

**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 NOTICE OF AGREED MOTIONS *IN LIMINE*

All parties in this case stipulate to the following motions *in limine*. All parties agree that they, their counsel, representatives, and all witnesses called by them (whether live or by deposition) will not mention, refer to, interrogate about, or attempt to convey to the jury in any manner, either directly or indirectly, any of the matters set forth below without obtaining a favorable ruling from this Court outside the presence of the jury.

1. **Indefiniteness.** Reynolds will not present argument, evidence, or testimony that any claim term recited in the asserted patents is indefinite under 35 U.S.C. § 112(b). Reynolds, however, reserves the right to introduce evidence consistent with the Court's claim-construction rulings, including without limitation the plain and ordinary meaning of claim terms, subject to any *Daubert* or evidentiary objections. Reynolds also preserves its right to challenge the Court's claim-construction rulings after trial and on appeal to the extent those rulings rejected Reynolds's proposed claim constructions.
2. **IPR Proceedings.** No party will reference the *inter partes* review ("IPR") proceedings involving the Asserted Patents.
3. **Disparaging the Patent Office.** No party will present argument, evidence, or testimony disparaging the United States Patent and Trademark Office ("Patent Office") or its examiners. This agreement does not preclude Reynolds from referencing the fact that certain prior art references may not have been considered by the Patent Office during prosecution of the asserted patents.
4. **Jury Studies and Shadow Juries.** No argument, evidence, or testimony regarding: (1) any jury study or focus study groups that the parties have conducted, (2) the use by any party of a shadow jury during trial, and (3) the use by any party of jury consultants.
5. **Sidebar Comments at Depositions.** No references to objections or sidebar comments by counsel during depositions.
6. **Testimony on Invalidity Defenses.** Dr. Blalock will not provide testimony at trial regarding alleged lack of written description, enablement, or inequitable conduct.
7. **Motions in limine and Excluding Evidence.** No evidence or argument relating to motions *in limine*, that the Court has made a ruling in response to motions *in limine*, suggesting or inferring that the parties have moved to prohibit proof, or that the Court has excluded proof on any particular matters.
8. **Objections.** No reference to any objections made by the parties in answers to interrogatories, responses to requests for production, hearings, depositions, or at trial.

Dated: January 13, 2022

Respectfully submitted,

/s/ David M. Maiorana

David M. Maiorana (VA Bar No. 42334)
Ryan B. McCrum
JONES DAY
901 Lakeside Avenue
Cleveland, OH 44114
Telephone: (216) 586-3939
Facsimile: (216) 579-0212
Email: dmaiorana@jonesday.com
Email: rbmccrum@jonesday.com

John J. Normile
JONES DAY
250 Vesey Street
New York, NY 10281
Tel: (212) 326-3939
Fax: (212) 755-7306
Email: jjnormile@jonesday.com

Alexis A. Smith
JONES DAY
555 South Flower Street
Fiftieth Floor
Los Angeles, CA 90071
Telephone: (213) 243-2653
Facsimile: (213) 243-2539
Email: asmith@jonesday.com

Stephanie E. Parker
JONES DAY
1420 Peachtree Street, N.E.
Suite 800
Atlanta, GA 30309
Telephone: (404) 521-3939
Facsimile: (404) 581-8330
Email: separker@jonesday.com

Anthony M. Insogna
JONES DAY
4655 Executive Drive
Suite 1500
San Diego, CA 92121
Telephone: (858) 314-1200

By: /s/ Maximilian A. Grant

Maximilian A. Grant (VSB No. 91792)
(max.grant@lw.com)
Matthew J. Moore (*pro hac vice*)
matthew.moore@lw.com
LATHAM & WATKINS LLP
555 Eleventh Street, N.W., Suite 1000
Washington, DC 20004
Telephone: (202) 637-2200
Facsimile: (202) 637-2201

Clement J. Naples (*pro hac vice*)
clement.naples@lw.com
LATHAM & WATKINS LLP
885 Third Avenue
New York, NY 10022-4834
Tel: (212) 906-1200; Fax: (212) 751-4864

Gregory J. Sobolski (*pro hac vice*)
greg.sobolski@lw.com
LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
Telephone: (415) 391-0600
Facsimile: (415) 395-8095

Brenda L. Danek (*pro hac vice*)
brenda.danek@lw.com
LATHAM & WATKINS LLP
330 North Wabash Avenue, Suite 2800
Chicago, IL 60611
Tel: (312) 876-7700; Fax: (312) 993-9767

*Counsel for Defendants-Counterclaim Plaintiffs
Altria Client Services LLC, Philip Morris USA
Inc., and Philip Morris Products S.A.*

Facsimile: (844) 345-3178
Email: aminsogna@jonesday.com

William E. Devitt
JONES DAY
77 West Wacker
Suite 3500
Chicago, IL 60601
Telephone: (312) 269-4240
Facsimile: (312) 782-8585
Email: wdevitt@jonesday.com

Sanjiv P. Laud
JONES DAY
90 South Seventh Street
Suite 4950
Minneapolis, MN 55402
Telephone: (612) 217-8800
Facsimile: (844) 345-3178
Email: slaud@jonesday.com

*Counsel for Plaintiffs RAI Strategic
Holdings, Inc. and R.J. Reynolds Vapor
Company*