

#1924982

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
ROCK ISLAND DIVISION

Springfield, Inc. d/b/a Springfield Armory)
)
Plaintiff,)
)
v.)
)
European American Armory Corp.)
)

Defendant.)

Civil Action No. 4:21-cv-04177

COMPLAINT

Plaintiff, Springfield, Inc. dba Springfield Armory (hereafter “Springfield Armory”), complains of Defendant, European American Armory Corp (hereafter “EAA”), and alleges as follows:

INTRODUCTION

Springfield Armory makes and sells firearms. Springfield Armory is one of the most successful and famous companies in the firearms industry. In September 2021, Springfield began advertising for a soon-to-be-introduced gun using an original photo of a gunsmith at a workbench with the teaser caption “we’re bringing it back ...” The staged photo features a gunsmith employed by Springfield at a workbench in Springfield’s gun shop. EAA competes with Springfield Armory in selling firearms. EAA copied Springfield’s advertising and photo and made minor edits to the photo and advertisement in order to portray it as originating from EAA. EAA published the altered photo to promote EAA’s products and to divert customers from purchasing Springfield Armory’s products. This infringes Springfield’s copyright rights and constitutes unfair competition, among other violations, under the Lanham act.

PARTIES

1. Plaintiff, Springfield, Inc. is a corporation organized under the laws of the state of Illinois and has a principal place of business at 420 West Main Street Geneseo, Illinois 61254.

2. On information and belief, Defendant, European American Armory Corp. is a company existing under the laws of the State of Florida and has a principal place of business in Cocoa, Florida 32924.

3. EAA may be served via its registered agent James S. Laham at 8035 Spyglass Hill Road, Melbourne, FL 32940.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction under Section 39 of the Trademark Act of 1946, 15 U.S.C. §§ 1121 §1125 (the “Lanham Act”), 17 U.S.C §501 (“the Copyright Act”), 28 U.S.C. §§ 1331 and 1338, and through the Court’s supplemental jurisdiction under 28 U.S.C. §1367.

5. Venue in this district is proper pursuant to the provisions of Title 28, United States Code, Section 1391.

6. This Court has personal jurisdiction over EAA because it does business in this judicial district.

7. EAA does business in the State of Illinois with and through, *inter alia*, its dealer Zander Sporting Goods. Zander Sporting Goods is located at 801 Bradbury, Lane, Sparta, IL 62286.

8. EAA does business in the State of Illinois with and through, *inter alia*, R&T Firearms, LLC. R&T Firearms, LLC is located at 10444 N 1750th Ave, Geneseo, IL 61254.

9. Defendant is subject to the personal jurisdiction of this Court because a substantial part of the events or omissions giving rise to Plaintiff’s claims occurred in this Judicial District, and Defendant has committed acts that have caused tortuous injury to the Plaintiff in this Judicial District.

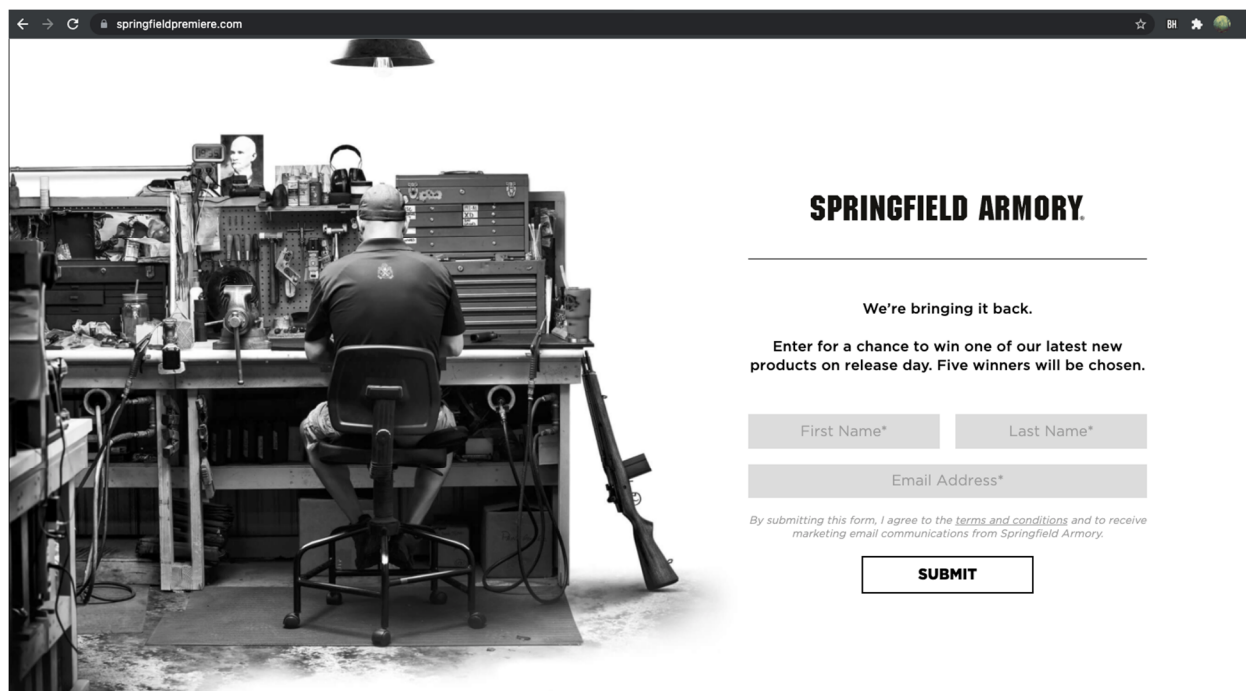
BACKGROUND FACTS

Springfield Armory

10. Springfield Armory manufactures, distributes and sells firearms in the United States and elsewhere.

11. In September 2021, Springfield began advertising a soon-to-be-introduced new firearm using a photo of a gunsmith at work and with the teaser caption “we’re bringing it back...” (collectively Springfield Armory’s “We’re bringing it back” ads).

12. On or about September 15, 2021, Springfield began publishing a teaser ad saying “We’re bringing it back.” which directed people to the following webpage at <https://www.springfieldpremiere.com/> (Exhibit A):



13. On October 15, 2021 *Guns & Ammo* magazine published Springfield Armory's teaser ad in a November 2021 issue saying "We're bringing it back" and showed the following image

(Exhibit B):



14. On October 20, 2021, Springfield published the following ad on its Facebook page with the caption “We’re bringing it back.” (Exhibit C):



15. Springfield is the author and copyright owner of the photo used in its “We’re bringing it back” ads.

16. The gunsmith shown in the “We’re bringing it back” ads is an employee of Springfield Armory.

17. Springfield Armory’s “We’re bringing it back” ads include various references to Springfield Armory’s trademarks and logos.

18. The shirt worn by the gunsmith in Springfield Armory’s “We’re bringing it back” ads includes Springfield Armory’s logo.

19. The toolbox shown in Springfield Armory’s “We’re bringing it back” ads includes a label referencing Springfield Armory’s XD® trademark.

20. Springfield Armory’s “We’re bringing it back” ads include an M1A rifle made and sold by Springfield Armory.

21. The photo used in Springfield Armory’s “We’re bringing it back” ads is registered with the United States Copyright Office as Registration VA 002273250.

22. Springfield Armory’s “We’re bringing it back” ads were announcing its new SA-35 model Hi Power style firearm.

23. Springfield Armory launched its new SA-35 model Hi Power style firearm on October 25, 2021.

EAA

24. EAA manufactures, distributes and sells firearms.

25. EAA is a competitor to Springfield Armory.

26. On October 21, 2021, EAA published the following ad on its Facebook page with the caption “Already been brought #springfieldarmory #girsanfirearms #gunsofinstagram (Exhibit D):



27. On or about October 22, 2021, on information and belief EAA sent the following ad by email to numerous distributors and retailers (Exhibit E):

The advertisement features a large red logo at the top that reads "EAA CORP" in a stylized, blocky font. Below the logo is a black lamp with "EAA" written on its shade. The main text in the center reads "GIRSAN MC P35 SHIPPING NOVEMBER 2021" in a bold, sans-serif font, with the "EAA" logo below it. The central image shows a person from behind, sitting at a desk in a workshop. The person is wearing a dark t-shirt with "EAA" on the back. The desk is cluttered with various tools, equipment, and a rifle leaning against the right side. Below the image is a red button with the text "Click Here to Order Yours Today". At the bottom of the advertisement, there is a red horizontal line, followed by a row of social media icons for Twitter, Facebook, LinkedIn, YouTube, Instagram, and Pinterest.

Copyright © "2021" "EAA, Corp", All rights reserved.

28. EAA had access to Springfield Armory's "We're bringing it back" ads due to Springfield Armory's advertising.

29. EAA's Facebook caption "Already been brought #springfieldarmory" is an admission that EAA had knowledge of and access to Springfield Armory's "We're bringing it back" ads

30. The photo used in EAA's ads is a copy of the photo used in Springfield Armory's "We're bringing it back" ads with slight alternations.

31. EAA deliberately altered Springfield Armory's "We're bringing it back" ads to replace Springfield Armory' logo on the back of the gunsmith's shirt with EAA's logo.

32. EAA deliberately altered Springfield Armory's "We're bringing it back" ads to obscure Springfield Armory XD® mark shown on the toolbox in the photo.

33. EAA deliberately altered Springfield Armory's "We're bringing it back" ads to replace the M1A rifle with one of EAA's shotguns.

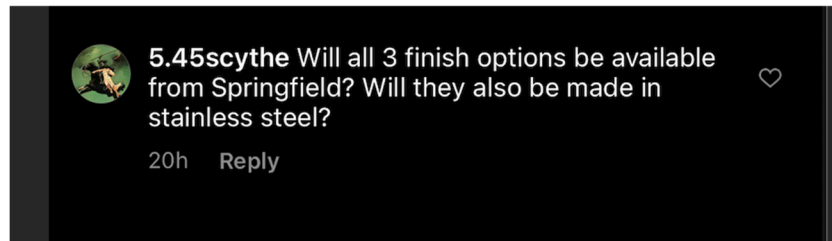
34. EAA's ads are announcing its GIRSAN MC P35 model Hi Power style firearm.

35. EAA's GIRSAN MC P35 model Hi Power style firearm is in direct competition with Springfield Armory's new SA-35 model Hi Power style firearm.

36. EAA's copying of Springfield Armory's "We're bringing it back" ads was intended to divert customers to order EAA's GIRSAN MC P35 model Hi Power firearm instead of Springfield Armory's SA-35 model Hi Power firearm.

37. EAA's advertising has already caused actual consumer confusion.

38. On EAA's Instagram account, one consumer viewed EAA's ad and asked, "Will all 3 finish options be available from Springfield?" (Exhibit F)



COUNT I: COPYRIGHT INFRINGEMENT

39. Springfield Armory incorporates by reference the averments contained in paragraphs 1 through 38.

40. EAA unlawfully copied and altered Springfield Armory's "We're bringing it back" ads without permission or license from Springfield Armory.

41. EAA's reproduction of Springfield Armory's copyrighted work is a violation of the copyright laws of the United States, specifically, 17 U.S.C. §§ 106 and 501.

42. EAA's copyright infringement was willful.

43. Pursuant to 17 U.S.C. § 504, EAA is liable for Springfield Armory's actual damages, including lost profits.

44. Pursuant to 17 U.S.C. § 504, EAA is liable for all of its profits attributable to the infringement.

45. Pursuant to 17 U.S.C. § 504, EAA is liable for statutory damages.

46. Pursuant to 17 U.S.C. § 505, EAA is liable for Springfield Armory's costs and reasonable attorney's fees incurred in this action.

47. Springfield Armory's remedy at law is inadequate.

**COUNT II: FALSE AND DECEPTIVE LABELING, FALSE DESIGNATION OF
ORIGIN AND UNFAIR COMPETITION**

48. Springfield Armory incorporates by reference the averments contained in paragraphs 1 through 47.

49. The pattern of conduct and actions of EAA complained of herein is likely to cause confusion, or to cause mistake or to deceive as to the affiliation, connection or association of EAA products with Springfield Armory as to the origin, sponsorship, or approval of EAA's products.

50. The pattern of conduct and actions of EAA complained of herein constitute false and deceptive labeling, false designation of origin and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

51. EAA has acted willfully, intentionally and deliberately in derogation of Springfield Armory's rights.

52. Springfield Armory's remedy at law is inadequate.

Prayer for Relief

In light of the foregoing, Springfield Armory prays that this Court:

A. Enter judgment that EAA has engaged in copyright infringement with respect to Springfield Armory's "We're bringing it back" photo.

B. Enter judgment that EAA's unauthorized use of Springfield Armory's "We're bringing it back" photo, and all commercial advertising, marketing and/or promotion thereof, constitutes and creates a likelihood of confusion, mistake and/or deception among relevant consumers and therefore constitutes false and deceptive labeling, false designation of origin and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

C. Enter judgment that EAA's acts of infringement were willful.

D. Order that all infringing items in the possession of, and/or subject to control by EAA or any employees, agents or servants thereof, infringing Springfield Armory's "We're bringing it back" photo, and all labels, signs, prints, packages, wrappers, receptacles, and advertisements (including webpages) containing infringing marks and/or works be delivered up and destroyed or altered to eliminate any possibility of further infringement.

E. Permanently enjoin EAA its officers, agents, employees and attorneys, and those in active concert or participation therewith, from engaging in any use of Springfield Armory's copyrighted works, including Springfield Armory's "We're bringing it back" photo.

F. Permanently enjoin EAA, its officers, agents, employees and attorneys, and those in active concert or participation therewith, from advertising and offering for sale or selling any products or services which have caused actual confusion, mistake or deception or are likely to cause confusion, mistake or deception with Springfield Armory's "We're bringing it back" photo.

G. Permanently enjoin EAA, its officers, agents, employees and attorneys, and those in active concert or participation therewith, from engaging in any form of false, misleading and/or deceptive advertising of products or services bearing or resembling Springfield Armory's advertising which have caused actual confusion, mistake or deception of the public or the likelihood thereof as being similar thereto or therewith.

H. An award to Springfield Armory of treble Defendants' profits under 15 U.S.C. §1117(a) and (b).

I. An award to Springfield Armory of statutory damages to the maximum permitted by law, as the Court considers just, pursuant to 17 U.S.C. § 504.

J. An award to Springfield Armory of its reasonable attorney's fees, pursuant to 17 U.S.C. § 505.

K. An order declaring that this is an exceptional case as a result of EAA's knowing and willful infringement, and awarding Springfield Armory its attorneys' fees incurred in bringing this action;

L. Award Springfield Armory all other damages, statutory damages, costs, attorney's fees and/or expenses associated with EAA's violations of Springfield Armory's rights.

M. Grant all such other relief that the Court deems just.

Jury Demand

Springfield Armory respectfully demands a jury trial on all issues so triable.

Respectfully submitted,

Dated: October 27, 2021

s/William A. McKenna
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