

# **EXHIBIT 2**

## **(PUBLIC)**

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

**REBUTTAL EXPERT REPORT OF DR. JEFFREY C. SUHLING REGARDING U.S.  
PATENT NO. 9,814,265**

Dated: \_\_\_\_\_

3/24/2021

  
\_\_\_\_\_  
Jeffrey C. Suhling

affixed to an emanating surface.” (*Id.* at 2:40-45.) With respect to the orthogonal arrangement, similar to Rabin, Harwig discloses an arrangement of a thermal resistor and emanating surface that is orthogonal to the direction of the flow of fluid. As shown in Figs. 4b and 4c above, Harwig discloses that the serpentine wire heating element 123b/123c and the surface 124b/124c of the wick 125b/125c are arranged orthogonally to the direction of the flow of fluid. As also shown in Figs. 5d and 5e, Harwig discloses that the thin film heating element 126d/126e and the surface of the wick 127d/127e are arranged orthogonally to the direction of the flow of fluid.

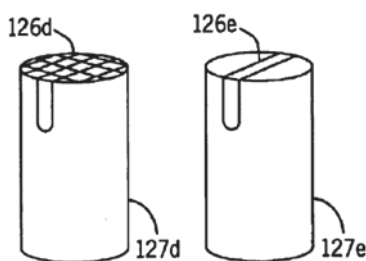


FIG. 5d      FIG. 5e

**Harwig Figs. 5d and 5e.**

198. Even though Mr. Walbrink fails to show why having a thermal resistor with such attributes is a significant advancement over the prior art, the technology described by the '265 Patent was well known in the prior art. The above piece of prior art disclose a thermal resistor (1) in the shape of a sinuous line, (2) with dimensions substantially the same as a cross-section of a cigarette or cigar, and (3) the arrangement of the thermal resistor in contact with the surface containing the liquid to be vaporized “orthogonally or at an angle to the direction of the flow of the fluid” through the disclosed devices. Accordingly, the technology disclosed in the '265 Patent that Mr. Walbrink argues is beneficial is taught in the prior art.

B. [REDACTED]

199. [REDACTED]

[REDACTED]

[REDACTED]

200. Based on Vuse Alto wattage test documents, I understand that [REDACTED]

[REDACTED]

201. Below is a [REDACTED]

[REDACTED]

[REDACTED]

202. I also calculated the [REDACTED]

[REDACTED]



203. Using the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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