# **EXHIBIT 6** (PUBLIC)

### CONTAINS CONFIDENTIAL BUSINESS INFORMATION SUBJECT TO PROTECTIVE ORDER

#### 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.** 

Civil Action No. 1:20-cv-393

## AMENDED AND SUPPLEMENTED OPENING EXPERT REPORT OF STACY EHRLICH

Stacy Ehrlich

April 26, 2021

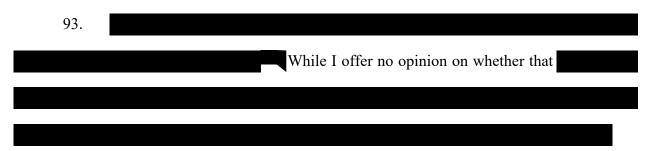
4/26/21



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limits, battery end of discharge voltage, battery maximum charging current, battery maximum discharging current, battery upper limits charging voltage, PDU voltage operating range, and PDU current operating range. 145

- 91. FDA's review of the IQOS PMTA confirms that the Agency examines closely information related to battery performance and safety "to ensure product consistency and reduce concerns of malfunction." <sup>146</sup>
- 92. In public presentations, FDA has likewise emphasized that its PMTA review includes analysis of "[b]attery use and foreseeable misuse leading to overhearing [stet], fire, and explosion during operation, charging, storage, and transportation."<sup>147</sup>



94. I understand that the technology described in the '545 Patent prevents the battery from providing inconsistent power and thus ensures that the user inhales a consistent aerosol from puff-to-puff and through the life of the cartridge. Consistent puffs and uniform delivery, particularly of nicotine, contribute to user satisfaction, which can facilitate switching to potentially

<sup>&</sup>lt;sup>147</sup> See Premarket Tobacco Product Application Content Overview, FDA at 11 (Oct. 28, 2019), https://www.fda.gov/media/133445/download.



<sup>&</sup>lt;sup>145</sup> Prepublication PMTA Rule at 176; FDA Marks Historic Public Health Milestone with Finalization of Two Key Rules for Companies Seeking to Market New Tobacco Products, FDA (Jan. 19, 2021), https://www.fda.gov/news-events/press-announcements/fda-marks-historic-public-health-milestone-finalization-two-key-rules-companies-seeking-market-new.

<sup>&</sup>lt;sup>146</sup> See, e.g., 1199\_RESP00011697-1199\_RESP00011818 at 1199\_RESP00011721, 1723, 1725, 1757, 1759, 1787.