

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

NUSTAR ENTERPRISES LLC,

Plaintiff,

v.

**RELOADED MERCH LLC, and BILL OMAR
CARRASQUILLO,**

Defendants.

Case No. _____

JURY TRIAL DEMANDED

COMPLAINT

This is a civil action by Plaintiff NuStar Enterprises LLC against Defendants Reloaded Merch LLC and Bill Omar Carrasquillo for damages and injunctive relief arising out of Defendants' infringement of NuStar's RELOADED® trademark and related unfair competition and state law claims.

PARTIES

1. Plaintiff NuStar Enterprises LLC ("NuStar" or "Plaintiff") is an Indiana limited liability company with an address at 7139 Broadway, Merrillville, Indiana 46410.

2. Defendant Reloaded Merch LLC ("Reloaded Merch") is a Pennsylvania limited liability company with a registered address of 1009 4th Avenue, Croydon, Pennsylvania 19201. Upon information and belief, Reloaded Merch has a business location at 908 Rowland Ave., Cheltenham, Pennsylvania 19012.

3. Defendant Bill Omar Carrasquillo (“Carrasquillo”) is an individual who, upon information and belief, is last known to reside at 120 Fox Chase Ct., Swedesboro, New Jersey 08085.

JURISDICTION AND VENUE

4. This Court has jurisdiction over the federal trademark infringement and unfair competition claims asserted in this action pursuant to 28 U.S.C. §§ 1331 and 1338, and 15 U.S.C. § 1121.

5. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over the claims in this Complaint which arise under the statutory and common law of Indiana, New Jersey, and Pennsylvania because the state law claims are so related to the federal claims that they form part of the same case or controversy and derive from a common nucleus of operative facts.

6. This Court properly exercises personal jurisdiction over Defendants pursuant to Indiana Trial Rule 4.4(A)(1), (A)(2), and (A)(3) because Defendants transact business in this state, have knowingly caused damages to Plaintiff in this state by way of its infringing acts, to Defendants’ substantial benefit, and because of the harm Defendants’ conduct has caused to Plaintiff in this jurisdiction. Further, Defendants’ infringing activities are intentional, and have occurred with Defendants’ knowledge of Plaintiff’s superior trademark rights. Therefore, Defendants’ continued intentional infringement of Plaintiff’s trademark rights are intentionally targeted at Plaintiff in Indiana, and Defendants have knowledge that the effects of their continued infringing activities would be felt in Indiana. Moreover, Defendant Carrasquillo directly participates in these infringing activities has received direct notice from Plaintiff of his infringement of Plaintiff’s RELOADED® trademark, yet has taken no action to cease the unlawful activity.

7. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b) and 1391(c) because a substantial part of the events or omissions giving rise to the claims set forth in this Complaint occurred in this District, causing damages to Plaintiff in this District.

FACTUAL BACKGROUND

NuStar's RELOADED® Trademark and Products

8. This civil action arises out of Defendants' unlawful infringement of NuStar's RELOADED® trademark, among other related acts of deceptive trade practices and unfair competition.

9. NuStar is a clothing and apparel company that markets and sells clothing and apparel and related accessories under the RELOADED® trademark. Since at least as early as September 20, 2016, NuStar has continually used the trademark RELOADED® in commerce in connection with clothing and apparel.

10. NuStar's clothing and apparel products, including its RELOADED® line of merchandise, are available for retail purchase in brick-and-mortar stores, and were also marketed, distributed, and sold through NuStar's "Reloaded" storefront on Amazon.com.

11. To protect its rights in the RELOADED trademark NuStar obtained and owns U.S. Trademark Registration No. 6,376,399 in International Trademark Class 025 for the mark RELOADED in connection with "clothing and apparel, namely, shirts, jackets, pants, hats, belts, scarves, gloves, socks, underwear, swimwear, and wristbands." The RELOADED® trademark was registered on June 8, 2021. A copy of the U.S. Trademark Registration No. 6,376,399 RELOADED® registration is attached hereto as Exhibit A.

12. NuStar also owns a state trademark in New Jersey in International Trademark Class 025 for the mark RELOADED in connection with "clothing and apparel, namely, shirts, jackets,

pants, belts, scarves, gloves, socks, underwear, swimwear, and footwear,” and in addition, “boots [and] shoes.” A copy of NuStar’s RELOADED New Jersey Trademark Registration No. 26396 is attached hereto as Exhibit B.

13. NuStar additionally owns a state trademark in Pennsylvania in International Trademark Class 025 for the mark RELOADED in connection with “clothing and apparel, namely, shirts, jackets, pants, hats, belts, scarves, gloves, socks, and underwear.” A copy of NuStar’s RELOADED Pennsylvania Trademark Registration No. 7142688 is attached hereto as Exhibit C.

14. NuStar has also used the RELOADED® trademark in connection with sandals, slippers, sneakers, athletic shoes, and tactical vests, as well as in connection with hookah pipes and related smoking accessories. NuStar has U.S. trademark applications currently pending in connection with these goods and services.

15. The RELOADED® brand and trademark are inherently distinctive when applied to clothing and apparel, accessories, and shoes sold under the RELOADED® trademark.

Defendants’ Infringing “RELOADED” Products

16. In July of 2019, NuStar learned that Bill Omar Carrasquillo, a rapper and YouTube celebrity known as “Omi in a Hellcat,” intended to start an apparel company under the brand name RELOADED.

17. In response, NuStar informed Mr. Carrasquillo, through his agent, of NuStar’s rights to the RELOADED® mark. Over the following months Mr. Carrasquillo’s agent sought to work out a licensing arrangement with NuStar. These efforts fell apart in late 2019, on information and belief, due to Mr. Carrasquillo’s legal and financial troubles.

18. Accordingly, Mr. Carrasquillo had full knowledge of NuStar's prior trademark rights when he publicly announced his intent to form an apparel company under the RELOADED brand in a YouTube video posted on January 16, 2020.

19. On or about November 10, 2020, Reloaded Merch LLC ("Reloaded Merch") was organized, on information and belief, to market and sell the promised RELOADED apparel. Mr. Carrasquillo would advertise and promote the apparel company.

20. In mid-2021, Reloaded Merch expanded its offerings to include shoes.

21. Defendants market and sell clothing, clothing accessories, and shoes under an identical RELOADED mark (the "infringing RELOADED products").

22. Throughout 2020 and 2021, Mr. Carrasquillo increased his celebrity profile through his YouTube channel videos celebrating his alleged net worth, properties, and vehicles. Mr. Carrasquillo has posted over 170 such videos to date, many of which receive between 200,000 and 750,000 views per video. In many of these videos, Mr. Carrasquillo often promotes Reloaded Merch's "RELOADED" line of clothing and shoes.

23. Defendants' infringing RELOADED products are closely affiliated with Mr. Carrasquillo and his "Omi in a Hellcat" persona, and as a result, the Defendants' infringing RELOADED products have enjoyed increased public exposure, resulting in increased sales for Defendants.

24. In coordination with Defendant Reloaded Merch, Mr. Carrasquillo's advertising and promotion of the infringing RELOADED products has resulted in a saturation of the market such that consumers now associate Plaintiff's RELOADED® products with Defendants.

25. Defendants sell the infringing RELOADED products through the website located at <https://www.reloadmerch.com>.

26. The infringing RELOADED products are closely associated with Mr. Carrasquillo, who prominently advertises them on his “Omi in a Hellcat” YouTube page, which has over 800,000 followers.¹ In many of his videos, Mr. Carrasquillo wears the infringing RELOADED products and mentions the reloadedmerch.com website in his videos or video descriptions.

27. Defendants also market the infringing RELOADED products through the Instagram page (@reloadedmerchandise), which has over 59,000 followers. Defendant Reloaded Merch’s Instagram pages features posts of Mr. Carrasquillo wearing and prominently promoting the infringing RELOADED products.

28. On the reloadedmerch.com website, Defendants sell numerous clothing and footwear products that bear the RELOADED mark, including but not limited to jackets, pants, shirts, hats, socks, sandals, and shoes.

29. Defendants also sell hookah pipes and related smoking accessories under the RELOADED mark.

30. Defendants’ goods on which they uses the mark RELOADED are identical and highly related to NuStar’s goods and services sold under its RELOADED® trademark.

31. Defendants’ use of the RELOADED mark in connection with clothing and footwear was intended to and has saturated the market with an identical and infringing trademark for identical and highly related goods and services, such that consumers have begun to associate Plaintiff’s RELOADED® clothing and footwear with Defendants.

32. As an example of the damaging effect of Defendants’ actions, Plaintiff received a notice of violation from Amazon.com shortly after several consumers complained to Amazon that

¹ See <https://www.youtube.com/watch?v=mVeL4brO89I> (last accessed March 3, 2022) (video entitled “How to Make Millions Selling Merch,” with the video description “SHOP AT RELOADEDMERCH.COM”).

Plaintiff's RELOADED® footwear products were not made by "Omi in a Hellcat." As a result of this undeserved violation, Plaintiff's RELOADED® footwear products were removed from Amazon, the largest retail e-commerce site in the world, at great reputational and financial damage to Plaintiff.

33. In addition, as a result of Defendants' actions, Plaintiff's advertisements have been suppressed by Amazon, causing significant damage to Plaintiff's reputation and sales of its RELOADED® clothing and footwear products.

34. Moreover, as a result of Defendants' actions, consumers have contacted Plaintiff to express actual confusion and disappointment that Plaintiff's RELOADED® clothing and footwear are not that of Defendants.

35. As a result of these and other similar instances of reverse confusion, Plaintiff has lost the ability to control its brand identity, lost control over its goodwill and reputation, and has lost the ability to move into new products and markets.

36. Defendants' use of the RELOADED mark in connection with clothing and apparel, shirts, jackets, pants, socks, and footwear will mislead consumers into believing that Defendants or Defendants' infringing RELOADED products are somehow affiliated with NuStar or NuStar's RELOADED® products or vice versa, or that Defendants are approved, sponsored, or supplied by NuStar or vice versa.

37. Defendants have not received approval from Plaintiff to use the mark RELOADED in connection with clothing and apparel, shirts, jackets, pants, socks, and footwear.

38. Plaintiff has used its RELOADED® trademark in connection with clothing and apparel, namely, shirts, jackets, pants, hats, socks, shoes and footwear long before Defendants' first use thereof.

39. Defendants' infringement of the RELOADED® trademark was and is with full knowledge of NuStar's rights, willful and intentional.

40. Defendants' use of the RELOADED mark in connection with clothing and apparel, shirts, jackets, pants, socks, and footwear is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association between Defendants and NuStar, and/or is likely to cause confusion, mistake, or deception as to the origin, sponsorship, or approval of the Defendants' infringing "RELOADED" clothing and apparel goods and services and NuStar's RELOADED® products and NuStar's related commercial activities.

41. Defendants' infringement of the RELOADED® trademark and trade dress provide an unlawful competitive advantage to Defendants at NuStar's expense, diverting sales from Plaintiff and causing damage to NuStar's reputation and goodwill.

COUNT I
TRADEMARK INFRINGEMENT
(15 U.S.C. § 1114)

42. NuStar restates and re-alleges each of the foregoing paragraphs of this Complaint as if fully set forth herein.

43. NuStar's registered RELOADED® trademark is a valid and enforceable registered trademark entitled to protection under the Lanham Act, and NuStar has continually used the RELOADED® trademark in interstate commerce as early as September 20, 2016.

44. NuStar's registered RELOADED® trademark is registered on the Principal Register of the United States Patent and Trademark Office for identical and highly related goods upon or in connection with which Defendant uses the mark.

45. Defendants' use of the RELOADED® mark is without Plaintiff's authorization or consent.

46. Defendants' use of the RELOADED® mark in connection with clothing and related apparel and accessories is likely to cause confusion or mistake among consumers, or to deceive consumers as to the source of such goods or as to an affiliation between Plaintiff and Defendants, in violation of 15 U.S.C. § 1114(1).

47. NuStar has expended substantial sums, time, and effort in marketing and selling its RELOADED® clothing and apparel products.

48. Notwithstanding Plaintiff's established rights in the RELOADED® trademark, since at least 2019 Defendants have adopted and used the identical mark RELOADED in interstate commerce in connection with clothing and apparel, shirts, jackets, pants, socks, and footwear.

49. Without NuStar's consent, Defendants have used and continues to use the infringing RELOADED mark in connection with the sale, offering for sale, distribution, and advertising of its clothing and apparel, shirts, jackets, pants, socks, and footwear.

50. Defendants have engaged in its infringing activity despite having actual and constructive notice, under 15 U.S.C. § 1052, of NuStar's federal registration rights and despite actual knowledge of Plaintiff's use of the RELOADED® trademark.

51. Defendants' actions are likely to mislead the public into concluding that its goods originate with or are authorized by NuStar or vice versa, which will damage both NuStar and the public. NuStar has no control over the quality of goods sold by Defendants and because of the source confusion caused by Defendants, NuStar has lost control over its valuable goodwill.

52. Defendants have saturated the market with its infringing use of the RELOADED mark, such that consumers have come to assume that NuStar's products are associated with Defendants' products, and that as a result of this reverse confusion, NuStar has lost value in its

RELOADED® trademark, lost control of its product identity, goodwill, and reputation, as well as the ability to move into new products and markets or remain in previous markets.

53. NuStar demanded in writing that Defendants cease and desist from its infringing actions. Defendants acknowledged receipt of NuStar's demand and committed to providing a response, but Defendants have failed to respond to NuStar's demands and have failed to comply with them.

54. As a direct and proximate result of Defendants' trademark infringement, NuStar has suffered and will continue to suffer irreparable loss of income, profits and goodwill and Defendants have unfairly acquired and will continue to unfairly acquire income, profits and goodwill.

55. Defendants' acts of infringement will cause further irreparable injury to NuStar if Defendants are not restrained by this Court from further violation of NuStar's rights. NuStar has no adequate remedy at law.

56. Because Defendants' acts of infringement are in bad faith, this action constitutes an exceptional case entitling NuStar to recover reasonable attorneys' fees under 15 U.S.C. § 1117(a).

COUNT II
FEDERAL UNFAIR COMPETITION
(15 U.S.C. 1125(a)(1)(A))

57. NuStar restates and re-alleges each of the foregoing paragraphs of this Complaint as if fully set forth herein.

58. NuStar's RELOADED trademark is a valid and enforceable trademark entitled to protection under the Lanham Act, and NuStar has used the RELOADED trademark in connection with various goods, including but not limited to masks, shoes, boots, tactical vests, hookah pipes, and smoking related accessories.

59. Defendants' use of the identical RELOADED mark in connection with these and similar goods is likely to cause confusion or mistake among consumers, or to deceive consumers as to the source of such goods or as to an affiliation between Plaintiff and Defendants, in violation of 15 U.S.C. § 1125(a)(1)(A).

60. Defendants' unauthorized marketing and sale of its products in interstate commerce using its "RELOADED" mark constitutes use of a false designation of origin or false representation that wrongfully designates Defendants' products as originating from or connected with NuStar or vice versa, and constitutes the use of false descriptions or representations in interstate commerce. The actions of Defendants as alleged herein constitute intentional, willful, knowing and deliberate unfair competition.

61. As a direct and proximate result of Defendants' unfair competition, Plaintiff has suffered and will continue to suffer irreparable loss of income, profits and goodwill and Defendants have and will continue to unfairly acquire income, profits and goodwill.

62. Defendants' acts of unfair competition will cause further irreparable injury to NuStar if Defendant is not restrained by this Court from further violation of NuStar's rights. NuStar has no adequate remedy at law.

COUNT III
NEW JERSEY TRADEMARK INFRINGEMENT
(N.J. Stat. § 56:3-13.16)

63. NuStar restates and re-alleges each of the foregoing paragraphs of this Complaint as if fully set forth herein.

64. NuStar has used its registered RELOADED New Jersey trademark (N.J. Reg. No. 26396) continuously to identify its clothing and apparel, namely, shirts, jackets, pants, belts, scarves, socks, underwear, swimwear, footwear, boots, and shoes.

65. Defendants have used reproductions, copies, and colorable imitations of the RELOADED mark in connection with the sale, offering for sale, and advertising of Defendants' services in the state of New Jersey. Defendants have done so without the consent of NuStar. Defendants' use of the RELOADED mark is likely to cause and has caused, and causes, confusion, mistake, and deception as to the source of origin of Defendants' services.

66. Defendants have reproduced, copied, and made colorable imitations of the RELOADED mark, and has applied those reproductions, copies, and colorable imitations to clothing and apparel, shirts, jackets, pants, socks, footwear, boots and shoes intended to be used upon and in connection with Defendants' sales in New Jersey.

67. Upon information and belief, Defendants have committed these acts with knowledge and in bad faith.

68. NuStar has been, and continues to be, irreparably damaged and harmed by Defendants' violation of this statute, and NuStar has no adequate remedy at law. Unless this Court enters an order requiring Defendants to cease and desist from its unlawful use of the RELOADED mark, Defendants' violation will continue to cause injury to NuStar and the public.

COUNT IV
PENNSYLVANIA TRADEMARK INFRINGEMENT
(54 Pa. Cons. Stat. Ann. § 1123)

69. Plaintiff repeats and re-alleges the foregoing paragraphs above as if fully set forth herein.

70. NuStar has used its registered RELOADED Pennsylvania trademark (Reg. No. 7142688) continuously to identify its clothing and apparel, namely, shirts, jackets, pants, hats, belts, scarves, gloves, socks, and underwear.

71. Defendants have used reproductions, copies, and colorable imitations of the RELOADED mark in connection with the sale, offering for sale, and advertising of Defendants' services in the state of Pennsylvania. Defendants have done so without the consent of NuStar. Defendants' use of the RELOADED mark is likely to cause and has caused, and causes, confusion, mistake, and deception as to the source of origin of Defendants' services.

72. Defendants have reproduced, copied, and made colorable imitations of the RELOADED mark, and has applied those reproductions, copies, and colorable imitations to clothing and apparel, namely, shirts, jackets, pants, hats, belts, scarves, gloves, socks, and underwear intended to be used upon and in connection with Defendants' sales in Pennsylvania.

73. Upon information and belief, Defendants have committed these acts with knowledge and in bad faith.

74. NuStar has been, and continues to be, irreparably damaged and harmed by Defendants' violation of this statute, and NuStar has no adequate remedy at law. Unless this Court enters an order requiring Defendants to cease and desist from its unlawful use of the RELOADED mark, Defendants' violation will continue to cause injury to NuStar and the public.

COUNT V
UNFAIR COMPETITION
(Indiana Common Law)

75. Plaintiff repeats and re-alleges the foregoing paragraphs above as if fully set forth herein.

76. This is a claim against Defendants for unfair competition under the common law of the State of Indiana.

77. Plaintiff is owner of the RELOADED® trademark, a mark registered with the United States Patent and Trademark Office and protectable from infringement under the laws of Indiana.

78. Defendants' use of Plaintiff's RELOADED® trademark is likely to cause consumer confusion and permits Defendants to sell their clothing products in violation of Plaintiff's trademark and related rights, all to the detriment of Plaintiff.

79. By reason of the foregoing, Defendants are liable to Plaintiff for compensatory damages and/or Defendants' illicit profits.

PRAYER FOR RELIEF

WHEREFORE, in consideration of the foregoing, Plaintiff NuStar Enterprises LLC requests that this Court enter an Order granting it the following relief:

A. Entering a judgment that NuStar's RELOADED® trademark has been and continues to be infringed by Defendants in violation of 15 U.S.C. § 1114(1);

B. Entering a judgment that Defendants' infringing use of NuStar's RELOADED trademark constitutes unfair competition in violation of 15 U.S.C. § 1125(a);

C. Entering a judgment that Defendants' use of the "RELOADED" mark constitutes trademark infringement in violation of N.J. § 56:3-13.16;

D. Entering a judgment that Defendants' use of the "RELOADED" mark constitutes trademark infringement in violation of 54 Pa. Cons. Stat. Ann. § 1123.

E. Entering a judgment that Defendants' use of the "RELOADED" mark constitutes unfair competition in violation of Indiana common law;

F. Permanently enjoining and restraining Defendants and each of their agents, representatives, employees, officers, attorneys, successors, assigns, affiliates and any persons in

privity or active concert or participation with any of them from using the trademark RELOADED, or any other designation alone or in combination with other words or symbols, as a trademark, trade name component or otherwise, to market, advertise, distribute or identify Defendants' products where that designation would create a likelihood of confusion, mistake or deception with NuStar's RELOADED® trademark;

G. Pursuant to 15 U.S.C. § 1116(a), directing Defendants to file with the Court and serve on Plaintiff within thirty (30) days after issuance of an injunction, a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with the injunction;

H. Pursuant to 15 U.S.C. § 1118, requiring that Defendants and all others acting under Defendants' authority, at their cost, be required to deliver up and destroy all devices, literature, advertising, labels and other material in their possession bearing the infringing designation;

I. Awarding NuStar all damages it sustained as the result of Defendants' acts of infringement and unfair competition, including but not limited to prospective corrective advertising costs, said amount to be trebled pursuant to 15 U.S.C. § 1117;

J. Awarding to NuStar all profits received by Defendants from sales and revenues of any kind made as a result of its willful and intentional infringing actions, said amount to be trebled, after an accounting pursuant to 15 U.S.C. § 1117;

K. Awarding NuStar its reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

L. Awarding NuStar costs of suit, prejudgment and post judgment interest; and

M. Granting NuStar such other and further relief as the Court may deem just.

DEMAND FOR JURY TRIAL

Plaintiff NuStar Enterprises LLC respectfully demands a trial by jury in this action under Rule 38 of the Federal Rules of Civil Procedure for all matters so triable.

Dated: April 1, 2022.

Respectfully submitted,

/s/ Andrew M. Hicks
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