

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, D.C.

In the Matter of  
CERTAIN DISPOSABLE  
VAPORIZER DEVICES

Investigation No. 337-TA-1410

**NOTICE OF A COMMISSION DETERMINATION TO REVIEW IN PART THE FINAL  
INITIAL DETERMINATION AND TO REQUEST WRITTEN SUBMISSIONS ON THE  
ISSUES UNDER REVIEW AND REMEDY, BOND, AND THE PUBLIC INTEREST**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge’s (“ALJ”) final initial determination (“FID”) and to solicit briefing on the issues under review, as well as remedy, bonding, and the public interest.

**FOR FURTHER INFORMATION CONTACT:** Carl Bretscher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, D.C. 20436, telephone 202-205-2382. 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 on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on July 22, 2024, based on a complaint filed on behalf of RAI Strategic Holdings, Inc.; R.J. Reynolds Vapor Company; R.J. Reynolds Tobacco Company; and RAI Services Company (collectively, “Reynolds” or “Complainant”), all of Winston-Salem, North Carolina. 89 FR 59,158-60 (Jul. 22, 2024). The complaint, as supplemented, alleges that the respondents violated section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by importing into the United States, selling for importation, or selling in the United States after importation certain disposable vaporizer devices that infringe one or more of the asserted claims of U.S. Patent No. 11,925,202 (“the 202 patent”). *Id.* at 59,159. The complaint further alleges that a domestic industry exists in the United States.

The Commission’s notice of investigation names thirty-five (35) respondents, of which eighteen (18) respondents participated in this investigation. They are Breeze Smoke, LLC of West Bloomfield, Michigan; Dongguan (Shenzhen) Shikai Technology Co., Ltd. of Shenzhen, China; Guangdong Qisitech Co., Ltd. of Dongguan, China; Fewo Intelligent Manufacturing Ltd. of Dongguan, City, China; Guangdong Cellular Workshop Electronics Technology Co., Ltd. of Dongguan, City, China; Zhuhai Qisitech Co., Ltd. of Zhuhai, China; Shenzhen Han Technology

Co., Ltd. of Shenzhen, China; Shenzhen IVPS Technology Co., Ltd. of Shenzhen, China; Maduro Distributors d/b/a The Loon of Minneapolis, Minnesota; Shenzhen Yanyang Technology Co., Ltd. of Shenzhen, China; Pastel Cartel, LLC of Austin, Texas; American Vape Company, LLC of Pflugerville, Texas; Affiliated Imports, LLC of Austin, Texas; Shenzhen Kangvape Technology Co., Ltd. of Shenzhen, China; Shenzhen Pingray Technology Co., Ltd. of Shenzhen, China; SV3, LLC d/b/a Mi-One Brands of Phoenix, Arizona; Price Point Distributors Inc. d/b/a Price Point NY of Farmingdale, New York; and TheSy, LLC d/b/a Element Vape of Alhambra, California (collectively, “Respondents”). *Id.* at 59, 159-160. The Office of Unfair Import Investigations (“OUII”) is also named as a party. *Id.* at 59, 160.

Fifteen (15) respondents were subsequently found in default: Vapeonly Technology Co. Ltd. of Hong Kong; iMiracle (Shenzhen) Technology Co., Ltd. of Shenzhen, China; Nevera (HK) Ltd. of Hong Kong; Wonder Ladies Ltd. of British Virgin Islands; Sailing South Ltd. of British Virgin Islands; Marea Morada Ltd. of British Virgin Islands; Social Brands, LLC of Dallas, Texas; Palma Terra Ltd. of British Virgin Islands; Heaven Gifts International Ltd. of Hong Kong; Shenzhen LC Technology Co., Ltd. of Shenzhen, China; LCF Labs, Inc. of Ontario, California; Flumgio Technology Ltd. of Hong Kong; Flawless Vape Shop Inc. of Anaheim, California; Flawless Vape Wholesale & Distribution Inc. of Anaheim, California; and VICA Trading Inc. d/b/a Vapesourcing of Tustin, California (collectively, “Defaulting Respondents”). *See Order No. 17 (Sept. 16, 2024), unreviewed by Comm’n Notice (Oct. 8, 2024).*

Two (2) respondents – Kimsun Technology (HuiZhou) Co., Ltd. of Shenzhen, China; and Bidi Vapor, LLC of Orlando, Florida – were terminated from the investigation based on consent orders. Order No. 10 (Aug. 28, 2024), *unreviewed by Comm’n Notice (Sept. 23, 2024); Order No. 26 (Nov. 5, 2024), unreviewed by Comm’n Notice (Dec. 5, 2024).*

On June 11, 2024, the same date it filed its complaint, Reynolds filed a motion for a temporary exclusion order (“TEO”). Respondents filed a joint memorandum in opposition to Reynolds’s motion for a TEO on August 12, 2024. The presiding ALJ held an evidentiary hearing on September 26 and 27, and October 8, 2024. On November 19, 2024, the ALJ issued an ID denying Reynolds’s motion for a TEO, which the Commission determined not to review. Order No. 28 (Nov. 19, 2024), *unreviewed by Comm’n Notice (Dec. 18, 2024).*

On May 1, 2025, the Commission partially terminated the investigation with respect to claims 3, 8, 10, 13, 17-27, and 29-30 of the ’202 patent due to voluntary withdrawal of the claims. Order No. 44 (Apr. 7, 2025), *unreviewed by Comm’n Notice (May 1, 2025).*

The presiding ALJ held an evidentiary hearing from April 7-11, 2025, with an additional day of testimony on domestic industry on June 11, 2025. FID at 4. By that time, Reynolds was asserting claims 1, 4, 9, 11-12, and 15 of the ’202 patent for purposes of infringement, and claims 1, 2, 4-5, 7, 9, and 14-16 for domestic industry. *Id.* at 5.

On August 29, 2025, the ALJ issued the present FID, which finds that Respondents violated section 337 by way of infringing claims 4 and 12 of the ’202 patent, and that neither claim is invalid as anticipated or obvious. *Id.* at 144, 152, 189-90. The FID finds that

Respondents also infringed claims 1, 11, and 15, but those claims are invalid as anticipated. *Id.* The FID also finds that Reynolds satisfied both the technical and economic prongs of the domestic industry requirement. *Id.* at 98, 117, 121, 182.

On September 12, 2025, the presiding ALJ issued a Recommended Determination on Remedy, Bonding, and Public Interest (“RD”). The RD recommends that, in the event a violation is found, the Commission should issue a general exclusion order (“GEO”) as to claims 4 and 12 of the ’202 patent. RD at 3, 26. Should the Commission determine not to issue a GEO, the RD recommends that the Commission issue a limited exclusion order covering infringing articles imported by or on behalf of each respondent found to have violated section 337. *Id.* at 30. The RD also recommends that the Commission issue cease and desist orders against certain respondents and set a bond of 136% of the entered value of infringing articles imported during the period of Presidential review. *Id.* at 3, 40, 44. Finally, the RD recommends finding that the public interest factors do not preclude issuance of a remedy. *Id.*

On September 15, 2025, the Commission issued a notice requesting submissions on public interest issues raised by the recommended relief, should the Commission find a violation. 90 Fed. Reg. 45056 (Sept. 18, 2025). The Commission issued a second notice on November 18, 2025, and extended the deadline for responses because the original deadline expired during the shutdown of the Federal Government. 90 FR 52700 (Nov. 21, 2025). On December 1, 2025, NJOY, LLC, Altria Group Distribution Company, and Altria Client Service LLC (collectively, “NJOY”) filed a public interest statement, stating they were not named as a respondent and their products have been recognized to be non-infringing, so any GEO that may issue should include a carve-out for NJOY’s products.

On September 15, 2025, Respondents filed a petition for review of the FID’s findings, including the ALJ’s construction of “smoking article,” its findings that Respondents infringed claim 4 and 12, literally and by equivalence, and its findings that claims 4 and 12 were not anticipated or obvious over the prior art.

On September 23, 2025, Reynolds and OUII filed their respective responses to Respondents’ petition for review. Neither Reynolds nor OUII filed a petition for review of their own. Thus, any objections to the FID’s findings that claims 1, 9, 11, and 15 of the ’202 patent are invalid have been waived, per Commission Rule 210.43(b)(2), 19 CFR 210.43(b)(2). As a result, only claims 4 and 12 (and claim 1, on which they depend) remain at issue.

Upon review of the FID, the petition for review and responses thereto, and the evidence of record, the Commission has determined to review the FID in part, specifically its findings that claims 4 and 12 are not invalid as anticipated or obvious over the asserted prior art and its findings that the domestic industry requirement has been satisfied. The Commission has determined not to review, and thereby adopts, the FID’s findings on claim construction, including “smoking article” and “the aerosol that is produced” (claim 4). The Commission notes that the parties have waived broader constructions that do not limit the invention to devices that use tobacco or tobacco components.

The parties are asked to provide additional briefing on the following issues under review:

- (1) Explain whether, at the time of the invention, it would have been obvious to a person skilled in the art to use a porous material capable of wicking liquid toward the heater element in view of Kim (U.S. Patent App. Pub. No. 2006/0016453) with Pienemann (International Patent Publication WO 00/28843). Explain whether it would have been obvious to use a porous chip that permits “the aerosol that is produced” (using the FID’s interpretation of that term) to pass at least partially through that chip, as recited in claim 4 of the ’202 patent.
- (2) Explain whether, at the time of the invention, it would have been obvious to a person skilled in the art to design a central channel with a heater coil or other heater element that permits airflow therethrough, as recited in claim 12 of the ’202 patent, in view of Kim with Pienemann.

The parties are requested to brief only the discrete issues identified above, with reference and citations to the applicable law, the evidentiary record, and the parties’ previous briefings. The parties are not to brief any other issues on review, which have already been adequately presented in the parties’ previous filings.

In connection with the final disposition of this investigation, the statute authorizes issuance of: (1) a limited or general exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease-and-desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines*, Inv. No. 337-TA-360, USITC Pub. No. 2843, Comm’n Op. at 7-10 (December 1994).

The statute requires the Commission to consider the effects of any remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or cease-and-desist order would have on: (1) the public health and welfare; (2) competitive conditions in the U.S. economy; (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation; and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission’s action. *See* Presidential Memorandum of July 21, 2005. 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

**WRITTEN SUBMISSIONS:** Parties to this investigation are requested to file written submissions on the issues identified above in this notice. In addition, the parties, interested government agencies, and any other interested parties are requested to file written submissions on the issues of remedy, the public interest, and bonding. Such initial submissions should include views on the recommended determination by the ALJ on remedy and bonding. Explain whether your views on public interest or bonding would differ if the redesigned products (or redesigned components of a product) put forward by Respondents were excluded from any remedy.

In its initial submission, Complainant is requested to identify the remedy sought and to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to provide the HTSUS subheadings under which the accused products are imported. Complainant is further requested to supply the names of known importers of the Respondents' products at issue in this investigation. Complainant is also requested to identify and explain, from the record, articles that it contends are "components of" the subject products, and thus potentially covered by the proposed remedial orders, if imported separately from the subject products. *See* 85 FR at 31211. Failure to provide this information may result in waiver of any remedy directed to "components of" the subject products, in the event any violation may be found.

The parties' written submissions and proposed remedial orders must be filed no later than the close of business on **January 23, 2026**. Reply submissions must be filed no later than the close of business on **January 30, 2026**. Opening submissions are limited to 40 pages. Reply submissions are limited to 30 pages. All submission from third parties and/or interested government agencies are limited to 10 pages. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number ("Inv. No. 337-TA-1410") in a prominent place on the cover page and/or first page. (*See Handbook for Electronic Filing Procedures*, [https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)). Persons with questions regarding filing should contact the Secretary (202-205-2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate

nondisclosure agreements. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The Commission vote for this determination took place on January 9, 2026.

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 "LRB".

Lisa R. Barton  
Secretary to the Commission

Issued: January 9, 2026