

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 COMMISSION DECISION NOT TO REVIEW AN INITIAL
DETERMINATION FINDING RESPONDENT XFIRE, INC. IN DEFAULT**

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 an initial determination (“ID”) (Order No. 22) of the presiding administrative law judge (“ALJ”) finding respondent XFire, Inc. of Stafford, Texas (“XFire”) in default.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708-4716. 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 by Juul Labs, Inc. of San Francisco, California (“Complainant”). *See* 83 FR 64156-57 (Dec. 13, 2018). The complaint, as amended and supplemented, alleges a violation 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. *See id.* The notice of investigation names numerous respondents, including XFire. *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On March 15, 2019, Complainant filed a motion (“Motion”) pursuant to Commission Rule 210.16 (19 CFR 210.16) for: (1) an order directing respondent XFire to show cause why it should not be found in default for failing to respond to the complaint and notice of investigation, and (2) an ID finding XFire in default upon its failure to show cause, without terminating the investigation. The Motion indicates that OUII supports the Motion and that respondents who appeared in the investigation take no position on the Motion. No responses to the Motion were filed.

On April 2, 2019, the ALJ issued Order No. 19 requiring XFire to show cause, no later than April 16, 2019, as to why it should not be held in default for failing to respond to the complaint and notice of investigation. No response was received from XFire.

On April 23, 2019, the ALJ issued the subject ID (Order No. 22) finding XFire in default pursuant to Commission Rule 210.16 (19 CFR 210.16), for failure to respond to the complaint and notice of investigation and to the order to show cause (*i.e.*, Order No. 19). *See* ID at 1.

No petition for review of the subject ID was filed. The Commission has determined not to review the 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: May 16, 2019