

EXHIBIT 3

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

In the Matter of

**CERTAIN TOBACCO HEATING
ARTICLES AND COMPONENTS
THEREOF**

Investigation No. 337-TA-1199

CEASE AND DESIST ORDER

IT IS HEREBY ORDERED THAT Philip Morris USA, Inc. cease and desist from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, transferring (except for exportation), soliciting United States agents or distributors, and aiding or abetting other entities in the importation, sale for importation, sale after importation, transfer (except for exportation), or distribution of tobacco heating articles and components thereof that infringe one or more of claims 1-3 and 5 of U.S. Patent No. 9,930,915 (“the ‘915 patent”) or claims 27-30 of U.S. Patent No. 9,901,123 (“the ‘123 patent”) (collectively, “the Asserted Patents”) in violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337).

**I.
Definitions**

As used in this order:

- (A) “Commission” shall mean the United States International Trade Commission.
- (B) “Complainants” shall mean RAI Strategic Holdings, Inc.; R.J. REYNOLDS Vapor Company; and R.J. REYNOLDS Tobacco Company, all of Winston-Salem, North Carolina.
- (C) “Respondent” shall mean Philip Morris USA, Inc., 6601 W. Broad Street,

Richmond, VA 23230.

- (D) “Person” shall mean an individual, or any non-governmental partnership, firm, association, corporation, or other legal or business entity other than Respondent or its majority-owned or controlled subsidiaries, successors, or assigns.
- (E) “United States” shall mean the fifty States, the District of Columbia, and Puerto Rico.
- (F) The terms “import” and “importation” refer to importation for entry for consumption under the Customs laws of the United States.
- (G) The term “covered products” shall mean electric tobacco heating device systems and the associated tobacco sticks sold for use with the device systems that infringe one or more of claims 1-3 and 5 of the ’915 patent or claims 27-30 of the ’123 patent. Covered products shall not include articles for which a provision of law or license avoids liability for infringement.

II. Applicability

The provisions of this Cease and Desist Order shall apply to Respondent and to any of its principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and majority-owned business entities, successors, and assigns, and to each of them, insofar as they are engaging in conduct prohibited by section III, *infra*, for, with, or otherwise on behalf of, Respondent.

III. Conduct Prohibited

The following conduct of Respondent in the United States is prohibited by this Order.

For the remaining term of the Asserted Patents, Respondent shall not:

- (A) import or sell for importation into the United States covered products;
- (B) market, distribute, sell, or otherwise transfer (except for exportation) imported covered products;
- (C) advertise imported covered products;
- (D) solicit U.S. agents or distributors for imported covered products; or
- (E) aid or abet other entities in the importation, sale for importation, sale after importation, transfer, or distribution of covered products.

IV. Conduct Permitted

Notwithstanding any other provision of this Order, specific conduct otherwise prohibited by the terms of this Order shall be permitted if:

- (A) in a written instrument, the owner of the Asserted Patents licenses or authorizes such specific conduct; or
- (B) such specific conduct is related to the importation or sale of covered products by or for the United States.

V. Reporting

For purposes of this requirement, the reporting periods shall commence on January 1 of each year and shall end on the subsequent December 31. The first report required under this section shall cover the period from the date of issuance of this order through December 31, 2021. This reporting requirement shall continue in force until such time as Respondent has truthfully reported, in two consecutive timely filed reports, that it has no inventory of covered products in the United States.

Within thirty (30) days of the last day of the reporting period, Respondent shall report to the Commission: (a) the quantity in units and the value in dollars of covered products that it has (i) imported and/or (ii) sold in the United States after importation during the reporting period, and (b) the quantity in units and value in dollars of reported covered products that remain in inventory in the United States at the end of the reporting period.

When filing written submissions, Respondent must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.4(f)). Submissions should refer to the investigation number ("Inv. No. 337-TA-1199") in a prominent place on the cover pages and/or the first page. *See Handbook for Electronic Filing Procedures*, http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf. Persons with questions regarding filing should contact the Secretary (202-205-2000). If Respondent desires to submit a document to the Commission in confidence, it must file the original and a public version of the original with the Office of the Secretary and must serve a copy of the confidential version on Complainant's counsel.¹ As of September 29, 2021, the Commission's paper filing requirements in 19 C.F.R. § 210.4(f) are currently waived. 85 Fed. Reg. 15798 (March 19, 2020). Respondent should confirm the status of the rules prior to filing.

Any failure to make the required report or the filing of any false or inaccurate report shall constitute a violation of this Order, and the submission of a false or inaccurate report may be referred to the U.S. Department of Justice as a possible criminal violation of 18 U.S.C. § 1001.

¹ Complainants must file a letter with the Secretary identifying the attorney to receive reports and bond information associated with this Order. The designated attorney must be on the protective order entered in the investigation.

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