

EXHIBIT 5
(PUBLIC)

REYNOLDS'S CBI REDACTED

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 SEVENTH SET OF
INTERROGATORIES (NOS. 27-28)**

Pursuant to Federal Rules of Civil Procedure 26 and 33, 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") Seventh Set of Interrogatories (Nos. 27-28) 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 responds to these interrogatories as it interprets and understands each interrogatory as set forth. Reynolds's objections and responses to these interrogatories 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 the U.S. District Court for the Eastern District of Virginia, or any other applicable rule or regulation.

Reynolds objects to the interrogatories to the extent that they seek information subject to the attorney-client privilege, attorney work product immunity, the common interest privilege, or any other applicable privilege or immunity against disclosure. Such information will not be provided in response to the interrogatories, and any inadvertent disclosure shall not be deemed a waiver of any privilege, work product protection, or other protection.

OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

Reynolds objects to the Definitions and Instructions to the extent that they seek to impose obligations on Reynolds more extensive than those required by the Federal Rules of Civil Procedure or the Local Civil Rules for the U.S. District Court for the Eastern District of Virginia, and specifically objects as follows:

1. Reynolds objects to the definition of “You,” “Plaintiffs,” “Counterclaim Defendants,” and “RJR” as overly broad and unduly burdensome because it incorporates entities and individuals that are not a party to this case and on whose behalf Reynolds lacks the authority and information to respond. Reynolds also objects to the terms “You,” “Plaintiffs,” “Counterclaim Defendants,” and “RJR” as overly broad and unduly burdensome to the extent they purport to include either RAI Strategic Holdings, Inc.’s or R.J. Reynolds Vapor Company’s predecessors-in-interest, parents, subsidiaries, joint ventures, affiliates, assigns, attorneys, other affiliated or related businesses, and other legal entities whether wholly or partially owned or controlled by either RAI Strategic Holdings, Inc. or R.J. Reynolds Vapor Company. Reynolds objects to the definition of “You,” “Plaintiffs,” “Counterclaim Defendants,” and “RJR” as overly broad and unduly burdensome to the extent they purport to include the principals, directors, officers, owners, members, representatives, employees, agents, consultants, accountants, and attorneys of either

RAI Strategic Holdings, Inc. or R.J. Reynolds Vapor Company who are acting outside of their roles with respect to either of those companies. In responding to these interrogatories, Reynolds shall construe “You,” “Plaintiffs,” “Counterclaim Defendants,” and “RJR” to refer to RAI Strategic Holdings, Inc. or R.J. Reynolds Vapor Company.

2. Reynolds objects to Defendants’/Counterclaim Plaintiffs’ definition of “RJR Accused Product(s)” as vague and ambiguous insofar as that definition includes products beyond those that have been specifically identified by Defendants/Counterclaim Plaintiffs in their Counterclaims or in their Response to Reynolds’s Interrogatory No. 8. In responding to these interrogatories, Reynolds shall construe RJR Accused Products to refer only to the VUSE Solo[®], VUSE Vibe[™], VUSE Ciro[®], and VUSE Alto[®] devices and their associated flavor packs identified in Defendants’/Counterclaim Plaintiffs’ Counterclaims and in their Response to Reynolds’s Interrogatory No. 8.

3. Reynolds objects to Defendants’/Counterclaim Plaintiffs’ definition of “Counterclaim Asserted Patent(s)” as overly broad to the extent that definition includes patents that Defendants/Counterclaim Plaintiffs have not asserted in this case, or non-patent references such as patent applications. In responding to these interrogatories, Reynolds shall construe Counterclaim Asserted Patents to refer only to U.S. Patent No. 9,814,265, U.S. Patent No. 10,555,556, U.S. Patent No. 10,104,911, U.S. Patent No. 6,803,545, and U.S. Patent No. 10,420,374.

4. Reynolds objects to Defendants’/Counterclaim Plaintiffs’ definition of “RJR Covered Product(s)” as overly broad to the extent it includes products made by third parties.

5. Reynolds objects to Defendants’/Counterclaim Plaintiffs’ Instruction Nos. 3 and 4 as overly broad, unduly burdensome, and seeking information that is not relevant to any claim or

defense in this case to the extent they seek information from entities and individuals that are not a party to this case and on whose behalf Reynolds lacks the authority and information to respond.

INTERROGATORIES

INTERROGATORY NO. 27:

Describe with particularity the facts and circumstances of Your (or any affiliate's) acquisition of any IQOS devices prior to April 9, 2020, including but not limited to when You acquired any such IQOS devices, how You acquired any such IQOS devices, who had access to such IQOS devices, whether You tested, disassembled, analyzed, or reverse-engineered any such IQOS devices, and whether You provided any such IQOS devices to patent counsel (in-house or outside) and if so, identify all Communications to patent counsel.

OBJECTIONS:

Reynolds objects to this interrogatory to the extent it seeks information protected by the attorney-client privilege, the attorney work product doctrine, the common interest privilege, or any other applicable privilege or immunity. Reynolds objects to this interrogatory as overly broad, unduly burdensome, and seeking information that is not relevant to any claim or defense in this case to the extent it seeks information relating to Defendants'/Counterclaim Plaintiffs' overly broad definition of the terms "You" and "Your." For instance, this interrogatory seeks information regarding entities on whose behalf Reynolds lacks the authority and information to respond and regarding entities that have no involvement or relevance to any claims or defenses in this action. Reynolds objects to this interrogatory because it is composed of multiple discrete subparts under Fed. R. Civ. P. 33, which, when counted with other interrogatories served by Defendants/Counterclaim Plaintiffs that also contain multiple subparts, exceeds the number of interrogatories permitted by the Rule 16(b) Scheduling Order and the parties' Joint Discovery Plan. *See* Dkt. Nos. 97, 99. Reynolds objects to this interrogatory because it is not reasonably proportional to the needs of the case. *See* Fed. R. Civ. P. 26(b)(1).

RESPONSE:

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