

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

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

Investigation No. 337-TA-1139

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW
INITIAL DETERMINATIONS GRANTING JOINT MOTIONS FOR
PARTIAL TERMINATION OF THE INVESTIGATION AS TO CERTAIN
RESPONDENTS BASED ON SETTLEMENT AGREEMENTS**

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review initial determinations (“IDs”) (Order Nos. 31, 32, 33, and 34) of the presiding administrative law judge (“ALJ”) granting joint motions for partial termination of the investigation as to the following respondents based on their entry into settlement agreements: J Well France S.A.S. of Paris, France; MMS/ECVD LLC of Rock Hill, New York; and ECVD/MMS Wholesale LLC of Garden City, New York (collectively, “Bo Group Respondents”); Myle Vape, Inc. of Jamaica, New York (“Myle”); ALD Group Ltd. of Shenzhen City, China (“ALD”); and Shenzhen Joecig Technology Co., Ltd. of Shenzhen City, China (“Joecig”) (all collectively, “the Settling Respondents”).

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-3228. 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, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. The public record for this investigation may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.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 December 13, 2018, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”) based on a complaint filed on behalf of Juul Labs, Inc. (“JLI”) of San Francisco, California. 83 *Fed. Reg.* 64156-57 (Dec. 13, 2018). The complaint, as amended and 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 electronic nicotine delivery systems and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 10,070,669; 10,076,139; 10,045,568; 10,058,130; and 10,104,915. *Id.* The Commission’s notice of investigation names twenty-one respondents, including the Settling Respondents. *Id.*; *see also* Order No. 8 (Feb. 25, 2019), *not reviewed*, Notice (March 25, 2019) (amending the complaint and notice of investigation). The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *Id.*

On May 30, 2019, JLI filed two joint motions, one with Bo Group Respondents and one with Myle, to terminate the investigation as to those respondents based on settlement agreements. Order Nos. 31 and 32 at 1. On June 10, 2019, OUII filed a response conditionally supporting JLI’s and Bo Group Respondents’ motion; no other responses to that motion were filed. Order No. 31 at 1. On June 13, 2019, OUII filed a response conditionally supporting JLI’s and Myle’s motion; no other responses to that motion were filed. Order No. 32 at 1.

On July 18, 2019, JLI filed two joint motions, one with ALD and one with Joecig, to terminate the investigation as to those respondents based on settlement agreements. Order Nos. 33 and 34 at 1. On July 24, 2019, OUII filed responses in support of each of the joint motions. *Id.* No other responses were filed. *Id.*

On July 30, 2019, the ALJ issued the subject IDs granting the joint motions. *See* Orders Nos. 31, 32, 33, and 34 (all dated July 30, 2019). In accordance with Commission Rule 210.21(b) (19 CFR 210.21(b)), the joint motions include redacted and unredacted copies of the settlement agreements. In addition, the IDs note that the joint motions include a statement that there are no other agreements, written or oral, express or implied, between JLI and the Settling Respondents concerning the subject matter of this investigation. *See id.* at 1-2 (joint motions comply with Commission Rule 210.21(b)(1)). Further, the IDs find no evidence that terminating the investigation as to the Settling Respondents based on the settlement agreements would be contrary to the public interest. *See id.* at 2-3. The IDs also suspend the procedural schedule with respect to the Settling Respondents pending Commission review of the IDs. *See id.*

No petition for review of the subject IDs was filed.

The Commission has determined not to review the subject ID.

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: August 23, 2019