



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1410]

Certain Disposable Vaporizer Devices; Notice of Final Commission Determination of No Violation; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (“Commission”) has determined to reverse the violation findings of the final initial determination (“FID”) issued by the presiding administrative law judge (“ALJ”) in this investigation and find that asserted claims 4 and 12, and claim 1 on which they depend, of U.S. Patent No. 11,925,202 (“the 202 patent”) are invalid as obvious under 35 U.S.C. 103 (“section 103”), and thus there is no violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (“section 337”). The Commission has also determined to take no position on whether the complainants satisfied the economic prong of the domestic industry requirement. The Commission otherwise adopts the findings of the FID to the extent they do not conflict with the attached opinion, with some modifications to supplement its finding that claims 4 and 12 are not anticipated under 35 U.S.C. 102 (“section 102”). This investigation is hereby terminated with a finding of no violation.

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. 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, as supplemented, filed by R.J. Reynolds Vapor Company; R.J. Reynolds Tobacco Company; RAI Strategic Holdings, Inc.; and RAI Services Company of Winston-Salem, North Carolina (collectively, “Reynolds” or “Complainant”) accusing the respondents of violating section 337 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 the ’202 patent. 89 FR 59158-60 (Jul. 22, 2024). The complaint further alleges that a domestic industry exists in the United States.

The Commission’s notice of investigation names thirty-five (35) named respondents, of which eighteen (18) respondents participated in the investigation, fifteen (15) respondents were found in default, and two (2) respondents were terminated on the basis of consent orders and consent order stipulations. The eighteen (18) respondents that participated in this investigation are: Breeze Smoke, LLC of Southfield, Michigan; Dongguan (Shenzhen) Shikai Technology Co., Ltd. of Dongguan, China; Guangdong Qisitech Co., Ltd. of Dongguan City, China; Guangdong 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 Fridley, Minnesota; Shenzhen Yanyang Technology Co., Ltd. of Huizhou, 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 City, 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 El Monte, California (collectively, “Respondents”). FID at 6-9. The Office of Unfair Import Investigations (“OUII”) is also as a party. 89 FR at 59160.

The fifteen (15) respondents found in default are: 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; Flungio 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).

The two (2) respondents that were terminated from this investigation are: Kimsun Technology (HuiZhou) Co., Ltd. of Shenzhen, China and Bidi Vapor, LLC of Orlando, Florida. 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).

On March 14, 2025, the presiding ALJ issued a *Markman* order construing the disputed claim terms. Order No. 34 (Mar. 14, 2025). The ALJ held an evidentiary hearing from April 7-11, 2025, with an additional day of testimony on domestic industry on June 11, 2025. 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 purposes of domestic industry.

On August 29, 2025, the ALJ issued the present FID, finding 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 under 35 U.S.C. section 102 or section 103, respectively. FID at 189-90. The FID found that Respondents also infringed claims 1, 11, and 15, but those claims are invalid as anticipated. *Id.* The FID also found 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 ALJ issued a Recommended Determination on Remedy, Bonding, and Public Interest (“RD”), recommending that the Commission issue a general exclusion order (“GEO”) in the event a violation is found, or, in the alternative, a limited exclusion order covering infringing articles imported by or on behalf of each respondent found to have violated section 337 and each defaulting respondent. RD at 3, 26, 30. The ALJ also recommended 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. The ALJ further recommended 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 September 15, 2025, Respondents filed a petition for review of the FID, including its construction of the claim term “smoking article” and its findings that claims 4 and 12 are infringed, literally or by equivalence, as well as its findings that claims 4 and 12 are neither anticipated nor 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 and have thus waived any objections they may have had to the FID's findings that claims 1, 9, 11, and 15 of the '202 patent are invalid as anticipated, per Commission Rule 210.43(b)(4), 19 CFR 210.43(b)(4).

On January 9, 2026, the Commission determined to review the FID in part, including its findings that: (i) claims 4 and 12 are not invalid as anticipated under section 102; (ii) claims 4 and 12 are not invalid as obvious under section 103; and (iii) Reynolds satisfied the domestic industry requirement. 91 FR 1555-57 (Jan. 14, 2026). The Commission did not review, and has thus adopted, the FID's findings on claim construction, infringement, and invalidity of claims 1, 9, 11, and 15 (except to the extent that claims 4 and 12 depend on claim 1). *See id.* at 1556.

On January 23, 2026, Reynolds, Respondents, and OUII filed their initial submissions in response to the Commission's January 9, 2026, notice. On January 30, 2026, Reynolds, Respondents, and OUII submitted their respective replies in each other's submissions.

The Commission has also received submissions from two third parties. On December 1, 2025, non-parties NJOY, LLC, Altria Group Distribution Company, and Altria Client Service LLC (collectively, "NJOY") submitted a response to the Commission's second request for public interest submissions. On January 23, 2026, NJOY submitted a second submission in response to the Commission's notice of partial review and request for public submissions. On the same date, the Commission received a submission from Vapor Technology Association, a U.S. trade association representing manufacturers, distributors, retailers, wholesalers, suppliers, and other vapor technology businesses in the United States.

Upon review of the FID, the parties' submissions, and the evidence of record, the Commission has determined to reverse the FID and find that claims 4 and 12, and claim 1 on which they depend, are invalid as obvious under 35 U.S.C. section 103, as set forth in the attached opinion. The Commission has also determined to take no position on whether

Reynolds satisfied the economic prong of the domestic industry requirement. The Commission otherwise adopts the remaining findings of the FID, with some modifications to supplement its finding that Respondents failed to prove by clear and convincing evidence that either claim 4 or claim 12 is invalid as anticipated under section 102. Accordingly, this investigation is terminated with a finding of no violation of section 337.

The Commission vote for this determination took place on March 10, 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.

Issued: March 10, 2026.

Lisa Barton,

Secretary to the Commission.

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