

# EXHIBIT 31

**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. 1:20cv00393-LO-TCB**

**RAI STRATEGIC HOLDINGS, INC. AND R.J. REYNOLDS VAPOR COMPANY'S  
OBJECTIONS AND RESPONSES TO ALTRIA CLIENT SERVICES LLC, PHILIP  
MORRIS USA, INC., AND PHILIP MORRIS PRODUCTS S.A.'S FIFTH SET OF  
REQUESTS FOR ADMISSION (NOS. 264-287)**

Pursuant to Federal Rules of Civil Procedure 26 and 36 and Local Rule 26(C), RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company (collectively, "Reynolds") hereby respond to Altria Client Services LLC, Philip Morris USA, Inc., and Philip Morris Products S.A.'s (collectively, "Defendants" or "Counterclaim Plaintiffs") Fifth Set of Requests for Admission (Nos. 264-287) as follows.

**PRELIMINARY STATEMENT**

Reynolds has not yet completed discovery relating to this case, and while it has made reasonable investigation for responsive information, its investigation of the facts is continuing. Reynolds objects and will respond to these Requests for Admission as it interprets and understands each request as set forth. Reynolds's objections and responses to these requests are made without prejudice to Reynolds's right to supplement, correct, or otherwise modify the objections and responses to the extent permitted under the Federal Rules of Civil Procedure, the Local Rules for

**OBJECTIONS:**

Reynolds objects to this Request as an improper substitute for discovery devices such as interrogatories or requests for production. *See Erie Ins. Prop. & Cas. Co. v. Johnson*, 272 F.R.D. 177, 183 (S.D. W. Va. 2010) (noting that Rule 36(a) requests “are not a discovery device” (quoting *Harris v. Koenig*, 271 F.R.D. 356, 372 (D.D.C. 2010))). Reynolds objects to this Request as seeking disputed legal and factual contentions.

**RESPONSE:**

Subject to and without waiving its Objections, Reynolds states that it lacks sufficient information about the MarkTen Product to determine whether it practices claim 1 of the '545 Patent under the Court's claim constructions, and therefore admits.

**REQUEST FOR ADMISSION NO. 270:**

Admit that Nu Mark LLC's MarkTen Elite Product practices one or more claims of the '545 Patent under the Court's claim constructions.

**OBJECTIONS:**

Reynolds objects to this Request as an improper substitute for discovery devices such as interrogatories or requests for production. *See Erie Ins. Prop. & Cas. Co. v. Johnson*, 272 F.R.D. 177, 183 (S.D. W. Va. 2010) (noting that Rule 36(a) requests “are not a discovery device” (quoting *Harris v. Koenig*, 271 F.R.D. 356, 372 (D.D.C. 2010))). Reynolds objects to this Request as seeking disputed legal and factual contentions. Reynolds objects to this Request to the extent it seeks information from entities other than Reynolds.

**RESPONSE:**

Subject to and without waiving its Objections, Reynolds admits that Nu Mark LLC's MarkTen Elite Product practices one or more claims of the '545 Patent as those claims are construed and asserted by Defendants. *See* March 24, 2021, Expert Report of Travis Blalock

¶¶ 159-67. Reynolds denies that Nu Mark LLC's MarkTen Elite Product practices one or more claims of the '545 Patent as Reynolds applies the claims. *See* March 24, 2021, Expert Report of Travis Blalock ¶¶ 159-67; *see also* Reynolds's Supplemental Response to Interrogatory No. 28 (Mar. 29, 2021).

**REQUEST FOR ADMISSION NO. 271:**

Admit that Nu Mark LLC's MarkTen Elite Product does not practice one or more claims of the '545 Patent under the Court's claim constructions.

**OBJECTIONS:**

Reynolds objects to this Request as an improper substitute for discovery devices such as interrogatories or requests for production. *See Erie Ins. Prop. & Cas. Co. v. Johnson*, 272 F.R.D. 177, 183 (S.D. W. Va. 2010) (noting that Rule 36(a) requests "are not a discovery device" (quoting *Harris v. Koenig*, 271 F.R.D. 356, 372 (D.D.C. 2010))). Reynolds objects to this Request as seeking disputed legal and factual contentions. Reynolds objects to this Request to the extent it seeks information from entities other than Reynolds.

**RESPONSE:**

Subject to and without waiving its Objections, Reynolds admits that Nu Mark LLC's MarkTen Elite Product does not practice one or more claims of the '545 Patent as Reynolds applies the claims. *See* March 24, 2021, Expert Report of Travis Blalock ¶¶ 159-67; *see also* Reynolds's Supplemental Response to Interrogatory No. 28 (Mar. 29, 2021). Reynolds denies that Nu Mark LLC's MarkTen Elite Product does not practice one or more claims of the '545 Patent as those claims are construed and asserted by Defendants. *See* March 24, 2021, Expert Report of Travis Blalock ¶¶ 159-67.

Dated: April 2, 2021

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