

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Michelle Williams Court

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Attorneys for Plaintiffs DS TECHNOLOGY LICENSING LLC AND PUFF INC.

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA

7 COUNTY OF LOS ANGELES

9 DS TECHNOLOGY LICENSING LLC, a)
10 Delaware Limited Liability Company; and)
11 PUFF INC., a California Corporation)
Plaintiffs,)

12 vs.)

13 CACUQ USA INC., a California)
14 Corporation; CACUQ USA INC., a New)
15 York Corporation; CACUQ WHOLESAL,)
16 INC., a New York Corporation; CACUQ)
17 USA INC., a Texas Corporation; Shenzhen)
18 VapeMons Technology Co., Ltd, a Chinese)
19 Company, Business Form Unknown; Blink)
20 Imports LLC, a California Limited Liability)
21 Company; J&L D Sunset Wholesale &)
22 Tobacco, a California Company, Business)
23 Form Unknown; Smoke 1, a California)
24 Company, Business Form Unknown; Daniel)
25 Rahbar Distributions and Representations)
26 LLC a California Limited Liability)
27 Company; Gypsy Vapes a.k.a. The Bambino)
28 Company, a California Company, Business)
Form Unknown; Temecula Cash & Carry,)
Inc., a California Corporation; Pitco)
Tobacco, Inc., a California Corporation;)
Tobacco Cartel, Inc. a California)
Corporation; Global Vapors LLC, an Ohio)
Limited Liability Company; Mayvillage)
Trading, LLC, a New Jersey Limited)
Liability Company; Sky Distribution LLC, a)
Massachusetts Limited Liability Company;)
Vapes Society Distro Inc., a Nevada)
Corporation; Cloud 9 Smoke Company Inc.,)

Case No.: 20STCV17971

Complaint for:

- (1) California Trademark Infringement;
- (2) Common Law Trademark Infringement;
- (3) Injury to Business Reputation;
- (4) Violation of California Business and Professions Code §§ 17200, et seq;
- (5) Unjust Enrichment.

Demand for Jury Trial

1 a Georgia Corporation; Vaporider LLC, a)
2 Texas Limited Liability Company; Sweet)
3 Southern Vapes LLC, a Florida Limited)
4 Liability Company; Sweet Southern Vapes)
5 Crestview LLC, a Florida Limited Liability)
6 Company; Sweet Southern Vapes Destin)
7 LLC, a Florida Limited Liability Company;)
8 Sweet Southern Vapes Niceville LLC, a)
9 Florida Limited Liability Company;)
10 Unishow Inc., a Texas Corporation; The)
11 Local Vapory LLC, a New Mexico Limited)
12 Liability Company; My Vape Store a New)
13 York Company, Business Form Unknown;)
14 Sema International Inc., a Minnesota)
15 Corporation; Ecto World LLC, a New York)
16 Limited Liability Company; ELiquid Depot,)
17 a Florida Company, Business Form)
18 Unknown; G & Fire, an Arizona Company,)
19 Business Form Unknown; Vapor Exotica)
20 Group, LLC, a California Limited Liability)
21 Company; and DOES 1 through 100,)
22 inclusive,)

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Defendants.

COME NOW Plaintiff DS Technology Licensing, LLC (hereinafter “DS Tech”) and Plaintiff Puff Inc. (hereinafter DS Tech and Puff Inc. are collectively referred to as “Plaintiffs”), and allege as follows:

JURISDICTION AND VENUE

1. Jurisdiction is proper in Los Angeles County, where Defendants reside and/or conduct business in this county, and by the virtue of the California Statutes, decisional law, and regulations.
2. This Court has personal jurisdiction over defendants because they are incorporated in California and/or conduct business in California.
3. Venue is proper in this Court in that events giving rise to the causes of action therein took place in whole or in part within the County of Los Angeles, State of California.

PARTIES

4. Plaintiff DS Tech is a Delaware Limited Liability Company and the owner of IP associated with the “Puff Bar” vapor devices. This includes ownership of registered California trademark for “PUFF”

1 at registration number 02004644.

2 5. Plaintiff Puff Inc. is a California Corporation and an authorized distributor of Puff Bar vapor
3 devices. They also administer Puff Bar's anti-counterfeit and anti-youth use programs.

4 6. Plaintiffs are informed and believe and thereupon allege that Defendant CACUQ USA Inc. is a
5 California corporation, in the business of distributing vapor devices, with its principal place of business
6 at 14750 Nelson Ave, Unit F, City of Industry, CA 91744.

7 7. Plaintiffs are informed and believe and thereupon allege that Defendant CACUQ USA Inc. is a
8 New York Corporation, in the business of distributing vapor devices, with its principal place of
9 business at 202 Airport Executive Park, Nanuet, NY 10954.

10 8. Plaintiffs are informed and believe and thereupon allege that Defendant CACUQ
11 WHOLESale INC. is a New York Corporation, in the business of distributing vapor devices, with its
12 principal place of business at 50 West St. 55C New York, NY 10006.

13 9. Plaintiffs are informed and believe and thereupon allege that Defendant CACUQ USA INC. is a
14 Texas Corporation, in the business of distributing vapor devices, with its principal place of business at
15 10631 Harwin Dr. suite 618, Houston, TX 77036.

16 10. Plaintiffs are informed and believe and thereupon allege that Defendant Blink Imports, LLC is a
17 California Corporation, in the business of distributing vapor devices, with its principal place of business
18 at 704 N Valley St. suite J, Anaheim, CA 92801.

19 11. Plaintiffs are informed and believe and thereupon allege that Defendant J&L D Sunset
20 Wholesale is a California Company, in the business of distributing vapor devices, with its principal
21 place of business at 8786 Hellman Ave. Rancho Cucamonga, CA 91730.

22 12. Plaintiffs are informed and believe and thereupon allege that Defendant Smoke 1 is a California
23 Company, in the business of distributing vapor devices, with its principal place of business at 1001 S
24 Broadway #D, Los Angeles, CA 90015.

25 13. Plaintiffs are informed and believe and thereupon allege that Defendant Daniel Rahbar
26 Distributions and Representations LLC is a California Limited Liability Company, in the business of
27 distributing vapor devices, with its principal place of business at 18344 Oxnard Street #101, Tarzana,
28 CA 91356.

1 14. Plaintiffs are informed and believe and thereupon allege that Defendant Gypsy Vapes, The
2 Bambino Company, is a California Company, in the business of distributing vapor devices, with its
3 principal place of business at 5632 Van Nuys Blvd. #1287, Sherman Oaks, CA 91401.

4 15. Plaintiffs are informed and believe and thereupon allege that Defendant Temecula Cash &
5 Carry, Inc. is a California Corporation, in the business of distributing vapor devices, with its principal
6 place of business at 43234 Business Park Dr. #105, Temecula, CA 92590.

7 16. Plaintiffs are informed and believe and thereupon allege that Defendant Pitco Tobacco, Inc. is a
8 California Corporation, in the business of distributing vapor devices, with its principal place of business
9 at 727 Kennedy St. Oakland, CA 94606.

10 17. Plaintiffs are informed and believe and thereupon allege that Defendant Tobacco Cartel Inc. is a
11 California Corporation, in the business of distributing vapor devices, with its principal place of business
12 at 1400 Enterprise Blvd. #30 West Sacramento, CA 95691.

13 18. Plaintiffs are informed and believe and thereupon allege that Defendant Vapor Exotica Group,
14 LLC is a California Limited Liability Company, in the business of distributing vapor devices, with its
15 principal place of business at 224 East 3rd St., Suite B, Los Angeles, CA 90013.

16 19. Plaintiffs are informed and believe and thereupon allege that Defendant Global Vapors LLC is
17 an Ohio Limited Liability Company, in the business of distributing vapor devices, with its principal
18 place of business at 4876 Union Centre Pavilion Dr. West Chester, Ohio 45069. Plaintiffs are informed
19 and believe that Defendant conducts a substantial amount of business in California, including offering
20 products for sale in state, and that a bulk of the products they offer for sale are imported through the
21 Port of Los Angeles.

22 20. Plaintiffs are informed and believe and thereupon allege that Defendant Mayvillage Trading,
23 LLC is a New Jersey Limited Liability Company, in the business of distributing vapor devices, with its
24 principal place of business at 92 N Main St. Windsor, New Jersey 08561. Plaintiffs are informed and
25 believe that Defendant conducts a substantial amount of business in California, including offering
26 products for sale in state, and that a bulk of the products they offer for sale are imported through the
27 Port of Los Angeles.

28 21. Plaintiffs are informed and believe and thereupon allege that Sky Distribution LLC is a

1 Massachusetts Limited Liability Company, in the business of distributing vapor devices, with its
2 principal place of business at 275 Brayton Ave., Fall River, Massachusetts 02721. Plaintiffs are
3 informed and believe that Defendant conducts a substantial amount of business in California, including
4 offering products for sale in state, and that a bulk of the products they offer for sale are imported
5 through the Port of Los Angeles.

6 22. Plaintiffs are informed and believe and thereupon allege that Defendant Vapes Society Distro
7 Inc. is a Nevada Corporation, in the business of distributing vapor devices, with its principal place of
8 business at 7355 Commercial Way #115 Henderson, Nevada 89011. Plaintiffs are informed and believe
9 that Defendant conducts a substantial amount of business in California, including offering products for
10 sale in state, and that a bulk of the products they offer for sale are imported through the Port of Los
11 Angeles.

12 23. Plaintiffs are informed and believe and thereupon allege that Cloud 9 Smoke Company Inc. is a
13 Georgia Corporation, in the business of distributing vapor devices, with its principal place of business
14 at 3600 Cherokee St. suite 115 Kennesaw, Georgia 30144. Plaintiffs are informed and believe that
15 Defendant conducts a substantial amount of business in California, including offering products for sale
16 in state, and that a bulk of the products they offer for sale are imported through the Port of Los Angeles.

17 24. Plaintiffs are informed and believe and thereupon allege that Defendant Vaporider LLC is a
18 Texas Limited Liability Company, in the business of distributing vapor devices, with its principal place
19 of business at 4522 Hwy 6 Sugar Land, Texas 77479. Plaintiffs are informed and believe that
20 Defendant conducts a substantial amount of business in California, including offering products for sale
21 in state, and that a bulk of the products they offer for sale are imported through the Port of Los Angeles.

22 25. Plaintiffs are informed and believe and thereupon allege that Defendant Sweet Southern Vapes
23 LLC is a Florida Limited Liability Company, in the business of distributing vapor devices, with its
24 principal place of business at 599B W John Sims, Niceville, Florida 32578. Plaintiffs are informed and
25 believe that Defendant conducts a substantial amount of business in California, including offering
26 products for sale in state, and that a bulk of the products they offer for sale are imported through the
27 Port of Los Angeles.

28 26. Plaintiffs are informed and believe and thereupon allege that Defendant Sweet Southern Vapes

1 Crestview LLC is a Florida Limited Liability Company, in the business of distributing vapor devices,
2 with its principal place of business at 592 S Ferdon Blvd., Crestview, Florida 32536. Plaintiffs are
3 informed and believe that Defendant conducts a substantial amount of business in California, including
4 offering products for sale in state, and that a bulk of the products they offer for sale are imported
5 through the Port of Los Angeles.

6 27. Plaintiffs are informed and believe and thereupon allege that Defendant Sweet Southern Vapes
7 Destin LLC is a Florida Limited Liability Company, in the business of distributing vapor devices, with
8 its principal place of business at 12671 Emerald Coast Pkwy W, Miramar Beach, Florida 32550.
9 Plaintiffs are informed and believe that Defendant conducts a substantial amount of business in
10 California, including offering products for sale in state, and that a bulk of the products they offer for
11 sale are imported through the Port of Los Angeles.

12 28. Plaintiffs are informed and believe and thereupon allege that Defendant Sweet Southern Vapes
13 Niceville LLC is a Florida Limited Liability Company, in the business of distributing vapor devices,
14 with its principal place of business at 599B W John Sims, Niceville, Florida 32578. Plaintiffs are
15 informed and believe that Defendant conducts a substantial amount of business in California, including
16 offering products for sale in state, and that a bulk of the products they offer for sale are imported
17 through the Port of Los Angeles.

18 29. Plaintiffs are informed and believe and thereupon allege that Defendant, Unishow Inc. is a
19 Texas Corporation, in the business of distributing vapor devices, with its principal place of business at
20 5902 Sovereign Drive suite B Houston, TX 77036. Plaintiffs are informed and believe that Defendant
21 conducts a substantial amount of business in California, including offering products for sale in state,
22 and that a bulk of the products they offer for sale are imported through the Port of Los Angeles.

23 30. Plaintiffs are informed and believe and thereupon allege that Defendant The Local Vapory LLC
24 is a New Mexico Limited Liability Company, in the business of distributing vapor devices, with its
25 principal place of business at 200 S Solano Dr. Las Cruces, New Mexico 88001. Plaintiffs are informed
26 and believe that Defendant conducts a substantial amount of business in California, including offering
27 products for sale in state, and that a bulk of the products they offer for sale are imported through the
28 Port of Los Angeles.

1 31. Plaintiffs are informed and believe and thereupon allege that Defendant My Vape Store is a
2 New York Company, in the business of distributing vapor devices, with its principal place of business
3 at 32-30 62nd St. Woodside, New York 11377. Plaintiffs are informed and believe that Defendant
4 conducts a substantial amount of business in California, including offering products for sale in state,
5 and that a bulk of the products they offer for sale are imported through the Port of Los Angeles.

6 32. Plaintiffs are informed and believe and thereupon allege that Defendant Sema International Inc.
7 is a Minnesota Corporation in the business of distributing vapor devices, with its principal place of
8 business at 1636 Gervais Ave. unit 15 Maplewood, Minnesota 55109. Plaintiffs are informed and
9 believe that Defendant conducts a substantial amount of business in California, including offering
10 products for sale in state, and that a bulk of the products they offer for sale are imported through the
11 Port of Los Angeles.

12 33. Plaintiffs are informed and believe and thereupon allege that Defendant Ecto World LLC is a
13 New York Limited Liability Company, in the business of distributing vapor devices, with its principal
14 place of business at 2225 Kenmore Ave. suite 110 Buffalo, New York 14207. Plaintiffs are informed
15 and believe that Defendant conducts a substantial amount of business in California, including offering
16 products for sale in state, and that a bulk of the products they offer for sale are imported through the
17 Port of Los Angeles.

18 34. Plaintiffs are informed and believe and thereupon allege that Defendant ELiquid Depot is a
19 Florida Company, in the business of distributing vapor devices, with its principal place of business at
20 3135 Skyway Circle Melbourne, Florida 32934. Plaintiffs are informed and believe that Defendant
21 conducts a substantial amount of business in California, including offering products for sale in state,
22 and that a bulk of the products they offer for sale are imported through the Port of Los Angeles.

23 35. Plaintiffs are informed and believe and thereupon allege that Defendant G & Fire is an Arizona
24 Company, in the business of distributing vapor devices, with its principal place of business at 4004 E
25 Washington St. Phoenix, AZ 85034. Plaintiffs are informed and believe that Defendant conducts a
26 substantial amount of business in California, including offering products for sale in state, and that a
27 bulk of the products they offer for sale are imported through the Port of Los Angeles.

28 36. Plaintiffs are ignorant of the true names and capacities of the Defendants sued as DOES 1

1 through 100, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs will
2 amend the Complaint to allege Defendants' true names and capacities when ascertained.

3 37. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants named
4 as Defendants DOES 1 through 100, inclusive, is and was in some manner responsible for, participated
5 in or contributed to the matters and things of which Plaintiffs complain herein, and in some fashion,
6 have legal responsibility.

7 38. Plaintiffs are informed and believe, and thereon allege, that Defendants, and each of them, at all
8 relevant times herein were the agents, employees, servants, joint venturers, alter egos, parents,
9 subsidiaries, management companies, holding companies, directors, fiduciaries, representatives, and/or
10 co-conspirators of each of the remaining Defendants. Defendants, in doing the things hereinafter
11 alleged, were acting within the course and scope of such relationship and are responsible in some
12 manner for the occurrences herein alleged and, as a proximate cause, of Plaintiffs' damages as herein
13 alleged.

14 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

15 39. DS Tech is the owner of numerous trademarks affiliated with "PUFF" and the "PUFF BAR"
16 disposable vapor product. Authentic versions of the Puff Bar, as well as affiliated licensed products, have
17 achieved wide industry and press recognition; the Puff Bar has been recognized as a leader in the
18 disposable vapor device market in numerous media references in the New York Times, Wall Street
19 Journal, CNN, and many others.

20 40. In addition to achieving the recognition necessary to qualify as a "famous mark" under Bus. &
21 Prof. Code § 14247, for both "PUFF" and "PUFF BAR", DS Tech has filed to obtain protection for its
22 marks in numerous jurisdictions, including the United States and California. This includes a Trademark
23 for "Puff" issued by California as Registration Number 02004644. DS Tech has also filed a Federal
24 Trademark application for "Puff", "Puff Bar", "Puff Mini" and other related marks.

25 41. Defendants have violated these PUFF trademarks, as well as other intellectual property rights
26 belonging to DS Tech by the appearance of DS Tech's PUFF Marks on unlicensed products known as the
27 "Puff Mini", "Puff Smart", "Puff Stig" and "Airis Puff". The infringing products all copy the name and
28 look of feel of DS Tech's famous and distinctive mark, including elements of font and a stylized image of

1 a cloud.

2 42. The introduction of these knock-off products is clearly intentional infringement and is also poses
3 a threat to the public, as these inauthentic products have not been through DS Tech’s internal safety
4 testing, nor is their distribution in the market been limited by DS Tech’s anti-minor use campaign. This
5 willful trademark infringement by Defendants has opened DS Tech’s PUFF brand up to
6 misrepresentation and the accompanying substantial harm to their business due to Defendants’
7 unauthorized labeling of the “Puff Mini”, “Puff Smart”, “Puff Stig” and “Airis Puff” products.

8 43. Additionally, Defendants have imported, offered, and sold counterfeit PUFFBAR products
9 branded with DS Tech’s trademarks, all in violation of DS Tech’s intellectual property rights.
10 Specifically, Defendants are selling a product that is labeled, packaged and manufactured to mimic DS
11 Tech’s original product, which holds itself at to consumers as being an authorized product, but which is
12 fake and manufactured in an unknown factory. This which constitutes unfair competition and false
13 advertising under applicable California trademark law.

14 44. Defendants sales of the infringing products have been open and notorious. For example, there are
15 now 18 flavors of the “Puff Mini” product on the market.

16 45. Defendant CACUQ has been particularly bold in its infringement. In April of 2020 they posted
17 an instructional video on YouTube titled, “New Disposable Device Unboxing,” on their YouTube
18 channel featuring products bearing the “Puff Mini” product name and logo.

19 46. CACUQ has also advertised its sale via email to wholesalers, indicating they are a major
20 importer of this clearly infringing product, and establishing this conduct as willful trademark
21 infringement. They continued have continued to send emails offering the product for sale after being
22 informed of its infringing nature.

23 47. Another example of blatant infringement is Defendant ELiquid Depot listing “Clone” Puff Bars
24 for sale on their website, at a price dramatically below the present market.

25 48. Plaintiffs are informed and believe that Defendants, each and every one of them, are part of a
26 nationwide conspiracy to engage in criminal activity, illegally importing and selling unlicensed products
27 which are known to them to violate DS Tech’s intellectual property rights. Their illegal conspiracy and
28 trade activities clearly violate California’s Unfair Business Practices Act, Bus. & Prof. §§ 17200 et seq.

1 The copying of DS Tech’s “Puff” logo on their products is meant to confuse consumers and to give their
2 company an unfair advantage over competition.

3 49. Plaintiffs are informed and believe that Defendants, each and every of them, have furthered this
4 criminal conspiracy by knowingly manufacturing, importing, and/or selling counterfeit PUFF products.

5 **FIRST CLAIM FOR RELIEF**

6 **California Trademark Infringement under Bus. & Prof. Code §§§ 14245, 14247, 14250 –**

7 **DS Tech Against All Defendants**

8 50. Plaintiffs incorporate by reference the allegations in the preceding paragraphs of this
9 Complaint as though fully set forth herein.

10 51. DS Tech owns and has superior rights in and to the PUFF marks, issued in California on March
11 23, 2020.

12 52. The PUFF and PUFF BAR marks are used in commerce and are valid, protectable trademark
13 under California Law. Since August of 2019, DS Tech has continuously used the PUFF and PUFF
14 BAR Marks to identify authorized goods and to distinguish those goods from those made and sold by
15 others.

16 53. Defendants have made unauthorized use of DS Tech’s PUFF and PUFF BAR in order to sell
17 both “knock-off” and “counterfeit” products. On these products, Defendants have used the PUFF
18 and/or PUFF BAR Marks in a manner identical or substantially similar to DS Tech. Defendants’ acts
19 of trademark counterfeiting, as alleged above, were committed with the knowledge that the PUFF and
20 PUFF BAR marks would cause confusion, mistake and deceive the public.

21 54. Defendants’ wrongful use in commerce of the PUFF Mark is likely to (i) cause confusion and
22 mistake in the minds of the public with respect to the origin, affiliation, and source of Defendants’
23 products and (ii) to deceive purchasers of such products into believing that DS Tech controls the
24 quality thereof and endorse the same.

25 55. Defendants’ conduct is intended to exploit the goodwill and reputation associated with DS
26 Tech’s PUFF Mark and to take a competitive advantage without expenditure of resources, by a
27 strategy of willful infringement.

28 56. By reason of Defendants’ acts, Plaintiffs suffered and continues to suffer damage to their

1 business, reputation, and goodwill, and the loss of sales and profits Plaintiffs would have made but for
2 Defendants' acts, in an amount to be proven at the time of trial.

3 57. Defendants have continued to engage in the acts complained of herein after DS Tech alerted
4 Defendants to their infringement, and unless restrained and enjoined, Defendants will continue to do
5 so, all to Plaintiffs' irreparable harm. It would be difficult to ascertain the amount of compensation
6 which would afford Plaintiffs adequate relief from such continuing acts, and a multiplicity of judicial
7 proceedings would be required. Plaintiffs' remedy at law is not adequate to compensate it for the
8 injuries threatened.

9 **SECOND CLAIM FOR RELIEF**

10 **Common Law Trademark Infringement – DS Tech Against All Defendants**

11 58. Plaintiffs reallege and incorporate by reference the allegations in the preceding paragraphs of
12 this Complaint as though fully set forth herein.

13 59. DS Tech owns and has superior rights in and to the Common Law Trademarks.

14 60. The PUFF brand and the PUFF BAR product were introduced, and have been used has
15 continuously and extensively since August of 2019 in connection with its electronic vaporizers and
16 accessories. In that time, the PUFF products have gained popularity and PUFF and PUFF BAR are
17 widely recognized within their industry and "famous" marks.

18 61. By virtue of their willful disregard for DS Tech's trademark rights, and their knowing and
19 intentional misrepresentations, Defendants' conduct, as described above, misleads the public as to the
20 nature, source and/or origin of its goods so as to create a likelihood of confusion as to the nature,
21 source, or sponsorship of Defendants' goods.

22 62. Defendants' conduct wrongfully tarnishes the goodwill associated with the PUFF and PUFF
23 BAR marks.

24 63. By reason of Defendants' acts, DS Tech suffered and continues to suffer damage to its
25 business, reputation, and goodwill, and the loss of sales and profits DS Tech would have made but for
26 Defendants' acts, in an amount to be proven at the time of trial.

27 64. Defendants have continued to engage in the acts complained of herein after DS Tech alerted
28 Defendants to their infringement, and unless restrained and enjoined, Defendants may continue to do

1 so, all to DS Tech’s irreparable harm. It would be difficult to ascertain the amount of compensation
2 which would afford DS Tech adequate relief from such continuing acts, and a multiplicity of judicial
3 proceedings would be required. DS Tech’s remedies at law is not adequate to compensate them for the
4 injuries threatened.

5 65. Defendants’ wrongful use of the Common Law Trademarks is deliberate, willful, and in
6 reckless disregard of DS Tech’s trademark rights, entitling DS Tech to recover punitive damages.

7 **THIRD CLAIM FOR RELIEF**

8 **Injury to Business Reputation and Dilution under California Business & Professions Code § 14330**

9 **– DS Tech and Puff Inc. Against All Defendants**

10 66. Plaintiffs reallege and incorporate by reference the allegations in the preceding paragraphs of this
11 Complaint as though fully set forth herein.

12 67. The use by Defendants of the PUFF and PUFF BAR Marks: (a) dilutes or is likely to dilute the
13 distinctive quality of DS Tech’s famous Marks; (b) reduces or is likely to reduce the value of
14 Plaintiffs’ goodwill and business reputation; and (c) destroys or is likely to destroy the exclusive
15 association by the public of Plaintiffs’ Marks.

16 68. As a proximate and direct result of Defendants’” wrongful acts, Plaintiffs are likely to suffer
17 and/or have suffered, and are likely to continue to suffer, dilution of the PUFF and PUFF BAR Marks
18 and damage to their business reputation and goodwill in an amount subject to proof. Defendants will
19 continue, unless restrained, to use the marks and will cause irreparable injury to Plaintiffs. Plaintiffs
20 remedies at law are not adequate and they are entitled to injunctive relief.

21 **FOURTH CLAIM FOR RELIEF**

22 **Unfair Competition Under California Business & Professions Code §§ 17200, et seq. –**

23 **DS Tech and Puff Inc. Against All Defendants**

24 69. Plaintiffs reallege and incorporate by reference the allegations in the preceding paragraphs of
25 this Complaint as though fully set forth herein.

26 70. Through its unauthorized use of the PUFF mark, as well as by continuing to engage in a willful
27 and concerted effort to trade on DS Tech’s goodwill copying and/or imitating DS Tech’s PUFF and
28 PUFF BAR Marks, Defendants have engaged in “unlawful, unfair or fraudulent business act(s) or

1 practice(s)” as defined in Cal. Bus. & Prof. Code § 17200.

2 71. Defendants were, or should have been, aware of DS Tech’s use of and corresponding rights in
3 the PUFF and PUFF BAR marks.

4 72. Defendants’ willful and intentional violation of Cal. Bus. & Prof. Code § 17200 has caused and
5 is causing great and irreparable injury and damage to Plaintiffs’ business, goodwill and reputation in
6 an amount that cannot be ascertained at this time and, unless preliminarily and permanently restrained,
7 will cause further irreparable injury and damage, leaving Plaintiffs with no adequate remedy at law.

8 73. Defendants’ acts were the proximate cause of such injury and damage.

9 74. Because of the willful nature of Defendants’ wrongful acts, Plaintiffs are entitled to Punitive
10 Damages.

11 **FIFTH CLAIM FOR RELIEF**

12 **Unjust Enrichment Under Common Law –**

13 **DS Tech and Puff Inc. Against All Defendants**

14 75. Plaintiffs reallege and incorporate by reference the allegations in the preceding paragraphs of
15 this Complaint as though fully set forth herein.

16 76. By virtue of the egregious and illegal acts of Defendants as described above, Defendants have
17 been unjustly enriched in an amount to be proven at trial.

18 77. Defendants’ retentions of monies gained through their deceptive business practices,
19 infringements, and otherwise, would serve to unjustly enrich Defendants and would be contrary to the
20 interests of justice.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiffs pray for the following relief:

23 1. For damages in an amount to be proven at trial, but reasonably estimated at over \$50 Million, for
24 trademark infringement and dilution;

25 2. For damages in an amount to be proven at trial, but reasonably estimated at over \$50 Million, for
26 unfair, fraudulent, and illegal business practices under Cal. Bus. & Prof. Code § 17200.

27 3. That Defendants be required to account to Plaintiffs for any and all revenues, profits and other
28 gains derived by Defendants from the use of the PUFF and PUFF BAR Marks;

1 4. For disgorgement of Defendants profits and revenues, in treble.

2 5. For injunctive relief permanently enjoining and restraining Defendants and their agents, servants,
3 and employees from further acts of unfair competition or infringement, including, without limitation,
4 directly or indirectly using the PUFF and PUFF BAR marks, or any other mark similar to the PUFF or
5 PUFF BAR marks.

6 6. In furtherance of the injunction, that Defendants deliver to Plaintiffs for destruction all products,
7 advertisements, literature, and any other promotional material, which feature the PUFF or PUFF BAR
8 marks, or any other marks similar to the PUFF or PUFF BAR marks;

9 7. Plaintiffs' attorneys' fees and costs in this action, plus prejudgment interest;

10 8. Punitive Damages, in an amount to be proven, but reasonable estimated at in excess of \$25
11 Million.

12 9. That the Court issue civil penalty of up to \$2,500 for each individual violation, i.e. each violating
13 item sold, pursuant to Cal. Bus. & Prof. Code §§ 17206 & 17535.

14 10. For expedited discovery on the subject of the suppliers and purchasers of Defendants'
15 counterfeit products;

16 11. For such other preliminary, provisional, and permanent injunctive relief or order for
17 specific performance as may be necessary to restrain Defendants from further acts in violation Plaintiffs'
18 legal rights; and

19 12. For such other relief as this Court may deem necessary or appropriate.


20 **DEMAND FOR JURY TRIAL**

21 Plaintiffs hereby demand a trial by jury of all claims triable by jury.

22
23 DATED: May 11, 2020

Respectfully Submitted,

24 GALLINGER LAW

25
26 By: 
27 Todd E. Gallinger, Esq.
28 *Attorneys for Plaintiffs*