

# EXHIBIT 1

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

<b>PHILIP MORRIS PRODCUTS S.A.,</b>	)	
	)	
	)	Civil Action
<b>Counterclaim Plaintiff,</b>	)	No. 1:20-cv-00393-LMB/TCB
	)	
<b>v.</b>	)	June 8, 2022
	)	1:55 p.m.
<b>R.J. REYNOLDS VAPOR COMPANY,</b>	)	
	)	
	)	
<b>Counterclaim Defendant.</b>	)	
	)	
	)	

**VOLUME 1 - AFTERNOON SESSION  
TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE LEONIE M. BRINKEMA,  
UNITED STATES DISTRICT COURT JUDGE**

APPEARANCES:

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1 Q. Let's go to the next demonstrative, Dr. Abraham,  
2 Number 66. So in summary, what do you find about this fifth  
3 part of Claim 1, the one that talks about the blind hole for the  
4 Alto?

5 A. I find that the Alto has the fifth part of Claim 1.

6 Q. And that gets us, Dr. Abraham, again to the last, the  
7 sixth part of Claim 1. What do you find for the Alto on that  
8 element?

9 A. Well, I investigated this claim as well, and I found that  
10 the Alto has this part of the claim as well.

11 Q. And let's show the jury how you know that, Dr. Abraham.

12 MR. SOBOLSKI: Let's please turn to Demonstrative 67.

13 A. So on your screen you see Figure 4 from the patent, and  
14 you see an image from the CAD file, PX 265B, and remember the  
15 patent tells us how to make the measurement. It tells us that  
16 you measure it from one side to the other of the cavity, and I'm  
17 showing -- I've added the yellow horizontal lines to show that  
18 the -- to show how I'm going to make the measurement on the Alto  
19 product, and you'll also know -- notice that the Alto has the  
20 same arrangement of cavities, one on top and one below, so it's  
21 got two cavities just like Figure 4 of the patent, but I took  
22 that measurement that I'm showing on the screen.

23 BY MR. SOBOLSKI:

24 Q. Let's turn to Slide 68, that demonstrative, sir, and  
25 explain to the jury how you confirmed that the -- what you've

1 identified as the blind hole in the Alto has the sizes that the  
2 patent requires?

3 **A.** Well, I made the measurements, and you can see my  
4 measurement on the screen at PX 265B. On the right-hand side is  
5 PX 265A, and my measurement is less than 1 millimeter, which is  
6 in the range claimed by the cavity, and on the right-hand side  
7 you can see that I measured perpendicular to the longitudinal  
8 direction.

9 **Q.** Dr. Abraham, when you were testifying about the Solo and  
10 you were talking about the size of the cavity, you mentioned  
11 that there was a dispute from Reynolds about that. Do you  
12 recall that?

13 **A.** I do.

14 **Q.** What about for the Alto? Does Reynolds dispute the size  
15 of what you've identified as the Alto cavity, the way to make  
16 the measurement?

17 **A.** They do dispute it.

18 **Q.** Explain that to the jury, please.

19 MR. SOBOLSKI: Let's bring up Slide 69.

20 **A.** Well, remember I was talking about the so-called  
21 capillaries in the context of trees, essentially little tubes  
22 that bring the water up to the leaves? That's how you make the  
23 measurement. You make the measurement from wall -- from one  
24 side of the cavity to the other side, from one wall to the other  
25 wall. That's how the patent tells us how to do it; that's how

1 these cavities are measured, and that's how I did my  
2 measurement.

3 Now, Reynolds's expert, Mr. Kodama, made a different  
4 measurement. His measurement does not go from one wall to  
5 another, and that's why I disagree with his measurement.

6 Q. And just so it's clear, in Slide 69, the measurement,  
7 that Reynolds's expert, that gentleman performed, that's what  
8 you've indicated in red; is that correct?

9 A. That is right, and it's a -- I just want to say the name  
10 of the exhibit, it's PX 265B, but, yes, his measurement is in  
11 red and my measurement is in yellow.

12 Q. Thank you, Dr. Abraham.

13 MR. SOBOLSKI: Let's go to Demonstrative 70. Go back to  
14 the claims.

15 BY MR. SOBOLSKI:

16 Q. In sum, what did you find on that last element of Claim 1  
17 for the Alto.

18 A. The Alto meets the last element of Claim 1.

19 Q. And let's turn to the -- to dependent Claim 2, sir. Tell  
20 the jury what you conclude.

21 A. So I found in my investigation that the Alto has an  
22 aerosol-generating system, according to Claim 1, wherein at  
23 least one cavity contains a capillary material.

24 Q. And tell the jury a little bit about what that capillary  
25 material element means in the context of the '911 Patent and the

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