

ESTTA Tracking number: **ESTTA1148340**

Filing date: **07/22/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding No.	91270364
Filing Party	Defendant Chapman, Myra Suzan
Other Party	Plaintiff Hard Rock Cafe International (USA), Inc.
Pending Motion	There is no motion currently pending and no other motion is being filed concurrent with this consent motion.
Attachments	USDCComplaint.pdf(2625454 bytes) CertService.pdf(104002 bytes)

Consent Motion for Suspension in View of Civil Proceeding

The parties are engaged in a civil action which may have a bearing on this proceeding. Accordingly, Chapman, Myra Suzan hereby requests suspension of this proceeding pending a final determination of the civil action. Trademark Rule 2.117.

Chapman, Myra Suzan has secured the express consent of all other parties to this proceeding for the suspension requested herein.

Certificate of Service

The undersigned hereby certifies that a copy of this submission has been served upon all parties, at their address of record by Email on this date.

Respectfully submitted,

/Hunter S. Freeman/

Hunter S. Freeman

mcnairip@burr.com, hfreeman@burr.com, lfowler@burr.com

07/22/2021

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE No.

Hard Rock Café International (USA), Inc. :
 :
 Plaintiff, :
 v. :
 :
 Hard Rock Hemp, LLC and Myra Suzan :
 Chapman, :
 :
 Defendant. x

COMPLAINT AND DEMAND FOR TRIAL BY JURY

Plaintiff Hard Rock Café International (USA), Inc., through its counsel, hereby submits this Complaint against Defendants Hard Rock Hemp, LLC and Myra Suzan Chapman, an individual, and alleges as follows:

JURISDICTION AND VENUE

1. This is an action in which the Plaintiff is seeking pecuniary and injunctive relief from acts of Defendants arising under the trademark and unfair competition laws of the United States and the State of Florida, including (1) Trademark Infringement under 15 U.S.C. § 1114 of the Lanham Act; (2) Trademark Infringement, False Designation of Origin and Unfair Competition under 15 U.S.C. § 1125(a) of the Lanham Act; (3) Trademark Dilution under 15 U.S.C. § 1125(c) of the Lanham Act; (4) Violation of the Florida Deceptive and Unfair Trade Practices Act (Fla. Stat. § 501.204 *et seq.*); and (5) Violation of the Florida Anti-Dilution Statute (Fla. Stat. § 495.151 *et seq.*). Plaintiff seeks, among other things, damages, enhanced monetary relief, attorneys' fees and costs,

and injunctive relief to enjoin Defendants from engaging in the unlawful acts described herein.

2. Jurisdiction is proper in this District pursuant to 28 U.S.C. §§ 1331, 1332 and 1338(a) and (b), and 15 U.S.C. §§ 1116 and 1121. The matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different States. This Court also has supplemental jurisdiction over the state law claims asserted herein under 28 U.S.C. § 1367(a).

3. This Court has personal jurisdiction over the Defendants because Defendants advertise and offer good and services, including the goods at issue in this Complaint, to the State of Florida and this District, and derive substantial revenue from interstate or international commerce. In addition, Defendants have committed tortious acts causing injury within the State while regularly doing or soliciting business in the State, and/or should reasonably expect its tortious acts to have consequences in the State.

4. Jurisdiction is proper in this Court because, among other things, upon information and belief it will likely that after a reasonable opportunity for further investigation or discovery, the evidence will show that Defendants conduct purposeful activity directed at or within the state of Florida, and it has contacts with, customers in, or does business in this District.

5. Further, Plaintiff's valuable marks and good will are being injured in this District, and upon information and belief, residents in this District are likely to be confused by the acts of Defendants.

6. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. §§ 1391(b) and (c) because Defendants are subject to personal jurisdiction in this District.

PARTIES

7. Plaintiff Hard Rock Café International (USA), Inc. (hereinafter “Plaintiff” or “Hard Rock”), is a Florida corporation with its principal place of business located at 5701 Stirling Road, Davie, Florida, 33314. Hard Rock is one of the most well-known brands operating in this District, including its world-famous Seminole Hard Rock Hotel & Casino in Hollywood, Florida.

8. Upon information and belief, Defendant Hard Rock Hemp, Inc. (hereinafter “Defendant” or “Hard Rock Hemp”), is a South Carolina company, with its principal place of business at 683 W. Gate Road, Pickens, South Carolina 29671.

9. Upon information and belief, Defendant Myra Suzan Chapman is an individual and owner of Hard Rock Hemp, and in her individual capacity, applied to register with the United States Patent and Trademark Office (“USPTO”) the mark HARD ROCK HEMP, discussed in more detail below. Defendant Chapman is a citizen and resident of South Carolina.

10. Defendant Hard Rock Hemp, Inc. and Defendant Myra Suzan Chapman may herein collectively be referred to as “Defendants.”

PLAINTIFF AND ITS FAMOUS MARKS

11. Hard Rock operates, manages, licenses, and/or franchises a diverse portfolio of restaurants, hotels, resorts, casinos, and live entertainment venues internationally. There

are over 200 Hard Rock properties in over 70 countries, which includes 178 Hard Rock Cafés, 24 Hard Rock Hotels, 10 Hard Rock Casinos, and 7 Hard Rock Live entertainment venues.

12. Hard Rock expends substantial sums in advertising and promotional efforts for its products and services in promotion of the Hard Rock brand. Hard Rock also benefits from an extraordinary degree of unsolicited media coverage in the United States. On top of this, Hard Rock's internet and social media marketing is extensive, including use on Hard Rock websites, as well as posts on social media such as Facebook, Twitter, and Instagram, amongst others.

13. For 50 years, Hard Rock has been one of the most iconic and famous brands in the world. The first Hard Rock restaurant was opened on June 14, 1971, in London by two Americans, Peter Morton and Isaac Tigrett, as a tribute to the many unique and varied musicians since the rock 'n roll era began in the 1940s and 1950s. The restaurant was hugely successful and new locations opened regularly all over the world.

14. In the 1990s, Hard Rock began opening hotels, casinos, and further expanding in the hospitality space, becoming an industry leader and ubiquitous as an exciting destination for its guests. At these locations and on-line, Hard Rock offers Hard Rock-branded clothing and accessories, and many other goods and services.

15. Hard Rock operates, maintains, licenses, and/or franchises a variety of restaurants, hotels, casinos, and entertainment venues such as the Seminole Hard Rock Hotel & Casino, the Hard Rock Stadium, and Hard Rock Live concert and event venues.

16. Hard Rock owns one of the most universally recognized brands in the world, including trademarks for HARD ROCK, HARD ROCK CAFE, HARD ROCK HOTEL, HARD ROCK CASINO, HARD ROCK LIVE, ROCK SPA, and many other registered marks (collectively referred to as the “HARD ROCK Marks”).

17. The HARD ROCK Marks consist of over 2,000 U.S. and international registered trademarks, and all of Hard Rock’s restaurants, hotels, casinos, websites, spas, and related goods include one or more of HARD ROCK Marks. Hard Rock owns the entire portfolio of intellectual property relating to the term “Hard Rock,” including, but not limited to, trademarks related to the words “Hard Rock,” the iconic logo and various variations of the term “Hard Rock”. Many of the marks are incontestable under 15 U.S.C. § 1065.

18. Such marks include the following registered United States trademarks:

Mark	Reg. No.	Registered	Goods/Services
HARD ROCK CAFE	1397180	June 10, 1986	Class 42: restaurant services
HARD ROCK CAFE	1504904	September 20, 1988	Class: 25: t-shirts, sweatshirts, polo shirts, sport shirts, jackets, hats, caps, belts
HARD ROCK HOTEL	1909483	August 1, 1995	Class: 42: hotel services
HARD ROCK HOTEL	2029855	January 14, 1997	Class 9: sunglasses and decorative magnets Class: 21: beverage glassware Class: 34: cigarette lighters not of precious metal and matchbooks
HARD ROCK HOTEL	2029870	January 14, 1997	Class: 03: hair shampoo, hair conditioner and bath gel Class: 24: beach towels
HARD ROCK HOTEL	2031803	January 21, 1997	Class: 41: casino services

Mark	Reg. No.	Registered	Goods/Services
HARD ROCK HOTEL	2038394	February 18, 1997	Class: 25: sweatshirts, T-shirts, tank tops, jackets, suspenders, bathrobes, dresses, socks, hats, shorts, pants, nightshirts, bandannas, boxer shorts, bolo ties, bathing suits, and belts
HARD ROCK LIVE	2349579	May 16, 2000	Class: 41: entertainment, namely, live music concerts
HARD ROCK LIVE	2373803	August 1, 2000	Class: 42: Food preparation, restaurants and contract food services
HARD ROCK	2478328	August 14, 2001	Class: 25: clothing, namely, t-shirts, polo shirts, sweatshirts, sport shirts, caps, hats and jackets, belts Class: 35: retail store services featuring clothing, pins, photographs, artwork and jewelry Class: 41: entertainment, namely, live music concerts Class: 42: restaurant, bar and take-out food services
HARD ROCK LIVE	2561989	April 16, 2002	Class: 25: apparel, namely-t-shirts
HARD ROCK HOTEL	3520591	October 21, 2008	Class: 35: Real estate marketing services in the field of condominium hotels
HARD ROCK HOTEL & CASINO	3601548	April 7, 2009	Class: 41: Casino and gaming services; entertainment services, namely, the presentation of live music performances and recorded music Class: 43: Restaurant, bar and prepared food take-out restaurant services; hotel services; resort lodging services; cocktail lounge services
HARD ROCK COUTURE	3753187	February 23, 2010	Class: 25: T-shirts
HARD ROCK HOTEL & CASINO	3787984	May 11, 2010	Class: 25: Caps; Hats; Jackets; Polo shirts; T-shirts
HARD ROCK RISING	4227440	October 16, 2012	Class: 41: Entertainment services in the nature of arranging and staging music contests
HARD ROCK REWARDS	4343279	May 28, 2013	Class: 36: Customer loyalty program services for commercial, promotional and advertising purposes featuring rewards in the form of coupons, discounts, credits, and vouchers for food, lodging, merchandise and other products and services offered at or through any Hard Rock branded location

Mark	Reg. No.	Registered	Goods/Services
HARD ROCK RECORDS	4369222	July 16, 2013	Class: 35: Promotion of performing artists, musical bands and musical artists Class: 41: Entertainment, namely, live performances by musical bands and musical artists; Entertainment, namely, live music concerts
HARD ROCK ROCKSINO	4506556	April 1, 2014	Class: 41: Entertainment services in the nature of lottery slot gaming services; casino services
HARD ROCK ENERGY DRINK	4606455	September 16, 2014	Class: 32: Energy drinks
HARD ROCK	5129135	January 24, 2017	Class: 04: Candles
HARD ROCK HEALS	5167804	March 21, 2017	Class: 36: Charitable fundraising services
HARD ROCK STADIUM	5188352	April 18, 2017	Class: 35: Promoting sports competitions and events for others Class: 43: Arena services, namely, providing general purpose facilities for sports, concerts, conventions and exhibitions
HARD ROCK	5277635	August 29, 2017	Class: 35: Promoting sports competitions and events for others Class: 43: Arena services, namely, providing general purpose facilities for sports, concerts, conventions and exhibitions
HARD ROCK KAZOO PANDA	6081443	June 16, 2020	Class: 14: Jewelry; Ornamental lapel pins Class: 28: Plush toys
HARD ROCK CELLAR	6246267	January 12, 2021	Class: 35: Retail store services featuring wine and spirits
HARD ROCK'N DICE	6296280	March 16, 2021	Class: 41: Entertainment services, namely, casino gaming featuring a modified craps game; entertainment services, namely, casino gaming; betting services
HARD ROCK ONLINE SPORTSBOOK	6325569	April 20, 2021	Class: 41: Entertainment services, namely, providing games of chance via the Internet; Entertainment in the nature of providing transactional sports betting and wagering services, whether for bets placed in advance of a sporting event or during the sporting event games; Gaming services in the nature of casino gaming and online sports betting services; Providing an on-line computer game in the field of sports

19. The HARD ROCK Marks are protected by federal statute and state common law and are strongly associated with Hard Rock due to their lengthy and prominent use.

20. As a result of decades of continuous and exclusive use, extensive amounts of advertising, publicity, and unsolicited media coverage, the HARD ROCK Marks have become famous among the general consuming public of the United States as a whole, and have become symbols of vast consumer goodwill uniquely associated with Hard Rock, and are of inestimable value.

21. Hard Rock has used its HARD ROCK Marks continuously and exclusively since 1984 in the United States, both on its own behalf and through its licensees.

22. The HARD ROCK Marks are at the heart of Hard Rock's business. The HARD ROCK Marks identify high-quality goods and services originating exclusively from Hard Rock, and Hard Rock has expended significant efforts to control how its Hard Rock Marks are offered.

23. For example, Hard Rock carefully limits who operates its Hard Rock Hotels, and it demands a certain standard of quality from itself and its partners who operate those hotels. Hard Rock is very concerned about anyone who imitates the HARD ROCK marks or who misleads the public to believe that they are staying at a Hard Rock Hotel or property, or using or otherwise engaging with a Hard Rock product or service that can dilute and tarnish the valuable HARD ROCK Marks.

24. Members of the public and media associate the HARD ROCK Marks exclusively with Hard Rock and the quality goods and services provided. As a result, the

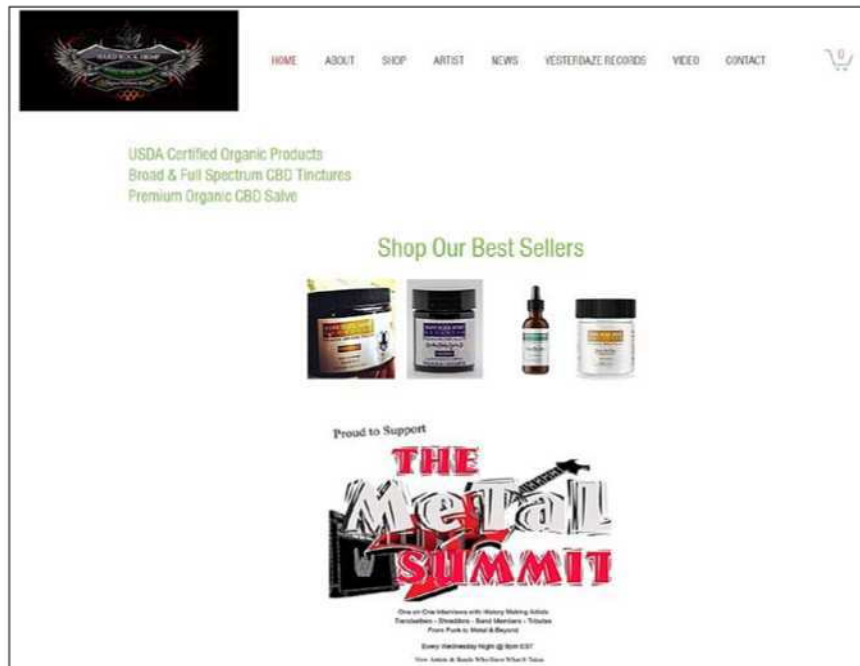
HARD ROCK Marks have become an important asset of Hard Rock, and have come to represent Hard Rock's goodwill, reputation, and success.

DEFENDANT'S WRONGFUL ACTS

25. Through a website located at www.hardrockhemp.com, Defendants offer and sell various products and provides information for music festivals and musicians.

26. Defendants' website is accessible to residents of Florida and this District.

27. A screenshot of its website is below:



28. On such website, defendants offer various hemp and CBD-based products, including salves, gummies, creams, oils, dog treats, coffee, and lollipops. Below, for example, is a cream offered for sale by Defendants.



Premium CBD Cream

\$32.95

CURRENTLY SOLD OUT: Our Premium THC-Free CBD Cream acts quickly to soften and moisturize your skin. It contains 200mg of CBD and nourishing oils from seeds in a classic 1-oz pump bottle. Great for hands, arms, legs, lower back and shoulders in the mornings and evenings.

[Read more](#)

Quantity

1

29. Upon information and belief, such goods do, or would be likely to cause, confusion with the goods sold by Hard Rock.

30. Hard Rock Hemp also promotes bands and music venues. See the following screen shots from Defendants' website promoting musical venues and artists:

Proud to Support



One on One Interviews with History Making Artists
Trendsetters - Shredders - Band Members - Tributes
From Punk to Metal & Beyond

Every Wednesday Night @ 9pm EST

New Artists & Bands Who Have What It Takes

[HOME](#) [ABOUT](#) [SHOP](#) [ARTIST](#) [NEWS](#) [YESTERDAZE RECORDS](#) [VIDEO](#) [CONTACT](#)



ONE HIT WONDERS



SHIPS HAVE SAILED



PAUSE



QUOR

[SEE MORE ARTIST HERE](#)



HOME ABOUT SHOP ARTIST NEWS YESTERDAZE RECORDS VIDEO CONTACT



The Eclectic Mark Hudson: from Aerosmith & Beyond

The Metal Summit is All About Music and The Artist Who Made It and Still Make It The independent success of Mark Hudson as...



U.S. Hemp Building Materials maker plans factory

U.S. hemp building materials maker: Hempitecture Inc. said it plans a new 20,000 sq. ft. production facility to make hemp-fiber...



dUg Pinnick (King's X): Live & Uncensored

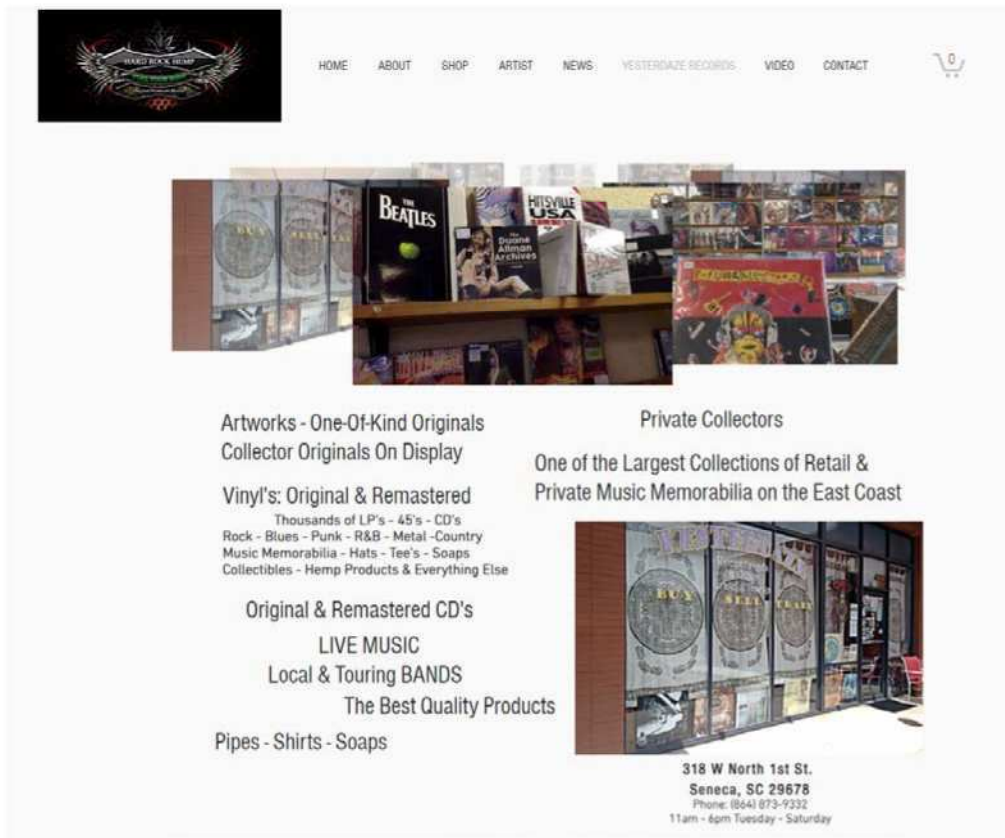
31. Hard Rock Hemp's goods and services are similar to or related to the goods and services offered by Hard Rock, and sold by Hard Rock at its spas and gift shops. For

example, the following are Hard Rock-branded soap, shampoo, conditioner, gel, and lotion:



32. One of the drop-down menus of Defendants website is for “Yesterdaze Records”. It is not clear what association there is between Yesterdaze Records and Hard Rock Hemp. However, the “Yesterdaze Records” drop-down on Hard Rock Hemp’s

website promotes “One of the Largest Collections of Retail & Private Music Memorabilia on the East Coast”.




33. The promotion of music and artists also come within the scope of Hard Rock’s business and reputation.

34. Hard Rock Hemp’s promotion of memorabilia collections creates even further confusion with Hard Rock.

35. Hard Rock’s music memorabilia archive includes over 80,000 items, and is the largest private collection of Rock and Roll memorabilia in the world (https://en.wikipedia.org/wiki/Hard_Rock_Cafe). Indeed, the late pop artist Andy Warhol

is said to have commented that the Hard Rock Café is known as the “Smithsonian of Rock ‘N Roll”.

36. Hard Rock’s skin and haircare products, and music promotion services, are the subject of United States trademark registrations, including, for example the following:

Mark	Registration No:	Goods
HARD ROCK HOTEL	2,029,870	Class 3: hair shampoo, hair conditioner and bath gel Class 24: beach towels.
	2,029,866	Class 3: hair shampoo, hair conditioner and bath gel Class 24: beach towels
HARD ROCK RECORDS	4,369,222	Class: 35: Promotion of performing artists, musical bands and musical artists Class: 41: Entertainment, namely, live performances by musical bands and musical artists; Entertainment, namely, live music concerts
HARD ROCK	2,478,328	Class: 25, 35, 42 [miscellaneous goods and services] Class: 41: entertainment, namely, live music concerts

37. Defendants’ advertisements of products and services in the same class as those of Hard Rock is likely to confuse the public as to the origin of Defendants’ products and services, or the connection, association, or sponsorship of Defendants’ products and services with those offered by Hard Rock.

38. On or about June 10, 2019, Defendant Chapman filed an application with the USPTO (the “Application”) to register the mark HARD ROCK HEMP for the following goods and/or services:

Hard Rock Hemp is a music themed company selling and promoting quality hemp products for medicinal, health, and well being with an emphasis on working with doctors and scientists to further the study of hemp products for medicinal use as well as healthy supplements.

39. In such Application, Defendant Chapman stated that she was the owner of the HARD ROCK HEMP mark.

40. Defendant Chapman stated in the Application that the first use of the HARD ROCK HEMP mark anywhere was “at least as early as April 29, 2019”.

41. The Application was examined at the USPTO, and the goods were amended to the following:

Non-medicated skin and body lotions containing CBD and ingredients solely derived from hemp with a delta-9 tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weigh basis.

42. On or about March 16, 2021, the HARD ROCK HEMP mark was published under Rule 12(a) of the USPTO procedures. Such procedures provide the opportunity for the public and trademark owners to oppose to the registration of a mark. As noted in court decisions, “[t]he opposition procedure is intended to remedy oversight or error.” *In re Shell Oil Co.*, 992 F.2d 1204, 1209 (Fed. Cir. 1993); “[I]nter parties proceedings are intended to be a backstop for the examination process.” *In re Viterra Inc.*, 671 F.3d 1358, 1365 (Fed. Cir. 2012); *Miss Universe L.P. v. Community Marketing Inc.*, 82 U.S.P.Q. 2d 1562, 1571

T.T.A.B. 2007) (holding that the decision of the trademark attorney during the application “is not dispositive or even relevant” to whether the mark should be registered).

43. Accordingly, Hard Rock timely requested extensions of time to oppose the HARD ROCK HEMP application, which requests were granted.

44. On March 19, 2021, Hard Rock wrote to the counsel for Defendant Chapman and demanded that Defendants cease and desist from use of the HARD ROCK HEMP mark, and withdraw the application.

45. While there were subsequent discussions between counsel, no agreement was reached concerning Defendants’ use of the HARD ROCK HEMP mark. And to date, Defendants have continued to sell goods and offer services under the HARD ROCK HEMP trademark.

46. Hard Rock Hemp has provided a disclaimer on its website that states, “Hard Rock Hemp is Independently Owned & Operated and is not affiliated with any other Hard Rock companies”. Upon information and belief, such a disclaimer is likely to cause some consumers to be confused as to the affiliation of Hard Rock Hemp and Hard Rock. This disclaimer also acknowledges that Defendants are aware of “other Hard Rock companies” and that consumers may question the affiliation.

47. Defendants also state on their website that, “Hard Rock Hemp was approved a trademark by the United States Patent & Trademark Office, Washington, D.C. (March 2021)”. Such a statement is not correct, and may confuse consumers that the United States Patent & Trademark Office has approved the use of the HARD ROCK HEMP mark. As noted above, all that occurred on March 2021 is that the United States Patent & Trademark

Office published the HARD ROCK HEMP mark for opposition. The United States Patent & Trademark Office has not approved the mark; and it is still subject to whatever proceeding may arise in the opposition process.

FIRST CLAIM FOR RELIEF
Trademark Infringement
(Violation of 15 U.S.C. § 1114 of the Lanham Act)

48. Hard Rock repeats and realleges the allegations set forth in the foregoing paragraphs as if fully set forth herein.

49. In connection with its advertising and sale of products, Defendants uses the mark HARD ROCK HEMP.

50. Defendants use the mark HARD ROCK HEMP in connection with advertising and sale of goods that overlap with the goods and services that Hard Rock provides in association with the HARD ROCK Marks.

51. Defendants' goods and services are provided through the same channels of trade and to the same classes of customers as are the goods and services that Hard Rock provides in connection with the HARD ROCK Marks.

52. Defendants began use of the mark HARD ROCK HEMP long after Hard Rock had established rights to the HARD ROCK trademarks.

53. Upon information and belief, Defendants' advertisement using the mark HARD ROCK HEMP creates confusion to the public as to the source or association of Defendants' products.

54. Defendants' use of the HARD ROCK HEMP mark is likely to cause confusion, mistake, and deception among the general purchasing public as to the origin of

Defendants' goods and services, and is likely to deceive the public into believing that the goods and services being offered by Defendants originate from, are associated with, or are otherwise authorized by Hard Rock.

55. Defendants' conduct has caused and will continue to cause substantial damage to Hard Rock including its businesses in Florida and within this District, unless enjoined by this Court.

56. Defendants' conduct as set forth above constitutes infringement of Hard Rock's federally registered trademarks under 15 U.S.C. § 1114.

57. Upon information and belief, Defendants' conduct, including continuing infringement with knowledge of Hard Rock's trademark, and continuing such use after notice of actual confusion, constitutes knowing, purposeful and willful infringement of Hard Rock's trademark rights.

58. Hard Rock is without adequate remedy at law.

SECOND CLAIM FOR RELIEF
Trademark Infringement, False Designation of Origin and Unfair Competition
(Violation of 15 U.S.C. § 1125(a) of the Lanham Act)

59. Hard Rock repeats and realleges the allegations set forth in the foregoing paragraphs as if fully set forth herein.

60. Defendants' use of the HARD ROCK HEMP mark in connection with offering its goods and services constitutes false designation of origin and false description or representation that tends to falsely describe and represent its services as in some way sponsored, authorized, approved, or affiliated with those of Hard Rock.

61. Upon information and belief, current and future customers of Hard Rock, viewing Defendants' website, are likely to be confused that Hard Rock Hemp is sponsored, authorized, approved, or affiliated with Hard Rock, and/or the goods and services provided by Defendants have the same quality, recognition, experience, and success as the Hard Rock companies and properties.

62. Defendants' false misrepresentation constitutes acts of unfair competition in violation of Section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).

63. Upon information and belief, discovery will show that the aforesaid acts of Defendants were committed willfully, knowingly, maliciously, and/or in conscious disregard of its legal obligations to Hard Rock.

64. The aforesaid conduct of Defendants has caused, and unless restrained by this Court will continue to cause, immediate, great, and irreparable injury to Hard Rock's property and business.

65. Hard Rock has no adequate remedy at law and, if Defendants' activities are not enjoined, Hard Rock will continue to suffer irreparable harm and injury to its goodwill and reputation.

THIRD CLAIM FOR RELIEF
Trademark Dilution
(Violation of 15 U.S.C. § 1125(c) of the Lanham Act)

66. Hard Rock repeats and realleges the allegations set forth in the foregoing paragraphs as if fully set forth herein.

67. Plaintiff's HARD ROCK Marks were famous long before Defendant's first use of Plaintiff's HARD ROCK Marks, and have been in use continuously by Hard Rock and its licensees since 1971.

68. Plaintiff's HARD ROCK Marks have received extensively publicity and third-party recognition, and are famously recognized throughout the world.

69. The Hard Rock brand is universally known both globally and locally, where it is the sponsor of Hard Rock Stadium and the Seminole Hard Rock Hotel & Casino; two of the most well-known establishments in South Florida.

70. Plaintiff licenses the HARD ROCK Marks only to licensees who agree to use it properly and in a certain manner, and any dilution of that use is harmful to Plaintiff, which derives enormous revenue based on the goodwill associated with the HARD ROCK Marks.

71. Defendants have willfully sought to trade on Hard Rock's reputation and cause dilution of the HARD ROCK Marks.

72. Defendant's use of Plaintiff's HARD ROCK Marks is likely to cause dilution of Plaintiff's famous HARD ROCK Marks.

73. Defendant's dilution of Plaintiff's famous HARD ROCK Marks is knowing and willful.

74. Hard Rock has no adequate remedy at law and, if Defendants' activities are not enjoined, Hard Rock will continue to suffer irreparable harm and injury to its goodwill and reputation.

FOURTH CLAIM FOR RELIEF
Florida Deceptive and Unfair Trade Practices Act
(Violation of Fla. Stat. § 501.204 *et seq.*)

75. Hard Rock repeats and realleges the allegations set forth in the foregoing paragraphs as if fully set forth herein.

76. Upon information and belief, Defendants have violated Fla. Stat. § 501.204 *et seq.* by using Plaintiff's HARD ROCK Marks in order to mislead the public into believing that Defendants' goods and services have been sponsored by or are associated with Hard Rock.

77. Defendants' willful and intentional acts are likely to cause confusion, mistake, or deception as to the origin, connection, association, sponsorship, or approval of Defendants' goods and services by or with Hard Rock and Hard Rock's own goods and services.

78. As a direct and proximate result of Defendants' unlawful acts, Plaintiff has suffered and will continue to suffer monetary damages and irreparable harm.

79. Defendants' conduct has caused and will continue to cause irreparable injury to Hard Rock unless enjoined by this Court.

80. Hard Rock is without adequate remedy at law.

FIFTH CLAIM FOR RELIEF
Florida Anti-Dilution Act
(Violation of Fla. Stat. § 495.151 *et seq.*)

81. Hard Rock repeats and realleges the allegations set forth in the foregoing paragraphs as if fully set forth herein.

82. Plaintiff's HARD ROCK Marks have received extensively publicity through third-party recognition and is famously recognized throughout the world, including in the State of Florida.

83. Defendants' willful and intentionally unauthorized use of the HARD ROCK HEMP mark is likely to dilute the distinctive quality of Plaintiff's HARD ROCK Marks.

84. As a direct and proximate result of Defendants' unlawful acts, Defendants have violated Fla. Stat. § 495.151 et seq., and Plaintiff has suffered and will continue to suffer monetary damages and irreparable harm from such.

85. As a direct and proximate result of Defendants' conduct, Hard Rock has suffered damage to its valuable trademark in an amount to be ascertained at trial.

86. Hard Rock does not have an adequate remedy at law, and will continue to be damaged by Defendants' sale of the infringing services unless this Court enjoins Defendants from its unlawful conduct.

PRAYER FOR RELIEF

WHEREFORE, Hard Rock requests the following relief:

A. a permanent injunction enjoining Defendants and their officers, employees, servants, and agents, and all persons in active concert or participation with them, from using the HARD ROCK Marks or any other phrase or trademark that would be confusingly similar to the HARD ROCK Marks trademarks;

B. an award of compensatory damages arising out of Defendants' infringement and a trebling of such award as provided by 15 U.S.C. § 1117;

C. an award of compensatory damages arising out of Defendants' infringement and a trebling or enhancing of such award as provided by applicable laws;

D. a direction to Defendants to deliver up to Hard Rock for destruction all physical or electronic materials that contain any use of the trademark;

E. An injunction directing Defendants to abandon, with prejudice, the Application for the HARD ROCK HEMP mark, and not seek registration for any mark confusingly similar to the HARD ROCK Marks in any place or with any administrative body;

F. an award to Hard Rock of its reasonable attorney fees and costs in the action; and

G. such other and further relief as the Court may deem just and necessary.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), plaintiff hereby demands a trial on all issues so triable herein.

CARLSON & ASSOCIATES, P.A.

Dated: July 8, 2021

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In Re Application No. 88/466,987 Hard Rock Café International (USA), Inc., Opposer, v. Myra Suzan Chapman, Applicant.	ESTTA 1145329 Opposition No. 91270364
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CERTIFICATE OF SERVICE

I hereby certify that I have with consent of opposing counsel, this 22nd day of July, 2021, served a copy of the *Consent Motion to Stay of Opposition*, by emailing copy of the same to the following address:

sroth@lernerdavid.com
Stephen F. Roth
Lerner David Littenberg Krumholz & Mentlik
20 Commerce Drive
Cranford, NJ 07016
Attorneys for Opposer

Respectfully submitted,

Dated: July 22, 2021

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