

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

FULL CIRCLE UNITED, LLC,

*Plaintiff,*

v.

BAY TEK ENTERTAINMENT, INC.,

*Defendant.*

Civ. Action No. 1:20-cv-03395

**JURY TRIAL DEMANDED**

BAY TEK ENTERTAINMENT, INC.,

*Counterclaim Plaintiff,*

v.

FULL CIRCLE UNITED, LLC,

*Counterclaim Defendant,*

*and*

ERIC PAVONY,

*Additional Counterclaim  
Defendant.*

**AMENDED COMPLAINT**

Plaintiff Full Circle United, LLC (“Full Circle”), through undersigned counsel, brings this Amended Complaint against Defendant Bay Tek Entertainment, Inc. (“Bay Tek”) and alleges as follows:

## SUMMARY OF THE ACTION

1. In this case, Bay Tek is a licensor with an express contractual obligation to use its “best efforts” to promote the business of Full Circle, its licensee. Bay Tek chose to try to destroy Full Circle instead.

2. Full Circle launched the first competitive adult Skee-Ball league, evolving the boardwalk children’s game into a social, competitive sport played by adults. As part of its “National Skee-Ball League” (“NSBL”), Full Circle places competition-grade Skee-Ball lanes in venues and operates them at a substantial profit. The NSBL conducts live Skee-Ball tournaments using the lanes and markets the broadcast of those tournaments.

3. Over the last few years, demand for the lanes, tournaments, and broadcasts (collectively, “Live Play”) has been robust. If not for Bay Tek’s actions described below, Full Circle would have placed lanes in hundreds of venues throughout the country, the NSBL would be broadcast on ESPN, and Full Circle would be generating millions per year in profit from Live Play.

4. Full Circle originally obtained its license to use the Skee-Ball mark in the Live Play business from Skee-Ball, Inc. (“SBI”), the prior owner of the mark. The license agreement required SBI to use its “best efforts” to help Full Circle succeed. Bay Tek subsequently acquired the Skee-Ball mark from SBI, assuming the license and its obligation to help Full Circle grow the Live Play business.

5. Bay Tek did not comply with its obligations. Instead, seizing an opportunity to enter the Live Play market for its own profit, Bay Tek embarked on a scheme to destroy Full Circle by starving it of funds, equipment, and business opportunities, and by placing the license in dispute.

6. Each time Full Circle attempted to mitigate the damage caused by Bay Tek's wrongs, Bay Tek would dig deeper, ultimately committing at least six clearly unlawful acts (that Full Circle is thus far aware of) in its scheme to deprive Full Circle of the fruits of its license.

7. First, when Bay Tek learned Full Circle was raising funds to purchase a significant number of lanes, Bay Tek intervened, assured Full Circle that it did not need investors, and agreed to build and finance the lanes itself. After building only ten lanes, Bay Tek breached the agreement to build and finance lanes, leaving Full Circle without sufficient revenue to fund its growth plan.

8. Second, when Full Circle reached an agreement in principle with a partner who would either buy or manufacture the lanes for Full Circle, Bay Tek tortiously interfered by intimidating the partner into backing out of the deal with Full Circle.

9. Third, Bay Tek prevented Full Circle from obtaining financing from third parties by frivolously placing Full Circle's license in dispute. Bay Tek knew Full Circle could not obtain financing or investment if it could not confidently represent it had the right to operate Skee-Ball Live Play, so, Bay Tek invented obligations in the license for Full Circle to comply with and accused Full Circle of breaching those obligations. Even after Full Circle complied with the phantom obligations, Bay Tek continued to assert that Full Circle was in breach, but repeatedly refused to explain the basis for the claim such that Full Circle would be unable to cure the supposed breach.

10. Fourth, Bay Tek refused to build any lanes for Full Circle, even if Full Circle paid for them in full, and threatened Full Circle that it would terminate the license if Full Circle engaged another manufacturer to build lanes.

11. Fifth, days after Full Circle confidentially presented its "Skee-Ball Live" branding idea to Bay Tek, Bay Tek registered the trademark "Skee-Ball Live" without Full Circle's

knowledge or consent. Then, Bay Tek told Full Circle that it could not use the phrase “Skee-Ball Live” in connection with its Skee-Ball Live Play license, despite previously authorizing Full Circle to operate and promote its Skee-Ball Live Concept using the phrase.

12. Finally, Bay Tek broke the camel’s back when, after Full Circle advised Bay Tek of a deal with ESPN to broadcast NSBL tournaments, Bay Tek killed the deal, threatening to sue Full Circle and ESPN if Full Circle entered into the broadcast agreement.

13. Bay Tek’s breaches and tortious interference have caused Full Circle millions of dollars in damages, including lost profits from the Live Play market that Bay Tek was obligated to use its best efforts to help Full Circle develop.

#### **PARTIES**

14. Plaintiff Full Circle is a New York limited liability company with its principal place of business at 1810 East 12th Street, Austin, Texas 78702.

15. Defendant Bay Tek is a Wisconsin corporation with its principal place of business at 1077 East Glenbrook Drive, Pulaski, Wisconsin 54162. Prior to November 8, 2018, Bay Tek was known as and operated as Bay Tek Games, Inc.

16. Full Circle and Bay Tek, by assignment and assumption, are parties to the License Agreement (as defined more specifically below), which incorporates a Settlement Agreement. The License Agreement and Settlement Agreement were executed in and are to be performed in substantial part in Brooklyn, New York.

#### **JURISDICTION AND VENUE**

17. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) as the parties are citizens of different States and the amount in controversy is greater than \$75,000.00. Venue is proper in this district due to the express written agreement of the parties. The License Agreement

provides: “[a]ny legal action or other legal proceeding relating to this Agreement must be brought or otherwise commenced in a court of competent jurisdiction located in the boundaries of the Eastern District of New York; whether that court is a federal court or state court will depend on the nature of the case.”

18. Venue is also proper in this district pursuant to 28 U.S.C. § 1391(b)(1) because Bay Tek is subject to personal jurisdiction in this district and is thus “deemed to reside” here for venue purposes under 28 U.S.C. § 1391(c)(2).

19. Furthermore, venue is also proper in this district pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to the claim occurred in this district. The License Agreement and Settlement Agreement were executed here, Full Circle is a New York entity, and communications between the parties relevant to the claim have occurred here.

### **GENERAL ALLEGATIONS**

20. Skee-Ball is a game played with an alley roller, similar in concept to bowling. Skee-Ball is played on a machine composed of an inclined lane leading to a ramp, with various rings corresponding to different point values arranged on a backboard positioned beyond the ramp. To play, the player rolls a ball down the lane so that the ball becomes airborne, aiming for the ball to land in one of the rings to earn points.

21. Skee-Ball began as an outdoor amusement game in 1908. It gained popularity later, as a boardwalk attraction and arcade game, before becoming an amusement industry staple, and a popular arcade game played across the world.

22. The term “SKEE-BALL” is a registered trademark in connection with “a game in the nature of a bowling game and parts thereof” (the “Mark”). The Mark was first registered in 1929. Since then, the Mark has changed hands several times.

23. For close to a century, each owner of the Mark has manufactured Skee-Ball branded alley rollers (“Skee-Ball Lanes” or “Skee-Ball branded Lanes”) and used the Mark to otherwise promote the Skee-Ball brand, and/or licensed others to do so.

### **Relationship Between the Parties**

24. Non-party Skee-Ball, Inc. (“SBI”) was the owner of the Mark for almost four decades until 2016.

25. During that time, SBI manufactured several versions of Skee-Ball Lanes, and licensed the Mark to others, including Full Circle.

26. Plaintiff Full Circle is a marketing, promotions and entertainment company that, among other things, owns and operates the National Skee-Ball League (“NSBL”). The NSBL creates, conducts, and manages competitive Skee-Ball leagues, events, and tournaments across the country.

27. Full Circle is the owner of the trademark “BREWSKEE-BALL®”<sup>1</sup> (the “Brewskee-Ball Mark”). In addition to the NSBL, Full Circle owns and operates Skee-Ball leagues, events and tournaments under the Brewskee-Ball brand.

28. SBI granted Full Circle the exclusive license to use the Mark for Live Play pursuant to the terms of the License Agreement. Live Play is specifically defined in the License Agreement, which definition is adopted herein.

29. In or around 2000, Bay Tek, operating as Bay Tek Games, Inc., started producing its own line of alley rollers, and became a direct competitor of SBI.

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<sup>1</sup> BREWSKEE-BALL®” is a trademark registered on the Principal Registered of the United States Patent and Trademark Office, U.S. Trademark Reg. No. 3,389,014, in connection with “[e]ntertainment in the nature of skee-ball games; entertainment services, namely arranging and conducting skee-ball competitions”, among other things.

30. In 2016, Bay Tek acquired the Mark from SBI and assumed the License Agreement, with Full Circle's consent.

**Full Circle Creates the Skee-Ball Live Play Market,  
Revitalizing Skee-Ball as a Game and a Brand**

31. For over a century, Skee-Ball existed almost exclusively within the amusement market and remained essentially unaltered in concept and design.

32. Before Full Circle created Live Play, Skee-Ball was generally considered an old-fashioned children's game.

33. Full Circle is largely responsible for popularizing Skee-Ball Live Play: An innovative concept of Skee-Ball as an adult social and competitive league-based sport, and a dynamic new market for Skee-Ball leagues, events and tournaments for adults.

34. In 2005, Eric Pavony ("Pavony"), the founder, President and sole member of Full Circle, and a former partner launched the first Live Play league, called Brewskee-Ball by bringing Skee-Ball Lanes into bars, and organizing adults into groups to play the game competitively, like a sport. Participants, referred to as "rollers," competed in league events and tournaments using rules, scoring strategies and terminology they invented specifically for Skee-Ball Live Play.

35. Later, Pavony formed Full Circle to operate and expand Brewskee-Ball.

36. Over the next five years, Full Circle focused its efforts on bringing Skee-Ball to a new demographic, and generating interest in Live Play. It expanded its league within New York, and established the league in other states.

37. Pavony opened a bar dedicated to Skee-Ball, called Full Circle Bar in Brooklyn, New York, then, later, another in Austin, Texas.

38. Full Circle Bar became the flagship venue for Live Play, a place where Full Circle conducted Live Play events and tournaments, and, more importantly, cultivated a unique playful and inclusive culture around Live Play, attracting a growing community of rollers.

39. Due to Full Circle's efforts and creativity, a new adult, competitive market for Skee-Ball emerged, with Brewskee-Ball leagues, and leagues modeled after it, forming in neighborhood bars around the country to meet the demand for Live Play.

40. Live Play propelled Skee-Ball's resurgence, morphing an old-fashioned children's game into a form of adult entertainment in neighborhood bars and into an organized, competitive sport.

41. By 2010, Brewskee-Ball had grown into a national league, with a vibrant network of rollers competing in over 400 teams from coast to coast.

42. At the time, Full Circle operated the league with Skee-Ball branded Classic "Model-S" lanes manufactured by SBI from the 1980s ("Classic Lanes"). Classic Lanes are vintage games designed for ticket redemption and mainly for children, so Full Circle modified and refurbished the lanes to make them suitable for Skee-Ball Live Play themselves.

43. As its operations expanded, Full Circle encountered challenges with using vintage and obtaining additional Classic Lanes to use for Skee-Ball Live Play, and could not introduce different types of alley rollers without threatening the integrity of competition.

44. Full Circle's goal is to make Skee-Ball a national sport, the type broadcast on ESPN. To attain its goal, Full Circle needed the ability to obtain lanes that fulfilled its Live Play demands, and a new league where Skee-Ball could transition from a playful social sport to a bona fide, regulated sport.

45. To this end, Full Circle developed the idea for the NSBL, a competitive Skee-Ball league that would operate using custom Skee-Ball lanes designed and developed by Full Circle specifically for Skee-Ball Live Play (the “Skee-Ball Live Lane”) (hereinafter, the “Skee-Ball Live Lane” and the NSBL are collectively referred to as the “Skee-Ball Live Concept”).

46. In connection with its Skee-Ball Live Concept, FCU developed proprietary technology designed to facilitate Live Play.

47. The Live Play market helped shepherd Skee-Ball into the modern era and revitalized Skee-Ball as a game and a brand.

48. FCU intended to expand the existing Live Play market using its Skee-Ball Live Concept, a new and innovative way to play Skee-Ball that reimaged how players experienced the century-old game once again.

**Live Play Attracts National Attention, Leading Bay Tek  
to Try to Enter the Live Play Market, and SBI’s Attempt to Quash Full Circle**

49. Brewskee-Ball and the Live Play market gained the attention of the national news media, and piqued the interest of manufacturers within the game industry, particularly, Bay Tek and SBI.

50. Bay Tek began manufacturing a new line of alley rollers for the Live Play market in or around 2010. Bay Tek marketed the alley roller game as “Beer Ball” and tried to launch and operate competitive, adult alley roller leagues to compete with Full Circle’s Brewskee-Ball league, and capitalize on the new Live Play market.

51. In February 2010, Brewskee-Ball was set to hold its first national championship, a 64-person tournament that received attention in an article published in the New York Post.

52. Days after the article was published, SBI, through its exclusive licensing agent, non-party Dimensional Branding Group (“Dimensional”), expressed interest in working with Full Circle to develop Brewskee-Ball and Full Circle’s Skee-Ball Live Concept.

53. Full Circle found SBI’s interest in Brewskee-Ball surprising, since SBI had passed on participating in its league concept five years prior, before Full Circle launched the league. At the time, SBI claimed to be a manufacturer uninterested in operations, and gave Full Circle its blessing to launch Brewskee-Ball and wished it luck.

54. Though curious, SBI’s timing was ideal. Full Circle needed a manufacturer to build Skee-Ball Live Lanes to expand its Live Play operations.

55. For these reasons, Full Circle shared, confidentially, with Dimensional and SBI its business plans and Skee-Ball Live Concept.

56. Afterwards, Full Circle began negotiating the terms of an agreement whereby SBI granted Full Circle a license to use the Mark to develop the NSBL. Discussions included the manufacture of a custom Skee-Ball lane designed to fulfill Full Circle’s Live Play needs.

57. During the course of negotiations, Full Circle disclosed, confidentially, to SBI the potential income streams associated with its Skee-Ball Live Concept, including revenue projections for the NSBL.

58. After learning the potential value of Full Circle’s Skee-Ball Live Concept, negotiations with SBI started to stall.

59. By July 2011, SBI informed Full Circle that the parties had reached an impasse and terminated negotiations. Full Circle focused on expanding its Live Play operations using its existing Brewskee-Ball brand.

60. On October 5, 2011, SBI sued Full Circle, claiming that Full Circle's use of Brewskee-Ball was unauthorized, and infringed upon and tarnished the Mark (the "SBI Litigation").

61. SBI sought damages and entry of a permanent injunction against Full Circle and cancellation of the Brewskee-Ball Mark in order to prevent Full Circle from operating Skee-Ball Live Play, and put Brewskee-Ball out of business.

62. Full Circle was financially and emotionally unprepared for the SBI Litigation, but risked losing the business it loved and created.

63. The SBI Litigation went on for almost three years. During that time, Full Circle, headed by young entrepreneurs, exhausted all its resources to fight SBI, determined to save Full Circle's dream and its business.

**To Save the Mark, SBI Grants Full Circle the Exclusive Live Play License**

64. On July 17, 2014, after years of litigation, Full Circle and SBI settled the SBI Litigation by entering into the Confidential Settlement Agreement (the "Settlement Agreement") and the Confidential Trademark License Agreement (the "License Agreement"). The Settlement Agreement and License Agreement are incorporated by reference as if set forth fully herein.

65. As part of the Settlement Agreement, and in consideration for the perpetual Live Play License (specifically defined below), Full Circle agreed never to challenge or contest the Mark on the basis that it is generic, or other grounds asserted in the SBI Litigation.

66. The Settlement Agreement also included a promise by SBI never to challenge or contest the Brewskee-Ball Mark.

67. Full Circle had reason to believe Dimensional interfered with its relationship with SBI, and instigated the SBI Litigation.

68. Despite this, Full Circle also agreed to release Dimensional, including its officers and directors, from any claims related to or arising out of the SBI Litigation (the “Release”). See Settlement Agreement at ¶1.2.

69. Full Circle provided the Release in reliance upon Dimensional’s agreement to relinquish its right to administer Full Circle’s Live Play License pursuant to a separate carve out agreement between Dimensional and SBI.

### **Full Circle’s Exclusive Live Play License**

70. The rights granted to Full Circle in the License Agreement were crafted to permit Full Circle to exploit the Live Play market it created and ensure SBI’s support.

71. The License Agreement granted Full Circle an exclusive, perpetual and worldwide license to use the Mark in connection with Skee-Ball “Live Play,” defined in the License Agreement as “conducting, arranging, presenting, marketing and promoting live play leagues, teams, events and tournaments utilizing alley rollers manufactured by SBI and called Skee-Ball machines” (the “Live Play License”).

72. The Live Play License granted Full Circle certain other licensed uses, such as the right to develop and sell Live Play merchandise (“Live Play Merchandise”), a Live Play scoring app (“Scoring App”), and to generate sponsorships and endorsements directly related to Live Play (“Sponsorships”) (collectively with Live Play, the “Licensed Uses”).

73. In exchange, SBI is entitled to certain royalties generated by the Live Play Merchandise, the Scoring App, and Sponsorships set forth in the License Agreement.

74. The value of the License is directly tied to Full Circle’s ability to profit from Skee-Ball Live Play. Critically, Full Circle cannot conduct Skee-Ball Live Play at the scale that Full Circle envisions without the ability to purchase alley rollers.

75. As a manufacturer and licensor, it was in SBI's interest to provide Full Circle the Skee-Ball Lanes to utilize for Skee-Ball Live Play, since Full Circle's Live Play operations would increase the demand for Skee-Ball Lanes and help promote the Skee-Ball brand.

76. The License Agreement contained a manufacturing provision intended to safeguard both Full Circle's and SBI's interests.

77. Section 5.2 of the License Agreement requires Full Circle to operate Live Play using Skee-Ball branded Lanes, which SBI would be compensated to provide. Full Circle is released from the obligation if SBI "no longer manufactures" or is "unable to fulfill [Full Circle's] needs for alley roller machines," and if, after Full Circle's best efforts, it becomes "impractical or unreasonable" for Full Circle to obtain the Skee-Ball Lanes it needs from SBI.

78. Section 4.2 of the License Agreement provides Full Circle the right to use phrases and slogans that include the Mark in connection with its Live Play License (the "Live Play Phrases"). The Live Play Phrases include future, unknown phrases and slogans created by Full Circle in connection with and related to Skee-Ball Live Play, "subject to prior, written approval by SBI which approval shall not be unreasonably withheld or delayed so long as the phrases or slogans pertain to Live Play "

79. The Settlement Agreement and License Agreement (the "Agreements") established a business relationship between Full Circle and SBI, and contemplated the parties working together so that Full Circle could develop a national network of competitive leagues, events and tournaments using its Live Play License.

80. Pursuant to restrictive covenants contained in the Agreements, SBI promised not to "directly or indirectly, operate, sponsor, or endorse a business" anywhere in the world "involving Live Play."

81. SBI and Full Circle each agreed to use their “best efforts to promote and to coordinate the development, creation, distribution, sale, advertising, and promotion of the Licensed Uses.”

82. The Settlement Agreement and License Agreement were binding upon and inured to the benefit of SBI’s successors, representatives and assigns upon transfer or assignment, with Full Circle’s prior written consent.

**Bay Tek Acquires the Mark, Subject to SBI’s Obligations to Full Circle**

83. Full Circle planned to use its Live Play License to launch the Skee-Ball Live Concept, which it had presented to SBI prior to the SBI Litigation. Full Circle’s license permitted it to develop the NSBL and its key component, a custom Skee-Ball Live Lane.

84. In September 2015, Pavony, and SBI’s President, Joe Sladek (“Sladek”), discussed specifications for the custom Skee-Ball Live Lane.

85. During the conversation, Sladek informed Pavony that SBI planned to sell its business assets to Bay Tek, the company that launched Beer Ball, but had already stopped manufacturing the game by this time. Sladek assured Pavony that Bay Tek was well suited to help Full Circle use its Live Play License and build custom Skee-Ball Live lanes, and would be willing to do so.

86. Later, Sladek requested Full Circle’s consent to the assignment of the Agreements, explaining that SBI intended to assign and transfer its rights and obligations under the Agreements to Bay Tek upon the closing of the sale of its assets.

87. On December 3, 2015, Pavony spoke to Gaeton Philippon (“Philippon”), Bay Tek’s Chief Executive Officer at the time, explaining Full Circle’s goals of using its Live Play License to develop the NSBL with custom Skee-Ball Live Lanes in bars throughout the country, as well as

local, regional, and national tournaments and events – ultimately turning Skee-Ball into a ubiquitous bar game and a bona fide, national sport televised on ESPN.

88. In reliance on Bay Tek’s representation that it would help facilitate Full Circle’s goals, including an agreement to build the custom lanes needed to reach those goals and to Full Circle’s broader business plans to promote live play through the broadcast of tournaments, league play, and events, Full Circle executed the Consent to Assignment of Confidential Settlement Agreement to Bay Tek.

89. Upon information and belief, SBI and Bay Tek closed on the sale of SBI’s assets on or around February 23, 2016.

90. Upon information and belief, SBI transferred and assigned the Settlement Agreement and the License Agreement to Bay Tek at that time.

91. After the acquisition, Bay Tek repositioned its existing line of alley roller games under the Skee-Ball brand, and began manufacturing several versions of Skee-Ball-branded Lanes previously manufactured by SBI.

92. Upon information and belief, Bay Tek’s acquisition of SBI left two alley roller manufacturers remaining in the United States: Bay Tek and non-party Innovative Concepts in Entertainment, Inc. (“ICE”).

**Full Circle Meets with Bay Tek to Discuss and Eventually Reach  
an Agreement to Manufacture Lanes and Share Revenue**

93. Full Circle and Bay Tek began a series of conversations aimed at finding ways to cooperate within the framework of the License Agreement.

94. To that end, on March 22, 2016, Full Circle and Bay Tek entered into a Mutual Non-Disclosure Agreement (the “NDA”).

95. In April 2016, Full Circle traveled to Bay Tek's headquarters in Pulaski, Wisconsin for a meeting with Philippon, Holly Hampton ("Hampton"), Bay Tek's Director of Innovation, Larry Treankler ("Treankler"), the owner and Chairman of Bay Tek, and other individuals in Bay Tek's finance and research and development ("R&D") departments.

96. At that meeting, Full Circle confidentially presented to Bay Tek its business plan for the Skee-Ball Live Concept, including details about how the NSBL would operate, its income streams, and projected revenue.

97. FCU also disclosed to Bay Tek details about the technology developed by Full Circle to facilitate its Skee-Ball Live Concept. Among other things, the technology enabled real time, remote competition, so players could play in Live Play leagues, events, competitions and tournaments regardless of where they were.

98. During the visit, Full Circle learned Bay Tek was already familiar with Full Circle and its operations. Philippon admitted Bay Tek modeled Beer Ball after Brewskee-Ball. Full Circle later learned Bay Tek abandoned the Live Play market because it was unable to create a cohesive league culture or establish leagues to support the product.

99. Upon information and belief, Philippon was terminated from Bay Tek soon after the meeting with Full Circle in Pulaski. Afterwards, Treankler assumed the role of Bay Tek's Chief Executive Officer.

100. The parties once again discussed that Full Circle's plans required acquiring custom lanes, which would need to be manufactured. As an initial step, Full Circle needed a prototype of its Skee-Ball Live custom lane so that it could demonstrate its Skee-Ball Live Play Concept to potential investors.

101. Bay Tek did not agree at that time to manufacture custom lanes pursuant to Full Circle's specifications, but it authorized Full Circle to build a prototype custom lane by modifying an existing vintage lane, or one of Bay Tek's stock lanes, itself.

102. Bay Tek expressed no objection to Full Circle securing investors from within the gaming industry, except for ICE, Bay Tek's sole remaining competitor in the alley roller manufacturing market.

103. Over the next months, Full Circle started making modifications to a stock lane provided by Bay Tek to develop its prototype of the Skee-Ball Live Lane.

104. During that time, Full Circle disclosed specifications for the custom Skee-Ball Live Lanes to Bay Tek's R&D team, specifically the R&D Project Development and Concept Development Manager Eric Schadrie ("Schadrie").

105. On July 17, 2017, at Full Circle's request, representatives from Bay Tek, including Treankler, Hampton and Schadrie, met Full Circle in Austin to see the prototype of the Skee-Ball Live Lane, and to observe Full Circle's Live Play operations.

106. In Austin, Bay Tek learned Full Circle was developing the prototype Skee-Ball Live Lane with help from Mixer Design Group, a design and engineering firm that specializes in products for global electronics companies ("Mixer"). Full Circle and Mixer demonstrated the prototype's features for Bay Tek, and explained design specifications and manufacturing needs.

107. After observing Full Circle's operations in Austin, including a Brewskee-Ball Live Play competition, Bay Tek expressed, for the first time, an interest in handling the R&D and manufacture of the Skee-Ball Live Lanes, including the prototype.

108. Bay Tek urged Full Circle to keep R&D and financing for the Skee-Ball Live Lanes in house with Bay Tek, and told Full Circle it did not need the initial investors it had courted.

109. Before leaving Austin, Bay Tek requested that the parties' discussions continue to determine the structure for Bay Tek's manufacture of the lanes and Full Circle's method of acquisition of the lanes.

110. The parties began initial discussions regarding terms of a contemplated revenue-sharing agreement, under which Bay Tek would manufacture custom Skee Ball Live lanes for Full Circle, which Full Circle would pay for in the form of a promise to share the revenue generated by each lane. The parties initially discussed a possibility that Bay Tek would produce twenty-five (25) Skee-Ball Live Lanes as a test of a revenue share arrangement.

111. Bay Tek later agreed to expedite the manufacture of eleven (11) Skee-Ball Live prototype lanes so that they could be delivered in time to use at "The BEEB," the National Skee-Ball Championship, which was scheduled for October 26-29, 2017 at Full Circle Bar in Austin (the "National Championship").

112. However, due to the turnaround time, the eleven (11) lanes would not incorporate all Full Circle's Live Play design specifications, and would serve as prototype lanes to test Full Circle's concept (the "Skee-Ball Live Prototype Lanes").

113. These eleven (11) Skee-Ball Live Prototype Lanes were initially contemplated as part of the twenty-five (25) lanes promised by Bay Tek.

114. Shortly thereafter, the parties discussed increasing the number of initial lanes that would be produced under the test arrangement to thirty-six (36), so that Bay Tek and Full Circle had twenty-five (25) production model lanes, incorporating all Full Circle's Live Play specifications, in addition to the eleven (11) lanes that were being expedited (collectively, the "Skee-Ball Live Lanes").

115. On September 5, 2017, at Bay Tek's request, Full Circle traveled to Bay Tek headquarters in Pulaski, Wisconsin to further discuss Full Circle's business and marketing plans for the Skee-Ball Live Play Concept and to check on the progress of the Skee-Ball Live Prototype Lanes.

116. During this visit, Full Circle and Treankler, on behalf of Bay Tek, orally agreed to the final terms of the revenue share agreement (the "Revenue Share Agreement"). The parties agreed that Full Circle would not need to pay Bay Tek upfront for the lanes, but instead would share 15% of "top line revenue" generated from each of the lanes until 150% of Bay Tek's manufacturing costs had been recouped.

117. Revenue was to be generated through payments collected using Full Circle's Scoring App and a credit card reader installed on the lanes. Bay Tek agreed to develop the computer code needed for the lanes to collect credit card payments, and deliver it to Full Circle after the National Championship.

118. Under the terms of the Revenue Share Agreement, Bay Tek agreed to specifically manufacture thirty-six (36) Skee-Ball lanes for Full Circle.

119. Bay Tek wanted Full Circle to use the thirty-six (36) Skee-Ball Live Lanes to prove its business model for the Skee-Ball Live Concept.

120. On September 5, 2017, Pavony asked Treankler to confirm the terms of the Revenue Share Agreement.

121. Pavony asked Treankler, "So, just to be clear, we have these eleven (11) prototype lanes that will ultimately become production model lanes in the real world doing their thing, and then we have the twenty-five (25) that you already agreed to on top of those, plus more? We're talking about that little showcase first."

122. Treankler responded, “Correct.”

123. Treankler added, “Yeah, you should want to prove that model as much as I want you to prove it.”

124. Again, Pavony asked Treankler to confirm the terms of the Revenue Share Agreement.

125. Pavony asked Treankler, “And so, from our standpoint then, you’re agreeing to do the rev share on these initial eleven (11) plus the twenty-five (25), and maybe more, but no help right now with operational cash for us to roll that out? That’s up to us to figure out?”

126. In response, Treankler said, “Yup.”

127. Also during this September 2017 visit, Full Circle disclosed additional proprietary and confidential details regarding its business and marketing plans, including the details of its Scoring App and new software technology it developed for integration into the Skee-Ball Live Lanes.

128. After the presentation, Treankler confirmed the terms of the Revenue Share Agreement during a meeting with Full Circle. The meeting is recorded on video.

129. Treankler assured Full Circle that Bay Tek planned to honor the License Agreement and had no intention of trying to operate Skee-Ball Live Play, other than through Full Circle.

**Full Circle Showcases Skee-Ball Live Lanes,  
the “Lane of the Future,” at the National Championship**

130. In the weeks that followed the September 2017 meeting, Full Circle continued to work with Bay Tek’s R&D team on specifications for the Skee-Ball Live Lanes.

131. On September 22, 2017, Full Circle sent Schadrie, from Bay Tek’s R&D department, a logo and related art for use with Skee Ball Live. The logo and related art used the phrase and slogan “Skee-Ball Live” (“Skee-Ball Live Art”).

132. It was mutually understood and agreed that Full Circle developed the “Skee-Ball Live” brand and Skee-Ball Live Art for its use in connection with Full Circle’s Skee-Ball Live Concept pursuant to the License Agreement.

133. On October 2, 2017, Bay Tek’s R&D department confirmed that the eleven (11) Skee-Ball Live Prototype Lanes for the National Championship would not have credit card readers and inquired whether “the next 25 [Bay Tek] build[s] for [Full Circle]” needed them.

134. On or around October 18, 2017, Bay Tek delivered ten (10) Skee-Ball Live Prototype Lanes affixed with the Skee-Ball Live Art to Full Circle in Austin. The parties mutually agreed that Bay Tek could keep the eleventh (11th) lane for use by Bay Tek R&D to facilitate developing the production model Skee-Ball Live Lanes, and deliver the lane to Full Circle later.

135. The Skee-Ball Live Prototype Lanes were used at the National Championship.

136. The Skee-Ball Live Prototype Lanes featured proprietary software that allowed for new types of gameplay and tracked rolling achievements. The internet-connected Skee-Ball Live Prototype Lanes included cameras that enabled players in bars across the country to compete with each other using Full Circle’s Scoring App, even if playing at different times or locations.

137. The National Championship was a resounding success, particularly due to the Skee-Ball Live Prototype Lanes and the debut of the new Skee-Ball Live experience.

138. Representatives from Bay Tek, including Hampton and Schadrie, attended the National Championship, observing Full Circle’s operations and experiencing firsthand the Live Play culture Full Circle created and the event’s success.

139. After the National Championship, Full Circle and Bay Tek continued to work on the Skee-Ball Live Lanes, referring to the project as “Skee-Ball Live.”

140. On November 6, 2017, Schadrie emailed Pavony to discuss changes to be incorporated into “the product that will be Skee-Ball Live (at least for the next 25 units),” stressing it “will be the design that will go down the production line - hopefully many, many times.”

141. On or around the same day, the Austin American Statesman newspaper published “Holy rollers: Austin’s competitive Skee-Ball players are building the future of the sport,” an article about the National Championship and the Skee-Ball Live Prototype Lanes (the “Statesman Article”).

142. The Statesman Article heralded the Skee-Ball Live Prototype Lanes as the “lane of the future,” and applauded it for “bringing new technology to the world of Skee-Ball.”

143. Shortly after it was published, Pavony sent the Statesman Article to Hampton, who had expressed enthusiasm about the National Championship to Full Circle. Full Circle also sent the Statesman Article to Schadrie, who then forwarded the article within Bay Tek.

**After Watching the Success of the National Championship,  
Bay Tek Decides to Place Skee-Ball Live Project “On Hold”**

144. After the National Championship, the tenor of Bay Tek’s communications with Full Circle changed.

145. Full Circle sent a number of emails to Bay Tek’s R&D team discussing changes and additions to the production model Skee-Ball Live Lanes, and a timeline for rolling them out.

146. In response, Schadrie, previously eager to confirm specifications for the production model Skee-Ball Live Lanes, expressed reluctance to engage with Full Circle.

147. On November 30, 2017, Schadrie explained there were “some loose ends to tie up (at a higher level) prior to ...further discussing and developing [Skee-Ball Live].”

148. Hampton and Schadrie shifted focus onto the Skee-Ball Live Prototype Lanes, asking Full Circle for details about the lanes’ location and performance.

149. On December 21, 2017, Full Circle sent Bay Tek its six-month plan, which included Full Circle's receipt of the remaining twenty-five (25) production model Skee-Ball Live Lanes pursuant to the Revenue Share Agreement.

150. On the same day, Bay Tek, through Hampton, asked Full Circle for permission to host a 64-person competitive Skee-Ball tournament to promote the Green Bay Blizzards, an indoor football team owned by Treankler (the "Blizzard Event").

151. In making the request, Hampton acknowledged Bay Tek was seeking permission from Full Circle to engage in conduct that violated the License Agreement and infringed upon Full Circle's Live Play License, since Full Circle had "the exclusive right to Skee-Ball Live Play."

152. Full Circle told Hampton that it would agree to Bay Tek conducting the Blizzard Event if Bay Tek executed a document that made clear the permission Full Circle was extending was solely for the Blizzard Event. Full Circle wanted documentation to confirm the parties understood it was a one-time agreement, so as not to be seen as waiving any of its rights under the License Agreement.

153. According to Hampton, Bay Tek preferred to conduct business "with just a handshake . . . with no legal documentations." Hampton reported that Bay Tek was upset by Full Circle's request to confirm the one-time agreement in writing.

154. On January 3, 2018, citing this perceived slight, Hampton informed Full Circle that Bay Tek had decided to place the Skee-Ball Live project "on hold."

**The Relationship Between Full Circle and Bay Tek Devolves  
after Bay Tek Acquires Dimensional, as Bay Tek Denies the Existence of the  
Revenue Share Agreement and Breaches its Obligations to Full Circle**

155. Sometime in late 2017, Bay Tek acquired Dimensional, the licensing agent used by SBI that describes itself as specializing in "the toy and interactive markets."

156. Bay Tek announced the acquisition on January 3, 2018, the same day it informed Full Circle it had decided to place Skee-Ball Live “on hold.”

157. After Bay Tek acquired Dimensional, Bay Tek refused to respond to Full Circle’s requests for information regarding the status of the Skee-Ball Live project or explain why Bay Tek had purportedly made an organizational decision to stop working on it.

158. Bay Tek proceeded to host a Skee-Ball competition to promote the Green Bay Blizzard, conduct it previously admitted violated the terms of the License Agreement and infringed upon Full Circle’s Live Play License.

159. Afterwards, Bay Tek continued to ignore correspondence from Full Circle, hindering Full Circle’s ability to perform its obligations and operate its business.

160. Unsettled, Full Circle sought assurances from Bay Tek that it planned to perform under the terms of the Revenue Share Agreement and manufacture the additional twenty-five (25) production model Skee-Ball Live Lanes that remained undelivered.

161. Bay Tek failed to respond to Full Circle’s requests for assurances and remained silent for weeks.

162. In March 2018, Ad Age published an article featuring Full Circle’s Scoring App, the same app Full Circle utilized at the National Championship with Bay Tek’s knowledge and approval. The article lauded the Scoring App’s Skee-Ball Live Play functionalities for innovating and enhancing the game.

163. Days after the article was published, Bay Tek, through its attorney, sent Full Circle a letter demanding that it disclose proprietary information to prove its Scoring App complied with the License Agreement. It was the first time Full Circle had heard from Bay Tek in months.

164. Then, rather than clearly identifying its issues with Full Circle, or working to resolve them, Bay Tek took a series of inconsistent and untenable positions to justify nonperformance under the Revenue Share Agreement.

165. First, Bay Tek threatened to repossess the ten (10) Skee-Ball Live Prototype Lanes in Full Circle's possession, if Full Circle did not pay for them at a price higher than agreed under the Revenue Share Agreement (the "March 2018 Letter").

166. In the March 2018 Letter, Bay Tek acknowledged the existence of the Revenue Share Agreement, but contended Full Circle was in violation of its terms. Bay Tek claimed Full Circle breached the agreement by failing to pay Bay Tek its portion of Lane Revenue, even though Bay Tek never provided Full Circle the information it needed to remit the payment, despite Full Circle's requests.

167. The next month, after Full Circle proved the purported breach baseless, Bay Tek rejected Full Circle's tender of Bay Tek's portion of Lane Revenue, claiming no Revenue Share Agreement existed (the "April 2018 Letter").

168. In the April 2018 Letter, Bay Tek threatened to sue Full Circle if its Scoring App went live without being in "strict compliance" with the License Agreement, but ignored Full Circle's entreaties to identify what aspects of the app purportedly violated the License Agreement.

169. Over the following four months, Bay Tek ignored eleven (11) separate emails sent by Full Circle and continued to refuse Full Circle's tender of Lane Revenue.

170. Meanwhile, Bay Tek promoted Live Play leagues, events and tournaments conducted by competitors of Full Circle on numerous occasions, over Full Circle's protests, conduct Hampton recognized is in violation of Bay Tek's non-competition obligations under the License Agreement, and which continues to this day.

171. On August 6, 2018, Eric Wikman (“Wikman”), Full Circle’s Director of Technology, sent Bay Tek a summary of the performance of the ten (10) Skee-Ball Live Prototype Lanes, detailing lane revenue that tracked Full Circle’s initial revenue projections.

172. In the email, Wikman asked Bay Tek to accept tender of the Lane Revenue, noting that the lanes’ performance proved Full Circle’s Skee-Ball Live model.

173. Almost two weeks later, Bay Tek, through its attorney, asked Full Circle to send the rejected funds to Bay Tek again. Full Circle did so.

174. After Bay Tek accepted the Lane Revenue, Bay Tek asserted for the first time that it never agreed to manufacture and deliver (36) Skee-Ball Live Lanes pursuant to the Revenue Share Agreement.

175. Bay Tek asked Full Circle to sign a new revenue share agreement, limited to the ten (10) Skee-Ball Live Prototype Lanes already in Full Circle’s possession. Full Circle declined the request.

176. On November 11, 2018, Bay Tek changed its name from Bay Tek Games, Inc. to Bay Tek Entertainment, Inc. Bay Tek explained the new name described its transition to a multi-platform entertainment company, a transition facilitated by its new licensing agent Dimensional.

**Bay Tek Kills Full Circle’s Agreement to Have a  
Third-Party Buy or Manufacture Skee-Ball Live Lanes**

177. After Bay Tek reneged on its agreement to manufacture lanes, Full Circle sought a third-party partner to help it acquire or manufacture its custom Skee-Ball Live Lanes, as was its right under the License Agreement.

178. In August 2018, Full Circle turned to George Petro (“Petro”), the Chief Executive Officer of Play Mechanix, Inc. (“Play Mechanix”), an arcade game manufacturer who had previously expressed interest in investing in Full Circle’s Skee-Ball Live Concept.

179. Play Mechanix agreed in principle with Full Circle to purchase stock Classic Lanes from Bay Tek and pay all the expenses to modify the lanes for Live Play, pursuant to a revenue share agreement with Full Circle (the “Play Mechanix Agreement”).

180. Unlike Bay Tek, a company that focused on the family entertainment center market, Play Mechanix had experienced success placing arcade games into bars, and had a network of 1,750 operators within the bar market. Play Mechanix agreed to leverage its network of operators to promote Full Circle’s Skee-Ball Live Concept, providing Full Circle instant access to thousands of potential locations to place its Skee-Ball Live Lanes.

181. Bay Tek knew Play Mechanix had the capability to modify Bay Tek’s stock alley rollers to create Skee-Ball Live Lanes, since Bay Tek had turned to Play Mechanix about its capabilities for Beer Ball in the past. Bay Tek also knew Play Mechanix was well-positioned to help Full Circle expand Skee-Ball Live Play.

182. However, when Petro reached out to Rick Rochetti (“Rochetti”), Bay Tek’s Director of Sales, he learned there was “no opportunity” for Play Mechanix to either manufacture the lanes itself, or acquire the stock lanes from Bay Tek and modify them. In other words, Bay Tek threatened Petro to prevent Play Mechanix from doing a deal with Full Circle.

183. With no path to move forward, Play Mechanix pulled out of the agreement with Full Circle.

**Bay Tek Finally Makes its Motive Clear:  
To Take Back Full Circle’s License so it Can Conduct Live Play Itself**

184. By the end of 2018, it had been almost three (3) years since Bay Tek acquired the Mark. Full Circle had only been provided ten (10) Skee-Ball Live Prototype Lanes, with no indication Bay Tek intended to manufacture the additional production model Skee-Ball Live lanes

promised, or otherwise work with Full Circle, or even allow Full Circle to acquire lanes through some other means.

185. In December 2018, Full Circle communicated its serious concerns to Bay Tek, including Bay Tek's breaches of the License Agreement and Revenue Share Agreement. It asked for Bay Tek's consent to engage another manufacturer to build the Skee-Ball Live Lanes, since Bay Tek would not.

186. In response, Treankler, on behalf of Bay Tek, asserted that since Bay Tek is still making Skee-Ball Lanes, it would be a violation of Section 5.2 of the License Agreement for Full Circle to engage another manufacturer. Treankler said Bay Tek's attorneys believed such a violation would render Full Circle's Live Play License "null and void." He requested an in-person meeting with Full Circle to discuss "business solutions."

187. On January 17, 2019, at Treankler's request, Pavony and Wikman, on behalf of Full Circle, met with Treankler in New York City (the "January 2019 Meeting").

188. At the January 2019 Meeting, Treankler offered Full Circle a new licensing agreement with Bay Tek if Full Circle agreed to terminate the existing Live Play License.

189. Under the proposed new licensing agreement, Bay Tek would manufacture 40 additional "Brewskee-Ball Live Lanes." In exchange, Full Circle would give up its right to use the Skee Ball Mark and would operate Live Play solely under the Brewskee-Ball brand.

190. Treankler explained Bay Tek wanted to terminate the existing Live Play License. Treankler admitted Bay Tek wanted to enter the Live Play market, and operate Skee-Ball Live Play itself.

191. Full Circle declined Bay Tek's offer to give up its Live Play License and enter into the new licensing deal proposed by Bay Tek.

**After Full Circle Rejects Bay Tek's Attempt to  
Take Back the Live Play License, Bay Tek Tries to Terminate It**

192. In the year that followed, Full Circle continued performing under the terms of the License Agreement and the Revenue Share Agreement, sending Bay Tek its monthly share of Lane Revenue and Sponsorship revenue pursuant to the Revenue Share Agreement and License Agreement, respectively. Bay Tek accepted the payments.

193. During that time, though greatly impeded by Bay Tek, Full Circle found creative ways to operate its business despite only having ten (10) Skee-Ball Live Prototype Lanes for the NSBL.

194. For example, Full Circle conducted remote, live-streamed Live Play events and tournaments to promote Live Play and the NSBL.

195. In November 2018, one such live-streamed event conducted by Full Circle drew over 130,000 unique views on Twitch and attracted viewers from around the world.

196. On May 7, 2019, Full Circle received a letter from Bay Tek, sent from its attorney, contending for the first time that Bay Tek had no obligation under the License Agreement to manufacture custom Skee-Ball Lanes for Full Circle (the "May 2019 Letter").

197. Bay Tek maintained the Revenue Share Agreement was limited to the ten (10) Skee-Ball Live Prototype Lanes already delivered to Full Circle.

198. In the May 2019 Letter, Bay Tek proposed to resolve the dispute by offering Full Circle a new licensing agreement with exactly the same terms as the licensing agreement offered by Treankler at the January 2019 Meeting that had already been rejected by Full Circle.

199. This time, Bay Tek presented the offer as non-negotiable, stating "To be crystal clear, Bay Tek does not anticipate changing the proposal, or making any new proposal," and "This really is Bay Tek's final proposal."

200. Full Circle rejected the “new” licensing agreement offered by Bay Tek for a second time.

201. Through the summer of 2019, Bay Tek contended Full Circle was in violation of various terms of the License Agreement, including its sponsorship and insurance obligations.

202. On July 26, 2019, Bay Tek sent Full Circle a Notice of Default identifying extremely minor, immaterial supposed breaches of the License Agreement.

203. For example, Bay Tek took a joke made by Full Circle during a Twitch broadcast about “avocado straws” seriously, claiming Full Circle’s failure to disclose the sponsorship of the “avocado straw manufacturer” breached the terms of the License Agreement. Bay Tek also baselessly claimed Full Circle had failed to meet the insurance requirements set forth in the License Agreement, despite refusing to specifically identify how Full Circle’s policy failed to comply with its terms.

204. After claiming Full Circle was in default of the License Agreement, Bay Tek refused to acknowledge that the alleged breaches had been cured, or even explain to Full Circle what claimed issues remained uncured, despite Full Circle’s request.

205. Bay Tek’s conduct forced Full Circle’s business into a holding pattern. Full Circle could not obtain the Skee-Ball Live Lanes it needed to expand its business. Now, with the status of its Live Play License in question, Full Circle could not confidently operate or promote its existing business, either.

206. Full Circle expended efforts trying to cure the baseless, immaterial breaches identified by Bay Tek. Meanwhile, Bay Tek engaged in behavior that denied the existence of Full Circle’s Live Play License to the public, and undermined Full Circle’s rights.

207. On social media, Bay Tek continued to promote competing Live Play leagues, events and tournaments that infringed upon Full Circle's Live Play License on dozens of occasions, despite Full Circle's protests.

208. Yet, not once did Bay Tek "like," "share," or otherwise promote on social media Live Play leagues, events, or tournaments operated by Full Circle.

209. In fact, Full Circle learned Bay Tek had removed it from its licensing guide, and no longer identified Full Circle as one of its licensees.

210. Full Circle also learned that days after it presented its Skee-Ball Live branding concept to Bay Tek subject to the NDA, Bay Tek filed an application for trademark registration for "Skee-Ball Live" without Full Circle's knowledge or consent.

211. On November 22, 2019, Full Circle emailed Bay Tek a request for a quote for stock Classic Lanes. Full Circle explained it wanted to purchase the lanes, and have the lanes modified to build Skee-Ball Live Lanes, like it had done with the Skee-Ball Live Lane prototype it developed in Austin in 2017 (the "Request for Quote").

212. On December 16, 2019, Bay Tek informed Full Circle, for the first time, that it may not use the trademark "Skee-Ball Live" in connection with its license for Skee-Ball Live Play.

213. Bay Tek further asserted that having another manufacturer modify lanes would be a violation of the License Agreement, since Bay Tek theoretically could perform the modifications itself.

214. In sum, Bay Tek left no avenue open for Full Circle to get the lanes it needed to expand its Skee-Ball Live business. Further, Bay Tek's purported revocation of authority to use the "Skee-Ball Live" mark suggested that Bay Tek wanted to stop Full Circle from operating Skee-

Ball Live Play altogether, even with the Skee-Ball Live Prototype Lanes already in Full Circle's possession.

215. On December 23, 2019, Full Circle sent Bay Tek a Notice of Default Pursuant to §11.6 of the License Agreement, identifying Bay Tek's breaches of the License Agreement and providing Bay Tek an opportunity to cure.

216. In February 2020, Full Circle informed Bay Tek, through its attorneys, that Full Circle had the opportunity to broadcast an NSBL 2020 Tournament on ESPN (the "ESPN Broadcast"), one of Full Circle's long-desired goals.

217. At the time, Bay Tek maintained Full Circle was still in default of the License Agreement, but it refused to identify the supposed default.

218. Full Circle has broadcast various Skee-Ball Live Play events and competitions on various platforms over the years with Bay Tek's knowledge and without issue.

219. Full Circle sent the proposed contract for the ESPN Broadcast to Bay Tek and asked whether Bay Tek had an objection to Full Circle moving forward under its terms.

220. Bay Tek objected to the proposed contract for the ESPN Broadcast, claiming that Full Circle's use of the Mark in the tournament and its broadcast would violate the License Agreement as well as Bay Tek's rights as owner of the Mark.

221. Bay Tek further asserted that if Full Circle decided to move forward with the ESPN Broadcast, it would take legal action against Full Circle, and possibly also against ESPN, without notice.

222. To avoid potentially irreparable damage to its relationship with ESPN, Full Circle backed out of the broadcast deal with ESPN as a result of Bay Tek's threats.

223. At the time of filing this Complaint, Bay Tek still has not manufactured or delivered the remaining twenty-five (25) production model Skee-Ball Live Lanes promised under the Revenue Share Agreement to Full Circle, and has retained possession of the eleventh Skee-Ball Live Prototype Lane.

224. As for Full Circle, it continues to perform all its obligations under the License Agreement and Revenue Share Agreement, operating its business with just ten (10) Skee-Ball Live Prototype Lanes.

225. All conditions precedent to bringing this action have been satisfied or waived.

**COUNT I**  
**(Breach of the License Agreement)**

226. Plaintiff Full Circle re-alleges as though fully set forth herein the allegations in paragraphs 1 through 225, above.

227. This is an action for damages against Defendant Bay Tek for its breaches of the License Agreement.

228. Full Circle and Bay Tek, by assignment, are parties to a valid and enforceable contract, the License Agreement.

229. The License Agreement required Full Circle to use its best efforts to create a national network of Live Play teams, leagues and/or events using Skee-Ball branded lanes.

230. Prior to entering into the License Agreement, Full Circle disclosed its idea, growth and revenue projections for the NSBL and Skee-Ball Live Lanes to SBI, then, again, to Bay Tek.

231. Bay Tek has breached three express provisions of the License Agreement, and the License Agreement's implied covenants of good faith and fair dealing.

232. First, Bay Tek breached Section 4.2 of the License Agreement, which provides Full Circle the right to use the Mark in connection with Live Play Phrases.

233. “Skee-Ball Live” is a phrase or slogan Full Circle created to use solely and directly with Skee-Ball Live Play pursuant to Section 4.2 of the License Agreement.

234. Full Circle presented “Skee-Ball Live” to Bay Tek in September 2017 as a branding and marketing phrase to use in connection with the Skee-Ball Live Play Concept.

235. Shortly thereafter, Bay Tek submitted an application to register the trademark “Skee-Ball Live” without Full Circle’s knowledge or consent.

236. Bay Tek authorized Full Circle to use “Skee-Ball Live” pursuant to Section 4.2 of the License Agreement in various written correspondence and by affixing “Skee-Ball Live” on the Skee-Ball Live Prototype Lanes Bay Tek delivered to Full Circle and that remain in Full Circle’s possession.

237. Bay Tek breached Section 4.2 of the License Agreement by rescinding its approval for Full Circle to use “Skee-Ball Live.” Bay Tek asserted it is the owner of the registered trademark “Skee-Ball Live” and Full Circle is not authorized to use “Skee-Ball Live” as a Live Play Phrase.

238. Bay Tek’s revocation of authority to use the trademark as a Live Play Phrase damages Full Circle through the loss of goodwill and industry recognition it has already established through its authorized use of the mark “Skee-Ball Live” and by preventing Full Circle from expanding its Skee-Ball Live Play Concept using the mark.

239. Second, Bay Tek also breached the restrictive covenant set forth in Section 5.3 of the License Agreement. Section 5.3 of the License Agreement provides, “SBI hereby covenants, warrants, and agrees that it will not, directly or indirectly, during the Term and in the Territory, operate, sponsor, or endorse a business, involving Live Play.”

240. Bay Tek has breached Section 5.3 of the License Agreement by directly and indirectly operating, sponsoring and endorsing businesses involving Live Play on numerous

occasions. Bay Tek's conduct in violation of Section 5.3 of the License Agreement includes, but is not limited to, manufacturing custom Skee-Ball-branded lanes for use in bars operating competing Live Play, endorsing competing Live Play on social media and hosting and endorsing competing Live Play.

241. Bay Tek's conduct in violation of Section 5.3 of the License Agreement dilutes Full Circle's Live Play License, causing Full Circle significant competitive and economic harm, including lost profits from expansion of the Live Play market, as contemplated in the License Agreement.

242. Third, Bay Tek breached Section 7.2 of the License Agreement (the "Best Efforts Provision"). The Best Efforts Provision provides: "SBI and Full Circle each agree that they will use their respective best efforts to promote the Licensed Uses offered in connection with the Skee-Ball Trademark and to coordinate the development, creation, distribution, sale, advertising, and promotion of the Licensed Uses so as to maintain and enhance the value of the goodwill residing in the Skee-Ball Trademark."

243. Instead, in violation of the Best Efforts Provision, Bay Tek has deprived Full Circle of its ability to operate Live Play by refusing to manufacture Full Circle lanes for Live Play under any scenario and frustrating Full Circle's ability to work with a third-party manufacturer to obtain lanes for Live Play. In addition, Bay Tek violated the Best Efforts Provision by withholding consent for Full Circle to proceed with the ESPN Broadcast, causing Full Circle to miss the opportunity to bring Live Play onto a national platform, and start a working relationship with ESPN that would likely lead to additional broadcasts of Live Play.

244. Due to Bay Tek's breaches of the "Best Efforts" Provision, Bay Tek has prevented Full Circle from expanding its Live Play business, and thwarted Full Circle's opportunity to use

ESPN as a launching pad for Skee-Ball Live, causing Full Circle to suffer millions of dollars in damages, including lost profits.

245. Finally, Bay Tek has breached the License Agreement's implied covenants of good faith and fair dealing.

246. Under New York law, a party breaches the implied duty of good faith and fair dealing by: a) depriving the other party of the fruits of the contract or defeating the purpose of the agreement with its actions; b) failing to act reasonably in the performance of the agreement; or c) exercising a right under the agreement for an illegitimate purpose or in bad faith.

247. Bay Tek breached the implied covenants of good faith and fair dealing by acting to prevent Full Circle from operating Live Play, depriving it of the fruits of the License Agreement, and failing to act reasonably in the performance of the License Agreement.

248. Specifically, Bay Tek breached the implied covenants of good faith and fair dealing by: a) refusing to manufacture Full Circle lanes for Live Play under any scenario and frustrating Full Circle's ability to work with a third-party manufacturer to obtain lanes for Live Play; b) deliberately frustrating Full Circle's efforts to obtain financing to facilitate activities contemplated under the License Agreement; c) identifying frivolous immaterial "breaches" of the License Agreement, and then refusing to acknowledge that the alleged breaches had been cured, or to explain what issues remained; d) registering the "Skee-Ball Live" trademark for the improper purpose of withholding the mark from Full Circle, and using the mark itself, as part of its scheme to take back Full Circle's license and operate Live Play itself; and e) unreasonably objecting to Full Circle's broadcast agreement with ESPN, and threatening frivolous legal action against Full Circle and ESPN, causing Full Circle to miss the opportunity to bring its Skee-Ball Live Concept

onto a national platform and start a relationship that would likely lead to additional broadcasts of Live Play on ESPN.

249. Bay Tek's actions prevented Full Circle from expanding its Live Play business, obtaining financing, and confidently operating and promoting Live Play. Further, Bay Tek's actions are intended to exhaust and frustrate Full Circle so it would capitulate to Bay Tek's offers that entailed giving up its Live Play License, or go out of business, so Bay Tek could operate Live Play itself.

250. Bay Tek's breaches of the covenant of good faith and fair dealing have caused Full Circle to suffer millions of dollars in damages, including lost profits.

251. The damages suffered by Full Circle as a result of Bay Tek's breaches of its obligations under the License Agreement, including the implied covenant of good faith and fair dealing, include but are not limited to lost profits from the revenue that the NSBL and Skee-Ball Live Lanes would have generated had Full Circle been able to obtain the lanes and expand the NSBL.

252. The damages sought by Full Circle are the natural and probable results of Bay Tek's breaches of the License Agreement and were contemplated by the parties at the time Full Circle and SBI entered into the License Agreement.

**COUNT II**  
**(Breach of the Revenue Share Agreement)**

253. Plaintiff Full Circle re-alleges as though fully set forth herein the allegations in paragraphs 1 through 225, above.

254. This is an action for damages against Defendant Bay Tek for its breaches of the Revenue Share Agreement.

255. Bay Tek and Full Circle are parties to the Revenue Share Agreement, a binding agreement whereby Bay Tek agreed to manufacture thirty-six (36) Skee-Ball Live Lanes for Full Circle in exchange for Bay Tek's receipt of 150% of its manufacturing costs, paid back via monthly payments of Lane Revenue.

256. All thirty-six (36) Skee-Ball Live Lanes were to be programmed with code developed by Bay Tek to enable the lanes to collect credit card payments.

257. Under the terms of the Revenue Share Agreement, Bay Tek would develop and manufacture the Skee-Ball Live Lanes at an agreed manufacturing cost of \$4,500 per lane.

258. The parties agreed Bay Tek would first manufacture eleven (11) Skee-Ball Live Prototype Lanes for use at the National Championship. These lanes would not incorporate all the specifications for the Skee-Ball Live Lane or have the ability to collect credit payments. Bay Tek promised to deliver the code to enable the collection of credit card payments to Full Circle after the National Championship.

259. The parties agreed that Bay Tek would then manufacture twenty-five (25) Skee-Ball Live Lanes incorporating all Full Circle's Live Play specifications, and deliver the lanes to Full Circle when complete.

260. Bay Tek partially performed under the Revenue Share Agreement by delivering the Skee-Ball Live Prototype Lanes to Full Circle in Austin for the National Championship.

261. Bay Tek breached the Revenue Share Agreement by failing to deliver the additional twenty-five (25) Skee-Ball Live Lanes it promised to manufacture and deliver to Full Circle after the National Championship and retaining the eleventh Skee-Ball Live Prototype Lane in its possession.

262. Full Circle has, on numerous occasions, demanded Bay Tek's performance under the Revenue Share Agreement. Worse yet, Bay Tek has denied the existence of the Revenue Share Agreement for thirty-six (36) Skee-Ball Live Lanes, despite confirming the terms of the Agreement during a meeting in Pulaski, Wisconsin and in written correspondence between the parties.

263. Bay Tek's breaches of the Revenue Share Agreement are material, and caused Full Circle to suffer damages, including lost profits.

264. By failing to deliver the additional twenty-five (25) Skee-Ball Live Lanes and the eleventh Skee-Ball Live Prototype Lane, Bay Tek has damaged Full Circle through the loss of lane revenue and inability to expand the NSBL.

265. The damages suffered by Full Circle include but are not limited to lost profits from the revenue that the NSBL and Skee-Ball Live Lanes would have generated had Full Circle been able to obtain the lanes and expand the NSBL.

266. The damages sought by Full Circle are the natural and probable results of Bay Tek's breach of the Revenue Share Agreement and were contemplated by the parties at the time of entering into the Revenue Share Agreement.

**COUNT III**  
**(Tortious Interference with Prospective Business Relationship)**

267. Plaintiff Full Circle re-alleges as though fully set forth herein the allegations in paragraphs 1 through 225, above.

268. This is an action for damages against Defendant Bay Tek for tortious interference with Full Circle's prospective business relationship with Play Mechanix.

269. By the summer of 2018, Bay Tek had refused to provide Full Circle the additional twenty-five (25) Skee-Ball Live Lanes promised under the Revenue Share Agreement, or otherwise provide Full Circle the lanes it needed to operate and expand its business.

270. Due to Bay Tek's refusal to perform, Full Circle sought the help from a third-party manufacturer, Play Mechanix, through its CEO, Petro.

271. Full Circle and Play Mechanix reached an agreement in principle – the Play Mechanix Agreement.

272. In connection with the Play Mechanix Agreement, Play Mechanix agreed to help Full Circle obtain Skee-Ball Live Lanes in exchange for a share of lane revenue. It further agreed to facilitate placement of Full Circle's Skee-Ball Live Lanes using its network of operators in the bar market.

273. At the time, an investor was ready to inject a substantial amount of operational capital into Full Circle, contingent upon Play Mechanix and Petro's participation in Full Circle's Skee-Ball Live Concept.

274. At the time, there was a reasonable probability Full Circle and Play Mechanix would have entered into a formal contractual relationship.

275. Bay Tek interfered with Full Circle's relationship with Play Mechanix by expressing displeasure with or withholding its approval from Play Mechanix when it proffered the idea of helping Full Circle obtain Skee-Ball Live Lanes. Bay Tek threatened Play Mechanix if it tried to help Full Circle obtain Skee-Ball Live Lanes, causing Play Mechanix to back out of its deal with Full Circle.

276. Once the deal fell through, Full Circle lost the potential investor that was willing to invest based on the participation of Play Mechnanix.

277. Bay Tek knew Play Mechanix could help Full Circle succeed in the bar market and was capable of building Skee-Ball Live Lanes.

278. Bay Tek, maliciously and for the improper purpose of harming and unfairly competing with Full Circle, acted in a manner that it knew would kill any chance of Play Mechanix working with Full Circle to manufacture Skee-Ball Live Lanes, by withholding its blessing for Play Mechanix to do so and threatening Play Mechanix that it would not be a good situation for it if it decided to help Full Circle.

279. Due to Bay Tek's interference, Full Circle suffered millions of dollars in damages, including lost profits under the Play Mechanix Agreement, the loss of the opportunity to learn and work with an industry leader in the market like Play Mechanix, and the investment funds Full Circle would have received had Play Mechanix participated in Full Circle's Skee-Ball Live Concept.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Full Circle respectfully requests that the Court enter judgment in its favor and against Defendant Bay Tek:

- A. Declaring that Bay Tek is liable for breach of the License Agreement, including the implied covenant of good faith and fair dealing; for breach of the Revenue Share Agreement; and for tortious interference with prospective economic relations;
- B. Awarding Full Circle damages, including lost profits, consequential damages, and punitive damages;
- D. Awarding pre- and post-judgment interest; and
- E. Awarding such other relief at law or equity as the Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury of all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

Dated: November 9, 2020

Respectfully submitted,

/s/ Christina Casadonte-Apostolou

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on November 9, 2020, a true and correct copy of the foregoing was electronically filed and served using the Court's CM/ECF system to all parties including the following:

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