

Exhibit I

(Public)

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March 2, 2021

CONTAINS CBI - SUBJECT TO
PROTECTIVE ORDER

VIA ELECTRONIC MAIL

Jennifer Koh, Esq.
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Re: RAI Strategic Holdings, Inc. v. Altria Client Services LLC, Case No. 1:20-cv-00393-LO-TCB (E.D. Va.)

Dear Jennifer:

I write regarding several discovery issues pertaining to the '374 and '545 patents. [REDACTED]

[REDACTED] Please provide your availability for a meet and confer on the issues in this letter no later than 2 pm Eastern on Thursday, March 4. These issues are of critical importance, and time is of the essence.

Wrongfully withheld, recently produced documents. On October 14, 2020, Reynolds served several requests for production pertaining to the '374 patent. *See* Plaintiffs' Fifth Set of Requests for Production to Defendants (Nos. 277-332) (in particular nos. 278-294). Among other things, these requests sought documents related to Altria's relationships with Minilogic and Smart Chip, the former owners of the '374 patent family, as well as any puff sensors known to Minilogic, Smart Chip, or Altria that may be prior art to the 2015 filing date of the application leading to the '374 patent. Request for production no. 293 specifically calls for the production of documents relating to puff sensors "with non-metallic diaphragms, including diaphragms made from ... soft and resilient plastic materials such as a PPS (Polyphenylene Sulfide)...."

On November 27, after Defendants failed to produce all responsive documents, Reynolds filed a motion to compel production of all responsive materials in Defendants' possession, custody, or control responsive to the requests described above, including documents in the possession of Minilogic and/or Smart Chip. *See* Dkt. 380. In opposition to the motion, Altria averred that it had agreed, before the motion was filed, to produce all responsive documents within its possession, custody, or control, including documents in the possession of Minilogic and Smart Chip. Dkt. 406. Defendants made multiple productions of documents that week, and

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on December 4, at the hearing before Magistrate Judge Buchanan, Mr. Grant represented to Judge Buchanan that Defendants' production of responsive documents was "complete." Tr. of Dec. 4, Hearing at 9:21-22.

Defendants' representations to the Court notwithstanding, Defendants produced and cited in expert reports on February 24 *new documents* that were responsive to Reynolds's requests. For example, Defendants' damages expert, Mr. Meyer, cited newly produced documents for the proposition that

[REDACTED]

In addition to contradicting Defendants' representations to the Court that Defendants' production of responsive documents was complete, these new documents and Mr. Meyer's discussion of them suggest that there are more unproduced documents responsive to Reynolds's longstanding requests and were the subject of Reynolds's previous motion to compel. Defendants must produce *all documents* in their files or those of Minilogic and Smart Chip related to

[REDACTED]

Defendants must also produce any other documents responsive to Reynolds's RFPs, including any other documents pertaining to puff sensors known to Defendants, Smart Chip, or Minilogic prior to July 2015.

[REDACTED]

We request that you produce all of these documents no later than March 5.

Other responsive documents. In addition to the issues posed by Defendants' recent production and reliance on previously withheld documents, Defendants' productions during the pendency of Reynolds's motion to compel suggest that there are other, unproduced documents. Please confirm that Defendants have produced all documents from the following file paths. If not, Defendant must produce those documents by March 5.

- [REDACTED]

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- [REDACTED]
- [REDACTED]
- [REDACTED]

Minilogic and Smart Chip. In the course of the motion to compel, Defendants represented to the Court that they had obtained and produced all documents from Minilogic and Smart Chip that were within their power to obtain. Dkt. 406. But Defendants' own motion papers demonstrate that Defendants' effort to obtain all responsive documents from these contractually related third parties remains incomplete.

For example, Mr. McNeely's declaration confirms that Defendants only contacted Mr. Lam to search for documents responsive to Reynolds's requests for production nos. 278-288, 293, and 294 shortly before Defendants filed their opposition, and that Mr. Lam provided no assistance related to Minilogic's documents. Defendants apparently made no other attempts to contact Minilogic despite the fact that they have been in persistent contact with Mr. Liu, the inventor of the '374 patent who was a longtime Minilogic executive and appears to be currently employed by Minilogic's parent company, Megalogic.

These perfunctory collection efforts were borne out in Defendants' meager production, which contained only two cumulative documents from Smart Chip (the sum total of its production in this case) and nothing from Minilogic. Defendants must immediately undertake to collect relevant documents from Smart Chip and Minilogic through all avenues available to them, including Mr. Lam and Mr. Liu.

While Defendants represented to the Court that Minilogic and Smart Chip were "not related," Dkt. 406 at 2, [REDACTED]

[REDACTED]

Defendants therefore must produce Minilogic's responsive documents, which they have so far failed to do. We request that you produce all such documents by March 12.

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Hawes/30(b)(6) depositions. The same day that Mr. Grant represented to the Court Defendants' document productions related to the '374 patent were complete, Mr. Hawes testified at deposition as Altria's corporate designee that [REDACTED]

Relatedly, as demonstrated by the deposition transcript, Mr. Hawes was unprepared to testify as to the full scope of Reynolds's topic no. 66. Reynolds therefore requests another deposition with Mr. Hawes or another witness prepared to discuss the remaining scope of Reynolds's topic no. 66 – [REDACTED]

Similarly, Defendants' corporate designee on topics related to the prosecution of the '374 and '545 patents, Mr. Manson, was unprepared to discuss the prosecutions of those patents, [REDACTED]

[REDACTED] Defendants must produce a witness (or witnesses) knowledgeable on Reynolds's topic no. 60 with respect to the '374 and '545 patents.

Please identify Defendants' additional witnesses for these topics by March 5.

'545 patent prosecution history. Defendants recently produced several documents apparently relating to the prosecution of the '545 patent. Reynolds served RFPs on August 31 asking for all documents and things related to the conception and reduction to practice of that patent. *See, e.g.,* request nos. 125, 153, 160. [REDACTED]

[REDACTED] The deadline for substantial completion of document review was October 23. Defendants have no reasonable excuse for delaying production of these materials until now, after opening expert reports were prepared and served. If Defendants seek to rely on those materials, Reynolds reserves all rights to preclude Defendants' reliance on these untimely produce documents.

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