

**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

REDACTED

**PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO COMPEL REYNOLDS'S
30(b)(6) DEPOSITION ON TOPICS 28, 54, AND 78**

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INTRODUCTION

Defendants' Motion raises four separate issues. For each, Defendants seek discovery to which they are not entitled, whether because it is irrelevant, a belated request without any good cause for the delay, or directed to the wrong type of witness (a fact witness rather than the expert). Each of Defendants' requests should be denied.

First, Defendants seek additional testimony on Topic 28 concerning the *negotiations* [REDACTED]. [REDACTED] is a comparable license to be taken into account in the hypothetical negotiation between Defendants and Reynolds for damages purposes for certain of the patents asserted here. Both sides' damages experts rely on the four square corners of that agreement—not the negotiations leading to it. Indeed, [REDACTED] [REDACTED] not relevant to any issue in this case. Defendants did not even attempt to articulate any purported claim of relevance until **after** their own expert, as well as Reynolds's expert, had submitted their reports on damages. And even now, while Defendants offer a laundry list of information they seek about the negotiations (Dkt. 547 at 9), they do not even attempt to explain **why** any of that information is relevant to the reasonable royalty analysis. Because the [REDACTED] are not relevant, Defendants' request for a deposition on the topic should be denied.

Second, Defendants seek to compel a second deposition of Mr. Gilley, [REDACTED] [REDACTED], on the ground that, after Defendants deposed Mr. Gilley, he discussed with Reynolds's damages expert Dr. Sullivan a [REDACTED] [REDACTED]. But a fact witness's subsequent conversation with an expert is not good cause for re-deposing the fact witness—if it were, Reynolds should be permitted to depose many of Defendants' witnesses again. In any event, Defendants had this document at

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