

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

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WATER TOWER PLACE, LLC,

Plaintiff,

Case No. 11-CV-7320

v.

ALPHA MEDICAL and DENTAL
PRODUCTS, d/b/a DESIGNER PERFUME
LARGEST COLLECTION OF
FRAGRANCES,

Defendant.

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NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant, ALPHA MEDICAL and DENTAL PRODUCTS, d/b/a DESIGNER PERFUME LARGEST COLLECTION OF FRAGRANCES, (“Licensee”), by and through its attorneys, Law Offices of Salem & Associates, and pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, hereby gives notice of removal to the United States District Court, for the Northern District of Illinois, of the above captioned action, filed in the Circuit Court of Cook County, Illinois, Municipal Department, First District, Case No. 2011-M1-1723603 (the “State Court Action”). The grounds for removal are as follows:

1. Plaintiff WATER TOWER PLACE, LLC (“Licensor”) filed an action against Licensee on October 6, 2011, in the Circuit Court of Cook County, seeking a judgment for possession of the subject Premises and terminating the licensed business that the Licensee is currently operating.

2. The basis of the State Court Action is an alleged breach of a licensing agreement and not a breach of a Landlord-Tenant Lease. A copy of the Summons & Complaint from the State Court Action is attached herewith.

3. This Notice of Removal, filed on October 17, 2011, is within “thirty days after the receipt by defendant, through service or otherwise, of a copy of the initial pleading.”

Accordingly, this Notice of Removal is timely pursuant to 28 USC § 1446(b).

4. Federal question jurisdiction exists under, 15 U.S.C. §§ 1117, 1125(a), and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

5. The Plaintiff herein is both the Landlord and the Licensor in a license agreement with the Defendant Licensee. The basis of the attached State Court Action is an enforcement of the licensing agreement. The Licensee has a three (3) year lease with the Licensor that has not been breached and is not an issue in this matter.

6. It is the Licensee’s contention that the Licensing Agreement is void because it constitutes naked licensing for the reason set forth in the latest decision by the Seventh Circuit on this issue, in that the Licensor herein, “had, and exercised, *no* authority over the appearance and operations of defendants’ business, or even over what inventory to carry or avoid. That is the paradigm of a naked license.” See the second attachment herewith: the Seventh Circuit decision.

7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a)(2) as the subject property is within the United States District Court for the Northern District of Illinois, Eastern Division, which also “embrac[es] the place where the action or proceeding is pending.”

8. In accordance with 28 U.S.C. § 1446(d), counsel for Defendant will give Plaintiff’s counsel written notice of this Notice of Removal and will file a copy of same with the Clerk for the Circuit Court of Cook County, Illinois.

Dated: Chicago, Illinois
October 17, 2011

/s/Maurice Salem, Esq.
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CERTIFICATE OF SERVICE

I, Maurice Salem, attorney of record for the Defendant herein, hereby certify that on October 17, 2011, I caused to be served on the attorney for the Plaintiff herein by hand delivery to the address shown below.

/s/Maurice Salem

TO:

Joseph P Pincaid,
Swanson, Martin & Bell, LLP
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