

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

POM OF PENNSYLVANIA, LLC, t/d/b/a
PACE-O-MATIC, and SAVVY DOG
SYSTEMS, LLC,

CIVIL ACTION NO. 2:18-CV-00722-PLD

CONSOLIDATED with 2:18-CV-00941

Plaintiffs/Counterclaim
Defendants,

v.

PENNSYLVANIA SKILL GAMES, LLC,

Defendant/Counterclaim
Plaintiff.

VERDICT FORM

Please follow all directions on this form. Begin with Question #1 and mark answers with an "X" on the corresponding line.

TRADEMARK CLAIMS

Word Trademark

1. Has any party established by a preponderance of the evidence that the PENNSYLVANIA SKILL "word" trademark is valid and has acquired a secondary meaning in the marketplace through their efforts?

Yes: _____ No: _____

If you answered "Yes" to Question 1, please proceed to Question 2.

If you answered "No" to Question 1, please proceed to Question 9.

2. Who has established by a preponderance of the evidence that the PENNSYLVANIA SKILL "word" trademark is valid and has acquired a secondary meaning in the marketplace through their efforts?

POM of Pennsylvania, LLC and Savvy Dog Systems, LLC: _____

OR

Pennsylvania Skill Games, LLC: _____

If you answered "POM of Pennsylvania LLC and Savvy Dog Systems, LLC" to Question 2, please proceed to Question 3.

If you answered "Pennsylvania Skill Games, LLC" to Question 2 please proceed to Question 5.

3. Have POM of Pennsylvania, LLC and Savvy Dog Systems, LLC established by a preponderance of the evidence that Pennsylvania Skill Games, LLC infringed the PENNSYLVANIA SKILL "word" trademark under federal law (Lanham Act), the Pennsylvania Trademark Act and Pennsylvania common law?

Yes: _____ No: _____

If you answered "Yes" to Question 3, please proceed to Question 4.

If you answered "No," to Question 3, please proceed to Question 9.

4. Have POM of Pennsylvania, LLC and Savvy Dog Systems, LLC established by a preponderance of the evidence that the Pennsylvania Skill Games, LLC willfully infringed on the PENNSYLVANIA SKILL "word" trademark?

Yes: _____ No: _____

Please proceed to Question 9.

5. Has Pennsylvania Skill Games, LLC established by a preponderance of the evidence that POM of Pennsylvania, LLC, Savvy Dog Systems, LLC, Pace-O-Matic, Inc., or Miele Manufacturing, Inc. infringed the PENNSYLVANIA SKILL "word" trademark under federal law (Lanham Act) and Pennsylvania common law?

Yes: _____ No: _____

If you answered "Yes" to Question 5, please proceed to Question 6.

If you answered "No" to Question 5, please proceed to Question 9.

6. Which party or parties have infringed on the PENNSYLVANIA SKILL "word" trademark?

Pace-O-Matic, Inc. _____
POM of Pennsylvania, LLC _____
Savvy Dog Systems, LLC _____
Miele Manufacturing, Inc. _____

Please proceed to Question 7.

- 7. With respect to any party or parties who you found in Question 6 to have infringed on the PENNSYLVANIA SKILL “word” trademark, has Pennsylvania Skill Games, LLC met its burden by a preponderance of the evidence that any party or parties willfully infringed on the PENNSYLVANIA SKILL “word” trademark?

Yes: _____ No: _____

If you answered “Yes” to Question 7, please proceed to Question 8.

If you answered “No” to Question 7, please proceed to Question 9.

- 8. Which party or parties willfully infringed on the PENNSYLVANIA SKILL “word” trademark?

Pace-O-Matic, Inc. _____
 POM of Pennsylvania, LLC _____
 Savvy Dog Systems, LLC _____
 Miele Manufacturing, Inc. _____

Please proceed to Question 9.

Design Trademark

- 9. Has any party established by a preponderance of the evidence that the PENNSYLVANIA SKILL “design” trademark is valid and is either inherently distinctive or has acquired a secondary meaning in the marketplace through their efforts?:

Yes: _____ No: _____

If you answered “Yes” to Question 9, please proceed to Question 10.

If you answered “No” to Question 9, please proceed to Question 17.

- 10. Who has established by a preponderance of the evidence that the PENNSYLVANIA SKILL “design” trademark is valid and is either inherently distinctive or has acquired a secondary meaning in the marketplace through their efforts?

POM of Pennsylvania, LLC and Savvy Dog Systems, LLC: _____

OR

Pennsylvania Skill Games, LLC: _____

If you answered "POM of Pennsylvania, LLC and Savvy Dog Systems, LLC" to Question 10, please proceed to Question 11.

If you answered "Pennsylvania Skill Games, LLC" to Question 10, please proceed to Question 13.

11. Have POM of Pennsylvania, LLC and Savvy Dog Systems, LLC established by a preponderance of the evidence that Pennsylvania Skill Games, LLC infringed the PENNSYLVANIA SKILL "design" trademark under federal law (Lanham Act), the Pennsylvania Trademark Act and Pennsylvania common law?

Yes: _____ No: _____

If you answered "Yes" to Question 11, please proceed to Question 12.

If you answered "No" to Question 11, please proceed to Question 17.

12. Have POM of Pennsylvania, LLC and Savvy Dog Systems, LLC established by a preponderance of the evidence that the Pennsylvania Skill Games, LLC willfully infringed on the PENNSYLVANIA SKILL "design" trademark?

Yes: _____ No: _____

Please proceed to Question 17.

13. Has Pennsylvania Skill Games, LLC established by a preponderance of the evidence that Pace-O-Matic, Inc, POM of Pennsylvania, LLC, Savvy Dog Systems, LLC or Miele Manufacturing, Inc. infringed on the PENNSYLVANIA SKILL "design" trademark under federal law (Lanham Act) and Pennsylvania common law?

Yes: _____ No: _____

If you answered "Yes" to Question 13, please proceed to Question 14.

If you answered "No" to Question 13, please proceed to Question 17.

14. Which party or parties have infringed on the PENNSYLVANIA SKILL "design" trademark?

Pace-O-Matic, Inc. _____
POM of Pennsylvania, LLC _____
Savvy Dog Systems, LLC _____
Miele Manufacturing, Inc. _____

Please proceed to Question 15.

15. With respect to any party or parties who you found in Question 14 to have infringed on the PENNSYLVANIA SKILL “design” trademark, has Pennsylvania Skill Games, LLC met its burden by a preponderance of the evidence that any party or parties willfully infringed on the PENNSYLVANIA SKILL “design” trademark?

Yes: _____ No: _____

If you answered “Yes” to Question 15, please proceed to Question 16.

If you answered “No” to Question 15, please proceed to Question 17.

16. Which party or parties willfully infringed on the PENNSYLVANIA SKILL “design” trademark?

Pace-O-Matic, Inc. _____
POM of Pennsylvania, LLC _____
Savvy Dog Systems, LLC _____
Miele Manufacturing, Inc. _____

Please proceed to Question 17.

UNFAIR COMPETITION CLAIM

17. Has Pennsylvania Skill Games, LLC established by a preponderance of the evidence that POM of Pennsylvania, LLC, Savvy Dog Systems, LLC, Pace-O-Matic, Inc., or Miele Manufacturing, Inc. engaged in unfair competition?:

Yes: _____ No: _____

If you answered “Yes” to Question 17, please proceed to Question 18.

If you answered “No” to Question 17, please proceed to question 19.

18. Which party or parties engaged in unfair competition?

Pace-O-Matic, Inc. _____
POM of Pennsylvania, LLC _____
Savvy Dog Systems, LLC _____
Miele Manufacturing, Inc. _____

Please proceed to Question 19.

FALSE ADVERTISING CLAIM

19. Has Pennsylvania Skill Games, LLC established by a preponderance of the evidence that POM of Pennsylvania, LLC, Savvy Dog Systems, LLC, Pace-O-Matic, Inc., or Miele Manufacturing, Inc. engaged in false advertising?:

Yes: _____ No: _____

If you answered "Yes" to Question 19, please proceed to Question 20.

If you answered "No" to Question 19, please proceed to question 21.

20. Which party or parties engaged in false advertising?

Pace-O-Matic, Inc. _____
POM of Pennsylvania, LLC _____
Savvy Dog Systems, LLC _____
Miele Manufacturing, Inc. _____

Please proceed to Question 21.

CONTRACT CLAIMS

21. Is the Equipment Purchase Agreement still in effect today?

Yes _____ No: _____

If you answered "Yes" to Question 21, please proceed to Question 23.

If you answered "No" to Question 21, please proceed to Question 22.

22. When did the Equipment Purchase Agreement end?

Date: _____

Please proceed to Question 23.

23. Has Pennsylvania Skill Games, LLC established by a preponderance of the evidence that Pace-O-Matic, Inc., Miele Manufacturing, Inc. or POM of Pennsylvania, LLC breached the Equipment Purchase Agreement?:

Yes: _____ No: _____

If you answered "Yes" to Question 23, please proceed to Question 24.

*If you answered "No" to Question 23, your deliberations are now complete.
Please refer to the instructions after Question 24.*

24. Which party or parties breached the Equipment Purchase Agreement?

Pace-O-Matic, Inc. _____
Miele Manufacturing, Inc. _____
POM of Pennsylvania, LLC _____

Your deliberations on the first phase of the trial are now complete. All jurors should sign the verdict form in the spaces below and notify the Clerk that you have reached a verdict. The Foreperson should retain possession of the verdict form and bring it to the courtroom with the jury.

Dated: 2/24/23

Deborah J. Latimer
Foreperson

Kathleen Mucci

Angie Romeo

Elaine J. K...

Madeline G...

Greg Peters

[Signature]

Caerlynn Moon