

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
Sound United, LLC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 19-cv-12541
)	
Amazon Seller “audio video sales guy,”)	JURY TRIAL DEMANDED
)	
Defendant.)	
_____)	

COMPLAINT FOR INJUNCTIVE RELIEF AND DAMAGES

Plaintiff Sound United, LLC d/b/a Denon, Polk Audio, Marantz, Definitive Technology, Heos, Boston Acoustics, and Classé (“Sound United” or “Plaintiff”), as and for its Complaint against Defendant Amazon Seller “audio video sales guy” (“Defendant”), alleges upon personal knowledge as to its own acts and as to events taking place in its presence, and upon information and belief as to all other facts, as follows:

NATURE OF THIS ACTION

1. Sound United seeks injunctive relief and monetary damages for Defendant’s trademark infringement under the Lanham Act, 15 U.S.C. § 1051, *et seq.*, as well as related state law claims arising from Defendant’s improper sale of Sound United Products, use of trademarks owned and used by Sound United, and unfair and deceptive business practices.
2. As described in more detail below, Defendant has and continues to sell materially different Sound United products through online commerce sites, including, but not limited to, Amazon.com. Defendant’s conduct has produced and, unless enjoined by this Court, will

continue to produce a likelihood of consumer confusion and deception, to the irreparable injury of Sound United.

3. As a result of Defendant's actions, Sound United is suffering a loss of the enormous goodwill that Sound United has created in its trademarks and is losing profits from lost sales of products. This action seeks permanent injunctive relief and damages for Defendant's infringement of Sound United's intellectual property rights.

4. Further, this case concerns Defendant's wrongful, unauthorized promotion and sale of Sound United Products on the Internet and through online commerce sites including, but not limited to, Amazon.com. As described more fully below, upon information and belief, Defendant has tortiously interfered with and intentionally induced the breach of Sound United's contractual relations with one or more of its Authorized Resellers.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this Complaint pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b), as these claims arise under the Trademark Laws of the United States.

6. This Court has supplemental jurisdiction over the pendant state law claims pursuant to 28 U.S.C. § 1367(a).

7. Defendant is subject to personal jurisdiction in the Commonwealth of Massachusetts and this District pursuant to Mass. Gen. Laws ch. 223A §3 because (a) Defendant has sold numerous products into the Commonwealth and this District; (b) Defendant has caused tortious injury to Sound United's trademarks within the Commonwealth and this District; (c) Defendant practices the unlawful conduct complained of herein, in part, within the Commonwealth and this District; (d) Defendant regularly conducts or solicits business within the

Commonwealth and this District; (e) Defendant regularly and systematically directs electronic activity into the Commonwealth and this District with the manifest intent of engaging in business within the Commonwealth and this District, including the sale and/or offer for sale to Internet users within the Commonwealth and this District; and (f) Defendant enters into sales contracts with residents of the Commonwealth and this District through the sale of items on various online retail platforms and in Internet auctions.

8. Venue is proper in the United States District Court for the District of Massachusetts pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to this claim occurred in this District.

PARTIES

9. Plaintiff Sound United, LLC d/b/a Denon, Polk Audio, Marantz, Definitive Technology, Heos, Boston Acoustics, and Classé is a Delaware Limited Liability Company having its principal place of business at One Viper Way, Vista, California 92081. Sound United is a home theater and audio/video products manufacturer and its media products are marketed and sold in the United States of America under the Denon, Polk Audio, Marantz, Definitive Technology, Heos, Boston Acoustics, and Classé brands (collectively, the “Sound United Brands,” and the products sold under the Sound United Brands are collectively referred to as the “Sound United Products”).

10. Upon information and belief, Defendant Amazon Seller “audio video sales guy” is an Amazon third party reseller, and does business and has done business and sold products, including Sound United Products, to customers within the Commonwealth of Massachusetts and this District through various online commerce sites, including, but not limited to, Amazon.com,

using seller names, including, but not limited to, “audio video sales guy.” Defendant is an unauthorized dealer of Sound United Products.

FACTS

Sound United’s Trademark Usage

11. Sound United’s products are sold under a variety of trademarks registered at the U.S. Patent and Trademark Office (“PTO”). Sound United is the sole and exclusive owner and/or licensee of several federally registered trademarks on the PTO’s Principal Register. These marks have been in continuous use since at least their respective date of registration. True and correct copies of printouts from TESS evidencing these registrations are attached hereto as Exhibit 1. Said registrations are in full force and effect, and most of these marks are incontestable pursuant to 15 U.S.C. § 1065. The marks contained in Exhibit 1 are referred to collectively as the “Sound United Marks.” The Sound United Marks are set forth below:

Mark	Reg. Date	Reg. No.
DENON	July 28, 1998	2,176,147
POLK AUDIO	November 18, 2008	3,533,922
MARANTZ	February 14, 1989	1,538,024
DEFINITIVE TECHNOLOGY	April 7, 1992	1,681,827
HEOS	June 16, 2015	4,756,918
BOSTON ACOUSTICS	August 28, 1984	1,291,939
CLASSÉ	July 11, 2006	3,113,681

12. Sound United advertises, distributes, and sells its products to consumers under the Sound United Marks.

13. Sound United has also acquired common law rights in the use of the Sound United Marks throughout the United States.

14. Sound United's federal trademark registrations were duly and legally issued, are valid and subsisting, and constitute *prima facie* evidence of Sound United's exclusive ownership or license of the Sound United Marks.

15. Sound United has invested many millions of dollars and has expended significant time and effort in advertising, promoting, and developing the Sound United Marks throughout the United States and the world. As a result of such advertising and promotion, Sound United has established substantial goodwill and widespread recognition in its Sound United Marks, and those marks have become associated exclusively with Sound United and its products by both customers and potential customers, as well as the general public at large.

16. To create and maintain such goodwill among its customers, Sound United has taken substantial steps to ensure that products bearing its Sound United Marks are of the highest quality. As a result, the Sound United Marks have become widely known and are recognized throughout the United States and the world as symbols of high quality products.

17. As a result of, *inter alia*, the care and skill exercised by Sound United in the conduct of its business, the high quality of the goods sold under the Sound United Marks, and the extensive advertising, sale, and promotion by Sound United of its products, the Sound United Marks have acquired secondary meaning in the United States and the world, including this District.

18. Sound United is not now, nor has it ever been, affiliated with Defendant, and has not now, nor has it ever, given Defendant permission to use any of the Sound United Marks.

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