

**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-1368**

**NOTICE OF COMMISSION DETERMINATION TO EXTEND THE TARGET DATE  
FOR COMPLETION OF THIS INVESTIGATION**

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to extend until January 29, 2025, the target date for completion of the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Hadorn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3179. 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:** The Commission instituted this investigation on August 7, 2023, based on a complaint filed by JUUL Labs, Inc. of Washington, D.C. and VMR Products LLC of San Francisco, California (together, "JLI"). 88 FR 52207 (Aug. 7, 2023). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on the importation into the United States, the sale for importation, and/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. RE49,114 ("the '114 patent"), 10,130,123 ("the '123 patent"), 10,709,173 ("the '173 patent"), 11,134,722 ("the '722 patent"), and 11,606,981 ("the '981 patent"). *Id.* The complaint further alleges that a domestic industry ("DI") exists. *Id.* The notice of investigation names five respondents: (1) NJOY, LLC of Phoenix, Arizona; (2) NJOY Holdings, Inc. of Scottsdale, Arizona; (3) Altria Group, Inc. of Richmond, Virginia; (4) Altria Group Distribution Company of Richmond, Virginia; and (5) Altria Client Services LLC of Richmond, Virginia (collectively, "NJOY"). *Id.* The Office of Unfair Import Investigations ("OUII") is also named as a party. *Id.* The Commission also directed the presiding administrative law judge ("ALJ") to take evidence on and provide factual findings and a

recommended determination concerning the public interest. *Id.*

On April 3, 2024, the Commission terminated the investigation as to the following asserted claims based on partial withdrawal of the complaint: (i) claims 1, 5-7, 29, 30, 36, 80, 89, and 93 of the '114 patent; (ii) claims 16, 18, 29, and 31 of the '123 patent; (iii) claims 3, 8, 14, and 17 of the '722 patent; and (iv) claims 6, 9-11, 17, and 18 of the '981 patent. Order No. 18 (Mar. 6, 2024), *unreviewed by* Comm'n Notice (Apr. 3, 2024).

On April 26, 2024, the Commission terminated the investigation as to the following asserted claims based on partial withdrawal of the complaint: (i) claims 43, 44, 76, 77, 81, and 86 (all remaining claims) of the '114 patent, thus terminating the '114 patent in its entirety; (ii) claim 14 of the '123 patent; (iii) claims 2, 3, 6, 7, 15, 16, 18-25, 28, and 30 of the '173 patent; (iv) claims 5, 7, 9-13, 16, and 18-21 of the '722 patent; and (v) claims 2, 5, and 13-16 of the '981 patent. Order No. 21 (Apr. 2, 2024), *unreviewed by* Comm'n Notice (Apr. 26, 2024).

On June 18, 2024, the Commission affirmed an initial determination granting summary determination that JLI has satisfied the economic prong of the DI requirement as to the remaining asserted patents, *i.e.*, the '123, '173, '722, and '981 patents. Order No. 22 (Apr. 3, 2024), *aff'd by* Comm'n Notice (June 20, 2024).

On August 23, 2024, the ALJ issued a final initial determination ("ID"), which finds a violation of section 337 as to claims 27 and 32 of the '123 patent, claims 1 and 4 of the '173 patent, claims 1 and 15 of the '722 patent, and claims 1 and 8 of the '981 patent. The ID also includes the ALJ's recommended determination ("RD") on remedy, the public interest, and bonding. The RD recommends that, should the Commission determine that a violation of section 337 has occurred, the Commission should: (i) issue a limited exclusion order against NJOY's infringing products; (ii) issue cease and desist orders against each of the NJOY respondents; and (iii) impose no bond (0 percent bond) for importations of infringing products during the period of Presidential review. The ALJ also found that the statutory public interest factors do not support denying or delaying the recommended relief set forth in the RD.

On September 24, 2024, JLI and NJOY each filed a submission on the public interest pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission did not receive any submissions on the public interest from members of the public or interested government agencies in response to the Commission's *Federal Register* notice. *See* 89 FR 70668-69 (Aug. 30, 2024).

On October 24, 2024, the Commission determined to review in part the final ID. 89 FR 89041-44 (Nov. 12, 2024). Specifically, the Commission determined to review (i) the ID's construction of the "pressure sensor" limitations (limitations 27[d] and 27[e]) recited in claim 27 of the '123 patent, and (ii) the ID's findings that the NJOY ACE accused product, the asserted RevB and JAGWAR iterations of the JUUL DI system, and the asserted JUUL2 DI system literally practice limitations 27[d] and 27[e] of claim 27 of the '123 patent under the ID's construction of those limitations. *Id.* at 89042.

The Commission also determined to review certain of the ID's findings regarding claim

construction and satisfaction of the technical prong of the DI requirement with respect to the '173 patent. *Id.* In particular, the Commission determined to review (i) the ID's construction of the terms "mouthpiece" and "disposed within" recited in asserted claims 1 and 4 of the '173 patent, and (ii) the ID's finding that the JUUL2 DI system practices claims 1 and 4 of the '173 patent. *Id.*

The Commission further determined to reconsider its previous finding that JLI has satisfied the economic prong of the DI requirement with respect to the '123 and '173 patents based on investments related to both the JUUL DI system and the JUUL2 DI system. *Id.* The Commission also determined not to review the remaining findings in the ID, including the ID's findings of a violation of section 337 as to the '722 and '981 patents. *Id.* The Commission also determined to deny NJOY's motion for leave to file a reply in support of its petition for review *Id.*

The Commission's notice requested written submissions (i) from the parties on certain issues under review and (ii) from the parties, interested government agencies, and any other interested persons on the issues of remedy, the public interest, and bonding. *Id.* at 89042-43.

On November 7, 2024, JLI, NJOY, and OUII each filed initial briefs with written submissions on the issues under review as well as on remedy, the public interest, and bonding. On November 14, 2024, JLI, NJOY, and OUII each filed reply briefs. Also, between November 5-19, 2024, the Commission received five submissions on the public interest from members of the public.

The Commission has determined to extend until January 29, 2025, the target date for completion of this investigation.

The Commission vote for this determination took place on December 11, 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.

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: December 11, 2024