

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

**SHENZHEN HAPPY VAPING
TECHNOLOGY LTD.,**

Plaintiff,

v.

**LOGIC TECHNOLOGY DEVELOPMENT
LLC, and
JAPAN TOBACCO INTERNATIONAL
U.S.A., INC.,**

Defendants.

CIVIL ACTION NO. 0:22-cv-61407-RS

**DEFENDANTS' NOTICE TO REASSERT MOTION TO DISMISS FOR IMPROPER
VENUE OR TO TRANSFER VENUE**

Pursuant to Fed. R. Civ. P. 12(b)(3) and 7(b)(1), as well as 28 U.S.C. § 1406(a), Defendants Logic Technology Development LLC (“Logic”) and Japan Tobacco International U.S.A., Inc. (“JTI USA”) respectfully move the Court to: (1) dismiss Plaintiff’s Amended Complaint [ECF 21] for improper venue or, in the alternative, to transfer venue to the District of New Jersey where venue is proper; (2) reassert and incorporate herein Defendants’ Motion to Dismiss or Transfer for Improper Venue [ECF 13] (“Defendants’ Motion”), in response to Plaintiff’s Amended Complaint [ECF 21]; and (3) request oral argument on Defendants’ Motion.

Defendants hereby provide notice to the Court that in response to the Amended Complaint [ECF 21], Defendants reassert Defendants’ Motion. *See Ct.-Appointed Receiver for Lancer Mgmt. Grp. LLC v. Cable Rd. Invs. Ltd.*, No. 05-60145-CIV, 2007 WL 9698235, at *3 (S.D. Fla. Jan. 17, 2007) (“Any defendant may reassert its motion to dismiss to the Third Amended Complaint by filing a new motion to dismiss or by filing a notice to the Court that it wishes to reassert its previously filed motion to dismiss.”). Defendants’ Motion is fully briefed by the parties, and that briefing is incorporated herein by reference. Additionally, for the reasons stated in Defendants’ Reply brief, the new allegations in Plaintiff’s Amended Complaint do not moot Defendants’ Motion. No new briefing is necessary because the Amended Complaint does not raise any venue considerations that have not already been addressed by the parties.

Defendants also request oral argument on Defendants’ Motion. The parties disagree on the legal standards for deciding the issues in the motion such that a hearing would better help the court understand the parties’ respective positions.

Dated: January 17, 2023

Respectfully submitted,

**KLUGER, KAPLAN, SILVERMAN,
KATZEN & LEVINE**

By: /s/Terri Ellen Tuchman Meyers

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