

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 DAUBERT MOTION TO EXCLUDE  
DESIGN-AROUND TESTIMONY OF RJR'S EXPERT, DAVID CLISSOLD**

Pursuant to the Court's Scheduling Order (Dkt. No. 820), Plaintiffs Altria Client Services, LLC; Philip Morris USA Inc.; and Philip Morris Products S.A. (collectively, "PMI/Altria") respectfully move for an order excluding David Clissold, expert witness proffered by RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company ("RJR"), from testifying that RJR's alleged design-arounds to the technology claimed in U.S. Patent Nos. 9,814,265 and 10,104,911 would have been available to RJR from a regulatory perspective at the time of the hypothetical negotiations for those patents.

The grounds for this motion are set forth in the accompanying supporting memorandum. A proposed order granting the requested relief also is attached

Counsel for PMI/Altria conferred with counsel for RJR regarding the issues set forth in this motion via email and telephone, including on December 11, 2021, and January 11, 2022.

Counsel for RJR stated that they oppose the aforementioned motion.

Dated: January 21, 2022

Respectfully submitted,

/s/ Maximilian A. Grant

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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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