

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this action pursuant to the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202; the Trademark Act of 1946, as amended, 15 U.S.C. § 1051 *et seq.*, including 15 U.S.C. § 1121; and 28 U.S.C. §§ 1331, 1338, and 1367.

5. Defendants are subject to general and specific jurisdiction in this Court, *inter alia*, because they conduct business in the District and have committed at least some of the acts complained of herein within this District.

6. On information and belief, Defendant Convatec resides in New Jersey, does business in the State of New Jersey, sells large quantities of various products, including healthcare products, to customers in New Jersey, engages distributors based in New Jersey, maintains an interactive website accessed by residents of New Jersey, and otherwise avails itself of the privilege of doing business in the State of New Jersey.

7. Each of the Defendants have purposely directed their activities, including the illegal acts against Plaintiff described below, toward this District and this action arises from those activities.

8. Venue in this District is proper under 28 U.S.C. §1391(b) because a substantial part of the events giving rise to the claims occurred in this District and the Defendants are subject to personal jurisdiction in this District.

BACKGROUND FACTS

9. On information and belief, Defendant Convatec is in the business of manufacturing and distributing healthcare products, including products sold under the CONVATEC and DUODERM marks (“Convatec Products”).

10. On information and belief, Defendant Convatec is the owner of U.S. Trademark Registration No. 1223890 for DUODERM and Registration No. 1380264 for CONVATEC (“the Convatec Registrations”).

11. On information and belief, Defendant Sewell is the Associate Director – Channel Sales for Defendant Convatec.

12. Plaintiff is in the business of lawfully acquiring and re-selling various consumer products for a profit.

13. Plaintiff resells products through an Amazon storefront.

14. Since its formation, Plaintiff has served hundreds of thousands of customers through its Amazon storefront.

15. Defendants’ illegal actions have irreparably damaged, and threaten to destroy, Plaintiff’s successful business.

ONLINE MARKETPLACES

16. Upon information and belief, Amazon is the world’s largest online retailer.

17. According to published reports, Amazon is worth more than the next eight largest retailers located in the United States combined. *See* JP Mangalindan, *Amazon is now worth more than America's 8 largest retailers combined*, Yahoo Finance (Jan. 25, 2017), <https://finance.yahoo.com/news/amazon-is-now-worth-more-than-americas-8-largest-retailers-combined-124101625.html>.

18. Amazon's online e-commerce platform allows for third-parties, like Plaintiff, to sell products on its e-commerce platform.

19. The privilege of selling on Amazon is highly advantageous, as Amazon provides third-parties with exposure to the world marketplace on a scale that no other online retailer can currently provide.

20. For several years, Plaintiff has had a contractual and business relationship with Amazon, such that Plaintiff was and is permitted to sell products on Amazon's e-commerce platform.

21. Third-party sellers, like Plaintiff, create an online storefront on Amazon. When a customer buys a product on Amazon, the customer can see the online store from which the customer is purchasing a product. Thus, Plaintiff has the online equivalent of a brick-and-mortar store.

22. A significant portion of Plaintiff's business is derived from the sale of products on Amazon and, in particular, through its Amazon storefront.

23. Once Plaintiff acquires products from reputable sources, Plaintiff resells the same products on Amazon at a profit.

24. In general, transactions on Plaintiff’s Amazon storefront are completed by Amazon, whereby Amazon ships Plaintiff’s products from an Amazon warehouse (known as “Fulfilment by Amazon” or “FBA”).

25. Plaintiff has invested significant efforts into building a successful and reputable Amazon storefront.

26. Plaintiff’s Amazon storefront has amassed over fourteen-thousand reviews and a holds a near perfect customer rating.

27. A small sample of Plaintiff’s recent reviews are shown below:

Preferred Pharmacy Plus
 Preferred Pharmacy Plus storefront
 ★★★★★ | 99% positive in the last 12 months (9551 ratings)
 The team at Preferred Pharmacy Plus is dedicated to ensuring our customers are well taken care of throughout the entire buying experience. We sell a wide range of medical supplies catering to many different markets including pharmacies, hospitals, nursing homes and direct to consumers. We look forward to assisting you in your purchase and we are sure you will appreciate our pricing and customer care.

Have a question for Preferred Pharmacy Plus?
 Ask a question
 Customer Service Phone: 201-416-3166

Feedback | Returns & Refunds | Shipping | Policies | Help | Gift Wrap | Products

★★★★★ "Great experience. Did not have any problems. They were exactly the kind my grandmother needed. At half the cost."
 By Rena on February 28, 2022.

★★★★★ "What is with my local pharmacies? All in big chain environments have no Q-Tips and say they are not sure when they can get them, blaming "supply" prob..."
 Read more
 By Capt Jim on February 28, 2022.

★★★★★ "good quality"
 By Aztec K. on February 28, 2022.

★★★★★ "Excellent product"
 By DavidSP on February 28, 2022.

★★★★★ "Prompt and accurate."
 By Amazon Customer on February 27, 2022.

	30 days	90 days	12 months	Lifetime
Positive	98%	99%	99%	99%
Neutral	1%	0%	0%	0%
Negative	1%	1%	1%	1%
Count	846	2,496	9,551	33,591

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