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Attorneys for Plaintiff
Meenaxi Enterprise, Inc.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

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MEENAXI ENTERPRISE, INC.,

Plaintiff,

v.

SINGH TRADING CO., INC. d/b/a
ROSHNI FOODS, PARDEEP SINGH
ANEJA, VDYAS LLC, CHARANDEEP
SINGH, BHAVANI FOODS AND
VEGETABLES, INC., MUKUND PATEL,
HOUSE OF SPICES (INDIA), INC., NEIL
SONI, JMR DISTRIBUTORS LLC, HIRAL
JOSHI, HETAL MEHTA, DK GROCERY
INC. d/b/a APNA BAZAR CASH &
CARRY, KHADAG SINGH, PEEKAY
INTERNATIONAL, INC. and BINOTI
PARMAR,

Defendants.

COMPLAINT 3:23-CV-906

JURY TRIAL DEMANDED

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Plaintiff Meenaxi Enterprise, Inc. (“Meenaxi”), having an address at 86 Executive Avenue, Edison, New Jersey 08817, by and through its undersigned attorneys, as and for its Complaint in this action against Defendants Singh Trading Co., Inc. d/b/a Roshni Foods, having an address at 16839 Harbour Town Drive, Silver Spring, Maryland 20905, Pardeep Singh Aneja,

having an address at 16839 Harbour Town Drive, Silver Spring, Maryland 20905, Vdyas LLC, having an address at 70 Ethel Road W., Piscataway, New Jersey 08854, Charandeep Singh, having an address at 697 Roosevelt Ave., Carteret, New Jersey 07008, Bhavani Foods And Vegetables, Inc., having an address at 404 Tonnele Ave., Jersey City, New Jersey 07306, Mukund Patel, having an address at 103 Bennett Road, Matawan, New Jersey 07747, House of Spices (India), Inc., having an address at 3000 Marcus Ave., Suite 2W10, New Hyde Park, New York 11042, Neil Soni, having an address at 1585 Oak Street Road, Iselin, New Jersey 08830, JMR Distributors LLC, having an address at 26 Matthew Ave., Kendall Park, New Jersey 08824, Hiral Joshi, having an address at 26 Matthew Ave., Kendall Park, New Jersey 08824, Hetal Mehta, having an address at 51 Liberty Drive, Dayton, New Jersey 08810, DK Grocery Inc. d/b/a Apna Bazar Cash & Carry, having an address at 1700 Oak Tree Road, Edison, New Jersey 08820, Khadag Singh, having an address at 1 Pine Ridge Dr., Edison, New Jersey 08820, Peekay International Inc., having an address at 56-12 56th Street, Maspeth, New York 11378, and Binoti Parmar, having an address at 4728 Cambridge Trce, Atlanta, Georgia 30338, alleges as follows:

NATURE OF THE ACTION

1. Meenaxi brings this action for trademark counterfeiting, trademark infringement, false designation of origin and unfair competition under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and corresponding state law, to halt Defendants' unauthorized importation and sale of BOURNVITA chocolate milk powder from India, in violation of Meenaxi's exclusive U.S. rights in its registered BOURNVITA trademark.

PARTIES

2. Plaintiff Meenaxi is a New Jersey corporation with its principal place of business at 86 Executive Avenue, Edison, New Jersey 08817. Meenaxi is engaged in the creation,

research and development, refinement, production, marketing, importation and sale of a wide variety of food products and commodities, which are distributed primarily to Indian grocery stores in the United States.

3. Upon information and belief, Defendant Singh Trading Co., Inc. d/b/a Roshni Foods (“Roshni”) is a Maryland corporation with a principal place of business at 16839 Harbour Town Drive, Silver Spring, Maryland 20905.

4. Upon information and belief, Defendant Pardeep Singh Aneja is an individual residing at 16839 Harbour Town Drive, Silver Spring, Maryland 20905, and is an officer and/or owner of Roshni who personally participated in, and supervised, directed, managed, approved and/or controlled, the infringing activities of Roshni at issue in this case.

5. Upon information and belief, Defendant Vdyas LLC (“Vdyas”) is a New Jersey limited liability company with a principal place of business at 70 Ethel Road W., Piscataway, New Jersey 08854.

6. Upon information and belief, Defendant Charandeep Singh is an individual residing at 697 Roosevelt Ave., Carteret, New Jersey 07008, and is an officer and/or member of Vdyas who personally participated in, and supervised, directed, managed, approved and/or controlled, the infringing activities of Vdyas at issue in this case.

7. Upon information and belief, Defendant Bhavani Foods And Vegetables, Inc. (“Bhavani”) is a New Jersey corporation with a principal place of business at 404 Tonnele Ave., Jersey City, New Jersey 07306.

8. Upon information and belief, Defendant Mukund Patel is an individual residing at 103 Bennett Road, Matawan, New Jersey 07747, and is an officer and/or owner of Bhavani who personally participated in, and supervised, directed, managed, approved and/or controlled, the

infringing activities of Bhavani at issue in this case.

9. Upon information and belief, Defendant House of Spices (India), Inc. (“House of Spices”) is a New York corporation with a principal place of business at 3000 Marcus Ave., Suite 2W10, New Hyde Park, New York 11042.

10. Upon information and belief, Defendant Neil Soni is an individual residing at 1585 Oak Street Road, Iselin, New Jersey 08830, and is an officer and/or owner of House of Spices who personally participated in, and supervised, directed, managed, approved and/or controlled, the infringing activities of House of Spices at issue in this case.

11. Upon information and belief, Defendant JMR Distributors LLC (“JMR”) is a New Jersey limited liability company with a principal place of business at 26 Matthew Ave., Kendall Park, New Jersey 08824.

12. Upon information and belief, Defendant Hiral Joshi is an individual residing at 26 Matthew Ave., Kendall Park, New Jersey 08824, and is an officer and/or member of JMR who personally participated in, and supervised, directed, managed, approved and/or controlled, the infringing activities of JMR at issue in this case.

13. Upon information and belief, Defendant Hetal Mehta is an individual residing at 51 Liberty Drive, Dayton, New Jersey 08810, and is an officer and/or member of JMR who personally participated in, and supervised, directed, managed, approved and/or controlled, the infringing activities of JMR at issue in this case.

14. Upon information and belief, Defendant DK Grocery Inc. d/b/a Apna Bazar Cash & Carry (“Apna”) is a New Jersey corporation with a principal place of business at 1700 Oak Tree Road, Edison, New Jersey 08820.

15. Upon information and belief, Defendant Khadag Singh is an individual residing at

1 Pine Ridge Dr., Edison, New Jersey 08820, and is an officer and/or owner of Apna who personally participated in, and supervised, directed, managed, approved and/or controlled, the infringing activities of Apna at issue in this case.

16. Upon information and belief, Defendant Peekay International Inc. (“Peekay”) is a New York corporation with a principal place of business at 56-12 56th Street, Maspeth, New York 11378.

17. Upon information and belief, Defendant Binoti Parmar is an individual residing at 4728 Cambridge Trce, Atlanta, Georgia 30338, and is an officer and/or owner of Peekay who personally participated in, and supervised, directed, managed, approved and/or controlled, the infringing activities of Peekay at issue in this case.

JURISDICTION AND VENUE

18. This Court has subject matter jurisdiction over this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338 and 1367, and pursuant to principles of supplemental jurisdiction.

19. The Court has personal jurisdiction over Defendants because they all reside in New Jersey and/or because this action arises out of business each of the Defendants transacted in the State of New Jersey by selling the infringing products at issue in this case in New Jersey, and each of the Defendants thereby also committed tortious acts within the State of New Jersey resulting in harm to Meenaxi in New Jersey.

20. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c).

FACTUAL BACKGROUND

Meenaxi’s Federally Registered BOURNVITA Trademark

21. Since at least as early as 2008, Meenaxi has used the BOURNVITA mark for

chocolate powder and other related goods, including, without limitation, chocolate milk, milk-based beverages with chocolate, powdered milk, and chocolate-based and cocoa-based beverages.

22. Meenaxi owns a federal registration (Reg. No. 4,206,026) for the BOURNVITA mark for “beverages having a milk base; chocolate milk; dried milk powder; milk beverages containing fruits; milk drinks containing fruits; milk powder; milk-based beverages with chocolate; milk-based beverages with high milk content; nut-based milk; powdered milk; and strawberry milk” in International Class 29, and for “chocolate powder; chocolate-based beverages; chocolate-based beverages with milk; cocoa; cocoa beverages with milk; cocoa-based beverages; and cocoa-based condiments and seasonings for food and drink” in International Class 30.

23. Meenaxi’s registration for its BOURNVITA mark, which was applied for on February 11, 2012 and was issued by the United States Patent and Trademark Office on September 11, 2012, is valid, subsisting, and in full force and effect and it has become incontestable.

24. Meenaxi has invested significant time, money, labor and other efforts in developing and using its BOURNVITA mark, which acts as a distinctive source identifier associated with Meenaxi’s goods sold in the United States under that designation.

25. As a result of Meenaxi’s extensive and continuous use of the BOURNVITA mark over many years, Meenaxi has developed substantial public recognition and built up a reputation for excellence and high quality in the BOURNVITA mark, which symbolizes an enormously valuable goodwill.

Defendants' Unlawful Conduct

26. In violation of Meenaxi's exclusive United States rights in its BOURNVITA mark, each of the Defendants has imported into the United States BOUNVITA branded chocolate milk powder produced in India for sale primarily to Indian groceries, without Meenaxi's authorization.

27. On or around August 30, 2022, Defendant Roshni sold 25 boxes containing infringing BOURNVITA chocolate milk powder to an entity named A To Z Indian in Iselin, New Jersey. Upon information and belief, Roshni has made many additional infringing sales of the same BOURNVITA goods to other entities in New Jersey and/or elsewhere in the United States.

28. On or around August 16, 2022, September 7, 2022, September 23, 2022 and January 27, 2023, Defendant Vdyas made sales of 20 boxes, 10 boxes, 15 boxes and 2 boxes respectively, containing infringing BOURNVITA chocolate milk powder to an entity named A To Z Indian in Iselin, New Jersey and Coppell, Texas. Upon information and belief, Vdyas has made many additional infringing sales of the same BOURNVITA goods to other entities in New Jersey and/or elsewhere in the United States.

29. On or around August 29, 2022, Defendant Bhavani sold 10 boxes containing infringing BOURNVITA chocolate milk powder to an entity named A To Z Indian in Iselin, New Jersey. Upon information and belief, Bhavani has made many additional infringing sales of the same BOURNVITA goods to other entities in New Jersey and/or elsewhere in the United States.

30. On or around August 16, 2022, October 10, 2022 and January 27, 2023, Defendant House of Spice made sales of 20 boxes, 2 boxes and 1 box respectively, containing

infringing BOURNVITA chocolate milk powder to an entity named A To Z Indian in Iselin, New Jersey and Coppell, Texas. Upon information and belief, House of Spices has made many additional infringing sales of the same BOURNVITA goods to other entities in New Jersey and/or elsewhere in the United States.

31. On or around December 21, 2022, Defendant JMR sold 1 box containing infringing BOURNVITA chocolate milk powder to an entity named A To Z Indian in Iselin, New Jersey. Upon information and belief, JMR has made many additional infringing sales of the same BOURNVITA goods to other entities in New Jersey and/or elsewhere in the United States.

32. On or about December 19, 2022, Defendant Apna sold 1 container of infringing BOURNVITA chocolate milk powder from its store in Edison, New Jersey to a customer from A To Z Indian. Upon information and belief, Apna has made many additional infringing sales of the same BOURNVITA goods to other entities in New Jersey and/or elsewhere in the United States.

33. On or about January 31, 2023, Defendant Peekay sold 2 boxes containing infringing BOURNVITA chocolate milk powder to an entity named A To Z Indian in Princeton, New Jersey. Upon information and belief, Peekay has made many additional infringing sales of the same BOURNVITA goods to other entities in New Jersey and/or elsewhere in the United States.

34. Upon information and belief, the Defendants have used one or more of the same sources for acquiring their infringing goods, all of which originate out of India and also bear the Cadbury designation owned by Mondelez International. Although the Cadbury company owned by Mondelez owns the BOURNVITA trademark in India, it has no rights to that mark in the United States market in which Meenaxi owns the BOURNVITA mark. Indeed, on November

15, 2022, the International Trade Commission found that the importation of Cadbury's BOURNVITA product was unlawful, and it issued a General Exclusionary Order prohibiting the entry into the U.S. of such infringing goods that violated Meenaxi's trademark rights.

35. Upon information and belief, the Defendants are all selling the same infringing product using the same packaging, and employing the same or similar marketing tactics, pricing structures and distribution schemes in a deliberate effort to undermine Meenaxi's exclusive United States ownership rights in the BOURNVITA mark.

36. Upon information and belief, each of the Defendants is fully aware of Meenaxi's superior United States trademark rights in the BOURNVITA mark, but has nevertheless deliberately and systematically ignored those rights by importing products from India that they know they have no right to sell in the United States market.

37. Defendants are using the identical BOURNVITA mark owned and registered by Meenaxi in connection with the sale of the same chocolate milk powder products sold by Meenaxi and covered by its federal registration. Such use is being made without the authorization of Meenaxi, the United States trademark owner of the BOURNVITA mark.

38. Defendants are selling their BOURNVITA products in the same channels of trade in which Meenaxi's BOURNVITA products are sold, targeting the same Indian groceries and the same class of consumers who regularly shop in such stores.

39. Upon information and belief, by virtue of their unlawful conduct, Defendants have made or will make substantial profits and gains to which they are not in law or equity entitled.

40. Defendants' activities will inevitably result in a likelihood of confusion, mistake or deception among members of the consuming public in the United States. Such activities have

caused, and will continue to cause, irreparable injury to Meenaxi, and have also resulted in damages suffered by Meenaxi from Defendants' infringing use.

41. Unless enjoined, Defendants' actions will cause further confusion, mistake and deception among consumers, injure the goodwill associated with the BOURNVITA mark and cause Meenaxi to suffer additional damages and otherwise cause irreparable injury to Meenaxi.

42. Meenaxi has no adequate remedy at law.

FIRST CLAIM FOR RELIEF
(Trademark Counterfeiting Under Section 32 of the Lanham Act)

43. Meenaxi repeats and realleges the allegations set forth in paragraphs 1-42 above with the same force and effect as if set forth fully herein.

44. Defendants have used a spurious designation that is identical with, or substantially indistinguishable from, the BOURNVITA trademark for which Meenaxi owns a federal trademark registration. Defendants have used this spurious designation in commerce in connection with the advertising, sale, offering for sale and/or distribution of infringing BOURNVITA products for their own financial gain. Meenaxi has not authorized such use of the BOURNVITA mark by Defendants.

45. Upon information and belief, at all relevant times, Defendants had actual and direct knowledge of Meenaxi's prior use and ownership in the United States of the BOURNVITA trademark. Defendants' conduct is thus willful and reflects Defendants' intent to exploit the goodwill and brand recognition associated with Meenaxi's BOURNVITA trademark.

46. Defendants' acts as described herein constitute trademark counterfeiting in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

SECOND CLAIM FOR RELIEF
(Trademark Infringement Under Section 32 of the Lanham Act)

47. Meenaxi repeats and realleges the allegations set forth in paragraphs 1-46 above with the same force and effect as if set forth fully herein.

48. Defendants' advertising, sale, offering for sale and/or distribution of products in the United States using Meenaxi's federally registered BOURNVITA mark constitutes infringement of a registered trademark in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

THIRD CLAIM FOR RELIEF
(False Designation of Origin Under Section 43(a) of the Lanham Act)

49. Meenaxi repeats and realleges the allegations set forth in paragraphs 1-48 above with the same force and effect as if set forth fully herein.

50. Defendants' advertising, sale, offering for sale and/or distribution of products in the United States using the BOURNVITA mark constitutes use of a false designation of origin in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

FOURTH CLAIM FOR RELIEF
(Unfair Competition Under N.J. Stat. Ann. § 56:4-1 *et seq.*)

51. Meenaxi repeats and realleges the allegations set forth in paragraphs 1-50 above with the same force and effect as if set forth fully herein.

52. Defendants' advertising, sale, offering for sale and/or distribution of products in the United States using the BOURNVITA mark constitutes unfair competition and unfair trade practices in violation of N.J. Stat. Ann. § 56:4-1 *et seq.*

FIFTH CLAIM FOR RELIEF
(Common Law Unfair Competition)

53. Meenaxi repeats and realleges the allegations set forth in paragraphs 1-52 above

with the same force and effect as if set forth fully herein.

54. Defendants' advertising, sale, offering for sale and/or distribution of products in the United States using the BOURNVITA mark constitutes unfair competition in violation of the common law of the State of New Jersey.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Meenaxi hereby demands a jury trial on all issues triable by a jury.

WHEREFORE, Meenaxi respectfully requests that judgment be entered as follows:

1. Defendants, their officers, agents, servants, employees, representatives, parents, subsidiaries, affiliates, divisions, successors and assigns and all those persons or entities in active concert or participation with any of them who receive actual notice of the injunctive order, shall be preliminarily and permanently enjoined from:

(a) Using the BOURNVITA trademark or any other reproduction, counterfeit, copy or colorable imitation thereof in connection with the promotion, advertisement, display, sale, offer for sale, manufacture, production or distribution of any goods or services;

(b) Engaging in any course of conduct likely to cause confusion, deception or mistake, or to injure Meenaxi's business reputation or goodwill in its BOURNVITA mark, including through the continued importation, advertising, sale, offering for sale and/or distribution of counterfeit BOURNVITA products;

(c) Committing any other act calculated or likely to cause the public to believe that any products manufactured, distributed, or sold by Defendants are in any manner associated or connected with Meenaxi, or are sold, manufactured, licensed, sponsored, approved, or authorized by Meenaxi;

(d) Destroying, altering, removing, or otherwise dealing with the infringing BOURNVITA products or any books or records which contain any information relating to the importation, manufacture, production, distribution, circulation, sale, marketing, offer for sale, advertising, promotion, rental or display of unauthorized products which infringe Meenaxi's BOURNVITA trademark; and

(e) Effecting assignments or transfers, forming new entities or associations, or utilizing any other device for the purpose of circumventing or otherwise avoiding the prohibitions set forth in subparagraphs (a) through (d) above.

2. Pursuant to 15 U.S.C. § 1118, Defendants shall deliver up for destruction to Meenaxi all material, including, without limitation, all products, advertisements, promotional materials, packaging, catalogs, brochures, signs or displays, within their possession, custody or control, bearing the BOURNVITA trademark, or any simulation, reproduction, counterfeit, copy or colorable imitation thereof, and all plates, molds, matrices, and other means of production of same.

3. Pursuant to 15 U.S.C. § 1116(1), Defendants shall file with the Court and serve upon Meenaxi, within thirty (30) days after entry of final judgment, a report in writing and under oath setting forth in detail the manner in which they have complied with the provisions set forth in paragraphs 1 and 2 above.

4. An award shall be entered granting Meenaxi; (a) damages suffered by Meenaxi, trebled, pursuant to 15 U.S.C. § 1117(b); or, in the alternative, (b) all profits derived by Defendants from their use of counterfeits and/or infringements of the BOURNVITA trademark, trebled, pursuant to 15 U.S.C. § 1117(b); or, in the alternative, (c) statutory damages, pursuant to 15 U.S.C. § 1117(c), of up to \$2,000,000 for each trademark that Defendants have counterfeited

and/or infringed, as well as attorneys' fees and costs; and (d) an award of Meenaxi's costs and attorneys' fees to the full extent provided by Section 35 of the Lanham Act, 15 U.S.C. § 1117; and (e) profits and damages to the full extent provided by N.J. Stat. Ann. § 56:4-2, trebled, and New Jersey common law, including punitive damages, plus attorneys' fees and costs.

5. An award shall be entered granting Meenaxi such other and further relief as this Court deems just and equitable.

Dated: February 16, 2023

COWAN, LIEBOWITZ & LATMAN, P.C.
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