

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-LO-TCB

**PMI/ALTRIA'S OMNIBUS MOTION *IN LIMINE***

Pursuant to the Court's Scheduling Order, Plaintiffs Altria Client Services, LLC, Philip Morris USA Inc., and Philip Morris Products S.A. (collectively, "PMI/Altria") respectfully move the Court *in limine* for an order instructing Defendants RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company ("RJR"), its counsel, and any witnesses RJR tenders (live or by deposition) to refrain from referring to, directly or indirectly, the following matters which are the subject of PMI/Altria's Omnibus Motion *in Limine*.

1. Preclude RJR from relying on non-comparable agreements to suggest the amount of a reasonable royalty.
2. Preclude RJR from violating its stipulation regarding prior art.
3. No argument, evidence, or testimony about prior art invalidity not disclosed in expert reports.
4. No reference to practicing the prior art as an alleged non-infringement defense.
5. Preclude RJR's experts from relying on hearsay conversations with undisclosed

third-parties and evidence produced in violation of the Court's discovery order.

6. Preclude RJR from arguing that it lacks control over suppliers of the accused products.
7. Preclude lay opinion testimony from RJR's fact witnesses about alleged non-infringement or invalidity.
8. No reference to RJR's patent infringement claims.
9. No argument, evidence, or testimony about the pending ITC investigation or investigations involving Altria's investment in third-party Juul.
10. No reference to withdrawn claims or defenses.
11. No reference to PMI/Altria's decision not to sue third parties for infringing the asserted patents.
12. No reference to RJR or Nu Mark's Marking with third-party Fontem patent numbers.
13. Preclude RJR from referencing the absence of Charles Higgins at trial.
14. No argument, evidence, or testimony challenging FDA's PMT and MRTPL authorizations for IQOS.

Counsel for PMI/Altria conferred with counsel for RJR regarding these issues via email and telephone, including on December 11, 2021 and January 11, 2022. Counsel for RJR stated that they oppose the aforementioned motions.

Dated: January 21, 2022

Respectfully submitted,

/s/ Maximilian A. Grant

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*Counsel for Plaintiffs Altria Client Services  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of January, 2022, a true and correct copy of the foregoing was served using the Court's CM/ECF system, with electronic notification of such filing to all counsel of record:

*/s/ Maximilian A. Grant*

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