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 16 Vapes, Inc.

17 **UNITED STATES DISTRICT COURT**  
 18 **CENTRAL DISTRICT OF CALIFORNIA**  
 19

20 DRIP MORE, LLC and BRIAN  
 21 BEREBER,

22 Plaintiffs,

23 v.

24 CRAVINVAPES LLC; LICENSED  
 ELIQUID MANUFACTURING LLC;  
 25 and HOOSIER VAPES, INC.,

26 Defendants.  
 27  
 28

Case No. 5:18-cv-00766-PA-SHK  
**STIPULATED PERMANENT  
 INJUNCTION AND ORDER OF  
 DISMISSAL**

1 Plaintiffs Drip More, LLC ("Drip More") and Brian Bereber ("Bereber")  
2 (collectively, "Plaintiff" or "Drip More"), filed their Complaint against  
3 Defendants CravinVapes LLC ("CravinVapes"), Licensed Eliquid  
4 Manufacturing LLC ("Licensed Eliquid"), and Hoosier Vapes Inc. ("Hoosier")  
5 (collectively, "Defendants") on April 16, 2018. The Complaint asserted  
6 claims against Defendants for trademark infringement, trade dress  
7 infringement, false designation of origin, unfair competition, and copyright  
8 infringement under federal and California law.

9 Drip More and Hoosier have entered into an agreement settling their  
10 dispute and hereby stipulate to the entry of this Stipulated Permanent  
11 Injunction and Order of Dismissal, the latter pursuant to Fed. R. Civ. P.  
12 41(a)(2).

13 NOW THEREFORE, Drip More and Hoosier hereby stipulate and  
14 agree as follows:

15 1. This Court has subject matter jurisdiction under 15 U.S.C. §  
16 1121 and 28 U.S.C. §§ 1331, 1332, 1338 and 1367, as the claims arise in  
17 part under the Lanham Act, 15 U.S.C. § 1051, *et seq.* This Court has  
18 supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. §§  
19 1332, 1338(b), and 1367. This Court has personal jurisdiction over the  
20 parties hereto. Venue is proper in this District under 28 U.S.C. §1391(b)-(c).

21 2. Drip More is the owner of the entire right, title and interest in and  
22 to the trademark CANDY KING and numerous KING-based trademarks in  
23 connection with the manufacture, promotion and sale of electronic cigarette  
24 liquid (e-liquid), including but not limited to U.S. Trademark Registration Nos.  
25 5,426,943 and 5,418,220, and U.S. Trademark Application Nos. 87-584,724;  
26 87-584,691; 87-584,718; and 87-609,250, as well as common law rights in  
27 the trademarks BATCH, WORMS, and SOUR WORMS (collectively the  
28 "KING Marks").

1 3. Drip More is also the owner of its distinctive crown logo, which it  
2 uses both as a design element in the "A" in CANDY, and, more prominently,  
3 as a feature of the CANDY KING mark ("King Logo Marks"). Typical of the  
4 King Logo Marks is the following appearing in Drip More's CANDY KING  
5 mark, U.S. Registration No. 5,418,220:



10 4. Drip More owns the inherently distinctive trade dress that  
11 incorporates the King Logo Marks, a colorful stylized background, and a  
12 product mark under the CANDY KING mark ("Batch and Worm Trade  
13 Dress"). Representative images illustrating certain aspects of the trade dress  
14 of Drip More's well known and distinctive e-liquid bottles are shown below:



23  
24 5. The KING Marks, the King Logo Marks, and the Batch and Worm  
25 Trade Dress are collectively referred to as the "Candy King Marks." The  
26 Candy King Marks include the registrations and applications listed in Exhibit  
27 A. In addition to Drip More's trademarks discussed above, Drip More uses  
28 distinctive label for its products, including but not limited to the label art

1 featured below for its SOUR WORMS label and its BATCH label, as shown  
2 in Paragraph 4 ("Batch and Sour Worms Copyrights") (the Candy King  
3 Marks and the Batch and Sour Worms Copyrights shall be referred to  
4 hereinafter collectively as the "Candy King IP"). Drip More also owns  
5 copyright registration number VA0002117575 and application number  
6 TX0008561521 for the artwork for these labels.



15 6. More commenced use of the Candy King IP, Hoosier began  
16 using: i) the marks CLONE KING, PATCH, and SOUR WIGGLERS  
17 (collectively the "CLONE KING Marks"); and ii) product labels and  
18 promotional and advertising materials featuring the artwork and illustrations  
19 appearing below (the "Clone King Labels"):



28 7. Hoosier has agreed to cease all use of the CLONE KING Marks,

1 Clone King Labels, and anything confusingly similar to the Candy King IP on  
2 or prior to September 4, 2018.

3       8.     **Permanent Injunction.** As of September 4, 2018, Hoosier along  
4 with their directors, principals, officers, agents, servants, employees,  
5 representatives, successors and assigns, and all those persons or entities  
6 acting in concert or participation with them, shall be and hereby are  
7 **PERMANENTLY ENJOINED** and restrained from, or ordered to take  
8 affirmative action, as follows:

9             a.     Cease using the CLONE KING Marks, the Clone King  
10             Labels, the Candy King IP, the KING Marks, or any other KING-based  
11             trademarks, including but not limited to anything that it is the phonetic  
12             equivalent or variant of KING (collectively the "Infringing KING IP") in  
13             any way, including but not limited to: as any part of a trade name,  
14             trademark, service mark, logo, product label, advertising and  
15             promotional materials, domain name, URL, e-mail address or  
16             otherwise; on the Internet including but not limited to such use in meta  
17             tags, links, key words, AdWords, and other means affecting Internet  
18             search engines and Internet search engine results; websites, online  
19             videos, or any other marketing, promotional, or advertising materials or  
20             media.

21             b.     Destroy (or delete or remove where appropriate) anything  
22             that references or includes any Infringing KING IP, including but not  
23             limited to the CLONE KING Marks, the Clone King Labels, the Candy  
24             King IP, the KING Marks, or any other KING-based trademarks,  
25             including but not limited to anything that it is the phonetic equivalent or  
26             variant of KING;

27             c.     Cease using, in any way, and remove all content from, and  
28             disable any URL forwarding from, any domain name that includes any

1 Infringing KING IP, including but not limited to the CLONE KING  
2 Marks, the Candy King Marks, the KING Marks, or any other KING-  
3 based trademarks, including but not limited to anything that it is the  
4 phonetic equivalent or variant of KING, and let such domain name(s)  
5 lapse when they are currently due to expire.

6 d. Provide Drip More with written confirmation of the  
7 permanent discontinuation of use of any Infringing KING IP, including  
8 but not limited to the CLONE KING Marks, the Clone King Labels, the  
9 Candy King IP, the KING Marks, or any other KING-based trademarks,  
10 including but not limited to anything that it is the phonetic equivalent or  
11 variant of KING by having Joseph Stowers, an officer of Hoosier  
12 Vapes, Inc., sign under oath a letter substantially in the form attached  
13 to the Parties' settlement agreement, and delivering it to Drip More no  
14 later than September 17, 2018.

15 e. Make a payment from Hoosier to Drip More in the amount  
16 and manner specified in Drip More and Hoosier's settlement  
17 agreement.

18 f. Cease otherwise infringing Drip More's Candy King IP.

19 g. Not challenge or otherwise object to use or registration of  
20 the Candy King Marks, or any other trademark featuring the KING  
21 letter string, by Drip More or any of its affiliated companies or  
22 individuals either in proceedings before the United States Patent and  
23 Trademark Office, or in any court or other legal forum, or assist any  
24 third party in doing so.

25 9. Pursuant to 15 U.S.C. § 1118, Hoosier must deliver up for  
26 destruction, or show proof of said destruction or sufficient modification to  
27 eliminate all articles, packages, wrappers, products, displays, labels, signs,  
28 circulars, kits, packaging, letterheads, business cards, literature, materials,

1 receptacles and any other matter in the possession, custody, or under the  
2 control of Hoosier or its agents or distributors bearing any Infringing KING  
3 IP, including the Candy King IP, in any form or manner whatsoever, or any  
4 mark that is confusingly similar to or a colorable imitation of the Candy King  
5 IP, both alone and in combination with other words or terms, and all plates,  
6 molds, matrices, and other means of making the same, on or prior to  
7 September 17, 2018.

8       10. Hoosier, pursuant to section 34(a) of the Lanham Act, 15 U.S.C.  
9 § 1116(a), must serve upon Drip More on or prior to September 17, 2018, a  
10 report in writing under oath setting forth in detail the manner and form in  
11 which Hoosier has complied with the terms of this Order and implemented  
12 adequate and effective means to either discontinue doing business and/or  
13 discontinue offering or selling goods or services bearing the Infringing KING  
14 IP, including the Candy King IP. In the event that Hoosier fails to file such a  
15 report with the Court on or prior to September 17, 2018, Drip More agrees to  
16 provide written notice to Hoosier that it is in violation of this Stipulated  
17 Injunction. If Hoosier fails to cure the violation and files and serves the report  
18 described herein within ten (10) days of receiving such notice (time being of  
19 the essence), Drip More may notify the court, and Hoosier shall be liable for  
20 and pay to Drip More its reasonable attorneys' fees in connection with the  
21 enforcement by the Court of this Stipulated Injunction.

22       11. Each party shall pay its own attorneys' fees and costs that have  
23 accrued on or before the execution of this Stipulated Injunction.

24       12. If Hoosier breaches any term of this Stipulated Injunction,  
25 Hoosier shall be liable for and pay to Drip More its reasonable attorneys'  
26 fees in connection with any future enforcement by the Court of this  
27 Stipulated Injunction.

28       13. Nothing in this Stipulated Permanent Injunction and Order of

1 Dismissal precludes Drip More from asserting any claims or rights that arise  
2 solely after entry of this Stipulated Permanent Injunction and Order of  
3 Dismissal or that are based upon any breach of, or the inaccuracy of, any  
4 representation or warranty made by Drip More in this Stipulated Permanent  
5 Injunction and Order of Dismissal or the settlement agreement reached by  
6 Drip More and Hoosier.

7       14. This Stipulated Permanent Injunction and Order of Dismissal is  
8 final and may not be appealed by either party.

9       15. This Stipulated Permanent Injunction applies to and binds all  
10 parties who are in active concert or participation with Hoosier as provided in  
11 Rule 65(d) of the Federal Rules of Civil Procedure. Hoosier waives any  
12 objection under Rule 65(d) of the Federal Rules of Civil Procedure.

13       16. This Stipulated Permanent Injunction and Order of Dismissal  
14 shall bind Hoosier Vapes and its corporate affiliates, successors, assignees,  
15 officers, directors, employees, agents, servants, representatives, and  
16 shareholders.

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1           17. Drip More's claims against Hoosier are hereby dismissed with  
2 prejudice and without costs to either party.

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6 DATED: Sept. 10, 2018

HANSON BRIDGETT LLP

7  
8 By:           /s/ Raffi V. Zerounian/            
9       RAFFI VAHEH ZEROUNIAN  
10       HOLLY R. HANKS  
11       Attorneys for Plaintiffs DRIP MORE,  
12       LLC and BRAIN BEREBER

13 DATED: Sept. 10, 2018


COTMAN IP LAW GROUP, PLC

14 By:           /s/ Jayson S. Sohi            
15       JAYSON S. SOHI  
16       Attorney for Defendant HOOSIER  
17       VAPES, INC.

18 **SO ORDERED** this 12th day of September, 2018.

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21 **UNITED STATES DISTRICT COURT JUDGE**

**Exhibit A**

<b>Mark</b>	<b>Reg. No. /Serial No.</b>	<b>Goods and Services</b>
 <b>(CANDY KING logo)</b>	5,418,220	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges.
<b>CANDY KING</b>	87-553,234	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges.
<b>CAKE KING</b>	87-584,691	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges.
<b>COFFEE KING</b>	87-584,710	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges.
<b>COOKIE KING</b>	87-584,718	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges.
<b>CREAM KING</b>	87-584,724	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges.
<b>DESSERT KING</b>	87-584,741	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical

1			flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
2	<b>DONUT KING</b>	87-584,747	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
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6	<b>ICE CREAM KING</b>	87-585,114	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
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10	<b>ICE KING</b>	87-585,115	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
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14	<b>JUICE KING</b>	87-585,117	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
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17	<b>LIQUID KING</b>	87-585,119	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
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21	<b>MENTHOL KING</b>	87-585,123	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
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24	<b>MUFFIN KING</b>	87-585,126	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
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28	<b>SALT KING</b>	87-780,776	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid)

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		comprised of vegetable glycerin; Bottles filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges.
<b>SLURPY KING</b>	87-585,135	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
<b>SOUR KING</b>	87-585,138	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
<b>SWEET KING</b>	87-585,140	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
<b>TOFFEE KING</b>	87-585,142	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges
<b>YOGURT KING</b>	87-585,146	IC 034: Electronic cigarette liquid (e-liquid) comprised of flavorings in liquid form, other than essential oils, used to refill electronic cigarette cartridges; Electronic cigarette liquid (e-liquid) comprised of propylene glycol; Electronic cigarette liquid (e-liquid) comprised of vegetable glycerin; Containers filled with chemical flavorings in liquid form for electronic cigarettes; Chemical flavorings in liquid form used to refill electronic cigarette cartridges