

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

NEUCO, INC. an Illinois corporation,)	
)	
Plaintiff,)	
)	
v.)	Case No.
)	
Amazon.com Services, Inc., a Delaware)	
corporation, and Zapolye, Inc. d/b/a)	
PartzStop.com, an Illinois corporation.)	
)	
Defendants.)	

VERIFIED COMPLAINT

Plaintiff, Neuco, Inc. (“Neuco”), by counsel, SWANSON, MARTIN & BELL, LLP, for its Verified Complaint against Defendants Amazon.com Services, Inc. (“Amazon”) and Zapolye, Inc d/b/a PartzStop.com (“PartzStop”) states as follows:

INTRODUCTION

1. This is an action for trademark infringement under Section 32(1) of the Lanham Act, 15 U.S.C. §1114(1); false endorsement or false association under Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a)(1)(A); and for false and deceptive advertising under Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a)(1)(B).

2. The claims arise from the willful and deliberate efforts of Defendants to compete with Neuco by trading upon Neuco’s goodwill and reputation and infringing upon Neuco’s trademarks and intellectual property to create confusion in the marketplace and bolster their own sales by falsely describing products as manufactured by, branded by, associated with, sponsored by, or sold by Neuco.

3. Unless Defendants are enjoined from infringing Neuco's intellectual property rights and otherwise deceiving the consuming public and tarnishing Neuco's reputation, Neuco will continue to suffer substantial ongoing and irreparable harm.

PARTIES

4. Plaintiff Neuco is an Illinois corporation with its principal place of business located in Bolingbrook, Illinois. Neuco is the country's leading distributor of Heating Ventilation Air Conditioning and Refrigeration ("HVACR") equipment and has been distributing HVACR equipment since the 1960s.

5. Amazon is a Delaware corporation with its headquarters in Seattle, Washington. Amazon is a multi-national corporation that sells a variety of products over the internet, including HVACR equipment. To the extent Amazon sells HVACR equipment, it is a competitor of Neuco. Amazon's business model relies on sales by Amazon first party sales and sells additional products by sharing its technology with third parties.

6. PartzStop is an Illinois corporation with its headquarters in Vernon Hills, Illinois in this District. PartzStop is a distributor of HVACR equipment and as such is a competitor of Neuco. Upon information and belief, PartzStop markets and/or sells HVACR products in commerce throughout the United States and in this District through both through its own website and in collaboration with Amazon as an Amazon marketplace seller.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction of Neuco's Complaint under one or more sections of the Lanham Act, 15 U.S.C. §§ 1051 et. seq. ("Lanham Act"), thus, the Court has jurisdiction pursuant to 28 U.S.C. § 1331.

8. Personal jurisdiction exists over Amazon because Amazon transacts business in the District, has offices in the District, and offers the infringing products in this District, thereby committing acts of trademark infringement and unfair competition in this District.

9. Personal jurisdiction exists over PartzStop because PartzStop transacts business in the District, has offices in the District, and offers the infringing products in this District, thereby committing acts of trademark infringement and unfair competition in this District.

10. Further, upon information and belief, Amazon and PartzStop jointly coordinated the activities which give rise to this litigation at least in part from offices in this District.

11. Venue is proper pursuant to 28 U.S.C. §1391 because this cause of action arises out of events occurring in part or in full in this District.

FACTUAL ALLEGATIONS

NEUCO'S INTELLECTUAL PROPERTY

12. In the 1960s, three brothers, Howard, John and Harvey Neustadt were providing fuel oil to homes and companies through the family business, Neustadt Fuel and Supply. In 1963, the Neustadt brothers decided to diversify the business by distributing parts to repair heating equipment and founded Neuco. Neuco remains a family owned business, and it has grown to be recognized by manufacturers and customers as the leading master distributor of HVACR controls in North America.

13. Neuco now provides over 275 distinct HVACR product lines. Neuco has invested millions of dollars in building and maintaining a reputation for providing the highest quality service and support.

14. This exemplary provision of goods and services is central to Neuco's business strategy and Neuco dedicates considerable time and effort, as well as millions of dollars in marketing over the

decades, to ensure that the relevant public associates Neuco's brand with the distribution of HVACR parts in an innovative, friendly and efficient manner.

15. Neuco has used the mark Neuco continuously since 1963 and has registered the standard character mark NEUCO with the United States Patent and Trademark Office, Reg. No. 5,896,063 in International Class No. 35 for "Master distributor services, namely, distributorship services in the field of HVAC/R equipment, controls and supplies..." (the "NEUCO Mark"). **Attached as Exhibit A.**

16. In part because of Neuco's commitment to high quality service and in part due to the millions of dollars Neuco has invested in its brand, the NEUCO Mark is recognized by the purchasers of HVACR equipment throughout the United States and Canada.

17. Neuco also uses a design mark registered with the United States Patent and Trademark Office, Reg. No. 5,902,152 in International Class No. 35 for "Master distributor services, namely, distributorship services in the field of HVAC/R equipment, controls and supplies..." ("NEUCO Design Mark"). **Attached as Exhibit B.**

18. Neuco has used the NEUCO Design Mark continuously in commerce throughout the United States since 2009, and because of the millions of dollars Neuco has invested in its brand, the NEUCO Design Mark is recognized by purchasers of HVACR equipment throughout the United States and Canada.

19. Neuco protects the integrity of its brand by not licensing the use of its name, brands or registered trademarks to any other seller or re-seller of HVACR equipment.

20. Neuco has never itself manufactured any HVACR equipment nor licensed its brand to any manufacturer of HVACR equipment.

21. Neuco further protects the integrity of its brand by not selling directly to installation contractors or associating itself with Amazon or other internet distributors such as PartzStop who are competitors of Neuco may be competitors of Neuco's clients. Neuco is not an Amazon vendor, nor has it ever licensed any rights in its name, the NEUCO Mark or NEUCO Design Mark to Amazon or any Amazon vendor.

22. As a result of its distinctiveness, widespread use, and promotion throughout the United States, the NEUCO Mark and NEUCO Design Mark are famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), and became famous prior to the acts of Defendants alleged in this Complaint.

INFRINGEMENT PRODUCT LISTINGS

23. Amazon sells products, including HVACR equipment, through its website available at www.amazon.com (the "Amazon Website"). Amazon claims that approximately 42% of Amazon's sales are made directly by Amazon and 58% of Amazon's sales are made by third-party sellers.¹

24. PartzStop is an Amazon seller and coordinates its activities with Amazon to market, sell and distribute HVACR goods and services.

25. Amazon and PartzStop actively list HVACR equipment on the Amazon Website. The listings falsely suggest that the parts are offered with the authorization, endorsement, or sponsorship of Neuco, or that Amazon or PartzStop are in some way affiliated with or sponsored by Neuco. The references to Neuco are literally false.

26. The literally false statements appearing on the Amazon website are placed to maximize their impact, confuse consumers, and affect a consumer's purchase decision.

¹ Letter from Jeff Bezos, President, CEO, Amazon.com, Inc., to Amazon Shareholders (Apr. 11, 2019)(available at <https://blog.aboutamazon.com/company-news/2018-letter-to-shareholders>).



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