

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN VAPORIZER DEVICES,
CARTRIDGES USED THEREWITH,
AND COMPONENTS THEREOF**

Inv. No. 337-TA-1368

NOTICE OF INSTITUTION OF INVESTIGATION

Institution of Investigation Pursuant to 19 U.S.C. 1337

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on June 30, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of JUUL Labs, Inc. of Washington, D.C. and VMR Products LLC of San Francisco, California. A letter supplementing the complaint was filed on July 17, 2023. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vaporizer devices, cartridges used therewith, and components thereof by reason of the infringement of certain claims of U.S. Patent No. RE49,114 (“the ’114 patent”); U.S. Patent No. 10,130,123 (“the ’123 patent”); U.S. Patent No. 10,709,173 (“the ’173 patent”); U.S. Patent No. 11,134,722 (“the ’722 patent”); and U.S. Patent No. 11,606,981 (“the ’981 patent”). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

SUPPLEMENTARY INFORMATION:

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10 (2023).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on August 1, 2023, **ORDERED THAT** –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 5-7, 29, 30, 36, 43, 44, 76, 77, 80, 81, 86, 89, and 93 of the ’114 patent; claims 14, 16, 18, 27, 29, 31, and 32 of the ’123 patent; claims 1-4, 6, 7, 15, 16, 18-25, 28, and 30 of the ’173 patent; claims 1, 3, 5, and 7-21 of the ’722 patent; and claims 1, 2, 5, 6, 8-11, and 13-18 of the ’981 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “vaporizer devices (ENDS devices), cartridges used therewith (sometimes referred to as ‘pods’), and components thereof (cartridge housings, atomizers, atomizer subassemblies, device subassemblies)”;

(3) Pursuant to Commission Rule 210.50(b)(1), 19 C.F.R. § 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

JUUL Labs, Inc.
1000 F Street NW
Washington, D.C. 20004

VMR Products LLC
560 20th Street
San Francisco, California 94107

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

NJOY, LLC
8825 N. 23rd Avenue, Suite 100
Phoenix, Arizona 85021

NJOY Holdings, Inc.
9449 N. 90th Street, Suite 201
Scottsdale, Arizona 85258

Altria Group, Inc.
6601 W. Broad Street
Richmond, Virginia 23230

Altria Group Distribution Company
6601 W. Broad Street
Richmond, Virginia 23230

Altria Client Services LLC
6601 W. Broad Street
Richmond, Virginia 23230

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

A handwritten signature in black ink, appearing to read 'L.R. Barton', enclosed within a circular flourish.

Lisa R. Barton
Secretary to the Commission

Issued: August 1, 2023