

UNITED STATES DISTRICT COURT SPECIAL PROCESS SERVER

for the Middle District of Florida

GEORGE YAZGI

DATE 11/4/10 TIME 5:54pm

Starbuzz Tobacco, Inc., a California corporation,

Plaintiff

v.

Taqseem, Inc., a California corporation, and Samer Mansour, an individual, and DOES 1-10, inclusive,

Defendant

Civil Action No. 8:10-cv-01016-AG -RNB

(If the action is pending in another district, state where:

Central District of California)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Mr. Nicholas Apromollo dba Camorra Productions, 6208 Adams Road, MacClenny, Florida 32063

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: Place (Esquire Solutions, 1301 Riverplace Blvd., Suite 1609, Jacksonville, FL 32207) and Date and Time (12/01/2010 9:30 am)

The deposition will be recorded by this method: Stenographic and/or Videotape

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

See the attached Schedule "A".

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 11/03/2010

CLERK OF COURT

OR

Handwritten signature of attorney

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Plaintiff, Starbuzz Tobacco, Inc., who issues or requests this subpoena, are:

Natu J. Patel, THE PATEL LAW FIRM, P.C. 2532 Dupont Drive, Irvine, CA 92612 NPatel@thePatelLawFirm.com, Tel: (949) 955-1077, Fax: (949) 955-1877

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) *Contempt.* The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

SCHEDULE A
INTRODUCTION

Pursuant to Federal Rules of Civil Procedure 45, you are obligated to appear for a deposition on the below-identified topics and produce for copying and inspection the below-identified documents. Any questions or concerns regarding the notice of deposition may be directed to Plaintiff's counsel:

Natu J. Patel, Esq.
THE PATEL LAW FIRM, P.C.
2532 Dupont Drive
Irvine, CA 92612
Phone: 949.955.1077
Facsimile: 949.955.1877
Email: NPatel@ThePatelLawFirm.com

Please make copies of the requested documents available for inspection and copying at a mutually agreeable location, or directly mail or otherwise transmit them to Plaintiff's counsel, on or before **November 22, 2010**.

DEFINITIONS

Unless the context clearly requires otherwise, the following definitions and instructions shall apply to these requests and all other discovery requests in this action unless otherwise provided:

1. As used herein, the term "AND" includes "OR," and the term "OR" includes "AND."

2. "YOU" or "YOUR" (or any derivative thereof) shall refer to Nicholas Apromollo, an individual doing business as Camorra Productions, located at 6208 Adams Road, MacClenny, Florida 32063 including his parent companies, subsidiaries, affiliates, employees, agents, officers, directors, attorneys, contractors, accountants, consultants,

investigators, predecessors and successors-in-interest and all persons acting or purporting to act on his behalf.

3. "STARBUZZ" shall refer to Starbuzz Tobacco, Inc., a California corporation.

4. "TAQSEEM" shall refer to Taqseem, Inc., a California corporation located at 5710 Auburn Blvd. #8, Sacramento, CA 95841, and Samer Mansour, president of Taqseem, Inc., including their parent companies, subsidiaries, affiliates, employees, agents, officers, directors, attorneys, contractors, accountants, consultants, investigators, predecessors and successors-in-interest and all persons acting or purporting to act on their behalf.

5. "SOCIAL SMOKE" shall refer to Social Smoke, Inc., a Texas corporation located at PO BOX 121002, Arlington, TX 76012-1002, including its parent companies, subsidiaries, affiliates, employees, agents, officers, directors, attorneys, contractors, accountants, consultants, investigators, predecessors and successors-in-interest and all persons acting or purporting to act on its behalf.

6. "WEBSITE" shall refer to Your website, www.starbuzztobaccolawsuits.com.

7. "TAQSEEM LAWSUIT" shall refer to the case entitled, Starbuzz Tobacco Inc v. Taqseem Inc et al, Case No. 8:10-cv-01016-AG-RNB, pending before the United States District Court, Central District of California.

8. "SOCIAL SMOKE OPPOSITIONS" shall refer to the oppositions to CINAMINT (Opposition No. 91196732), CINNAMINT (Opposition No. 91196733), ARABIAN NIGHTS (Opposition No. 91196727), MOBSTER (Opposition No. 91196734), TANGERINE RUSH (Opposition No. 91196736), SIMPLY APPLE (Opposition No. 91196735), GIGAWATT (Opposition No. 91196731) and BLUEBERRY XTREME (Opposition No. 91196730), pending before the Trademark Trial and Appeal Board of the United States Patent and Trademark Office.

9. "RELEVANT PERIOD" shall refer to the period from July 1, 2010 to the present.

10. "DOCUMENT(S)" means any writing or recording as defined in Rule 1001 of the Federal Rules of Evidence, including but not limited to, any written, printed, typed, recorded, or other graphic matter of any kind or nature and shall include, without limitation, all writings, drawings, graphs, charts, books, technical materials, photographs, microfilm, magnetic media, computer records, e-mails, text messages, electronically stored information, and other media from which information can be obtained. This will include, without limitation, initials, stamped indicia, comments, or notations not part of the original text or photographic reproduction thereof, is a separate document.

"DOCUMENT" shall also include any data compilations from which information can be

obtained or translated if necessary by You through detection devices into reasonably useable form.

11. "PERSON" includes, without limitation, any natural person, proprietorship, corporation, partnership, trust, joint venture, association, organization, business entity or governmental agency.

12. "DESCRIBE," "REFER," "RELATE," "RELATING TO" and "RELATES TO" mean, without limitation, relating to, regarding, constituting, concerning, mentioning, referring to, describing, summarizing, evidencing, listing, relevant to, demonstrating, or tending to prove, disprove, or explain.

13. "CORRESPONDENCE" means any e-mail, text message, letter, memorandum, fax or other writing.

14. "COMMUNICATION" means any transfer of information of any kind, orally, in writing, or by any other manner, at any time or place, and under any circumstances whatsoever and shall include, but is not limited to, the following: contracts or agreements; drawings or sketches; invoices, orders, or acknowledgements; diaries or reports; forecasts or appraisals; memoranda of telephonic or in person communications by or with any person; other memoranda, letters, telegrams, telexes, or cables prepared, drafted, received or sent; tapes transcripts, or recordings; photographs, pictures, or films; computer programs, computer data, or computer printouts; or graphic, symbolic, recorded, or written materials of any nature whatsoever.

15. The use of the singular includes the plural, and vice versa.
16. The use of one gender includes all others, appropriate in context.

INSTRUCTIONS

1. In the event any communication or document responsive to any of the following document requests is withheld from production on the basis of privilege, provide the name, address, phone number, and e-mail of each person who participated in creating or had knowledge of the communication or document and provide the following:

- a. The privilege or protection that You claim precludes disclosure;
- b. The subject matter of the communication or document (without revealing the content as to which privilege is claimed); and
- c. Any additional facts on which You base Your claim of privilege or protection.

2. When You are requested to provide documents, You are required to supply all documents available to You or Your employees, agents, representatives, attorneys and experts. If You cannot locate any responsive documents after making diligent efforts to do so, please so state.

3. If responsive documents are only available in an electronic format, please provide CD-ROM(s) or DVD-ROM(s) containing copies of the electronic files in their native format.

Documents to Be Produced

1. Documents provided to You by Taqseem during the Relevant Period.
2. Documents provided to You by Social Smoke during the Relevant Period.
3. Documents in your possession and custody obtained from any source relating to Starbuzz, Taqseem, the Taqseem Lawsuit, or the Social Smoke Oppositions.
4. Documents evidencing any Communications between You and Taqseem during the Relevant Period.
5. Documents evidencing any Communications between You and Social Smoke during the Relevant Period.
6. Documents evidencing any Communications between You and any other person during the Relevant Period relating to Starbuzz, Taqseem, the Taqseem Lawsuit or the Social Smoke Oppositions.
7. Documents evidencing any payments and/or products that You have received from Taqseem during the Relevant Period.
8. Documents evidencing any payments and products that You have received from Social Smoke during the Relevant Period.
9. Documents evidencing the source of funds used to pay for the creation and maintenance of the Website.
10. Documents relating to Your enrollment in program(s) for the advertisement of products and services on the Website, including, but not limited to, the Google Adsense program.
11. Documents relating to any revenue You have received through programs for the advertisement of products and services on the Website.

12. Documents evidencing the names and e-mail addresses for the persons who made the comment "I am an X-employee of his. He is a crook and doesnt want to pay me or anyone for the hours of worked we all put in," on Your Website.

13. Documents evidencing the names and e-mail addresses for the persons who made the comment "Nada, They have been suing everyone and want to try to monopolize the industry. They have sued Fusion, Deja Vu, Paradise, Tonic, SkyBuzz and every other tobacco company that is trying to do business in an honest way..." on Your Website.

14. Documents evidencing the names and e-mail addresses for the persons who made the comment "One of my local suppliers has been telling me for ages about this company's unethical business practices. Nothing I'll go into here, but apparently they're the reason why Nakhla is almost impossible to come by in ****."

15. Documents that support the statement that You made on the Website that, "Starbuzz Tobacco Company is bullying smaller tobacco companies by filing lawsuit after lawsuit claiming that these companies are infringing on their Trademarks, stating that these companies gain an unfair advantage because consumers confuse their products with Starbuzz products, and are making money off of the names that Starbuzz created and brought attention to. This is simply not true."

16. Documents that support the statement that You made on the Website that, "Which unless you are braindead, its pretty simple to understand that 'White Peach' is just about as generic as it gets."

17. Documents that support the statement that You made on the Website that, "Did you know, that since the USA does not recognize trademarks from other countries,

Starbuzz could make it where overseas brands, such as Nakhla, Al Fakher, and Fumari could not be imported to the US due to infringing trademarks.”

18. Documents that support the statement that You made on the Website that, “They are essentially trying to bully and sue other companies out of existence in order to gain a monopoly on the US Hookah Tobacco market.”

19. Documents that support the statement that You made on the Website that, “This website is Owned by me, the only person posting here is me.”

20. Documents that support the statement that You made on the Website that, “In other news, I have spoken to Joey Drew to get a little more info, but he didn’t seem to interested in talking.”

21. Documents that support the statement that You made on the Website that, “Social Smoke has had these flavors for a while, Has anyone even SEEN any of these flavors through Starbuzz?”

22. Documents that support the statement that You made on the Website that, “The lawsuits regarding Tonic tobacco are still pending and basically not going anywhere for the time being.”

23. Documents that support the statement that You made on the Website that, “It doesn’t take a rocket scientist to know that Starbuzz Pirate Cave Tobacco is a straight ripoff from Pirates of the Caribbean. You can clearly see distinct features that both images share and even the torches in the Starbuzz version, from a lazy graphic artist.”

24. Documents that support the statement that You made on the Website that, “Because rumor has it, that Disney has caught on to this. And if Starbuzz thought they

were the playground bully before Disney is gonna be taking their lunch money for a while to come.”

25. Documents that support the statement that You made on the Website that, “We are either being lied to, or Starbuzz does operate in some shady corner of the world.”

26. Documents that support the statement that You made on the Website that, “Today a wholesale company contacted me regarding my website, and what they said shocked me. The wholesale company was contacted by one of their clients. A tobacco shop. The owner of the shop was given a link to this site from a few of their patrons, who asked the owner to view this site, and that they wouldn’t support a shop that stocked Starbuzz because of what they are doing. The owner viewed the site, and was disgusted with the information. They then called their wholesale supplier and requested a product to fill the place of Starbuzz in their store as they no longer wish to carry Starbuzz.”

27. Documents that support the statement that You made on the Website that, “I spoke to a man named Samer and did a basic interview over the phone, addressing publicly available information. Samer (Tonic) told me that Starbuzz was suing them because they ‘violated’ trademarks for names such as, sex on the beach, wild mint, white peach, guava, and many more. Taqseem is a company that introduced and coined many of the generic terms used in the hookah world today.”

28. Documents that support the statement that You made on the Website that, “Tonic feels that Starbuzz is trying to bully smaller companies out of the industry by threatening them with lawsuits.”

29. Documents that support the statement that You made on the Website that, “And sadly, many tobacco companies are operated by families of Middle Eastern descent, and when they are served papers full of large legal terminology that they don’t really understand, they get scared, and do whatever it takes to avoid trouble. These companies are honest companies, not looking to hurt people or steal business from others.”

30. Documents that support the statement that You made on the Website that, “But their innocent ignorance is being taken advantage of by Starbuzz simply to push them out and away from the market so Starbuzz can become THE only tobacco on the market.”

31. Documents that support the statement that You made on the Website that, “It is absurd that Starbuzz holds Trademarks for names they didn’t even come up with.”

32. Documents that support the statement that You made on the Website that, “Starbuzz has a trademark for ‘Double Apple’ which is the pride of Al Fakher who has been producing the flavor long before Starbuzz existed.”

33. Documents that support the statement that You made on the Website that, “And ‘Sweet Melon’ which is one of the top selling flavors from possibly the oldest Shisha Tobacco company in existence Nakhla.”

DATED: November 3, 2010

Respectfully submitted,
THE PATEL LAW FIRM, P.C.



Natu J. Patel