

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN TOBACCO HEATING
ARTICLES AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1199

**NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW
AN INITIAL DETERMINATION GRANTING COMPLAINANTS' MOTION FOR
LEAVE TO AMEND THE COMPLAINT AND NOTICE OF INVESTIGATION**

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. 9) of the presiding administrative law judge (“ALJ”) granting the complainants’ motion for leave to amend the complaint and notice of investigation.

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 May 15, 2020, 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 RAI Strategic Holdings, Inc., R.J. Reynolds Vapor Company, and R.J. Reynolds Tobacco Company, all of Winston-Salem, North Carolina (collectively, “Complainants”). *See* 85 FR 29482-83. The complaint, as supplemented, alleges a violation of section 337 based upon the importation of certain tobacco heating articles and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,839,238; 9,901,123; and 9,930,915 (“the ’915 patent”). The complaint also alleges the existence of a domestic industry. The notice of investigation names five respondents: Altria Client Services LLC, Altria Group, Inc., and Philip Morris USA, Inc., all of Richmond, Virginia; Philip Morris International Inc. of New York, New York; and Philip Morris Products S.A. of Neuchatel,

Switzerland (collectively, “Respondents”). *See id.* The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. *See id.*

On July 13, 2020, Complainants filed a motion seeking leave to amend the complaint and notice of investigation to add allegations that Respondents infringe claim 3 of the ’915 patent. On July 23, 2020, Respondents filed an opposition. That same day, OUII filed a response supporting Complainants’ motion. On July 27, 2020, Complainants filed a motion seeking leave to submit a reply brief in support of its motion. The subject ID grants the motion for leave and Complainants’ reply is deemed filed.

On July 29, 2020, the ALJ issued the subject ID (Order No. 9) granting Complainants’ motion for leave to amend the complaint and notice of investigation. Order No. 9 (July 29, 2020). The subject ID finds that Complainants’ motion is supported by good cause pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)) and that there is no prejudice if the motion is granted. No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID.

The Commission vote for this determination took place on August 18, 2020.

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: August 18, 2020