

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

HIGH OFF LIFE, LLC,

Plaintiff,

v.

FREEBANDZ PRODUCTIONS, LLC, and
SONY MUSIC HOLDINGS, INC.

Defendants.

Civil Action No.: 2:20-cv-1556

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff High Off Life, LLC for its Complaint against Defendants Freebandz Productions, LLC and Sony Music Holdings, Inc. (collectively “Defendants”), states and alleges as follows:

Introduction

1. High Off Life, LLC (“HOL” or “Plaintiff”) is a company with deep roots in the hip-hop community, particularly in Pennsylvania and the Atlanta area. HOL’s founder, Zach Richards, is a native of York, Pennsylvania. In 2004 while rapping under the name “Phene” (a play on “fiend”), Richards began using the mark “High Off Life” in relation to his music business to emphasize his focus on more positive, conscious subject matter. Richards was featured on hundreds of mixtapes, won five Central Pennsylvania Hip-Hop Awards (including Best Male Artist, Lyricist of the Year, and Album of the Year), and performed alongside some of the most respected artists in the genre across the country, including six straight years performing at the A3C Festival in Atlanta, Georgia and the SXSW Festival in Austin, Texas.

2. Beginning in 2009, HOL began manufacturing and selling HIGH OFF LIFE branded apparel, including t-shirts, sweatshirts, hats, tote bags, and other items. HOL owns the domain www.highofflife.com, where it sells its branded apparel and merchandise. Since 2009, Richards and

his associates have worn and advertised clothing bearing HIGH OFF LIFE marks at concerts, photoshoots, videos, and other events. The HIGH OFF LIFE brand has permeated everything Richards has been involved in for over a decade.

3. Richards and HOL have also put on events under the HIGH OFF LIFE brand since 2009, beginning with “High Off Life Concerts” during the Tuner Evolution Car Show (one of the biggest car shows in the U.S.) and hip-hop shows at other venues. From this experience, in 2017, Richards started a creative agency under the HIGH OFF LIFE brand, investing heavily in branding and marketing—and registering several U.S. trademarks for the HIGH OFF LIFE brand. Under that brand, HOL has produced hip-hop related content, regularly shooting music videos and managing projects and advertising for hip-hop artists and brands. HOL is responsible for helping artist and labels get over 350 million video views online.

4. In addition to creating content for others, HOL is widely known for producing a hip-hop focused commentary and freestyle rap show called “High Off Life TV,” which streams on YouTube at <https://www.youtube.com/user/HighOffLifeTV>. High Off Life TV features a freestyle rap series called “High Off Life Freestyles,” which has garnered more than three million views on YouTube and 10 million plus views on Facebook. Through many years of use, advertising, and considerable investment, HOL developed strong recognition between it and the HIGH OFF LIFE brand among consumers interested in hip-hop music and lifestyle.

5. Defendants Freebandz Productions, LLC (“Freebandz”) and Sony Music Holdings, Inc. (“Sony Music”) knowingly copied HOL’s marks in the release of an album by the rapper Future titled “High Off Life” on or about May 15, 2020.

6. Until shortly before release, the “High Off Life” album was supposed to be released under the title “Life is Good”.

7. The replacement title “High Off Life” bears no significant relationship to the album’s content.

8. In addition to marketing and selling the “High Off Life” album, Freebandz began marketing and selling “High Off Life” branded apparel and merchandise bearing marks that are

confusingly similar to HOL's registered and common law HIGH OFF LIFE marks. Freebandz is based in Atlanta—where HOL has had a significant presence in the hip-hop scene for over a decade—and Freebandz' associates are familiar with and know of HOL and its long-time use of and association with the HIGH OFF LIFE marks.

9. Defendants engaged in a wide-spread advertising campaign for the “High Off Life” album and “High Off Life” branded apparel and merchandise, focusing especially on the hip-hop market segment that has been central to HOL's business since 2009. As a result, HOL has suffered significant reverse confusion, with consumers now believing HOL to be associated or affiliated with Defendants. HOL has also lost its placement on search engines such as Google to links associated with Defendants' album and apparel, causing interested customers to be unable to find HOL's website to make purchases and damaging HOL's goodwill. Overnight, Defendants destroyed HOL's investment of many years and many thousands of dollars into building consumer recognition of HOL's HIGH OFF LIFE brand.

10. Defendants' actions infringe HOL's registered trademarks for HIGH OFF LIFE marks in apparel, advertising services, and music entertainment, along with common law rights in the HIGH OFF LIFE brand.

11. On June 12, 2020, HOL sent cease-and-desist letters to Defendants demanding that Defendants immediately cease their infringing activities. Defendants did not respond to HOL's cease-and-desist letters, and—after receiving the letters—Defendants *expanded* sales of infringing “High Off Life” branded apparel.

12. HOL brings this action for trademark infringement and unfair competition under the Trademark Act of 1946, 15 U.S.C. §§ 1051 *et seq.* (“Lanham Act”). Among other relief, HOL asks this Court to award HOL monetary damages and to treble that award, require Defendants to disgorge all profits from sales of infringing merchandise and apparel, and award HOL its attorneys' fees and costs.

The Parties

13. Plaintiff High Off Life, LLC is a limited liability company organized and existing under the laws of the Commonwealth of Pennsylvania, with its principal place of business at 606 Liberty Ave., 3rd Floor #107, Pittsburgh, PA 15222.

14. Defendant Freebandz Productions, LLC is a limited liability company organized and existing under the laws of Georgia, with its principal place of business at 3588 Highway 138, Suite 274, Stockbridge, GA, 30281. On information and belief, Freebandz is owned by Future, distributes, markets, and sells the infringing apparel and merchandise, and was involved in producing the infringing “High Off Life” album.

15. Defendant Sony Music Holdings, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at with its principal place of business at 25 Madison Avenue, New York, NY 10010. On information and belief, Sony Music—through its Epic Records label—distributes, markets, and sells the infringing album.

Jurisdiction and Venue

16. This Court has subject matter jurisdiction under section 39 of the Lanham Act, 15 U.S.C. § 1121, and under 28 U.S.C. §§ 1331 and 1338. Subject matter jurisdiction over HOL’s related common law claim is proper pursuant to 28 U.S.C. §§ 1338 and 1367.

17. This Court has personal jurisdiction over Defendants because, on information and belief, (a) Defendants have marketed, distributed, offered for sale, and sold the infringing apparel and the infringing album to persons within the Commonwealth of Pennsylvania; (b) Defendants regularly transact and conduct business within the Commonwealth of Pennsylvania; and (c) Defendants have engaged in infringing conduct within Pennsylvania and have purposefully directed their activities at Pennsylvania.

18. This District is a proper venue pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to HOL’s claims occurred in this District.

Facts Underlying the Causes of Action

HOL Owns Family of HIGH OFF LIFE Marks

19. HOL is the owner of federal trademark registration Reg. No. 5,690,553, issued by the United States Patent and Trademark Office (“PTO”) on March 5, 2019, for the HIGH OFF LIFE mark in International Class 25 for “Shirts; Shirts and short-sleeved shirts; T-shirts; Athletic apparel, namely, shirts, pants, jackets, footwear, hats and caps, athletic uniforms; Graphic T-shirts; Short-sleeve shirts; Short-sleeved or long-sleeved t-shirts; Wearable garments and clothing, namely, shirts.”

20. HOL is the owner of federal trademark registration Reg. No. 5,690,565, issued by the PTO on March 5, 2019, for the HIGH OFF LIFE mark in International Class 35 for “Advertisement for others on the Internet; Advertising on the Internet for others; Advertising services, namely, creating corporate and brand identity for others; Direct marketing advertising for others; Dissemination of advertising for others via the Internet; On-line advertising services for others; Placing advertisements for others; Preparation of custom advertisements for others; Preparing and placing advertisements for others.”

21. HOL is the owner of federal trademark registration Reg. No. 5,569,671, issued by the PTO on September 25, 2018, for the word mark HIGH OFF LIFE ENTERTAINMENT in International Class 41 for “Entertainment services in the nature of recording, production and post-production services in the field of music.”

22. As described above, HOL has been using its HIGH OFF LIFE marks in relation to clothing, hip-hop music, events promotion, and branding and advertising since at least early 2009. HOL has invested significant sums of money and time into building recognition among consumers of its HIGH OFF LIFE brands in these areas and as a result has acquired common law rights to HIGH OFF LIFE marks.

Defendants’ Copying Destroys HOL’s Business Goodwill and Recognition

23. Future and Freebandz are based in Atlanta, Georgia. HOL was based in and operated out of Atlanta for nearly 10 years, often at the same events and shows as Future and members of

Freebandz. Individuals that are part of Freebandz have knowledge of HOL's founder, Richards, and his long-time use of HIGH OFF LIFE marks to identify his music and business ventures.

24. In disregard of HOL's rights—particularly in the hip-hop music entertainment and apparel markets—Sony Music, through its Epic Records label, released an album by Future titled “High Off Life” in May 2020 (the “Infringing Album”).

25. While the album was originally titled “Life is Good”—after the hit collaboration song between Future and Drake with the same name—the title was changed to “High Off Life” at the last minute due to concern about coronavirus-related negative press.

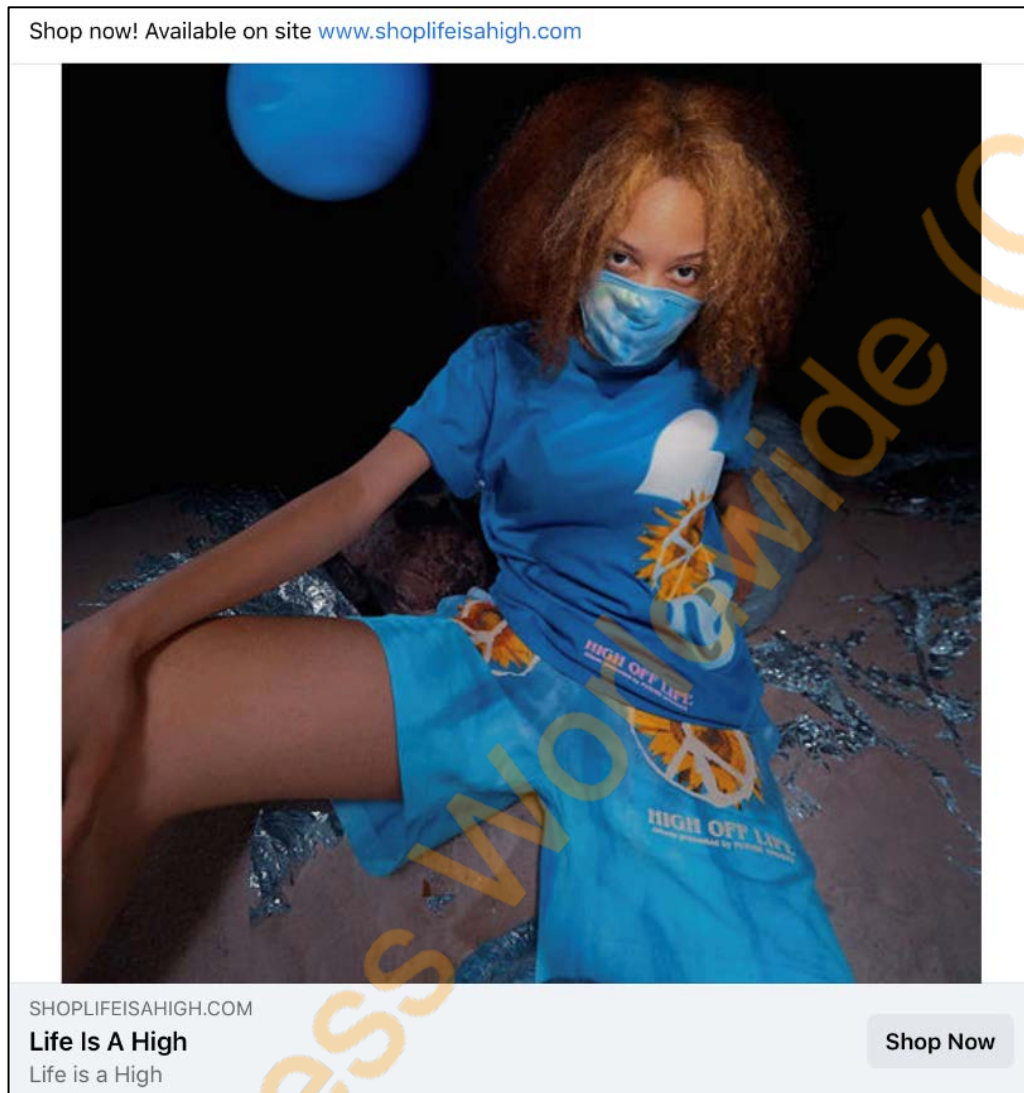
26. The album title “High Off Life” bears no relation to the expressive content of the album and is an exact copy of HOL's registered and widely-used marks.

27. Further, Freebandz is producing, marketing, distributing, offering for sale, and selling apparel and merchandise bearing HIGH OFF LIFE marks (the “Infringing Goods”) that are confusingly similar to HOL's registered and common law marks. Freebandz is selling the Infringing Goods nationwide on its websites, <https://shop.freebandz.com/collections/highofflife> and <https://shoplifeisahigh.com/> and through its Instagram “Freebandz Shop” at @shopfbg. Screenshots of certain Infringing Goods as displayed on Freebandz' sites are shown below.





28. The marks used by Freebandz and Sony Music on the Infringing Goods and Infringing Album are identical or nearly identical to HOL's registered and common law trademarks. Freebandz and Sony Music are selling their goods branded with the "High Off Life" mark in direct competition to HOL, both in the apparel and hip-hop music entertainment markets. For example, the screenshot below shows an advertisement for Freebandz' Infringing Goods that was served through Facebook to HOL's founder, Richards, while he was in Pennsylvania.



29. Freebandz is also advertising and selling Infringing Goods through its Instagram shop. The screenshot below shows an advertisement for Freebandz' Infringing Goods that was served through Instagram to HOL's founder, Richards, while he was in Pennsylvania.



30. HOL put Defendants on notice of its trademarks in cease-and-desist letters sent to each individual defendant on June 12, 2020. Defendants ignored the letters, and Freebandz subsequently expanded sales of apparel bearing infringing “High Off Life” marks. For example, the screenshot below from Freebandz’ Instagram shop shows Freebandz began selling additional Infringing Goods on September 3, 2020, several months after receiving HOL’s cease-and-desist letters.



31. Even without Plaintiff's cease-and-desist letters, Defendants did know, or must have known, about Plaintiff's registered trademarks and common law rights to HIGH OFF LIFE, but chose to ignore them.

32. Defendants' infringing actions have left HOL no choice but to file this suit to protect its valuable intellectual property.

33. HOL has long been involved in the Atlanta hip-hop community, and associates of Future's have deep knowledge of HOL and its founder, Richards. That makes it inconceivable neither Future nor Freebandz were aware that HOL had used its HIGH OFF LIFE marks for many years in relation to apparel and hip-hop-related services and productions.

34. HOL used its HIGH OFF LIFE marks extensively and continuously before Sony Music and Freebandz began producing, marketing, and selling the Future “High Off Life” album and apparel and merchandise bearing the “High Off Life” mark.

35. Due to HOL’s exclusive and continuous use of its distinctive marks—and the substantial goodwill HOL has established with thousands of customers and millions of online viewers—the use by Freebandz and Sony Music of the “High Off Life” marks are likely to cause consumer confusion as to whether the apparel and album originate from or have some affiliation with HOL. In addition, Freebandz’ and Sony Music’s widespread distribution and advertising of the “High Off Life” album and apparel have created reverse confusion, causing consumers who encounter HOL’s products and productions to now believe they are associated with Freebandz and Sony Music.

36. The actions by Freebandz and Sony Music have caused irreparable harm to HOL and constitute willful trademark infringement and unfair competition in violation of Section 43 of the Lanham Act.

FIRST CLAIM FOR RELIEF

(Federal Trademark Infringement)

37. HOL repeats and incorporates the allegations in paragraphs 1 through 36, inclusive, as if the same were more fully set forth herein at length.

38. Defendants’ use of confusingly similar imitations of HOL’s HIGH OFF LIFE marks on the Infringing Goods and Infringing Album is likely to cause confusion, deception, and mistake by creating the false and misleading impression that Defendants’ goods are manufactured or distributed by HOL, or are associated or connected with HOL, or have the sponsorship, endorsement, or approval of HOL.

39. Defendants’ use of confusingly similar imitations of HOL’s HIGH OFF LIFE marks on the Infringing Goods and Infringing Album in conjunction with Defendants’ massive advertising campaign is likely to cause and has caused reverse confusion, deception, and mistake by creating the false and misleading impression that HOL’s goods are manufactured or distributed by Defendants or are associated, sponsored by, or connected with Defendants.

40. Defendants' Infringing Goods and Infringing Album bear marks that are confusingly similar to HOL's federally registered marks, Reg. No. 5,690,553, Reg. No. 5,690,553, and Reg. No. 5,569,671 (the "HIGH OFF LIFE Registered Marks"), in violation of 15 U.S.C. § 1114. Defendants' activities are causing and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception of members of the trade and public, and, additionally, injury to HOL's goodwill and reputation, for which HOL has no adequate remedy at law.

41. Defendants' actions demonstrate they willfully adopted the "High Off Life" marks on the Infringing Goods and Infringing Album while knowing of HOL's HIGH OFF LIFE Registered Marks and the long-term use and significant goodwill HOL had built in those marks.

42. Defendants caused and are likely to continue causing substantial injury to the public and to HOL, and HOL is entitled to injunctive relief and to recover Defendants' profits, actual damages, enhanced profits and damages, costs, and reasonable attorneys' fees under 15 U.S.C. §§ 1114, 1116, and 1117.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor and against the Defendants as more fully set forth herein.

SECOND CLAIM FOR RELIEF

(Federal Unfair Competition)

43. HOL repeats and incorporates the allegations in paragraphs 1 through 42, inclusive, as if the same were more fully set forth herein at length.

44. Defendants' use of a confusingly similar imitations of HOL's HIGH OFF LIFE marks on the Infringing Goods and Infringing Album has caused and is likely to cause confusion, deception, and mistake by creating the false and misleading impression that: (a) Defendants' goods are manufactured or distributed by HOL, or are affiliated, connected, or associated with HOL, or have the sponsorship, endorsement, or approval of HOL; and/or (b) HOL's goods are manufactured or distributed by Defendants or are affiliated, connected, or associated with Defendants.

45. Defendants have made false representations, false descriptions, and false designations of, on, or in connection with their goods in violation of 15 U.S.C. § 1125(a). Defendants' activities

have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception of members of the trade and public, and, additionally, injury to HOL's goodwill and reputation as symbolized by HOL's HIGH OFF LIFE marks, for which HOL has no adequate remedy at law.

46. Defendants' actions demonstrate an intentional and willful intent to trade on the goodwill associated with HOL's HIGH OFF LIFE marks to the great and irreparable injury of HOL.

47. Defendants' conduct has caused, and is likely to continue causing, substantial injury to the public and to HOL. HOL is entitled to injunctive relief and to recover Defendants' profits, actual damages, enhanced profits and damages, costs, and reasonable attorneys' fees under 15 U.S.C. §§ 1125(a), 1116, and 1117.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor and against the Defendants as more fully set forth herein.

THIRD CLAIM FOR RELIEF

(Common Law Trademark Infringement and Unfair Competition)

48. HOL repeats and incorporates the allegations in paragraphs 1 through 48, inclusive, as if the same were more fully set forth herein at length.

49. Defendants' acts constitute common law trademark infringement and unfair competition, and have created and will continue to create, unless restrained by this Court, a likelihood of confusion to the irreparable injury of HOL. HOL has no adequate remedy at law for this injury.

50. On information and belief, Defendants acted with full knowledge of HOL's use of, and statutory and common law rights to, HOL's HIGH OFF LIFE marks and without regard to the likelihood of confusion of the public created by Defendants' activities.

51. Defendants' actions demonstrate an intentional and willful intent to trade on the goodwill associated with HOL's HIGH OFF LIFE marks to the great and irreparable injury of HOL.

52. As a result of Defendants' acts, HOL has been damaged in an amount not yet determined or ascertainable. At a minimum, however, HOL is entitled to injunctive relief and an accounting of Defendants' profits, damages, and costs.

WHEREFORE, Plaintiff requests this Honorable Court enter judgment in its favor and against the Defendants as more fully set forth herein.

PRAYER FOR RELIEF

WHEREFORE, HOL prays that:

1. Defendants and all of their agents, officers, employees, representatives, successors, assigns, attorneys, and all other persons acting for, with, by, through or under authority from Defendants, or in concert or participation with Defendants, and each of them, be enjoined from:
 - a. advertising, marketing, promoting, offering for sale, distributing, or selling the Infringing Goods and the Infringing Album;
 - b. using the infringing HIGH OFF LIFE marks on or in connection with any of Defendants' goods;
 - c. using the HIGH OFF LIFE marks or any other copy, reproduction, colorable imitation, or simulation of HOL's HIGH OFF LIFE marks on or in connection with Defendants' goods;
 - d. using any trademark, name, logo, design, or source designation of any kind on or in connection with Defendants' goods or services that is a copy, reproduction, colorable imitation, or simulation of, or confusingly similar to any of HOL's trademarks, names, or logos;
 - e. using any trademark, name, logo, design, or source designation of any kind on or in connection with Defendants' goods that is likely to cause confusion, mistake, deception, or public misunderstanding that such goods or services are produced or provided by HOL, or are sponsored or authorized by HOL, or are in any way connected or related to HOL;
 - f. using any trademark, name, logo, design, or source designation of any kind on or in connection with Defendants' goods that is likely to cause confusion, mistake, deception, or public misunderstanding that the goods or services produced or provided by HOL in any way connected or related to Defendants;

- g. passing off, palming off, or assisting in passing off or palming off Defendants' goods as those of HOL, or otherwise continuing any and all acts of unfair competition as alleged in this Complaint; and
 - h. advertising, promoting, offering for sale, or selling the Infringing Goods or other similar goods bearing infringing marks.
2. Defendants be compelled to account to HOL for any and all profits derived by Defendants from the sale or distribution of the Infringing Goods and Infringing Album.
 3. HOL be awarded all damages caused by the acts forming the basis of this Complaint.
 4. Based on Defendants' knowing and intentional use of a confusingly similar imitation of HOL's HIGH OFF LIFE marks, the damages awarded be trebled and the award of Defendants' profits be enhanced as provided for by 15 U.S.C. § 1117(a).
 5. Defendants be required to pay to HOL the costs and reasonable attorneys' fees incurred by HOL in this action pursuant to any applicable statutes or case law, including 15 U.S.C. § 1117(a).
 6. HOL be awarded prejudgment and post-judgment interest on all monetary awards.
 7. HOL be granted such other and further relief as the Court may deem just.

JURY TRIAL DEMAND

HOL respectfully demands a trial by jury on all claims and issues so triable.

Dated: October 15, 2020

Respectfully submitted,

ECKERT SEAMANS CHERIN & MELLOTT, LLC

By: /s/ Ray F. Middleman
Ray F. Middleman (Pa. ID 40999)
Shane Valenzi (Pa. ID 322025)

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Attorneys for Plaintiff High Off Life, LLC

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
HIGH OFF LIFE, LLC
(b) County of Residence of First Listed Plaintiff Allegheny (PA)
(c) Attorneys (Firm Name, Address, and Telephone Number)
Ray F. Middleman, Esq.; Eckert Seamans Cherin & Mellott, LLC; 600 Grant St. Ste 600 Pgh PA 15219 (412-566-6000)

DEFENDANTS
FREEBANDZ PRODUCTIONS, LLC and SONY MUSIC HOLDINGS INC.
County of Residence of First Listed Defendant Henry (GA)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State [X] 1 [] 1
Citizen of Another State [] 2 [] 2
Citizen or Subject of a Foreign Country [] 3 [] 3
PTF DEF
Incorporated or Principal Place of Business In This State [] 4 [] 4
Incorporated and Principal Place of Business In Another State [] 5 [X] 5
Foreign Nation [] 6 [] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 210 Land Condemnation, 310 Airplane, 422 Appeal 28 USC 158, etc.

V. ORIGIN (Place an "X" in One Box Only)
[X] 1 Original Proceeding
[] 2 Removed from State Court
[] 3 Remanded from Appellate Court
[] 4 Reinstated or Reopened
[] 5 Transferred from Another District (specify)
[] 6 Multidistrict Litigation - Transfer
[] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 Pa. C.S.A. Section 1332(a)(1)
Brief description of cause:
Trademark infringement

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. []
DEMAND \$ >75,000
CHECK YES only if demanded in complaint:
JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY
(See instructions):
JUDGE _____ DOCKET NUMBER _____

DATE 10/15/2020
SIGNATURE OF ATTORNEY OF RECORD s/ Ray F. Middleman

FOR OFFICE USE ONLY
RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

JS 44A REVISED June, 2009
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

PART A

This case belongs on the (Erie Johnstown Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in _____ County and that the _____ resides in _____ County.

PART B (You are to check ONE of the following)

1. This case is related to Number _____ . Short Caption _____
2. This case is not related to a pending or terminated case.

DEFINITIONS OF RELATED CASES:

CIVIL: Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

EMINENT DOMAIN: Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

HABEAS CORPUS & CIVIL RIGHTS: All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

PART C

I. CIVIL CATEGORY (Select the applicable category).

1. Antitrust and Securities Act Cases
2. Labor-Management Relations
3. Habeas corpus
4. Civil Rights
5. Patent, Copyright, and Trademark
6. Eminent Domain
7. All other federal question cases
8. All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9. Insurance indemnity, contract and other diversity cases.
10. Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

Date: October 15, 2020

s/ Raymond F. Middleman

ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.