

**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-1372**

**NOTICE OF INSTITUTION OF INVESTIGATION**

Institution of Investigation Pursuant to 19 U.S.C. 1337

**AGENCY:** U.S. International Trade Commission

**ACTION:** Notice

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on August 22, 2023, under section 337 of the Tariff Act of 1930, as amended, on behalf of NJOY, LLC of Scottsdale, Arizona. The complaint 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 devices, cartridges used therewith, and components thereof by reason of the infringement of certain claims of U.S. Patent No. 11,497,864 (“the ’864 patent”) and U.S. Patent No. 10,334,881 (“the ’881 patent”). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and a cease and desist order.

**ADDRESSES:** The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email [EDIS3Help@usitc.gov](mailto:EDIS3Help@usitc.gov). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2560.

## **SUPPLEMENTARY INFORMATION:**

**AUTHORITY:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10 (2023).

**SCOPE OF INVESTIGATION:** Having considered the complaint, the U.S. International Trade Commission, on September 21, 2023, ORDERED THAT –

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1-48 of the ’864 patent and claims 1, 3, 4, 6-9, 11, 12, 14-17, 19, 20, 22, 23, and 25-27 of the ’881 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 C.F.R. 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “electronic nicotine delivery systems (“ENDS”), cartridges or pods used therewith, and components thereof (cartridge housings, atomizers, subassemblies, devices subassemblies, chargers)”;

(3) Pursuant to Commission Rule 210.50(b)(1), 19 C.F.R. § 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. §§ 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

NJOY, LLC  
9977 N. 90th Street, Suite 160  
Scottsdale, Arizona 85258

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

JUUL Labs, Inc.  
1000 F Street NW  
Washington, DC 20004


(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Suite 401, Washington, D.C. 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. 210.13. Pursuant to 19 C.F.R. 201.16(e) and 210.13(a), as amended in 85 Fed. Reg. 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.



Lisa R. Barton  
Secretary to the Commission

Issued: September 21, 2023

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

**In the Matter of**

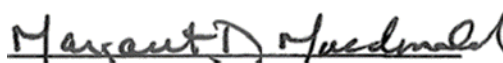
**CERTAIN VAPORIZER DEVICES,  
CARTRIDGES USED THEREWITH, AND  
COMPONENTS THEREOF**

**Inv. No. 337-TA-1372**

**DESIGNATION OF OUII ATTORNEY  
FOR SERVICE OF PROCESS**

The Office of Unfair Import Investigations (“OUII”) hereby designates Vu Bui, Esq., (202) 205-2582, Vu.Bui@usitc.gov, as OUII's lead attorney for service of process. It is requested that all documents served by the Commission or filed by the parties in the above-referenced investigation be served upon this attorney.

Respectfully submitted,



Margaret Macdonald, Director

**OFFICE OF UNFAIR IMPORT INVESTIGATIONS**  
U.S. International Trade Commission  
500 E Street, S.W., Suite 401  
Washington, D.C. 20436  
(202) 205-2560  
(202) 205-2158 (facsimile)

September 21, 2023

**PUBLIC CERTIFICATE OF SERVICE**

I, Lisa R. Barton, hereby certify that the attached **INSTITUTION OF INVESTIGATION** has been served via EDIS upon the Commission Investigative Attorney, **Vu Bui., Esq.** and the following parties as indicated, on **September 21, 2023**.



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

**On Behalf of Complainant NJOY, LLC:**

Anish R. Desai, Esq.  
**WEIL GOTSHAL & MANGES LLP**  
767 5th Avenue  
New York, NY 10153  
Email: [anish.desai@weil.com](mailto:anish.desai@weil.com)

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

**Respondent:**

JUUL Labs, Inc.  
1000 F Street NW  
Washington, DC 20004

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

**Government Agencies:**

Lynda Marshall  
International Section, Antitrust Division  
U.S. Department of Justice  
450 5th Street NW, Room 11000  
Washington, DC 20530

- Via Hand Delivery
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