

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Greenbelt)**

SPORT SQUAD, INC.)
2101 Gaither Road)
Suite 125)
Rockville, MD 20850)

Plaintiff,)

Case No.: 8:24-cv-1712

v.)

JURY TRIAL DEMANDED

USA PICKLEBALL ASSOCIATION)
8901 East Mountain View Road)
Suite 110)
Scottsdale, AZ 85258)

SERVE: Philip Mortenson)
170 Power Ave.)
Seattle, WA 98122)

Defendant.)

COMPLAINT

Plaintiff SPORT SQUAD, INC. (“**Plaintiff**”), by and through its undersigned attorneys, Shulman Rogers, P.A., hereby submits this Complaint against Defendant USA PICKLEBALL ASSOCIATION (“**Defendant**”) and, in support thereof, states as follows:

STATEMENT OF THE CASE

1. This matter arises from a dispute between Plaintiff Sport Squad, Inc., one of the premier manufacturers of pickleball paddles, and Defendant USA Pickleball Association, an organization that sets national standards for pickleball equipment in the United States.

2. In the first half of 2023, Plaintiff developed an innovative new design for pickleball paddles, and it submitted two prototypes of the new design to Defendant for testing and approval. After carefully examining the prototype paddles, Defendant notified Plaintiff in September 2023 that the newly-designed paddles had been certified as compliant with Defendant’s equipment

standards.

3. In November 2023, Plaintiff submitted nine additional paddles to Defendant—market versions of the two base paddles that had already been approved, but with different shapes and new graphics—for “similarity testing.” The purpose of this similarity testing was to confirm that the market versions of the paddles were structurally and functionally the same as the base paddles that had already been approved. Defendant approved all of Plaintiff’s “similarity” submissions on December 15, 2023.

4. Relying on these certifications, beginning in late December 2023, Plaintiff manufactured over one hundred thousand of its next generation pickleball paddles, which went on sale to the general public on April 16, 2024.

5. However, on April 11, 2024, only days before the paddles were set to go on sale, and after Plaintiff had already sold and shipped 60,000 paddles to its retail partners, Defendant threatened out-of-the-blue that it would “sunset” its approval of Plaintiff’s new paddles because, in Defendant’s subjective opinion, they were “too fast” and purportedly violated some of Defendant’s design requirements.

6. In May 2024, Defendant followed through on its threat, and it revoked its certification of Plaintiff’s next generation paddles. Notably, however, Defendant did not revoke its certification for any of the reasons it had previously posited. Instead, Defendant seized on an administrative error from Defendant’s November 2023 “similarity” submission, which Plaintiff had discovered in May 2024 and promptly reported to Defendant, as the grounds for its decertification decision (Plaintiff’s error was that it had accidentally sent the wrong paddles to Defendant for similarity testing in November 2023).

7. On May 15, 2024, Plaintiff promptly corrected the administrative error by

submitting the correct nine paddles for similarity testing. These paddles should have passed the similarity tests with flying colors, as they were structurally and functionally the same as the base paddles that Defendant had already tested and approved in September 2023.

8. However, Defendant was determined to fail Plaintiff's new paddles at any cost, and it found reasons to fail all nine of Plaintiff's paddle submissions, going so far as making up new rules to ensure that none of the paddles passed.

9. In fact, while Defendant couched its decision to fail the paddles on the purported results of its similarity testing, Defendant's Chief Operating Officer, Justin Maloof, candidly admitted to Plaintiff that Defendant would never certify any of Plaintiff's paddles no matter how similar they were to the base paddles that it had already been approved. In other words, Defendant's similarity testing process had been stacked against Plaintiff to prevent Plaintiff from bringing its next generation paddles to market.

10. As a result of Defendant's bad faith refusal to conduct unbiased similarity testing and approve Plaintiff's new paddles, Plaintiff has been left with one hundred thousand uncertified pickleball paddles, which it will not be able to sell. Plaintiff never would have manufactured these paddles had it known that Defendant would pull a bait-and-switch by approving the new paddle design in September 2023 and then refusing to approve any similarity submissions based on the new design seven months later.

11. By this action, Plaintiff seeks compensation from Defendant for the damages it has incurred, and it also seeks an injunction requiring Defendant to reinstate Plaintiff's paddles on Defendant's public list of "Approved Pickleball Paddles."

THE PARTIES

12. Plaintiff Sport Squad, Inc. is a Maryland corporation with its principal place of

business in located in Montgomery County, Maryland.

13. Defendant USA Pickleball Association is a Washington non-profit corporation with its principal place of business in located in Scottsdale, Arizona. While Defendant promotes itself as the “National Governing Body for the sport of pickleball” in the United States, it has not actually received that designation from any accredited entity.

JURISDICTION AND VENUE

14. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) based on diversity of citizenship of the parties. The amount in controversy exceeds \$75,000.

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 as Plaintiff’s causes of action arise from events that occurred in Maryland and caused damages in the state.

FACTS COMMON TO ALL COUNTS

16. Plaintiff manufacturers premium pickleball paddles sold under the “Joola” brand. Plaintiff has designed and manufactured over 40 different pickleball paddle models that have received Defendant’s approval.

17. Defendant is a private organization that purports to set national standards for pickleball equipment in the United States, including for paddles.

18. Defendant also tests new paddle designs submitted by manufacturers for compliance with its standards. In Defendant’s own words, it “holds approved equipment to an extremely rigorous process and the highest testing standards and will evaluate [new] submissions for compliance with USA Pickleball’s equipment standards.” If Defendant finds that those “new submissions” comply with its standards, it certifies them for use in Defendant-sanctioned events and allows the manufacturers to market the paddles as “USA Pickleball Approved.”

19. Defendant also conducts “similarity testing” to confirm that market versions of a

paddle are structurally and functionally identical to a paddle that has been approved through the “new submission” testing, which is called the “base paddle.”

20. Defendant charges a substantial fee for these “new submission” and “similarity” testing services.

21. Manufacturers must obtain Defendant’s certification for their paddles because pickleball players are not permitted to use uncertified paddles in Defendant-sanctioned events. Moreover, even in tournaments organized by other entities, players are usually required to use Defendant-certified paddles because “USA Pickleball Approved” has become a de facto global standard. Defendant’s certification is also required by both major professional pickleball associations, the Professional Pickleball Association and Major League Pickleball. Furthermore, recreational players generally will not purchase paddles that are not certified for tournament play, even if those players never intend to enter into a sanctioned tournament.

A. Plaintiff Designs an Innovative, New Pickleball Paddle.

22. In the summary of 2023, Plaintiff developed a cutting-edge, next generation paddle for pickleball play. Among other innovations, Plaintiff’s new paddle contained a foam insert in the frame of the paddle. This change enabled players to create more speed and spin on a batted ball while simultaneously giving them more control over their shots, a dual combination not found in any other paddles.

23. On or around September 1, 2023, Plaintiff submitted two prototypes of its next generation paddle to Defendant for “New Paddle Submission” testing. The two paddles, which became the base paddles, were named as follows:

- Perseus MOD TA-15 16 mm
- Perseus MOD TA-15 14 mm

24. Plaintiff paid \$3,000 for this testing.

25. On September 16, 2023, Defendant notified Plaintiff that both of its new paddles had “passed the USA Pickleball specification tests” and that both paddles had been approved. Defendant also sent Plaintiff a “test report,” which concluded that the paddles were “USAPA Compliant” in every test administered, including in tests for surface roughness and rigidity.

26. Defendant further informed Plaintiff that the paddles could be added to Defendant’s “approved paddle list” and that Plaintiff could use the phrase “USA Pickleball Approved” on the face of the paddles.

27. Having received Defendant’s approval for the new paddle design, Plaintiff began setting up manufacturing facilities to mass produce the next generation paddles. Plaintiff never would have undertaken the monumental—and costly—task of mass producing the new paddles had Defendant not approved the new paddle design.

B. Plaintiff Submits Nine Market-Version Paddles for “Similarity Testing.”

28. In November 2023, Plaintiff submitted an additional nine paddles for “similarity testing.” These nine paddles were the market versions of the two base paddles that had already been approved, and they were structurally and functionally the same as the two base paddles.

29. Specifically, on November 3, 2023, Defendant submitted the following seven additional paddles for similarity testing:

- Ben Johns Hyperion Gen3 16mm
- Ben Johns Hyperion Gen3 14mm
- Tyson McGuffin Magnus Gen3 16mm
- Tyson McGuffin Magnus Gen3 14mm
- Collin Johns Scorpeus Gen3 16mm
- Anna Bright Scorpeus Gen3 14mm
- Simone Jardim Hyperion Gen3 16 mm.

30. On November 6, 2023, Defendant submitted two more paddles for similarity testing:

- Ben Johns Perseus 3 16mm
- Ben Johns Perseus 3 14mm.

31. Plaintiff paid several thousand dollars for Defendant to conduct similarity testing of the nine paddles submitted on November 3, 2023 and November 6, 2023.

32. By December 15, 2023, Defendant had approved all nine of the paddles previously submitted by Plaintiff on November 3, 2023 and November 6, 2023, and it had added them to the “Approved Pickleball Paddles” list.

C. Relying on Defendant’s Prior Approvals, Plaintiff Manufacturers and Markets Tens of Thousands of New Paddles.

33. On January 19, 2024, Plaintiff met with Defendant regarding Defendant’s equipment standards, and Defendant did not even hint in that meeting that it had any concerns about Plaintiff’s new paddle design.

34. Following that meeting in January 2024, Defendant continued scaling up its manufacturing capacities to mass produce its new, next generation paddles, and it also launched an extensive marketing campaign to promote its new technology.

35. Plaintiff set April 16, 2024 as the public release date for its next generation paddles.

36. In January 2024, as part of its marketing initiative, Plaintiff provided its next generation paddles to some of its sponsored professional players through its “Alpha” program. In exchange, those professional players were asked to provide feedback on the paddles based on their experiences with them in actual, competitive matches.

37. In addition, the professional players would generate public demand for the new paddles by showcasing their efficacy in tournament play.

38. Plaintiff’s next generation paddles proved to be a smashing success, and Plaintiff’s sponsored professional players won numerous tournaments using Plaintiff’s equipment.

39. In fact, Plaintiff's paddles were so successful that other paddle manufacturers and non-sponsored professional players began complaining that Plaintiff's paddles gave an unfair advantage to Plaintiff's players.

40. All told, from late December 2023 to mid-May 2024, Plaintiff manufactured at least 150,000 next generation paddles, which have a total retail value of over \$70 million. In addition, Plaintiff has open purchase orders for almost 100,000 additional paddles. Each of those paddles contains a stamp stating that the paddle has been approved by USA Pickleball, a notation Defendant authorized Plaintiff to add when it approved the two base paddles back in September 2023. Plaintiff never would have mass produced those paddles or marked them as "USA Pickleball Approved" had Defendant not already certified Plaintiff's new paddle design.

41. Plaintiff also spent millions marketing the new paddles, with the entire marketing campaign premised on the fact that Plaintiff's paddles complied with Defendant's standards.

D. Defendant Threatens to "Decertify" Plaintiff's Paddles Days Before Their Public Release.

42. However, on April 10, 2024, only days before the highly-anticipated public release of the next generation paddles, Defendant asserted for the first time that Plaintiff's new paddles did not comply with its regulations, and it threatened to "sunset" its approval of the paddles.

43. According to Defendant, Plaintiff's next generation paddles violated Rule 2.E.6.f of Defendant's Equipment Standards Manual, which prohibited "springs or spring-like material, flexible membranes or any compressible material that creates a trampoline effect."

44. In fact, Defendant's Managing Director for Equipment Standards & Facilities Development, Carl Schmidt, wrote to Plaintiff in an email on April 11, 2024 that:

We appreciate your concern that these paddles have passed our existing tests at NTS, but we do contend, after conducting a teardown driven by concerns mentioned above as well as a full-

width facial deflection test, that they violate rule 2.E.6.F . . . which will result in the withdrawal of certification of products with that feature.

45. In other words, Defendant admitted to Plaintiff that Plaintiff's paddles had passed all of Defendant's tests, and Defendant further acknowledged that it had not bothered to conduct a "teardown" of Plaintiff's paddles until right before they were to go on sale despite having possession of them for over five months.

46. In follow up meetings between Defendant and Plaintiff in April 2024, Defendant claimed that the foam insert along the rim of Plaintiff's paddles created an illegal "spring-like" effect that made the exit velocity of batted balls "too fast."

47. Yet, Defendant's equipment standards had not changed from September 2023 to April 2024, and Plaintiff's paddle design had not changed either. If Plaintiff's paddles complied with Defendant's standards when they were tested and approved in September 2023, then they still should have complied with the standards in April 2024.

48. Moreover, Defendant never presented any evidence to Plaintiff demonstrating that its paddles were "springier" than other paddles on the market or that its paddles were any "faster" than other approved paddles.

49. Indeed, Defendant likely had no such evidence because Defendant's testing and certification requirements are primarily design and materials-based, not performance-based. In other words, Defendant's rules require paddles to meet certain requirements as to structure and materials, and they impose only nominal restrictions on how a batted ball may exit the paddle surface.

50. Grasping at straws to make up for its lack of evidence, Defendant at one point cited to Plaintiff's marketing materials, which advertised Plaintiff's paddles as having a "catapult

effect,” in order to support its sudden assertion that Plaintiff’s paddles were “too fast.”

51. Plaintiff and Defendant continued their discussions in April 2024, and it soon became apparent that Defendant was simply searching for reasons to revoke its certification of Plaintiff’s next generation paddles, likely at the behest of other manufacturers who could not compete with Plaintiff’s new design.

52. For example, in addition to arguing that Plaintiff’s paddles were too “springy,” Defendant asserted that the exit velocity created by Plaintiff’s new paddles caused a player safety issue. However, Defendant presented no data or research to support this assertion. In fact, Defendant’s own study found that approved paddles from other manufacturers were actually “faster” than Plaintiff’s new paddles. And, to be clear, there is no reason to believe that Plaintiff’s paddles are somehow unsafe.

53. Furthermore, even if Defendant had somehow uncovered a legitimate reason for revoking its certification of Plaintiff’s paddles, Defendant would have been required by Rule 2.F.1 of Defendant’s Equipment Standards Manual to give Plaintiff and the general public 18 months’ notice before doing so. Specifically, Rule 2.F.1 provides:

Approval and authorization of a specified piece, model, brand, version, design, or type of equipment may be revoked by the Board of Directors upon 18 months’ notice on the USA Pickleball home page, official national newsletter publications, or other acceptable means of communication, if the specified equipment is found to have been materially changed by the manufacturer or if the equipment materially degrades or changes under ordinary use so as to significantly alter the nature of the sport.

54. But Defendant had no time for such notice formalities when it came to Plaintiff.

55. Thus, Defendant pressed ahead with its wide-ranging search to find a pretext to ban Plaintiff’s paddles for one reason or another.

56. On information and belief, some of Defendant’s main sponsors are other pickleball

paddle manufacturers, and certain of those manufacturers may have played a hand in Defendant's decision to slow down's Plaintiff's innovation by any means necessary, which would give them the opportunity to "catch up."

57. Simply put, in April 2024, Defendant had no basis for decertifying Plaintiff's paddles, and, even if it did, Defendant would have been required to give Plaintiff 18 months' notice before doing so.

58. For this reason, Defendant—despite its threats—allowed Plaintiff's paddles to go on sale to the general public as scheduled on April 16, 2024.

E. Defendant Finds a New Reason to De-Certify Plaintiff's Paddles.

59. Less than a month later, however, in mid-May 2024, Defendant would stumble upon yet another reason for decertifying Plaintiff's next generation paddles.

60. Defendant's new grounds for decertification had nothing to do with the paddles on the market or with those that had been tested and approved by Defendant in September 2023. Rather, Defendant decertified Plaintiff's paddles because of an administrative error that Plaintiff had made in November 2023 when it accidentally sent the "wrong" paddles to Defendant for similarity testing.

61. Although not relevant here, this error stemmed from Plaintiff's initial efforts to manufacturer new paddles in October 2023. As is common in the early stages of manufacturing, some of the first paddles produced did not fully meet Plaintiff's specifications, as they contained a layer of foam that was considerably thicker than the foam layer contained in the two base paddles approved by Defendant in September 2023. By mid-October 2023, Plaintiff had identified this manufacturing variance, and it was fully corrected in its manufacturing process by the end of the year, before any paddles were made for professional players or for sale to the general public.

However, due to an administrative mix up, Plaintiff accidentally sent the improperly-manufactured paddles from early October 2023 to Defendant for similarity testing instead of the ready-for-market versions of the paddles, which had been produced later.

62. Plaintiff did not realize that there had been an error in its November 2023 submission, which had been approved by Defendant, until around May 9, 2024, and it promptly notified Defendant of the mistake.

63. Defendant immediately seized upon this mix-up to decertify all of Plaintiff's next generation paddles on the grounds that the market versions of the paddles had technically not been approved by Defendant through similarity testing.

64. Defendant took this position even though, as a matter of fact, Plaintiff's market-version paddles were structurally and functionally the same as its base model paddles.

65. Defendant also updated its website on May 15, 2024 to remove Plaintiff's nine next generation paddles from its approved list.

F. Plaintiff Resubmits Market Versions of its Paddles for Similarity Testing.

66. The next day, on May 16, 2024, Plaintiff—in order to correct its administrative mistake—resubmitted market versions of its nine next generation paddles for similarity testing on an expedited basis.

67. Plaintiff paid thousands for the expedited, one-day testing.

68. Defendant, however, despite taking the money for expedited testing, slow-walked Plaintiff's submission, not releasing the results of the similarity testing for two weeks.

69. And, when Defendant did release the test results, it became clear that Defendant had not performed an impartial evaluation of Plaintiff's paddles as it was required to do, but rather had turned the entire exercise into a no-holds-barred contest to disqualify Plaintiff's nine paddles

by any means necessary.

70. The purpose of similarity testing is to confirm that the submitted, market versions of a paddle are the same structurally and functionally as an already-approved base model of a paddle—in this case, confirming that the market versions of Plaintiff’s paddles are the same as the two base paddles that had been approved in September 2023. However, instead of conducting that analysis, Defendant saw the process as an opportunity to reverse its September 2023 decision to approve Plaintiff’s new paddle design without having to comply with the 18-month notice requirement.

G. Defendant Concocts Three Spurious Reasons to Fail Plaintiff’s Paddles in Similarity Testing.

71. On May 30, 2024, Defendant informed Plaintiff by letter that all nine of Plaintiff’s next generation paddles had failed similarity testing. To justify this result, Plaintiff pointed to three reasons it had concocted, none of which hold up under scrutiny.

a. Defendant Falsely Asserts Plaintiff’s Paddles Have Impermissible “Surface Roughness.”

72. First, Defendant asserted that Plaintiff’s paddles had failed its “surface roughness” testing.

73. In Defendant’s Equipment Standards Manual, surface roughness is governed by Rule 2.E.2, which provides in relevant part that:

The allowable limits for roughness shall be an average of no greater than 30 micrometers on the Rz readings (average maximum height, peak to valley) and an average of no greater than 40 micrometers on the Rt readings (maximum height, peak to valley), with all readings to be taken in six different directions.

74. In this way, a paddle complies with the rules if its average surface roughness falls within the parameters set forth in the rules.

75. And, according to Defendant's own test results, which were provided to Plaintiff in the May 30, 2024 letter, three of Plaintiff's paddles—(i) the Ben Johns Perseus 3 14 mm; (ii) the Ben Johns Perseus 3 16 mm; and (iii) the Tyson McGuffin Magnus 3 16 mm—passed the average surface roughness tests.

76. But Defendant could not stand for any of Plaintiff's paddles to pass, so it made up a new surface roughness rule to obtain a different result. Specifically, Defendant asserted that, for a paddle to pass its surface roughness testing, no single surface roughness measurement could exceed an Rz reading of 33 micrometers or an Rt reading of 44 micrometers. Thus, even if the average surface roughness for a paddle fell within the stated limits, the paddle would still fail the test if even one high reading was recorded anywhere on the paddle.

77. Applying this new, made-up rule to Plaintiff, which had not been posted by Defendant in any public location, Defendant determined that each of the three paddles that had passed Defendant's average surface roughness test had actually failed surface roughness testing because of a single high reading.

78. Defendant literally changed the rules to make sure that Plaintiff's paddles failed.

79. Moreover, as to the six paddles that purportedly failed the average surface roughness test, those paddles did so only because Defendant used an out-of-calibration mechanical device to do the testing.

80. Before shipping its nine paddles to Defendant for similarity testing, Plaintiff had carefully tested all of them for surface roughness, and all of them had passed their tests. Plaintiff's paddles would not have gained any surface roughness while in transit; so, if Defendant obtained different results, it could only be because Defendant's tests were inaccurate.

81. On information and belief, Defendant measures surface roughness with a Starrett

SR160 or SR300 Surface Roughness Tester, which is a mechanical device. That device, while cheaper than an optical surface roughness tester, is also much less accurate—repeatedly giving inconsistent test results for the same surface.

82. Defendant’s use of such an inconsistent testing device to determine surface roughness ensures that any enforcement decisions it makes based on those test results will be entirely arbitrary.

83. Simply put, the surface roughness on Plaintiff’s paddles is within the acceptable limits, and Plaintiff’s paddles only failed because Defendant (i) measured surface roughness using a device that gives inaccurate results to fail six of them and (ii) then made up a new rule to fail the remaining three.

b. Defendant Falsely Asserts That Plaintiff’s Market-Version Paddles Are Not Structurally and Functionally the Same as its Base Model Paddles.

84. Second, Defendant asserted in its letter that the nine paddles submitted by Plaintiff were not “structurally and functionally identical to the base model” because they contained “additional foam around the perimeter.”

85. However, Defendant’s assertion is categorically false. The nine paddles submitted by Plaintiff do not have any more foam than the two base models.

86. Plaintiff also provided Defendant with a written analysis of its paddles, which irrefutably demonstrated that those paddles were essentially the same as the paddles that had been approved in September 2023.

87. That analysis further showed how Plaintiff had examined cross sections of each of the nine market-version paddles and found there was no more than one extra millimeter of foam in the market versions of the paddles as compared to the two base paddles, meaning that there was less than a 10% variance in foam for every market-version paddle. In fact, for five of the nine

paddles, the difference in foam thickness was less than half of a millimeter (at most a 5% variance). This shows that all of Plaintiff's next generation paddles currently on the market are structurally and functionally identical to the paddles approved by Defendant in September 2023.

88. Moreover, to the extent Defendant purports to show otherwise—that the market versions of the paddles contain more foam than the base models—it is only because Defendant cut into the market-version paddles with a taper, making them appear as if they had longer foam sections. But that anomaly was simply a product of how the paddles were cut. It has nothing to do with the actual structure of the paddles.

89. Plaintiff's market-version paddles did not contain any more foam than the base model paddles, and Defendant cannot fairly assert that the market-version paddles were structurally and functionally different than the base paddles.

c. Defendant Falsely Asserts That Plaintiff's Paddles Create an Illegal "Trampoline Effect."

90. Third, Defendant asserted that Plaintiff's nine paddles contained a "prohibited surface feature" in violation of Rule 2.E.6.f of Defendant's Equipment Standards Manual. Specifically, Defendant alleged that the paddles' surfaces contained an impermissible "compressible material that creates a trampoline effect" and that Plaintiff's "structural design impermissibly places spring-like, flexible, and compressible material (foam) along the vertical edges of the paddles." Defendant also noted that Plaintiff had marketed its paddles as having a "catapult effect."

i. Plaintiff's May 2024 Paddles Were the Same Structurally and Functionally As the Paddles Defendant Approved in September 2023.

91. However, the structure and composition of the nine paddles submitted by Plaintiff for similarity testing in May 2024 was essentially identical to the structure and composition of the

two base model paddles that Defendant had approved in September 2023.

92. If Defendant had concerns about the design of Plaintiff’s paddles, including the foam rim, the time to raise its concerns was in September 2023, before it approved the base models—not seven months later, after Plaintiff had manufactured over 150,000 paddles in reliance on Defendant’s approval of the base models.

93. And, if Defendant for some reason had changed its mind about its approval and wanted to rescind its certification of Plaintiff’s paddle design, Rule 2.F.1 required Defendant to give Plaintiff 18-months’ notice.

ii. Plaintiff’s Paddles Do Not Contain Any Prohibited Surface Features.

94. Moreover, even if Defendant were permitted to use similarity testing to “redo” its original certification of the base models without giving the required 18-months’ notice—which it is not—Plaintiff’s paddles would still pass muster because, contrary to Defendant’s claims, they do not contain any “prohibited surface features.”

95. The foam in Plaintiff’s paddles constitutes part of the frame of the paddle. The hitting surface of the paddle, which is the section of the paddle inside of the frame, does not contain any foam. Thus, given that there is no foam on the hitting surface of the paddle, the foam in Plaintiff’s paddles cannot be a “prohibited surface feature.”

96. And, to the extent Defendant asserts that Plaintiff’s paddles cannot contain foam at all, anywhere on the paddle, including along the rim, such a position would be inconsistent with how Defendant has previously interpreted its rules, as Defendant has approved numerous paddles from other manufacturers that contain at least as much foam—and often more—than Plaintiff’s paddles.

97. Moreover, to the extent Defendant asserts that the foam in Plaintiff’s paddles

somehow uniquely causes Plaintiff's paddles to be "too fast," Defendant's own exit velocity testing shows that Plaintiff's paddles are not the fastest paddles on the market, as several approved paddles were found to have higher exit velocities.

98. Thus, no matter whether Defendant points to the amount of foam in Plaintiff's paddles or to exit velocity testing, Defendant has no objective evidence to support banning Plaintiff's paddles for containing supposedly impermissible surface features.

iii. Defendant Makes Up New Tests to Ensure that Plaintiff's Paddles Fail Similarity Testing.

99. Notably, when Defendant approved Plaintiff's base paddles in September 2023, it ran the paddles through rigorous testing, including tests for deflection and rigidity, and Plaintiff's paddles passed those tests with ease. The nine paddles submitted by Plaintiff for similarity testing likewise would have passed those tests, as would any of the paddles it has placed in the marketplace.

100. Yet, Defendant—determined not to allow Plaintiff's paddles to pass at any cost—changed the rules on Plaintiff to get the results it wanted.

101. According to Defendant, Plaintiff's paddles only passed Defendant's standard testing protocol because they could not be properly tested for a "trampoline effect," as the act of securing the paddles for testing purportedly dampened "the foam's mechanical effect" in Plaintiff's paddles (but, somehow, did not cause a similar problem for any other manufacturer).

102. Based on this flimsy justification—for which Defendant provided no evidence—Defendant asserted that, in its subjective opinion, the foam in Plaintiff's paddles created an impermissible trampoline effect, notwithstanding the fact that Plaintiff's paddles had passed all of the objective tests.

103. However, Defendant cannot subjectively decide that the foam in Plaintiff's

paddles—and only in Plaintiff’s paddles—creates an impermissible “trampoline effect” when there is no objective testing to back up that claim.

104. Recognizing this obvious deficiency, Defendant—in a last ditch effort to justify its claim that Plaintiff’s paddles produced an impermissible trampoline effect—relied on two, non-standard tests to justify its decision (making up rules on the fly to disqualify Plaintiff’s paddles appears to be an ongoing theme for Defendant).

105. In a letter sent on June 3, 2024, almost a week after Plaintiff’s paddles had been decertified, Defendant claimed for the first time that Plaintiff’s paddles did not pass the “PB CoR” or “full span deflection” tests, effectively acknowledging that its previous explanations for failing Plaintiff’s paddles was not going to hold up.

106. However, neither of those tests are part of Defendant’s standard testing protocol. In fact, for the “PB CoR” test, which measures ball exit velocity, Defendant stated at its industry day, which was held only a couple of weeks before on May 20, 2024, that it still needed to gather “good data” for the test and that the test would not be implemented until 2025. As of this filing, Defendant has not even released the thresholds for passing or failing this test. Likewise, the standards for the “full span deflection” test, which measures the rigidity of a paddle, have never been shared, and Defendant stated at the industry day that it would not be moving forward with that test, presumably due to reliability concerns.

107. But, because Defendant needed some additional basis for failing Plaintiff’s paddles, it applied the tests to Plaintiff’s paddles anyways.

108. However, the fact remains that Defendant has no reliable, objective basis for banning Plaintiff’s paddles over a purported “trampoline effect,” and there is no evidence that they contain any “prohibited surface features.”

H. Plaintiff Notifies Defendant That Many Approved Paddles Contain the Same Characteristics That Defendant Cited for Banning Plaintiff's Paddles.

109. On May 31, 2024, one day after receiving notice of Defendant's arbitrary and capricious decision to fail Plaintiff's paddles in similarity testing, Plaintiff submitted a follow-up report to Defendant, which outlined how many other, currently-approved paddles contain foam inserts in or near the paddle core that are much larger than the foam layer around the rim of Plaintiff's paddles. Plaintiff even provided specific examples of other such paddles.

110. Plaintiff's submission also explained that the foam in Plaintiff's paddles is part of the rim of the paddle, not part of its core or part of the hitting surface. To buttress this explanation—that the foam in Plaintiff's paddles is not part of the hitting surface—Plaintiff showed Defendant that, while Defendant's rules prohibit holes on the hitting surface of a paddle, several approved paddles contain a hole or holes near the edge of the paddle, indicating that the area just inside the edge of the paddle is not considered part of the hitting surface. And, because the foam in Plaintiff's paddles is much closer to the paddle rim than the holes in several approved paddles, the foam area in Plaintiff's paddles cannot be considered part of the paddle's hitting surface (assuming Defendant's rules are being interpreted consistently, which, as Plaintiff has learned, is not the case).

I. Defendant Admits That Its Goal Is to Ban Plaintiff's Paddles at Any Cost.

111. Defendant responded to Plaintiff's letter on June 3, 2024, and, for the first time, let slip its true intentions—that Defendant would never approve any paddles submitted by Plaintiff for "similarity testing," no matter how similar they were to the already-approved base models.

112. In other words, Defendant—rather than giving Plaintiff the 18-months' notice that it was required to give before revoking approval for a paddle design under Rule 2.F.1—instead intended to twist the similarity testing process to achieve the same result (revocation of its approval

for Plaintiff's new paddle design) without the 18-month wait.

113. Plaintiff was shocked by Defendant's blatant bait-and-switch, and it pointedly asked Defendant, "[i]f we produce the MOD TA-15 (in different shapes) [the base paddle] with a lower manufacturing variance, would it be approved based in similarity?"

114. Defendant's Chief Operating Officer, Justin Maloof, replied bluntly, "we do not consider the [September 2023 approved base models] viable as a basis for similarity."

115. Defendant was no longer even trying to hide its intentions—it would be revoking its approval for Plaintiff's base models without complying with the 18-month notice rule. The entire similarity testing process had been a sham—Defendant was not going to approve Plaintiff's paddles under any circumstances, no matter how similar they were to the already-approved base models.

116. Defendant's conduct towards Plaintiff lacks any justification, particularly considering that Defendant has approved paddles from other manufacturers that also utilize foam in the paddle design. For example, Defendant has also approved other manufacturers' paddles that (i) contain a foam insert between a honeycomb core and the edge; (ii) contain foam inside the cells of the honeycomb core; (iii) contain an entirely foam core; and (iv) contain a core that is mostly foam. Yet, none of those "foam core" paddles have been banned.

117. Defendant's vindictive approach to Plaintiff—banning Plaintiff's paddles without even giving Plaintiff the benefit of the 18-month notice rule—is made all the more appalling by the fact that Defendant has also heavily promoted the decertification of Plaintiff's paddles on its website and in press releases, presumably trying to exact maximum reputational damage on Plaintiff.

118. Yet, when Defendant decertified paddles from other manufacturers, as it has

recently for one other manufacturer, it did not trumpet that decertification on its website or even immediately remove the decertified paddles from its approved list.

119. Apparently, Defendant wants Plaintiff to be singled out and punished for designing a better paddle.

120. But Defendant cannot change its rules midstream to target one manufacturer for being a step ahead of everyone else.

J. Defendant's Bad Faith Conduct Has Caused Significant Harm to Plaintiff.

121. Defendant's bad faith conduct against Plaintiff has caused significant harm.

122. Before Defendant banned Plaintiff's paddles, Plaintiff warned Defendant that Plaintiff had made a substantial economic investment in its new paddles, ranging from the company's branding to its manufacturing facilities to its contractual commitments to third-party suppliers and distributors, and that Defendant's apparent goal of de-certifying Plaintiff's paddles would irreparably harm Plaintiff's interests and its relationships with those third-parties.

123. Plaintiff also reminded Defendant of Rule 2.F.1, the 18-month notice requirement, which was designed to protect the economic expectations of both manufacturers, who produce tens of thousands of paddles in reliance on Defendant's approval decisions, and pickleball players, who have a right to know that, when they purchase a paddle on Defendant's approved list, they will be able to continue using that paddle for the foreseeable future.

124. Defendant, however, paid no heed to Plaintiff's warnings in its mad dash to decertify Plaintiff's paddles by any means necessary.

125. Plaintiff has sold tens of thousands of paddles since they went on sale on April 16, 2024, and tens of thousands more paddles were on store shelves awaiting sale at the time Defendant decertified them. Yet, as a result of Defendant's actions, Plaintiff is now responsible for refunding

all of those purchases.

126. Plaintiff's reputation in the pickleball industry has been gravely injured by Defendant's conduct, as players, both professional and amateur, are coming to associate it with selling un-approved pickleball equipment.

127. In fact, other pickleball paddle manufacturers are reaching out to customers, referencing Plaintiff, and advertising that they sell only "legal" pickleball paddles, implying that Plaintiff does not.

128. Similarly, some players and clubs have become concerned that Plaintiff's paddles are unsafe because Defendant denigrated them as "too fast" when it was making up reasons for banning Plaintiff's paddles. Yet, Defendant's purported safety concerns were never publicly-disclosed. Thus, on information and belief, Defendant must have leaked to third-parties that it had informed Plaintiff that it considered Plaintiff's paddles to be too fast, and, on information and belief, Defendant did so in order to damage Plaintiff's reputation.

129. Moreover, Defendant never should have made such an accusation because its own testing showed that Defendant's paddles were no faster than several other paddles still on Defendant's "Approved Pickleball Paddles" list and that there was no basis for finding that they were unsafe. Indeed, even though Defendant was clearly determined to decertify Plaintiff's paddles at any cost, it still ended up dropping the player safety pretext as a reason for decertification; however, by that point, due to Defendant's leaks, the damage to Plaintiff's reputation had already been done.

130. Other paddle manufacturers have also reached out to customers, including Plaintiff's customers, to tell them that they can't trust Plaintiff to sell compliant paddles going forward, a claim those manufacturers would not have been able to make or even insinuate were it

not for Defendant's conduct over the last month.

131. Various pickleball clubs have also removed Plaintiff's paddles from circulation and have prohibited their members from using Plaintiff's paddles.

132. Without question, it will take years for Plaintiff to overcome the damage caused by this line of attack, which was an entirely foreseeable consequence of Defendant's campaign against Plaintiff.

133. Moreover, Plaintiff has already been hit with at least two class action lawsuits, one in California and one in Florida, alleging that Plaintiff violated various consumer protection laws for allegedly falsely advertising that its paddles had been approved by Defendant. Yet, Plaintiff's paddles had been approved, and they would be on the approved list right now were it not for Defendant's bad faith conduct in rigging the similarity testing process against Plaintiff. In addition, these class action lawsuits cite to purported safety issues regarding Plaintiff's paddles. Yet, there is no basis for those safety concerns, and it would not even have been an issue had Defendant not invented it and then leak about it to third parties.

134. Furthermore, professional players who have used Plaintiff's equipment in tournaments may now have their results called into question, which will likely make them hesitant to use Plaintiff's equipment in the future.

135. Finally, Plaintiff's contractual and economic relationships with third-parties, such as suppliers and distributors, have been gravely disrupted by Plaintiff's rushed decertification decision.

136. Defendant's action will inevitably end up costing Plaintiff at least tens of millions of dollars.

COUNT 1
(Breach of Implied Contract)

137. Plaintiff incorporates the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

138. Plaintiff and Defendant had an understanding that Defendant would examine and test Plaintiff's new pickleball paddle designs to confirm whether the new designs met Defendant's standards for certification.

139. Plaintiff paid Defendant a fee for this service.

140. Plaintiff and Defendant also understood that, once Defendant approved Plaintiff's paddle designs, Defendant would not revoke that certification on short notice if Plaintiff produced paddles that were structurally and functionally similar to the paddles that had been approved.

141. Plaintiff and Defendant further understood that, if Plaintiff submitted market versions of paddles that were structurally and functionally the same as Plaintiff's already-approved base model paddles, Plaintiff would conduct "similarity testing" of the market-version paddles and approve them to the extent that they were in fact structurally and functionally similar to the base paddles.

142. Plaintiff and Defendant further understood that, if Plaintiff submitted an extra payment for expedited similarity testing, Defendant would conduct such testing in a timely manner.

143. In addition, Plaintiff and Defendant understood that, should Defendant decide to revoke its approval of Plaintiff's paddles, it would provide Plaintiff with 18-months' notice before doing so.

144. Defendant breached this implied contract by, without warning, revoking its approval of Plaintiff's next generation pickleball paddles and by failing to conduct valid similarity

testing on the market versions of Plaintiff's next generation paddles.

145. Plaintiff has suffered substantial damages as a result, including lost sales, loss of customer goodwill, and litigation expenses.

COUNT 2
(Tortious Interference with Contract)

146. Plaintiff incorporates the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

147. Plaintiff had contractual relationships with its suppliers, distributors, vendors, and sponsored professional players relating to the production, marketing, and sale of its next generation pickleball paddles.

148. Defendant knew that Plaintiff had the above-mentioned contractual relationships.

149. Moreover, Defendant knew that it would be endangering those contractual relationships, causing many of them to be breached, if it revoked its certification of Plaintiff's paddles on short notice or if refused to conduct valid similarity testing on the market versions of Plaintiff's paddles.

150. Yet, despite knowing the harm that it would cause, Defendant relentlessly searched for a pretext to decertify Plaintiff's pickleball paddles, and it ultimately chose to decertify Plaintiff's paddles without a valid basis and without adhering to the applicable notice requirements.

151. Defendant also relied on spurious reasons to fail Plaintiff's pickleball paddles in similarity testing instead of conducting the testing in good faith, which would have resulted in the approval of Plaintiff's paddles.

152. On information and belief, Defendant's decertification decision was based in part on its intention to protect other paddle manufacturers from having to compete with Plaintiff's new

paddles.

153. As a result, numerous third parties have breached their contractual relationships with Plaintiff, citing Defendant's decertification of Plaintiff's paddles as justification. Among other things, these third parties have refused to continue selling or using Plaintiff's next generation paddles, and they have refused to allow Plaintiff's paddles to be used in their facilities.

154. Plaintiff has suffered damages as a result of these broken contractual relationships in the form of lost profits.

COUNT 3
(Tortious Interference with Prospective Business Relations)

155. Plaintiff incorporates the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

156. Plaintiff had business relationships with its suppliers, distributors, vendors, and sponsored professional players relating to the production, marketing, and sale of its next general pickleball paddles.

157. Defendants knew that Plaintiff had the above-mentioned business relationships.

158. Moreover, Defendant knew that it would be endangering those business relationships, causing many of them to rupture, by revoking its certification of Plaintiff's paddles on short notice or by refusing to conduct valid similarity testing on the market versions of Plaintiff's paddles.

159. Yet, despite knowing the harm that it would cause, Defendant relentlessly searched for a pretext to decertify Plaintiff's pickleball paddles, and it ultimately chose to decertify Plaintiff's paddles without a valid basis and without following its own rules as to notice.

160. Defendant also relied on spurious reasons to fail Plaintiff's pickleball paddles in similarity testing instead of conducting the testing in good faith, which would have resulted in the

approval of Plaintiff's paddles.

161. On information and belief, Defendant's decertification decision was based in part on its intention to protect other paddle manufacturers from having to compete with Plaintiff's new paddles.

162. As a result, numerous third parties have curtailed or outright cancelled their business relationships with Plaintiff, citing Defendant's decertification of Plaintiff's paddles as justification. Among other things, these third parties have refused to continue selling or using Plaintiff's next generation paddles, and they have refused to allow Plaintiff's paddles to be used in their facilities.

163. Plaintiff has suffered damages as a result of these damaged business relationships in the form of lost profits.

COUNT 4
(Promissory Estoppel)

164. Plaintiff incorporates the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

165. Defendant represented to Plaintiff that, if Plaintiff submitted its paddle designs to Defendant for certification and paid a fee, Defendant would test the paddles in good faith and approve them if they complied with Defendant's written rules.

166. Defendant further represented that it would also approve additional paddles submitted by Plaintiff if they were substantially the same in terms of both structure and materials as Plaintiff's base model paddles that had already approved.

167. Defendant further represented that it would not revoke on short notice any paddle certifications that it had granted.

168. Defendant approved Plaintiff's paddle designs in September 2023.

169. Plaintiff reasonably relied on Defendant's approval of its paddle designs by manufacturing nearly one hundred thousand paddles that were substantially similar to the ones that had been approved and by marketing them for sale to the general public.

170. Plaintiff would not have manufactured or marketed such paddles if it had known that Defendant would revoke the certification for its paddle designs on short notice.

171. Plaintiff also would not have manufactured or marketed such paddles if it had known that Defendant would refuse to conduct unbiased similarity testing of the market versions of Plaintiff's paddles.

172. Plaintiff has suffered substantial damages as a result, including lost sales, loss of customer goodwill, and litigation expenses.

COUNT 5
(Negligent Misrepresentation)

173. Plaintiff incorporates the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

174. Defendant—as an entity holding itself out as capable of certifying whether the pickleball equipment it tests is compliant with the applicable rules—owed a duty to Plaintiff—as a manufacturer of pickleball equipment who submitted paddles to Defendant for testing—to conduct any such testing using reasonable care and to communicate those test results to Plaintiff using reasonable care.

175. Therefore, to the extent Plaintiff's next generation paddle design does not comply with the applicable rules, Defendant breached its duty to Plaintiff by negligently informing Plaintiff in September 2023 and November 2023 that its paddle design did comply with the rules.

176. Defendant knew that Plaintiff would rely on any equipment approvals received from Defendant.

177. Defendant's breach damaged Plaintiff by causing Plaintiff to spend millions manufacturing and marketing pickleball paddles that ultimately were not certified by Defendant and could not be sold to the public with Defendant's stamp of approval.

178. Plaintiff also suffered damages in the form of lost customer goodwill and litigation expenses.

COUNT 6
(Fraud)

179. Plaintiff incorporates the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

180. On information and belief, Defendant has acted in concert with certain other pickleball paddle manufacturers to handicap Plaintiff's ability to sell its next generation pickleball paddles because those certain other manufacturers cannot compete with Plaintiff's new paddles.

181. In furthermore of this scheme, Defendant has put forth spurious reasons for de-certifying Plaintiff's paddles and for refusing to certify them in similarity testing, including (i) that the new paddles make the exit velocity of a batted ball "too fast;" (ii) that the paddles create an illegal "trampoline effect;" (iii) that the paddles contain an impermissible foam hitting surface; and (iv) that the paddles contain an impermissible level of surface roughness.

182. On information and belief, Defendant's stated grounds for failing Plaintiff's paddles in similarity testing are mere pretexts for revoking its approval of Plaintiff's base model paddles without having to provide the required 18-months' notice, which Defendant is doing in order to protect certain other pickleball paddle manufacturers from having to compete with Plaintiff.

183. In addition, Defendant misrepresented to Plaintiff that it would conduct rigorous testing of Plaintiff's paddles, which suggested that Defendant would not later change its mind

about any approvals issued.

184. In reliance on Defendant's approval of Plaintiff's new paddle design, Plaintiff manufactured over 150,000 paddles, and it is in the midst of manufacturing almost 100,000 more, which Plaintiff now will not be able to sell because Defendant is insistent on failing them in similarity testing. Plaintiff had a right to rely on Defendant's earlier certification, including Defendant's representation that it had already conducted thorough testing of the paddles, and Plaintiff would not have manufactured these paddles had it known that Defendant would revoke its certification of the paddles on false pretenses or wrongfully refuse to pass market versions of the paddles in similarity testing.

185. As a result of Defendant's fraudulent conduct, Plaintiff was tricked into manufacturing and marketing over 150,000 paddles that it cannot sell.

186. Consequently, Plaintiff has incurred losses in the tens of millions of dollars.

187. In addition, Plaintiff has suffered damages in the form of loss of customer goodwill and litigation expenses.

WHEREFORE, Plaintiff respectfully requests that this Court:

- a. Award compensatory damages to Plaintiff in the amount of \$100 million, plus statutory pre-judgment and post-judgment interest;
- b. Award punitive damages against Defendant in the amount of \$100 million for its bad faith conduct;
- c. Issue an injunction requiring Defendant to certify as approved the nine pickleball paddles listed in paragraphs 29-30 of the Complaint;
- d. Award Plaintiff its reasonable attorneys' fees and costs; and
- e. Provide such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff demands a jury trial of this matter.

June 12, 2024

Respectfully submitted,

SHULMAN ROGERS, P.A.

/s/ Glenn C. Etelson

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