

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

**RAI STRATEGIC HOLDINGS, INC. and
R.J. REYNOLDS VAPOR COMPANY**

Plaintiffs,

v.

**ALTRIA CLIENT SERVICES LLC; PHILIP
MORRIS USA, INC.; ALTRIA GROUP, INC.;**
PHILIP MORRIS INTERNATIONAL INC.;
and **PHILIP MORRIS PRODUCTS S.A.**

Defendants.

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)
) Civil Action No. 1:20-cv-393
)

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) JURY TRIAL DEMANDED
)
)

COMPLAINT FOR PATENT INFRINGEMENT

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*Counsel for Plaintiffs
RAI Strategic Holdings, Inc. and
R.J. Reynolds Vapor Company*

Plaintiffs, RAI Strategic Holdings, Inc. (“RAI”) and R.J. Reynolds Vapor Company (“RJR”) (collectively, “Plaintiffs”), for their Complaint against Altria Client Services LLC (“ACS”), Philip Morris USA, Inc. (“PM USA”), Altria Group, Inc. (“AGI”), Philip Morris International, Inc. (“PMI”), and Philip Morris Products S.A. (“PMP”) (collectively, “Defendants”) allege as follows:

THE PARTIES

1. RAI is a North Carolina corporation with its principal place of business located at 401 North Main Street, Winston-Salem, N.C. RAI is the assignee and sole owner of U.S. Patent Nos. 8,314,591 (the “591 patent”) attached hereto as Exhibit A, 9,814,268 (the “268 patent”) attached hereto as Exhibit B, 9,839,238 (the “238 patent”) attached hereto as Exhibit C, 9,901,123 (the “123 patent”) attached here to as Exhibit D, 9,930,915 (the “915 patent”) attached hereto as Exhibit E, and 10,492,542 (the “542 patent”) attached hereto as Exhibit F (collectively, the “Asserted Patents”).

2. RAI is the assignee of, and has the right to enforce (including for past infringement), each of the Asserted Patents.

3. RJRV is a North Carolina corporation with its principal place of business located at 401 North Main Street, Winston-Salem, N.C. RJRV is the exclusive licensee of the Asserted Patents.

4. Upon information and belief, ACS is a Virginia corporation with offices at 6601 West Broad Street, Richmond, Virginia 23230.

5. Upon information and belief, PM USA is a Virginia corporation with offices at 6601 West Broad Street, Richmond, Virginia 23230.

6. Upon information and belief, AGI is a Virginia corporation with offices at 6601 West Broad Street, Richmond, Virginia 23230.

7. Upon information and belief, AGI is the ultimate parent entity of ACS and PM USA.

8. Upon information and belief, PMI is a Virginia corporation with offices at 120 Park Avenue, New York, New York 10017.

9. Upon information and belief, PMI is the ultimate parent entity of PMP.

10. Upon information and belief, PMP is a societe anonyme duly existing under the laws of Switzerland with a corporate address at Quai Jeanrenaud 3, 2000 Neuchâtel, Switzerland.

JURISDICTION AND VENUE

11. This action involves federal statutory questions and claims arising under the laws of the United States. This Court has jurisdiction over the subject matter of this action, without regard to the amount in controversy, pursuant to 35 U.S.C. § 271, *et. seq.* and 28 U.S.C. §§ 1331 and 1338.

12. Personal jurisdiction exists over the Defendants ACS, PM USA, AGI, and PMI because they are Virginia corporations and ACS, PM USA, and AGI have their principal places of business in this District.

13. As a foreign corporation, personal jurisdiction exists over PMP at least by virtue of Federal Rule of Civil Procedure 4(k)(2). In addition, personal jurisdiction exists over PMP based on the fact that, upon information and belief, it is responsible for causing the tort of patent infringement to occur in Virginia and this District.

14. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b). Defendants ACS, PM USA, AGI, and PMI are Virginia corporations, and thus reside in the District. In

addition, a substantial part of the events or omissions giving rise to this claim occur in the District. Finally, ACS, PM USA, and AGI have regular and established places of business in the District and, upon information and belief, have committed, induced, or contributed to acts of infringement in this District. One or more of the Defendants has been selling and continues to sell the infringing products in this District.

15. Venue is proper as to PMP by virtue of 28 U.S.C. §§ 1391(c)(3) and 1400(b) because it is a foreign corporation.

FACTUAL BACKGROUND

THE ASSERTED PATENTS

16. The '591 patent is directed to a charging case for a personal vaporizing inhaler. The United States Patent and Trademark Office ("USPTO") issued the '591 patent on November 20, 2012, with one independent claim, which recites:

1. A case, comprising:

a first cradle adapted to hold a personal vaporizing unit, said personal vaporizing unit having dimensions approximating a smoking article;

a battery;

a first contact and a second contact, said first contact and said second contact forming an electrical contact with said personal vaporizing unit when said personal vaporizing unit is held by said first cradle, said first contact and said second contact conducting charge from said battery to said personal vaporizing unit to charge said personal vaporizing unit.

17. The '268 patent is directed to a tobacco-containing smoking article. The USPTO issued the '268 patent on November 4, 2017, with two independent claims, including Claim 16, which recites:

16. A tobacco-containing, electrically-powered smoking article comprising:

(a) a tubular outer housing having a mouth-end and an end distal to the mouth-end, the housing comprising an opening adapted for intake of air into the smoking article;

(b) an electrical power source within the outer housing;

(c) a controller adapted for regulating current flow through the heater;

(d) a rod-shaped carrier device removably engaged with the mouth-end of the outer housing and comprising a tubular mouth-end piece and a tubular cartridge with two open ends allowing air to flow therethrough, wherein the cartridge includes a tobacco material and an aerosol-generating material; and

(e) an electrical resistance heater in contact with the tobacco material and the aerosol-generating material and adapted for heating at least a portion of the tobacco material and the aerosol-generating material.

18. The '238 patent is directed to a control body for an electronic smoking article.

The USPTO issued the '238 patent on December 12, 2017, with two independent claims, including Claim 19, which recites:

19. A control body for an electronic smoking article, the control body comprising:

an elongated shell with an interior, a proximal end, and an opposing distal end;

a coupler formed of an elongated body having a first end that forms a wall and that engages the proximal end of the shell and a second end that comprises a cavity configured to releasably engage a cartridge, wherein the coupler includes a pressure channel extending between a first end that is in fluid communication with the cavity and a second end that opens through the wall at the first end of the coupler, wherein the coupler includes an air inlet channel in fluid communication with the cavity and an air inlet aperture in an exterior surface of the coupler, and wherein the coupler has a longitudinal axis extending from the first end to the second end, and the first end of the pressure channel is spatially separated from the air inlet channel relative to the longitudinal axis of the coupler; and

a microprocessor.

19. Plaintiffs have virtually marked and continue to virtually mark the '238 patent at www.vusevapor.com/patents, pursuant to 35 U.S.C. § 287(a).

20. The '123 patent is directed to a smoking article that includes an electrical power source that powers a heater to heat aerosol-forming material in a disposable portion of the

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