

Margaritaville Brand Fighting Over Trademark Rights in the Bahamas

by Lidia Dinkova

Margaritaville — both a name and a laidback feel at tourist venues from New York to Costa Rica derived from Jimmy Buffett's 1977 hit song — is accused of breaching an agreement for the exclusive use of the trademark in the Bahamas.

Boss Investments Ltd. claims it has the exclusive rights to develop and run venues under the Margaritaville trademark, which includes the name, Buffett images and song lyrics, and associated merchandise under a 2014 agreement.

Boss opened a restaurant, store and bar with live entertainment on Paradise Island, but its plans and partnership with Margaritaville went awry when it wanted to open a second, similar venue.

Boss said Palm Beach-based Margaritaville Holdings LLC; its intellectual property licensor, Margaritaville Enterprises LLC; and the IP sublicensor that signed



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Restaurant operator Boss Investments claims the Margaritaville company is breaking a licensing agreement by allowing a different developer to use the name in the Bahamas for a resort.

the Bahamas trademark agreement with Boss, Margaritaville of Bahamas LLC, didn't hold up their end of the deal.

Instead, they awarded a Margaritaville trademark for the development of another tourist destination on Paradise Island — a \$250 million, 150-room resort on 6 acres with a spa, luxury condominiums, an 800-space garage, marina,

restaurant and water park, according to Boss' lawsuit filed Friday in Palm Beach Circuit Court.

Boss sued all three Margaritaville LLCs as well as Margaritaville Development president James Wiseman.

Margaritaville declined comment through a spokeswoman.

Boss said the new Bahamian resort will rise two miles from its

existing venue and Margaritaville has discouraged Boss from moving ahead with a second venue at a promising location.

Boss, which opened its first restaurant in the Bahamas in 2015, has the right to open a second Bahamas venue within five years after the first location was open for a year, according to the complaint.

After Boss met with a Margaritaville representative in spring 2017 to show a prospective second location at the Port of Nassau, a busy cruise ship port, Wiseman called Boss to suggest a “‘slow play’ moving forward with the proposed location ... because Margaritaville had ‘something better in that area for Boss,’ ” the lawsuit alleges.

This turned out to be a stalling tactic so Margaritaville could license its trademark to the resort developer, Boss’s attorneys, Todd Levine and Adam Steinberg, argue in the complaint.

Levine is a founding member and partner at Kluger, Kaplan, Silverman, Katzen & Levine in Miami, and Steinberg is a partner with The Law Offices of Adam J. Steinberg in Fort Lauderdale.

Wiseman and Boss representatives had a good working relationship, and Boss believed Wiseman was going to help with a second location, according to the complaint.

“Instead, Wiseman had more devious and deceptive plans, and took advantage of his relationship



Adam J. Steinberg

with Boss’s representatives to convince Boss to forego an opportunity to open a second venue in a prime location that is no longer available,” attorneys wrote in the complaint.

Boss and its attorneys based their knowledge of the competition in part on a Jan. 22 news release announcing Margaritaville at The Pointe.

“Even if the ‘signature Margaritaville food and beverage concepts’ at Margaritaville at the Pointe are not actually named ‘Margaritaville’ and ultimately bear other names that are evocative of Jimmy Buffett and/or other Buffett music, the infringement of Boss’s sub-license of the intellectual property still exists, as does the confusion to customers,” Boss’s attorneys argue.

Customers already are “confused” by the Margaritaville IP duplication between Boss’s



Todd Levine

Paradise Island venue and the upcoming Margaritaville at The Pointe with at least 15 callers inquiring about the new Margaritaville hotel.

Boss claims it’s entitled to revenue paid to Margaritaville, such as royalties and license fees, by the Margaritaville at The Pointe project.

The company seeks declaratory judgment and injunctive relief alleging fraud and negligent representation against the Margaritaville LLCs. The lawsuit also claims breach of the sublicense agreement and breach of implied covenant of good faith and dealing. Wiseman is named in counts alleging fraud and negligent misrepresentation.

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