

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 TERMINATING THE INVESTIGATION AS TO CERTAIN
RESPONDENTS BASED ON CONSENT ORDER STIPULATIONS; ISSUANCE OF
TWO 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 two initial determinations (“IDs”) (Order Nos. 30 and 31) granting motions to terminate respondents Texas E. Cigarette d/b/a EZFumes and eJuiceDB, respectively, in the above-captioned investigation based on consent order stipulations. The Commission has issued two 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 Texas E. Cigarette d/b/a EZFumes

(“EZFumes”) of Bedford, Texas and eJuiceDB of Farmingdale, New York. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On November 6, 2020, JLI and EZFumes filed a joint motion to terminate this investigation with respect to EZFumes 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 EZFumes file a revised public version of the settlement agreement with redactions limited to only proper confidential business information (“CBI”).

On November 19, 2020, the presiding administrative law judge (“ALJ”) denied JLI and EZFumes’ motion without prejudice due to the excessive proposed redactions in the public version of the settlement agreement. *See* Order No. 25 (Nov. 19, 2020). The ALJ directed JLI and EZFumes to refile the motion with a revised public version of the settlement agreement with redactions limited to CBI under Commission Rule 201.6(a) (19 CFR 201.6(a)). *Id.* On November 20, 2020, JLI and EZFumes refiled the joint motion with a revised public settlement agreement.

On November 13, 2020, JLI and eJuiceDB filed a joint motion to terminate this investigation with respect to eJuiceDB based on a consent order stipulation and proposed consent order. On November 25, 2020, OUII filed a response supporting the motion.

On December 10, 2020, the ALJ issued the two subject IDs, Order Nos. 30 and 31, granting both joint motions. *See* Order No. 30 (Dec. 10, 2020); Order No. 31 (Dec. 10, 2020). 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 210.21(c)(3), (c)(4)). The IDs also find that termination of EZFumes and eJuiceDB 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. 30 and 31. EZFumes and eJuiceDB are hereby terminated from the investigation. The Commission has issued a consent order to EZFumes and a consent order to eJuiceDB.

The Commission vote for this determination took place on January 4, 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". The signature is stylized and cursive.

Lisa R. Barton
Secretary to the Commission

Issued: January 4, 2021