

# Exhibit 13

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

<b>PHILIP MORRIS PRODCUTS S.A.,</b>	)	
	)	
<b>Counterclaim Plaintiff,</b>	)	Civil Action
	)	No. 1:20-cv-00393-LMB/TCB
<b>v.</b>	)	
	)	June 9, 2022
<b>R.J. REYNOLDS VAPOR COMPANY,</b>	)	2:05 p.m.
	)	
<b>Counterclaim Defendant.</b>	)	
	)	
	)	

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

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1 their Vuse product line. The e-vape products of the Vuse  
2 product line was covered in that license. That's basically the  
3 same products here where we have the Solo and Alto, so same  
4 covered products, definition, and then the scope is  
5 nonexclusive.

6 You know, once again, it's only a use license. You're  
7 not getting the ownership rights; you're just getting  
8 nonexclusive rights to use. And so all these terms I matched up  
9 from Fontem-Reynolds to the hypothetical so I know that I'm  
10 getting a closer match to what the royalty will be if we use  
11 that as a baseline.

12 **Q.** How did the commercial relationship between -- at the  
13 time of the execution of the Fontem agreement match up with the  
14 hypothetical in this case?

15 **A.** Well, on one hand, there's some similarities; on the  
16 other hand, it's very different. And so on first blush, Fontem  
17 and Reynolds were competitors because Fontem was owned by  
18 Imperial, and you study the market for the e-cigarettes,  
19 Imperial is a big company.

20 So on first glance in Factor 5 you say it's comparable to  
21 what we have here, which is Reynolds and Philip Morris, but in  
22 Factor 4, which I'll get to a little bit later, here with Philip  
23 Morris and Reynolds, I think there's a very different Factor 4  
24 about licensing policies because they really are, as we've heard  
25 in trial, head-to-head, and Philip Morris would not want to

1 license Reynolds, so it's different.

2 Q. Let's go to Slide 15, and again we have the cover page of  
3 PX 125, which is the Reynolds agreement. Once you determined  
4 that economic comparability, how did you go about using this  
5 agreement in your analysis?

6 A. Well, once you get through some of the foundational  
7 comparisons on the economic issues, you have to confront -- an  
8 important issue is what's the consideration? And royalties can  
9 come in different forms. This is a lump sum royalty,  
10 \$79 million, and I had to ask the issue, can I unpack that  
11 \$79 million? Can I get behind it and figure out like what went  
12 into it?

13 And so that was something I have done, and I've done that  
14 for 30 years. I go into licenses and I say, can you understand  
15 the inputs, because ultimately when you pay a royalty amount,  
16 whether it runs over time or is paid up front, it's a function  
17 of use, what are the covered products, what will the use be,  
18 best expectations, and then, secondarily, what do you pay on a  
19 per unit or percent of net sales basis?

20 So you have the basis, or royalty base, times a royalty  
21 rate gives you the royalty amount. And the form of royalty is  
22 just something that the negotiators get to and say, "Sometimes  
23 we'll just let it run because that's what we want to do,"  
24 sometimes they want to say, "This has been sort of good, let's  
25 just be done with each other," and they pay an amount and

1 Solo and the Alto, how they benefited from using these patents,  
2 and so if there is an ease of use or customer experience that's  
3 enhanced with these patents, we want to examine that and  
4 potentially upward adjust the royalty rate.

5 **Q.** Okay. Let's go to Slide 31, Mr. Meyer. And you've  
6 titled the slide, "No Design-Arounds for Non-Infringing  
7 Alternatives."

8 In the context of Georgia-Pacific Factors 9 and 10, how  
9 does the absence of design-arounds or non-infringing  
10 alternatives influence your opinion?

11 **A.** Well, if you have design-arounds, you can come into the  
12 negotiation as the licensee, as Reynolds, and say, well, we  
13 really don't need your patents because we can do it this other  
14 way, and we've determined that our sales will not go down, and  
15 it won't cost us anything that's not economic. But we're in a  
16 situation in this case where we don't have that. The assumption  
17 we have is that there's no design-around on these two patents,  
18 so that puts them -- that's a relevant factor in 9 and 10.  
19 There's no design-arounds in this case.

20 **Q.** Okay. And the other part of Factors 9 and 10 that you  
21 mentioned are the consumer benefits. Looking at Slide 32, we  
22 have PX 315. Can you just explain to the jury what you're  
23 showing here?

24 **A.** Well, I was attempting to go from the inventions to the  
25 business records of Reynolds and see if they sort of identify or

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