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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92062793
Party	Defendant Affordable Naturals, LLC
Correspondence Address	AFFORDABLE NATURALS LLC 6401 W 106TH STREET BLOOMINGTON, MN 55438 UNITED STATES
Submission	Motion to Suspend for Civil Action
Filer's Name	Carl E. Christensen
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Date	01/15/2016
Attachments	Amended Motion to Suspend.pdf(90408 bytes ) Amended Motion to Suspend Exhibit A[opt].pdf(2123180 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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In the matter of Registration No.: 3,935,337	§	
Mark: SIMPLY	§	
	§	
Registration Date: Mar. 22, 2011	§	Cancellation No. 92062793
	§	
NutraMarks, Inc.,	§	
	§	
Petitioner,	§	
	§	
v.	§	
	§	
Affordable Naturals, LLC,	§	
	§	
Respondent.	§	
	§	

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**AMENDED MOTION TO SUSPEND PROCEEDINGS PENDING CIVIL ACTION  
(TRADEMARK RULE 2.117(a) & (c))**

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Pursuant to TTAB Rules §§ 2.117(a), (c) and TBMP § 510.02(a), Respondent Affordable Naturals, LLC (“Affordable Naturals”) moves for suspension of Petitioner’s above-captioned Cancellation, pending the disposition of a related civil action before the United States District Court for the District of Utah, *Nutraceutical Corp., et al. v. Affordable Naturals, LLC*, No. 2:14-CV-00907-JNP-PMW (the “Utah Matter”). Additionally, Respondent files this Amended Motion to Suspend concurrently with its Motion to Extend Time to Answer, previously filed on January 13, 2016. In doing so, and in the event the underlying civil matter is determined on its merits, Respondent respectfully requests no less than forty (40) days from the date of resumption—or any other time as prescribed by the Trademark Rules—to Answer Petitioner’s Cancellation.

Petitioner’s Cancellation here runs parallel with two other actions: The Utah Matter and

an related Opposition proceeding initiated by Affordable Naturals. The Utah Matter involves the same parties, the same trademarks, and the same issues as those raised by Petitioner in this Cancellation, including whether the likelihood of confusion exists between Respondent’s SIMPLY mark and Petitioner’s SIMPLERS mark, as well as the issue of seniority for their respective marks. Moreover, AN commenced an Opposition proceeding against Petitioner, *Affordable Naturals, LLC v. NutraMarks, Inc.*, Opposition No. 91218720 on October 7, 2014. On February 10, 2015, the Board suspended that Opposition pending the outcome of the Utah Matter because the Opposition was based on the same issues above—namely, the same parties and the same trademarks, as well as the issues of likelihood of confusion and seniority. A copy of the pleadings for both the Utah Matter and Opposition No. 91218720 are attached to this Amended Motion as **Exhibit A**.

Final determination of the Utah Matter will have a bearing on this Cancellation. When the Board is made aware that the parties to a Board proceeding are involved in a civil action, the result of which can be dispositive of the Board proceeding, the Board should suspend the proceeding until final determination of the civil action. 37 C.F.R. § 2.117(a); *Miller v. B & H Foods, Inc.*, 209 U.S.P.Q. 357, 359 (T.T.A.B. 1981) (“[W]here, as here, the civil action between the parties may be dispositive or have a direct bearing on the issues in a proceeding before the Board, it is the practice to suspend the proceeding before the Board to await the outcome of the civil action and to determine its effect on the issues in the action in the [PTO].”); *General Motors Corp. v. Cadillac Club Fashions, Inc.*, 22 U.S.P.Q.2d 1933 (T.T.A.B. 1992); *Toro, Inc. v. Hardigg Indus., Inc.*, 187 U.S.P.Q. 689 (T.T.A.B. 1975) (granting a motion to suspend following a civil action for injunction, “[T]here can be no doubt...that the final resolution of the civil action may be dispositive of the issues involved in this proceeding”).

Suspending this Cancellation is proper. The primary consideration for the Board here is that suspension of this Cancellation will avoid unnecessary and duplicative expenses—and potentially duplicative results—when, in reality, the outcome of the Utah Matter will likely adjudicate the issues Petitioner raises here. In fact, the same issues central to this Cancellation are the exact same issues of AN’s Opposition, No. 91218720, which the Board has already suspended—and the Board should act consistently here to suspend the Cancellation and limit simultaneous litigation revolving around the same central facts and issues.

For these reasons, Respondent Affordable Naturals, LLC respectfully requests the Board grant this Amended Motion to Suspend Petitioner’s Cancellation, pending the final disposition of the Utah Matter.

Respectfully submitted,

**CHRISTENSEN LAW OFFICE PLLC**

Dated: January 15, 2016

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ATTORNEYS FOR RESPONDENT  
Affordable Naturals, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Amended Motion to Suspend has been served on January 15, 2016, to the following by U.S. First Class Mail, postage prepaid:

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and by e-mail to: *ncdavis@hollandhart.com*.

/s/ Carl E. Christensen  
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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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**NUTRACEUTICAL CORPORATION,**  
a Delaware corporation, and

**NUTRAMARKS, INC.,**  
a Delaware corporation,

Plaintiffs,

vs.

**AFFORDABLE NATURALS, LLC,**  
a Minnesota limited liability company,

Defendant.

**COMPLAINT FOR  
TRADEMARK INFRINGEMENT**

Civil Case No. 2:14-cv-00907-EJF

Magistrate Judge Evelyn J. Furse

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Plaintiffs Nutraceutical Corporation and NutraMarks, Inc., in support of their Complaint against Defendant Affordable Naturals, LLC (“Defendant”), allege and state as follows:

## **INTRODUCTION**

1. This is an action for trademark infringement and unfair competition resulting from Defendant's unauthorized infringement of the SIMPLERS trademark to market and sell personal care products. Plaintiffs bring this action under the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, and supplemental state law, to enjoin Defendant's further violation of Plaintiffs' common law trademark rights in the SIMPLERS Mark, and to disgorge all profits received Defendant enjoyed in connection with its use of the infringing trademark.

## **THE PARTIES**

2. Plaintiff Nutraceutical Corporation ("Nutraceutical") is a Delaware Corporation having its principal place of business at 1400 Kearns Boulevard, Park City, Utah, 84060.

3. Plaintiff NutraMarks, Inc. ("NutraMarks") is a Delaware Corporation having its principal place of business at 1500 Kearns Boulevard, Park City, Utah, 84060.

4. Upon information and belief, Defendant Affordable Naturals, LLC ("Affordable Naturals") is a Minnesota limited liability company with its principal place of business at 6401 W. 106th Street, Bloomington, Minnesota. Defendant advertises, sells, and distributes its products in Utah, and its sales and distributions affect the commerce of the United States.

## **JURISDICTION AND VENUE**

5. This action arises under the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, and supplemental state law. This Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331, 1338, and 1367.

6. Venue is proper in the District of Utah pursuant to 28 U.S.C. § 1391(b) and (c).

7. The Court has personal jurisdiction over Defendant because it transacts business and sells products into Utah and has caused an injury to Plaintiffs within the state of Utah.

**GENERAL ALLEGATIONS**

**Plaintiffs' Use of SIMPLERS Trademark On Cosmetic Preparations**

8. Nutraceutical (directly and through its subsidiaries) manufactures, distributes, and sells a wide variety of nutritional and dietary supplements, cosmetic products, and therapeutic topical products in health and natural food stores and similar outlets nationwide.

9. NutraMarks is a wholly-owned subsidiary of Nutraceutical and owns the trademark rights to the SIMPLERS trademark at issue. Unless otherwise specified herein, Nutraceutical and NutraMarks will be referred to collectively as "NutraCeutical."

10. Since at least as early as 1983, Nutraceutical and its predecessor-in-interest, Simplers Botanical Company, LLC, have used the term SIMPLERS as a trademark throughout the United States in connection with the advertising, promotion, and sale of cosmetic health and beauty products.

11. By virtue of its nationwide, continuous use of the SIMPLERS Mark, Nutraceutical and its predecessor-in-interest obtained nationwide common law rights to the SIMPLERS Mark throughout the United States by at least the 1983.

12. On September 30, 2013, NutraMarks filed an application to register the mark SIMPLERS with the United States Patent and Trademark Office ("USPTO") for "cosmetic preparations, namely, essential oils for personal use and aromatherapy use; perfume oils; non-medicated cosmetics and skin care products, namely, face and body creams, face, body and lip salves, face and body sprays, face and body balms, face and body oils, face and body liquid soaps, face and body moisturizers, face, body, and hand lotions, lip balms, shaving lotions, shaving balms, perfumes and colognes, and face and body bar soaps; hair care preparations;

massage oils.” A copy of NutraMarks’ trademark application for SIMPLERS is attached as Exhibit 1.

13. The SIMPLERS trademark application was duly examined by a Trademark Examiner at the USPTO who, on August 27, 2014, approved the SIMPLERS application for registration pursuant to 15 U.S.C. § 1062(a).

14. In addition, on September 30, 2013, NutraMarks filed an application to register the mark SIMPLERS BOTANICALS with the USPTO, which approved and issued the registration for SIMPLERS BOTANICALS (U.S. Reg. No. 4,647,662) on registered Dec. 2, 2014, for “cosmetic preparations, namely, essential oils for personal use and aromatherapy use; perfume oils; non-medicated cosmetics and skin care products, namely, face and body creams, face, body and lip salves, face and body sprays, face and body balms, face and body oils, face and body liquid soaps, face and body moisturizers, face, body, and hand lotions, lip balms, shaving lotions, shaving balms, perfumes and colognes, and face and body bar soaps; hair care preparations; massage oils.” A copy of NutraMarks’ trademark registration for SIMPLERS BOTANICALS is attached as Exhibit 2.

15. The SIMPLERS mark is inherently distinctive or has acquired distinctiveness through Nutraceutical and its predecessor-in-interest’s continuous and extensive use of the mark since 1983 in connection with the sale and promotion of its health and beauty products nationwide.

16. Nutraceutical and its predecessor-in-interest have expended considerable effort and expense advertising, marketing, and promoting the SIMPLERS mark throughout the United States. Consequently, Nutraceutical possesses and enjoys considerable goodwill in the

SIMPLERS mark, which represents a valuable asset in identifying the goods sold under the SIMPLERS mark.

**In 2009, Defendant Begins Use Of And Registers The SIMPLY Trademark For Personal Care Products**

17. On November 24, 2009, Defendant filed an application to register the mark SIMPLY with the USPTO, for “personal care products, namely lip balm.”

18. In its trademark application, Defendant represented to the USPTO that its first use in commerce for the SIMPLY mark was August 1, 2009.

19. The USPTO does not search or review common law rights when examining federal trademark applications. As a result, Nutraceutical and its predecessor’s common law rights to the SIMPLERS trademark dating back to 1983 were not considered or known by the USPTO when it reviewed Defendant’s trademark application for SIMPLY.

20. The USPTO granted Defendant’s registration for SIMPLY on March 22, 2011 (U.S. Registration No. 3,935,337).

**Defendant Opposes Nutraceutical’s SIMPLERS Application And Admits That A Likelihood Of Confusion Exists Between The SIMPLY and SIMPLERS trademarks**

21. On October 7, 2014, based on its registration for SIMPLY, Defendant filed a Notice of Opposition to NutraMark’s SIMPLERS application before the Trademark Trial and Appeal Board (“the TTAB”) (Opposition No. 91218720) (“the Opposition”).

22. In the Opposition, Defendant affirmatively asserted that Plaintiffs’ “Simplers mark for cosmetic preparations so resembles Opposer’s registered SIMPLY mark as to be likely to cause confusion, mistake, or deception, and is therefore precluded from registration under Section 2(d) of the Lanham Act, 15 U.S.C. 1052(d).” Notice of Opposition, ¶8 (attached as Exhibit 3).

23. Defendant made its admission that a likelihood of confusion exists in full view of Nutraceutical's claimed first use date of 1983 for the SIMPLERS mark, which is stated on Nutraceutical's trademark application and predates Defendant's first use by approximately twenty-six (26) years.

24. At no time has Plaintiff given Defendant permission, license, or authorization to use the confusingly similar mark SIMPLY in connection with personal care or related products.

25. Due to Defendant's actual knowledge of Plaintiff's senior rights to the SIMPLERS mark, Defendant's infringement has been willful.

**FIRST CAUSE OF ACTION**

**(TRADEMARK INFRINGEMENT UNDER § 43(a) OF THE LANHAM ACT)**

26. Nutraceutical incorporates the preceding paragraphs as though set forth fully herein.

27. Defendant's actions as described above, and specifically Defendant's unauthorized use of the SIMPLY trademark to identify and promote its health and/or beauty products, is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of Defendant with Nutraceutical, or as to the origin, sponsorship, or approval of Defendant's products by Nutraceutical. Defendant's conduct constitutes the use of a false designation of origin and false descriptions and representations in violation of § 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

28. Defendant's conduct has caused and continues to cause irreparable injury to the value and goodwill of Nutraceutical's SIMPLERS mark, as well as irreparable injury to Nutraceutical's business, goodwill, and reputation.

29. Nutraceutical has no adequate remedy at law because damages are continuing and difficult to ascertain.

30. Defendant's continued use of its Infringing Mark is deliberate, willful, and constitutes a knowing infringement of Nutraceutical's SIMPLERS mark. Nutraceutical, therefore, is entitled to disgorgement of Defendant's profits and attorneys' fees and costs incurred in this action, along with prejudgment interest.

**SECOND CLAIM FOR RELIEF**

**(Utah Truth in Advertising Act)**

31. Nutraceutical incorporates the preceding paragraphs as though set forth fully herein.

32. Defendant's actions described above, and specifically Defendant's unauthorized use of its Infringing Mark to identify and promote its nutritional and/or dietary supplements and/or health and/or beauty products, have caused or are likely to cause confusion or misunderstanding by actual and prospective purchasers and customers regarding the true source, sponsorship, approval, affiliation, connection, or association of Defendant's products. This conduct constitutes a deceptive trade practice and/or deceptive or misleading advertising practice in violation of Utah code Ann. § 13-11a-1 *et seq.*

33. Nutraceutical is entitled to prevent, restrain and enjoin Defendant from current and future uses of Nutraceutical's SIMPLERS mark.

34. Nutraceutical is entitled to an award of its attorneys' fees pursuant to § 13-11a-1 *et seq.* for being required to file and prosecute this action.

35. Nutraceutical has no adequate remedy at law, has suffered and is continuing to suffer irreparable harm as a result of Defendant's acts, and therefore is entitled to preliminary and permanent injunctive relief to enjoin Defendant from further misconduct.

**PRAYER FOR RELIEF**

Plaintiffs pray for the following relief and requests that:

1. The Court grant preliminary and permanent injunctive relief enjoining the Defendant and each of its officers, directors, agents, servants, and employees, and all others acting in concert with and having knowledge thereof, from using the SIMPLY mark, or any other mark confusingly similar thereto, in connection with the promotion, sale, or offer of sale of personal care or related products;
2. The Court order that Defendant account to Nutraceutical for all sales, revenues, and profits derived from sale of products under the SIMPLY mark, and that all such profits be disgorged and paid to Nutraceutical;
3. The Court order Defendant to withdraw and recall all infringing literature, Internet website use, advertising material, labels, and other items bearing the SIMPLY mark, and either deliver those materials to Nutraceutical for destruction or arrange for their destruction in a manner acceptable to Nutraceutical;
4. The Court order the Defendant to conduct corrective advertising sufficient to inform the consuming public that there is no connection between Nutraceutical and Defendant;
5. The Court award Nutraceutical the costs of this action and reasonable attorneys' fees and expenses.

Dated December 12, 2014.

Respectfully submitted,

/s/ Mark A. Miller  
Timothy P. Getzoff  
Mark A. Miller  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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NUTRACEUTICAL CORPORATION  
a Delaware corporation, and,

NUTRAMARKS, INC.,  
a Delaware corporation

Plaintiffs and Counterclaim-Defendants,

vs.

AFFORDABLE NATURALS, LLC,  
a Minnesota limited liability  
company,

Defendant and Counterclaim-Plaintiff.

**ANSWER AND COUNTERCLAIMS  
FOR TRADEMARK INFRINGEMENT**

**JURY TRIAL DEMANDED**

Court File No.: 2:14-cv-00907-EJF

Magistrate Judge Evelyn J. Furse

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Defendant Affordable Naturals, LLC, (“Affordable Naturals”) for its Answer to the Complaint of Plaintiffs Nutraceutical Corporations (“Nutraceutical”) and

NutraMarks, Inc. (“NutraMarks”), denies each and every allegation contained in the Complaint, except those allegations which are specifically admitted, qualified, or otherwise answered in this Answer, as follows:

1. As to Paragraph 1 of Plaintiffs’ Complaint: Affordable Naturals denies that its products sold under its SIMPLY trademark violate Nutraceutical’s and Nutramarks’ rights and denies that its conduct constitutes trademark infringement and unfair competition. The remaining allegations contained in this paragraph are legal conclusions to which no response is required. To the extent that this paragraph contains further factual allegations, Affordable Naturals denies them.

2. As to Paragraph 2 of Plaintiffs’ Complaint: Is without sufficient information to admit or deny so therefore denies.

3. As to Paragraph 3 of Plaintiffs’ Complaint: Is without sufficient information to admit or deny so therefore denies.

4. As to Paragraph 4 of Plaintiffs’ Complaint: Admits

5. As to Paragraph 5 of Plaintiffs’ Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

6. As to Paragraph 6 of Plaintiffs’ Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

7. As to Paragraph 7 of Plaintiffs’ Complaint: Affordable Naturals denies that it has caused an injury to Plaintiffs. The remaining allegations in this paragraph are legal

conclusions to which no response is required. To the extent that this paragraph contains further factual allegations, Affordable Naturals denies.

8. As to Paragraph 8 of Plaintiffs' Complaint: Is without sufficient information to admit or deny so therefore denies.

9. As to Paragraph 9 of Plaintiffs' Complaint: Is without sufficient information to admit or deny so therefore denies.

10. As to Paragraph 10 of Plaintiffs' Complaint: Is without sufficient information to admit or deny so therefore denies.

11. As to Paragraph 11 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

12. As to Paragraph 12 of Plaintiffs' Complaint: Affordable Naturals affirmatively alleges that the NutraMarks' trademark application for SIMPLERS attached to Plaintiffs' Complaint as Exhibit 1 speaks for itself. To the extent that any of the allegations contained in this paragraph contradict the express language of the NutraMarks' trademark application, Affordable naturals denies the same.

13. As to Paragraph 13 of Plaintiffs' Complaint: Is without sufficient information to admit or deny so therefore denies.

14. As to Paragraph 14 of Plaintiffs' Complaint: Affordable Naturals affirmatively alleges that the NutraMarks' trademark application for SIMPLERS BOTANICALS attached to Plaintiffs' Complaint as Exhibit 2 speaks for itself. To the extent that any of the allegations contained in this paragraph contradict the express

language of the NutraMarks' trademark application, Affordable naturals denies the same.

15. As to Paragraph 15 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

16. As to Paragraph 16 of Plaintiffs' Complaint: Is without sufficient information to admit or deny so therefore denies.

17. As to Paragraph 17 of Plaintiffs' Complaint: Admits Affordable Naturals filed an application to register the mark SIMPLY with the USPTO on November 24, 2009. Denies that Plaintiffs' characterization that the mark was for "personal care products, namely lip balm" accurately and completely represents Affordable Naturals application.

18. As to Paragraph 18 of Plaintiffs' Complaint: Admits.

19. As to Paragraph 19 of Plaintiffs' Complaint: Is without sufficient information to admit or deny so therefore denies.

20. As to Paragraph 20 of Plaintiffs' Complaint: Admits.

21. As to Paragraph 21 of Plaintiffs' Complaint: Admits.

22. As to Paragraph 22 of Plaintiffs' Complaint: Affordable Naturals affirmatively alleges that the Notice of Opposition attached to Plaintiffs' Complaint as Exhibit 3 speaks for itself. To the extent that any of the allegations contained in this paragraph contradict the express language of the Notice of Opposition, Affordable naturals denies the same.

23. As to Paragraph 23 of Plaintiffs' Complaint: Affordable Naturals

affirmatively alleges that Nutraceutical's trademark application speaks for itself. To the extent that any of the allegations contained in this paragraph contradict the express language of the Notice of Opposition, Affordable naturals denies the same.

24. As to Paragraph 24 of Plaintiffs' Complaint: Affordable Naturals denies that any permission, license, or authorization to use Affordably Naturals' federally registered mark, SIMPLY, was required from Plaintiffs. Affordable Naturals denies any and all other allegations in this paragraph.

25. As to Paragraph 25 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

**PLAINTIFFS' FIRST CAUSE OF ACTION**  
**(Trademark Infringement Under § 43(a) of the Lanham Act)**

26. As to Paragraph 26 of Plaintiffs' Complaint: This paragraph realleges facts for which further response is not required. To the extent that this paragraph contains factual allegations, Affordable Naturals denies them.

27. As to Paragraph 27 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

28. As to Paragraph 28 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

29. As to Paragraph 29 of Plaintiffs' Complaint: Appears to state a legal

conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

30. As to Paragraph 30 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

**PLAINTIFFS' SECOND CLAIM FOR RELIEF**  
**(Utah Truth in Advertising Act)**

31. As to Paragraph 31 of Plaintiffs' Complaint: This paragraph realleges facts for which further response is not required. To the extent that this paragraph contains factual allegations, Affordable Naturals denies them.

32. As to Paragraph 32 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

33. As to Paragraph 33 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

34. As to Paragraph 34 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

35. As to Paragraph 35 of Plaintiffs' Complaint: Appears to state a legal conclusion for which no response is required. To the extent a response is required, Affordable Naturals denies.

36. As to Paragraphs 1-5 that follow Paragraph 35 of the Complaint; these paragraphs are a prayer for relief to which no response is required. To the extent that these paragraphs contain factual allegations, Affordable Naturals denies them.

### **AFFIRMATIVE DEFENSES**

Upon information and belief, based on the information or lack thereof now available to Defendant Affordable Naturals, the following affirmative defenses may apply:

1. The Complaint fails to state a claim upon which relief can be granted.
2. The claims made in the Complaint are barred, in whole or in part, by applicable statutes of limitations.
3. The claims made in the Complaint are barred by laches.
4. The claims made in the Complaint are barred by the doctrines of waiver, implied consent, acquiescence, and estoppel.

### **I. COUNTERCLAIMS**

Defendant Affordable Naturals, LLC (“Defendant” or Counterclaim-Plaintiff”) assert the following counterclaims against Plaintiffs Nutraceutical Corporation and NutraMarks, Inc. (collectively, “Counterclaim-Defendants”):

### **II. PARTIES**

1. Counterclaim-Plaintiff Affordable Naturals, LLC is a Minnesota limited liability company with its principal place of business at 6401 West 106th Street, Bloomington, Minnesota.

2. Upon information and belief, Counterclaim-Defendant Nutraceutical Corporation is a Delaware Corporation having its principal place of business at 1400 Kearns Boulevard, Park City, Utah 84060.

3. Upon information and belief, Counterclaim-Defendant NutraMarks, Inc. is a Delaware Corporation having its principal place of business at 1500 Kearns Boulevard, Park City, Utah 84060.

### **III. JURISDICTION AND VENUE**

4. These counterclaims arise under the Lanham Act 15 U.S.C. §§ 1051 *et seq.*, and the provisions of the Federal Declaratory Judgment Act, as well as the laws of the State of Utah. The jurisdiction of this Court is proper under 15 U.S.C. §§ 1051 *et seq.*, and 28 U.S.C. §§ 1331, 1332, 1367 and 2201-02.

5. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

### **IV. JURY TRIAL DEMAND**

6. Plaintiffs request a trial by jury on all issues so triable. U.S. Const. amend.  
7. Fed.R.Civ.P. 38.

### **V. FACTS**

*Affordable Naturals is the Owner of the SIMPLY® Mark, Which Has Significant Appurtenant Goodwill in the Eyes of the Relevant Consumer*

7. Affordable Naturals and its predecessors have used lip care and lip-related products under the SIMPLY® Mark continuously in interstate commerce since at least as early as August 1, 2009.

8. Affordable Naturals is the owner of the following trademark registrations

for the SIMPLY® mark, which is registered on the Principal Register of the United States Patent and Trademark Office:

Trademark	Registration No.	Registered Goods
SIMPLY	3935337	Personal care products, namely lip balm, lip shimmers and sun block preparations

(USPTO registration of the SIMPLY® mark is attached as **Exhibit A.**)

9. Affordable Naturals has undergone significant expense developing, marketing, policing, and maintaining the SIMPLY® brand and appurtenant goodwill since 2009. Affordable Naturals has sold millions of units of its branded lip balms, lip glosses, lip shimmers and other lip-related products since 2009 through distribution relationships with Walgreens, Target, and other national retailers. Since 2009, it has expended over one million dollars in product development, marketing, and legal services to develop, grow, and protect its SIMPLY® mark.

10. Affordable Naturals is a leading manufacturer, marketer, distributor, and seller of natural, organic, and environmentally-friendly lip balms, lip glosses, lip shimmers, and other lip-related products.

11. Affordable Naturals sells lip balms, lip glosses, lip shimmers, and lip-related products under the SIMPLY® mark.

12. Affordable Naturals manufacturers, markets, distributes, and sells its products under the prolific SIMPLY® brand through various channels of trade including convenience stores, retailers, branded national chains, online sellers such as Amazon.com, and direct-to-consumer online sales.

13. Affordable Naturals' mission is as follows: "We bring organic products back down-to-earth by providing the first all-natural, premium quality, U.S-made, eco-conscious personal care products offered on the market at a reasonable rate."

14. Affordable Naturals' goods consist of natural and organic ingredients, such as olive oil and beeswax. Affordable Naturals maintains its standards to make products that never contain parabens, sulfates, synthetic dyes, synthetic fragrances, phthalates or GMOs. Affordable Naturals maintains some of its goods to meet certain quality standards to be certified "USDA ORGANIC."

15. Affordable Naturals has also spent extensive resources and expense developing trade dress that speaks to its mission and the "natural" and "organic" nature of its goods, which is as follows:



16. Affordable Naturals also markets and sells its goods on the Internet. Affordable Naturals' website for the SIMPLY® brand goods is located at the <simplylipbalm.com> domain name. (Printouts of the Simply website are attached as **Exhibit B.**)

17. Because of Affordable Naturals' substantial efforts of brand development, the relevant consuming public has an expectation of certain quality appurtenant to the SIMPLY® mark. This expectation of quality has inured to the SIMPLY® mark as secondary meaning in the form of significant and extensive goodwill, distinguishing

Affordable Naturals' lip balms, lip glosses, lip shimmers, and lip-related products from those of their competitors.

*If Counterclaim-Defendants have senior rights in their mark, their rights are limited to their market penetration*

18. By virtue of Affordable Naturals' registration of the SIMPLY® mark, upon the time of the registration of the SIMPLY mark, Counterclaim-Defendants' rights become frozen and are limited only to those territories where its trade had reached before Affordable Naturals' registration of the SIMPLY ® mark.

19. Any purported market activities by Counterclaim-Defendants regarding the SIMPLERS mark must be more than *de minimus* for Counterclaim-Defendants to assert senior rights in any market.

20. Also, Affordable Naturals' SIMPLY® mark is only sold appurtenant to lip balms, lip glosses, lip shimmers and other lip-related products.

21. Upon information and belief, Counterclaim-Defendants have not used the SIMPLERS mark on any lip balms, lip glosses, lip shimmers and other lip-related products.

22. Upon information and belief, lip balms, lip glosses, lip shimmers and other lip-related products are not natural areas of Counterclaim-Defendants' expansion of the SIMPLERS mark for any goods for which they may have senior rights.

**COUNT I**  
**Declaratory Relief Regarding Non-Infringement**

23. Based on Nutraceutical and NutraMarks filing of this suit and Counterclaim-Plaintiff's Affirmative Defenses, an actual controversy has arisen and now

exists between Counterclaim-Plaintiff and Counterclaim-Defendants as to whether Affordable Naturals infringe Counterclaim-Defendants' trademark.

24. Pursuant to the Federal Declaratory Judgment Act, 28 U.S.C. §§ *et seq.*, Affordable Naturals requests the declaration of the Court that it does not infringe and has not infringed any trademark of Counterclaim-Defendants.

25. Alternately, Affordable Naturals requests the declaration of this Court that any senior rights that Counterclaim-Defendants may have in the SIMPLERS mark are frozen and are limited only to those territories where its trade had reached before Affordable Naturals' registration of the SIMPLY ® mark.

26. Alternately, Affordable Naturals requests the declaration of this Court that any market activities by Counterclaim-Defendants purportedly giving rise to senior rights in the SIMPLERS mark are *de minimus* and shall not give rise to their exclusive use.

27. Alternately, Affordable Naturals requests the declaration of this Court that Counterclaim-Defendants have not used the SIMPLERS mark on any lip balms, lip glosses, lip shimmers and other lip-related products and lip glosses, lip shimmers and other lip-related products are not natural areas of Counterclaim-Defendants' expansion of the SIMPLERS mark for any goods for which they may have senior rights.

28. Affordable Naturals also seeks any other declaration of this court that equitably achieves justice.

## **VI. RELIEF SOUGHT**

WHEREFORE, Affordable Naturals prays for judgment against Counterclaim-Defendants as follows:



# **Exhibit A**



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Sun Sep 14 03:20:58 EDT 2014

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Logout Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

TSDR ASSIGN Status TTAB Status ( Use the "Back" button of the Internet Browser to return to TESS)

SIMPLY

Word Mark SIMPLY
Goods and Services IC 003. US 001 004 006 050 051 052. G & S: personal care products, namely, lip balm, lip shimmers and sun block preparations. FIRST USE: 20090801. FIRST USE IN COMMERCE: 20090801
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77879714
Filing Date November 24, 2009
Current Basis 1A
Original Filing Basis 1B
Published for Opposition April 27, 2010
Registration Number 3935337
Registration Date March 22, 2011
Owner (REGISTRANT) Food Market Merchandising, Inc. CORPORATION MINNESOTA 6401 West 106th Street Bloomington MINNESOTA 55438
(LAST LISTED OWNER) AFFORDABLE NATURALS, LLC LIMITED LIABILITY COMPANY MINNESOTA 6401 W. 106TH STREET BLOOMINGTON MINNESOTA 55438

**Assignment Recorded** ASSIGNMENT RECORDED  
**Attorney of Record** Robert C. Freed  
**Type of Mark** TRADEMARK  
**Register** PRINCIPAL  
**Live/Dead Indicator** LIVE

---

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## **Exhibit B**



Natural  
Organic  
Gloss  
Shimmer



Vanilla Mint



Vanilla



Lemon Grass



Tea Tree Mint

Organic



Original



Mint



Coconut



Green Tea



Mango



Pink Passion



Red Redemption



Benevolent Berry



Promiscuous Peach



Nude Nirvana

Shimmer



Copper Drop  
Protect & Moisten  
Shine & Shimmer



Polished Pink



Ruby Red



Sparkling Wine



Champagne



Poli Rose



Sheer

Our Products

Natural Lip Balm

Certified Organic  
Lip Balm

Lip Gloss

Lip Shimmer

"We bring organic products back down-to-earth by providing the first all-natural, premium quality, U.S.-made, eco-conscious personal care products offered on the market at a reasonable rate."





Natural  
Organic  
Gloss  
Shimmer



## Simply Natural Lip Balm

Moisturize, refresh, renew and repair with our all natural, healing organic ingredients. Renew with organic olive oil, protect with beeswax and SPF, repair with Vitamin E. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, pthalates or GMO's.



Original  
[View Ingredients](#)

### Original

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, rosemary  
extract, vitamin E



Acai Berry  
[View Ingredients](#)

### Acai Berry

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
organic coconut oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
vitamin E acetate,  
organic comfrey leaf,  
lanolin, rosemary extract,  
vitamin E, red 33 lake,  
blue 1 lake, iron oxide



Citrus  
[View Ingredients](#)

### Citrus

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract,  
vitamin E



Espresso  
[View Ingredients](#)

### Espresso

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract,  
vitamin E



Fresh Mint  
[View Ingredients](#)

## Fresh Mint

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Green Tea  
[View Ingredients](#)

## Green Tea

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Iced Pear  
[View Ingredients](#)

## Iced Pear

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Lemon Grass  
[View Ingredients](#)

## Lemon Grass

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of lemongrass,  
organic hemp seed oil,  
rosemary extract,



Mint  
[View Ingredients](#)

## Mint

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Pomegranate  
[View Ingredients](#)

## Pomegranate

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil,  
flavor, organic hemp seed  
oil, rosemary extract,  
vitamin E



Tea Tree Mint  
[View Ingredients](#)

## Tea Tree Mint

Natural Moisturizer

**Active Ingredients:**  
Organic Palm Oil,  
Beeswax, Organic Extra  
Virgin Olive Oil, Organic  
Tea Tree Oil, Organic  
Hemp Seed Oil,  
Rosemary Extract,  
Vitamin E, Essential Oil of  
Peppermint



Vanilla Mint  
[View Ingredients](#)

## Vanilla Mint

Natural Moisturizer

---

**Active Ingredients:**

(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
essential oil of  
peppermint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Vanilla  
[View Ingredients](#)

## Vanilla

Natural Moisturizer

---

**Active Ingredients:**

(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



# Simply Organic Lip Balm

Our Simply Lip Balm has gotten even better with a certified organic option for our customers. Each variety has been carefully crafted using the finest premium quality organic Ingredients. This USDA certified organic lip balm glides on smooth and continues to moisturize long after the initial application. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, phthalates or GMO's.



Original  
[View Ingredients](#)

## Original

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of mentha piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of mentha spicata (spearmint), tocopherol (vitamin E)



Mint  
[View Ingredients](#)

## Mint

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) see oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Coconut  
[View Ingredients](#)

## Coconut

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Green Tea  
[View Ingredients](#)

## Green Tea

Certified Organic

### Active Ingredients:

Cera Alba ( beeswax), extra virgin olea europaea (olive) oil, cocos nucifera (coconut) oil, butyrospeumum parkii (Shea butter), theobroma cacao (cocoa) seed butter,



Mango  
[View Ingredients](#)

## Mango

Certified Organic

### Active Ingredients:

Cera Alba ( beeswax), extra virgin olea europaea (olive) oil, cocos nucifera (coconut) oil, butyrospeumum parkii (Shea butter), theobroma cacao (cocoa) seed butter,

castor oil, camellia sinensis (green tea) leaf extract, sativa (hemp) seed oil, tocopherol (vitamin E),

castor oil, camellia sinensis (green tea) leaf extract, sativa (hemp) seed oil, tocopherol (vitamin E), magifera indica (mango) fruit extract



## Simply Gloss

This all natural, ultra shiny gloss lays on a sheer, sexy wash of color. Available in a variety of shades. Glides on easily and stays on longer. Simply shine lip gloss contains none of the following: parabens, sulfates, synthetic fragrances, synthetic dyes, petro-chemicals or phthalates.



Pink Passion  
[View Ingredients](#)

### Pink Passion

Luscious Lips

**Active Ingredients:**

Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



Red Redemption  
[View Ingredients](#)

### Red Redemption

Luscious Lips

**Active Ingredients:**

Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



Benevolent Berry  
[View Ingredients](#)

### Benevolent Berry

Luscious Lips

**Active Ingredients:**

Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



Promiscuous Peach  
[View Ingredients](#)



Nude Nirvana  
[View Ingredients](#)

## Promiscuous Peach

Luscious Lips

**Active Ingredients:**  
Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor

## Nude Nirvana

Luscious Lips

**Active Ingredients:**  
Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



## Simply Shimmer

All natural slightly tinted lip shimmer replenishes with a luxurious sheen finish. Soften with shea butter, renew with organic olive oil, moisturize with beeswax, and protect with antioxidants. Formulated without parabens, sulfates, synthetic dyes, synthetic fragrances, phthalates and GMO's.



Copper Drop  
[View Ingredients](#)



Polished Pink  
[View Ingredients](#)



Ruby Red  
[View Ingredients](#)



Sparkling Wine  
[View Ingredients](#)

## Copper Drop

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Polished Pink

Shining Smiles

**Active Ingredients:**  
Organic extra Virgin olive oil, beeswax, castor oil, shea butter, lanolin, mango butter, essential oil of peppermint, vitamin E, Rosemary extract. May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Ruby Red

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Sparkling Wine

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide



Champagne  
[View Ingredients](#)



Poli Rose  
[View Ingredients](#)



Sheer  
[View Ingredients](#)

## Champagne

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Poli Rose

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Sheer

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

Our  
Products  
Natural Lip  
Balm

"We bring organic products back down-to-earth by providing the first all-natural, premium quality, U.S.-made, eco-conscious personal care products offered on the market at a reasonable rate."



Lip Gloss

Lip Shimmer

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Natural

Organic

Gloss

Shimmer



## Simply Natural Lip Balm

Moisturize, refresh, renew and repair with our all natural, healing organic ingredients. Renew with organic olive oil, protect with beeswax and SPF, repair with Vitamin E. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, pthalates or GMO's.



Original  
[View Ingredients](#)

### Original

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, rosemary  
extract, vitamin E



Acai Berry  
[View Ingredients](#)

### Acai Berry

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
organic coconut oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
vitamin E acetate,  
organic comfrey leaf,  
lanolin, rosemary extract,  
vitamin E, red 33 lake,  
blue 1 lake, iron oxide



Citrus  
[View Ingredients](#)

### Citrus

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract,  
vitamin E



Espresso  
[View Ingredients](#)

### Espresso

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract,  
vitamin E



Fresh Mint  
[View Ingredients](#)

## Fresh Mint

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Green Tea  
[View Ingredients](#)

## Green Tea

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Iced Pear  
[View Ingredients](#)

## Iced Pear

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Lemon Grass  
[View Ingredients](#)

## Lemon Grass

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of lemongrass,  
organic hemp seed oil,  
rosemary extract,



Mint  
[View Ingredients](#)

## Mint

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Pomegranate  
[View Ingredients](#)

## Pomegranate

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil,  
flavor, organic hemp seed  
oil, rosemary extract,  
vitamin E



Tea Tree Mint  
[View Ingredients](#)

## Tea Tree Mint

Natural Moisturizer

**Active Ingredients:**  
Organic Palm Oil,  
Beeswax, Organic Extra  
Virgin Olive Oil, Organic  
Tea Tree Oil, Organic  
Hemp Seed Oil,  
Rosemary Extract,  
Vitamin E, Essential Oil of  
Peppermint



Vanilla Mint  
[View Ingredients](#)

## Vanilla Mint

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
essential oil of  
peppermint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Vanilla  
[View Ingredients](#)

## Vanilla

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



# Simply Organic Lip Balm

Our Simply Lip Balm has gotten even better with a certified organic option for our customers. Each variety has been carefully crafted using the finest premium quality organic Ingredients. This USDA certified organic lip balm glides on smooth and continues to moisturize long after the initial application. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, pthalates or GMO's.



Original  
[View Ingredients](#)

## Original

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of mentha piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of mentha spicata (spearmint), tocopherol (vitamin E)



Mint  
[View Ingredients](#)

## Mint

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) see oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Coconut  
[View Ingredients](#)

## Coconut

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Green Tea  
[View Ingredients](#)

## Green Tea

Certified Organic

### Active Ingredients:

Cera Alba ( beeswax), extra virgin olea europaea (olive) oil, cocos nucifera (coconut) oil, butyrospeumum parkii (Shea butter), theobroma cacao (cocoa) seed butter,



Mango  
[View Ingredients](#)

## Mango

Certified Organic

### Active Ingredients:

Cera Alba ( beeswax), extra virgin olea europaea (olive) oil, cocos nucifera (coconut) oil, butyrospeumum parkii (Shea butter), theobroma cacao (cocoa) seed butter,





Promiscuous Peach  
[View Ingredients](#)



Nude Nirvana  
[View Ingredients](#)

## Promiscuous Peach

Luscious Lips

**Active Ingredients:**  
Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor

## Nude Nirvana

Luscious Lips

**Active Ingredients:**  
Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



## Simply Shimmer

All natural slightly tinted lip shimmer replenishes with a luxurious sheen finish. Soften with shea butter, renew with organic olive oil, moisturize with beeswax, and protect with antioxidants. Formulated without parabens, sulfates, synthetic dyes, synthetic fragrances, phthalates and GMO's.



Copper Drop  
[View Ingredients](#)



Polished Pink  
[View Ingredients](#)



Ruby Red  
[View Ingredients](#)



Sparkling Wine  
[View Ingredients](#)

## Copper Drop

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Polished Pink

Shining Smiles

**Active Ingredients:**  
Organic extra Virgin olive oil, beeswax, castor oil, shea butter, lanolin, mango butter, essential oil of peppermint, vitamin E, Rosemary extract. May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Ruby Red

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Sparkling Wine

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide



Champagne  
[View Ingredients](#)



Poli Rose  
[View Ingredients](#)



Sheer  
[View Ingredients](#)

## Champagne

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Poli Rose

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Sheer

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

Our  
Products  
Natural Lip  
Balm

"We bring organic products back down-to-earth by providing the first all-natural, premium quality, U.S.-made, eco-conscious personal care products offered on the market at a reasonable rate."



Lip Gloss

Lip Shimmer

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- Natural
- Organic
- Gloss
- Shimmer



## Simply Natural Lip Balm

Moisturize, refresh, renew and repair with our all natural, healing organic ingredients. Renew with organic olive oil, protect with beeswax and SPF, repair with Vitamin E. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, pthalates or GMO's.



Original  
[View Ingredients](#)

### Original

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, rosemary  
extract, vitamin E



Acai Berry  
[View Ingredients](#)

### Acai Berry

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
organic coconut oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
vitamin E acetate,  
organic comfrey leaf,  
lanolin, rosemary extract,  
vitamin E, red 33 lake,  
blue 1 lake, iron oxide



Citrus  
[View Ingredients](#)

### Citrus

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract,  
vitamin E



Espresso  
[View Ingredients](#)

### Espresso

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract,  
vitamin E



Fresh Mint  
[View Ingredients](#)

## Fresh Mint

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Green Tea  
[View Ingredients](#)

## Green Tea

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Iced Pear  
[View Ingredients](#)

## Iced Pear

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Lemon Grass  
[View Ingredients](#)

## Lemon Grass

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of lemongrass,  
organic hemp seed oil,  
rosemary extract,



Mint  
[View Ingredients](#)

## Mint

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Pomegranate  
[View Ingredients](#)

## Pomegranate

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil,  
flavor, organic hemp seed  
oil, rosemary extract,  
vitamin E



Tea Tree Mint  
[View Ingredients](#)

## Tea Tree Mint

Natural Moisturizer

**Active Ingredients:**  
Organic Palm Oil,  
Beeswax, Organic Extra  
Virgin Olive Oil, Organic  
Tea Tree Oil, Organic  
Hemp Seed Oil,  
Rosemary Extract,  
Vitamin E, Essential Oil of  
Peppermint



Vanilla Mint  
[View Ingredients](#)

## Vanilla Mint

Natural Moisturizer

---

**Active Ingredients:**

(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
essential oil of  
peppermint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Vanilla  
[View Ingredients](#)

## Vanilla

Natural Moisturizer

---

**Active Ingredients:**

(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



# Simply Organic Lip Balm

Our Simply Lip Balm has gotten even better with a certified organic option for our customers. Each variety has been carefully crafted using the finest premium quality organic Ingredients. This USDA certified organic lip balm glides on smooth and continues to moisturize long after the initial application. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, pthalates or GMO's.



Original  
[View Ingredients](#)

## Original

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of mentha piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of mentha spicata (spearmint), tocopherol (vitamin E)



Mint  
[View Ingredients](#)

## Mint

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) see oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Coconut  
[View Ingredients](#)

## Coconut

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Green Tea  
[View Ingredients](#)

## Green Tea

Certified Organic

### Active Ingredients:

Cera Alba ( beeswax), extra virgin olea europaea (olive) oil, cocos nucifera (coconut) oil, butyrospeumum parkii (Shea butter), theobroma cacao (cocoa) seed butter,



Mango  
[View Ingredients](#)

## Mango

Certified Organic

### Active Ingredients:

Cera Alba ( beeswax), extra virgin olea europaea (olive) oil, cocos nucifera (coconut) oil, butyrospeumum parkii (Shea butter), theobroma cacao (cocoa) seed butter,





Promiscuous Peach  
[View Ingredients](#)



Nude Nirvana  
[View Ingredients](#)

## Promiscuous Peach

Luscious Lips

**Active Ingredients:**  
Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor

## Nude Nirvana

Luscious Lips

**Active Ingredients:**  
Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



## Simply Shimmer

All natural slightly tinted lip shimmer replenishes with a luxurious sheen finish. Soften with shea butter, renew with organic olive oil, moisturize with beeswax, and protect with antioxidants. Formulated without parabens, sulfates, synthetic dyes, synthetic fragrances, phthalates and GMO's.



Copper Drop  
[View Ingredients](#)



Polished Pink  
[View Ingredients](#)



Ruby Red  
[View Ingredients](#)



Sparkling Wine  
[View Ingredients](#)

## Copper Drop

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Polished Pink

Shining Smiles

**Active Ingredients:**  
Organic extra Virgin olive oil, beeswax, castor oil, shea butter, lanolin, mango butter, essential oil of peppermint, vitamin E, Rosemary extract. May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Ruby Red

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Sparkling Wine

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide



Champagne  
[View Ingredients](#)



Poli Rose  
[View Ingredients](#)



Sheer  
[View Ingredients](#)

## Champagne

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Poli Rose

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Sheer

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

Our  
Products  
Natural Lip  
Balm

"We bring organic products back down-to-earth by providing the first all-natural, premium quality, U.S.-made, eco-conscious personal care products offered on the market at a reasonable rate."



Lip Gloss

Lip Shimmer

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Natural

Organic

Gloss

Shimmer



## Simply Natural Lip Balm

Moisturize, refresh, renew and repair with our all natural, healing organic ingredients. Renew with organic olive oil, protect with beeswax and SPF, repair with Vitamin E. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, pthalates or GMO's.



Original  
[View Ingredients](#)

### Original

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, rosemary  
extract, vitamin E



Acai Berry  
[View Ingredients](#)

### Acai Berry

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
organic coconut oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
vitamin E acetate,  
organic comfrey leaf,  
lanolin, rosemary extract,  
vitamin E, red 33 lake,  
blue 1 lake, iron oxide



Citrus  
[View Ingredients](#)

### Citrus

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract,  
vitamin E



Espresso  
[View Ingredients](#)

### Espresso

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract,  
vitamin E



Fresh Mint  
[View Ingredients](#)

## Fresh Mint

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Green Tea  
[View Ingredients](#)

## Green Tea

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Iced Pear  
[View Ingredients](#)

## Iced Pear

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Lemon Grass  
[View Ingredients](#)

## Lemon Grass

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of lemongrass,  
organic hemp seed oil,  
rosemary extract,



Mint  
[View Ingredients](#)

## Mint

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Pomegranate  
[View Ingredients](#)

## Pomegranate

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil,  
flavor, organic hemp seed  
oil, rosemary extract,  
vitamin E



Tea Tree Mint  
[View Ingredients](#)

## Tea Tree Mint

Natural Moisturizer

**Active Ingredients:**  
Organic Palm Oil,  
Beeswax, Organic Extra  
Virgin Olive Oil, Organic  
Tea Tree Oil, Organic  
Hemp Seed Oil,  
Rosemary Extract,  
Vitamin E, Essential Oil of  
Peppermint



Vanilla Mint  
[View Ingredients](#)

## Vanilla Mint

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
essential oil of  
peppermint, organic  
hemp seed oil, rosemary  
extract, vitamin E



Vanilla  
[View Ingredients](#)

## Vanilla

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



# Simply Organic Lip Balm

Our Simply Lip Balm has gotten even better with a certified organic option for our customers. Each variety has been carefully crafted using the finest premium quality organic Ingredients. This USDA certified organic lip balm glides on smooth and continues to moisturize long after the initial application. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, pthalates or GMO's.



Original  
[View Ingredients](#)

## Original

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of mentha piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of mentha spicata (spearmint), tocopherol (vitamin E)



Mint  
[View Ingredients](#)

## Mint

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) see oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Coconut  
[View Ingredients](#)

## Coconut

Certified Organic

### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Green Tea  
[View Ingredients](#)

## Green Tea

Certified Organic

### Active Ingredients:

Cera Alba ( beeswax), extra virgin olea europaea (olive) oil, cocos nucifera (coconut) oil, butyrospeumum parkii (Shea butter), theobroma cacao (cocoa) seed butter,



Mango  
[View Ingredients](#)

## Mango

Certified Organic

### Active Ingredients:

Cera Alba ( beeswax), extra virgin olea europaea (olive) oil, cocos nucifera (coconut) oil, butyrospeumum parkii (Shea butter), theobroma cacao (cocoa) seed butter,





Promiscuous Peach  
[View Ingredients](#)



Nude Nirvana  
[View Ingredients](#)

## Promiscuous Peach

Luscious Lips

**Active Ingredients:**  
Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor

## Nude Nirvana

Luscious Lips

**Active Ingredients:**  
Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



## Simply Shimmer

All natural slightly tinted lip shimmer replenishes with a luxurious sheen finish. Soften with shea butter, renew with organic olive oil, moisturize with beeswax, and protect with antioxidants. Formulated without parabens, sulfates, synthetic dyes, synthetic fragrances, phthalates and GMO's.



Copper Drop  
[View Ingredients](#)



Polished Pink  
[View Ingredients](#)



Ruby Red  
[View Ingredients](#)



Sparkling Wine  
[View Ingredients](#)

## Copper Drop

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Polished Pink

Shining Smiles

**Active Ingredients:**  
Organic extra Virgin olive oil, beeswax, castor oil, shea butter, lanolin, mango butter, essential oil of peppermint, vitamin E, Rosemary extract. May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Ruby Red

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide

## Sparkling Wine

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide



Champagne  
[View Ingredients](#)



Poli Rose  
[View Ingredients](#)



Sheer  
[View Ingredients](#)

## Champagne

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Poli Rose

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Sheer

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

Our  
Products  
Natural Lip  
Balm

"We bring organic products back down-to-earth by providing the first all-natural, premium quality, U.S.-made, eco-conscious personal care products offered on the market at a reasonable rate."



Lip Gloss

Lip Shimmer

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Natural

Organic

Gloss

Shimmer

## About Us

We believe that good products should be within reach, and the cost of a natural lifestyle shouldn't be prohibitive. In fact, we believe this should be every consumer's right. Our products encourage a healthful, natural lifestyle. And we want every like-minded individual to be able to enjoy the benefits of our high standards:



### All Natural

Yes, our products are always free from any chemical or synthetic alteration. We believe you have a right to know what's in the goods you purchase. And we keep it just that simple: All of our products are 100% All Natural, 100% of the time.



### Premium Organic Ingredients

We make products with Premium Organic Ingredients affordable. For example, we sought out the best organic extra virgin olive oil for our Lip Shimmer — and we offer it to you without over-the-top markups. We're scrupulous about every ingredient we select, and you benefit.



### Our Responsibility

It's not lip service or a trendy attitude, we are proud of our ever-evolving eco-conscious mindset, and we feel every company should follow suit. Before that can happen, we have to set a good example with our own Environmental & Social Responsibility. Our progressive strategy includes: Animal Cruelty Free Products, Eco-friendly Packaging & Recycled Materials – at realistic price points.



### Made in the USA

That's right, not only are we eco-conscious, but we're also econo-conscious. We think it's obvious that environmental, social, and economic stability are interdependent. So our far-sighted approach to commerce considers the big picture: Strength and stability start at home. That's why all Simply products are Made in the USA. And we're proud of it, too.

*We're working to level-set what people can expect from companies...so the consumer remembers they have the power to insist on the highest standards. Simply choose premium organic products without absurd markups.*

## Our Products

Natural Lip Balm

Certified Organic Lip Balm

Lip Gloss

Lip Shimmer

"We bring organic products back down-to-earth by providing the first all-natural, premium quality, U.S.-made, eco-conscious personal care products offered on the market at a reasonable rate."



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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

---

**NUTRACEUTICAL CORPORATION,**  
a Delaware corporation, and

**NUTRAMARKS, INC.,**  
a Delaware corporation,

Plaintiffs,

vs.

**AFFORDABLE NATURALS, LLC,**  
a Minnesota limited liability company,

Defendant.

**ANSWER TO COUNTERCLAIM**

Civil Case No. 2:14-cv-00907-RJS

Judge Robert J. Shelby

---

Plaintiffs Nutraceutical Corporation and NutraMarks, Inc. (“Plaintiffs”), in support of their Answer to Defendant’s Counterclaims, allege and state as follows:

**PARTIES**

1. Plaintiffs admit the allegations in paragraph 1 of the Counterclaim.
2. Plaintiffs admit the allegations in paragraph 2 of the Counterclaim.
3. Plaintiffs admit the allegations in paragraph 3 of the Counterclaim.

**JURISDICTION AND VENUE**

4. Plaintiffs admit the allegations in paragraph 4 of the Counterclaim.
5. Plaintiffs admit the allegations in paragraph 5 of the Counterclaim.

**JURY TRIAL DEMAND**

6. Paragraph 6 recites no allegation to which a response is required. To the extent the statements in paragraph 6 include factual allegations, Plaintiffs deny the same.

**FACTS**

7. Plaintiffs admit that Defendant has used the infringing trademark SIMPLY in commerce, but are without knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 7 of the Counterclaim and, therefore, deny the same.

8. Plaintiffs are without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Counterclaim and, therefore, deny the same.

9. Plaintiffs admit that Defendant has used the infringing trademark SIMPLY in commerce, but are without knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 9 of the Counterclaim and, therefore, deny the same.

10. Plaintiffs are without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Counterclaim and, therefore, deny the same.

11. Plaintiffs admit that Defendant has used the infringing trademark SIMPLY in commerce, but are without knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 11 of the Counterclaim and, therefore, deny the same.

12. Plaintiffs admit that Defendant has used the infringing trademark SIMPLY in commerce, but are without knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 12 of the Counterclaim and, therefore, deny the same.

13. Plaintiffs are without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Counterclaim and, therefore, deny the same.

14. Plaintiffs are without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 14 of the Counterclaim and, therefore, deny the same.

15. Plaintiffs are without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 15 of the Counterclaim and, therefore, deny the same.

16. Plaintiffs admit that Defendant has used the infringing trademark SIMPLY in commerce, but are without knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 16 of the Counterclaim and, therefore, deny the same.

17. Plaintiffs are without knowledge sufficient to form a belief as to the truth of the allegations in paragraph 17 of the Counterclaim and, therefore, deny the same.

18. The statements in paragraph 18 consist of legal conclusions to which no response is required. To the extent the statements in paragraph 18 include factual allegations, Plaintiffs deny the same.

19. The statements in paragraph 19 consist of legal conclusions to which no response is required. To the extent the statements in paragraph 19 include factual allegations, Plaintiffs deny the same.

20. Plaintiffs admit that Defendant has used the infringing trademark SIMPLY in commerce, but are without knowledge sufficient to form a belief as to the truth of the remaining allegations in paragraph 20 of the Counterclaim and, therefore, deny the same.

21. Plaintiffs admit the allegations in paragraph 21 of the Counterclaim.

22. Plaintiffs deny the allegations in paragraph 22 of the Counterclaim.

**COUNT I**  
**Declaratory Relief Regarding Non-Infringement**

23. Plaintiffs admit the allegations in paragraph 23 of the Counterclaim.

24. Plaintiffs deny the allegations in paragraph 24 of the Counterclaim.

25. Plaintiffs deny the allegations in paragraph 25 of the Counterclaim.

26. Plaintiffs deny the allegations in paragraph 26 of the Counterclaim.

27. Plaintiffs deny the allegations in paragraph 27 of the Counterclaim.

28. Plaintiffs deny the allegations in paragraph 28 of the Counterclaim.

**AFFIRMATIVE and ADDITIONAL DEFENSES**

**FIRST DEFENSE**

Defendant's Counterclaims fail to state a claim upon which relief can be granted.

**SECOND DEFENSE**

Defendant's Counterclaim for equitable relief are barred, in whole or in part, by the doctrine of unclean hands.

**THIRD DEFENSE**

Defendant's Counterclaims are barred by the doctrines of laches, waiver, estoppel and/or acquiescence.

**FOURTH DEFENSE**

By virtue of their prior representations signed and submitted to the Trademark Trial and Appeal Board of the United States Patent and Trademark Office, Defendants are estopped from asserting or claiming that a likelihood of confusion does not exist between Defendants' use of the SIMPLY mark and Plaintiffs' use of the SIMPLERS mark.

**JURY DEMAND**

Plaintiffs demand a trial by jury on all claims, counterclaims, and issues in this case.

WHEREFORE, Plaintiffs requests that the Court enter Judgment in their favor and against Defendant as follows:

- a. Dismiss Defendant's Counterclaim in its entirety with prejudice and deny all requested relief therein;
- b. Award all of the relief set forth in Plaintiffs' Complaint in this action, which is hereby incorporated by reference;
- c. Award and grant such other relief as the Court deems appropriate.

Dated March 16, 2015

/s/ Mark A. Miller

Mark A. Miller, 9563

[mmiller@hollandhart.com](mailto:mmiller@hollandhart.com)

HOLLAND & HART LLP

222 S. Main Street, Suite 2200

Salt Lake City, UT 84101

Telephone: (801) 799-5800

Facsimile: (801) 799-5700

Timothy P. Getzoff (admitted pro hac vice)

[tgetzoff@hollandhart.com](mailto:tgetzoff@hollandhart.com)

HOLLAND & HART LLP

1800 Broadway, Suite 300

Boulder, CO 80302

Telephone: (303) 473-2700

Facsimile: (303) 473-2720

ATTORNEYS FOR PLAINTIFFS  
NUTRACEUTICAL CORPORATION AND  
NUTRAMARKS, INC.

## CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2015, I have caused the foregoing to be electronically filed with the Clerk of Court using CM/ECF system which will send notification of such filing to the following individuals:

Mark W. Ford  
Maschoff Brennan  
1389 Center Drive, Suite 300  
Park City, UT 84098  
[mford@mabr.com](mailto:mford@mabr.com)

Carl E. Christensen  
Christensen Law Office PLLC  
800 Washington Avenue North, Suite 704  
Minneapolis, MN 55401  
[carl@clawoffice.com](mailto:carl@clawoffice.com)

/s/ Timothy P. Getzoff \_\_\_\_\_

7571022\_1



4. Applicant is a Delaware corporation that produced cosmetic preparations and dietary supplements in the United States prior to the Applicant's filing of Application No. 86078760.

5. Applicant through NutraMarks, Inc. has produced and distributed in the United States the Simplers brand products. A sample of the labels used for the Simplers brand products from their trademark/service mark application are attached hereto as Exhibit B.

6. A sample of the labels used for the Simply brand personal care products are attached hereto as Exhibit C.

7. Opposer's Simply brand personal care products and Applicant's Simplers brand cosmetic preparations were both distributed to via the internet, in the United States.

8. Applicant's Simplers mark for cosmetic preparations so resembles Opposer's registered SIMPLY mark as to be likely to cause confusion, mistake or deception, and is therefore precluded from registration under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

9. If Applicant is granted registration of the Simplers mark, it would obtain a prima facie exclusive right to use of this mark that would cause damage and injury to Opposer.

WHEREFORE, Opposer respectfully requests that this opposition be granted and that Application 86078760 be denied registration.

**CHRISTENSEN LAW OFFICE PLLC**

Dated: October 7, 2014

By: /s/Carl E. Christensen  
Carl Christensen (MN Bar # 0350412)  
800 Washington Avenue North, Suite 704  
Minneapolis, Minnesota 55401  
(612) 823-4016  
(612) 823-4777 fax  
carl@clawoffice.com  
Attorney for Affordable Naturals, LLC

Certificate of Service

This is to certify that a copy of the foregoing Notice of Opposition with Exhibits A-C was served on this 7<sup>th</sup> day of October 2014 by first class mail, postage prepaid, on the following as applicant's attorney of record:

Alison Pitt  
Nutramarks, Inc.  
1500 Kerns Blvd. Ste B200  
Park City, Utah, 84060-7330

By: /s/Carl E. Christensen

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>Affordable Naturals, LLC,</p> <p>Opposer/Plaintiff,</p> <p>v.</p> <p>NutraMarks, Inc.,</p> <p>Applicant/Defendant.</p>	<p>Opposition No. _____ Appln. No. 86078760 Mark: SIMPLERS</p>
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**NOTICE OF OPPOSITION**

**Exhibit A**



United States Patent and Trademark Office

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**Trademarks > Trademark Electronic Search System (TESS)**

TESS was last updated on Tue Oct 7 03:21:01 EDT 2014

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Please logout when you are done to release system resources allocated for you.

List At:  OR  to record:  **Record 1254 out of 1960**

[TSDR](#) [ASSIGN Status](#) [TTAB Status](#) *( Use the "Back" button of the Internet Browser to return to TESS)*

# SIMPLY

**Word Mark** SIMPLY

**Goods and Services** IC 003. US 001 004 006 050 051 052. G & S: personal care products, namely, lip balm, lip shimmers and sun block preparations. FIRST USE: 20090801. FIRST USE IN COMMERCE: 20090801

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 77879714

**Filing Date** November 24, 2009

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** April 27, 2010

**Registration Number** 3935337

**Registration Date** March 22, 2011

**Owner** (REGISTRANT) Food Market Merchandising, Inc. CORPORATION MINNESOTA 6401 West 106th Street

Bloomington MINNESOTA 55438

(LAST LISTED OWNER) AFFORDABLE NATURALS, LLC LIMITED LIABILITY COMPANY MINNESOTA  
6401 W. 106TH STREET BLOOMINGTON MINNESOTA 55438

**Assignment  
Recorded**

ASSIGNMENT RECORDED

**Attorney of  
Record**

Carl E. Christensen

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Live/Dead  
Indicator**

LIVE

- 
- |                           |                          |                            |                           |                             |                           |                     |                      |                           |                           |                           |
|---------------------------|--------------------------|----------------------------|---------------------------|-----------------------------|---------------------------|---------------------|----------------------|---------------------------|---------------------------|---------------------------|
| <a href="#">TESS HOME</a> | <a href="#">NEW USER</a> | <a href="#">STRUCTURED</a> | <a href="#">FREE FORM</a> | <a href="#">BROWSE DICT</a> | <a href="#">SEARCH OG</a> | <a href="#">TOP</a> | <a href="#">HELP</a> | <a href="#">PREV LIST</a> | <a href="#">CURR LIST</a> | <a href="#">NEXT LIST</a> |
| <a href="#">FIRST DOC</a> | <a href="#">PREV DOC</a> | <a href="#">NEXT DOC</a>   | <a href="#">LAST DOC</a>  |                             |                           |                     |                      |                           |                           |                           |

- 
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Suite 704  
Minneapolis, MINNESOTA 55401  
UNITED STATES

Phone: (612) 823-4016

Correspondent e-mail: [carl@clawoffice.com](mailto:carl@clawoffice.com)

Correspondent e-mail Yes  
Authorized:

Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Sep. 17, 2014	ATTORNEY REVOKED AND/OR APPOINTED	
Sep. 17, 2014	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Sep. 10, 2014	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	
Mar. 22, 2011	REGISTERED-PRINCIPAL REGISTER	
Feb. 17, 2011	NOTICE OF ACCEPTANCE OF STATEMENT OF USE MAILED	
Feb. 16, 2011	LAW OFFICE REGISTRATION REVIEW COMPLETED	70633
Feb. 15, 2011	ASSIGNED TO LIE	70633
Jan. 22, 2011	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Jan. 10, 2011	STATEMENT OF USE PROCESSING COMPLETE	66230
Dec. 08, 2010	USE AMENDMENT FILED	66230
Jan. 07, 2011	CASE ASSIGNED TO INTENT TO USE PARALEGAL	66230
Dec. 08, 2010	TEAS STATEMENT OF USE RECEIVED	
Jun. 22, 2010	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Apr. 27, 2010	PUBLISHED FOR OPPOSITION	
Apr. 07, 2010	NOTICE OF PUBLICATION	
Mar. 19, 2010	LAW OFFICE PUBLICATION REVIEW COMPLETED	74215
Mar. 19, 2010	ASSIGNED TO LIE	74215
Mar. 02, 2010	APPROVED FOR PUB - PRINCIPAL REGISTER	
Mar. 01, 2010	ASSIGNED TO EXAMINER	73365
Dec. 01, 2009	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Nov. 27, 2009	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Feb. 16, 2011

## Assignment Abstract Of Title Information

### Summary

Total Assignments: 1

Registrant: Food Market Merchandising, Inc.

### Assignment 1 of 1

Conveyance: ASSIGNS THE ENTIRE INTEREST

Reel/Frame: [5355/0485](#)

Pages: 3

Date Recorded: Sep. 02, 2014

Supporting Documents: [assignment-tm-5355-0485.pdf](#)

### Assignor

Name: [FOOD MARKET MERCHANDISING, INC.](#)

Execution Date: Aug. 28, 2014

Legal Entity Type: CORPORATION

State or Country Where Organized: MINNESOTA

### Assignee

Name: [AFFORDABLE NATURALS, LLC](#)

Legal Entity Type: LIMITED LIABILITY COMPANY

State or Country Where Organized: MINNESOTA

**Address:** 6401 W. 106TH STREET  
BLOOMINGTON, MINNESOTA 55438

**Correspondent**

**Correspondent Name:** CARL CHRISTENSEN

**Correspondent Address:** 800 WASHINGTON AVE N  
SUITE 704  
MINNEAPOLIS, MN 55401

**Domestic Representative - Not Found**

**SIMPLY**





# Trademark/Service Mark Application, Principal Register

Serial Number: 86078760

Filing Date: 09/30/2013

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	86078760
<b>MARK INFORMATION</b>	
<b>*MARK</b>	<a href="#">SIMPLERS</a>
<b>STANDARD CHARACTERS</b>	YES
<b>USPTO-GENERATED IMAGE</b>	YES
<b>LITERAL ELEMENT</b>	SIMPLERS
<b>MARK STATEMENT</b>	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>REGISTER</b>	Principal
<b>APPLICANT INFORMATION</b>	
<b>*OWNER OF MARK</b>	NutraMarks, Inc.
<b>*STREET</b>	1500 Kearns Boulevard, Suite B200
<b>*CITY</b>	Park City
<b>*STATE (Required for U.S. applicants)</b>	Utah
<b>*COUNTRY</b>	United States
<b>*ZIP/POSTAL CODE (Required for U.S. applicants only)</b>	84060
<b>PHONE</b>	435-655-6000
<b>EMAIL ADDRESS</b>	legal@nutracorp.com

<b>LEGAL ENTITY INFORMATION</b>	
<b>TYPE</b>	corporation
<b>STATE/COUNTRY OF INCORPORATION</b>	Delaware
<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>INTERNATIONAL CLASS</b>	003
<b>* IDENTIFICATION</b>	cosmetic preparations, namely, essential oils for personal use and aromatherapy use; perfume oils; non-medicated cosmetics and skin care products, namely, face and body creams, face, body and lip salves, face and body sprays, face and body balms, face and body oils, face and body liquid soaps, face and body moisturizers, face, body, and hand lotions, lip balms, shaving lotions, shaving balms, perfumes and colognes, and face and body bar soaps; hair care preparations; massage oils
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 09/01/1983
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 09/01/1983
<b>SPECIMEN FILE NAME(S)</b>	<a href="\\TICRS\EXPORT16\IMAGEOUT 16\860\787\86078760\xml1\APP0003.JPG">\\TICRS\EXPORT16\IMAGEOUT 16\860\787\86078760\xml1\APP0003.JPG</a>
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	<a href="\\TICRS\EXPORT16\IMAGEOUT 16\860\787\86078760\xml1\APP0007.JPG">\\TICRS\EXPORT16\IMAGEOUT 16\860\787\86078760\xml1\APP0007.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	cosmetic preparations using essential oils for personal use with use of the mark on the front panel of the label
<b>INTERNATIONAL CLASS</b>	005
<b>* IDENTIFICATION</b>	Dietary and nutritional supplements; herbal products, namely, herbal supplements, herbal extracts and herbal tonics.
<b>FILING BASIS</b>	SECTION 1(a)

<b>FIRST USE ANYWHERE DATE</b>	At least as early as 09/01/1983
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 09/01/1983
<b>SPECIMEN FILE NAME(S)</b>	
<b>ORIGINAL PDF FILE</b>	<a href="#">SPE0-1991198551-165701079 . Simplers.BulkDisplayOptions.pdf</a>
<b>CONVERTED PDF FILE(S) (2 pages)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\860\787\86078760\xml1\APP0008.JPG</a>
	<a href="#">\\TICRS\EXPORT16\IMAGEOUT16\860\787\86078760\xml1\APP0009.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	Brochure of dietary, nutritional and herbal products with use of the mark on the front panel of the labels
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	Alison Pitt
<b>FIRM NAME</b>	NutraMarks, Inc.
<b>STREET</b>	1500 Kearns Boulevard, B200
<b>CITY</b>	Park City
<b>STATE</b>	Utah
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	84060
<b>PHONE</b>	435-655-6000
<b>EMAIL ADDRESS</b>	legal@nutracorp.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	Stanley E. Soper
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	Alison Pitt
<b>FIRM NAME</b>	NutraMarks, Inc.
<b>STREET</b>	1500 Kearns Boulevard, B200
<b>CITY</b>	Park City
<b>STATE</b>	Utah

<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	84060
<b>PHONE</b>	435-655-6000
<b>EMAIL ADDRESS</b>	legal@nutracorp.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	2
<b>FEE PER CLASS</b>	325
<b>*TOTAL FEE DUE</b>	650
<b>*TOTAL FEE PAID</b>	650
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/Alison Pitt/
<b>SIGNATORY'S NAME</b>	Alison Pitt
<b>SIGNATORY'S POSITION</b>	Attorney of record, UT bar member
<b>DATE SIGNED</b>	09/30/2013

---

## Trademark/Service Mark Application, Principal Register

**Serial Number: 86078760**

**Filing Date: 09/30/2013**

### To the Commissioner for Trademarks:

**MARK:** SIMPLERS (Standard Characters, see [mark](#))

The literal element of the mark consists of SIMPLERS.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, NutraMarks, Inc., a corporation of Delaware, having an address of

1500 Kearns Boulevard, Suite B200

Park City, Utah 84060

United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 003: cosmetic preparations, namely, essential oils for personal use and aromatherapy use; perfume oils; non-medicated cosmetics and skin care products, namely, face and body creams, face, body and lip salves, face and body sprays, face and body balms, face and body oils, face and body liquid soaps, face and body moisturizers, face, body, and hand lotions, lip balms, shaving lotions, shaving balms, perfumes and colognes, and face and body bar soaps; hair care preparations; massage oils

In International Class 003, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 09/01/1983, and first used in commerce at least as early as 09/01/1983, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) cosmetic preparations using essential oils for personal use with use of the mark on the front panel of the label.

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

[Specimen File5](#)

International Class 005: Dietary and nutritional supplements; herbal products, namely, herbal supplements, herbal extracts and herbal tonics.

In International Class 005, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 09/01/1983, and first used in commerce at least as early as 09/01/1983, and is now in use in such commerce. The applicant is submitting one(or more)

specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Brochure of dietary, nutritional and herbal products with use of the mark on the front panel of the labels.

**Original PDF file:**

[SPE0-1991198551-165701079 . Simplers.BulkDisplayOptions.pdf](#)

**Converted PDF file(s)** (2 pages)

[Specimen File1](#)

[Specimen File2](#)

**The applicant's current Attorney Information:**

Alison Pitt and Stanley E. Soper of NutraMarks, Inc.  
1500 Kearns Boulevard, B200  
Park City, Utah 84060  
United States

**The applicant's current Correspondence Information:**

Alison Pitt  
NutraMarks, Inc.  
1500 Kearns Boulevard, B200  
Park City, Utah 84060  
435-655-6000(phone)  
legal@nutracorp.com (authorized)

A fee payment in the amount of \$650 has been submitted with the application, representing payment for 2 class(es).

**Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

**Declaration Signature**

Signature: /Alison Pitt/ Date: 09/30/2013

Signatory's Name: Alison Pitt

Signatory's Position: Attorney of record, UT bar member

RAM Sale Number: 86078760

RAM Accounting Date: 10/01/2013

Serial Number: 86078760

Internet Transmission Date: Mon Sep 30 17:06:59 EDT 2013

TEAS Stamp: USPTO/BAS-199.119.85.51-2013093017065926

7835-86078760-50078ad57da855b7b98825b9ea

951162f86eea8361098a542c4f77d4593588861a

-CC-8749-20130930165701079886

# SIMPLERS

## New! Perfumery Botanicals

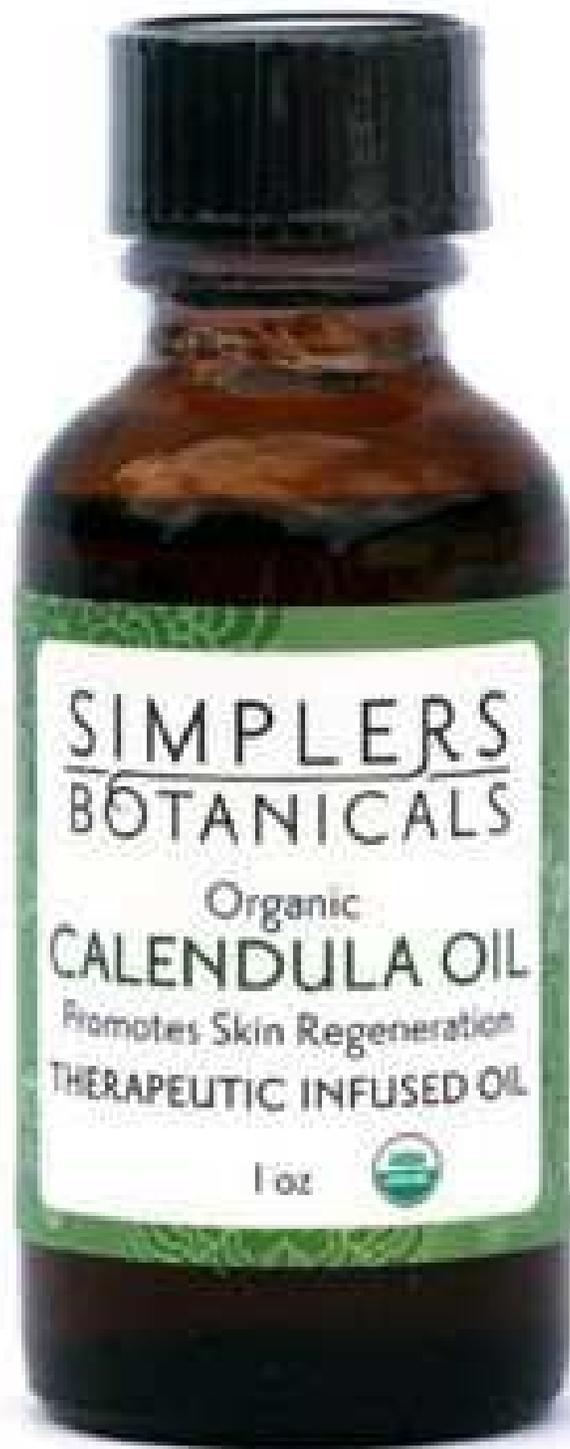




SIMPLERS  
BOTANICALS

ARGAN  
FACIAL TREATMENT  
NEROLI & VETIVER

15ml



SIMPLERS  
BOTANICALS

Organic

CALENDULA OIL

Promotes Skin Regeneration

THERAPEUTIC INFUSED OIL

1 oz





**SIMPLERS  
BOTANICALS**

**ROSE**

*Rose damascena*

**THERAPEUTIC  
PERFUME OIL**

5ml



SIMPLERS  
BOTANICALS

NEROLI

*Citrus aurantium*

THERAPEUTIC  
HYDROSOL

100ml

## Suggested Initial Set Up: Top 12 Bestsellers

### Singles:

Kava  
St. John's Wort  
Echinacea  
Valerian  
Astragalus  
Chaste Tree (Vitex)

### Compounds:

Stress Relief Compound  
Milk Thistle Compound  
Echinacea/Goldenseal Compound  
Valerian/Hops Compound  
Nettle/Radish Compound  
Hawthorn Compound

## Why bulk extracts are the smart choice

- Free up shelf space and reduce inventory.
- Provide high quality organic extracts to customers while retaining the same profit margin as prepackaged single extracts.
- Organic Plants & Alcohol – We choose our herbs carefully, supporting organic farmers locally and worldwide and are Certified Organic by CCOF.
- Reduce waste and excess packaging.



**Simplers Botanicals** is an herbalist-operated company dedicated to providing highest quality organic herbal extracts. We use certified organic grain (corn) alcohol and we strive to purchase from small family farms whenever possible. All plants in our extracts are certified organic, ethically wildcrafted, or grown without chemicals. We do not use any wildcrafted herbs on the "At-Risk" list, unless they are from cultivated sources.

For more information about At-Risk plants see [www.unitedplantsavers.org](http://www.unitedplantsavers.org).

PO Box 2534, Sebastopol, CA, 95473  
800-652-7646 or 707-824-5900    [office@simplers.com](mailto:office@simplers.com)

# SIMPLERS BOTANICALS

## BULK LIQUID EXTRACTS DISPLAY OPTIONS



[www.simplers.com](http://www.simplers.com)

## Simplers Botanicals Bulk Liquid Extracts

### Compounds

- Bitters\*** A reliable remedy for promoting digestion and assimilation.  
*Artichoke, Blessed Thistle, Gentian, Ginger, Chamomile, Wormwood, Dandelion Root, Fennel*
- Cramp\*\*** Assists the body in relieving menstrual cramping.  
*Black Haw, Chaste Tree, Yarrow, Motherwort, Wild Yam, Blue Vervain, St. John's Wort*
- Dong Quai\*\*** Supports healthy function of the female reproductive system.  
*Dong Quai, Angelica Root, Blessed Thistle, Black Cohosh, Chaste Tree, Ginger, Licorice*
- Echinacea/Goldenseal\*** To support the body's immune function in times of stress.  
*Echinacea and Goldenseal*
- Ech/Gold Glycerite** To support the body's immune function in times of stress.  
*Echinacea and Goldenseal*
- Eucalyptus\*\*** An expectorating remedy to help relieve respiratory congestion.  
*Eucalyptus, Yerba Santa, Grindelia, Hyssop, Elecampane, Yerba Mansa, Licorice*
- Feverfew\*** For tonic use as a headache remedy.  
*Feverfew, Ginkgo, Lavender, Wild Yam and Lemon Verbena*
- Ginkgo/Skullcap\*** For mental fatigue and nervous exhaustion.  
*Ginkgo, Skullcap, Rosemary, Gotu Kola, Fo Ti*
- Hawthorn\*** To help nourish and tone the heart and supporting tissues.  
*Hawthorn Berry, Leaf and Flower, Motherwort and Lavender*
- Kava/Lavender Glycerite** To help reduce anxiety and stress.  
*Kava and Lavender*
- Milk Thistle\*\*** Helps promote body system detoxification and elimination.  
*Milk Thistle, Dandelion Root, Artichoke, Oregon Grape Root*
- Nettle/Radish\*\*** A seasonal tonic to help relieve hay fever and allergy symptoms.  
*Nettle, Horseradish, Elder flower, Goldenrod, Goldenseal, Turmeric, Yarrow*
- Saw Palmetto\*\*** To support healthy function of the male reproductive system.  
*Saw Palmetto, Echinacea, Marshmallow, Couchgrass, Hydrangea, Licorice, Nettle Root, Oat, Jamaican Sarsaparilla, Yarrow, Buchu*
- Stress Relief\*** To promote a sense of well being.  
*Passion Flower, Skullcap, Chamomile, Lavender, Nettle Leaf, Oat*
- Valerian/Hops\*** Calming Sleep Aid.  
*Valerian, Hops, St. John's Wort, Catnip, California Poppy, Blue Vervain, Skullcap*

### Singles

- |                    |                     |                       |                  |
|--------------------|---------------------|-----------------------|------------------|
| Astragalus*        | Echinacea*          | Elder Berry Glycerite | Passion Flower*  |
| Black Cohosh*      | Echinacea Glycerite | Ginkgo*               | Skullcap*        |
| Chaste Tree Berry* | Eleuthero*          | Hawthorn*             | St. John's Wort* |
|                    |                     | Kava                  | Valerian Root*   |

\* Certified Organic by CCOF    \*\* Made with Organic Ingredients

## Simplers Botanicals Bulk Display Options

### Space Saver Display



11.5"W x 10.5"D x 25"H

#### 6 Extracts of Your Choice & One Rotary

Compact box mounts on your own shelf and holds one stainless steel rotary dispenser (\$300 value, free leasing) and six extracts.

Six one ounce calibrated dispenser heads (a one time lease fee of \$10.00 each with free replacements as needed).

Place as many units as you wish side-by-side

**Total cost of opening order - \$714 for each 6-Extract Unit**

### Upright Display



18"W x 18"D x 6.5'H

#### Top 12 Extracts with Two Rotaries

A slim upright display – holds 2 stainless steel rotary dispensers (\$600 value, free leasing) and 12 Extracts

12 one ounce calibrated dispenser heads (a one time lease fee of \$10.00 each with free replacements as needed)

**Total cost of opening order - \$1,428**

### Both Display Options Include:

A free case of each 1, 2, and 4 ounce bottles (\$66.00 value)

Instructional signage & product information.

Each extract comes with a roll of custom labels providing the name of the extract, ingredients, and the recommended dosage.

**SRP \$6.99 (51% profit margin)**







Natural

Organic

Gloss

Shimmer

[Home](#) [About Us](#) [Products](#) [Contact Us](#)


## Simply Natural Lip Balm

Moisturize, refresh, renew and repair with our all natural, healing organic ingredients. Renew with organic olive oil, protect with beeswax and SPF, repair with Vitamin E. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, pthalates or GMO's.



Original  
[View Ingredients](#)

### Original

Natural Moisturizer

**Active Ingredients:**  
 (Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),  
**Inactive Ingredients:**  
 Organic palm oil,  
 beeswax, rosemary  
 extract, vitamin E



Acai Berry  
[View Ingredients](#)

### Acai Berry

Natural Moisturizer

**Active Ingredients:**  
 (Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),  
**Inactive Ingredients:**  
 organic coconut oil,  
 beeswax, organic extra  
 virgin olive oil, flavor,  
 vitamin E acetate,  
 organic comfrey leaf,



Citrus  
[View Ingredients](#)

### Citrus

Natural Moisturizer

**Active Ingredients:**  
 (Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),  
**Inactive Ingredients:**  
 Organic palm oil,  
 beeswax, organic extra  
 virgin olive oil, flavor,



Espresso  
[View Ingredients](#)

### Espresso

Natural Moisturizer

**Active Ingredients:**  
 (Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),  
**Inactive Ingredients:**  
 Organic palm oil,  
 beeswax, organic extra  
 virgin olive oil, flavor,

lanolin, rosemary extract, vitamin E, red 33 lake, blue 1 lake, iron oxide

organic hemp seed oil, rosemary extract, vitamin E

organic hemp seed oil, rosemary extract, vitamin E



Fresh Mint  
View Ingredients



Green Tea  
View Ingredients



Iced Pear  
View Ingredients

### Fresh Mint

Natural Moisturizer

### Green Tea

Natural Moisturizer

### Iced Pear

Natural Moisturizer

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, essential  
oil of spearmint, organic  
hemp seed oil, rosemary  
extract, vitamin E

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E

**Active Ingredients:**  
(Purpose Sunscreen)  
octinoxate (7.5%),  
oxybenzone (3%),  
**Inactive Ingredients:**  
Organic palm oil,  
beeswax, organic extra  
virgin olive oil, flavor,  
organic hemp seed oil,  
rosemary extract, vitamin  
E



Lemon Grass  
View Ingredients



Mint  
View Ingredients



Pomegranate  
View Ingredients



Tea Tree Mint  
View Ingredients

### Lemon Grass

### Mint

### Pomegranate

### Tea Tree Mint

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
 beeswax, organic extra  
 virgin olive oil, essential  
 oil of lemongrass,  
 organic hemp seed oil,  
 rosemary extract,  
 vitamin E

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
 beeswax, organic extra  
 virgin olive oil, essential  
 oil of spearmint, organic  
 hemp seed oil, rosemary  
 extract, vitamin E

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
 beeswax, organic extra  
 virgin olive oil,  
 flavor, organic hemp  
 seed oil, rosemary  
 extract, vitamin E

Natural Moisturizer

**Active Ingredients:**

Organic Palm Oil,  
 Beeswax, Organic Extra  
 Virgin Olive Oil, Organic  
 Tea Tree Oil, Organic  
 Hemp Seed Oil,  
 Rosemary Extract,  
 Vitamin E, Essential  
 Oil of Peppermint



Vanilla Mint  
[View Ingredients](#)



Vanilla  
[View Ingredients](#)

## Vanilla Mint

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
 beeswax, organic extra  
 virgin olive oil, flavor,  
 essential oil of  
 peppermint, organic  
 hemp seed oil, rosemary  
 extract, vitamin E

## Vanilla

Natural Moisturizer

**Active Ingredients:**

(Purpose Sunscreen)  
 octinoxate (7.5%),  
 oxybenzone (3%),

**Inactive Ingredients:**

Organic palm oil,  
 beeswax, organic extra  
 virgin olive oil, flavor,  
 organic hemp seed oil,  
 rosemary extract, vitamin  
 E



## Simply Organic Lip Balm

Our Simply Lip Balm has gotten even better with a certified organic option for our customers. Each variety has been carefully crafted using the finest premium quality organic ingredients. This USDA certified organic lip balm glides on smooth and continues to moisturize long after the initial application. Always without parabens, sulfates, synthetic dyes, synthetic fragrances, phthalates or GMO's.



Original  
View Ingredients

### Original

Certified Organic

#### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of mentha piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of mentha spicata (spearmint), tocopherol (vitamin E)



Mint  
View Ingredients

### Mint

Certified Organic

#### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, organic essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Coconut  
View Ingredients

### Coconut

Certified Organic

#### Active Ingredients:

Organic elaeis guineensis (palm) oil, organic cera alba (beeswax), organic extra virgin olea europaea (olive) oil, essential oil of menthe piperita (peppermint), organic cannabis sativa (hemp) seed oil, organic essential oil of menthe spicata (spearmint), tocopherol (vitamin E)



Green Tea  
View Ingredients



Mango  
View Ingredients

## Green Tea

Certified Organic

**Active Ingredients:**  
Cera Alba ( beeswax),  
extra virgin olea europaea (olive) oil,  
cocos nucifera (coconut) oil,  
butyrospeumum parkii (Shea butter),  
theobroma cacao (cocoa) seed butter,  
natural flavor, cannabis sativa (hemp) seed oil,  
tocopherol (vitamin E),  
camellia sinensis (green tea) leaf extract

## Mango

Certified Organic

**Active Ingredients:**  
Cera Alba ( beeswax),  
extra virgin olea europaea (olive) oil,  
cocos nucifera (coconut) oil,  
butyrospeumum parkii (Shea butter),  
theobroma cacao (cocoa) seed butter,  
natural flavor, cannabis sativa (hemp) seed oil,  
tocopherol (vitamin E),  
magifera indica (mango) fruit extract



## Simply Gloss

This all natural, ultra shiny gloss lays on a sheer, sexy wash of color. Available in a variety of shades. Glides on easily and stays on longer. Simply shine lip gloss contains none of the following: parabens, sulfates, synthetic fragrances, synthetic dyes, petro-chemicals or phthalates.



Pink Passion  
[View Ingredients](#)

## Pink Passion

Luscious Lips

**Active Ingredients:**

Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



Red Redemption  
[View Ingredients](#)

## Red Redemption

Luscious Lips

**Active Ingredients:**

Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



Benevolent Berry  
[View Ingredients](#)

## Benevolent Berry

Luscious Lips

**Active Ingredients:**

Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



Promiscuous Peach  
[View Ingredients](#)

## Promiscuous Peach

Luscious Lips

**Active Ingredients:**

Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



Nude Nirvana  
[View Ingredients](#)

## Nude Nirvana

Luscious Lips

**Active Ingredients:**

Castor Oil, Sweet Almond Oil, Beeswax, Shea Butter, Mica, Food Color, Natural Mint Flavor



## Simply Shimmer

All natural slightly tinted lip shimmer replenishes with a luxurious sheen finish. Soften with shea butter, renew with organic olive oil, moisturize with beeswax, and protect with antioxidants. Formulated without parabens, sulfates, synthetic scents, synthetic fragrances, phthalates and GMO's.



Copper Drop  
View Ingredients

### Copper Drop

Shining Smiles

**Active Ingredients:**

Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide



Polished Pink  
View Ingredients

### Polished Pink

Shining Smiles

**Active Ingredients:**

Organic extra Virgin olive oil, beeswax, castor oil, shea butter, lanolin, mango butter, essential oil of peppermint, vitamin E, Rosemary extract. May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide



Ruby Red  
View Ingredients

### Ruby Red

Shining Smiles

**Active Ingredients:**

Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide



Sparkling Wine  
View Ingredients

### Sparkling Wine

Shining Smiles

**Active Ingredients:**

Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, red 6, red 7, red 40, iron oxide, titanium dioxide



Champagne  
[View Ingredients](#)

## Champagne

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine



Poli Rose  
[View Ingredients](#)

## Poli Rose

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine



Sheer  
[View Ingredients](#)

## Sheer

Shining Smiles

**Active Ingredients:**  
Organic Extra Virgin Olive Oil, Beeswax, Castor Oil, Shea Butter, Lanolin, Mango Butter, Essential Oil of Peppermint, Vitamin E, Rosemary extract, May contain: Mica, iron oxide, titanium dioxide, carmine

## Our Products

Natural Lip Balm

Certified Organic Lip Balm

Lip Gloss

Lip Shimmer

"We bring organic products back down-to-earth by providing the first all-natural, premium quality, U.S.-made, eco-conscious personal care products offered on the market at a reasonable rate."



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>Affordable Naturals, LLC,  Opposer,  v.  NutraMarks, Inc.,  Applicant.</p>	<p>Opposition No.: 91218720  Mark: SIMPLERS  Serial No.: 86078760</p>
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**ANSWER TO NOTICE OF OPPOSITION**

Applicant NutraMarks, Inc. (“Applicant”), by and through its counsel, responds as follows to the Notice of Opposition:

1. Applicant states that Opposer’s Reg. No. 3935337 for the mark SIMPLY speaks for itself with respect to the application and registration dates, and the goods recited in the registration. Applicant lacks sufficient knowledge and information to form a belief as to the truth of any remaining allegations contained in paragraph 1 of the Notice of Opposition and therefore denies them.
2. Applicant denies the allegations contained in paragraph 2 of the Notice of Opposition to the extent that the goods recited in Applicant’s application for the SIMPLERS mark are not for “cosmetic preparations” standing alone.
3. Applicant denies the allegations contained in paragraph 3 of the Notice of Opposition.

4. Applicant admits that it is a Delaware corporation, denies that it “produced” cosmetic preparations and dietary supplements in the United States, and denies all remaining allegations contained in paragraph 4 of the Notice of Opposition.

5. Applicant denies the allegations in paragraph 5 of the Notice of Opposition, as the phrase “Applicant through NutraMarks, Inc.” is unintelligible since the Applicant is NutraMarks, Inc. Applicant admits that copies of product labels used in connection with Applicant’s SIMPLERS mark are attached as Exhibit B to the Notice of Opposition. Applicant admits that, from 1983 to the present, it (either through its predecessor-in-interest or related companies) has sold and distributed various cosmetic preparation products in the United States under the SIMPLERS mark, examples of which are shown in Exhibit B. Applicant denies all remaining allegations contained in paragraph 5 of the Notice of Opposition.

6. Applicant lacks sufficient knowledge and information to form a belief as to the truth of the allegations contained in paragraph 6 of the Notice of Opposition and therefore denies them.

7. Applicant admits that its SIMPLERS products have been advertised and sold via the Internet, and lacks sufficient knowledge and information to form a belief as to the truth of the remaining allegations contained in paragraph 7 of the Notice of Opposition and therefore denies them.

8. Applicant is still in the process of investigating whether a likelihood of confusion exists between Opposer’s claimed use of SIMPLY and Applicant’s use of SIMPLERS and, therefore, lacks sufficient knowledge and information to form a belief as to the truth of the allegations contained in paragraph 8 of the Notice of Opposition and therefore denies them.

9. Applicant denies that its registration would cause injury or damage to Opposer. Opposer's allegation regarding the legal effect of Applicant's proposed registration is a legal conclusion to which no response is required. Applicant denies all remaining allegations contained in paragraph 9 of the Notice of Opposition.

**First Affirmative Defense**

Applicant is the senior user of the SIMPLERS mark, having used (either through its predecessor-in-interest or its related companies) SIMPLERS in commerce nationwide on a wide range of cosmetic preparation products as early as 1983, decades earlier than the 2009 priority date of Opposer's alleged registration. Accordingly, to the extent a likelihood of confusion exists between Opposer's use of SIMPLY and Applicant's use of SIMPLERS, Opposer is infringing Applicant's senior common law rights to the SIMPLERS mark.

WHEREFORE, Applicant respectfully requests that the Board dismiss this opposition and allow the Application to proceed to registration on the Principal Register.

Dated: December 9, 2014

Respectfully submitted,

/s/ Timothy P. Getzoff

Timothy P. Getzoff

Emily J. Cooper

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**ATTORNEYS FOR APPLICANT  
NUTRAMARKS, INC.**

## CERTIFICATE OF SERVICE

The undersigned certifies that the attached ANSWER TO NOTICE OF OPPOSITION was served on the below-identified counsel for Opposer on December 9, 2014 by the means indicated below:

- U.S. Certified Mail, postage prepaid  
 Hand Delivery

Carl Christensen  
Christensen Law Office PLLC  
800 Washington Avenue North, Suite 704  
Minneapolis, Minnesota 55401

/s/ Timothy P. Getzoff

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