

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

)	
RAI STRATEGIC HOLDINGS, INC., et. al.,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Civil Action No. 1:20-cv-393
)	Hon. Liam O’Grady
ALTRIA CLIENT SERVICES, LLC, et. al.,)	
)	
<i>Defendants.</i>)	
)	
)	

ORDER

This matter comes before the Court on Phillip Morris and Altria’s Motion regarding a prior art dispute. Dkt. 1143. The Motion has been fully briefed by the Parties and was discussed at oral arguments. After consideration of the Motion, the Court has decided it is appropriate to grant summary judgment *sua sponte* for Phillip Morris and Altria on a limited factual issue. *See* Federal Rule of Civil Procedure 56(f)(3).

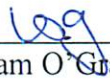
The Parties currently dispute whether Philip Morris and Altria may assert that a Chinese Utility Patent (“CN ‘667”) shares the same inventor as United States Patent Number 10,420,374 (“the ‘374 patent”). There is no dispute between the Parties that the inventor, Loi Ying Liu, is the same inventor listed on both CN ‘667 and the ‘374 patent. Reynolds has argued that Phillip Morris and Altria should be foreclosed from making the assertion of common inventorship because this fact was not disclosed during discovery. However, the Court finds that Reynolds has been aware of this fact well in advance of trial. In addition, the factual dispute originated from differences in the Parties’ translations of Chinese to English. The dispute is not the result of any

action taken in bad faith. Accordingly, there is no undue prejudice to Reynolds from allowing the assertion of common inventorship.

After considering the Parties' positions and pursuant to Federal Rule of Civil Procedure 56, there is no genuine dispute of fact regarding the identity of the inventor, Mr. Liu. Therefore, the Court finds that the inventor listed on the '374 patent and the CN '667 patent is the same individual. The Court makes no findings on the priority dates accorded to any patents or specific patent claims that are at issue in this case. Those findings will be established at trial after the record has been fully developed. The Court appreciates the Parties' attention to this matter and hopes that the Parties continue to collaborate and streamline the issues that will be presented at trial.

It is so **ORDERED**.

April 15, 2022
Alexandria, Virginia



Liam O'Grady
United States District Judge