

## ITC Clears Cannabis Cos. In Vaping IP Investigation

By **Dani Kass**

*Law360 (February 2, 2023, 10:26 PM EST)* -- The U.S. International Trade Commission's chief administrative law judge has found that a variety of companies importing vaping cartridges don't infringe a trio of patents.

Judge Clark S. Cheney said Wednesday that he had issued a final initial determination in the Section 337 investigation, holding that there was no infringement of Shenzhen Smoore Technology's patents. The reasoning for the decision is not yet available to the public and is subject to review by the agency's commissioners.

Under Section 337 of the Tariff Act of 1930, the ITC can ban imports if they are found to infringe U.S. patents. In November 2021, the ITC announced it would review imported oil-vaping cartridges, along with the cartridges' components and products that contain them.

The cartridges are small units filled with oil, often cannabis or THC oil. The cartridge attaches to a battery that heats up the oil and releases the active ingredients in a vapor that users can inhale.

Smoore, which labels itself as a "global leader in offering vaping technology solutions" and is the parent company of vape business CCELL, had persuaded the ITC to investigate a long list of companies.

The businesses impacted by Wednesday's findings include the Calico Group Inc., Green Tank Technologies Corp. and Blic Group Holdings LLC, which all had counsel representing them. Obsidian Supply Inc., Cartridgesforsale.com, Glo Extracts, BulkCarts.com, Greenwave Naturals LLC and HW Supply LLC had no counsel listed.

Companies in a consolidated group including A&A Global Imports — doing business as Marijuana Packaging — Advanced Vapor Devices LLC, Bold Crafts Inc., BoldCarts.com, Brand King LLC, Bulk Natural LLC —operating as True Terpenes — Next Level Ventures, LLC, [avd710.com](http://avd710.com) and [iKrusher.com](http://iKrusher.com) were also let off the hook in the decision.

Next Level Ventures, which listed itself as operating as AVD, Advanced Vapor Devices and [avd710.com](http://avd710.com), announced the win in a statement Wednesday, but did not include further comments.

"Blic is very pleased with Judge Cheney's thorough decision finding no violation as to the two patents that Shenzhen Smoore asserted against Blic in the Investigation," its attorneys, Ari J. Jaffess and David G. Liston of Liston Abramson LLP, said in a joint statement. "Blic is proud to be an innovator in this field

and firmly believes that Smoore should never have initiated these proceedings."

Counsel for Calico declined to comment. Counsel for the remaining parties didn't immediately respond to requests for comment Thursday or could not be reached for comment.

The patents-in-suit are U.S. Patent Nos. 10,357,623; 10,791,762; and 10,791,763.

Shenzhen Smoore Technology is represented by Lyle Vander Schaaf of Crowell & Moring LLP.

The Calico Group is represented by Beau Jackson, Jennifer Hoekel and Avery Hitchcock of Husch Blackwell LLP.

Green Tank Technologies is represented by David C. Vondle of Akin Gump Strauss Hauer & Feld LLP.

Blinc is represented by Ari J. Jaffess, David G. Liston, M. Michael Lewis, Alex G. Patchen and Gina K. Kim of Liston Abramson LLP and Goutam Patnaik of Desmarais LLP.

The group of defendants including Next Level Ventures is represented by R. Tyler Goodwyn of Dentons.

The ITC is represented by Todd Taylor of the Office of Unfair Import Investigations.

The case is In the Matter of Certain Oil-Vaping Cartridges, Components Thereof, And Products Containing the Same, investigation number 337-TA-1286, before the U.S. International Trade Commission.

--Additional reporting by Grace Dixon. Editing by Jill Coffey.