



7020-02

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1141]

Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof; Notice of a Commission Determination to Issue Remedial Orders and Impose a Bond on Defaulting Respondents; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the “Commission”) has determined to issue a limited exclusion order and cease and desist orders against the respondents found to be in default in this investigation, namely, DripTip Vapes LLC (“DripTips”) of Plantation, Florida; Shenzhen OVNS Technology Co., Ltd. (“OVNS”) of Guangdong, China; Shenzhen Haka Flavor Technology Co., Ltd. (“Haka”) of Guangdong, China; and Shenzhen OCIGA Technology Co., Ltd. (“OCIGA”) of Guangdong, China (collectively, “the Defaulting Respondents”). The Commission has also determined to impose a bond equal to 281 percent of the entered value of the accused products imported during the period of Presidential review. The investigation is hereby terminated.

FOR FURTHER INFORMATION CONTACT: Carl P. Bretscher, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., 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. 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 on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On December 27, 2018, the Commission instituted the present investigation based on a complaint filed by Juul Labs, Inc. ("Juul" or "Complainant") of San Francisco, California. 83 FR 66746-747 (Dec. 27, 2018). The complaint alleges a violation of 19 U.S.C. 1337, as amended ("Section 337"), in the importation, sale for importation, and sale in the United States after importation of certain cartridges used in electronic nicotine delivery systems and components thereof that allegedly infringe one or more of the asserted claims of U.S. Patent Nos. 10,058,129; 10,104,915; 10,111,470; 10,117,465; and 10,117,466. *Id.* The complaint also alleges the existence of a domestic industry. *Id.* The notice of investigation named 23 respondents. *Id.* The Office of Unfair Import Investigations ("OUII") was also named as a party. *Id.*

On May 3, 2019, the presiding administrative law judge ("ALJ") found the Defaulting Respondents in default. Order No. 26 (May 3, 2019), *not rev'd*, Comm'n Notice (May 31, 2019). On September 9, 2019, Juul filed a Declaration Seeking Immediate Relief Against Defaulting Respondents. On September 19, 2019, OUII filed a response opposing Juul's declaration as premature and stating that any requested relief should be deferred until the end of the investigation.

The Commission terminated the investigation with respect to all of the other respondents through a series of settlement agreements and consent orders. Order No. 51 (Dec. 5, 2019), *not rev'd*, Comm'n Notice (Jan. 6, 2020); Order Nos. 46-50 (Nov. 18, 2019), *not rev'd*, Comm'n Notice (Dec. 16, 2019); Order No. 44 (Sept. 18, 2019), *not rev'd*, Comm'n Notice (Oct. 15, 2019); Order No. 34 (June 14, 2019), *not rev'd*, Comm'n Notice (July 10, 2019); Order No. 30

(May 15, 2019), *not rev'd*, Comm'n Notice (June 12, 2019); Order No. 25 (April 18, 2019), *not rev'd*, Comm'n Notice (May 15, 2019); Order Nos. 19-21 (Apr. 10, 2019), *not rev'd*, Comm'n Notice (May 7, 2019); Order Nos. 15, 16 (Mar. 12, 2019), *not rev'd*, Comm'n Notice (Mar. 26, 2019); Order Nos. 13, 14 (Feb. 28, 2019), *not rev'd*, Comm'n Notice (Mar. 26, 2019).

The Commission, in terminating the last active respondent from the investigation, also terminated the proceedings before the ALJ. Order No. 51 at 3 (Dec. 5, 2019), *not rev'd*, Comm'n Notice (Jan. 6, 2020). Accordingly, Juul renewed its request for relief against the Defaulting Respondents on December 12, 2019. The Commission, in the same notice that terminated the investigation with respect to the last remaining respondent, requested briefing on the issues of remedy, bonding, and the public interest. Comm'n Notice (Jan. 6, 2020). The Commission also found Juul's September 9, 2019, declaration to be moot. *Id.*

On January 13, 2020, both Juul and OUII filed statements on remedy, public interest, and bonding. On January 20, 2020, Juul filed a reply to OUII's initial submission. None of the Defaulting Respondents filed a response to either the Commission's original notice or the initial submissions filed by Juul or OUII.

Upon review of the parties' submissions, and in the absence of any response from the Defaulting Respondents, the Commission has determined to issue a limited exclusion order and cease and desist orders against the Defaulting Respondents. The Commission has further determined to set a bond equal to 281 percent of the entered value of the covered products. The investigation is hereby terminated.

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).

While temporary remote operating procedures are in place in response to COVID-19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

By order of the Commission.

Issued: April 7, 2020.

Lisa Barton,

Secretary to the Commission.

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