

EXHIBIT 6
(PUBLIC)

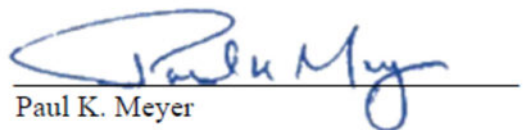
RAI Strategic Holdings, Inc.
and
R.J. Reynolds Vapor Company
v.
Altria Client Services LLC,
Philip Morris USA, Inc.,
and Philip Morris Products S.A.

Civil Action No. 1:20-cv-00393-LO-TC

Amended and Supplemental Opening Expert Report
of Paul K. Meyer

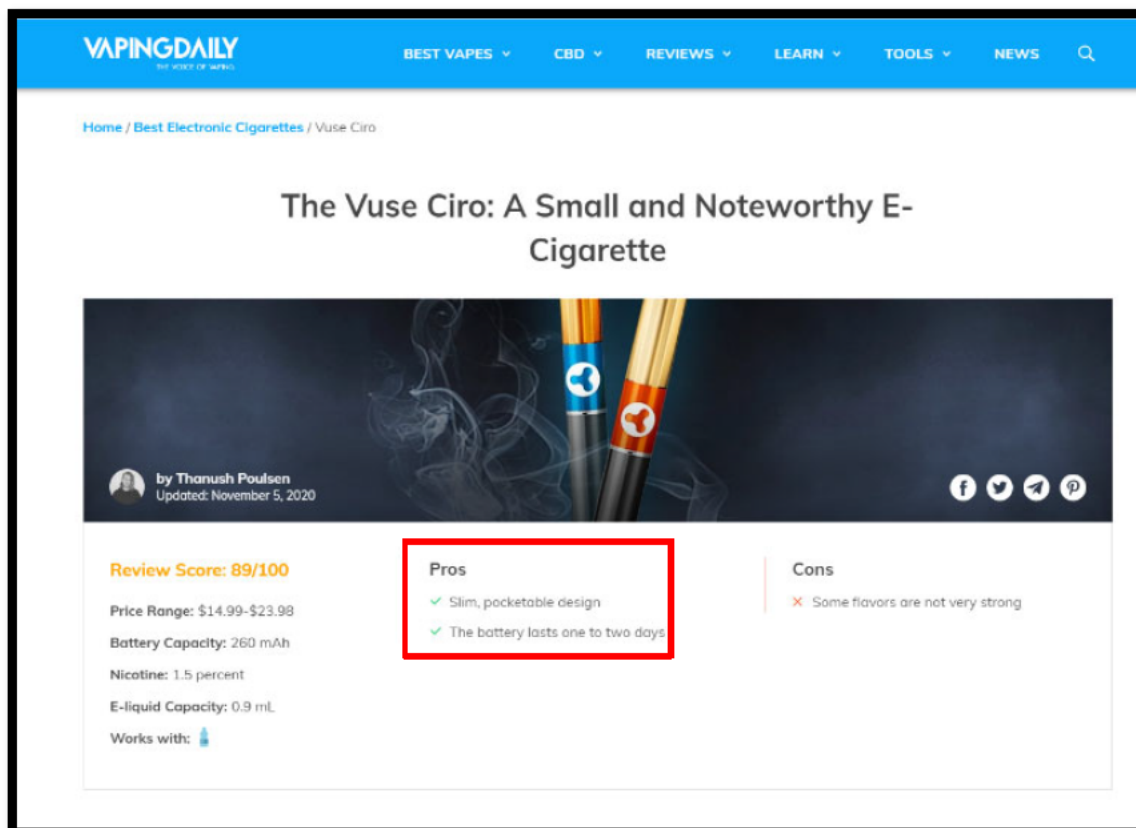
TM Financial Forensics, LLC

April 26, 2021


Paul K. Meyer

(“Pros”) including long battery life, small device, and sleek design, all of which I understand are enabled by RJRV’s use of the technology claimed in the ’545 Patent.

Figure 14: VUSE Ciro Review⁶¹⁹



422. Finally, I understand that the parties agree that JUUL practices the ’545 Patent. For example, Reynolds admitted in response to a request for admission “that JUUL makes, uses, sells, offers for sale, and/or imports into the United States and has made, used, sold, offered for sale, and/or imported into the United States one or more Products that practices one or more claims of the ’545 Patent as those claims are construed and asserted by Defendants.”⁶²⁰ Reynolds also stated in a response to an interrogatory that JUUL “utilizes pulse width modulation to operate a lithium ion battery within its manufacturer’s

⁶¹⁹ <https://vapingdaily.com/best-electronic-cigarettes/vuse-ciro-review/>: DEF_PUB_EDVA000026007-015 (at 008) (Annotations added).

⁶²⁰ RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company’s Objection and Responses to Altria Client Services LLC, Philip Morris USA, Inc., and Philip Morris Products S.A.’s Third Set of Requests for Admission (Nos. 108-115), January 4, 2021: pp. 4-7. See also, RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company’s First Supplemental Responses to Altria Client Services LLC, Philip Morris USA, Inc., and Philip Morris Products S.A.’s Third Set of Requests for Admission (Nos. 108-111), March 29, 2021: pp. 2-6.

specifications, and practices the '545 patent as Defendants construe and assert the claims of that patent, including, for example, claim 1.”⁶²¹ Further, I understand from Mr. McAlexander that the JUUL device practices the '545 Patent.⁶²² That both parties agree that the current E-Vapor market leader (JUUL) uses the technology claimed in the '545 Patent is further evidence that the '545 patented technology is fundamentally important and valuable to consumers.⁶²³ Moreover, if Reynolds did not take a license to the '545 Patent and was unable to use the technology claimed in the '545 Patent, it would not be able to achieve the benefits described above.

423. Reynolds has also asserted that MarkTen, MarkTen XL, MarkTen Elite, and Green Smoke “used pulse width modulation to operate lithium ion batteries within their manufacturers’ specifications, and practiced one or more claims of the '545 patent.”⁶²⁴ I also understand from Mr. McAlexander that MarkTen, MarkTen XL, and MarkTen Elite practiced the 545 Patent.⁶²⁵ Again, that Reynolds believes that Nu Mark used the technology claimed in the '545 Patent is further indication that the '545 patented technology is fundamentally important and valuable.

424. In conclusion, as discussed above, the technology claimed in the '545 Patent is important, valuable, and a significant improvement over the prior art. Accordingly, *Georgia-Pacific* factors 9 and 10 place very significant upward pressure on the royalty for the '545 Patent, including [REDACTED] because the

⁶²¹ RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company’s Objection 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), January 4, 2021: pp. 7-8. November 20, 2020 letter from John M. Michalik to Jennifer Koh, Esq, re: RAI Strategic Holding, Inc. v. Altria Client Services LLC, No: 1:20-cv-00393-LO-TCB (E.D. Va.).

⁶²² Based on discussions with Mr. McAlexander.

⁶²³ [REDACTED]: ALTRIA_IQOS_EDVA0000019177-232 (at 202); [REDACTED]

[REDACTED]: ALTRIA_IQOS_EDVA0000018233-280 (at 264); [REDACTED]
[REDACTED]: ALTRIA_IQOS_EDVA0000018408-478 (at 458).

⁶²⁴ RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company’s Objection 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), January 4, 2021: pp. 7-8. *See also* November 20, 2020 letter from John M. Michalik to Jennifer Koh, Esq, re: RAI Strategic Holding, Inc. v. Altria Client Services LLC, No: 1:20-cv-00393-LO-TCB (E.D. Va.). Based on discussions with Mr. McAlexander. *See also*, RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company’s First Supplemental Response to Altria Client Services LLC, Philip Morris USA, Inc., and Philip Morris Products S.A.’s Seventh Set of Interrogatories (No. 28), March 29, 2021: pp. 4-6; RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company’s Objections and Response 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), April 2, 2021: pp. 7-11.

⁶²⁵ Based on discussions with Mr. McAlexander.

Figure 22: Screenshot of Vibe on RJRV's Website⁶⁷⁹



457. Third-party industry websites have also touted the benefits of the technology claimed in the '374 Patent. For example, as shown in **Figure 23**, VapingDaily.com highlighted “automatic” puff detection in and the “button-less” design of the VUSE Solo and Vibe.

Figure 23: Screenshot of Vibe on VapingDaily.com⁶⁸⁰



458. Finally, I understand that Reynolds contends that the “JUUL Device” practices the '374 Patent. For example, Reynolds admitted in response to a request for admission “that

⁶⁷⁹ <https://vusevapor.com/devices>: DEF_PUB_EDVA000026098-100 (at 100) (Annotations added). The VUSE website similarly advertises “draw-activated vaping” for the Ciro: <https://vusevapor.com/ciro-complete-kit>: DEF_PUB_EDVA000026087-090 (at 088).

⁶⁸⁰ <https://vapingdaily.com/best-electronic-cigarettes/vuse-solo-review/>: DEF_PUB_EDVA000026060-078 (at 066) (Annotations added).

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