

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

| | | |
|------------------------------|---|-----------------------|
| PHILIP MORRIS PRODUCTS S.A., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | 1:20-cv-393 (LMB/WEF) |
| |) | |
| R.J. REYNOLDS VAPOR COMPANY, |) | |
| |) | |
| Defendant. |) | |

ORDER

On April 21, 2023, defendant R.J. Reynolds Vapor Company (“Reynolds”) filed a Motion for Entry of Judgment Under Rule 54(b) (“Motion”) [Dkt. No. 1478], which it indicates plaintiff Philip Morris Products S.A. (“Philip Morris”) opposes. Because Reynolds’ thirty days in which to file a notice of appeal will expire on May 1, 2023, it is hereby

ORDERED that Philip Morris file any opposition to the Motion by close of business on Tuesday, April 25, 2023.

In addition, Reynolds has provided a summary of the status of its patents that remain at issue in this civil action. See [Dkt. No. 1480] at 4. Reynolds indicates that the Patent Trial and Appeal Board found the asserted claims of United States Patent No. 9,814,268 (“the ’268 patent”) to be “unpatentable” and “no appeal [was] taken.” Id. That decision was issued on June 30, 2022, see No. IPR-2020-00921, and the time to appeal has expired. Reynolds also indicates that the International Trade Commission found the asserted claims of United States Patent No. 9,839,238 (“the ’238 patent”) to be “invalid and not infringed” and “no appeal [was] taken.” [Dkt. No. 1480] at 4. Proceedings relating to Reynolds remaining patents are on appeal to the Federal Circuit. Accordingly, it is hereby

ORDERED that by close of business on Tuesday, April 25, 2023, Reynolds show cause why its claims as to the '268 patent and the '238 patent should not be dismissed.

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 21st day of April, 2023.

Alexandria, Virginia

/s/ LMB

Leonie M. Brinkena
United States District Judge