

# EXHIBIT 6

**PUBLIC VERSION**

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

**Before the Honorable Clark S. Cheney  
Administrative Law Judge**

**In the Matter of**

**CERTAIN TOBACCO HEATING  
ARTICLES AND COMPONENTS  
THEREOF**

**Investigation No. 337-TA-1199**

**RESPONDENTS' POST-HEARING RESPONSIVE BRIEF**



Neither Complainants nor the Staff grapple with the fact that oral tobacco, snus, patches, and gums are all niche products with narrow appeal that are unattractive to many/most consumers who enjoy the CC smoking experience. Complainants ignore the fact that the products they champion as a substitute for IQOS—e-cigarettes—are illegal to sell in the U.S. They ignore that, while many e-cigarettes manufacturers have filed for FDA authorization, e-cigarettes face a highly uncertain regulatory future because their chemistry is variable and insufficiently understood and youth-use remains a large problem. Perhaps most importantly, neither address a smoker’s reality—none of the products they champion provide the CC-like sensory experience that IQOS does. Thus, the evidentiary record demonstrates that none of the alleged IQOS substitutes will appeal to millions of CC smokers, and exclusion of IQOS will leave them to confront the dire health consequences of smoking without a meaningful alternative.

On remedy and bond issues, Complainants fail to meet their burden to justify the breadth of their requested remedies. First, Complainants include the HeatStick accessory as an “Accused Product” within the scope of an LEO. But this accessory is not claimed by any Asserted Claim of the ’238 or ’915 patents and is outside the scope of any violation based on those patents. Nor should Respondents be prevented from importing the HeatStick accessory for use in *current* IQOS systems, in view of well-settled Commission precedent that remedial orders are intended to be prospective and not to punish consumers who purchased products prior to entry of any orders. Second, although Complainants request CDOs as to all Respondents, Complainants have *stipulated* that ACS and PMP “do not keep, store, hold, warehouse, maintain, or control a commercially significant inventory of the accused products in the United States.” JX-0011C ¶127. Commission precedent confirms that a CDO to either of those Respondents is inappropriate and unnecessary. Third, a price differential analysis confirms that IQOS is sold at higher prices than



Dated: February 26, 2021

Respectfully submitted,

*/s/ Bert C. Reiser*

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