

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ARMORED HEATING AND COOLING INC. )  
d.b.a. ARMORED HEATING & )  
COOLING )  
 )  
Plaintiff )  
 )  
v. )  
 )  
RYLIE INVESTMENTS LLC )  
 )  
Defendant )



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CASE NO. 1:20-cv-2852

COMPLAINT

This is an action by Armored Heating and Cooling Inc., d.b.a. Armored Heating & Cooling, for violation of Armored Heating & Cooling’s common law rights, and statutory trademark rights under the Lanham Act, 15 U.S.C. §§1051 *et seq.* and Indiana Code § 24-2-1-13, against Rylie Investments LLC.

Parties

1. Armored Heating and Cooling Inc. ("AHC"), is a corporation organized and existing under the laws of the State of Indiana, with a principal place of business at 190 Commerce Dr., Suite #7, Franklin, Indiana 46131. AHC is a leading provider of residential and commercial HVAC repair, service, sales and installations in central Indiana.

2. On information and belief, Rylie Investments LLC ("Rylie"), is a limited liability company organized and existing under the laws of the State of Indiana, with a

principal office at 2461 Directors Row, Suite B, Indianapolis, IN 46241. Rylie is also a provider of residential and commercial HVAC repair, service, sales and installations.

#### Jurisdiction

3. This Court has original jurisdiction over this action pursuant to 15 U.S.C. §1121 for actions arising under the Lanham Act, and pursuant to 28 U.S.C. §§1331, 1338(a) and 1338(b). This Court has jurisdiction over the related state and common law claims under 28 U.S.C. § 1338(b) and 1367.

4. This Court has personal jurisdiction over Rylie because its primary business office is in this judicial district and because it regularly transacts business and performs business services in this state and in this judicial district.

5. Venue in this district is proper pursuant to 28 U.S.C. §1391.

#### AHC's Trademark Rights

6. AHC is the owner of the common law trademark ARMORED HEATING & COOLING as used in association with heating, ventilation and air conditioning (HVAC) services, including residential and commercial HVAC repair, service, sales and installation. An application for federal registration of the ARMORED HEATING & COOLING trademark was filed July 31, 2020, as US Trademark Application Serial No. 90/084,330, claiming a date of first use in August of 2011. A true and complete copy of the application for federal registration of the ARMORED HEATING & COOLING trademark is attached as Exhibit A. Additionally, the ARMORED HEATING & COOLING trademark was registered in the state of Indiana on October 26, 2020, as Registration ID 2020000026067. A true and complete copy of the Indiana certificate of registration for the ARMORED HEATING & COOLING trademark is attached as Exhibit B. Furthermore, an application for federal registration of the ARMORED HEATING & COOLING (and design) mark was filed on July 17, 2020, as US Trademark Application Serial No. 90/058,569. A copy of the application for registration

of the ARMORED HEATING & COOLING (and Design) trademark is attached as Exhibit C. The ARMORED HEATING & COOLING trademark, and the ARMORED HEATING & COOLING (and Design) marks are collectively referred to herein as the “ARMORED Trademarks”.

7. AHC has been continuously using its ARMORED Trademarks in interstate commerce since August of 2011 in connection with its HVAC services.

8. AHC’s services are offered in interstate commerce to both residential and commercial customers. Services offered by AHC include those that are subject to certification from the United States Environmental Protection Agency (EPA). For example, EPA regulations (under Section 608 of the Clean Air Act) require that all AHC technicians who maintain, service, repair or dispose of equipment that could release refrigerants must be certified by the EPA.

9. AHC has devoted significant resources toward promoting its ARMORED Trademarks, with a significant portion of its annual budget being directed to advertising expenses.

10. AHC has enjoyed significant commercial success and recognition while providing services under the ARMORED Trademarks. AHC sales from services provided have steadily increased since 2011, with total sales increasing about tenfold since 2011. AHC has also received various industry awards and recognition, including awards based on sales, customer satisfaction surveys, employee training, and certifications. Examples of these awards include the following:

- Carrier® factory authorized dealer “President’s Award” in 2018, 2019 and 2020;
- “Accredited Business” with the Better Business Bureau of central Indiana each year since 2011, with an “A+” rating each year since 2012;
- Koch Air “Dealer of the Year” and “Top Performer” Awards in each year since 2016;
- North American Technician Excellence (NATE) certification for all AHC technicians.

AHC’s continued growth and recognition of excellence by third parties in the industry demonstrate AHC’s position as a leader in providing HVAC services in central Indiana.

11. By virtue of AHC's continuous and extensive use of the ARMORED Trademarks, the public has come to identify them exclusively with AHC and its successful HVAC services. AHC has built up significant goodwill and value in the ARMORED Trademarks. Moreover, customers frequently shorten the ARMORED Trademarks to simply "ARMORED" and refer to "ARMORED" as the source of the AHC products and services. Examples of customers referring to AHC as "ARMORED" are attached as Exhibit D.

#### Rylie's Infringing Actions

12. On information and belief, at least as early as April 1, 2020, defendant Rylie began offering general contractor services, including HVAC services in central Indiana in association with the ARMOR AIR mark. A true and complete copy of a July 14, 2020, advertisement provided on the <https://armorair.com/> website is attached as Exhibit E. A photo taken on August 19, 2020, of a Rylie service vehicle located at a residence in Indianapolis with the ARMOR AIR trademark prominently displayed thereon is attached as Exhibit F. On information and belief, Rylie is also promoting and offering HVAC services in other media, including other online and printed publications.

13. Rylie filed an application for federal registration of the ARMOR AIR mark on July 20, 2020, as US Trademark Application Serial No. 90/061,501, claiming a date of first use in April of 2020. A true and complete copy of the application for registration of the ARMOR AIR trademark is attached as Exhibit G.

14. AHC has priority and superior trademark rights to any alleged rights of Rylie in the use of ARMOR in any name or trademark by virtue of AHC's long prior use of the ARMORED Trademarks.

15. On information and belief, Rylie had actual knowledge of AHC's ARMORED Trademarks, and knew or should have known that AHC claimed rights in the ARMORED Trademarks prior to selecting and adopting the ARMOR AIR trademark for use in association with Rylie's HVAC services. Rylie was provided specific notice, through its attorney, in correspondence dated August 17, 2020.

16. Rylie is not now, and has never been, licensed or otherwise authorized by AHC to use the ARMORED trademark or any variation or similar mark that is likely to cause confusion in the relevant marketplace.

17. Upon information and belief, Rylie promotes and offers its HVAC services to the same purchasers in the same geographic area as AHC. This includes marketing its services in Indianapolis, Indiana, and the surrounding counties (see Exhibits G, H and H1). Rylie advertises these services even though Rylie is not a licensed HVAC contractor in Indianapolis, Indiana.

18. As a result of Rylie's unauthorized use of the ARMOR AIR name and trademark, AHC has suffered and will continue to suffer damage to its business, reputation and goodwill, and will continue to sustain loss of revenue and profits.

19. Many customers have mistakenly contacted AHC believing AHC to be Rylie because of the ARMOR AIR trademark. These customers have often complained that Rylie's services are of poor and inferior quality. AHC has repeatedly been forced to explain that the services offered by Rylie under the ARMOR AIR trademark do not originate from AHC and are not associated with the services offered under the ARMORED Trademarks.

20. Rylie is falsely advertising that it is licensed to perform HVAC services in the city of Indianapolis when no such license exists. On information and belief, Rylie has been fined by the city of Indianapolis for performing HVAC services in Indianapolis without a license. Rylie is misrepresenting the characteristics of its commercial activities in Indianapolis so that Rylie can compete unfairly in this market.

21. One Rylie customer recently contacted AHC and complained about a poor HVAC install at the customer's residence in Indianapolis. The Rylie customer contacted AHC believing AHC to be Rylie. AHC explained that it is not Rylie and did not perform the HVAC install at the customer's residence. The customer subsequently invited AHC to see the HVAC install and asked AHC to contact the city of Indianapolis and request an inspection to determine whether the Rylie units were properly installed.

22. Any perceived association between AHC and poor or inferior quality services thus threatens irreparable harm to AHC's reputation and goodwill.

**Count I**

**(Trademark Infringement, False Designation of Origin and Unfair Competition  
Under 15 U.S.C. §1125(a))**

23. AHC repeats and re-alleges the allegations in Paragraphs 1 through 22 above.

24. AHC owns the common law trademark for ARMORED HEATING & COOLING for use in association with HVAC services.

25. Rylie's use of the ARMOR AIR mark in connection with HVAC services is likely to cause confusion or mistake, or to deceive customers as to Rylie's affiliation, connection or association with AHC as to the origin, sponsorship, or approval of Rylie's services.

26. Rylie is using the ARMOR AIR name and trademark with full knowledge of and in willful disregard of AHC's superior rights in the ARMORED HEATING & COOLING trademark with the intent to exploit and trade on the reputation and goodwill consumers associate with the marks.

27. Rylie's acts constitute willful trademark infringement, false designation of origin and unfair competition in violation of Section 43(a)(1)(A, (B)) of the Lanham Act, 15 U.S.C. §1125(a)(1)(A), (B).

28. As a result of Rylie's aforesaid acts, AHC will suffer damage and irreparable injury.

29. AHC has no adequate remedy at law. Unless and until Rylie is enjoined by this Court, the infringing acts will continue to confuse the public and cause irreparable injury to AHC, its ARMORED trademarks and the goodwill associated therewith.

**Count II**

**(State Trademark Infringement)**

30. AHC repeats and re-alleges the allegations in Paragraphs 1 through 22 above.

31. The Rylie ARMOR AIR mark is a colorable imitation of AHC's registered Indiana state trademark.

31. Rylie's use of the ARMOR AIR mark has occurred without consent of AHC and is likely to cause confusion or mistake, or to deceive customers as to the affiliation, connection or association of Rylie's services with AHC, or as to the origin, sponsorship, or approval of Rylie's services.

32. Rylie is using the ARMOR AIR name and trademark with full knowledge of and in willful disregard of AHC's superior rights in the ARMORED HEATING & COOLING trademark with the intent to exploit and trade on the reputation and goodwill consumers associate with the marks.

33. Rylie's acts constitute trademark infringement under Indiana Code § 24-2-1-13.

34. As a result of Rylie's aforesaid acts, AHC will suffer damage and irreparable injury.

35. AHC has no adequate remedy at law. Unless and until Rylie is enjoined by this Court, under IC §24-2-1-14, the infringing acts will continue to confuse the public and cause irreparable injury to AHC, its ARMORED trademark and the goodwill associated therewith.

**Count III**

**(Common Law Trademark Infringement, Unfair Competition,  
and False Advertising)**

36. AHC repeats and re-alleges the allegations in Paragraphs 1 through 22 above.

37. Rylie's acts are likely to cause confusion or mistake, or to deceive customers as to their affiliation, connection or association with AHC, or as to the origin, sponsorship, or approval of Rylie's services.

38. Rylie is using the ARMOR AIR name and trademark with full knowledge of and in willful disregard of AHC's superior rights in the ARMORED HEATING & COOLING trademark with the intent to exploit and trade on the reputation and goodwill consumers associate with the marks.

39. Rylie's acts constitute trademark infringement, unfair competition, and false advertising, and result in Rylie's unjust enrichment under the common law of the State of Indiana.

40. As a result of Rylie's aforesaid acts, AHC will suffer damage and irreparable injury.

41. AHC has no adequate remedy at law. Unless and until Rylie is enjoined by this Court, the infringing acts will continue to confuse the public and cause irreparable injury to AHC, its ARMORED trademark and the goodwill associated therewith.

**AHC's Prayer for Relief**

Wherefore, Armored Heating and Cooling Inc. respectfully requests that this Court enter judgment against Rylie, Inc. as follows:

1. Adjudging Rylie to have engaged in unfair competition and trademark infringement;
2. Adjudging that Rylie has committed acts of infringement, unfair competition and false advertising, with knowledge that its imitation is intended to be used to cause confusion or mistake or to deceive;



3. Permanently enjoining Rylie, its officers, agents, servants, employees, successors, affiliates and assigns, from infringing AHC's trademark rights, unfairly competing with AHC, and falsely advertising that Rylie is a licensed HVAC contractor with the city of Indianapolis;

4. Ordering the impoundment and/or destruction of all infringing materials, including removing all infringing materials on Rylie's website, Rylie's service vehicles, and any other of Rylie's advertising materials;

5. Awarding AHC compensatory damages for all injuries caused to AHC by the acts complained of herein;

6. Finding this case to be exceptional pursuant to 15 U.S.C. 1117(a) and IC §24-2-1-14;

7. Awarding AHC its attorneys' fees, expenses and costs incurred in this action and in defense of its trademark against infringement and unfair competition, pursuant to 15 U.S.C. §1117(a), 28 U.S.C. §1920 and IC§24-2-1-14; and

8. Awarding such other and further relief as this Court may deem equitable and just.

Dated: November 3, 2020

*s/Michael D. Beck*

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