

EXHIBIT 4

CONFIDENTIAL BUSINESS INFORMATION, SUBJECT TO PROTECTIVE ORDER

**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

RESPONSIVE EXPERT REPORT OF KELLY R. KODAMA
REGARDING U.S. PATENT NO. 10,555,556

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A. Claim Construction

11. I understand that a patent's claims define the scope of the alleged invention.

12. I understand that claim construction is a legal issue to be decided by the Court. I understand that in this case the Court has declined to issue any specific constructions for any disputed terms. Accordingly, I have given all terms their ordinary and customary meaning as would be understood by a person of skill in the art at the time of the invention, read in context of the entire claim and the patent as a whole, including the specification and prosecution history.

B. Person of Ordinary Skill in the Art

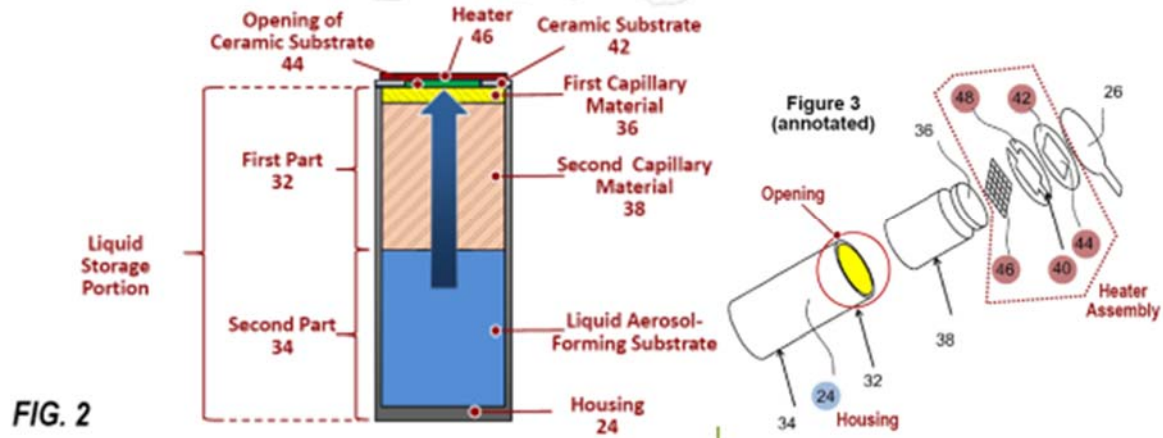
13. I have been informed that certain questions in patent law are assessed from the perspective of a hypothetical person of ordinary skill in the art to which the invention pertains. I understand that a person of ordinary skill in the art is a person with a level of experience, education, or training generally possessed by those individuals who work in the area or field of the invention at the time of the invention. A person of ordinary skill is also a person of ordinary creativity that can use common sense to solve problems

C. Infringement

1. *Direct Infringement*

14. I understand that an accused infringer of a U.S. patent may be found to directly infringe if they make, use, sell, or offer for sale in the United States or import into the United States a patented invention. I understand that an accused product infringes an independent claim only if it practices each limitation of the independent claim. This principle is sometimes referred to as the "all elements rule." I also understand that an accused product infringes a dependent claim only if it infringes the independent claim from which it depends and practices the additional limitations in the dependent claim.

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- *the housing having an opening*

65. [REDACTED]

[REDACTED]

66. [REDACTED]

[REDACTED] In the '556 patent, the opening of the housing is at the mouth end of the device, *i.e.*, at the mouth end where the user draws vapor from the device. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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71. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

72. But during the prosecution history of the '556 patent, the Applicant distinguished the Dubief prior art reference by arguing that the claimed “opening” of the housing is not for an “airflow path,” but is instead an “opening” for receiving delivery of “the substrate in liquid form”—which “might then be brought into contact with a vaporizing device” such as “an electric heater element.” (DEF_PUB_EDVA000019628.) Dr. Abraham does not address or even mention this representation in the '556 prosecution history.

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