

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

ALTRIA CLIENT SERVICES, LLC,)	
)	
et al.,)	Civil Action
)	No. 1:20-cv-00393-LO-TCB
Plaintiffs,)	
)	June 10, 2022
v.)	9:13 a.m.
)	
RAI STRATEGIC HOLDINGS, INC.,)	
et al.,)	
)	
Defendants.)	
)	

**DAY 2 - MORNING SESSION
TRANSCRIPT OF JURY TRIAL PROCEEDINGS
BEFORE THE HONORABLE LEONIE M. BRINKEMA,
UNITED STATES DISTRICT COURT JUDGE**

APPEARANCES:

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1 it's just a more clear description what have we mean by "blind"
2 versus "through."

3 Q. During your work designing e-cigarettes have you
4 encountered blind holes?

5 A. Oh, yes. Yeah, we use all kinds of geometric features to
6 design all of our products, so blind holes, protrusions, ribs,
7 all of those things are commonly used in the industry.

8 Q. And you mentioned the prosecution history, and the jury's
9 heard a lot about that. Would you remind them what a
10 prosecution history is?

11 A. Right, so the patent file prosecution history, again, is
12 the back-and-forth between the applicant, in this case Philip
13 Morris, and the Patent Office, right, so they're discussing
14 language and terminology and things that need to be defined more
15 precisely in order to get the patent approved.

16 Q. Did Philip Morris discuss the blind hole requirement
17 during the '911 Patent prosecution history?

18 A. Yes, and actually by looking at some prior art, they
19 defined what a blind hole means.

20 Q. Tell the jury about the history of the blind hole
21 requirement in the '911 claims.

22 A. So originally in the patent application, the words "blind
23 hole" were not in there, but if you can see on the screen, what
24 I've added is some discussion of a prior art called Rose. I
25 think you saw an image of the Rose patent before.

1 So what happened is the patent examiner objected saying
2 that Rose disclosed cavity, and in Philip Morris's argument to
3 the Patent Office they defined what defines "non-blind." In
4 this case they're saying that the spaces are open or on the
5 sides, which means these features are non-blind. So basically
6 they're defining what "blind" means, which means a space that
7 has -- that is not open around the side.

8 Furthermore, they followed saying basically what the
9 patent examiner wrote is the opposite of what is claimed, so, in
10 other words, they defined in their own words during the patent
11 application process what "blind" what "blind hole" represents.

12 **Q.** Did the patent examiner point to something in the Rose
13 patent that he contended was a cavity?

14 **A.** He did, yes. If you remember the picture from Rose it's
15 got sort of these fingers that are inside the cavity, and,
16 again, they argued that because it had open sides, it was
17 non-blind.

18 **Q.** Did Philip Morris make those arguments about spaces with
19 open sides being non-blind more than once to the Patent Office?

20 **A.** They did, yes, multiple times.

21 **Q.** How are Philip Morris's arguments to the Patent Office
22 about blind holes relevant to your opinion here?

23 **A.** Well, again, Claim 1 of the claim language has the term
24 "blind hole," so it limits itself to the geometric features of
25 the patent to a blind hole.

1 does not infringe Claim 1 of the '911 Patent.

2 THE COURT REPORTER: (Reporter requests clarification.)

3 BY MR. MAIORANA:

4 Q. Please summarize for the jury your opinion regarding why
5 the Vuse Alto does not infringe Claim 1 of the '911 Patent.

6 A. So the Vuse Alto does not infringe Claim 1 of the '911
7 Patent because it doesn't meet two key requirements. One is it
8 does not have a blind hole. As I've shown you that rib, which
9 is designed purely to hold the gasket in place, has open sides
10 so it cannot form a cavity or a blind hole.

11 In addition, even if one were to assume it were a cavity
12 or a blind hole and took proper cross-sectional dimensions, the
13 largest dimension would not fall within the range of 0.5 or
14 1 millimeter. It's actually almost three times larger than what
15 would be in the claim limitation.

16 Q. Did you consider whether the Vuse Alto infringes
17 dependent claims 2, 11, and 12?

18 A. I did, yes.

19 Q. What opinions did you reach as to those claims?

20 A. So it had a little bit of a discussion about sort of
21 independent claims rather than dependent claims. In this
22 patent, Claim 1 is the independent claim, right, and then these
23 other asserted patents [sic], 2, 11 and 12 are dependent claims,
24 meaning they rely upon every requirement of Claim 1 and then
25 they add in some other additional feature or technology, right,