

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

**Before the Honorable Doris Johnson Hines  
Administrative Law Judge**

**In the Matter of**

**CERTAIN VAPORIZER DEVICES,  
CARTRIDGES USED THEREWITH, AND  
COMPONENTS THEREOF (II)**

**Inv. No. 337-TA-1460**

**RESPONDENTS' VERIFIED RESPONSE TO JUUL  
LABS, INC.'S COMPLAINT UNDER SECTION 337 OF THE TARIFF  
ACT OF 1930, AS AMENDED, AND TO THE NOTICE OF INVESTIGATION**

**RESPONDENTS**

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Richmond, VA 23230

NJOY Holdings, Inc.  
6601 W. Broad Street  
Richmond, VA 23230

Altria Group, Inc.  
6601 W. Broad Street  
Richmond, VA 23230

Altria Group Distribution Company  
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Richmond, VA 23230

Altria Client Services LLC  
6601 W. Broad Street  
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Inv. No. 337-TA-1460

RESPONDENTS' RESPONSE TO THE COMPLAINT AND NOTICE OF INSTITUTION

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## PREAMBLE

Pursuant to 19 C.F.R. § 210.13, Respondents NJOY, LLC; NJOY Holdings, Inc.; Altria Group, Inc.; Altria Group Distribution Company; and Altria Client Services LLC (collectively “Respondents” or “NJOY”), by and through their attorneys, hereby respond (the “Response”) to the Complaint of JUUL Labs, Inc. (“JLI” or “Complainant”) Under Section 337 of the Tariff Act of 1930 as amended (the “Complaint”), filed on August 8, 2025, and to the Notice of Institution of Investigation (the “Notice”) published in the Federal Register on September 12, 2025 (90 Fed. Reg. 44238).

NJOY denies that it has engaged in acts of unfair competition in violation of Section 337 by importing, selling for importation, and/or selling after importation into the United States any product that infringes, literally and/or under the doctrine of equivalents, directly, indirectly, by contribution and/or by inducement, any valid and enforceable asserted claim of U.S. Patent 12,156,533 (the “’533 patent” or the “Asserted Patent”). NJOY denies that the asserted claims of the Asserted Patent are valid and enforceable.

Except as specifically admitted herein, NJOY denies all of the allegations of the Complaint. To the extent that any allegations of the Complaint refer to or rely upon information not previously supplied to NJOY, NJOY is without information sufficient to admit or deny such allegations and therefore denies the same. In responding to the Complaint and the Notice, NJOY has understood the “Accused Products” to mean the products specifically identified and accused of infringement in the Complaint. NJOY reserves the right to take further positions and raise additional defenses as may become apparent because of additional information discovered after filing this Response, or to the extent JLI is permitted to modify its Complaint or contentions.

## RESPONSE TO COMPLAINT

In response to the allegations set forth in the Complaint, NJOY responds as follows:

### **I. INTRODUCTION<sup>1</sup>**

1. To the extent that Paragraph 1 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 1 is required, NJOY denies that it has engaged in unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of the Accused Products. NJOY denies any remaining allegations and characterizations in Paragraph 1.

2. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 2 and on that basis, denies them.

3. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 3 and on that basis, denies them.

4. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 4 and on that basis, denies them.

5. NJOY admits that Complainant has filed Section 337 complaints in the following investigations: *Certain Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1139; *Certain Cartridges for Electronic Nicotine Delivery Systems and Components Thereof*, Inv. No. 337-TA-1141; *Certain Vaporizer Cartridges and Components Thereof*, Inv. No. 337-TA-1211; and *Certain Vaporizer Devices, Cartridges Used Therewith, and Components Thereof*, Inv. No. 337-TA-1368. NJOY admits that a violation and a remedial order was found in

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<sup>1</sup> NJOY has adopted the headings in the Complaint for ease of reference. However, to the extent that such headings themselves contain factual and legal characterizations, NJOY denies such characterizations.

each of the aforementioned investigations. To the extent not specifically and expressly admitted, NJOY denies all other allegations and characterizations in Paragraph 5, including whether any findings from the ITC are binding in this Investigation.

6. To the extent that Paragraph 6 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 6 is required, NJOY denies that it has engaged in unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of the Accused Products. NJOY denies that it has infringed any of JLI's intellectual property, including any valid asserted claim of the '533 patent. NJOY denies any remaining allegations and characterizations in Paragraph 6.

7. To the extent that Paragraph 7 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 7 is required, NJOY admits that NJOY, LLC filed a complaint at the International Trade Commission against Complainant in 2023 and the ITC issued an initial determination that found no violation. *Certain Vaporizer Devices, Cartridges Used Therewith, and Components Thereof*, Inv. No. 337-TA-1372, EDIS Doc. ID 840701 (Jan. 8, 2025). NJOY further admits that NJOY, LLC sought to appeal the ITC's findings, voluntarily dismissed the appeal, and sought to lift the stay in the parallel litigation in District Court. NJOY denies the remaining allegations in Paragraph 7 of the Complaint, including whether any finding from the ITC is binding in this Investigation.

8. NJOY admits that Complainant identified NJOY, LLC; NJOY Holdings, Inc.; Altria Group, Inc.; Altria Group Distribution Company; and Altria Client Services LLC as Proposed Respondents. To the extent not specifically and expressly admitted, NJOY denies all other allegations and characterizations in Paragraph 8.

9. To the extent that Paragraph 9 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 9 is required, NJOY admits that Complainant, through its Complaint, alleges infringement of the '533 patent. NJOY denies that it has engaged in unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of the Accused Products. NJOY denies that it has infringed any of JLI's intellectual property, including any valid asserted claim of the '533 patent. NJOY denies any remaining allegations and characterizations in Paragraph 9.

10. NJOY admits that Complainant, through its Complaint, accuses NJOY of allegedly infringing the '533 patent. NJOY denies that it has infringed any of JLI's intellectual property, including any valid asserted claim of the '533 patent. To the extent not specifically and expressly admitted, NJOY denies all other allegations and characterizations in Paragraph 10.

11. NJOY admits that the NJOY Daily is a product that NJOY makes, imports, offers for sale, and sells within the United States. To the extent not specifically and expressly admitted, NJOY denies all other allegations and characterizations in Paragraph 11.

12. To the extent that Paragraph 12 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 12 is required, NJOY denies all allegations and characterizations in Paragraph 12.

13. To the extent that Paragraph 13 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 13 is required, NJOY denies all allegations and characterizations in Paragraph 13.

14. To the extent that Paragraph 14 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 14 is required, NJOY denies all allegations and characterizations in Paragraph 14.

15. To the extent that Paragraph 15 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 15 is required, NJOY lacks knowledge or information sufficient to form a belief regarding the truth of the allegations and characterizations in Paragraph 15 and, on that basis, denies them.

## **II. COMPLAINANT**

16. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 16 and, on that basis, denies them.

17. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 17 and, on that basis, denies them.

### **A. JLI's History**

18. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 18 and, on that basis, denies them.

19. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 19 and, on that basis, denies them.

20. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 20 and, on that basis, denies them.

21. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 21 and, on that basis, denies them.

22. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 22 and, on that basis, denies them.

23. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 23 and, on that basis, denies them.

24. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 24 and, on that basis, denies them.

25. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 25 and, on that basis, denies them.

26. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 26 and, on that basis, denies them.

27. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 27 and, on that basis, denies them.

28. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 28 and, on that basis, denies them.

**B. The JUUL System**

29. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 29 and, on that basis, denies them.

30. NJOY denies all allegations and characterizations in Paragraph 30.

31. NJOY admits Paragraph 31 includes a partial quote of testimony provided in *Certain Vaporizer Devices, Cartridges Used Therewith, and Components Thereof*, Inv. No. 337-TA-1368, EDIS Doc. ID 830979, Hrg. Tr. at 831:8–16 (May 8, 2024). NJOY denies all allegations in Paragraph 31 of the Complaint, including whether any finding from the ITC is binding on this Investigation.

32. NJOY denies all allegations and characterizations in Paragraph 32.

33. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 33 and, on that basis, denies them.

34. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 34 and, on that basis, denies them.

35. NJOY admit Paragraph 35 of the Complaint purports to include a photograph of the JUUL product. To the extent that there are any allegations concerning the photograph in Paragraph 35, NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 35 and, on that basis, denies them. NJOY denies any remaining allegations in Paragraph 35 of the Complaint.

36. NJOY admit Paragraph 36 of the Complaint purports to include a photograph of the JUUL product. To the extent that there are any allegations concerning the photograph in Paragraph 36, NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 36 and, on that basis, denies them. NJOY denies any remaining allegations in Paragraph 36 of the Complaint.

37. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 37 and, on that basis, denies them.

38. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 38 and, on that basis, denies them.

39. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 39 and, on that basis, denies them.

### **III. RESPONDENTS**

40. NJOY admits that NJOY, LLC is a limited liability corporation organized under the laws of Delaware with its principal place of business at 6601 West Broad Street, Richmond,

Virginia 23230. NJOY further admits that NJOY, LLC is a wholly owned subsidiary of Altria Group, Inc. and was acquired by Altria Group, Inc. on June 1, 2023. NJOY denies any remaining allegations in Paragraph 40 of the Complaint.

41. NJOY admits that NJOY Holdings, Inc. is a corporation organized under the laws of Delaware with its principal place of business at 6601 West Broad Street, Richmond, Virginia 23230. NJOY admits that NJOY Holdings, Inc. is the holding company for NJOY, LLC. NJOY admits NJOY Holdings, Inc. is a wholly owned subsidiary of Altria Group, Inc. and was acquired on June 1, 2023. NJOY denies any remaining allegations in Paragraph 41 of the Complaint.

42. NJOY admits Altria Group Inc. is a corporation organized under the laws of the Commonwealth of Virginia, with its principal place of business located at 6601 West Broad Street, Richmond, Virginia 23230. NJOY denies any remaining allegations in Paragraph 42 of the Complaint.

43. NJOY admits that Altria Group Distribution Company is a corporation organized under the laws of the Commonwealth of Virginia with its principal place of business located at 6601 West Broad Street, Richmond, Virginia 23230. NJOY admits that Altria Group Distribution Company is a wholly owned subsidiary of Altria Group, Inc. NJOY admits that Altria Group Distribution Company provides sales and distribution services to Altria Group, Inc.'s operating subsidiaries, including NJOY. NJOY denies any remaining allegations in Paragraph 43 of the Complaint.

44. NJOY admits that that Altria Client Services LLC is a limited liability company organized under the laws of the Commonwealth of Virginia with its principal place of business located at 6601 West Broad Street, Richmond, Virginia 23230. NJOY admits that Altria Client

Services LLC is a wholly owned subsidiary of Altria Group, Inc. NJOY denies any remaining allegations in Paragraph 43 of the Complaint.

45. NJOY admits that Complainant accuses NJOY of allegedly infringing the Asserted Patent. NJOY denies any alleged infringement. NJOY denies the remaining allegations in Paragraph 45 of the Complaint.

#### **IV. THE TECHNOLOGY AND PRODUCTS AT ISSUE**

##### **A. Background of the Technology**

46. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 46 and, on that basis, denies them.

47. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 47 and, on that basis, denies them.

##### **B. Products at Issue**

48. NJOY admits only that Complainant, through its Complaint, alleges infringement of the '533 Patent. NJOY denies any alleged infringement. NJOY denies the remaining allegations in Paragraph 49 of the Complaint.

#### **V. THE ASSERTED PATENT AND NON-TECHNICAL DESCRIPTIONS OF THE INVENTION**

49. NJOY admits only that Complainant, through its Complaint, alleges infringement of the '533 Patent. NJOY denies any alleged infringement. NJOY denies the remaining allegations in Paragraph 49 of the Complaint.

##### **A. The '533 Patent**

###### **1. Identification and Alleged Ownership of the '533 Patent**

50. NJOY admits only that, on its face, the '533 patent was issued by the U.S. Patent and Trademark Office ("USPTO") on December 3, 2024, to JUUL Labs, Inc. NJOY denies that

the '533 patent was “duly and lawfully issued” by the USPTO. NJOY denies the remaining allegations in Paragraph 50 of the Complaint.

51. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegation contained in Paragraph 51 and, on that basis, denies them.

52. NJOY admits that, on its face, the '533 patent is entitled, “Nicotine Salt Formations for Aerosol Devices and Methods Thereof,” names Adam Bowen and Chenyue Xing as co-inventors, and issued from U.S. Patent Application No. 17/171,976, which was filed on February 9, 2021, which claims to be a continuation of application No. 14/925,961 filed on October 28, 2015, which claims to be a continuation application of application No. 14/271,071 filed on May 6, 2014. NJOY denies the remaining allegations in Paragraph 52 of the Complaint.

53. NJOY admits that Exhibit 1 purports to be a copy of the Asserted Patent. NJOY denies the remaining allegations in Paragraph 53 of the Complaint.

54. NJOY admits that Exhibit 2 purports to be a copy of the assignment records from the named inventors to JLI for U.S. Patent No. 12,156,533. To the extent that there are any allegations concerning the assignment records, NJOY is without knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 54 of the Complaint and, on that basis, deny all such allegations. NJOY denies the remaining allegations in Paragraph 54 of the Complaint.

55. NJOY admits that Appendix A purports to be a copy of the prosecution history of the U.S. Patent No. 12,156,533. To the extent that there are any allegations concerning the prosecution history, NJOY is without knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 55 of the Complaint and, on that basis, denies all such allegations. NJOY denies the remaining allegations in Paragraph 55 of the Complaint.

56. NJOY admits that Appendix B purports to include copies of each patent and applicable pages of each technical reference in the prosecution history of the U.S. Patent No. 12,156,533. To the extent that there are any allegations concerning the patents and technical references in the prosecution history, NJOY is without knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 56 of the Complaint and, on that basis, denies all such allegations. NJOY denies the remaining allegations in Paragraph 56 of the Complaint.

## **2. Foreign Counterparts to the '533 Patent**

57. NJOY admits that Exhibit 3 purports to be a copy of the foreign patent applications corresponding to the U.S. Patent No. 12,156,533. To the extent that there are any allegations concerning the foreign patent applications and/or counterparts corresponding to U.S. Patent No. 12,156,533, NJOY is without knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 57 of the Complaint and, on that basis, denies all such allegations. NJOY denies the remaining allegations in Paragraph 57 of the Complaint.

## **3. Non-Technical Description of the '533 Patent**

58. To the extent that Paragraph 58 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 58 is required, NJOY admits that '533 patent is entitled "Nicotine Salt Formulations for Aerosol Devices and Methods Thereof." To the extent not specifically and expressly admitted, NJOY denies all other allegations and characterizations in Paragraph 58.

## **B. Licensees to the Asserted Patent**

59. NJOY admits that Confidential Exhibit 4C purports to be a copy of licensees to the U.S. Patent No. 12,156,533. To the extent that there are any allegations concerning the foreign

patent applications corresponding to the U.S. Patent No. 12,156,533, NJOY is without knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 59 of the Complaint and, on that basis, denies all such allegations. NJOY denies the remaining allegations in Paragraph 59 of the Complaint.

## **VI. RESPONDENTS' ALLEGED INFRINGEMENT OF THE ASSERTED PATENT**

60. NJOY admits that Complainant, through its Complaint, accuses NJOY of allegedly infringing the '533 patent. NJOY denies any alleged infringement. NJOY denies the remaining allegations in Paragraph 60 of the Complaint.

61. NJOY lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in Paragraph 61 and, on that basis, denies them.

### **A. Alleged Infringement of the '533 Patent**

62. NJOY denies all allegations and characterizations in Paragraph 62.

63. NJOY admits that Exhibit 5 purports to be a claim chart comparing independent claim 1 of the '533 Patent with the NJOY Daily. NJOY denies any alleged infringement. NJOY denies all remaining allegations and characterizations in Paragraph 63.

### **B. Alleged Indirect Infringement**

64. NJOY denies all allegations and characterizations in Paragraph 64.

65. NJOY denies all allegations and characterizations in Paragraph 65.

66. NJOY denies all allegations and characterizations in Paragraph 66.

67. NJOY denies all allegations and characterizations in Paragraph 67.

## **VII. SPECIFIC INSTANCES OF ALLEGED UNFAIR IMPORTATION AND SALE**

68. To the extent that Paragraph 68 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 68 is required, NJOY denies that it has

engaged in the unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of any Accused Products that infringe any valid and enforceable claims of the Asserted Patent. NJOY denies all remaining allegations and characterizations in Paragraph 68.

69. NJOY admits that Exhibit 6 purports to be photographs of the NJOY Daily device, packaging, and a purchase receipt. To the extent that there are any allegations concerning the photographs in Paragraph 69, NJOY denies them. NJOY denies any remaining allegations in Paragraph 69 of the Complaint.

70. To the extent that Paragraph 70 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 70 is required, NJOY admits that Altria Group, Inc.'s 10-K report for 2023 states that "NJOY contracts with third-party importers to supply all of its products and sells its e-vapor products to customers in the United States." NJOY denies that it has engaged in the unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of any Accused Products that infringe any valid and enforceable claims of the Asserted Patent. NJOY denies all remaining allegations and characterizations in Paragraph 70.

71. To the extent that Paragraph 71 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 71 is required, NJOY admits NJOY Holdings, Inc. is a wholly owned subsidiary of Altria Group, Inc. and was acquired on June 1, 2023. NJOY denies that it has engaged in the unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of any Accused Products that infringe any valid and

enforceable claims of the Asserted Patent. NJOY denies all remaining allegations and characterizations in Paragraph 71.

72. To the extent that Paragraph 72 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 72 is required, NJOY admits NJOY Holdings, Inc. is a wholly owned subsidiary of Altria Group, Inc. and was acquired on June 1, 2023. NJOY admits that Altria Group, Inc.'s 10-K report for the fiscal year ended December 31, 2023 states that "NJOY contracts with third-party importers to supply all of its products and sells its e-vapor products to customers in the United States." NJOY admits that Altria Group, Inc.'s 10-Q report for the quarterly period ended June 30, 2024 states that "[t]hrough the second quarter of 2024, NJOY distribution grew to over 100,000 stores." It also states that NJOY "work[s] to meet these evolving adult tobacco consumer preferences over time by developing, manufacturing, marketing and distributing products both within and outside the United States through innovation and other growth strategies (including, where appropriate, arrangements with, or investments in, third parties and acquisitions)." NJOY denies that it has engaged in the unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of any Accused Products that infringe any valid and enforceable claims of the Asserted Patent. NJOY denies all remaining allegations and characterizations in Paragraph 72.

73. To the extent that Paragraph 73 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 73 is required, NJOY admits that a press release on the Altria Group's website states that "NJOY's products will be distributed by Altria Group Distribution Company." NJOY admits that Altria Group, Inc.'s 10-K report for the fiscal year ended December 31, 2023 states that "NJOY contracts with third-party importers to supply

all of its products and sells its e-vapor products to customers in the United States.” NJOY denies that it has engaged in the unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of any Accused Products that infringe any valid and enforceable claims of the Asserted Patent. NJOY denies all remaining allegations and characterizations in Paragraph 73.

74. To the extent that Paragraph 74 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 74 is required, NJOY admits that Altria Group, Inc.’s 10-K report for the fiscal year ended December 31, 2023 states that “ALCS owns one property in Richmond, Virginia that serves as the headquarters facilities for Altria, PM USA, USSTC, Middleton, Helix, NJOY and certain other subsidiaries.” NJOY denies that it has engaged in the unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of any Accused Products that infringe any valid and enforceable claims of the Asserted Patent. NJOY denies all remaining allegations and characterizations in Paragraph 74.

75. To the extent that Paragraph 75 contains conclusions of law, no response is necessary. NJOY denies that it has engaged in the unlawful importation into the United States, sale for importation into the United States, offer for sale for importation in the United States, and/or sale within the United States after importation of any Accused Products that infringe any valid and enforceable claims of the Asserted Patent. NJOY denies all remaining allegations and characterizations in Paragraph 75.

## **VIII. HARMONIZED TARIFF SCHEDULE NUMBERS**

76. NJOY admits that the NJOY Daily is classified under the following subheading of the Harmonized Tariff Schedule: 2404.12.1000. NJOY denies all remaining allegations and characterizations in Paragraph 76.

## **IX. THE ALLEGED DOMESTIC INDUSTRY RELATING TO THE ASSERTED PATENT**

77. To the extent that Paragraph 77 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 77 is required, NJOY lacks sufficient knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 77 of the Complaint and, on that basis, denies all such allegations. NJOY denies the remaining allegations in Paragraph 77 of the Complaint.

### **A. Technical Prong**

78. To the extent that Paragraph 78 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 78 is required, NJOY admits that Exhibit 7 purports to be a claim chart comparing “an exemplary representative involved article, the JUUL System” to “claim 1 of the ’533 Patent.” NJOY lacks sufficient knowledge or information to form a belief as to the truth of the remaining allegations contained in Paragraph 78 and, on that basis, denies them.

79. NJOY lacks sufficient knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 79 of the Complaint and, on that basis, denies all such allegations.

### **B. Economic Prong**

80. To the extent that Paragraph 80 contains conclusions of law, no response is necessary. NJOY lacks sufficient knowledge or information sufficient to form a belief as to the

truth of those allegations in Paragraph 80 of the Complaint and, on that basis, denies all such allegations, including whether any prior finding by the ITC is binding in this Investigation.

81. NJOY lacks sufficient knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 81 of the Complaint and, on that basis, denies all such allegations, including whether any prior finding by the ITC is binding in this Investigation.

82. To the extent that Paragraph 82 contains conclusions of law, no response is necessary. NJOY lacks sufficient knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 82 of the Complaint and, on that basis, denies all such allegations, including whether any prior finding by the ITC is binding in this Investigation.

## **X. RELATED LITIGATION**

83. NJOY admits Complainant filed a separate complaint against NJOY in the U.S. District Court for the District of Arizona alleging infringement of the Asserted Patent. *JUUL Labs, Inc., v. NJOY, LLC et al.*, Case No. 2:25-CV-02853 (D. Ariz.). NJOY denies that it has infringed any valid and enforceable asserted claim of the Asserted Patent and denies that Complainant is entitled to relief.

84. NJOY lacks sufficient knowledge or information sufficient to form a belief as to the truth of those allegations in Paragraph 84 of the Complaint and, on that basis, denies all such allegations.

## **XI. RELIEF REQUESTED**

85. To the extent that Paragraph 85 contains conclusions of law, no response is necessary. To the extent that any response to Paragraph 85 is required, NJOY denies that Complainant has any valid cause of action pursuant to Section 337 of the Tariff Act of 1930, as amended. NJOY further denies that it has violated 19 U.S.C. § 1337 and specifically denies all of

Complainant's allegations of violation. NJOY further denies that Complainant is entitled to any relief whatsoever by way of its Complaint. NJOY denies any remaining allegations of Paragraph 85.

## **RESPONDENTS' RESPONSE TO THE NOTICE OF INVESTIGATION**

1. Pursuant to Commission Rule 210.13(b), Respondents hereby respond to the Notice of Institution of Investigation (the "Notice") issued by the Commission on September 9, 2025, and published in the Federal Register on September 12, 2025. Without admitting any of the specific or general allegations set forth in the Complaint, as referenced in the Notice, Respondents provide the following response:

2. Respondents acknowledge that the Commission has instituted an Investigation as set forth in the notice.

3. Respondents deny that there has been any violation of Section 337 by reason of the alleged infringement of any valid asserted claim of the Asserted Patent. Respondents further contend that the asserted claims of the Asserted Patent are invalid and/or unenforceable and cannot support any remedy for the alleged infringement.

4. Respondents deny that a protectable domestic industry exists with respect to the Asserted Patent, as required by 19 U.S.C. § 1337(a)(2)–(3). Respondents further deny that it is in the public interest to grant any relief to JLI in connection with this Investigation.

5. Respondents deny that Complainant is entitled to any relief in this Investigation, including issuance of any kind of exclusion order, cease and desist order, or a bond during any Presidential Review Period.

**RESPONDENTS' STATEMENT UNDER 19.C.F.R. § 210.13(B)**

1. Pursuant to Rule 210.13(b), Respondents provide the following additional information. By providing such information, Respondents intend only to supply data required by 19 C.F.R. § 210.13(b). Respondents specifically deny that any of the supplied data refers to any unlawful act under Section 337 or otherwise, and Respondents specifically deny that it infringes any claim of the Asserted Patent based on the Accused Products specifically identified in the Complaint. Discovery has only recently begun and is ongoing. Respondents reserve the right to amend or supplement the information provided below and in Confidential Exhibit A.

2. The Harmonized Tariff Schedule of the United States for the Accused Products is 2404.12.1000.

3. Respondents relies on third parties to manufacture the Accused Products. The names and addresses of Respondents' suppliers of the Accused Products are set forth in Confidential Exhibit A attached hereto.

4. Respondents believe that the United States is a significant market for the Accused Products and is important to Respondents' overall operations as further described in Confidential Exhibit A attached hereto.

## **RESPONDENTS' ADDITIONAL DEFENSES**

Respondents assert the following defenses. Respondents' inclusion of these additional defenses in this Response is not a concession that Respondents bears the burden of proof with respect to any of them. Discovery is ongoing at the time of this Response, as Respondents has not yet had sufficient time and opportunity to collect and review all information that may be relevant to the matters and issues raised herein. Pursuant to 19 U.S.C. §§ 210.14(b) and 210.14(c), therefore, Respondents reserve the right to seek amendment of, modify, and/or expand these defenses and to take further positions as discovery proceeds in this Investigation.

Respondents adopt and incorporate by reference any applicable defenses of other Respondents currently named or subsequently named in this Investigation.

### **FIRST ADDITIONAL DEFENSE** **(Noninfringement)**

1. Although Respondents do not bear the burden of proof on this issue, Respondents have not, and do not, directly infringe, indirectly infringe, induce infringement, or contribute to infringement of any valid and enforceable asserted claim of the Asserted Patent, either literally or under the doctrine of equivalents, and has not otherwise committed any acts in violation of 35 U.S.C. § 271 or 19 U.S.C. § 1337.

2. Complainant has failed to identify its contentions with respect to what articles are accused of infringement and how the Accused Products practice each limitation of the asserted claims of the Asserted Patent.

### **SECOND ADDITIONAL DEFENSE** **(Invalidity)**

3. On information and belief, one or more claims of the Asserted Patent are invalid for failure to comply with the requirements of 35 U.S.C. §§ 101, 102, 103, 112, 256, or any other

applicable statutory provisions of Title 35 of the United States Code or judicially created doctrines of invalidity, including but not limited to obviousness-type double patenting or the Rules and Regulations of the USPTO relating thereto.

4. Respondents provide an identification of prior art that supports this defense in Exhibit B to this Response. The prior art provided in Exhibit B is exemplary only and should not be construed as limiting in any way the defenses that Respondents will present in this Investigation. Respondents' investigation is ongoing. Further, nothing herein should be construed as an admission that Respondents agree with any of Complainant's express or implied claim constructions.

5. Depending on the scope of the asserted claims of the Asserted Patent or Complainant's contentions in connection therewith, the asserted claims of the Asserted Patent may be invalid for failure to provide an adequate written description or enabling disclosure, or for failure to disclose the best mode under 35 U.S.C. § 112, first paragraph, or for indefiniteness under 35 U.S.C. § 112, second paragraph.

**THIRD ADDITIONAL DEFENSE**  
**(Lack of Domestic Industry)**

6. Although Respondents do not bear the burden of proof on this issue, on information and belief, Complainant has not adequately alleged and cannot prove the existence of a domestic industry as required under 19 U.S.C. § 1337(a)(2)–(3) in connection with the Asserted Patent. For example, on information and belief, Complainant does not maintain a presence in and does not make significant or substantial investments in labor, capital, plants, equipment, or research and development in the electronic nicotine delivery system market.

**FOURTH ADDITIONAL DEFENSE**  
**(Lack of Unfair Act or Method of Competition)**

7. Although Respondents do not bear the burden of proof on this issue, on information and belief, Respondents have committed no unfair act or method of competition that constitutes a violation of 19 U.S.C. § 1337.

**FIFTH ADDITIONAL DEFENSE**  
**(No Import Violation)**

8. Complainant has failed to and will not be able to demonstrate that Respondents have imported, sold for importation, or sold after importation into the United States any product that infringes any valid and enforceable asserted claim of the Asserted Patent at the time of importation.

**SIXTH ADDITIONAL DEFENSE**  
**(Estoppel)**

9. On information and belief, and subject to further discovery, Complainant is estopped from asserting and construing any asserted claim to have been infringed by any of Respondents' products and asserting infringement by Respondents' products under the doctrine of equivalents, in whole or in part, by argument-based estoppel, prosecution history estoppel, and collateral, administrative, and judicial estoppel, by virtue of the cancellations, amendments, arguments, representations, and concessions made to the Patent and Trademark Office during the pendency of the applications for the Asserted Patent and for related patent and patent application, post-grant proceedings, pending or prior litigation, and prior investigations by the International Trade Commission.

**SEVENTH ADDITIONAL DEFENSE**  
**(Standing & Constitutional Defenses)**

10. Upon information and belief, and subject to the further discovery, Complainant lacks all substantial rights to the Asserted Patent, does not have standing to bring this Investigation by itself, and/or is precluded from obtaining relief from the Commission including at least because of the Constitutional arguments raised in *NJOY LLC et al. v. The International Trade Commission et al.*, No. 3:25-cv-00930 (E.D. Va.).

**EIGHTH ADDITIONAL DEFENSE**  
**(Implied Waiver, Implied License, Promissory Estoppel, and/or Patent Misuse)**

11. On information and belief, Complainant's claims are barred as a result of implied waiver, implied license, promissory estoppel, patent misuse, or other applicable equitable doctrines.

**NINTH ADDITIONAL DEFENSE**  
**(Ensnarement)**

12. On information and belief, and subject to further discovery, Complainant's infringement claims are barred by the doctrine of ensnarement. Complainant is foreclosed from asserting infringement under the doctrine of equivalents to the extent the scope of such equivalent would ensnare prior art.

**TENTH ADDITIONAL DEFENSE**  
**(Other Defenses)**

13. Respondents further reserve the right to amend its Response to include other affirmative defenses that Respondents may learn of during the course of this Investigation.

**RESPONDENTS' REQUEST FOR RELIEF**

WHEREFORE, Respondents respectfully request the following relief from the Commission:

- (1) Denying all relief requested in the Complaint;

- (2) Finding that Respondents have not violated Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337;
- (3) Finding that Respondents do not directly infringe any valid and enforceable asserted claim of the Asserted Patent, either literally or under the doctrine of equivalents, and has not otherwise committed any acts in violation of 35 U.S.C. § 271 or 19 U.S.C. § 1337;
- (4) Finding that the asserted claims of the Asserted Patent are invalid;
- (5) Finding that the asserted claims of the Asserted Patent are unenforceable;
- (6) Finding that there is no domestic industry for the Asserted Patent;
- (7) Finding that Complainant's claims as they relate to the Asserted Patent is barred by reason of equitable doctrines, including equitable estoppel, acquiescence, unclean hands, prosecution laches, and/or waiver;
- (8) Awarding Respondents its attorneys' fees and costs incurred in responding to the Complaint and defending this Investigation;
- (9) Dismissing the present Complaint and terminating the present Investigation;
- (10) Finding that it is not in the public interest to grant any relief to Complainant; and
- (11) Awarding such other and further relief as the Commission deems just and proper.

Dated: November 20, 2025

Respectfully submitted:

/s/ Benjamin C. Elacqua

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**COUNSEL FOR RESPONDENTS NJOY, LLC;  
NJOY HOLDINGS, INC.; ALTRIA GROUP, INC.;  
ALTRIA GROUP DISTRIBUTION COMPANY;  
AND ALTRIA CLIENT SERVICES LLC**

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing document:

**RESPONDENTS NJOY, LLC, NJOY HOLDINGS, INC., ALTRIA GROUP, INC.,  
ALTRIA GROUP DISTRIBUTION COMPANY, AND ALTRIA CLIENT SERVICES  
LLC VERIFIED RESPONSE TO JUUL LABS, INC.’S COMPLAINT UNDER SECTION  
337 OF THE TARIFF ACT OF 1930, AS AMENDED, AND TO THE NOTICE OF  
INVESTIGATION**

have been served on this 20<sup>th</sup> day of November, 2025 on the following:

<p>The Honorable Lisa R. Barton Secretary to the Commission <b>U.S. International Trade Commission</b> 500 E Street, S.W., Room 112 Washington, D.C. 20436</p>	<p><input type="checkbox"/> <b>Via First Class Mail</b> <input type="checkbox"/> <b>Via Hand Delivery</b> <input type="checkbox"/> <b>Via Federal Express</b> <input checked="" type="checkbox"/> <b>Via Electronic Filing</b></p>
<p>The Honorable Doris Johnson Hines Administrative Law Judge <b>U.S. INTERNATIONAL TRADE COMMISSION</b> 500 E Street, SW Room 317 Washington, D.C. 20436 Email: <a href="mailto:JohnsonHines1460@usitc.gov">JohnsonHines1460@usitc.gov</a></p>	<p><input type="checkbox"/> <b>Via First Class Mail</b> <input type="checkbox"/> <b>Via Hand Delivery</b> <input type="checkbox"/> <b>Via Federal Express</b> <input type="checkbox"/> <b>Via Electronic Filing</b> <input checked="" type="checkbox"/> <b>Via Electronic Mail</b></p>
<p>Michael T. Renaud, Esq. <b>MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C.</b> One Financial Center Boston, MA 02111 Email: <a href="mailto:Mintz-JUUL-ITC-3@mintz.com">Mintz-JUUL-ITC-3@mintz.com</a></p> <p><b>ATTORNEYS FOR COMPLAINANT JUUL LABS, INC.</b></p>	<p><input type="checkbox"/> <b>Via First Class Mail</b> <input type="checkbox"/> <b>Via Hand Delivery</b> <input type="checkbox"/> <b>Via Federal Express</b> <input type="checkbox"/> <b>Via Electronic Filing</b> <input checked="" type="checkbox"/> <b>Via Electronic Mail</b></p>

*/s/ Tracy Haynes* \_\_\_\_\_  
Tracy Haynes