

PUBLIC VERSION

**UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.**

**In the Matter of
CERTAIN VAPORIZER CARTRIDGES
AND COMPONENTS THEREOF**

Investigation No. 337-TA-1211

COMMISSION OPINION

On November 29, 2021, the Commission determined to review in part an initial determination (“ID”) (Order No. 65) issued by the presiding administrative law judge (“ALJ”) on October 14, 2021, finding a violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337 (“section 337”) by 18 defaulting respondents. 86 Fed. Reg. 68684-86 (Dec. 3, 2021). On review, the Commission has determined that there has been a violation of section 337 with respect to the sole claims of U.S. Design Patent Nos. D842,536, D858,868, D858,869, and D858,870 (collectively, the “Asserted Patents”), respectively. After considering the public interest, the Commission has determined that the appropriate form of relief is a general exclusion order (“GEO”) prohibiting the unlicensed importation of articles that infringe the Asserted Patents, and cease and desist orders (“CDOs”) against certain defaulting respondents. The Commission has further determined to set a bond during the period of Presidential review in the amount of one hundred percent (100%) of the entered value of the articles subject to the GEO and CDOs. This opinion sets forth the Commission’s reasoning in support of its determinations.

I. PROCEDURAL HISTORY

On August 14, 2020, the Commission instituted this investigation based on a complaint,¹ as supplemented and amended, filed on behalf of Juul Labs Inc. (“JLI”) of San Francisco, California. 85 Fed. Reg. 49679 (Aug. 14, 2020). The complaint, as supplemented and amended, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vaporizer cartridges and components thereof by reason of infringement of the sole claims of the Asserted Patents, respectively. *Id.* The complaint further alleges that a domestic industry exists. *Id.*

The Commission’s notice of investigation, as amended, names 49 respondents (grouped by defaulting and non-defaulting respondents):

- (1) 101 Smoke Shop, Inc. (“101 Smoke Shop”); (2) Eon Pods LLC (“Eon Pods”); (3) Jem Pods, U.S.A. (“Jem Pods”); (4) Sky Distribution LLC (“Sky Distribution”); (5) Vapers & Papers, LLC (“Vapers & Papers”); (6) Access Vapor LLC D/B/A Cali Pods (“Access Vapor”);² (7) eLiquid Stop; (8) Shenzhen Apoc Technology Co., Ltd. (“Shenzhen Apoc”); (9) Shenzhen Ocity Times Technology Co., Ltd. (“Shenzhen Ocity”); (10) Evergreen Smokeshop; (11) Shenzhen Azure Tech USA LLC F/K/A DS Vaping P.R.C. (“Shenzhen Azure”); (12) DripTip Vapes LLC (“DripTip Vapes”); (13) Modern Age Tobacco; (14) Dongguan Hengtai Biotechnology Co., Ltd. D/B/A Mr. Fog (“Mr. Fog”); (15) Shenzhen Yark Technology Co., Ltd. (“Shenzhen Yark”); (16) Guangdong Cellular Workshop Electronic Technology Co., Ltd. (“Guangdong Cellular”); (17) Shenzhen Bauway Technology Ltd. (“Shenzhen Bauway”); (18) Shango Distribution LLC D/B/A Puff E-Cig (“Puff E-Cig”);³

¹ Complaint Under Section 337 of the Tariff Act of 1930, as Amended, EDIS Doc. ID 714331 (July 10, 2020) (“Compl.”). The complaint included Complainant Juul Labs, Inc.’s Statement on the Public Interest, cited herein as “PI Statement.”

² Access Vapor LLC and Cali Pods were originally identified as two distinct respondents. See 85 Fed. Reg. 49679-80 (notice of investigation). Cali Pods, however, is a business alias of Access Vapor. See Order No. 65 at 2, n.1.

³ The first 18 respondents are collectively referred to herein as the “Defaulting Respondents.”

PUBLIC VERSION

- (19) Vapeonline LLC D/B/A 2nd Wife Vape (“2nd Wife Vape”); (20) All Puff Store; (21) Alternative Pods; (22) Ana Equity LLC (“Ana Equity”); (23) Aqua Haze LLC (“Aqua Haze”); (24) Cali Pods; (25) Canal Smoke Express, Inc. (“Canal Smoke”); (26) Tobacco Club & Gifts, Inc., D/B/A CaryTown Tobacco (“CaryTown Tobacco”); (27) Cigar Road, Inc. (“Cigar Road”); (28) Cloud 99 Vapes; (29) eCig-City; (30) VR Products I LLC D/B/A eJuiceDB (“eJuiceDB”); (31) Texas E. Cigarette D/B/A EZFumes (“EZFumes”); (32) JC Pods; (33) JUULSite Inc. (“JUULSite”); (34) Keep Vapor Electronic Tech. Co., Ltd. (“Keep Vapor”); (35) Limitless Accessories, Inc. (“Limitless Accessories”); (36) Midwest Goods, Inc. (“Midwest Goods”); (37) OMID Holdings, Inc. D/B/A Naturally Peaked Health Co. (“Naturally Peaked Health”); (38) Nilkant 167 Inc. (“Nilkant”); (39) Perfect Vape LLC (“Perfect Vape”); (40) Price Point Distributors Inc. D/B/A Price Point NY (“Price Point NY”); (41) Bansidhar Inc. D/B/A Smoker’s Express (“Smoker’s Express”); (42) The Kind Group LLC (“Kind Group”); (43) Three Mini Calvins, LLC D/B/A Tobacco Alley of Midland (“Tobacco Alley”); (44) Valgous; (45) Vape Central Group; (46) Cork & Twist, Inc. D/B/A Vape ‘n Glass (“Vape ‘n Glass”); (47) Vaperistas; (48) WeVapeUSA; and (49) Wireless N Vapor Citi LLC (“Wireless N Vapor Citi”). *Id.; see also* Order No. 22 (Oct. 21, 2020) (granting motion to amend the Complaint and notice of investigation to correct the legal names of Respondents 2nd Wife Vape, CaryTown Tobacco, eJuiceDB, EZFumes, Price Point NY, Smoker’s Express, Tobacco Alley, Vape ‘n Glass, Naturally Peaked Health, and Puff E-Cig and “the name and address for Respondent Mr. Fog.”), *unreviewed by* Notice, 85 Fed. Reg. 73748-49 (Nov. 19, 2020).

The Office of Unfair Import Investigations (“OUII”) is also a party to the investigation. 85 Fed. Reg. at 49679.

After institution of this investigation, JLI amended the complaint and notice of investigation to, *inter alia*: (1) include “the true legal names for each of respondents 2nd Wife Vape, CaryTown Tobacco, eJuiceDB, EZFumes, Price Point NY, Smoker’s Express, Tobacco Alley, Vape ‘n Glass, Naturally Peaked Health, and Puff E-Cig”; (2) clarify that originally-named respondents Limitless Accessories and Valgous are a single legal entity; (3) correct “the name and address for Respondent Mr. Fog”; and (4) correct “the addresses for Respondents Shenzhen Azure Tech USA LLC f/k/a DS Vaping P.R.C. and Shenzhen Yark Technology Co.,

PUBLIC VERSION

Ltd.” Order No. 22 (Oct. 21, 2020), *unreviewed by* Notice, 85 Fed. Reg. 73748-49 (Nov. 19, 2020).

The Commission previously terminated this investigation as to 29 respondents pursuant to Commission Rule 210.21(c) (19 C.F.R. § 210.21(c)) based on consent orders; and one respondent pursuant to Commission Rule 210.21(a) (19 C.F.R. § 210.21(a)) due to JLI’s failure to serve that entity with the complaint and notice of investigation.⁴ The Commission has previously found the remaining 18 respondents, the Defaulting Respondents, in default.⁵ Thus, no active respondents remain in this investigation.

⁴ Order No. 23 (Oct. 29, 2020) (terminating and issuing consent order to Midwest Goods), *unreviewed by* Notice (Nov. 18, 2020); Order Nos. 26-29 (Dec. 8, 2020) (terminating and issuing consent orders to Vape ‘n Glass, Vaperistas, Aqua Haze, and 2nd Wife Vape), *unreviewed by* Notice (Dec. 22, 2020); Order Nos. 30 & 31 (Dec. 10, 2020) (terminating and issuing consent orders to EZFumes and eJuiceDB), *unreviewed by* Notice (Jan. 4, 2021); Order No. 32 (Dec. 14, 2020) (terminating and issuing a consent order to JC Pods), *unreviewed by* Notice (Jan. 4, 2021); Order Nos. 33 & 34 (Dec. 15, 2020) (terminating and issuing consent orders to Tobacco Alley and WeVapeUSA), *unreviewed by* Notice (Jan. 5, 2021); Order No. 37 (Dec. 30, 2020) (terminating and issuing a consent order to Vape Central Group), *unreviewed by* Notice (Jan. 21, 2021); Order No. 38 (Jan. 5, 2021) (terminating and issuing a consent order to Ana Equity), *unreviewed by* Notice (Jan. 21, 2021); Order Nos. 40-42 (Feb. 1, 2021) (terminating and issuing consent orders to eCig-City, All Puff Store, and Wireless N Vapor Citi), *unreviewed by* Notice (Feb. 16, 2021); Order Nos. 43-48 (Feb. 2, 2021) (terminating and issuing consent orders to JUULSite, Alternative Pods, Limitless Accessories, Price Point NY, Naturally Peaked Health Co., and Smoker’s Express), *unreviewed by* Notice (Feb. 22, 2021); Order Nos. 49 & 50 (Feb. 3, 2021) (terminating and issuing consent orders to Kind Group and CaryTown Tobacco), *unreviewed by* Notice (Feb. 22, 2021); Order Nos. 53 & 54 (Feb. 17, 2021) (terminating and issuing consent orders to Cigar Road and Nilkant), *unreviewed by* Notice (Mar. 15, 2021); Order No. 58 (Mar. 18, 2021) (terminating and issuing a consent order to Cloud 99 Vapes), *unreviewed by* Notice (Apr. 2, 2021); Order No. 60 (Apr. 9, 2021) (terminating and issuing a consent order to Canal Smoke), *unreviewed by* Notice, (Apr. 22, 2021); Order No. 61 (Apr. 28, 2021) (terminating and issuing a consent order to Perfect Vape), *unreviewed by* Notice (May 17, 2021); Order No. 51 (Feb. 8, 2021) (terminating investigation as to Keep Vapor), *unreviewed by* Notice (Feb. 22, 2021).

⁵ See Order No. 35 (Dec. 17, 2021) (finding 101 Smoke Shop, Eon Pods, Jem Pods, Vapers & Papers, Sky Distribution, and Guangdong Cellular in default), *unreviewed by* Notice (Jan. 5, 2021); Order No. 62 (May 5, 2021) (finding Shenzhen Azure, Evergreen Smokeshop, DripTip

PUBLIC VERSION

On March 19, 2021, pursuant to Commission Rule 210.18 (19 C.F.R. § 210.18), JLI filed a motion for summary determination⁶ asserting that the Defaulting Respondents have violated section 337 through the importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of certain vaporizer cartridges and components thereof that infringe the Asserted Patents and that JLI has satisfied the domestic industry requirement. Additionally, JLI sought a recommended determination for (1) the entry of a GEO; (2) CDOs directed to the 12 domestic Defaulting Respondents;⁷ and (3) a bond in the amount of 100 percent of entered value during the period of Presidential review. On April 7, 2021, OUII filed a response in support of JLI's motion.⁸

On October 14, 2021, the ALJ issued an ID, Order No. 65, granting JLI's motion. The ID included the ALJ's Recommended Determination ("RD") on remedy and bonding that recommended JLI's requested relief. No petitions for review of the ID were filed, and the Commission received no comments or statements on the public interest, either pursuant to

Vapes, Modern Age Tobacco, and Mr. Fog in default), *unreviewed by* Notice (May 19, 2021); Order No. 63 (May 5, 2021) (finding Shango Distribution and Shenzhen Yark in default), *unreviewed by* Notice (May 19, 2021); Order No. 64 (Sept. 13, 2021) (finding Shenzhen Bauway, Shenzhen Apoc, Access Vapor, eLiquid Stop, and Shenzhen Ocity in default), *unreviewed by* Notice (Sept. 30, 2021).

⁶ Complainant's Motion for Summary Determination of Violation and for Recommended Determination on Remedy and Bonding, EDIS Doc ID 737571 (Mar. 19, 2021) ("MSD"). The MSD was accompanied with a memorandum of law ("Mem.") and a Statement of Undisputed Material Facts ("SUMF").

⁷ The domestic defaulting respondents are: 101 Smoke Shop, Access Vapor, DripTip Vapes, eLiquid Stop, Eon Pods, Evergreen Smokeshop, Jem Pods, Modern Age Tobacco, Shango Distribution, Shenzhen Azure, Sky Distribution, and Vapers & Papers.

⁸ Commission Investigative Staff's Response to Complainant's Motion for Summary Determination of Violation and for Recommended Determination on Remedy and Bonding, EDIS Doc. ID 739179 (Apr. 17, 2021).

PUBLIC VERSION

Commission Rule 210.50(a)(4) (19 C.F.R. § 210.50(a)(4)) or the post-RD notice, *see* 86 Fed. Reg. 58099-100 (Oct. 20, 2021).⁹

On November 29, 2021, the Commission determined to review Order No. 65 in part. The Commission’s review was limited to the economic prong of the domestic industry requirement. The Commission’s notice of review requested briefing concerning only remedy, the public interest, and bonding.

On December 13, 2021, JLI submitted a brief on remedy, public interest, and bonding, requesting that the Commission issue a GEO, issue CDOs against the 12 domestic Defaulting Respondents, and set a bond of 100 percent of entered value during the period of Presidential review.¹⁰ On the same day, OUII also submitted a brief on remedy, public interest, and bonding, also supporting the ALJ’s recommendations.¹¹ On December 20, 2021, JLI submitted a brief in reply to OUII’s brief.¹² No other submissions were filed in response to the notice of review.

II. COMMISSION REVIEW OF THE ID

When the Commission reviews an initial determination, in whole or in part, it reviews the determination *de novo*. *Certain Soft-Edged Trampolines & Components Thereof*, Inv. No. 337-TA-908, Comm’n Op. at 4 (May 1, 2015). Upon review, the “Commission has ‘all the powers

⁹ The notice of investigation did not instruct the ALJ to make findings concerning the public interest.

¹⁰ Complainant’s Opening Submission on the Issues of Remedy, Public Interest, and Bonding, EDIS Doc. ID 758482 (Dec. 13, 2021) (“CBr.”).

¹¹ Response of the Office of Unfair Import Investigations to the Commission’s Request for Written Submissions on Remedy, the Public Interest, and Bonding, EDIS Doc. ID 758450 (Dec. 13, 2021) (“OUIIBr.”).

¹² Complainant’s Reply Submission on the Issues of Remedy, Public Interest, and Bond, EDIS Doc. ID 758975 (Dec. 20, 2021).

PUBLIC VERSION

which it would have in making the initial determination,’ except where the issues are limited on notice or by rule.” *Certain Flash Memory Circuits & Prods. Containing Same*, Inv. No. 337-TA-382, USITC Pub. No. 3046, Comm’n Op. at 9-10 (July 1997) (quoting *Certain Acid-Washed Denim Garments & Accessories*, Inv. No. 337-TA-324, Comm’n Op. at 5 (Nov. 1992)). With respect to the issues under review, “the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge.” 19 C.F.R. § 210.45(c). The Commission also “may take no position on specific issues or portions of the initial determination,” and “may make any finding or conclusions that in its judgment are proper based on the record in the proceeding.” *Id.*; *see also Beloit Corp. v. Valmet Oy*, 742 F.2d 1421, 1423 (Fed. Cir. 1984).

In this investigation, the Commission’s review was limited to the economic prong of the domestic industry requirement. 86 Fed. Reg. 68684. On review, the Commission has determined to affirm the ID.¹³ Accordingly, the Commission has found that the Defaulting

¹³ Chair Kearns notes that the [REDACTED]

[REDACTED] RD at 70-71. The ID’s economic prong analysis relied in part on supply chain management (including management of the [REDACTED] [REDACTED]), customer and warranty service, and quality assurance activities. Some portion of these activities may not be distinguishable from those of a mere importer and therefore may not be appropriate to credit in the economic prong analysis. However, he need not resolve which particular activities fall into this category because the other record evidence cited by the ALJ (in particular evidence related to equipment and assets used for manufacturing and assembly activities in the United States) is sufficient to demonstrate that JLI satisfied the domestic industry requirement of section 337(a)(3)(A) and (B).

Chair Kearns does not adopt the ID’s statement at 80 n.26 that, given the significance of JLI’s domestic expenses, a proper contextual analysis for “significance” does not require some comparison of domestic and foreign activities or investments where the domestic industry products benefit from both. He believes that some such comparison is required. While the evidence could have been better developed on this point, the record is sufficient to show that the

PUBLIC VERSION

Respondents have violated section 337 and must determine the appropriate remedy after consideration of the public interest.

III. REMEDY, THE PUBLIC INTEREST, AND BONDING

A. Remedy

The Commission has “broad discretion in selecting the form, scope, and extent of the remedy.” *Viscofan, S.A. v. US. Int’l Trade Comm’n*, 787 F.2d 544, 548 (Fed. Cir. 1986).

1. General Exclusion Order

Section 337(d)(2) provides that “[t]he authority of the Commission to order an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that—(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion order limited to products of named persons; or (B) there is a pattern of violation of this section and it is difficult to identify the source of infringing products.” 19 U.S.C. § 1337(d)(2)¹⁴; *see also* 19 C.F.R. § 210.50(c).

economic prong requirement is satisfied given the quantitative and qualitative significance of the U.S. manufacturing and assembly activities compared to foreign activities. *See, e.g.*, RD at 77 and 80 (showing JLI’s U.S. share of facilities expenses and worldwide assets); *see also id.* at 76 (noting that in a recent investigation involving the same alleged domestic industry, *Certain Elec. Nicotine Delivery Sys. & Components Thereof*, Inv. No. 337-TA-1139, the Commission found that “a considerable portion of the value of the JUUL® System is derived from U.S. manufacturing activities associated with the e-liquid and filling and packaging of the pods”).

¹⁴ Although 19 U.S.C. § 1337(g)(2) applies to the consideration of whether to issue a GEO in certain default cases, “this provision applies only when no respondent appears to contest the investigation. In this case, since several respondents did appear and were later terminated based on consent orders or settlement agreements, section 337(g)(2) does not apply.” *Certain Handbags, Luggage, Accessories, & Packaging Thereof*, Inv. No. 337-TA-754, Comm’n Op. at 5, n.3 (June 13, 2012).

a. A GEO is Necessary to Prevent Circumvention of a Limited Exclusion Order

The Commission finds that a GEO is an appropriate remedy and is needed to prevent circumvention of a limited exclusion order (“LEO”).

The undisputed evidence shows that the Defaulting Respondents operate under multiple different business names, engage in sales over the internet, and use product packaging that often bears no clear relationship to a particular manufacturer. *See RD at 86-87; Mulhern*¹⁵ Decl. at ¶¶ 52-58; *Slobodyanyuk*¹⁶ Decl., Ex. 11 to Complaint, EDIS Doc. ID 714331 (July 10, 2020) (Attach. ID Nos. 1556269, 1556270, 1556271) (product package photographs); Mot. at Ex. 13 (David Markel¹⁷ Decl.); Mot. at Ex. 14 (Abed Asker¹⁸ Decl.).

In addition, the undisputed evidence also shows that the vaping industry has relatively low barriers to entry and high profit margins. *See RD at 87; Mulhern Decl. at ¶¶ 61-63.* For example, the evidence shows that the accused products are relatively easy to manufacture or

¹⁵ JLI retained Ms. Mulhern as an expert witness to provide analysis regarding, *e.g.*, the appropriateness of a GEO in this investigation and the appropriate amount of bond for products covered by any exclusion order during the period of Presidential review following issuance of such an order. Mulhern Decl. at ¶ 2. At the time she signed the Declaration on March 19, 2021, Ms. Mulhern was a Managing Principal at Analysis Group, Inc., which “provides economic and financial analysis for complex litigation, regulatory proceedings, and corporate strategic planning.” *Id.* at ¶ 8.

¹⁶ At the time she signed the Declaration on July 10, 2020, Ms. Olga Slobodyanyuk was an employee of counsel for JLI in this Investigation. Slobodyanyuk Decl. at p. 1. Ms. Slobodyanyuk maintained in the ordinary course of business the receipts and invoices of the purchases she made of various vaporizer and cartridges. *Id.* at ¶ 2; *see also id.*, *e.g.*, at Attach. 1-2, 5-6, 8, 10-12 (copies of electronic receipts of some pod purchases identifying Ms. Slobodyanyuk as the purchaser and her California address as the shipping address).

¹⁷ Mr. David Markel signed the Declaration as an authorized representative on behalf of WeVapeUSA, one of the respondents named in the complaint. Markel Decl. at 1.

¹⁸ Mr. Abed Asker signed the Declaration as an authorized representative on behalf of Ana Equity LLC, one of the respondents named in the complaint. Asker Decl. at 1.

PUBLIC VERSION

purchase from an established Chinese manufacturer and that an online product seller could quickly create a new sales website for a cost of only about \$200–300. *See* RD at 87; Mulhern Decl. at ¶¶ 62–63; *see also id.* at Ex. 21 (Amir Makhani¹⁹ Dep. Tr.), Ex. 26 (Adam Frank²⁰ Dep. Tr.), Ex. 22 (Pardhan²¹ Dep. Tr.). In 2018 and 2019, JLI’s gross profit margin on JUULPods™ was approximately [REDACTED]. *See* Mulhern Decl. at ¶ 61. This provides a significant margin in which infringers can undercut JLI on price, but still make substantial profits. Accordingly, in the absence of a GEO, Defaulting Respondents would be incentivized to continue infringing activities by changing their names and operating as new on-line entities to avoid an LEO, and new market entrants would be incentivized to commence infringing activities. RD at 87; *see, e.g.*, *Certain Loom Kits for Creating Linked Articles*, Inv. No. 337-TA-923, Comm’n Op. at 9 (Feb. 1, 2019) (noting ALJ’s conclusion “that the potential profit from unlicensed loom kits is high enough to invite infringement”) (“*Loom Kits*”); *Certain Powered Cover Plates*, Inv. No. 337-TA-1124, Comm’n Op. at 15–17 (June 11, 2020) (finding a likelihood of circumvention of an LEO based on respondents’ practices of facilitating circumvention through Internet operations; ability to change names and create new sales websites, and masking of identities and product sources; as well as low barriers to entry and the high probability of infringing importation and sales).

¹⁹ At the time of his deposition on October 7, 2020, Mr. Amir Makhani was the owner of EZFumes, one of the respondents named in the complaint. Makhani Dep. Tr. at 20:9–23.

²⁰ At the time of his deposition on November 23, 2020, Mr. Adam Frank was an employee of Naturally Peaked Health, one of the respondents named in the complaint. *See, e.g.*, Frank Dep. Tr. at 11:16–19, 29:19–30:10.

²¹ During his deposition held on October 22, 2020, Mr. Kashan Pardhan testified that he was supplied Juul-compatible pods by manufacturers such as Shenzhen Fengwu Technology Limited (not a named respondent in this investigation). Pardhan Dep. Tr. at 13:13–22.

PUBLIC VERSION

Therefore, the Commission finds that a GEO is necessary to prevent circumvention of an LEO, and thus that the conditions for obtaining a GEO under section 337(d)(2)(A) are satisfied.

b. There is a Pattern of Violation of Section 337 with Respect to the Asserted Patents and Sources of the Infringing Products are Difficult to Identify

The Commission also finds there is a widespread pattern of violation with respect to the Asserted Patents. RD at 83-84; 19 U.S.C. § 1337(d)(2)(B). As the RD finds, JLI presented evidence demonstrating a widespread pattern of violation by numerous infringers world-wide. RD at 83-84 (citing SUMF at ¶ 82; Conf. Ex. 20 to Mulhern Decl. at 22:18-26:5 (testifying that almost every vape shop in Illinois was selling accused pods, as well as every distributor he was aware of); Conf. Ex. 19 to Mulhern Decl. (Naturally Peaked Health's Obj's & Resp. to JLI's 1st Set of Rogs) at Rog. Nos. 6-7 (Naturally Peaked Health identified its pod supplier in China as Kepler Vape, a previously unknown entity)). As the RD also finds, even a quick internet search reveals numerous websites that offer potentially infringing products for sale that do not have any clear connection to the named respondents. RD at 84 (citing, e.g., Ex. 42 to Mulhern Decl. (selection of websites); SUMF at ¶ 79; Compl. at ¶¶ 486-97 (identifying additional sellers of infringing products); *Loom Kits*, Comm'n Op. at 14). Accordingly, JLI has shown that there is evidence of a widespread pattern of violation.

The Commission further finds that it is difficult to identify sources of the infringing products. As the RD properly finds, there is evidence that sellers in the infringing industry often operate under multiple business names or aliases. RD at 84-86 (citing, e.g., SUMF at ¶ 93; Mulhern Decl. at ¶ 46 (noting that "Chinese manufacturers are no longer willing to ship directly out of the country, but have set up separate warehousing and manufacturing facilities so as to minimize the impact on their business if a warehouse or production location is raided and shut down"); SUMF at ¶ 73; 2nd Wife Vape Stipulation, EDIS Doc. ID 723950, ¶ 15 (admitting that

PUBLIC VERSION

Respondent's website registration information is not available on databases like WHOIS and ICAAN); WeVapeUSA Stipulation, Doc. ID 723518, ¶ 18 (same); *Certain Ink Cartridges & Components Thereof*, Inv. No. 337-TA-946, Comm'n Op. at 78 (June 1, 2019) (declaring that difficulties identifying source of infringing goods can be shown by business practices such as "use of numerous corporate affiliates and complex corporate structures" and "use of product packaging that masks the true source of the infringing goods"); *Certain Toner Cartridges*, Inv. No. 337-TA-829, Comm'n Op. at 6-7 (July 29, 2013) (same)).

Furthermore, the evidence shows the existence of websites for sales over the internet that include only limited contact information and/or have been registered to mask the identity of the seller. RD at 85 (citing Mulhern Decl. at ¶¶ 53, 55). Moreover, the evidence shows that some manufacturers of the accused products offer seller-branded custom packaging (RD at 85 (citing Ex. 22 to Mulhern Decl. at 16:25-19:3; Mulhern Decl. at ¶ 54)), and when such packaging is used, it frequently does not identify the product manufacturer (*id.* (citing Slobodyanyuk Decl., Ex. 11 to Complaint, EDIS Doc. ID 714331 (July 10, 2020) (Attach. ID Nos. 1556269, 1556270, 1556271))).

Additionally, various Respondents have stated that they have no knowledge of the true identities of their Chinese suppliers, even where Respondents have wired funds directly to them. RD at 86 (citing, *e.g.*, SUMF at ¶ 101; Conf. Ex. 14 to Mulhern Decl. (Vape 'n Glass's Obj's & Resp to JLI's 1st Set of Rogs) at Rog. No. 10; Conf. Ex. 27 to Mulhern Decl. (Price Point NY's Obj's & Resp to JLI's 1st Set of Rogs) at Rog. No. 10 (denying knowledge of manufacturers)).

Accordingly, the Commission finds there is a pattern of violation of section 337, and the sources of the infringing products are difficult to identify. Thus, the conditions for obtaining a GEO under 337(d)(2)(B) are satisfied.

B. Cease and Desist Orders

Section 337(f)(1) provides that in addition to, or in lieu of, the issuance of an exclusion order, the Commission may issue a CDO as a remedy for violation of section 337. *See* 19 U.S.C. § 1337(f)(1).^{22, 23} CDOs are generally issued when, with respect to the imported infringing

²² Complainant's request for CDOs against the domestic Defaulting Respondents is analyzed under section 337(f)(1) and not section 337(g)(1). Section 337(f)(1) provides that in addition to, or in lieu of, the issuance of an exclusion order under subsections (d) or (e), the Commission may issue a CDO as a remedy for violation of section 337. 19 U.S.C. § 1337(f)(1); *see Certain Pocket Lighters*, Inv. No. 337-TA-1142, Comm'n Op. at 16-17 (July 13, 2020). As discussed above, Complainants' request for a general exclusion from entry of articles is analyzed under section 337(d), not (g)(2).

²³ Commissioner Karpel and Commissioner Schmidlein concur with the majority that a CDO directed to the twelve defaulting domestic respondents should be issued but base their decision on grounds that differ from the majority view. For the reasons noted in *Certain Percussive Massage Devices*, Inv. No. 337-TA-1206, Comm'n Op. at 19-20 n.12 (Jan. 4, 2022); *Certain Powered Cover Plates*, Inv. No. 337-TA-1124, Comm'n Op. at 22-23 n.20 (June 11, 2020), *Certain Pocket Lighters*, Inv. No. 337-TA-1142, Comm'n Op. at 19-20 n.15 (July 13, 2020), and *Certain Footwear*, Inv. No. 337-TA-936 (remand), Comm'n Op. at 120-21 n.66 (Sept. 9, 2020), Commissioner Karpel and Commissioner Schmidlein do not consider the Commission's determination to issue a GEO under section 337(d)(2) to direct that the requested CDOs with respect to the domestic defaulting respondents be considered under section 337(f)(1). Rather, they consider section 337(g)(1) is the appropriate authority for the issuance of CDOs as to both domestic and foreign defaulting respondents when the criteria for issuance of CDOs under subsection 337(g)(1)(A)-(E) are met. In the present investigation, each of the defaulting respondents was named in the complaint and each was served with the complaint and notice of investigation. *See* Order No. 35 (Dec. 17, 2021) (finding 101 Smoke Shop, Eon Pods, Jem Pods, Vapers & Papers, and Sky Distribution in default), *unreviewed by* Notice (Jan. 5, 2021); Order No. 62 (May 5, 2021) (finding Shenzhen Azure, Evergreen Smokeshop, Modern Age Tobacco, and DripTip Vapes in default), *unreviewed by* Notice (May 19, 2021); Order No. 63 (May 5, 2021) (finding Shango Distribution in default), *unreviewed by* Notice (May 19, 2021); Order No. 64 (Sept. 13, 2021) (finding Access Vapor, and eLiquid Stop in default), *unreviewed by* Notice (Sept. 30, 2021).

The ALJ issued show cause orders ordering ten of these respondents to show cause why they should not be held in default for failing to respond to the complaint and notice of investigation. None of these respondents filed responses to the show cause orders. *See* Order No. 35, at 2; Order No. 62, at 2; Order No. 63, at 2. The remaining two defaulting respondents, Access Vapor and eLiquid Stop, filed notices of intent to default and thus no show cause order is necessary. *See* Order No. 64, at 1-2. These findings satisfy subsections 337(g)(1)(A)-(D). JLI

PUBLIC VERSION

products, respondents maintain commercially significant inventories in the United States or have significant domestic operations that could undercut the remedy provided by an exclusion order.

See, e.g., Certain Table Saws Incorporating Active Injury Mitigation Tech. & Components Thereof, Inv. No. 337-TA-965, Comm'n Op. at 4-6 (Feb. 1, 2017) ("Table Saws"); *Certain Protective Cases & Components Thereof*, Inv. No. 337-TA-780, USITC Pub. No. 4405, Comm'n Op. at 28 (Nov. 19, 2012) (citing *Certain Laser Bar Code Scanners & Scan Engines, Components Thereof & Prods. Containing Same*, Inv. No. 337-TA-551, Comm'n Op. at 22 (June 24, 2007)). Complainants bear the burden on this issue. "A complainant seeking a cease and desist order must demonstrate, based on the record, that this remedy is necessary to address the violation found in the investigation so as to not undercut the relief provided by the exclusion order." *Table Saws*, Comm'n Op. at 5 (citing *Certain Integrated Repeaters, Switches, Transceivers, & Prods. Containing Same*, Inv. No. 337-TA-435, USITC Pub. No. 3547 (Oct. 2002), Comm'n Op. at 27 (Aug. 16, 2002); *see also* H.R. REP. No. 100-40, at 160 (1987)).

In the case of named respondents in the United States who have been found in default or who have not participated in the investigation, the Commission infers commercially significant domestic inventories or significant domestic operations with respect to the infringing articles.

See, e.g., Certain Earpiece Devices & Components Thereof, Inv. No. 337-TA-1121, Comm'n Op. at 41-42 (Nov. 8, 2019); *Certain Hand Dryers & Housing for Hand Dryers*, Inv. No. 337-

requested CDOs limited to each of these defaulting respondents (CBr. at 4), thus satisfying subsection 337(g)(1)(E). Given that subsections 337(g)(1)(A)-(E) are satisfied and JLI requested CDOs directed to these respondents, the statute directs the Commission to issue the requested CDOs, subject to consideration of the public interest. The public interest factors as detailed in Part III(C) *infra* do not support a finding that the remedial orders in this investigation would be contrary to the public interest. Accordingly, Commissioners Karpel and Schmidlein would issue CDOs against respondents 101 Smoke Shop, Access Vapor, DripTip Vapes, eLiquid Stop, Eon Pods, Evergreen Smokeshop, Jem Pods, Modern Age Tobacco, Shango Distribution, Shenzhen Azure, Sky Distribution, and Vapers & Papers under section 337(g)(1).

PUBLIC VERSION

TA-1015, Comm'n Op. at 24 (Oct. 30, 2017) (“*Hand Dryers*”); *Certain Mobile Device Holders & Components Thereof*, Inv. No. 337-TA-1028, Comm'n Op. at 27 (Mar. 22, 2018) (“*Mobile Device Holders*”); *Certain Agricultural Tractors, Lawn Tractors, Riding Lawnmowers, & Components Thereof*, Inv. No. 337-TA-486, Comm'n Op. at 18 (Aug. 19, 2003) (“*Agricultural Tractors*”); *Certain Rare-Earth Magnets & Magnetic Materials & Articles Containing Same*, Inv. No. 337-TA-413, USITC Pub. No. 3307, Comm'n Op. at 17-18 (May 2000).

Complainants seek CDOs against only the 12 domestic Defaulting Respondents. CBr. at 4. In this investigation, it is undisputed that respondents 101 Smoke Shop, Access Vapor, DripTip Vapes, eLiquid Stop, Eon Pods, Evergreen Smokeshop, Jem Pods, Modern Age Tobacco, Shango Distribution, Shenzhen Azure, Sky Distribution, and Vapers & Papers are domestic entities such that the Commission infers commercially significant U.S. inventories. *Id.*; *see also* RD at 88-89. Accordingly, the Commission has determined to issue CDOs against the 12 domestic Defaulting Respondents.

C. Public Interest

Section 337 requires the Commission, upon finding a violation of section 337, to issue an exclusion order “unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.” 19 U.S.C. § 1337(d)(1). Similarly, the Commission must consider these public interest factors before issuing a CDO. 19 U.S.C. § 1337(f)(1), (g)(1).

The statute requires the Commission to consider and make findings on the public interest in every case in which a violation is found regardless of the quality or quantity of public interest information supplied by the parties. 19 U.S.C. § 1337(d)(1), (f)(1), (g)(1). Thus, the Commission

PUBLIC VERSION

publishes a notice inviting the parties as well as interested members of the public and interested government agencies to gather and present evidence on the public interest at multiple junctures in the proceeding. 19 C.F.R. § 210.8(c), 210.50(a)(4)(i).

The Commission solicited information from the parties, interested government agencies, and any other interested persons with respect to whether there are any public interest issues that should be considered in connection with any remedy that the Commission might determine to be appropriate to the violation found. *See* 86 Fed. Reg. 58099-100; 86 Fed. Reg. 68685. As discussed below, the record in this investigation contains no evidence that a GEO or CDOs would adversely affect the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. *See* 19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1).

1. The Public Health and Welfare

There is no evidence demonstrating that the exclusion of infringing articles would have an adverse impact on the public health and welfare. Indeed, none of the 49 originally-named respondents or any third parties have provided any arguments regarding public health and welfare.

We note first that the Asserted Patents are design patents, and the scope of any remedial orders will therefore be limited to infringing products that copy JLI's patented designs. *See generally* RD at 14-17 (summarizing the designs claimed by the Asserted Patents). Any remedial orders that issue in this investigation will have no impact on the importation and sale of vaporizer products that do not use a vaporizer cartridge design that has been patented by JLI and that was at issue in this investigation. *See id.*

PUBLIC VERSION

Second, the Commission has previously considered the public interest in the context of electronic nicotine delivery devices and found, based on the facts in those investigations, that no public health, safety, or welfare concerns precluded the issuance of remedies directed to those products. *See, e.g., Certain Tobacco Heating Articles & Components Thereof*, Inv. No. 337-TA-1199, Comm'n Op. at 56-64 (Sept 29, 2021); *Certain Elec. Nicotine Delivery Sys. & Components Thereof*, Inv. No. 337-TA-1139, Comm'n Op. at 16-19 (May 5, 2020) (granting LEOs against infringing respondents); *Certain Cartridges for Elec. Nicotine Delivery Sys. & Components Thereof*, Inv. No. 337-TA-1141, Comm'n Notice (April 7, 2020) (granting LEOs against defaulting respondents after briefing by the complainant and OUII on issues including the public interest).

2. Competitive Conditions in the U.S. Economy

The remedial orders will likewise not harm competitive conditions in the United States economy. JLI can replace many of the excluded Accused Products with its own JUULpods™. Indeed, JLI and its contract manufacturers have hundreds of employees working on its product in the United States and its hundreds of millions of dollars of domestic investments leave JLI well-positioned to meet any market demand. *See* MSD at § VIII.

Additionally, consumers have the option of purchasing vaporizer cartridges and components thereof that do not infringe JLI's patented designs. For example, there are a variety of other electronic nicotine delivery system products that are available in the United States and that are not within the scope of the remedial orders, including other e-liquid products (*e.g.*, Vuse) and box mods (*e.g.*, Vaporesso). *See* PI Statement at 5.

3. Production of Like or Directly Competitive Articles in the United States

The remedial orders will not adversely impact production of like or directly competitive articles in the United States. JLI has ample capacity in the United States to replace any excluded products—JLI and its contract manufacturers have invested [REDACTED] dollars in plant and equipment and labor in the United States directed at the domestic industry products. ID at 71-80; MSD at § VIII. Thus, JLI is well positioned to meet any consumer demand to replace any infringing products. Moreover, as discussed above, the remedial orders will not impact other electronic nicotine delivery system products, which will remain readily available to consumers; remedial orders would not have a negative impact on production of such products that are made in the United States. Finally, there is no evidence that there will be any harm to United States manufacturing interests if the infringing products are excluded.

4. United States Consumers

The remedial orders will also not pose harm to United States consumers. As noted above, JLI has ample capacity to replace any excluded products. With respect to quality controls and adherence to standards, many of the Accused Products are manufactured by unknown Chinese suppliers. RD at 85-86. It is unclear what (if any) quality controls respondents implement during sourcing and manufacturing. In contrast, JLI spends [REDACTED] dollars on quality assurance activities associated with its products to ensure customer safety and strict adherence to standards. *Id.* at 73-76 (“The quality assurance department is crucial to JLI [REDACTED]
[REDACTED]
[REDACTED]”); MSD at § VIII. And, the infringing products have some potential health risks and associated issues with marketing and sales to underage users. *See generally*

PUBLIC VERSION

<https://www.fda.gov/news-events/public-health-focus/lung-injuries-associated-use-vaping-products> (Apr. 13, 2020) (potential for respiratory illness associated with vaping products);
https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html (same);
<https://www.fda.gov/news-events/press-announcements/fda-denies-marketing-applications-about-55000-flavored-e-cigarette-products-failing-provide-evidence> (Aug. 26, 2021) (announcing FDA denials of product marketing applications for non-tobacco flavored e-cigarette products that pose risk to youth). Moreover, as discussed above, consumers have access to a variety of other electronic nicotine delivery system products, which will remain readily available. Thus, there is no indication that excluding the accused products, which are themselves associated with some potential health risks, would have a negative effect on U.S. consumers.²⁴

²⁴ Commissioner Schmidlein agrees that the proposed remedial relief will not adversely impact United States consumers. However, she does not join the majority’s discussion of this factor. Specifically, she does not view the majority’s discussion of the infringing product’s potential lack of “quality controls and adherence to standards” and whether the infringing products have “potential health risks and associated issues with marketing and sales to underage users” as relevant to the Commission’s role in assessing the impact upon the United States consumers factor. This is because consideration of whether there are health and safety risks associated with the infringing products (and therefore benefits to excluding the infringing products) is not the duty assigned to the Commission when applying the public interest factors. The public interest factors provided in section 337 are not public policies that the Commission seeks to promote through its orders. Policy decisions related to Commission determinations are assigned to the President under section 337(j)(2). Rather, the public interest factors are statutory criteria that may indicate at the remedy stage that “articles should not be excluded from entry.” *See* 19 U.S.C. § 1337(d)(1). Thus, when determining the final disposition of an investigation, the proper question is not whether a particular disposition will promote “United States consumers,” for example. Instead, as explained by the Federal Circuit, the statute “require[s]” exclusion of the infringing articles “upon the finding of a Section 337 violation absent a finding that the effects” of such exclusion upon “one of the statutorily-enumerated public interest factors counsel otherwise.” *Spansion, Inc. v. Intl Trade Comm’n*, 629 F.3d 1331, 1358 (Fed. Cir. 2010). While it may seem harmless to suggest that excluding the infringing products may benefit United States consumers, Commissioner Schmidlein believes that it expands the Commission’s role beyond what is contemplated in the governing statutory language. Commissioner Schmidlein finds that the proposed remedial relief will not adversely impact United States consumers because the record shows that JLI has ample capacity to replace

D. Bonding

If the Commission enters an exclusion order or a CDO, a respondent may continue to import and sell its products during the 60-day period of Presidential review under a bond in an amount determined by the Commission to be “sufficient to protect the complainant from any injury.” 19 U.S.C. § 1337(j)(3); *see also* 19 C.F.R. § 210.50(a)(3). When reliable price information is available in the record, the Commission has often set the bond in an amount that would eliminate the price differential between the domestic product and the imported, infringing product. *See Certain Microsphere Adhesives, Processes for Making Same, & Prods. Containing Same, Including Self-stick Repositionable Notes*, Inv. No. 337-TA-366, USITC Pub. No. 2949, Comm’n Op. at 24 (Jan. 16, 1996). The Commission also has used a reasonable royalty rate to set the bond amount where a reasonable royalty rate could be ascertained from the evidence in the record. *See, e.g., Certain Audio Digital-to-Analog Converters & Prods. Containing Same*, Inv. No. 337-TA-499, Comm’n Op. at 25 (Mar. 3, 2005). Where the record establishes that the calculation of a price differential is impractical and there is insufficient evidence in the record to determine a reasonable royalty, the Commission has imposed a 100 percent bond. *See, e.g., Certain Liquid Crystal Display Modules, Prods. Containing Same, & Methods Using the Same*, Inv. No. 337-TA-634, Comm’n Op. at 6-7 (Nov. 24, 2009). The complainant, however, bears the burden of establishing the need for a bond. *Certain Rubber Antidegradants, Components Thereof & Prods. Containing Same*, Inv. No. 337-TA-533, USITC Pub. No. 3975, Comm’n Op. at 40 (July 21, 2006).

any excluded products and consumers have access to a variety of other electronic nicotine delivery system products.

PUBLIC VERSION

Here, the RD, JLI, and OUII all recommend a bond in the amount of 100 percent of the entered value of the infringing products. RD at 89; CBr. at 5; OUIIBr. at 13. For the following reasons, the Commission agrees that a bond in the amount of 100 percent of the entered value of the infringing products is appropriate.

The Defaulting Respondents did not provide discovery in this investigation. Thus, there is a lack of reliable pricing information. Moreover, JLI presented evidence indicating that the infringing products are sold over a wide and inconsistent range of prices. RD at 89 (citing Mem. at 81-82). Royalty information is unavailable because JLI has never licensed any of the Asserted Patents. RD at 90 (citing Compl. at ¶¶ 4, 64 (“JLI has provided no license or authorization of any kind to anyone to make products that practice JLI’s intellectual property.”)). This makes it neither practical nor possible to establish a bond based on price differentials or royalty information. *See* 19 U.S.C. § 1337(j)(3) (declaring that bond must “be sufficient to protect the complainant from injury”). Therefore, bond shall be set in the amount of 100 percent of the entered value of all infringing goods entered during the Presidential review period. *See Certain Pumping Bras*, Inv. No. 337-TA-988, Comm’n Op. at 14-15 (Apr. 7, 2017) (setting Presidential review bond at “100 percent of the entered value of the infringing products” where “an average price differential between the Complainant’s [product] and the infringing products would be difficult to calculate due to the high volume of internet sales at various prices” and respondents “defaulted and failed to participate in discovery”); *Loom Kits*, Comm’n Op. at 19 (setting bond at 100 percent where “a large number of infringing [products] are sold on the Internet at different prices” and “the defaulting respondents in th[e] investigation provided no discovery, including discovery about pricing”).

IV. Conclusion

For the foregoing reasons, the Commission determines that JLI has established a violation of section 337 by the Defaulting Respondents with respect to the sole claims of U.S. Design Patent Nos. D842,536, D858,868, D858,869, and D858,870, respectively. Accordingly, the investigation is terminated with a finding of violation of section 337. The Commission has determined that the appropriate remedy is a GEO that excludes from entry for consumption into the United States vaporizer cartridges and components thereof that infringe the Asserted Patents. The Commission has also determined to issue CDOs directed to 101 Smoke Shop, Access Vapor, DripTip Vapes, eLiquid Stop, Eon Pods, Evergreen Smokeshop, Jem Pods, Modern Age Tobacco, Shango Distribution, Shenzhen Azure, Sky Distribution, and Vapers & Papers. The Commission has additionally determined that the public interest does not preclude issuance of these remedial orders. Finally, the Commission has determined to set the bond during the period of Presidential review in the amount of 100 percent of infringing vaporizer cartridges and components thereof imported.

By order of the Commission.



Lisa R. Barton
Secretary to the Commission

Issued: March 1, 2022

PUBLIC CERTIFICATE OF SERVICE

I, Lisa R. Barton, hereby certify that the attached **COMMISSION OPINION** has been served upon the Commission Investigative Attorney, **Claire Comfort, Esq.**, via EDIS, and the following parties as indicated, on **March 1 2022**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
500 E Street, SW, Room 112
Washington, DC 20436

On Behalf of Complainant Juul Labs, Inc.:

S. Alex Lasher, Esq.
QUINN EMANUEL URQUHART & SULLIVAN, LLP
1300 I Street, NW, Suite 900
Washington, DC 20005

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

On Behalf of Respondents Shenzhen Apoc Technology Co., Limited, Shenzhen Bauway Technology Ltd., and Shenzhen Ocity Times Technology Co., Ltd.:

P. Andrew Riley, Esq.
MEI & MARK
818 18th Street, NW, Suite 410
Washington, DC 20035
Email: ariley@meimark.com

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

On Behalf of Respondents Tobacco Alley of Midland:

Nathan C. Brunette, Esq.
STOEL RIVES LLP
760 SW Ninth Avenue, Suite 3000
Portland, OR 97205
Email: nathan.brunette@stoel.com

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Email Notification of Availability for Download

Respondents:

101 Smoke Shop, Inc.
3266 Cahuenga Boulevard West,

- Via Hand Delivery
- Via Express Delivery

**CERTAIN VAPORIZER CARTRIDGES
AND COMPONENTS THEREOF**

Inv. No. 337-TA-1211

Certificate of Service – Page 2

Los Angeles, CA 90068

Via First Class Mail
 Other: Service to Be Completed by Complainants

Access Vapor LLC
6550 International Drive
Suite 103
Orlando, FL 32819

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be Completed by Complainants

Cali Pods
PO Box 41387
Houston, TX 77241

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be Completed by Complainants

DripTip Vapes LLC
151 N. Nob Hill Road
#115
Plantation, FL 33325

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be Completed by Complainants

Shenzhen Azure Tech USA LLC f/k/a DS
Vaping P.R.C.
10th Fl. ChongQing Rd., Fuyong, Shenzhen, Guangdong,
China, 518100

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be Completed by Complainants

Eon Pods LLC
155 Washington Street
Jersey City, NJ 07302

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be Completed by Complainants

Evergreen Smokeshop
3221 Foothill Boulevard
Oakland, CA 94601

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be Completed by Complainants

Guangdong Cellular Workshop Electronic Technology Co., Ltd.

Via Hand Delivery

**CERTAIN VAPORIZER CARTRIDGES
AND COMPONENTS THEREOF**

Inv. No. 337-TA-1211

Certificate of Service – Page 3

888 BBK Avenue, Jiangbei Village
Wusha Community, Changan Town, Dongguan City
Guangdong PR China

Via Express Delivery
 Via First Class Mail
 Other: Service to Be
Completed by Complainants

Jem Pods, U.S.A.
8411 Lake Drive
Snellville, GA 30039

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be
Completed by Complainants

Modern Age Tobacco
1122 W. University Avenue
Gainesville, FL 32601

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be
Completed by Complainants

Mr. Fog
605 Country Club Drive
Bensenville, IL 60106

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be
Completed by Complainants

Puff E-Cig
3 Mountain Drive
Imlay City, MI 48444

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be
Completed by Complainants

Shenzhen Yark Technology Co., Ltd.
3 Floor of No.14 SongShang West Road
BoGang Community Xinsha Road Of Shajing
District Bao'an, Shenzhen
China 518125

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be
Completed by Complainants

Sky Distribution LLC
P.O. Box 1325
Addison, IL 60101

Via Hand Delivery
 Via Express Delivery
 Via First Class Mail
 Other: Service to Be
Completed by Complainants

**CERTAIN VAPORIZER CARTRIDGES
AND COMPONENTS THEREOF**

Inv. No. 337-TA-1211

Certificate of Service – Page 4

The Kind Group LLC
1808 Brielle Avenue
Ocean, NJ 07712

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainants

Valgous
411 Country Club Drive
Bensenville, IL 60106

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainants

Vapers&Papers, LLC
714 Stanley Street
Schenectady, NY 12307

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainants

eLiquid Stop
101 N Verdugo Road
#11701
Glendale, CA 91226

- Via Hand Delivery
- Via Express Delivery
- Via First Class Mail
- Other: Service to Be Completed by Complainants