

**UNITED STATES INTERNATIONAL TRADE COMMISSION  
WASHINGTON, D.C.**

**Before The Honorable Clark S. Cheney  
Administrative Law Judge**

**In the Matter of**

**CERTAIN TOBACCO HEATING  
ARTICLES AND COMPONENTS  
THEREOF**

**Investigation No. 337-TA-1199**

**RESPONSE OF RESPONDENTS ALTRIA CLIENT SERVICES LLC, ALTRIA GROUP,  
INC., AND PHILIP MORRIS USA, INC. TO THE COMPLAINT AND NOTICE OF  
INVESTIGATION**

**RESPONDENTS:**

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## **RESPONSE TO COMPLAINT**

Pursuant to Commission Rule 210.13 (19 C.F.R. § 210.13), Respondents Altria Client Services LLC, Altria Group, Inc., and Philip Morris USA, Inc. hereby respond to the Complaint filed on April 9, 2020 by Complainants RAI Strategic Holdings, Inc., R.J. Reynolds Vapor Company, and R.J. Reynolds Tobacco Company (collectively "Complainants") under Section 337 of the Tariff Act of 1930, as amended, and to the Commission's Notice of Investigation. Unless specifically referred to separately, Altria Client Services LLC, Altria Group, Inc., and Philip Morris USA, Inc. shall be collectively referred to herein as "Respondents" for purposes of convenience.

Respondents deny that they have directly or through their affiliates or third parties engaged in acts of unfair competition in violation of Section 337 by importing, selling for importation, and/or selling within the United States after importation any product that infringes literally and/or under the doctrine of equivalents, contributorily, and/or by inducement, any valid and enforceable asserted claim of U.S. Patent Nos. 9,839,238 ("the '238 patent"), 9,901,123 ("the '123 patent") and 9,930,915 ("the '915 patent") (collectively, "the Asserted Patents"). Respondents also deny that asserted claims of the Asserted Patents are valid and/or enforceable. Except as expressly admitted herein, Respondents deny each and every allegations of the Complaint.

Respondents have not had sufficient time and opportunity to collect and review all of the information that may be relevant and necessary to respond to the allegations raised in the Complaint. To the extent that any allegations of the Complaint refer to and/or rely upon such information, Respondents lack sufficient information on which to admit or deny such allegations and, on that basis, deny such allegations. Moreover, Respondents reserve the right to take further

positions and raise additional defenses as may become apparent as a result of additional information that may be discovered subsequent to the filing of this response.

### **ADMISSIONS AND DENIALS OF SPECIFIC ALLEGATIONS**

The numbered Paragraphs herein correspond with and respond to the numbered Paragraphs set forth in the Complaint.

#### **I. INTRODUCTION<sup>1</sup>**

1. Respondents admit that RAI Holdings, Inc. (“RAI”), R.J. Reynolds Vapor Company (“RJRV”), and R.J. Reynolds Tobacco Company (“RJRT”) (collectively, “Complainants”) filed its Complaint under Section 337 of the Tariff Act of 1930, as amended, 19 C.F.R. § 1337. Respondents deny the remaining allegations of paragraph 1.

2. Respondents admit that documents purporting to be copies of the Asserted Patents (as defined in paragraph 2 of the Complaint) are attached to the Complaint as Exhibits 1, 2, and 3. Respondents admit that the table in paragraph 2 lists the claims asserted in the Complaint. Respondents deny the remaining allegations of paragraph 2.

3. Respondents deny that the Asserted Patents are valid and enforceable. Respondents lack sufficient information upon which to admit or deny the remaining allegations of paragraph 3 and, on that basis, deny the remaining allegations of paragraph 3.

4. Respondents deny the allegations of paragraph 4.

5. The allegations of paragraph 5 contain legal conclusions as to which no response is required. To the extent a response is required, Respondents deny the allegations of paragraph 5.

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<sup>1</sup> For ease of reference, Respondents respond to the Complaint using the same headings used by Complainants. Use of these headings, however, does not constitute and should not be interpreted as admissions by Respondents as to any facts and/or allegations contained within the Complaint.

6. The allegations of paragraph 6 contain legal conclusions as to which no response is required. To the extent a response is required, Respondents deny the allegations of paragraph 6. Respondents further deny that Complainants are entitled to any relief under 19 U.S.C. § 1337.

## **II. THE PARTIES**

### **A. Complainants**

7. Respondents lack sufficient information upon which to admit or deny the allegations of paragraph 7, on that basis, deny the allegations of paragraph 7.

8. Respondents lack sufficient information upon which to admit or deny the allegations of paragraph 8, on that basis, deny the allegations of paragraph 8.

9. Respondents lack sufficient information upon which to admit or deny the allegations of paragraph 9, on that basis, deny the allegations of paragraph 9.

### **B. Respondents**

#### **1. Altria Client Services LLC**

10. Respondents admit that Altria Client Services LLC is a Virginia corporation with offices at 6601 West Broad Street, Richmond, Virginia 23230. Respondents admit that a document purporting to a PMTA Coversheet: Technical Project Lead Review is attached to the Complaint as Exhibit 8. Respondents admit that the face of Exhibit 8 states that “PMP S.A.’s parent company, Philip Morris International Management S.A. (PMI) has entered into a distribution agreement with Altria Client Services LLC (ALCS) by which ALCS and an ALCS affiliate, Philip Morris USA Inc. (PM USA), will be licensed to distribute and sell the IQOS system and the Marlboro Heatsticks in the U.S. upon receipt of a marketing authorization.” Respondents admit that Altria Client Services LLC and Philip Morris USA, Inc. are licensed to distribute and sell IQOS® products and disposable tobacco sticks in the United States. Respondents deny that any tobacco heating articles

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