

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

Plymouth Beef Co., Inc.

Plaintiff,

v.

Wonder Food Distributors, David Hamedan, Jack
Hamedan, Nations Best Meat Wholesalers, Inc.,
James Hyland and Guy Robinson,

Defendants.

Civ. Action No. 1:20-cv-4029

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Plymouth Beef Co., Inc. (“Plaintiff”), by and through its attorneys, Foley & Lardner LLP, as and for its Complaint against defendants Wonder Food Distributors, David Hamedan, Jack Hamedan, Nations Best Meat Wholesalers, Inc., James Hyland and Guy Robinson (“Defendants”), alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for infringement of Plaintiff’s trademark PLYMOUTH and its federally-registered trademark, PLYMOUTH and Design, and the distinctive package design (or trade dress) of Plaintiff’s ground beef products, arising under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1); for unfair competition and false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), for substantially related claims of trademark infringement and unfair competition under the statutory and common law of the State of New York, and for tortious interference with economic relations, all arising from the Defendants’ use of the identical name PLYMOUTH and a package design copying Plaintiff’s package design and

associated trade dress, in connection with the production, distribution, marketing, advertising, promotion, offering for sale, and/or sale of Defendants' ground beef products.

PARTIES

2. Plaintiff Plymouth Beef Co., Inc. ("Plymouth") is a New York corporation with a principal place of business at 355 Food Center Drive, Bronx New York 10474.

3. Upon information and belief, Defendant Wonder Food Distributors ("Wonder") is an unincorporated business operating from a principal place of business at 5710 Flushing Ave, Maspeth, NY 11378.

4. Upon information and belief, Defendant David Hamedan is a principal owner of Wonder, with an address c/o Wonder, and together with Defendant Jack Hamedan, was responsible for the conduct of Wonder complained of herein.

5. Upon information and belief, Defendant Jack Hamedan is a principal owner of Wonder, with an address c/o Wonder, and together with Defendant David Hamedan, was responsible for the conduct of Wonder complained of herein.

6. Upon information and belief, Defendant Nations Best Meat Wholesalers, Inc. ("Nation's Best") is a New York corporation having a principal place of business at D-7 Hunts Point Cooperative, The Bronx, NY 10474.

7. Upon information and belief, Defendant James Hyland ("Hyland") is a principal owner of Nation's Best, with an address c/o Nation's Best, and together with Defendant Guy Robinson, was responsible for the conduct of Nation's Best complained of herein.

8. Upon information and belief, Defendant Guy Robinson (“Robinson”) is a principal owner of Nation’s Best, with an address c/o Nation’s Best, and together with Defendant James Hyland, was responsible for the conduct of Nation’s Best complained of herein.

JURISTITION AND VENUE

9. This court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, and 1338(a) and (b), and pursuant to the principles of supplemental jurisdiction under 28 U.S.C. § 1367, because this case arises under the Federal Trademark Act, as amended, 15 U.S.C. §§ 1051, et seq., and because the state law claims are so related to the federal claims that they form part of the same case or controversy.

10. This Court has personal jurisdiction over Defendants under New York Civil Practice Law and Rules §§ 301 and/or 302(a) because Defendants’ place of incorporation and principal place of business is New York and because Defendants have transacted business in New York and have supplied or offered to supply goods in New York in connection with matters giving rise to this suit.

11. Venue is proper in this district under 28 U.S.C. § 1391(b)(2), in that a substantial part of the events or omissions giving rise to the claim occurred in this district.

BACKGROUND OF PLAINTIFF AND THE TRADEMARKS AT ISSUE

12. For over fifty years, Plymouth has been distributing, offering for sale, and selling high quality, USDA-certified ground beef and burger patties in the United States under the name PLYMOUTH or PLYMOUTH BEEF.

13. Plymouth Beef is the owner of United States Registration Number 2,057,070 for the mark PLYMOUTH BEEF CO. and Design as follows, for “meat,” claiming using since at least as early as 1963, and said registration has become incontestable within the meaning of Section 15 of the Lanham Act, 15 U.S.C. § 1065.



14. As a result of its widespread, continuous, and exclusive use of the name PLYMOUTH to identify its goods and Plymouth as their source, Plymouth owns valid and subsisting rights to the PLYMOUTH trademark, alone and in combination with other elements, since long prior to the acts of Defendants complained of herein.

15. For at least twenty years, Plymouth has been selling high quality, USDA-certified ground beef and burger patties in the United States in distinctive red, white and blue packaging (the “PLYMOUTH Trade Dress”) as follows:



16. As marketed at retail, the product is usually stacked in refrigerator cases as follows, with the side label facing the consumer:



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