

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No: 024-cv-60954-LEIBOWITZ/AUGUSTIN-BIRCH

GREG MATUS,

Plaintiff,

v.

SPORT SQUAD, INC.,

Defendant,

_____ /

SPORT SQUAD, INC.,

Third-Party Plaintiff,

v.

USA PICKLEBALL ASSOCIATION

Third-Party Defendant.

_____ /

DEFENDANT SPORT SQUAD, INC.'S THIRD-PARTY COMPLAINT

Defendant SPORT SQUAD, INC., d/b/a “Joola” (“**Joola**”), by and through undersigned counsel, hereby files this Third-Party Complaint against Third-Party USA PICKLEBALL ASSOCIATION (“**USAP**”) and, in support thereof, states as follows:

STATEMENT OF THE CASE

1. Joola brings this Third-Party Complaint against USAP in order to bring the party actually responsible for Plaintiff Greg Matus’s alleged losses before the Court.

2. Joola is one of the premier manufacturers of pickleball paddles in the United States. In the first half of 2023, Joola developed an innovative new paddle that contains a foam insert

running along the inside edge of the paddle. The new design allows players to create more speed on a batted ball while still maintaining control over the shot.

3. Third-Party Defendant USAP holds itself out as the national governing body for the sport of pickleball in the United States, and it sets the standards for what pickleball equipment can be used in USAP-sanctioned events.

4. In September 2023, Joola submitted two of its new paddles to USAP for testing and approval (the “**September 2023 Paddles**”).

5. On September 16, 2023, the USAP notified Joola that the September 2023 Paddles had passed its tests, and it expressly informed Joola that the company could stamp the new paddles as “USA Pickleball Approved.”

6. In November 2023, Joola submitted nine additional paddles to the USAP for “similarity testing” (the “**November 2023 Paddles**”). Those nine paddles were functionally identical to the September 2023 Paddles, which had already been approved, but they had different shapes and/or graphics. The purpose of this similarity testing was for the USAP to confirm that the November 2023 Paddles were structurally and functionally identical to the already-approved September 2023 Paddles.

7. USAP approved all of the November 2023 Paddles by the end of December 2023, and it expressly informed Joola that it could also stamp those new paddles as “USA Pickleball Approved.”

8. Relying on these certifications, Joola manufactured over one hundred thousand of its next generation pickleball paddles, and it started selling them to the general public on April 16, 2024.

9. However, about a month later, in May 2024, the USAP abruptly revoked its

certification of the November 2023 Paddles, even though the USAP's own rules required it to give 18 months' public notice before removing a paddle from USAP's "approved paddles list."

10. Additionally, notice issues aside, the USAP's decertification decision was wrongful because the paddles being sold by Joola complied with all of the USAP's published standards.¹

11. Decertification of the November 2023 Paddles meant that the paddles could no longer be used in USAP-sanctioned events.

12. The USAP then trumpeted its decertification decision to the public and all but invited consumers to blame Joola for the consequences of the decision to remove the November 2023 Paddles from the "approved paddles list."

13. As a result, Joola has been blamed by consumers for the fact that the November 2023 Paddles are no longer on the USAP's "approved paddles list."

14. However, Joola was entirely without fault in the events leading to the decertification of the November 2023 Paddles.

15. Following the USAP's announcement, Plaintiff Greg Matus filed a putative class action suit against Joola, claiming that Joola had misled him and other class members about the approval status of the next generation pickleball paddles Joola sold to the public starting in April 2024.

16. Yet, it was the USAP's unfounded decision to abruptly remove the November 2023

¹ Joola has filed a suit against the USAP over the USAP's wrongful decertification of the November 2023 Paddles. That suit is captioned as *Sport Squad, Inc. v. USA Pickleball Association*, Case No. 8:24-cv-01712-PX (D. Md.).

Joola has also filed a third-party complaint against USAP in a California class action matter regarding Joola's sale of the November 2023 Paddles to consumers in California. That suit is captioned as *John Michael Tomberlin, Jr. v. Sport Squad, Inc.*, Case No. 5:24-cv-01158-MCW-SP.

Paddles from its “approved paddles list,” which the USAP made without following its own rules and without even giving the required 18 months’ notice, that is the real cause of Plaintiff’s alleged losses.

17. The decertification that Joola is being blamed for in Plaintiff’s Amended Complaint was actually caused by the USAP.

18. Therefore, Joola brings this Third-Party Complaint against the USAP for common law indemnification and contribution to ensure that any damages that are awarded to Plaintiff and the putative class are allocated to the party that is actually at fault for causing those losses, which is the USAP.

THE PARTIES

19. Third-Party Plaintiff Sport Squad, Inc. is a Maryland corporation with its principal place of business located in Montgomery County, Maryland.

20. Third-Party Defendant USA Pickleball Association is a Washington non-profit corporation with its principal place of business located in Scottsdale, Arizona. While USAP promotes itself as the “National Governing Body for the sport of pickleball” in the United States, it has not actually received that designation from any accredited entity.

JURISDICTION AND VENUE

21. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332(a) based on diversity of citizenship of the parties. The amount in controversy exceeds \$75,000.

22. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 as Joola’s causes of action arise from events that happened in Florida, which caused damages in Florida.

FACTS COMMON TO ALL COUNTS

23. Joola has designed and manufactured over 40 different pickleball paddle models

that have received the USAP's approval, and its paddles are highly sought after by professional and amateur players alike.

24. The USAP is a private organization that purports to set national standards for pickleball equipment in the United States, including for paddles.

25. The USAP also tests new paddles submitted by manufacturers to determine if those paddles comply with its standards.

26. In USAP's own words, it "holds approved equipment to an extremely rigorous process and the highest testing standards and will evaluate [new] submissions for compliance with [its] equipment standards." If USAP finds that those "new submissions" comply with its standards, it certifies them for use in USAP-sanctioned events and allows the manufacturers to market the paddles as "USA Pickleball Approved."

27. USAP also conducts similarity testing to confirm that market versions of a paddle are structurally and functionally identical to a "base paddle," which is a paddle that has been approved through the "new submission" testing.

28. USAP charges a substantial fee for these "new submission" and "similarity" testing services.

29. Manufacturers seek to obtain the USAP's certification for their paddles because "USA Pickleball Approved" has become a de facto global standard for paddles and because most pickleball players will not buy paddles without that certification. In addition, players are expressly forbidden from participating in USAP-sanctioned events without paddles that have been USAP-approved.

A. The USAP Approves Joola's Innovative, New Pickleball Paddle.

30. In the summer of 2023, Joola developed a cutting-edge, next generation paddle for

pickleball play. Among other innovations, Joola's new paddle contained a foam insert in the frame of the paddle, between the paddle's hitting surface and its edge. This change enabled players to create more speed and spin on a batted ball while simultaneously giving them more control over their shots, a dual combination not found in any other paddles.

31. By all measures, Joola's new paddles put it a step ahead of other manufacturers.

32. On or around September 1, 2023, Joola submitted two of its next generation paddles—the September 2023 Paddles—to the USAP for “New Paddle Submission” testing. The two paddles, which became the base paddles for later submissions, were named as follows:

- Perseus MOD TA-15 16 mm
- Perseus MOD TA-15 14 mm

33. On September 16, 2023, the USAP notified Joola that both of its new paddles had “passed the USA Pickleball specification tests” and that both paddles had been approved. USAP also sent Joola a “test report,” which concluded that the paddles were USAP compliant in every test administered.

34. USAP further informed Joola that the September 2023 Paddles could be added to the USAP's public “approved paddles list” and that Joola could use the phrase “USA Pickleball Approved” on the face of the paddles.

B. Joola Submits Nine Additional Paddles to the USAP for Similarity Testing.

35. In November 2023, Joola submitted nine additional paddles—the November 2023 Paddles—to the USAP for similarity testing. These nine paddles were the market versions of the two base September 2023 Paddles that had already been approved. The November 2023 Paddles were structurally and functionally identical to the September 2023 Paddles, but they contained different shapes and/or graphics.

36. The November 2023 Paddles were submitted in two batches. First, on November 3, 2023, Joola submitted the following seven paddles for similarity testing:

- Ben Johns Hyperion Gen3 16mm
- Ben Johns Hyperion Gen3 14mm
- Tyson McGuffin Magnus Gen3 16mm
- Tyson McGuffin Magnus Gen3 14mm
- Collin Johns Scorpeus Gen3 16mm
- Anna Bright Scorpeus Gen3 14mm
- Simone Jardim Hyperion Gen3 16 mm.

37. Then, on November 6, 2023, Joola submitted two more paddles for similarity testing:

- Ben Johns Perseus 3 16mm
- Ben Johns Perseus 3 14mm.

38. By the end of December 2023, the USAP had approved all nine of the November 2023 Paddles, had added those paddles to its “approved paddles list,” and had notified Joola that it could market the paddles as “USA Pickleball Approved.”

C. Joola Manufactures and Markets Tens of Thousands of New Paddles in Reliance on the USAP’s Written Approvals.

39. In January 2024, Joola scaled up its manufacturing capacities to mass produce its new, next generation paddles, and it also launched an extensive marketing campaign to promote its new technology.

40. Joola also spent millions marketing the new paddles, with the entire marketing campaign premised on the fact that Joola’s paddles were “USA Pickleball Approved.”

41. Joola would not have manufactured the paddles or marketed them to consumers had they not been approved by the USAP.

42. In addition, the USAP’s own rules required it to give 18 months’ notice before removing a paddle from its “approved paddles list.”

43. Specifically, Rule 2.F.1 of the USAP’s Equipment Standards Manual provides as follows:

Approval and authorization of a specified piece, model, brand, version, design, or type of equipment may be revoked by the Board of Directors upon 18 months’ notice on the USA Pickleball home page, official national newsletter publications, or other acceptable means of communication, if the specified equipment is found to have been materially changed by the manufacturer or if the equipment materially degrades or changes under ordinary use so as to significantly alter the nature of the sport.

44. In this way, the USAP caused both Joola and consumers to rely on its “approved paddles list” when manufacturing or purchasing pickleball paddles.

45. Joola’s next generation paddles proved to be a smashing success—generating rave reviews from players—and Joola’s sponsored professionals won numerous tournaments using Joola’s equipment.

D. The USAP Abruptly Decertifies Joola’s Paddles.

46. The November 2023 Paddles went on sale to the public on April 16, 2024.

47. However, around this time, the USAP—despite having given the paddles its approval and allowing them to go on sale—began searching for a pretext to ban Joola’s new paddles, possibly to protect other pickleball paddle manufacturers who could not compete with Joola’s new technology.

48. In mid-May 2024, less than a month after Joola had released the November 2023 Paddles to the public, the USAP moved to decertify Joola’s next generation paddles—and it decertified them without any notice.

49. The USAP’s grounds for decertification had nothing to do with the paddles on the market or with the design of Joola’s new paddles. Rather, the USAP chose to decertify Joola’s paddles because Joola had informed the USAP that it had previously submitted the “wrong”

paddles for similarity testing, even though the USAP had still found the paddles to be in compliance with its standards.

50. The USAP did not follow up to confirm that the so-called “wrong” paddles were not structurally and functionally identical to the September 2023 Paddles or that they otherwise did not comply with the USAP’s standards.

51. Instead, the USAP seized on the suggestion of a mix-up to wrongfully decertify all of Joola’s November 2023 Paddles immediately.

52. And the USAP also chose to disregard the 18-month notice requirement, on which manufacturers and consumers alike rely when manufacturing or purchasing pickleball paddles.

E. Joola Resubmits the November 2023 Paddles for Similarity Testing at the USAP’s Request.

53. On May 16, 2024, Joola—at the USAP’s suggestion—resubmitted the November 2023 Paddles to the USAP for similarity testing on an expedited basis (the “**May 2024 Resubmitted Paddles**”).

54. The May 2024 Resubmitted Paddles are the exact same as the November 2023 Paddles, down to the surface artwork and the shape.

55. The purpose of similarity testing is to confirm that the submitted, market versions of a paddle are structurally and functionally identical to an already-approved base model of a paddle.

56. The May 2024 Resubmitted Paddles submitted for similarity testing are structurally and functionally identical to the September 2023 Paddles and thus should have been approved.

57. However, instead of conducting the required “similarity” analysis, USAP attempted to use the new submission as an opportunity to wrongfully reverse its September 2023 decision to

approve Joola's new paddle design without complying with its own 18-month notice requirement.

58. On May 30, 2024, the USAP informed Joola by letter that all nine of Joola's May 2024 Resubmitted Paddles had purportedly failed similarity testing. To justify this result, the USAP pointed to four reasons it had fabricated, none of which hold up under scrutiny.

59. First, the USAP asserted that Joola's paddles had failed its "surface roughness" testing.

60. Yet, before shipping its nine paddles to the USAP for similarity testing, Joola had carefully tested all of them for surface roughness, and all of them had passed Joola's tests. Joola's paddles would not have gained any surface roughness while in transit.

61. The USAP, however, incorrectly tested the paddles for surface roughness and wrongly concluded that six of Joola's paddles did not meet the USAP's surface roughness standards.

62. Moreover, the USAP cited an unpublished surface roughness rule to cause the remaining three paddles to fail.

63. Second, the USAP asserted in its letter that the nine May 2024 Resubmitted Paddles were not "structurally and functionally identical to the base model" paddles because they contained "additional foam around the perimeter."

64. However, the USAP's assertion is categorically false. The nine paddles resubmitted by Joola in May 2024 do not have any more foam than the two base models submitted in September 2023.

65. Joola's testing of the paddles showed that there was no more than one extra millimeter of foam in the market versions of its paddles as compared to the base model September 2023 Paddles, meaning that there was less than a 10% variance in foam thickness, which is well

within standard manufacturing tolerances.

66. In fact, for five of the nine paddles, the difference in foam thickness was less than half of a millimeter (at most a 5% variance).

67. Joola's May 2024 Resubmitted Paddles did not contain any more foam than the base model September 2023 Paddles, as the paddles were identical within standard manufacturing tolerances.

68. Third, the USAP asserted that Joola's nine May 2024 Resubmitted Paddles contained a "prohibited surface feature" in violation of Rule 2.E.6.f of USAP's Equipment Standards Manual. Specifically, the USAP alleged that the paddles' surfaces contained an impermissible "compressible material that creates a trampoline effect" and that Joola's "structural design impermissibly places spring-like, flexible, and compressible material (foam) along the vertical edges of the paddles."

69. However, the May 2024 Resubmitted Paddles do not contain any "prohibited surface feature."

70. The foam in Joola's paddles constitutes part of the frame of the paddle because it is only located along the edge. The hitting surface of the paddle, which is the section of the paddle inside of the frame, does not contain any foam. Thus, given that there is no foam on the hitting surface of the paddle, the foam in Joola's paddles cannot be a "prohibited surface feature."

71. And, to the extent the USAP asserts that Joola's paddles cannot contain any foam at all, anywhere on the paddle, including along the edge, such a position would be inconsistent with how the USAP has previously interpreted its rules, as the USAP has approved numerous paddles from other manufacturers that contain at least as much foam—and often more—than Joola's paddles.

72. Fourth, the USAP improperly turned to invalid, non-standard tests to justify its decision to decertify the May 2024 Resubmitted Paddles.

73. When the USAP approved Joola's base model September 2023 Paddles, it ran the paddles through rigorous testing, including tests for deflection and rigidity, which Joola's paddles passed with ease.

74. Yet, in order to evaluate Joola's May 2024 Resubmitted Paddles, the USAP changed the rules and implemented a brand new battery of tests.

75. Specifically, the USAP claimed that Joola's May 2024 Resubmitted Paddles did not pass the "PB CoR" or "full span deflection" tests. However, neither of those tests are part of the USAP's standard testing protocol—and for good reason.

76. According to the USAP's own statements, made at its "industry day" on May 20, 2024, the "PB CoR" test, which measures ball exit velocity, does not have "good data" and thus will not be implemented until 2025 at the earliest.

77. Likewise, the standards for the "full span deflection" test, which measures the rigidity of a paddle, have never been shared, and the USAP stated at the industry day that it would not be moving forward with that test, presumably due to reliability concerns.

78. Indeed, the USAP's reliance on made-up, new tests is effectively an acknowledgement that it does not have a valid basis for decertifying Joola's May 2024 Resubmitted Paddles.

F. The USAP Admits that its Goal is to Ban Joola's New Paddles At Any Cost.

79. On May 31, 2024, one day after receiving notice of the USAP's arbitrary and capricious decision to fail Joola's May 2024 Resubmitted Paddles in similarity testing, Joola submitted a follow-up report to the USAP, which outlined how other, currently-approved paddles

on the market contain foam inserts in or near the paddle core that are much larger than the foam layer around the edge of Joola's paddles. Joola even provided specific examples of other such paddles. Joola's submission also explained that the foam in Joola's paddles is part of the edge of the paddle, not part of its core or part of the hitting surface.

80. The USAP responded to Joola's letter on June 3, 2024, and, for the first time, let slip its true intentions—that the USAP would never approve any paddles submitted by Joola for similarity testing, no matter how similar they were to the already-approved base model September 2023 Paddles.

81. In other words, the USAP—rather than giving Joola the 18-months' notice that it was required to give before revoking approval for a paddle under Rule 2.F.1—instead twisted the similarity testing process to achieve the same result (revocation of its approval for Joola's new paddles) without the 18-month wait.

82. The USAP's vindictive approach to Joola—banning Joola's November 2023 Paddles without even giving Joola the benefit of the 18-month notice rule—is made all the more appalling by the fact that the USAP also heavily promoted the decertification of the November 2023 Paddles on its website and in press releases, presumably trying to exact maximum reputational damage on Joola, which in turn harmed the consumers who had purchased Joola's paddles in reliance on the USAP's initial decision to certify them.

83. Apparently, the USAP wants Joola to be singled out and punished for designing a better paddle.

84. The USAP, however, cannot change its rules midstream to target one manufacturer for being a step ahead of everyone else.

85. The reality is that the paddles being sold by Joola meet all of the USAP's published

standards, and they are structurally and functionally identical to the September 2023 Paddles within normal manufacturing variances.

86. Joola's paddles on the market are made of the same materials, exhibit the same features, have the same structural properties, have the same size and shape, and contain the same amount of foam as the September 2023 Paddles. There is no reasonable or rational basis for the USAP's decision to decertify them.

87. Joola was blameless in its paddles being decertified.

88. Plaintiff and members of the putative class have purchased one or more of the paddles that the USAP has wrongfully decertified. Thus, to the extent that Plaintiff or any members of the putative class relied on the USAP's certification of the paddles in making their purchase decisions, and to the extent any of them suffered damages as a result, any such damages were caused by the USAP, not Joola.

G. To the Extent Consumers Were Harmed by the Decertification of Their Paddles, That Harm was Caused by the USAP's Bad Faith Decision to Decertify the Paddles.

89. Plaintiff purchased his paddles from Joola on April 17, 2024.

90. Plaintiff is now seeking compensation from Joola—for himself and for a putative class of consumers—for the damages he alleges he incurred because of the decertification of the November 2023 Paddles.

91. But the November 2023 Paddles never should have been decertified, and they certainly should not have been decertified on short notice. It was the USAP's bad faith conduct that caused the paddles to lose their certification.

92. Further, even after the decertification, the USAP should have approved the May 2024 Resubmitted Paddles, which were completely identical to the November 2023 Paddles.

93. The USAP owed a duty of care to consumers, such as Plaintiff, and to manufacturers, such as Joola, to follow its own rules regarding paddle certification, both as to substantive requirements for approval and as to notice given for decertification.

94. Thus, to the extent Joola is found to be liable to Plaintiff for damages arising from the paddle decertification, Joola seeks indemnification and contribution from the USAP.

COUNT 1
(Indemnification)

95. Joola incorporates the allegations contained in the preceding paragraphs of this Third-Party Complaint as if fully set forth herein.

96. Plaintiff alleges he incurred damages by purchasing paddles marked as “USA Pickleball Approved” when those paddles were later removed from the USAP’s “approved paddles list.”

97. Plaintiff further alleges that Joola is liable for his alleged losses because it knew, or had reason to believe, that the paddles would be removed.

98. However, the USAP never had a valid basis for removing Joola’s paddles from the “approved paddles list,” and it further should have reinstated these paddles once it reviewed the May 2024 Resubmitted Paddles.

99. Moreover, even if the USAP did have a basis for decertifying the paddles, it was required to give both Joola and consumers 18 months’ notice of its decision, which it did not do.

100. Thus, while Plaintiff has sought to hold Joola liable for his alleged losses, those losses were actually caused by the USAP because the USAP did not have a valid basis for removing the paddles from the “approved paddles list” and because the USAP was required to give 18 months’ notice before doing so.

101. Joola was blameless in the events leading to the USAP's decertification of the November 2023 Paddles.

102. Furthermore, the USAP owes a duty to consumers and manufacturers to follow its own rules regarding paddle certification and to not fabricate new rules or standards, as both consumers and manufacturers rely on the information contained in the USAP's "approved paddles list" when making financial decisions.

103. In addition, the USAP, as a purported governing body for the sport of pickleball, owes a special duty to Joola regarding the USAP's testing of pickleball paddles and regarding its pickleball paddle certification decisions.

104. Therefore, given the circumstances, the Court should apportion to the USAP any damages that Joola is required to pay to Plaintiff as a result of the USAP's decertification decision.

COUNT 2
(Contribution)

105. Joola incorporates the allegations contained in the preceding paragraphs of this Third-Party Complaint as if fully set forth herein.

106. Plaintiff alleges he incurred damages by purchasing paddles marked as "USA Pickleball Approved" when those paddles were later removed from the USAP's "approved paddles list."

107. Plaintiff further alleges that Joola is liable for his alleged losses because it knew, or had reason to believe, that the paddles would be decertified.

108. However, the USAP never had a valid basis for removing Joola's paddles from the "approved paddles list," and it further should have reinstated these paddles once it reviewed the May 2024 Resubmitted Paddles.

109. Moreover, even if the USAP did have a basis for decertifying the paddles, it was required to give both Joola and consumers 18 months' notice of its decision, which it did not do.

110. Thus, while Plaintiff has sought to hold Joola liable for his alleged losses, those losses were actually caused by the USAP because the USAP did not have a valid basis for removing the paddles from the "approved paddles list" and because the USAP was required to give 18 months' notice before doing so.

111. Furthermore, the USAP, as the purported governing body for the sport of pickleball, owes a duty to consumers and manufacturers to follow its own rules regarding paddle certification and to not fabricate new rules or standards, as both consumers and manufacturers rely on the information contained in the USAP's "approved paddles list" when making financial decisions.

112. Therefore, given the circumstances, the Court should apportion to the USAP any damages that Joola is required to pay to Plaintiff as a result of the USAP's decertification decision.

WHEREFORE, Plaintiff Sport Squad, Inc. respectfully requests that this Court:

- a. Award compensatory damages to Joola equal to the amount of any damages awarded to Plaintiff in this action, plus statutory pre-judgment and post-judgment interest;
- b. Award Joola its reasonable attorneys' fees and costs; and
- c. Provide such other and further relief as this Court may deem just and proper.

Date: January 3rd, 2025

Respectfully submitted,

/s/ Joshua A. Glikin

Joshua A. Glikin (*admitted pro hac vice*)

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