

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 FOUR INITIAL
DETERMINATIONS TERMINATING THE INVESTIGATION AS TO CERTAIN
RESPONDENTS BASED ON CONSENT ORDER STIPULATIONS; ISSUANCE OF
FOUR CONSENT ORDERS**

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 four initial determinations (“IDs”) (Order Nos. 26-29) granting motions to terminate respondents Cork & Twist, Inc. d/b/a Vape ‘N Glass, Vaperistas, LLC, Aqua Haze LLC, and Vapeonline LLC d/b/a 2nd Wife Vape, respectively, in the above-captioned investigation based on consent order stipulations. The Commission has issued four consent orders.

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 names forty-nine (49) respondents, including Cork & Twist, Inc. d/b/a Vape ‘N Glass (“Vape ‘N Glass”) of Streamwood, Illinois; Vaperistas, LLC (“Vaperistas”) of Wood Dale, Illinois; Aqua Haze LLC (“Aqua Haze”) of Farmers Branch, Texas; and Vapeonline LLC d/b/a 2nd Wife Vape (“2nd Wife Vape”) of Haslet, Texas (collectively, “the Four Settling Respondents”). *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On November 3, 2020, JLI and Vape ‘N Glass filed a joint motion to terminate this investigation with respect to Vape ‘N Glass based on a consent order stipulation and proposed consent order. On November 13, 2020, OUII filed a response opposing the motion without prejudice to refile based on excessive redactions to the public version of the settlement agreement.

On November 5, 2020, JLI and Vaperistas filed a joint motion to terminate this investigation with respect to Vaperistas based on a consent order stipulation and proposed consent order. On November 16, 2020, OUII filed a response supporting the motion provided that JLI and Vaperistas file a revised public version of the settlement agreement with redactions limited to only proper confidential business information (“CBI”).

On November 6, 2020, JLI and Aqua Haze filed a joint motion to terminate this investigation with respect to Aqua Haze based on a consent order stipulation and proposed consent order. On November 18, 2020, OUII filed a response supporting the motion provided that JLI and Aqua Haze file a revised public version of the settlement agreement with redactions limited to only proper CBI.

On November 6, 2020, JLI and 2nd Wife Vape filed a joint motion to terminate this investigation with respect to 2nd Wife Vape based on a consent order stipulation and proposed consent order. On November 18, 2020, OUII filed a response supporting the motion provided that JLI and 2nd Wife Vape file a revised public version of the settlement agreement with redactions limited to only proper CBI.

On November 19, 2020, the presiding administrative law judge (“ALJ”) denied all four motions without prejudice due to the excessive proposed redactions in the public versions of the settlement agreements. *See* Order No. 25 (Nov. 19, 2020). The ALJ directed JLI and the Four Settling Respondents to refile the motions with revised public versions of the settlement agreements with redactions limited to CBI under Commission Rule 201.6(a) (19 CFR 201.6(a)). *Id.*

On November 20, 2020, JLI and the Four Settling Respondents refiled their respective joint motions with revised public settlement agreements.

On December 8, 2020, the ALJ issued the four subject IDs, Order Nos. 26, 27, 28, and 29, granting all four joint motions. *See* Order No. 26 (Dec. 8, 2020) (Vape ‘N Glass); Order No. 27 (Dec. 8, 2020) (Vaperistas); Order No. 28 (Dec. 8, 2020) (Aqua Haze); Order No. 29

(Dec. 8, 2020) (2nd Wife Vape). Each of the subject IDs finds that the respective motion, consent order stipulation, and proposed consent order satisfy the requirements of Commission Rules 210.21(c)(3) and (c)(4) (19 CFR 201.21(c)(3), (c)(4)). The IDs also find that termination of the Four Settling Respondents would not be contrary to the public interest.

No party petitioned for review of the subject IDs.

The Commission has determined not to review Order Nos. 26, 27, 28, and 29. Vape ‘N Glass, Vaperistas, Aqua Haze, and 2nd Wife Vape are hereby terminated from the investigation. The Commission has issued four consent orders to each of the Four Settling Respondents.

The Commission vote for this determination took place on December 22, 2020.

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.



Lisa R. Barton
Secretary to the Commission

Issued: December 22, 2020