

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN OIL-VAPING CARTRIDGES,
COMPONENTS THEREOF, AND
PRODUCTS CONTAINING THE SAME**

Investigation No. 337-TA-1286

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW INITIAL
DETERMINATIONS TERMINATING THE INVESTIGATION AS TO TWO
RESPONDENTS BASED ON CONSENT ORDER STIPULATIONS;
ISSUANCE OF CONSENT ORDERS**

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. 16 & 17) of the presiding administrative law judge (“ALJ”) terminating the investigation with respect to respondents Cannary LA and Cannary Packaging, Inc. (“Cannary Packaging”) based on consent order stipulations. The Commission has entered consent orders against respondents Cannary LA and Cannary Packaging.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-2392. 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: The Commission instituted this investigation on November 10, 2021, based on a complaint filed on behalf of Shenzhen Smoore Technology Limited (“Smoore”) of China. 86 FR 62567-69 (Nov. 10, 2021). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain oil-vaping cartridges, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 10,357,623; 10,791,763; 10,791,762; and U.S. Registered Trademark No. 5,633,060. *Id.* at 62567-68. The complaint further alleges that a domestic industry exists. *Id.* at 62568. The

Commission's notice of investigation named numerous respondents including Canary LA of Signal Hill, California and Canary Packaging of Canada. *Id.* at 62568. The Office of Unfair Import Investigations ("OUII") is also named as a party in this investigation. *Id.*

On December 23, 2021, complainant Smoore moved to terminate the investigation with respect to Canary LA and Canary Packaging based upon consent order stipulations. The motions included consent order stipulations and proposed consent orders. OUII filed responses supporting the motions. No other party responded to the motions.

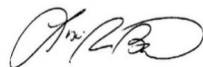
On January 18, 2022, the ALJ issued IDs (Order Nos. 16 & 17) terminating the investigation with respect to Canary LA and Canary Packaging based on the entry of consent orders. The IDs found that the consent order stipulations and proposed consent orders "substantially conform[]" with Commission Rule 210.21(c)(3) and (4) (19 CFR 210.21(c)(3) and (4)). *See* Order No. 16 at 2 (Jan. 18, 2022); Order No. 17 at 2 (Jan. 18, 2022). The IDs noted that the consent order stipulations and the proposed consent orders erroneously include references to the asserted trademark because Smoore has not accused Canary LA and Canary Packaging of trademark infringement. *See* Order No. 16 at 2 n.1; Order No. 17 at 2 n.1. The IDs also found that termination of the investigation with respect to Respondents Canary LA and Canary Packaging would not be contrary to the public interest. *See* Order No. 16 at 2-3; Order No. 17 at 2-3. No petitions for review of the IDs were received.

The Commission has determined not to review the subject IDs and to issue consent orders. Respondents Canary LA and Canary Packaging are hereby terminated from the investigation.

The Commission vote for this determination took place on February 15, 2022.

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: February 15, 2022