

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BREEZE SMOKE LLC,

Plaintiff,

vs.

TRUCENTA HOLDINGS LLC,

Defendant.

CASE NO.

JURY TRIAL DEMANDED

VERIFIED COMPLAINT

Plaintiff Breeze Smoke LLC (“Breeze Smoke”), by its undersigned attorneys Honigman LLP, for its Verified Complaint against Defendant Trucenta Holdings LLC (“Defendant” or “Trucenta”), alleges as follows:

NATURE OF THE CASE

1. This is an action for trademark infringement and unfair competition under the Lanham Act, 15 U.S.C. §1051, *et seq.*, as well as related state and common law claims, in which Breeze Smoke is seeking immediate injunctive relief and monetary damages for Defendant’s unlawful infringement of Breeze Smoke’s valuable trademarks. Specifically, Defendant is a Michigan-based cannabis company that is in the business of offering and selling cannabis-related goods and services and smokers’ articles—including vaping devices, e-cigarette liquids, ashtrays, lighters, tobacco grinders, cigarette rolling papers, and the like—to

consumers in Michigan and elsewhere. Defendant is infringing Breeze Smoke's rights in its well-known BREEZE trademarks by using them to mislead consumers into believing there exists some affiliation, sponsorship, or connection between Breeze Smoke and Defendant when there is none, and by deliberately trading off of the extensive goodwill that Breeze Smoke has developed and is continuing to develop in its BREEZE trademarks.

PARTIES, JURISDICTION AND VENUE

2. Breeze Smoke is a limited liability company organized and existing under the laws of the State of Michigan, with its principal place of business at 4654 Lilly Ct., West Bloomfield, Michigan 48323.

3. Upon information and belief, Defendant is a Michigan limited liability company with its principal place of business at 1675 E. Maple, Troy, Michigan 48083.

4. Upon information and belief, Defendant is in the business of marketing, offering, and selling various cannabis-related goods and services and smokers' articles, including vaping devices, e-cigarette liquids, ashtrays, lighters, tobacco grinders, cigarette rolling papers, and the like.

5. Personal jurisdiction over Defendant is appropriate because Defendant is located within this state and is subject to the general personal jurisdiction of this Court. Personal jurisdiction over Defendant is also appropriate because Defendant

owns and operates its BREEZE cannabis store that is at issue in this litigation within this District and because it offers and sells infringing BREEZE products and services within this District to customers within this District.

6. The Court has subject matter jurisdiction over this civil action pursuant to 15 U.S.C. § 1121(a) and 28 U.S.C. §§ 1331 and 1338 in that this case arises under the Lanham Act (15 U.S.C. § 1051, *et seq.*), as well as 28 U.S.C. § 1367, and pursuant to the statutes and common law of the State of Michigan.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)–(d).

BACKGROUND

Breeze Smoke's BREEZE Marks

8. Breeze Smoke is engaged in the business of manufacturing and selling a variety of tobacco and vaping products and smokers' articles, including disposable electronic vaping devices, under its BREEZE trademarks.

9. Since at least as early as May 2019, Breeze Smoke has continuously used its BREEZE trademarks in connection with vaping products and related products in Michigan and throughout the United States. A representative image of products Breeze Smoke began selling under its BREEZE trademarks in or before May 2019 follows:



10. In addition to its widespread and continuous use of the BREEZE trademarks, Breeze Smoke owns United States Trademark Application No. 90/012,117 for the mark BREEZE SMOKE for “Disposable Electronic Cigarettes.” A copy of the Trademark Electronic Search System (“TESS”) page from the United States Patent and Trademark Office (“USPTO”) website showing the details of the BREEZE SMOKE application is attached hereto as **Exhibit A** and incorporated herein by reference.

11. The BREEZE SMOKE application was filed on June 20, 2020 based on actual use of the mark in United States commerce and asserts use in United States commerce since at least as early as March 1, 2020.

12. Breeze Smoke also owns United States Trademark Application No. 90/246,820 for the mark BREEZE PLUS for “Disposable Electronic Cigarettes.” A copy of the TESS page from the USPTO website showing the details of the BREEZE PLUS application is attached hereto as **Exhibit B** and incorporated herein by reference.

13. The BREEZE PLUS application was filed on October 10, 2020 based on actual use of the mark in United States commerce and asserts use in United States commerce since at least as early as March 1, 2020.

14. Breeze Smoke also owns United States Trademark Application No. 90/555,765 for the mark BREEZE PRO for “Disposable Electronic Cigarettes.” A copy of the TESS page from the USPTO website showing the details of the BREEZE PRO application is attached hereto as **Exhibit C** and incorporated herein by reference.

15. The BREEZE PRO application was filed on March 2, 2021 based on intent to use the mark in United States commerce.

16. Breeze Smoke also owns United States Trademark Application No. 90/650,997 for the mark BREEZE PALM for “cigarette wraps; cigarette rolling

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