

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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POWERHOUSE BEVERAGE COMPANY, LLC,	:
LIVE LIFE SMART, INC. and	: No. 22-CV-
SPARKLING YOUR WORLD, INC.	:
Plaintiffs,	:
	:
- against -	: COMPLAINT
	:
	:
FRANK NAHOUM,	:
HENRY GIMENEZ,	:
JOEL KRINGEL,	:
BEHZAD PEIKARIAN, and	:
THOMAS STANZIALE, ESQ.	: JURY TRIAL
Defendants.	: DEMANDED
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JURISDICTION

1. The United States District Court has jurisdiction over this matter under the trademark laws of the United States, Section 39 of the Lanham Act, 15 U.S.C. §1121, the RICO statute, 18 U.S.C. § 1964, and under the Judicial Code of the United States, 28 U.S.C. §§ 1331 and 1338. The United States District Court has jurisdiction over the state common law causes of action under 28 U.S.C. §1367 and the principles of supplemental jurisdiction.

2. This Court has jurisdiction over defendants because defendants have caused injury in the Southern District by causing plaintiff, Live Life Smart, Inc. to incur costs and attorneys fees as a direct result of defendants’ misconduct, causing plaintiff, Live Life Smart, Inc., to be forced into bankruptcy in the USBC, SDNY, and by causing plaintiffs to lose sales, profits, goodwill and other financial damages in the Southern District.

3. Venue is proper in the Southern District under 28 U.S.C. § 1391(b) because a

substantial part of the events giving rise to the claims occurred in the Southern District.

PARTIES AND THIRD-PARTIES

4. Plaintiff is Powerhouse Beverage Company, LLC, a Delaware limited liability company, doing business at 480 Forest Avenue, Locust Valley, New York 11560.
5. Plaintiff is Live Life Smart, Inc., a corporation duly incorporated in New York, doing business at 480 Forest Avenue, Locust Valley, New York 11560.
6. Plaintiff is Sparkling Your World, Inc., a corporation duly incorporated in New York, doing business at 480 Forest Avenue, Locust Valley, New York 11560.
7. Defendant is Frank Nahoum, residing in the state of New York.
8. Defendant is Henry Gimenez, with a last known residential address in Nassau County, New York.
9. Defendant is Joel Kringel, residing in the state of New York.
10. Defendant is Behzad Peikarian, residing in the state of New York.
11. Defendant is Thomas Stanziale, Esq., residing in the state of New York.
12. A third-party relevant for background information purposes is Daniel Ehrlich, an individual residing in the state of New York.
13. A third-party relevant for background information purposes is Mel Ehrlich, Deceased, formerly residing in the state of New York.

BACKGROUND FACTS

Powerhouse Beverage Company, LLC

14. Powerhouse Beverage Company, LLC is a foreign limited liability company that was formed in Delaware on December 7, 2012 and registered in New York on September 19, 2014.

15. The managing member of Powerhouse Beverage Company, LLC is Daniel Ehrlich.

16. Powerhouse Beverage Company, LLC's operating agreement, dated 28, 2014, at Section 5.3, provides that a super majority was necessary to pass resolutions. The operating agreement also provided for remedies in the event that a member breached his fiduciary duties.

17. Powerhouse Beverage Company, LLC is in the business of distributing beverages.

Powerhouse Brands, Inc.

18. Powerhouse Brands, Inc. was assigned the trademarks, "IQ Juice" and "IQ Juice Drink", by Powerhouse Beverage Company, LLC.

19. Later, Powerhouse Brands, Inc. assigned said trademarks to plaintiff, Live Life Smart, Inc., the current owner of both trademarks.

Live Life Smart, Inc.

20. Live Life Smart, Inc. is a corporation that was formed in New York on July 10, 2018.

21. Live Life Smart, Inc. is located at 480 Forest Avenue, Locust Valley, New York 11560.

22. Live Life Smart, Inc. is in the business of producing and marketing beverages.

23. Live Life Smart, Inc. owns the trademarks for "IQ Juice" and "IQ Juice Drink".

Sparkling Your World, Inc.

24. Sparkling Your World, Inc. is a corporation that was formed in New York on July 10, 2018.

25. Sparkling Your World, Inc. has been licensed by Live Life Smart, Inc. to use the

trademark, IQ Juice, and to distribute IQ Juice products.

Minority Members of Powerhouse Beverage Company, LLC

26. Defendants, Frank Nahum, Henry Gimenez, Joel Kringel, and Behzad Peikarian, were members of Powerhouse Beverage Company, LLC from 2013 to 2014.

27. In 2014, said defendants-members were suspended by management of the LLC on November 4, 2014 on the grounds of breach of fiduciary duty.

28. The four defendants-members, as a voting bloc, were never a majority or had a super majority of the LLC as required under the LLC's Operating Agreement.

29. At all material times, defendants-members never owned the trademark.

Thomas Stanziale, Esq.

30. Defendant, Thomas Stanziale, is a licensed attorney in the state of New York with a business address of PO Box 1373, Port Washington, New York 11050-7373.

31. Defendant, Thomas Stanziale, has represented the other defendants in certain litigation in Supreme Court and federal court, including both the Bankruptcy Court and the District Court.

32. At all material times, defendant-lawyer was never the attorney for Powerhouse Beverage Company LLC, in either an outside, retained capacity or as general counsel, or in any other capacity.

Mel Ehrlich, Deceased

33. Mel Ehrlich, Deceased, was the Chief Executive Officer of Living Life Smart, Inc.

Daniel Ehrlich

34. Daniel Ehrlich is the creator of IQ Juice, and on December 6, 2012 he licensed the IQ Juice trademark to the LLC. He founded Powerhouse Beverage Company, LLC.

35. The managing member of Powerhouse Beverage Company, LLC is Daniel Ehrlich.

Trademark Ownership

36. The filing date for the trademark, “IQ Juice”, was August 29, 2013.

37. The registration date for the trademark, “IQ Juice”, was July 7, 2015.

38. The registrant under the trademark license for the trademark, “IQ Juice”, was Powerhouse Beverage Company, LLC.

39. On or about January 1, 2016, Powerhouse Beverage Company, LLC assigned its entire interest in the trademark, “IQ Juice”, to Powerhouse Brands, Inc; the assignment was recorded with the Commissioner of Patents and Trademarks on or about April 29, 2016.

40. On or about December 17, 2018, Powerhouse Brands, Inc. assigned its entire interest in the trademark, “IQ Juice”, to Live Life Smart, Inc.; the assignment was recorded with the Commissioner of Patents and Trademarks on or about December 18, 2018.

41. The filing date for the trademark, “IQ Juice Drink” was October 26, 2012.

42. The registration date for the trademark, “IQ Juice Drink”, was December 8, 2015.

43. The owner (registrant) for the trademark, “IQ Juice Drink”, was Powerhouse Beverage Company, LLC.

44. On or about February 17, 2014, Dan Ehrlich assigned his entire interest in the

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