

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN DISPOSABLE VAPORIZER
DEVICES AND COMPONENTS AND
PACKAGING THEREOF**

Investigation No. 337-TA-1381

**NOTICE OF A COMMISSION DETERMINATION NOT TO REVIEW INITIAL
DETERMINATION AMENDING 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. 27) issued by the chief administrative law judge (“CALJ”) granting the complainants’ motion to amend the complaint and notice of investigation (“NOI”) to add four entities as respondents in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2043. 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, telephone (202) 205-1810.

SUPPLEMENTARY INFORMATION: On December 20, 2023, the Commission instituted this investigation based on a complaint filed on behalf of complainants R.J. Reynolds Tobacco Company and R.J. Reynolds Vapor Company (collectively, “Complainants”). 88 FR 88111-12 (Dec. 20, 2023). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”), based upon the importation into the United States, and the sale of certain disposable vaporizer devices and components and packaging thereof by reason false advertising, false designation of origin, and unfair competition, the threat or effect of which is to destroy or substantially injure an industry in the United States. The Commission’s NOI named the following twenty-five (25) respondents: Affiliated Imports, LLC of Pflugerville, TX; American Vape Company, LLC a/k/a American Vapor Company, LLC of Pflugerville, TX; Breeze Smoke, LLC of West Bloomfield, MI; Dongguan (Shenzhen) Shikai Technology Co., Ltd. of Guangdong, China; EVO Brands, LLC of Wilmington, DE; Flawless Vape Shop Inc. of

Anaheim, CA; Flawless Vape Wholesale & Distribution Inc. of Anaheim, CA; Guangdong Qisitech Co., Ltd. of Dongguan City, China; iMiracle (Shenzhen) Technology Co. Ltd. of Shenzhen, China; Magellan Technology Inc. of Buffalo, NY; Pastel Cartel, LLC of Pflugerville, TX; Price Point Distributors Inc. d/b/a Prince Point NY of Farmingdale, NY; PVG2, LLC of Wilmington, DE; Shenzhen Daosen Vaping Technology Co., Ltd. of Shenzhen, China; Shenzhen Fumot Technology Co., Ltd. of Shenzhen, China; Shenzhen Funyin Electronic Co., Ltd. of Guangdong, China; Shenzhen Han Technology Co., Ltd. of Shenzhen, China; Shenzhen Innokin Technology Co., Ltd. of Shenzhen, China; Shenzhen IVPS Technology Co., Ltd. of Shenzhen, China; Shenzhen Noriyang of Shenzhen, China; Shenzhen Weiboli Technology Co. Ltd. of Shenzhen, China; SV3 LLC d/b/a Mi-One Brands of Phoenix, AZ; Thesy, LLC d/b/a Element Vape of El Monte, CA; Vapeonly Technology Co. Ltd. of Shenzhen, China; and VICA of Tustin, CA. *Id.* The Office of Unfair Import Investigations (“OUII”) was also named as a party in this investigation. *Id.*

On April 10, 2024, Complainants filed an unopposed motion to amend the complaint and NOI (“Motion to Amend”) to add the following five entities as respondents in this investigation: (1) Capital Sales Company (“Capital Sales”); (2) Ecto World, LLC d/b/a Demand Vape (“Demand Vape”); (3) Hong Kong IVPS International Ltd. (“Hong Kong IVPS”); (4) KMT Services LLC d/b/a KMT Distribution (“KMT Distribution”); and (5) Heaven Gifts International Ltd. (“Heaven Gifts”). *Id.* at 1.

On April 26, 2024, the CALJ denied Complainants’ Motion to Amend without prejudice because they had not demonstrated that the motion had been served on the five proposed respondents. *Id.* On April 30, 2024, Complainants filed proof of service indicating that the following four proposed respondents were served with the Motion to Amend on April 19, 2024: (1) Capital Sales; (2) Demand Vape; (3) Hong Kong IVPS; and (4) KMT Distribution (collectively the “Proposed Respondents”). *Id.* at 2. Complainants did not provide proof that Heaven Gifts had been properly served.

On May 9, 2024, Complainants, OUII, and 17 of the named respondents (*see* ID at 2 n.2) (collectively, the “parties”) filed a joint submission regarding Complainants’ Motion to Amend. *Id.* In the joint submission, the parties represented, *inter alia*, that they do not oppose or take no position on adding the four Proposed Respondents to this investigation. *Id.* at 2-3. In the joint submission, Complainants also withdrew their request to add Heaven Gifts as a fifth respondent. *Id.* at 2.

On May 20, 2024, the CALJ issued the subject ID (Order No. 27) pursuant to Commission Rule 210.14(b) (19 CFR 210.14(b)), granting Complainants’ Motion to Amend with respect to adding the four Proposed Respondents to this investigation. The ID notes that the Proposed Respondents were served with a copy of the Motion to Amend “but none filed an opposition to [the] motion.” *Id.* at 7. The ID also finds that Complainants have established good cause to amend the complaint and notice of investigation to add allegations that Proposed Respondents have violated section 337. *Id.* at 8. In addition, the ID finds that “the amendments will not prejudice respondents, the proposed respondents, OUII, or the public interest.” *Id.*

No party filed a petition for review of the subject ID.

The Commission has determined not to review the subject ID (Order No. 27). The following four entities are hereby added as respondents in this investigation: (1) Capital Sales; (2) Demand Vape; (3) Hong Kong IVPS; and (4) KMT Distribution.

The Commission vote for this determination took place on Issued: June 13, 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, cursive script.

Lisa R. Barton
Secretary to the Commission

Issued: June 13, 2024