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June 11, 2024

VIA EDIS

The Honorable Lisa R. Barton
Secretary to the Commission
U.S. International Trade Commission
500 E Street S.W.
Washington, DC 20436

Re: *Certain Disposable Vaporizer Devices and Components Thereof*

Dear Secretary Barton:

In accordance with the Commission's Temporary Change to Filing Procedures dated March 16, 2020, Complainants, RAI Strategic Holdings, Inc. ("RAI"), R.J. Reynolds Vapor Company ("RJRV"), R.J. Reynolds Tobacco Company ("RJRT"), and RAI Services Company ("RAISC") (collectively, "Reynolds") are e-filing the following documents in support of Complainants' request that the Commission commence an investigation pursuant to Section 337 of the Tariff Act of 1930, as Amended:

1. A verified non-confidential Complaint with non-confidential exhibits and public versions of the confidential exhibits, pursuant to Commission Rule 210.8(a)(l)(i);

2. Copies of the Confidential Exhibits 3C, 105C, 123C, and 224C-227C pursuant to Commission Rule 210.8(a)(1)(ii) and 201.6(c);

3. A non-confidential Statement of Public Interest, pursuant to Commission Rule 210.8(b);

4. Certified copy of the asserted United States Patent Nos. 11,925,202 ("the '202 patent") listed as Exhibit 1 in the Complaint, pursuant to Commission Rules 210.8(a)(l)(i) and 210.12(a)(9)(i);

5. Certified copy of the assignment for the '202 patent listed as Exhibit 2 in the Complaint, pursuant to Commission Rules 210.8(a)(l)(i) and 210.12(a)(9)(ii);

6. Certified copy of the prosecution history for the '202 patent listed as Appendix A in the Complaint, pursuant to Commission Rules 210.8(a)(l)(i) and 210.12(c)(l);

7. Reference documents identified in the prosecution history of the ’202 patent listed as Appendix B in the Complaint, pursuant to Commission Rules 210.8(a)(l)(i) and 210.12(c)(2);

8. Reynolds’s Motion for Temporary Exclusion Order, Memorandum in Support, and with non-confidential exhibits, pursuant to Commission Rule 210.52; and

9. A letter of certification, pursuant to Commission Rules 201.6(b) and 210.5(d), requesting confidential treatment of information appearing in Confidential Exhibits 3C, 105C, 123C, and 224C-227C to the verified non-confidential Complaint and certain proprietary commercial and financial information in Reynolds’s Motion for Temporary Exclusion Order evidencing its significant investments in the domestic industry and showing irreparable harm suffered from the infringing acts.

In addition, Reynolds has mailed the physical exhibits identified in the Complaint to the Commission, Attention Dockets.

Please contact me if you have any questions about this request. Thank you for your attention to this matter.

Respectfully submitted,

David M. Maiorana

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The Honorable Lisa R. Barton
Secretary to the Commission
U.S. International Trade Commission
500 E Street S.W.
Washington, DC 20436

Re: *Certain Disposable Vaporizer Devices and Components Thereof*

Dear Secretary Barton:

Jones Day represents Complainants, RAI Strategic Holdings, Inc. ("RAI"), R.J. Reynolds Vapor Company ("RJRV"), R.J. Reynolds Tobacco Company ("RJRT"), and RAI Services Company ("RAISC") (collectively, "Reynolds") in its action pursuant to Section 337 of the Tariff Act of 1930, as Amended.

Pursuant to Commission Rules 201.6(b) and 210.5(d), Reynolds respectfully requests confidential treatment of Confidential Exhibits 3C, 105C, 123C, and 224C-227C to the Complaint.

The information for which confidential treatment is sought is propriety and not otherwise publicly available. Specifically, Confidential Exhibits 3C, 105C, 123C, and 224C-227C contain proprietary commercial information regarding the tobacco heating articles at issue, Reynolds's patented technology and its infringement by the proposed Respondents, as well as Reynolds's investments and employment activities made in furtherance of its domestic industry under 19 U.S.C. § 1337(a)(3).

Reynolds also requests confidential treatment of certain information in its Memorandum in Support of Motion for Temporary Relief Under 19 U.S.C. § 1337(e), which has been redacted from the public version of the Memorandum.

The information for which confidential treatment is sought is propriety and not otherwise publicly available. Specifically, the confidential information contains proprietary commercial and financial information regarding the tobacco heating articles at issue, Reynolds's patented technology and its infringement by the proposed Respondents, as well as Reynolds's investments and employment activities made in furtherance of its domestic industry under 19 U.S.C. §

1337(a)(3) and other sensitive financial information regarding sales and market share disclosed in connection with Reynolds's showing of irreparable harm in support of its request for temporary relief.

The Commission has routinely held that this type of information qualifies as confidential business information pursuant to Rule 201.6(a) because:

1) It is not publicly available;

2) Unauthorized disclosure of such information could cause substantial harm to the competitive position of Reynolds; and

3) The disclosure of such information could impair the Commission's ability to obtain information necessary to perform its statutory function.

Please contact me if you have any questions about this request. Thank you for your attention to this matter.

Respectfully submitted,

David M. Maiorana

**UNITED STATES INTERNATIONAL TRADE COMMISSION**
**WASHINGTON, DC**

| **In the Matter of**<br><br>CERTAIN DISPOSABLE VAPORIZER DEVICES AND COMPONENTS THEREOF | Inv. No. 337-TA-____ |
|---|---|

## COMPLAINANTS' STATEMENT REGARDING THE PUBLIC INTEREST

Pursuant to Commission Rule 210.8(b), Complainants RAI Strategic Holdings, Inc., R.J. Reynolds Vapor Company, R.J. Reynolds Tobacco Company, and RAI Services Company (collectively, "Reynolds") respectfully submit this Statement Regarding the Public Interest concurrently with the above-captioned complaint. Reynolds seeks issuance of a permanent general exclusion order ("GEO") under 19 U.S.C. § 1337(d)(2) to bar from entry into the United States disposable vaping devices that infringe Reynolds's U.S. Patent No. 11,925,202 ("Accused Products") or, alternatively, limited exclusion orders ("LEO") directed to each of the Proposed Respondents. Reynolds also seeks the issuance of permanent cease-and-desist orders ("CDO") under 19 U.S.C. § 1337(f). A GEO is necessary (1) to prevent circumvention of any LEOs issued to named entities and also (2) because there is a widespread pattern of violation of Section 337 and it is difficult to identify the source of the Accused Products, as detailed in Reynolds's Complaint.

There is a strong public interest in protecting intellectual property rights. *Certain Magnetic Data Storage Tapes and Cartridges Containing the Same (III)*, Inv. No. 337-TA-1076, Comm'n Op. at 64 (June 20, 2019). Moreover, Reynolds's requested relief would not have any adverse effects on the statutory public interest factors: public health, safety, or welfare in the U.S.; competitive conditions in the U.S. economy; the production of like or directly competitive articles in the U.S.; or U.S. consumers. 19 U.S.C. § 1337(d)(1). In fact, the remedial orders

sought would *promote* the public interest by enforcing U.S. patent rights and protecting U.S. consumers, including nonadults, from the infringing Accused Products.

## I. How the Accused Products Are Used in the United States

The Accused Products are disposable vaping devices ("disposable vapes"), the vast majority of which are manufactured in China. Disposable vapes are generally battery-powered and filled with a solution, or "e-liquid," that is a chemical mixture of synthetic or natural nicotine and often combined with artificial dessert or candy flavors. Most disposable vapes are advertised to provide thousands of puffs and can then be thrown away after the e-liquid is used up. In general, puffing on a disposable vape activates a battery-powered heating element, which vaporizes the e-liquid that the user inhales. Disposable vapes are currently the most commonly used electronic nicotine delivery system ("ENDS") by youth.[1]

## II. The Requested Orders Would Not Raise Public Health, Safety, or Welfare Concerns

The public interest may be implicated when an exclusionary order "deprive[s] the public of products necessary for some important health or welfare need [such as] energy efficient automobiles, basic scientific research, or hospital equipment," *Spansion, Inc. v. Int'l Trade Comm'n*, 629 F.3d 1331, 1360 (Fed. Cir. 2010), but such circumstances are exceedingly rare. Indeed, the Commission has denied relief on public interest grounds only three times in its history, *id.,* and this is not one of those rare circumstances. To the contrary, the Commission has often excluded ENDS and ENDS-related products, finding no public health, safety, or welfare concerns in those investigations. *See, e.g.*, *Certain Tobacco Heating Articles & Components Thereof*, Inv. No. 337-TA-1199, EDIS Doc. ID No. 754503, Comm'n Op. (Oct. 19, 2021) (granting LEO and CDOs), *aff'd sub nom.,* 63 F.4th 1328 (Fed. Cir. 2023); *Certain Elec.*

[1] *See* https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey ("The most commonly used device among current e-cigarette users was disposables (60.7%), followed by prefilled/refillable pods or cartridges (16.1%).").



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*Nicotine Delivery Sys. & Components Thereof*, Inv. No. 337-TA-1139, EDIS Doc. ID No. 709572, Comm'n Op. (May 5, 2020) (granting LEOs); *Certain Cartridges for Elec. Nicotine Delivery Sys. & Components Thereof*, Inv. No. 337-TA-1141, EDIS Doc. ID No. 707185, Comm'n Notice (Apr. 7, 2020) (granting LEOs against defaulting respondents after briefing on the public interest); *Certain Vaporizer Cartridges & Components Thereof*, Inv. No. 337-TA-1211, EDIS Doc. ID No. 764256, Comm'n Op. (Mar. 1, 2022) (granting GEO and CDOs).

In Investigation No. 1199, the excluded IQOS® products, unlike disposable vapes, had obtained FDA authorization after both PMTA and MRTPA review—yet the Commission determined that the public's interest in IQOS® was *insufficient* to override the public's interest in enforcing patent rights. In Investigation No. 1139, the Commission found "no evidence" that excluding infringing e-cigarettes would adversely affect the public interest. More recently, in Investigation No. 1381, the question of whether excluding disposable vapes would adversely affect the public interest was so clear cut that fifteen respondents—many of whom are proposed Respondents in this investigation—*stipulated* that the remedial orders sought there would not have an adverse impact on any of the statutory public interest factors. EDIS Doc. ID 818698. As the Commission has consistently determined—and the facts here are even more compelling—the requested relief would not raise any public health, safety, or welfare concerns.

## III. There Are Numerous Like or Directly Competitive Articles That Could Replace the Accused Products if They Were to Be Excluded

Reynolds sells and has sold its VUSE®-brand e-cigarettes—Solo, Vibe, Ciro, and Alto (collectively, "VUSE® Products")—in the United States. These products are alternatives to combustible cigarettes for current adult smokers, and they can readily fill any void experienced by current adult smokers from the exclusion of the Accused Products. In addition, current adult smokers can also choose from several other legally marketed ENDS products, as well as myriad other tobacco and nicotine products that are potentially less risky than cigarettes. In



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Investigation No. 337-TA-1199, the Commission determined that "[t]he evidence presented in this investigation shows that there are numerous like or directly competitive products to IQOS in the United States." EDIS Doc. ID No. 754503 at 67. These alternatives include, at least, certain other e-liquid and heat-not-burn products; smokeless tobacco products (such as, Red Man chewing tobacco and Grizzly or Kodiak); snus (Camel Snus); oral tobacco and nicotine products (Velo, ZYN, and on!); and nicotine replacement therapies (Commit, Nicorette, and NicoDerm). *Id.* Accordingly, adult smokers will be able to obtain replacement products from either Reynolds or third parties if the Accused Products are excluded from the U.S. market.

## IV. Reynolds and Third Parties Have the Capacity to Replace the Volume of the Accused Products in a Commercially Reasonable Time

Reynolds has sold and will continue to sell its VUSE® Products in the United States, unaffected by Reynolds's requested relief. Reynolds has the capacity to replace an increase in demand from existing adult smokers if the Accused Products were excluded from importation. (*See* Confidential Declaration of Robert E. Ferris at ¶ 111.) Reynolds is willing to meet this demand and can do so in a commercially reasonable time, given that it already supplies the industry with significant quantities of ENDS products, as well as oral tobacco and nicotine products. *Id.* In addition, various third parties currently sell legally marketed alternative products that, on information and belief, would be able to increase their production capacity to meet increased demand in a commercially reasonable time. *See, e.g.,* EDIS Doc. ID Nos. 799631 and 802888. Accordingly, should the requested relief be granted, adult current users of Accused Products in the United States would be able to obtain alternative products either from Reynolds or third parties.

## V. The Requested Remedial Orders Would Impact U.S. Consumers Positively

Reynolds's requested relief would have no adverse impact on U.S. consumers. On the contrary, the requested relief would positively impact and protect U.S. consumers, including



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furthering goals set by Congress to protect U.S. minors.[2] The Accused Products, which are mostly marketed unlawfully and often specifically targeted to minors, are a special concern to Congress, which has urged FDA to increase its enforcement efforts.[3] FDA has already imposed an import ban on Elf Bar brand disposable vapes and issued more than 670 warning letters, including to some of the Proposed Respondents, for illegally selling and distributing unauthorized products, including unauthorized disposable vapes.

In contrast to the unregulated flow of the Accused Products into the United States (and particularly towards minors), Reynolds expends significant resources to comply with requirements established for the importation and sale of its products and employs stringent policies and controls aimed to prevent its ENDS devices from getting into the hands of minors. If the Commission grants the requested relief, current adult users would still be able to obtain ENDS and oral tobacco and nicotine products (either from Reynolds or other authorized third parties), but the unfair competition and/or infringing acts associated with the Accused Products (and the corresponding effects on consumers, including minors) would cease. Accordingly, U.S. consumers would be impacted positively by the requested remedial orders.

## VI. Conclusion

For these reasons, all of the statutory public interest factors weigh in favor of granting the requested exclusionary orders.

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[2] See also https://www.law360.com/ip/articles/1833894?nl_pk=b0011bc7-08da-4a7f-9599-8db353ec6872&utm_source=newsletter&utm_medium=email&utm_campaign=ip&utm_content=2024-05-08&read_main=1&nlsidx=0&nlaidx=3 (reporting about congressional hearing in which concerns were raised about the administration's diligence in pursuing intellectual property cases aimed at curbing illegal importation of regulated products, such as disposable vapes).

[3] *See, e.g.,* https://www.courthousenews.com/durbin-demands-fda-testimony-on-unauthorized-vape-sales/; https://www.nytimes.com/2024/03/07/health/vaping-senators-warning-fda.html.



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Dated: June 11, 2024

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June 11, 2024

Dear Proposed Respondent:

Re: *Certain Disposable Vaporizer Devices and Components Thereof*

**19 C.F.R. 210.56 NOTICE**

Notice is hereby given that the attached complaint and motion for temporary relief (non-confidential copies are on the enclosed flash drive) was filed with the U.S. International Trade Commission in Washington, D.C. on June 11, 2024. The filing of the complaint and motion will not institute an investigation on that date, however, nor will it begin the period for filing responses to the complaint and motion pursuant to 19 C.F.R. 210.13 and 210.59.

Upon receipt of the complaint, the Commission will examine the complaint for sufficiency and compliance with 19 C.F.R. 210.4, 210.5, 210.8, and 210.12. The Commission's Office of Unfair Import Investigations will conduct informal investigatory activity pursuant to 19 C.F.R. 210.9 to identify sources of relevant information and to assure itself of the availability thereof. The motion for temporary relief will be examined for sufficiency and compliance with 19 C.F.R. 201.8, 210.4, 210.5, 210.52, 210.53(a) (if applicable), 210.54, 210.55, and 210.56, and will be subject to the same type of preliminary investigative activity as the complaint.

The Commission generally will determine whether to institute an investigation on the basis of the complaint and whether to provisionally accept the motion for temporary relief within 35 days after the complaint and motion are filed or, if the motion is filed after the complaint, within 35 days after the motion is filed—unless the 35-day deadline is extended pursuant to 19 C.F.R. 210.53, 210.54, 210.55(b), 210.57, or 210.58. If the Commission determines to institute an investigation and provisionally accept the motion, the motion will be assigned to a Commission administrative law judge for issuance of an initial determination in accordance with 19 C.F.R. 210.66. See 19 C.F.R. 210.10 and 210.58.

If the Commission determines to conduct an investigation of the complaint and motion for temporary relief, the investigation will be formally instituted on the date the Commission publishes a notice of investigation in the FEDERAL REGISTER pursuant to 19 C.F.R. 210.10(b). If an investigation is instituted, copies of the complaint, the notice of investigation, and the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210) will be served on each respondent by the Commission pursuant to 19 C.F.R. 210.11(a). Responses to the complaint, the notice of investigation, and the motion for temporary relief must be filed within 10 days after Commission service thereof, and must comply with 19 CFR 201.8, 210.4, 210.5,

210.13, and 210.59. See also 19 C.F.R. 201.14 and 210.6 regarding computation of the 10-day response period.

If, after reviewing the complaint and motion for temporary relief, the Commission determines not to institute an investigation, the complaint and motion will be dismissed and the Commission will provide written notice of that decision and the reasons therefor to the complainant and all proposed respondents pursuant to 19 C.F.R. 210.10.

For information concerning the filing and processing of the complaint and its treatment, and to ask general questions concerning section 337 practice and procedure, contact the Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Room 401, Washington, DC 20436, telephone 202-205-2560. Such inquiries will be referred to the Commission investigative attorney assigned to the complaint. (*See also* the Commission's Rules of Practice and Procedure set forth in 19 C.F.R. Part 210.)

To learn the date that the Commission will vote on whether to institute an investigation and the publication date of the notice of investigation (if the Commission decides to institute an investigation), contact the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., room 112, Washington, DC 20436, telephone 202-205-2000.

This notice is being provided pursuant to 19 C.F.R. 210.56.

Very truly yours,

David M. Maiorana

**UNITED STATES INTERNATIONAL TRADE COMMISSION**
**WASHINGTON, DC**

| **In the Matter of**<br><br>CERTAIN DISPOSABLE VAPORIZER DEVICES AND COMPONENTS THEREOF | Inv. No. 337-TA-____ |
|---|---|

**VERIFIED COMPLAINT OF RAI STRATEGIC HOLDINGS, INC., R.J. REYNOLDS VAPOR COMPANY, R.J. REYNOLDS TOBACCO COMPANY, AND RAI SERVICES COMPANY UNDER SECTION 337 OF THE TARIFF ACT OF 1930, AS AMENDED**

**COMPLAINANTS**

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| 2 | Certified Copy of Recorded Assignments for U.S. Patent No. 11,925,202 |
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| 105C | Confidential Declaration of Robert E. Ferris |
| 106 | State of Michigan, Department of Licensing and Regulatory Affairs Business Entity Search - Breeze Smoke LLC |
| 107 | FDA Center for Tobacco Products Warning Letter to Breeze Smoke, LLC (May 25, 2023) |
| 108 | Trademark Application Serial No. 97839842 for BREEZE PRIME |
| 109 | Profile of Capital Sales Company on Better Business Bureau website |

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| 112 | Capital Sales Company Page on CDAWeb.net |
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| 114 | State of Michigan, Department of Licensing and Regulatory Affairs Business Entity Search - KMT Services LLC |
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| 120 | Vapeonly Technology Company Limited LinkedIn Profile |
| 121 | ELFBAR Flowers and Bubbles Trademark Application (US Serial Number: 97580609) |
| 122 | Heaven Gifts Trademark Record (US Registration Number: 6111314) |
| 123C | Confidential Business Intelligence Report Regarding Heaven Gifts |
| 124 | CNBC Article "China e-cigarette titan behind 'Elf Bar' floods the U.S. with illegal vapes" (Dec. 6, 2023) (avail. at https://www.cnbc.com/amp/2023/12/06/china-e-cigarette-titan-behind-elf-bar-floods-the-us-with-illegal-vapes.html) |
| 125 | China Business Registration Search Result for Guangdong Qisitech Co. Ltd. |
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| 127 | Rabbeaats RC10000 Product Packaging |
| 128 | State of Texas, Franchise Business Entity Search - Social Brands LLC |
| 129 | Social Brands Website |
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| 131 | One Stop Report for Palma Terra Limited |
| 132 | IVPS Trademark (US Registration Number: 5640028) |
| 133 | SMOK Trademark (US Registration Number: 6072213) |
| 134 | SMOK Logo Trademark (US Registration Number: 4545449) |
| 135 | Smok Website Contact Us Page |
| 136 | SMOK VAPOR Trademark Application (US Serial Number: 86341836) |
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| 142 | AP News Article "Elf Bar and other e-cigarette makers dodged US customs and taxes after China's ban on vaping flavors" (Dec. 19, 2023) (avail. at https://apnews.com/article/vaping-elf-bar-ecigarettes-china-teens-77033584983ad47fc5795baa46b4705e) |
| 143 | State of Minnesota, Secretary of State Business Entity Search - Maduro Distributors Inc. |
| 144 | *Maduro Distributors v. Loonvape.net*, No. 1:23-cv-01646, Complaint (E.D. Mich. Dec. 4, 2023) |
| 145 | FDA Center for Tobacco Products Warning Letter to Maduro Distributors (August 20, 2021) |
| 146 | Loon Website Loon Maxx Product Page |
| 147 | Loon Website Loon Air and Air+ Order Form Page |
| 148 | Loon Website Product Order Form |
| 149 | Bidi Vapor LLC Florida Limited Liability Registration |
| 150 | Bidi Vapor LLC 2024 Annual Report |
| 151 | BIDI Trademark (US Registration Number: 6208498) |
| 152 | State of Delaware, Department of State Business Entity Search - Kaival Brands Innovations Group, Inc. |
| 153 | State of Delaware, Department of State Business Entity Search - Kaival Brands Innovations Group, Inc. (Second Company) |
| 154 | Kaival Brands Innovations Group, Inc. 10-Q March 2024 |
| 155 | Kaival Brands Fiscal Report Q1 2024 |
| 156 | Hyppe Max Air 5000 Product Packaging |
| 157 | State of Texas, Franchise Tax Account Status Business Entity Search - Pastel Cartel LLC |
| 158 | Esco Bars Kilo Product Packaging |
| 159 | FDA Import Alert 98-06 (April 1, 2024) |
| 160 | State of Texas, Franchise Tax Account Status Business Entity Search - Pastel Cartel Vape, LLC |
| 161 | State of Texas, Franchise Tax Account Status Business Entity Search - American Vape Company LLC |
| 162 | ESCO BARS Trademark (US Registration Number: 6859518) |
| 163 | State of Texas, Franchise Tax Account Status Business Entity Search - Affiliated Imports, LLC |
| 164 | FDA Center for Tobacco Products Warning Letter to Shenzhen Innokin (May 25, 2023) |
| 165 | SIDEPIECE Trademark Application (US Serial Number: 90280397) |

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| 167 | LCF Labs Inc. California Statement of Information |
| 168 | Shenzhen Pingray Technology Co. Ltd Website Contact Us Page |
| 169 | State of Arizona, Corporations Commission Business Entity Search - SV3, LLC |
| 170 | MI-POD Trademark (US Registration Number: 6533037) |
| 171 | Mi-Pod Website Product Page |
| 172 | State of New York, Department of State Business Entity Search - Price Point Distributions Inc. |
| 173 | Price Point NY Website Product Page |
| 174 | Flawless Vape Shop Inc. California Statement of Information |
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| 183 | *City of New York v. Magellan Tech., Inc., et al.*, Amended Complaint (S.D.N.Y. August 17, 2023) |
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| 186 | State of Illinois, Secretary of State Business Entity Search - Midwest Goods Inc. |
| 187 | Midwest Goods Website Home Page |
| 188 | Midwest Distribution Wholesale Website |
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| 190 | Breeze Smoke Breeze Pro Instructional Guide: "How to Spot Unauthorized Breeze" (Compilation) |
| 191 | Mi-One Brands (Mi-Pod) Website Product Page - EB Disposable Vapes |
| 192 | Lost Mary Website Product Page |
| 193 | Geek Bar Website Product Page |
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| 195 | FDA Marketing Denial Orders List (Published June 6, 2024) |
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| 197 | Wholesale Bidi Vapor Website Home Page |
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| 209 | Flawless Vape Shop Product Page |
| 210 | FDA Tobacco Products Marketing Orders |
| 211 | Bidi Vapor Website Article "BIDI Vapor receives US FDA nod for PMTA moves to next phase" (available at https://wholesale.bidivapor.com/bidi-vapor-receives-us-fda-nod-for-pmta-moves-to-next-phase/) |
| 212 | FDA Center for Tobacco Products Warning Letter to Maduro Distributors d/b/a The Loon (Aug. 20, 2021) |
| 213 | Loon Webpage - PMTA Notice |
| 214 | Geek Bar Webpage - PMTA |
| 215 | Geek Vape Webpage - What is PMTA? |
| 216 | FDA Center for Tobacco Products Warning Letter to Shenzhen Kanger Technology Co. Ltd. d/b/a Kangertech (Sept. 14, 2023) |
| 217 | Smok Tech Webpage - Innovation Keeps Changing the Vaping Experience |
| 218 | Breeze Smoke, LLC v. FDA, Docket No. 21-03902, Petition For Review (6th Cir. Oct. 04, 2021) |
| 219 | Pastel Cartel LLC v. FDA, No. 1:23-CV-1010-DAE, Order Denying Without Prejudice Plaintiff's Motion For Preliminary Injunction (W.D. Tex. Dec. 14, 2023) |
| 220 | Kang Vape Cig Webpage - PMTA |
| 221 | Mi-Pod Wholesale Webpage - Mi-Pod PMTA |
| 222 | FDA Article “FDA Denies Marketing of Bidi E-Cigarette” (Jan. 22, 2024) (available at https://www.fda.gov/tobacco-products/ctp-newsroom/fda-denies-marketing-bidi-e-cigarette) |
| 223 | FDA Article “FDA Denies Marketing of SMOK E-Cigarette Products” (Jan. 16, 2024) (available at https://www.fda.gov/tobacco-products/ctp-newsroom/fda-denies-marketing-smok-e-cigarette-products) |
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| 227C | Claim Chart - RJR Vuse Solo |
| 228 | Foreign Counterparts of '202 patent |
| 229 | Kaival Brands Reports Fiscal 2024 First Quarter Financial Results and Provides Business Update (Mar. 27, 2024) (available at https://ir.kaivalbrands.com/news/news-details/2024/Kaival-Brands-Reports-Fiscal-2024-First-Quarter-Financial-Results-and-Provides-Business-Update/default.aspx) |
| 230 | Midwest Goods Inc., dba Midwest Distribution Illinois v. Breeze Smoke LLC, No. 1:23-CV-05406, Declaration of Mudassir Yasin (N.D. Ill. Feb. 2, 2024) |
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| 268 | Infringement Chart - Lava Plus 2600 with appended Lava Plus 2600 Teardown Report |
| 269 | Infringement Chart - Mr. Vapor Elite with appended Mr. Vapor Elite Teardown Report |
| 270 | Infringement Chart - Mr. Vapor Flex with appended Mr. Vapor Flex Teardown Report |
| 271 | Infringement Chart - Mr Vapor Lux with appended Mr Vapor Lux Teardown Report |
| 272 | Infringement Chart - Mr. Vapor Maxx with appended Mr. Vapor Maxx Teardown Report |
| 273 | Infringement Chart - North FT12000 with appended North FT12000 Teardown Report |
| 274 | Infringement Chart - Lightrise TB 18K with appended Lightrise TB 18K Teardown Report |

| Ex. No. | Description |
|---|---|
| 275 | Infringement Chart - Orion bar 10000 with appended Orion bar 10000 Teardown Report |
| 276 | Infringement Chart - Orion Bar 7500 with appended Orion Bar 7500 Teardown Report |
| 277 | Infringement Chart - Puff Bar Plus with appended Puff Bar Plus Teardown Report |
| 278 | Infringement Chart - Puff Bar XXL with appended Puff Bar XXL Teardown Report |
| 279 | Infringement Chart - Puff Air Mesh with appended Puff Air Mesh Teardown Report |
| 280 | Infringement Chart - Zbold Pro with appended Zbold Pro Teardown Report |
| 281 | Infringement Chart - Zstick with appended Zstick Teardown Report |



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## LIST OF APPENDICES

| Appx. No. | Description |
|---|---|
| A | U.S. Patent No. 11,925,202 Certified Prosecution History |
| B | U.S. Patent No. 11,925,202 Cited References |



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## I. INTRODUCTION

1. RAI Strategic Holdings, Inc. ("RAI"), R.J. Reynolds Vapor Company ("RJRV"), R.J. Reynolds Tobacco Company ("RJRT"), and RAI Services Company ("RAISC") (collectively, "Complainants" or "Reynolds") respectfully request that the United States International Trade Commission ("Commission") institute an investigation into violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, by the Proposed Respondents Breeze Smoke, LLC; Capital Sales Company; KMT Services, LLC d/b/a KMT Distribution and Dank Shop; Donguan (Shenzhen) Shikai Technology Co., Ltd.; Vapeonly Technology Co. Ltd.; iMiracle (Shenzhen) Technology Co., Ltd.; Guangdong Qisitech Co., Ltd.; Fewo Intelligent Manufacturing, Ltd.; Nevera (HK) Ltd.; Guangdong Cellular Workshop Electronics Technology Co., Ltd.; Wonder Ladies Ltd.; Sailing South Ltd.; Marea Morada Ltd.; Social Brands, LLC; Zhuhai Qisitech Co., Ltd.; Shenzhen Han Technology Co., Ltd.; Palma Terra Ltd.; Shenzhen IVPS Technology Co., Ltd.; Heaven Gifts International Ltd.; Maduro Distributors Inc. d/b/a The Loon; Bidi Vapor, LLC; Kaival Brands Innovations Group Inc.; Kimsun Technology (HuiZhou) Co., Ltd.; Shenzhen Yanyang Technology Co., Ltd.; Pastel Cartel, LLC; American Vape Company, LLC; Affiliated Imports, LLC; Shenzhen Innokin Technology Co., Ltd.; Shenzhen Funyin Electronic Technology Co., Ltd.; Shenzhen LC Technology Co. Ltd.; LCF Labs, Inc.; Shenzhen Kangvape Technology Co., Ltd.; Flumgio Technology Ltd., Shenzhen Pingray Technology, SV3 d/b/a Mi-One Brands; Price Point Distributors Inc.; Flawless Vape Shop Inc.; Flawless Vape Wholesale & Distribution Inc.; Thesy, LLC d/b/a Element Vape; VICA Trading Inc. d/b/a Vapesourcing; Ecto World, LLC d/b/a Demand Vape; and Midwest Goods Inc., d/b/a Midwest Distribution (collectively, "Proposed Respondents").

2. This Complaint is based on Proposed Respondents' unlawful and unauthorized ongoing importation into the United States, sale for importation, and/or sale within the United States after importation of certain disposable vaporizer devices and components thereof. Proposed Respondents' products infringe at least one or more of claims 1*, 3-4, 8-13, and 15 ("Asserted Claims")[1] of U.S. Patent No. 11,925,202 ("Asserted Patent" or "'202 Patent") (Ex. 1).

3. The Asserted Patent is a valid and enforceable United States patent, the entire right, title, and interest to which RAI owns by assignment. Ex. 2. RJRV is a licensee of the Asserted Patent. Ex. 3. RJRT has conducted research and development and has provided technical support for products practicing the Asserted Patent. In addition, RJRT has made investments in plant, equipment, capital, and labor relating to the products practicing the Asserted Patent in the United States. Following a company restructuring as of February 2023, RAISC, rather than RJRT, has conducted (and continues to conduct) research and development and has provided (and continues to provide) technical support for products practicing the Asserted Patent since.

4. Proposed Respondents' activities with respect to the ongoing importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of certain disposable vaporizer devices and components thereof, described more fully *infra*, are unlawful under 19 U.S.C. § 1337(a)(l)(B)(i) in that they constitute infringement of the valid and enforceable Asserted Patent. Declaration of Kenneth S. Luchesi ("Luchesi Decl.") (Ex. 4);5–54 (Accused Product teardown reports); 55–104 (Accused Product infringement charts).

[1] Independent claims are denoted by *.



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5. A domestic industry exists in the United States relating to articles protected by the Asserted Patent, described more fully *infra*, as required by Section 337 (a)(2) and defined by Section 337 (a)(3). Complainants' domestic industry includes significant domestic investments in plant and equipment, significant employment of labor and capital, and substantial investments in the exploitation of the inventions claimed in the Asserted Patent, including through research and development and engineering relating to the exploitation of the claimed inventions and articles protected by the Asserted Patent, including Complainants' VUSE® Alto, VUSE® Vibe, VUSE® Solo, and VUSE® Ciro products (collectively, the "Domestic Industry Products" or "D.I. Products"). Confidential Declaration of Robert E. Ferris ("Ferris Decl.") (Exhibit 105C). Complainants manufacture the VUSE® Solo in the United States, as well as eliquid components of the VUSE® Alto, VUSE® Vibe, and VUSE® Solo products. *Id.*

6. To remedy Proposed Respondents' continuing unfair and unlawful violations of Section 337, Complainants seek temporary relief pursuant to 19 U.S.C. §§ 1337 (e) and (f) in the form of a temporary exclusion order and temporary cease and desist orders barring importation of Proposed Respondents' products that infringe one or more of the Asserted Claims of the Asserted Patent and barring Proposed Respondents from engaging in related acts of solicitation and sales until a full hearing can be had on Complainants' Complaint. Complainants' Motion for Temporary Relief is submitted contemporaneously herewith. Further, Complainants seek, as permanent relief, a general exclusion order pursuant to 19 U.S.C. § 1337(d) excluding from entry into the United States any unlicensed disposable vaporizer devices and components thereof that infringe one or more of the Asserted Claims of the Asserted Patent. Complainants also seek cease and desist orders pursuant to 19 U.S.C. § 1337(f) prohibiting each Respondent from engaging in the importation into the United States, as well as the sale within the United States



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after importation, the advertising, marketing, distributing, transferring, operating, testing, updating, supporting, servicing, repairing, or soliciting of products that infringe one or more of the Asserted Claims. Complainants also request that the Commission impose a bond upon each Respondent's importation of infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. § 1337(j).

## II. THE PARTIES

### A. Complainants

7. Complainant RAI is a North Carolina corporation with its principal place of business located at 401 North Main Street, Winston-Salem, N.C. 27101. RAI is the assignee and sole owner of the Asserted Patent.

8. Complainant RJRV is a North Carolina corporation with its principal place of business located at 401 North Main Street, Winston-Salem, N.C. 27101. RJRV is a licensee of the Asserted Patent and is responsible for developing, distributing, and selling the D.I. Products. Ex. 3.

9. Complainant RJRT is a North Carolina corporation with its principal place of business located at 401 North Main Street, Winston-Salem, N.C. 27101. Until February 2023, RJRT provided research and technical support for the D.I. Products and made significant investments in facilities, equipment, and labor to produce components of the D.I. Products.

10. Complainant RAISC is a North Carolina corporation with its principal place of business located at 401 North Main Street, Winston-Salem, N.C. 27101. As of February 2023, RAISC has provided (and continues to provide) research and technical support for the D.I. Products and has made (and continues to make) significant investments in facilities, equipment, and labor to produce components of the D.I. Products.



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### B. Proposed Manufacturer Respondents

#### 1. Breeze Respondents

(a) Breeze Smoke LLC

11. Breeze Smoke LLC ("Breeze Smoke") is a Michigan limited liability company with a registered address at 23999 West 10 Mile Road, Suite 200, Southfield, MI 48033 and a registered agent at 4654 Lilly Court, West Bloomfield, Michigan 48323. *See* Ex. 106 at 1. The addresses at 1471 E. Nine Mile Road, Unit 200, Hazel Park, Michigan 48030; at 450 W. Fourth Street, Royal Oak, Michigan 48067; and at 26056 Van Dyke Ave. STE 3537, Centerline, MI 48015 are also associated with Breeze Smoke. *See* Exs. 5 at 4; 107 at 4; 108 at 2. "Breeze Smoke, LLC" is listed as the distributor on the packaging for Breeze Smoke products. *See* Exs. 6 at 4; 7 at 4; *see also* 5 at 5 ("Distributed by: Breeze Smoke").

(b) Capital Sales Company

12. Capital Sales Company ("Capital Sales") is a Michigan limited liability company with a registered address at 450 W. 4th Street, Royal Oak, Michigan 48067 and an address at 1471 E. Nine Mile Road, Unit 200, Hazel Park, Michigan 48030. *See* Exs. 109 at 1; 110 at 1. Capital Sales imports, sells, and/or distributes for sale one or more of the Accused Products alone or in partnership with Breeze Smoke via the website capitalcsc.com. *See* Exs. 111 (indicating contact information for "Breeze Smoke Inquiries – Breeze@capitalcsc.com"); 112 (stating that Capital Sales "is the exclusive distributor for Breeze Smoke."); 113 (showing the booth location of "Breeze Smoke (distributed by Capital Sales Company)" at the National Association of Convenience Stores Show 2022).

(c) KMT Services LLC d/b/a KMT Distribution and Dank Shop

13. KMT Services LLC d/b/a KMT Distribution and Dank Shop ("KMT Services") is a Michigan limited liability company with a registered address at 721 E. Eight Mile Road,



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Hazel Park, Michigan 48030 and a registered address at 23250 Sherwood Avenue, Warren, Michigan, 48091. *See* Exs. 114 at 1; 116 at 1. KMT Services also conducts business under the assumed names KMT Distribution and Dank Shop. *See* Ex. 115 at 1. KMT operates the website dankshop.com through which KMT Services markets Breeze Smoke products, offers Breeze Smoke products for distribution, and/or offers Breeze Smoke products for sale. *See* Exs. 117 at 3, note 12; 118 at 8.

(d) Dongguan (Shenzhen) Shikai Technology Co., Ltd.

14. Dongguan (Shenzhen) Shikai Technology Co., Ltd. ("Shikai Technology") is a Chinese limited company located at No. 6, Shayong Road, Shajiao Community, Humen Town, Dongguan City, Guangdong Province, China and at F/5, Building T2, South Coast of Convention and Exhibition Bay, Fuhai Street, Bao'an District, Shenzhen, Guangdong, China 518103. *See* Exs. 6 at 4; 119. Shikai Technology manufactures Breeze-Smoke products. *See id.*; *Certain Disposable Vaporizer Devices and Components and Packaging Thereof*, Inv. No. 337-TA-1381 (Violation), EDIS Doc. ID No. 812691, Respondent Breeze Smoke, LLC and Dongguan (Shenzen) Shikai Technology Co., Ltd.'s Response to Complainants' Verified Complaint at ¶¶ 46–48 (U.S.I.T.C. Oct. 13, 2023) ("Certain Disposable Vaporizer Devices, Inv. No. 1381"). Shikai Technology also has an address at Room 501-510, Building 16, Nan'an Plaza, Exhibition Bay, Zhancheng Community, Fuhai Street, Bao'an District, Shenzhen, Guangdong, China. *See* Ex. 119. "Dongguan Shikai Technology Co., Ltd" is listed on the packaging of Breeze Smoke products as the manufacturer of those products. *See* Exs. 6 at 3–4; 7 at 4–5.

15. Breeze Smoke, Capital Sales, KMT Services, and Shikai Technology, collectively, are referred to herein as the "Breeze Proposed Respondents."



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### 2. iMiracle / Heaven Gifts Proposed Respondents

(a) Vapeonly Technology Co. Ltd.

16. Vapeonly Technology Co. Ltd. ("Vapeonly") is a Chinese limited company with its principal place of business at 19H Maxgrand Plaza, No. 3 Tai Yau Street, San Po Kong, Kowloon, Hong Kong and an address at Room 306-311, Tianshu Building, No. 6099, Bao'an Avenue, Bao'an District, Shenzhen, China 518000. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812394, Respondents Shenzhen Weiboli Technology Co. Ltd, Vapeonly Technology Co. Ltd., iMiracle (Shenzhen) Technology Co., Ltd., Guangdong Qisitech Co., Ltd., and Shenzhen Han Technology Co., Ltd. Response to the Verified Complaint at ¶ 51; Ex. 120. Vapeonly's LinkedIn profile states that "Vapeonly Technology Company Ltd. is a company based out of Baoan District, Shenzhen China," and that it "[focuses] on Elf Bar disposable pod brand." *See* Ex. 120 at 1. Vapeonly's LinkedIn profile also displays a trademark, consisting of a flower with three bubbles, which appears on the packaging of Elf Bar, EB Create, EB Design, and PodKing products. This trademark is registered to an iMiracle company. *See* Ex. 121.

(b) iMiracle (Shenzhen) Technology Co., Ltd.

17. iMiracle (Shenzhen) Technology Co., Ltd. ("iMiracle (Shenzhen)") is a Chinese limited company with an address at Room 1203, Block 1, Wanting Building, Xixiang Substrict, Bao'an District, Shenzhen, China 518126; an address at Room 1606, Office Building T5, Qianhai China Resources Financial Center, No. 5035 Menghai Avenue, Nanshan Street, Qianhai Hong Kong-Shenzhen Cooperation Zone, Shenzhen, Guangdong Province, China 518052; and an address at Unit 3510-37, Luohu Business Center, No. 2028 Shennan East Road, Chengdong Community, Dongmen Street, Luohu District, Shenzhen, Guangdong, China. *See* Exs. 17 at 6; 14 at 5; 10 at 5; 11 at 6; 13 at 5; 12 at 5; 15 at 5; 18 at 4; 21 at 5; *Certain Disposable Vaporizer*



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*Devices*, Inv. No. 1381, EDIS Doc. ID No. 812394, Respondents Shenzhen Weiboli Technology Co. Ltd., Vapeonly Technology Co. Ltd., iMiracle (Shenzhen) Technology Co., Ltd., Guangdong Qisitech Co., Ltd., and Shenzhen Han Technology Co., Ltd. Response to the Verified Complaint at ¶ 52. The packaging of Elf Bar, EB Design, Funky Republic, Pod King, and Lost Mary products list "iMiracle (Shenzhen) Technology Co., Ltd." as a company associated with those brands. *See* Exs. 17 at 6; 14 at 5; 10 at 5; 11 at 6; 13 at 5; 12 at 5; 15 at 5; 18 at 4; 21 at 5. iMiracle (Shenzhen)) owns the trademark "HEAVEN GIFTS" (stylized) (U.S. Reg. No. 88548375). *See* Exs. 122. The "Heaven Gifts" trademark is used by Heaven Gifts International Ltd. (discussed below in Section (II)(B(2)(o)).

18. iMiracle (Shenzhen) is associated with at least the following brands: Pod King, Geek Bar, Vapejoy, Manba, Coolplay, Suorin Air Bar, Geek Vape, Vapeonly, Kanger Tech, iJoy, VooPoo, Digiflavor, HotCig, Joyetech, Wismec. Artery, ELeaf, Heaven Gifts, Smok, iPha, Vaporesso, Kizoku, AAA, DOVPO, Golisi, JustFog, Innokin, MechLyfe, DJV, OBS, Smoany, YoCan, VGOD, NiteCor, Tnkk Vape, Sense, AugVape, Ampking, Vapefly, Vladdin, Vaptio, and/or Quanins. *See* Confidential Ex. 123C (identifying entities related to Shenzhen iMiracle); Ex. 124 at 2; *Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 818868, Complainants' Motion to Amend the Complaint and Notice of Investigation at 11–14 (describing iMiracle (Shenzhen)'s relationship with Heaven Gifts). iMiracle Shenzhen holds equity in Shenzhen Youwo Network Technology Co., Ltd. (associated with vape brands YouMe (HNB), Suorin, Idols, Air Bar, and Coolplay (Vape)), Shenzhen Yikanger Electronic Technology Co., Ltd. (vape brands Desire, Mad Dog, Supreme (Vape)), Shenzhen Jinzhiyuan Technology Co., Ltd. (vape brands Manba, Suorin, Vapejoy), and Shenzhen Senkeweipu Technology Co., Ltd. (vape brand Thinkvape). *See* Confidential Ex. 123C at 2 (identifying entities related to Shenzhen



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iMiracle); *Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 818868, Complainants' Motion to Amend the Complaint and Notice of Investigation at 11–14 (regarding iMiracle (Shenzhen)'s relationship with Heaven Gifts).

(c) Guangdong Qisitech Co., Ltd.

19. Guangdong Qisitech Co., Ltd. ("Guangdong Qisitech") is a Chinese limited company with an address at Room 201, Building 3, No. 36, Fuxing Road, Chang'an Town, Dongguan, Guangdong, China 523850. *See* Exs. 10 at 5; 125. The packaging of Elf Bar, EB Design, RAZ, and Geek Bar products list "Guangdong Qisitech Co., Ltd." as the manufacturer of these products. *See* Exs. 27 at 6; 10 at 5; 26 at 5; 12 at 5; 28 at 5. The packaging of the Geek Bar products lists "GUANGDONG QISITECH CO., LTD." as a company associated with those products. *See* Exs. 20 at 4; 19 at 4 ("MANUFACTURED FOR GUANGDONG QISITECH CO., LTD.").

(d) Fewo Intelligent Manufacturing Limited

20. Fewo Intelligent Manufacturing Limited ("Fewo Intelligent") is a Chinese limited company with an address at 6th Floor Building A9, Zone A, Zhenghong High Tech Industrial Park, No. 243 Huiade Road, Dongguan City, Guangdong Province, China; an address at Room 301, Building 12, No.5, Xinxia Road, Humen Town, Dongguan, Guangdong Province, China 523900; and an address at Room 101, Building 9, No. 243 Huaide Road, Humen Town, Dongguan, Guangdong, China. *See* Exs. 16 at 5; 17 at 6; 126. On information and belief, Fewo Intelligent is sometimes called "Fewo Intellighent Manufacturing Co., LTD" or "Guangdong Fuwo Intelligent Manufacturing Co., Ltd." *See* Exs. 16 at 5; 17 at 6. The packaging of EB Create, Funky Lands, and Rabbeats products list "FEWO INTELLIGHENT MANUFACTURING LIMITED" as the manufacturer of those products. *See* Exs. 8 at 5; 16 at 5; 29 at 6. The packaging of Lost Mary products list "FEWO INTELLIGENT



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MANUFACTURING LIMITED" and "GUANGDONG FUWO INTELLIGENT MANUFACTURING CO., LTD." as the manufacturer of those products. *See* Exs. 24 at 5; 25 at 4.

(e) Nevera (HK) Ltd.

21. Nevera (HK) Ltd. ("Nevera (HK)") is a Hong Kong limited company with an address at 19H, Maxgrand Plaza, No.3 Tai Yau Street, San Po Kong, Kowloon, Hong Kong. *See* Exs. 9 at 4; 8 at 4. The packaging of EB Create products list "NEVERA (HK) LIMITED" as a company associated with those brands. *Id*.

(f) Guangdong Cellular Workshop Electronics Technology Co., Ltd.

22. Guangdong Cellular Workshop Electronics Technology Co., Ltd. ("Guangdong Cellular") is a Chinese limited company with an address at Room 201, Building 3, No. 216, Chang'an Bubugao Road, Chang'an Town, Dongguan City, Guangdong Province, China 523850. *See* Ex. 18 at 5. "GUANGDONG CELLULAR WORKSHOP ELECTRONICS TECHNOLOGY CO., LTD." is listed on the packaging of Funky Republic products as the manufacturer of those products. *Id.*

(g) Wonder Ladies Ltd.

23. Wonder Ladies Ltd. ("Wonder Ladies") is a British Virgin Islands limited company with an address at Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands and Wickhams Cay, P.O. Box 145, Road Town, Tortola, British Virgin Islands. *See* Ex. 22 at 5. "WONDER LADIES LIMITED" appears on the packaging for Lost Mary products as a company associated with those products. *Id.*

(h) Sailing South Ltd.

24. Sailing South Ltd. ("Sailing South") is a British Virgin Islands limited company with an address at Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin



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Islands. *See* Ex. 16 at 4. "SAILING SOUTH LIMITED" appears on the packaging for Funky Lands products as a company associated with those products. *Id.*

(i) Marea Morada Ltd.

25. Marea Morada Ltd. ("Marea Morada") is a British Virgin Islands limited company with an address at Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands and an address at OMC Chambers, Wickams Cay 1, Road Town, Tortola, VG1110 British Virgin Islands. *See* Ex. 29 at 6; 30 at 6; 127. "MAREA MORADA LIMITED" appears on the packaging for Rabbeats products as a company associated with those products. *Id*.

(j) Social Brands, LLC

26. Social Brands LLC ("Social Brands") is a Texas limited company with an address at 9696 Skillman Street STE 385 Dallas, Texas 75243. *See* Ex. 128. "Social Brands, TX 75243, USA" appears on the packaging for Space Mary products as a company associated with those products. *See* Ex. 31 at 5. Social Brands is also involved in the importation, distribution, and/or sale of several Accused Products, including Space Mary, Pod King, EB Design, Elfbar, Lost Mary, Funky Republic, and Geekvape (RAZ) brand products, among others. *See* Ex. 129 at 1.

(k) Zhuhai Qisitech Co., Ltd.

27. Zhuhai Qisitech Co., Ltd. ("Zhuhai Qisitech") is a Chinese limited company with an address at Room 201, Building 5, No. 16, Jinxing Road, Tangjiwan Town, High-tech Zone, Zhuhai, China. *See* Exs. 20 at 4; 19 at 4. "Zhuhai Qisitech Co., LTD." is listed on the packaging of Geek Bar products as the manufacturer of those products. *Id*.

(l) Shenzhen Han Technology Co., Ltd.

28. Shenzhen Han Technology Co., Ltd. ("Shenzhen Han") is a Chinese limited company with an address at Qianwan Hard Technology Park, Bao'an District, Shenzhen,



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Guangdong Province, China 518126. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812394, Respondents Shenzhen Weiboli Technology Co. Ltd, Vapeonly Technology Co. Ltd., Imiracle (Shenzhen) Technology Co., Ltd., Guangdong Qisitech Co., Ltd., and Shenzhen Han Technology Co., Ltd. Response to the Verified Complaint at ¶ 54. Shenzhen Han manufactures electronic nicotine delivery systems ("ENDS"), including Lost Mary disposable vapes. *Id.*

(m) Palma Terra Ltd.

29. Palma Terra Ltd. ("Palma Terra") is a British limited company with an address at Sea Meadow House, P.O. Box 116, Road Town, Tortola, British Virgin Islands and an address at Chase Business Centre 39-41, Chase Side, London, United Kingdom N14 5BP. *See* Exs. 24 at 5; 130 at 2; 131 at 3. "PALMA TERRA LIMITED" appears on the packaging for Off Stamp products as a company associated with those products. *See* Ex. 24 at 5.

(n) Shenzhen IVPS Technology Co., Ltd.

30. Shenzhen IVPS Technology Co., Ltd. ("Shenzhen IVPS") is a Chinese limited company with an address at 101, Building B8, No. 2, Cengyao Industrial Area, Yuluv Community, Yutang Subdistrict, Guangming District, Shenzhen, China, 518001. *See* Ex. 34 at 6. Shenzhen IVPS is also associated with the addresses at 3/F TeAn Jiejing Nenguuan Tech Building, Shenzhen, China and 13F Block B3, Building Unit 9, Zone 2, Shenzhen Bay Tech-Eco Park, Nanshan District, Shenzhen, China. *See* Exs. 132 at 2; 133 at 3; 134 at 2; 135 at 2. "SHENZHEN IVPS TECHNOLOGY CO., LTD." is listed on the packaging of Smok PRIV Bar and Smok NOVO Bar products as a company associated with those products. *See* Exs. 34 at 6; 32 at 6.

31. On information and belief, Shenzhen IVPS also occasionally does business or has done business in the past as Shenzhen Smok Technology Co. ("Smok Tech") with an address at



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3rd Fl. TeAn Jiejing Nengyuan Tech Building, Langshan Erhao Rd., Nanshan District, Shenzhen, China. *See* Ex. 136 at 2; 135 at 2 (the "Contact Us" page on smoktech.com mentioning the company "IVPS"). On information and belief, Shenzhen IVPS, under the name Smok Tech, operates the website smoktech.com which it uses to offer Smok brand products for sale or distribution in the United States. *See* Ex. 137 at 1.

(o) Heaven Gifts International Ltd.

32. Heaven Gifts International Ltd. ("Heaven Gifts") is a Chinese limited company with the following addresses: Room 2004B-2005, Floor 20, No. 22, Lane 118, Zhongjiang Road, Putuo District, Shanghai, China; 11th Floor, Building T4, Lane 1199, Zhennan Road, Putuo District, Shanghai, China; RM 1606, Building T5, No. 5035 Menghai Ave., Nanshan District, Qianhai Cooperation Zone, Shenzhen, China; 28th Floor, Building A, Huahai Financial Innovation Center, Nanshan District, Shenzhen, China, and 19H, Maxgrand Plaza, No. 3 Tai Yau Street, San Po Kong, Kowloon, Hong Kong. *See* Exs. 138 at 3; 139 at 3; 140 at 3. On information and belief, Heaven Gifts is iMiracle (Shenzhen)'s parent company. *See* Ex. 142 at 5. Heaven Gifts is associated with the brands one or more of the Accused Products, including Lost Mary and Elf Bar. *See* Exs. 141 at 2, 4; 142 at 4-5.

33. Heaven Gifts claims to be the largest English language dedicated electronic cigarette e-commerce sales platform founded in China in 2007, and claims to stock 16,000 e-cigarette items. *See* Confidential Ex. 123C at 2.

34. Vapeonly, iMiracle (Shenzhen), Guangdong Qisitech, Fewo Intelligent, Nevera (HK), Guangdong Cellular, Wonder Ladies, Sailing South, Marea Morada, Social Brands, Zhuhai Qisitech, Shenzhen Han, Palma Terra, Shenzhen IVPS, and Heaven Gifts, collectively, are referred to herein as the "iMiracle Proposed Respondents."



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### 3. Loon Proposed Respondent

(a) Maduro Distributors Inc. d/b/a The Loon

35. Maduro Distributors Inc. d/b/a The Loon ("Maduro Distributors") is a Minnesota corporation with a registered address at 3021 82nd Lane NE, Blaine, Minnesota 55449 and a principal executive office address of 2738 104th Ct. NE, Blaine, Minnesota 55449. *See* Exs. 143 at 1; 144 at 1 (stating Maduro Distributors does business as "The Loon"). Maduro Distributors advertises on the website theloonmn.com that Loon products are available in stores across the country. *See* Ex. 145. Loon Maxx is a product offered on the website theloonmn.com. *See* Ex. 146 at 1. Loon Air is a product offered on the website loonwholesale.com. *See* Exs. 147; 148. "The Loon" appears on the packaging for Loon products as the distributor. *See* Ex. 35 at 3.

### 4. Bidi Proposed Respondents

(a) Bidi Vapor, LLC

36. Bidi Vapor, LLC ("Bidi Vapor") is a Florida limited company with a registered address at 200 South Orange Avenue, STE 2300, Orlando, Florida 32801. *See* Exs. 149 at 1; 150. The address at 4460 Old Dixie Highway, Grant-Valkaria, Florida 32949 is also associated with Bidi Vapor. *See* Ex. 151 at 2. "Bidi Vapor, LLC" appears on the packaging for the Bidi Stick Regal as a company associated with the product. *See* Ex. 37 at 6.

(b) Kaival Brands Innovations Group Inc.

37. Kaival Brands Innovations Group Inc. ("Kaival Brands Innovations") is a Delaware corporation with a registered address at 16192 Coastal Highway, Lewes, Delaware 19958, and/or 1209 Orange Street, Wilmington, Delaware 19801, with a corporation headquarters at 4460 Old Dixie Highway, Grant-Valkaria, Florida 32949 and an address at 401 N. Wickham Road, Suite 130, Melbourne, Florida 32935. *See* Exs. 152; 153; 154 at 1. Kaival



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Brands Innovations is the "exclusive U.S. distributor of all products manufactured by Bidi Vapor, LLC." *See* Ex. 155 at 1.

38. Bidi Vapor and Kaival Brands Innovations, collectively, are referred to herein as the "Bidi Proposed Respondents."

**5. Hyppe Proposed Respondents**

(a) Kimsun Technology (HuiZhou) Co., Ltd.

39. Kimsun Technology (HuiZhou) Co., Ltd. ("Kimsun Technology (HuiZhou)") is a Chinese limited company with an address at "No. 8 Taixiang Road, Hig-Tech [sic] Industrial Park, Huicheng Dist., Huizhou, Guandong, China 516025." *See* Ex. 38 at 6. "KIMSUN TECHNOLOGY (HUIZHOU) CO., LTD." is listed on the packaging of the Hyppe Max 1600 puffs as the factory. *Id*. The packaging for the Hyppe Max Air 5000 and the Hyppe Max Air Flow Mesh lists "SHENZHEN TECHNOLOGY (HUIZHOU) CO., LTD." as the name of the factory for this product. *See* Exs. 39 at 6; 40 at 6. The address for Kimsun Technology (HuiZhou) on the Hyppe Max 1600 package is the same address listed for an entity called Shenzhen Technology (HuiZhou) on the Hyppe Max Air 5000 package, with the exception that "High-Tech Industrial Park" is spelled "Hig-Tech Industrial Park." Based on this shared address, Kimsun Technology is the factory referred to on the packaging of Hyppe Max Air 5000 and the Hyppe Max Air Flow Mesh products.

(b) Shenzhen Yanyang Technology (HuiZhou) Co., Ltd.

40. Shenzhen Yanyang Technology Co., Ltd. ("Shenzhen Yangyang") is a Chinese limited company with an address at No. 8 Taixiang Road, High-Tech Industrial Park, Huicheng Dist., Huizhou, Guangdong, China 516025. *See* Ex. 156 at 2. "SHENZHEN YANGYANG TECHNOLOGY CO.,LTD" is listed on the packaging of the Hyppe Max Air 5000 as the factory. *Id.*



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41. Kimsun Technology (HuiZhou) Co., Ltd. and Shenzhen Yanyang, collectively, are referred to herein as the "Hyppe Proposed Respondents."

**6. Esco Bars Proposed Respondents**

(a) Pastel Cartel, LLC

42. Pastel Cartel, LLC ("Pastel Cartel") is a Texas limited liability company located at 5900 Balcones Drive, Suite 100, Austin, TX 78731-4298. *See* Ex. 157. "Pastel Cartel LLC" is listed on the packaging as the designer of Esco Bars products. *See* Ex. 43 at 6. The location listed under Pastel Cartel on the Esco Bars KILO packaging is "Pflugerville, TX 78660." Ex. 158. The FDA Import Alert 98-06 identifies Pastel Cartel as a "firm [that] may be importing/manufacturing/shipping a new tobacco product ("Esco Bar"/"Escobar") without marketing authorization." *See* Ex. 159 at 17. The FDA Import Alert 98-06 lists "13326 Immanuel Rd Ste 3, Pflugerville, TX 78660-8006 UNITED STATES" as the Pastel Cartel address. *Id.*; *see also* Ex. 160. Pastel Cartel admitted that "in the past it sold for importation, imported and/or sold after importation certain accused Esco Bar products," and "it has continued to sell previously imported inventory of accused Esco Bar products." *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents' Response to the Amended Complaint at ¶ 358.

(b) American Vape Company, LLC

43. American Vape Company, LLC ("American Vape") is a Texas limited liability company located at 13326 Immanuel Road, Pflugerville, Texas United States 78660. *See* Ex. 161. American Vape is located at the same address associated with Pastel Cartel. *See* Ex. 162 at 2. American Vape admitted that it "sold for importation, imported and/or sold after importation Esco Bars Disposable Vapes." *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents' Response to the Amended Complaint at ¶ 357.



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(c) Affiliated Imports, LLC

44. Affiliated Imports, LLC ("Affiliated Imports") is a Texas limited liability company located at 5900 Balcones Drive, Suite 100, Austin, TX 78731-4298. *See* Ex. 163. Affiliated Imports is listed at the same address associated with Pastel Cartel. *See* Ex. 157. The FDA Import Alert 98-06 lists "13326 Immanuel Rd , Pflugerville, TX 78660-8006 UNITED STATES" as the address associated with Affiliated Imports. *See* Ex. 159 at 8. The FDA Import Alert 98-06 identifies Affiliated Imports as a firm that "may be importing/manufacturing/shipping a new tobacco product ("Esco Bar"/"Escobar") without marketing authorization." *Id.* Affiliated Imports admitted that it is registered to American Vape Company and acts as American Vape Company's and Pastel Cartel's consignee and importer of record for incoming shipments of Esco Bars Disposable Vapes to the United States. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents' Response to the Amended Complaint at ¶ 59 (admitting to allegations in the Amended Complaint).

(d) Shenzhen Innokin Technology Co., Ltd.

45. Shenzhen Innokin Technology Co., Ltd. ("Shenzhen Innokin") is a Chinese limited company with an address at Building 6, XinXinTian Industrial Park, Xinsha Road, Shajing, Bao'an District, Shenzhen, Guangdong Province, China 518104. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812376, Respondent Shenzhen Innokin Technology Co., Ltd.'s Response to Complaint at ¶ 60 (admitting to allegations in the Complaint). Shenzhen Innokin admitted that it manufactured certain Esco Bar products in a prior litigation. The FDA sent a warning letter to Shenzhen Innokin identifying Shenzhen Innokin as a distributor of Esco Bars products to U.S. retailers. *See* Ex. 164. Pastel Cartel admitted that Shenzhen Innokin "has in the past manufactured some Esco Bars Disposable



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Vapes." *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents' Response to the Amended Complaint at ¶ 60 (admitting to allegations in the Amended Complaint).

(e) Shenzhen Funyin Electronic Technology Co., Ltd.

46. Shenzhen Funyin Electronic Technology Co., Ltd. ("Shenzhen Funyin") is a Chinese limited company located at 205 and 401, Building A3, Fuyuan Ind. Zone, Tangwei Community, Fuhai St., Bao'an District, Shenzhen, Guangdong China 518000. *See* Exhibit 165 at 2. Pastel Cartel admitted that Shenzhen Funyin "has in the past manufactured some Esco Bars Disposable Vapes." *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents' Response to the Amended Complaint at ¶ 61 (admitting to allegations in the Amended Complaint).

47. Pastel Cartel, American Vape, Affiliated Imports, Shenzhen Innokin, and Shenzhen Funyin, collectively, are referred to herein as the "Esco Bar Proposed Respondents."

**7. Mr. Fog Proposed Respondents**

(a) Shenzhen LC Technology Co., Ltd.

48. Shenzhen LC Technology Co., Ltd. ("Shenzhen LC") is a Chinese limited company with an address at Licheng Technology Park, Shajing Town, Bao'an District, Shenzhen, Guangdong Province, China. *See* Ex. 44 at 5. "Shenzhen LC Technology Co., Ltd" is listed on the packaging of Mr. Fog brand products as the manufacturer of those products. *Id.*

(b) LCF Labs, Inc.

49. LCF Labs, Inc. ("LCF Labs") is a California company with a registered address at 895 S Rockefeller Avenue, Unit 103, Ontario, California 91761. *See* Exs. 166 at 1; 167 at 1. "LCF Labs" appears on the packaging for Mr. Fog products as a company associated with those products. *See* Ex. 45 at 4.



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50. Shenzhen LC and LCF Labs, collectively, are referred to herein as the "Mr. Fog Proposed Respondents."

**8. Kangvape Proposed Respondent**

(a) Shenzhen Kangvape Technology Co., Ltd.

51. Shenzhen Kangvape Technology Co., Ltd. ("Shenzhen Kangvape") is a Chinese limited company with an address at Chuangxin Port, Hanyu Bay District, Fuhai Street, Bao'an District, Shenzhen, China. *See* Ex. 48 at 4. "Shenzhen Kangvape Technology Co.,Ltd." is listed on the packaging of Kangvape products as the manufacturer of those products. *Id.*

52. Shenzhen Kangvape is referred to herein as the "Kangvape Proposed Respondent."

**9. Flum Proposed Respondent**

(a) Flumgio Technology Ltd.

53. Flumgio Technology Ltd. is a Chinese limited company with an address at Room 21, Unit A, 11F, Tin Wui Industrial Building, No. 3 Hing Wong Street, Tuen Mun, N.T. *See* Ex. 53 at 5. "Flumgio Technology LTD" appears on the packaging of Flum products as a company associated with those products. *Id.*

54. Flumgio Technology Ltd.is referred to herein as the "Flume Proposed Respondent."

**10. Posh Proposed Respondent**

(a) Shenzhen Pingray Technology

55. Shenzhen Pingray Technology ("Shenzhen Pingray") is a Chinese limited company located at Building G, West Pioneer Park, Wangeng Community, Shajing Street, Bao'an District, Shenzhen City, China. *See* Ex. 41 at 6. Shenzhen Pingray is also associated with the address "B F 3, 28 Heyi Beifang; Shajing Town , Shenzhen, CHINA" and with the



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address Floors 2, 3 and 4, Building G, Wanfeng Western Entrepreneurship Park, Heyi Community, Shajing Street, Bao'an District, Shenzhen, Guangdong, China. *See* Ex. 159 at 6; *see also* Ex. 168. "Shenzhen Pingray Technology Co., Ltd." is listed on the packaging of Posh products as the manufacturer of those products. *See* Ex. 41 at 6.

56. Shenzhen Pingray is referred to herein as the "Posh Proposed Respondent."

### C. Proposed Distributor Proposed Respondents

57. Numerous entities, including the below Proposed Respondents, sell after importation into the United States several of the Accused Products through websites and electronic marketplaces. These Proposed Respondents are collectively referred to herein as the "Distributor Proposed Respondents."

#### 1. SV3 LLC d/b/a Mi-One Brands

58. SV3 LLC d/b/a Mi-One Brands ("SV3") is an Arizona limited company with a registered address of 2303 N. 44th Street Unit 2 , Phoenix, Arizona 85008, USA. *See* Ex. 169 at 2. SV3 is also associated with the address 4908 E. McDowell Rd., Phoenix, Arizona 85008. *See* Ex. 170 at 2. SV3 LLC conducts business under the trade name Mi-One Brands and operates Mipod.com. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812708, Respondent SV3 LLC d/b/a Mi-One Brands' Response to the Complaint and Supplement to the Complaint at ¶ 90. The MI-POD website advertises one or more of the Accused Products. *See* Ex. 171. Shenzhen Weiboli, Vapeonly, and iMiracle (Shenzhen) admitted that SV3 LLC d/b/a Mi-One Brands at one point sold some Elf Brand products. *Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812394, Respondents Shenzhen Weiboli Technology Co. Ltd, Vapeonly Technology Co. Ltd., iMiracle (Shenzhen) Technology Co., Ltd., Guangdong Qisitech Co., Ltd., and Shenzhen Han Technology Co., Ltd. Response to the Verified Complaint at ¶ 86.



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### 2. Price Point Distributors Inc. d/b/a Price Point NY

59. Price Point Distributors Inc. d/b/a Price Point NY ("Price Point") is a New York corporation with its principal place of business at 500 Smith Street, Farmingdale, New York 11735. *See* Ex. 172 at 1. Price Point admitted to selling various nicotine-containing products on the website pricepointny.com. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812408, Respondent Price Point Distributors, Inc. d/b/a Price Point NY's Response to the Notice of Investigation and Complaint at ¶ 89. This website advertises one or more of the Accused Products for sale. *See* Ex. 173.

### 3. Flawless Vape Shop Inc.

60. Flawless Vape Shop Inc. ("Flawless Vape Shop") is a California corporation with a principal address at 5589 E. Santa Ana Canyon Rd, Anaheim, CA 92807. *See* Ex. 174. On information and belief, Flawless Vape Shop owns and operates flawlessvapeshop.com. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 805887, Complaint at ¶ 87. "Flawless Vape Shop" is listed as the contact entity on flawlessvapeshop.com. *See* Ex. 175 at 2. Flawlessvapeshop.com advertises one or more of the Accused Products. *See* Ex. 176.

### 4. Flawless Vape Wholesale & Distribution Inc.

61. Flawless Vape Wholesale & Distribution Inc. is a California corporation with a with a principal address at 5589 E. Santa Ana Canyon Rd, Anaheim, CA 92807. *See* Ex. 177at 1. This address is the same as the principal address for Flawless Vape Shop. *See* Ex. 174 at 1. Flawless Vape Wholesale & Distribution Inc. sells products to consumers across the country from the website www.flawlessvapeshop.com. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 805887, Complaint at ¶ 88. Flawlessvapeshop.com advertises one or more of the Accused Products. *See* Ex. 176.



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### 5. Thesy, LLC d/b/a Element Vape

62. Thesy, LLC d/b/a Element Vape ("Element Vape") is a California limited liability company with a principal place of business at 10620 Hickson Street, El Monte, California 91731. *See* Ex. 178 at 1. Element Vape admitted that its fulfillment warehouse is located at that same address. *Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812423 Respondent Thesy Response to the Notice of Investigation and Complaint at ¶ 91. Element Vape admitted that it sells disposable ENDS devices to consumers in the United States through the website elementvape.com. *Id.* This website advertises one or more of the Accused Products. *See* Ex. 179.

### 6. VICA Trading Inc. d/b/a/ Vapesourcing

63. VICA Trading Inc. d/b/a Vapesourcing ("Vape Sourcing") is a California corporation with a principal place of business at 3045 Edinger Avenue, Tustin, California 92780. *See* Ex. 180 at 1. On information and belief, Vape Sourcing sells ENDS to consumers across the country from the website vapesourcing.com. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 805887, Complaint at ¶ 92. The website advertises one or more of the Accused Products. *See* Ex. 181.

### 7. Ecto World, LLC d/b/a Demand Vape

64. Ecto World, LLC d/b/a Demand Vape ("Demand Vape") is a New York limited company with a principal place of business at 2225 Kenmore Ave., Buffalo, NY 14207. *See* Ex. 182 at 1. On information and belief, Demand Vape sells ENDS through the website demandvape.com. *See* Ex. 183 at ¶ 24. The website demandvape.com lists 2225 Kenmore Ave., Buffalo, NY 14207 under the contact information. *See* Ex. 184 at 1. This website advertises one or more of the Accused Products. *See* Ex. 185.



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### 8. Midwest Goods Inc. d/b/a Midwest Distribution

65. Midwest Goods Inc. d/b/a Midwest Distribution ("Midwest Goods") is an Illinois company with a registered address at 1001 Foster Avenue, Bensenville, Illinois 60106. *See* Ex. 186. Midwest Goods Inc. does business under the assumed name Midwest Distribution Illinois. *See* Exs. 186 at 2; 43.005. Midwest Distribution appears under the contact information for the website midwestgoods.com. *See* Exs. 187 at 4; 188 at 1. This website advertises one or more of the Accused Products. *See* Ex. 189.

## III. THE TECHNOLOGY AND PRODUCTS AT ISSUE

### A. The Technology

66. The technology at issue generally relates to disposable vaporizer devices and components thereof, such as disposable and/or multi-use vaping products. Complainants are American companies that lead the industry in research, development, manufacturing, sale, and distribution of products for U.S. adult tobacco consumers seeking alternative sources of nicotine.

67. Traditional combustible cigarettes yield an inhalable smoke that provides flavors and sensations that smokers desire. Complainants' U.S.-based research efforts to invent and develop electrically powered smoking and vapor articles that produce inhalable aerosols with the desirable flavor and sensory attributes of a traditional cigarette while possibly reducing the smoker's exposure to potentially harmful constituents date back to at least the 1980s and continue today. These efforts have resulted in, *inter alia*, the creation of new and improved methods of generating and applying a heat source to vaporize aerosol-forming materials, such as glycerin, tobacco components, and other flavor sources, without substantial combustion of tobacco constituents, and new and improved heat sources, power sources, aerosol-forming materials, and aerosol delivery systems, critical to providing quality alternative sources of nicotine.



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68. Some of those efforts are the subject of the Asserted Patent, U.S. Patent No. 11,925,202 ("the '202 patent").

69. These efforts also have resulted in the commercial introduction of the D.I. Products, including the VUSE® Alto, VUSE® Vibe, VUSE® Solo, and VUSE® Ciro products, which include devices that are protected by one or more claims of the Asserted Patent, and the accompanying or related accessories and components.

**B. The Accused Products**

70. The Accused Products are disposable vaporizer devices and components thereof that are being imported into the United States, sold for importation into the United States, and/or sold within the United States after importation, by or on behalf of Proposed Respondents, that infringe the Asserted Claims of the Asserted Patent. In particular, the disposable vaporizer devices and components thereof that infringe one or more of the Asserted Claims of the Asserted Patent are the products identified below (collectively, the "Accused Products"). *See* Exs. 5–54 (showing pictures of Accused Products); 55–105 (showing infringement of Accused Products).[2]

**1. Breeze Proposed Respondents**

71. On information and belief, each of the Breeze Proposed Respondents is associated with one or more of the products identified in the table below. *See* Ex. 190.

| Products |
|---|
| Breeze Pro |
| Breeze Prime |
| Breeze Plus |

[2] The Accused Products are offered in many different flavors, but each model is structurally the same regardless of flavor.



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### 2. iMiracle / Heaven Gifts Proposed Respondents

72. On information and belief, each of the iMiracle Proposed Respondents is associated with one or more of the products identified in the table below. *See* Exs. 141; 191–194; 137; 195.

| Products | |
|---|---|
| Elf Bar BC5000 | Novo Bar 6000 |
| Elf Bar TE5000 | Novo Bar 9000 |
| Elf Bar TE6000 | Priv Bar Turbo |
| Elf Bar Pi9000 | Nord Turbo X |
| EB Create BC5000 | SMOK Vapor |
| EB Create BC5000 Thermal Edition | SMOK Spaceman 10K Pro |
| EB Design BC5000 | SMOK Spaceman Prism 20K |
| EB Design BC5000 Thermal Edition | Rainbow Bar |
| EB Design TE6000 | MBar |
| Funky Lands Ti7000 | MBar plus |
| Funky Lands Fi3000 | Mavic S9000 |
| Funky Republic Ti7000 | RAZ TN9000 |
| Funky Republic Fi3000 | RAZ DC25000 |
| Lost Mary MO5000 | RAZ CA6000 |
| Lost Mary MO 10000 | Pod Juice OxBar |
| Lost Mary MO 10000 | Pod King |
| Lost Mary MO200000 Pro | Pod King XC 10000 |
| Lost Mary OS5000 | Pod King & Rio Q |
| Lost Mary MT15000 | Pod King Supreme |
| Lost Mary BM600 | Pod King Edge Rechargeable |
| Lost Mary BM600S | Pod King XC 5000 |
| Lost Mary BM3500 | Pod King AIO |
| Lost Mary BM5000 | Rabbeats RC10000 |
| Lost Mary BM16000 | Rabbeats RC10000 Touch |
| Lost Mary Off-Stamp | Space Mary SM8000 |
| Crystal Blast - OG5000 | Crystal 2500 |
| Off-Stamp SW9000 | Geek Bar Meloso Max |
| Geek Bar Pulse | Geek Bar DF8000 |
| Geek Bar Pulse X | Geek Bar J1 Pod Kit |
| Geek Bar Meloso | Geek Bar Digital Flavor Lush 20K |
| Geek Bar Meloso Ultra | Geek Bar B5000 Disposable |
| Geek Bar Meloso Mini | Wondar 1 |
| Geek Bar Meloso Pro | Geek Bar Skyview |



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### 3. Loon Proposed Respondent

73. On information and belief, the Loon Proposed Respondent is associated with one or more of the products identified in the table below. *See* Ex. 147.

| Products |
|---|
| Loon Maxx |
| Loon Air |
| Loon Air+ |

### 4. Bidi Proposed Respondents

74. On information and belief, each of the Bidi Proposed Respondents is associated with the product identified in the table below. *See* Exs. 196–198.

| Product |
|---|
| Bidi Stick |

### 5. Hyppe Proposed Respondents

75. On information and belief, each of the Hyppe Proposed Respondents is associated with one or more of the products identified in the table below. *See* Ex. 199.

| Products |
|---|
| Hyppe Bar |
| Hyppe Ultra |
| Max Air 5000 |
| Max Flow MESH |
| Hyppe Max |
| Bling Bar |
| Hyppe Slim |
| Hyppe Tik |
| Hyppe Q |
| Hyppe Plus |

### 6. Esco Proposed Respondents

76. On information and belief, each of the Esco Bar Proposed Respondents is associated with one or more of the products identified in the table below. *See* Exs. 200–201.



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| Products |
| --- |
| Esco Bar 25000 |
| Esco Bar 5000 |
| Esco Bar 6000 |
| Esco Bar Kilo |
| Esco Bars x Fruitia |

### 7. Mr. Fog Proposed Respondents

77. On information and belief, each of the Mr. Fog Proposed Respondents is associated with one or more of the products identified in the table below. *See* Ex. 202.

| Products |
| --- |
| Mr. Fog Switch - SW15000 |
| Mr. Fog Switch - SW5500 |
| Mr. Fog Switch - SW600 |
| Mr. Fog Max 1000 |
| Mr. Fog Max Pro 2000 |
| Mr. Fog Max Air - MA8500 |
| Mr. Fog Max Air - MA3000 |
| Mr. Fog Max Air - MA600 |

### 8. Kangvape Proposed Respondent

78. On information and belief, the Kangvape Proposed Respondent is associated with one or more of the products identified in the table below. *See* Ex. 203.

| Products | |
| --- | --- |
| ONEE - Stick 600 | ONEE - Max 4000 |
| ONEE - Stick 1800 | ONEE - Max 5000 |
| ONEE - Stick 1900 | ONEE - Max 5200 |
| ONEE - Stick 2000 | ONEE - Max 6000 |
| ONEE - Stick 2100 | ONEE - Max 6500 |
| ONEE - Stick 2200 | ONEE - Pro 5000 |
| ONEE - Stick Plus 2300 | ONEE - Pro 7000 |
| ONEE - Stick 2500 | ONEE - Pro TC8000 |
| ONEE - Stick Pro 2600 | Sooce - TC15000 |
| ONEE - Stick 3000 | Twin Engine - XGN-TC15K |
| ONEE - Stick 3500 | Sooce - KV-TC18 |
| ONEE - Stick 5500 | ONEE - SMART-TC25 |
| ONEE - Stick 5000 | |

### 9. Flum Proposed Respondent

79. On information and belief, the Flume Proposed Respondent is associated with one or more of the products identified in the table below. *See* Exs. 204–206.

| Products |
|---|
| Flum Pebble |
| Flum Pebble X |
| Flum UT |
| Flum Float |
| Flum Gio |
| Flum Mi |
| Flum Gimi |

### 10. Posh Proposed Respondent

80. On information and belief, the Posh Proposed Respondent is associated with one or more of the products identified in the table below. *See* Ex. 207.

| Products |
|---|
| Posh Max 2.0 |
| Posh Xtron |
| Prom Noir by Posh |
| Posh Pro |
| Posh Plus 3000 |
| Posh Plus 1500 |

### 11. SV3 LLC d/b/a Mi-One Brands

81. Proposed Respondent SV3 LLC d/b/a Mi-One Brands is associated with one or more of the products identified in the table below. *See* Ex. 208.

| Products | |
|---|---|
| Flum UT Bar | Funk Lands/Funky Republic Ti7000 |
| Flum Float | Funk Lands/Funky Republic Fi3000 |
| Flum Mi | Lost Mary MO200000 Pro |
| Flum Pebble | Lost Mary Off-Stamp SW9000 Kit |
| EBDesign TE6000 | Lost Mary MT15000 |
| EB Create BC5000 | Lost Mary OS5000 |
| EB Create BC5000 Thermal Edition | Lost Mary Luster |
| Rabbeats RC1000 | Lost Mary MO20000 |
| Rabbeats RC10000 Touch | Geek Bar Pulse |
| Kangvape ONEE - Stick 2000 | NOVO Bar AL6000 |



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| Products | |
|---|---|
| Kangvape ONEE - Max 5200 | Esco Bar Mesh 2500 |
| Kangvape ONEE - SMOD - Max 6000 | Esco Bar Mega |
| Kangvape ONEE Max 5200 | Esco Bar 6000 |
| Kangvape ONEE Stick 2000 | Posh Max 2.0 |
| Kangvape ONEE Stick 1900 | Pod King XC10000 |
| Kangvape SMOD 6000 | RAZ DC25000 |
| Priv Bar Turbo | RAZ TN9000 |
| Space Mary | |

### 12. Price Point Distributors Inc.

82. Proposed Respondent Price Point Distributors is associated with one or more of the products identified in the table below. *See* Ex. 173.

| Products | |
|---|---|
| Flum Float | Breeze Pro |
| Flum Mi | Breeze Prime |
| Elf Bar BC5000 | Flum Pebble |
| Elf Bar TE5000 | Flum Float |
| EBDesign/EB Create TE6000 | Flum Gio |
| EBDesign/EB Create TE5000 | Mr. Fog SW15k |
| Funky Republic Fi3000 | Geek Bar Pulse |
| Funky Republic Ti7000 | Rabbeats RC1000 |
| EB BC5000 | Rabbeats RC10000 Touch |
| EB BC5000 Ultra | Priv Bar Turbo |
| Lost Mary OS5000 | Esco Bars 2500 |
| Lost Mary MO20000 Pro | RAZ CA6000 |
| Lost Mary MO5000 | RAZ DC25000 |
| Lost Mary MT15000 | RAZ TN9000 |
| Smok Spaceman 10K Pro | Lava Plus |
| NOVO AL9000 | NOVO AL6000 |

### 13. Flawless Vape Shop Inc.

83. Proposed Respondent Flawless Vape Shop Inc. is associated with one or more of the products identified in the table below. *See* Ex. 176.

| Products | |
|---|---|
| Elf Bar BC5000 | Kangvape Onee Stick Max |
| Elf Bar TE6000 (non branded EBDesign) | Kangvape Onee Stick 3000 |
| EBDesign TE6000 | Kangvape Onee Stick 2000 |



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| Products | |
|---|---|
| Elf Bar TE5000 | Flum Pebble |
| Elf Bar BC5000 Ultra | Flum Float |
| EB Design Pod King XC5000 | Flum Neno |
| Funky Republic Ti7000 | Flum Gio |
| Funky Land Ti7000 | Geek Bar Meloso |
| Fruitia Esco Bars 6000 | Geek Bar 5000 |
| Lost Mary MO5000 | Geek Bar 6000 |
| Lost Mary BM5000 | Geek Bar Pulse |
| Lost Mary BM5000 | Hyppe Bar Ultra |
| Lost Mary OS5000 | Hyppe Bar |
| Lost Mary MT15000 | Hyppe Bar Max |
| Lost Mary MT20000 | Hyppe Bar Max Flow |
| Lost Mary Off Stamp | Hyppe Max air |
| RAZ TN9000 | Hyppe Bar Max Flow Mesh |
| RAZ CA6000 | Hyppe Bar Max Flow Duo |
| Rabbeats RC1000 | Esco Bars Mesh 2500 |
| Rabbeats RC10000 Touch | Esco Bas Mesh |
| Elf Bar x Pod King XC5000 | Fruitia Esco Bars Mesh |
| Smok Spaceman | Kilo Esco Bars Mesh |
| Smok Novo Bar AL9000 | Esco Bars Mega Mesh |
| Smok Spaceman Turbo | Smok IPX Bar |
| Priv Bar Turbo | |

**14. Flawless Vape Wholesale & Distribution**

84. As discussed in Section (II)(C)(4), Proposed Respondent Flawless Vape Wholesale & Distribution is associated with Flawless Vape Shop, and on information and belief is associated with one or more of the products discussed in Section (III)(B)(13) *supra*. *See* Ex. 209 at 10 (showing a link for "Wholesale Inquiries" on Flawless Vape Shop's website, flawlessvapeshop.com).

**15. Thesy, LLC d/b/a Element Vape**

85. Proposed Respondent Thesy LLC d/b/a Element Vape is associated with one or more of the products identified in the table below. *See* Ex. 179.

| Products | |
|---|---|
| Esco Bars | Geek Bar Pulse 25K |
| Elf Bar BC5000 | Geek Bar Pulse 15K |
| EB Design BC5000 | Raz TN9000 |



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| Products | |
|---|---|
| EB Design BC5000 Thermal Edition | Raz DC250000 |
| Elf Bar TE5000 | Lost Mary OS5000 |
| EBDesign/EB Create TE6000 | Lost Mary MO200000 Pro |
| EBDesign/EB Create TE5000 | Lost Mary MO5000 |
| Rabbeats RC1000 | Lost Mary MT15000 |
| Rabbeats RC10000 Touch | Flum Gimi |

### 16. VICA Trading Inc. d/b/a/ Vapesourcing

86. Proposed Respondent VICA Trading Inc. d/b/a Vapesourcing is associated with one or more of the products identified in the table below. *See* Ex. 181.

| Products | |
|---|---|
| Kangvape Onee Stick TC25K | Lost Mary OS5000 |
| Kangvape Onee Stick TC8000 | Lost Mary MO200000 Pro |
| Kangvape Onee Stick 2100 | Lost Mary MO5000 |
| Kangvape Onee Stick 5000 | Lost Mary MT15000 |
| Kangvape Sooce KV-TC18K | Geek Bar Pulse |
| Kangvape Sooce Twinengine TC15000 | Geek Bar Meloso |
| Kangvape SMOD Onee Max 6000 | Geek Bar Meloso Max |
| Kangvape Yibla 6500 | Geek Bar Lush 20000 |
| Kangvape Onee Stick 150000 | Geek Bar S3000 |
| Rabbeats RC1000 | Geek Bar X5500 |
| Rabbeats RC10000 Touch | Geek Bar DF6000 |
| Mr Fog Switch SW15000 | Geek Bar Meloso Ultra |
| Mr Fog Switch 5500 | Flum UT Bar |
| Mr Fog Max Air MA8500 | Flum Neno |
| Mr Fog Max Pro | Flum Mi |
| Funk Lands/Funky Republic Ti7000 | Flum Pebble |
| Flum Gimi | |

### 17. Ecto World, LLC d/b/a Demand Vape

87. Proposed Respondent Ecto World d/b/a Demand Vape is associated with one or more of the products identified in the table below. *See* Ex. 185.

| Products | |
|---|---|
| Mr Fog Switch SW15000 | Lost Mary OS5000 |
| Mr Fog Switch 5500 | Lost Mary MO200000 Pro |
| Mr Fog Max Air MA8500 | Lost Mary MO5000 |
| Mr Fog Max Pro | Lost Mary MT15000 |
| Space Mary | Lost Mary Off Stamp |
| Rabbeats RC1000 | RAZ CA6000 |
| Rabbeats RC10000 Touch | RAZ DC25000 |
| | Kangvape TC8000 |

### 18. Midwest Goods Inc. d/b/a Midwest Distribution

88. Proposed Respondent Midwest Goods d/b/a Midwest Distribution is associated with one or more of the products identified in the table below. *See* Ex. 189.

| Products | |
|---|---|
| Posh Elite | Hyppe Bar Max Flow 2500 |
| Posh Max | Hyppe Max Air |
| Posh Max 2.0 | Hyppe Bar |
| Posh Plus | Hyppe Max Flow 2000 |
| Posh Plus XL | Kangvape Onee Stick Smart TC25K |
| Posh Pro | Kangvape ONEE Max 5000 |
| Posh Xtron | Kilo x Esco Bars |
| Ola by Posh | Loon Maxx |
| Rabbeats RC1000 | Lost Mary MO5000 |
| Rabbeats RC10000 Touch | Mr Fog Max Air |
| Space Mary SM8000 | Mr Fog Switch SW15000 |
| Raz DC25000 | Mr Fog Switch SW5500 |
| Geek Bar Meloso | Novo Bar AL6000 |
| Geek Bar Pulse | Novo Bar AL9000 |
| Pod KingQ | |

89. On information and belief, certain Proposed Respondents have also imported the Accused Products into the United States to support their premarket applications with FDA. *See* Exs. 5–54. All Proposed Respondents have either imported the Accused Products into the United States for commercial sale, distribution, and/or marketing, have sold the Accused Products for importation into the United States, and/or have sold the Accused Products after importation of the Accused Products into the United States. *See* Section V, *infra*.



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### 19. FDA Authorization

90. A company wishing to market a new tobacco product in the United States can submit a Premarket Tobacco Product Application ("PMTA") seeking a written marketing order from the FDA. *See* Ex. 210. Following the submission of a PMTA, the FDA may either grant or deny a written marketing order. *Id.* The FDA releases an updated listing in the form of a CSV file of all Marketing Denial Orders ("MDOs") on its website.[3] FDA released the latest MDO listing on June 6, 2024, which is included herewith as Exhibit 195. *See* Ex. 195.

91. Multiple Proposed Respondents, their related entities, or other entities, submitted PMTAs seeking FDA authorization for one or more of the Accused Products. These Proposed Respondents include at least the following: Bidi Respondents (Ex. 211), Loon Respondents (Exs. 212; 213), iMiracle / Heaven Gifts Respondents (Exs. 214 (Geek Bar); 215 (Geekvape); 216 (Kangertech); Ex. 217 (Smok)), Breeze Respondents (Ex. 218), Esco Bars Respondents (Ex. 219), Kangvape (Ex. 220), and SV3 d/b/a Mi-one Brands (Ex. 221).

92. Several Proposed Respondents, their related entities, or other entities, received MDOs from the FDA, which on information and belief, followed the filing of a PMTA by each Proposed Respondent. These Proposed Respondents include at least the following: Bidi Vapor (Ex. 222), Pastel Cartel, and Shenzhen IVPS (Ex. 223).[4] *See* Ex. 195.

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[3] See https://www.fda.gov/tobacco-products/market-and-distribute-tobacco-product/tobacco-products-marketing-orders#Marketing%20Denial. The list is not complete because FDA only reveals MDOs for products currently marketed, that were on the market as of August 2016, and had a PMTA filed by September 2020.

[4] Breeze challenged the MDO in court but then voluntarily dismissed the case. *Breeze Smoke, LLC v. FDA*, No. 21-3902 (6th Cir. Oct. 4, 2021). Bidi challenged an MDO issued on its Bidi stick; the case is still pending. *Bidi Vapor LLC v. FDA*, No. 24-10263 (11th Cir. Jan. 26, 2024). Bidi challenged an MDO issued on unknown products and won, thus vacating the MDO. *Bidi Vapor LLC v. FDA*, No. 21-13340 (11th Cir. Sept. 29, 2021). Shenzhen IVPS challenged an MDO in court, but did not seek a stay of the MDO. *Shenzhen IVPS Tech. Co., Ltd. v. FDA*, No. 24-60032 (5th Cir.).



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### 20. Actual Sales for Importation, Sales After Importation into the United States

93. Since at least April 2024, Proposed Respondents have imported into the United States, sold for importation, and/or sold within the United States after importation the Accused Products. For example, Proposed Respondents have imported into the United States and have sold within the United States after importation the Accused Products from retail stores in Ohio, Minnesota, and Georgia (*see, e.g.*, Exs. 4-3 to 4-6; 4-9 to 4-10; 44-13 to 4-18; 4-21 to 4-22; 4-31 to 4-32), as well as through online sales from certain websites (*see, e.g.,* Exs. 4-7 to 4-8; 4-11 to 4-12; 4-19 to 4-20; 4-23 to 4-30).

### 21. The Accused Disposable Vaporizer Devices

94. Pursuant to Commission Rule 210.12(a)(12), each of the Accused Products is a disposable electronic vapor device designed to hold and heat a liquid during use to generate an aerosol.

95. While varying somewhat in features and overall appearance, all of the Accused Products utilize the same basic structure. The Accused Products all include an outer casing with a mouthpiece defined at one end. Inside the casing are the battery, electronics, e-liquid reservoir, and heater assembly.

96. Each of the Accused Products includes a pressure sensor that is embedded in a sealing gasket. The pressure sensor, either alone or in combination with a PCB, manages the transfer of electrical current to the heater element. A tube or opening in the gasket facilitates airflow between the chamber with the pressure sensor and the chamber with the liquid reservoir and battery cell leading to the mouthpiece. When a user draws air through the mouthpiece, a vacuum is created and is detected by the pressure sensor. This either activates the heating element directly, or sends a signal to a PCB, which in turn activates the heating element.



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97. Each of the Accused Products also includes an e-liquid reservoir and a heater assembly. The reservoir is a fibrous material that is soaked in e-liquid, and may have caps on each end. In some products, the reservoir is contained within a separate plastic container, and in others it is contained within the outer casing. The reservoir includes an opening through the middle, into which the heater assembly is placed. The Accused Products employ two basic heater assemblies: either a wire mesh or coil that is surrounded by a fibrous wick, or a fibrous wick that is wrapped with a metal coil. In either case, the heater element and wick are contained within a tube, and include a portion of the wick that extends out through a hole in the tube to allow the liquid from the reservoir to be wicked into contact with the heater element.

98. The specific structures for many of the Accused Products can be seen in the claim charts attached hereto as Exhibits 55–104.

99. The Accused Products are marketed in many different flavors (e.g., spearmint, blueberry watermelon, cherry lemon, candy hearts, berry mix, strawberry ice cream, malibu, apple peach, watermelon bubble gum, mixed fruit, tropical fruit, winter mint, mango ice, strawberry ice, and many more) to satisfy different consumer preferences. *See* Exs. 5–54. The structure and operation across the variety of devices is not dependent on flavor, and is otherwise generally the same for each given model. *Id.* Despite the large number of Accused Products, all of the Accused Products fall into one of only three different product designs—all of which still employ the same general structure described above, and all of which infringe at least one of the Asserted Claims.

### 22. Operation and Manufacture of the Accused Products

100. The Accused Products generally work as follows in operation: When a user draws on the device, a pressure sensor senses the draw and either initiates current flow to a heater element that is in contact with a liquid-soaked wick, or sends a signal to a PCB. In the



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latter arrangement, the PCB then initiates the current flow to the heater element. The heater element vaporizes the liquid, producing a vapor that is mixed with the drawn air, travels through the tube in the liquid reservoir, and ultimately is drawn out through the mouthpiece and inhaled by the user. *See id.*

101. On information and belief, the Accused Products are manufactured abroad by or on behalf of Proposed Respondents and are imported into the United States, sold for importation into the United States, and/or sold within the United States after importation, by or on behalf of Proposed Respondents. Each of the Accused Products is manufactured in China. *See id*. On information and belief, each Respondent's responsibilities for, and association with, the various Accused Products is described above in Sections (II)(B), (II)(C) and (III)(B)(1)–(18).

102. Proposed Respondents' Accused Products infringe one or more of the Asserted Claims of the Asserted Patent, including at least claims 1*, 3–4, 8–13, and 15, to the detriment of Complainants and the domestic industry that they have established, and constitute a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, based on Proposed Respondents' unlawful importation into the United States, sale for importation into the United States, and/or sale within the United States after importation of the Accused Products.

103. Each of the Accused Products meets each and every limitation of at least one claim of the Asserted Patent. Complainants' identification of specific models or types of products is not intended, either implicitly or explicitly, to limit the scope of the investigation or the scope of relief to which Complainants are entitled.

## IV. THE PATENT AT ISSUE – U.S. PATENT NO. 11,925,202

104. The Asserted Patent is directed to devices and components thereof that provide adult tobacco consumers with a smoking alternative to traditional cigarettes.



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105. The ’202 patent has 30 claims: 2 independent claims and 28 dependent claims. Ex. 1 at 32:58–35:7.

106. As further detailed below, at least claims 1*, 3–4, 8–13, 15 of the ’202 patent are infringed by Proposed Respondents’ Accused Products. Exs. 055–104 (representative claim charts). Complainants reserve the right to assert additional claims upon conducting discovery and as permitted by the Commission.

107. As further detailed below, Complainants’ D.I. Products, including the VUSE® Alto, VUSE® Vibe, VUSE® Solo, and VUSE® Ciro products, practice at least claims 1–2, 4–5, 7–10, 13–16, 18–20, 22, 24–26, and 29 of the ’202 patent. Confidential Exs. 224C–227C (representative claim charts).

### A. Identification of the Patent and Ownership by Complainant

108. RAI owns by assignment the entire right, title, and interest in the ’202 patent, entitled “Tobacco-Containing Smoking Article,” which the U.S. Patent and Trademark Office duly and lawfully issued on March 12, 2024. Pursuant to Commission Rule 210.12(a)(9)(i), a certified copy of the ’202 patent is attached as Exhibit 1.

109. The ’202 patent issued from U.S. Patent Application No. 18/129,643, which was filed on March 31, 2023, and claims priority to the following U.S. Patent Applications:

- U.S. Patent Application No. 17/673,424, which was filed on February 16, 2022 and issued as U.S. Patent No. 11,758,936;
- U.S. Patent Application No. 16/271,443, which was filed on February 8, 2019 and issued as U.S. Patent No. 11,785,978;
- U.S. Patent Application No. 15/879,268, which was filed on January 24, 2018 and issued as U.S. Patent No. 10,231,488;



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- U.S. Patent Application No. 15/286,087, which was filed on October 5, 2016 and issued as U.S. Patent No. 9,901,123;
- U.S. Patent Application No. 14/527,287, which was filed on October 29, 2014 and issued as U.S. Patent No. 9,801,416;
- U.S. Patent Application No. 13/297,983, which was filed on November 16, 2011 and issued as U.S. Patent No. 8,899,238;
- U.S. Patent Application No. 12/763,890, which was filed on April 20, 2010 and issued as U.S. Patent No. 8,079,371; and
- U.S. Patent Application No. 11/550,634, which was filed on October 18, 2006 and issued as U.S. Patent No. 7,726,320.

110. The ’202 patent expires on October 18, 2026.

111. The ’123 patent names John Howard Robinson, David William Griffith, Jr., Billy Tyrone Conner, Evon Llewellyn Crooks, and Dempsey Bailey Brewer, Jr. as inventors (collectively, “the named ’202 inventors”). Pursuant to Commission Rule 210.12(a)(9)(ii), a certified copy of each recorded assignment of the ’202 patent is attached as Exhibit 2.

112. The named ’202 inventors assigned all right, title, and interest in and to the ’202 patent to Respondent RJRT. Ex. 2. RJRT assigned its right, title, and interest in and to the ’202 patent to Respondent RAI, the current assignee and owner of the ’202 patent. *Id*.

113. As a result of the foregoing assignments, RAI is the owner of all right, title, and interest in and to the ’202 patent, including the right to enforce, recover damages, and obtain other relief for any infringement of the ’202 patent.



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114. Pursuant to Commission Rule 210.12, a certified copy of the prosecution history of the ’202 patent, as well as each patent and applicable pages of each technical reference mentioned in the prosecution history, are attached as Appendices A and B, respectively.

### 1. Non-Technical Description of the ’202 Patent[5]

115. Pursuant to Commission Rule 210.12(a)(9)(vi), the ’202 patent generally concerns a smoking article that includes an electrical power source that powers a heater to heat an aerosol-forming material in a storage compartment portion of the smoking article. The storage compartment is arranged such that the liquid aerosol-forming material can be wicked into contact with the heater to volatilize the liquid aerosol-forming material. The smoking article may additionally include a controller that is configured to activate current flow through the heater in response to a draw on the smoking article.

### 2. Foreign Counterparts to the ’202 Patent

116. Pursuant to Commission Rule 210.12(a)(9)(v), Exhibit 228 identifies each foreign patent, each foreign patent application (not already issued as a patent), and each foreign patent application that has been denied, abandoned or withdrawn corresponding to the ’202 patent with an indication of the prosecution status of each such patent application.

## B. Licensees Under the Asserted Patent

117. As shown in Exhibit 2, the inventors of the ’202 patent assigned the invention to Complainant, RJRT, who later transferred those rights to Complainant, RAI. Pursuant to Commission Rule 210.12(a)(9)(iv), copies of the confidential intercompany agreements that

[5] This description and other non-technical descriptions within this Complaint are for illustrative purposes only. Nothing in any non-technical description is intended, either implicitly or explicitly, to express any position regarding the scope or proper construction of any claim of the Asserted Patent.



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Complainants rely upon to establish their standing to bring the complaint or to support their contention that a domestic industry as defined in section 1337(a)(3) exists or is in the process of being established as a result of the domestic activities of one or more licensees under the Asserted Patent are included as Confidential Exhibit 3.

118. Pursuant to Commission Rule 210.12(a)(9)(iii), Complainants identify those parties as having certain rights to the Asserted Patent in Confidential Exhibit 3 at 156.

## V. SPECIFIC INSTANCES OF UNLAWFUL IMPORTATION AND SALE

119. The specific instances of importation of infringing Accused Products set forth below are representative examples of Proposed Respondents' unlawful importation into the United States, sale for importation into the United States, and/or sales within the United States after importation of infringing products.

120. On information and belief, Proposed Respondents, either individually or acting in concert, design, develop, evaluate, test, and manufacture or have manufactured Accused Products outside of the United States and are (i) importing into the United States, (ii) selling for importation into the United States, and/or (iii) selling within the United States after importation the Accused Products. On information and belief, Proposed Respondents sell the Accused Products knowing, or having reason to know, that the Accused Products would be subsequently imported into the United States.

121. On information and belief, Proposed Respondents, either individually or acting in concert, knowingly and intentionally direct, authorize, approve, or otherwise participate in the unlawful and infringing conduct alleged herein, including the manufacture, distribution, sale for importation, importation, and/or sale within the United States after importation of the infringing Accused Products and components thereof.



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122. The Accused Products are manufactured overseas, predominantly in China, and then sold for importation into the United States by Proposed Respondents or on their behalf, imported into the United States by Proposed Respondents or on their behalf, and/or sold after importation by Proposed Respondents or on their behalf.

**A. Breeze Proposed Respondents**

123. On information and belief, Breeze Smoke sells for importation, imports, and/or sells after importation the Accused Products. A Breeze Smoke Prime was purchased in the United States. *See* Ex. 4-1. "Breeze Smoke, LLC" is listed on the packaging of the Breeze Smoke Prime and the packaging indicates "Manufactured in China" and "Sale only allowed in the United States." *See* Ex. 6 at 3.

124. On information and belief, Capital Sales sells for importation, imports, and/or sells after importation the Accused Products. Capital Sales is associated with Breeze Smoke. Capital Sales imports, sells, and/or distributes for sale one or more of the Accused Products alone or in partnership with Breeze Smoke via the website capitalcsc.com. *See* Exs. 111 (indicating contact information for "Breeze Smoke Inquiries – Breeze@capitalcsc.com"); 112 (stating that Capital Sales "is the exclusive distributor for Breeze Smoke."); 113 (showing the booth location of "Breeze Smoke (distributed by Capital Sales Company)" at the National Association of Convenience Stores Show 2022).

125. On information and belief, KMT Services sells for importation, imports, and/or sells after importation the Accused Products. KMT Services operates the website dankshop.com, through which KMT Services markets Breeze Smoke products, offers Breeze Smoke products for distribution, and/or offers Breeze Smoke products for sale. *See* Exs. 118 at 8; 117 at 3, note 12.



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126. On information and belief, Shikai Technology sells for importation, imports, and/or sells after importation the Accused Products. A Breeze Smoke Prime was purchased in the United States. *See* Ex. 4-1. "Dongguan Shikai Technology Co., Ltd" is listed on the packaging of the Breeze Smoke Prime and the packaging indicates "Manufactured in China" and "Sale only allowed in the United States." *See* Ex. 6 at 3.

**B. iMiracle / Heaven Gifts Proposed Respondents**

127. On information and belief, Vapeonly sells for importation, imports, and/or sells after importation the Accused Products. Vapeonly is associated with at least one Accused Product that was imported into the United States. *See* Ex. 121 at 1; 14.

128. On information and belief, iMiracle (Shenzhen) sells for importation, imports, and/or sells after importation the Accused Products. An EB Design BC5000 was purchased in the United States. *See* Ex. 4-1. "IMIRACLE (SHENZHEN) TECHNOLOGY CO., LTD." is listed on the packaging of the EB Design BC5000 and the packaging indicates "Made in China" and "Sale only allowed in the United States." *See* Ex. 10 at 4–5.

129. On information and belief, Guangdong Qisitech sells for importation, imports, and/or sells after importation the Accused Products. An EB Design BC5000 was purchased in the United States. *See* Ex. 4-1. "GUANGDONG QISITECH CO., LTD." is listed on the packaging of the EB Design BC5000 and the packaging indicates "Made in China" and "Sale only allowed in the United States." *See* Ex. 10 at 4–5.

130. On information and belief, Fewo Intelligent sells for importation, imports, and/or sells after importation the Accused Products. An EBCreate BC5000 Thermal Edition was purchased in the United States. *See* Ex. 4-1. "FEWO INTELLIGHENT MANUFACTURING LIMITED" is listed on the packaging of the EBCreate BC5000 Thermal Edition and the



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packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 9 at 4–5.

131. On information and belief, Nevera (HK) sells for importation, imports, and/or sells after importation the Accused Products. An EBCreate BC5000 Thermal Edition was purchased in the United States. *See* Ex. 4-1. "NEVERA (HK) LIMITED" is listed on the packaging of the EBCreate BC5000 Thermal Edition and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 9 at 5.

132. On information and belief, Guangdong Cellular sells for importation, imports, and/or sells after importation the Accused Products. An EBDesign TE6000 was purchased in the United States. *See* Ex. 4-1. "GUANGDONG CELLULAR WORKSHOP ELECTRONICS TECHNOLOGY CO., LTD." is listed on the packaging of the EBDesign TE6000 and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 11 at 6.

133. On information and belief, Wonder Ladies sells for importation, imports, and/or sells after importation the Accused Products. A Lost Mary OS5000 was purchased in the United States. *See* Ex. 4-1. "WONDER LADIES LIMITED" is listed on the packaging of the Lost Mary OS5000 and the packaging indicates "Made in China." *See* Ex. 25 at 3.

134. On information and belief, Sailing South sells for importation, imports, and/or sells after importation the Accused Products. A Funky Lands Ti7000 was purchased in the United States. *See* Ex. 4-1. "SAILING SOUTH Limited" is listed on the packaging of the Funky Lands Ti7000 and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 16 at 4.



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135. On information and belief, Marea Morada sells for importation, imports, and/or sells after importation the Accused Products. A RabBeats RC10000 was purchased in the United States. *See* Ex. 4-1. "MAREA MORADA LIMITED" is listed on the packaging of the Rabbeats RC10000 and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 29 at 6.

136. On information and belief, Social Brands sells for importation, imports, and/or sells after importation the Accused Products. A Space Mary SM8000 was purchased in the United States. *See* Ex. 4-1. "Social Brands" is listed on the packaging of the Space Mary SM8000 and the packaging indicates "MADE IN CHINA" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 31 at 4–5.

137. On information and belief, Zhuhai Qisitech sells for importation, imports, and/or sells after importation the Accused Products. A Geek Bar Pulse was purchased in the United States. *See* Ex. 4-1. "Zhuhai Qisitech Co., LTD." is listed on the packaging of the Geek Bar Pulse as the manufacturer and the packaging indicates that the manufacturer of this product is located in China and states "SALES ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 20 at 4.

138. On information and belief, Shenzhen Han sells for importation, imports, and/or sells after importation the Accused Products. Shenzhen Han admitted to manufacturing Lost Mary Disposable Vapes in prior litigation. *Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812394, Respondents Shenzhen Weiboli Technology Co. Ltd, Vapeonly Technology Co. Ltd., Imiracle (Shenzhen) Technology Co., Ltd., Guangdong Qisitech Co., Ltd., and Shenzhen Han Technology Co., Ltd. Response to the Verified Complaint at ¶ 54.



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139. On information and belief, Palma Terra sells for importation, imports, and/or sells after importation the Accused Products. A Lost Mary Off-Stamp SW9000 was purchased in the United States. *See* Ex. 4-1. "PALMA TERRA LIMITED" is listed on the packaging of the Lost Mary Off-Stamp SW9000 and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 24 at 4–5.

140. On information and belief, Shenzhen IVPS sells for importation, imports, and/or sells after importation the Accused Products. A NOVO Bar AL6000 was purchased in the United States. *See* Ex. 4-1. "SHENZHEN IVPS TECHNOLOGY CO., LTD." is listed on the packaging of the NOVO Bar AL6000 and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 32 at 5.

141. On information and belief, Heaven Gifts sells for importation, imports, and/or sells after importation the Accused Products. The "brand introduction page" of Heaven Gifts' website heavengifts.com advertises the Lost Mary and Elf Bar brands. *See* Ex. 141 at 2, 4. The Lost Mary and Elf Bar brands include at least one Accused Product imported into the United States. *See* Exs. 14; 24.

### C. Loon Proposed Respondent

142. On information and belief, Maduro Distributors sells for importation, imports, and/or sells after importation the Accused Products. A Loon Maxx was purchased in the United States. *See* Ex. 4-1. "The Loon" is listed on the packaging of the Loon Maxx and the packaging indicates "Made in China" and "Sale only allowed in USA." *See* Ex. 36 at 4–5.

### D. Bidi Proposed Respondents

143. On information and belief, Bidi Vapor sells for importation, imports, and/or sells after importation the Accused Products. A Bidi Stick Regal was purchased in the United States.



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*See* Ex. 4-1. "Bidi Vapor, LLC" is listed on the packaging of the Bidi Stick Regal and the packaging indicates "MADE IN CHINA" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 37 at 6.

144. On information and belief, Kaival Brands Innovations sells for importation, imports, and/or sells after importation the Accused Products. Upon information and belief, Kaival Brands Innovations is the "exclusive U.S. distributor of all products manufactured by Bidi Vapor, LLC" including the Bidi Stick Regal. *See* Ex. 229 at 1. One or more Bidi Stick Regal was imported into the United States. *See* Ex. 37.

**E. Hyppe Proposed Respondents**

145. On information and belief, Kimsun Technology (HuiZhou) sells for importation, imports, and/or sells after importation the Accused Products. A Hyppe Max was purchased in the United States. *See* Ex. 4-1. "KIMSUN TECHNOLOGY (HUIZHOU)CO., LTD." is listed on the packaging of the Hyppe Max and the packaging indicates that the factory for this product is located in China and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 38 at 6.

146. On information and belief, Shenzhen Yangyang sells for importation, imports, and/or sells after importation the Accused Products. A Hyppe Max Air was purchased in the United States. *See* Ex. 4-1. Shenzhen Yangyang is listed on the packaging of the Hyppe Max Air and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 156 at 2.

**F. Esco Bars Proposed Respondents**

147. On information and belief, Pastel Cartel sells for importation, imports, and/or sells after importation the Accused Products. A Esco Bars KILO was purchased in the United States.



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*See* Ex. 4-1. "PASTEL CARTEL LLC" is listed on the packaging of the Esco Bars KILO and the packaging indicates "Made in China" and "ONLY FOR SALE IN THE U.S.A." *See* Ex. 43 at 6.

148. On information and belief, American Vape sells for importation, imports, and/or sells after importation the Accused Products. American Vape admitted to selling imported Esco Bar products in a prior litigation. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents' Response to the Amended Complaint at ¶ 357.

149. On information and belief, Affiliated Imports sells for importation, imports, and/or sells after importation the Accused Products. Affiliated Imports admitted that it is registered to American Vape Company and acts as American Vape Company's and Pastel Cartel's consignee and importer of record for incoming shipments of Esco Bars Disposable Vapes to the United States in a prior litigation. *Certain Disposable Vaporizer Devices, Inv.* No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents' Response to the Amended Complaint at ¶ 59.

150. On information and belief, Shenzhen Innokin sells for importation, imports, and/or sells after importation the Accused Products. Shenzhen Innokin admitted that it manufactured certain Esco Bar products in a prior litigation. *Certain Disposable Vaporizer Devices, Inv.* No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents' Response to the Amended Complaint at ¶ 60.

151. On information and belief, Shenzhen Funyin sells for importation, imports, and/or sells after importation the Accused Products. Pastel Cartel admitted that Shenzhen Funyin "has in the past manufactured some Esco Bars Disposable Vapes" in a prior litigation. *See Certain Disposable Vaporizer Devices,* Inv. No. 1381, EDIS Doc. ID No. 812377, Pastel Respondents'



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Response to the Amended Complaint at ¶ 61 (admitting to allegations in the Amended Complaint).

### G. Mr. Fog Proposed Respondents

152. On information and belief, Shenzhen LC sells for importation, imports, and/or sells after importation the Accused Products. A Mr. Fog Max was purchased in the United States. *See* Ex. 4-1. "Shenzhen LC Technology Co., Ltd." is listed on the packaging of the Mr. Fog Max and the packaging indicates "MADE IN CHINA" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 44 at 4–5.

153. On information and belief, LCF Labs sells for importation, imports, and/or sells after importation the Accused Products. A Mr. Fog Switch was purchased in the United States. *See* Ex. 4-1. "LCF Labs" is listed on the packaging of the Mr. Fog Switch and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 45 at 3.

### H. Kangvape Proposed Respondent

154. On information and belief, Shenzhen Kangvape sells for importation, imports, and/or sells after importation the Accused Products. A KangVape Onee Max was purchased in the United States. *See* Ex. 4-1. "SHENZHEN KANGVAPE TECHNOLOGY CO., LTD." is listed on the packaging of the KangVape Onee Max and the packaging indicates "Made in China" and "SALE ONLY ALLOWED IN THE UNITED STATES." *See* Ex. 46 at 4.

### I. Flum Proposed Respondent

155. On information and belief, Flumgio Technology Ltd. sells for importation, imports, and/or sells after importation the Accused Products. A Flum Pebble was purchased in the United States. *See* Ex. 4-1. "Flumgio Technology LTD" is listed on the packaging of the



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Flum Pebble and the packaging indicates "Made in China" and "Sale only allowed in the USA." *See* Ex. 53 at 5.

**J. Posh Proposed Respondent**

156. On information and belief, Shenzhen Pingray sells for importation, imports, and/or sells after importation the Accused Products. A Posh Max 2.0 was purchased in the United States. *See* Ex. 4-1. "Shenzhen Pingray Technology Co., Ltd." is listed on the packaging of the Posh Max 2.0 as the manufacturer and the packaging indicates "Made in China" and "Only for sale in USA." *See* Ex. 41 at 6.

**K. Distributor Proposed Respondents**

157. On information and belief, SV3 sells for importation, imports, and/or sells after importation the Accused Products. At least one Accused Product was purchased from the website mipod.com/ which is operated by SV3. *See* Ex. 4-1.

158. On information and belief, Price Point sells for importation, imports, and/or sells after importation the Accused Products. At least one Accused Product was purchased from the website pricepointny.com which is operated by Price Point. *See* Ex. 4-1.

159. On information and belief, Flawless Vape Shop sells for importation, imports, and/or sells after importation the Accused Products. "Flawless Vape Shop" is listed as the contact company on flawlessvapeshop.com and this website advertises one or more of the Accused Products for sale. *See* Ex. 176.

160. On information and belief, Flawless Vape Wholesale & Distribution Inc. sells for importation, imports, and/or sells after importation the Accused Products. Flawless Vape Wholesale & Distribution Inc. markets and sells products to consumers across the country via the website www.flawlessvapeshop.com. *See Certain Disposable Vaporizer Devices*, Inv. No. 1381,



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EDIS Doc. ID No. 805887 Complaint at ¶ 88. Flawlessvapeshop.com advertises one or more of the Accused Products. *See* Ex. 176.

161. On information and belief, Element Vape sells for importation, imports, and/or sells after importation the Accused Products. Element Vape admitted in a prior litigation that it sells disposable ENDS devices to consumers in the United States through the website elementvape.com. *Certain Disposable Vaporizer Devices*, Inv. No. 1381, EDIS Doc. ID No. 812384, Respondent Thesy Response to the Notice of Investigation and Complaint at ¶ 91. Elementvape.com advertises one or more Accused Products for sale. *See* Ex. 179.

162. On information and belief, Vape Sourcing sells for importation, imports, and/or sells after importation the Accused Products. Vape Sourcing sells one or more Accused Products to consumers in the United States from the website vapesourcing.com. *See Certain Disposable Vaporizer Devices and Components and Packaging Thereof*, Inv. No. 1381, EDIS Doc. ID No. 805887, Complaint at ¶ 92. This website advertises one or more Accused Products for sale. *See* Ex. 181.

163. On information and belief, Demand Vape sells for importation, imports, and/or sells after importation the Accused Products. Demand Vape sells products through the website demandvape.com. *See* Ex. 184. This website advertises one or more Accused Products for sale. *See* Ex. 185.

164. On information and belief, Midwest Goods sells for importation, imports, and/or sells after importation the Accused Products. Midwest Distribution Illinois is an assumed name of Midwest Goods Inc. and "Midwest Distribution Illinois" appears under the contact information for the website midwestgoods.com. *See* Exs. 43.005; 186; 187 at 4. This website advertises one or more of the Accused Products. *See* Ex. 189. Midwest Distribution Illinois,



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through its Managing Director, Mudassir Yasin, recently submitted a Declaration in Federal Court *Midwest Goods Inc., d/b/a Midwest Distribution Illinois v. Breeze Smoke LLC,* No. 1:23-CV-05406, Docket Item #1 at ¶ 1 (N.D. Ill. Aug. 11, 2023) stating that it "is a United States business-to-business (B2B) distributor of vaping devices . . . to other distributors and retail locations," that it has "thousands of vaping devices . . . for sale, many of which are visible on https://www.midwestgoods.com/," and listing many of the brands encompassed by the Accused Products. *See* Ex. 230 at ¶¶ 4, 8. Mr. Yasin further stated that, "[o]ver several years, Midwest has purchased thousands of vapes and vape-related product lines from China. In my experience, at least 90% or more of disposable vapes are supplied from China and there are over 100 China suppliers." *Id.* at ¶ 12.

165. On information and belief, Proposed Respondents or agents acting at their direction have maintained and continue to maintain a commercially significant inventory of the Accused Products and components thereof in the United States.

166. On information and belief, Proposed Respondents or agents acting at their direction have maintained and continue to maintain a commercially significant inventory of the Accused Products and components thereof in the United States.

## VI. UNFAIR ACTS OF PROPOSED RESPONDENTS

### A. Infringement

167. Proposed Respondents unlawfully import into the United States, sell for importation into the United States, and/or sell within the United States after importation, the Accused Products, of which Proposed Respondents are the owner, importer or consignee. The aforesaid acts of Proposed Respondents constitute acts of infringement.



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### 1. Direct Infringement

168. Proposed Respondents, individually or acting under direction, control, or joint enterprise, directly infringe one or more claims of one or more of the Asserted Patent, by unlawfully importing into the United States, selling for importation into the United States, and/or selling within the United States after importation, the Accused Products. The Accused Products infringe, either literally or through the doctrine of equivalents, all the limitations of at least one claim of the Asserted Patent. Exs. 055–104. Specifically, the Accused Products infringe claims 1, 3–4, 8–13, and 15. *Id.*

### 2. Indirect Infringement

169. On information and belief, Proposed Respondents indirectly infringe the Asserted Patent pursuant to 35 U.S.C. § 271(b) and/or (c) by knowingly and intentionally inducing infringement and/or contributing to the infringement of the Asserted Patent by, among other things, selling in the United States the Accused Products to direct infringers, that include, without limitation, customers and/or end users of those products. Those customers and/or end users of the Accused Products directly infringe one or more claims of one or more of the Asserted Patent.

170. Proposed Respondents have had knowledge of the Asserted Patent since at least the service of this Complaint. Complainants' VUSE® Alto, Vibe, and Solo products are marked with the Asserted Patent.

171. On information and belief, Proposed Respondents actively induce infringement of the Asserted Patent pursuant to 35 U.S.C. § 271(b) through, among other things, the sale in the United States of the Accused Products to direct infringers that include, without limitation, customers and end users of Proposed Respondents' Accused Products, with the specific intent that the Accused Products be used in an infringing manner.



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172. On information and belief, Proposed Respondents encourage customers and end users to use the Accused Products in an infringing manner, by instructing customers and end users to use the Accused Products in an infringing manner, providing training and/or technical support to customers and end users instructing how to use the Accused Products in an infringing manner, and advertising, marketing, and promoting the use of the Accused Products in an infringing manner. On information and belief, Proposed Respondents have had specific intent to infringe the Asserted Patent or were willfully blind to such infringement.

173. On information and belief, Proposed Respondents also indirectly infringe the Asserted Patent pursuant to 35 U.S.C. § 271(c) by contributing to the infringement of the Asserted Patent by selling the Accused Products in the United States to direct infringers, including, without limitation, customers and/or end users of the Accused Products, structures and features of which constitute a material part of one or more claims of the Asserted Patent, and are not a staple article of commerce suitable for non-infringing uses, and are especially made and or adapted for use in infringing the Asserted Patent.

174. On information and belief, Proposed Respondents possess intent to contributorily infringe the Asserted Patent because they know that the structures and features of the Accused Products are especially made or adapted for use in an infringement of one or more claims of the Asserted Patent and such features are not a staple article of commerce suitable for non-infringing uses.

175. On information and belief, the direct infringers for Proposed Respondents' contributory infringement include, without limitation, customers and end users of the Accused Products, to whom Proposed Respondents sell the Accused Products. Proposed Respondents contribute to these customers' and end users' infringement by selling the Accused products to



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them, by advertising and promoting the Accused Products as embodying a material component of the patented inventions, and by encouraging and providing instructions to their customers and end users for using the Accused Products as embodying a material component of the patented inventions.

176. On information and belief, Proposed Respondents contribute to the infringement of the Asserted Patent by selling for importation into the United States, importing into the United States, and/or selling within the United States after importation, components containing infringing functionality of the Accused Products, which are not a staple article or commodity of commerce suitable for substantial non-infringing use. Thus, these components of the Accused Products are especially made or adapted for use in the infringement of the Asserted Patent.

**B. Evidence of Infringement**

177. The Accused Products infringe claims 1, 3–4, 8–13, and 15 of the ’202 patent. Pursuant to § 210.12(a)(9)(viii), charts that apply the independent asserted claim(s) of the ’202 patent to each of the Accused Products that, to the best of their ability, Complainants were able to locate for purchase, are attached hereto as Exs. 055-104. Complainants purchased and tore down 50 disposable vaping products from the Proposed Respondents, each of which are similarly structured, and each of which infringe the ’202 patent.

178. On information and belief, and in view of the 50 similarly structured and infringing products Complainants were able to locate for purchase, the remainder of the Accused Products are also similarly structured, and thus also infringe. To the extent these products are still being offered for sale, their structure will be confirmed in discovery.

179. The following Accused Products which infringe the ’202 patent are listed below. *See* Exs. 55–105.



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|---|---|
| Breeze Smoke LLC | Exhibit 55 (Breeze Smoke Plus Edition)<br>Exhibit 56 (Breeze Smoke Prime Edition (6000 Puffs))<br>Exhibit 57 (Breeze Smoke Pro Edition) |
| Capital Sales Company | Exhibit 55 (Breeze Smoke Plus Edition)<br>Exhibit 56 (Breeze Smoke Prime Edition (6000 Puffs))<br>Exhibit 57 (Breeze Smoke Pro Edition) |
| KMT Services LLC d/b/a KMT Distribution and Dank Shop | Exhibit 55 (Breeze Smoke Plus Edition)<br>Exhibit 56 (Breeze Smoke Prime Edition (6000 Puffs))<br>Exhibit 57 (Breeze Smoke Pro Edition) |
| Dongguan (Shenzhen) Shikai Technology Co., Ltd. | Exhibit 55 (Breeze Smoke Plus Edition)<br>Exhibit 56 (Breeze Smoke Prime Edition (6000 Puffs))<br>Exhibit 57 (Breeze Smoke Pro Edition) |



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| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Vapeonly Technology Co. Ltd. | Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000)<br>Exhibit 74 (Lost Mary Off-Stamp)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo) |
| iMiracle (Shenzhen) Technology Co., Ltd. | Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse) |
| Guangdong Qisitech Co., Ltd. | Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 76 (RAZ CA6000)<br>Exhibit 78 (RAZ TN 9000)<br>Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse) |

| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Fewo Intelligent Manufacturing Limited | Exhibit 58 (EBCreate BC5000)<br>Exhibit 59 (EBCreate BC5000 Thermal Edition)<br>Exhibit 66 (Funky Lands Ti7000)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 79 (RC1000)<br>Exhibit 80 (RC10000 Touch) |
| Nevera (HK) Ltd. | Exhibit 58 (EBCreate BC5000)<br>Exhibit 59 (EBCreate BC5000 Thermal Edition) |
| Guangdong Cellular Workshop Electronics Technology Co., Ltd. | Exhibit 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000) |
| Wonder Ladies Ltd. | Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo) |
| Sailing South Ltd. | Exhibit 66 (Funky Lands Ti7000) |
| Marea Morada Ltd. | Exhibit 79 (RC1000)<br>Exhibit 80 (RC10000 Touch) |
| Social Brands, LLC | Exhibit 81 (Space Mary SM8000)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000)<br>Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse)<br>Exhibit 76 (RAZ CA6000)<br>Exhibit 78 (RAZ TN 9000) |
| Zhuhai Qisitech Co., Ltd. | Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse) |
| Shenzhen Han Technology Co., Ltd. | Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo) |
| Palma Terra Ltd. | Exhibit 74 (Lost Mary Off-Stamp) |



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| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Shenzhen IVPS Technology Co., Ltd. | Exhibit 84 (Priv Bar Turbo)<br>Exhibit 82 (AL6000)<br>Exhibit 83 (AL9000) |
| Heaven Gifts International Ltd . | Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo) |
| Maduro Distributors Inc. d/b/a The Loon | Exhibit 85 (Loon Air)<br>Exhibit 86 (Loon Maxx) |
| Bidi Vapor, LLC | Exhibit 87 (BIDI Stick Regal) |
| Kaival Brands Innovations Group Inc. | Exhibit 87 (BIDI Stick Regal) |
| Kimsun Technology (HuiZhou) Co., Ltd. | Exhibit 88 (Max 1600 puffs) |
| Shenzhen Yanyang Technology (HuiZhou) Co., Ltd. | Exhibit 89 (Max Air 5000 puffs)<br>Exhibit 90 (Max Flow Mesh 2000 puffs) |
| Pastel Cartel, LLC | Exhibit 92 (Esco Bars 25000 Mesh)<br>Exhibit 93 (Esco Bars Kilo 4000 puffs) |
| American Vape Company, LLC | Exhibit 92 (Esco Bars 25000 Mesh)<br>Exhibit 93 (Esco Bars Kilo 4000 puffs) |
| Affiliated Imports, LLC | Exhibit 92 (Esco Bars 25000 Mesh)<br>Exhibit 93 (Esco Bars Kilo 4000 puffs) |
| Shenzhen Innokin Technology Co., Ltd. | Exhibit 92 (Esco Bars 25000 Mesh)<br>Exhibit 93 (Esco Bars Kilo 4000 puffs) |
| Shenzhen Funyin Electronic Technology Co., Ltd. | Exhibit 92 (Esco Bars 25000 Mesh)<br>Exhibit 93 (Esco Bars Kilo 4000 puffs) |
| Shenzhen LC Technology Co., Ltd. | Exhibit 94 (Mr. Fog Max)<br>Exhibit 95 (Mr. Fog Switch) |
| LCF Labs, Inc. | Exhibit 94 (Mr. Fog Max)<br>Exhibit 95 (Mr. Fog Switch) |
| Shenzhen Kangvape Technology Co., Ltd. | Exhibit 96 (Kang Vape ONEE - Max 5000)<br>Exhibit 97 (Kang Vape ONEE Stick)<br>Exhibit 98 (Kang Vape ONEE Stick 5200)<br>Exhibit 99 (Kang Vape SMOD Max 6000) |
| Flumgio Technology Ltd. | Exhibit 101 (Flum Gio)<br>Exhibit 103 (Flum Pebble)<br>Exhibit 100 (Flum Float)<br>Exhibit 102 (Flum Mi)<br>Exhibit 104 (Flum UT Bar) |

| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Shenzhen Pingray Technology | Exhibit 91 (Posh Max 2.0) |
| SV3 LLC d/b/a Mi-One Brands | Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 102 (Flum Mi)<br>Exhibit 100 (Flum Float)<br>Exhibit 101 (Flum Gio)<br>Exhibit 104 (Flum UT Bar)<br>Exhibit 79 (RC1000)<br>Exhibit 80 (RC10000 Touch)<br>Exhibit 59 (EBCreate BC5000 Thermal Edition)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 58 (EBCreate BC5000)<br>Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000)<br>Exhibit 81 (Space Mary SM8000)<br>Exhibit 70 (Geek Bar Pulse)<br>Exhibit 69 (Geek Bar B5000)<br>Exhibit 82 (AL6000)<br>Exhibit 83 (AL9000)<br>Exhibit 93 (Esco Bars Kilo 4000 puffs)<br>Exhibit 92 (Esco Bars 25000 Mesh)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 74 (Lost Mary Off-Stamp)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 81 (Space Mary SM8000)<br>Exhibit 77 (RAZ DC25000)<br>Exhibit 78 (RAZ TN 9000) |

| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Price Point Distributors Inc. d/b/a Price Point NY | Exhibit 55 (Breeze Smoke Plus Edition)<br>Exhibit 56 (Breeze Smoke Prime Edition (6000 Puffs))<br>Exhibit 57 (Breeze Smoke Pro Edition)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000)<br>Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse)<br>Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 94 (Mr. Fog Max)<br>Exhibit 95 (Mr. Fog Switch)<br>Exhibit 77 (RAZ DC25000)<br>Exhibit 76 (RAZ CA6000)<br>Exhibit 78 (RAZ TN 9000)<br>Exhibit 80 (RC10000 Touch)<br>Exhibit 84 (Priv Bar Turbo)<br>Exhibit 82 (AL6000)<br>Exhibit 83 (AL9000)<br>Exhibit 81 (Space Mary SM8000)<br>Exhibit 104 (Flum UT Bar)<br>Exhibit 101 (Flum Gio)<br>Exhibit 103 (Flum Pebble)<br>Exhibit 100 (Flum Float)<br>Exhibit 102 (Flum Mi)<br>Exhibit 58 (EBCreate BC5000)<br>Exhibit 59 (EBCreate BC5000 Thermal Edition) |



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| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Flawless Vape Shop Inc. | Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 84 (Priv Bar Turbo)<br>Exhibit 82 (AL6000)<br>Exhibit 83 (AL9000)<br>Exhibit 80 (RC10000 Touch)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 68 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000)<br>Exhibit 94 (Mr. Fog Max)<br>Exhibit 95 (Mr. Fog Switch)<br>Exhibit 104 (Flum UT Bar)<br>Exhibit 101 (Flum Gio)<br>Exhibit 103 (Flum Pebble)<br>Exhibit 100 (Flum Float)<br>Exhibit 102 (Flum Mi)<br>Exhibit 88 (Max 1600 puffs)<br>Exhibit 89 (Max Air 5000 puffs)<br>Exhibit 90 (Max Flow Mesh 2000 puffs)<br>Exhibit 76 (RAZ CA6000)<br>Exhibit 78 (RAZ TN 9000)<br>Exhibit 77 (RAZ DC25000) |



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| Flawless Vape Wholesale & Distribution Inc. | Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 84 (Priv Bar Turbo)<br>Exhibit 82 (AL6000)<br>Exhibit 83 (AL9000)<br>Exhibit 80 (RC10000 Touch)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 68 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000)<br>Exhibit 94 (Mr. Fog Max)<br>Exhibit 95 (Mr. Fog Switch)<br>Exhibit 104 (Flum UT Bar)<br>Exhibit 101 (Flum Gio)<br>Exhibit 103 (Flum Pebble)<br>Exhibit 100 (Flum Float)<br>Exhibit 102 (Flum Mi))<br>Exhibit 88 (Max 1600 puffs)<br>Exhibit 89 (Max Air 5000 puffs)<br>Exhibit 90 (Max Flow Mesh 2000 puffs)<br>Exhibit 76 (RAZ CA6000)<br>Exhibit 78 (RAZ TN 9000)<br>Exhibit 77 (RAZ DC25000) |



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| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Thesy, LLC d/b/a Element Vape | Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse)<br>Exhibit 93 (Esco Bars Kilo 4000 puffs)<br>Exhibit 92 (Esco Bars 25000 Mesh)<br>Exhibit 78 (RAZ TN 9000)<br>Exhibit 77 (RAZ DC25000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 74 (Lost Mary Off-Stamp)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 102 (Flum Mi)<br>Exhibit 100 (Flum Float)<br>Exhibit 101 (Flum Gio)<br>Exhibit 104 (Flum UT Bar)<br>Exhibit 79 (RC1000)<br>Exhibit 80 (RC10000 Touch)<br>Exhibit 59 (EBCreate BC5000 Thermal Edition)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 58 (EBCreate BC5000)<br>Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 65 (Elf Bar TE6000) |

| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| VICA Trading Inc. d/b/a/ Vapesourcing | Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 69 (Geek Bar B5000)<br>Exhibit 70 (Geek Bar Pulse)<br>Exhibit 96 (Kang Vape ONEE - Max 5000)<br>Exhibit 97 (Kang Vape ONEE Stick)<br>Exhibit 98 (Kang Vape ONEE Stick 5200)<br>Exhibit 99 (Kang Vape SMOD Max 6000)<br>Exhibit 94 (Mr. Fog Max)<br>Exhibit 95 (Mr. Fog Switch)<br>Exhibit 101 (Flum Gio)<br>Exhibit 103 (Flum Pebble)<br>Exhibit 100 (Flum Float)<br>Exhibit 102 (Flum Mi)<br>Exhibit 104 (Flum UT Bar)<br>Exhibit 79 (RC1000)<br>Exhibit 80 (RC10000 Touch)<br>Exhibit 68 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000) |

| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Ecto World, LLC d/b/a Demand Vape | Exhibit 58 (EBCreate BC5000)<br>Exhibit 59 (EBCreate BC5000 Thermal Edition)<br>Exhibit 66 (Funky Lands Ti7000)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo)<br>Exhibit 62 (Elf Bar BC5000 – Malibu)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 64 (Elf Bar TE5000)<br>Exhibit 65 (Elf Bar TE6000)<br>Exhibit 60 (EBDesign BC5000)<br>Exhibit 61 (EBDesign TE6000)<br>Exhibit 68 68 (Funky Republic Ti7000)<br>Exhibit 67 (Funky Republic Fi3000)<br>Exhibit 94 (Mr. Fog Max)<br>Exhibit 95 (Mr. Fog Switch)<br>Exhibit 82 (AL6000 by NOVO BAR)<br>Exhibit 83 (AL9000 by NOVO BAR)<br>Exhibit 74 (Lost Mary Off-Stamp)<br>Exhibit 84 (Priv Bar Turbo by SMOK)<br>Exhibit 81 (Space Mary SM8000)<br>Exhibit 78 (RAZ TN 9000)<br>Exhibit 76 (RAZ CA6000)<br>Exhibit 88 (Max 1600 puffs by HYPPE)<br>Exhibit 89 (Max Air 5000 puffs by HYPPE)<br>Exhibit 90 (Max Flow Mesh 2000 puffs by HYPPE)<br>Exhibit 101 (Flum Gio)<br>Exhibit 103 (Flum Pebble)<br>Exhibit 100 (Flum Float)<br>Exhibit 102 (Flum Mi)<br>Exhibit 104 (Flum UT Bar) |

| Proposed Respondents | Associated Infringement Chart(s) |
|---|---|
| Midwest Goods Inc. d/b/a Midwest Distribution | Exhibit 84 (Priv Bar Turbo)<br>Exhibit 82 (AL6000)<br>Exhibit 83 (AL9000)<br>Exhibit 91 (Posh Max 2.0)<br>Exhibit 79 (RC1000)<br>Exhibit 80 (RC10000 Touch)<br>Exhibit 81 (Space Mary SM8000)<br>Exhibit 77 (RAZ DC25000)<br>Exhibit 78 (RAZ TN 9000)<br>Exhibit 70 (Geek Bar Pulse)<br>Exhibit 69 (Geek Bar B5000)<br>Exhibit 86 (Loon Maxx)<br>Exhibit 97 (Kang Vape ONEE Stick)<br>Exhibit 98 (Kang Vape ONEE Stick 5200)<br>Exhibit 96 (Kang Vape ONEE - Max 5000)<br>Exhibit 99 (Kang Vape SMOD Max 6000)<br>Exhibit 89 (Max Air 5000 puffs by HYPPE)<br>Exhibit 90 (Max Flow Mesh 2000 puffs)<br>Exhibit 88 (Max 1600 puffs by HYPPE)<br>Exhibit 82 (AL6000 by NOVO BAR)<br>Exhibit 83 (AL9000 by NOVO BAR)<br>Exhibit 94 (Mr. Fog Max)<br>Exhibit 95 (Mr. Fog Switch)<br>Exhibit 72 (Lost Mary MO5000)<br>Exhibit 75 (Lost Mary OS5000)<br>Exhibit 74 (Lost Mary Off-Stamp)<br>Exhibit 63 (Elf Bar Pod King XC5000)<br>Exhibit 71 (Lost Mary BM5000)<br>Exhibit 73 (Lost Mary MT15000 Turbo) |

## VII. HARMONIZED TARIFF SCHEDULE INFORMATION

180. The articles subject to this complaint may be classified under at least the following headings and subheadings of the Harmonized Tariff Schedule ("HTS") of the United States: 8543.40.00; 8543.40.00.30; 8543.40.00.40. These HTS numbers are illustrative only and may not exhaustively reflect the HTS classification of all Accused Products. These HTS numbers are not intended to restrict the scope of this investigation or the scope of relief to which Complainants are entitled.



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## VIII. THE DOMESTIC INDUSTRY

### A. Economic Prong

181. Reynolds was founded in 1875 in Winston-Salem, North Carolina, by Richard Joshua Reynolds. Ferris Decl. at ¶ 4. Nearly 150 years later, Reynolds is still headquartered in Winston-Salem and is deeply rooted in the U.S. domestic economy. *Id.* Reynolds currently employs thousands of individuals in the U.S. *Id.* Reynolds's largest plant, formerly known as "Tobaccoville," and now known as the Reynolds Operations Center ("ROC"), is a 2 million square foot facility constructed in 1986 and is located in the town of Tobaccoville, near Winston-Salem. *Id*. Reynolds also has a significant research and development facility in Winston-Salem operating out of its Bowman Gray Technical Center. *Id*. The group primarily responsible for this R&D is the Scientific Research and Development Group ("SR&D"), which currently includes more than 260 employees. *Id.*

182. While Reynolds is the second largest tobacco company in the United States, it is no longer just a "tobacco" company. *Id*. at ¶ 5. For many years, Reynolds has been focused on becoming a predominantly smokeless business. *Id*. By 2035, Reynolds wants at least 50% of its revenue to come from noncombustible products. *Id*. To achieve this goal, Reynolds has made significant investments in the research and development of alternatives to combustible cigarettes, including in products known as ENDS or e-cigarettes. *Id*.

183. For nearly 15 years, Reynolds has been a pioneer in the development of e-cigarettes, having commercialized e-cigarette products primarily sold under the VUSE® brand. *Id.* at ¶ 6. The four versions of VUSE® e-cigarettes relevant to this Investigation are VUSE® Solo, the VUSE® Vibe, the VUSE® Ciro, and the VUSE® Alto (collectively, "the VUSE Products"), shown below:



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184. The VUSE® Products are the Domestic Industry Products in this case. *Id.*

185. The VUSE® Solo was the first e-cigarette designed, developed and sold by Reynolds. *Id.* at ¶ 7. Reynolds began developing that product in 2011 and designed and developed it from the ground up. *Id*. In 2013, Reynolds launched the VUSE® Solo, which was the first truly digital e-cigarette ever sold in the U.S. *Id*. VUSE® Solo was an immediate success as it quickly became the market leader in the e-cigarette market. *Id*. The manufacture of the Solo Cartridges, as well as the assembly and packaging of the entire Solo devices, has always been performed in the United States. *Id*. Since at least as early as 2016, that manufacture, assembly, and packaging has been performed in the ROC in Tobaccoville, near Winston-Salem. *Id*. The e-liquid used in the VUSE® Solo device is also produced by Reynolds at its ROC facility. *Id*.

186. After VUSE® Solo, Reynolds launched VUSE® Vibe, VUSE® Ciro, and VUSE® Alto. *Id.* at ¶ 8. Tobacco-flavored VUSE® Solo was the first e-cigarette authorized by FDA.



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The e-liquid used in the Vibe, Solo and Ciro products was developed by Reynolds, and the e-liquid for all VUSE® products has always been produced in the U.S. *Id*.

187. The VUSE® products are a key embodiment of Reynolds's future of alternatives to combustible cigarettes and are currently the market leader within the closed system e-cigarette in the U.S. *Id.* at ¶ 9. They are also a key embodiment of Reynolds's commitment to its guiding principles regarding tobacco harm reduction. *Id*.

188. As further detailed in the Confidential Declaration of Robert Ferris, Reynolds has made and continues to make significant investments in plant and equipment and employment of labor and capital, and substantial investment in exploitation of the Asserted Patent. *Id.* at ¶ 10.

**1. Plant & Equipment**

189. For nearly a decade, Reynolds has manufactured cartridges for the VUSE® Solo and assembled the entire VUSE® Solo device at its Reynolds Operations Center in Tobaccoville, North Carolina. *Id.* at ¶ 14. Sophisticated and expensive equipment is required to manufacture the VUSE® Solo cartridges and assemble and package the devices in the United States. *Id.* at ¶ 15.

190. Reynolds also made significant investments in its ROC plant to build a space for the VUSE® Solo cartridges to be manufactured and the devices assembled and packaged. *Id.* at ¶ 16. The facilities used to manufacture and assemble the VUSE® Solo include tooling departments, automated cartridge assembly and packaging lines, testing facilities, and administrative offices. *Id*.

191. In addition, all of the e-liquid used in the VUSE® products is manufactured in the United States. *Id.* at ¶¶ 8, 17, and 20. E-liquid for the VUSE® Solo, Vibe and Ciro is produced at Reynolds's ROC facility. *Id.* at ¶ 17. E-liquid for the VUSE® Alto is manufactured by a third party in a facility in the United States. *Id.* at ¶ 20. Significant domestic investments in plant and



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equipment have been and continue to be made in connection with the production of that e-liquid. *Id.* at ¶¶ 18–22.

**2. Labor & Capital**

192. Reynolds makes significant investments in labor and capital relating to the Domestic Industry Products, including: (1) research and development; (2) manufacturing, assembly and production; and (3) quality control and customer service. *Id.* at ¶¶ 23–24.

(a) Research & Development

193. Reynolds's research and development activities are performed primarily out of its Bowman Gray Technical Center located in Winston-Salem. *Id.* at ¶ 25. The department primarily responsible for this research and development work in Reynolds's SR&D department. *Id.* That group employs individuals who have performed significant work in connection with the discovery, design and development of the Domestic Industry Products. *Id.* at ¶¶ 26–33. As previously noted, VUSE® Solo was developed from the ground up at Reynolds. The discovery, design and development work on the Domestic Industry Products continues to this day. *Id.* at ¶¶ 29–32. In addition, this group also performs product stewardship and integrity work for the Domestic Industry Products, which covers a wide range of activities at Reynolds, including evaluation of health risks, toxicological studies, chemical stability studies, behavioral studies, human studies and more. *Id.* at ¶¶ 34–44. Much of this work is then used to support submissions to the FDA seeking marketing authorizations. *Id.*

(b) Manufacturing, Assembly & Production

194. As previously noted, Reynolds and/or its partners manufacture significant parts of the Domestic Industry Products in the U.S. For example, all e-liquid for the Domestic Industry Products is made in the United States. *Id.* at ¶¶ 8, 45. Similarly, the VUSE® Solo cartridges have always been made in the U.S., primarily at Reynolds's ROC facility, and the Solo devices



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are assembled and packaged there. *Id.* at ¶¶ 45–47. Reynolds makes significant investments in labor and capital relating to these domestic manufacturing and production activities. *Id.* at ¶¶ 45–50.

(c) Quality Control

195. Reynolds's operations in the United States also include activities related to quality control and customer service for the Domestic Industry Products. *Id.* at ¶¶ 52-56. The quality control activities are coordinated out of the Reynolds Operation Center in Tobaccoville, NC. *Id.* at ¶ 53. The quality control group performs various functions, including but not limited to performing incoming material inspection, quality sampling and testing, laboratory equipment calibration and validation, document control, and various types of reporting. *Id*. Quality control personnel also assist with issues on the production floor, develop procedures, and work on quality projects to support the Domestic Industry Products. *Id.* at ¶ 54. Reynolds has made significant investments and employs a significant number of individuals in the United States that work on the Domestic Industry Products in connection with product quality assurance and quality control. *Id.* at ¶ 57.

**3. Exploitation of the Asserted Patent**

196. Complainants engage in exploitation of the Asserted Patent through their substantial domestic investments in research, design, development, engineering, quality control, testing, engineering, product integrity / stewardship / regulatory compliance support, and various customer support activities relating to the technology covered by the Asserted Patent directed to the Domestic Industry Products.

197. Reynolds's investments related to the Domestic Industry Products are qualitatively significant. *Id*. at ¶ 58. As noted, Reynolds makes significant investments in the domestic manufacture of e-liquid used in the Domestic Industry Products. E-liquid is an



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indispensable component of the Domestic Industry Products; the Domestic Industry Products cannot be used without it. Further, with respect to VUSE® Solo, Reynolds also invests significantly with respect to the manufacture and production of the cartridges and the assembly and packaging of the Solo devices. As with the e-liquid, the cartridges are critical to producing a saleable product. Without these components, the devices are unusable, and there is no commercially viable product.

198. In addition to the production-related investments, Reynolds's investments with respect to R&D (e.g., discovery, design and development as well as product stewardship, integrity, and regulatory compliance) and quality control are also qualitatively significant. These non-production activities also relate to critical aspects of the Domestic Industry Products. Without the discovery, design and development, there would be no Domestic Industry Products or continued development of those products. Without the product stewardship, the integrity of the Domestic Industry Products could be potentially compromised. Without the regulatory compliance investments, Reynolds would never even obtain the marketing authorizations from the FDA that are needed to continue selling the Domestic Industry Products.

199. Quantitatively, Reynolds's investments in the Domestic Industry Products are significant and substantial in absolute terms. Reynolds's investments are also significant and substantial when viewed in context.

### B. Technical Prong

200. Pursuant to § 210.12(a)(9)(ix), claim charts applying exemplary claims of the Asserted Patent to the Domestic Industry Products and evidence cited therein are attached as Confidential Exs. 224C–227C.



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201. As detailed herein and in the attached exhibits, the VUSE® Alto, VUSE® Vibe, VUSE® Solo, and VUSE® Ciro systems are protected by the '202 patent. The refill cartridges used in these systems are available in tobacco and menthol flavors, but the structure and operation of the cartridges is the same across flavors.

## IX. A GENERAL EXCLUSION ORDER IS WARRANTED

202. The disposable vape industry is large. Countless products and brands, made by countless different companies, are available for purchase in the U.S., and each day new products enter the U.S. market. Complainants purchased a sampling of the disposable vaping products available in the U.S. This sampling encompassed not only the 50 Accused Products discussed above, but also 51 other products ("Other Products"), including but not limited to: Air Bar Box; Air Bar Nex; Air Bar Lux (Suorin); Air Bar 75000; Air Bar Diamond; Air Bar Mini; Cali Boxx 4000; Cali UL 8000; Fume Infinity 3500 ; Fume x Fruitia 8000; Fume Nicky Jam; Fume Ultra 2500; Fume Mini; Fume Eternity 20000; Cuvie Plus 1200; Cuvie Glaze 15000; Hyde Edge Rave Recharge; Hyde Edge Micro USB; Hyde Mag; Hyde N-Bar; Hyde Rebel; Hyde I.D.; Hyde IQ; Hyde Rebel Pro; Ignite V25 - 2500 Puffs; Ignite V35; Ignite V50; Juice Head 5K; JB5000; Tyson 2.0 Round 2; Tyson - Iron Mike; Tyson 2.0 Heavyweight; Juucy Model X; Juucy Model Q; Juucy Model QS; Juucy Model X3; Kado Bar BR5000; Lava Plus - 2600 puff ; Mr. Vapor Lux Bar ; Mr. Vapor Maxx ; Mr. Vapor Elite; Mr. Vapor Flex ; North FT12000 ; Orion Bar (10000 puffs); Lightrise TB 18K; Orion Bar (7500 Puffs); Puff Plus; Puff XXL; Puff Air Mesh; Z Stick; and Z Bold Pro. *See* Exhibit 4, Luchesi Decl. These Other Products were purchased in the United States. *Id*.

203. The packaging of these Other Products name the following entities as the manufacturer, importer, or otherwise associated party of one or more of the Other Products:



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YME Technology Ltd.; Shenzhen YouMe Information Technology Co., Ltd.; JBrands, LLC; JBrands Distribution, LLC; JBrands International Distribution, LLC; Dongguan Hongyi Manufacturing Co., Ltd.; Poolan Technology Co., Ltd.; Flyclouds Technology Ltd.; Shenzhen Yibo Technology Co., Ltd.; Access Vapor, LLC; Lost Vape Limited; MH Global LLC; International Supply Wholesale, LLC; Shenzhen Abufan Technology Co., Ltd.; Shenzhen Noriyang Technology Co., Ltd.; Shenzhen Weimei Electronic Technology Co., Ltd.; Vape Check Technology Co., Ltd.; King Distribution LLC; Donguan XingDa Electronic Technology Co., Ltd.; Fume Inc.; QR Joy Inc; QR Joy Fume, LLC; QR Joy Q, LLC; QR Joy R, LLC; Fresh Farms E Liquid LLC d/b/a Fruitia E Liquid LLC; Shenzhen VapeEz Technology Ltd.; Dongguan Delin Technology Co. Ltd.; Shenzhen Goldreams Technology Co., Ltd.; Kado Bar Entities; Shenzhen Daosen Vaping Technology Co., Ltd.; Puff Labs, LLC; and Shenzhen Hanqingda Technology Co., Ltd.

204. These Other Products were analyzed along with the Accused Products, and were found to similarly infringe the claims of the ’202 patent, as demonstrated by Exhibits 231-281.

## X. RELATED LITIGATION

205. Pursuant to Commission Rule 210.12(a)(5), Complainants state that the subject matter of the alleged unfair methods of competition and unfair acts herein, namely certain disposable vaporizer devices and components thereof, are also the subject of Inv. No. 337-TA-1381, which was instituted on December 20, 2023. There are no claims of patent infringement in the 1381 Investigation. Rather, Complainants R.J. Reynolds Tobacco Company and R.J. Reynolds Vapor Company allege claims of false advertising and false designation of origin under the Lanham Act, as well as violations of the Prevent All Cigarette Trafficking (PACT) Act. Complainants in the 1381 Investigation seek a permanent general exclusion order to bar



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from entry into the United States flavored disposable vaporizer devices, or in the alternative, a limited exclusion order directed to each of the named Respondents. Some of the named Respondents in the 1381 Investigation are Proposed Respondents in the instant Complaint.



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## XI. RELIEF REQUESTED

206. WHEREFORE, by reason of the foregoing, Complainants respectfully request that the United States International Trade Commission:

(a) Institute an immediate investigation pursuant to Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, into the violations by Proposed Respondents of Section 337 arising from the importation into the United States, sale for importation, and/or sale within the United States after importation, of Proposed Respondents' products that infringe one or more claims of the Asserted Patent.

(b) Provisionally accept the accompanying Motion for Temporary Relief;

(c) Schedule and conduct a hearing for purposes of receiving evidence and hearing argument concerning Complainants' Motion for Temporary Relief;

(d) Issue a temporary limited exclusion order pursuant to Section 337(e) of the Tariff Act of 1930, as amended, excluding from entry for consumption into the United States, entry for consumption from a foreign trade-zone, or withdrawal from a warehouse for consumption, certain disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent and which are manufactured by or on behalf of, or imported by or on behalf of Proposed Respondents, or any of their affiliated



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companies, parents, subsidiaries, or other related business entities, or their successors or assigns;

(e) Issue temporary cease and desist orders pursuant to Section 337(f) of the Tariff Act of 1930, as amended, directing Proposed Respondents and any of their principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) or majority-owned business entities, successors, and assigns, from either directly engaging in or for, with or otherwise on behalf of Proposed Respondents, (A) importing or selling for importation into the United States certain disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent; (B) marketing, distributing, selling, or otherwise transferring, in the United States imported disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent; (C) advertising imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent; (D) soliciting U.S. agents or distributors for disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent; (E) aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer, or distribution of disposable vaporizer devices and components



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thereof that infringe one or more claims of the Asserted Patent; (F) testing imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent; (G) updating or upgrading imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent; (H) operating imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent; or (I) supporting, servicing, and/or repairing imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent;

(f) Schedule and conduct a hearing, pursuant to 19 U.S.C. § 1337(c), for purposes of receiving evidence and hearing argument concerning whether there has been a violation of Section 337 of the Tariff Act of 1930, as amended; and, following the hearing, determine that there has been a violation of Section 337 of the Tariff Act of 1930, as amended;

(g) Issue a permanent general exclusion order excluding from entry for consumption into the United States, entry for consumption from a foreign trade-zone, or withdrawal from a warehouse for consumption, certain disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent, for



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the remaining term of the Asserted Patent, except under license of Complainants or as provided by law;

(h) Issue permanent cease-and-desist orders, pursuant to 19 U.S.C. § 1337(f), directing Proposed Respondents and any of their principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) or majority-owned business entities, successors, and assigns, from either directly engaging in or for, with or otherwise on behalf of Proposed Respondents, (A) importing or selling for importation into the United States certain disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent; (B) marketing, distributing, selling, or otherwise transferring, in the United States imported disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent; (C) advertising imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent; (D) soliciting U.S. agents or distributors for disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent; (E) aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer, or distribution of disposable vaporizer devices and components thereof that infringe one or more claims of the Asserted Patent;



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(F) testing imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent; (G) updating or upgrading imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent; (H) operating imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent; or (I) supporting, servicing, and/or repairing imported disposable vaporizer devices and components thereof in the United States that infringe one or more claims of the Asserted Patent;

(i) Impose a bond upon any importations or sales of infringing disposable vaporizer devices and components thereof during the 60-day period for Presidential review, pursuant to 19 U.S.C. § 1337(j); and

(j) Grant all such other and further relief as the Commission has authority to grant and deems appropriate under the law, based upon the facts complained of herein and as determined by the Investigation.



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Dated: June 11, 2024

Respectfully submitted,

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*R.J. Reynolds Vapor Company,*
*R.J. Reynolds Tobacco Company, and*
*RAI Services Company*



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## VERIFICATION

I, Charles A. Leyes, declare, in accordance with 19 C.F.R. §§ 210.4(c) and 210.12(a), under penalty of perjury, that the following statements are true:

1. I am Assistant Secretary for R.J. Reynolds Tobacco Company ("RJRT") and Vice President and Secretary for RAI Strategic Holdings, Inc. ("RAI"). I am duly authorized by RJRT and RAI to verify the foregoing Complaint Under Section 337 of the Tariff Act of 1930, as Amended.

2. 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.

3. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the claims and other legal contentions set forth in the Complaint are warranted by existing law or by a good faith, non-frivolous argument for extension, modification, or reversal of existing law, or by the establishment of new law.

4. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the allegations of the Complaint Under Section 337 of the Tariff Act of 1930, as Amended are well grounded in fact and have evidentiary support, or where specifically identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

Executed on this 10th day of June, 2024

Charles A. Leyes
Assistant Secretary
R.J. Reynolds Tobacco Company

Vice President and Secretary
RAI Strategic Holdings, Inc.

## VERIFICATION

I, Adi Trbonja, declare, in accordance with 19 C.F.R. §§ 210.4(c) and 210.12(a), under penalty of perjury, that the following statements are true:

1. I am Vice President and Assistant Secretary for R.J. Reynolds Vapor Company ("RJRV") and Senior Vice President and Deputy General Counsel for RAI Services Company ("RAISC"). I am duly authorized by RJRV and RAISC to verify the foregoing Complaint Under Section 337 of the Tariff Act of 1930, as Amended.

2. 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.

3. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the claims and other legal contentions set forth in the Complaint are warranted by existing law or by a good faith, non-frivolous argument for extension, modification, or reversal of existing law, or by the establishment of new law.

4. To the best of my knowledge, information, and belief, formed after a reasonable inquiry, the allegations of the Complaint Under Section 337 of the Tariff Act of 1930, as Amended are well grounded in fact and have evidentiary support, or where specifically identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery.

Executed on this 10th day of June, 2024

Adi Trbonja
Vice President and Assistant Secretary
R.J. Reynolds Vapor Company

Senior Vice President and Deputy General Counsel
RAI Services Company

**CERTIFICATE OF SERVICE**

I, Andrea Solomon, hereby certify that on June 11, 2024 copies of Reynolds's Verified Complaint, exhibits, and appendices; Reynolds's Motion for Temporary Exclusion Order, supporting memorandum, and exhibits; letters to the Commission, and required Notice to Respondents, were delivered pursuant to Commission regulations to the following interested parties as indicated:

| | |
|---|---|
| The Honorable Lisa R. Barton Secretary to the Commission<br>**U.S. INTERNATIONAL TRADE COMMISSION**<br>500 E Street, S.W., Room 112<br>Washington, D.C. 20436 | *Via* EDIS<br>(confidential and nonconfidential versions) |
| British Embassy Washington<br>3100 Massachusetts Avenue, NW<br>Washington DC 20008<br><br>Embassy of the People's Republic of China in the United States of America<br>3505 International Pl NW<br>Washington, DC 20008<br><br>Hong Kong Economic and Trade Office<br>1520 18th Street, NW<br>Washington, DC 20036 | *Via* overnight courier<br>(nonconfidential versions only) |
| Breeze Smoke, LLC<br>23999 West 10 Mile Road, Suite 200<br>Southfield, MI 48033<br><br>Capital Sales Company<br>450 W. 4th Street<br>Royal Oak, MI 48067<br><br>KMT Services, LLC<br>721 E. Eight Mile Rd.<br>Hazel Park, MI 48030<br><br>Dongguan (Shenzhen) Shikai Technology Co., Ltd.<br>Room 501-510, Building 16, Nan'an Plaza, Exhibition Bay, | *Via* overnight courier<br>UPS for domestic deliveries; DHL for foreign deliveries<br>(nonconfidential versions only) |



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| Zhancheng Community, Fuhai Street, Bao'an District, Shenzhen<br>Guangdong Province, China 518103<br><br>Vapeonly Technology Co. Ltd.<br>19H Maxgrand Plaza<br>No. 3 Tai Yau Street<br>San Po Kong, Kowloon, Hong Kong<br><br>iMiracle (Shenzhen) Technology Co., Ltd.<br>Unit 3510-37, Luohu Business Center<br>No. 2028 Shennan East Road<br>Chengdong Community, Dongmen Street Luohu District,<br>Shenzhen, China 518001<br><br>Guangdong Qisitech Co., Ltd.<br>Room 201, Building 3<br>No. 36, Fuxhing Road, Chang'an Town<br>Dongguan, Guangdong Province, China 523873<br><br>Fewo Intelligent Manufacturing Ltd.<br>6th Floor, Room 101, Building 9, Zone A<br>No. 243 Huiade Road, Humen Town<br>Dongguan City, Guangdong Province, China 523926<br><br>Nevera (HK) Ltd.<br>19H, Maxgrand Plaza<br>No.3 Tai Yau Street<br>San Po Kong, Kowloon, Hong Kong<br><br>Guangdong Cellular Workshop Electronics<br>Technology Co., Ltd.<br>Room 201, Building 3<br>No. 216, Chang'an Bubugao Road<br>Chang'an Town, Dongguan City<br>Guangdong Province, China 523850<br><br>Wonder Ladies Ltd.<br>Sea Meadow House<br>P.O. Box 116, Road Town<br>Tortola, British Virgin Islands VG1110<br><br>Sailing South Ltd.<br>Sea Meadow House<br>P.O. Box 116, Road Town<br>Tortola, British Virgin Islands VG1110<br><br>Marea Morada Ltd. | |



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| Sea Meadow House<br>P.O. Box 116, Road Town<br>Tortola, British Virgin Islands VG1110<br><br>Social Brands, LLC<br>9696 Skillman Street, Suite 385<br>Dallas, TX 75243<br><br>Zhuhai Qisitech Co., Ltd.<br>Room 201, Building 5, No. 16, Jinxing Road<br>Tangjiwan Town, High-Tech Zone,<br>Zhuhai, Guangdong Province, China 519085<br><br>Shenzhen Han Technology Co., Ltd.<br>Room 401 and Floors 4-6, Building D<br>Shenzhen Qianwan Hard Technology Industrial Park, Nanchang Community,<br>Xixiang Street, Bao'an District, Shenzhen,<br>Guangdong Province, China 518102<br><br>Palma Terra Ltd.<br>Sea Meadow House, P.O. Box 116,<br>Road Town, Tortola, British Virgin Islands VG1110<br><br>Shenzhen IVPS Technology Co., Ltd.<br>Room 101, Building B8, No. 2<br>Cengyao Industrial Area, Yulv Community<br>Yutang Street, Guangming District<br>Shenzhen, Guangdong Province, China 518132<br><br>Heaven Gifts International Ltd.<br>19H, Maxgrand Plaza<br>No.3 Tai Yau Street<br>San Po Kong, Kowloon, Hong Kong<br><br>Maduro Distributors d/b/a The Loon<br>3021 82nd Lane NE<br>Blaine, MN 55449<br><br>Bidi Vapor, LLC<br>200 South Orange Avenue, Suite 2300<br>Orlando, FL 32801<br><br>Kaival Brands Innovations Group Inc.<br>16192 Coastal Hwy<br>Lewes, DE 19958 | |



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| Kimsun Technology (HuiZhou) Co., Ltd.<br>Factory 1 and Factory 2<br>No. 8 Taixiang Road, Digital Industrial Park<br>Sandong Town, Huicheng District,<br>Huizhou, Guandong Province, China 516025<br><br>Shenzhen Yanyang Technology Co., Ltd.<br>Room 901, Building B, Guanghao Int'l Center<br>Intersection of Meilong Rd and Zhongmei Rd<br>Daling Community, Minzhi Street<br>Longhua District, Shenzhen<br>Guangdong Province, China 518131<br><br>Pastel Cartel, LLC<br>5900 Balcones Dr, Ste 100<br>Austin, TX 78731-4298<br><br>American Vape Company, LLC<br>13326 Immanuel Road<br>Pflugerville, TX 78660<br><br>Affiliated Imports, LLC<br>5900 Balcones Dr, Ste 100<br>Austin, TX 78731-4298<br><br>Shenzhen Innokin Technology Co., Ltd.<br>Building 6, XinXinTian Industrial Park<br>Xinsha Road, Shajing, Bao'an District<br>Shenzhen, China 518104<br><br>Shenzhen Funyin Electronic<br>Technology Co., Ltd.<br>205 and 401, Building A3, Fuyuan Ind. Zone<br>Fengtang Avenue, Tangwei Community<br>Fuhai Street, Bao'an District<br>Shenzhen, Guangdong Province, China 518104<br><br>Shenzhen LC Technology Co., Ltd.<br>Room 301, 3rd Floor, Building 3<br>Changyi Industrial Factory<br>No. 1 Lirong Road, Xinshi Community<br>Dalang Street, Longhua District<br>Shenzhen, Guangdong Province, China 518109<br><br>LCF Labs, Inc.<br>895 S Rockefeller Avenue, Unit 103<br>Ontario, CA 91761 | |



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| Shenzhen Kangvape Technology Co., Ltd.<br>Floors 5 and 2 , Building 3<br>Chuangxin Port, Hanyu Bay District,<br>Liyuan Road, Tangwei Community<br>Fuhai Street, Bao'an District<br>Shenzhen, Guangdong Province, China 518104<br><br>Flumgio Technology Ltd.<br>Shop 185 G/F, Hang Wai Industrial Centre<br>No. 6 Kin Tai Street, Tuen Mun,<br>N.T., Hong Kong<br><br>Shenzhen Pingray Technology<br>Floors 2, 3 and 4, Building G<br>Wanfeng Western Entrepreneurship Park,<br>Heyi Community, Shajing Street<br>Bao'an District, Shenzhen<br>Guangdong Province, China 518125<br><br>SV3, LLC d/b/a Mi-One Brands<br>2303 N 44th Street Unit 2<br>Phoenix, AZ 85008<br><br>Price Point Distributors Inc. d/b/a Price Point NY<br>500 Smith Street<br>Farmingdale, NY 11735<br><br>Flawless Vape Shop Inc.<br>5589 E Santa Ana Canyon Rd<br>Anaheim, CA 92807<br><br>Flawless Vape Wholesale & Distribution Inc.<br>5589 E Santa Ana Canyon Rd<br>Anaheim, CA 92807<br><br>Thesy, LLC d/b/a Element Vape<br>10620 Hickson Street<br>El Monte, CA 91731<br><br>VICA Trading Inc. d/b/a Vapesourcing<br>3045 Edinger Avenue<br>Tustin, CA 92780<br><br>Ecto World, LLC d/b/a Demand Vape<br>2225 Kenmore Ave.<br>Buffalo, NY 14207 | |



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| Midwest Goods Inc. d/b/a Midwest Distribution<br>1001 Foster Avenue<br>Bensenville, IL 60106 | |

Dated: June 11, 2024

*/s/ Andrea Solomon*

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