

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

Upon consideration of the *Daubert* motion filed by Altria Client Services, LLC; Philip Morris USA Inc.; and Philip Morris Products S.A.'s (collectively, "PMI/Altria") to exclude the design-around testimony of David Clissold, expert witness proffered by RAI Strategic Holdings, Inc. and R.J. Reynolds Vapor Company ("RJR"), and the arguments of the parties, it is hereby:

**ORDERED** that PMI/Altria's motion is **GRANTED**, and further

**ORDERED**, that RJR shall not solicit or offer at trial opinions from Mr. Clissold 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.

ENTERED this \_\_\_\_ day of \_\_\_\_\_, 2022.

Alexandria, Virginia

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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*

Maximilian A. Grant (VSB No. 91792)

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