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Companies Worldwide, Inc and K-Kel, Inc.

11
 12 **UNITED STATES DISTRICT COURT**
FOR THE DISTRICT OF NEVADA

13
 14 The Spearmint Rhino Companies Worldwide, Inc.
 and K-Kel, Inc.,

Case No. 2:23-cv-02040

15 **Plaintiffs,**

COMPLAINT

16 vs.

17 Chang's Dynasty LLC and Alan Chang,

18 **Defendants.**

19
 20 **Plaintiffs The Spearmint Rhino Companies Worldwide, Inc. ("Spearmint Rhino") and**
 21 **K-Kel, Inc ("K-Kel") (collectively Spearmint Rhino and K-Kel are "Plaintiffs"), by and**
 22 **through their attorneys, for their Complaint against Chang's Dynasty LLC ("Chang's**
 23 **Dynasty") and its General Manager, Alan Chang ("Mr. Chang") (collectively Chang's**
 24 **Dynasty and Mr. Chang are "Defendants") hereby alleges as follows:**

25 **NATURE OF THE ACTION**

26 **1. This is an action to recover damages suffered by Plaintiffs based on**
 27 **Defendants' trademark infringement, unfair competition, and activities that are likely to, or**
 28 **have, cause confusion or dilute Spearmint Rhino's federally registered Spearmint Rhino**

1 trademarks.

2 **THE PARTIES**

3 2. Plaintiff The Spearmint Rhino Companies Worldwide, Inc., is a Nevada
4 corporation with its principal place of business at 1875 Tandem Way, Norco, California
5 92860 Operating since 1992, by itself and/or through its predecessor company, Spearmint
6 Rhino is world renowned in the branding of adult entertainment operating entertainment
7 venues all across the United States, in the United Kingdom, and in Australia.

8 3. Plaintiff K-Kel, Inc. is a Nevada corporation with its principal place of
9 business at 3340 S. Highland Drive, Las Vegas, Nevada 89109.

10 4. Plaintiffs are informed and believe that Defendant Chang's Dynasty LLC is a
11 Nevada limited liability company with its principal place of business at 1531 Las Vegas
12 Blvd. S, Las Vegas, Nevada 89104. Plaintiffs are informed and believe that defendant
13 Chang's Dynasty is and has been offering and providing adult entertainment services under
14 the name Peppermint Hippo. Plaintiffs are further informed and believe that Chang's
15 Dynasty has authorized, directed, and /or actively participated in the wrongful conduct
16 alleged herein

17 5. Plaintiffs are informed and believe that Defendant Alan Chang is an
18 individual who resides at 8925 W. Flamingo #227, Las Vegas, Nevada 89147. Plaintiffs are
19 informed and believe that defendant Mr. Chang has authorized, directed, and /or actively
20 participated in the wrongful conduct alleged herein.

21 **JURISDICTION AND VENUE**

22 6. This action is based on the Trademark Act of 1946 (the Lanham Act), as
23 amended by the Trademark Dilution Revision Act of 2006 (TDRA)(15 U.S.C. §§ 1051, *et*
24 *seq.*).

25 7. This Court has personal jurisdiction over Defendant Chang's Dynasty as it is
26 a resident of the State of Nevada and further by maintaining businesses and transacting
27 business within this district.

28 8. Upon information and belief, this Court has personal jurisdiction over

1 Defendant Mr. Chang as he is a resident of the State of Nevada and further by maintaining
2 businesses and transacting business within this district.

3 9. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to
4 28 U.S.C. §§ 1338(a) and 1338(b) (trademark and unfair competition), 28 U.S.C. § 1331
5 (federal question) and 15 U.S.C. § 1121 (Lanham Act).

6 10. Plaintiffs are informed and believe that venue is proper in this Court under 28
7 U.S.C. § 1391(b) and (d) because Defendants reside in this district because a substantial part
8 of the events giving rise to the claims arose in this district.

9 **FACTS MATERIAL TO THE CLAIMS ALLEGED HEREIN**

10 11. Spearmint Rhino licenses the SPEARMINT RHINO word mark and related
11 design mark which are famous around the world in connection with adult entertainment
12 services as well as restaurant and bar services. For many years prior to the events giving rise
13 to this Complaint and continuing to the present, Spearmint Rhino annually has spent great
14 amounts of time, money, and effort advertising and promoting the goods and services to
15 which its trademarks are licensed for throughout the United States and in other countries.
16 Through this investment and large sales, Spearmint Rhino has created considerable goodwill
17 and reputation for high quality goods and services. Spearmint Rhino continuously has used
18 these trademarks to distinguish its products and services.

19 12. Spearmint Rhino's trademarks are federally registered with the U.S. Patent
20 and Trademark Office, as well as in foreign trademark offices; all are in full force and effect,
21 and exclusively owned by the Plaintiff. Spearmint Rhino has continuously used each of its
22 trademarks, from the registration date or earlier, until the present and during all time periods
23 relevant to Spearmint Rhino's claims.

24 13. Among its marks, Spearmint Rhino owns the famous SPEARMINT RHINO
25 (word mark) under U.S. Trademark Registration No. 2129965, registered on January 20,
26 1998. Spearmint Rhino has used the SPEARMINT RHINO (word mark) continuously since
27 October 15, 1992, for adult cabaret services. Attached as Exhibit A is a copy of the USPTO
28 Certificate of Registration.

1 14. Spearmint Rhino also owns, among others, the following U.S. trademark
2 registrations for the SPEARMINT RHINO word mark and related design, attached as

3 **Exhibit B:**

4 a. U.S. Trademark Registration No. 2712739 (first used as early as
5 1992);

6 b. U.S. Trademark Registration No. 3189326 (first used as early as
7 1992).

8 15. The Spearmint Rhino trademarks (as shown in Exhibits A and B as well as
9 the associated common law rights (collectively the Spearmint Rhino Marks) are famous and
10 are recognized around the world and throughout the United States as signifying high quality
11 venues for adult entertainment services.

12 16. Plaintiff K-Kel maintains a license to the Spearmint Rhino Marks for use at
13 the venue it maintains at 3340 S. Highland Drive, Las Vegas, Nevada 89109.

14 17. Defendant Chang's Dynasty LLC's founder and General Manager is Mr.
15 Chang. Mr. Chang previously worked for Spearmint Rhino Gentlemen's Club – Las Vegas,
16 K-Kel, Inc., from 2007 to 2014.

17 18. Plaintiffs are informed and believe that Chang's Dynasty, at the direction of
18 its General Manager, Mr. Chang, has in the past and continues to offer and provide adult
19 entertainment services as well as restaurant and bar services using the designation
20 PEPPERMINT HIPPO (the "Peppermint Hippo designations") that are confusingly similar to
21 Plaintiffs' Spearmint Rhino Marks.

22 19. Upon information and belief, Defendants maintain places of business in
23 Akron, OH, Toledo, OH, Neenah, WI, Pineville, MO, Little Rock, AR, Fayetteville, AR,
24 Reno, NV and Las Vegas, NV which provide adult entertainment services using the
25 Peppermint Hippo designations.

26 20. Defendants promote their services, *inter alia*, via the website
27 <https://thepepperminthippo.com/>.

28 ///

1 21. Chang's Dynasty has obtained U.S. trademark registrations for the
2 PEPPERMINT HIPPO (word mark) under U.S. Trademark Registration No. 7150593 on
3 August 29, 2023, and the Peppermint Hippo (design mark) under U.S. Trademark
4 Registration No 5996838 on February 25, 2020, both for adult entertainment services.

5 22. Plaintiffs are informed and believe that Chang's Dynasty, through the
6 direction of Mr. Chang, chose to use and register the Peppermint Hippo designations with the
7 intention to create an association with the Spearmint Rhino Marks.

8 23. Plaintiffs are informed and believe that Chang's Dynasty's, through the
9 direction of Mr. Chang, use of the Peppermint Hippo designations has and will cause
10 consumer confusion and blurring with the Spearmint Rhino Marks.

11 24. Spearmint Rhino is informed and believes that Defendants are and have been
12 using unfair search engine optimization (SEO) strategies by using keywords and ad words
13 that are confusingly similar to Plaintiff's Spearmint Rhino trademark thereby diverting and
14 redirecting web traffic intended for Plaintiff's spearmintrhino.com website to Defendants'
15 website at thepepperminthippo.com. Examples of SEO key words used by Defendants are
16 "peppermint rhino vegas", "peppermint rhino las vegas", "peppermint rhino london",
17 "peppermint rhinoceros", and "spearmint rhino locations "

18 25. Upon information and belief, Defendants have not used such unfair SEO with
19 the names of other adult entertainment services, which further confirms their intent to cause
20 consumer confusion and blurring with the Spearmint Rhino Marks.

21 26. Plaintiffs are informed and believe that Defendants have and continue to offer
22 and provide adult entertainment services under the Peppermint Hippo designations, and
23 continue to obtain substantial, unfair profits thereby from their intentional and willful acts of
24 trademark infringement, unfair competition and dilution

25 27. Upon information and belief, Defendants have unfairly benefited through
26 their acts of trademark infringement, including by redirecting consumer traffic to
27 Defendants' location which would otherwise visit the Spearmint Rhino venue maintained by
28 K-Kel and by profiting off of Spearmint Rhino's reputation and substantial advertising

1 28. Upon information and belief, Defendants' conduct complained of herein has
2 further injured Spearmint Rhino by diluting and diminishing the value of its famous mark.

3 **FIRST CLAIM**
4 **FEDERAL TRADEMARK INFRINGEMENT**
5 **(15 U.S.C. §§ 1114-1117; Lanham Act § 32)**
6 **(Against All Defendants)**

7 29. Plaintiffs reallege and incorporate by reference each of the allegations
8 contained in Paragraphs 1 through 28 of this Complaint.

9 30. Without Spearmint Rhino's consent, Defendants have used, in connection
10 with the provision of adult entertainment services, a confusingly similar trademark that
11 infringes upon the federally registered Spearmint Rhino Marks.

12 31. These acts of trademark infringement have been committed with the intent to
13 cause confusion, mistake, or deception, and are in violation of 15 U.S.C. § 1114.

14 32. As a direct and proximate result of Defendants' infringing activities, Plaintiffs
15 have suffered substantial damages.

16 33. Defendants' infringement of the federally registered Spearmint Rhino Marks
17 as alleged herein is an exceptional case and was intentional and willful, entitling Plaintiffs to
18 treble their actual damages and to an award of attorney's fees under 15 U.S.C. §§ 1117(a)
19 and 1117(b)

20 **SECOND CLAIM**
21 **FEDERAL UNFAIR COMPETITION**
22 **(False Designation of Origin and False Description)**
23 **(15 U.S.C. § 1125(a); Lanham Act § 43(a))**
24 **(Against All Defendants)**

25 34. Plaintiffs reallege and incorporate by reference each of the allegations
26 contained in paragraphs 1 through 33 in this Complaint

27 35. Defendants' conduct constitutes the use of symbols or devices tending falsely
28 to describe the origin of the services, within the meaning of 15 U.S.C. § 1125(a)(1).

Defendants' conduct is likely to cause confusion, mistake, or deception by or in the public
as to the affiliation, connection, association, origin, sponsorship or approval of the
infringing trademark and services to the detriment of Plaintiffs and in violation of 15 U.S.C.

1 § 1125(a)(1).

2 36. As a direct and proximate result of Defendants' willful infringing activities,
3 Plaintiffs have suffered substantial damage entitling Plaintiffs to treble their actual damages
4 and to an award of attorney's fees under 15 U.S.C. §§ 1117(a) and 1117(b).

5 **THIRD CLAIM**
6 **FEDERAL DILUTION OF FAMOUS MARKS**
7 **(Trademark Dilution Revision Act of 2006 (TDRA))**
8 **(15 U.S.C. § 1125(c); Lanham Act § 43(a))**
9 **(Against All Defendants)**

10 37. Plaintiffs reallege and incorporate by reference each of the allegations
11 contained in paragraphs 1 through 36 in this Complaint.

12 38. The Spearmint Rhino Marks are distinctive and famous within the meaning of
13 15 U.S.C. § 1125(c), as amended.

14 39. Defendants' activities as alleged herein, both separately and collectively, have
15 diluted or are likely to dilute the distinctive quality of the Spearmint Rhino Marks in
16 violation of the Trademark Dilution Revision Act of 2006, 15 U.S.C. § 1125(c), as amended.

17 40. Because Defendants willfully intended to trade on Spearmint Rhino's
18 reputation and/or to cause dilution of Spearmint Rhino's famous trademarks, Plaintiffs are
19 entitled to damages, extraordinary damages, fees and costs pursuant to 15 U.S.C. §
20 1125(c)(2) and §§ 1117(a) and 1117(b).

21 **FOURTH CLAIM**
22 **CANCELLATION OF REGISTRATION**
23 **(15 U.S.C. § 1064(1); Lanham Act § 14(1))**
24 **(Against Chang's Dynasty)**

25 41. Spearmint Rhino realleges and incorporates by reference each of the
26 allegations contained in paragraphs 1 through 40 in this Complaint.

27 42. The Spearmint Rhino Marks became distinctive and famous prior to the filing
28 dates of Chang's Dynasty's applications for U.S. Trademark Registration No. 7150593 and
U.S. Trademark Registration No. 5996838, or any other date on which Defendants may rely
for purposes of priority

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1 43. Chang's Dynasty's Peppermint Hippo Marks under U.S. Trademark
2 Registration No. 7150593 and U.S. Trademark Registration No. 5996838 impair the
3 distinctiveness and cause dilution by blurring of, and thereby damage, Plaintiff's famous
4 Spearmint Rhino Marks in violation of 15 U.S.C. § 1125(c). Accordingly, pursuant to 15
5 U.S.C. § 1064, Chang's Dynasty's Peppermint Hippo Marks under U.S. Trademark
6 Registration No. 7150593 and U.S. Trademark Registration No. 5996838 should be
7 cancelled.

8 **JURY DEMAND**

9 Plaintiffs hereby requests a trial by jury on all matters to which it is entitled to trial by
10 jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs pray for the following:

13 A. A judgment that Spearmint Rhino's trademark has been infringed by
14 Defendants in violation of 15 U.S.C. § 1114;

15 B. A judgment that Defendants have competed unfairly with Plaintiffs in
16 violation of Plaintiffs' rights under 15 U.S.C. 1125(a);

17 C. A judgment that Defendants' activities are likely to, or have, diluted
18 Spearmint Rhino's famous trademark in violation of 15 U.S.C. 1125(c);

19 D. A judgment that the foregoing violations were done willfully;

20 E. A judgment that Plaintiffs recover from Defendants their damages and lost
21 profits in an amount to be proven at trial;

22 F. A judgment that Defendants be required to account for any profits that are
23 attributable to its illegal acts, and that Plaintiffs be awarded the greater of (1) three times
24 Chang's Dynasty's profits or (2) three times any damages sustained by Plaintiffs, under 15
25 U.S.C. § 1117, plus prejudgment interest,

26 G. Order an accounting of and impose a constructive trust on all of Defendants'
27 funds and assets that arise from this infringing activities;

28 ///

1 H. A judgment directing the Director of Trademarks of the U.S. Patent and
2 Trademark Office to cancel the registrations or refuse the registration for any and all
3 PEPPERMINT HIPPO trademarks owned by the Defendant;

4 I. A judgment awarding Plaintiffs their costs and disbursements incurred in
5 connection with this action, including Plaintiffs' reasonable attorney's fees and investigative
6 expenses; and

7 J A judgment awarding Plaintiffs all such other reliefs as this Court deems just
8 and proper

9 DATED this 8th day of December, 2023.

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27 *Attorneys for Plaintiff The Spearmint Rhino*
28 *Companies Worldwide, Inc and K-Kel, Inc.*

Exhibit A

Exhibit A

Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,129,965

United States Patent and Trademark Office

Registered Jan. 20, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

SPEARMINT RHINO

**CENTRAL RESTAURANT, INC. (NEVADA
CORPORATION)
573 NORTH CENTRAL AVENUE
UPLAND, CA 91786**

**FIRST USE 10-15-1992; IN COMMERCE
10-15-1992**

SER. NO. 75-142,785, FILED 7-31-1996

**FOR ADULT CABERETS, IN CLASS 42 (U.S.
CLS. 100 AND 101)**

**HOWARD B. LEVINE, EXAMINING ATTOR-
NEY**

Exhibit B

Exhibit B

Int. Cls.: 9, 25, 41 and 42

Prior U.S. Cls.: 21, 22, 23, 26, 36, 38, 39, 100, 101 and 107

United States Patent and Trademark Office

Reg. No. 2,712,739

Registered May 6, 2003

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

SPEARMINT  RHINO
GENTLEMEN'S CLUBS

ARM WORLDWIDE, INC. (NEVADA CORPORATION)
15423 EAST VALLEY BOULEVARD
CITY OF INDUSTRY, CA 91746

FOR MOTION PICTURE FILMS AND VIDEO
TAPES FEATURING ADULT ENTERTAINMENT,
IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 6-0-2000; IN COMMERCE 6-0-2000.

FOR LEATHER CLOTHING, NAMELY PANTIES,
G-STRINGS, BRASSIERES AND CORSETS FOR
SEMI NUDE AND EROTIC DANCERS, GOLF
CLOTHING, NAMELY, GOLF SHIRTS, JACKETS,
VESTS AND CAPS, IN CLASS 25 (U.S. CLS. 22 AND
39).

FIRST USE 5-31-2000; IN COMMERCE 5-31-2000.

FOR ADULT ENTERTAINMENT SERVICES IN
THE NATURE OF ADULT CABARETS, NIGHT-

CLUBS AND SHOW CLUBS FEATURING NUDE,
SEMI-NUDE, EROTIC DANCING, AND LAP AND
TABLE DANCING, IN CLASS 41 (U.S. CLS. 100, 101
AND 107).

FIRST USE 10-15-1992; IN COMMERCE 10-15-1992.

FOR RESTAURANT AND BAR SERVICES, PRE-
PARATION AND SERVING OF FOOD AND DRINK,
IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 10-15-1992; IN COMMERCE 10-15-1992.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "GENTLEMAN'S CLUBS", APART
FROM THE MARK AS SHOWN.

SER. NO. 76-264,906, FILED 5-31-2001

ANGELA M. MICHELI, EXAMINING ATTORNEY

Int. Cl.: 43

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 3,189,326

Registered Dec. 26, 2006

**SERVICE MARK
PRINCIPAL REGISTER**

SPEARMINT RHINO

**SPEARMINT RHINO COMPANIES WORLDWIDE
(NEVADA CORPORATION)
15423 EAST VALLEY BOULEVARD
CITY OF INDUSTRY, CA 91746**

**FOR RESTAURANT AND BAR SERVICES; PRE-
PARATION AND SERVING OF FOOD AND DRINK,
IN CLASS 43 (U.S. CLS. 100 AND 101)**

FIRST USE 10-15-1992, IN COMMERCE 10-15-1992.

**THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.**

**OWNER OF U.S. REG. NOS. 2,129,965 AND
2,712,739**

SER. NO. 78-807,183, FILED 2-3-2006.

CHRISTOPHER OTT, EXAMINING ATTORNEY