

**UNITED STATES INTERNATIONAL TRADE COMMISSION**  
**Washington, D.C.**

**In the Matter of**

**CERTAIN VAPORIZER DEVICES,  
CARTRIDGES USED THEREWITH, AND  
COMPONENTS THEREOF**

**Investigation No. 337-TA-1372**

**NOTICE OF COMMISSION DETERMINATION TO AUTHORIZE  
JUDICIAL ENFORCEMENT OF SUBPOENAS *DUCES TECUM* AND *AD  
TESTIFICANDUM***

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to authorize judicial enforcement of subpoenas *duces tecum* and *ad testificandum* issued by the presiding administrative law judge (“ALJ”) in this investigation and has authorized its Office of the General Counsel to seek such enforcement if necessary.

**FOR FURTHER INFORMATION CONTACT:** Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3042. 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](mailto: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, telephone (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** On September 26, 2023, the Commission instituted this investigation based on a complaint filed by NJOY, LLC of Scottsdale, Arizona (“NJOY”). 88 FR 66050-51 (Sept. 26, 2023). The complaint alleged violations of section 337 based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vaporizer devices, cartridges used therewith, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 11,497,864 and 10,334,881. The Commission’s notice of investigation named JUUL Labs, Inc. of Washington, D.C. (“JUUL”) as the sole respondent. *Id.* The Office of Unfair Import Investigations (“OUII”) was named as a party in the investigation. *Id.*

On April 3, 2024, the ALJ issued Order No. 35 granting requests by NJOY and JUUL for judicial enforcement of subpoenas *duces tecum* and *ad testificandum* issued to R.J. Reynolds Vapor Company (“RJR”) on October 12, 2023, on behalf of NJOY and on October 25, 2023, on

behalf of JUUL. Due to an impasse that the parties had with RJR as to the subpoenas, the ALJ authorized them to file respective motions for judicial enforcement. Order No. 35 at 2.

With respect to the subpoena on behalf of NJOY, the ALJ found that “NJOY identifies three remaining information requests, and one request for a knowledgeable witness.” *Id.* at 3. Specifically, the ALJ found that “the requested information is: [1] sought for a proper purpose, namely to obtain discovery that non-party RJR is in a unique position to provide; [2] relevant to at least the issue of the economic prong of domestic industry; and [3] reasonable in scope considering the importance of the discovery to the merits of this investigation and the precise focus.” *Id.* at 4. The ALJ observed that “NJOY seeks information RJR is already required to provide in another investigation [Inv. No. 337-TA-1381] that it initiated.” *Id.*

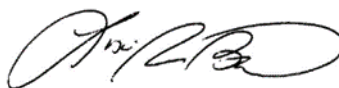
Concerning the subpoena on behalf of JUUL, the ALJ found that JUUL’s request Nos. 14 and 26 “are sought for a proper purpose, relevant to the issues of the technical and economic prongs of domestic industry, and reasonable in scope considering the importance of the discovery to the merits of this investigation and the precise focus of the requests.” *Id.* at 6-7.

The Commission has determined to grant the ALJ’s request for judicial enforcement of the subpoenas *duces tecum* and *ad testificandum* and to authorize its Office of the General Counsel to seek judicial enforcement of the subpoenas if necessary.

The Commission vote for this determination took place on May 22, 2024.

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: May 22, 2024