

**IN THE 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. 1:20-cv-00393-LO-TCB

JOINT MOTION TO MODIFY SCHEDULING ORDER

Pursuant Federal Rule of Civil Procedure 16 and Local Rule 7, Plaintiffs RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company (“Reynolds”) and Defendants Altria Client Services LLC, Philip Morris USA Inc., and Philip Morris Products S.A. (“Counterclaim Plaintiffs”) (together, the “Parties”) hereby submit this Joint Motion to Modify Scheduling Order (Dkt. No. 99).

The parties conferred on March 18, 2021 and agreed to jointly request a modest modification of the Scheduling Order, which provides for certain additional deadlines related to expert disclosures.

Good cause exists to grant this motion. *See* FED. R. CIV. PRO. 16(b)(4) (“A schedule may be modified only for good cause and with the judge’s consent.”). The requested modifications to the Scheduling Order add certain deadlines that relate to necessary expert disclosures. The additional deadlines will be completed by the April 12, 2021 discovery cut off (Dkt. 461). Accordingly, the Court’s current schedule will not be affected. Additionally, the Parties agree that the requested additional deadlines are appropriate.

The Parties request that the Court set the additional Scheduling Order deadlines as follows:

Description	Agreed Proposed Dates
<ul style="list-style-type: none"> Counterclaim Plaintiffs to serve Dr. Abraham’s Supplemental Report. 	March 12, 2021
<ul style="list-style-type: none"> Deadline for Reynolds to serve a responsive expert report addressing infringement of U.S. Patent No. 10,104,911 (the “’911 Patent”) by the Solo G1, Solo G2, Vibe, and Ciro (as laid out in Dr. Abraham’s opening report served February 24, 2021). Deadline for Counterclaim Plaintiffs to serve a responsive expert report addressing validity of the ’911 Patent 	March 24, 2021

Description	Agreed Proposed Dates
(responsive to Mr. Kodama's invalidity report served February 24).	
<ul style="list-style-type: none"> • Deadline for Reynolds to serve a responsive expert report limited to addressing infringement of the '911 Patent by the Alto (as laid out in Dr. Abraham's supplemental report, served March 12, 2021). • Deadline for Reynolds to serve a supplemental expert report limited to addressing the validity of the two newly asserted '911 claims in Dr. Abraham's March 12, 2021 supplemental report. 	March 31, 2021
<ul style="list-style-type: none"> • Deadline for Counterclaim Plaintiffs to serve a responsive expert report limited to addressing validity of the two newly-asserted '911 claims (responsive to Reynolds's March 31 report on invalidity only). 	April 7, 2021
<ul style="list-style-type: none"> • Depositions of above experts. 	Within expert deposition period

For good cause shown, the Parties respectfully request that the Court modify the Scheduling Order to include the foregoing additional deadlines. A proposed order is submitted herewith. The Parties agree to waive oral argument on this motion.

Dated: March 19, 2021

Respectfully submitted,

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