

**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**

Inv. No. 337-TA-1368

JOINT CLAIM CONSTRUCTION CHART

Pursuant to the Procedural Schedule (Order No. 7), Complainants JUUL Labs, Inc. and VMR Products LLC (“Complainants”), Respondents NJOY LLC, NJOY Holdings, Inc., Altria Group, Inc., Altria Group Distribution Company, and Altria Client Services LLC (“Respondents”), and the Office of Unfair Import Investigations (“the Staff”) (all collectively “the Parties”) jointly submit the below chart of agreed and disputed constructions. The Parties take the below positions:

	Complainants	Respondents	Staff
“wick” [114 claims 1, 43, 44]	Plain and ordinary meaning, <i>e.g.</i> , any material through which liquid may be drawn via capillary action	Fibrous bundle	Fibrous bundle
“wick aperture” [114 claims 1, 43, 44]	Plain and ordinary meaning, <i>e.g.</i> , an opening that allows the wick to access a liquid	An opening that provides clearance for the wick to pass through	An opening that provides clearance for the wick to pass through
“a wick in contact with the [atomization] liquid in the liquid reservoir through said first wick aperture and said second wick aperture” [114 claims 1, 43, 44]	Plain and ordinary meaning, <i>e.g.</i> , a wick in contact with the liquid in the liquid reservoir by way of said first wick aperture and said second wick aperture	Fibrous bundle that passes through the first wick aperture and second wick aperture to contact the [atomization] liquid in the liquid reservoir	Fibrous bundle that contacts [atomization] liquid by passing through the first wick aperture and second wick aperture and into the liquid reservoir
“sealably separated” [114 claim 1]	The term “sealably separated from” means “separated by a barrier to prevent flooding”	Separated by a barrier to prevent the flow of liquid between the liquid reservoir and the atomizing chamber other than by capillarity of the wick	Separated by a barrier to prevent the flow of liquid between the liquid reservoir and the atomizing chamber other than the claimed “a wick...configured to transfer the liquid by capillarity from said liquid reservoir to said atomizer
“pressure values” [123 claims 18, 31]	Plain and ordinary meaning, <i>e.g.</i> , a numerical value indicative of pressure	A numerical amount of pressure (in mmHG, atm, or other units)	A numerical amount of pressure (in mmHG, atm, or other units)
“mouthpiece” [173 claims 1, 20]	Plain and ordinary meaning, <i>e.g.</i> , portion to be used by a mouth	Separate component from the storage compartment to be used by a mouth	Separate component of the cartridge to be used by a mouth

Complainants	Respondents	Staff
“wicking element” [722 claims 1, 10, 15] [981 claims 1, 9, 13] Plain and ordinary meaning, <i>e.g.</i>, any material through which liquid may be drawn via capillary action Not subject to 35 U.S.C. §112(f). If subject to 35 U.S.C. §112(f): • Function (’722 patent, claims 1, 10, 15): delivering the vaporizable liquid to the heating element • Function (’981 patent, claims 1, 9): wicking, <i>i.e.</i>, drawing a liquid via capillary action • Function (’981 patent, claim 13): wicking, <i>i.e.</i>, drawing a liquid via capillary action (drawing the vaporizable substance) • Structure: wick (’722 patent at 8:47-58; ’981 patent at 9:61-10:5) and equivalents thereof	Subject to § 112(6) <u>Function:</u> • (’722, claims 1, 10, 15): deliver the vaporizable liquid to the heating element • (’981 claims 1, 9, 13): wicking, <i>i.e.</i>, absorbing a liquid via capillary action <u>Structure:</u> pliable bundle of fibers as shown in Fig. 1, wick 216	Subject to § 112(6) <u>Function:</u> wicking <u>Structure:</u> elongated fibrous structure in Fig. 1 (216) *Note that parties agree that no material dispute re function as between limitations
“heating element” [722 claims 1, 10, 15] [981 claims 1, 9, 13, 17] Plain and ordinary meaning, <i>e.g.</i>, a conductive material shaped into a wire, coil, or flat ribbon that generates heat in response to current Not subject to 35 U.S.C. §112(f).	Subject to § 112(6) <u>Function:</u> • heating the vaporizable liquid	Conductive material Alternative: <u>Function:</u> transferring heat

Complainants	Respondents	Staff
If subject to 35 U.S.C. §112(f): • Function: heating the vaporizable liquid delivered from the wicking element • Structure ('722 patent): (1) a flexible conductive material or (2) copper or other metal wiring shaped into a wire or flat ribbon ('722 patent at Abstract, 9:33-46, Fig. 4, Fig. 10), and equivalents thereof • Structure ('981 patent): (1) a conductive material or (2) copper or other metal wiring shaped into a wire or flat ribbon ('981 patent at 10:47-55, Fig. 4, Fig. 10), and equivalents thereof	Structure: indefinite	Structure: 214 in Fig. 1; '722 Patent at Col. 9:32-46 *Note that parties agree that no material dispute re function as between limitations
“window” [722 claims 14, 17] [981 claims 9, 17] [AGREED]	opening or slit [on or proximate to] / [in] the shell through which the cartomizer is viewed	opening or slit [on or proximate to] / [in] the shell through which the cartomizer is viewed

Dated: November 7, 2023

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Jeffrey Matthews, hereby certify that on November 7, 2023 copies of the foregoing documents were served upon the following parties as indicated:

The Honorable Lisa R. Barton Secretary to the Commission U.S. International Trade Commission 500 E Street, S.W. Washington, D.C. 20436	☐ Via First Class Mail ☐ Via Hand Delivery ☐ Via Electronic Mail ☒ Via EDIS
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