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10 Attorneys for Plaintiffs
ALL ONE GOD FAITH, INC., d/b/a
11 DR. BRONNER'S MAGIC SOAPS, a California
corporation
12

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN JOSE DIVISION

16 ALL ONE GOD FAITH, INC., d/b/a DR.
BRONNER'S MAGIC SOAPS, a
17 California corporation,

18 Plaintiff,

19 vs.

20 THE HAIN CELESTIAL GROUP, INC., a
Delaware corporation; KISS MY FACE
21 CORPORATION, a New York
corporation; LEVLAD, LLC, a California
22 Limited Liability Company; YSL
BEAUTE, INC., a New York corporation;
23 GIOVANNI COSMETICS, INC., a
California corporation; COSWAY
24 COMPANY, INC., a California
corporation; COUNTRY LIFE, LLC, a
25 New York limited liability company;
ECOCERT FRANCE (SAS), a French
26 corporation; and ECOCERT, INC., a
Delaware corporation;

27 Defendants.
28

Case No. CV 09-3517 JF

**THIRD AMENDED COMPLAINT FOR
DAMAGES FOR AND INJUNCTIVE
RELIEF AGAINST FALSE ADVERTISING
IN VIOLATION OF SECTION 43(A) OF
THE LANHAM ACT**

DEMAND FOR TRIAL BY JURY

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

3 **GENERAL ALLEGATIONS**

4 1. Plaintiff Dr. Bronner's is, and at all times herein mentioned was, a California
5 corporation qualified to do business in California. Its principal place of business is located at
6 2751 Auto Park Way, Escondido, CA 92029.

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

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

17 4. Defendant Levlad, LLC ("Levlad") is, and at all times herein mentioned was, a
18 Limited Liability Company organized and existing under the laws of the State of California, with
19 its principal place of business located in Chatsworth, California and doing business in the County
20 of San Francisco, State of California.

21 5. Defendant YSL Beauté, Inc. is, and at all times herein mentioned was, a
22 corporation organized and existing under the laws of the State of New York, with its principal
23 place of business located in New York, New York, registered with the California Secretary of
24 State as a foreign corporation qualified to do business in California, and doing business in the
25 County of San Francisco, State of California.

26 6. Defendant Giovanni Cosmetics, Inc. ("Giovanni") is, and at all times herein
27 mentioned was, a corporation organized and existing under the laws of the State of California,
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1 with its principal place of business located in Compton, California and doing business in the
2 County of San Francisco, State of California.

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

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

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

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

19 11. As set forth in detail below, Hain Celestial, Kiss My Face, Levlad, YSL Beaute,
20 Inc., Giovanni, Cosway and Country Life (the “Count One Defendants”) sell liquid soaps,
21 bodywashes, facial cleansers, shampoos, conditioners, lip balms and/or moisturizing lotions
22 (“personal care products”) in competition with liquid soaps, bodywashes, facial cleansers,
23 shampoos, conditioners, lip balms and/or moisturizing lotions manufactured and sold by
24 Dr. Bronner’s. Count One Defendants have, throughout the nation, in interstate commerce,
25 labeled, advertised, and marketed their products as “Organic” or “Organics,” (for example,
26 “Nature’s Gate Organics,” “Desert Essence Organics”). In fact none of the subject products are
27 “Organic” as those terms are understood by a substantial segment of the consuming public at
28 which this promotion, labeling and advertising is and has been directed. Thus such labeling and

1 advertising is literally false by necessary implication and/or has misled, confused and deceived a
2 substantial segment of its targeted audience, namely, the consuming public desiring to purchase
3 personal care products that are organic or are made with organic ingredients; and has actually
4 deceived and has the tendency to deceive a substantial segment of that consuming public.

5 12. The deceptive and false labeling, advertising and promotion by Count One
6 Defendants of their products as “Organic,” as described in paragraph 11 and in more detail below,
7 has influenced the purchasing decisions of consumers in that consumers who want to purchase
8 body care products that such consumers consider to be “organic” have been misled into buying
9 Count One Defendants’ products which are deceptively labeled “Organic” instead of the truly
10 organic products made by Dr. Bronner’s. Dr. Bronner’s has suffered monetary damages through
11 diversion of sales from itself to Count One Defendants as a result of their false advertising.

12 13. For the reasons stated in paragraphs 11 and 12, Count One Defendants’ labeling of
13 their products as “Organic” constitutes false advertising, namely, a use in interstate commerce of
14 a false or misleading description of fact or false or misleading representation of fact which, in
15 commercial advertising and promotion, misrepresents the contents, nature, characteristics and
16 qualities of defendants’ goods, within the meaning and in violation of the Lanham Act, 15 U.S.C.
17 § 1125(a)(1)(B).

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

21 15. Ecocert France and/or its affiliates, including but not limited to, Ecocert U.S.
22 (hereinafter collectively referred to as “Ecocert”) have issued an industry standard that requires a
23 product to be 100% organic in content if it is labeled outright as “Organic,” and otherwise must
24 make a more restricted “Made with Organic [specified ingredient]” claim. However the Ecocert
25 standard contradicts that policy in mandating that products certified under the standard with as
26 little as 10% organic content should be described in marketing information as a “Natural and
27 Organic Cosmetic certified by Ecocert.” Further, Ecocert has in fact certified personal care
28 products, including some made by Defendant YSL Beaute, Inc., that make outright “Organic” or

1 “100% Organic” front label product claims, but which use cleansing agents that contain no
2 organic material and/or that include cleansing agents made in part with petrochemicals, thus
3 falsely representing to consumer that those products are “100% Organic” or “Organic.”

4 16. Ecocert’s standards permit the main cleansing ingredients in bodywashes and
5 shampoos to be made from conventional agricultural material, *i.e.*, material the consuming public
6 does not consider “Organic,” combined with petrochemical material, such as Cocamidopropyl
7 Betaine. A substantial segment of the consuming public at which Ecocert’s certifications are
8 directed, seeking to purchase bodywash and shampoo products which such consumers consider to
9 be “organic,” does not expect any petrochemical material to be included in the main ingredients
10 of such products.

11 17. Further, as set forth in greater detail herein, Ecocert has certified body and
12 skincare products to be labeled outright as “Organic” in violation of its own standard, in that
13 many of the products so labeled are not “organic” as that term is defined by Ecocert’s standard, or
14 as that term is understood by a substantial segment of the consuming public at which Ecocert’s
15 certifications are directed, and at which the promotion and advertising of companies selling
16 Ecocert-certified personal care products, are directed.

17 18. For the reasons set forth in paragraphs 14 through 17 and as set forth in more
18 detail below, Ecocert’s certification of body and skincare products as described in paragraphs 15
19 through 17 is literally false and/or has misled, confused and/or deceived the consuming public;
20 and such certification has actually deceived or has the tendency to deceive a substantial segment
21 of the consuming public at which such certifications are directed.

22 19. Ecocert’s deception has influenced and will influence the purchasing decisions of
23 consumers. Specifically, Dr. Bronner’s has lost business to defendant YSL Beaute, Inc. and other
24 companies selling personal care products certified by Ecocert as a result of the fact that Defendant
25 Ecocert’s certification of these products as “Organic” constitutes false advertising, in that
26 consumers who want to purchase only body care products that such consumers would consider to
27 be “Organic” have been deceived and misled into buying these Ecocert-certified products, and
28

1 will continue to be deceived and misled into buying these Ecocert-certified products, instead of
2 truly organic body, skin and hair care products manufactured and sold by Dr. Bronner's.

3 20. For the reasons set forth in paragraphs 15 through 19, and as set forth in more
4 detail below, Dr. Bronner's has been injured and is likely to be injured in the future as a result of
5 Ecocert's false advertising, as a result of direct diversion of sales from Dr. Bronner's to
6 companies selling body, skin and hair care products certified as "Organic" by Ecocert; and as a
7 result of the lessening of goodwill associated with Dr. Bronner's products.

8 **BACKGROUND**

9 21. The term "Organic" is used to refer both to food and non-food products that
10 promote health and environmental sustainability by using main ingredients that: one, are derived
11 from organic farms that do not use synthetic fertilizers, herbicides or pesticides; and two, are not
12 overly processed (*i.e.* hydrogenation of oils) or synthetically preserved.

13 22. According to the Organic Trade Association ("OTA"), total organic sales in the
14 United States reached \$24.6 billion in 2008. The total growth rate for the organic market overall
15 was 17.1% from 2007 to 2008 but the growth rate for non-food products was 39.4%.

16 23. Organic personal care products include liquid soaps, bodywashes, shampoos, skin
17 moisturizers, lotions and creams, lip balms, make-up and other cosmetic products. Organic
18 personal care products represent a subset of the overall market for "natural" personal care
19 products.

20 24. According to the Natural Marketing Institute's 2009 LOHAS Consumer Trends
21 Database, 25% of U.S. adults purchased natural or organic personal care products in the past six
22 months. A recent NMI survey indicated that more than half of all U.S. consumers want personal
23 care products made with natural or premium ingredients and 44% look for organic ingredients
24 specifically. NMI, *EVOLUTION OF NATURAL, ORGANIC AND PREMIUM PERSONAL CARE V* (2006).
25 Another recent NMI survey found that 52% of consumers believe that "the personal care products
26 they put on their skin are just as important as the healthy and natural foods they consume." NMI,
27 2008 Health and Wellness Trends Database, quoted in OTA, *The Regulation and Labeling of*
28

1 *Organic Personal Care Products: Issues and Policy Approaches* (“OTA White Paper”) 11 (Oct.
2 2009).

3 25. According to OTA, the U.S. market for organic personal care products is estimated
4 to be between \$250 and \$500 million. *The Regulation and Labeling of Organic Personal Care*
5 *Products: Issues and Policy Approaches* (“OTA White Paper”) 9 (Oct. 2009).

6 **MAIN INGREDIENTS IN SUBJECT PRODUCTS**

7 26. Skin, body and hair care products contain cleansing agents, known as
8 “surfactants,” and/or moisturizing agents, called “emollients,” which are the main ingredients in
9 such products. These skin, body and hair care products generally consist mostly of water
10 (typically more than 70 percent).

11 27. Many manufacturers of such products, including some Defendants, seeking to
12 brand or label them as “Organic” use the same non-organic surfactants present in mass market
13 conventional personal care products, which are derived from petrochemicals or non-organic
14 agricultural material that was produced through conventional, rather than organic methods which
15 includes using synthetic fertilizers, pesticides and/or herbicides.

16 28. In turning such agricultural material—such as coconut oil—into a surfactant, a
17 manufacturer may convert the oils into fatty alcohols, by transterifying the vegetable oil with
18 methanol (a petrochemical) to make methyl esters, and then flow hydrogen through the methyl
19 esters at high pressure in the presence of a metal catalyst. This process, known as hydrogenation,
20 breaks down the methyl esters, leaving fatty alcohols and methanol, which can then be recovered.
21 The resulting fatty alcohols can be used in their own right as emollient ingredients, or further
22 reacted with other agricultural or petrochemical compounds, to produce surfactants or ester
23 ingredients. Such ingredients are not and cannot truthfully claim to be organic.

24 29. In turning a fatty alcohol into a surfactant, a manufacturer may employ the process
25 of sulfation, which entails introducing, in a falling film reactor, a sulfuric ester group molecule
26 into a fatty alcohol, such that sulfur from the sulfuric ester group molecule is linked through an
27 oxygen atom to the fatty alcohol molecule. Sulfuric ester molecules are petroleum compounds
28 derived as a byproduct of coal and petroleum refining. This process renders agricultural material

1 (fatty alcohol) effective as surface cleansing agents. These products are not organic and cannot
2 truthfully claim to be organic.

3 30. Consumers who want to purchase products that they consider “Organic” expect
4 that personal care products advertised as “Organic” are composed of cleansing and moisturizing
5 ingredients made from organic material, and are free of petrochemical and synthetic compounds,
6 especially those that generate petrochemical and synthetic residual contaminants of concern. A
7 number of surfactants are made in part from petrochemicals, meaning that they are derived in part
8 from petroleum or natural gas. An example is Cocamidopropyl Betaine, which is made by
9 combining coconut oil with Amidopropyl Betaine, a petrochemical. This process results in
10 contamination with traces of the petrochemicals Sodium Monochloroacetate, Amidoamine (AA)
11 and Dimethylaminopropylamine (DMAPA). Amidoamine is suspected of causing skin
12 sensitization and allergic reactions even at very low levels for certain users.

13 31. In some cases, surfactants are created, in part, through a chemical process known
14 as ethoxylation, in which the petrochemical (and carcinogenic) ethylene oxide (1,2-epoxyethane)
15 is added to fatty alcohols (derived from non-organic vegetable oils) to make them more soluble in
16 water, and thus more effective as a foaming and cleansing agent. This process results in
17 1,4-Dioxane being created in at least trace amounts. 1,4-Dioxane is considered a chemical
18 “known to the State of California to cause cancer” under Proposition 65. In or about May, 2008,
19 the Attorney General of California filed suit against Hain Celestial and others for failing to
20 disclose 1,4-Dioxane contamination of certain of their products. 1,4-Dioxane is present in some
21 of Defendants’ “Organic”-labeled products.

22 32. With respect to emollients, again, consumers desiring to purchase “Organic”
23 personal care products expect that such products will contain emollients that are derived from
24 organically-grown agricultural material and are free of petrochemicals and other synthetic
25 materials. By contrast, some of the Defendant Companies use emollients that are derived from
26 petrochemicals, synthetic silicone and/or non-organic agricultural material that was produced
27 using conventional, rather than recognized organic methods, and thus may have been produced
28 using synthetic fertilizers, pesticides, herbicides and other compounds. Many of Defendants’

1 products contain non-organic fatty alcohols used as moisturizers, including cetyl alcohol, stearyl
2 alcohol and/or cetearyl alcohol.

3 33. Synthetic petrochemical preservatives present in Defendants' products are made
4 from non-organic petrochemical material, and synthetic preservatives as an ingredient class are
5 often implicated in consumer allergic reactions to personal care products.

6 STATEMENT OF FACTS

7 A. Consumer Understandings

8 34. Survey research of consumers and other evidence of consumer beliefs demonstrate
9 that a substantial segment of consumers of organic skin, body and hair care products understands,
10 expects and believes that such a product labeled, advertised, and promoted as "Organic,"
11 "Organics," "100% Organic Active Ingredients" "Pure Organic Technology", or "Made with
12 Organic Ingredients" do not contain any petrochemicals or petrochemical compounds in
13 ingredients whatsoever, and are thus entirely free of petrochemical contaminants. Survey
14 research of consumers and other evidence of consumer beliefs demonstrate that a substantial
15 segment of consumers of organic skin, body and hair care products understands, expects and
16 believes that a product labeled, advertised, or promoted as "Organic," "Organics," "100%
17 Organic Active Ingredients," "Pure Organic Technology," or "Made with Organic Ingredients"
18 does not contain synthetic compounds including preservatives.

19 35. Survey research of consumers and other evidence of consumer beliefs demonstrate
20 that a substantial segment of consumers of organic skin, body and hair care products understands,
21 expects and believes that a product labeled "Organic," "Organics," "100% Organic Active
22 Ingredients," "Pure Organic Technology," or "Made with Organic Ingredients" does not contain
23 cleansing or moisturizing agents derived from conventionally-produced agricultural materials.

24 36. Survey research of consumers and other evidence of consumer beliefs demonstrate
25 that substantial segment of consumers of organic skin, body and hair care products understands,
26 expects and believe that a product labeled "Organic," "Organics," "100% Organic Active
27 Ingredients," "Pure Organic Technology," or "Made with Organic Ingredients" has more organic
28 content than a product labeled "Made with Organic [specified ingredients]."

1 37. Survey research of consumers and other evidence of consumer beliefs demonstrate
2 that a substantial segment of consumers of organic skin, body and hair care products understands,
3 expects and believe that a product labeled “Organic,” “Organics,” “100% Organic Active
4 Ingredients,” “Pure Organic Technology,” or “Made with Organic Ingredients” is as likely or
5 more likely than a product merely labeled “Made with Organic [specified ingredients]” to be free
6 of petrochemicals and other synthetic compounds.

7 38. Survey research of consumers and other evidence of consumer beliefs demonstrate
8 that a substantial segment of consumers of organic skin, body and hair care products understands,
9 expects and believe that a product labeled “Organic,” “Organics,” “100% Organic Active
10 Ingredients,” “Pure Organic Technology,” or “Made with Organic Ingredients” is more likely
11 than a product merely labeled “Made with Organic [specified ingredients]” to contain cleansing
12 agents derived from organic rather than conventional agricultural materials.

13 39. Survey research of consumers and other evidence of consumer beliefs demonstrate
14 that a substantial segment of consumers of organic skin, body and hair care products understands,
15 expects and believe that a product labeled “Organic,” “Organics,” “100% Organic Active
16 Ingredients,” “Pure Organic Technology,” or “Made with Organic Ingredients” is more likely
17 than a product merely labeled “Made with Organic [specified ingredients]” to contain
18 moisturizing agents derived from organic rather than conventional agricultural materials.

19 40. Survey research of consumers and other evidence of consumer beliefs demonstrate
20 that a substantial segment of consumers of organic skin, body and hair care products understands,
21 expects and believe that a product labeled, advertised, or marketed as “Organic,” “Organics,”
22 “100% Organic Active Ingredients,” “Pure Organic Technology,” or “Made with Organic
23 Ingredients” will not be so labeled, advertised, or marketed based merely on the inclusion of
24 water in which botanical material has been soaked or steamed.

25 41. Survey research of consumers and other evidence of consumer beliefs demonstrate
26 that a substantial segment of consumers of organic skin, body and hair care products understands,
27 expects and believe that a product labeled, advertised, or marketed as “Organic,” “Organics,”
28 “100% Organic Active Ingredients,” “Pure Organic Technology,” or “Made with Organic

1 Ingredients” will include main ingredients—cleansing and moisturizing agents—that are derived
2 from organic material and are free of petrochemical and other synthetic compounds.

3 42. Survey research of consumers and other evidence of consumer beliefs
4 demonstrate that including the word “Organic” or “Organics” in a brand name of a personal care
5 product, such as Avalon Organics, Desert Essence Organics or Nature’s Gate Organics, is
6 perceived by consumers as among the strongest representation of various organic label claims.

7 43. Survey research of consumers and other evidence of consumer beliefs demonstrate
8 that including the word “Organic” or “Organics” in a brand name of personal care products, such
9 as Avalon Organics, Desert Essence Organics or Nature’s Gate Organics, is understood by a
10 substantial segment of consumers of skin, body and hair care products to mean that the main
11 cleansing and moisturizing ingredients of personal care products so branded are made with
12 organic, rather than conventional, agricultural material.

13 44. Survey research of consumers and other evidence of consumer beliefs demonstrate
14 that including the word “Organic” or “Organics” in a brand name of personal care products is
15 understood by a substantial segment of consumers of skin, body and hair care products to mean
16 that the products so branded are free of petroleum compounds.

17 45. Survey research of consumers and other evidence of consumer beliefs demonstrate
18 that a substantial segment of consumers of organic skin, body and hair care products understands,
19 expects and believe that the terms “Organic,” “Organics,” “100% Organic Active Ingredients,” or
20 “Pure Organic Technology” mean the same thing and that a personal care product so labeled will
21 have the characteristics described in paragraphs 34 through 44 above.

22 46. Labeling, advertising, branding, or marketing a personal product as “Organic,”
23 “Organics,” “100% Organic Active Ingredients,” or “Pure Organic Technology” is a
24 representation that the products so labeled, advertised, or marketed are organic.

25 **B. Dr. Bronner’s Products and Labeling**

26 47. Plaintiff Dr. Bronner’s engages in the business, among other things, of
27 manufacturing and selling, in California and throughout the United States, personal care and
28 cosmetic products including the nation’s top-selling natural brand of liquid and bar soap in a

1 number of varieties under the “Dr. Bronner’s Magic Soaps” brand and lotions, hair rinses, pump
2 soaps, hair conditioners, shaving gels and balms under the brand, “Dr. Bronner’s Magic.”

3 48. “Dr. Bronner’s Magic Soaps” liquid soaps and bar soaps are labeled as “Made
4 with Organic Oils.” All of the cleansing and moisturizing ingredients in all of these soap
5 products are made from organic agricultural material and are free of petrochemicals. In
6 manufacturing these products, Dr. Bronner’s uses certified organic oils to make all cleansing
7 ingredients. All such cleansing ingredients are derived from organic, rather than conventionally-
8 produced, agricultural material and do not contain any petrochemicals, petrochemical
9 preservatives or synthetic surfactants.

10 49. Dr. Bronner’s has also introduced a line of organic lip balms, body balms and
11 lotions, and more recently shaving gels and organic hair care products in the form of a
12 conditioning rinse and leave-in conditioner. These products consist at least 95% (by weight) of
13 organic ingredients, exclusive of water. All of the cleansing and moisturizing ingredients in these
14 products are derived from organically-produced agricultural material and contain no
15 petrochemicals, petrochemical preservatives or synthetic surfactants.

16 50. The labeling of Dr. Bronner’s liquid and bar soaps as “Made with Organic Oils”
17 ensures consumers that the principal cleansing ingredients of these Dr. Bronner’s products are
18 made with organic material with no petrochemical compounds or preservatives. Dr. Bronner’s is
19 the major brand in the natural personal care market in which the main cleansing ingredients are
20 made from organic rather than conventional agricultural and/or petrochemical material.

21 **C. Products of Defendant Manufacturers/Distributors**

22 **1. Products Labeled and Sold as Organic**

23 51. Dr. Bronner’s liquid soap products, under the “Dr. Bronner’s Magic Soaps” brand,
24 and labeled “Made with Organic Oils” and Dr. Bronner’s lip balms, lotions, hair rinses,
25 conditioners and shaving gels labeled as “Organic” are sold in direct competition with liquid
26 soaps, bodywashes, shampoos, hair conditioners, hair rinses, cleansing milks, cleansing gels,
27 foaming cleansers, lip balms, facial cleansers, and other personal care products manufactured and
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1 sold by Defendants Hain Celestial, Kiss My Face, Levlad, Cosway, Country Life, YSL Beaute,
2 Inc. and Giovanni.

3 52. In the case of the products manufactured and sold by Defendants Hain Celestial,
4 Kiss My Face, Levlad, Country Life and Giovanni, Dr. Bronner's products and Defendants'
5 personal care products are typically sold in the same sections, and often on the same shelves, of
6 the same retail outlets, including grocery stores, natural food stores, drugstores and other outlets.

7 53. Dr. Bronner's products are available for sale to consumers throughout the country
8 on websites that also feature for sale products from at least each of the following defendants:
9 Hain Celestial, Kiss My Face, Levlad, Giovanni, Cosway, Country Life.

10 54. YSL Beauté manufactures and sells a line of products under the "Stella McCartney
11 CARE" brand, including a cleansing milk, purifying foaming cleanser and moisturizers, that are
12 used by consumers for the same purposes as Dr. Bronner's liquid soaps and moisturizing lotions
13 respectively. Dr. Bronner's liquid soaps and moisturizing lotions are available for sale directly to
14 consumers, on the Internet, through Dr. Bronner's website. Stella McCartney CARE products are
15 available for sale directly to consumers online, on the Internet, through a number of websites,
16 including Sears and Fragrancenet.com, among others. These YSL Beaute products are labeled
17 "100% Organic Active Ingredients." Dr. Bronner's and YSL Beauté compete for the business of
18 consumers searching online for "Organic" liquid body cleansers and moisturizing lotions/creams.

19 55. Defendant Hain Celestial produces, and sells in California and throughout the
20 United States, personal care products labeled and advertised with the brand names "JASON Pure
21 Natural & Organic," "Avalon Organics," and "Queen Helene Naturals Organic." The terms
22 "Pure Natural & Organic," "Organic" and/or "Organics" appear prominently on the label or
23 container of the products so branded.

24 56. The major cleansing ingredients in Hain Celestial's JASON Pure Natural and
25 Organic personal care products are not made from organic material; rather, all such ingredients
26 are made from conventional agricultural material combined with petrochemicals.

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1 57. The major cleansing ingredients in Hain Celestial's Avalon Organics personal
2 care products are not made from organic material; rather, all such ingredients are made from
3 conventional agricultural material combined with petrochemicals.

4 58. The "Organic" content of these products consists primarily of water in which
5 organic botanical material has been steamed or soaked, or of reconstituted organic aloe vera
6 powder water.

7 59. The water in which organic botanical material has been steamed or soaked, and the
8 reconstituted organic aloe vera contained in Hain Celestial's products as set forth in the preceding
9 paragraph are not the primary cleansing ingredients in those products, and in fact has no cleansing
10 function.

11 60. The JASON liquid soap, bodywash and shampoo products contain Sodium Myreth
12 Sulfate, an ingredient made in significant part with the petrochemical ethylene oxide, as the
13 primary cleansing ingredient. Further, because this ingredient is ethoxylated with the
14 petrochemical ethylene oxide, its use results in the inclusion, in these products, of trace amounts
15 of the petrochemical contaminant 1,4-Dioxane.

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

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

22 63. The main cleansing ingredient in Hain Celestial's "Avalon Organics" products that
23 are used for cleaning the body and hair is Cocamidopropyl Betaine.

24 64. None of the cleansing agents in the Avalon Organics products made by Hain
25 Celestial are derived from organic agricultural materials. All of the Avalon Organics products are
26 preserved with synthetic petrochemical ingredients.

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1 65. The “Queen Helene Naturals Organic” Cocoa Butter Body Wash manufactured
2 and sold by Hain Celestial contains ingredients made from petrochemicals, including
3 Cocamidopropyl Hydroxysultaine.

4 66. Because the JASON products are labeled as “Organic” and Avalon products are
5 labeled and advertised as “Organics,” a substantial segment of consumers of organic skin, body
6 and hair care products understand, expect and believe, based on such labeling and advertising
7 that the principal cleansing agents of such products are derived from organic rather than
8 conventional agricultural material (produced using synthetic fertilizers, pesticides and/or
9 herbicides); that such products are not preserved with synthetic petrochemical preservatives; and
10 that such products do not contain any petrochemical compounds.

11 67. Because the principal cleansing agents of the JASON, Avalon and Queen Helene
12 products referenced in paragraphs 55 through 66 are derived from conventional rather than
13 organic agricultural material and because those products are preserved with synthetic
14 petrochemical preservatives and/or contain petrochemical compounds, the labeling and
15 advertising or such products as “Organic” is literally false by necessary implication and/or has
16 misled, confused and/or deceived the consuming public.

17 68. Based on information and belief, no product manufactured by Hain Celestial and
18 sold under the Jason Pure Natural and Organic brand is organic.

19 69. Based on information and belief, no product manufactured by Hain Celestial and
20 sold under the Avalon Organics brand is organic.

21 70. Based on information and belief, no product manufactured by Hain Celestial and
22 sold under the Queen Helene Naturals Organic brand is organic.

23 71. Defendant Kiss My Face produces, and sells in California and throughout the
24 United States, a line of personal care products labeled and offered for sale as “Organic” and/or
25 “Obsessively Organic,” including but not limited to a line labeled and advertised as “Organic Self
26 Foaming Liquid Soaps” and labeled “Obsessively Organic,” with the latter words appearing
27 directly above the primary product descriptor on the front label; and a line of body washes and
28

1 liquid soaps branded “SUDZ by Kiss My Face” that includes products prominently labeled
2 “Organic Shower Gel” and “Organic Foaming Soap,” in several varieties.

3 72. The Kiss My Face products for cleansing the skin and hair that are labeled and/or
4 offered for sale as “Organic” all contain cleansing ingredients which are derived from
5 conventional agricultural material rather than organic agricultural materials and which are made
6 with petrochemicals, such as Olefin Sulfonate and Cocamidopropyl Betaine.

7 73. Olefin Sulfonate is a pure petrochemical and is misleadingly described on the
8 labels of certain Kiss My Face products as being “from coconut.”

9 74. The Cocamidopropyl Betaine in Kiss My Face products is made from
10 petrochemicals and conventional agricultural material.

11 75. Because the Kiss My Face products referenced in paragraph 71 are labeled and
12 advertised as “Organic,” a substantial segment of consumers of organic skin, body and hair care
13 products understand, expect and believe, based on such labeling and advertising that the principal
14 cleansing agent of such products are derived from organic rather than conventional agricultural
15 material (produced using synthetic fertilizers, pesticides and/or herbicides); and that such
16 principal cleansing agents are not derived from or made with petrochemicals.

17 76. Because the Kiss My Face products referenced in paragraph 71 use principal
18 cleansing agents derived from conventional rather than organic agricultural material; and use
19 principal cleansing agents derived from or made with petrochemicals, the labeling and advertising
20 or such products as “Organic” is literally false by necessary implication and/or has misled,
21 confused and/or deceived the consuming public.

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

25 78. The cleansing agents in the Nature’s Gate Organics personal care products that
26 contain cleansing ingredients, contain petrochemicals or petrochemical compounds, such as
27 Disodium Laureth Sulfosuccinate, made with Ethylene Oxide, and Cocamidopropyl Betaine. The
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1 use of an ingredient ethoxylated with the petrochemical Ethylene Oxide results in the inclusion, in
2 Nature's Gate Organics products, of trace amounts of the carcinogenic substance 1,4-Dioxane.

3 79. Because the Nature's Gate products referenced in paragraph 77 are labeled and
4 advertised as "Organic," a substantial segment of consumers or organic skin, body and hair care
5 products understand, expect and believe, based on such labeling and advertising, that the principal
6 cleansing agents of such products are derived from organic rather than conventional agricultural
7 material (produced using synthetic fertilizers, pesticides and/or herbicides) and that such products
8 do not contain petrochemical preservatives or any amount of any carcinogenic substance.

9 80. Because the Nature's Gate products referenced in paragraph 77 use principal
10 cleansing agents derived from conventional rather than organic agricultural material and contain
11 petrochemical preservatives, and some amount of a carcinogenic substance, the labeling and
12 advertising of such products as "Organic" is literally false by necessary implication and/or has
13 misled, confused and/or deceived the consuming public.

14 81. Defendant YSL Beaute, Inc. produces, and sells throughout the United States, a
15 line of products called "CARE" including a "cleansing milk" and "purifying foaming cleanser"
16 which are labeled, advertised and offered for sale as "100% Organic Active Ingredients."

17 82. On information and belief, the YSL Beaute, Inc. products listed above are not
18 100% organic. YSL Beaute, Inc.'s facial cleansing product consists of fatty alcohols as primary
19 ingredients, made from conventional rather than organic agricultural material, by combining the
20 petrochemical methanol with conventional vegetable oil, and then hydrogenating at high pressure
21 to produce the fatty alcohol and recover the methanol.

22 83. Because the YSL Beaute products referenced in paragraph 82 are labeled and
23 advertised as "100 % Organic Active Ingredients," a substantial segment of consumers or organic
24 skin, body and hair care products understand, expect and believe, based on such labeling and
25 advertising that such products consist in fact of 100% organically produced ingredients.

26 84. Because the YSL Beaute products referenced in paragraph 82 consist of
27 substantially less than 100% organically produced ingredients, the labeling and advertising of
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1 such products as “100% Organic Active Ingredients” is literally false by necessary implication
2 and/or has misled, confused and/or deceived the consuming public.

3 85. YSL Beaute, Inc.’s CARE line, including the cleansing products described above,
4 is labeled as being certified by Ecocert. YSL Beaute, Inc. products are not properly certified to
5 be labeled as “100% Organic” even under Ecocert’s own standards. In a complaint filed in
6 California Superior Court, Ecocert suggested that Stella McCartney, a distributor of YSL Beaute,
7 Inc. products, does not sell any cleansing products, indicating that Ecocert does not believe that
8 Stella McCartney and hence YSL Beaute, Inc. is selling cleansing products labeled as certified by
9 Ecocert. Thus, Ecocert has failed to enforce its own standards with respect to the labeling of
10 these products. Complaint ¶ 11, *Ecocert France (SAS) et al. v. All One God Faith, Inc.*, No.
11 CGC-08-474413 (Cal. Super. Ct., S.F. County, filed April 18, 2008).

12 86. Defendant Giovanni produces, and sells in California and throughout the United
13 States, personal care products advertised and offered for sale as “Giovanni Organic Cosmetics,”
14 “Organic Body Care” and/or “Organic Hair Care,” including but not limited to “Giovanni
15 Organic Body Care Cleanse Body Wash” in several varieties. Giovanni also promotes its
16 products with the claim “Pure Organic Technology.”

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

19 88. The cleansing ingredients in the Giovanni products described in paragraph 86
20 above are derived from conventional, rather than organic, agricultural materials.

21 89. Because the Giovanni products referenced in paragraph 86 are labeled and
22 advertised as “Organic” and/or “Pure Organic Technology,” a substantial segment of consumers
23 of organic skin, body and hair care products understand, expect and believe, based on such
24 labeling and advertising that the principal cleansing agents of such products are derived from
25 organic rather than conventional agricultural material (produced using synthetic fertilizers,
26 pesticides and/or herbicides) and that such products do not contain petrochemicals and/or
27 petrochemical compounds.

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1 90. Because the Giovanni products referenced in paragraph 86 use principal cleansing
2 agents derived from conventional rather than organic agricultural material and contain
3 petrochemicals and/or petrochemical compounds, the labeling and advertising of such products as
4 “Organic” is literally false by necessary implication and/or has misled, confused and/or deceived
5 the consuming public.

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

10 92. The cleansing agents in Head Organics Shampoo consist of and/or contain
11 petrochemicals or petrochemical compounds. These agents include Cocamidopropyl Betaine,
12 made with Amidopropyl Betaine, Sodium Lauryl Sulfoacetate, containing Sulfoacetate made
13 from chloracetic acid and Cocamidopropyl Hydrosultaine made from Hydrosultaine.

14 93. The cleansing ingredients in Head Organics Shampoo are derived from
15 conventional, rather than organic, agricultural materials. Head Organics products are preserved
16 with synthetic petrochemical preservatives.

17 94. Because the Head Organics Shampoo products are labeled and advertised as
18 “Organic,” a substantial segment of consumers of organic skin, body and hair care products
19 understand, expect and believe, based on such labeling and advertising that the principal
20 cleansing agents of such products are derived from organic rather than conventional agricultural
21 material (produced using synthetic fertilizers, pesticides and/or herbicides); and that such
22 products do not contain petrochemicals and/or petrochemical compounds.

23 95. Because the Head Organics Shampoo products referenced in paragraph 91 use
24 principal cleansing agents derived form conventional rather than organic agricultural material and
25 contain petrochemicals and/or petrochemical preservatives, the labeling and advertising of such
26 products as “Organic” is literally false by necessary implication and/or has misled, confused
27 and/or deceived the consuming public.

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1 96. Defendant Country Life produces, and sells in California and throughout the
2 United States, a line of body washes, cleansing gels, shampoos and conditioners under the brand
3 “Desert Essence Organics” and which are labeled, advertised and offered for sale as “Desert
4 Essence Organics.” The cleansing agents in the “Desert Essence Organics” body washes,
5 shampoos and conditioners consist of and/or contain petrochemicals or petrochemical
6 compounds. These agents include Cocamidopropyl Betaine, made with the petrochemical
7 Amidopropyl Betaine.

8 97. The cleansing ingredients in Desert Essence Organic bodywashes, shampoos and
9 conditioners are derived from conventional, rather than organic, agricultural materials.

10 98. Certain of the Desert Essence Organics products described in paragraph 96 are
11 preserved with synthetic petrochemical preservatives.

12 99. Because the Desert Essence Organics products referenced in paragraph 96 are
13 labeled and advertised as “Organic,” a substantial segment of consumers of organic skin, body
14 and hair care products understand, expect and believe, based on such labeling and advertising,
15 that the principal cleansing agents of such products are derived from organic rather than
16 conventional agricultural material (produced using synthetic fertilizers, pesticides and/or
17 herbicides) and that such products do not contain petrochemicals and/or petrochemical
18 compounds.

19 100. Because the Desert Essence Organics products referenced in paragraph 96 use
20 principal cleansing agents derived from conventional rather than organic agricultural material and
21 contain petrochemicals and/or petrochemical compounds, the labeling and advertising of such
22 products as “Organic” is literally false by necessary implication and/or has misled, confused
23 and/or deceived the consuming public.

24 **D. Ecocert**

25 101. Defendant Ecocert has issued a purported industry standard that requires a product
26 to be 100% organic in content if it is labeled outright as “Organic”; otherwise only a more
27 restricted “Made with Organic [specified ingredient(s)]” representation is allowed. Nevertheless,
28 Ecocert, one, permits products that are not 100% Organic to be marketed as a “Certified Organic

1 Cosmetic” and labeled as such on products, and two, has in fact certified body and skincare
2 products labeled on the front Principal Display Panel outright as “Organic,” including some made
3 by Defendant YSL Beaute, Inc., which use cleansing agents that contain no organic material and
4 that include cleansing agents made in part with petrochemicals. Such products contain
5 substantially less than 100% organic content.

6 102. Ecocert has certified body and skincare products to be labeled outright as
7 “Organic” in violation of its own standard, in that many of the products so labeled are not
8 “organic” as that term is understood by a substantial segment of consumers of organic skin, body
9 and hair care products in California and throughout the United States.

10 103. Ecocert’s standards permit the inclusion of cleansing agents made with
11 petrochemicals (such as Cocamidopropyl Betaine).

FIRST CAUSE OF ACTION

For False Advertising Under Section 43(a) of the Lanham Act

Against Defendants Hain Celestial, Kiss My Face, Levlad, YSL Beaute, Inc., Country Life,

Giovanni and Cosway)

17 104. Plaintiff realleges and incorporates by reference herein each and every allegation
18 contained in paragraphs 1 through 103, above.

19 105. The labeling, advertising and promotion, by each of Defendants Hain Celestial,
20 Kiss My Face, Levlad, YSL Beaute, Inc., Country Life, Giovanni and Cosway, of each of its
21 personal care products, as alleged herein, as “Organic,” “Organics,” “Pure Organic Technology
22 and/or “100% Organic Active Ingredients” is literally false by necessary implication and/or is
23 likely to mislead, deceive and/or confuse, and has in fact misled, deceived and confused, the
24 consuming public.

25 106. The labeling, advertising, and promotion, by each Defendant, of each of its
26 personal care products, as alleged herein, as “Organic,” “Organics,” “Pure Organic Technology
27 and/or “100% Organic Active Ingredients” has actually deceived and/or has the tendency to
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1 deceive a substantial segment of the public at which such labeling, advertising and promotion are
2 directed.

3 107. Dr. Bronner's sells personal care products which directly compete with Count One
4 Defendants' personal care products in California and throughout the United States, for the
5 business of consumers desiring to purchase products such consumers consider to be "organic.

6 108. The truthful labeling of a personal care product as "Made with Organic Oils", as
7 Dr. Bronner's does, ensures consumers that the cleansing ingredients in such product are made
8 with organic material with no petrochemical compounds or preservatives.

9 109. A substantial segment of consumers desiring to purchase a personal care product
10 that such consumers consider to be "organic" would purchase a product labeled "Organic" rather
11 than one labeled "Made with Organic [up to three specified ingredients]."

12 110. Dr. Bronner's sells products that are properly and truthfully labeled as being
13 "made with Organic Oils." All of the cleansing and moisturizing ingredients in these products are
14 made from organic material without petrochemical compounds, and thus meet basic organic
15 consumer criteria. In fact, the main cleansing and moisturizing ingredients in Dr. Bronner's
16 products are made from organic, rather than conventional, agricultural material. These products
17 do not contain any petrochemicals and use only cleansing agents not made with petrochemicals.

18 111. A substantial segment of consumers in the U.S. desiring to purchase a personal
19 care product that such consumers consider to be "organic," views Dr. Bronner's products that are
20 labeled as "Made with Organic Oils" as being "less organic" than the Defendants' personal care
21 products. Yet Dr. Bronner's personal care products would in fact be regarded by such consumers
22 as being *more* organic than the Count One Defendants' personal care products, if such consumers
23 were aware of the true nature of the ingredients of the subject products, because Count One
24 Defendants' products use cleansing agents made from conventional rather than organic
25 agricultural material.

26 112. A substantial segment of consumers in California and in the U.S. desiring to
27 purchase a personal care product that such consumers consider to be "organic," would not
28 purchase a product that contains petrochemicals and cleansing ingredients which are made from

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

4 113. For the reasons set forth in paragraphs 51-103, 111-112, and elsewhere, a
5 substantial segment of the consuming public for organic personal and body care products has in
6 fact been and is being confused, misled and deceived by Count One Defendants' labeling and
7 representation of their products as "Organic," "Organics," "Pure Organic Technology" and/or
8 "100% Organic Active Ingredients," to purchase Count One Defendants' personal care products
9 rather than Dr. Bronner's personal care products.

10 114. Many consumers have in fact been induced, through the impliedly false and/or
11 misleading, confusing and deceptive statements described throughout this Complaint to purchase
12 bodywash, liquid soap, shampoo, conditioner, body lotion and other personal care products
13 manufactured and/or sold by Count One Defendants rather than the directly competing personal
14 care products of Dr. Bronner's.

15 115. For the reasons stated in paragraphs 105-112, the false, misleading, deceptive and
16 confusing advertising, labeling, representing and offering for sale by Count One Defendants of
17 their personal care products as "Organic," "Organics," "100% Organic Active Ingredients,"
18 and/or "Pure Organic Technology" has in fact caused, influenced and induced many consumers to
19 purchase Count One Defendants' personal care products rather than those of Dr. Bronner's and
20 has thus in fact influenced, and is likely to influence, the purchasing decisions of consumers of
21 personal care products desiring to purchase products such consumers consider to be "organic."

22 116. The false, misleading, deceptive and confusing advertising, labeling, representing
23 and offering for sale by Count One Defendants of their personal care products as "Organic,"
24 "Organics," "Pure Organic Technology" and/or "100% Organic Active Ingredients," as described
25 in paragraphs 105-113 has taken place in interstate and foreign commerce in that Count One
26 Defendants have caused such advertising and labeling to take place in connection with the
27 distribution and sale of their products throughout the United States and in foreign countries.

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1 117. By reason of the false, misleading, deceptive and confusing labeling, promoting
 2 and advertising by Count One Defendants of their personal care products as “Organic,”
 3 “Organics,” “Pure Organic Technology” and/or “100% Organic Active Ingredients,”
 4 Dr. Bronner’s has in fact been injured, and is likely to be injured in the future, through a direct
 5 diversion of sales from itself to Defendants and by a lessening of the goodwill associated with
 6 Dr. Bronner’s products that are truthfully labeled as “Organic” and “Made with Organic”
 7 ingredients.

8 118. The false, misleading, deceptive and confusing labeling, promoting and
 9 advertising by Count One Defendants of their personal care products as “Organic,” “Organics,”
 10 “Pure Organic Technology” and/or “100% Organic Active Ingredients,” as described in
 11 paragraphs 105-113 has been deliberate and willful. Among other things, each Count One
 12 Defendant has continued such labeling, promoting and advertising for more than a year after
 13 being warned, in writing, by Dr. Bronner’s that its labeling, promoting and advertising of
 14 personal care products as “Organic” was false and misleading, and was causing actual injury to
 15 Dr. Bronner’s.

16 119. Because Count One Defendants are falsely advertising and promoting their
 17 products as “Organic” without incurring the increased cost of producing products that consumers
 18 would actually consider to be “organic,” Count One Defendants are able to price their products
 19 lower than products that are genuinely organic.

20 120. For the reasons stated in paragraphs 105-119, each Count One Defendant has
 21 violated section 43(a) of the Lanham Act, codified at 15 U.S.C. § 1125(a), by engaging in false
 22 advertising by, in commercial advertising and promotion, misrepresenting the nature,
 23 characteristics and qualities of its goods.

24 **SECOND CAUSE OF ACTION**

25 **FOR FALSE ADVERTISING UNDER SECTION 43(A) OF THE LANHAM ACT**

26 **(Against Defendant Ecocert)**

27 121. Plaintiff realleges and incorporates by reference herein each and every allegation
 28 contained in paragraphs 1 through 120, above.

1 122. Defendant Ecocert has issued a voluntary industry standard that requires a product
2 to be 100% organic in content if it is labeled outright as “Organic,” and allows a product with less
3 organic content to be labeled only as being “Made with Organic [specified ingredients].”

4 123. Nevertheless, Ecocert has in fact certified body and skincare products, including
5 some made by Defendant YSL Beaute, Inc., which make outright “Organic” or “100% Organic”
6 claims, that use cleansing agents containing no organic material and/or made in part with
7 petrochemicals, and thus are substantially less than 100% organic.

8 124. Ecocert has certified body and skincare products to be labeled as “Organic” in
9 cases in which the products so labeled do not meet the requirements of Ecocert’s own standards
10 for being so labeled and which products are not “Organic” as that term is understood by
11 reasonable consumers.

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

15 126. Ecocert permits main cleansing ingredients to contain petrochemical compounds,
16 such as Cocamidopropyl Betaine, in products certified as “Made with Organic [specified
17 ingredients].”

18 127. Dr. Bronner’s sells personal care products labeled as “Made with Organic Oils,”
19 which directly compete with products (including certain products manufactured and sold by
20 Defendant YSL Beaute, Inc.) that have been and are certified by Ecocert, for the business of
21 consumers, throughout the United States, desiring to purchase products made with “Organic”
22 ingredients.

23 128. Ecocert receives certification fees from companies it certifies to its standard.

24 129. A substantial segment of consumers of organic personal and body care products
25 has purchased products labeled “Organic” rather than ones labeled “Made with Organic [up to
26 three ingredients].” Such consumers have assumed and understood that the products labeled
27 “Organic” are more organic than the product labeled “Made with Organic [up to three
28 ingredients].”

1 130. A substantial segment of consumers of organic personal and body care products
2 will not purchase products, the main cleansing and moisturizing ingredients of which are made
3 from non-organic conventional or petrochemical, rather than organic agricultural, material, if
4 such consumers are aware of these facts. Such consumers would instead look for another brand,
5 such as Dr. Bronner's, that contains no petrochemicals and contains cleansing and moisturizing
6 ingredients made from certified organic agricultural material.

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

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

16 133. Consumers of organic personal and body care products, believing that products
17 certified as "Organic" by Ecocert contain main cleansing agents made only from organic, rather
18 than conventionally produced, agricultural materials, have been misled, confused and/or deceived
19 into purchasing Ecocert-certified products rather than the truthfully labeled products of
20 Dr. Bronner's.

21 134. For the reasons set forth in paragraphs 121-133, Ecocert's certification of personal
22 care products as "Organic" is literally false on its face, false by necessary implication and/or has
23 misled, confused and/or deceived the consuming public. Consumers have actually been and will
24 continue to be induced, caused and influenced, by the literally false and misleading, confusing
25 and/or deceptive certification of products by Ecocert as "Organic," to purchase such Ecocert-
26 certified products rather than Dr. Bronner's competing products.

27 135. Ecocert's certification of the products described in paragraphs 122 through 126,
28 for the reasons set forth in paragraphs 121 through 134, has actually deceived and has the

1 tendency to deceive a substantial segment of consumers at which the certifications are directed,
2 namely, consumers of organic personal and body care products.

3 136. Ecocert has caused its certifications of products as “Organic,” as described in
4 paragraphs 121-125, to enter interstate and foreign commerce.

5 137. For the reasons set forth in paragraphs 122 through 136, consumers have actually
6 been and will continue to be induced, caused and influenced, by the false, misleading and
7 deceptive certification of products by Ecocert as “Organic,” to purchase such Ecocert-certified
8 products rather than Dr. Bronner’s competing products.

9 138. Dr. Bronner’s has been and is likely to continue to be injured as a result of the
10 false, misleading and deceptive certification of products as “Organic” by Ecocert, by direct
11 diversion of sales from Dr. Bronner’s to the companies selling the subject products certified by
12 Ecocert and by a lessening of the goodwill associated with Dr. Bronner’s products.

13 139. On information and belief, part of the sales revenue realized by companies
14 obtaining certification from Ecocert are paid to Ecocert in the form of charges and/or fees for the
15 certification process. Dr. Bronner’s has been injured as a result of the false, misleading and
16 deceptive certifications, through diversion of sales revenue from itself to Ecocert in the form of
17 such charges and/or fees.

18 140. For the reasons stated in paragraphs 122 through 139, Ecocert, by reason of its
19 certification of products as “Organic” has violated section 43(a) of the Lanham Act by engaging
20 in false advertising by, in commercial advertising and promotion, misrepresenting the nature,
21 characteristics and qualities of goods sold by the companies whose personal care products are
22 certified by Ecocert.

23 141. Unless Ecocert is enjoined from certifying such products, Dr. Bronner’s will
24 continue to lose sales to these other direct competitor companies and to lose revenue to Ecocert,
25 as a result of the fact that Defendant Ecocert’s certification of these products as “Organic”
26 constitutes false advertising.

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PRAYER FOR RELIEF

WHEREFORE, pursuant to 15 U.S.C. §§ 1125(a) and 1117(a), Plaintiff prays:

(1) That each of Defendants Hain Celestial, Kiss My Face, Levlad, YSL Beaute, Inc., Country Life, Giovanni, and Cosway herein be permanently enjoined from advertising, labeling, promoting, representing or offering for sale as “Organic,” “Organics,” “100% Organic Active Ingredients” or “Pure Organic Technology” any product 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 agricultural material;

(2) That Dr. Bronner’s be awarded the profits of each of Defendants Hain Celestial, Kiss My Face, Levlad, YSL Beaute, Inc., Country Life, Giovanni, and Cosway derived from the impliedly false and/or confusing, misleading and deceptive advertising, labeling and promotion of personal care products as “Organic,” “Organics,” “Pure Organic Technology” and/or “100% Organic Active Ingredients,” in an amount to be determined at trial;

(3) That Dr. Bronner’s be awarded actual monetary damages sustained by Dr. Bronner’s, consisting of Dr. Bronner’s own lost profits, in an amount to be determined at trial, resulting from the fact that Defendants false advertising forces Dr. Bronner’s to sell its products at a lower price, and/or from the diversion of sales from Dr. Bronner’s to each of the Defendants Hain Celestial, Kiss My Face, Levlad, YSL Beaute, Inc., Country Life, Giovanni, and Cosway as a result of the impliedly false and/or confusing, misleading and deceptive advertising, labeling and promotion of personal care products as “Organic,” “Organics,” “Pure Organic technology” and/or “100% Organic Active Ingredients,” in an amount to be determined at trial;

(4) That Dr. Bronner’s be awarded damages against Defendants Hain Celestial, Kiss My Face, Levlad, YSL Beaute, Inc., County Life, Giovanni and Cosway for a sum above the amount found as actual damages, to be determined by the Court according to the circumstances of the case, not exceeding three times the amount of actual damages sustained by Dr. Bronner’s;

(5) That Defendant Ecocert be permanently enjoined from certifying, promoting,

1 advertising, or representing as “Organic,” “Organics,” or “100% Organic Active Ingredients” any
2 product which contains any cleansing or moisturizing ingredient made in any part from any
3 petrochemical or petrochemical compound, and/or which contains any cleansing or moisturizing
4 ingredient not made exclusively from organic rather than conventional agricultural material, and
5 enjoined from certifying, promoting, advertising or representing as “100 % Organic Active
6 Ingredients” any product that does not in fact contain 100% organic active ingredients;

- 7 (6) the reasonable costs of suit herein incurred;
- 8 (7) Plaintiff’s reasonable attorney’s fees; and
- 9 (8) For such other relief as the Court deems just and proper.

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Dated: January 13, 2010

FARELLA BRAUN & MARTEL LLP

By: /s/ John L. Cooper
John L. Cooper

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DEMAND FOR TRIAL BY JURY

Plaintiff All One God Faith, Inc., d/b/a Dr. Bronner’s Magic Soaps hereby demands a trial by jury in the above-entitled case.

Dated: January 13, 2010

FARELLA BRAUN & MARTEL LLP

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