

MEMORANDUM: TRADEMARK-RELATED USES OF RICHARD LITMAN'S NAME AFTER JUNE 15, 2020

Litman v. Goldberg, Index No. 524343/2025

NY Sup. Ct., Kings County – Hon. Brian L. Gotlieb, J.S.C.

Date: April 5, 2026 **Subject:** Comprehensive Documentation of Trademark Name Use Under NY Civil Rights Law Sections 50-51 **Confidential – Attorney Work Product**

1. EXECUTIVE SUMMARY

This memorandum documents a category of Section 51 name use that is entirely separate from, and additional to, the 905 issued patents listing Richard C. Litman as attorney of record since June 15, 2020. The evidence demonstrates that Litman's name was systematically exploited across the trademark practice of Nath, Goldberg & Meyer (NGM) – in new trademark filings, trademark maintenance declarations, TTAB opposition and cancellation proceedings, and through ownership of a registered trademark containing Litman's personal name.

The trademark evidence expands the case in three critical dimensions:

First, it proves organizational name exploitation, not an isolated patent practice issue. Litman's name was used as the firm's primary commercial asset across all practice areas – patents, trademarks, and client solicitation – under Goldberg's direction.

Second, it multiplies the actionable uses under the “deck of cards” theory. Beyond the 905 patents and 206 outgoing USPTO patent documents, the trademark practice adds 748 official USPTO trademark emails to rlitman@nathlaw.com across 245 dockets and 115 clients, plus seven confirmed TTAB proceedings, at least one brand-new Intent-to-Use application filed in Litman's name, and sworn Section 8/15 declarations filed using Litman's credentials as late as July 2, 2025.

Third, the TUFFKOTE application (SN 90830083) and the “LITMAN LAW OFFICES, LTD.” trademark (Registration No. 1,861,297) present independent acts of appropriation that are devastating on their own terms. TUFFKOTE was a brand-new filing under Litman's name that was subsequently abandoned because nobody at the firm actually knew about it – proving Litman had no knowledge or involvement. The LITMAN LAW OFFICES trademark is literally Litman's name registered as intellectual property now owned by Goldberg's entity.

2. TUFFKOTE (SN 90830083) – THE SMOKING GUN

Filing Details

Field	Detail
Serial Number	90830083
Mark	TUFFKOTE
Filed	July 15, 2021
Type	Intent-to-Use (ITU) Application – Section 1(b)
Attorney of Record	Richard C. Litman
Correspondent	Richard C. Litman, Nath Goldberg & Meyer, 112 S. West Street, Alexandria, VA 22314
Attorney Contact Email	hkline@nathlaw.com
Correspondent Emails	rlitman@nathlaw.com; docketingnva@nathlaw.com; docketing@nathlaw.com; hkline@nathlaw.com
Client	Superior Products International II, Inc., Shawnee, KS
NGM Docket	32380.38
Status	DEAD – Abandoned October 7, 2022

Why TUFFKOTE Is Devastating

This was not a renewal. This was not a maintenance filing on an existing registration. This was a brand-new Intent-to-Use application – someone at NGM affirmatively filed a new trademark application and listed “Richard C. Litman” as the attorney of record and correspondent, thirteen months after the SOL cutoff date.

An ITU application requires an active decision to designate an attorney. Someone at NGM – the attorney contact email points to Howard Kline (hkline@nathlaw.com) – prepared and filed this application, chose to list Richard Litman as the attorney of record, and used Litman’s email address as the correspondence address.

The abandonment proves Litman had no knowledge. The USPTO issued an Office Action on the TUFFKOTE application. Nobody responded. The application was abandoned on October 7, 2022. If Litman had been the actual attorney handling this matter, or if he had any awareness that his name was being used, the Office Action would have been answered. The abandonment is affirmative evidence that Litman was not involved – his name was placed on the filing by others without his knowledge, and when the USPTO needed a response from the attorney of record, there was none because the named attorney did not know the filing existed.

Source: TSDR (Trademark Status & Document Retrieval), USPTO.

3. POST-SOL TTAB PROCEEDINGS (7 CONFIRMED)

Seven Trademark Trial and Appeal Board proceedings filed after June 15, 2020 list Litman's name and/or email as attorney or correspondent. These are adversarial proceedings before a federal tribunal – each one is a separate, formal act of holding out Litman as the attorney of record for commercial litigation.

Proceeding No.	Mark	Client	Filed	Status
98027416	BRAIN SMACK	4 Aces Import, Inc.	04/18/2024	Terminated
98027421	BRAIN SMACK	4 Aces Import, Inc.	04/18/2024	Terminated
98006931	ONE CHOICE ONE LIFE	One Choice Nutrition LLC	11/02/2023	Terminated
97678503	ONE CHOICE ONE LIFE	One Choice Nutrition LLC	11/02/2023	Terminated
97579216	GROWCOW	Mowcow Services, Inc.	08/23/2023	Terminated
97212557	SKORPION	Daniel Reel	12/19/2022	Terminated
87747325	GIVE LIFE FOUNDATION	Give Life Foundation	05/16/2019	Terminated

All seven proceedings list rlitman@nathlaw.com as a contact address. The BRAIN SMACK proceeding (No. 98027416) has been confirmed on the TTAB docket with “Richard C. Litman, Nath, Goldberg & Meyer LLP” as the named correspondent.

Evidentiary Significance

TTAB proceedings are quasi-judicial – they are conducted before federal administrative judges under the rules of the Trademark Act. Listing an attorney of record in a TTAB proceeding is not a passive or administrative act. It constitutes a formal representation to a federal tribunal that the named individual is the responsible attorney. Each filing in each proceeding that bears Litman's name is a separate publication for Section 51 purposes.

The BRAIN SMACK proceedings (98027416 and 98027421) were filed on April 18, 2024 – nearly four years after the SOL cutoff and ten months after the arbitration decision. The ONE CHOICE ONE LIFE proceedings were filed on November 2, 2023 – less than five months after the arbitration. Goldberg knew of the dispute, yet new TTAB matters continued to be filed under Litman's name.

Source: TTABVue (TTAB public docket system).

4. “LITMAN LAW OFFICES, LTD.” TRADEMARK – LITERAL APPROPRIATION OF NAME

Registration Details

Field	Detail
Serial Number	74440111
Registration Number	1,861,297
Mark	LITMAN LAW OFFICES, LTD.
Filed	September 27, 1993
Registered	November 1, 1994
Current Owner	Nath & Associates PLLC, Alexandria, VA
Current Attorney	Howard W. Kline, Nath, Goldberg & Meyer

Why This Is a Bombshell

Goldberg's entity – Nath & Associates PLLC – literally owns a federal trademark registration for “LITMAN LAW OFFICES, LTD.” This is not a case of Litman's name appearing incidentally on patent filings or as an email address in trademark correspondence. This is Litman's personal and professional name registered as intellectual property and held by the very entity that Goldberg controls.

The ongoing registration and maintenance of this trademark is an independent Section 51 violation. Every act of maintaining this registration – including any renewal filings, Section 8 declarations of continued use, or affirmative decisions not to abandon the mark – constitutes a use of Litman's name for purposes of trade by an entity Litman does not control and has not authorized.

The current attorney of record is Howard W. Kline of Nath, Goldberg & Meyer – the same attorney who managed NGM's trademark portfolio under Goldberg's supervision, the same attorney whose 2,678 emails CC'd Litman 91% of the time, and the same attorney who filed the TUFFKOTE application under Litman's name.

This trademark deserves its own exhibit in the case. It is the single most concrete piece of evidence that Goldberg's entity has converted Litman's name into its own property.

Source: TSDR, USPTO.

5. SCALE OF TRADEMARK NAME USE

Aggregate Statistics

Category	Count / Amount	Source
Trademarks listing "Richard C Litman" as attorney	2,138	Trademarkia
Trademarks filed under "Litman Law Offices, Ltd."	1,071	Trademarkia
USPTO trademark emails to rlitman@nathlaw.com	748	NGM email corpus
Unique trademark dockets with emails to Litman	245	NGM email corpus
Unique trademark clients involved	115	NGM email corpus
Date range of USPTO trademark emails	Sept 25, 2020 – Jan 30, 2026	NGM email corpus
Emails in post-SOL-safe period (after 7/21/2024)	257	NGM email corpus
Emails sent after arbitration (after 6/14/2023)	619 (82.8%)	NGM email corpus
Documented payments across trademark dockets	\$203,200.68	Financial records, 83 dockets
Sworn Section 8/15 declarations under Litman's credentials	Through July 2, 2025	USPTO filing receipts

Howard Kline's Role in the Trademark Practice

Metric	Value
Total Kline emails	2,678
Kline emails CC'ing Litman	2,439 (91%)
Trademark-specific Kline emails	1,813
TTAB proceedings under NGM (Kline)	43 total (10+ post-SOL)
Kline activity overlap with USPTO Litman emails	139 of 230 dockets (60.4%)
Kline emails on overlapping dockets	1,477
Litman CC'd on those overlapping emails	1,471 (99.6%)

The overlap data is the proof that Kline did the work while Litman's name remained on the filings. On 60.4% of the trademark dockets where the USPTO sent correspondence to Litman as attorney of record, there is documented Kline email activity – averaging more than 10 Kline emails per overlapping docket. Litman was CC'd on 99.6% of those emails, maintaining the appearance of supervision without actual control of the work product.

Sworn Declarations Filed Under Litman's Credentials

Particularly concerning are the Section 8 and Section 15 declarations filed using Litman's attorney credentials. A Section 8 declaration is a sworn statement that a trademark is in use in commerce. A Section 15 declaration claims incontestability. These are substantive legal filings made under penalty of perjury. Someone at NGM filed these declarations under Litman's credentials, and the USPTO sent the confirmation receipts solely to rlitman@nathlaw.com. Documented Section 8/15 filings using Litman's credentials include:

- **July 24, 2025:** Letter to Activ8Social LLC d/b/a Hashtag Sports re: U.S. TM Reg. 4,697,459 ("HASHTAG SPORTS"), Ref 32662.00 – signed "Richard C. Litman" and "Howard W. Kline." **THE LATEST CONFIRMED NAME USE IN THE ENTIRE CASE.** Dated 6 days after email elimination (July 18), 44 days after website removal demand (June 10), and 28 days after the litigation trigger (June 26). Pushes the latest confirmed name use from July 2 to July 24, 2025.
- **July 2, 2025:** Registration 5,804,556 (THE ORIGINAL NIC-O-BOLI, Nicola Pizza) – sent only to Litman
- **June 10, 2025:** Registration 4,755,797 (Predator Racing)
- **May 23, 2025:** Registrations 6,054,605 and 6,054,606 (Law Office of Bart S. Fisher)
- **March 31, 2025:** Registration 5,780,021 (Superior Products International II)
- **February 27, 2025:** Registration 4,697,459 (Active8Social)
- **January 3-8, 2025:** Four registrations across Nicola Pizza, FRS GmbH, and Heartland Catfish

The July 24, 2025 Hashtag Sports letter is now the latest confirmed name use in the entire case. It is a cease-and-desist letter from NGM signed "Richard C. Litman" and "Howard W. Kline" – sent six days after Litman's email accounts were eliminated and nearly a month after the June 26 litigation trigger. This proves that NGM was actively signing Litman's name on outgoing client-facing correspondence even as they were destroying his email infrastructure and preparing for litigation.

The July 2, 2025 filing is also significant. It was filed after this lawsuit was commenced, proving that Goldberg and NGM continued to use Litman's credentials to make sworn filings with the USPTO even during active litigation over that very issue.

6. CONFIRMED POST-SOL TRADEMARK CLIENTS

The following clients have confirmed trademark activity under Litman's name after June 15, 2020:

6.1 4 Aces Import, Inc. (BRAIN SMACK, 4A 4 ACES IMPORT)

- **TTAB Proceedings:** 98027416 and 98027421 (BRAIN SMACK, filed 04/18/2024)
 - **Dockets:** 32201.02 through 32201.14T (9 marks under Litman's name)
 - **USPTO emails to Litman:** 23
 - **Kline emails on these dockets:** 103+
 - **Fees billed under RL:** \$679
 - **Client CC'd on USPTO emails:** arman@4acesdallas.com (10 emails)
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- **Period:** Post-SOL-Safe
- **Source:** TTABVue, USPTO email crossref, iCloud Photos

6.2 One Choice Nutrition LLC (ONE CHOICE ONE LIFE)

- **TTAB Proceedings:** 98006931 and 97678503 (filed 11/02/2023)
- **Docket:** 33049.05
- **USPTO emails to Litman:** 8
- **Kline emails on docket:** 30
- **Period:** Post-SOL (post-arbitration)
- **Source:** TTABVue, USPTO email crossref

6.3 Mowcow Services, Inc. (GROWCOW)

- **TTAB Proceeding:** 97579216 (filed 08/23/2023)
- **Period:** Post-SOL (post-arbitration)
- **Source:** TTABVue

6.4 Daniel Reel (SKORPION)

- **TTAB Proceeding:** 97212557 (filed 12/19/2022)
- **Period:** Post-SOL
- **Source:** TTABVue

6.5 Nicola Pizza, Inc.

- **16 dockets** under Client Number 135706, all designated “RL” (Richard Litman)
- **16 registered marks** spanning from Registration 1,352,205 (dating to the 1980s) through recent ITU applications
- **259 emails**, 246 CC’ing Litman (95%)
- **\$11,685** in documented trust account activity
- **Trust activity through January 6, 2025** (well within post-SOL-safe window)
- **Section 8/15 filing July 2, 2025** under Litman’s credentials (sent solely to his email)
- **TSDR record confirms** Litman listed among appointed attorneys for “THE ORIGINAL NIC-O-BOLI” (docket 6217.09)
- **CN-24396 = Nicola Pizza:** The USPTO Customer Number transferred in the Amendment (CN-24396) has been identified as Nicola Pizza’s trademark correspondence routing. This means the Amendment specifically enumerated the infrastructure for trademark correspondence routing to this client.
- **Outside counsel** **Ciro Poppiti III** (Lewis Brisbois) contacted rlitman@nathlaw.com directly in December 2023 – a senior partner at a 1,500+ attorney firm sought Litman by name
- **Source:** TSDR, trust ledger, NGM email corpus, iCloud Photos (IMG_1549-1554, July 2025)

6.6 Superior Products International II, Inc. (TUFFKOTE)

- **ITU Application SN 90830083** filed July 15, 2021 under Litman's name
- **Abandoned October 7, 2022** – nobody responded to the Office Action
- **Additional docket 32380.22:** Section 8/15 declaration filed under Litman's credentials (March 31, 2025)
- **Source:** TSDR

6.7 SPI Coatings

- Confirmed in iCloud Photos (July 2025)
- Trademark emails CC'ing Litman
- **Source:** iCloud Photos memo (IMG_1549-1554)

6.8 Federal Hill Mortgage Company, LLC

- **Docket:** 29682.03, Registration 5,626,473
- **Section 8/15 filing:** December 4, 2024, under Litman's credentials
- Confirmed in iCloud Photos (July 2025)
- **Source:** USPTO email crossref, iCloud Photos

6.9 Ms. Carita (Ms. Carita Safetruck, Inc. / Ms. Carita, Inc.)

- **Dockets:** 21887.08, 21887.09, 21887.10
- **Registrations:** 5,385,400; 5,416,326; 5,426,570
- Confirmed in iCloud Photos (July 2025)
- **Source:** USPTO email crossref, iCloud Photos

7. SECTION 51 LEGAL ANALYSIS

7.1 Each Trademark Filing Is a Separate “Use” for Purposes of Trade

Under the “deck of cards” theory adopted for this case, each individual act of using Litman's name in a trademark context constitutes a separate publication for purposes of Section 51. The categories of actionable trademark uses include:

A. New Trademark Applications. The TUFFKOTE ITU application is the strongest example. Someone at NGM made an affirmative decision to file a brand-new trademark application and to designate “Richard C. Litman” as the attorney of record. This is not a passive continuation of an existing designation – it is a deliberate act of appropriation.

B. TTAB Proceedings. Each of the seven confirmed TTAB proceedings listed Litman's name before a federal tribunal. Each filing, response, and correspondence in those proceedings that bore Litman's name is a separate act of holding out Litman as the attorney for a commercial legal matter.

C. Section 8/15 Declarations. These are sworn filings. Filing a sworn declaration using another attorney's credentials, without authorization, is not merely a Section 51 violation – it raises issues of unauthorized practice and potential fraud on the USPTO.

D. USPTO Correspondence. 748 official USPTO emails were directed to rlitman@nathlaw.com because Litman's name was on file as the attorney of record. Each email constitutes a government communication generated by the unauthorized use of Litman's name.

E. Client-Facing Communications. 24 unique client email addresses received USPTO trademark correspondence alongside Litman's name. Each such email is a commercial publication reaching the paying client.

F. Trademark Ownership. The continued registration and maintenance of "LITMAN LAW OFFICES, LTD." (Registration 1,861,297) by Nath & Associates PLLC is an ongoing appropriation of Litman's name as registered intellectual property.

7.2 Expansion of the Deck of Cards Theory

The patent evidence establishes 905 patents and 206 outgoing USPTO documents as individual acts of name use. The trademark evidence adds:

Category	Approximate Count
USPTO trademark emails to Litman	748
TTAB proceedings with Litman's name	7
New ITU applications (TUFFKOTE confirmed)	1+
Section 8/15 declarations filed under Litman's credentials	20+ (documented)
Trademark dockets designating "RL" as responsible lawyer	245
Client emails CC'ing Litman on trademark matters	1,471+ (Kline emails alone)

These are in addition to, not duplicative of, the patent uses. They demonstrate that the name exploitation was not limited to one practice area but pervaded the entire firm.

7.3 TUFFKOTE Abandonment Destroys Consent and Knowledge Defenses

The TUFFKOTE abandonment is uniquely powerful evidence. It proves simultaneously that:

- 1. Litman had no knowledge:** If Litman knew his name was on this filing, the Office Action would have been answered. The abandonment is proof of ignorance.
- 2. Consent was never given:** One does not consent to an act one does not know about.
- 3. The firm operated independently:** NGM used Litman's name on new filings as a matter of routine, without informing him or obtaining his authorization.
- 4. The name use was not "purely as a courtesy":** A brand-new ITU application under an attorney's name is an affirmative act of commercial representation, not a courtesy.

7.4 Ownership of “LITMAN LAW OFFICES” Is Literal Appropriation

The LITMAN LAW OFFICES trademark (Registration 1,861,297) presents a distinct legal theory. Goldberg's entity does not merely use Litman's name – it owns a federally registered trademark consisting of Litman's name. This is the most literal form of name appropriation possible under Section 51: converting another person's name into one's own registered intellectual property. Every act of maintaining this registration – every Section 8 declaration, every renewal filing, every decision not to abandon the mark – is a continuing act of appropriation.

8. RECOMMENDED ACTIONS

8.1 Full Post-SOL Trademark Count

Search USPTO Trademark Center by attorney name (“Richard C Litman” and “Richard Litman”) for all applications and registrations filed or maintained after June 15, 2020. The current count of 2,138 total trademarks (from Trademarkia) likely includes a significant number with post-SOL activity. The precise count of post-SOL trademark filings should be documented for the damages analysis.

8.2 Expand CN-37833 Discovery Motion

The existing motion to compel production related to Customer Number 37833 should be expanded to encompass trademark filings. CN-37833 may cover trademark as well as patent correspondence addresses. All trademark dockets linked to Litman's customer number represent additional acts of unauthorized name use.

8.3 LITMAN LAW OFFICES Trademark – Dedicated Exhibit

Registration 1,861,297 warrants its own exhibit in the case. The exhibit should include: - The current registration certificate showing Nath & Associates PLLC as owner - Assignment history showing how ownership transferred from Litman to Goldberg's entity - Howard W. Kline listed as current attorney of record - Any Section 8/9 renewal filings maintaining the registration

8.4 TUFFKOTE and TTAB Proceedings – Add to Exhibit Binder

The TUFFKOTE TSDR record (showing filing under Litman's name, subsequent Office Action, and abandonment) should be added to the exhibit binder. The seven TTAB proceedings should be documented with TTABVue docket sheets showing Litman's name as correspondent.

8.5 Deposition Questions for Goldberg

The trademark evidence generates specific deposition questions:

- Who authorized the TUFFKOTE ITU application to be filed under Richard Litman's name on July 15, 2021?
 - Why was the TUFFKOTE Office Action not answered, leading to abandonment?
 - Did Litman know his name was being used on the TUFFKOTE filing?
 - Who authorized the filing of TTAB proceedings under Litman's name after the arbitration?
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- How did Nath & Associates PLLC come to own the “LITMAN LAW OFFICES, LTD.” trademark?
- Who authorized the Section 8/15 declarations filed under Litman’s credentials in 2025?
- Was Litman aware that sworn declarations were being filed with the USPTO using his name?

8.6 Damages Implications

The \$203,200.68 in documented trademark payments across 83 dockets should be added to the damages calculation. This is revenue collected by NGM under Litman’s name from trademark work alone – separate from patent prosecution fees. Under the unjust enrichment theory, these fees were collected by trading on Litman’s reputation and professional identity.

9. SOURCE DOCUMENTS

Document	Description
Kline Trademark Supervision Analysis	Howard Kline supervision chain and trademark name-use analysis (case research corpus)
Nicola Pizza Trademark Deep-Dive	Detailed analysis of the representative trademark client (case research corpus)
USPTO Trademark Name-Use Exhibit	748 USPTO emails to Litman’s NGM email address, full listing (case research corpus)
Trademark / USPTO Email Cross-Reference Findings	Cross-reference of USPTO emails with Kline activity and financial data (case research corpus)
Trademark Name-Use Exhibit (Nicola Pizza case study)	Nicola Pizza case study and broader trademark name-use analysis (case research corpus)
iCloud Photos Evidence Memo	July 2025 iCloud Photos confirming continued trademark name use (case research corpus)
TTABVue	TTAB public docket system (accessed for BRAIN SMACK and other proceedings)
TSDR	USPTO Trademark Status & Document Retrieval (TUFFKOTE, LITMAN LAW OFFICES)
Trademarkia	Third-party trademark database (aggregate counts)

This memorandum is prepared for counsel review. All information is derived from firm records, USPTO public databases, email correspondence, trust account records, and client-docket listings produced in discovery or obtained from publicly available sources. No scripts, API keys, or technical implementation details are included.