

# EXHIBIT D

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**From:** Will.Orlady@lw.com  
**Sent:** Wednesday, June 2, 2021 12:35 PM  
**To:** Michalik, John M.; Jennifer.Koh@lw.com; pmiedva.lwteam@lw.com  
**Cc:** RJREDVA; cmolster@molsterlaw.com  
**Subject:** RE: RAI Strategic Holdings v. Altria Client Services (EDVa) - Summary Judgment  
**Attachments:** 2021.06.02 Stipulated Judgment re Affirmative Defenses (124315883.6).docx

**\*\* External mail \*\***

Counsel,

Please find attached a stipulated judgment memorializing the suggestion in your 6:46pm email last night that Reynolds will not pursue certain affirmative defenses and a related counterclaim at trial. Please let us know by 2 PM ET whether we have your consent to file. To be clear, we're happy to consider non-substantive edits, but PMP/Altria are entitled to "judgment" and the stipulation will reflect that, so no need for edits on the form of the relief.

Best,  
Will Orlady

**Will Orlady**  
Pronouns: he/him/his

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**From:** Michalik, John M. <jmichalik@JonesDay.com>  
**Sent:** Tuesday, June 1, 2021 6:46 PM  
**To:** Koh, Jennifer (SD) <Jennifer.Koh@lw.com>; #C-M PMIEDVA - LW TEAM <pmiedva.lwteam@lw.com>  
**Cc:** RJREDVA <RJREDVA@jonesday.com>; cmolster@molsterlaw.com  
**Subject:** RE: RAI Strategic Holdings v. Altria Client Services (EDVa) - Summary Judgment

Jennifer - -

Reynolds confirms it will not pursue a claim of inequitable conduct on the '545 patent. Reynolds does not withdraw the Liao reference as prior art to the '374 patent.

With respect to the issues raised in your prior email, Reynolds will not pursue estoppel, acquiescence, waiver, or unclean hands with respect to the '911 patent; Reynolds will not pursue estoppel, acquiescence, waiver, or unclean hands with respect to the '556 patent; Reynolds will not pursue unclean hands with respect to the '545 patent; Reynolds will not pursue estoppel, waiver, or acquiescence with respect to the '374 patent; and Reynolds will not pursue estoppel, waiver, or acquiescence with respect to the '265 patent. Reynolds will not pursue its limitation on damages defense for the PMP patents. Reynolds will not pursue its extraterritorial claims defense.

For its part, Reynolds intends to move for summary judgment of no willful infringement of any asserted patent and summary judgment of invalidity of the '374 patent. In addition, please confirm tonight if Counterclaim-Plaintiffs are dropping any claims or infringement theories from its infringement allegations for the '911 patent. Otherwise, Reynolds intends to move for summary judgment of noninfringement (literal or under the doctrine of equivalents) of the '911 patent. We assume Counterclaim-Plaintiffs oppose Reynolds's motion. Otherwise, we are available to meet and confer at 9 am PT as you propose.

John M. Michalik  
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**From:** [Jennifer.Koh@lw.com](mailto:Jennifer.Koh@lw.com) <[Jennifer.Koh@lw.com](mailto:Jennifer.Koh@lw.com)>  
**Sent:** Tuesday, June 1, 2021 3:16 PM  
**To:** RJREDVA <[RJREDVA@jonesday.com](mailto:RJREDVA@jonesday.com)>  
**Cc:** [pmiedva.lwteam@lw.com](mailto:pmiedva.lwteam@lw.com)  
**Subject:** RAI Strategic Holdings v. Altria Client Services (EDVa) - Summary Judgment

**\*\* External mail \*\***

Counsel,

Please confirm whether Reynolds will withdraw its claim of inequitable conduct on the '545 patent, and whether Reynolds will withdraw the "Liao" reference as prior art to the '374 patent. If Reynolds does not agree, we intend to seek summary judgment. Further, since Reynolds has not withdrawn its other affirmative defenses identified in our May 14 email, we plan to seek summary judgment on those defenses as well. We assume Reynolds opposes a motion for summary judgment on these issues, otherwise, please confirm your availability to meet and confer on these issues tomorrow at 9 a.m. PT.

Regards,  
Jennifer

**Jennifer Koh**

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