

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN VAPORIZER CARTRIDGES
AND COMPONENTS THEREOF**

Investigation No. 337-TA-1211

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW TWO INITIAL
DETERMINATIONS FINDING CERTAIN RESPONDENTS IN DEFAULT**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined not to review two initial determinations (“IDs”) (Order Nos. 62 and 63) finding certain respondents in default.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On August 14, 2020, the Commission instituted this investigation based on a complaint, as supplemented, filed on behalf of Juul Labs, Inc. (“JLI”) of San Francisco, California. 85 FR 49679 (Aug. 14, 2020). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vaporizer cartridges and components thereof by reason of infringement of U.S. Design Patent Nos. D842,536; D858,870; D858,869; and D858,868. *Id.* The complaint further alleges that a domestic industry exists. *Id.* The Commission’s notice of investigation (“NOI”) names forty-nine (49) respondents, including: Shenzhen Azure Tech USA LLC f/k/a DS Vaping P.R.C. (“Shenzhen Azure”) of Guangdong, China; Evergreen Smokeshop (“Evergreen”) of Oakland, California; DripTip Vapes LLC (“DripTip”) of Plantation, Florida; Modern Age Tobacco (“MAT”) of Gainesville, Florida; Dongguan Hengtai Biotechnology Co., Ltd. D/B/A Mr. Fog (“Mr. Fog”) of Guangdong, China; Shango Distribution LLC D/B/A Puff E-Cig (“Puff E-Cig”) of Imlay City, Michigan; and Shenzhen Yark Technology Co., Ltd. (“Shenzhen Yark”) of Shenzhen, China (collectively, “Defaulting Respondents”). *See*

id. The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

The complaint and NOI were served on the Defaulting Respondents, but they did not respond.

JLI filed four motions on January 25, 28, 29 and February 2, 2021, respectively, seeking pursuant to Commission Rule 210.16 (19 CFR 210.16): (1) orders directing the Defaulting Respondents to show cause as to why they should not be found in default for failing to respond to the complaint and NOI and (2) IDs finding the Defaulting Respondents in default upon their failure to show cause. OUII filed responses, on February 4, 8, and 10, in support of the four motions, respectively, except that OUII identified a problem with JLI’s purported electronic service on Shenzhen Yark. On February 11, 2021, JLI filed a reply that asserts Shenzhen Yark was also served by express mail, in addition to electronic service, and Shenzhen Yark refused to accept service by express mail.

On March 16, 2021, the ALJ issued an order (Order No. 55) requiring Shenzen Azure, Evergreen, DripTip, MAT, and Mr. Fog to show cause within 14 days of the order as to why they should not be found in default for failing to respond to the complaint and NOI. Order No. 55 (March 16, 2021). No response to Order No. 55 was received.

On March 17, 2021, the ALJ issued a second order (Order No. 56) requiring Puff E-Cig and Shenzhen Yark to show cause within 14 days of the order as to why they should not be found in default for failing to respond to the complaint and NOI. Order No. 56 (March 17, 2021). No response to Order No. 56 was received.

On May 5, 2021, the ALJ issued the two subject IDs (Order Nos. 62 and 63) finding the Defaulting Respondents in default pursuant to Commission Rule 210.16 (19 CFR 210.16) for failure to respond to the complaint, NOI, and orders to show cause. Order No. 62 (May 5, 2021); Order No. 63 (May 5, 2021).

No party petitioned for review of the subject ID.

The Commission has determined not to review Order Nos. 62 and 63. The Defaulting Respondents have been found to be in default.

The Commission vote for this determination took place on May 19, 2021.

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the complainant complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

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', written in a cursive style.

Lisa R. Barton
Secretary to the Commission

Issued: May 19, 2021