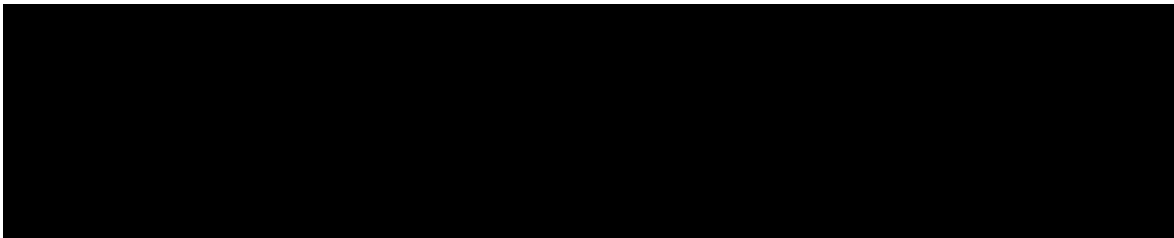


Exhibit 5



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

PHILIP MORRIS PRODUCTS S.A.,

Plaintiff,

v.

R.J. REYNOLDS VAPOR COMPANY,

Defendant.

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

DECLARATION OF DR. MOIRA GILCHRIST

I, Dr. Moira Gilchrist, declare as follows:

1. I am the Vice President of Strategic and Scientific Communications at Philip Morris International (“PMI”) and am employed by Philip Morris Products S.A. (“Philip Morris”). Philip Morris owns the ’265 and ’911 patents that are being asserted in this case.

2. Philip Morris is a Swiss company headquartered in Neuchâtel, Switzerland. It is a global leader and pioneer in creating and commercializing smoke-free alternatives to combustible cigarettes (“CCs”). In fact, Philip Morris has publicly committed to transitioning away completely from manufacturing and selling CCs to only offering smoke-free products. To my knowledge, Philip Morris is the only tobacco company in the world to make such a commitment.

3. To accomplish this unprecedented smoke-free transformation, since 2008, Philip Morris has invested billions of U.S. dollars in the development, scientific substantiation, manufacturing, commercialization, and continuous innovation of smoke-free products. Other Philip Morris-related entities have made additional investments in such pursuits.



4. Philip Morris' above-described investment has yielded a number of patents. Patenting its innovations is important to the company because it is how Philip Morris protects its ideas and R&D in both the short term and the longer term.

5. For example, it may take many years to commercialize products after the company develops a particular technology. A patent ensures that Philip Morris can choose when and how its innovation is introduced and protects against the risk of competitors unfairly appropriating that innovation in the interim. The ability to do this is key, as first-mover status in a product category, technology, or market is incredibly valuable to Philip Morris.

6. It also is important for the success of Philip Morris' smoke-free transformation to maintain and build its brand, reputation, and good will as a leader and innovator in the non-combustible space.

7. All of Philip Morris' smoke-free alternatives fall under the IQOS brand. This includes, but is not limited to, the IQOS heat-not-burn device ("HNB") and the IQOS VEEV e-cigarette. Any damage done to the IQOS brand overall damages both existing and planned IQOS products.

8. I understand that the jury in the above-captioned case found that the cartridges Reynolds sells in the United States for its VUSE Alto and VUSE Solo G2 e-cigarettes use Philip Morris' technology claimed in the '265 and '911 patents, respectively. Such use teaches the U.S. market to associate that innovative technology with Reynolds, not Philip Morris. This lost opportunity to further establish itself as an innovator through the technology Philip Morris developed has diluted, and continues to dilute, the IQOS and Philip Morris brands, consumer loyalty, reputation, and good will.

[REDACTED]

9. Reynolds' use of Philip Morris' technology in the cartridges for the VUSE Alto and VUSE Solo G2 e-cigarettes also took away sales from the IQOS HNB, and consumables and accessories related thereto, during the business-critical time of its U.S. launch (beginning in September 2019), causing financial harm to Philip Morris. Philip Morris International Management S.A., which was merged into Philip Morris in April 2019, contracted with Altria Client Services LLC ("Altria") to sell and distribute in the U.S. market those IQOS HNB-related products. [REDACTED]

[REDACTED]

[REDACTED]

10. In addition to harm done to Philip Morris involving the IQOS HNB, Reynolds' past, present, and future U.S. sales of cartridges for Reynolds' VUSE Alto and VUSE Solo G2 e-cigarettes inhibit the success of the IQOS VEEV. The IQOS VEEV already is offered in multiple countries, and is making significant commercial strides. For example, [REDACTED]

[REDACTED] Philip Morris has announced plans for expansion into additional markets, including the U.S. market.

11. By the time Philip Morris introduces its IQOS VEEV in the United States, however, the market will no longer view the technology claimed in the '265 and '911 patents as innovative, given Reynolds' years of use. Such a consequence illustrates yet another lost opportunity for Philip Morris to benefit from its own innovations, resulting in further erosion of the IQOS and Philip Morris brands, consumer loyalty, reputation, and good will.

12. The above-described harms caused by Reynolds' past, present, and future use of Philip Morris' technology are particularly acute because they have benefitted, and continue to benefit, the company's primary competitor, Reynolds, in a market in which Philip Morris has sold

[REDACTED]

and/or plans to sell competing smoke-free alternatives. Indeed, through such use, Reynolds has gained a significant share of the U.S. non-combustible market, making it more difficult for Philip Morris to obtain successful entry into that same market for the IQOS HNB and the IQOS VEEV—both of which have competed and will compete with Reynolds’ VUSE Alto and VUSE Solo G2 e-cigarettes.

13. Despite the challenges presented by Reynolds’ use of Philip Morris’ technology, the company continues to commit substantial resources to enable a U.S. launch of IQOS VEEV.

[REDACTED]

14. [REDACTED]

[REDACTED]

15. [REDACTED]

[REDACTED] plans to submit that application to FDA in Spring 2023.

16. [REDACTED]

[REDACTED]

17. Philip Morris also is taking steps to begin manufacturing IQOS HNBs and/or components thereof in the United States. Philip Morris expects such production to begin by the first half of 2023.

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