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2012

U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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LP

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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
San Francisco Division

JCS

12
13 **CV 12 4631**

14 FEDERAL TRADE COMMISSION,
15 Plaintiff,

Case No.:

16 v.

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

17 SPRINGTECH 77376, LLC, a limited
liability company, also d/b/a
18 CEDARCIDE.COM and
CEDARCIDESTORE.COM,

19 CEDARCIDE INDUSTRIES, INC., a
20 corporation,

21 CHEMICAL FREE SOLUTIONS
LLC, a limited liability company,

22 CEDAR OIL TECHNOLOGIES
23 CORP., a corporation, and

24 DAVE GLASSEL, individually and as
an officer of SPRINGTECH 77376,
25 LLC, CEDARCIDE INDUSTRIES,
INC., and CEDAR OIL
26 TECHNOLOGIES CORP.,

27 Defendants.
28

Complaint

1 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint
2 alleges:

3 1. The FTC brings this action under Section 13(b) of the Federal Trade
4 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive
5 relief, rescission or reformation of contracts, restitution, the refund of monies
6 paid, disgorgement of ill-gotten monies, and other equitable relief for
7 Defendants’ acts or practices in violation of Sections 5(a) and 12 of the FTC Act,
8 15 U.S.C. §§ 45(a) and 52, in connection with the advertising, marketing and sale
9 of various pest-control products, which purportedly treat and prevent bed bug and
10 head lice infestations.

11 JURISDICTION AND VENUE

12 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
13 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

14 3. Venue is proper in this district under 28 U.S.C. § 1391(b) and 15
15 U.S.C. § 53(b).

16 INTRADISTRICT ASSIGNMENT

17 4. Defendants have advertised their products in the County of San
18 Francisco.

19 PLAINTIFF

20 5. The FTC is an independent agency of the United States Government
21 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the
22 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices
23 in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15
24 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices,
25 services, or cosmetics in or affecting commerce.

26 6. The FTC is authorized to initiate federal district court proceedings,
27 by its own attorneys, to enjoin violations of the FTC Act and to secure such
28 equitable relief as may be appropriate in each case, including rescission or

1 reformation of contracts, restitution, the refund of monies paid, and the
2 disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

3 DEFENDANTS

4 7. Defendant Springtech 77376, LLC (“Springtech 77376”) also doing
5 business as Cedarcide.com and Cedarcidestore.com, is a Texas limited liability
6 company with its principal place of business at 612 Spring Cypress Road, Spring,
7 Texas 77373. Springtech 77376 transacts or has transacted business in this
8 district and throughout the United States. At times material to this Complaint,
9 acting alone or in concert with others, Springtech 77376 has advertised,
10 marketed, distributed, or sold pest-control products to consumers throughout the
11 United States.

12 8. Defendant Cedarcide Industries, Inc. (“Cedarcide Industries”) is a
13 Texas corporation with its principal place of business at 612 Spring Cypress
14 Road, Spring, Texas 77373. Cedarcide Industries transacts or has transacted
15 business in this district and throughout the United States. At times material to
16 this Complaint, acting alone or in concert with others, Cedarcide Industries has
17 advertised, marketed, distributed, or sold pest-control products to consumers
18 throughout the United States.

19 9. Defendant Chemical Free Solutions LLC (“Chemical Free
20 Solutions”) is a Texas limited liability company, with its principal place of
21 business at 612 Spring Cypress Road, Spring, Texas 77373. Chemical Free
22 Solutions transacts or has transacted business in this district and throughout the
23 United States. Since March 2012, acting alone or in concert with others,
24 Chemical Free Solutions has advertised, marketed, distributed, or sold
25 pest-control products to consumers throughout the United States.

26 10. Defendant Cedar Oil Technologies Corp. (“Cedar Oil
27 Technologies”) is a Texas corporation, with its principal place of business at
28 2119 Old Ox Road, Spring, Texas 77373. Cedar Oil Technologies transacts or

1 has transacted business in this district and throughout the United States. At times
2 material to this Complaint, acting alone or in concert with others, Cedar Oil
3 Technologies has advertised, marketed, distributed, or sold pest-control products
4 to consumers throughout the United States.

5 11. Defendant Dave Glassel is the owner, president, and director of
6 Springtech 77376, Cedarco Industries, and Cedar Oil Technologies. He is an
7 owner of Chemical Free Solutions and, through Cedar Oil Technologies, has
8 acted as a manager of Chemical Free Solutions. At all times material to this
9 Complaint, acting alone or in concert with others, he has formulated, directed,
10 controlled, had the authority to control, or participated in the acts and practices of
11 the corporate defendants, including the acts and practices set forth in this
12 Complaint. Glassel has been responsible for the development, preparation, and
13 placement of the advertisements and other marketing materials described below.
14 He also has been responsible for the corporate defendants' efforts to obtain
15 evidence to substantiate statements made in those advertisements and marketing
16 materials. Glassel knew or should have known that the acts and practices alleged
17 herein were occurring and were deceptive. Glassel, in connection with the
18 matters alleged herein, transacts or has transacted business in this district and
19 throughout the United States.

20 COMMERCE

21 12. At all times material to this Complaint, Defendants have maintained
22 a substantial course of trade in or affecting commerce, as "commerce" is defined
23 in Section 4 of the FTC Act, 15 U.S.C. § 44.

24 DEFENDANTS' BUSINESS ACTIVITIES

25 DEFENDANTS' PRODUCTS

26 13. Since at least 2007, and continuing thereafter, Defendants have
27 manufactured, advertised, promoted, offered for sale, sold, or distributed a line of
28 pest-control products under the "BEST *Yet!*" brand to consumers throughout the

1 United States. Consumers have purchased these products through a variety of
2 means, including but not limited to, directly from the Defendants by phone,
3 through their website, www.cedarcidestore.com, and through www.amazon.com.

4 14. BEST *Yet!* purportedly consists of a liquid solution whose active
5 ingredient is cedar oil.

6 15. Defendants' BEST *Yet!* "Get Rid Bed Bugs" Infestation product line
7 includes the BEST *Yet!* Non Toxic "Get Rid Bed Bugs" spray (also known as
8 "BEST *Yet!* Biting Insect Spray"), the BEST *Yet!* "Get Rid Bed Bugs" kit, the
9 BEST *Yet!* "Get Rid Bed Bugs" fogger kit, and the BEST *Yet!* Hotel-Motel
10 Natural Organic Bed Bug Eradication Kit. Defendants have marketed these
11 products to individual consumers for personal use, and also to business
12 consumers for use in larger buildings, such as hotels and rental properties.

13 16. Defendants' BEST *Yet!* "Head Lice Treatment" product line
14 includes the BEST *Yet!* Louse Eradication Fluid and the BEST *Yet!* Head Lice
15 Treatment Kit. Defendants have marketed these products to individual
16 consumers for personal use, and also to school districts for public use.

17 17. The price of BEST *Yet!* products has ranged from \$29.95 to
18 \$3,394.95.

19 **DEFENDANTS' ADVERTISEMENTS**

20 18. To induce consumers to purchase BEST *Yet!* products, Defendants
21 have created, prepared, disseminated, or caused to be disseminated, by means
22 such as the radio, the Internet, and their product labels and inserts,
23 advertisements, including, but not limited to, the attached Exhibits A to N. These
24 materials contain, among other things, the following statements:

- 25 a. "One Out of Five Americans" radio advertisement
26 (Exhibit A, transcript, and Exhibit B, CD containing ad)

27 Ohio State entomologists report that today's bed bugs can
28 survive pesticide levels a thousand times greater than the
lethal dose a decade ago, according to The Wall Street
Journal. Perhaps that's why the EPA recently warned victims
fighting bed bugs to "avoid chemical solutions altogether."

1 I have good news for anyone wanting to remove or prevent a
2 bed bug infestation-CedarCide's Best Yet Bed Bug Killer
3 spray; a biological alternative to the exterminator's failing
4 chemicals. Insist on Best Yet, chemical free, non-toxic bed
5 bug killer spray.

6 b. "CedarCide Bed Bug Frenzy" radio advertisement
7 (Exhibit C, transcript, and Exhibit D, CD containing ad)

8 In light of the recent bed bug media frenzy that has all of us
9 nervous, you need to know that bed bug prevention and
10 eradication relief are available. So let's not all freak out. All
11 you need is Best Yet from CedarCide.com.

12 Did you know that the only thing CedarCide's Best Yet will
13 kill faster than fleas are bed bugs, including eggs and larvae?
14 For bed bug relief all you need is Best Yet bed bug killer
15 spray. And the CedarCide fogger machine.

16 Best Yet was developed at the request of the USDA for our
17 military, as a solution for killing sand fleas. But guess what,
18 it's equally deadly to bed bugs, larvae and eggs.

19

20 Best Yet from CedarCide allows you to get rid of bed bugs
21 without the high costs and nerve toxic poisons from
22 exterminators. If you have bed bugs, you need Best Yet bug
23 killer spray. And the CedarCide fogger machine.

24 c. http://www.cedarcidestore.com/KILL_BED_BUGS.html,
25 accessed 12/27/11 (Exhibit E)

26 **Non Toxic "Get Rid Bed Bugs" Infestation Products.**

27 **CedarCide.Com** is the Best Supplier for Non Toxic "**Get**
28 **Rid of Bed Bugs**" Products! Organic, Natural Bed Bug
Infestation Products Include Non Toxic Bed Bug Spray, Non
Toxic Bed Bug Fogger and Non Toxic Bed Bug Kits For
Home, Hotel or PCO Professionals.

. . . .

. . . Once exposed to BEST YET, our **non toxic, organic bed
bug infestation control product**, they all die within seconds.
Then get a quick science lesson as to why the **non toxic "get
rid bed bugs" solution**, BEST YET, is far more effective
than synthetic chemicals for treatment of arthropod and
hexapod insect species. The scientific testing took place at the
world renowned Insect Control Research Laboratories in
Baltimore Maryland on March 11, 2009.

**"BEST YET is highly effective against bed bugs including
eggs when applied directly[.]"** Dr. Changlu Wang, Dept. of
Entomology-Rutgers University.

- 1 d. <http://www.cedarcidestore.com/catalog/item3580888/3194699>
2 [.htm](#), accessed 12/27/11 (Exhibit F); *see also* Exhibit M
(accessed 8/24/12)

3 **BEST YET QUART-NATURAL GET RID BED BUG**
4 **SPRAY**

5 . . . **Get To Know BEST YET, CedarCide's Bed Bug Killer**
6 **Spray! BEST YET Kills Bedbugs, Eggs and Larvae in One**
7 **Easy Treatment!**

8

9 With BEST YET, our natural bed bug killer spray you are
10 now armed with everything you need to get rid of bed bugs,
11 eggs and larvae in one fast, easy treatment, not to mention a
12 long list of commonly found insect parasites. Protect your
13 family from bed bug invaders and keep your home front free
14 of dangerous toxic chemical[s]. BEST YET was invented by
15 CedarCide.Com for the US Army for the control of bed bugs,
16 sand fleas and other pests that plague our troops in the Middle
17 East. . . .

18 **Acknowledged by The USDA as The Number One Choice**
19 **of Bio-Based Pesticides.**

20 Scientifically tested and proven by Iowa State University,
21 Rutgers University and the ICR laboratories and
22 acknowledged by the USDA as the number one choice of
23 bio-based pesticides. . . .

24 . . . The pheromone interruption agents in the cedar oil active
25 ingredient will create a barrier [to] entry making areas treated
26 with **BEST YET** off limits to **bed bugs** and other pests.
27 **BEST YET** has been proven superior to any chemical
28 counterpart available.

- 29 e. "BEST *Yet!* BITING INSECT SPRAY" label (Exhibit G)

30 Best Yet was originally developed for the US Army.
31 Scientifically tested and proven by Iowa State University,
32 Rutgers University and the ICR laboratories. . . .
33 Best Yet is a contact killer to bed bugs . . . [and] lice
34 Best Yet kills Insects on contact by attacking their breathing
35 system with the aroma of cedar oil The pheromone
36 interruption agents in cedar oil will create a barrier [to] entry
37 making areas treated with Best Yet off limits.

- 38 f. [http://www.cedarcidestore.com/releases/release/3365525/146](http://www.cedarcidestore.com/releases/release/3365525/14642.htm)
39 [42.htm](#), accessed 4/17/12 (Exhibit H)

40 **BEST YET Recognized as Panacea for Bed Bug . . . and**
41 **Lice infestations in Hotels, Motels, [and] Dwellings . . .**

1
2 . . . Relief has finally arrived[,] announced Dave Glassel,
3 President and CEO of CedarCide.Com Inc., a Texas
4 Corporation specializing in the formulation of Biosolutions
5 for insect control[.] . . .

6 CedarCide.Com is pleased to announce the availability of its
7 new[] cedar oil formulation, BEST YET, an eradication and
8 abatement program for . . . bed bug control. It is also effective
9 in the treatment of children's head lice

10
11 We actually invented BEST YET for our troops in Iraq[,]
12 Glassel stated in a recent interview. We participated in a
13 federally-funded research program initiated by the
14 Department of Army, and administered by the USDA. They
15 were seeking BIO-Products, as replacements for the harmful
16 chemical formulations currently used in insect control. The
17 Army specifically sought a natural product to combat Desert
18 Sand Flea infestations plaguing our Iraqi-deployed personnel,
19 and[,] Mr. Glassel continued, for which chemical-based
20 products were either ineffective, or caused skin disorders and
21 blurred vision among our troops. In comparison to other
22 Biosolutions, BEST YET was recognized as the overall first
23 choice, determined by Iowa State University scientists[]
24 responsible for the USDA's final product analysis.
25 Emp[ir]ical data created suggests mortality rates far in excess
26 of chemical formulations used as [benchmarks] in the testing
27 protocol.

28 g. http://www.cedarcidestore.com/KILL_HEAD_LICE.html,
accessed 12/27/11 (Exhibit I); *see also* Exhibit N (accessed
8/24/12)

**Natural Head Lice Treatment Products - Non Toxic
Organic Head Lice Remedies**

**Parents: You Can Easily Rid Lice From Your Child With
a Non Toxic, Organic, Poison Free Remedy That Will Kill
Head Lice, Nymphs and Eggs and Dissolve Nit Glue on
Contact.**

29
30 **How Does Our Head Lice Treatment Product Kill Lice?**

31 This remarkable, **all natural head lice Treatment Product**
32 was developed in 2006 at the request of the USDA for our
33 troops deployed in the Middle East. . . .

34

1 **CedarCide.com's Non Toxic Organic Head Lice Remedy is**
2 **Extremely Fast and Effective.**

- 3 h. [http://www.cedarcidestore.com/catalog/item/3580888/768155](http://www.cedarcidestore.com/catalog/item/3580888/7681554.htm)
4 [4.htm](http://www.cedarcidestore.com/catalog/item/3412572/5108345.htm)atalog/item/3412572/5108345.htm, accessed 12/27/11
(Exhibit J)

5 **BEST YET KIT DIY HOME LICE TREATMENT**

6

7 **THE BEST YET KIT For Natural Lice Removal From**
8 **Furniture, Bedding and Carpets.**

9 This **DIY Home Kit** comes with a Full Gallon Of The **All**
10 **Natural Lice remedy . . . BEST YET. A Lice Removal, Lice**
11 **Prevention Product For In-Home Use Including Bedding,**
12 **Furniture and Carpets. . . .** Also included is a 4 Oz. Best Yet
13 **Head Lice Spritzer With Enough Solution for one Child. Kill**
14 **Lice Eggs Naturally, Kill Lice Nits in One Treatment! Saves**
15 **You Time and Money!**

16 If you've got **lice in your home, on furniture, bedding or**
17 **carpets. Get rid of them with the powerful, all natural**
18 **remove lice treatment: BEST YET! This organic lice**
19 **removal product will kill lice eggs instantly. BEST YET is a**
20 **breakthrough in green, home Lice Removal.**

21

22 Tested and proven by Iowa State University, Rutgers
23 University, the ICR Laboratories and acknowledged by the
24 USDA as the . . . number one choice of bio-based Pesticides.
25 **THE PRODUCT OF CHOICE BY Homeowners for**
26 **natural lice removal and lice prevention.**

- 27 i. "BEST Yet! HEAD LICE TREATMENT" product insert
28 (Exhibit K)

Chemical-Free Solution for
HEAD LICE ERADICATION

Formulated from Texas Red Cedar Oil and Silane Fluids
(melted Quartz rock). Contact with this dynamic solution will
kill the Louse instantly. Immediate absorption of BEST YET
by the hair will dissolve the louse nit glue from the inside of
the hair structure[,] resulting in a rapid release and demise of
the nit. . . .

. . . .

. . . Additional spray treatment with BEST YET for several
days will stimulate and enhance the hair condition and
eliminate any lice [recurrence].

1 j. “Best Yet Quart Spray Bottle” advertisement on
2 www.amazon.com, accessed 8/23/2012 (Exhibit L)

3 **Product Features**

- 4 • Kills bedbugs, larvae and eggs in one easy treatment.
5

6 **Product Description**

7 With BEST YET, you are now armed with everything you
8 need to get rid of bed bugs, eggs and larvae in one fast, easy
9 treatment, not to mention a long list of commonly found
10 insect parasites. Protect your family from bed bug invaders
11 and keep your home front free of dangerous toxic chemical.
12 BEST YET was invented for the US Army for the control of
13 bed bugs, sand fleas and other pests that plague our troops in
14 the Middle East. . . . Traveling? Be sure to take a quart along
15 to protect yourself on the road. Scientifically tested and
16 proven by Iowa State University, Rutgers University and the
17 ICR laboratories and acknowledged by the USDA as the
18 number one choice of bio-based pesticides. . . . Use BEST
19 YET bed bug killer spray for parasite control in your home,
20 barn, hotel/motel or any commercial establishment. . . .
21 Contact with most insects will trigger immediate death. The
22 pheromone interruption agents in the cedar oil active
23 ingredient will create a barrier of entry making areas treated
24 with BEST YET off limits to bed bugs and other pests.

25 **VIOLATIONS OF THE FTC ACT**

26 19. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or
27 deceptive acts or practices in or affecting commerce.”

28 20. Misrepresentations or deceptive omissions of material fact constitute
deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

21 21. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the
22 dissemination of any false advertisement in or affecting commerce for the
23 purpose of inducing, or which is likely to induce, the purchase of food, drugs,
24 devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act,
25 15 U.S.C. § 52, BEST *Yet!* as marketed for the treatment of head lice in humans
26 is a “drug” as defined in Section 15(c) of the FTC Act, 15 U.S.C. § 55(c).

27 **Count I**

28 **Unsubstantiated Bed Bug Claims**

29 22. Through the means described in Paragraph 18, Defendants have

1 represented, directly or indirectly, expressly or by implication, that:

- 2 a. BEST *Yet!* is effective in stopping bed bug infestations;
- 3 b. BEST *Yet!* is effective in preventing bed bug infestations; and
- 4 c. BEST *Yet!* is more effective than synthetic pesticides at
- 5 stopping and preventing bed bug infestations.

6 23. The representations set forth in Paragraph 22 were not substantiated
7 at the time they were made.

8 24. Therefore, the making of the representations set forth in Paragraph
9 22 constitutes a deceptive act or practice, in or affecting commerce, in violation
10 of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

11 **Count II**

12 **False Bed Bug Claims**

13 25. Through the means described in Paragraph 18, Defendants have
14 represented, directly or indirectly, expressly or by implication, that:

- 15 a. Scientific studies prove that Best *Yet!* is effective in stopping
- 16 bed bug infestations;
- 17 b. Scientific studies prove that Best *Yet!* is effective in
- 18 preventing bed bug infestations;
- 19 c. Scientific studies prove that Best *Yet!* is more effective than
- 20 synthetic pesticides at stopping and preventing bed bug
- 21 infestations; and
- 22 d. The United States Environmental Protection Agency (“EPA”)
- 23 has warned consumers to avoid all synthetic or chemical
- 24 pesticides for the treatment of bed bug infestations.

25 26. In truth and in fact:

- 26 a. Scientific studies do not prove that Best *Yet!* is effective in
- 27 stopping bed bug infestations;
- 28 b. Scientific studies do not prove that Best *Yet!* is effective in

1 preventing bed bug infestations;

2 c. Scientific studies do not prove that Best *Yet!* is more effective
3 than synthetic pesticides at stopping and preventing bed bug
4 infestations; and

5 d. The EPA has not warned consumers to avoid all synthetic or
6 chemical pesticides for the treatment of bed bug infestations.
7 In fact, the EPA recommends a combination of techniques
8 known as integrated pest management (IPM) – an approach
9 that includes prevention, monitoring, and limited use of
10 chemical pesticides. The EPA, however, has warned
11 consumers that they should never use, or allow anyone else to
12 use, a pesticide indoors that is intended for outdoor use, as
13 indicated on the label.

14 27. Therefore, the making of the representations set forth in Paragraph
15 25 constitutes a deceptive act or practice, in or affecting commerce, in violation
16 of Section 5(a) of the FTC Act, 15 U.S.C. §§ 45(a).

17 **Count III**

18 **Unsubstantiated Head Lice Claim**

19 28. Through the means described in Paragraph 18, Defendants have
20 represented, directly or indirectly, expressly or by implication, that:

21 a. BEST *Yet!* is effective in stopping head lice infestations;

22 b. BEST *Yet!* is effective in preventing head lice infestations;

23 c. BEST *Yet!* is effective in killing head lice eggs;

24 d. BEST *Yet!* dissolves the glue that binds head lice eggs (nits)
25 to hair; and

26 e. BEST *Yet!* is effective in killing head lice and their eggs in a
27 single treatment.

28 29. The representations set forth in Paragraph 28 were not substantiated

1 at the time they were made.

2 30. Therefore, the making of the representations set forth in Paragraph
3 28 constitutes a deceptive act or practice, and the making of false advertisements,
4 in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15
5 U.S.C. §§ 45(a) and 52.

6 **Count IV**

7 **False Head Lice Claim**

8 31. Through the means described in Paragraph 18, Defendants have
9 represented, directly or indirectly, expressly or by implication, that:

- 10 a. Scientific studies prove that *Best Yet!* is effective in stopping
11 a head lice infestation; and
12 b. Scientific studies prove that *BEST Yet!* is effective in
13 preventing head lice infestations.

14 32. In truth and in fact:

- 15 a. Scientific studies do not prove that *Best Yet!* is effective in
16 stopping a head lice infestation; and
17 b. Scientific studies do not prove that *BEST Yet!* is effective in
18 preventing head lice infestations.

19 33. Therefore, the making of the representations set forth in Paragraph
20 31 constitutes a deceptive act or practice, and the making of false advertisements,
21 in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15
22 U.S.C. §§ 45(a) and 52.

23 **Count V**

24 **False Claims Regarding Defendants'**

25 **Affiliation with the Federal Government**

26 34. Through the means described in Paragraph 18, Defendants have
27 represented, directly or indirectly, expressly or by implication, that:

- 28 a. *Best Yet!* was invented for the United States Army at the

1 request of the United States Department of Agriculture
2 (“USDA”); and

3 b. The USDA has acknowledged Best *Yet!* as the number one
4 choice of bio-based pesticides.

5 35. In truth and in fact:

6 a. Best *Yet!* was not invented for the United States Army at the
7 request of the USDA; and

8 b. The USDA has not acknowledged Best *Yet!* as the number
9 one choice of bio-based pesticides. In fact, at the time
10 Defendants made this claim, Defendants were not active
11 participants in the USDA’s BioPreferred® program.
12 Moreover, Best *Yet!* has neither been (1) identified by the
13 USDA as a product for preferred federal purchasing under the
14 BioPreferred® program, nor (2) certified to meet or exceed
15 the USDA’s stated biobased content standards by an
16 independent third party lab.

17 36. Therefore, the making of the representations set forth in Paragraph
18 34 constitutes a deceptive act or practice, in or affecting commerce, in violation
19 of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

20 CONSUMER INJURY

21 37. Consumers have suffered and will continue to suffer substantial
22 injury as a result of Defendants’ violations of the FTC Act. In addition,
23 Defendants have been unjustly enriched as a result of their unlawful acts or
24 practices. Absent injunctive relief by this Court, Defendants are likely to
25 continue to injure consumers, reap unjust enrichment, and harm the public
26 interest.

27 THIS COURT’S POWER TO GRANT RELIEF

28 38. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this
Complaint

1 Court to grant injunctive and such other relief as the Court may deem appropriate
2 to halt and redress violations of any provision of law enforced by the FTC. The
3 Court, in the exercise of its equitable jurisdiction, may award ancillary relief,
4 including rescission or reformation of contracts, restitution, the refund of monies
5 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any
6 violation of any provision of law enforced by the FTC.

7 **PRAYER FOR RELIEF**

8 Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15
9 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

10 a. Enter a permanent injunction to prevent future violations of the FTC
11 Act by Defendants;

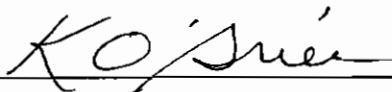
12 b. Award such relief as the Court finds necessary to redress injury to
13 consumers resulting from Defendants' violations of the FTC Act, including, but
14 not limited to, rescission or reformation of contracts, restitution, the refund of
15 monies paid, and the disgorgement of ill-gotten monies; and

16 c. Award Plaintiff the costs of bringing this action, as well as such
17 other and additional relief as the Court may determine to be just and proper.

18
19 Respectfully submitted,

20
21 Dated: 9/15/12

22 WILLARD K. TOM
23 General Counsel

24 
25 _____

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