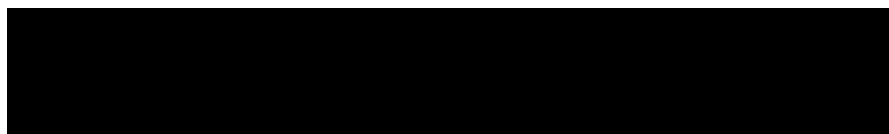


EXHIBIT 65



1 UNITED STATES DISTRICT COURT

2 FOR THE EASTERN DISTRICT OF VIRGINIA

3 ---oOo---

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


5 Plaintiffs and CounterClaim Defendants,

6 vs. No. 1:20cv00393-LO-TCB

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

10 Defendants and Counterclaim Plaintiffs.

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11
12
13 
14 VIDEOTAPED REMOTE CONFERENCING DEPOSITION OF
15 MOIRA GILCHRIST

16
17
18
19 Stenographically reported by NICOLE HATLER

20 California CSR No. 13730

21 June 18, 2021

22
23
24
25 JOB NO. 195611

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1 brand, and that umbrella brand, if you like, is --
 2 is IQOS.
 3 And so, that's been the -- the approach
 4 that we've taken to the development, the
 5 assessment, the regulatory authorization, and the
 6 commercialization of -- of all of our products is
 7 we -- our aim is to be the leader of this category,
 8 and we are, right now, the leader of this category.
 9 So we always went above and beyond what we
 10 thought would delight consumers, solving problems
 11 that they had seen with -- with other products, and
 12 creating a brand that they felt loyal to, and
 13 nesting all of our products under that brand to
 14 give them the -- the -- the familiarity and
 15 knowledge that they were going to be getting the
 16 best quality products that are available with the
 17 best technology and innovation in the smoke-free
 18 space.
 19 So that was really the -- the ethos that
 20 we've had since -- since the beginning, and you
 21 know, we have talked about this publicly very
 22 often. So, you know, in -- in terms of what's
 23 happened with -- with other products that have --
 24 you know, are using, for example, our intellectual
 25 property, what that has is an effect of putting

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1 of Vuse products allegedly using your patents have
 2 done some concrete harm to the IQOS brand in the
 3 United States?
 4 A. So what -- what type of examples are you
 5 looking for?
 6 Q. Well, it's -- it's your company statement
 7 that Vuse products being sold has harmed the IQOS
 8 brand in the United States. I just want to know
 9 what evidence there is that that's true, if any.
 10 A. So, I mean, let me -- let me take this from
 11 two -- two angles. One is the technology angle and
 12 that's really a future-looking thing. But, you
 13 know, Vuse is on the market with technology that
 14 we -- we developed and we patented because we knew
 15 that it was unique and -- and really solved a
 16 number of consumer issues.
 17 For example, the mouth leakage, which is a
 18 common problem among electronic cigarettes that are
 19 available in the United States, we worked hard to
 20 create a technology that could -- could prevent
 21 that from happening. And you can imagine from a
 22 consumer perspective, that's a value-adding
 23 proposition.
 24 So now that's on the market with the Vuse
 25 technology using our patent so it's become

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1 something on the market and making it -- making it
 2 everyday, and something that we're deprived of
 3 being able to -- to really utilize under our own
 4 brand. And to give that feeling that the product
 5 is part of the IQOS ecosystem, if you'd like.
 6 So I think if you were to look at it from
 7 that perspective, that's, I think, what diluting
 8 the brand and diluting the goodwill would mean.
 9 Q. So the brand that we're talking about is
 10 the brand IQOS; is that right?
 11 A. The umbrella brand IQOS, under which the
 12 IQOS heated-tobacco fits, the VEEV fits, the IQOS
 13 TEEPS fits, and -- and so on.
 14 Q. And in the United States, the only product
 15 using that brand is the IQOS heated tobacco
 16 product, at least so far, correct?
 17 A. At this point in time on June the 18th,
 18 2021, in the United States, it's the IQOS heated
 19 tobacco product, but we have plans for our IQOS
 20 VEEV product to -- to go through the PMT process
 21 with FDA.
 22 Q. And I do have some questions on that for
 23 you later, but let's stick with IQOS heated tobacco
 24 product for now.
 25 What evidence are you aware of that sales

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1 somehow, a normal thing. It's -- when -- when we
 2 bring it on the market once we receive PMT
 3 authorization, if FDA decides to -- to do that,
 4 then this no longer will be a unique feature that's
 5 unique to an IQOS smoke-free product under that
 6 brand umbrella. So that's -- that's one -- one
 7 part.
 8 I think the -- the other thing in terms of
 9 the -- the branding, I think, IQOS stands for
 10 quality, it stands for science, and it stands for
 11 following the rules and the regulatory process.
 12 And what we see with product like Vuse is that
 13 it's -- it's on the market without standing for
 14 science, without having gone through the -- the
 15 rules, and I think this is somehow -- has the
 16 potential to be confusing for -- for consumers.
 17 So I think there are multiple different
 18 things that -- that can be determined as being a
 19 harm from -- from Vuse being on the market, from --
 20 from both the immediate and the longer term --
 21 historical and immediate and a future perspective
 22 for the umbrella IQOS brand.
 23 Q. So Vuse being on the market -- I'm not
 24 following how Vuse being on the market as Vuse
 25 could be confusing to consumers or do any harm to

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1 IQOS. Put aside the technology, we'll discuss that
 2 in a minute. But, you know, you said a minute ago
 3 that Vuse is on the market and IQOS has played by
 4 the rules and Vuse isn't playing by the rules.
 5 How can that -- how can that harm IQOS?
 6 Isn't that something that IQOS can use to its
 7 advantage by marketing to consumers that IQOS is
 8 playing by the rules and Vuse isn't?
 9 MR. REISER: Objection. Vague; compound;
 10 argumentative.
 11 THE WITNESS: Do you want to separate that
 12 out into pieces?
 13 BY MR. VITT:
 14 Q. Yeah. How does Vuse's behavior and
 15 Reynolds's behavior regarding Vuse harm the IQOS
 16 brand, setting aside the technology issue which I
 17 want to discuss separately?
 18 A. Okay. There's tremendous confusion among
 19 adult smokers in the United States today, and
 20 that's been caused by a number of different things.
 21 There's a -- there's a battle going on in the
 22 public health community about the approach of
 23 tobacco harm-reduction, for example.
 24 You have companies and -- and -- and -- and
 25 products being -- being pointed to as being part of

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1 and so on.
 2 Q. And this confusion you're talking about --
 3 this confusion doesn't relate at all to the IQOS
 4 name itself. Nobody's confused that IQOS isn't
 5 your brand, for example. It's more confusion in
 6 the category of harm-reduction.
 7 Am I understanding you correctly?
 8 A. So the -- the confusion and the, I would
 9 say, opposition to harm-reduction and
 10 harm-reduction products because of some of the
 11 challenges associated with electronic cigarettes,
 12 whether it be youth use, e-valy, whatever, that has
 13 bled over into the IQOS brand and the -- and the
 14 discussions about IQOS. And our -- our media
 15 spokesperson get questions about that all the time
 16 even though the IQOS products has nothing to do
 17 with any of these issues.
 18 Q. Let's talk about the technology aspect of
 19 this. I think you said that Vuse is using
 20 technology that PMP patented, and of course, that's
 21 your company's allegation in the lawsuit.
 22 Am I right so far?
 23 A. That's correct.
 24 Q. And the harm that you see coming from that
 25 is that it will -- that will make that technology

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1 the problem. So the problem of youth use of
 2 electronic cigarettes is widely known and is
 3 causing confusion among the general public about
 4 the viability of tobacco harm-reduction as a
 5 strategy to -- to help reduce smoking-related
 6 disease and death.
 7 I believe that that confusion has been
 8 propagated through to IQOS because. For example,
 9 we have no worrisome levels of youth use whatsoever
 10 because media spokesperson -- I get question about
 11 youth use of IQOS all the time because other
 12 products on the market have been advertising widely
 13 on the television, have been problematic in -- in
 14 terms of youth use, and that has bled over into
 15 doubts about the IQOS product and the IQOS brand
 16 overall, which are completely unjustified.
 17 Q. And you're blaming Vuse for that?
 18 A. Vuse is one of the products which has been
 19 pointed to as being part of the problem of -- of,
 20 for example, youth use of electronic cigarettes.
 21 Q. And what other products have been pointed
 22 to as part of the problem?
 23 A. There are other products, JUUL has been
 24 mentioned, there have been things like the -- I've
 25 forgotten what it's called, the disposal puff bars

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1 seem like a normal thing so that when PMP
 2 introduces its VEEV product, it won't get credit
 3 for this -- this technology advance that it's
 4 patented.
 5 Do I have that about right?
 6 A. Well, that's -- that's part of it. So --
 7 so the -- you -- - you lose the unique selling
 8 proposition because somebody has already had it on
 9 the market, so when -- when we bring it to the
 10 market it's no longer a unique feature.
 11 But it also prevents us from being able to
 12 further build up the -- the brand -- you know, the
 13 brand itself and the goodwill associated with that
 14 brand because the IQOS brand stands for innovation
 15 and it stands for technology and it stands for
 16 science. And we're -- we're deprived, basically,
 17 of the ability of -- of using this patented
 18 technology as part of the overall what IQOS stands
 19 for, because it is already on the market and
 20 through the Reynolds Vuse product.
 21 Q. Do you know whether the IQOS VEEV
 22 product -- well, let me back up.
 23 IQOS's -- I'm sorry.
 24 PMP's IQOS VEEV product is an e-cigarette
 25 product right?

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