

Plaintiff All One God Faith, Inc., d/b/a Dr. Bronner's Magic Soaps ("Dr. Bronner's"), for its complaint, hereby alleges as follows:

GENERAL ALLEGATIONS

1. Plaintiff All One God Faith, Inc. d/b/a Dr. Bronner's Magic Soaps ("Dr. Bronner's") is, and at all times herein mentioned was, a California corporation qualified to do business in California. Its principal place of business is located at 2751 Auto Park Way, Escondido, CA 92029.

2. Defendant The Hain Celestial Group, Inc. ("Hain Celestial") is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in Melville, New York, registered with the California Secretary of State as a foreign corporation qualified to do business in California, and doing business in the County of San Francisco, State of California.

3. Defendant Kiss My Face Corporation ("Kiss My Face") is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of New York, with its principal place of business located in Gardiner, New York, registered with the California Secretary of State as a foreign corporation qualified to do business in California, and doing business in the County of San Francisco, State of California.

4. Defendant Levlad, Inc. ("Levlad") is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of California, with its principal place of business located in Chatsworth, California and doing business in the County of San Francisco, State of California.

5. Defendant Estee Lauder, Inc. (“Estee Lauder”), is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in Melville, New York, registered with the California Secretary of State as a foreign corporation qualified to do business in California, and doing business in the County of San Francisco, State of California.

6. Defendant Florestas Organic Botanical, Inc. (“Florestas”) is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of New York, with its principal place of business located in Long Island City, New York and doing business in the County of San Francisco, State of California.

7. Defendant Juice Beauty, Inc. (“Juice Beauty”) is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in Mill Valley, California, registered with the California Secretary of State as a foreign corporation qualified to do business in California, and doing business in the County of San Francisco, State of California.

8. Defendant Stella McCartney America, Inc. (“Stella McCartney”) is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located in New York City, New York, registered with the California Secretary of State as a foreign corporation qualified to do business in California, and doing business in the County of San Francisco, State of California.

9. Defendant Giovanni Cosmetics, Inc. (“Giovanni”) is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of

California, with its principal place of business located in Compton, California and doing business in the County of San Francisco, State of California.

10. Defendant Cosway Company, Inc. (“Cosway”) is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of California, with its principal place of business located in Carson, California and doing business in the County of San Francisco, State of California.

11. Defendant Country Life, LLC (“Country Life”) is, and at all times herein mentioned was, a limited liability company organized and existing under the laws of the State of New York, with its principal place of business located in Hauppauge, New York, registered with the California Secretary of State as a foreign corporation qualified to do business in California, and doing business in the County of San Francisco, State of California.

12. Defendant Organic and Sustainable Industry Standards, Inc. (“OASIS”) is, and at all times herein mentioned was, a corporation organized and existing under the laws of the State of Nevada, with its principal place of business located in Milpitas, California and doing business in the County of San Francisco, State of California.

13. Defendant Ecocert France (SAS) (“Ecocert France”) is a French corporation doing business in the County of San Francisco, California.

14. Defendant Ecocert, Inc. (“Ecocert U.S.”), is an affiliate of Ecocert France; is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in the City and County of San Francisco, California; is registered with the California Secretary of State as a foreign corporation qualified to do

business in California; and is doing business in the County of San Francisco, State of California.

15. As set forth in detail below, Defendants Hain Celestial, Kiss My Face, Levlad, Estee Lauder, Florestas, Juice Beauty, Stella McCartney, Giovanni, Cosway and Country Life sell liquid soaps, bodywashes, facial cleansers, shampoos, lip balms and/or moisturizing lotions in competition with liquid soaps, bodywashes, facial cleansers, shampoos, lip balms and/or moisturizing lotions manufactured and sold by plaintiff Dr. Bronner's. Defendants have labeled and advertised their products as "Organic" or "Organics." Other Defendants have displayed, on the front label of their products, the claim that their products are "Made with Organic" ingredients. In fact none of the subject products are either "Organic" or "Made with Organic" ingredients as those terms are understood by reasonable consumers.

16. Use of the terms "Organic" and "Made with Organic" in the labeling and advertising of these products is also inconsistent with the voluntary industry standards developed, with the input of consumer and industry representatives, through an NSF International—American National Standards Institute ("ANSI") standards development process. These standards have been made available for public comment prior to finalization.

17. As set forth in more detail below, Defendants' labeling and advertising of their body care products as "Organic" constitutes an unfair and unlawful business practice and false and deceptive advertising within the meaning of Cal. Bus. & Prof. Code §17200.

18. On information and belief, Dr. Bronner's has lost business to Defendants Hain Celestial, Kiss My Face, Levlad, Florestas, Juice Beauty, Stella McCartney, Giovanni, Cosway and Country Life, as a result of their unfair and unlawful business practices and false and deceptive advertising, in that consumers who want to purchase body care products that such consumers would consider "Organic" or "Made with Organic" ingredients have been misled into buying Defendants' products instead of products made by Dr. Bronner's.

19. Accordingly, Dr. Bronner's is a person who has suffered injury in fact and has lost money as a result of these Defendants' unfair competition, within the meaning of Cal. Bus. & Prof. Code § 17204.

20. Defendant OASIS has issued a new, permissive industry standard, the development of which was promoted principally by Defendant Estee Lauder, but was also supported by others including Defendants Hain Celestial and Cosway. Tim Kapsner of the Estee Lauder Aveda brand, has been the principal architect and promoter of OASIS to the industry and in the media. This standard allows a product to be labeled outright as "Organic" even if it contains main cleansing agents made from non-organic material that has been hydrogenated and/or sulfated, and preserved with synthetic petrochemicals, as alleged in more detail below.

21. On information and belief, Defendant Estee Lauder plans imminently to label its products as certified "Organic" in accordance with the standard of Defendant OASIS, whereas the products so labeled are not "Organic" as that term is understood by reasonable consumers.

22. Unless OASIS is enjoined from certifying such products, Dr. Bronner's will lose business to Defendants Estee Lauder and other companies, as a result of the fact that Defendant OASIS's certification of these products as "Organic" constitutes an unfair and unlawful business practice and false and deceptive advertising, in that consumers who want to purchase only body care products that such consumers would consider "Organic" will be misled into buying these OASIS-certified products instead of skin and hair products manufactured and sold by Dr. Bronner's.

23. Accordingly, Dr. Bronner's is a person who has suffered injury in fact and has lost money as a result of OASIS's unfair competition, within the meaning of Cal. Bus. & Prof. Code § 17204.

24. Defendant Ecocert France is a certifying organization based in Europe and operating throughout the world. Defendant Ecocert U.S. performs certification activities in the United States on behalf of Ecocert-affiliated companies.

25. Ecocert France and/or its affiliates including but not limited to Ecocert U.S. (hereinafter collectively referred to as "Ecocert") have issued an industry standard that requires a product to be 100% organic in content if it is labeled outright as "Organic," and otherwise must make a more restricted "Made with Organic [specified ingredient]" claim. Nevertheless, Ecocert has in fact certified body and skincare products, including some made by Defendants Florestas and Stella McCartney, that make outright "Organic" or "100% Organic" product claims, but which use cleansing agents that contain no organic material and/or that include cleansing agents made in part with petrochemicals, making those products not "100% Organic."

26. Ecocert's standards permit the use of main cleansing ingredients in bodywashes and shampoos, to be made from conventional material combined with petrochemical material, such as Cocamidopropyl Betaine. No reasonable consumer seeking to purchase bodywash and shampoo product such consumer considers to be "Organic" would expect petrochemical material to be included in the main ingredients of such products.

27. As set forth in greater detail herein, Ecocert has certified body and skincare products to be labeled outright as "Organic" in violation of its own standard, in that many of the products so labeled are not "Organic" as that term is defined by Ecocert's standard, or as that term is understood by reasonable consumers.

28. Dr. Bronner's has lost business to Defendants Stella McCartney and Florestas, as a result of the fact that Defendant Ecocert's certification of these products as "Organic" constitutes an unfair and unlawful business practice and false and deceptive advertising, in that consumers who want to purchase only body care products that such consumers would consider to be "Organic" have been misled into buying these Ecocert-certified products instead of body, skin and hair care products manufactured and sold by Dr. Bronner's.

29. Accordingly, Dr. Bronner's is a person who has suffered injury in fact and has lost money as a result of Ecocert's unfair competition, within the meaning of Cal. Bus. & Prof. Code § 17204.

KEY AGENTS IN SUBJECT PRODUCTS

30. Skin, body and hair care products such as liquid soaps, body washes, cleansing gels and moisturizers, contain cleansing agents, known as "surfactants," and/or

moisturizing agents, called “emollients,” which are the main ingredients in such products. These skin, body and hair care products generally consist mostly of water (typically more than 70 percent).

31. As described in more detail below, it is common for manufacturers of such products seeking to brand or label them as “Organic” to use surfactants which are derived from agricultural material that was produced through conventional, rather than recognized organic methods, and thus have been produced using synthetic fertilizers, pesticides and/or herbicides.

32. In turning such agricultural material—such as coconut or avocado oil—into a surfactant, a manufacturer may convert the oils into fatty alcohols, by tranesterifying the vegetable oil with methanol (a petrochemical) to make methyl esters and then hydrogenate the methyl esters at high pressure in the presence of a metal catalyst, which breaks the ester linkage, making fatty alcohols and recovering the methanol. This process is referred to herein as “hydrogenation.” These fatty alcohols can be used in their own right as emollient ingredients, or further reacted with other agricultural or petrochemical compounds, to produce surfactant or ester ingredients.

33. In turning a fatty alcohol into a surfactant, a manufacturer may employ the process of sulfation, which is the introduction into an organic substance of a molecule of the sulfuric ester group, in which the sulfur is linked through an oxygen atom to the parent molecule (fatty alcohol). This process makes agricultural material (fatty alcohol) effective as surface cleansing agents.

34. A number of surfactants are made with in part petrochemicals, meaning that they are derived in part from petroleum or natural gas. An example is Cocamidopropyl

Betaine, also known as coconut oil Amidopropyl Betaine, which is made by combining coconut oil with Amidopropyl Betaine, a petrochemical. This process results in contamination with traces of the petrochemicals Sodium Monochloroacetate, Amidoamine (AA) and Dimethylaminopropylamine (DMAPA). Amidoamine is suspected of causing skin sensitization and allergic reactions even at very low levels.

35. In some cases, surfactants are created, in part, through a chemical process known as ethoxylation, in which the petrochemical (and carcinogenic) ethylene oxide (1,2-epoxyethane) is added to fatty alcohols (derived from vegetable oils) to make them more soluble in water, and thus more effective as a foaming and cleansing agent. This process results in 1,4-Dioxane being created in trace amounts. 1,4-Dioxane is considered a chemical "known to the State of California to cause cancer" under Proposition 65.

LEGAL FRAMEWORK

A. Federal Law: Production and Labeling

36. The federal Organic Food Products Act of 1990, 7 U.S.C. §§ 6501 *et seq.* ("OFPA"), requires the United States Department of Agriculture ("USDA") to implement a National Organic Program ("NOP"), providing for establishment and enforcement of standards for labeling of agricultural and food products as "Organic." Pursuant to this authority, USDA has issued regulations establishing standards for growing and raising organic agricultural products, 7 C.F.R. Part 205, Subpart C, and governing use of the term "Organic" with regard to agricultural and food products. 7 C.F.R. Part 205, Subpart D.

37. OFPA requires that agricultural products labeled "Organic" be certified by a certifying agent accredited by USDA, as meeting the requirements of the regulations, and

forbids the labeling as “Organic” of products that have not been so certified. 7 U.S.C. §§6514(a), 6515, 6519.

38. In December 2000, USDA issued regulations implementing the OFPA. National Organic Program, Final Rule, 65 *Fed. Reg.* 80548 (Dec. 21, 2000).

39. To be considered “organically” produced, ingredients must be produced by farms or processing operations certified by a state government or private certifying entity that is accredited by USDA. 7 C.F.R. §§205.100, 205.300. Each production, handling or manufacturing operation that produces any agricultural product intended to be labeled or sold as “Organic” or “Made with Organic” must be certified, by a USDA-accredited certifying agent as meeting all the requirements of the NOP in its production facilities and processes. 7 C.F.R. §205.100. Certification indicates that the farm or processing operation meets the standards for farming, production and handling set forth in the NOP regulations. *Id.* §205.2 (definition of “certified operation”).

40. Under the USDA regulations, a processed agricultural product sold or labeled as “Organic” must “contain (by weight or fluid volume, excluding water and salt), not less than 95% organically produced raw or processed agricultural products. Any remaining product ingredients must be organically produced, in accordance with standards set forth in the regulations, “unless not commercially available in organic form, or must be nonagricultural substances or nonorganically produced” products that are produced consistent with the regulatory standards. 7 C.F.R. §205.301(b).

41. The few permissible non-organic substances are specifically listed in the regulations; any non-organic substance or synthetic, other than those listed, is not permitted to be included in product labeled “Organic.” 7 C.F.R. §205.301(b).

42. If a product may be labeled “Organic” under the USDA regulation, the term “Organic” may be used on the label to modify the name of the product, *i.e.*, be in letters as large as the name of the product itself. 7 C.F.R. §205.303(a). The term “Organic” may be used on labels *only* in accordance with these rules. *Id.* §205.200.

43. The USDA regulations also provide for another, separate category of products, at least 70% of the contents of which consist of certified organic ingredients. The remaining 30% of the contents can consist of conventional non-organic agricultural ingredients but the nature of those ingredients is also restricted: they cannot consist, for example, of genetically modified material or synthetic substances, with certain specified exceptions. 7 C.F.R. §§ 205.105(a), 205.301(c).

44. Under the NOP regulations, products meeting this 70% standard may not be labeled “Organic”; rather, they may only be labeled, on the principal display panel, as “Made with Organic [specified ingredients]” or “Made with Organic [specified food groups].” 7 C.F.R. §205.304(a)(1). The NOP regulations do not permit the label of such a product to state simply that the product is “Made with Organic Ingredients,” which inaccurately implies *all* ingredients are organic; rather the term “Organic” must modify specified individual ingredients. *Id.* § 205.305. Further, the “Made with Organic [specified ingredients]” statement must appear in “letters that do not exceed one-half the size of the largest type size on the panel” and which appear in their entirety “in the same type size, style, and color without highlighting.” *Id.* § 205.304(a)(1)(iii).

45. Under the NOP regulations, the percentage of organically-produced ingredients in a multi-ingredient finished food product, if liquid, is to be determined by

dividing the fluid volume of all organic ingredients (excluding water and salt) by the fluid volume of the finished product (excluding water and salt). 7 C.F.R. § 205.302.

46. Each production, handling or manufacturing operation that produces any agricultural product intended to be labeled or sold as “Organic” or “Made with Organic [up to three certified ingredients]” must be certified by a USDA-accredited certifying agent as meeting all the requirements of the NOP in its production facilities and processes. 7 C.F.R. § 205.100.

B. Application to Body Care Products

47. Ever since the National Organic Program was formally established in October of 2002, non-food agricultural products, such as supplements and personal care products, have been eligible to be, and in fact have been, certified under the National Organic Program. On August 23, 2005, USDA issued a memorandum to all of its accredited certifying agents stating that:

Operations currently certified under the NOP that produce agricultural products that meet the NOP standards to be labeled as “organic” and to carry the USDA organic seal, or which meet NOP standards to be labeled as “made with organic,” may continue to be so labeled as long as they continue to meet the NOP standards....There are agricultural products, *including personal care products*, that, by virtue of their organic agricultural product content, may meet the NOP standards and be labeled as “100 percent organic,” “organic” or “made with organic” so long as they meet NOP requirements.

(Memorandum to All USDA Accredited Certifying Agents from Barbara C. Robinson, Deputy Administrator, Transportation and Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture Re: Certification of agricultural products that meet NOP standards, Aug. 23, 2005 at 1)(emphasis added).

48. NOP’s official website states that, “[i]f a cosmetic, body care product or personal care product contains or is made up of agricultural ingredients, and can meet the USDA/NOP organic production, handling, processing and labeling standards, it may be

eligible to be certified under the NOP regulations.” NOP website, <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5068442> (last visited Apr. 25, 2008).

49. The official website further explains that, “[o]nce certified, cosmetics, personal care products and body care products are eligible for the same 4 organic labeling requirements as all other agricultural products. . . .” *Id.* Specifically, a personal care or body care product labeled “Organic” “must contain at least 95 percent organically produced ingredients (excluding water and salt). Remaining product ingredients must consist of nonagricultural substances approved on the National List or non-organically produced agricultural products that are not commercially available in organic form. . . .” *Id.* For products labeled “Made with Organic ingredients,” the “product label can list up to three of the organic ingredients . . . on the principal display panel. For example, body lotion made with at least 70 percent organic ingredients (excluding water and salt) and only organic herbs may be labeled either ‘body lotion made with organic lavender, rosemary, and chamomile,’ or ‘body lotion made with organic herbs.’” *Id.*

50. The official NOP website further confirms that, “[a]ny cosmetic, body care product or personal care product that does not meet the production, handling, processing, labeling, and certification standards described above, may not state, imply, or convey in any way that the product is USDA-certified organic or meets the USDA organic standards.” *Id.*

51. Thus, the NOP regulations apply to the labeling of personal care products that contain agricultural materials and are labeled “Organic” or “Made with Organic” ingredients. By definition, any product that did not contain or is not made up of

agricultural ingredients, and so is not subject to the NOP rules, could not possibly be considered “Organic” or “Made with Organic” products in any event, as “Organic” presupposes “agricultural”.

APPLICATION OF LEGAL FRAMEWORK AND INDUSTRY STANDARDS

A. Use of Term “Organic” in Brand Names

52. In the preamble to its final regulations implementing the NOP, USDA noted that commenters had suggested that “the term ‘organic’ must not be used as part of a company name if the company does not market organically produced products. They are concerned that the term in a company name would incorrectly imply that the product, itself, is organically produced.” National Organic Program, Final Rule, 65 *Fed. Reg.* 80548, 80584 (Dec. 21, 2000). USDA stated that “we do not know the extent of the problem” and declined to incorporate “such a prohibition in the regulations at this time.” USDA noted that it “has authority to take action against misuse of the term, ‘organic’” and would “take action against such misuse of the term” on a case by case basis. *Id.*

53. Nevertheless, it is clear that USDA regards the use of “Organic” in labeling of products that do not qualify to be labeled as “Organic” under the NOP regulations, as a violation of those regulations. On its website explaining the NOP labeling rules, USDA had posted examples of four cereal boxes labeled, respectively: (1) “100% Organic Cereal”; (2) “Organic Cereal”; (3) “Cereal,” and in much smaller type, “Made with organic nuts and raisins”; and (4) just “Cereal.” The USDA website explains that box number (2) illustrates proper labeling for “cereal with 95-100 percent organic ingredients,” and that box (3) illustrates proper labeling for “cereal made with 70-95 percent organic ingredients.”

B. Application to Skin, Body and Hair Care Products

54. Under the NOP, the cleansing and moisturizing agents in skin, body and hair care products which include agricultural material and are labeled as simply “Organic” or “Made with Organic [up to three specified ingredients]” cannot consist of or contain any synthetic petrochemicals or petrochemical compounds. Further, processes such as hydrogenation and sulfation are not allowed to be used to produce such agents. 7 C.F.R. §§ 205.105(a), 205.301(b) & (c).

55. Personal care products lawfully and properly labeled as “Organic” or “Made with Organic [up to three specified ingredients]” under the NOP regulations must make use of natural unrefined oils and waxes as moisturizers, rather than hydrogenated fatty alcohols, oils and synthetic silicones, and must make use of natural simple soaps rather than synthetic surfactants made in part with petrochemicals.

C. Industry Standards

56. NSF International (“NSF”) is a private company that works with various industries to promulgate safety and quality standards and to certify products as conforming to such standards once they are issued.

57. The American National Standards Institute (“ANSI”) is a nonprofit organization that oversees the development, issuance and use of voluntary consensus industry standards for products and services and accredits agencies and entities to certify conformity of particular products and services with such standards.

58. Over the past approximately four years, NSF and ANSI have undertaken a standards development process for organic personal care products, working with industry representatives including the Organic Trade Association’s Personal Care Task Force,

several of the Defendants, Dr. Bronner's, and representatives of consumer interests such as the Organic Consumers Association.

59. The standard resulting from this process has been issued in draft form for public comment, and is expected to be issued in final form later in 2008. In its current, (and expected final) form, the standard would allow a personal care product to be labeled as "Organic" only if it could be so labeled in accordance with the USDA regulations issued under the NOP.

60. Under the current draft version of the NSF-ANSI standard, a personal care product could be labeled as "Made with Organic [up to three ingredients]" if, among other things, the product's cleansing agents are made from plant-based certified organic material as commercially available (meaning among other things, agricultural material grown without use of synthetic fertilizers, pesticides or herbicides) and do not consist of or contain petroleum compounds, even if processes such as hydrogenation and sulfation are used to modify the organic agricultural material. Under that standard, once a given processed ingredient is made from organic materials, only the organic form of that ingredient, rather than the conventional form, can be used in products labeled as "Made with Organic" ingredients. As under the NOP rules, however, use of processes such as hydrogenation and sulfation, would preclude the labeling of a product as being outright "Organic."

61. Thus the NSF-ANSI standard under development would allow personal care products labeled as "Made with Organic [up to three ingredients]" to include plant-based surfactants, hydrogenated oils and other intensively processed agents as long as such agents are made from certified organic materials without any petroleum compounds.

Only where such certified organic materials are not yet commercially available for ingredients may the conventional form of the ingredient be used until such time as the certified organic form becomes commercially available.

62. Defendant OASIS has developed and issued an alternative industry standard. This standard was developed with no input from consumer groups or representatives, and its development was promoted principally by Defendant Estee Lauder.

63. The OASIS standard is substantially similar to the NSF standard with respect to allowances. The OASIS standard, however, allows a product to be labeled outright as “Organic” (rather than as merely “Made with Organic [up to three ingredients]” as under the NSF-ANSI) even if that product contains hydrogenated and/or sulfated cleansing agents made from conventional agricultural materials—which may have been grown using synthetic fertilizers, pesticides or herbicides—rather than organic agricultural materials. The “Organic” labeling may even be used if such agents are preserved with synthetic petrochemicals.

STATEMENT OF FACTS

A. Consumer Expectations

64. Reasonable consumers of organic skin, body and hair care products in California expect and believe that such a product labeled as “Organic,” “Organics,” “100% Organic Active Ingredients” or “Made with Organic Ingredients” will not contain any petrochemicals or petrochemical compounds in ingredients whatsoever, and are thus entirely free of petrochemical contaminants that could pose any concern, such as Amidoamine in Cocamdiopropyl Betaine and 1,4-Dioxane in ethoxylated surfactants.

65. Reasonable consumers of organic skin, body and hair care products in California expect and believe that such a product labeled “Organic,” “Organics,” “100% Organic Active Ingredients” or “Made with Organic Ingredients” will not contain synthetic preservatives.

66. Reasonable consumers of organic skin, body and hair care products in California expect and believe that such a product labeled “Organic,” “Organics,” “100% Organic Active Ingredients” or “Made with Organic Ingredients” will not contain cleansing or moisturizing agents derived from conventionally-produced agricultural materials that may have been grown using synthetic fertilizers, pesticides or herbicides.

67. Reasonable consumers of organic skin, body and hair care products in California expect and believe that a personal care product labeled “Organic,” “Organics,” “100% Organic Active Ingredients” or “Made with Organic Ingredients” has more organic content than a product labeled “Made with Organic [specified ingredients].”

68. Reasonable consumers of organic skin, body and hair care products in California expect and believe that a personal care product labeled “Organic,” “Organics,” “100% Organic Active Ingredients” or “Made with Organic Ingredients” is as or more likely than a product merely labeled “Made with Organic [specified ingredients]” to be free of petrochemicals and/or to include cleansing or moisturizing agents derived from organic rather than conventional agricultural materials.

69. Reasonable consumers of organic skin, body and hair care products in California expect and believe that a personal care product labeled “Organic,” “Organics,” “100% Organic Active Ingredients” or “Made with Organic Ingredients” will not be so labeled based merely on the inclusion of water in which botanical material has been

soaked or steamed. Rather such consumers expect that products so labeled will include main ingredients—cleansing and moisturizing agents—that are derived from organic material and are free of petrochemical compounds.

70. Reasonable consumers of organic skin, body and hair care products in California believe that the terms “Organic” and “Organics,” in the plural, mean the same thing and that a personal care product labeled “Organics” will have the characteristics described in paragraphs 64-69 above.

B. Dr. Bronner’s Products and Labeling

71. Plaintiff Dr. Bronner’s engages in the business, among other things, of manufacturing and selling, in California and throughout the United States, personal care and cosmetic products including the nation’s top-selling natural brand of liquid and bar soap in a number of varieties under the “Dr. Bronner’s Magic Soaps” brand and lotions, hair rinses, shaving gels and balms under the brand, “Dr. Bronner’s Magic.”

72. “Dr. Bronner’s Magic Soaps” liquid soaps are labeled as “Made with Organic Oils.” These liquid soaps are all certified and labeled in accordance with the NOP regulations for labeling a product as “Made with Organic” specified ingredients.

73. In July 2003, a USDA-accredited certifying agent, Oregon Tilth Certified Organic, certified Dr. Bronner’s as an organic operation with respect to nine specific bar soap products and six specific liquid soap products. Dr. Bronner’s liquid and bar soaps comply with the USDA requirements for labeling a product as “Made with Organic,” and thus are lawfully labeled as such, on the front panel, with the words “Made with Organic” not exceeding 50% of the type size of the largest font otherwise appearing on the label.

74. Further, all of the cleansing and moisturizing ingredients in all of the products described in paragraphs 66-68 are made from organic material and are free of petrochemicals. In manufacturing these products, Dr. Bronner's uses certified organic oils to make all cleansing ingredients. All such cleansing ingredients are derived from organic, rather than conventionally-produced, agricultural material and do not contain any petrochemicals, petrochemical preservatives or synthetic surfactants.

75. Dr. Bronner's has also introduced a line of organic lip balms, body balms and lotions, and more recently shaving gels and organic hair care products in the form of a conditioning rinse and leave-in conditioner, all of which are certified as meeting the requirements of the NOP regulations for being labeled "Organic."

76. On February 27, 2005, Oregon Tilth, after analyzing a number of Dr. Bronner's products and the proposed labels for those products, certified Dr. Bronner's as "Organic" in accordance with the certifying agent's own standards identical to those of NOP, with respect to Dr. Bronner's Magic body balm, lip balm and lotion products. In reliance and based on this certification, Dr. Bronner's has at all relevant times since February 27, 2005 and continuing to the present time, labeled and marketed its "Organic" products, as listed on the February 27 certification, as "Certified Organic," *i.e.*, certified to NOP standards, and has displayed the USDA seal on such labels.

77. Dr. Bronner's products labeled as "Organic" meet all of the requirements of the NOP for being labeled as "Organic."

**C. Products and Labeling of Defendant
Manufacturers/Distributors**

(1) Products Labeled and Sold as Organic

78. Dr. Bronner's liquid soap products, under the "Dr. Bronner's Magic Soaps" brand, and properly labeled "Made with Organic" ingredients under the NOP regulations, and Dr. Bronner's lip balms, lotions, hair rinses/conditioners and shaving gels labeled as "Organic" under the NOP regulations, are sold in direct competition with liquid soaps, bodywashes, shampoos, hair conditioners, hair rinses, cleansing milks, cleansing gels, foaming cleansers, lip balms and/or facial cleansers ("Personal Care Products") manufactured and sold by Defendants Hain Celestial, Kiss My Face, Levlad, Estee Lauder, Cosway, Florestas, Juice Beauty, Country Life, Stella McCartney and Giovanni. In the case of the products manufactured and sold by Defendants Hain Celestial, Kiss My Face, Levlad, Florestas, Juice Beauty, Country Life and Giovanni, Dr. Bronner's products and Defendants' personal care products are typically sold in the same sections, and often on the same shelves, of the same retail outlets, including grocery stores, natural food stores, drugstores and other outlets.

79. Defendant Hain Celestial produces, and sells in California and throughout the United States, a line of Personal Care Products labeled and advertised "JASON Pure Natural & Organic" and "Avalon Organics." The terms "Pure Natural & Organic" and "Organics" appear prominently on the label or container of each such product.

80. Not one of the major cleansing ingredients in the JASON or Avalon Personal Care Products is made from organic material; rather, all such ingredients are made from conventional agricultural material combined with petrochemicals.

81. The "Organic" content of these products consists primarily and often solely of water in which organic botanical material has been steamed or soaked, or of organic aloe vera, with effectively no cleansing function.

82. The JASON liquid soap, bodywash and shampoo products, for instance, contain Sodium Myreth Sulfate, an ingredient made in significant part with the petrochemical ethylene oxide, as the primary cleansing ingredient. Further, because this ingredient is ethoxylated with the petrochemical ethylene oxide, its use results in the inclusion, in these products, of trace amounts of the carcinogenic substance 1,4 Dioxane.

83. None of the cleansing agents in these JASON products are derived from organic agricultural materials. All the JASON products are preserved with synthetic petrochemically-derived preservatives.

84. Defendant Hain Celestial's "Avalon Organics" products used for cleansing the body or hair contain Cocamidopropyl Betaine, which is made by combining petrochemical and conventional agricultural compounds, and which has no organic content.

85. None of the cleansing agents in the Avalon products described in paragraph 79 are derived from organic agricultural materials. All of the Avalon products are preserved with synthetic petrochemical ingredients.

86. Because the JASON and Avalon products referenced in paragraph 79 use principal cleansing agents which are derived from conventional agricultural material (produced using synthetic fertilizers, pesticides and/or herbicides), and are preserved with synthetic petrochemical preservatives, no reasonable consumer would consider any such product to be "Organic" or to be properly labeled "Organic" if such consumer were aware of the ingredients and composition of such product.

87. Defendant Kiss My Face produces, and sells in California and throughout the United States, a line of Personal Care Products labeled and offered for sale as

“Organic” and/or “Obsessively Organic,” including but not limited to a line labeled and advertised as “Organic Self Foaming Liquid Soaps” and labeled “Obsessively Organic,” with the latter words appearing directly above the primary product descriptor on the front label.

88. The Kiss My Face Personal Care Products for cleansing the skin and hair all contain cleansing ingredients which are derived from conventional agricultural material rather than organic agricultural materials and which are made with petrochemicals. Specifically, Olefin Sulfonate is a pure petrochemical (misleadingly described on the labels of certain Kiss My Face products as being “from coconut”) and Cocamidopropyl Betaine, which as noted in made from petrochemicals and conventional agricultural material.

89. Because the Kiss My Face cleansing products described in paragraph 87 contain principal cleansing agents derived from petrochemicals and from conventional agricultural material (produced using synthetic fertilizers, pesticides and/or herbicides), no reasonable consumer would consider any such product to be “Organic” or to be properly labeled “Organic” if such consumer were aware of the ingredients and composition of such product.

90. Defendant Levlad produces, and sells in California and throughout the United States, under the brand name “Nature’s Gate,” a line of personal care products advertised, labeled and offered for sale as “Nature’s Gate Organics.”

91. The cleansing agents in the Nature’s Gate Personal Care Products contain petrochemicals or petrochemical compounds. These agents include Disodium Laureth Sulfosuccinate, made with Ethylene Oxide, and Cocamidopropyl Betaine. The use of an

ingredient ethoxylated with the petrochemical Ethylene Oxide results in the inclusion, in these products, of trace amounts of the carcinogenic substance 1,4 Dioxane.

92. Because the Nature's Gate products contain cleansing agents in these products derived from petrochemicals and from conventional agricultural material (produced using synthetic fertilizers, pesticides and/or herbicides), and because these products contain petrochemical preservatives, no reasonable consumer would consider any such product to be "Organic" or to be properly labeled "Organic" if such consumer were aware of the ingredients and composition of such products.

93. Because the Nature's Gate products referenced in paragraph 90 contain trace amounts of a carcinogenic substance, no reasonable consumer would consider any such product to be "Organic" or to be properly labeled "Organic" if such consumer were aware of the ingredients and composition of such products.

94. Defendant Florestas produces, and sells in California and throughout the United States, under the brand name "Ikove," a line of personal care products labeled, advertised and offered for sale as "Organic."

95. The main cleansing agent in the Ikove cleansing products is Cocamidopropyl Betaine, made using coconut oil and Amidopropyl Betaine, a petrochemical.

96. The cleansing ingredients in the Ikove products described in paragraph 94 are derived from conventional, rather than organic, agricultural materials.

97. Because the Ikove products described in paragraph 90 contain cleansing agents derived from petrochemicals and from conventional agricultural material (produced using synthetic fertilizers, pesticides and/or herbicides), no reasonable

consumer would consider any such product to be “Organic” or to be properly labeled “Organic” if such consumer were aware of the ingredients and composition of such products.

98. The labeling of the Ikove products described in paragraph 94 indicates that the products are certified by Ecocert. Ikove’s products, in fact, are not properly labeled as “Organic” under Ecocert’s standards. In a complaint just filed in this Court, Ecocert declined to confirm that Ikove’s products were properly certified as “Organic” even under Ecocert’s own standards. *Ecocert France (SAS) et al. v. All One God Faith, Inc.*, Case No. CGC-08-474413 (Superior Ct. San Francisco County, filed April 18, 2008).

99. Defendant Juice Beauty produces, and sells in California and throughout the United States, a line of liquid soaps, cleansing gels and cleansing milks labeled, advertised and offered for sale as “Juice Beauty Organics” and/or “The Organic Solution,” including but not limited to Juice Beauty “The Organic Solution Cleansing Gel,” “Juice Beauty—The Organic Solution—Green Apple Mousse Body Cleaner,” “Juice Beauty—The Organic Solution—Cleansing Milk” and “Juice Beauty Organics Brightening Cleanser.”

100. The cleansing agents in the Juice Beauty products listed in paragraph 99 contain petrochemicals or petrochemical compounds. These agents include Cocamidopropyl Betaine, made with Amidopropyl Betaine, a petrochemical; and Sodium Carboxymethyl Lauryl Glucoside, made with Carboxymethyl, a petrochemical.

101. The Juice Beauty products listed in paragraph 99 also contain one or more synthetic petrochemical preservatives and/or EDTA, a synthetic substance of concern that takes a long time to biodegrade and re-releases heavy metals into ecosystems.

102. The cleansing ingredients in the Juice Beauty products listed in paragraph 99 are derived from conventional, rather than organic, agricultural materials.

103. In addition to using the terms “Juice Beauty Organics” and “The Organic Solution” on the labels of these products, certain products are labeled simply as “Made with Organic Ingredients,” without any specification of which ingredients are organic, thereby implying that all of them are.

104. Because the Juice Beauty products listed in paragraph 99 contain principal cleansing ingredients made with petrochemicals and/or petrochemical preservatives and/or EDTA, and because the cleansing agents in these products are derived from conventional agricultural material (produced using synthetic fertilizers, pesticides and/or herbicides), no reasonable consumer would consider any such product to be “Organic” or to be properly labeled “Organic” or “Made with Organic Ingredients” if such consumer were aware of the ingredients and composition of such products.

105. Furthermore, Juice Beauty displays its “Made with Organic Ingredients” claim in a round seal that is misleadingly similar to the USDA “Organic” seal. Juice Beauty has also made statements on their website and in the press falsely implying that their products meet USDA NOP regulations for being labeled “Organic.”

106. Defendant Stella McCartney produces, and sells in California and throughout the United States, a line of products called “CARE” including a “cleansing milk” and “purifying foaming cleanser” which are labeled, advertised and offered for sale as “100% Organic Active Ingredients.”

107. On information and belief, the Stella McCartney products listed in paragraph 106 are not 100% organic. Stella McCartney’s facial cleansing product

consists of fatty alcohols as primary ingredients, made from conventional rather than organic agricultural material, by combining the petrochemical methanol with conventional vegetable oil, and then hydrogenating at high pressure to produce the fatty alcohol and recover the methanol.

108. Because the Stella McCartney products listed in paragraph 106 consist of substantially less than 100% organically produced ingredients, no reasonable consumer would consider any such product to be “Organic” or as “100% Organic.”

109. Reasonable consumers believe and understand the term “100% Organic” to mean that a product so labeled meets the NOP standards for a product labeled as simply “Organic” and/or consists entirely of certified “Organic” ingredients. Because the Stella McCartney products described in paragraph 106 do not meet those standards and do not consist almost entirely of certified “Organic” ingredients, no reasonable consumer would consider these products to be properly labeled “100% Organic,” if such consumer were aware of the ingredients and composition of such products.

110. Stella McCartney’s CARE line, including the cleansing products described in paragraph 106, is labeled as being certified by Ecocert. Stella McCartney’s products are not properly certified to be labeled as “100% Organic” even under Ecocert’s own standards. In a complaint just filed in this Court, Ecocert suggested that Stella McCartney does not sell any cleansing products, indicating that Ecocert does not believe that Stella McCartney is selling cleansing products labeled as certified by Ecocert. Thus, Ecocert has failed to enforce its own standards with respect to the labeling of these products. Complaint, *Ecocert France (SAS) et al. v. All One God Faith, Inc.*, Case No. CGC-08-474413 (Superior Ct. San Francisco County, filed April 18, 2008) ¶11.

111. Defendant Giovanni produces, and sells in California and throughout the United States, personal care products advertised and offered for sale as “Giovanni Organic Cosmetics” and/or “Pure Organic Technology,” including but not limited to “Giovanni Organic Body Wash” in “Cucumber Song,” “Grapefruit Sky,” “Lavender Vanilla Snow,” “Raspberry Winter” and “Tea Tree Triple Treat,” all also labeled “Pure Organic Technology” on the front label.

112. A main cleansing agent in the Giovanni liquid body wash products is Cocamidopropyl Betaine, made with Amidopropyl Betaine, a petrochemical.

113. The cleansing ingredients in the Giovanni products listed in paragraph 111 are derived from conventional, rather than organic, agricultural materials.

114. Because the Giovanni products listed in paragraph 111 contain petrochemicals and/or petrochemical compounds and because the cleansing agents in these products are derived from conventional agricultural material (produced using synthetic fertilizers, pesticides and/or herbicides), no reasonable consumer would consider any such product to be “Organic” or to be properly labeled “Organic” if such consumer were aware of the ingredients and composition of such products.

115. Defendant Cosway produces, and sells in California and throughout the United States, a line of shampoos and conditioners under the “Head Organics” brand, which are labeled, advertised and offered for sale as “Head Organics,” including “Head Organics Shampoo.”

116. The cleansing agents in Head Organics Shampoo consist of and/or contain petrochemicals or petrochemical compounds. These agents include Cocamidopropyl Betaine, made with Amidopropyl Betaine; Sodium Lauryl Sulfoacetate, containing

Sulfoacetate made from chloracetic acid; and Cocamidopropyl Hydrosultaine made from Hydrosultaine.

117. The cleansing ingredients in Head Organics Shampoo are derived from conventional, rather than organic, agricultural materials.

118. Head Organics products are preserved with synthetic petrochemical preservatives.

119. Because Head Organics Shampoo products contain petrochemicals and/or petrochemical compounds and because the cleansing agents in these products are derived from conventional agricultural material (produced using synthetic fertilizers, pesticides and/or herbicides), no reasonable consumer would consider any such product to be “Organic” or to be properly labeled “Organic” if such consumer were aware of the ingredients and composition of such products.

120. Defendant Country Life produces, and sells in California and throughout the United States, a line of body washes and shampoos under the brand “Desert Essence Organics” and which are labeled, advertised and offered for sale as “Desert Essence Organics.”

121. The cleansing agents in the “Desert Essence Organics” body washes consist of and/or contain petrochemicals or petrochemical compounds. These agents include Cocamidopropyl Betaine, made with the petrochemical Amidopropyl Betaine.

122. These and other non-organic cleansing agents are listed in the ingredient list displayed on the label of these Desert Essence products as “Certified Organic by Ecocert”. In fact, these ingredients, like Desert Essence brand products, are not themselves certified as “Organic” by Ecocert.

123. Ecocert's standards allow such non-organic cleansing agents to be included in products that Ecocert certifies as "Organic." Ecocert does not, however, in any way certify these ingredients *in themselves* to be "Organic." Thus Country Life has misrepresented the nature and meaning of the certification of its ingredients by Ecocert.

124. The cleansing ingredients in Desert Essence Organic bodywashes are derived from conventional, rather than organic, agricultural materials.

125. Desert Essence Organics products are preserved with synthetic petrochemical preservatives.

126. Because Desert Essence Organics bodywash products contain petrochemicals and/or petrochemical compounds and because the cleansing agents in these products are derived from conventional agricultural material (produced using synthetic fertilizers, pesticides and/or herbicides), no reasonable consumer would consider any such product to be "Organic" or to be properly labeled "Organic" if such consumer were aware of the ingredients and composition of such products.

(2) Estee Lauder

127. Estee Lauder produces, and sells in California and throughout the United States, a line of personal care products under the "Aveda" brand.

128. On information and belief, Estee Lauder plans imminently to label, advertise and offer for sale Aveda products as "Organic," based on certification by OASIS that the products conform to the OASIS standard.

129. The main cleansing ingredients in the Aveda products are hydrogenated, sulfated and preserved with synthetic petrochemical preservatives.

130. Because the main cleansing ingredients in Aveda products described in paragraph 127 are hydrogenated and sulfated and preserved with petrochemical preservatives, no reasonable consumer would consider any such product to be “Organic” or to be properly labeled “Organic” if such consumer were aware of the ingredients and composition of such products.

131. Estee Lauder does offer for sale, under its “Origins Organics” brand, a line of successful products that are properly certified and labeled as “Organic” and “Made with Organic” ingredients under the USDA NOP regulations. Estee Lauder has solicited, from plaintiff Dr. Bronner’s, additional formulations for personal care products that can be labeled “Organic” or “Made with Organic” under the NOP. Estee Lauder has thus effectively acknowledged that a personal care product is properly labeled “Organic” only if it complies with the NOP rules.

132. Yet Estee Lauder plans to label certain of its Aveda products as being outright “Organic” even though such products do not remotely comply with the NOP rules but will meet only the much more permissive OASIS standard. That Estee Lauder will then be selling and distributing some products that are properly labeled as “Organic” and/or “Made with Organic” ingredients under the NOP rules, while selling other products as “Organic” that do not meet the NOP standards but only the much more permissive OASIS standard, will further confuse and mislead consumers into believing that the Aveda products labeled “Organic” meet the NOP rules for being labeled “Organic” when in fact they do not.

D. Certifying Organizations

133. Defendant OASIS has issued a new, permissive industry standard, the development of which was promoted principally by Defendant Estee Lauder. This standard allows a product to be labeled outright as “Organic” even if it contains cleansing agents made from non-organic material that is hydrogenated or sulfated, and preserved with synthetic petrochemicals.

134. On information and belief, Defendants Estee Lauder, Hain Celestial and Cosway plan imminently to label their products as certified “Organic” in accordance with the standard of Defendant OASIS, whereas the products so labeled are not “Organic” as that term is understood by reasonable consumers, for the reasons set forth in paragraphs 86, 119 and 129-132 above.

135. Ecocert has issued an industry standard that requires a product to be 100% organic in content if it is labeled outright as “Organic”; otherwise only a more restricted “Made with Organic [specified ingredient(s)]” claim is allowed. Nevertheless, Ecocert has in fact certified body and skincare products, including some made by Defendants Florestas and Stella McCartney, which use cleansing agents that contain no organic material and that include cleansing agents made in part with petrochemicals. Such products contain substantially less than 100% organic content.

136. Ecocert has certified body and skincare products to be labeled outright as “Organic” in violation of its own standard, in that many of the products so labeled are not “Organic” as that term is understood by reasonable consumers.

137. Ecocert’s standards permit the inclusion, in products certified to be labeled “Made with Organic” ingredients, of cleansing agents made with petrochemicals (such as

Cocamidopropyl Betaine). Not even the permissive OASIS standard allows the inclusion of such cleaning agents in a product labeled “Made with Organic” ingredients.

FIRST CAUSE OF ACTION

(For Unfair Competition and Misleading Advertising [Cal. Bus. & Prof. Code

§17200])

(Against Defendants Hain Celestial, Kiss My Face, Levlad, Florestas, Juice Beauty,

Stella McCartney, Country Life, Giovanni and Cosway)

138. Plaintiff realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 137, above.

139. The labeling, advertising and offering for sale, by each of Defendants Hain Celestial, Kiss My Face, Levlad, Florestas, Juice Beauty, Stella McCartney, Country Life, Giovanni and Cosway, of each of its personal care products, as alleged herein, are misleading and deceptive to reasonable consumers because a reasonable consumer would not regard as “Organic,” “Organics,” “100% Organic Active Ingredients,” “The Organic Solution,” or “Pure Organic Technology,” a product that does not meet the requirements of the NOP regulations for being labeled “Organic.”

140. The labeling, advertising and offering for sale, by each Defendant, of each of its personal care products, as alleged herein, as “Organic,” “Organics,” “100% Organic Active Ingredients,” “Made with Organic Ingredients,” “The Organic Solution,” or “Pure Organic Technology,” are misleading and deceptive to reasonable consumers because: (1) a reasonable consumer would not regard as “Organic,” “Organics,” “100% Organic Active Ingredients,” “The Organic Solution,” or “Pure Organic Technology,” any product the main cleansing ingredients of which are made from petrochemical compounds and/or

derived from conventional, rather than organic, agricultural materials; and (2) no reasonable consumer would believe that any product was properly labeled using any of these terms, if such product contained hydrogenated, sulfated and/or synthetically preserved ingredients.

141. Dr. Bronner's sells personal care products which directly compete with Defendants' personal care products in California and throughout the United States, for the business of consumers desiring to purchase products such consumers consider to be "Organic" or "Made with Organic".

142. A reasonable consumer desiring to purchase a personal care product that such consumer considers "Organic" would purchase a product labeled "Organic" rather than one labeled "Made with Organic [up to three specified ingredients]."

143. A reasonable consumer purchasing such a product labeled as "Organic" would expect that the cleansing ingredients in such product are made from organic, rather than conventional, agricultural material.

144. Dr. Bronner's sells products that are properly and truthfully labeled in accordance with the NOP regulations as being certified "Made with Organic Oils." All of the cleansing and moisturizing ingredients in these products are made from organic material. A reasonable consumer would view Dr. Bronner's products that are labeled as "Made with Organic Oils" as being "less organic" than the Defendants' personal care products. Yet Dr. Bronner's personal care products would in fact be regarded by such a consumer as being more organic than the Defendants' personal care products, if such consumer were aware of the true nature of the main ingredients of all the subject

products, because Defendants' products use cleansing agents made from conventional rather than organic agricultural material.

145. A reasonable consumer desiring to purchase a personal care product that such consumer considers "Organic" would not purchase a product that contains petrochemicals and the cleansing ingredients of which are made from conventional, rather than organic, agricultural material, if such consumer were aware of these facts, but would instead look for another brand, such as Dr. Bronner's, that has no petrochemicals and that has cleansing ingredients made from certified organic agricultural material.

146. Many consumers are not aware of the true ingredients and composition of Defendants' products but instead, relying on the labeling of these products as "Organic," "Organics," "100% Organic Active Ingredients," "The Organic Solution," or "Pure Organic Technology," believe that the products so labeled do not contain any petrochemicals or petrochemical compounds, or cleansing ingredients made from or including such petrochemicals or compounds, and believe that the cleansing ingredients in these products are made from organic, rather than conventional, agricultural material.

147. For the reasons set forth in paragraphs 139-146, many consumers are being misled by Defendants' labeling of their products as "Organic," "Organics," "100% Organic Active Ingredients," "The Organic Solution," or "Pure Organic Technology," to purchase Defendants' personal care products rather than Dr. Bronner's personal care products.

148. In fact, the main cleansing and moisturizing ingredients in Dr. Bronner's products are made from organic, rather than conventional, agricultural material. These

products do not contain any petrochemicals and use only cleansing agents not made in part with petrochemicals.

149. A reasonable consumer of personal care products desiring to purchase a product such consumer considers “Organic” would, if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner’s products rather than the products of any of the Defendants.

150. A reasonable consumer of personal care products desiring to purchase a product using cleansing ingredients not made from any petrochemicals or petrochemical compounds would, if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner’s products rather than the products of any of the Defendants.

151. A reasonable consumer of personal care products desiring to purchase a product using cleansing agents made only from organic, rather than conventionally produced, agricultural materials, would, if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner’s products rather than the products of any of the Defendants.

152. By advertising, labeling and offering for sale as “Organic,” “Organics,” “100% Organic Active Ingredients,” “The Organic Solution,” and/or “Pure Organic Technology” (products which a reasonable consumer would not regard as “Organic” or as properly labeled using any of these terms, if such consumer understood the true composition of such products), each Defendant has increased its share of the retail market for personal care products regarded as “Organic” by consumers, at the expense of Dr. Bronner’s.

153. Accordingly, the labeling, advertising and offering for sale, by each Defendant, of its products as “Organic,” “Organics,” “100% Organic Active Ingredients,” “The Organic Solution,” or “Pure Organic Technology,” as alleged herein, has unfairly harmed and continues to harm the business of Dr. Bronner’s.

154. Dr. Bronner's is a person who has suffered injury in fact and has lost money as a result of Defendants’ unfair competition, within the meaning of Cal. Bus. & Prof. Code § 17204.

155. Each Defendant has violated Cal. Bus. & Prof. Code § 17200 by engaging in unfair and fraudulent business practices and unfair, deceptive, untrue and misleading advertising

SECOND CAUSE OF ACTION

(For Unfair Competition and Misleading Advertising [Cal. Bus. & Prof. Code

§17200])

(Against Defendant Estee Lauder)

156. Plaintiff realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 155, above.

157. If Defendant Estee Lauder begins to advertise, label and offer for sale its Aveda liquid soap and body cleanser products as “Organic” based on the OASIS standard, such labeling and advertising would be misleading and deceptive to reasonable consumers because Aveda products include primary cleansing and moisturizing ingredients that are hydrogenated and/or sulfated, and preserved with synthetic petrochemical preservatives. Certification based on the OASIS standard would also permit such primary cleansing ingredients to be derived from conventional rather than

organic agricultural material on a temporary basis, and to consist of less than 95% organic ingredients.

158. If Defendant Estee Lauder begins to advertise, label and offer for sale its Aveda personal care products as “Organic” based on the OASIS standard, such labeling and advertising would be misleading and deceptive to reasonable consumers because Aveda products contain moisturizing and cleansing agents potentially made from conventional, rather than organic, agricultural materials, that are hydrogenated and/or sulfated; and because no reasonable consumer would believe that such a product is “Organic” or could properly be labeled as “Organic.”

159. Dr. Bronner’s sells personal care products certified and labeled as “Organic” and “Made With Organic [up to three specified ingredients]” which directly compete with Estee Lauder’s Aveda personal care products for the business of consumers, in California and throughout the United States, desiring to purchase products made with “Organic” ingredients.

160. A reasonable consumer desiring to purchase a personal care product whose main moisturizing and cleansing ingredients are made from organic material, free of hydrogenation and sulfation and synthetic preservatives, would purchase a product labeled “Organic” rather than one labeled “Made with Organic” ingredients. Such a consumer would assume that the product labeled “Organic” contained a greater portion of organic ingredients than the product labeled “Made with Organic” ingredients.

161. A reasonable consumer desiring to purchase a Personal Care Product that such consumer considers “Organic” would not purchase a product the main cleansing ingredients of which are hydrogenated and/or sulfated, synthetically preserved, or are

made from conventional, rather than organic, agricultural material, if such consumer were aware of these facts, but would instead look for another brand, such as Dr. Bronner's, that has no petrochemicals and the cleansing ingredients of which are made from certified organic agricultural material.

162. Many consumers are not aware of the true ingredients and composition of Aveda products but instead, relying on the labeling of these products as "Organic," will believe that the products so labeled will have cleansing ingredients in these products which are made from organic rather than conventional agricultural material and which have not been hydrogenated, sulfated or synthetically preserved.

163. For the reasons set forth in paragraphs 157-162, many consumers will be misled by Estee Lauder's labeling of its Aveda products as "Organic" to purchase Aveda personal care products rather than Dr. Bronner's products.

164. In fact, however, Dr. Bronner's personal care products' main ingredients are made from organic material, with no hydrogenation, sulfation or synthetic preservatives.

165. A reasonable consumer of personal care products desiring to purchase a product the main ingredients of which are made from organic material without hydrogenation, sulfation or synthetic preservations, would, if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner's products rather than Aveda products.

166. By advertising, labeling and offering for sale as "Organic" products which no reasonable consumer, if such consumer understood the true composition of such products, would regard as "Organic" or as properly labeled as "Organic," Estee Lauder

would increase its share of the retail market for organic personal care products, at the expense of Dr. Bronner's.

167. Accordingly, the labeling, advertising and offering for sale, by Estee Lauder of its Aveda products as "Organic" as alleged herein, will harm the business of Dr. Bronner's.

168. Dr. Bronner's is a person who will suffer injury in fact and will lose money as a result of Estee Lauder's unfair competition, within the meaning of Cal. Bus. & Prof. Code § 17204.

169. Estee Lauder is a person threatening, planning, and proposing to engage in unfair and fraudulent business practices and unfair, deceptive, untrue and misleading advertising, within the meaning of Cal. Bus. & Prof. Code § 17203 and in violation of § 17200.

THIRD CAUSE OF ACTION

(For Unfair Competition and Misleading Advertising [Cal. Bus. & Prof. Code

§17200])

(Against Defendants OASIS and Ecocert)

170. Plaintiff realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 169, above

171. The planned certification by OASIS of personal care products as "Organic" based on the OASIS standard will be misleading and deceptive to reasonable consumers because a reasonable consumer would not regard as "Organic" any such product containing main moisturizing and cleansing ingredients that have been hydrogenated, sulfated or preserved with petrochemical preservatives or containing cleansing

ingredients derived solely from conventional, rather than organic, agricultural materials, though such products meet the OASIS standard and, on information and belief, will be certified by OASIS as “Organic.”

172. Dr. Bronner’s sells personal care products labeled as both “Organic” and “Made With Organic [up to three ingredients],” which personal care products directly compete with products that will be certified by OASIS, for the business of consumers, in California and throughout the United States, desiring to purchase products made with “Organic” ingredients.

173. A reasonable consumer desiring to purchase a personal care product, the main cleansing and moisturizing ingredients of which are made from organic material, would purchase a product labeled “Organic” rather than one labeled “Made with Organic [up to three specified ingredients].” Such a consumer would assume that the product labeled “Organic” would contain main moisturizing and cleansing ingredients made from organic material, and in greater portion than the product labeled “Made with Organic” ingredients.

174. A reasonable consumer desiring to purchase a personal care product that such consumer considers “Organic” would not purchase a product that contains petrochemical preservatives or a product with cleansing ingredients that are hydrogenated or sulfated, or made from conventional, rather than organic, agricultural material, if such consumer were aware of these facts. Such a consumer would instead look for another brand, such as Dr. Bronner’s products, the main moisturizing and cleansing ingredients of which are made from certified organic agricultural material, with no hydrogenated, sulfated or synthetically preserved ingredients.

175. Many consumers will not be aware of the true ingredients and composition of products certified as “Organic” by OASIS but instead, relying on the labeling of these products as “Organic,” will believe that the products so labeled do not contain main cleansing and moisturizing ingredients that are hydrogenated, sulfated, synthetically preserved, or are made from conventional, rather than organic, agricultural material.

176. For the reasons set forth in paragraphs 171-175, many consumers will be misled by the certification of products by OASIS as “Organic” to purchase such products rather than Dr. Bronner’s soap products.

177. In fact, however, the main ingredients in Dr. Bronner’s personal care products are made from organic, not conventional, material without hydrogenation or sulfation, and do not contain any petrochemical preservatives as the OASIS standard allows.

178. A reasonable consumer of personal care products desiring to purchase a product such consumer considers “Organic” would if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner’s products rather than products certified as “Organic” by OASIS.

179. A reasonable consumer of personal care products desiring to purchase a product using cleansing and moisturizing agents made only from organic, rather than conventionally produced, agricultural materials, would, if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner’s products rather than products certified as “Organic” by OASIS.

180. By certifying products as “Organic” that meet the OASIS standard but contain petrochemical preservatives and/or cleansing agents made from conventional

rather than organic agricultural materials, as well as hydrogenated and/or sulfated ingredients, OASIS will cause Dr. Bronner's competitors to increase their share of the retail market for personal care products at the expense of Dr. Bronner's.

181. Unless OASIS is enjoined from certifying such products, Dr. Bronner's will lose business to Defendants Estee Lauder, Hain Celestial, Cosway and others, as a result of the fact that Defendant OASIS's certification of these products as "Organic" constitutes an unfair and unlawful business practice and false and deceptive advertising, in that consumers who want to purchase only organic body care products will be misled into buying these OASIS-certified products instead of organic body, skin and hair products.

182. Defendant Ecocert has issued an industry standard that requires a product to be 100% organic in content if it is labeled outright as "Organic," and allows a product with less organic content to be labeled only as being "Made with Organic [specified ingredients]."

183. Nevertheless, Ecocert has in fact certified body and skincare products, including some made by Defendants Florestas and Stella McCartney, which make outright "Organic" or "100% Organic" claims, that use cleansing agents containing no organic material and/or made in part with petrochemicals, and thus are substantially less than 100% organic.

184. Ecocert has certified body and skincare products to be labeled as "Organic" in cases in which the products so labeled do not meet the requirements of Ecocert's own standards for being so labeled and which products are not "Organic" as that term is understood by reasonable consumers.

185. Ecocert, in addition, has certified body and skincare products as being “Organic” based on inclusion in such products of water extracts of botanical material, even if such water extracts are five to twenty times the weight of the starting botanical material.

186. Ecocert permits main cleansing ingredients to contain petrochemical compounds, such as Cocamidopropyl Betaine, in products certified as “Made with Organic [specified ingredients]”. Not even the OASIS standard permits petrochemicals in cleansing ingredients.

187. Dr. Bronner’s sells personal care products labeled as “Made with Organic Oils”, which directly compete with products (including certain products manufactured and sold by Defendants Florestas and Stella McCartney) that have been and are certified by Ecocert, for the business of consumers, in California and throughout the United States, desiring to purchase products made with “Organic” ingredients.

188. A reasonable consumer desiring to purchase a personal care product such consumer considers “Organic” would purchase a product labeled “Organic” rather than one labeled “Made with Organic [up to three ingredients].” Such a consumer would assume that the product labeled “Organic” would be more organic than the product labeled “Made with Organic [up to three ingredients].”

189. A reasonable consumer desiring to purchase a personal care product that such consumer considers “Organic” would not purchase a product that contains petrochemical preservatives or main cleansing and moisturizing ingredients made from conventional, rather than organic, agricultural material, if such consumer were aware of these facts. Such a consumer would instead look for another brand, such as Dr.

Bronner's, that contains no petrochemicals and contains cleansing and moisturizing ingredients made from certified organic agricultural material.

190. Many consumers are not aware of the true ingredients and composition of products certified as "Organic" by Ecocert but instead, relying on the labeling of these products as "Organic," believe that the products so labeled do not contain any petrochemicals and believe that the cleansing ingredients in these products are made from organic rather than conventional agricultural material.

191. For the reasons set forth in paragraphs 182-190, consumers have been and will be misled by the certification of products by Ecocert as "Organic" to purchase such products rather than Dr. Bronner's products.

192. In fact, however, Dr. Bronner's products' main cleansing ingredients are made from organic material whereas most if not all Ecocert-certified products are not. Dr. Bronner's products do not contain any petrochemicals and exclusively use cleansing agents which are made from organic, rather than conventional, agricultural material.

193. A reasonable consumer of personal care products desiring to purchase a product such consumer regarded as "Organic" would, if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner's products rather than products certified as "Organic" by Ecocert.

194. A reasonable consumer of personal care products desiring to purchase a product using cleansing ingredients not made from any petrochemical compounds would, if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner's products rather than products certified as "Organic" by Ecocert.

195. A reasonable consumer of personal care products desiring to purchase a product using cleansing agents made only from organic, rather than conventionally produced, agricultural materials, would, if such consumer was made fully aware of the true composition of these competing products, purchase Dr. Bronner's products rather than products certified as "Organic" by Ecocert.

196. By certifying as "Organic" or "100% Organic" products that contain far less than 100% certified organic ingredients and whose main cleansing and moisturizing ingredients are not organic, Ecocert has caused Dr. Bronner's competitors to increase their share of the retail market for personal care products, at the expense of Dr. Bronner's.

197. By certifying as "Organic" or "100% Organic" products that contain petrochemical preservatives and/or cleansing agents made from conventional and/or petrochemical material rather than organic material, Ecocert has caused Dr. Bronner's competitors to increase their share of the retail market for personal care products, at the expense of Dr. Bronner's.

198. Unless Ecocert is enjoined from certifying such products, Dr. Bronner's will continue to lose business to other companies as a result of the fact that Defendant Ecocert's certification of these products as "Organic" constitutes an unfair and unlawful business practice and false and deceptive advertising, in that consumers who want to purchase only organic body care products will be misled into buying these Ecocert-certified products instead of organic body, skin and hair products.

199. Accordingly, certification of personal care products as "Organic" by Ecocert as alleged herein, has harmed the business of Dr. Bronner's.

200. Dr. Bronner's is a person who has suffered injury in fact and has lost money as a result of Ecocert's unfair competition, within the meaning of Cal. Bus. & Prof. Code §17204.

201. Ecocert has violated Cal. Bus. & Prof. Code §17200 by engaging in unfair and fraudulent business practices and unfair, deceptive, untrue and misleading advertising.

WHEREFORE, Plaintiff demands:

(1) that each of Defendants Hain Celestial, Kiss My Face, Levlad, Florestas, Juice Beauty, Stella McCartney, Country Life, Giovanni, and Cosway herein be permanently enjoined from advertising, labeling or offering for sale within the State of California, as "Organic," "Organics," "100% Organic Active Ingredients," "Made with Organic Ingredients" (without specifying ingredients) "The Organic Solution," or "Pure Organic Technology," any product which could not be labeled as "Organic" under the USDA NOP regulations and/or which contains any cleansing or moisturizing ingredient made in any part from any petrochemical or petrochemical compound; and/or which contains any cleansing or moisturizing ingredient not made exclusively from organic rather than conventional organic material.

(2) that each of Defendants Hain Celestial, Kiss My Face, Levlad, Florestas, Juice Beauty, Stella McCartney, Country Life, Giovanni, and Cosway herein be permanently enjoined from advertising, labeling or offering for sale within the State of California as "Made with Organic [up the three specified ingredients]" any product unless such product (i) is composed of at least 70% certified organic ingredients; (ii) does not contain any cleansing or moisturizing ingredient made in any part from any petrochemical or

petrochemical compound; and (iii) does not contain any cleansing or moisturizing ingredient which is not made exclusively from organic rather than conventional organic material except to the extent organic material is not commercially available;

(3) that Defendant Estee Lauder be permanently enjoined from advertising, labeling or offering for sale within the State of California, as “Organic”, based on the OASIS standard or on any other basis, any product which cannot lawfully be labeled as “Organic” under the NOP regulations.

(4) that Defendants OASIS and Ecocert be permanently enjoined from certifying as “Organic” any product for sale within the State of California which cannot lawfully be labeled as “Organic” under the NOP regulations;

(5) that Defendants OASIS and Ecocert be permanently enjoined from certifying as “Made with Organic [up to three specified ingredients]” any product which (i) is composed of less than 70% certified organic ingredients, not including the water in organic botanical extracts as an “organic” ingredient; (ii) contains cleansing or moisturizing ingredients made in any part from any petrochemical or petrochemical compound; (iii) contains cleansing ingredients not made exclusively from organic, rather than conventional, agricultural material, except to the extent such organic agricultural material is not commercially available;

(6) For costs of suit herein incurred; and

(7) For such other relief as the Court deems just and proper.

Dated: April 28, 2008

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