

EXHIBIT B

From: Smith, Alexis Adian <asmith@jonesday.com>
Sent: Tuesday, June 28, 2022 2:44 PM
To: Sandford, Brett (Bay Area); Weinand, Paul (BN); RJREDVA; cmolster@molsterlaw.com
Cc: #C-M PMIEDVA - LW TEAM
Subject: RE: Case No. 1:20-cv-00393-LMB-TCB - Injunctive Relief

Brett,

Thanks for getting back to us. We reiterate that, when you file your motion, you can represent that Reynolds does not oppose lifting the stay on injunction proceedings, and we agree that (absent a need for additional fact discovery) a briefing schedule of 21 days for your opening; 30 days for our opposition; and 14 days for your reply should suffice.

With regard to declarations, we understood your position this morning to be that, absent an invitation from the Court, PMP would not be offering expert declarations relating to its request for permanent injunction, whereas you do intend to use experts to support any motion for ongoing royalty. As we have stated repeatedly, Reynolds reserves the right to offer expert declarations on both issues, whether they are briefed together or separately.

As for factual evidence, we understand that PMP intends to rely solely on the materials you identify below, namely "evidence produced in this case, the ITC case (including any ITC briefing/decisions), and any information/documents available in the public record (regardless of date)." Reynolds cannot know what evidence it will need to rely upon in its opposition until we see what PMP actually files, especially since PMP has not told Reynolds what new evidence it intends to rely upon. Accordingly, we reserve all rights with respect to responsive evidence, including the right to seek additional fact discovery, if appropriate.

Regards,
Lexi

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From: Brett.Sandford@lw.com <Brett.Sandford@lw.com>
Sent: Tuesday, June 28, 2022 1:42 PM
To: Smith, Alexis Adian <asmith@jonesday.com>; Paul.Weinand@lw.com; RJREDVA <RJREDVA@jonesday.com>; cmolster@molsterlaw.com
Cc: pmiedva.lwteam@lw.com
Subject: RE: Case No. 1:20-cv-00393-LMB-TCB - Injunctive Relief

**** External mail ****

Chip, Lexi, and Jason,

Thanks for meeting and conferring this morning. In response to your question, we agree neither party will rely on internal company documents not produced in this case as part of the injunctive relief briefing. We understand the parties agree they may rely on any evidence produced in this case, the ITC case (including any ITC briefing/decisions), and any

information/documents available in the public record (regardless of date) for the briefing. This agreement does not preclude submitting declarations in support of the injunctive relief briefing. Please confirm. As discussed, if we do not hear from you by 6 pm ET, we will file our motion based on our understanding from the meet and confer.

Regards,

Brett M. Sandford

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From: Smith, Alexis Adian <asmith@jonesday.com>
Sent: Monday, June 27, 2022 2:55 PM
To: Sandford, Brett (Bay Area) <Brett.Sandford@lw.com>; Weinand, Paul (BN) <Paul.Weinand@lw.com>; RJREDVA <RJREDVA@jonesday.com>; cmolster@molsterlaw.com
Cc: #C-M PMIEDVA - LW TEAM <pmiedva.lwteam@lw.com>
Subject: RE: Case No. 1:20-cv-00393-LMB-TCB - Injunctive Relief

Brett,

Thank you for confirming the response time.

On your second point, we are now confused by what PMP intends. On June 24, we specifically asked for confirmation that PMP's "no further discovery" proposal meant that PMP would not be relying on facts that were not previously disclosed in the litigation. You responded shortly thereafter, confirming PMP's position as: "The parties will be free to rely on facts **that have been made available** after Philip Morris' injunctive relief claim was stayed, and admissions made by Reynolds and relevant exclusion/injunction discovery from the ITC investigation." Now, however, you appear to be saying that PMP can rely on any facts to support its motion, regardless whether those facts have ever been made available to Reynolds. Reynolds agrees that both sides can make use of evidence from the ITC proceedings. But if PMP is now saying that it intends to rely on wholly new facts that have never been made available to Reynolds to support PMP's motion, Reynolds does not agree to any proposal that would limit Reynolds's right to full and appropriate fact discovery.

Regards,
Lexi

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From: Brett.Sandford@lw.com <Brett.Sandford@lw.com>
Sent: Monday, June 27, 2022 11:38 AM
To: Smith, Alexis Adian <asmith@jonesday.com>; Paul.Weinand@lw.com; RJREDVA <RJREDVA@jonesday.com>; cmolster@molsterlaw.com
Cc: pmiedva.lwteam@lw.com
Subject: RE: Case No. 1:20-cv-00393-LMB-TCB - Injunctive Relief

**** External mail ****

Thanks for the response, Lexi.

First, we agree to your proposal that Reynolds has 30 days to respond to PMP's opening brief on injunctive relief. We disagree that injunctive relief and an ongoing royalty should be briefed together, and will note Reynolds' position in our motion.

Second, while it appears the parties are in agreement, to clarify, our proposal was/is that there is no need for further "formal discovery" but the parties can rely on any facts in the briefing (including but not limited to statements made by Reynolds in the ITC investigation), even if "not previously disclosed in this litigation" (and, if Reynolds believes that some further discovery becomes necessary, it can seek that relief at the appropriate time). Please confirm that Reynolds agrees.

Brett M. Sandford

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From: Smith, Alexis Adian <asmith@jonesday.com>

Sent: Monday, June 27, 2022 10:12 AM

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Subject: RE: Case No. 1:20-cv-00393-LMB-TCB - Injunctive Relief

Paul,

Thank you for the clarification, and for confirming that PMP will not rely on any facts to support its motion for a permanent injunction/ongoing royalty that were not previously disclosed in this litigation. If PMP departs from that commitment, Reynolds reserves all rights to seek further fact discovery.

As we stated before, when PMP files its motion, you may represent to the Court that Reynolds does not oppose lifting the stay on injunctive proceedings. As to the timing of briefing, Reynolds should have 30 days for its opposition given the significance of the issues and that PMP will have more than 30 days since the verdict to prepare its opening brief. Please confirm that you agree. Further, while it appears that PMP is refusing to take a position around the use of fact or expert declarations, we reiterate our intention to offer such fact and expert declarations as are appropriate to address PMP's filings.

As to the staging of briefing, it appears that we are at an impasse. We do not agree that the injunction request should be briefed separately from any request for an ongoing royalty; the issues are substantively intertwined, and it would be a waste of the Court's resources to split them up in the way you suggest.

Regards,
Lexi

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From: Paul.Weinand@lw.com <Paul.Weinand@lw.com>

Sent: Friday, June 24, 2022 1:28 PM

To: Smith, Alexis Adian <asmith@jonesday.com>; RJREDVA <RJREDVA@jonesday.com>; cmolster@molsterlaw.com

Cc: pmiedva.lwteam@lw.com

Subject: RE: Case No. 1:20-cv-00393-LMB-TCB - Injunctive Relief

**** External mail ****

Lexi,

Thank you for confirming you do not oppose our motion to lift the stay on the issue of injunctive relief. We will file our motion noting that Reynolds does not oppose. Below are our responses to the questions you raised.

First, while we disagree with your position that the merits of PMP's injunctive relief claim should be evaluated in light of Reynolds's affirmative infringement claims—which the Court has already held are irrelevant to PMP's infringement claims—and that the implementation of any injunction should be stayed pending the resolution of all claims and appeals in the case, those issues need not be addressed at this stage.

Second, Philip Morris intends to brief injunctive relief first and, if the Court denies such relief, then separately brief the issue of a compulsory license (subject to the Court's preference).

Third, Philip Morris takes no position on whether declarations, including expert declarations, are appropriate for injunctive relief briefing. Instead, we will seek the Court's guidance on whether any declarations would be helpful to the Court.

Fourth, our proposal that "no further discovery" is necessary refers to formal discovery (e.g., interrogatories, expert reports, depositions). The parties will be free to rely on facts that have been made available after Philip Morris' injunctive relief claim was stayed, and admissions made by Reynolds and relevant exclusion/injunction discovery from the ITC investigation.

Fifth, we agree to a 30-page limit for opening and responsive briefing, provided that Philip Morris' reply is 20 pages. We disagree that Reynolds should have 40 days to respond, but will agree to a 21-day response period (with Philip Morris having 14-days to reply, as proposed). Please confirm this is acceptable.

Please provide Reynolds' positions on the above by 2 pm ET on Monday. If we do not hear from you by then, we will file our motion.

Thanks,
Paul

Paul Weinand

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From: Smith, Alexis Adian <asmith@jonesday.com>

Sent: Friday, June 24, 2022 11:27 AM

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Subject: RE: Case No. 1:20-cv-00393-LMB-TCB - Injunctive Relief

Paul:

We do not object to PMP's motion to lift the stay on the injunction claim, but we reserve the right to argue that the merits of the claim should be evaluated in light of Reynolds's affirmative infringement claims and that the implementation of any

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