

Exhibit 19

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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PHILIP MORRIS PRODUCTS S.A.,: Civil Action No.:
                               : 1:20-cv-393
                               :
        Plaintiff,           :
                               :
    versus                   : Thursday, July 21, 2022
                               :
        R.J. REYNOLDS VAPOR COMPANY,:
                               :
        Defendant.         :
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The above-entitled motions hearing was heard before the Honorable Leonie M. Brinkema, United States District Judge. This proceeding commenced at 10:43 a.m.

A P P E A R A N C E S:

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1 is the royalty, because I think that's one that you may have
2 some issues about, although obviously there were royalty
3 numbers discussed during the trial.

4 MR. SANDFORD: Correct, Your Honor.

5 THE COURT: All right. Let me hear from the
6 Reynolds folks what your opposition to injunctive relief
7 would be. And, again, I'm not forcing you to -- I just want
8 to get a preview. Give me a preview of what you think is
9 coming down the pike.

10 MR. BURNETTE: Yes, Your Honor. Jason Burnette
11 for Reynolds.

12 We have been thinking about it. This is a very
13 important issue for my client. The Alto product is its most
14 successful product. And, again, this is -- R.J. Reynolds
15 Vapor Company is the company that sells e-cigarettes. We're
16 not talking about other Reynolds' entities in conventional
17 cigarettes. So the products that they seek to exclude from
18 the U.S. market in total would create a huge hardship for my
19 client.

20 Our argument will be that the basis that has been
21 put forward so far in the interrogatory responses on the
22 injunction claim relate to Philip Morris's, or PMP's IQOS
23 product and the VEEV product, which you may recall from
24 trial. The IQOS product has been excluded from the U.S.
25 market under the ITC's ruling. And Judge O'Grady's order

1 are statutorily stayed, but they're trying to use their
2 other products to prevent us from selling our products in
3 the U.S. when that would create a great hardship to R.J.
4 Reynolds Vapor, and there's no basis for it because there's
5 not a current or imminent hardship to PMP.

6 THE COURT: What if that were to change, however?
7 What if the Federal Circuit reverses the ITC and now Philip
8 Morris can bring those products into the United States? So
9 now that there's more of an argument that they can make that
10 the infringing product that you're selling does impact, to
11 some degree, the ability of them to make their sales?

12 MR. BURNETTE: It would not affect the other
13 arguments we would make under the balance of the hardships
14 and the four factors of the *eBay* test. But the argument I
15 just articulated would be far weakened by the fact that IQOS
16 could be sold in the United States.

17 THE COURT: All right.

18 MR. BURNETTE: But the issue is, you heard the
19 evidence at trial about these companies being competitors.
20 The companies are competitors, but these are not competing
21 products. The IQOS product is a heat, not burn, product.
22 And the Alto and the Solo are e-cigarette products, they use
23 vapor and aerosol. The IQOS product takes actual tobacco,
24 heats it, but doesn't burn it, so that it creates a tobacco
25 vapor.

1 In some ways they're similar, because they're
2 designed to be alternatives to conventional cigarettes, but
3 they're not competing products. So even if IQOS was sold in
4 the United States, we don't think PM can show the
5 competitive harm necessarily for the exceptional remedy of
6 an injunction.

7 THE COURT: All right. Now, of course if an
8 injunction were not available to Philip Morris, then based
9 on the jury verdict, they're certainly entitled to a
10 royalty. Because I mean, again, they found your product
11 infringes their intellectual property, and they clearly have
12 a right to compensation for your use of their intellectual
13 property without their permission.

14 MR. BURNETTE: Yes. And one of the eBay factors
15 is whether there is an adequate remedy at law in the -- with
16 monetary damages.

17 And PM in this case asked for a damages amount
18 based on a royalty rate of .6 percent for the '265 patent,
19 2 percent for the '911 patent. The jury accepted that
20 wholesale. They accepted PM's request. So PM's own sense
21 of what amount -- what a royalty rate would be sufficient to
22 compensate it for past infringement was accepted by the
23 jury. I think it will be our position that that should be
24 the ongoing royalty rate because that was the rate put
25 forward by Philip Morris. I understand they may say things

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