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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

11 Bragg Live Food Products, LLC, a
12 Delaware limited liability company,

13 Plaintiff,

14 v.

15 National Fruit Product Company, In-
16 corporated, a Virginia Corporation,
and Does 1-10,

17 Defendants.

No. 2:22-cv-584

Complaint for Damages and Injunction:
(1) LANHAM ACT TRADE DRESS IN-
FRINGEMENT [15 U.S.C. § 1125(a)(3)];
(2) COPYRIGHT INFRINGEMENT [17
U.S.C § 501];
(3) LANHAM ACT UNFAIR COMPETI-
TION [15 U.S.C. § 1125(a)];
(4) UNFAIR BUSINESS PRACTICES [Cal.
Bus. & Prof. Code § 17200];

Demand for Jury Trial

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20 Plaintiff Bragg Live Food Products, LLC (“Plaintiff” or “Bragg”) for its com-
21 plaint against National Fruit Product Company, Incorporated (“White House”), and
22 Does 1-10, alleges on information and belief as follows:
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1 **FIRST CLAIM FOR RELIEF – LANHAM ACT TRADE DRESS INFRINGEMENT**

2 **[15 U.S.C. § 1125(a)(3)]**

3 **A. SUBJECT MATTER JURISDICTION**

4 1. Plaintiff Bragg Live Food Products, LLC (“Plaintiff” or “Bragg”) is a Dela-
5 ware Limited Liability Company registered to do business in California with its pri-
6 mary business located in this District, in Santa Barbara, California and a business ad-
7 dress of PO Box 7, Santa Barbara, CA 93102, and it brings this action for federal trade
8 dress infringement, federal copyright infringement, federal unfair competition, Cali-
9 fornia unfair business practices, against National Fruit Product Company, Incorporated
10 (“White House”) and Does 1-10 (White House and Does 1-10 referred to herein sin-
11 gularly as "Defendant" and collectively as "Defendants").

12 2. Defendant, White House, is a Virginia corporation with a business address
13 of 701 Fairmont Ave, Winchester, VA 22601, and it operates and does business
14 throughout the United States, including in this District, under its trademarked name
15 "White House."

16 3. This Court has subject matter jurisdiction over this action under 15 U.S.C.
17 § 1121 and 28 U.S.C. §§ 1331 and 1338(a) and (b) because Plaintiff’s federal claims
18 arise under the Lanham Act, 15 U.S.C. § 1051 *et seq.* and the Copyright Act 17 U.S.
19 Code § 501 *et seq.* This Court has subject matter jurisdiction over Plaintiff’s related
20 common law of California claims under 28 U.S.C. §§ 1338(b) and 1367 because the
21 state law claims relate to claims for unfair competition.

22 **B. PERSONAL JURISDICTION & VENUE**

23 4. This court has personal jurisdiction over the Defendants because they con-
24 duct business in the jurisdiction of the United States District Court for the Central Dis-
25 trict of California by offering goods for sale in Los Angeles, Ventura and Santa Barbara
26 counties, California.

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1 5. Bragg does not know the true names and capacities, whether individual,
2 corporate, associate or otherwise of defendants Does 1–10. Therefore, they are sued
3 by these fictitious names. Bragg will amend this pleading when the true names and
4 capacities have been ascertained.

5 6. Venue is proper in this Court under 28 U.S.C. § 1391(b), because each De-
6 fendant is a corporate entity subject to personal jurisdiction in this district.

7 **C. FACTS**

8 7. For over 100 years, Bragg has developed a reputation as an industry leader
9 in organic foods, specifically Apple Cider Vinegar (“ACV”).

10 8. For many decades, Bragg has used distinctive and novel features on its
11 trade dress that were designed to distinguish Bragg's products from others in the mar-
12 ket.

13 9. Founder Paul Bragg designed the Bragg labeling and trade dress to stand
14 out from competing products. His inspiration for the Bragg labeling was drawn from
15 event promotions popular in the early 1900s, including circus banners and similar
16 commercial copy. This unique trade dress includes the distinctive use of the colors
17 yellow, red, white, and black to construct certain labels consumers have come to
18 know and love. For example, many Bragg labels include a distinctive yellow back-
19 ground, a red bordering on labels and specific phrases such as the term “organic”
20 written in white surrounded by red, the words “APPLE CIDER VINERGAR” written
21 in bold, the phrase “with the mother” written in white and surrounded by red.

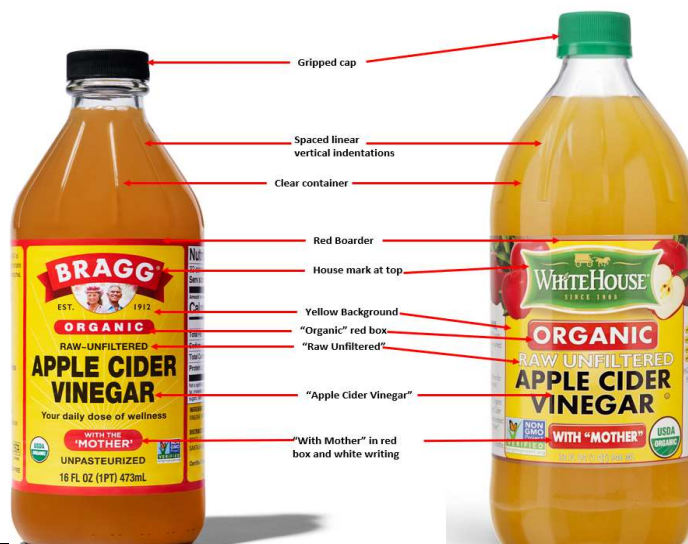
22 10. Consumers have come to readily identify Bragg products by spotting the
23 bright yellow coloring scheme on store shelving and in other commercial contexts
24 such as on the web and in social media posts. The core elements of red, yellow,
25 white, and red, and the arrangements of elements on the package has remained the
26 same for several decades. Because of Bragg's extensive use of this distinctive trade
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1 dress on its products, and on its website and in advertising, Bragg enjoys national
2 recognition and goodwill in this trade dress.

3 11. Defendant White House is a relative newcomer to the ACV industry and
4 first started selling ACV goods in or around 2016 using a predominantly green label
5 as shown below:



13 12. In or around 2019, White House launched new product labels and advertis-
14 ing that demonstrate undisputed trade dress, trademark, and copyright infringement
15 necessitating the instant lawsuit. White House intentionally adopted the same design,
16 features, shape, colors, and configuration as Bragg's ACV products. The similarity be-
17 tween essential features of both party's designs is obvious, as evidenced by one, of
18 many, examples shown below, and therefore this court must enjoin the defendant from
19 offering such egregious competing trade dress meant to cause consumer confusion:



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2 13. Through its counsel, Bragg has sent numerous letters to Defendant White
3 House demanding they cease developing and promoting similar product labels and ad-
4 vertising campaigns. White House continues to infringe Bragg's trade dress without
5 cessation.

6 14. White House ACV products are likely to cause consumers, the public and
7 the trade to erroneously believe the goods they sell emanate or originate from Bragg,
8 or that Bragg authorized, sponsored, or approved the goods. This confusion causes ir-
9 reparable harm to Bragg and weakens the distinctive quality of Bragg's brand and prod-
10 ucts. Defendant engages in trade dress infringement, federal copyright infringement,
11 federal unfair competition, unlawful California business practices, and federal trade-
12 mark infringement, by imitating and copying Bragg's products, advertising, packaging,
13 and other unique designs, layout, color schemes, and wording that make up the distinc-
14 tive total image and appearance of Bragg, and Bragg seeks injunctive relief, damages,
15 treble damages, and its attorney's fees and costs, and other relief authorized under fed-
16 eral and state law.

17 15. Bragg's name, other logos and trade dress have been registered with the
18 United States Patent and Trademark Office. Bragg's mark has been used in commerce
19 and associated with its ACV for many decades, and that mark is registered with the
20 USPTO as shown below:

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Country	Mark	Class No.	Application Date	Registration date	Registration No.
United States	BRAGG	030	08/26/2015	05/17/2016	4959238
United States	BRAGG	005, 029, 030	08/28/2008	06/16/2009	3638207
United States	BRAGG	032	08/09/2018	3/26/2019	5,709,467

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