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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

BETTERBODY FOODS & NUTRITION
LLC, a Utah limited liability company,

Plaintiff,

vs.

OATLY AB, a Swedish corporation, and
Oatly Inc., a Delaware corporation,

Defendants.

Case No: _____

**COMPLAINT FOR FEDERAL
TRADEMARK INFRINGEMENT,
UNFAIR COMPETITION, AND
UNFAIR COMPETITION IN
VIOLATION OF UTAH CODE ANN.
§ 13-5a-102**

JURY TRIAL DEMANDED

District Judge _____

Magistrate Judge _____

Plaintiff BetterBody Foods & Nutrition LLC (“Plaintiff” or “BetterBody”) complains and alleges as follows against Defendants Oatly AB and Oatly Inc. (collectively, “Defendants”) as follows:

THE NATURE OF THE ACTION

1. This action relates to trademark infringement and unfair competition in violation of the laws of the United States and the laws of the State of Utah.

2. BetterBody is a local Utah business formed in 2007 with the goal of bringing better food choices to the tables of millions of consumers by using the highest quality ingredients sourced from all over the world to provide healthy, delicious and sustainable foods.

3. One of BetterBody’s products is OATSOME® oat milk, a non-dairy milk made from organic oats. BetterBody has registered its OATSOME® trademark with the U.S. Patent and Trademark Office. A copy of BetterBody’s certificate of registration for the OATSOME® trademark is attached hereto as Exhibit A.

4. Defendants use the mark “TOTALLY OAT-SOME” on an oat milk product that directly competes with BetterBody’s OATSOME® oat milk, thereby infringing BetterBody’s OATSOME® mark and competing unfairly with it.

5. BetterBody brings this action against Defendants for trademark infringement and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), and unfair competition in violation of Utah Code Ann § 13-5a-102.

THE PARTIES

6. Plaintiff BetterBody Foods & Nutrition LLC is a limited liability company organized under the laws of Utah with a principal place of business in Lindon, Utah.

7. Upon information and belief, Defendant Oatly AB is a Swedish corporation with a principal place of business in Malmo, Sweden.

8. Upon information and belief, Defendant Oatly Inc. is a corporation organized under the laws of Delaware with a principal place of business in New York, New York, and is a subsidiary of and a distribution company for Oatly AB.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction under 15 U.S.C. § 1121 (action arising under the Lanham Act); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1338(a) (any Act of Congress relating to patents or trademarks); 28 U.S.C. § 1338(b) (action asserting claim of unfair competition joined with a substantial and related claim under the trademark laws); and 28 U.S.C. § 1367 (supplemental jurisdiction).

10. This Court has specific personal jurisdiction over Oatly AB because, on information and belief, it has and continues to infringe BetterBody's registered OATSOME® trademark in violation of 15 U.S.C. § 1125 in Utah through selling its products bearing its infringing TOTALLY OAT-SOME mark through Oatly Inc., its U.S. distribution company, to residents of the State of Utah and within this District, including at least through selling the products bearing the infringing trademark through Target stores located throughout Utah. Plaintiff's claims arise from Oatly AB's sale of such products bearing the infringing trademark. This Court has general personal jurisdiction over Oatly AB because, on information and belief, Oatly AB has constructed a manufacturing plant in Weber County, and in so doing has availed itself of the laws and protections of Utah, including obtaining economic development incentives in the form of post-performance tax credits authorized by the Utah Legislature for the construction and operation of

the aforementioned manufacturing plant. As such, Oatly AB is essentially at home in the State of Utah and is subject to general personal jurisdiction in this Court.

11. This Court has specific personal jurisdiction over Oatly Inc. because, on information and belief, it has and continues to infringe BetterBody's registered OATSOME® trademark in violation of 15 U.S.C. § 1125 in Utah through selling and distributing Oatly AB's oat milk products bearing the infringing TOTALLY OAT-SOME mark to residents of the State of Utah and within this District, including at least through selling the products bearing the infringing mark through Target stores located throughout Utah. Plaintiff's claims arise from the sale and distribution of such products bearing the infringing mark.

12. Venue is proper in this District under 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this claim took place in this District, because BetterBody suffered harm in this District, and because Defendants regularly transact business within this district.

BACKGROUND

13. In 2007, Stephen Richards founded BetterBody Nutrition & Foods LLC because, coming from a family with a history of diabetes, Mr. Richards had a strong interest in foods that were high quality, delicious, healthier and more nutritious than other food options commonly available on the market at the time. BetterBody's first product was agave nectar, which is a natural sweetener that has a reduced impact on blood sugar levels than refined cane sugar.

14. From agave nectar BetterBody has expanded its product lines to include a number of natural and organic foods, including avocado oil, coconut oil, quinoa, PBfit® (pressed roasted peanuts with 87% less fat and about 1/3 the calories of traditional peanut butter), a variety of dressings and condiments, and the product at issue in this case, OATSOME® oat milk:



15. BetterBody began preparations to launch its OATSOME® oat milk in the fall of 2018. As part of that preparation, BetterBody brainstormed potential trademarks under which to market its oat milk. One potential mark that it came up with was “OATSOME.”

16. However, prior to moving forward with the OATSOME trademark, BetterBody searched the database of registered trademarks maintained by the U.S. Patent and Trademark Office. Its search did not discover any trademark registrations or applications that included “OATSOME” in the mark.

17. BetterBody also researched oat milk products on the market at that time. As part of that research, BetterBody reviewed the packaging of several oat milk products on the market, including Defendants’ oat milk marketed under the brand name “OAT-LY”:

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