EXHIBIT 9

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

RAI STRATEGIC HOLDINGS, INC.	)	
	)	
et al.,	)	Civil Action
	)	No. 1:20-cv-00393-LO-TCB
Plaintiffs,	)	
	)	
v.	)	April 16, 2021
	)	10:00 a.m.
ALTRIA CLIENT SERVICES, LLC,	)	
	)	
et al.,	)	
	)	
Defendants.	)	

TRANSCRIPT OF MOTION HEARING PROCEEDINGS
BEFORE THE HONORABLE THERESA C. BUCHANAN,
(Via Zoom Conference)
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

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THE COURT: I don't really have any questions, but I did read the reply. But go ahead and add anything that you would like.

MR. VITT: Sure. So, on -- I would like to focus, I think, primarily on Topic 28, Your Honor, and the key issue there is there are really three legal principles that ought to drive this. The question we're looking at is, is there anything relevant about the negotiations and the lead up to that font in RJ Reynolds' agreement.

The first legal principle, Your Honor, is we all agree that a settlement agreement can be a comparable license. And then the Federal Circuit's kind of instructed us to look at, is the settlement agreement about valuing the patents or is it about settling litigation? But here we don't have to worry about that. We agree that its about value of the patent.

And then the second legal principle is, Rule 408 says that the settlement negotiations are not admissible for exactly the purpose that Philip Morris wants to use them for; that is, to prove or disprove the validity or amount of a disputed claim, just not admissible for that purpose.

And then that leads to the third legal principle. If you look at the cases that we cited and they cited, there's a general rule that the settlement negotiations are not discoverable. There's not a broad discovery privilege, but there's a general rule that those negotiations are not discoverable unless the

party to the settlement agreement that has a comparable license has opened the door, and we have not opened the door in any way. Both parties' experts agree that we look at the terms of the agreement. They agree about how to apportion between the font and the agreement, which is the comparable license, and the hypothetical negotiation. They agree about that. Their disagreement is just about which agreement to use. We have not opened the door to the background of the negotiations.

The last point I would like to make, Your Honor, is the reply makes it clear that they would really like to dig into our own internal deliberations. This -- it bears noting that this didn't come up for months and months as we discussed this. This raises significant issues of attorney-client privilege and work product on this exact issue, which is why courts don't allow discovery into this unless the party to the settlement agreement opens the door.

Thank you, Your Honor.

THE COURT: All right. Thank you. Did you have anything else to add Mr. Gotts? You're muted. Sorry.

MR. GOTTS: You would think by now we would all have learned to push unmute. But in any event, Your Honor, the -- just a few quick points. Number one, there's no 408 privilege, and the very case that Plaintiff Reynolds cites in their brief, the *MTSG* case, shows exactly otherwise, namely that we should be entitled to test the underlying negotiations for the purposes of

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