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8

9 UNITED STATES DISTRICT COURT
 10
 11 CENTRAL DISTRICT OF CALIFORNIA

12 OCM Globe Inc., a California
13 corporation

14 PLAINTIFFS,

15 vs.

16 Apollo Food International, Inc., a New
 17 York Corporation; A&C Best Food
 18 Trading, Inc., a New York corporation
 19 and DOES 1-100, inclusive

20 DEFENDANTS.
21
22
23
24

Case No.:

Complaint for:

- 1. Trademark Infringement under 15 U.S.C. § 1114**
- 2. Unfair Competition and False Designation of Origin under 15 U.S.C. § 1125(a)**
- 3. Common Law Trademark Infringement**
- 4. Unfair Competition Under California Business & Professions Code § 17200 et seq.**
- 5. Common Law Unfair Competition**

DEMAND for JURY TRIAL

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COMPLAINT

1 **COMPLAINT**

2 Come now, OCM Globe, Inc., (“OCM” or “Plaintiff”) allege, based upon personal
3 knowledge or upon information and belief as to matter not within their own
4 personal knowledge, as follows:

5 **JURISDICTION AND VENUE**

- 6 1. This subject matter jurisdiction of this Court is based upon 15 U.S.C. § 1121
7 and 28 U.S.C. §§1331, 1338.
- 8 2. The Court has supplemental jurisdiction over the state law claims, pursuant
9 to 28 U.S.C. § 1367.
- 10 3. Venue is proper in this Court pursuant to 28 U.S.C. 1391(b) and (c) because
11 a substantial part of the events giving rise to the claims for relief occurred in
12 this district; the Defendant is subject to personal jurisdiction in this judicial
13 District at the relevant time.

14 **PARTIES**

- 15 4. Plaintiff OCM Globe, Inc., a California corporation (“OCM”), is a
16 corporation incorporated in the State of California with its principal place of
17 business in Los Angeles County, City of Industry, California.
- 18 5. On information and belief Defendant, Apollo Food International, Inc., a
19 New York corporation, is a corporation organized under the laws of the State
20 of New York with its principal place of business in Long Island City, New
21 York.
- 22 6. On information and belief Defendant, A&C Best Food Trading, Inc., a New
23 York corporation, is a corporation organized under the laws of the State of
24 New York with its principal place of business in Long Island City, New
25 York.
- 26 7. Plaintiffs are unaware of the true names and capacities of the defendants
27 sued as Does 1 through 100, inclusive, and therefore sues those defendants

1 by such fictitious names. Plaintiff will amend this Complaint to allege their
2 true names and capacities when that information is ascertained. Plaintiffs’
3 allege such fictitiously named defendants is responsible in some manner for
4 the occurrences herein alleged, and that plaintiffs’ injuries as herein alleged
5 were proximately caused by said defendants.

6 8. On information and belief, Defendants’ actions alleged herein were
7 undertaken by each defendant(s) individually.

8 **GENERAL ALLEGATIONS**

9 9. OCM is generally in the merchandising business related to grocery products.

10 10. OCM makes purchases from suppliers and sells to retailers, grocery stores
11 or supermarkets in the United States. OCM is, at relevant times, the exclusive
12 licensee and distributor of certain brands of grocery products, the brands
13 include: GENKI FOREST, 元気森林

14 , 元氣水 , 氣 and 燃茶 , 燃 (the “Brands”).
15
16

17 Attached hereto and incorporated herein by reference as Exhibit A is the
18 Authorization Letter. Said authorization letter gives plaintiff standing to
19 bring this action.

20 11. OCM is, at relevant times, the exclusive US licensee of the Brands, which
21 includes the following registered marks with the United States Patent and
22 Trademark Office (“USPTO”), having registration number(s):

- 23 a. Registration No. 6070585;
24 b. Registration No. 6070586;

25 (collectively the “Registered Marks”). A true and correct copy of the
26 Trademark Registration for Registration No. 6070585 is attached hereto
27

1 as Exhibit B and incorporated herein by reference. A true and correct
2 copy of the Trademark Registration for Registration No. 6070586 is
3 attached hereto as Exhibit C and incorporated herein by reference.

4 12. OCM is, at all relevant times, the exclusive US licensee of the Brands,
5 which includes the following unregistered marks:

- 6 a. Serial No. 88368878;
- 7 b. Serial No. 88368875;
- 8 c. Serial No. 88368874; and
- 9 d. Serial No. 88368871.

10 (collectively the “Unregistered Marks”).

11 13. Plaintiff’s Brands consist of the Registered Marks and Unregistered Marks.

12 14. Plaintiff has continuously used and acquired common law trademark rights
13 in all the foregoing marks.

14 15. It came to OCM’s attention that A&C Best Food Trading Inc. and Apollo
15 Food International, Inc., make, use, import, sell and/or offer to sell certain
16 products, as shown in Exhibit D and incorporated herein by reference, that
17 are protected by the Lanham Act and/or the common law.

18 16. Such unauthorized use of the Brands and the Registrations is in violation of
19 the law and infringed upon OCM’s rights, as an exclusive licensee.

20 17. On July 9, 2021, OCM sent a cease-and-desist letter to A&C Best Food
21 Trading Inc., demanding that A&C Best Food Trading Inc. immediately
22 cease the infringing activities. Attached hereto and incorporated herein by
23 reference as Exhibit E is a true and correct copy of the cease-and-desist
24 letter.

25 18. On February 2, 2021, OCM sent a cease-and-desist letter to Apollo Food
26 International, Inc., demanding that Apollo Food International, Inc.
27 immediately cease the infringing activities. Attached hereto and incorporated

1 herein by reference as Exhibit F is a true and correct copy of the cease-and-
2 desist letter.

3 19. Defendants, A&C Best Food Trading Inc. and Apollo Food International,
4 Inc., having been put on notice, did not respond, nor did it attempt to avoid
5 further infringing acts.

6 20. Defendants' infringement is blatant and intentional and has been causing
7 harms to OCM, including loss of good will and loss of revenue.

8 21. On information and belief, certain Defendants' beverage products offered
9 for sales in U.S. do not comply with the certification requirements set by
10 United States Department of Agriculture ("USDA"), particularly regarding
11 product sourcing and ingredients.

12 22. On information and belief, Defendants either failed to comply with the
13 necessary certification requirements or presented false certification for
14 certain of the beverage products.

15 23. Defendants' business activities are unlawful and constitute unfair
16 competition that caused and continues to cause harm to Plaintiff.

17 24. On information and belief, from the observable market activities, Plaintiff
18 estimated that it lost over \$500,000 and the loss is ongoing.

19 **FIRST CLAIM FOR RELIEF**

20 **TRADEMARK INFRINGEMENT**

21 **UNDER 15 U.S.C. § 1114**

22 25. Plaintiff hereby re-alleges and incorporates by reference each and every
23 allegation and statement contained in the prior paragraphs above, as if fully
24 set forth herein.

25 26. The Registered Marks are valid, protectable trademarks.

26 27. OCM is the exclusive US licensee of the Registered Marks.

27
28 COMPLAINT

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