

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 relying 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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Jack S. Ezon, Jeffrey S. Dweck



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1. Understanding the eBook Sales Ucc Article 2 Law In A Flash Cd
 - The Rise of Digital Reading Sales Ucc Article 2 Law In A Flash Cd
 - Advantages of eBooks Over Traditional Books
2. Identifying Sales Ucc Article 2 Law In A Flash Cd
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Sales Ucc Article 2 Law In A Flash Cd
 - User-Friendly Interface
4. Exploring eBook Recommendations from Sales Ucc Article 2 Law In A Flash Cd
 - Personalized Recommendations
 - Sales Ucc Article 2 Law In A Flash Cd User Reviews and Ratings
 - Sales Ucc Article 2 Law In A Flash Cd and Bestseller Lists
5. Accessing Sales Ucc Article 2 Law In A Flash Cd Free and Paid eBooks
 - Sales Ucc Article 2 Law In A Flash Cd Public Domain eBooks

- Sales Ucc Article 2 Law In A Flash Cd eBook Subscription Services
- Sales Ucc Article 2 Law In A Flash Cd Budget-Friendly Options
- 6. Navigating Sales Ucc Article 2 Law In A Flash Cd eBook Formats
 - ePub, PDF, MOBI, and More
 - Sales Ucc Article 2 Law In A Flash Cd Compatibility with Devices
 - Sales Ucc Article 2 Law In A Flash Cd Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Sales Ucc Article 2 Law In A Flash Cd
 - Highlighting and Note-Taking Sales Ucc Article 2 Law In A Flash Cd
 - Interactive Elements Sales Ucc Article 2 Law In A Flash Cd
- 8. Staying Engaged with Sales Ucc Article 2 Law In A Flash Cd
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Sales Ucc Article 2 Law In A Flash Cd
- 9. Balancing eBooks and Physical Books Sales Ucc Article 2 Law In A Flash Cd
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Sales Ucc Article 2 Law In A Flash Cd
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine Sales Ucc Article 2 Law In A Flash Cd
 - Setting Reading Goals Sales Ucc Article 2 Law In A Flash Cd
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of Sales Ucc Article 2 Law In A Flash Cd
 - Fact-Checking eBook Content of Sales Ucc Article 2 Law In A Flash Cd
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development
 - Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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