

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN VAPORIZER DEVICES,
CARTRIDGES USED THEREWITH, AND
COMPONENTS THEREOF

INV. NO. 337-TA-1368

**ORDER NO. 18: INITIAL DETERMINATION GRANTING COMPLAINANTS'
MOTION FOR PARTIAL TERMINATION AS TO CERTAIN
CLAIMS**

(March 6, 2024)

Complainants JUUL Labs, Inc. and VMR Products LLC move for partial termination of the investigation by withdrawal of certain claims. Motion Docket No. 1368-11 at 1 (EDIS Doc. ID 815544). The motion states that respondents NJOY, LLC, NJOY Holdings, Inc., Altria Group, Inc., Altria Group Distribution Company, and Altria Client Services LLC, and the Staff do not oppose. *Id.*

The withdrawn claims are:

- claims 1, 5–7, 29, 30, 36, 80, 89, and 93 of U.S. Patent No. RE49,114;
- claims 16, 18, 29, and 31 of U.S. Patent No. 10,130,123;
- claims 3, 8, 14, and 17 of U.S. Patent No. 11,134,722; and
- claims 6, 9–11, 17, and 18 of U.S. Patent No. 11,606,981.

Id. at 1–2.

JUUL continues to assert the following claims:

- claims 43, 44, 76, 77, 81, and 86 of the RE'114 patent;
- claims 14, 27, and 32 of the '123 patent;
- claims 1–4, 6, 7, 15, 16, 18–25, 28, and 30 of the '173 patent;

- claims 1, 5, 7, 9–13, 15, 16, and 18–21 of the '722 patent; and
- claims 1, 2, 5, 8, and 13–16 of the '981 patent.

Id. at 2.

JUUL argues the requested partial termination will simplify the investigation and conserve judicial resources. *Id.* at 3.

Commission Rule 210.21(a)(1) permits termination of an investigation in part based on withdrawal of allegations in a complaint and states:

Any party may move at any time prior to the issuance of an initial determination on violation of section 337 of the Tariff Act of 1930 for an order to terminate an investigation in whole or in part as to any or all respondents, on the basis of withdrawal of the complaint or certain allegations contained therein, or for good cause other than the grounds listed in paragraph (a)(2) of this section. A motion for termination of an investigation based on withdrawal of the complaint, or for good cause, shall contain a statement that there are no agreements, written or oral, express or implied between the parties concerning the subject matter of the investigation, or if there are any agreements concerning the subject matter of the investigation, all such agreements shall be identified, and if written, a copy shall be filed with the Commission along with the motion.

19 C.F.R. § 210.21(a)(1).

As required by Commission Rule 210.21(a)(1), JUUL states that “there are no agreements, written or oral, express or implied between the parties concerning the subject matter of this investigation.” Mot. at 4.

The Commission has stated that “in the absence of extraordinary circumstances, termination of the Investigation will be granted to a complainant during the prehearing stage of an investigation.” *Certain Ultrafiltration Membrane Sys. and Components Thereof, Including Ultrafiltration Membranes*, Inv. No. 337-TA-107, Comm’n Action and Order at 2, 1982 WL 1034896 at *2 (Mar. 11, 1982).

JUUL argues that “there are no extraordinary circumstances or potential prejudice that would prevent the partial termination of this investigation as to the claims in this motion,” and that

the requested partial termination “serves the public interest because it will reduce the number of disputed issues in this investigation, thereby conserving Commission, ALJ, and party resources.”

Mot. at 4.

I find that there are no extraordinary circumstances that warrant denying JUUL’s motion and that the motion otherwise complies with Commission Rule 210.21(a)(1).

Accordingly, it is my determination that JUUL’s motion to terminate the patent claims identified above, Motion No. 1368-11, is GRANTED.

Under 19 C.F.R. § 210.42(h), this initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination under 19 C.F.R. § 210.43(a), or the Commission, under 19 C.F.R. § 210.44, orders, on its own motion, review of the initial determination or certain issues herein. 19 C.F.R. § 210.42(d).

SO ORDERED.



Doris Johnson Hines
Administrative Law Judge