

1 UNITED STATES INTERNATIONAL TRADE COMMISSION

2 WASHINGTON, D.C.

3 BEFORE THE HONORABLE DORIS JOHNSON HINES

4 ADMINISTRATIVE LAW JUDGE

5
6 INVESTIGATION NO. 337-TA-1372

7
8
9 IN THE MATTER OF:)

10 CERTAIN VAPORIZER DEVICES,)
11 CARTRIDGES USED THEREWITH, AND)
COMPONENTS THEREOF)

12 _____/

13 DEPOSITION OF DANIEL HILLENBRANDT
14 VIDEOTAPED
HIGHLY CONFIDENTIAL

15 DEPOSITION taken before me, Brenda J. Brink, a
16 Notary Public within and for the State of Ohio, on
17 February 13, 2024, pursuant to Subpoena and at the
18 time and place therein specified, to be used pursuant
19 to the Rules of Civil Procedure or by agreement of
20 counsel in the above cause of action, pending before
21 the United States International Trade Commission,
22 Washington, D.C.

APPEARANCES

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Also Present:
Matthew Rethage, Videographer

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STIPULATIONS

It is stipulated and agreed by and between counsel for the parties hereto that this deposition may be taken at this time, 9:11 a.m., February 13, 2024, in the offices of Intercontinental Cleveland, 9801 Carnegie Avenue, Cleveland, Ohio.

It is further stipulated and agreed by and between counsel that the deposition may be taken in shorthand by Brenda J. Brink, a Notary Public within and for the State of Ohio, and may be by her transcribed with the use of computer-assisted transcription; that the witness will read and sign the finished transcript of his deposition.

1 MR. RETHAGE: Good morning. My name
2 is Matthew Rethage representing Esquire. The
3 time as indicated on the video screen is 9:11
4 a.m. on February the 13th, 2024. Will the
5 parties that are present please state their
6 names and whom they represent for the record?

7 MR. RIZK: Good morning. This is
8 Adam Rizk on behalf of the respondent, JUUL
9 Labs, Inc., with the law firm Mintz Levin,
10 joined today by Meena Seralathan.

11 MR. PEPE: Chris Pepe from Weil
12 Gotshal. With me is Kathryn Leicht also from
13 Weil Gotshal, representing the complainant,
14 NJOY, LLC, Fuma, and the witness.

15 MR. BUI: Good morning. Vu Bui from
16 the Office of Unfair Import Investigations,
17 United States International Trade Commission.

18 MR. RETHAGE: Thank you. If there's
19 nothing further, will the court reporter please
20 swear in the witness?

21 WHEREUPON,
22 DANIEL HILLENBRANDT,
23 of lawful age, being by me first duly
24 sworn to testify the truth, the whole
25 truth, and nothing but the truth, as

1 hereinafter certified, deposes and
2 says as follows:

3 EXAMINATION:

4 BY MR. RIZK:

5 MR. RIZK: Can we go off the record
6 for 30 seconds?

7 MR. RETHAGE: Yes. We'll be going
8 on the record. Time on screen now is 9:12.
9 (Discussion off the record)

10 MR. RETHAGE: We're now back on
11 record. The time is now 9:13.

12 Q. Good morning, sir. Would you please state your
13 name and address for the record?

14 A. Good morning. My name is Dan Hillenbrandt. I
15 reside at 1920 George Drive, Brunswick, Ohio.

16 Q. And do you have an understanding of why you're
17 here today, Mr. Hillenbrandt?

18 A. Yes, I do.

19 Q. And why is that?

20 A. I'm here to perform a deposition in a case
21 between NJOY and JUUL.

22 Q. Okay. Going to introduce what's been marked
23 for identification purposes as Hillenbrandt
24 Exhibits 1 and 2. And these are the subpoenas
25 duces tecum and ad testificandum to Daniel

1 A. No.

2 Q. Okay. You don't hold a college degree;
3 correct?

4 A. No. I hold a journeyman's certificate, which
5 required four years of education to achieve
6 that certification.

7 Q. A journeyman's certification, that's a trade?

8 A. Yes, it is.

9 Q. Okay. And in 2009, you had at least two years
10 of experience with electromechanical
11 technologies; is that right?

12 MR. PEPE: Object to form.

13 A. Will you please restate that or --

14 Q. Sure. In 2009 time frame, so as of July 2009,
15 did you have at least two years of experience
16 in electromechanical technologies?

17 A. No, I did not.

18 Q. Okay. What -- what part of that do you fall
19 short of?

20 MR. PEPE: Object to form.

21 A. I have mechanical skill sets and very limited
22 electrical skill sets.

23 Q. Now, I'm going to introduce what's been marked
24 for identification purposes as Exhibits 4 and
25 5. And these are patents, namely US Patent No.

1 Q. Well, I'm more interested for now -- we'll get
2 into what you didn't collaborate on. But my
3 question was more focused on -- it doesn't have
4 to be an exhaustive list, Mr. Hillenbrandt, but
5 what do you understand to be your -- at a high
6 level, your contribution to the asserted
7 patents?

8 MR. PEPE: Object to form.

9 Q. Let me try to help you here.

10 A. Yes.

11 Q. The asserted patents relate to E-cigarette
12 devices generally; correct?

13 A. Yes.

14 Q. Fuma did not invent E-cigarette devices
15 generally; correct? That's not -- your
16 invention isn't generally E-cigarettes;
17 correct?

18 A. Correct. The invention is vaporization within
19 the central airflow passageway.

20 Q. So prior to the -- your invention of the
21 asserted patents, vaporization was not
22 performed in a central air passageway?

23 MR. PEPE: Objection to scope.
24 Calls for opinion testimony.

25 A. Yes, that would be correct.

1 MR. RETHAGE: We'll be going off the
2 record. The time is now 4:43.

3 (A recess was taken)

4 MR. RETHAGE: We're back on record.
5 The time now is 4:58.

6 Q. All right. Going to introduce what's been
7 marked for identification purposes as Exhibit
8 17. Let me know when you have it in front of
9 you. For the record --

10 A. Did you see this?

11 MR. PEPE: Yeah, I saw it.

12 Q. -- Exhibit 17 is another hand sketch, which I
13 sent to the staff as well. Do you have Exhibit
14 17 in front of you?

15 A. Yes, I do.

16 Q. Okay. And my colleague, who is a better drawer
17 than I di -- than I am, drew up Exhibit 17 to
18 help facilitate some of the questioning that I
19 was trying to get at earlier. So do you see
20 that Exhibit 17 is a 3-D view of a device that
21 has a heating wire in the shape of a coil that
22 is inside of the pass -- some structure in
23 between the first aperture and second aperture?

24 A. Yes, I see that.

25 Q. Okay. So -- and the heating wire extends

1 across the passageway defined between the first
2 aperture and the second aperture; correct?

3 MR. PEPE: Object to form, calls for
4 opinion testimony.

5 A. If you include the bottom and the top, it
6 crosses over.

7 Q. Okay. So the answer is that the heating
8 element as depicted in Exhibit 17 extends
9 across the passageway; correct?

10 MR. PEPE: Object to form, calls for
11 opinion testimony.

12 A. The way it's drawn here at two different height
13 levels.

14 Q. So the answer is yes as it's drawn?

15 MR. PEPE: Same objection.

16 A. It crosses over in two different planes.

17 Q. Okay. So is the answer -- I'm just trying to
18 get an answer. Does this heating element, as
19 you used the phrase extends transversely
20 across, does this heating element extend
21 transversely across the airflow passageway?

22 MR. PEPE: Object to the form, calls
23 for opinion testimony.

24 A. I would be guessing at that, so --

25 Q. What additional information do you need to

1 provide an answer to that question?

2 A. That that's actually considered transverse or
3 not.

4 Q. Because you don't -- you can't tell from
5 looking at this if --

6 A. It's two different planes. I mean, it does
7 transversely come into it, go up, and then come
8 out.

9 Q. Okay. So in that sense, that it transversely
10 comes into it, goes down, and then comes out,
11 it is transversely -- it does extend
12 transversely across the passageway; correct?

13 MR. PEPE: Objection to form, calls
14 for opinion testimony.

15 A. I can see it can be interpreted like that.

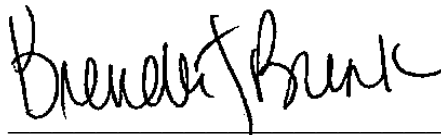
16 Q. Okay. And then do you see that there's a --
17 call it wicking material, but it's really just
18 a separate wick that passes through the coil
19 portion of the heating wire; do you see that?

20 A. Yes.

21 Q. Okay. So it's a separate textile wick that
22 obstructs the full diameter of the region
23 through which air flows? Air still flows
24 between the first aperture and the second
25 aperture, but that wick occupies the entire

REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the above and foregoing is a true and correct transcript of all the testimony introduced and proceedings had in the taking of the testimony in the above-entitled matter, as shown by my stenotype notes taken by me at the time said testimony was taken.



Brenda J. Brink
Registered Professional Reporter