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FIRST BIOTECH INC. and SHANDONG FUFENG
FERMENTATION CO., LTD.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FIRST BIOTECH INC. and	)	Case No. 8:25-cv-00768
SHANDONG FUFENG	)	
FERMENTATION CO., LTD.,	)	COMPLAINT FOR
	)	1. Trademark Counterfeiting (15
Plaintiffs,	)	U.S.C. §§ 1114);
	)	2. Trademark Infringement (15
vs.	)	U.S.C. §§ 1114);
	)	3. Violations of Lanham Act (15
NEWEST BIOTECH INC., AKSO	)	U.S.C. § 1125);
INDUSTRIES LLC, AKSO, INC.,	)	4. Violations of California Unfair
LINLIN WU, WENLONG LI, and JOHN	)	Competition Law (California
GOLDWATER,	)	Business & Professions Code §§
	)	17200 et seq.)
Defendants.	)	
	)	JURY TRIAL DEMANDED

INTRODUCTION

1
2 1. Plaintiffs First Biotech Inc. (“1st Biotech”) and Shandong Fufeng
3 Fermentation Co., Ltd. (“Fufeng CN”) bring this action for trademark infringement
4 under 15 U.S.C. § 1114, *et seq.*, and unfair competition (unlawful and unfair business
5 practices under both the Lanham Act, 15 U.S.C. §§ 1125, *et seq.*, and California’s
6 Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*) against two
7 California-based entities, an affiliated Texas corporation, and their principals.

8 2. Specifically, Defendants have knowingly and intentionally engaged in an
9 illegal pattern and practice to market and sell counterfeit Fufeng CN products,
10 including through providing forged Certificates of Analysis (each, a “CoA”) to
11 customers and potential customers of the corporate Defendants. These forged CoAs
12 prominently display Fufeng CN’s registered trademark and purport to show Fufeng
13 CN’s affiliate—Neimenggu Fufeng Biotechnologies Co., Ltd. (“NFB”)—as the
14 manufacturer of the product and issuer of the CoA, but NFB has no corresponding
15 production records. These CoAs further reveal non-existent and falsified product
16 batch and lot numbers, lot size, testing information and, significantly, adulteration of
17 Fufeng CN product formulations.

18 3. As a further part of this illegal scheme, Defendants have knowingly and
19 intentionally sought to evade or reduce payment of U.S. import tariffs and duties by
20 intentionally undervaluing and misclassifying the actual value and classification of
21 these counterfeit goods imported into the United States through false, forged, and/or
22 altered customs declarations and corresponding invoices. In particular, Defendants
23 have mislabeled the content of shipments by representing that the shipment contained
24 a product subject to a lower import duty. The fraudulent customs filings result in the
25 corporate Defendants’ paying import duties based on the mislabeled shipment’s lower
26 tariff rates, thereby illegally reducing duty obligations.

27 4. 1st Biotech and the corporate Defendants are vying for the same dollars
28 from the same consumers for the same categories of products. Through their unlawful

1 and anti-competitive conduct, Defendants have gained an unfair advantage over 1st
2 Biotech and Fufeng CN by adulterating products and falsifying CoAs to convince
3 consumers that they are receiving authentic Fufeng CN products.

4 5. Defendants have further engaged in a pattern and practice of mislabeling
5 goods they import into the U.S. to drastically lower the costs of the corporate
6 Defendants' competing goods. Through this unlawful and anti-competitive conduct,
7 Defendants have gained an unfair advantage over honest direct competitors and
8 importers, including 1st Biotech, by drastically lowering the prices of the corporate
9 Defendants' competing goods. As a result, Defendants' conduct is not just harming
10 Fufeng CN and 1st Biotech, it is harming competition itself, including depriving
11 customers of meaningful product choice and decreasing output for the consuming
12 public.

13 6. As a direct and proximate result of Defendants' unlawful and unfair
14 competition, 1st Biotech (and other direct competitors) and Fufeng CN have suffered
15 direct economic injury, including loss of business, customers, profits, and market
16 share (including in California) and dilution of their businesses' goodwill.

17 7. These economic injuries and losses of 1st Biotech and Fufeng CN and
18 other competitors are not the result of misconduct of a third party, but rather are the
19 direct result, and are directly traceable to, Defendants' import tariff fraud through their
20 importing of competing products expressly aimed at and deliberately into California
21 and other parts of the United States that give it an unsurmountable pricing advantage
22 over 1st Biotech and Fufeng CN other direct competitors for competing products.

23 8. Where one competitor is given a major pricing advantage over other
24 competitors, such pricing discrimination has an inherent tendency to destroy
25 competition by reducing the number of competitors in the market and preventing new
26 competitors from entering the market. The corporate Defendants' pricing advantage as
27 a result of Defendants' customs import tariff fraud not only tends to destroy
28 competition, but it has also *already* significantly impacted and harmed competition.

1 Such conduct and results violate the spirit and policy of state and federal antitrust laws

2 **THE PARTIES**

3 9. 1st Biotech is a corporation organized and existing under the laws of the
4 State of California with its principal place of business in Anaheim, California. 1st
5 Biotech is an affiliate of Fufeng CN and is currently the exclusive U.S. importer and
6 distributor of Fufeng CN's products.

7 10. Fufeng CN is a limited company organized and existing under the laws of
8 China with its principal place of business in Shandong Province.

9 11. 1st Biotech and Fufeng CN are affiliates owned by Fufeng Group
10 Limited, a publicly traded company on the Hong Kong Stock Exchange (Stock Code
11 0546).

12 12. Defendant Newest Biotech Inc. ("NBI") is a corporation organized and
13 existing under the laws of the State of California with its principal place of business in
14 Laguna Beach, California.

15 13. Defendant AKSO Industries LLC ("AKSO-CA") is a limited liability
16 company organized and existing under the laws of the State of California with its
17 principal place of business in La Canada Flintridge, California.

18 14. Defendant AKSO, Inc. ("AKSO-TX") is a corporation organized and
19 existing under the laws of the State of Texas with its principal place of business in
20 Houston, Texas. Upon information and belief, Defendant AKSO-TX is an affiliate of
21 AKSO-CA.

22 15. Defendant Linlin Wu ("Wu") Is a citizen of the State of California
23 residing in this District.

24 16. Defendant Wenlong Li ("Li") is a citizen of the State of California
25 residing in this District.

26 17. Defendant John Goldwater ("Goldwater") is a citizen of the State of
27 Michigan.
28

JURISDICTION AND VENUE

18. This Court has subject matter jurisdiction of this action pursuant to 15 U.S.C. §1121(a), as the Complaint includes claims arising under the Lanham Act, 28 U.S.C. §1331, as the Complaint includes claims arising under federal statutes, 28 U.S.C. §1338, as the Complaint includes claims relating to trademarks, and 28 U.S.C. §1367, as the state law claims arise from the same fact pattern and are otherwise so related to the federal claims in this action within such original jurisdiction that they form part of the same case or controversy under Article III of the U.S. Constitution.

19. This Court has specific personal jurisdiction over Defendant AKSO-TX as Plaintiffs' claims arise out of its conduct purposefully directed at this forum in transacting business as an affiliate of Defendant AKSO-CA, including, but not limited to, maintaining a warehouse where xanthan gum described herein is stored and pictures of counterfeit and/or illegally-obtained Fufeng CN products which Defendant NBI has utilized to market such xanthan gum to customers and prospects as Fufeng CN xanthan gum. Accordingly, Defendant ASKO-TX has purposefully availed itself of the privileges and benefits of conducting business in the State of California and in this District in connection with the intentional trademark infringement and unfair competition claims alleged in this Complaint.

20. This Court has specific personal jurisdiction over Defendant Goldwater because Plaintiffs' claims arise out of his conduct as NBI's Vice President purposefully directed at this forum and at 1st Biotech in connection with the trademark infringement and unfair competition described below.

21. This Court has general and specific personal jurisdiction over the remaining Defendants because they reside within this District and a substantial amount of Defendants' unlawful activity giving rise to the claims asserted herein took place within this District.

22. Venue is appropriately placed in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) and (2) because the certain Defendants reside within this District

1 and, further, all Defendants engaged in the unlawful activity described herein in this
2 judicial district.

3 **TARIFFS AND DUTIES**

4 **REGULATORY AND LEGAL FRAMEWORK**

5 23. Tariffs and duties on imports help protect domestic companies and
6 industries from unfair pricing by foreign competitors. The declared value of imported
7 goods on the required customs import declaration form determines the amount of the
8 duty that must be paid, typically stated as a percentage of the actual value of the goods
9 (so-called *ad valorem* duties).

10 24. For example, U.S. Customs and Border Protection (“CBP”) regulations
11 provide that “the entry documentation required to secure the release of merchandise”
12 arriving at U.S. ports must include, *inter alia*, “[a] commercial invoice” and a
13 “packing list.” 19 C.F.R. § 142.3; *see also* 19 C.F.R. § 141.81 (“A commercial invoice
14 shall be presented for each shipment of merchandise at the time the entry summary is
15 filed ...”).

16 25. The regulations further specify that a commercial invoice must set forth
17 “[t]he purchase price of each item in the currency of the purchase.” 19 C.F.R.
18 §141.86(a)(5); *see also* 19 C.F.R. §141.83(c) (specifying that “[t]he commercial
19 invoice shall be prepared in the manner customary in the trade [and] contain the
20 information required by §§141.86 through 141.89.”).

21 26. Section 402 of the Tariff Act of 1930, 19 U.S.C. § 1401a, instructs that
22 the dutiable amount of merchandise imported into the United States shall be calculated
23 on the “price actually paid or payable for the merchandise when sold for exportation
24 to the United States ...” 19 U.S.C. §1401a(b)(1)(C).

25 27. In addition, beginning in 2018, the Office of the United States Trade
26 Representative imposed additional duties of up to 25% on certain “lists” of products
27 from China, with each list identifying the products by their 8-digit Harmonized Tariff
28 Schedule (or “HTS”) code. This has caused a rise in customs fraud based on the illegal

1 undervaluing of imported goods from China to evade or reduce customs tariffs and
2 duties. In fact, since 2020, 74% of all False Claims Act claims in the customs and
3 import context have been based on undervaluation.

4 28. California’s Unfair Competition Law, California Business & Professions
5 Code §17200 *et seq.*, prohibits illegal business practices and broadly describes “unfair
6 competition” as “any unlawful, unfair, or fraudulent business act or practice.” This
7 includes conduct that gives a business an unfair advantage over its competitors and
8 that intentionally harms competition.

9 29. One of the three categories of business practices proscribed by the UCL
10 is “unlawful” business practices. The UCL’s “unlawful” prong permits a plaintiff to
11 “borrow” a defendant’s violation of other state or federal laws and treat it as an
12 “unlawful” practice that is independently actionable as unfair competition under the
13 UCL.

14 **OPERATIVE FACTS**

15 30. Fufeng CN is one of the world’s largest manufacturers of bio-
16 fermentation food-additive products, such as xanthan gum, L-glutamic acid, and
17 monosodium glutamate. Fufeng CN is an affiliate of the Fufeng Group Ltd. (“Fufeng
18 Group”), which is publicly traded on the Hong Kong exchange (HK.0546).

19 31. Fufeng CN is the owner of all rights and title to U.S. Trademark Reg. No.
20 4,144,786 (the “Fufeng Mark”). A true and correct copy this registration is attached
21 hereto as Exhibit 1.

22 32. At all times relevant hereto, Fufeng CN has imported, advertised and sold
23 its products, including xanthan gum, exclusively through 1st Biotech in the U.S. under
24 the Fufeng Mark. Fufeng CN has invested substantial time, effort, and financial
25 resources promoting the Fufeng Mark in connection with the marketing and sales of
26 goods in interstate commerce.

27 33. 1st Biotech was formed in 2015 and primarily imports, markets, and sells
28 Fufeng CN products. 1st Biotech is a U.S. affiliate of the Fufeng Group and is—and

1 has been since its founding—the exclusive U.S. importer and distributor of Fufeng
2 CN’s products, including xanthan gum.

3 34. Defendant AKSO-TX was formed in 2022 by, upon information and
4 belief, Defendant Wu and others to operate a pre-mixed excipient business and related
5 warehouses.

6 35. Defendant AKSO-CA was formed in August 2023 by Defendant Wu.

7 36. Defendant NBI was formed in 2023 by Defendant Li. Defendant NBI
8 claims to be a global supplier of chemical ingredients for the food and beverage and
9 industrial manufacturing industries. Defendant NBI further claims to have
10 warehousing facilities in Texas which are controlled by Defendant Wu. Upon
11 information and belief, these facilities are owned or leased by Defendant AKSO-TX.

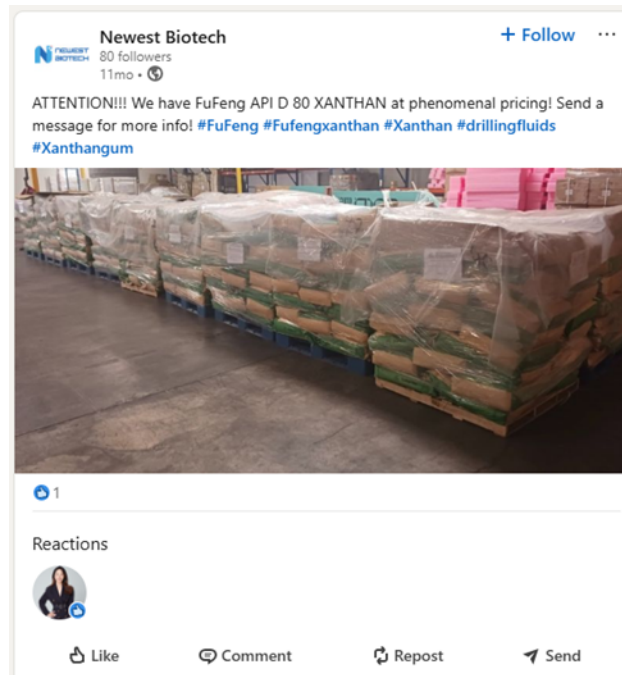
12 37. At some time, unknown to 1st Biotech and Fufeng CN, Defendants
13 entered into an illicit agreement to obtain, import, market, and sell counterfeit Fufeng
14 CN xanthan gum products. Upon information and belief, Defendant Wu obtained the
15 counterfeit products to be stored at one or more warehouses operated by AKSO-TX
16 starting in early 2023, including approximately 20 containers of xanthan gum. Upon
17 information and belief, these deliveries did not include the requisite accurate customs
18 and other importation documentation, including, but not limited to, CBP Form 7501.
19 Further, upon information and belief, import data available from CBP does not
20 indicate the importation of these 20 containers of xanthan gum by 1st Biotech or any
21 other entity from which AKSO-TX could have obtained legitimate xanthan gum
22 manufactured by Fufeng CN.

23 38. Upon information and belief, Defendants have engaged in a pattern and
24 practice of mislabeling xanthan gum as either agar or glucose in importation
25 documentation, products that at the time of the importation were subject to a
26 substantially lower duty and tariff.

27 39. At some point in time unknown to Plaintiffs, NBI and Defendant
28 Goldwater began representing to its customers that NBI was an authorized distributor

1 of xanthan gum manufactured by “Fufeng.” Such representations were made by at
2 least Defendant Goldwater to customers and prospects in one or more emails or
3 LinkedIn messages.

4 40. Similarly, NBI and Defendant Goldwater have posted on LinkedIn that it
5 maintains stock of “Fufeng” xanthan gum, in packaging that includes the Fufeng Mark
6 (the “Infringing Products”). An example of NBI’s posts is set forth, below.



19 41. The Infringing Products shown in the picture were not manufactured by
20 Fufeng CN. Further, Fufeng CN did not authorize any third party to use the Fufeng
21 Mark in connection with the packaging, marketing, or sales of the Infringing Products.

22 42. At some point in time, customers of Defendant NBI began requesting
23 CoAs to confirm that Infringing Products were genuine. In response to these requests,
24 Defendants NBI and Goldwater delivered numerous CoAs, each of which included the
25 Fufeng Mark, to these customers. Upon information and belief, Defendants NBI and
26 Goldwater delivered these CoAs to deceive the customers into believing that they
27 were receiving genuine Fufeng CN xanthan gum.

28 43. Several NBI customers contacted 1st Biotech and provided it with copies

1 of the CoAs delivered by NBI and Goldwater. 1st Biotech confirmed that the CoAs
2 were falsified because neither it nor Fufeng CN or its affiliated manufacturer, NFB,
3 had any production records corresponding to the information in the falsified CoA's,
4 including product batch and lot numbers, lot size, and testing information.

5 44. Examples of CoAs provided by NBI to its customers are attached hereto
6 as composite Exhibit 2.

7 45. Further, based upon the information in the CoAs, Defendants or, upon
8 information and belief, someone acting at the direction of Defendants, adulterated
9 legitimate Fufeng xanthan gum product to create the Infringing Products Defendant
10 NBI was offering for sale. Upon information and belief, the adulteration scheme
11 included Defendant Goldwater falsely claiming to be acting on behalf of a company
12 named Texas Fine Chemical and obtaining 160 tons of industrial-grade xanthan gum
13 from First Biotech Inc.

14 46. The adulteration allowed Defendants NBI, AKSO-CA, and/or AKSO-TX
15 to reduce further their costs and increase their profit margin on the sale of the
16 Infringing Products.

17 47. Upon information and belief, Defendants knew that the CoAs NBI
18 provided to its customers were fraudulent and were provided for the purposes of
19 deceiving NBI's customers into believing they received genuine Fufeng CN product.

20 48. All conditions precedent to the assertion of the claims herein have been
21 satisfied and/or waived.

22 **FIRST CAUSE OF ACTION**

23 **Trademark Counterfeiting**

24 **(15 U.S.C. § 1114)**

25 49. Fufeng CN incorporates Paragraphs 1-48 by reference, and further
26 alleges as follows.

27 50. Defendants have used in connection with the Infringing Products
28 spurious designations that are identical with, or substantially indistinguishable from,

1 the Fufeng Mark for which Fufeng CN holds federal trademark registrations.
2 Defendants have used these spurious designations in commerce in connection with the
3 advertising, sale, offering for sale and/or distribution of the Infringing Products for
4 their own financial gain. Fufeng CN has not authorized Defendants' use of the Fufeng
5 Mark to advertise, offer for sale, sell and/or distribute Defendants' Infringing
6 Products.

7 51. At all relevant times, Defendants had actual and direct knowledge of
8 Fufeng CN's prior use and ownership of the Fufeng Mark. Defendants' conduct is
9 therefore willful and reflects Defendants' intent to exploit the goodwill and strong
10 brand recognition associated with the Fufeng Mark.

11 52. Defendants' acts as described in this Complaint constitute trademark
12 counterfeiting in violation of Section 32 of the Lanham Act, 15 U.S.C. § 1114.

13 53. Defendants' acts have caused, and will continue to cause, irreparable
14 injury to Fufeng CN. Fufeng CN has no adequate remedy at law and is thus damaged
15 in an amount not yet determined.

16 SECOND CAUSE OF ACTION

17 Trademark Infringement

18 (15 U.S.C. § 1114)

19 54. Fufeng CN incorporates Paragraphs 1-48 by reference, and further
20 alleges as follows.

21 55. Section 32(1)(a) of the Lanham Act, 15 U.S.C. § 1114(1)(a), prohibits
22 any person from using in commerce, without the consent of the registrant, any
23 trademark or any reproduction, counterfeit, copy, or colorable imitation thereof in
24 connection with the marketing, advertising, distribution, or sale of goods or services
25 which is likely to result in confusion, mistake, or deception.

26 56. The Fufeng Mark is federally registered. This mark has also acquired
27 extraordinary fame and distinctiveness and is associated in the mind of the public
28 exclusively with Fufeng CN.

57. Defendants have used the Fufeng Mark in connection with the Infringing Products without Fufeng CN's consent or authorization. Defendants' use, including the importation, sale, offer for sale, and/or distribution of the Infringing Products in commerce, is likely to cause confusion and mistake in the mind of the public, leading the public to believe that Defendants' products emanate or originate from Fufeng CN, or that Fufeng CN has approved, sponsored, or otherwise associated itself with Defendants or their Infringing Products.

THIRD CAUSE OF ACTION

62. Plaintiffs incorporate Paragraphs 1-48 by reference, and further alleges as follows.

1 is likely to cause confusion, mistake, or deception as to the affiliation or connection of
2 Defendants with Fufeng CN and as to the origin, sponsorship, association, or approval
3 of Defendants' Infringing Products in violation of Section 43(a) of the Lanham Act,
4 15 U.S.C. §1125(a).

5 64. Defendants' actions as alleged herein, including but not limited to their
6 unauthorized use in commerce of spurious copies of the Fufeng Mark, constitutes use
7 of a false designation of origin and misleading description and representation of fact
8 that is likely to cause confusion, mistake, or deception as to the affiliation or
9 connection of Defendants with Fufeng CN and/or 1st Biotech and as to the origin,
10 sponsorship, association, or approval of Defendants' Infringing Products in violation
11 of Section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

12 65. At all relevant times, Defendants had actual and direct knowledge of
13 Fufeng CN's prior use and ownership of the Fufeng Mark. Defendants' conduct is
14 therefore willful and reflects Defendants' intent to exploit the goodwill and strong
15 brand recognition associated with the Fufeng Mark.

16 66. Defendants' wrongful acts will continue unless enjoined by this Court.

17 67. Defendants' acts have caused, and will continue to cause, irreparable
18 injury to Fufeng CN. Fufeng CN has no adequate remedy at law and is thus damaged
19 in an amount not yet determined.

20 **FOURTH CAUSE OF ACTION**
21 **Violation of California Unfair Competition Law**
22 **(Cal. Bus. & Prof. Code § 17200 *et seq.*)**
23 **(*Unlawful and Unfair Business Practices*)**

24 68. Plaintiffs incorporate Paragraphs 1-48 by reference, and further alleges as
25 follows.

26 69. California Business and Professions Code § 17204 allows a person who
27 has suffered injury-in-fact and has lost money or property as a result of unfair
28 competition to prosecute a civil action for violation of California Business &

1 Professions Code §17200 *et seq.* (the “UCL”), which defines unfair competition as
2 “any unlawful, unfair, or fraudulent business act or practice ...”

3 70. By taking the actions described above, Defendants have and are engaged
4 in unlawful and unfair business practices that constitute unfair competition in
5 violation of the UCL.

6 Defendants’ Import Duties Fraud

7 71. Specifically, and while intentionally violating U.S. customs and duties
8 laws, Defendants are deliberately engaging in anti-competitive conduct to eliminate
9 competitors (including 1st Biotech) and harm competition by product misclassification
10 and significantly undervaluing the declared prices of NBI’s and AKSO-CA’s goods,
11 imported directly into the United States to deceive CBP officials and obtain reduced
12 import tariffs and duties.

13 72. The substantial—and illegal—cost savings enable NBI and AKSO-CA to
14 ultimately sell their products at significantly lower prices that give it an unfair
15 competitive advantage over the competition, which includes 1st Biotech and other
16 competitors who abide by U.S. import laws.

17 73. As described above, 1st Biotech has suffered a concrete and particularized
18 injury caused by Defendants’ conduct.

19 74. Defendants’ illegal conduct and practices described herein violate the
20 U.S. customs laws, including the Tariff Act of 1930, and, accordingly, are constitute
21 unlawful business practices under the UCL.

22 75. As described above, 1st Biotech is a direct competitor of NBI and AKSO-
23 CA and is suffering economic injury, including loss of business, customer base, sales,
24 profits, and market share (especially in California) and dilution of goodwill, as a direct
25 and proximate result of Defendants’ unlawful import tariff fraud and would not have
26 occurred but for the major advantage obtained by NBI and AKSO-CA through its
27 unfair competition.
28

1 76. As described above, NBI's and AKSO-CA's imported products
2 competed directly with similar 1st Biotech products at the time of their importation
3 into California and their undervaluing in violation of U.S. law.

4 77. As described above, Defendants' unlawful conduct significantly threatens
5 and harms, and is already harming, competition in general, not just 1st Biotech, as a
6 result of the market power it has obtained through its major price advantage. 1st
7 Biotech and other competitors have been forced to limit some of their product
8 offerings, especially xanthan gum, as a direct result of NBI's and AKSO-CA's
9 predatory pricing, which deprives consumers of meaningful product choice and dilutes
10 the goodwill and brand of 1st Biotech and other competitors.

11 Defendants' Unlawful Product Adulteration.

12 78. Additionally, Defendants are deliberately engaging in anti-competitive
13 conduct to eliminate competitors (including 1st Biotech) and harm competition by
14 adulterating Fufeng CN's xanthan gum product to reduce NBI's and AKSO's costs.

15 79. The substantial—and illegal—cost savings enable NBI and AKSO to
16 ultimately sell their products at significantly lower prices that give them an unfair
17 competitive advantage over the competition, which includes 1st Biotech and other
18 competitors who sell unadulterated xanthan gum products.

19 80. As described above, 1st Biotech has suffered a concrete and particularized
20 injury caused by Defendants' conduct.

21 81. Defendants' illegal conduct and practices described herein violate the
22 Lanham Act's prohibitions against, e.g., misrepresenting the nature, characteristics,
23 and qualities of NBI's and AKSO-CA's products, and, accordingly, constitute
24 unlawful business practices under the UCL.

25 82. As described above, 1st Biotech is a direct competitor of NBI and AKSO-
26 CA and is suffering economic injury, including loss of business, customer base, sales,
27 profits, and market share (especially in California) and dilution of goodwill, as a direct
28 and proximate result of Defendants' unlawful import tariff fraud and product

1 adulteration and would not have occurred but for the major advantage obtained by
2 NBI and AKSO-CA through its unfair competition.

3 83. As described above, NBI's and AKSO-CA's imported products
4 competed directly with similar 1st Biotech products at the time of their importation
5 into California and their undervaluing and adulteration in violation of U.S. law.

6 84. As described above, Defendants' unlawful conduct significantly threatens
7 and harms, and is already harming, competition in general, not just 1st Biotech, as a
8 result of the market power it has obtained through its major price advantage. 1st
9 Biotech and other competitors have been forced to limit some of their product
10 offerings, especially xanthan gum, as a direct result of NBI's and AKSO-CA's
11 predatory pricing, which deprives consumers of meaningful product choice and dilutes
12 the goodwill and brand of 1st Biotech and other competitors.

13 UCL Injunctive Relief.

14 85. 1st Biotech's injuries directly and proximately caused by Defendants are
15 redressable and are an injury to competition of the type that the UCL was designed to
16 prevent and enjoin. Accordingly, 1st Biotech seeks injunctive relief enjoining
17 Defendants from the conduct described above to redress the ongoing economic harm
18 the competitive market is suffering and to protect competition generally by preventing
19 further UCL violations.

20 **CLAIM FOR RELIEF**

21 WHEREFORE, Plaintiffs prays for judgment in their favor and against
22 Defendants as follows:

- 23 a. Damages in favor of Fufeng CN and against all Defendants:
- 24 i. in an amount compensate Fufeng CN for Defendants' infringement of
25 the Fufeng Mark, trebled, pursuant to 15 U.S.C. §1117(b); and
26 ii. All illicit profits Defendants derived from utilizing the Fufeng Mark,
27 trebled pursuant to 15 U.S.C. §1117(b);
28 iii. Or, in the alternative, statutory damages, pursuant to 15 U.S.C.

§1117(c);

b. Damages in favor of 1st Biotech and against all Defendants:

- i. In an amount compensate 1st Biotech for Defendants' unfair competition, pursuant to 15 U.S.C. §1117(a); and
- ii. All illicit profits Defendants derived from their unfair competition, pursuant to 15 U.S.C. §1117(a); and

c. Injunctive relief enjoining and restraining Defendants, each of their officers, agents, servants, employees, and attorneys, and all those acting in active concert or participation with Defendants from:

- i. Using the Fufeng Mark or any colorable imitation thereof on or in connection with any goods or services;
- ii. Engaging in any course of conduct likely to cause confusion, deception or mistake, or to injure Fufeng CN's or 1st Biotech's business reputation, including through importation, distribution, sale or offering for sale of products utilizing the Fufeng Mark;
- iii. Using any simulation, reproduction, counterfeit, copy, or colorable imitation of the Fufeng Mark in connection with the promotion, advertisement, display, sale, offer for sale, manufacture, production, importation, circulation, or distribution of any products;
- iv. Making any statement or representation whatsoever, or using any false designation of origin or false description, or performing any act, which can or is likely to lead the trade or public, or individual members thereof, to believe that any products manufactured, distributed, or sold by Defendants are in any manner associated or connected with Fufeng CN or 1st Biotech, or are sold, manufactured, licensed, sponsored, approved, or authorized by Fufeng CN or 1st Biotech;
- v. Destroying, altering, removing, or otherwise dealing with the

1 unauthorized products or any books or records which contain any
2 information relating to the importation, manufacture, production,
3 distribution, circulation, sale, marketing, offer for sale, advertising,
4 promotion, rental or display of all unauthorized products which
5 infringe or dilute the Fufeng Mark; and

6 vi. Effecting assignments or transfers, forming new entities or
7 associations, or utilizing any other device for the purpose of
8 circumventing or otherwise avoiding the prohibitions set forth in
9 subparagraphs (i) through (v);

10 d. For the entry of an order directing Defendants to deliver up for
11 destruction to 1st Biotech all products, advertisements, promotional
12 materials, and packaging in their possession or under their control
13 bearing the Fufeng Mark, or any simulation, reproduction, counterfeit,
14 copy or colorable imitation thereof, and all plates, molds, matrices, and
15 other means of production of same, pursuant to 15 U.S.C. § 1118;

16 e. Injunctive relief enjoining and restraining Defendants, each of their
17 officers, agents, servants, employees, and attorneys, and all those acting
18 in active concert or participation with Defendants from illegally and
19 unfairly undervaluing its goods as described above to protect competition

20 f. Finding this case to be exceptional and awarding Plaintiff's reasonable
21 attorneys' fees, pursuant to 15 U.S.C. §

22 g. For Plaintiffs' attorneys' fees and costs of suit; and

23 h. For any further relief this Court deems just and proper, premises
24 considered.

1 Dated: April 14, 2025

Respectfully submitted,

2 TROUTMAN PEPPER LOCKE LLP

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4 By: /s/ Daniel A. Solitro

5
6 *Attorneys for Plaintiffs*
7 *FIRST BIOTECH INC. and SHANDONG*
8 *FUFENG FERMENTATION CO., LTD.*

9
10 **DEMAND FOR JURY TRIAL**

11 Plaintiffs hereby demand a trial by jury on claims so triable.

12 Dated: April 14, 2025

Respectfully submitted,

13 TROUTMAN PEPPER LOCKE LLP

14
15 By: /s/ Daniel A. Solitro

16
17 *Attorneys for Plaintiffs*
18 *FIRST BIOTECH INC. and SHANDONG*
19 *FUFENG FERMENTATION CO., LTD.*