

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

Alexandria Division

RAI STRATEGIC HOLDINGS, INC.	)	
	)	
Plaintiffs	)	
	)	
v.	)	CIVIL ACTION 1:20cv393
	)	
ALTRIA CLIENT SERVICES, LLC	)	
	)	
Defendant.	)	

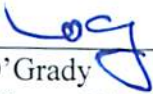
**ORDER**

Before the Court is Plaintiff's Motion to Dismiss Defendants' Unclean Hands and Inequitable Conduct Counterclaims and Corresponding Affirmative Defenses (Dkt. 269). The Defendants have filed a response and the Plaintiffs filed a Reply . The Court dispensed with oral argument.

Plaintiffs' Motion to Dismiss pursuant to F.R.C.P. 12(b)(6) comes after the Honorable Theresa Carroll Buchanan permitted Defendants to file an amended pleading adding counterclaims including inequitable conduct and unclean hands pursuant to F.R.C.P. 15(a). Judge Buchanan ruled that the amendment was not futile upon review of the proposed amendment and the pleadings of the parties. Plaintiffs did not appeal that ruling and instead now choose to address the merits of the defenses/counterclaims in the Motion to Dismiss. The Court has carefully reviewed the arguments of the parties and finds that making dispositive rulings pursuant to Rule 12 (b)(6) is premature. The Court does find that the pleadings satisfy the 12 (b)(6) standards. Whether the Ruyan e-Cigar prior art or whether the several other elements of inequitable conduct or unclean hands, including

materiality, cumulateness, specific knowledge and intent to deceive, on sale, etc., has been met must be addressed after the record is complete. Plaintiffs may move for Summary Judgment on Defendants' counterclaims/affirmative defenses after discovery is complete if there are no material issues of fact in dispute pursuant to F.R.C.P. 56. Plaintiff's Motion to Dismiss the Defendants' counterclaims/affirmative defenses pursuant to F.R.C.P. 12(b)(6) is denied without prejudice.

It is so **ORDERED**.

  
\_\_\_\_\_  
Liam O'Grady  
United States District Judge

Alexandria Virginia  
November 24, 2020