

Sales (UCC Article 2)

1-42

Wile E. Coyote goes to the No-Valu Catapult Store to buy a catapult. "I want an Acme Catapult," he tells the clerk. When Wile E. uses the catapult, it turns out to be defective, and he is seriously injured. Can he sue No-Valu for breach of the implied warranty of fitness for a particular purpose?

WILE E. COYOTE

No, because he requested the goods by **trade name** — Acme — and did not ask the clerk for any opinion or recommendation as to fitness. According to UCC § 2-315, Comment 5, "If the buyer himself is choosing on a particular brand, he is not relying on the seller's skill and judgment and so no warranty results."

Note, however, that "the mere fact that the article purchased has a particular patent or trade name is not sufficient to indicate non-reliance if the article has been recommended by the seller as adequate for the buyer's purposes."

The implied warranty of fitness for a particular purpose assumes that the seller has reason to know the goods are to be used for a particular purpose, and that the buyer will rely on seller's skill and judgment in selecting suitable goods. UCC § 2-315. Requesting a product by name, as Wile E. did here, negates the "reliance" requirement.

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