

**IN THE 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. 1:20-cv-00393-LO-TCB

**REYNOLDS'S MOTION TO EXCLUDE CERTAIN EXPERT OPINIONS
OF JOSEPH C. MCALEXANDER**

Pursuant to the Court's Scheduling Order (Dkt. No. 820), RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company ("Reynolds") respectfully move this Court to exclude certain proffered opinions by Altria Client Services LLC, Philip Morris USA Inc., and Philip Morris Products S.A.'s ("Altria/PM's") technical expert Joseph C. McAlexander, because those opinions fail the requirements of Federal Rule of Evidence 702 and Federal Rule of Civil Procedure 26. Specifically, Reynolds requests an order precluding Mr. McAlexander from offering opinions on the following topics:

1. Federal regulation of tobacco products, including the FDA's review of Reynolds's Pre-Market Tobacco Product Applications ("PMTAs");
2. The invention story of the technology underlying the 6,803,545 and 10,420,374 patents;
3. Secondary considerations of non-obviousness based on non-technical opinions regarding state of mind, motive, or intent or an unreliable methodology;

4. PM/Altria's claims for induced and contributory infringement based on non-technical opinions regarding state of mind, motive, or intent; and
5. PM/Altria's claims that the accused products infringe the 6,803,545 and 10,420,374 patents under the doctrine of equivalents.

The grounds for this motion are set forth in the accompanying Reynolds's Memorandum in Support of Its Motion to Exclude Certain Expert Opinions of Joseph C. McAlexander. A proposed order granting the requested relief is attached.

Dated: January 21, 2022

Respectfully submitted,

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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/ David M. Maiorana

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