

EXHIBIT 13 (PUBLIC)

**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

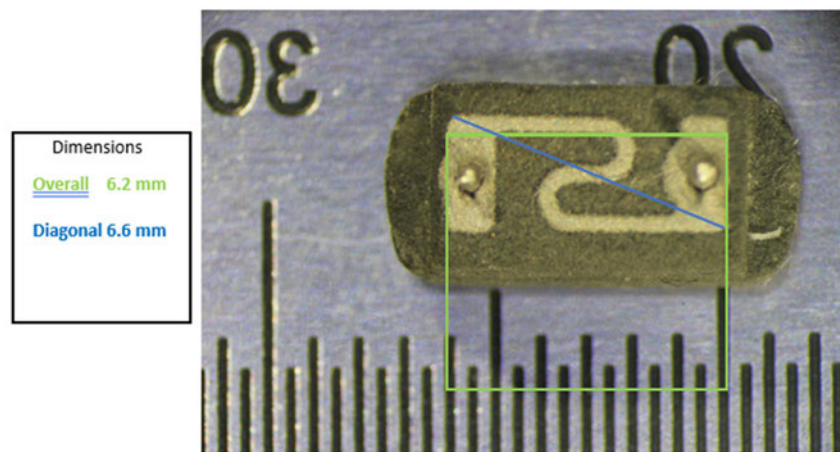
**OPENING EXPERT REPORT OF HAROLD J. WALBRINK RELATING TO
INFRINGEMENT**

62. The low chromium nickel-iron alloy resistive heating element is in the shape of a sinuous line having two ends as shown below. The S-shaped region of the low chromium nickel-iron alloy resistive heating element is a sinuous line because the plain meaning of “sinuous” is a “wavy form” or “winding.” See “sinuous,” 2001 Merriam-Webster’s Dictionary at 1093. An S-shape structure is a wavy form and winding.

63. The S-shaped thermal resistor has two ends as shown and discussed above (at either end of the “S”).

5. “dimensions substantially the same as a cross-section of a cigarette or a cigar, wherein interspaces of the shape are configured to allow a flow of fluid therethrough”

64. The S-shaped “low chromium nickel-iron alloy resistive heating element” in the Alto has dimensions substantially the same as a cross-section of a cigarette or a cigar. The S-shape resistive heater has a horizontal dimension of 6.2 mm and a diagonal dimension of 6.6 mm, which are substantially the same as a cross-section of a cigarette. I annotated this in the photograph below, which I took of a VUSE Alto that I disassembled.



65. Such dimensions enable a conventional smoking experience, where a user holds the cigarette/cigar between their fingers and lips when smoking. Reynolds touts that the Alto’s

██████████ (RJREDVA_001286318 at RJREDVA_001286341) and states that it is

[REDACTED] RJREDVA_001286318

at RJREDVA_001286341. This is enabled by sizing the Heater with dimensions that are substantially the same as a cross-section of a cigarette or a cigar.



66. The sources that Reynolds cited during claim construction briefing confirm the Alto meets this limitation. For example, U.S. Patent No. 8,733,346 (the “’346 patent”) issued to Philip Morris Products S.A. and names Arno Rinker as the inventor (the same inventor named on the ’265 patent). The ’346 patent defines dimensions of a cigarette or cigar as between 6 and 14 mm. *See* ’346 patent at 3:33-37; *see also* U.S. Patent Pub. No. 2010/0126505 ¶ 0029. Similarly, other patents being asserted in this case against RJR’s VUSE Products—specifically the ’911 and ’556 patents—describe cigarettes and cigars with diameters between 5 and 30 mm. ’911 patent at 11:5-7; ’556 patent at 6:66-67, 7:1-3.

67. Similarly, an article titled “Influence of cigarette circumference on smoke chemistry, biological activity, and smoking behavior,” authored by researchers at Reynolds’ parent, British American Tobacco (“BAT”), refers to cigarettes known as “super slim” that have a

I declare under penalty of perjury that the foregoing is true and correct.



Date: February 24, 2021
Hal Walbrink