

# EXHIBIT 58

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

RAI STRATEGIC HOLDINGS, INC. and  
R.J. REYNOLDS VAPOR COMPANY,

Plaintiffs and Counterclaim Defendants,

v.

ALTRIA CLIENT SERVICES LLC; PHILIP  
MORRIS USA, INC.; and PHILIP MORRIS  
PRODUCTS S.A.,

Defendants and Counterclaim Plaintiffs.

Case No. 1:20cv00393-LO-TCB

**RAI STRATEGIC HOLDINGS, INC. AND R.J. REYNOLDS VAPOR COMPANY'S  
OBJECTIONS AND RESPONSES TO ALTRIA CLIENT SERVICES LLC, PHILIP  
MORRIS USA, INC., AND PHILIP MORRIS PRODUCTS S.A.'S FIRST SET OF  
INTERROGATORIES (NOS. 1-11)**

Pursuant to Federal Rules of Civil Procedure 26 and 33, RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company (collectively, "Reynolds") hereby respond to Altria Client Services LLC, Philip Morris USA, Inc., and Philip Morris Products S.A.'s (collectively, "Defendants" or "Counterclaim Plaintiffs") First Set of Interrogatories (Nos. 1-11) as follows.

**PRELIMINARY STATEMENT**

Reynolds has not yet completed discovery relating to this case, and while it has made reasonable investigation for responsive information, its investigation of the facts is continuing. Reynolds objects to and will respond to these interrogatories as it interprets and understands each interrogatory as set forth. Reynolds's objections and responses to these interrogatories are made without prejudice to Reynolds's right to supplement, correct, or otherwise modify the objections and responses to the extent permitted under the Federal Rules of Civil Procedure, the Local Rules

At this point in the case, Reynolds has not yet determined the full extent and/or nature of the injuries it has suffered and continues to suffer as a result of Defendants' infringement of each RJR Asserted Patent. Reynolds seeks damages to the extent permissible under the applicable laws for Defendants' infringement and, at a minimum, a reasonable royalty based on Defendants' sales of the Accused Products, together with interest and costs as fixed by the Court. Reynolds also intends to seek treble damages and attorneys' fees due to Defendants' willful infringement of the RJR Asserted Patents. As Reynolds receives information and documents from Defendants during discovery, Reynolds will supplement its response to this interrogatory in accordance with the Court's Scheduling Order, the deadlines related to expert discovery, and the Federal Rules of Civil Procedure.

Reynolds contends that its VUSE products and Defendants/Counterclaim Plaintiffs' IQOS products are all part of a category known as "potentially reduced-risk" products, and that each side's products compete.

Reynolds further states that the hypothetical negotiation date is the date when infringement began, which is subject to further investigation and discovery concerning when the Defendants/Counterclaim Plaintiffs first imported, sold, or offered to sell the IQOS products in the United States. The damages time period will also begin at the date of first infringement, which will be the subject of further discovery from Defendants/Counterclaim Plaintiffs.

Reynolds states that the following witnesses are generally knowledgeable about the RJR Accused Products, the facts concerning the market for those RJR Accused Products, and financial information concerning those RJR Accused Products: Kara Calderon (Reynolds's marketing and distribution of the RJR Accused Products) and Nick Gilley (Reynolds's financial information associated with the manufacture and sale of the RJR Accused Products).

**INTERROGATORY NO. 8:**

Describe the complete factual and legal basis for Your contention that You are entitled to any injunctive relief, including any irreparable injury You have allegedly suffered, and why such injury is irreparable, why remedies available at law, such as monetary damages, are inadequate to compensate for that injury, why, considering the balance of hardships between You and Defendants, a remedy in equity is warranted, why the public interest would not be disserved by a permanent injunction, and identify the three (3) individuals most knowledgeable of the foregoing, and all Documents and things (by Bates number) You intend to rely on to support Your contention.

**OBJECTIONS:**

Reynolds objects to this interrogatory as premature because it seeks information that is the subject matter of expert reports and discovery that are not yet due. Reynolds objects to this interrogatory to the extent that the response will require information and discovery from Defendants/Counterclaim Plaintiffs that has not yet been made available to Reynolds. Reynolds objects to this interrogatory as unduly burdensome to the extent it seeks an identification of “all” Documents and things (by Bates number) Reynolds intends to rely on to support its contention that it is entitled to injunctive relief. Reynolds objects to this interrogatory as composed of multiple discrete subparts under Fed. R. Civ. P. 33, which causes this interrogatory to count as more than one interrogatory. Reynolds objects to this interrogatory to the extent it seeks a legal conclusion.

**RESPONSE:**

Subject to and without waiving its objections, Reynolds responds as follows:

Reynolds will be irreparably harmed if Defendants/Counterclaim Plaintiffs are allowed to continue infringing the Asserted Patents after a finding in Reynolds’s favor on infringement and validity. Such a compulsory license would force Reynolds to endure competition from an adjudicated, infringing product, over the entire remaining life of the asserted patents, which do not expire for many years. The harm to Reynolds’s competitive position over the remaining lifetime of the Asserted Patents is not quantifiable and, therefore, not compensable in money damages—it is not possible to determine, for example, what Reynolds’s sales of its competing products would

be in the absence of infringing competition from Defendants/Counterclaim Plaintiffs' IQOS products. The balance of harms favors Reynolds, because Defendants/Counterclaim Plaintiffs would, in that situation, have no right to continue using Reynolds's patented technology. And the public interest would not be disserved by respecting Reynolds's patent rights and enforcing its right to exclude infringing competition. Reynolds also reserves the right to seek permanent injunctive relief for the patents asserted in the ITC action, after the stay is lifted.

**INTERROGATORY NO. 9:**

For each RJR Asserted Claim, describe in detail and identify the facts and circumstances of the conception and reduction to practice of the purported claimed invention, and any intervening diligence, including, without limitation, the earliest date by which the inventors conceived of the claimed invention, the earliest date by which the inventors reduced to practice the claimed invention, where and when such conception, reduction to practice, or diligence occurred, all Documents that refer or relate to such conception, reduction to practice, or diligence, all Persons involved in such conception and reduction to practice of the claimed invention, and any intervening diligence, and their role in such conception, reduction to practice, or diligence, state all factual and legal bases supporting, contradicting, or otherwise relating to any alleged conception and reduction to practice; and identify the three (3) most knowledgeable Persons about the facts described in Your response.

**OBJECTIONS:**

Reynolds objects to this interrogatory as overly broad to the extent it seeks an identification of "all" Documents that refer or relate to the conception and reduction to practice of the claimed invention for each RJR Asserted Claim and "all" factual and legal bases "supporting, contradicting, or otherwise relating to" such conception and reduction to practice. Reynolds objects to this interrogatory as composed of multiple discrete subparts under Fed. R. Civ. P. 33, which causes this interrogatory to count as more than one interrogatory. Reynolds objects to this interrogatory to the extent it seeks a legal conclusion.

**RESPONSE:**

Subject to and without waiving its objections, Reynolds responds as follows:

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