

Skilled in the Art: Philip Morris, Latham Win a Round in Vaping Wars

By Scott Graham

Philip Morris International and **Latham & Watkins** had to be nimble during the latest round of patent litigation over vaping technology.

A few days before trial against R.J. Reynolds Vapor, the case was reassigned to U.S. District Judge Leonie Brinkema due to U.S. District Judge Liam O'Grady's unavailability. Then on the day before opening statements, co-plaintiff Altria settled with Reynolds, leaving Philip Morris (PMI) with fewer asserted patents and a shorter witness list.

PMI still persuaded an Eastern District of Virginia jury Wednesday that two of Reynolds' Vuse vaping devices infringe PMI patents and awarded \$10.75 million. PMI had been seeking \$37 million. Jurors also rejected Reynolds' attempt to invalidate claims of PMI's 10,104,911 patent.



(Credit: SimonDes via Wikimedia Commons)

Philip Morris International's Operation Center in Lausanne, Switzerland.

"We believe this is yet another demonstration of PMI's position as the clear innovation leader in new technologies that can help smokers switch to better alternatives," a representative of PMI said in a written statement.

Reynolds also has had plenty to cheer. Last year the company persuaded the International Trade Commission to ban Altria and PMI from selling their IQOS "heat not burn" device in the

United States. PMI and Altria are appealing that decision to the Federal Circuit.

Latham's team for PMI in last week's trial featured partners **Max Grant, Clem Naples, Greg Sobolski** and **Lawrence Gotts**; counsel **Thomas Yeh**; associate **Brett Sandford** and counsel **Dale Chang**. Altria was represented by Weil, Gotshal & Manges.

Jones Day represented R.J. Reynolds Vapor.