Sept. 18, 2019), *not rev’d*, Comm’n Notice (Oct. 15, 2019); Order No. 34 (June 14, 2019), *not rev’d*, Comm’n Notice (July 10, 2019); Order No. 30 (May 15, 2019), *not rev’d*, Comm’n Notice (June 12, 2019); Order No. 25 (April 18, 2019), *not rev’d*, Comm’n Notice (May 15, 2019); Order Nos. 19-21 (April 10, 2019), *not rev’d*, Comm’n Notice (May 7, 2019); Order Nos. 15, 16 (March 12, 2019), *not rev’d*, Comm’n Notice (Mar. 26, 2019); Order Nos. 13, 14 (Feb. 28, 2019), *not rev’d*, Comm’n Notice (Mar. 26, 2019). As a result of those orders, eight (8) of the original 23 respondents remain active in this investigation.

During the evidentiary hearing of September 24-25, 2019, Juul moved to stay the procedural schedule with respect to the eight remaining respondents because Juul had reached agreements in principle with each respondent to settle the investigation. The presiding administrative law judge (“ALJ”) granted the motion to stay so that the parties could finalize their settlement agreements. Order No. 45 (Sept. 26, 2019).

Juul subsequently reached settlement agreements with the remaining respondents. On October 29-30 and November 7-8, 2019, Juul filed joint motions with seven of the remaining respondents to terminate the investigation based on their respective settlement agreement. On November 12, 2019, OUII filed responses supporting each of the motions to terminate.

On November 18, 2019, the ALJ issued five initial determinations (Order Nos. 46-50) granting each of the motions to terminate the investigation with respect to the specified respondents, as follows:

- Order No. 46 terminates Vapor 4 Life Holdings, LLC of Northbrook, Illinois;
- Order No. 47 terminates Twist Vapor Franchising, LLC of Tampa, Florida;
- Order No. 48 terminates Maduro Distributors, Inc. of Maplewood, Minnesota;
- Order No. 49 terminates Vaportronix LLC of Aventura, Florida; and
- Order No. 50 terminates ZLab S.A. of Guangdong, China; SS Group Holdings of Hong Kong, China; and Shenzhen Yibo Technology Co. of Guangdong, China.

In each case, the ID finds that the joint motion complied with the requirements of 19 CFR 210.21(a)(2) and 210.21(b)(1), including provision of a public version of each settlement agreement and a statement that there are no other agreements, written or oral, express or implied,

between the parties concerning the subject matter of this investigation. *See, e.g.*, Order No. 50 at 2 (Nov. 18, 2019) (representative order). The ID also finds that the settlement agreement in each case does not adversely impact the public interest, which generally favors settlement. *Id.*

No petitions to review the subject IDs were filed. The Commission has determined not to review any of the subject IDs.

The authority for the Commission's determination is contained in Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

A handwritten signature in black ink, appearing to read 'Lisa R. Barton', with a stylized flourish at the end.

Lisa R. Barton
Secretary to the Commission

Issued: December 16, 2019