

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

In the Matter of

**CERTAIN VAPORIZER CARTRIDGES
AND COMPONENTS THEREOF**

Investigation No. 337-TA- _____

**COMPLAINT UNDER SECTION 337 OF THE
TARIFF ACT OF 1930, AS AMENDED**

Complainant

Juul Labs, Inc.

560 20th Street
San Francisco, CA 94107
(202) 347-7932

***Counsel for Complainant
Juul Labs, Inc.***

S. Alex Lasher
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
1300 I Street, NW, Suite 900
Washington, D.C. 20005
Tel.: (202) 538-8000
Fax: (202) 538-8100

Kevin P.B. Johnson
Victoria F. Maroulis
QUINN EMANUEL URQUHART
& SULLIVAN, LLP
555 Twin Dolphin Dr., 5th
Floor
Redwood Shores, CA 94065
Tel.: (650) 801-5000
Fax: (650) 801-5100

Andrew M. Holmes
QUINN EMANUEL URQUHART

Respondents

101 Smoke Shop, Inc.

3266 Cahuenga Blvd. West,
Los Angeles, CA 90068
(323) 822-5047

2nd Wife Vape

1195 Fm 156 S
Suite 140
Haslet, TX 76052

Access Vapor LLC

6550 International Drive
Suite 103
Orlando, FL 32819
(407) 408-0909

All Puff Store

6801 Engle Rd.
Suite E
Middleburg Heights, OH 44130
(888) 688-5964

Alternative Pods

4860 Rhiannon Ct
Palatine, IL 60067
(224) 208-8034

& SULLIVAN, LLP
50 California Street, 22nd
Floor
San Francisco, CA 94111
Tel.: (415) 875-6600
Fax: (415) 875-6700

Ana Equity LLC
6550 International Drive
Suite 103
Orlando, FL 32819
(407) 203-2387

Aqua Haze LLC
12801 N Stemmons Fwy
Suite 809
Farmers Branch, TX 75234

Cali Pods
PO Box 41387
Houston, TX 77241
(407) 408-0909

Canal Smoke Express, Inc.
383 Canal St.,
New York, NY 10013
(917) 675-7000

CaryTown Tobacco
1701 E Main St.
Richmond, VA 23223
(804) 223-3083

Cigar Road, Inc.
23315 Mulholland Drive
Woodland Hills, CA 91364
(818) 222-6153

Cloud 99 Vapes
50 2nd Ave,
New York, NY 10003
(917) 639-3938

DripTip Vapes LLC
151 N. Nob Hill Rd. #115
Plantation, FL 33325
(954) 633-2071

**Shenzhen Azure Tech USA LLC f/k/a DS
Vaping P.R.C.**
10th Fl. ChongQing Rd.
Fuyong, Shenzhen, Guangdong, China, 518100
(912) 777-9591

eCig-City

1400 University Ave.
STE A107,
Riverside, CA 92507
(951) 394-2537

Ejuicedb

105 Route 109
Farmingdale, New York 11735

eLiquid Stop

101 N Verdugo Rd., #11701
Glendale, CA 91226
(833) 696-0255

Eon Pods LLC

155 Washington St.,
Jersey City, NJ 07302

Evergreen Smokeshop

3221 Foothill Blvd.,
Oakland, CA 94601
(510) 479-1600

EZFumes

2900 Highway 121,
STE 165
Bedford, TX 76021
(817) 685-0102

Guangdong Cellular Workshop Electronic Technology Co., Ltd.

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

JC Pods

1410 Kirk Street
Elk Grove Village, IL 60007

Jem Pods, U.S.A.

8411 Lake Drive
Snellville, GA 30039

JUULSite Inc.

411 Country Club Dr.
Bensenville, IL 60106
(224) 208-8034

Keep Vapor Electronic Tech. Co., Ltd.

Block D, XinLong Techno Park
Shaling Town, Bao'an District
Shenzhen, China 518101
(+86) 137 51267275

Limitless Accessories, Inc.

8712 Kathleen Lane
Tinley Park, IL 60487

Midwest Goods, Inc.

1019 Entry Dr.
Bensenville, IL 60106
(630) 912-2673

Modern Age Tobacco

1122 W. University Avenue,
Gainesville, FL 32601
(352) 371-4733

Mr. Fog

605 Country Club Drive
Bensenville Il 60106

Naturally Peaked Health Co.

16 Mt. Ebo Rd. S
Suite 13
Brewster, NY 10509

Nilkant 167 Inc.

167 Newbury St.,
Boston, MA 02116
(617) 620-9568

Perfect Vape LLC

2305 S Agnew Ave.
Oklahoma City, OK 73108
(405) 200-1277

Price Point NY

500 Smith Street
Farmingdale, NY 11735
(631) 396-0999

Puff E-Cig

3 Mountain Dr.
Imlay City, MI 48444
(810) 721-0590

Shenzhen Apoc Technology Co., Limited

1402, Yunhua Shidai, Haoxiang Road
Shajing Town, Bao'an District
Shenzhen, China 518101

Shenzhen Bauway Technology Ltd.

Building B5, Linpokeng 1st Industrial Zone,
Haosan, Nanpu Road
Shajing Street, Bao'an District
Shenzhen, Guangdong, China
+86 755 2916 6575

Shenzhen Ocity Times Technology Co., Ltd.

5th Floor, Unit B, Mingyou Industry Park,
Baoyuan Road
Bao'an District
Shenzhen, Guangdong, China

Shenzhen Yark Technology Co., Ltd.

3 Floor of No.14 SongShang West Road
BoGang Community Xinsha Road Of Shajing
District Bao'an
Shenzhen, China
+86 153 0268 5172

Sky Distribution LLC

P.O. Box 1325
Addison, IL 60101
(213) 587-1518

Smoker's Express

3029 E. Walton Blvd.
Auburn Hills, MI 48326
(248) 373-7174

The Kind Group LLC
1808 Brielle Ave.
Ocean, NJ 07712
(732) 374-9910

Tobacco Alley of Midland
1011 N. Midkiff Road,
Midland, TX 79701
(432) 694-6816

Valgous
411 Country Club Dr.
Bensenville, IL 60106
(630) 422-1033

Vape Central Group
203 NE 1st Avenue
Hallandale, FL 33009
(305) 906-8273

Vape 'n Glass
283 N. Barrington Road,
Streamwood, IL 60107
(630) 635-2925

Vaperistas
591 N. Edgewood Ave
Wood Dale, IL 60191
(630) 635-7811

Vapers&Papers, LLC
714 Stanley St.
Schenectady, NY 12307

WeVapeUSA
1479 E.15th St.
Brooklyn, NY, 11230
(347) 201-1345

Wireless N Vapor Citi LLC
393 Waller Avenue
Suite 3
Lexington, KY 40504
(859) 381-1853

TABLE OF CONTENTS

| | <u>Page</u> |
|---|--------------------|
| I. INTRODUCTION..... | 1 |
| II. COMPLAINANT..... | 10 |
| A. JLI’s History..... | 12 |
| B. The JUUL System | 17 |
| III. RESPONDENTS..... | 20 |
| A. ENDS Manufacturer Respondents | 25 |
| 1. Guangdong Cellular Workshop Electronic Technology Co., Ltd. | 26 |
| 2. Keep Vapor Electronic Tech. Co., Ltd. | 26 |
| 3. Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C. | 26 |
| B. ENDS Direct Sale Respondents | 27 |
| 1. Access Vapor LLC | 27 |
| 2. Ana Equity LLC | 27 |
| 3. Aqua Haze LLC..... | 28 |
| 4. Cali Pods..... | 28 |
| 5. Eon Pods LLC | 29 |
| 6. Jem Pods, U.S.A..... | 29 |
| 7. Limitless Accessories, Inc. | 29 |
| 8. Mr. Fog..... | 30 |
| 9. Sky Distribution LLC..... | 30 |
| 10. Wireless N Vapor Citi LLC..... | 30 |
| C. ENDS Distributor Respondents..... | 31 |
| 1. 101 Smoke Shop, Inc..... | 31 |
| 2. 2nd Wife Vape..... | 31 |

| | | |
|-----|--------------------------------|----|
| 3. | All Puff Store..... | 32 |
| 4. | Alternative Pods | 32 |
| 5. | Canal Smoke Express, Inc..... | 32 |
| 6. | CaryTown Tobacco | 33 |
| 7. | Cigar Road, Inc..... | 33 |
| 8. | Cloud 99 Vapes | 34 |
| 9. | DripTip Vapes LLC..... | 34 |
| 10. | Ejuicedb..... | 34 |
| 11. | eLiquid Stop | 35 |
| 12. | Evergreen Smokeshop..... | 35 |
| 13. | EZfumes | 35 |
| 14. | JC Pods | 36 |
| 15. | JUULSite Inc..... | 36 |
| 16. | Midwest Goods Inc. | 37 |
| 17. | Modern Age Tobacco..... | 37 |
| 18. | Nilkant 167 Inc..... | 37 |
| 19. | Perfect Vape LLC..... | 38 |
| 20. | Price Point NY..... | 38 |
| 21. | Puff E-Cig..... | 39 |
| 22. | Smoker’s Express | 39 |
| 23. | Tobacco Alley of Midland | 39 |
| 24. | Valgous..... | 40 |
| 25. | Vape Central Group..... | 40 |
| 26. | Vape ‘n Glass | 41 |
| 27. | Vaperistas | 41 |

| | | |
|-----|--|----|
| 28. | Vapers&Papers, LLC | 42 |
| 29. | WeVapeUSA | 42 |
| D. | CBD Respondents | 43 |
| 1. | Naturally Peaked Health Co. | 43 |
| 2. | The Kind Group LLC | 43 |
| E. | Empty Pod Respondents..... | 44 |
| 1. | eCig-City | 44 |
| 2. | Shenzhen Apoc Technology Co., Limited | 44 |
| 3. | Shenzhen Bauway Technology Ltd..... | 45 |
| 4. | Shenzhen Ocity Times Technology Co., Ltd. | 45 |
| 5. | Shenzhen Yark Technology Co., Ltd. | 45 |
| IV. | THE TECHNOLOGIES AND PRODUCTS AT ISSUE..... | 46 |
| A. | Background Of The Technology | 46 |
| B. | Products At Issue..... | 46 |
| V. | THE ASSERTED PATENTS AND NON-TECHNICAL DESCRIPTIONS OF THE INVENTIONS | 47 |
| A. | The '536 Patent | 51 |
| 1. | Identification and Ownership of the '536 Patent..... | 51 |
| 2. | Foreign Counterparts to the '536 Patent..... | 51 |
| 3. | Non-Technical Description of the '536 Patent..... | 52 |
| B. | The '870 Patent | 55 |
| 1. | Identification and Ownership of the '870 Patent..... | 55 |
| 2. | Foreign Counterparts to the '870 Patent..... | 55 |
| 3. | Non-Technical Description of the '870 Patent..... | 56 |
| C. | The '869 Patent | 59 |
| 1. | Identification and Ownership of the '869 Patent..... | 59 |

| | | |
|------|--|----|
| 2. | Foreign Counterparts to the '869 Patent..... | 60 |
| 3. | Non-Technical Description of the '869 Patent..... | 60 |
| D. | The '868 Patent | 64 |
| 1. | Identification and Ownership of the '868 Patent..... | 64 |
| 2. | Foreign Counterparts to the '868 Patent..... | 65 |
| 3. | Non-Technical Description of the '868 Patent..... | 65 |
| E. | Licensees to the Asserted Patents..... | 69 |
| VI. | INFRINGEMENT OF THE ASSERTED PATENTS | 69 |
| A. | Infringement of the '536 Patent..... | 70 |
| B. | Infringement of the '870 Patent..... | 71 |
| C. | Infringement of the '869 Patent..... | 71 |
| D. | Infringement of the '868 Patent..... | 72 |
| VII. | SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE..... | 73 |
| A. | ENDS Manufacturer Respondents | 73 |
| 1. | Guangdong Cellular Workshop Electronic Technology Co., Ltd. | 73 |
| 2. | Keep Vapor Electronic Tech. Co., Ltd. | 74 |
| 3. | Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C. | 74 |
| B. | ENDS Direct Sale Respondents | 75 |
| 1. | Access Vapor LLC | 75 |
| 2. | Ana Equity LLC | 76 |
| 3. | Aqua Haze LLC..... | 76 |
| 4. | Cali Pods..... | 76 |
| 5. | Eon Pods LLC | 77 |
| 6. | Jem Pods, U.S.A..... | 77 |
| 7. | Limitless Accessories, Inc. | 77 |

| | | |
|-----|-----------------------------------|----|
| 8. | Mr. Fog..... | 78 |
| 9. | Sky Distribution LLC | 79 |
| 10. | Wireless N Vapor Citi LLC..... | 79 |
| C. | ENDS Distributor Respondents..... | 79 |
| 1. | 101 Smoke Shop Inc..... | 79 |
| 2. | 2nd Wife Vape..... | 80 |
| 3. | All Puff Store..... | 81 |
| 4. | Alternative Pods | 82 |
| 5. | Canal Smoke Express Inc..... | 86 |
| 6. | CaryTown Tobacco | 86 |
| 7. | Cigar Road, Inc..... | 86 |
| 8. | Cloud 99 Vapes | 88 |
| 9. | DripTip Vapes LLC..... | 88 |
| 10. | Ejuicedb..... | 89 |
| 11. | eLiquid Stop | 90 |
| 12. | Evergreen Smokeshop..... | 90 |
| 13. | EZfumes | 91 |
| 14. | JC Pods..... | 92 |
| 15. | JUULSite Inc..... | 92 |
| 16. | Midwest Goods Inc. | 93 |
| 17. | Modern Age Tobacco..... | 94 |
| 18. | Nilkant 167 Inc..... | 94 |
| 19. | Perfect Vape LLC..... | 95 |
| 20. | Price Point NY..... | 95 |
| 21. | Puff E-Cig..... | 96 |

| | | |
|-------|---|-----|
| 22. | Smoker’s Express | 97 |
| 23. | Tobacco Alley of Midland | 97 |
| 24. | Valgous..... | 98 |
| 25. | Vape Central Group..... | 98 |
| 26. | Vape ‘n Glass | 101 |
| 27. | Vaperistas | 101 |
| 28. | Vapers&Papers, LLC | 102 |
| 29. | WeVapeUSA | 104 |
| D. | CBD Respondents | 104 |
| 1. | Naturally Peaked Health Co. | 104 |
| 2. | The Kind Group LLC | 105 |
| E. | Empty Pod Respondents..... | 106 |
| 1. | eCig-City | 106 |
| 2. | Shenzhen Apoc Technology Co., Limited | 106 |
| 3. | Shenzhen Bauway Technology Ltd..... | 107 |
| 4. | Shenzhen Ocity Times Technology Co., Ltd. | 107 |
| 5. | Shenzhen Yark Technology Co., Ltd. | 108 |
| VIII. | HARMONIZED TARIFF SCHEDULE NUMBERS | 108 |
| IX. | THE DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENTS..... | 108 |
| A. | Technical Prong..... | 109 |
| B. | Economic Prong | 109 |
| X. | REQUEST FOR GENERAL EXCLUSION ORDER | 110 |
| XI. | OTHER INFRINGING ENTITIES AND PRODUCTS | 116 |
| A. | Vapeciga Technology Co. Ltd..... | 117 |
| B. | ziipstock.com..... | 118 |

| | | |
|-------|---------------------------|-----|
| C. | AMO PODS by AMOSMOK..... | 118 |
| D. | SIXT Disposable Pods..... | 119 |
| XII. | RELATED LITIGATION..... | 121 |
| XIII. | RELIEF REQUESTED..... | 127 |

EXHIBIT LIST

| Ex. # | Description |
|--------------|---|
| 1 | Certified Copy of U.S. Patent No. D842,536 |
| 2 | Certified Assignment Records for U.S. Patent No. D842,536 |
| 3 | Certified Copy of U.S. Patent No. D858,870 |
| 4 | Certified Assignment Records for U.S. Patent No. D858,870 |
| 5 | Certified Copy of U.S. Patent No. D858,869 |
| 6 | Certified Assignment Records for U.S. Patent No. D858,869 |
| 7 | Certified Copy of U.S. Patent No. D858,868 |
| 8 | Certified Assignment Records for U.S. Patent No. D858,868 |
| 9 | List of Foreign Counterparts |
| 10 | Intentionally Omitted |
| 11 | Declaration of Olga Slobodyanyuk |
| 12 | Confidential Declaration of Sean Hazlett Regarding Economic Domestic Industry |
| 13 | Representative Domestic Industry Claim Charts for the '536 Patent |
| 14 | Representative Domestic Industry Claim Charts for the '870 Patent |
| 15 | Representative Domestic Industry Claim Charts for the '869 Patent |
| 16 | Representative Domestic Industry Claim Charts for the '868 Patent |
| 17 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Guangdong Cellular Workshop Electronic Technology Co., Ltd. |
| 18 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Keep Vapor Electronic Tech. Co., Ltd. |
| 19 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C. |
| 20 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Access Vapor LLC |
| 21 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Ana Equity LLC |
| 22 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Aqua Haze LLC |
| 23 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Cali Pods |
| 24 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Eon Pods LLC |
| 25 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Jem Pods, U.S.A. |
| 26 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Limitless Accessories, Inc. |
| 27 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Mr. Fog |
| 28 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Sky Distribution LLC |
| 29 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Wireless N Vapor Citi LLC |

| Ex. # | Description |
|--------------|---|
| 30 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent 101 Smoke Shop, Inc. |
| 31 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent 2 nd Wife Vape |
| 32 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent All Puff Store |
| 33 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Alternative Pods |
| 34 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Canal Smoke Express, Inc. |
| 35 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent CaryTown Tobacco |
| 36 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Cigar Road, Inc. |
| 37 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Cloud99 Vapes |
| 38 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent DripTip Vapes LLC |
| 39 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Ejuicedb |
| 40 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent eLiquid Stop |
| 41 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Evergreen Smokeshop |
| 42 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent EZfumes |
| 43 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent JC Pods |
| 44 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent JUULSite Inc. |
| 45 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Modern Age Tobacco |
| 46 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Nilkant 167 Inc. |
| 47 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Perfect Vape LLC |
| 48 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Price Point NY |
| 49 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Puff E-Cig |
| 50 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Smoker's Express |
| 51 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Tobacco Alley of Midland |

| Ex. # | Description |
|-------|---|
| 52 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Valgous |
| 53 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Vape Central Group |
| 54 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Vape 'n Glass |
| 55 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Vaperistas |
| 56 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Vapers&Papers, LLC |
| 57 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent WeVapeUSA |
| 58 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Naturally Peaked Health Co. |
| 59 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent The Kind Group LLC |
| 60 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent eCig-City |
| 61 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Shenzhen Apoc Technology Co., Limited |
| 62 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Shenzhen Bauway Technology Ltd. |
| 63 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Shenzhen Ocity Times Technology Co., Ltd. |
| 64 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Shenzhen Yark Technology Co., Ltd. |
| 65 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Guangdong Cellular Workshop Electronic Technology Co., Ltd. |
| 66 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Keep Vapor Electronic Tech. Co., Ltd. |
| 67 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C. |
| 68 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Access Vapor LLC |
| 69 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Ana Equity LLC |
| 70 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Aqua Haze LLC |
| 71 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Cali Pods |
| 72 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Eon Pods LLC |
| 73 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Jem Pods, U.S.A. |

| Ex. # | Description |
|--------------|---|
| 74 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Limitless Accessories, Inc. |
| 75 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Mr. Fog |
| 76 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Sky Distribution LLC |
| 77 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Wireless N Vapor Citi LLC |
| 78 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent 101 Smoke Shop, Inc. |
| 79 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent 2 nd Wife Vape |
| 80 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent All Puff Store |
| 81 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Alternative Pods |
| 82 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Canal Smoke Express, Inc. |
| 83 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent CaryTown Tobacco |
| 84 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Cigar Road, Inc. |
| 85 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Cloud99 Vapes |
| 86 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent DripTip Vapes LLC |
| 87 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Ejuicedb |
| 88 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent eLiquid Stop |
| 89 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Evergreen Smokeshop |
| 90 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent EZfumes |
| 91 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent JC Pods |
| 92 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent JUULSite Inc. |
| 93 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Modern Age Tobacco |
| 94 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Nilkant 167 Inc. |
| 95 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Perfect Vape LLC |

| Ex. # | Description |
|-------|---|
| 96 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Price Point NY |
| 97 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Puff E-Cig |
| 98 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Smoker's Express |
| 99 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Tobacco Alley of Midland |
| 100 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Valgous |
| 101 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Vape Central Group |
| 102 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Vape 'n Glass |
| 103 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Vaperistas |
| 104 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Vapers&Papers, LLC |
| 105 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent WeVapeUSA |
| 106 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Naturally Peaked Health Co. |
| 107 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent The Kind Group LLC |
| 108 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent eCig-City |
| 109 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Shenzhen Apoc Technology Co., Limited |
| 110 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Shenzhen Bauway Technology Ltd. |
| 111 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Shenzhen Ocity Times Technology Co., Ltd. |
| 112 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Shenzhen Yark Technology Co., Ltd. |
| 113 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Guangdong Cellular Workshop Electronic Technology Co., Ltd. |
| 114 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Keep Vapor Electronic Tech. Co., Ltd. |
| 115 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C. |
| 116 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Access Vapor LLC |
| 117 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Ana Equity LLC |

| Ex. # | Description |
|--------------|---|
| 118 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Aqua Haze LLC |
| 119 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Cali Pods |
| 120 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Eon Pods LLC |
| 121 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Jem Pods, U.S.A. |
| 122 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Limitless Accessories, Inc. |
| 123 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Mr. Fog |
| 124 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Sky Distribution LLC |
| 125 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Wireless N Vapor Citi LLC |
| 126 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent 101 Smoke Shop, Inc. |
| 127 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent 2 nd Wife Vape |
| 128 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent All Puff Store |
| 129 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Alternative Pods |
| 130 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Canal Smoke Express, Inc. |
| 131 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent CaryTown Tobacco |
| 132 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Cigar Road, Inc. |
| 133 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Cloud99 Vapes |
| 134 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent DripTip Vapes LLC |
| 135 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Ejuicedb |
| 136 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent eLiquid Stop |
| 137 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Evergreen Smokeshop |
| 138 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent EZfumes |
| 139 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent JC Pods |

| Ex. # | Description |
|-------|---|
| 140 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent JUULSite Inc. |
| 141 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Modern Age Tobacco |
| 142 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Nilkant 167 Inc. |
| 143 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Perfect Vape LLC |
| 144 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Price Point NY |
| 145 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Puff E-Cig |
| 146 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Smoker's Express |
| 147 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Tobacco Alley of Midland |
| 148 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Valgous |
| 149 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Vape Central Group |
| 150 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Vape 'n Glass |
| 151 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Vaperistas |
| 152 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Vapers&Papers, LLC |
| 153 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent WeVapeUSA |
| 154 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Naturally Peaked Health Co. |
| 155 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent The Kind Group LLC |
| 156 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent eCig-City |
| 157 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Shenzhen Apoc Technology Co., Limited |
| 158 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Shenzhen Bauway Technology Ltd. |
| 159 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Shenzhen Ocity Times Technology Co., Ltd. |
| 160 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Shenzhen Yark Technology Co., Ltd. |
| 161 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Guangdong Cellular Workshop Electronic Technology Co., Ltd. |

| Ex. # | Description |
|-------|---|
| 162 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Keep Vapor Electronic Tech. Co., Ltd. |
| 163 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C. |
| 164 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Access Vapor LLC |
| 165 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Ana Equity LLC |
| 166 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Aqua Haze LLC |
| 167 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Cali Pods |
| 168 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Eon Pods LLC |
| 169 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Jem Pods, U.S.A. |
| 170 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Limitless Accessories, Inc. |
| 171 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Mr. Fog |
| 172 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Sky Distribution LLC |
| 173 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Wireless N Vapor Citi LLC |
| 174 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent 101 Smoke Shop, Inc. |
| 175 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent 2 nd Wife Vape |
| 176 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent All Puff Store |
| 177 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Alternative Pods |
| 178 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Canal Smoke Express, Inc. |
| 179 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent CaryTown Tobacco |
| 180 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Cigar Road, Inc. |
| 181 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Cloud99 Vapes |
| 182 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent DripTip Vapes LLC |
| 183 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Ejuicedb |

| Ex. # | Description |
|--------------|---|
| 184 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent eLiquid Stop |
| 185 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Evergreen Smokeshop |
| 186 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent EZfumes |
| 187 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent JC Pods |
| 188 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent JUULSite Inc. |
| 189 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Modern Age Tobacco |
| 190 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Nilkant 167 Inc. |
| 191 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Perfect Vape LLC |
| 192 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Price Point NY |
| 193 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Puff E-Cig |
| 194 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Smoker's Express |
| 195 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Tobacco Alley of Midland |
| 196 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Valgous |
| 197 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Vape Central Group |
| 198 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Vape 'n Glass |
| 199 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Vaperistas |
| 200 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Vapers&Papers, LLC |
| 201 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent WeVapeUSA |
| 202 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Naturally Peaked Health Co. |
| 203 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent The Kind Group LLC |
| 204 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent eCig-City |
| 205 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Shenzhen Apoc Technology Co., Limited |

| Ex. # | Description |
|-------|--|
| 206 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Shenzhen Bauway Technology Ltd. |
| 207 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Shenzhen Ocity Times Technology Co., Ltd. |
| 208 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Shenzhen Yark Technology Co., Ltd. |
| 209 | <i>Menthol and Other Flavors in Tobacco Products</i> , FDA Newsroom (Jan. 3, 2020), https://www.fda.gov/tobacco-products/products-ingredients-components/menthol-and-other-flavors-tobacco-products |
| 210 | <i>JUUL Labs Action Plan</i> , JUUL Labs Newsroom (Nov. 13, 2018), https://newsroom.juul.com/juul-labs-action-plan/ |
| 211 | Enforcement Priorities for Electronic Nicotine Delivery System (ENDS) and Other Deemed Products on the Market Without Premarket Authorization,” U.S. Food & Drug Administration (Apr. 2020), https://www.fda.gov/regulatory-information/search-fda-guidance-documents/enforcement-priorities-electronic-nicotine-delivery-system-ends-and-other-deemed-products-market |
| 212 | https://chiefvapor.biz/product/eonsmoke-perfomance-series-caffeine-vitamin/ |
| 213 | <i>Health Risks of Smoking Tobacco</i> , American Cancer Society (Sept. 17, 2019), https://www.cancer.org/cancer/cancer-causes/tobacco-and-cancer/health-risks-of-smoking-tobacco.html |
| 214 | <i>Smoking & Tobacco Use: Economic Trends in Tobacco</i> ,” Centers for Disease Control and Prevention (July 23, 2019), https://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm |
| 215 | <i>Statement from FDA Commissioner Scott Gottlieb, M.D., on new steps to address epidemic of youth e-cigarette use</i> , FDA Newsroom (Sept. 11, 2018), https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-steps-address-epidemic-youth-e-cigarette-use |
| 216 | HM Government, <i>Advancing our health: prevention in the 2020s</i> , GOV.UK (July, 2019), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819766/advancing-our-health-prevention-in-the-2020s-accessible.pdf |
| 217 | <i>JLI's Mission and Values</i> , Juul Labs (July 8, 2020), https://www.juul.com/ |
| 218 | David Pierce, <i>This Might Just Be the First Great ECIG</i> , Wired (Apr. 21, 2015), https://www.wired.com/2015/04/pax-juul-ecig/ |
| 219 | Tom Miller, <i>Pioneers: Adam Bowen and James Monsees</i> , Time Magazine (Sept. 16, 2019), https://time.com/collection/100-most-influential-people-2019/5567701/adam-bowen-james-monsees/ |
| 220 | Sky pods flavors Cotton Candy and Blueberry Cake for sale at myskypods.com (Oct. 3, 2019), https://myskypods.com/shop-pods/skypods/ |

| Ex. # | Description |
|-------|--|
| 221 | <i>FDA finalizes enforcement policy on unauthorized flavored cartridge-based e-cigarettes that appeal to children, including fruit and mint</i> , FDA Newsroom (Jan. 2, 2020), https://www.fda.gov/news-events/press-announcements/fda-finalizes-enforcement-policy-unauthorized-flavored-cartridge-based-e-cigarettes-appeal-children |
| 222 | <i>Partial e-cigarette 'flavor ban' goes into effect today. Here's what happens next</i> , CNN (Feb. 6, 2020), https://www.cnn.com/2020/02/06/health/vaping-partial-flavor-ban-fda/index.html |
| 223 | <i>The vaping ban is here, and it's already out of date</i> , The Washington Post (Feb. 8, 2020), https://www.washingtonpost.com/opinions/the-vaping-ban-is-here-and-its-already-out-of-date/2020/02/07/c73e7c3a-492c-11ea-b4d9-29cc419287eb_story.html |
| 224 | <i>Will the FDA's Ban on E-Cigarettes Affect CBD Vaping Devices?</i> , Canna Law Blog (Jan. 13, 2020), https://www.cannalawblog.com/will-the-fdas-ban-on-e-cigarettes-affect-cbd-vaping-devices/ |
| 225 | <i>Vaping Illness Tracker: 2,602 Cases and 59 Deaths</i> , The New York Times (Jan. 13, 2020), https://www.nytimes.com/interactive/2020/health/vaping-illness-tracker-evali.html |
| 226 | <i>Governor enacts 120-day ban on flavored vaping products</i> , Great Falls Tribune (Oct. 8, 2019), https://www.greatfallstribune.com/story/news/2019/10/08/montana/3910301002/ |
| 227 | <i>Smoking & Tobacco Use: Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products</i> , Centers for Disease Control and Prevention (Feb. 11, 2020), https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html |
| 228 | <i>How to Fill Your J-Pod Refillable Pod for the JUUL</i> , ShopMVG (July 17, 2018), https://shopmvg.com/blogs/news/how-to-fill-your-j-pod-refillable-pod-for-the-juul |
| 229 | <i>Vaping Bad: Were 2 Wisconsin Brothers the Walter Whites of THC Oils?</i> , The New York Times (Sept. 15, 2019), https://www.nytimes.com/2019/09/15/health/vaping-thc-wisconsin.html |
| 230 | Intentionally Omitted |
| 231 | <i>All Juul Compatible Pods</i> , Ziip Stock (Feb. 27, 2020), https://ziipstock.com/collections/all-juul-compatible-pods |
| 232 | Amo Smok, http://www.amosmok.com/product/showproduct.php and Amo Pods, http://www.amopods.com/#portfolio |
| 233 | ES Premium with caffeine and taurine https://chiefvapor.biz/product/eonsmoke-performance-series-caffeine-vitamin/ |
| 234 | Representative Infringement Claim Charts for the '536 Patent for Accused Products by Respondent Midwest Goods Inc. |
| 235 | Representative Infringement Claim Charts for the '868 Patent for Accused Products by Respondent Midwest Goods Inc. |
| 236 | Representative Infringement Claim Charts for the '869 Patent for Accused Products by Respondent Midwest Goods Inc. |
| 237 | Representative Infringement Claim Charts for the '870 Patent for Accused Products by Respondent Midwest Goods Inc. |

| Ex. # | Description |
|-------|---|
| 238 | <i>FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)</i> , FDA News & Events (Feb. 13, 2020), https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-questions-and-answers#whatare |
| 239 | <i>Tobacco: Key Facts</i> , World Health Organization (July 26, 2019), https://www.who.int/news-room/fact-sheets/detail/tobacco (“Tobacco kills up to half of its users.”) |
| 240 | Jean-Francois Etter, <i>Electronic Cigarettes: A Survey of Users</i> , 10 BMC Pub. Health 231 (2010) |
| 241 | Carla J. Berg, et. al., <i>Attitudes Toward E-Cigarettes, Reasons for Initiating E-Cigarette Use and Changes in Smoking Behavior After Initiation: A Pilot Longitudinal Study of Regular Cigarette Smokers</i> , 4 Open J. Preventive Med. 789 (2014) |
| 242 | Neil McKeganey & Tiffany Dickson, <i>Why Don't More Smokers Switch to Using E-Cigarettes: The Views of Confirmed Smokers</i> , 14 Int'l J. Env'tl. Res. Pub. Health 647 (2017) |
| 243 | Amy McQueen, Stephanie Tower & Walton Sumner, <i>Interviews with “Vapers”: Implications for Future Research with Electronic Cigarettes</i> , 13 Nicotine Tobacco Res. 860 (2011) |
| 244 | Jean-Francois Etter & Chris Bullen, <i>Electronic Cigarette: Users Profile, Utilization, Satisfaction and Perceived Efficacy</i> , 106 Addiction 2017 (2011) |

APPENDIX LIST

| Appendices | Description |
|-------------------|---|
| A | Prosecution History of U.S. Patent No. D842,536 ¹ |
| B | Patents and Applicable Pages of Technical References Mentioned in the Prosecution History of U.S. Patent No. D842,536 |
| C | Certified Prosecution History of U.S. Patent No. D858,870 |
| D | Patents and Applicable Pages of Technical References Mentioned in the Prosecution History of U.S. Patent No. D858,870 |
| E | Certified Prosecution History of U.S. Patent No. D858,869 |
| F | Patents and Applicable Pages of Technical References Mentioned in the Prosecution History of U.S. Patent No. D858,869 |
| G | Certified Prosecution History of U.S. Patent No. D858,868 |
| H | Patents and Applicable Pages of Technical References Mentioned in the Prosecution History of U.S. Patent No. D858,868 |

¹ JLI has ordered a copy of the certified Prosecution History of U.S. Patent No. D842,536 and will provide it as soon as possible.

I. INTRODUCTION

1. Complainant Juul Labs, Inc. (“Juul Labs,” “JLI,” or “Complainant”) respectfully files this Complaint under Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on the unlawful 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 (collectively, the “Accused Products”).²

2. JLI brings this Complaint to curb the rampant infringement of JLI’s intellectual property by dozens of entities—and many more that JLI is unable to reliably identify due to concealed identities, fictitious business names and addresses, and other tactics used to hide the true source of infringing products—that are unlawfully importing, selling for importation, and/or selling after importation the Accused Products. As explained throughout this Complaint and detailed in particular in Sections X to XI below, there are numerous sources for infringing vaporizer cartridges entering the United States. Indeed, the infringing products are being imported and sold by different entities at every level of the distribution network for electronic nicotine delivery systems (“ENDS”) and other vaping products, including by manufacturers, importers, distributors, wholesalers, and retailers (including virtual retail such as web-based e-commerce sales platforms).

3. To combat this pattern of widespread infringement, JLI already has taken multiple actions to enforce its intellectual property rights, including filing eight trademark infringement lawsuits in the Eastern District of Virginia against counterfeiters selling via online platforms, two investigations in the ITC (together with corresponding district court actions) against patent infringers selling primarily Juul-compatible products, and several additional

² Any identification of a specific model or type of Accused Product in this Complaint is in no way intended to limit the scope of this Investigation.

brand enforcement actions in New Jersey and Connecticut.³ JLI also has conducted raids of counterfeit operations and sellers in the U.S. and abroad, coordinating with the appropriate law enforcement entities in the various jurisdictions. In addition, JLI has sent thousands of cease and desist letters to entities who are selling ENDS and ENDS-related products that use JLI's intellectual property without authorization, demanding each entity immediately stop its infringing activities.

4. Yet new, unauthorized, and infringing products continue to appear and infiltrate the United States market almost every day. The entities importing and selling these unauthorized, infringing, and illicit products violate JLI's intellectual property rights because their products look identical or nearly identical to JLI's patented designs that protect JLI's vaporizer cartridges. And that infringement is clearly intentional. The infringing products are easily mistaken for JLI's patent protected JUULpod designs,⁴ especially when they are marketed as "Juul-compatible." This marketing occurs even though JLI has provided no license or authorization of any kind to anyone to make products that practice JLI's intellectual property. Worse still, some of the infringing entities go to great lengths to hide their identity and/or circumvent JLI's diligent patent enforcement efforts.

5. Respondents' infringing products also often violate regulatory guidance from the FDA and thus threaten American public health and welfare. The FDA has stated that "the use of flavors in tobacco products raises important public health questions" and that "sweet-tasting

³ See *infra*, Sections X and XI.

⁴ JLI's cartridges or pods (referred to hereinafter as simply "JUULpods") are an integral piece of a closed system created by JLI (referred to hereinafter as "JUUL System"). They are not optimized to be refilled or filled with anything other than JLI's proprietary nicotine e-liquid formulations made at JLI's direction and used in today's JUULpods.

flavors are particularly appealing to youth and young adults.” Ex. 209 (*Menthol and Other Flavors in Tobacco Products*, FDA Newsroom (Jan. 3, 2020), <https://www.fda.gov/tobacco-products/products-ingredients-components/menthol-and-other-flavors-tobacco-products>). Many Respondents intentionally market their products to American youth, offering youth-oriented pod flavors such as Silky Strawberry, Cake, or Cotton Candy, with their products pictured next to sweets or candy. *See, e.g.:*



Accused Product Packaging by Respondent Eon Pods

6. In contrast, as part of JLI’s efforts to prevent its products from getting into the hands of underage consumers, JLI voluntarily restricted the sale of its products in the U.S. to a very limited selection of flavors: Virginia Tobacco and Menthol JUULpods. Ex. 210 (*JUUL Labs Action Plan*, JUUL Labs Newsroom (Nov. 13, 2018), <https://newsroom.juul.com/juul-labs-action-plan/>). These flavors are permitted to be on the market under the FDA’s Flavor Guidelines. *See* Ex. 211 (“Enforcement Priorities for Electronic Nicotine Delivery System (ENDS) and Other Deemed Products on the Market Without Premarket Authorization,” U.S. Food & Drug Administration (Apr. 2020), <https://www.fda.gov/regulatory-information/search->

[fda-guidance-documents/enforcement-priorities-electronic-nicotine-delivery-system-ends-and-other-deemed-products-market](#)). And as noted, unlike the Respondents, JLI ceased the sales of its other flavors voluntarily and prior to the FDA issuance of its Flavor Guidelines.

7. Further, Respondents threaten public health and welfare because Respondents provide no quality control information about their products. Respondents sell, among other things, cannabidiol (“CBD”) pods, empty pods meant to be filled by consumers with substances of their own choosing and pods containing substances such as caffeine and taurine. Ex. 212 (<https://chiefvapor.biz/product/eonsmoke-perfomance-series-caffeine-vitamin/>). By selling harmful chemicals themselves, or empty, infringing pods which may be later filled with dangerous uncontrolled substances, Respondents may be enabling the distribution of the harmful substances associated with recent lung illnesses. Ex. 227 (*Smoking & Tobacco Use: Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products*, Centers for Disease Control and Prevention (Feb. 11, 2020), https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html).

8. Many Respondents expressly market their products as “Juul-compatible,” implying that their infringing pods should be used as part of the JUUL System. However, none of these products are authorized or optimized to be used within the JUUL System. JLI products are optimized to perform consistently based on the unique qualities that JLI built into its JUUL System, such as proprietary e-liquid formulations and the specific components of the JUUL System. Each part of the JUUL System, including JUULpods, undergoes stringent quality controls to guarantee consistent quality and performance. The JUUL System is not designed to be used with any cartridges other than the pre-filled, non-refillable JUULpods. Among other potential issues, several Respondents advertise non-ENDS products as “Juul-compatible,” even

though the JUUL System is designed to use only the proprietary nicotine formulations JLI puts into its JUULpods. JLI has not authorized any third parties to advertise their products as compatible with the JUUL System, and JLI believes it is highly unlikely that third-party products are manufactured in accordance with JLI's own stringent quality controls. Consumers may be harmed if, trusting Respondents' unproven and likely false claims about compatibility, they try to use the non-JLI products, which were manufactured using unknown substances and materials, in unknown locations, with unknown manufacturing requirements and quality controls. JLI products were not designed to be used with non-JLI products.

9. Respondents' marketing and sales to youth, their sale of Accused Products containing unknown substances of unknown qualities and their encouragement of consumers to use Accused Products in ways they should not be used, all threaten public health. Allowing Respondents' products to remain on the market unreasonably puts the American public at risk.

10. The Accused Products infringe the sole claim of U.S. Patent No. D842,536 ("the '536 patent"), the sole claim of U.S. Patent No. D858,870 ("the '870 patent"), the sole claim of U.S. Patent No. D858,869 ("the '869 patent"), and the sole claim of U.S. Patent No. D858,868 ("the '868 patent") (collectively, the "Asserted Patents").

11. Pursuant to Commission Rules 210.12(a)(12) and 210.10(b)(1), the Accused Products are vaporizer cartridges and components thereof containing a space to hold a vaporizable liquid substance that can be vaporized after the cartridge is inserted into a vaporizer device.

12. These cartridges are also known as "pods." Some of the accused pods are sold pre-filled and others are sold empty allowing the purchaser to fill them with whatever e-liquids the consumer chooses to use. When the user takes a draw, the user inhales an aerosol that

comes after the e-liquid is vaporized. Many of these infringing cartridges are direct copies of JLI's cartridges. Further, many of these are expressly marketed as compatible with JLI's device despite having neither a license to use JLI's intellectual property nor any verification by JLI as to the quality and true compatibility of the such products.

13. Although JLI's JUUL Products are designed and marketed as ENDS exclusively, the Accused Products and relief requested by JLI in this Investigation are not limited to ENDS. Indeed, the design patents asserted in this Complaint are not limited to ENDS or other nicotine-related products. As explained in Section V below, the Asserted Patents cover ornamental designs of a vaporizer cartridge, irrespective of the contents of the cartridge. Accordingly, the Accused Products include (a) ENDS products, (b) cannabidiol ("CBD") products, (c) cartridges that do not contain any content when imported ("empty pods"), and (d) other filled non-nicotine products (such as caffeine and taurine, and melatonin and chamomile).

14. On information and belief, the Accused Products are imported, sold for importation, and/or sold after importation by or on behalf of the following entities listed below in paragraphs 15-19 (collectively, "Respondents"). Respondents—all of whom engage in these activities without any license or authorization from JLI—are found at every level of the distribution network for infringing products, including manufacturing, importing, distributing, wholesale, and retail (including virtual retail such as web based e-commerce sales platforms). For ease of reference, this Complaint classifies each of the ENDS-related Respondents into one of the following three groups: (1) manufacturer respondents, (2) direct sales respondents, and (3) distributor respondents.⁵ The Complaint further separately groups the CBD-related

⁵ Filled non-nicotine-related Respondents are included among ENDS respondents.

Respondents and the empty-pod-related Respondents. Section III of this Complaint includes further explanation of each of these groups.⁶

15. The ENDS manufacturer Respondents include the following entities:
 - i. Guangdong Cellular Workshop Electronic Technology Co., Ltd.;
 - ii. Keep Vapor Electronic Tech. Co., Ltd.; and
 - iii. Shenzhen Azure Tech USA LLC f/k/a DS Vaping P.R.C.
16. The ENDS direct sales Respondents include the following entities:
 - i. Access Vapor LLC;
 - ii. Ana Equity LLC and Cali Pods;
 - iii. Aqua Haze LLC;
 - iv. Eon Pods LLC;
 - v. Jem Pods, U.S.A.;
 - vi. Limitless Accessories, Inc.;
 - vii. Mr. Fog;
 - viii. Sky Distribution LLC; and
 - ix. Wireless N Vapor Citi LLC.
17. The ENDS distributor Respondents include the following entities:
 - i. 101 Smoke Shop, Inc.;
 - ii. 2nd Wife Vape;
 - iii. All Puff Store;
 - iv. Alternative Pods;

⁶ These classifications are made on information and belief and are in no way intended to limit the Section 337 allegations against or the scope of discovery on any Respondent. Filled non-nicotine-related Respondents are included among ENDS distributor respondents.

- v. Canal Smoke Express, Inc.;
- vi. CaryTown Tobacco;
- vii. Cigar Road, Inc.;
- viii. Cloud 99 Vapes,
- ix. DripTip Vapes LLC;
- x. Ejuicedb;
- xi. eLiquid Stop;
- xii. Evergreen Smokeshop;
- xiii. EZFumes;
- xiv. JC Pods;
- xv. JUULSite Inc.;
- xvi. Midwest Goods Inc.;
- xvii. Modern Age Tobacco;
- xviii. Nilkant 167 Inc.;
- xix. Perfect Vape LLC;
- xx. Price Point NY;
- xxi. Puff E-Cig;
- xxii. Smoker's Express;
- xxiii. Tobacco Alley of Midland;
- xxiv. Valgous;
- xxv. Vape Central Group;
- xxvi. Vape 'n Glass;
- xxvii. Vaperistas;

xxviii. Vapers&Papers, LLC; and

xxix. WeVapeUSA.

18. The CBD Respondents⁷ include the following entities:

i. Naturally Peaked Health Co.; and

ii. The Kind Group LLC.

19. The empty pod Respondents include the following entities:

i. eCig-City;

iv. Shenzhen Apoc Technology Co., Limited;

ii. Shenzhen Bauway Technology, Ltd.;

iii. Shenzhen Ocify Times Technology Co., Ltd.; and

iv. Shenzhen Yark Technology Co., Ltd..

20. In light of the widespread pattern of infringement and the difficulties in identifying the sources of all infringing products—as explained throughout this Complaint and particularly in Sections X and XI below—JLI seeks as relief a general exclusion order under 19 U.S.C. § 1337(d)(2) barring from entry into the United States any vaporizer cartridges and components thereof, that infringe one or more of the Asserted Patents.

⁷ The cartridges sold by these Respondents contain cannabidiol (“CBD”), which is a separate compound than delta-9-tetrahydrocannabinol (“THC”). See Ex. 238 (*FDA Regulation of Cannabis and Cannabis-Derived Products, Including Cannabidiol (CBD)*), FDA News & Events (Feb. 13, 2020), <https://www.fda.gov/news-events/public-health-focus/fda-regulation-cannabis-and-cannabis-derived-products-questions-and-answers#whatare>). Both compounds are contained in the *Cannabis sativa* plant, which in general is controlled under the Controlled Substances Act (“CSA”) under the drug class “Marihuana” (commonly referred to as “marijuana”). See 21 U.S.C. 802 (16). “Marihuana” is listed in Schedule I of the CSA. However, the Agriculture Improvement Act of 2018, Pub. L. 115-334 (“the 2018 Farm Bill”) removed hemp (defined as *Cannabis sativa* plant with low THC concentrations) from the CSA, resulting in cannabis plants and derivatives (such as CBD) that contain no more than 0.3 percent THC on a dry weight basis being no longer covered the CSA.

21. At a minimum, if the Commission does not issue a general exclusion order, JLI requests a limited exclusion order under 19 U.S.C. § 1337(d)(1) barring from entry into the United States any vaporizer cartridges and components thereof, that infringe one or more of the Asserted Patents and that are imported into the United States, sold for importation into the United States, and/or sold in the United States after importation by or on behalf of one or more Respondents.

22. JLI also seeks permanent cease and desist orders under 19 U.S.C. § 1337(f) prohibiting Respondents and their affiliates, subsidiaries, successors, or assigns from importing, selling for importation, marketing, demonstrating, distributing, repairing, refurbishing, offering for sale, selling after importation or transferring (except for exportation), including moving or shipping inventory in the United States, or soliciting United States agents or distributors, or aiding and abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of vaporizer cartridges and components thereof, that infringe one or more of the Asserted Patents.

23. JLI further seeks the imposition of a bond upon importation of infringing products during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j).

II. COMPLAINANT

24. JLI is a privately held corporation organized and existing under the laws of the state of Delaware, with its principal place of business at 560 20th Street, San Francisco, CA 94107.

25. After years of research and hundreds of millions of dollars domestically invested, JLI has become one of the world's leading ENDS companies and is regularly recognized for its quest to make traditional combustible cigarettes obsolete. Use of combustible cigarettes remains the leading cause of preventable deaths in the world and are widely acknowledged to

kill up to or more than 50% of their long time users.⁸ JLI's revolutionary product disrupted the stagnant and failing category of non-combustible alternatives to combustible cigarettes, powered by JLI's many innovations. Its arrival gave current adult smokers the first real viable alternative to traditional cigarettes.

26. In 2015, JLI revolutionized the market for nicotine delivery systems with the release of its signature product, the JUUL electronic nicotine delivery system (the "JUUL System"). This product was deliberately designed to break away from the "round white stick" iconography associated with smoking. The unique design of the JUUL System was quickly recognized in the industry and has become well known for its unique, sleek, and sophisticated look. As a result, it is by far the best-selling ENDS product in the United States. JLI protected its innovative product design through design patents, which cover the unique and novel ornamental appearance of each of JLI's products.

27. The JUUL System has achieved widespread adoption due in large part to its praised and innovative look and design, which were unique advancements over previous, much less successful ENDS products that often tended to mirror the look and feel of combustible cigarettes. This transformative look and design allowed the JUUL System, not long after its launch, to quickly gain recognition among adult smokers and in the industry, allowing JLI's product to quickly become the best-selling ENDS product in America. And in parallel with JLI's product gaining widespread recognition and adoption by current adult smokers, the unauthorized infringement began.

⁸ See Ex. 239 (*Tobacco: Key Facts*, World Health Organization (July 26, 2019), <https://www.who.int/news-room/fact-sheets/detail/tobacco> ("Tobacco kills up to half of its users.")).

28. The JUUL System also disrupted and redirected the marketplace for ENDS products in the United States. Adult smokers had experimented with predecessor e-cigarette and electronic smoking alternative products as they were introduced—going back at least to the 1980s. However, none of those products ever gained traction. JLI’s deliberate departure from the designs and early-generation technology of the past changed that pattern, and once current adult smokers learned of and tried JLI’s products, JLI’s products rapidly became recognized as the first real alternative to combustible cigarettes. And, unsurprisingly, hundreds of opportunistic entities, including but not limited to the Respondents, began rushing into the field that JLI re-established. But instead of investing in their own designs and complying with the regulatory landscape, a large number of these entities manufacture, sell for importation, import, and/or sell after importation illicit, unauthorized, direct copies of JLI’s patented designs. JLI brings this Complaint to seek redress from the Commission in combating this rampant and dangerous misconduct.

A. JLI’s History

29. JLI was founded and incorporated in 2007 with the goal of developing a product that would provide a better alternative to combustible cigarettes.⁹

30. When JLI was founded, the health hazards of smoking combustible cigarettes were well understood. Smoking was and still is the number one cause of preventable death worldwide. Ex. 213 (*Health Risks of Smoking Tobacco*, American Cancer Society (Sept. 17, 2019), <https://www.cancer.org/cancer/cancer-causes/tobacco-and-cancer/health-risks-of-smoking-tobacco.html>). Smoking not only steals valuable years of life but significantly increases national healthcare costs. The Centers for Disease Control and Prevention estimates

⁹ As described more fully in the remaining paragraphs in this Section, JLI began as a company called “Ploom,” which became PAX Labs, which later became JUUL Labs, Inc.

that “[s]moking-related illness in the United States costs more than \$300 billion each year,” including “[m]ore than \$156 billion in lost productivity.” Ex. 214 (*Smoking & Tobacco Use: Economic Trends in Tobacco*,” Centers for Disease Control and Prevention (July 23, 2019), https://www.cdc.gov/tobacco/data_statistics/fact_sheets/economics/econ_facts/index.htm).

31. Roughly 70% of current adult smokers report that they want to give up smoking combustible cigarettes. But doing so is not easy. The average smoker will attempt to give up the habit more than 30 times before successfully doing so for at least one year. Smoking cessation fails over 90% of the time without some form of support.

32. ENDS technology represents a potential solution for reducing the exposure of current adult smokers—and those around them—to the toxic compounds released by use of combustible cigarettes. ENDS contain nicotine but do not burn tobacco and are thus noncombustible tobacco products. Studies show that switching from cigarettes to an ENDS can reduce exposure to the toxic byproducts of smoking traditional cigarettes by up to 99%. Former FDA Commissioner Scott Gottlieb, M.D., explained that “it’s primarily the combustion, which releases thousands of harmful constituents into the body at dangerous levels, that kills people[.]” Ex. 215 (*Statement from FDA Commissioner Scott Gottlieb, M.D., on new steps to address epidemic of youth e-cigarette use*, FDA Newsroom (Sept. 11, 2018), <https://www.fda.gov/news-events/press-announcements/statement-fda-commissioner-scott-gottlieb-md-new-steps-address-epidemic-youth-e-cigarette-use>). While the United States represents less than 5% of the worldwide smoking population, it is often a trendsetter for new technologies and indeed the JUUL System was first launched here. The viability of the JUUL System as the first non-combustible, alternative nicotine product to find widespread success with adult consumers in the U.S., suggests that the public health benefits of these types of

products can also be realized in other places outside the U.S. Indeed, the government of the United Kingdom has recognized the public health impact potential of ENDS by publicly announcing a goal “to make smoked tobacco obsolete by 2030, with smokers quitting or moving to reduced risk products like e-cigarettes.” Ex. 216 (HM Government, *Advancing our health: prevention in the 2020s*, GOV.UK (July, 2019), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819766/advancing-our-health-prevention-in-the-2020s-accessible.pdf). The rampant infringing of JLI’s innovations by bad actors undermines the ability of JLI to get its products to current adult smokers not only in the United States, but around the world, by pushing out JLI’s quality products and undermining the ability of current adult consumers to trust that the products they are buying are coming from responsible actors.

33. Though the company has grown, JLI has stayed true to this mission. Its mission statement now reads: “Our mission is to transition the world’s billion adult smokers away from combustible cigarettes, eliminate their use, and combat underage usage of our products.” Ex. 217 (*JLI’s Mission and Values*, Juul Labs (July 9, 2020), <https://www.juul.com/>). As it has grown, JLI has matured into an FDA-regulated enterprise, dedicating significant resources to building its industry and presence in the United States, both in terms of assets and personnel.

34. After studying Product Design in graduate school at Stanford University, JLI’s founders, James Monsees and Adam Bowen, applied their knowledge of design and engineering to the challenge of developing a better alternative to combustible cigarettes. Both smokers at the time, they saw a gap in the smoking-alternatives environment for adults who wanted to enjoy nicotine but wanted to move away from traditional combustible cigarettes.

35. ENDS are the first alternative product category to show real promise but substantial interest in early ENDS did not translate into widespread adoption by current adult smokers.

36. Several factors contributed to low switching rates with early non-combustible devices, including poor nicotine delivery, unreliability, poor device quality, form factor issues, and complexity and maintenance required for some devices. First generation “cig-a-like” products, typically cylindrical in design like a cigarette, often had poor nicotine delivery and were not rechargeable. Tank systems, including cartomizers and “mods,” were bulky, complicated, and impractical—requiring user modifications and refilling with nicotine e-liquids.¹⁰ Cartomizers and mods were difficult to use, troublesome to refill with e-liquid, leaky, bulky, and inconvenient.¹¹

37. Most early alternatives, including early e-cigarettes, were “either small and round, designed to look and feel as much as possible like a cigarette,” or “huge, assembled from many parts, and spectacularly complicated.” Ex. 218 (David Pierce, *This Might Just Be the First Great ECIG*, Wired (Apr. 21, 2015), <https://www.wired.com/2015/04/pax-juul-ecig/>). During the course of their Master’s thesis project in product design, James and Adam developed prototypes of a non-combustible nicotine delivery system. The final thesis prototype was a

¹⁰ See Ex. 240 (Jean-Francois Etter, *Electronic Cigarettes: A Survey of Users*, 10 BMC Pub. Health 231 (2010)); see also Ex. 241 (Carla J. Berg, et. al., *Attitudes Toward E-Cigarettes, Reasons for Initiating E-Cigarette Use and Changes in Smoking Behavior After Initiation: A Pilot Longitudinal Study of Regular Cigarette Smokers*, 4 Open J. Preventive Med. 789 (2014)).

¹¹ See Ex. 242 (Neil McKeganey & Tiffany Dickson, *Why Don't More Smokers Switch to Using E-Cigarettes: The Views of Confirmed Smokers*, 14 Int’l J. Env’tl. Res. Pub. Health 647 (2017)); Ex. 243 (Amy McQueen, Stephanie Tower & Walton Sumner, *Interviews with “Vapers”: Implications for Future Research with Electronic Cigarettes*, 13 Nicotine Tobacco Res. 860 (2011)); Ex. 244 (Jean-Francois Etter & Chris Bullen, *Electronic Cigarette: Users Profile, Utilization, Satisfaction and Perceived Efficacy*, 106 Addiction 2017 (2011)).

nicotine delivery system that heated tobacco leaf enough to create vapor-containing nicotine but not enough to combust, a type of system known as a “heat-not-burn” system. The device itself was a cylindrical-like tube with a metal shell and various plastic parts including a plastic mouthpiece. On the side, it had a butane tank and a catalytic butane heater to vaporize the tobacco material.

38. After graduate school, James and Adam started a company called “Ploom” to continue developing and commercializing tobacco-alternative devices. The Ploom device was also a cylindrical, butane-powered vaporizer, with a push-button heating element and removable mouthpiece. In 2015, Ploom changed its name to PAX Labs, Inc. (“Pax”). Pax continued to innovate the product, changing the shape of the body and the way tobacco was inserted.

39. After multiple years of research and development, Pax developed the product that would come to be known as the JUUL System, which embraced an elegant design that replaced the cigarette iconography of the “round white stick” and used a simple interface requiring no buttons, switches, or complex manipulation. This product would eventually revolutionize a stagnant industry through its many innovations in ornamental design, technical engineering, and chemistry.

40. The inventors of the JUUL System deliberately made design choices in order to break away from the “round white stick” iconography adult consumers associated with smoking combustible cigarettes. The inventors sought an elegant, reliable, easy to use, and satisfying product, ultimately choosing a rectilinear form that they hoped would be well received by adult consumers. Achieving the desired product while departing from industry norms was a significant challenge, which not many expected that JLI could accomplish. Nevertheless, the inventors of the JUUL System solved the problems arising from this departure from the norm,

with a radically new design and novel engineering that changed the vaping experience from disappointing to satisfying for current adult smokers.

41. Pax first brought the JUUL System to market in 2015. On June 30, 2017, Pax was renamed Juul Labs, Inc., making JLI the direct successor-in-interest of the original Pax company. JLI then spun off products other than the JUUL System, as well as related personnel and resources, into a new, distinct corporate entity named Pax Labs, Inc. (“New Pax”). New Pax focuses on other vaporization fields that do not involve the vaporization of nicotine liquid formulations.

42. As detailed below, JLI has invested millions of dollars in the United States to research, develop, test and commercialize the JUUL System, including JUULPods that practice the Asserted Patents. A domestic industry as required by 19 U.S.C. § 1337(a)(2) and (3) therefore exists in the United States.

B. The JUUL System

43. The JUUL System is a closed, cartridge-based product that utilizes heating technology to aerosolize and deliver nicotine without combustion. The JUUL System comprises: (i) a device containing a rechargeable battery, control circuitry and a receptacle for a cartridge, (ii) a pre-filled, non-refillable cartridge (branded as “JUULpod”; ENDS cartridges are often referred to simply as pods) that can be inserted into the device, has a heating chamber and is prefilled with a proprietary nicotine e-liquid formulation, and (iii) a charger for charging the device. When a user inhales through the mouthpiece of a JUULpod that has been inserted into the JUUL device, the device rapidly heats to vaporize the nicotine e-liquid, generating an aerosol that is ultimately inhaled by the user.

44. By way of illustration, the JUUL System is generally shown below:



1 JUUL Device



2 JUULPod



3 JUUL System

45. The JUUL System looks simple, yet distinctive. It employs a unique form factor that represents a stark departure from prior conventional thinking about ENDS design and from contemporary industry norms, abandoning traditional cigarette designs altogether, in particular the cylindrical shape. Its innovative look and design distinguishes it from the Round White Stick iconography found in both traditional combustible cigarettes and from previous alternative e-cigarettes. JLI was immediately praised for “strong design savvy” and for creating a “beautiful” product. Ex. 218 (David Pierce, *This Might Just Be the First Great ECIG*, Wired

(Apr. 21, 2015), <https://www.wired.com/2015/04/pax-juul-ecig/>); Ex. 219 (Tom Miller, *Pioneers: Adam Bowen and James Monsees*, Time Magazine (Sept. 16, 2019), <https://time.com/collection/100-most-influential-people-2019/5567701/adam-bowen-james-monsees/>).

46. A JUULpod cartridge consists of two basic parts: a cartridge and a cap, which is removed from the cartridge prior to use. As shown in the example JUULpods below, the JUULpod cartridge has an overall rectangular shape - a deliberate departure from the cylinder-shaped cartridges that came before it.



47. Moreover, looking at the JUULpod cartridge with the cap removed (as shown below), more than one-half of the cartridge is transparent. This transparent design was also entirely new in the field. Older cartridge designs were typically opaque at the distal end, which connected to the device, and were often made of metal.



48. JLI’s innovative designs are protected through its design patents, including the design patents asserted in this Investigation, which claim the novel and unique ornamental appearances of the JUULpods.

49. The JUUL System has been highly successful having been widely adopted. It has attained tremendous commercial success and acclaim, reportedly garnering around 60-70% of the overall e-cigarette market in the U.S. in the years following its launch.

50. JLI is committed to providing quality products that perform consistently to JLI’s specifications. JLI invested and continues to invest in creating and maintaining strict manufacturing and quality standards for the JUUL System and relies on multiple safeguards, testing standards, and quality controls. Again, JLI has not authorized anyone else to make products compatible with the JUUL System. For example, JLI does not sell empty pods after importing them (which would allow users to fill the pods themselves). Instead, JLI only sells pre-filled, non-refillable pods that are sealed and packaged for retail sale.

III. RESPONDENTS

51. Seeking to freeride on JLI’s success, numerous infringers—many of which are very difficult to identify—have created a seemingly endless stream of infringing products.

These infringers, including but not limited to Respondents named in this Complaint, have invested essentially nothing into developing the their infringing products, including the Accused Products here, and have simply copied the design, including the ornamental appearance, of the JUULpods. They are thus unfairly and unlawfully freeriding on JLI's investments, innovations, and successes.

52. Not only do Respondents' products infringe JLI's patents, many are targeted at American youth, are of unknown and/or inferior quality, and/or are potentially dangerous. Respondents intentionally and improperly target youth with pod flavors like Cotton Candy, Rainbow Candy Dream, or Cake, and reinforce these kid-friendly flavors with marketing that either intentionally or recklessly targets youth. Ex. 220 (Sky pods flavors Cotton Candy and Blueberry Cake for sale at myskypods.com (Oct. 3, 2019), <https://myskypods.com/shop-pods/skypods/>).

53. On January 2, 2020, the FDA issued a policy prioritizing enforcement against all flavored cartridge-based e-cigarettes other than tobacco or menthol (the so-called "Flavor Ban"). Ex. 221 (*FDA finalizes enforcement policy on unauthorized flavored cartridge-based e-cigarettes that appeal to children, including fruit and mint*, FDA Newsroom (Jan. 2, 2020), <https://www.fda.gov/news-events/press-announcements/fda-finalizes-enforcement-policy-unauthorized-flavored-cartridge-based-e-cigarettes-appeal-children>).

54. Unlike JLI, which voluntarily ceased sales of all non-tobacco and non-menthol flavors in November 2019, many Respondents were selling flavored ENDS products when the Flavor Ban was promulgated. *See, e.g.*, Slobodyanyuk Decl. Atts. 4, 11, 15, 21, 25, 40, 41-43, 45, 56, 57, 59, 64, 69, 72, 75, 76, 80, 86, 90, 94, 100, 105 (receipts post-dating Jan. 2, 2020). The Flavor Ban went into effect on February 6, 2020. *See* Ex. 222 (*Partial e-cigarette 'flavor*

ban' goes into effect today. Here's what happens next, CNN (Feb. 6, 2020),

<https://www.cnn.com/2020/02/06/health/vaping-partial-flavor-ban-fda/index.html>).

55. Regardless of whether or not some Respondents comply with the Flavor Ban (*see* Slobodyanyuk Decl. Atts. 15, 21, 41-43, 56, 64, 75, 76, 90 (Brick & mortar store receipts post-dating Feb. 6, 2020)), several categories of Respondents' products may be perceived to not be covered by the Flavor Ban. "Vape shops [can] continue to sell e-liquids for refillable e-cigarettes in any flavor." Ex. 223 (*The vaping ban is here, and it's already out of date*, The Washington Post (Feb. 8, 2020), https://www.washingtonpost.com/opinions/the-vaping-ban-is-here-and-its-already-out-of-date/2020/02/07/c73e7c3a-492c-11ea-b4d9-29cc419287eb_story.html). Some already are arguing that empty pods or other non-nicotine filled pods are not covered by the Flavor Ban. Ex. 224 (*Will the FDA's Ban on E-Cigarettes Affect CBD Vaping Devices?*, Canna Law Blog (Jan. 13, 2020), <https://www.cannalawblog.com/will-the-fdas-ban-on-e-cigarettes-affect-cbd-vaping-devices/>). None of JLI's products were designed to be used with any of these categories of products and the impacts to users are thus unknown. Absent relief, Respondents continued infringement of JLI's patents also poses a threat to public health.

56. Respondents' misconduct by targeting underage consumers has led to heightened regulatory action against the ENDS industry, which has, and may further impact legitimate, law abiding industry participants like JLI and threaten the industry at large. In addition to the FDA enforcement policy against flavored cartridge-based e-cigarettes, state and local governments have implemented various bans on vaping, including Massachusetts, New York, Michigan, Utah, Oregon, Rhode Island, Washington, Montana and San Francisco. Ex. 225 (*Vaping Illness Tracker: 2,602 Cases and 59 Deaths*, The New York Times (Jan. 13, 2020),

<https://www.nytimes.com/interactive/2020/health/vaping-illness-tracker-evali.html>). Some of these bans are broad, encompassing “all flavored e-cigarette products, including flavored nicotine, THC, and CBD vaping products, in-store and online,” thus indiscriminately punishing both responsible industry participants like JLI and unscrupulous actors like Respondents. Ex. 226 (*Governor enacts 120-day ban on flavored vaping products*, Great Falls Tribune (Oct. 8, 2019), <https://www.greatfallstribune.com/story/news/2019/10/08/montana/3910301002/>).

57. As noted, many of the Accused Pods are likely of inferior quality and it is often unclear what, if any, quality control Respondents implement during sourcing and manufacturing. Since the Accused Products came on the market without FDA authorization, if the information about how the products were made is not on the products when imported and sold, there is no practical way to determine what’s in them. Moreover, many of Respondents’ Accused Pods are offered in the U.S. at elevated nicotine concentrations above what JLI offers in its JUULpods - nicotine concentrations of 3% and 5% - and that may mislead users as to how much nicotine they are using.

58. Major public health concerns stemming from the use of knock-off pod products were received last year, and the concern has not gone away. During 2019, the Centers for Disease Control (“CDC”) identified over 2,000 possible cases of illness, spanning almost all states, associated with vaporizer use. Ex. 227 (*Smoking & Tobacco Use: Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products*, Centers for Disease Control and Prevention (Feb. 11, 2020), https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html). In response, the CDC has recommended that “people should not add any other substances not intended by the manufacturer to [e-cigarette or vaping] products, including products purchased through retail establishments.” *Id.* Despite this,

Respondents continue to enable the use of illegal and illicit pods and pod modifications that could be causing these illnesses—*e.g.*, individuals can purchase empty Accused Pods, fill them with any liquid they choose—potentially unsafe, unregulated substances—and sell them in any way they want. One ENDS distributor, called ShopMVG has a blog on its website with a step-by-step guide and an instructional video on how to fill an empty pod. *See* Ex. 228 (*How to Fill Your J-Pod Refillable Pod for the JUUL*, ShopMVG (July 17, 2018), <https://shopmvg.com/blogs/news/how-to-fill-your-j-pod-refillable-pod-for-the-juul>); *see also* Ex. 229 (*Vaping Bad: Were 2 Wisconsin Brothers the Walter Whites of THC Oils?*, The New York Times (Sept. 15, 2019), <https://www.nytimes.com/2019/09/15/health/vaping-thc-wisconsin.html>) (describing an illegal underground THC vaping cartridge operation as “buy[ing] empty vape cartridges and counterfeit packaging from Chinese factories, then fill[ing] them”; noting that such illegal operations may be “cutting their product with other substances, including some that can be dangerous”); Ex. 227 (*Smoking & Tobacco Use: Outbreak of Lung Injury Associated with the Use of E-Cigarette, or Vaping, Products*, Centers for Disease Control and Prevention (Feb. 11, 2020), https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html) (“People should not add any other substances not intended by the manufacturer to products, including products purchased through retail establishments.”)

59. The Accused Products are cartridges for vaporizers—also known as “pods”—that infringe one or more of the Asserted Patents. Although JLI has not licensed anyone to use its intellectual property, many of these infringing pods are made and/or expressly marketed as being compatible with the JUUL device, evincing the intent of Respondents to chip away at JLI’s market share while selling pods with unknown ingredients, under unknown quality and manufacturing standards. Indeed, many of these infringing cartridges appear to be direct copies

of JLI's cartridges and that hides the fact that they are not really JLI-made products. The infringing pods are either sold filled, with nicotine or non-nicotine substances such as CBD, caffeine and taurine, or they are sold empty to be filled by the consumer after importation.

60. All Respondents, regardless of the marketing and content of the Accused Products, import, sell for importation and/or sell after importation products that infringe JLI's patented and protected designs.

61. On information and belief, Respondents are entities that perform one or more of the following functions in the supply chain of the Accused Products: (a) manufacture Accused Products and sell them for importation; (b) sell Accused Products for and/or after importation, even if they were manufactured by another entity; (c) import and distribute Accused Products; and/or (d) sell Accused Products to consumers and other entities after those products have been imported into the United States.

62. Due to the obscurity of the market for infringing cartridges and the unfair source-hiding tactics employed by many players in that market (as detailed in Sections X and XI of this Complaint), it is—without further discovery—unclear in some instances how individual Respondents fit into the supply chain of the Accused Products.

A. ENDS Manufacturer Respondents

63. On information and belief, numerous entities, including several Respondents, manufacture ENDS-related Accused Products and import and/or sell them for importation into the United States. These Respondents are collectively referred to herein as “Manufacturer Respondents.”

1. Guangdong Cellular Workshop Electronic Technology Co., Ltd.

64. On information and belief, Respondent Guangdong Cellular Workshop Electronic Technology Co., Ltd. is a foreign company having an address of 888 BBK Avenue, Jiangbei Village, Wusha Community, Changan Town, Dongguan City, Guangdong PRC.

65. On information and belief, Guangdong Cellular Workshop Electronic Technology Co., Ltd. manufactures and sells at least infringing cartridges marketed as “JACKPOD” and “FIT POD.” The JACKPOD and FIT POD products’ packaging states that the products are made by Guangdong Cellular Workshop Electronic Technology Co., Ltd. Slobodyanyuk Decl. at ¶¶ 4-6.

2. Keep Vapor Electronic Tech. Co., Ltd.

66. On information and belief, Respondent Keep Vapor Electronic Tech. Co., Ltd. is a foreign company having an address of Block D, XinLong Techno Park, Shaling Town, Bao’an District, Shenzhen, China 518100.

67. On information and belief, Keep Vapor Electronic Tech. Co., Ltd. manufactures and sells at least infringing cartridges marketed as “3X.” The 3X product packaging states that the product is “Produced by Keep Vapor Electronic Technology Co., Ltd.” Slobodyanyuk Decl. at ¶¶ 7-8.

3. Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C.

68. On information and belief, Respondent Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C. is a domestic company having an address of 1267 Willis ST STE 200, Redding, California, 96001, United States.

69. On information and belief, Shenzhen Azure Tech. USA LLC uses at least the following website to transact business:

https://strictlyecig.trustpass.alibaba.com/company_profile.html

70. On information and belief, Shenzhen Azure Tech. USA LLC uses at least the following email address to transact business: olivia@azurevape.com.

71. On information and belief, Shenzhen Azure Tech. USA LLC manufactures and sells at least infringing cartridges marketed as “CAESAR PODS.” The CAESAR PODS product packaging states that the product is “Manufactured by Azure Vaping P.R.C.” Slobodyanyuk Decl. at ¶¶ 9-11.

B. ENDS Direct Sale Respondents

72. On information and belief, numerous entities, including several Respondents, import and/or sell after importation into the United States ENDS-related Accused Products under various brand names. On information and belief, these Accused Products are sold directly by these Respondents or through various distributors. These Respondents are collectively referred to herein as “Direct Sale Respondents.”

1. Access Vapor LLC

73. On information and belief, Respondent Access Vapor LLC is a domestic company having an address of 6550 International Drive, Suite 103, Orlando, Florida 32819.

74. On information and belief, Access Vapor LLC imports and/or sells at least infringing cartridges marketed as “ACCESS VAPOR.” Access Vapor LLC further markets these cartridges as being “JUUL compatible.” Slobodyanyuk Decl. at ¶¶ 12-13.

2. Ana Equity LLC

75. On information and belief, Respondent Ana Equity LLC is a domestic company having an address of 6550 International Drive, Suite 103, Orlando, Florida 32819.

76. On information and belief, Ana Equity LLC owns the website <https://www.calivapepods.com/> and uses it to transact business. Cali Pods appears to share this

same website. Slobodyanyuk Decl. Att. 7 (*General Info: Cali Pods*, Website Informer (Aug. 21, 2019), <https://website.informer.com/calivapepods.com>).

77. On information and belief, Ana Equity LLC also uses at least the following email addresses to transact business: sales@calivapepods.com and abedasker@yahoo.com.

78. On information and belief, Ana Equity LLC and Cali Pods import and/or sell at least infringing cartridges marketed as “CALI PODS.” Slobodyanyuk Decl. at ¶¶ 14-18.

3. Aqua Haze LLC

79. On information and belief, Respondent Aqua Haze LLC is a domestic company having an address of 12801 N Stemmons Fwy, Suite 700, Farmers Branch, Texas 75234.

80. On information and belief, Aqua Haze LLC uses at least the following websites to transact business: <https://www.facebook.com/Aquahazelites/> and <http://aqvazewireless.com/index.php?route=common/home>.

81. On information and belief, Aqua Haze LLC uses at least the following email addresses to transact business: kashanpardhan@gmail.com and aquahazelites@gmail.com.

82. On information and belief, Aqua Haze LLC imports and/or sells at least infringing cartridges marketed as “AQVAZE PODS.” Slobodyanyuk Decl. at ¶¶ 19-20.

4. Cali Pods

83. On information and belief, Respondent Cali Pods is a domestic company having an address of PO Box 41387, Houston, Texas 77241. On information and belief, Cali Pods is associated with Ana Equity LLC, discussed above.

84. On information and belief, as discussed above, Ana Equity LLC owns the website <https://www.calivapepods.com/> and uses it to transact business. Cali Pods appears to share this same website. Slobodyanyuk Decl. Att. 7 (*General Info: Cali Pods*, Website Informer (Aug. 21, 2019), <https://website.informer.com/calivapepods.com>).

85. On information and belief, as discussed above Ana Equity LLC uses at least the following email addresses to transact business: sales@calivapepods.com and abedasker@yahoo.com. Cali Pods appears to share the same email addresses.

86. On information and belief, Ana Equity LLC and Cali Pods import and/or sell at least infringing cartridges marketed as “CALI PODS.” Slobodyanyuk Decl. at ¶¶ 21-25.

5. Eon Pods LLC

87. On information and belief, Respondent Eon Pods is a domestic company having an address of 155 Washington St., Jersey City, NJ 07302.

88. On information and belief, Eon Pods LLC uses as least the following email address to transact business: eonsmokepods@gmail.com.

89. On information and belief, Eon Pods LLC imports and/or sells at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS.” Slobodyanyuk Decl. at ¶¶ 26-34.

6. Jem Pods, U.S.A.

90. On information and belief, Respondent Jem Pods, U.S.A. is a domestic company having an address of 8411 Lake Drive, Snellville, Georgia 30039.

91. On information and belief, Jem Pods, U.S.A. uses at least the following email addresses to transact business: johnwoodsatl@gmail.com and hello@jempod.com.

92. On information and belief, Jem Pods, U.S.A. imports and/or sells at least infringing cartridges marketed as “JEM PODS.” Slobodyanyuk Decl. at ¶¶ 35-36.

7. Limitless Accessories, Inc.

93. On information and belief, Respondent Limitless Accessories, Inc. is a domestic company having an address of 8712 Kathleen Lane, Tinley Park, Illinois 60487.

94. On information and belief, Limitless Accessories, Inc. imports and/or sells at least infringing cartridges marketed as “UNIQUE PODS.” Slobodyanyuk Decl. at ¶¶ 37-40.

8. Mr. Fog

95. On information and belief, Respondent Mr. Fog is a domestic company having an address of 605 Country Club Drive, Bensenville, Illinois 60106.

96. On information and belief, Mr. Fog uses at least the following website to transact business: <https://www.mrfog.com/>.

97. On information and belief, Mr. Fog uses at least the following email addresses to transact business: info@mrfog.com.

98. On information and belief, Mr. Fog imports and/or sells at least infringing cartridges marketed as “MR. FOG PODS.” Slobodyanyuk Decl. at ¶¶ 41-43.

9. Sky Distribution LLC

99. On information and belief, Respondent Sky Distribution LLC is a domestic company having an address of P.O. Box 1325, Addison, Illinois 60101.

100. On information and belief, Sky Distribution LLC uses at least the following website to transact business: <https://myskypods.com>.

101. On information and belief, Sky Distribution imports and/or sells at least infringing cartridges marketed as “SKY PODS.” Slobodyanyuk Decl. at ¶¶ 44-46.

10. Wireless N Vapor Citi LLC

102. On information and belief, Respondent Wireless N Vapor Citi LLC is a domestic company having an address of 393 Waller Avenue, Suite 3, Lexington, Kentucky 40504.

103. On information and belief, Wireless N Vapor Citi LLC uses at least the following email address to transact business: vaporciti@domainsbyproxy.com.

104. On information and belief, Wireless N Vapor Citi LLC imports and/or sells at least infringing cartridges marketed as “VAPOR CITI PODS.” Slobodyanyuk Decl. at ¶¶ 47-49.

C. ENDS Distributor Respondents

105. On information and belief, numerous entities, including several Respondents, import and/or sell after importation into the United States multiple Accused Products through websites and electronic marketplaces. These Respondents are collectively referred to herein as “Distributor Respondents.”

1. 101 Smoke Shop, Inc.

106. On information and belief, Respondent 101 Smoke Shop, Inc. is a domestic company having an address of 3266 Cahuenga Blvd. West, Los Angeles, CA 90068.

107. On information and belief, 101 Smoke Shop, Inc. uses at least the following websites to transact business: <https://101smokeshop.business.site/>.

108. On information and belief, 101 Smoke Shop, Inc. imports and/or sells Accused Products, including at least infringing cartridges marketed as “PUFF” and “ES JUUL COMPATIBLE PODS”. Slobodyanyuk Decl. at ¶¶ 50-54.

2. 2nd Wife Vape

109. On information and belief, Respondent 2nd Wife Vape is a domestic company having an address of 1195 Fm 156 S, Suite 140, Haslet, Texas 76052.

110. On information and belief, 2nd Wife Vape uses at least the following websites to transact business: <https://www.2ndwife-vape.com/>; <https://www.facebook.com/2nd-Wife-Vape-923218074509664/>.

111. On information and belief, 2nd Wife Vape imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS” (Watermelon), “ES JUUL COMPATIBLE PODS” (Tobacco). Slobodyanyuk Decl. at ¶¶ 55-59.

3. All Puff Store

112. On information and belief, Respondent All Puff Store is a domestic company having an address of 6801 Engle Rd., Suite E, Middleburg Heights, Ohio 44130.

113. On information and belief, All Puff Store uses at least the following website to transact business: <https://www.allpuffstore.com/>.

114. On information and belief, All Puff Store uses at least the following email address to transact business: support@allpuffs.com.

115. On information and belief, All Puff Store imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS” and “STAR PODS.” Slobodyanyuk Decl. at ¶¶ 60-64.

4. Alternative Pods

116. On information and belief, Respondent Alternative Pods is a domestic company having an address of 4860 Rhiannon Ct, Palatine, IL 60067-7272.

117. On information and belief, Alternative Pods uses at least the following website to transact business: <https://www.alternativepods.com>.

118. On information and belief, Alternative Pods imports and/or sells at least infringing cartridges marketed as “4X PODS,” “CAESAR PODS,” “CALI PODS,” “ES JUUL COMPATIBLE PODS” (Watermelon), “ES JUUL COMPATIBLE PODS” (Tobacco), “UNIQUE PODS,” “SKY PODS,” “DRAG PODS,” “LUSH PODS,” and “POP PODS.” Slobodyanyuk Decl. at ¶¶ 65-77.

5. Canal Smoke Express, Inc.

119. On information and belief, Respondent Canal Smoke Express, Inc. is a domestic company having an address of 383 Canal St., New York, NY 10013.

120. On information and belief, Canal Smoke Express, Inc. uses at least the following website to transact business: <https://canal-smoke-express-inc.business.site/>.

121. On information and belief, Canal Smoke Express, Inc. imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS” (Menthol) and “ES JUUL COMPATIBLE PODS” (Tobacco). Slobodyanyuk Decl. at ¶¶ 78-81.

6. CaryTown Tobacco

122. On information and belief, Respondent CaryTown Tobacco is a domestic company having an address of 1701 E Main St. Richmond, VA 23223.

123. On information and belief, CaryTown uses at least the following website to transact business: <https://carytowntobacco.com/>.

124. On information and belief, CaryTown imports and/or sells Accused Products, including at least infringing cartridges marketed as “ZALT.” Slobodyanyuk Decl. at ¶¶ 82-86.

7. Cigar Road, Inc.

125. On information and belief, Respondent Cigar Road, Inc. is a domestic company having an address of 23315 Mulholland Drive, Woodland Hills, CA 91364.

126. On information and belief, Cigar Road, Inc. uses at least the following website to transact business: <https://www.adwanicigar.com/> and <https://www.facebook.com/pages/category/Tobacco-Store/Cigar-Road-275104943375299/>.

127. On information and belief, Cigar Road, Inc. imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS,” “PUFF,” “MR. FOG PODS,” and “SHANGRI-LA CBD.” Slobodyanyuk Decl. at ¶¶ 87-92.

8. Cloud 99 Vapes

128. On information and belief, Respondent Cloud 99 Vapes is a domestic company having an address of 50 2nd Ave, New York, NY 10003.

129. On information and belief, Cloud 99 Vapes uses at least the following website to transact business: <https://cloud99vapes.com/>.

130. On information and belief, Cloud 99 Vapes imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS EMPTY.” Slobodyanyuk Decl. at ¶¶ 93-95.

9. DripTip Vapes LLC

131. On information and belief, Respondent DripTip Vapes LLC is a domestic company having an address of 151 N. Nob Hill Rd. #115, Plantation, Florida 33324.

132. On information and belief, DripTip Vapes LLC uses at least the following website to transact business: <https://www.driptipvapes.com/>.

133. On information and belief, DripTip Vapes LLC uses at least the following email address to transact business: info@DripTipVapes.com.

134. On information and belief, DripTip Vapes LLC imports and/or sells Accused Products, including at least infringing cartridges marketed as “ATOM PODS” and “STIG PODS.” Slobodyanyuk Decl. at ¶¶ 96-100.

10. Ejuicedb

135. On information and belief, Respondent Ejuicedb is a domestic company having an address of 4545 Austin Blvd., Island Park, New York 11558.

136. On information and belief, Ejuicedb uses at least the following website to transact business: <https://www.ejuicedb.com>.

137. On information and belief, Ejuicedb uses at least the following email address to transact business: info@ejuiceDB.com.

138. On information and belief, Ejuicedb imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS” and “POP PODS.” Slobodyanyuk Decl. at ¶¶ 101-105.

11. eLiquid Stop

139. On information and belief, Respondent eLiquid Stop is a domestic company having an address of 101 N Verdugo Rd., #11701, Glendale, California 91226.

140. On information and belief, eLiquid Stop uses at least the following website to transact business: <https://www.eliquidstop.com>.

141. On information and belief, eLiquid Stop uses at least the following email address to transact business: support@eliquidstop.com.

142. On information and belief, eLiquid Stop imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS.” Slobodyanyuk Decl. at ¶¶ 106-108.

12. Evergreen Smokeshop

143. On information and belief, Respondent Evergreen Smokeshop is a domestic company having an address of 3221 Foothill Blvd., Oakland, CA 94601.

144. On information and belief, Evergreen Smokeshop imports and/or sells Accused Products, including at least infringing cartridges marketed as “NIC PODS.” Slobodyanyuk Decl. at ¶¶ 109-111.

13. EZfumes

145. On information and belief, Respondent EZfumes is a domestic company having an address of 2900 Highway 121, Suite 165, Bedford, TX 76021.

146. On information and belief, EZfumes uses at least the following website to transact business: www.ezfumes.com.

147. On information and belief, EZfumes imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS,” “STANDARD PODS,” and “ALPHA PODS.” Slobodyanyuk Decl. at ¶¶ 112-116.

14. JC Pods

148. On information and belief, Respondent JC Pods is a domestic company having an address of 1410 Kirk Street, Elk Grove Village, Illinois 60007.

149. On information and belief, JC Pods uses at least the following website to transact business: <https://jcpods.com>.

150. On information and belief, JC Pods uses at least the following email address to transact business: juulstock@gmail.com.

151. On information and belief, JC Pods imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS.” Slobodyanyuk Decl. at ¶¶ 117-119.

15. JUULSite Inc.

152. On information and belief, Respondent JUULSite Inc. is a domestic company having an address of 411 Country Club Dr., Bensenville, Illinois 60106.

153. On information and belief, JUULSite Inc. uses at least the following website to transact business: <https://podswebsite.com/>.

154. On information and belief, JUULSite Inc. uses at least the following email address to transact business: juulsite@hotmail.com.

155. On information and belief, JUULSite Inc. imports and/or sells Accused Products, including at least infringing cartridges marketed as “CALI PODS” and “SKY PODS.” Slobodyanyuk Decl. at ¶¶ 120-124.

16. Midwest Goods Inc.

156. On information and belief, Respondent Midwest Goods Inc. is a domestic company having an address of 1019 Entry Dr., Bensenville, Illinois 60106.

157. On information and belief, Midwest Goods Inc. uses at least the following website to transact business: <https://www.midwestgoods.com/>.

158. On information and belief, Midwest Goods Inc. uses at least the following email address to transact business: support@midwestgoods.com.

159. On information and belief, Midwest Goods Inc. imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS,” “POP PODS,” and “SKY PODS.” Slobodyanyuk Decl. at ¶¶ 125-131.

17. Modern Age Tobacco

160. On information and belief, Respondent Modern Age Tobacco is a domestic company having an address of 1122 W. University Avenue, Gainesville, FL 32601.

161. On information and belief, Modern Age Tobacco imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS” and “4X PODS.” Slobodyanyuk Decl. at ¶¶ 132-135.

18. Nilkant 167 Inc.

162. On information and belief, Respondent Nilkant 167, Inc. is a domestic company having an address of 167 Newbury St., Boston MA 02116.

163. On information and belief, Nilkant 167, Inc. uses at least the following location to transact business: a store front called City Smoke, located at 167 Newbury St., Boston MA 02116.

164. On information and belief, Nilkant 167, Inc. imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS.” Slobodyanyuk Decl. at ¶¶ 136-140.

19. Perfect Vape LLC

165. On information and belief, Respondent Perfect Vape LLC is a domestic company having an address of 2305 S Agnew Ave., Oklahoma City, Oklahoma 73108.

166. On information and belief, Perfect Vape LLC uses at least the following website to transact business: <https://perfectvape.com/>.

167. On information and belief, Perfect Vape LLC uses at least the following email address to transact business: perfectvapellc@gmail.com.

168. On information and belief, Perfect Vape LLC imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS” and “ES JUUL COMPATIBLE PODS.” Slobodyanyuk Decl. at ¶¶ 141-146.

20. Price Point NY

169. On information and belief, Respondent Price Point NY is a domestic company having an address of 500 Smith Street, Farmingdale, New York 11735.

170. On information and belief, Price Point NY uses at least the following website to transact business: <https://www.pricepointny.com>.

171. On information and belief, Price Point NY uses at least the following email address to transact business: info@pricepointny.com.

172. On information and belief, Price Point NY imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS” (Pink Lemonade), and “ES JUUL COMPATIBLE PODS” (Menthol). Slobodyanyuk Decl. at ¶¶ 147-151.

21. Puff E-Cig

173. On information and belief, Respondent Puff E-Cig is a domestic company having an address of 3 Mountain Dr., Imlay City, Michigan 48444.

174. On information and belief, Puff E-Cig uses at least the following website to transact business: <https://puffecig.com/>.

175. On information and belief, Puff E-Cig uses at least the following email address to transact business: customerservice@puffecig.com.

176. On information and belief, Puff E-Cig imports and/or sells Accused Products, including at least infringing cartridges marketed as “PIN PODS.” Slobodyanyuk Decl. at ¶¶ 152-154.

22. Smoker’s Express

177. On information and belief, Respondent Smoker’s Express is a domestic company having an address of 3029 E. Walton Blvd., Auburn Hills, Michigan 48326.

178. On information and belief, Smoker’s Express imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS” and “MNGO PODS.” Slobodyanyuk Decl. at ¶¶ 155-160.

23. Tobacco Alley of Midland

179. On information and belief, Respondent Tobacco Alley of Midland is a domestic company having an address of 1011 N. Midkiff Road, Midland, Texas 79701.

180. On information and belief, Tobacco Alley of Midland uses at least the following website to transact business: <https://www.facebook.com/tobaccoalleymidland/>.

181. On information and belief, Tobacco Alley of Midland imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS” (Tobacco), “ES JUUL COMPATIBLE PODS” (Menthol), “ES JUUL COMPATIBLE PODS” (Lush Ice), and “ES JUUL COMPATIBLE PODS” (Caffe Latte). Slobodyanyuk Decl. at ¶¶ 161-166.

24. Valgous

182. On information and belief, Respondent Valgous is a domestic company having an address of 411 Country Club Dr., Bensenville, Illinois 60106.

183. On information and belief, Valgous uses at least the following website to transact business: <https://www.valgous.com/>.

184. On information and belief, Valgous imports and/or sells Accused Products, including at least infringing cartridges marketed as “CAESAR PODS” and “ES JUUL COMPATIBLE PODS.” Slobodyanyuk Decl. at ¶¶ 167-172.

25. Vape Central Group

185. On information and belief, Respondent Vape Central Group is a domestic company having an address of 203 NE 1st Avenue, Hallandale, Florida 33009.

186. On information and belief, Vape Central Group uses at least the following website to transact business: <https://www.vapecentralgroup.com/>.

187. On information and belief, Vape Central Group uses at least the following email address to transact business: support@vapecentralgroup.com.

188. On information and belief, Vape Central Group imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS,” “ES JUUL

COMPATIBLE PODS” (Pink Lemonade), “ES JUUL COMPATIBLE PODS” (Tobacco), “POP PODS” and “ZALT.” Slobodyanyuk Decl. at ¶¶ 173-183.

26. Vape ‘n Glass

189. On information and belief, Respondent Vape ‘n Glass is a domestic company having an address of 283 N. Barrington Road, Streamwood, Illinois 60107.

190. On information and belief, Vape ‘n Glass uses at least the following social media page to transact business: <https://www.instagram.com/vapenglass>.

191. On information and belief, Vape ‘n Glass imports and/or sells Accused Products, including at least infringing cartridges marketed as “ES JUUL COMPATIBLE PODS” (Tobacco), “ES JUUL COMPATIBLE PODS” (Menthol), “ES JUUL COMPATIBLE PODS” (Pink Lemonade), and “ES JUUL COMPATIBLE PODS” (Caffe Latte). Slobodyanyuk Decl. at ¶¶ 184-186.

27. Vaperistas

192. On information and belief, Respondent Vaperistas is a domestic company having an address of 591 N. Edgewood Ave, Wood Dale, Illinois 60191.

193. On information and belief, Vaperistas uses at least the following website to transact business: <https://vaperistas.com/>.

194. On information and belief, Vaperistas uses at least the following email address to transact business: CustomerService@vaperistas.com.

195. On information and belief, Vaperistas imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS” and “ES JUUL COMPATIBLE PODS.” Slobodyanyuk Decl. at ¶¶ 187-191.

28. Vapers&Papers, LLC

196. On information and belief, Respondent Vapers&Papers, LLC is a domestic company having an address of 714 Stanley St., Schenectady, New York 12307.

197. On information and belief, Vapers&Papers, LLC uses at least the following website to transact business: <https://vapersandpapers.com/>.

198. On information and belief, Vapers&Papers, LLC uses at least the following email address to transact business: support@vapersandpapers.com.

199. On information and belief, Vapers&Papers, LLC imports and/or sells Accused Products, including at least infringing cartridges marketed as “4X PODS,” “ES JUUL COMPATIBLE PODS” (Grape), ES JUUL COMPATIBLE PODS” (Tobacco), “ES PERFORMANCE SERIES (MELATONIN AND CHAMOMILE),” and “FRUYT PODS.” Slobodyanyuk Decl. at ¶¶ 192-199.

29. WeVapeUSA

200. On information and belief, Respondent WeVapeUSA is a domestic company having an address of 1479 E. 15th St., Brooklyn, New York 11230.

201. On information and belief, WeVapeUSA uses at least the following websites to transact business: <https://wevapeusa.com/>.

202. On information and belief, WeVapeUSA uses at least the following email address to transact business: SUPPORT@WeVapeUSA.COM.

203. On information and belief, WeVapeUSA uses at least the following phone number to transact business: (347) 201-1345.

204. On information and belief, WeVapeUSA imports and/or sells Accused Products, including at least infringing cartridges marketed as “POP PODS” and “AIMÉ PODS.” Slobodyanyuk Decl. at ¶¶ 200-204.

D. CBD Respondents

205. On information and belief, numerous entities, including several Respondents, import and/or sell after importation into the United States CBD-related Accused Products. On information and belief, these CBD-related Accused Products are sold directly by these Respondents or through various distributors.

1. Naturally Peaked Health Co.

206. On information and belief, Respondent Naturally Peaked Health Co. is a domestic company having an address of 16 Mt. Ebo Rd. S., Suite 13, Brewster, New York 10509.

207. On information and belief, Naturally Peaked Health Co. uses at least the following website to transact business: <https://naturallypeaked.com/>.

208. On information and belief, Naturally Peaked Health Co. uses at least the following email address to transact business: sales@naturallypeaked.com.

209. On information and belief, Naturally Peaked Health Co. imports and/or sells at least infringing cartridges marketed as “Naturally Peaked Health Co. PREMIUM CBD POD.” Slobodyanyuk Decl. at ¶¶ 205-207.

2. The Kind Group LLC

210. On information and belief, Respondent The Kind Group LLC is a domestic company having an address of 1808 Brielle Ave., Ocean, New Jersey 07712.

211. On information and belief, The Kind Group LLC uses at least the following website to transact business: <https://calmvape.com/>.

212. On information and belief, The Kind Group LLC uses at least the following email address to transact business: support@calmvape.com.

213. On information and belief, The Kind Group LLC imports and/or sells at least infringing cartridges marketed as “CALM VAPE Pods.” Slobodyanyuk Decl. at ¶¶ 208-211.

E. Empty Pod Respondents

214. On information and belief, numerous entities, including several Respondents, manufacture empty-pod-related Accused Products and import and/or sell them for importation into the United States. On information and belief, numerous other entities, including at least one Respondent, import and/or sell after importation into the United States empty-pod-related Accused Products through websites and electronic marketplaces.

1. eCig-City

215. On information and belief, Respondent eCig-City is a domestic company having an address of 1400 University Ave., Suite A107, Riverside, California 92507.

216. On information and belief, eCig-City uses at least the following website to transact business: <https://ecig-city.com/>.

217. On information and belief, eCig-City uses at least the following email address to transact business: help@ecig-city.com.

218. On information and belief, eCig-City imports and/or sells Accused Products, including at least infringing cartridges marketed as “KIND PODS.” Slobodyanyuk Decl. at ¶¶ 212-214.

2. Shenzhen Apoc Technology Co., Limited

219. On information and belief, Respondent Shenzhen Apoc Technology Co., Limited is a foreign company having an address of 1402, Yunhua Shidai, Haoxiang Road, Shajing Town, Bao'an District, Shenzhen, China 518101.

220. On information and belief, Shenzhen Apoc Technology Co., Limited manufactures and sells at least infringing cartridges marketed as “Again TEEL PODS.” The

product packaging for the Again TEEL PODS products state: “MANUFACTURER: SHENZHEN APOC TECHNOLOGY CO., LIMITED.” Slobodyanyuk Decl. at ¶¶ 215-218.

3. Shenzhen Bauway Technology Ltd.

221. On information and belief, Respondent Shenzhen Bauway Technology Ltd. is a foreign company having an address of Building B5, Linpokeng 1st Industrial Zone, Haosan, Nanpu Road, Shajing Street, Bao'an District, Shenzhen, Guangdong, China.

222. On information and belief, Shenzhen Bauway Technology Ltd. manufactures and sells at least infringing cartridges marketed as “CigGo J.” Slobodyanyuk Decl. at ¶¶ 219-222.

4. Shenzhen Ocity Times Technology Co., Ltd.

223. On information and belief, Respondent Shenzhen Ocity Times Technology Co., Ltd. is a foreign company having an address of 5th Floor, Unit B, Mingyou Industry Park, Baoyuan Road, Bao'an District, Shenzhen, Guangdong, China.

224. On information and belief, Shenzhen Ocity Times Technology Co., Ltd. uses at least the following website to transact business: <https://ocitytimes.en.alibaba.com/>.

225. On information and belief, Shenzhen Ocity Times Technology Co., Ltd. manufactures and sells at least infringing cartridges marketed as “OCITY TIMES EMPTY PODS.” Slobodyanyuk Decl. at ¶¶ 223-226.

5. Shenzhen Yark Technology Co., Ltd.

226. On information and belief, Respondent Shenzhen Yark Technology Co., Ltd. is a foreign company having an address of 3 Floor of No.14 SongShang West Road, BoGang Community Xinsha Road Of Shajing District Bao'an, Shenzhen, China.

227. On information and belief, Shenzhen Yark Technology Co., Ltd. uses at least the following websites to transact business: <https://yarktech.en.alibaba.com/> and <https://www.dhgate.com/product/vape-ceramic-coil-pod-cartridge-empty-juice/448209166.html>.

228. On information and belief, Shenzhen Yark Technology Co., Ltd. manufactures and sells at least infringing cartridges marketed as “JUICE.” Slobodyanyuk Decl. at ¶¶ 227-230.

IV. THE TECHNOLOGIES AND PRODUCTS AT ISSUE

A. Background Of The Technology

229. The technologies at issue in this Investigation generally relate to designs of cartridges for vaporizers.

230. ENDS products based on liquid nicotine solutions (also called e-liquid) vaporize a liquid solution containing nicotine, and permit the user to inhale that solution as an aerosol. An e-liquid based ENDS product typically includes a storage compartment that holds the liquid nicotine solution, a heating element that vaporizes the liquid to generate an aerosol, and a battery and circuitry to power and operate the heating element.

231. Vaporizers and cartridges have also been used in a non-nicotine context, such as for CBD, as they are today by many infringers, including several Respondents.

B. Products At Issue

232. The Accused Products are vaporizer cartridges and components thereof.

233. JLI has obtained a representative sample from each Respondent, and each Respondent’s representative sample has been charted in the attached infringement contentions. These representative samples are available upon request.

234. As detailed below, the Accused Products are cartridges for vaporizers. Many accused cartridge products are direct copies of JLI’s cartridges and are sometimes expressly marketed as “Juul-compatible.” Some are imported filled with nicotine, CBD, or some other liquid, while others are imported empty to be filled in the United States with a liquid of the customer’s choice.

V. THE ASSERTED PATENTS AND NON-TECHNICAL DESCRIPTIONS OF THE INVENTIONS¹²

235. The Asserted Patents cover the ornamental features of a vaporizer cartridge.

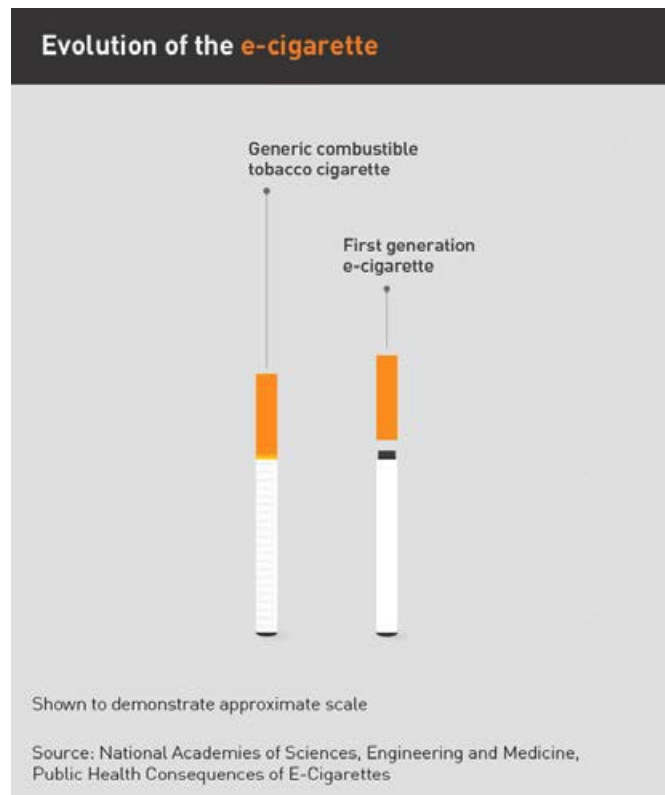
236. The introduction of the cutting-edge and sleek design of the '536, '870, '869, and '868 patents, revolutionized the ENDS industry.

237. The JUULpod cartridge is the commercial embodiment of the Asserted Patents. The unique and unprecedented ornamental features of the Asserted Patents contributed to the overwhelming success for the JUUL System on the ENDS market. This success led to an influx of infringers and copycats.

238. Prior to the entry of the JUUL System onto the market, ENDS devices had a very different design.

239. The first wave of ENDS devices preceding entry of the JUUL System into the market was consciously designed to reproduce, to the greatest degree possible, the appearance of a conventional cigarette and did not have cartridges with the minimalistic elegance of the designs embodied in the Asserted Patents. For example, generally these products were white and cylindrical and approximately the same size as a cigarette. The distal, outward-facing end of the device (corresponding to the end of a lit cigarette) typically included an LED that, upon inhalation, would illuminate red to simulate the appearance of a burning cigarette.

¹² All non-technical descriptions of the patents herein are presented to give a general background of those patents. These statements are not intended to be used nor should they be used for purposes of patent claim construction. JLI presents these statements subject to and without waiver of its right to argue that no claim construction is necessary, or that claim terms should be construed in a particular way under claim interpretation jurisprudence and the relevant evidence.



Comparing Conventional Cigarettes with the First Wave of Electronic Cigarettes

240. As the industry for ENDS struggled to develop, a second wave of ENDS began to emerge. This second wave started to slightly vary the appearance of the device so as not to copy, so literally, the coloring of traditional combustible cigarettes. Although these products had a different color scheme than traditional combustible cigarettes, they still embodied the industry's view that ENDS should retain a relationship with the form of a traditional cigarette.



Fontem's blu eCig device



R.J. Reynolds VUSE device (launched June 2013)

241. Brick-like vaporizers, known as Box Mod devices, were also developed during this time. From a design perspective, Box Mods differed from the first and second wave products in terms of their size and shape. Box Mod devices were much larger, so that they could hold large or multiple batteries which could be removed and changed. They were referred

to as “Box Mod” devices because most looked like a squat box. Others were cylindrical in shape but were so large in diameter and weight that they could not comfortably be held between two fingers. Box Mods typically involve multiple hardware components—the battery cells, electronic circuitry, coil, tank—each of which can be separated and replaced.



Sample Box Mod Device Diagram

242. Against this background, the Asserted Patents represented a wholesale departure from the industry norms of the time. The '536, '870, '869, and '868 patents' cartridge design is a sleek, minimalistic appearance that looks technological. They do not resemble component parts of a traditional cigarette and wholly abandon a cylindrical shape. The visual effect of the novel shape of the patented designs is immediately recognizable and a stark contrast to other designs which existed in the market at the time.

243. The Asserted Patents are specifically directed to ornamental features that have been incorporated into the JUULpods. These patented features have contributed to the success

of the JUULpods both in the United States and around the world, and are the same features that Respondents have copied in their attempt to undercut and appropriate JLI's market share.

A. The '536 Patent

1. Identification and Ownership of the '536 Patent

244. U.S. Patent No. D842,536 was duly and lawfully issued by the United States Patent and Trademark Office on March 5, 2019 to JLI. The '536 patent is set to expire on March 5, 2034.

245. The '536 patent is titled "Vaporizer Cartridge," names Adam Bowen, James Monsees, Steven Christensen, Joshua Morenstein, and Christopher Nicholas HibmaCronan as co-inventors, and issued from U.S. Patent Application No. 35/001,170, which was filed on July 28, 2016.

246. A certified copy of the '536 patent is attached as Exhibit 1. A certified copy of the assignment from the named inventors to JLI is attached as Exhibit 2. A copy of the prosecution history of the '536 patent is included as Appendix A.¹³ Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '536 patent are included as Appendix B.

2. Foreign Counterparts to the '536 Patent

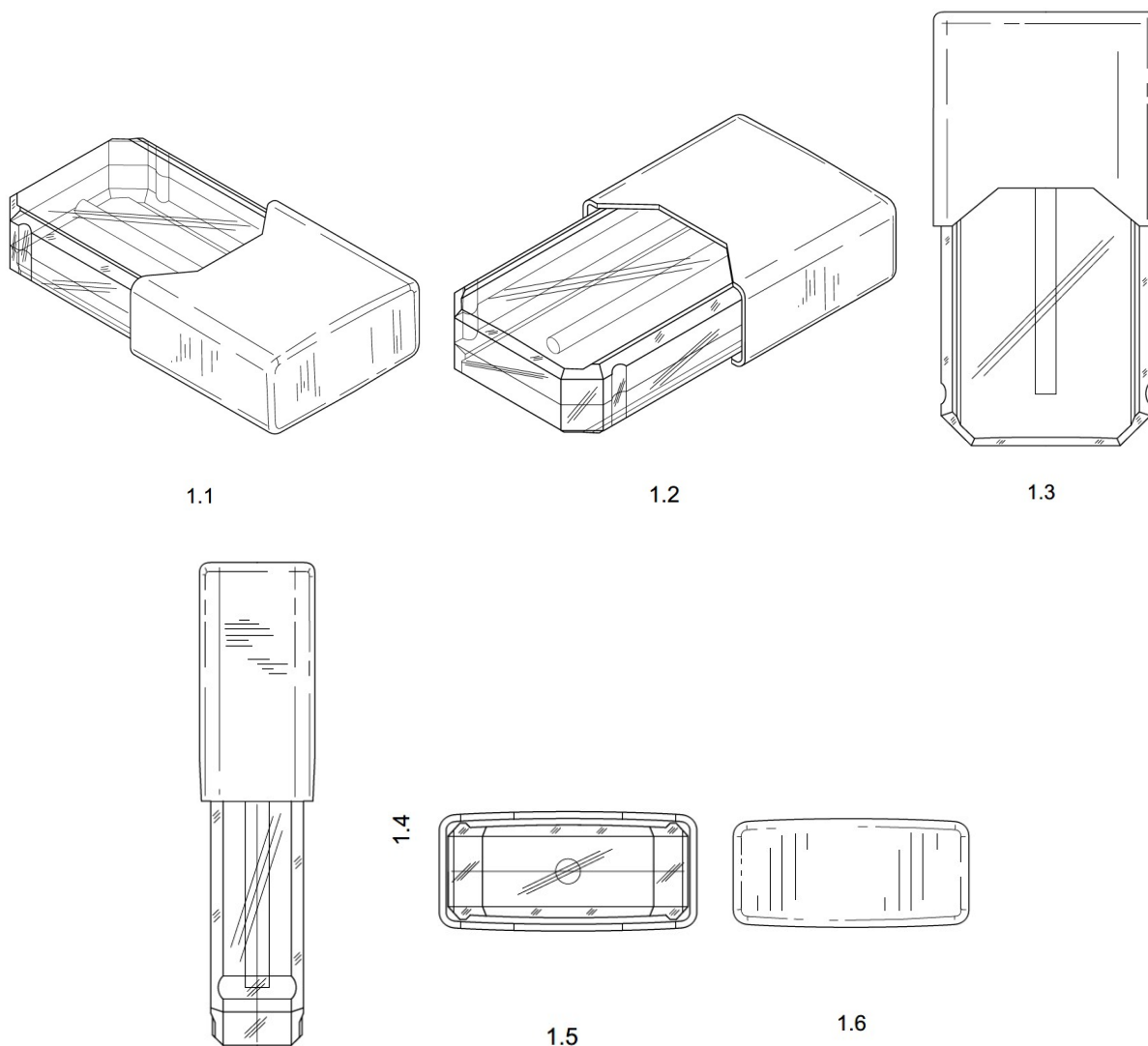
247. Exhibit 9 lists each foreign patent and each pending foreign patent application (not already issued as a patent), and each foreign patent application that has been denied, abandoned or withdrawn, corresponding to the '536 patent, with an indication of the prosecution status of each such patent application. No other foreign patents or patent

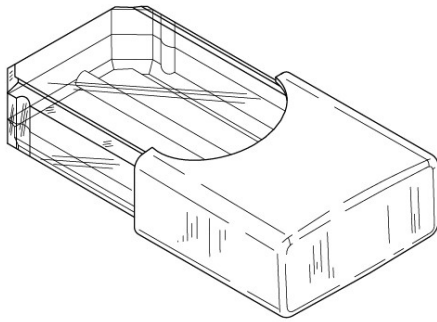
¹³ JLI has ordered a copy of the certified Prosecution History of U.S. Patent No. D842,536 and will provide it as soon as possible.

applications corresponding to the '536 patent have been filed, abandoned, withdrawn, or rejected.

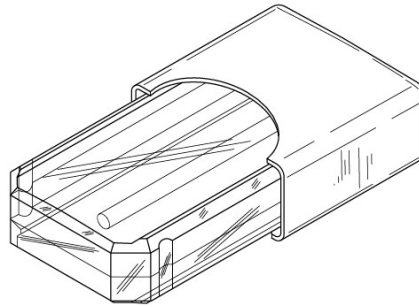
3. Non-Technical Description of the '536 Patent

248. The '536 patent is directed to the ornamental design of a vaporizer cartridge. Selected figures from the '536 patent showing aspects of the claimed design are reproduced below:

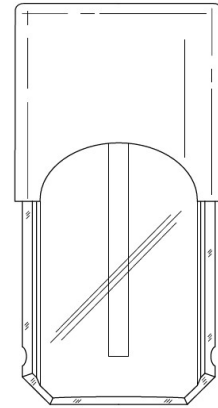




2.1



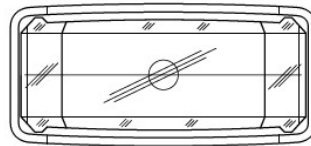
2.2



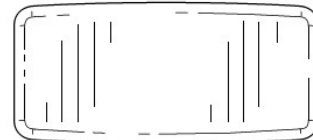
2.3



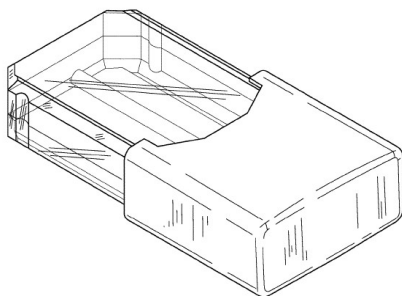
2.4



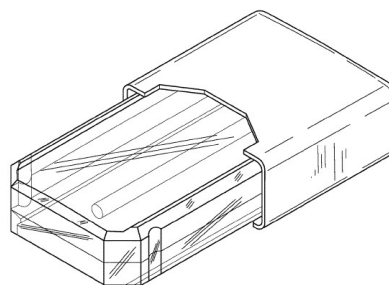
2.5



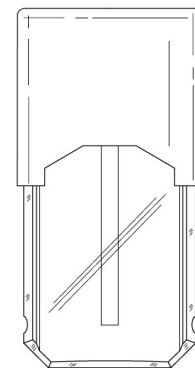
2.6



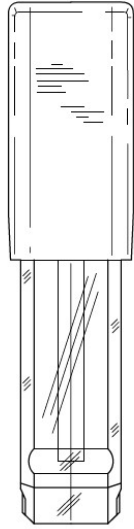
3.1



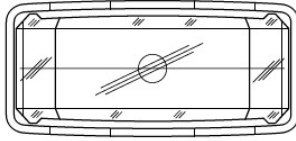
3.2



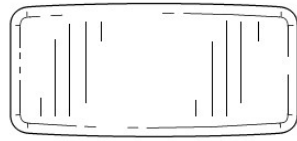
3.3



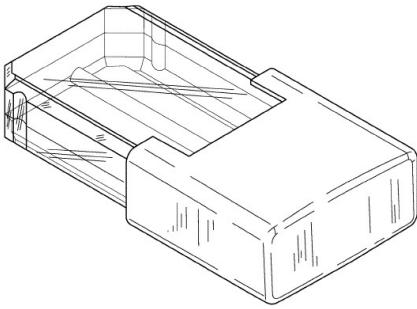
3.4



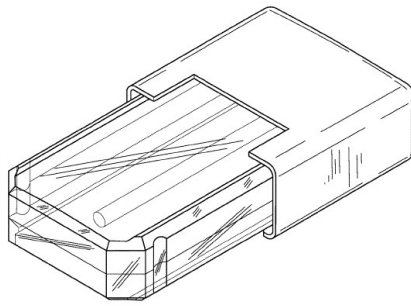
3.5



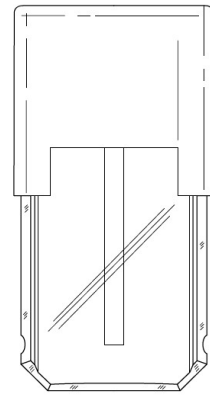
3.6



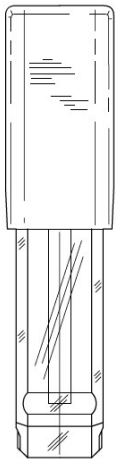
4.1



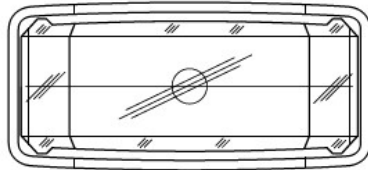
4.2



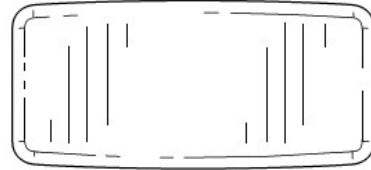
4.3



4.4



4.5



4.6

B. The '870 Patent

1. Identification and Ownership of the '870 Patent

249. U.S. Patent No. D858,870 was duly and lawfully issued by the United States Patent and Trademark Office on September 3, 2019 to JLI. The '870 patent is set to expire on September 3, 2034.

250. The '870 patent is titled "Vaporizer Cartridge," names Adam Bowen, Steven Christensen, Christopher Nicholas HibmaCronan, James Monsees, and Joshua Morenstein as co-inventors, and issued from U.S. Patent Application No. 29/662,037, which was filed on August 31, 2018.

251. A certified copy of the '870 patent is attached as Exhibit 3. A certified copy of the assignment from the named inventors to JLI is attached as Exhibit 4. A certified copy of the prosecution history of the '870 patent is included as Appendix C. Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '870 patent are included as Appendix D.

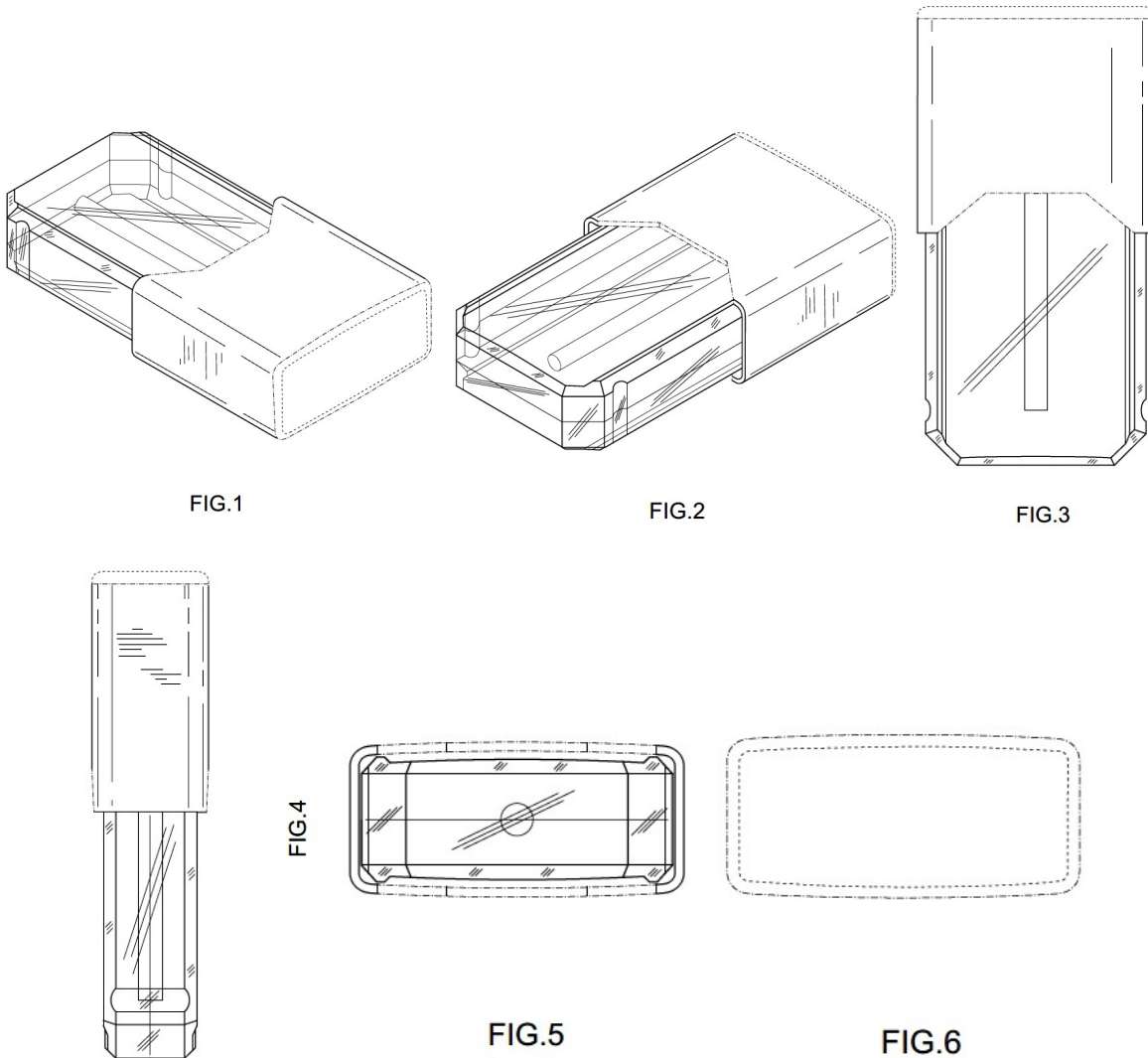
2. Foreign Counterparts to the '870 Patent

252. Exhibit 9 lists each foreign patent and each pending foreign patent application (not already issued as a patent), and each foreign patent application that has been denied, abandoned or withdrawn, corresponding to the '870 patent, with an indication of the prosecution status of each such patent application. No other foreign patents or patent applications corresponding to the '870 patent have been filed, abandoned, withdrawn, or rejected.

3. Non-Technical Description of the '870 Patent

253. The '870 patent is directed to the ornamental design of a vaporizer cartridge.

The figures from the '870 patent reproduced below show embodiments¹⁴ of the claimed design:



¹⁴ The dashed lines in the figures illustrate portions of the vaporized cartridge that form no part of the claimed design. See MPEP ¶ 15.48, III Broken Lines (“A boundary line may be shown in broken lines if it is not intended to form part of the claimed design. Applicant may choose to define the bounds of a claimed design with broken lines when the boundary does not exist in reality in the article embodying the design.”). Accordingly, the scope of the claim is not limited to the shape of the dashed lines.

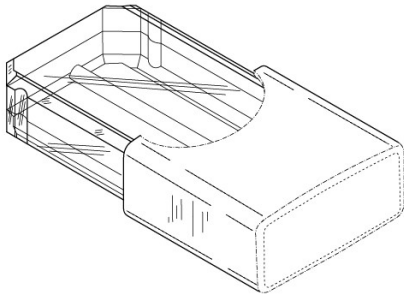


FIG. 7

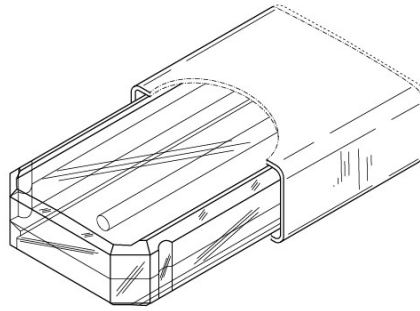


FIG. 8

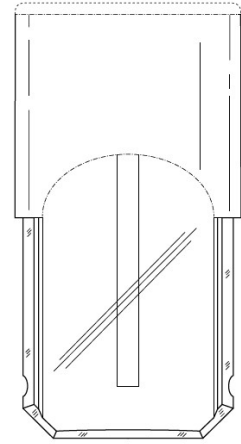


FIG. 9

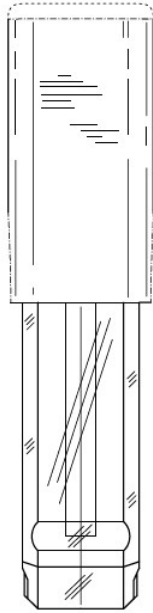


FIG. 10

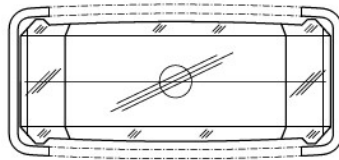


FIG. 11



FIG. 12

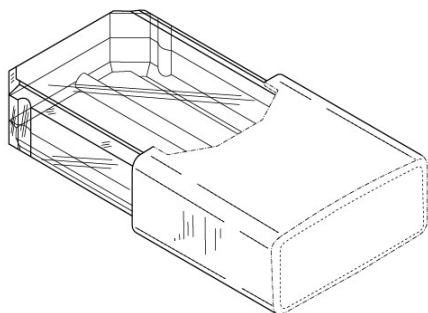


FIG. 13

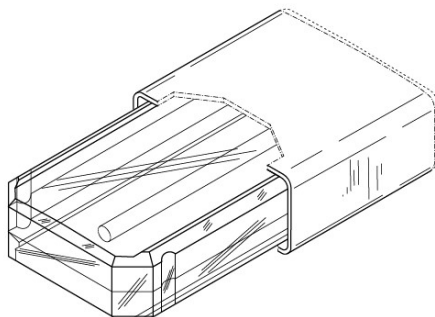


FIG. 14

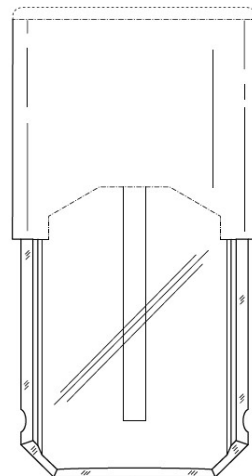


FIG. 15

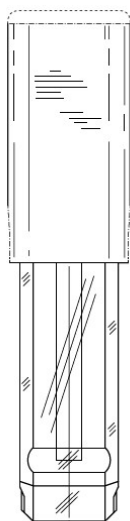


FIG. 16

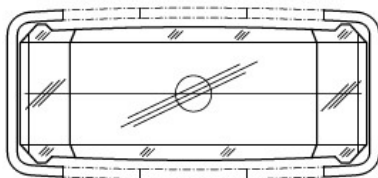


FIG. 17



FIG. 18

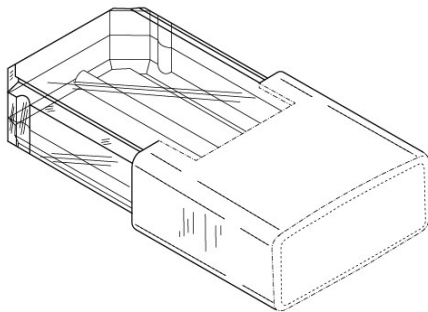


FIG. 19

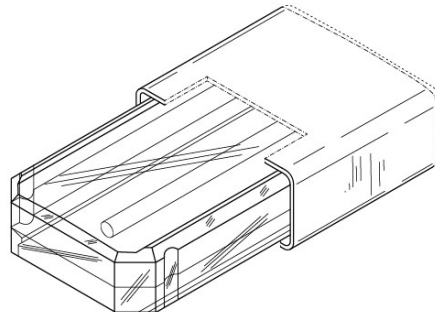


FIG. 20

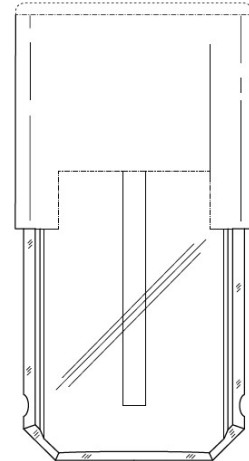


FIG. 21

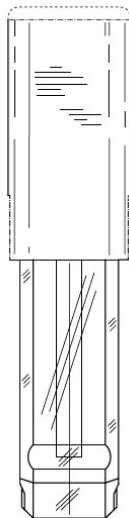


FIG. 22

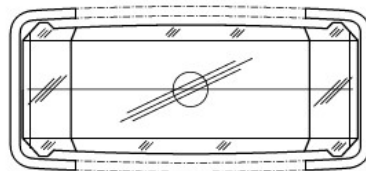


FIG. 23



FIG. 24

C. The '869 Patent

1. Identification and Ownership of the '869 Patent

254. U.S. Patent No. D858,869 was duly and lawfully issued by the United States Patent and Trademark Office on September 3, 2019 to JLI. The '869 patent is set to expire on September 3, 2034.

255. The '869 patent is titled "Vaporizer Cartridge," names Adam Bowen, Steven Christensen, Christopher Nicholas HibmaCronan, James Monsees, and Joshua Morenstein as

co-inventors, and issued from U.S. Patent Application No. 29/661,973, which was filed on August 31, 2018.

256. A certified copy of the '869 patent is attached as Exhibit 5. A certified copy of the assignment from the named inventors to JLI is attached as Exhibit 6. A certified copy of the prosecution history of the '869 patent is included as Appendix E. Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '869 patent are included as Appendix F.

2. Foreign Counterparts to the '869 Patent

257. Exhibit 9 lists each foreign patent and each pending foreign patent application (not already issued as a patent), and each foreign patent application that has been denied, abandoned or withdrawn, corresponding to the '869 patent, with an indication of the prosecution status of each such patent application. No other foreign patents or patent applications corresponding to the '869 patent have been filed, abandoned, withdrawn, or rejected.

3. Non-Technical Description of the '869 Patent

258. The '869 patent is directed to the ornamental design of a vaporizer cartridge. The figures from the '869 patent reproduced below show embodiments of the claimed design:

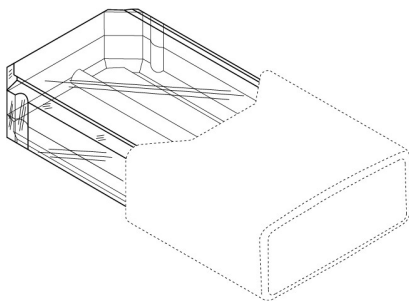


FIG. 1

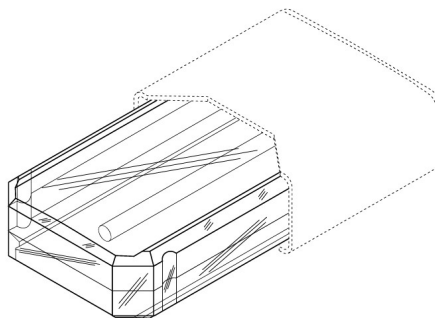


FIG. 2

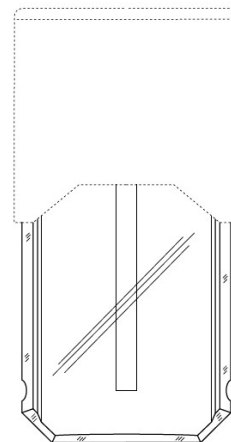


FIG. 3

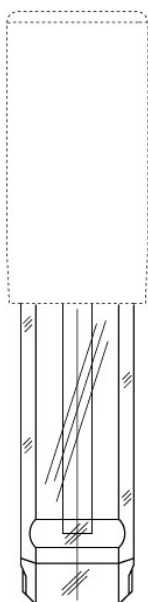


FIG. 4

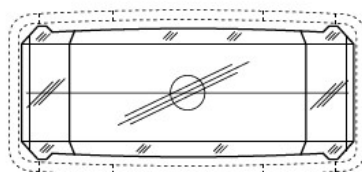


FIG. 5

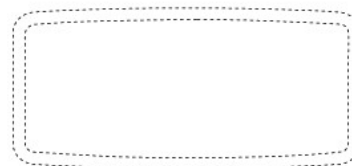


FIG. 6

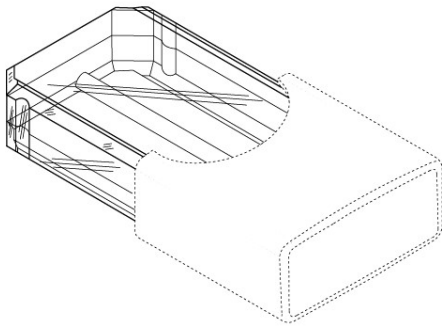


FIG. 7

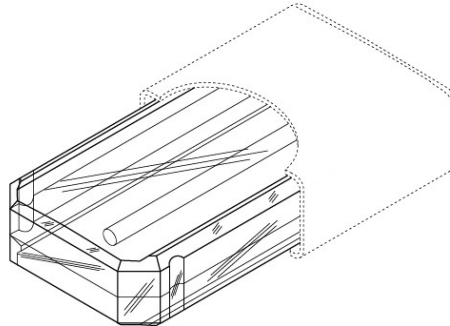


FIG. 8

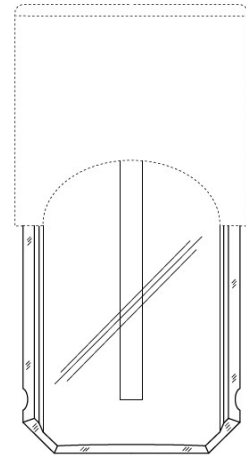


FIG. 9

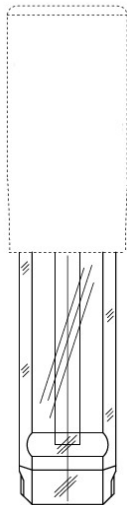


FIG. 10

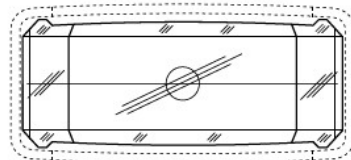


FIG. 11



FIG. 12

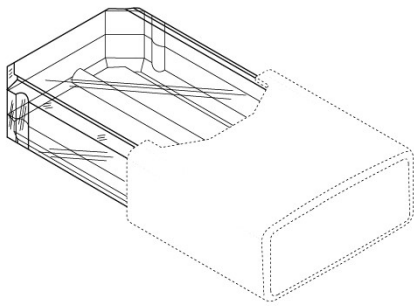


FIG.13

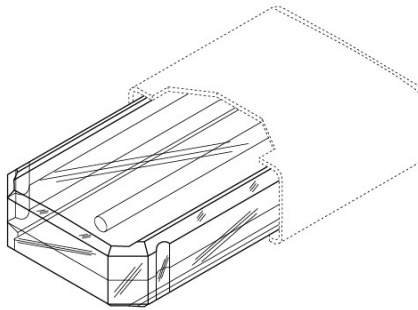


FIG.14

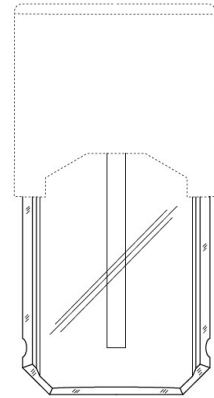


FIG.15

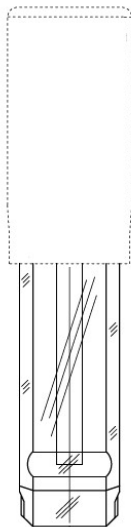


FIG.16

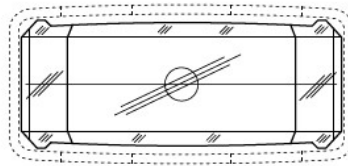


FIG.17



FIG.18

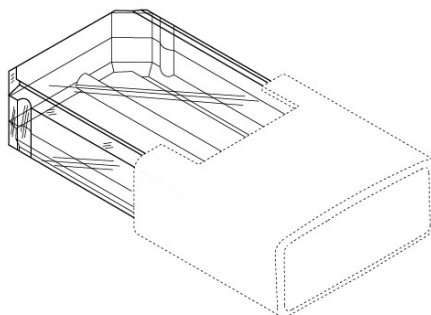


FIG.19

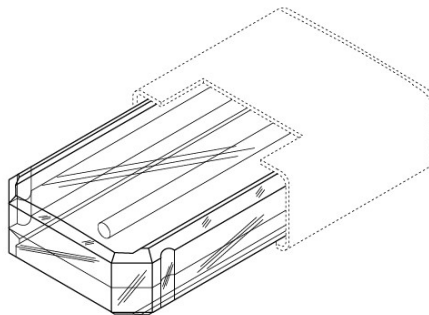


FIG.20

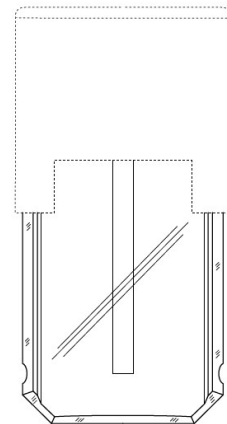


FIG.21

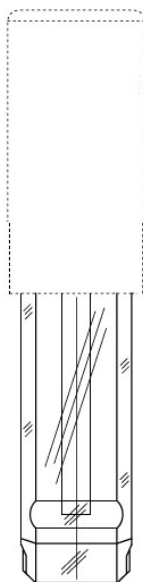


FIG. 22

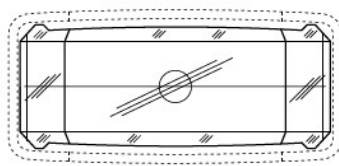


FIG. 23



FIG. 24

D. The '868 Patent

1. Identification and Ownership of the '868 Patent

259. U.S. Patent No. D858,868 was duly and lawfully issued by the United States Patent and Trademark Office on September 3, 2019 to JLI. The '868 patent is set to expire on September 3, 2034.

260. The '868 patent is titled "Vaporizer Cartridge," names Adam Bowen, Steven Christensen, Christopher Nicholas HibmaCronan, James Monsees, and Joshua Morenstein as co-inventors, and issued from U.S. Patent Application No. 29/661,968, which was filed on August 31, 2018.

261. A certified copy of the '868 patent is attached as Exhibit 7. A certified copy of the assignment from the named inventors to JLI is attached as Exhibit 8. A certified copy of the prosecution history of the '868 patent is included as Appendix G. Copies of each patent and applicable pages of each technical reference mentioned in the prosecution history of the '868 patent are included as Appendix H.

2. Foreign Counterparts to the '868 Patent

262. Exhibit 9 lists each foreign patent and each pending foreign patent application (not already issued as a patent), and each foreign patent application that has been denied, abandoned or withdrawn, corresponding to the '868 patent, with an indication of the prosecution status of each such patent application. No other foreign patents or patent applications corresponding to the '868 patent have been filed, abandoned, withdrawn, or rejected.

3. Non-Technical Description of the '868 Patent

263. The '868 patent is directed to the ornamental design of a vaporizer cartridge. The figures from the '868 patent reproduced below show embodiments of the claimed design:

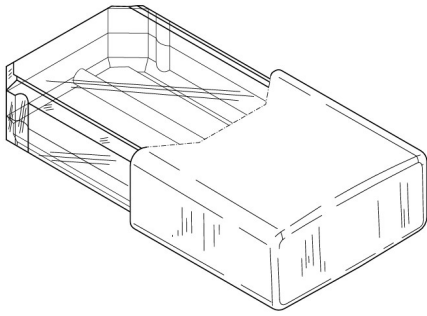


FIG. 1

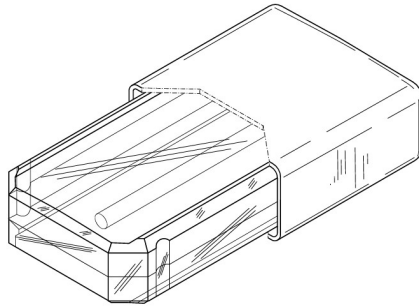


FIG. 2

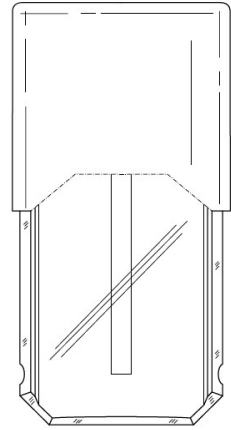


FIG. 3



FIG. 4

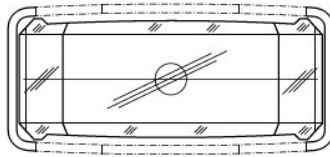


FIG. 5

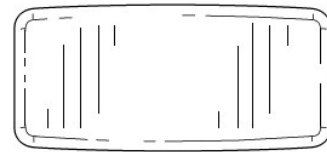


FIG. 6

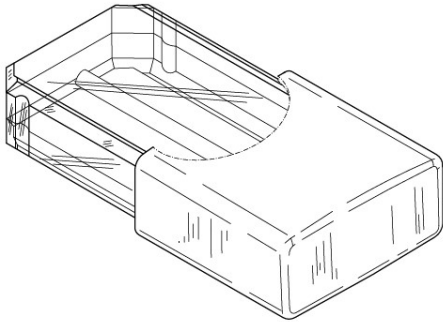


FIG. 7

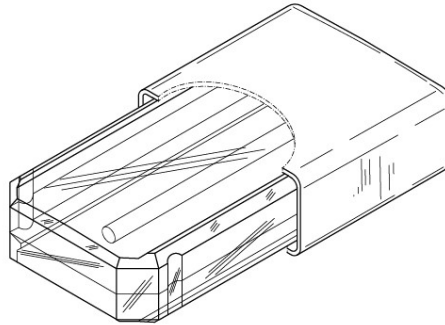


FIG. 8

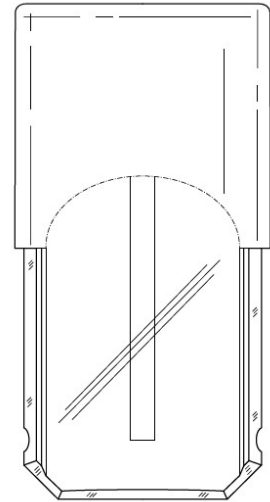


FIG. 9

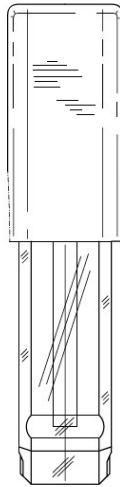


FIG. 10

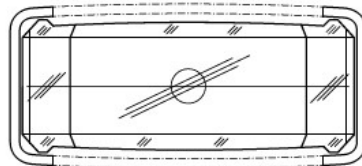


FIG. 11

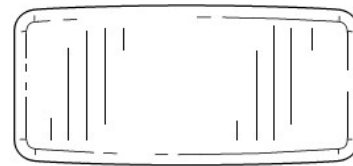


FIG. 12

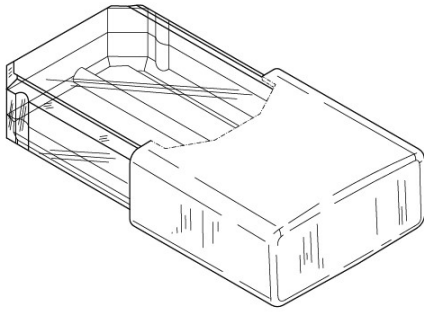


FIG. 13

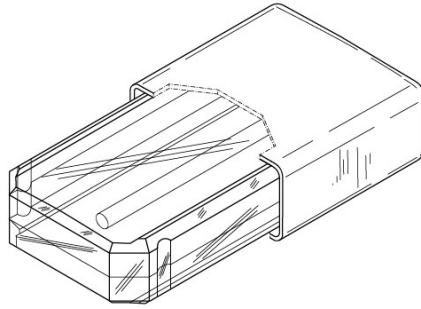


FIG. 14

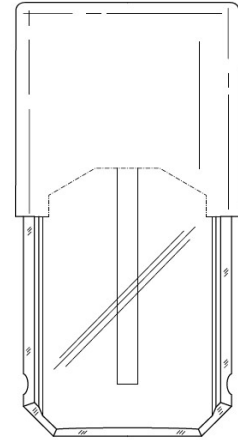


FIG. 15

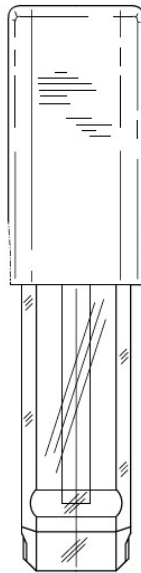


FIG. 16

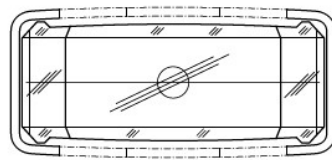


FIG. 17

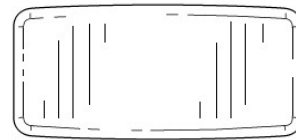


FIG. 18

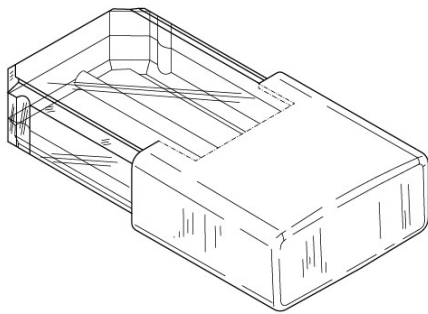


FIG. 19

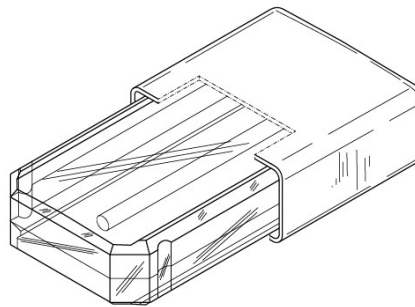


FIG. 20

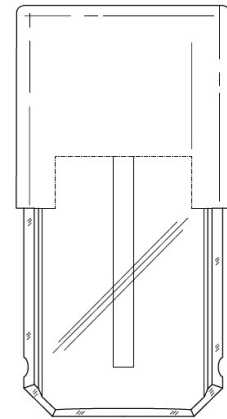


FIG. 21

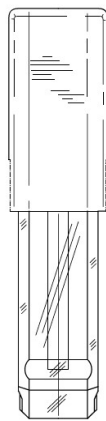


FIG. 22

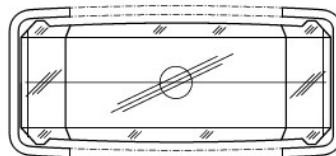


FIG. 23

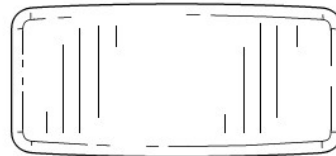


FIG. 24

E. Licensees to the Asserted Patents

264. There are no licensees to the Asserted Patents.

VI. INFRINGEMENT OF THE ASSERTED PATENTS

265. Respondents have either directly copied or made near replicas of the JUULpods. These copies mimic the inventive design features protected by the Asserted Patents.

266. Respondents' infringement of the design and inventive aspects of the JUULpods has reached an epidemic level. Respondents commonly use a business model that allows them

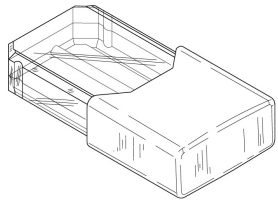




to obscure or readily alter their identities, disregard intellectual property rights, and infringe JLI's patented designs.

267. Respondents are aware of the Asserted Patents at least from the date of this Complaint.

A. Infringement of the '536 Patent

268. Respondents infringe the sole claim of the '536 patent, directly and/or indirectly via induced infringement and/or contributory infringement. Respondents infringe this claim by importing, selling for importation, and/or selling after importation into the United States the Accused Products. On information and belief, the Accused Products satisfy all claim limitations of the asserted claim at the time of importation into the United States.

269. Below is a sample, representative-only, three-way comparison chart between the first figure of the '536 patent, JLI's commercial embodiment, and a selection of Accused Products.

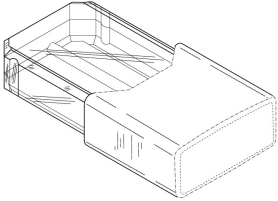




| '536 Fig. 1 | JLI Commercial Embodiment | 3X (ENDS) | Naturally Peaked Health Co. PREMIUM CBD POD (CBD Pod) | Again Teel Pods (Empty Pod) |
|---|---|---|---|---|
|  1.1 |  |  |  |  |

270. Attached as Exhibits 17-64 and 234 are representative claim charts showing direct infringement of the sole claim of the '536 patent by exemplary Accused Products for each Respondent.

B. Infringement of the '870 Patent

271. Respondents infringe the sole claim of the '870 patent, directly and/or indirectly via induced infringement and/or contributory infringement. Respondents infringe this claim by importing, selling for importation, and/or selling after importation into the United States the Accused Products. On information and belief, the Accused Products satisfy all claim limitations of the asserted claim at the time of importation into the United States.

272. Below is a sample, representative-only, three-way comparison chart between the first figure of the '870 patent, JLI's commercial embodiment, and a selection of Accused Products.

| '870 Fig. 1 | JLI Commercial Embodiment | 3X (ENDS) | Naturally Peaked Health Co. PREMIUM CBD POD (CBD Pod) | Again Teel Pods (Empty Pod) |
|--|---|---|---|---|
|  FIG. 1 |  |  |  |  |

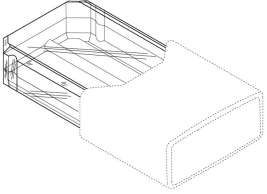




273. Attached as Exhibits 65-112 and 237 are representative claim charts showing direct infringement of the sole claim of the '870 patent by exemplary Accused Products for each Respondent.

C. Infringement of the '869 Patent

274. Respondents infringe the sole claim of the '869 patent, directly and/or indirectly via induced infringement and/or contributory infringement. Respondents infringe this claim by importing, selling for importation, and/or selling after importation into the United States the

Accused Products. On information and belief, the Accused Products satisfy all claim limitations of the asserted claim at the time of importation into the United States.

275. Below is a sample, representative-only, three-way comparison chart between the first figure of the '869 patent, JLI's commercial embodiment, and a selection of Accused Products.

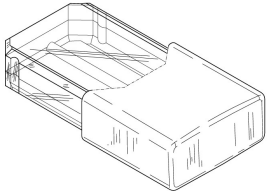




| '869 Fig. 1 | JLI Commercial Embodiment | 3X (ENDS) | Naturally Peaked Health Co. PREMIUM CBD POD (CBD Pod) | Again Teel Pods (Empty Pod) |
|--|---|---|--|--|
|  <p>FIG. 1</p> |  |  |  |  |

276. Attached as Exhibits 114-160 and 236 are representative claim charts showing infringement of the sole claim of the '869 patent by exemplary Accused Products for each Respondent.

D. Infringement of the '868 Patent

277. Respondents infringe the sole claim of the '868 patent, directly and/or indirectly via induced infringement and/or contributory infringement. Respondents infringe this claim by importing, selling for importation, and/or selling after importation into the United States the Accused Products. On information and belief, the Accused Products satisfy all claim limitations of the asserted claim at the time of importation into the United States.

278. Below is a sample, representative-only, three-way comparison chart between the first figure of the '868 patent, JLI's commercial embodiment, and a selection of Accused Products.

| '868 Fig. 1 | JLI Commercial Embodiment | 3X (ENDS) | Naturally Peaked Health Co. PREMIUM CBD POD (CBD Pod) | Again Teel Pods (Empty Pod) |
|--|---|---|--|---|
|  <p>FIG. 1</p> |  |  |  |  |

279. Attached as Exhibits 161-208 and 235 are representative claim charts showing direct infringement of the sole claim of the '868 patent by exemplary Accused Products for each Respondent.

VII. SPECIFIC INSTANCES OF UNFAIR IMPORTATION AND SALE

280. On information and belief, the Accused Products are manufactured overseas and then sold for importation into the United States by Respondents or on their behalf, imported into the United States by Respondents or on their behalf, and/or sold after importation by Respondents or on their behalf.

A. ENDS Manufacturer Respondents

1. Guangdong Cellular Workshop Electronic Technology Co., Ltd.

281. On information and belief, Respondent Guangdong Cellular Workshop Electronic Technology Co., Ltd. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing JACKPOD and FIT POD products. Slobodyanyuk Decl. at ¶¶ 4-6.

282. The JACKPOD product packaging indicates that it is produced by Guangdong Cellular Workshop Electronic Technology Co, Ltd. in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation

into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 5.

283. The FIT POD product packaging indicates that it is produced by Guangdong Cellular Workshop Electronic Technology Co, Ltd. in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 6.

2. Keep Vapor Electronic Tech. Co., Ltd.

284. On information and belief, Respondent Keep Vapor Electronic Tech. Co., Ltd. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 3X products. Slobodyanyuk Decl. at ¶¶ 7-8.

285. The 3X product packaging indicates that it is produced by Keep Vapor Electronic Tech. Co., Ltd. in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 8.

3. Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C.

286. On information and belief, Respondent Shenzhen Azure Tech. USA LLC f/k/a DS Vaping P.R.C. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing CAESAR PODS products. Slobodyanyuk Decl. at ¶¶ 9-11.

287. The CAESAR PODS (tobacco flavor) product packaging indicates that the product is manufactured by Azure Vaping, P.R.C. in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation

into the United States. Slobodyanyuk Decl. at ¶ 10. The packaging also indicates that the CAESAR PODS product is available to consumers in the United States (for example, in at least California). *Id.*

288. The CAESAR PODS (strawberry watermelon flavor flavor) product packaging indicates that the product is manufactured by DS Vaping, P.R.C. in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 11. The packaging also indicates that the CAESAR PODS product is available to consumers in the United States (for example, in at least California). *Id.*

B. ENDS Direct Sale Respondents

1. Access Vapor LLC

289. On information and belief, Respondent Access Vapor LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ACCESS VAPOR products. Slobodyanyuk Decl. at ¶¶ 12-13.

290. The ACCESS VAPOR product packaging indicates that the liquid is made by “Access Vapor LLC” and that the product is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 13.

291. The ACCESS VAPOR product is available for purchase online, including in the United States, for example, at ziipstock.com. Slobodyanyuk Decl. Att. 6. (purchase receipt printout).

2. Ana Equity LLC

292. On information and belief, Respondent Ana Equity LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing CALI PODS products. Slobodyanyuk Decl. at ¶¶ 14-18.

293. The CALI PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶¶ 18.

3. Aqua Haze LLC

294. On information and belief, Respondent Aqua Haze LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing AQVAZE PODS products. Slobodyanyuk Decl. at ¶¶ 19-20.

295. The AQVAZE PODS product packaging indicates that the product is designed by Aqua Haze LLC and manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 20.

4. Cali Pods

296. On information and belief, Respondent Cali Pods sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing CALI PODS products. Slobodyanyuk Decl. at ¶¶ 21-25.

297. The CALI PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the

United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 25.

5. Eon Pods LLC

298. On information and belief, Respondent Eon Pods LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS products. Slobodyanyuk Decl. at ¶¶ 26-34.

299. The ES JUUL COMPATIBLE PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is for “sales in the USA only.” Slobodyanyuk Decl. at ¶¶ 27-34.

6. Jem Pods, U.S.A.

300. On information and belief, Respondent Jem Pods, U.S.A. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing JEM PODS products. Slobodyanyuk Decl. at ¶¶ 35-36.

301. The JEM PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 36.

7. Limitless Accessories, Inc.

302. On information and belief, Respondent Limitless Accessories, Inc. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing UNIQUE PODS products. Slobodyanyuk Decl. at ¶¶ 37-40.

303. On information and belief, Limitless Accessories, Inc. imports UNIQUE PODS into the United States. Slobodyanyuk Decl. at ¶¶ 37-40; Slobodyanyuk Decl. Att. 13 (letter from the FDA Center for Tobacco Products to Limitless Accessories, Inc. regarding importation of “Unique Pods”).

304. Moreover, the UNIQUE PODS product packaging indicates that the product is assembled in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 40.

8. Mr. Fog

305. On information and belief, Respondent Mr. Fog sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing MR. FOG PODS products. Slobodyanyuk Decl. at ¶¶ 41-43.

306. Although the MR. FOG PODS product packaging is silent as to where the product is manufactured, Zlab S.A., SS Group Holdings, and Shenzhen Yibo Technology Co. Ltd. (collectively, “Ziip,” all of whom were respondents in Investigation No. 337-TA-1139) confirmed in the 1139 Investigation that all MR. FOG PODS are manufactured in China. In *Certain Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1139, Order No. 35 (Aug. 27, 2019) (initial determination granting complainant JLI’s motion for summary determination regarding, among other things, importation), it was found that “[JLI] is entitled to a summary determination as a matter of law that it has satisfied the importation requirement with respect to all accused products for the Ziip respondents.” *Id.* at 4. MR. FOG products were included among the accused products for the Ziip respondents. *Id.* at 3. *See also*

Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof, Inv. No. 337-TA-1141, Order No. 38 (Aug. 14, 2019) (same). Slobodyanyuk Decl. at ¶ 42.

9. Sky Distribution LLC

307. On information and belief, Respondent Sky Distribution LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing SKY PODS products. Slobodyanyuk Decl. at ¶¶ 44-46.

308. The SKY PODS product packaging is labeled “MYSKYPODS.COM” and indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 45.

10. Wireless N Vapor Citi LLC

309. On information and belief, Respondent Wireless N Vapor Citi LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing VAPOR CITI PODS products. Slobodyanyuk Decl. at ¶¶ 47-49.

310. The VAPOR CITI PODS product packaging indicates that the product is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 49.

C. ENDS Distributor Respondents

1. 101 Smoke Shop Inc.

311. On information and belief, Respondent 101 Smoke Shop Inc. sells for importation, imports, and/or sells after importation the Accused Products, including at least the

infringing ES JUUL COMPATIBLE PODS and PUFF products. Slobodyanyuk Decl. at ¶¶ 50-54.

312. The ES JUUL COMPATIBLE PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶¶ 52-53.

313. The PUFF product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 54.

2. 2nd Wife Vape

314. On information and belief, Respondent 2nd Wife Vape sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS (Watermelon) products. Slobodyanyuk Decl. at ¶¶ 55-59.

315. The ES JUUL COMPATIBLE PODS (Watermelon) product is offered, for example, on 2nd Wife Vape's website at <https://2ndwife-vape.com/collections/eonsmoke-juul-compatible-pods>, including to customers in the United States. Slobodyanyuk Decl. Att. 22 (webpage printout).

316. The ES JUUL COMPATIBLE PODS (Watermelon) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The

packaging also indicates that this product is only available for sale in the United States.

Slobodyanyuk Decl. at ¶ 57.

317. The ES JUUL COMPATIBLE PODS (Tobacco) product is offered, for example, on 2nd Wife Vape’s website at <https://2ndwife-vape.com/collections/eonsmoke-juul-compatible-pods>, including to customers in the United States. Slobodyanyuk Decl. Att. 24 (webpage printout).

318. The ES JUUL COMPATIBLE PODS (Tobacco) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶¶ 59.

3. All Puff Store

319. On information and belief, Respondent All Puff Store sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 4X PODS and STAR PODS products. Slobodyanyuk Decl. at ¶¶ 60-64.

320. The 4X PODS product is offered, for example, on All Puff Store’s website at <https://allpuffstore.com/collections/4x/products/4x-juul-compatible-pods-4pk>, including to customers in the United States. Slobodyanyuk Decl. Att. 26 (receipt of purchase from webpage).

321. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 62.

322. The STAR PODS product is offered, for example, on All Puff Store's website at <https://allpuffstore.com/collections/star-pods/products/star-pods-juul-compatible-flavor-pods-6-4pk>, including to customers in the United States. Slobodyanyuk Decl. Att. 27 (receipt of purchase from webpage).

323. The STAR PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is "only allowed in the United States." Slobodyanyuk Decl. at ¶¶ 64.

4. Alternative Pods

324. On information and belief, Respondent Alternative Pods imports and/or sells at least infringing cartridges marketed as "4X PODS," "CAESAR PODS," "CALI PODS," "ES JUUL COMPATIBLE PODS," "UNIQUE PODS," "SKY PODS," "DRAG PODS," "LUSH PODS," and "POP PODS". Slobodyanyuk Decl. at ¶¶ 65-77.

325. The 4X PODS product is offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/categories/juul-compatible-pods/4x-pods-compatible-with-juul.html/>, including to customers in the United States. Slobodyanyuk Decl. Att. 28.

326. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is "only allowed in the United States." Slobodyanyuk Decl. at ¶ 68.

327. The CAESAR PODS product is offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/categories/juul-compatible-pods/caesar-pods-compatible-with-juul.html/>, including to customers in the United States. Slobodyanyuk Decl. Att. 29.

328. The CAESAR PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 69.

329. The CALI PODS product is offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/categories/juul-compatible-pods/cali-pods-compatible-with-juul.html/>, including to customers in the United States. Slobodyanyuk Decl. Att. 30.

330. The CALI PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 70.

331. The ES JUUL COMPATIBLE PODS (Watermelon) and ES JUUL COMPATIBLE PODS (Tobacco) products are offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/categories/juul-compatible-pods/eonsmoke-compatible-pods-with-juul.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 31.

332. The ES JUUL COMPATIBLE PODS (Watermelon) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 71.

333. The ES JUUL COMPATIBLE PODS (Tobacco) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 72.

334. The UNIQUE PODS product is offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/categories/juul-compatible-pods/unique-pods-compatible-with-juul.html><https://www.alternativepods.com/categories/juul-compatible-pods/eonsmoke-compatible-pods-with-juul.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 32.

335. The UNIQUE PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 73.

336. The SKY PODS product is offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/products/sky-pods-5ct.html><https://www.alternativepods.com/categories/juul-compatible-pods/eonsmoke-compatible-pods-with-juul.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 33.

337. The SKY PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that

this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 74.

338. The DRAG PODS product is offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/products/drag-pods-4ct.html><https://www.alternativepods.com/categories/juul-compatible-pods/eonsmoke-compatible-pods-with-juul.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 34.

339. The DRAG PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 75.

340. The LUSH PODS product is offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/products/lush-pods-4c.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 35.

341. The LUSH PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 76.

342. The POP PODS product is offered, for example, on Alternative Pods' website at <https://www.alternativepods.com/products/pop-pods-4ct.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 36.

343. The POP PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 77.

5. Canal Smoke Express Inc.

344. On information and belief, Respondent Canal Smoke Express Inc. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS products. Slobodyanyuk Decl. at ¶¶ 78-81.

345. The ES JUUL COMPATIBLE PODS product packaging indicates that it is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available for sale “in the USA only.” Slobodyanyuk Decl. at ¶¶ 80-81.

6. CaryTown Tobacco

346. On information and belief, Respondent CaryTown Tobacco sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ZALT products. Slobodyanyuk Decl. at ¶¶ 82-86.

347. The ZALT product packaging indicates that it is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶¶ 84-86.

7. Cigar Road, Inc.

348. On information and belief, Respondent Cigar Road, Inc. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES

JUUL COMPATIBLE PODS, PUFF, MR. FOG PODS, and SHANGRI-LA CBD products. Slobodyanyuk Decl. at ¶¶ 87-92.

349. The ES JUUL COMPATIBLE PODS product packaging indicates that the product is “Made in China,” demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is “for sale in the USA only.” Slobodyanyuk Decl. at ¶ 89.

350. The PUFF product packaging indicates that the product is “Made in China,” demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 90.

351. Although the MR. FOG PODS product packaging is silent as to where the product is manufactured, Zlab S.A., SS Group Holdings, and Shenzhen Yibo Technology Co. Ltd. (collectively, “Ziip,” all of whom were respondents in Investigation No. 337-TA-1139) confirmed in the 1139 Investigation that all MR. FOG PODS are manufactured in China. In *Certain Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1139, Order No. 35 (Aug. 27, 2019) (initial determination granting complainant JLI’s motion for summary determination regarding, among other things, importation), it was found that “[JLI] is entitled to a summary determination as a matter of law that it has satisfied the importation requirement with respect to all accused products for the Ziip respondents.” *Id.* at 4. MR. FOG products were included among the accused products for the Ziip respondents. *Id.* at 3. *See also*

Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof, Inv. No. 337-TA-1141, Order No. 38 (Aug. 14, 2019) (same).

352. The SHANGRI-LA CBD product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 92.

8. Cloud 99 Vapes

353. On information and belief, Respondent Cloud 99 Vapes sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 4X PODS EMPTY products. Slobodyanyuk Decl. at ¶¶ 93-95.

354. The 4X PODS EMPTY product is offered, for example, on Cloud 99 Vapes' website at <https://cloud99vapes.com/products/4x-pods-empty-pods/>, including to customers in the United States. Slobodyanyuk Decl. Att. 44 (webpage printout).

355. The 4X PODS EMPTY product packaging indicates that it is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 95.

9. DripTip Vapes LLC

356. On information and belief, Respondent DripTip Vapes LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ATOM PODS and STIG products. Slobodyanyuk Decl. at ¶¶ 96-100.

357. The ATOM PODS product is offered, for example, on DripTip Vapes LLC's website at <https://driptipvapes.com/atom-pods/>, including to customers in the United States. Slobodyanyuk Decl. Att. 46 (webpage printout).

358. The ATOM PODS product packaging indicates that it is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 98.

359. The STIG product is offered, for example, on DripTip Vapes LLC's website at <https://www.driptipvapes.com/stig-pods.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 48 (webpage printout).

360. The STIG product packaging indicates that it is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 100.

10. Ejuicedb

361. On information and belief, Respondent Ejuicedb sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 4X PODS and POP PODS products. Slobodyanyuk Decl. at ¶¶ 101-105.

362. The 4X PODS product is offered, for example, on Ejuicedb's website at <https://www.ejuicedb.com/collections/vendors?q=4X%20Pods>, including to customers in the United States. Slobodyanyuk Decl. Att. 50 (webpage printout).

363. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 103.

364. The POP PODS product is offered, for example, on Ejuicedb's website at <https://www.ejuicedb.com/collections/pop-pods>, including to customers in the United States. Slobodyanyuk Decl. Att. 52 (webpage printout).

365. The POP PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 105.

11. eLiquid Stop

366. On information and belief, Respondent eLiquid Stop sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing "4X PODS" products. Slobodyanyuk Decl. at ¶¶ 106-108.

367. The 4X PODS product is offered, for example, on eLiquid stop's website at <https://www.eliquidstop.com/collections/4x-pods>, including to customers in the United States. Slobodyanyuk Decl. Att. 54 (webpage printout).

368. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is "only allowed in the United States." Slobodyanyuk Decl. at ¶ 108.

12. Evergreen Smokeshop

369. On information and belief, Respondent Evergreen Smokeshop sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing NIC PODS products. Slobodyanyuk Decl. at ¶¶ 109-111.

370. The NIC PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates

that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 111.

13. EZfumes

371. On information and belief, Respondent EZfumes sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS, STANDARD PODS, and ALPHA PODS products. Slobodyanyuk Decl. at ¶¶ 112-116.

372. The ES JUUL COMPATIBLE PODS product packaging indicates the product is “Manufactured in P.R.C.,” demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 114.

373. The STANDARD PODS product packaging indicates that the product is “Made in the P.R.C.,” demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “ONLY FOR SALE IN THE U.S.A.” Slobodyanyuk Decl. at ¶ 115.

374. The ALPHA PODS product packaging indicates that the product is “Made in the P.R.C.,” demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “ONLY FOR SALE IN THE U.S.A.” Slobodyanyuk Decl. at ¶ 116.

14. JC Pods

375. On information and belief, Respondent JC Pods sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS products. Slobodyanyuk Decl. at ¶¶ 117-119.

376. The ES JUUL COMPATIBLE PODS product is offered, for example, on JC Pods' website at <https://jcpods.com/collections/eonsmoke-pods>, including to customers in the United States. Slobodyanyuk Decl. Att. 58 (webpage printout).

377. The ES JUUL COMPATIBLE PODS product packaging indicates the product is "made in China," demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 119.

15. JUULSite Inc.

378. On information and belief, Respondent JUULSite Inc. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing CALI PODS and SKY PODS products. Slobodyanyuk Decl. at ¶¶ 120-124.

379. These products are offered, for example, by JUULSite Inc. on its website <https://podswbsite.com/>, including to customers in the United States. Slobodyanyuk Decl. Atts. 60-61 (webpage printouts from <https://podswbsite.com/>).

380. The CALI PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 123.

381. The SKY PODS product packaging is labeled “MYSKYPODS.COM” and indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 124.

16. Midwest Goods Inc.

382. On information and belief, Respondent Midwest Goods Inc. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 4X PODS, POP PODS, and SKY PODS products. Slobodyanyuk Decl. at ¶¶ 125-131.

383. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 127.

384. The POP PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 129.

385. The SKY PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 131.

386. On information and belief, Midwest Goods Inc. also sells for importation, imports, and/or sells after importation other infringing products, such as PIN PODS. *See* Ex. Nos. 234-237.

17. Modern Age Tobacco

387. On information and belief, Respondent Modern Age Tobacco sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS and 4X PODS products. Slobodyanyuk Decl. at ¶¶ 132-135.

388. The ES JUUL COMPATIBLE PODS product packaging indicates the product is “Manufactured in P.R.C.,” demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 134.

389. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 135.

18. Nilkant 167 Inc.

390. On information and belief, Respondent Nilkant 167 Inc. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS products. Slobodyanyuk Decl. at ¶¶ 136-140.

391. The ES JUUL COMPATIBLE PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 140.

19. Perfect Vape LLC

392. On information and belief, Respondent Perfect Vape LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 4X PODS and ES JUUL COMPATIBLE PODS products. Slobodyanyuk Decl. at ¶¶ 141-146.

393. The 4X PODS product is offered, for example, by Perfect Vape LLC on its website at <https://perfectvape.com/4x-pods-6-5-salt-nic-juul-compatible/>, including to customers in the United States. Slobodyanyuk Decl. Att. 66 (webpage printout).

394. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 143.

395. The ES JUUL COMPATIBLE PODS product is offered, for example, on Perfect Vape LLC’s website at <https://perfectvape.com/eonsmoke-pods-6-4pack-juul-compatible/>, including to customers in the United States. Slobodyanyuk Decl. Att. 68 (webpage printout).

396. The ES JUUL COMPATIBLE PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 146.

20. Price Point NY

397. On information and belief, Respondent Price Point NY sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS (Pink Lemonade), and ES JUUL COMPATIBLE PODS (Tobacco) products. Slobodyanyuk Decl. at ¶¶ 147-151.

398. The ES JUUL COMPATIBLE PODS (Pink Lemonade), and ES JUUL COMPATIBLE PODS (Tobacco) products are offered, for example, on Price Point NY's website at <https://www.pricepointny.com/collections/eonsmoke>, including to customers in the United States. Slobodyanyuk Decl. Att. 70 (webpage printout).

399. The ES JUUL COMPATIBLE PODS (Pink Lemonade) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 150.

400. The ES JUUL COMPATIBLE PODS (Tobacco) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 151.

21. Puff E-Cig

401. On information and belief, Respondent Puff E-Cig sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing PIN PODS products. Slobodyanyuk Decl. at ¶¶ 152-154.

402. The PIN PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 154.

22. Smoker's Express

403. On information and belief, Respondent Smoker's Express sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS and MNGO PODS products. Slobodyanyuk Decl. at ¶¶ 155-160.

404. The ES JUUL COMPATIBLE PODS product packaging indicates the product is "Manufactured in P.R.C.," demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶¶ 157-158.

405. The MNGO PODS product packaging indicates that the product is "Manufactured in P.R.C.," demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also states that "sale only allowed in the United States." Slobodyanyuk Decl. at ¶¶ 159-160.

23. Tobacco Alley of Midland

406. On information and belief, Respondent Tobacco Alley of Midland sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS (Tobacco, Menthol, Pink Lemonade, and Caffe Latte flavors) products. Slobodyanyuk Decl. at ¶¶ 161-166.

407. The ES JUUL COMPATIBLE PODS product packaging indicates the product is "Manufactured in P.R.C.," demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶¶ 163-166.

24. Valgous

408. On information and belief, Respondent Valgous sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing CAESAR PODS and ES JUUL COMPATIBLE PODS products. Slobodyanyuk Decl. at ¶¶ 167-172.

409. The CAESAR PODS product is offered, for example, on Valgous' website at <https://www.valgous.com/categories/brands/caesar-pods-compatible-with-juul.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 77 (webpage printout).

410. The CAESAR PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 169.

411. The ES JUUL COMPATIBLE PODS product is offered, for example, on Valgous' website at <https://www.valgous.com/eonsmoke-pods-compatible-with-juul-1-pack-of-4/>, including to customers in the United States. Slobodyanyuk Decl. Att. 79 (webpage printout).

412. The ES JUUL COMPATIBLE PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 172.

25. Vape Central Group

413. On information and belief, Respondent Vape Central Group sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 4X

PODS, ES JUUL COMPATIBLE PODS (Pink Lemonade), ES JUUL COMPATIBLE PODS (Tobacco), POP PODS and ZALT products. Slobodyanyuk Decl. at ¶¶ 173-183.

414. The 4X PODS product is offered, for example, by Vape Central Group on its website at <https://www.vapecentralgroup.com/collections/pre-filled-pods/products/blue-raspberry-special-edition-flavor-juul-compatible-6-8-salt-nic-pods-by-4x>, including to customers in the United States. Slobodyanyuk Decl. Att. 81 (webpage printout).

415. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 175.

416. The ES JUUL COMPATIBLE PODS (Pink Lemonade) product is offered, for example, by Vape Central Group on its website at <https://www.vapecentralgroup.com/collections/pre-filled-pods/products/eonsmoke-pink-lemonade-juul-compatible-6-0-salt-nic-pods>, including to customers in the United States. Slobodyanyuk Decl. Att. 83 (webpage printout).

417. The ES JUUL COMPATIBLE PODS (Pink Lemonade) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 177.

418. The ES JUUL COMPATIBLE PODS (Tobacco) product is offered, for example, by Vape Central Group on its website at <https://www.vapecentralgroup.com/products/eonsmoke-citrus-juul-compatible-6-0-salt-nic->

[pods](#), including to customers in the United States. Slobodyanyuk Decl. Att. 85 (webpage printout).

419. The ES JUUL COMPATIBLE PODS (Tobacco) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 179.

420. The POP PODS product is offered, for example, by Vape Central Group on its website at <https://www.vapecentralgroup.com/products/pop-pods-compatible-with-juul-5-strength>, including to customers in the United States. Slobodyanyuk Decl. Att. 87 (webpage printout).

421. The POP PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 181.

422. The ZALT product is offered, for example, by Vape Central Group on its website at <https://www.vapecentralgroup.com/products/zalt-compatible-pods-tobacco>, including to customers in the United States. Slobodyanyuk Decl. Att. 89 (webpage printout).

423. The ZALT product packaging indicates that it is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 183.

26. Vape ‘n Glass

424. On information and belief, Respondent Vape ‘n Glass sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing ES JUUL COMPATIBLE PODS products. Slobodyanyuk Decl. at ¶¶ 184-186.

425. The ES JUUL COMPATIBLE PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 186.

27. Vaperistas

426. On information and belief, Respondent Vaperistas sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 4X PODS and ES JUUL COMPATIBLE PODS products. Slobodyanyuk Decl. at ¶¶ 187-191.

427. The 4X PODS product is offered, for example, on Vaperistas’ website at <https://www.vaperistas.com/collections/4x>, including to customers in the United States. Slobodyanyuk Decl. Att. 91 (webpage printout).

428. The 4X PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 189.

429. The ES JUUL COMPATIBLE PODS product is offered, for example, on Vaperistas’ website at <https://www.vaperistas.com/collections/eonsmoke>, including to customers in the United States. Slobodyanyuk Decl. Att. 93 (webpage printout).

430. The ES JUUL COMPATIBLE PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 191.

28. Vapers&Papers, LLC

431. On information and belief, Respondent Vapers&Papers, LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing 4X PODS, ES JUUL COMPATIBLE PODS (Grape), ES JUUL COMPATIBLE PODS (Tobacco), ES PERFORMANCE SERIES (MELATONIN AND CHAMOMILE), and FRUYT PODS products. Slobodyanyuk Decl. at ¶¶ 192-199.

432. The 4X POD product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 195.

433. The ES JUUL COMPATIBLE PODS (Grape) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 196.

434. The ES JUUL COMPATIBLE PODS (Tobacco) product is offered, for example, by Vapers&Papers, LLC on its website at <https://vapersandpapers.com/products/eonsmoke-juul-compatible-pod-tanks-4-or-6-salt-nicotine-virginia-tobacco-flavor-4-pack>, including to customers in the United States. Slobodyanyuk Decl. Att. 96 (webpage printout).

435. The ES JUUL COMPATIBLE PODS (Tobacco) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is only available for sale in the United States. Slobodyanyuk Decl. at ¶ 197.

436. The ES PERFORMANCE SERIES (MELATONIN AND CHAMOMILE) is offered, for example, by Vapers&Papers, LLC on its website at <https://vapersandpapers.com/products/eonsmoke-performance-series-juul-compatible-pod-tanks-melatonin-chamomile-4-pack>, including to customers in the United States. Slobodyanyuk Decl. Att. 97 (webpage printout).

437. The ES PERFORMANCE SERIES (MELATONIN AND CHAMOMILE) product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 198.

438. The FRUYT POD is offered, for example, by Vapers&Papers, LLC on its website at https://vapersandpapers.com/collections/all-products?sort_by=title-ascending&view=grid), including to customers in the United States. Slobodyanyuk Decl. Att. 98 (webpage printout).

439. The FRUYT POD product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that sale of this product is “only allowed in the United States.” Slobodyanyuk Decl. at ¶ 199.

29. WeVapeUSA

440. On information and belief, Respondent WeVapeUSA sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing POP PODS and AIMÉ PODS products. Slobodyanyuk Decl. at ¶¶ 200-204.

441. The POP PODS product is offered, for example, on WeVapeUSA's website at https://wevapeusa.com/product/pop_pods_for_juul/, including to customers in the United States. Slobodyanyuk Decl. Att. 103 (webpage printout).

442. The POP PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 203.

443. The AIMÉ PODS product is offered, for example, on WeVapeUSA's website at https://wevapeusa.com/product/aime_pods_for_juul/, including to customers in the United States. Slobodyanyuk Decl. Att. 104 (webpage printout).

444. The AIMÉ PODS product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The packaging also indicates that this product is available to consumers in the United States (for example, in at least California). Slobodyanyuk Decl. at ¶ 204.

D. CBD Respondents

1. Naturally Peaked Health Co.

445. On information and belief, Respondent Naturally Peaked Health Co. sells for importation, imports, and/or sells after importation the Accused Products, including at least the

infringing Naturally Peaked Health Co. PREMIUM CBD POD products. Slobodyanyuk Decl. at ¶¶ 205-207.

446. The Naturally Peaked Health Co. PREMIUM CBD POD product is offered, for example, on Naturally Peaked Health Co.'s website at <https://naturallypeaked.com/collections/cbd-vape-pods/products/250mg-full-spectrum-organic-cbd-vape-pods-individually-packaged-naturally-peaked-cbd>, including to customers in the United States. Slobodyanyuk Decl. Att. 106 (receipt of purchase from webpage). The packaging indicates that this product is "FDA Registered" and thus available to consumers in the United States. Slobodyanyuk Decl. at ¶ 207.

447. The Naturally Peaked Health Co. PREMIUM CBD POD product packaging also indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. *Id.*

2. The Kind Group LLC

448. On information and belief, Respondent The Kind Group LLC sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing CALM VAPE Pods products. Slobodyanyuk Decl. at ¶¶ 208-211.

449. Importation records show The Kind Group LLC as the consignee of a large shipment of goods on at least January 29, 2018. The full product description in the importation records is extremely vague and simply states: "PLASTIC HOLDER 1ML GLASS CONTAINER WITH LOCK." On information and belief, these imported shipments included at least the infringing CALM VAPE Pods. Slobodyanyuk Decl. at ¶ 211; Slobodyanyuk Decl. Att. 108 (importation records downloaded from Import Genius).

E. Empty Pod Respondents

1. eCig-City

450. On information and belief, Respondent eCig-City sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing KIND PODS products. Slobodyanyuk Decl. at ¶¶ 212-214.

451. The KIND PODS product is offered, for example, on eCig-City website at <https://ecig-city.com/products/kind-pods-juul-compatible-herbal-concentrates-refillable-replacement-pods-2-pack>, including to customers in the United States. Slobodyanyuk Decl. Att. 109 (webpage printout).

452. The KIND PODS product packaging indicates that it is made in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 214.

2. Shenzhen Apoc Technology Co., Limited

453. On information and belief, Respondent Shenzhen Apoc Technology Co., Limited sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing Again TEEL PODS products. Slobodyanyuk Decl. at ¶¶ 215-218.

454. The product packaging for the Again TEEL PODS products indicate that these products are manufactured by Shenzhen Apoc Technology Co., Limited in China, demonstrating that they are sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 217.

455. The Again TEEL PODS product is offered, for example, on Vapeciga Technology Co. Ltd.'s website at <https://www.vapeciga.com/products/again-teel-vape-pod-system-220mah-0-7ml>, including to customers in the United States. Slobodyanyuk Decl. Att. 112 (webpage printout).

3. Shenzhen Bauway Technology Ltd.

456. On information and belief, Respondent Shenzhen Bauway Technology Ltd. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing CigGo J products. Slobodyanyuk Decl. at ¶¶ 219-222.

457. The CigGo J product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶ 221.

458. The CigGo J product is offered, for example, on ciggo.com at <https://www.ciggo.com/oem-logo-available-07ml-or-1ml-ceramic-coil-pod-cbd-oil-cartridge-pod-p2566907.html>, including to customers in the United States. Slobodyanyuk Decl. Att. 113 (receipt of purchase from webpage); *see also* Slobodyanyuk Decl. Att. 114 (webpage printout).

4. Shenzhen Ocity Times Technology Co., Ltd.

459. On information and belief, Respondent Shenzhen Ocity Times Technology Co., Ltd. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing OCITY TIMES EMPTY PODS product. Slobodyanyuk Decl. at ¶¶ 223-226.

460. On information and belief, the OCITY TIMES EMPTY PODS product is manufactured in China and sold for importation, imported, and/or sold after importation into the United States. Slobodyanyuk Decl. at ¶¶ 225-226; Slobodyanyuk Decl. Att. 117 (webpage printout indicating that Shenzhen Ocity Times Technology Co., Ltd.'s factories are located in China).

5. Shenzhen Yark Technology Co., Ltd.

461. On information and belief, Respondent Shenzhen Yark Technology Co., Ltd. sells for importation, imports, and/or sells after importation the Accused Products, including at least the infringing JUCE products. Slobodyanyuk Decl. at ¶¶ 227-230.

462. The JUCE product packaging indicates that it is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States. The product packaging also advertises its compatibility with the JUUL System. Slobodyanyuk Decl. at ¶ 229.

463. The JUCE product is offered, for example, online at <https://www.dhgate.com/product/vape-ceramic-coil-pod-cartridge-empty-juce/448209166.html> and https://www.alibaba.com/product-detail/OEM-Custom-sliding-box-Packaging-pod_62148763509.html?spm=a2700.12243863.0.0.7e1e3e5fgbNTi5, including to customers in the United States. Slobodyanyuk Decl. Att. 118 (webpage printout).

VIII. HARMONIZED TARIFF SCHEDULE NUMBERS

464. The Accused Products are classified under at least the following subheading of the Harmonized Tariff Schedule of the United States: 8543.70.9930; 8543.70.9940; 8543.90.88; 8543.90.8850; 8543.90.8860. These classifications are exemplary in nature and not intended to restrict the scope of any exclusion order or other remedy ordered by the Commission.

IX. THE DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENTS

465. A domestic industry under Sections 337(a)(3)(A) and 337(a)(3)(B) exists in the United States through JLI's employment of plant, equipment, labor, and capital toward the research, development, design, engineering, software engineering, product, supply chain, quality assurance, consumer and customer support, manufacture, and regulatory compliance activities related to the JUULpods. A domestic industry under Section 337(a)(3)(C) also exists

in the United States through JLI's investments in research, development, and engineering directed to the JUULpods.

A. Technical Prong

466. Representative claim charts, attached as Exhibits 13-16, show that the JUULpods (also known as the "Domestic Industry Products") are protected by the sole claim of each of the Asserted Patents.

467. A sample of the JUULpods is available on request.

B. Economic Prong

468. There is a domestic industry as defined under 19 U.S.C. § 1337(a)(3)(A), (B), and/or (C), comprising continuing significant investments made in the United States by JLI in plant and equipment and the employment of labor and capital, and continuing substantial investment in research, development, and engineering in the United States to create the Domestic Industry Products, bring them to market, and sustain their success. These investments are in the hundreds of millions of dollars. Additional details regarding these investments are set forth in the Confidential Declaration of Sean Hazlett (Confidential Exhibit 12). *See also Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1141, Order No. 38 (Aug. 14, 2019) (initial determination granting complainant JLI's motion for summary determination regarding, among other things, economic domestic industry); *Certain Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1139, Order No. 35 (Aug. 27, 2019) (initial determination granting complainant JLI's motion for summary determination regarding, among other things, economic domestic industry).

469. A significant and substantial portion of JLI's technical activities takes place in the United States. JLI's domestic investments and activities are significant and substantial

under Section 337. Moreover, they are significant and substantial both in absolute terms and relative to JLI's overall operations, are vital to JLI's business with respect to the Domestic Industry Products, and represent significant added value.

X. REQUEST FOR GENERAL EXCLUSION ORDER

470. To put an end to the continuing rampant, infringement of JLI's Asserted Patents by wave after wave of copycat products—many of which are sold by entities that conceal their identities by employing unfair source-hiding tactics, including using fictitious business names and addresses—JLI respectfully requests a general exclusion order as part of its relief.

471. A general exclusion order is warranted (a) when broad exclusion is necessary to prevent circumvention of an exclusion order limited to products and named entities, or (b) where there is a pattern of violation of Section 337 and it is difficult to identify the source of the infringing products. Both fact patterns exist in spades here.

472. Here, a general exclusion order is necessary not only because it is required to prevent circumvention of any exclusion order limited to products of named entities, but also because there is a pattern of violation of Section 337 and it is difficult—if not impossible—to reliably identify and stop the true source of infringing products.

473. As set forth above, there are numerous sources (including but not limited to the Respondents) for infringing cartridges entering the United States. Indeed, JLI has already filed eight trademark infringement lawsuits in the Eastern District of Virginia against counterfeiters selling via online platforms,¹⁵ two investigations in the ITC¹⁶ (together with corresponding 28

¹⁵ See *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01063-LO-IDD (E.D. Va. Aug. 24, 2018); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01207-LO-IDD (E.D. Va. Sept. 24, 2018); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01287-LO-IDD (E.D. Va. Oct. 12, 2018); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01382-CMH-TCB (E.D. Va. Nov. 5,

district court actions) enforcing utility patents against entities importing and selling primarily Juul-compatible products, and multiple other trademark enforcement litigation actions in various federal courts in the United States, in an attempt to enforce its intellectual property rights against the ever growing list of infringing bad actors. Some of these infringing entities violate JLI's intellectual property rights by creating products that look identical to JUULpods, even falsifying JLI's branding and trademarks, to create counterfeit products. Still other infringers copy the design of JLI's products and sell these copycat products advertising them as "Juul-compatible" even though JLI had neither authorized them to do so nor collaborated with them in any way. Sellers of these infringing products go to great lengths to hide their identity to avoid JLI's diligent enforcement efforts.

474. For example, in the Eastern District of Virginia cases, JLI is combating infringers, seeking to both freeride on JLI's success and misappropriate JLI's marketplace identity. They create hundreds of online stores and auctions and misleadingly design their products to appear as if they are selling genuine JUULpods. Instead, they sell counterfeit pods - manufactured with unknown and untested ingredients using processes that are also not known that may or may not include some sort of quality controls - to unknowing consumers, typically without effective age verification. These entities use online marketplaces like eBay and

2018); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01516-LO-IDD (E.D. Va. Dec. 6, 2018); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:19-cv-00575-LO-IDD (E.D. Va. May 9, 2019); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:19-cv-00715-LO-IDD (E.D. Va. June 4, 2019); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:19-cv-01126-LO-IDD (E.D. Va. Aug. 29, 2019).

¹⁶ See *Certain Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1139 (instituted on Dec. 13, 2018); *Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1141 (instituted on Dec. 27, 2018).

AliExpress and operate anonymously. They regularly create new websites and online marketplace accounts on multiple platforms using a variety of disposable names and fake addresses, as well as other unknown fictitious names and addresses.

475. Despite JLI's diligent efforts to stop infringing products from flooding the market, new infringing entities appear on the market almost every day. For example, For example, as part of JLI's ongoing enforcement efforts, it has sent cease-and-desist letters to thousands of entities asking them to stop infringing JLI's intellectual property and/or selling products that infringe JLI's intellectual property. Many of these infringers have evaded JLI's enforcement efforts by hiding behind disposable, fake company names that appear and disappear, often on a daily basis. *See Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01063-LO-IDD (E.D. Va. Aug. 24, 2018); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01207-LO-IDD (E.D. Va. Sept. 24, 2018), Docket No. 7; *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01287-LO-IDD (E.D. Va. Oct. 12, 2018), Docket No. 8; *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01382-CMH-TCB (E.D. Va. Nov. 5, 2018), Docket No. 8; *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:18-cv-01516-LO-IDD (E.D. Va. Dec. 6, 2018), Docket No. 7, Docket No. 7; *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:19-cv-00575-LO-IDD (E.D. Va. May 9, 2019); *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:19-cv-00715-LO-IDD (E.D. Va. June 4, 2019), Docket No. 7; *Juul Labs, Inc. v. The Unincorporated Associations Identified in Schedule A*, Case No. 1:19-cv-01126-LO-IDD (E.D. Va. Aug. 29, 2019), Docket No. 7.

476. JLI's branded products became leading products in the ENDS industry shortly after it launched in the United States. The constant tide of infringers riding on JLI's success by selling infringing products has unlawfully damaged and continues to unlawfully damage both JLI's market share and brand name.

477. The market for these cartridges is particularly susceptible to widespread and repeated violations of Section 337 as described above because (a) after the products are conceived, designed, and developed, they can be manufactured in bulk, (b) the commercial success of the JUUL System invites infringement by mimics seeking to "get rich quick," (c) many sales are made via the Internet and other backdoor channels, making it difficult to identify and locate the manufacturers and source distributors who provide the infringing products, and (d) even after an unlawful operation is shut down, new entrants—or at least existing entities operating under new or different names—quickly replace those that have ceased their operations.

478. Moreover, because of their compact size, infringing cartridges can be shipped by the thousands in small packages. In fact, their small size allows them to be shipped through a variety of channels in which they are harder to detect at the border, *e.g.*, among the millions and millions of small parcels that enter into the U.S.

479. On information and belief, these infringers have invested essentially nothing into developing the infringing products and have simply copied the design of the JUUL System (including the JUULpod) to unfairly and unlawfully freeride on JLI's success. As noted above, some of these infringers sell counterfeits that even misappropriate JLI's marketplace identity, misleadingly designing pods to appear as if they are selling genuine JUULpods, while they instead sell counterfeit pods often containing unknown, untested and potentially harmful

materials and ingredients that may present additional health and safety risks beyond those of authentic products. *See, e.g.*, <https://www.cbp.gov/newsroom/local-media-release/philadelphia-cbp-seizes-cache-counterfeit-juul-products> (“One of the chief reasons why Customs and Border Protection takes intellectual property rights enforcement so serious [sic] is because of the potential health and safety threats counterfeit goods like these electronic nicotine products pose to American consumers.”).

480. It is extremely difficult to identify the actual sources of the unauthorized infringing products. As discussed above, infringing entities have shown the ability to utilize a number of different companies, business names, and addresses for purposes of concealing their sales and importation of infringing products. In addition, the same techniques are used by companies making and selling other categories of Accused Products. In fact, selling infringing products has become a big business, for example, in China’s “vaping district” in Boa’an, Shenzhen, where operations can quickly move from one location to another.

481. In particular, manufacturers and distributors of infringing cartridges appear to employ complex business arrangements, conduct business under multiple names, and/or form intricate arrays of confusingly similar affiliates, all of which will make it difficult—if not impossible—to determine the source of the infringing products. Given the difficulty in identifying the source of the infringing products and the ease with which they are manufactured and distributed, such manufacturers and distributors may easily evade an exclusion order limited to named Respondents. For example, even as to the named Respondents, public importation records contain little to no importation information associated with their business names as set forth in this Complaint, suggesting that their importation practices are

unconventional, difficult to track, and can be easily manipulated to circumvent a limited exclusion order.

482. These problems are compounded by the fact that many of the infringing cartridges are sold online, often without effective age-verification processes. By conducting transactions through the Internet and other backdoor channels—or having such transactions conducted on their behalf by a continuously shifting stream of unknown individuals or entities—suppliers of infringing products are able to hide both their identities and the true location from which their products are made or sourced. Further, the ability of foreign distributors to sell directly to United States customers via the Internet and other backdoor channels makes it possible for a myriad of fly-by-night entities to import infringing products into the United States. Often, the infringing products are imported with false designations. Moreover, infringing products are available from these foreign distributors one day and then unavailable the next as they shift about, changing their identity to avoid detection and selling through other channels or business names.

483. JLI arduously has worked to identify infringing products and to halt the unlawful manufacturing and distribution operations through a variety of IP enforcement efforts. For example, after identifying two Chinese manufacturers of counterfeit JUULpods, JLI worked with the Chinese government to shut down those manufacturing outfits. JLI has also worked diligently to stop the unlawful activities of both retail shops and online channels, many of whom claim to be unable to resist the potential profit in selling infringing products, particularly given the ease with which they are imported and procured in the United States. Despite a costly and lengthy enforcement campaigns to stop these infringing retailers, many remain actively selling illegal and/or infringing products. And thus despite JLI's continued efforts to enforce its

intellectual property, the number of infringing products being sold in stores and via online listings in the U.S. is expansive. Indeed, even after an unlawful operation is shut down (such as those shut down by the Chinese government in concert with JLI), new entrants—or existing entities operating under new or different names—quickly replace those that have ceased their operations. Thus, even for those entities that have ceased their unlawful activities, it is not clear whether the entity is simply now operating under a different name and continuing to manufacture, sell for importation, import, and/or sell after importation infringing products in the United States. *See also Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1141 (instituted on Dec. 27, 2018).

484. While JLI has identified (including Respondents in this Complaint) multiple manufacturers and distributors of numerous counterfeit and infringing products as part of its ongoing investigations and enforcement efforts, many infringers likely remain at large. Discovery and further investigation will likely show additional, unrelated manufacturers overseas—particularly in China—and unrelated distributors that also import infringing cartridges. But even so, numerous other infringers and unlawful actors remain difficult, if not impossible, to identify and/or locate. And JLI expects more will pop up as time goes on.

485. To enable itself to better combat this continually growing problem, JLI respectfully requests that the Commission issue a general exclusion order against all infringing cartridges and components thereof, regardless of source.

XI. OTHER INFRINGING ENTITIES AND PRODUCTS

486. On information and belief, numerous other entities and imported products infringe the Asserted Patents. These infringing entities are offering for sale and selling infringing cartridges primarily via the Internet. In some cases, precise information regarding the infringing entity could not be determined. In other cases, precise information regarding the

importation of the infringing product could not be determined. Based on the business models of these (and many other) online vendors, it is believed that the products offered for sale have already been imported into the United States, or will be imported into the United States and/or sold after importation into the United States, upon order, by infringing entities. These infringing entities and products are listed in this Complaint simply to show the range and depth of the Section 337 violation and the need for a general exclusion order. On information and belief, specific proof of entity status and importation may be developed through the Investigation. The following are a small exemplary set of these additional infringing entities and products for which precise entity or importation information was obscured and thus could not be determined. Upon information and belief, there are dozens or hundreds more.

A. Vapeciga Technology Co. Ltd.

487. On information and belief, Vapeciga Technology Co. Ltd. is a foreign company having an address on Bantian Road, Shenzhen, Guangdong, China 518000. JLI is unable to determine the precise address for Vapeciga Technology Co. Ltd. based on publicly available information.

488. On information and belief, Vapeciga Technology Co. Ltd. uses at least the following websites to transact business: <https://www.vapeciga.com/>.

489. On information and belief, Vapeciga Technology Co. Ltd. uses at least the following email addresses to transact business: cs@vapeciga.com; market@vapeciga.com.

490. Vapeciga Technology Co. Ltd. sells at least the following Accused Products in the United States: Again TEEL PODS.

491. The Again TEEL PODS product is offered, for example, on Vapeciga Technology Co. Ltd.'s website at <https://www.vapeciga.com/products/again-teel-vape-pod->

[system-220mah-0-7ml](#), including to customers in the United States. Slobodyanyuk Decl. Att. 112 (webpage printout).

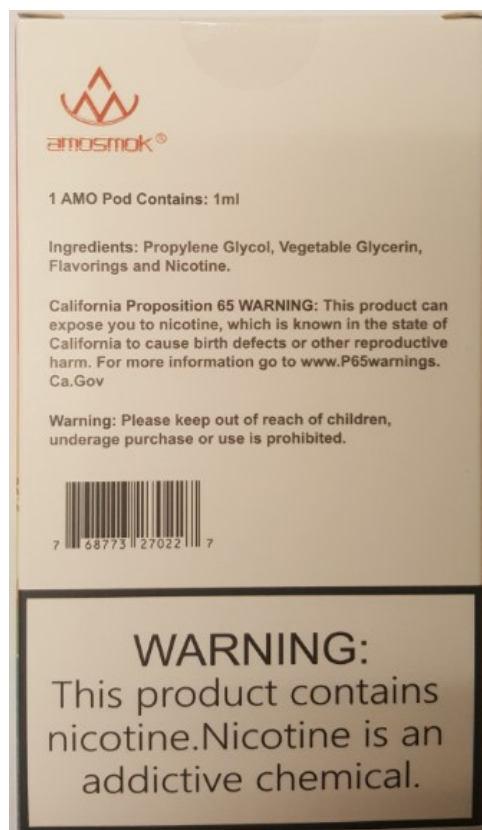
492. As discussed above with respect to Respondent Shenzhen Apoc Technology Co., Limited (*supra*, Section VII.A.5), the Again TEEL PODS product packaging indicates that the product is manufactured in China, demonstrating that it is sold for importation into the United States, imported into the United States, and/or sold after importation into the United States.

B. ziipstock.com

493. On information and belief, ziipstock.com offers infringing products on its website at <https://ziipstock.com/>. For example, ziipstock.com's website at <https://ziipstock.com/collections/all-juul-compatible-pods> offers for sale the infringing ES JUUL COMPATIBLE PODS. Ex. 231 (*All Juul Compatible Pods*, Ziip Stock (Feb. 27, 2020), <https://ziipstock.com/collections/all-juul-compatible-pods>). However, JLI is unable to determine the precise entity information underlying the website based on publicly available information.

C. AMO PODS by AMOSMOK

494. The following infringing product is marketed as “AMO PODS” by AMOSMOK. The product packaging and publicly available information does not indicate where the product was made. However, on information and belief, this infringing product is made overseas and imported into the United States.



495. The AMO PODS product is offered online, for example, on <http://www.amosmok.com/product/showproduct.php> and <http://www.amopods.com/#portfolio>.
 Ex. 232 (Amo Smok, <http://www.amosmok.com/product/showproduct.php> and Amo Pods, <http://www.amopods.com/#portfolio>).

D. SIXT Disposable Pods

496. The following infringing product is marketed as “SIXT Disposable Pods.” The product packaging and publicly available information does not indicate where the product was

made. However, on information and belief, this product is made overseas and imported into the United States.



497. The SIXT Disposable Pods product is offered, for example, on Respondent Ejuicedb's website at <https://www.ejuicedb.com/collections/sixt-disposable-pods>, including to customers in the United States. Ex. 233 (ES Premium with caffeine and taurine).

XII. RELATED LITIGATION

498. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Central District of California alleging infringement of the Asserted Patents against 101 Smoke Shop Inc.

499. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Central District of California alleging infringement of the Asserted Patents against Cigar Road Inc.

500. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Central District of California alleging infringement of the Asserted Patents against e-Cig City.

501. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Central District of California alleging infringement of the Asserted Patents against e-Liquid Stop.

502. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the District of Massachusetts alleging infringement of the Asserted Patents against Nilkant 167 Inc.

503. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the District of New Jersey alleging infringement of the Asserted Patents against Eon Pods LLC.

504. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the District of New Jersey alleging infringement of the Asserted Patents against The Kind Group LLC.

505. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Eastern District of California alleging infringement of the Asserted Patents against Shenzhen Azure Tech USA LLC f/k/a/ DS Vaping P.R.C.

506. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Eastern District of Kentucky alleging infringement of the Asserted Patents against Wireless N Vapor Citi LLC.

507. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Eastern District of Michigan alleging infringement of the Asserted Patents against PUFF E-Cig.

508. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Eastern District of Michigan alleging infringement of the Asserted Patents against Smoker's Express.

509. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Eastern District of New York alleging infringement of the Asserted Patents against Price Point NY.

510. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Eastern District of New York alleging infringement of the Asserted Patents against WeVapeUSA.

511. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Eastern District of New York alleging infringement of the Asserted Patents against EjuiceDB.

512. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Eastern District of Virginia alleging infringement of the Asserted Patents against CaryTown Tobacco.

513. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Middle District of Florida alleging infringement of the Asserted Patents against Access Vapor LLC.

514. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Middle District of Florida alleging infringement of the Asserted Patents against Ana Equity LLC.

515. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of California alleging infringement of the Asserted Patents against Guangdong Cellular Workshop Electronic Technology Co, Ltd.

516. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of California alleging infringement of the Asserted Patents against Keep Vapor Electronic Tech. Co., Ltd.

517. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of California alleging infringement of the Asserted Patents against Shenzhen Apoc Technology Co., Ltd.

518. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of California alleging infringement of the Asserted Patents against Shenzhen Bauway Technology Ltd.

519. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of California alleging infringement of the Asserted Patents against Shenzhen Ocify Times Technology Co., Ltd.

520. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of California alleging infringement of the Asserted Patents against Shenzhen Yark Technology Co., Ltd.

521. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of California alleging infringement of the Asserted Patents against Evergreen Smokeshop.

522. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Florida alleging infringement of the Asserted Patents against Modern Age Tobacco.

523. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Georgia alleging infringement of the Asserted Patents against Jem Pods, U.S.A.

524. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against Alternative Pods.

525. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against JC Pods.

526. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against JUULSite Inc.

527. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against Limitless Accessories, Inc.

528. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against Mr. Fog.

529. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against Sky Distribution LLC.

530. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against Valgous.

531. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against Vape 'n Glass.

532. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against Vaperistas.

533. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Illinois alleging infringement of the Asserted Patents against Midwest Goods Inc.

534. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of New York alleging infringement of the Asserted Patents against Vapers & Papers, LLC.

535. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Ohio alleging infringement of the Asserted Patents against All Puff Store.

536. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Texas alleging infringement of the Asserted Patents against 2nd Wife Vape.

537. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Texas alleging infringement of the Asserted Patents against Aqua Haze LLC.

538. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Northern District of Texas alleging infringement of the Asserted Patents against EZFumes.

539. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Southern District of Florida alleging infringement of the Asserted Patents against DripTip Vapes LLC.

540. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Southern District of Florida alleging infringement of the Asserted Patents against Vape Central Group.

541. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Southern District of New York alleging infringement of the Asserted Patents against Canal Smoke Express Inc.

542. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Southern District of New York alleging infringement of the Asserted Patents against Cloud 99 Vapes.

543. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Southern District of New York alleging infringement of the Asserted Patents against Naturally Peaked Health Co.

544. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Southern District of Texas alleging infringement of the Asserted Patents against Cali Pods.

545. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Western District of Oklahoma alleging infringement of the Asserted Patents against Perfect Vape LLC.

546. On July 10, 2020, JLI filed a complaint in the U.S. District Court for the Western District of Texas alleging infringement of the Asserted Patents against Tobacco Alley of Midland.

547. On March 12, 2019, JLI filed a complaint in the U.S. District Court for the District of New Jersey against Eonsmoke, LLC, as well as against ZLab S.A., Ziip Lab Co., Ltd. (now known as SS Holdings), and Shenzhen Yibo Technology Co., Ltd. alleging infringement of United States Patent Nos. D825,102, D842,536, and D744,419, as well as unfair competition, tortious interference with prospective economic advantage, unjust enrichment, fraudulent misrepresentation, and negligent misrepresentation.

548. Aside from the above-mentioned matters, JLI has not previously litigated the Asserted Patents before any other court or agency.

549. On October 3, 2018, JLI filed a complaint in the International Trade Commission alleging infringement of United States Patent Nos. 10,045,568, 10,058,130, 10,070,669, 10,076,139, and 10,104,915. *Certain Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1139 (instituted on Dec. 13, 2018).

550. On November 20, 2018, JLI filed a complaint in the International Trade Commission alleging infringement of United States Patent Nos. 10,058,129, 10,104,915, 10,111,470, 10,117,465, and 10,117,466. *Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1141 (instituted on Dec. 27, 2018).

551. On December 7, 2018, JLI filed a complaint in the U.S. District Court for the District of New Jersey alleging federal and state trademark, trade dress, and copyright infringement, as well as unfair competition, tortious interference with prospective economic advantage, unjust enrichment, fraudulent misrepresentation, and negligent misrepresentation against the makers of 4X Pods, an Accused Product.

XIII. RELIEF REQUESTED

552. JLI respectfully requests that the Commission:

(a) Institute an investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, with respect to Respondents' violations of that section arising from the importation into the United States, sale for importation, and/or the sale within the United States after importation of vaporizer cartridges and components thereof, that infringe one or more claims of the Asserted Patents;

(b) Schedule and conduct a hearing pursuant to Section 337(c) for the purposes of (i) receiving evidence and hearing argument concerning whether there has been a violation of Section 337, and (ii) following the hearing, determining that there has been a violation of Section 337;

(c) Issue a permanent general exclusion order pursuant to 19 U.S.C. § 1337(d)(2), excluding from entry into the United States any vaporizer cartridges and components thereof, that infringe one or more claims of the Asserted Patents;

(d) If a permanent general exclusion order is not granted, issue a permanent limited exclusion order directed to products manufactured, imported, sold for importation and/or sold after importation by or on behalf of Respondents, their subsidiaries, related companies, and agents pursuant to 19 U.S.C. § 1337(d) excluding entry into the United States of vaporizer cartridges and components thereof, that infringe one or more claims of the Asserted Patents;

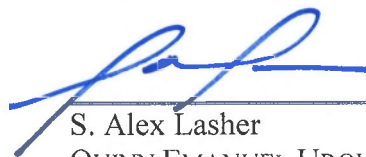
(e) Issue permanent cease and desist orders pursuant to 19 U.S.C. § 1337(f) prohibiting Respondents, their domestic subsidiaries, related companies, and agents from engaging in the importation, sale for importation, marketing and/or advertising, distribution, offering for sale, sale, use after importation, sale after importation, and other transfer within the United States of vaporizer cartridges and components thereof, that infringe one or more claims of the Asserted Patents;

(f) Impose a bond upon importation of vaporizer cartridges and components thereof, that infringe one or more claims of the Asserted Patents, during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j);

(g) Issue such other and further relief as the Commission deems just and proper under the law, based on the facts determined by the investigation and the authority of the Commission.

Dated: July 10, 2020

Respectfully submitted,



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

Tel.: (202) 538-8000
Fax: (202) 538-8100

Kevin P.B. Johnson
Victoria F. Maroulis
QUINN EMANUEL URQUHART & SULLIVAN, LLP
555 Twin Dolphin Dr., 5th Floor
Redwood Shores, CA 94065
Tel.: (650) 801-5000
Fax: (650) 801-5100

Andrew M. Holmes
QUINN EMANUEL URQUHART & SULLIVAN, LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
Tel.: (415) 875-6600
Fax: (415) 875-6700

Counsel for Complainant Juul Labs, Inc.

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

In the Matter of

**CERTAIN VAPORIZER CARTRIDGES
AND COMPONENTS THEREOF**

Investigation No. 337-TA- _____

VERIFICATION OF COMPLAINT

I, Sean Hazlett, am VP of Corporate Finance and Investor Relations at Juul Labs, Inc. and am authorized to execute this verification on behalf of Complainant. I have read the Complaint and am aware of its contents. To the best of my knowledge, information, and belief and based upon a reasonable inquiry under the circumstances, I hereby certify that:

1. The allegations contained in the Complaint are well grounded in fact and have evidentiary support, or are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;
2. The claims and other legal contentions set forth in the Complaint are warranted by existing laws or by a good faith, non-frivolous argument for extension, modification, or reversal of existing law, or by the establishment of new law; and
3. The Complaint is not being filed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

Dated: July 10, 2020

DocuSigned by:

Sean Hazlett

506F4807FDBA425...

Sean Hazlett

VP of Corporate Finance and Investor Relations
Juul Labs, Inc