

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

JUUL LABS, INC.,

Plaintiff,

v.

RAK ENTERPRISE LLC,

Defendant.

Civil Action No.

**PLAINTIFF'S COMPLAINT FOR TRADEMARK INFRINGEMENT, FALSE
DESIGNATION OF ORIGIN, UNFAIR COMPETITION, AND STATUTORY UNFAIR
TRADE PRACTICES**

Plaintiff JUUL LABS, INC. ("JLI"), by and through its undersigned attorneys, files this Complaint against defendant RAK ENTERPRISE LLC, a Connecticut limited liability company ("Defendant"), and hereby alleges as follows:

PARTIES

1. JLI is a corporation organized and existing under the laws of the State of Delaware.
2. Defendant RAK Enterprise LLC is a limited liability company organized and existing under the laws of the State of Connecticut and having a principal place of business at 715 Colman St., New London, Connecticut 06320. Defendant RAK Enterprise LLC owns and operates the Sunoco – Colman Express retail business at that same location.

NATURE OF THE ACTION

3. JLI is the designer, manufacturer, and distributor of JUUL-branded electronic nicotine delivery systems ("ENDS") and other related products (collectively, "the JUUL Products").
4. The JUUL Products have become targets for individuals and entities who wish to

take a "free ride" on the commercial success of the JUUL brand that JLI has spent considerable effort and resources to build.

5. Specifically, wrongdoers have counterfeited JUUL Products by illegally manufacturing, selling, and distributing fake, copied, and non-genuine versions of JUUL Products and related packaging bearing JUUL trademarks.

6. Through this action, JLI combats the sale and distribution of these unlawful counterfeit products.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this case pursuant to 15 U.S.C. §1121 and 28 U.S.C. §§1331, 1338(a), and 1338(b) because (i) claims herein arise out of federal trademark laws as codified in 15 U.S.C. §1114 and 15 U.S.C. §1125(a) (*i.e.*, trademark infringement, false designation of origin, and unfair competition); and (ii) the unfair business practices claim herein is brought with and is related to the substantial claims based on trademark laws. This Court also has supplemental jurisdiction over JLI's claims arising under common law or state law pursuant to 28 U.S.C. §1367(a) because the claims are so related to JLI's federal law claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

8. This Court has general personal jurisdiction over Defendant due to its residence and business activities in this judicial district. This Court has specific personal jurisdiction over Defendant due to the nature and quality of its actions toward the state in which this Court is located. The claims asserted herein arise out of and relate to such actions and this Court's exercise of specific personal jurisdiction over Defendant comports with traditional notions of fair play and substantial justice.

9. Venue in this judicial district is proper for these claims pursuant to 28 U.S.C. §1391(b). As described herein, Defendant resides in this judicial district, a substantial part of the events or omissions giving rise to these claims occurred in this judicial district, and Defendant has extensive contacts with this judicial district relating to JLI's claims. Defendant conducts regular and systematic business transactions in this judicial district, including direct sales to consumers in this judicial district, which violate the intellectual property rights of JLI.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

JUUL Trademarks and Products

10. JLI is the exclusive owner of federally-registered, registration-pending, and common law trademarks. For example, JLI owns the following United States Trademark Registrations:

Depiction of Trademark	Registration No. and Date	(1) First Use (2) In Commerce
JUUL®	4,818,664 (09-22-2015)	(1) 06-01-2015 (2) 06-01-2015
JUUL®	4,898,257 (02-09-2016)	(1) 06-01-2015 (2) 06-01-2015
JUULpods®	5,918,490 (11-26-2019)	(1) 06-30-2015 (2) 06-30-2015

11. True and correct copies of the Registration Certificates for the above-listed trademarks are attached hereto as Exhibit A. Hereinafter, JLI may sometimes utilize the phrase "the JUUL Marks" to refer to, collectively, JLI's federally-registered, registration-pending, and common law trademarks.

12. JLI creates, manufactures, distributes, markets, and sells JUUL Products, including the JUUL system comprised of: (i) a device containing a rechargeable battery, control circuitry and a receptacle for a cartridge or pod, (ii) a disposable cartridge or pod ("JUULpod") that can be inserted into the device, has a heating chamber and is prefilled with a proprietary nicotine e-liquid formulation, and (iii) a charger for charging the device, and related accessories.

13. The JUUL Marks appear clearly on JUUL Products, as well as the packaging as shown in attached Exhibit B, and in marketing materials related to such products.

14. The JUUL Marks, as well as the goodwill arising from such trademarks, have never been abandoned.

15. JLI continues to preserve and maintain its rights with respect to the JUUL Marks, including those registered with the United States Patent and Trademark Office.

16. Due in large part to the substantial commercial success of the JUUL Products, the JUUL brand is well-known to consumers and has garnered extensive coverage by the media.

17. Through the extensive use of the JUUL Marks, JLI has spent substantial time, money,

and effort in developing consumer recognition and awareness of its brand. JLI markets JUUL Products nationwide to current adult smokers, including through its website, and sells its products nationwide, including in Connecticut, to current adult smokers through its website and through its authorized network. JLI also markets and sells its products internationally. JLI has built up and developed significant customer goodwill in its entire product line and JUUL Products are immediately identified by the JUUL Marks.

Sales of Counterfeit Goods

18. Beginning on a date that is currently unknown to JLI, Defendant, without the consent of JLI, has offered to sell and sold, and/or facilitated the offer and sale of, goods that were neither made by JLI nor by a manufacturer authorized by JLI, all by using reproductions, counterfeits, copies and/or colorable imitations of JUUL Products and the JUUL Marks ("Counterfeit Goods").

19. JLI has not authorized any third party, including Defendant, to make or sell ENDS or other types of products in connection with the JUUL Marks. The Counterfeit Goods sold by Defendant are therefore not manufactured in accordance with JLI's own stringent quality controls but are instead manufactured outside of JLI's knowledge and control, using unknown substances and materials, in unknown locations and with unknown manufacturing requirements/controls.

20. The Counterfeit Goods sold by Defendant bear counterfeit and confusingly similar imitations of the JUUL Marks in a manner likely to be confused with genuine JUUL Products.

21. For example, on November 25, 2019, a representative of JLI made an in-person purchase of a Counterfeit Good for sale at the Sunoco – Colman Express retail business owned and operated by Defendant located at 715 Colman St., New London, Connecticut 06320 (the "Sunoco – Colman Express Business"). A true and correct image of the counterfeit product purchased on November 25, 2019 is attached hereto as Exhibit C. JLI subsequently inspected the product purchased on November 25, 2019 and confirmed that the purchased product is in fact counterfeit.

Cease-and-Desist Correspondence to Defendant

22. On December 13, 2019, JLI's counsel mailed a cease-and-desist correspondence to Defendant. A true and correct copy of this correspondence is attached hereto as Exhibit D. The cease-

and-desist correspondence provided specific notice of the following, among other items: (i) JLI's confirmation that goods sold by Defendant are in fact counterfeit goods; (ii) JLI's demand that Defendant cease the sale, manufacture, marketing, and importation of Counterfeit Goods and all other unauthorized use of JLI's intellectual property; (iii) JLI's ownership of the JUUL Marks; (iv) the statutory prohibition of the sale of Counterfeit Goods and all other unauthorized use of JLI's intellectual property, and JLI's right to seek monetary judgments against infringers; and (v) Defendant's willful infringement under federal law would be established by any further sales of Counterfeit Goods or any other unauthorized use of JLI's intellectual property.

23. The December 13, 2019 cease-and-desist correspondence requested that Defendant contact JLI's counsel to discuss pre-litigation resolution of the legal issues arising from the sale of the Counterfeit Goods and all other unauthorized use of JLI's intellectual property. Defendant, however, did not contact JLI's counsel.

Continued Sales (Grey Market Goods and Counterfeit Goods)

24. Beginning on a date that is currently unknown to JLI, Defendant, without the consent of JLI and within the United States, has offered to sell and sold JUUL Products which, as stated on the packaging of the products themselves, are only authorized for sale in particular countries outside the United States ("Grey Market Goods"). Because the Grey Market Goods are labeled and packaged to comply with the regulations of the authorized foreign marketplaces, the labeling and packaging of the Grey Market Goods are not in compliance with the regulations of the U.S. Food and Drug Administration.

25. For example, on June 16, 2020, a representative of JLI made an in-person purchase of a Grey Market Good for sale at the Sunoco – Colman Express Business. A true and correct image of the product purchased on June 16, 2020 is attached hereto as Exhibit E. JLI subsequently inspected the product purchased on June 16, 2020 and confirmed that the purchased product is in fact a diverted grey market product.

26. Further, also on June 16, 2020, a representative of JLI made an in-person purchase of a Counterfeit Good for sale at the Sunoco – Colman Express Business. A true and correct image of

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