



The Louis D. Brandeis Center, Inc. (LDB) is an independent, non-partisan institution for public interest advocacy, research and education. The Center's mission is to advance the civil and human rights of the Jewish people and to promote justice for all.

Contact: Nicole Rosen, 202-309-5724

BEN & JERRY'S ISRAEL SEEKS IMMEDIATE COURT-ORDERED INJUNCTION TO MAINTAIN UNILEVER LICENSE WHILE CASE IS LITIGATED

Plaintiff Provides New Evidence Unilever Acted Unlawfully and Is Causing 'Irreparable Harm'

Washington, D.C., March 14 – Avi Zinger, the manufacturer and distributor of Ben & Jerry's in Israel, filed a [formal motion](#) with the U.S. District Court for the District of New Jersey urging the Court to prevent Unilever and its subsidiary, Ben & Jerry's US, from terminating their license agreement with Zinger's company, American Quality Products Ltd. (AQP), until his claims can be resolved.

This latest filing urges the court to issue an immediate preliminary injunction to maintain the contract while the court proceedings move forward. Granting the request would allow AQP to continue manufacturing and distributing Ben & Jerry's ice cream throughout Israel and the areas under its control. Unilever's response is due April 4, and the court is scheduled to hear oral argument on the motion April 18.

According to the motion: "It is hard to imagine a clearer case of classic breach" of contract. The plaintiff's case demonstrates that defendants' termination of AQP's license is unlawful, because their only reason for termination is plaintiffs' refusal to break the law. Defendants' precondition for renewal – insistence upon no sales in the West Bank – violates Israel and U.S. anti-discrimination and anti-boycott laws and public policy. U.S. laws that prohibit anti-Israel boycotts include the U.S. Export Control Reform Act, the U.S.-Israel Trade Commercial Enhancement Act, the U.S. Tax Code and numerous state anti-boycott laws and decrees.

Earlier this month, Zinger and AQP sued Ben & Jerry's and Unilever for unlawfully terminating their 34-year business relationship in order to boycott Israel. The suit requests the U.S. federal court deem Unilever's termination illegal, enabling AQP and Zinger to continue selling Ben & Jerry's products throughout Israel. In this new filing, Zinger argues that Unilever's unlawful conduct – namely, its refusal to renew its license agreement with AQP when it expires at the end of 2022 – is causing AQP "irreparable harm." AQP argues that its request meets every other relevant requirement for injunctive relief: its claims have merit and the balance of harms and public interest favor an injunction.

AQP's injunction request makes clear it faces "immediate irreparable injury" if not granted relief, placing the company "under imminent threat of...total destruction." Sales have plummeted since Unilever's announcement – the decline worsens monthly. Business competitors poach AQP's contractors and pressure stores to relinquish freezer space. AQP's customers, business partners, suppliers, and financing institutions are confused whether to support or shun the company, given its uncertain future and association with Unilever's perceived hostility to Israel. AQP has experienced attacks on its equipment. It is unable to plan for the coming season, commit to long-term contracts, hire managerial staff and procure raw materials.

Zinger and his diverse workforce – from religious and secular Arabs and Israelis and people with disabilities to Sudanese and Ethiopian refugees and immigrants struggling to learn Hebrew – will lose their jobs and livelihoods if relief is not granted.

The injunction request shows that the boycott harms not only AQP, but also Palestinians – who are among Ben & Jerry’s most devoted customers, as documented by Palestinian activist Bassam Eid’s complaint filed with the New York State Division of Human Rights.

By contrast, Unilever and Ben & Jerry’s will suffer virtually no harm if the status quo is maintained pending the lawsuit’s outcome. They will continue to profit from AQP’s sales of Ben & Jerry’s ice cream in the region. In fact, Unilever continues to sell its other products – including the popular brand of Strauss ice cream – in both Israel and the territories it demanded AQP stop serving. Neither Strauss ice cream nor Unilever’s other brands have ever been targets of attention by legions of anti-Israel boycott activists.

Finally, a preliminary injunction will serve the public interest. All consumers living in the West Bank will continue to have access to Ben & Jerry’s ice cream. Laws in the United States and Israel will not be violated. Unilever will be prevented from “interfering with the legally protected rights of” AQP – and this action would deter similar interference from companies acting in bad faith.

“All four factors relevant to the issuance of a preliminary injunction, taken together, weigh firmly in favor of injunctive relief,” concludes the preliminary injunction request.

Zinger and AQP are represented by L. Rachel Lerman and Alyza D. Lewin of The Louis D. Brandeis Center for Human Rights Under Law; Edward J. Dauber and Linda G. Harvey of Greenberg Dauber Epstein & Tucker; Nathan Lewin of Lewin & Lewin, LLP; and L. Marc Zell of Zell, Aron & Co. Preliminary Injunction brief and related documents available [here](#).