

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

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

Plaintiffs and Counterclaim Defendants,

v.

ALTRIA CLIENT SERVICES LLC; Philip
Morris USA INC.; and Philip Morris
PRODUCTS S.A.,

Defendants and Counterclaim Plaintiffs.

Case No. 1:20-cv-00393-LO-TCB

**REYNOLDS'S MEMORANDUM IN FURTHER SUPPORT OF ORAL
RULE 50(a) MOTION FOR JUDGMENT AS A MATTER OF LAW ON CLAIM OF
WILLFUL INFRINGEMENT**

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
I. INTRODUCTION	1
II. EVIDENCE AT TRIAL	2
III. LEGAL STANDARD.....	5
IV. ARGUMENT	6
A. Evidence That Reynolds Merely Had Knowledge of the '265 and '911 Patents Is Legally Insufficient for Willfulness.	7
B. No Reasonable Jury Could Find That Reynolds Was Willfully Blind to the Patents or Infringement of the Patents.	10
C. Pre-Verdict Judgment Is Authorized and Appropriate.	12
V. CONCLUSION.....	12

TABLE OF AUTHORITIES

	Page
CASES	
<i>Abbott Labs. v. Sandoz, Inc.</i> , 532 F. Supp. 2d 996 (N.D. Ill. 2007)	8
<i>Ansell Healthcare Prod. LLC v. Reckitt Benckiser LLC</i> , No. 15-CV-915-RGA, 2018 WL 620968 (D. Del. Jan. 30, 2018).....	10, 11
<i>Arctic Cat Inc. v. Bombardier Recreational Products Inc.</i> , 198 F. Supp. 3d 1343 (S.D. Fla. 2016)	11
<i>Arctic Cat Inc. v. Bombardier Recreational Products Inc.</i> , 876 F.3d 1350, 1371 (Fed. Cir. 2017).....	11
<i>Audio MPEG, Inc. v. Dell, Inc.</i> , No. 2:15cv73 (E.D. Va. Nov. 16, 2017)	11
<i>Bayer Healthcare LLC v. Baxalta Inc.</i> , 989 F.3d 964 (Fed. Cir. 2021).....	1, 6, 7
<i>Bos. Sci. Corp. v. Nevro Corp.</i> , No. 1:16-cv-01163, 2021 WL 4262668 (D. Del. Sept. 20, 2021)	8
<i>Bushnell Hawthorne, LLC v. Cisco Sys., Inc.</i> , No. 1:18-CV-760, 2019 WL 8107921 (E.D. Va. Feb. 26, 2019)	8
<i>Charleston Area Med. Ctr., Inc. v. Blue Cross & Blue Shield Mut. of Ohio, Inc.</i> , 6 F.3d 243 (4th Cir. 1993)	6
<i>DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.</i> , 567 F.3d 1314 (Fed. Cir. 2009).....	9
<i>Enzo Biochem, Inc. v. Gen-Probe, Inc.</i> , 424 F.3d 1276 (Fed. Cir. 2005).....	12
<i>Erfindergemeinschaft UroPep GbR v. Eli Lilly & Co.</i> , No. 2:15-CV-1202-WCB, 2017 WL 2190055 (E.D. Tex. May 18, 2017)	9
<i>Evolved Wireless, LLC v. Apple Inc.</i> , No. 1:15-cv-00542, 2019 WL 8128550 (D. Del. Feb. 19, 2019).....	9

..

TABLE OF AUTHORITIES
(continued)

	Page
<i>Halo Elecs., Inc. v. Pulse Elecs., Inc.</i> , 579 U.S. 93 (2016).....	9
<i>i4i Limited Partnership v. Microsoft Corp.</i> , 598 F.3d 831 (Fed. Cir. 2010).....	12
<i>Intell. Ventures I LLC v. Symantec Corp.</i> , 234 F. Supp. 3d 601 (D. Del. 2017), <i>aff'd</i> , 725 F. App'x 976 (Fed. Cir. 2018).....	8
<i>Intuitive Surgical, Inc. v. Auris Health, Inc.</i> , No. 1:18-cv-01359, 2021 WL 3033396 (D. Del. July 19, 2021).....	7
<i>Myrick v. Prime Ins. Syndicate, Inc.</i> , 395 F.3d 485 (4th Cir. 2005)	6
<i>Norian Corp. v. Stryker Corp.</i> , 363 F.3d 1321 (Fed. Cir. 2004).....	8
<i>Price v. City of Charlotte, N.C.</i> , 93 F.3d 1241 (4th Cir. 1996)	6
<i>Reeves v. Sanderson Plumbing Prod., Inc.</i> , 530 U.S. 133 (2000).....	8
<i>Sprint Commc'ns Co., L.P. v. Atl. Broadband Fin., LLC</i> , No. 1:18-cv-00362, 2021 WL 982735 (D. Del. Mar. 16, 2021).....	9
<i>SRI Int'l, Inc. v. Cisco Sys., Inc.</i> , 14 F.4th 1323 (Fed. Cir. 2021)	6, 7
<i>SynQor, Inc. v. Artesyn Techs.</i> , 709 F.3d 1365 (Fed. Cir. 2013).....	6
<i>Vaporstream, Inc. v. Snap Inc.</i> , No. 2:17-cv-00220, 2020 WL 136591 (C.D. Cal. Jan. 13, 2020).....	8
<i>Wilhelm v. Blue Bell, Inc.</i> , 773 F.2d 1429 (4th Cir. 1985)	6

...

TABLE OF AUTHORITIES
(continued)

Page

STATUTES

35 U.S.C. § 298.....2, 5

OTHER AUTHORITIES

Fed. R. Civ. P. 50.....1, 2, 6, 12

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.