

**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

[PROPOSED] ORDER GRANTING PMI/ALTRIA'S OMNIBUS MOTION *IN LIMINE*

Upon consideration of Plaintiffs Altria Client Services, LLC, Philip Morris USA Inc., and Philip Morris Products S.A.'s (collectively, "PMI/Altria") Omnibus Motion *in Limine* ("Motion") it is hereby:

ORDERED, that PMI/Altria's Motion is **GRANTED**,

and **FURTHER ORDERED**, that Defendants RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company ("RJR") shall be precluded from, offering, or soliciting argument, evidence, and testimony regarding the following subjects at trial:

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 No reference to withdrawn claims or defenses.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 MRTP authorizations for IQOS.

ENTERED this ____ day of _____, 2022.

Alexandria, Virginia

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

Maximilian A. Grant (VSB No. 91792)

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