

1 Firm E-Mail: courtdocs@dickinsonwright.com

2 David G. Bray (#014346)
3 dbray@dickinsonwright.com
4 **DICKINSON WRIGHT, PLLC**
5 1850 North Central Avenue, Suite 1400
6 Phoenix, Arizona 85004
7 Phone: (602) 285-5000
8 Fax: (602) 285-5100

9 *Attorneys for VIP Products, LLC*

10 **IN THE UNITED STATES DISTRICT COURT**
11 **DISTRICT OF ARIZONA**

12 VIP Products, LLC, an Arizona limited
13 liability company,

14 Plaintiff,

15 v.

16 Jack Daniel’s Properties, Inc., a Delaware
17 corporation

18 Defendant.

No.

19 **COMPLAINT**
20 **(Declaratory Judgment)**

21 Plaintiff, VIP Products, LLC for its complaint against defendant Jack Daniel’s
22 Properties, Inc., by and through its undersigned counsel, Dickinson Wright PLLC, hereby
23 alleges and states as follows:

24 **I.**

25 **THE PARTIES**

26 1. Plaintiff VIP Products, LLC (“Plaintiff”) is an Arizona limited liability
company corporation with its principal place of business at 16515 S. 40th Street, Suite 121,
Phoenix, Arizona 85048.

1 8. Plaintiff sells several lines of dog chew toys, including the “Tuffy’s” line
2 (durable sewn/soft toys), the “Mighty” line (durable toys made of a different material than the
3 Tuffy’s line), and the “Silly Squeakers” line (durable rubber squeaky novelty dog toys).

4 9. In approximately July of 2013, VIP introduced its “Bad Spaniels” durable
5 rubber squeaky novelty dog toy.

6 10. Plaintiff is the owner of all rights in its “Bad Spaniels” trademark and trade
7 dress for its durable rubber squeaky novelty dog toy.

8 11. Upon information and belief, Defendant is the owner of a number of United
9 States trademarks that incorporate the words “Jack Daniel’s.” The Jack Daniel’s mark is
10 primarily associated with Tennessee sour mash whisky.

11 12. VIP designed the “Bad Spaniels” label to incorporate a few elements of the Jack
12 Daniel’s label design; for example VIP included a label with black background and white
13 lettering. On the other hand, VIP included drastic differences from the Jack Daniel’s marks
14 and label design in its “Bad Spaniels” label to make it clear that the product is a parody. For
15 example, VIP selected the words “Bad Spaniels” because they are clearly not “Jack Daniel’s”,
16 included the phrase “Silly Squeakers” on the toy in three locations on the product hanger tag,
17 and placed a prominent disclaimer on the packaging that plainly states: “The product and its
18 design belong to VIP products. This product is not affiliated with Jack Daniel’s.”

19 13. On or about September 9, 2014, VIP received a demand letter from Defendant
20 dated September 5, 2014 which demanded that VIP, among other things, stop all sales of its
21 parody “Bad Spaniels” novelty dog toy.

22 **VI.**

23 **CLAIM FOR RELIEF**

24 **(Declaratory Judgment)**

25 14. Plaintiff incorporates and realleges herein by this reference Paragraphs 1
26 through 13, inclusive, as though set forth in full herein.

1 15. There is an actual and justiciable controversy between Plaintiff and Defendant
2 regarding Plaintiff’s use of its “Bad Spaniels” trademark and trade dress for its novelty dog
3 toy.

4 16. As a matter of law, Plaintiff’s use of its “Bad Spaniels” name and mark does not
5 infringe or dilute any claimed trademark rights that Defendant may claim in any “Jack
6 Daniel’s” trademark for its Tennessee sour mash whiskey and/or any other product.

7 **WHEREFORE** Plaintiff respectfully requests that the Court:

8 A. Issue a judgment declaring that Plaintiff’s use of its “Bad Spaniels” name and
9 mark for its novelty dog toy does not infringe or dilute any trademark rights claimed by
10 Defendant in the name and mark “Jack Daniel’s”; and

11 B. Grant such additional or other relief as the Court deems just and proper.

12 **RESPECTFULLY SUBMITTED** this 16th day of September, 2014.

13
14
15
16
17
18
19
20
21
22
23
24
25
26

DICKINSON WRIGHT, PLLC

By: s/ David G. Bray
David G. Bray
1850 North Central Avenue, Suite 1400
Phoenix, Arizona 85012-2705
Attorneys for VIP Products, LLC