

EXHIBIT 13



(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

COMPLAINANTS' OPENING POST-HEARING BRIEF

Relevant Market

Relevant market is non-combustible products in the U.S.

Vaping products
(e.g., e-cigarettes)

Smokeless tobacco
(e.g., "dip")

Oral Nicotine
(e.g., nicotine pouches)

Snus
(e.g., Camel Snus)

Heat-Not-Burn
(e.g., Eclipse and IQOS)

CDX-0004C 04

(Hrg.Tr.686:7-18, 688:5-689:5, 690:4-691:6; CDX-0004C.94.) As discussed in Section VII.A.4, *supra*, there are thousands of PRRPs available in the relevant market to satisfy U.S. consumer demand if IQOS is excluded. These two factors weigh in favor of excluding the Accused Products.

Reynolds's evidence is un rebutted. Respondents' expert, Dr. Arnold, testified that he based his opinions on IQOS' performance in other countries, and IQOS' performance in the U.S. since its initial introduction. (Hrg.Tr.1123:18-1124:2.) He did not provide any testimony about the relevant U.S. market or how IQOS competes with other products in that market. Indeed, Respondents have waived any argument about the competition and capacity factors by omitting them from their Pre-hearing Brief and at trial.

C. Respondents' Public-Interest Case Is Built Solely On Speculation

Respondents' assertion that excluding IQOS from the U.S. market will allegedly harm the public interest is wrong. It is built entirely on uncorroborated speculation and baseless predictions. For example, Respondents' dire predictions that public health will suffer if IQOS is excluded



has established procedures that permit modification or rescission of an exclusion order, as appropriate based on a reassessment of the changed facts or public interest at such time. 19 C.F.R. § 210.76(a)(1).” The result should be the same here.

VIII. CONCLUSION

For all of the foregoing reasons, the ALJ should find that a violation of Section 337 has occurred, that the public interest factors weigh in favor of the remedies sought by Reynolds, and recommend entry of Reynolds’s requested remedies and a bond of 100%.

Ground Rule 1.6 Certification

The undersigned hereby certifies that the foregoing *Complainants’ Opening Post Hearing Brief* complies with the word limitations of Ground Rule 14.1, as modified by the ALJ on the record at Hrg.Tr.1585:3-10. Excluding the items listed in G.R. 1.6 as not included in the word count, and using the word count of the word-processing system used to prepare the paper (Microsoft Word), Complainants’ Opening Claim Construction Brief contains 26,006 words.

Dated: February 12, 2021

Respectfully submitted,

JONES DAY

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