

EXHIBIT 1 (PUBLIC)

CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO PROTECTIVE ORDER

**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

**PHILIP MORRIS PRODUCTS S.A.'S SUPPLEMENTAL RESPONSE TO
REYNOLDS' SIXTH SET OF INTERROGATORIES (NO. 23)**

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Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant/Counterclaim Plaintiff Philip Morris Products S.A. (“Philip Morris”), by and through its undersigned attorneys, Latham & Watkins LLP, hereby provides its supplemental response to Plaintiffs/Counterclaim Defendants RAI Strategic Holdings, Inc. (“RAI”) and R.J. Reynolds Vapor Company (“RJR”) (collectively, “Reynolds”) Sixth Set of Interrogatories (No. 23).

PRELIMINARY STATEMENT

Philip Morris objects to the Interrogatories to the extent that they seek or impose requirements or obligations on Philip Morris that are inconsistent with those set forth in the Federal Rules of Civil Procedure, the Local Civil Rules for the U.S. District Court for the Eastern District of Virginia, or any other applicable rules or orders governing this case, including the scope of discovery agreed to by the parties in any procedural or discovery stipulation, written or otherwise. Philip Morris also objects to the Interrogatories to the extent they seek information protected from disclosure by the attorney-client privilege and/or the work-product doctrine, the common interest privilege, any other evidentiary or discovery privilege or are otherwise protected from disclosure.

Philip Morris’ investigation is ongoing. It therefore reserves the right to supplement and/or amend these responses as further information becomes available, and/or after responsive, non-privileged documents are otherwise produced.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. Philip Morris incorporates herein by reference its objections and responses to Reynolds’ Interrogatory Nos. 23-24 served on April 9, 2021, as if fully set forth herein.

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RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 23:

Separately for each of the '911, the '265, and the '556 Patents, describe the complete factual and legal basis for PMP's contention that PMP is entitled to injunctive relief as stated in paragraph D of PMP's Prayer for Relief of PMP's second amended counterclaims, including: (a) any alleged irreparable injury PMP has or expects to suffer, including why PMP contends such injury is irreparable; (b) why remedies available at law, such as monetary damages, would be inadequate to compensate for any alleged injury; (c) why an ongoing royalty would be inadequate to compensate for any alleged injury; (d) why, considering the balance of hardships between PMP and Plaintiffs, a remedy in equity is warranted; (e) why the public interest would not be disserved by a permanent injunction; (f) the scope of any injunction, whether such injunction should be limited or general and the products PMP contends should be covered by such a remedy; (g) identity of the three (3) individuals most knowledgeable of the foregoing; and (h) all Documents and things (by Bates number) PMP intends to rely on to support PMP's contentions.

OBJECTIONS TO INTERROGATORY NO. 23:

Philip Morris incorporates all of its objections and reservations of rights as if specifically alleged herein. Philip Morris objects to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine, the common interest privilege, any other evidentiary or discovery privilege, or are otherwise protected from disclosure. Philip Morris objects to this Interrogatory to the extent the information requested therein is not within the possession, custody, and/or control of Philip Morris. Philip Morris objects to this Interrogatory to the extent the information requested calls for expert opinion or analysis. Philip Morris objects to this Interrogatory to the extent it calls for legal conclusions. Philip Morris

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objects to the phrase “limited or general” in this Interrogatory as vague and ambiguous and as not relevant to the present district court action. Philip Morris objects to this Interrogatory as it seeks the “identity of the three (3) individuals most knowledgeable of the foregoing.” Whether Reynolds’ infringement of the Philip Morris Asserted Patents and other bad acts warrant the issuance of a permanent injunction is a question of law, and, thus, is not a proper subject for a fact or expert witness.

RESPONSE TO INTERROGATORY NO. 23 (April 9, 2021):

Subject to and without waiving its objections, Philip Morris responds as follows:

Pursuant to *eBay Inc. v. MercExchange, LLC.*, 547 U.S. 388 (2006), in order to obtain an injunction for patent infringement in a district court case, a plaintiff must demonstrate that: (1) it has suffered irreparable harm; (2) remedies at law are inadequate to redress that harm; (3) the balance of equities favors injunctive relief; and (4) the public interest would not be disserved by such relief. Each of these four factors is satisfied in this matter. Accordingly, the Court should grant the injunction requested by Philip Morris.

I. Irreparable Harm Exists That Cannot Be Redressed With Damages/Ongoing Royalty

The compounded advantages Reynolds has reaped through its infringement of the Philip Morris Asserted Patents and the disadvantages from this infringement inflicted upon Philip Morris by its competitor has caused Philip Morris irreparable harm that is extensive but unquantifiable and thus cannot be redressed with damages or an ongoing royalty. Philip Morris is leading the charge for change with its smoke-free transformation. It has invested heavily in innovative smoke-free products and has spent years ensuring compliance with all regulatory obligations. Reynolds, on the other hand, failed in the U.S. heat not burn product (“HNB”) market, stole the technology claimed in the Philip Morris Asserted Patents, and uses that technology in its VUSE e-cigarettes.

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