

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SNAGPOD, LLC,

Plaintiff,

Case No. 23-cv-10401

v.

Paul D. Borman  
United States District Judge

PRECISION KIOSK TECHNOLOGIES,  
INC.

Defendants.

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**ORDER GRANTING DEFENDANT’S MOTION FOR JUDGMENT ON  
THE PLEADINGS (ECF No. 22)**

**INTRODUCTION**

In this action, Plaintiff SnagPod LLC (“SnagPod”) asserts claims against Defendant Precision Kiosk Technologies, Inc. (“PKT”) for copyright infringement of their various breathalyzer, alcohol testing, and kiosk technologies under 17 U.S.C. § 501. Now before the Court is Defendant PKT’s Motion for Judgment on the Pleadings Pursuant to Fed. R. Civ. P. 12(c) (ECF No. 22). On Wednesday October 11, 2023, the Court held a hearing on Defendant’s motion.

## I. STATEMENT OF FACTS

The facts as alleged by Plaintiff SnagPod are as follows. In 2009, SnagPod, an alcohol and drug testing company, developed breathalyzer, alcohol testing, and kiosk technologies (collectively, “the SnagPod Software”) designed to assist Probation Officers in monitoring their clients. (ECF No. 1, PageID.4). The SnagPod Software is the subject of a US Copyright Registration. (*Id.*). The SnagPod Software is also the subject of a video (“the SnagPod Video”), which is also protected by a US Copyright Registration. (*Id.*). The SnagPod Software was licensed to LifeLoc Technologies, Inc. for use in a breathalyzer kiosk (“the SnagPod Kiosk”), which was also covered by this same US Copyright Registration. (ECF No. 1, PageID.5).

Defendant PKT, a similar company, offers alcohol screening, pre-trial services, probation check-ins, and monitoring of diversion, treatment, and work-release programs. (*Id.*). David Kreitzer (“Kreitzer”), a PKT employee who supervised the engineering and creation of PKT’s automated breathalyzer kiosk, was contacted by a Wisconsin Sherriff’s Department about creating a lower-cost copy of the SnagPod Kiosk. (ECF No. 1, PageID.5–6). Kreitzer, who had access to the SnagPod Software and the SnagPod Video, proceeded to create a copy of the SnagPod Kiosk known as the Automated Breathalyzer Kiosk (“AB Kiosk”). (ECF No. 1, PageID.6).

SnagPod contends that the AB Kiosk is a derivative of the SnagPod Kiosk, and that it copies several of the SnagPod Kiosk's functions, formats, and elements. (*Id.*). SnagPod alleges that they have suffered and continue to suffer damages due to PKT's wrongful copying of the SnagPod Kiosk. (*Id.*).

## II. PROCEDURAL BACKGROUND

SnagPod initiated this action by filing a seven count Complaint against PKT on February 15, 2023. (ECF No. 1). The Complaint asserts several claims all stemming from PKT's alleged copying of the SnagPod Software and Video. Counts I–III state claims for copyright infringement under 17 U.S.C. § 501. (ECF No. 1, PageID.7–11). Count IV states a claim for deceptive trade practices under Mich. Comp. Law § 445.903. (ECF No. 1, PageID.12). Count V states a claim for unjust enrichment. (ECF No. 1, PageID.12–13). Count VI states a claim for trade dress infringement under 15 U.S.C. § 1125(a). (ECF No. 1, PageID.13–14). Count VII states a claim for dilution under 15 U.S.C. § 1125(c). (ECF No. 1, PageID.14).

On March 17, 2023, Defendant PKT filed its Answer to Plaintiff's Complaint. (ECF No. 9). PKT denied the bulk of SnagPod's allegations as untrue and asserted several affirmative defenses. (*Id.*) On June 2, 2023, PKT filed a Motion for Judgment

on the Pleadings pursuant to Fed. R. Civ. P. 12(c) as to all counts of SnagPod's Complaint. (ECF No. 22).

On June 22, 2023, the parties stipulated to the dismissal of Counts IV–VII of the Complaint. (ECF No. 23). On June 23, 2023, the Court filed a Stipulated Order of Dismissal of those counts with prejudice. (ECF No. 24).

Also on June 23, 2023, SnagPod filed a Response to PKT's Motion for Judgment on the Pleadings as to the remaining counts. (ECF No. 25). On July 7, 2023, PKT filed its Reply, in support of its motion. (ECF No. 26).

### III. LEGAL STANDARD

“A motion for judgment on the pleadings under Federal Rule of Civil Procedure 12(c) generally follows the same rules as a motion to dismiss the complaint under Rule 12(b)(6).” *Amir v. AmGuard Ins. Co.*, 606 F. Supp. 3d 653, 658 (E.D. Mich. 2022) (citing *Bates v. Green Farms Condo. Ass'n*, 958 F.3d 470, 480 (6th Cir. 2020)).

Federal Rule of Civil Procedure 12(b)(6) allows for the dismissal of a case where the complaint fails to state a claim upon which relief can be granted. When reviewing a motion to dismiss under Rule 12(b)(6), a court must “construe the complaint in the light most favorable to the plaintiff, accept its allegations as true,

and draw all reasonable inferences in favor of the plaintiff.” *Handy-Clay v. City of Memphis*, 695 F.3d 531, 538 (6th Cir. 2012). To state a claim, a complaint must provide a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). “[T]he complaint ‘does not need detailed factual allegations’ but should identify ‘more than labels and conclusions.’” *Casias v. Wal-Mart Stores, Inc.*, 695 F.3d 428, 435 (6th Cir. 2012) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

The court “need not accept as true a legal conclusion couched as a factual allegation, or an unwarranted factual inference.” *Handy-Clay*, 695 F.3d at 539 (internal citations and quotation marks omitted). In other words, a plaintiff must provide more than a “formulaic recitation of the elements of a cause of action” and his or her “[f]actual allegations must be enough to raise a right to relief above the speculative level.” *Twombly*, 550 U.S. at 555–56. The Sixth Circuit has explained that, “[t]o survive a motion to dismiss, a litigant must allege enough facts to make it plausible that the defendant bears legal liability. The facts cannot make it merely possible that the defendant is liable; they must make it plausible.” *Agema v. City of Allegan*, 826 F.3d 326, 331 (6th Cir. 2016) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).

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