

## **E-Cig Maker Seeks ITC Probe Of Imported Cartridges**

By **Kevin Penton**

*Law360 (November 26, 2018, 3:08 PM EST)* -- JUUL Labs Inc. has urged the U.S. International Trade Commission to investigate whether the importation into the United States and the sales of certain electronic cigarette cartridges by two dozen different companies violate federal tariff regulations and should be barred from entry.

JUUL wants the ITC to initiate a probe into whether the companies with offices in either the U.S., China or Uruguay are violating section 337 of the Tariff Act of 1930 by importing cartridges that infringe the asserted claims of five patents covering the technology, according to a notice the commission plans to publish Tuesday in the Federal Register.

Should the ITC find violations by the companies, JUUL seeks that it issue limited exclusion and cease-and-desist orders for the products, according to a Nov. 20 complaint the company filed with the commission.

“[JUUL] is the clear market leader in the U.S. electronic nicotine delivery system device market,” the complaint reads. “Unfortunately, infringement of [JUUL’s] intellectual property is rampant, with dozens of entities found to be manufacturing, importing, selling or selling for importation articles that infringe [JUUL’s] patents.”

JUUL last week also filed eight new complaints in various federal district courts making similar infringement allegations concerning the same patents and many of the same entities, the company announced last week.

“With flavors that are clearly marketed to kids, these copycat pods are attempting to attract users that should not be using JUUL products or any other nicotine delivery service,” according to the company’s announcement. “Many, if not all, of the copycats deploy little or no age verification systems to keep their illicit pods from youth.”

The U.S. Food and Drug Administration earlier this month proposed new restrictions on sales of flavored e-cigarettes — except for mint and menthol, tobacco or unflavored products — that would limit their physical sales to locations where minors may not enter and that would set additional age verification practices for online sales. The patents at issue are U.S. Patent Numbers 10,058,129; 10,104,915; 10,111,470; 10,117,465; and 10,117,466.

JUUL is represented by Daniel E. Yonan, Michael E. Joffre, Nirav N. Desai, Paul A. Ainsworth and Uma N. Everett of Sterne Kessler Goldstein & Fox PLLC.

Counsel information for the respondents was not immediately available Monday.

The investigation is In the Matter of: Certain Cartridges For Electronic Nicotine Delivery Systems and Components Thereof, investigation number 337-TA-3354, before the U.S. International Trade Commission.

--Additional reporting by Emily Field. Editing by Dipti Coorg.

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