

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:21-cv-01364

JOT LABS, LLC,

Plaintiff,

v.

ONEBY COFFEE, INC.

Defendant.

JOT LABS, LLC’S COMPLAINT AGAINST ONEBY COFFEE, INC.

Plaintiff, Jot Labs, LLC (“Jot Labs” or “Jot Ultra Coffee”), by and through its counsel, THOMAS P. HOWARD, LLC, files this Complaint against Defendant, OneBy Coffee, Inc. (“OneBy Coffee” or “OneBy”) for injunctive relief and damages based on trade dress infringement, trademark infringement, and unfair competition under the Federal Lanham Act, 15 U.S.C. § 1051, *et seq.*, and unfair competition under Colorado common law, as follows:

NATURE OF THE ACTION

1. This is an action for injunctive relief and damages based on trade dress infringement, trademark infringement, and unfair competition under the Federal Lanham Trademark Act, 15 U.S.C. §1051, *et seq.*, and unfair competition under Colorado common law.

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Summary of the Ready-to Drink Coffee Concentrate Industry

2. Coffee is the one of the most popular beverages in the world. Coffee concentrate is a ready-to-drink variant that can either be consumed directly or mixed with milk. According to *FORTUNE Business Insights*, the high-paced lifestyles of consumers has led them to shift their preferences from traditional coffee to concentrated coffee due to its ease of consumption. Continues *FORTUNE Business Insights*, "... the increase in demand of millennials for convenient and ready-to-drink products is one of the major reasons driving the coffee concentrates market."

3. According to the *Fact.MR* market researchers, coffee is the world's second-most valuable traded commodity, which has created varied market opportunities for the concentrated coffee products derived through further processing. As such, continues *Fact.MR*, "...the increasing popularity of ready-to-drink products is increasing the demand for coffee concentrates in the market. The high paced lifestyles of consumers is shifting the choice of people from traditional coffee to the concentrate form."

4. According to *MarketWatch*, the global coffee concentrates market size was \$784.6 million in 2020, and is expected to reach \$1.9 billion globally by 2026.

Jot Labs

5. Jot Labs was founded in 2019 in Boulder, Colorado by Andrew Gordon and Palo Hawken. Jot Labs produces direct-to-consumer Ultra Coffee, which is a liquid coffee that is 20 times more concentrated than a regular cup of coffee. Using a proprietary extraction process — as well as beans sourced from organic, fair trade farms in premier coffee growing regions — Jot Labs delivers unparalleled clarity of flavor, versatility and convenience, and is meant to be consumed *just one tablespoon* at a time.

6. On June 17, 2019, Jot Labs constructively began to market and sell its gourmet Ultra Coffee with great commercial success in the state of Colorado and elsewhere. Jot Ultra Coffee is the purest coffee in the world and is derived from a proprietary extraction process, resulting in an unparalleled combination of flavor, freshness and convenience.

7. Since its initial launch, Jot Ultra Coffee has become the recognized domestic leader in the marketing and sale of Ultra Coffee, achieving significant sales while garnering a Colorado avalanche of national news attention. Of particular note, Jot Ultra Coffee has been the subject of almost 100 positive news articles from coast-to-coast, including but not limited to articles that have appeared in such mainstream national news media outlets as *AOL.com*, *BuzzFeed*, *CNN.com*, the *Daily Mail*, *Dieline*, *Fast Company*, *Forbes*, *Food & Wine*, *Glamour*, *Good Housekeeping*, *InTouch Weekly*, *New York Magazine*, *Women's Health Magazine* and *Yahoo!*. For instance, on July 16, 2020, in an article entitled “*Making any espresso-based concoction is easier — and more stylish — with Jot Ultra coffee*,” the author indicated that Jot Ultra Coffee was packaged in a “pleasing light cafe-latte-black-white color palette, and a font I found calming,” further remarking that Jot Ultra Coffee was created by perfectionists. Said the author,

“Jot Ultra coffee was created, it seems, by perfectionists out of Boulder, Colorado. The coffee is brewed ‘to exacting standards using a progressive enrichment process’ that extracts maximum flavor out of every bean.... And Jot’s Instagram has been vocal on social justice this summer, donating profits to the NAACP Legal Defense Fund and Black Lives Matter back in June. As part of an iced coffee recipe contest that just wrapped, Jot has donated to the Loveland Foundation to help Black women and girls, every time a user enters a recipe....

“**The packaging is designed in a pleasing light cafe-latte-black-white color palette, and a font I found calming**; it may sound superfluous to mention the fonts on a box of packaged coffee, but the product’s design really did enhance the user experience for me. There’s also a recipe card updated seasonally; the summer 2020 ‘menu’ includes recipes for an iced Americano, cold brew lemonade (yes, this is as genius as it sounds, combining Jot, water, lemon juice, maple syrup and

ice), iced oat latte, and a Dark and Stormy (a cocktail involving Jot plus small amounts of rum and tequila and 8 ounces of ginger beer).

“The bottle of coffee concentrate is a thick amber glass, something you might find in a hipster apothecary in Brooklyn, and I mean that as a compliment. It feels good in your hand, and the white printed Jot logo is sort of a visual reminder that it’s time to wake up. Lastly, the package comes with a handsome stainless steel tablespoon that just feels like a more adult tool than the plastic tablespoons that come with even high-end coffee makers today....” (Emphasis added.)

See **Ex. 1** for a copy of this article, which appeared on *CNN.com*. See below right for an actual size image of the Jot Ultra Coffee product.

8. Previously, on April 24, 2020, in an article entitled, *This Coffee Innovation Is the Fastest Way to Enjoy a Professional-Level Cup at Home*, Jot Ultra Coffee was lauded for its rich and smooth flavor and commitment to sustainability. As indicated in the article,

“Jot tastes incredibly rich and smooth. It’s also incredibly strong—you really, truly only need a tablespoon. My favorite way to drink it is as an iced coffee, which involves combining Jot with 8 ounces of water and ice. I also tried it as a latte by adding 8 ounces of warm milk, but was shocked I gravitated to the iced version more.... I found Jot’s flavor to be so balanced that I enjoyed it even more black....

“Another thing I appreciate about Jot is the brand’s commitment to sustainability. Not only does the direct-to-consumer company use organic Fair Trade beans, but its revolutionary process reduces waste by getting 30% more brew out of every bean. After that, Jot composts 100% of its spent grounds as soil amenders for local farmers.”



See **Ex. 2** for a copy of this article, which appeared in *Food & Wine*.

9. In addition, on July 8, 2020, in an article entitled “*Jot Ultra Coffee Is Sleek, Stylish Coffee Concentrate*,” the author stated that Jot Ultra Coffee “is gorgeously designed, utilizing an energetic font in a sleek, small, brown bottle...” Said the author,

“Jot coffee is gorgeously designed, utilizing an energetic font in a sleek, small, brown bottle — a quick cup of cold brew or your next latte will be just as sophisticated as Jot’s bottle.... Red Antler designed the bottle from a 360° view so that no matter how it’s stored, the bottle offers a fun branded moment. Whether it’s the large scale rabbit splash that reveals itself as the bottle is turned, or the ‘ultra coffee’ insignia printed directly on the front, the identity is integrated playfully and subtly throughout the physical experience.

“The [design] team also tested countless bottle forms to make sure Jot’s bottle would fit in the palm of your hand, that the opening is clean and pours easily into the tablespoon, and even tested different pouring distances.

See **Ex. 3** for a copy of this article, which appeared in *Dieline*.

OneBy Coffee

10. Timothy Oringer, the proprietor of, and registered agent for, OneBy, is a Jot Labs customer and consumer of its Jot Ultra Coffee. Beginning on May 17, 2020 and continuing through at least November 23, 2020, Mr. Oringer – who, like Jot Labs, is based at the foothills of the Rocky Mountains in Boulder, Colorado – made multiple purchases of Jot Ultra Coffee, spending about \$125.00 to purchase Jot Ultra Coffee products through the <<https://jot.co/>> website.

11. On or about February 9, 2021, Mr. Oringer began to market and sell his copycat version of Jot Ultra Coffee through the <<https://oneby.co/>> website, in a manner and format that encompassed remarkably similar product packaging and design, product marketing and sales materials, and product pricing. Based upon these actions, OneBy has infringed Jot Labs’ trade indicia in an obvious attempt to palm off of its (OneBy’s) products as those of Jot Labs, benefiting from the high degree of recognition of Jot Labs’ trade indicia by the consuming public.

PARTIES

12. Jot Labs is a Delaware limited liability company with a principal place of business at 2755 Canyon Blvd., Boulder, Colorado 80302.

13. Upon information and belief, OneBy is a Delaware corporation with a principal place of business at 3301 Arapahoe Avenue, Unit E117, Boulder, Colorado 80303.

JURISDICTION AND VENUE

14. The Court has original subject matter jurisdiction over this matter pursuant to the Federal Lanham Act, 15 U.S.C. § 15 U.S.C. §§ 1051, 1121, *et seq.* and under 28 U.S.C. §§ 1331, 1332 and 1338.

15. This Court has supplemental jurisdiction over Jot Labs' related state and common law claims under 28 U.S.C. § 1367.

16. The court has personal jurisdiction over OneBy because, upon information and belief, OneBy has its principal place of business in Colorado, conducts business and sells infringing products in Colorado, has committed tortious acts in Colorado, has availed itself of the rights to and benefits in Colorado law, and has engaged in substantial and continuing contacts with Colorado that make the exercise of personal jurisdiction proper.

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

GENERAL ALLEGATIONS

Jot Lab's Trademarks and Trade Dress

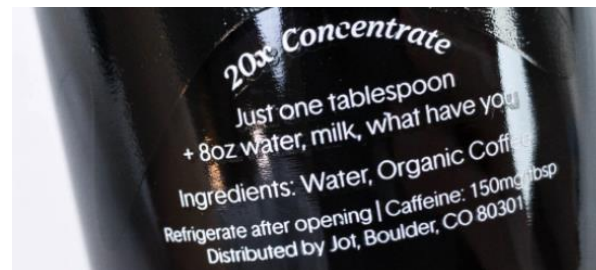
18. On June 17, 2019, Jot Labs constructively began to market and sell its gourmet Ultra Coffee in United States commerce, through the doctrine of constructive use. Since April 2020, Jot Labs physically has sold its Jot Ultra Coffee throughout the United States in

combination with trademarks and product packaging that the public has come to recognize as a distinctive and non-functional indicator of Jot Labs' products. See sample image of the Jot Ultra Coffee product on p. 4, *supra*.

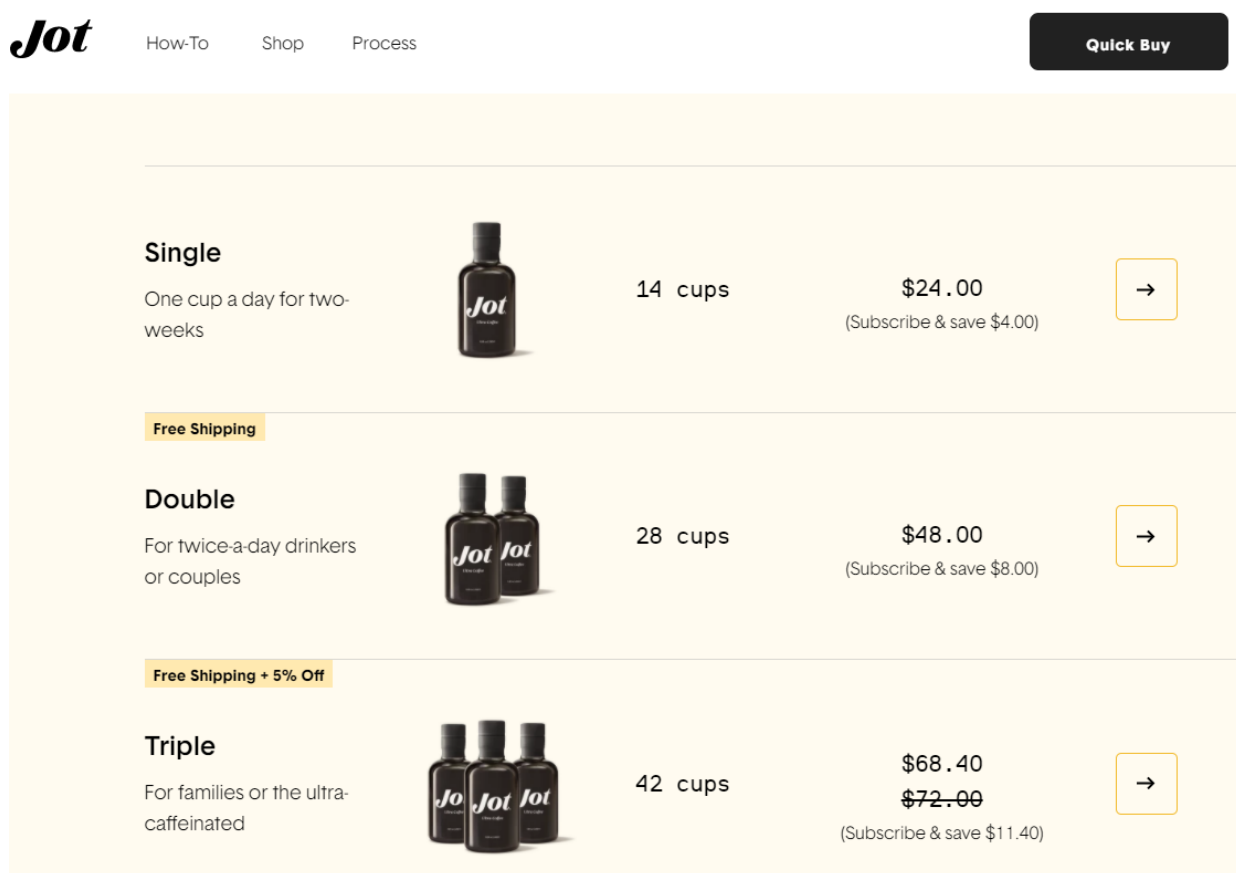
19. JOT is the owner of a portfolio of Federal intellectual property assets, including the following Federally registered United States trademarks: JOT, U.S. Federal Reg. No. 6115196, in Class 030 for "Coffee"; JOT (and Design), U.S. Federal Reg. No. 6200025 in Class 030 for "Coffee"; and, JOT (Design), U.S. Federal Reg. No. 6204668, also in Class 030 for "Coffee." Copies of the U.S. Federal trademark registration certificates are enclosed hereto as **Exs. 4-6**.

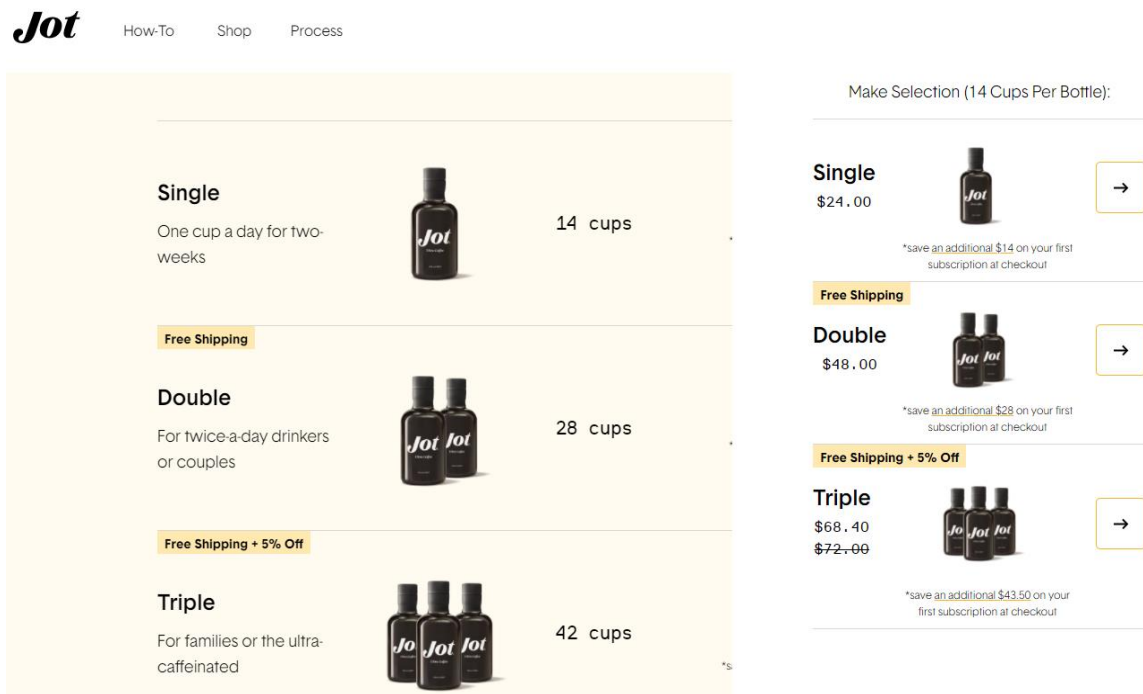
20. Jot Labs is the owner of the URL for <<https://jot.co/>>, and further is the holder of common law rights in its product trade dress, including its packaging and labeling, and its common law copyright-protected material, including its website materials, sales pricing structure and marketing slogans and the overall look and feel of its products and website.

a. *Packaging and Labeling:* As shown on p. 4 above, Jot Ultra Coffee is marketed and sold in a 5.8' inch tall sleek clear glass bottle which can fit in the palm of an individual consumer's hand. It contains 6.8 ounces of coffee concentrate, which, if used properly, comprises 24 tablespoon servings per bottle. As recommended on the bottle, "Just one tablespoon [with] 8oz water, milk, what have you.... Refrigerate after opening." The font on the bottle is in a cafe-latte-black-white color. See sample image of the contents of the label appearing on the back portion of the Jot Ultra Coffee above.



b. *Sales Pricing Structure:* As seen below and on p. 9, Jot Ultra Coffee is sold direct-to-consumer, offered for purchase online through Jot Labs’ <<https://jot.co/>> website as a “Quick Buy,” or in packages of multiple bottles, and includes free shipping for larger orders.





Copies of these images are enclosed hereto as **Ex. 7**. In addition, as demonstrated in the images on p. 8 and above, customers receive a volume discount and free shipping if they purchase two or three bottles of Jot Ultra Coffee at one time, or sign up with Jot Labs as a subscriber (in which case the product would be delivered on a bi-weekly basis). Jot Labs also offers a “Jot spoon” for purchase for an additional \$3.

c. *Website Design:* As seen on p. 8 and above, Jot Labs’ website graphically depicts its product sales information in three sections, one section for each of its “Single,” “Double” and “Triple” product sales offerings, with brown text on a yellowish-cream colored background, and further contains a drop-down menu for the actual product purchases.

21. Jot Labs has spent substantial resources promoting its products. As a result, Jot Labs’ product trade dress, or packaging, and its copyright material, including its website materials, sales pricing structure and marketing slogans and the overall look and feel of its

products and website (collectively, the “Jot IP”) have become associated in the minds of the relevant consuming public with Jot Labs.

22. As a result, in addition to its Federally registered trademarks, Jot Labs has developed common law rights in the Jot IP and has acquired distinctiveness in the Jot IP. The relevant purchasing public has come to associate the Jot IP with Jot Labs, and Jot Labs’ trademarks and, separately, Jot Labs’ product trade dress, or packaging, and its copyright material, including its website materials, sales pricing structure and marketing slogans and the overall look and feel of its products and website has acquired a secondary meaning or significance that identifies Jot Labs.

23. Jot Labs – as evidenced by the significant marketing of its Jot Ultra Coffee and the 100 or so national news articles concerning its pioneering founders, Messrs. Gordon and Hawken, its soon to be world-famous Jot Ultra Coffee taste, the burgeoning Ultra Coffee market, and the sleek Jot Ultra Coffee product design – has invested and continues to invest substantial time, money and effort in promoting and advertising its Jot Ultra Coffee products. As a result, Jot Labs enjoys significant goodwill associated with its Jot Labs trademarks and Jot IP by customers and industry leaders, who have come to associate Jot Labs as the leading source of coffee concentrate in the United States.

Jot Labs and OneBy are Direct Competitors

24. Jot Labs and OneBy are direct competitors, and sell directly competing coffee concentrate to the identical class of relevant buyers. Specifically, each company sells ready-to-consume coffee concentrate. Each company distributes its products in the same marketing

channel, which is direct-to-consumer. The same consumers purchase these products, which are impulse purchases. Both companies are based in Boulder, Colorado.

OneBy's Product Development Actions

25. On May 17, 2020, which is almost one year after Jot Labs constructively first used “JOT” to market and sell Jot Ultra Coffee in United States commerce, Timothy Oringer who, as described above, is the proprietor of OneBy (as well as its Registered Agent), ordered Jot Ultra Coffee from the <<https://jot.co/>> website, placing an order for 2 bottles of Jot Ultra Coffee for \$48.00. *See* Order #4987, a copy of which is attached here to as **Ex. 8**. In placing this order, Mr. Oringer provided an address of Timothy Oringer, 3301 Arapahoe Ave., E117, Boulder, CO 80303.

26. On June 3, 2020, upon information and belief, Mr. Oringer incorporated OneBy Coffee, Inc. in Delaware. On June 6, 2020, upon information and belief, Mr. Oringer registered the <<https://oneby.co/>> internet domain name.

27. On July 9, 2020, Mr. Oringer ordered Jot Ultra Coffee from the <<https://jot.co/>> website, placing an order for a monthly subscription to Jot Ultra Coffee for \$40.00. *See* Order #13339, a copy of which is attached here to as **Ex. 9**. In placing this order, Mr. Oringer provided an address of Timothy Oringer, 3301 Arapahoe Ave., E117, Boulder, CO 80303.

28. On July 23, 2020, OneBy Coffee, Inc. was qualified to do business in the state of Colorado. The registered agent is Timothy Oringer.

29. On November 23, 2020, Mr. Oringer ordered Jot Ultra Coffee from the <<https://jot.co/>> website, placing an order for 2 bottles of Jot Ultra Coffee for \$48.00. *See* Order

#35470, a copy of which is attached here to as **Ex. 10**. In placing this order, Mr. Oringer provided a billing address of Tim Oringer, 3601 Arapahoe Ave., #409, Boulder CO 80301.

30. Upon information and belief, Mr. Oringer claims that, on or about December 14, 2020, OneBy began to market and sell its OneBy coffee direct-to-consumers through <<https://oneby.co/>>. Also on information and belief, Mr. Oringer further claimed that, since this same December 14, 2020 time period, OneBy: (a) has “...shipped product to most states in the U.S....;” and, (b) is “in negotiations to have OneBy Coffee available locally in greater Denver in convenience stores and other specialty shops such as ... outdoor retailers.”

31. In January 2021, upon information and belief, Mr. Oringer was familiar with Jot Ultra Coffee, and tried to distinguish the products by claiming that the OneBy product is a lifestyle product, while Jot Ultra Coffee is not promoted as a lifestyle product.

OneBy’s Infringing Actions

32. On or about February 9, 2021, upon information and belief, the OneBy website, <<https://oneby.co/>>, first became active, pursuant to the online records accessed through the Internet Archive, <www.archive.org>.

33. There exists a striking similarity between Jot Ultra Coffee’s trademarks, packaging and labeling, sales pricing structure, and website design and the OneBy trademarks, packaging and labeling, sales pricing structure, and website design.

34. The product labeling, directions and product packaging used by OneBy on its products and marketing collateral — including the stylized font — is substantially similar to the Jot Ultra Coffee product packaging and stylized font, including the: (a) the product labeling and

directions; and, (b) product packaging, size, shape, and specialized script font, which provides the commercial impression that Jot Ultra Coffee and OneBy Coffee are related products, as follows:

a. *Product Labeling and Directions:* Below is a comparison of the product labeling text used by Jot Labs and by OneBy on their respective product packaging.

Jot Ultra Coffee — Product Labeling Text	OneBy — Product Labeling Text
<i>Just one tablespoon 8oz water, milk, what have you</i>	<i>Use 1 tablespoon of OneBy with 8oz water or milk</i>
<i>Ingredients: Water, organic coffee</i>	<i>INGREDIENTS: WATER, COFFEE</i>
<i>Refrigerate after opening</i>	<i>REFRIGERATE ONCE OPENED</i>
<i>6.8fl oz (200ml)</i>	<i>8.5FL OZ 250 ML</i>
<i>Distributed by Jot, Boulder, CO 80301</i>	<i>DISTRIBUTED BY ONEBY COFFEE, BOULDER, CO 80303</i>

b. *Product Packaging, Size, Shape, and Font Used by OneBy*

JOT Ultra Coffee	OneBy
<i>Product bottle is 5.8 inches in height</i>	<i>Product bottle in 5.5 inches in height</i>
<i>Product bottle is 8 inches in circumference</i>	<i>Product bottle is 8.2 inches in circumference</i>
<i>Product fits in the palm of your hand</i>	<i>Product fits in the palm of your hand</i>
<i>Bottle filled with product is dark brown</i>	<i>Product bottle is dark brown</i>
<i>Product bottle has dark brown sealed cap</i>	<i>Product bottle has dark brown sealed cap</i>
Font: 	Font: 

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c. *Product Exemplars:* Product Exemplars are shown below.

JOT Ultra Coffee	OneBy
<i>Actual size:</i> 	<i>Actual size:</i> 
	

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Jot Ultra Coffee	OneBy
	

35. The OneBy sales pricing structure, and website design is substantially similar to the Jot Ultra Coffee product packaging, as follows:

a. *Sales Pricing Structure:* As of April 18, 2021, Jot Ultra Coffee and OneBy Coffee offered their products for purchase as individual bottles, 2 bottles, 3 bottles or through a subscription model, as follows below and on p. 16:

JOT Ultra Coffee	OneBy
Single Bottle \$24.00 *save an additional \$14 on your first subscription at checkout	Single Bottle \$23.00 (Subscribe & save \$3.45)
Double (2) Bottles \$48.00 + Free Shipping *save an additional \$28 on your first subscription at checkout	Double (2) Bottles \$46.00 + Free Shipping (Subscribe & save \$3.45)
Triple (3) Bottles \$68.40 + Free Shipping + 5% Off *save an additional \$43.50 on your first subscription at checkout	Triple (3) Bottles \$62.00 + Free Shipping + 10% Off (Subscribe & save \$3.45)

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b. *Sales Pricing Structure:* As of April 27, 2021, JOT Ultra Coffee and OneBy Coffee offered their products for purchase as individual bottles, 2 bottles, 3 bottles or through a subscription model, as follows below:

Jot Ultra Coffee	OneBy
<i>Single Bottle \$24.00</i> <i>*save an additional \$14 on your first subscription at checkout</i>	<i>Single Bottle \$19.99</i> <i>(Subscribe & save \$3.00)</i>
<i>Double (2) Bottles \$48.00 + Free Shipping</i> <i>*save an additional \$28 on your first subscription at checkout</i>	<i>Double (2) Bottles \$39.98 + Free Shipping</i> <i>(Subscribe & save \$6.00)</i>
<i>Triple (3) Bottles \$68.40 + Free Shipping + 5% Off</i> <i>*save an additional \$43.50 on your first subscription at checkout</i>	<i>Triple (3) Bottles \$53.97 + Free Shipping + 10% Off</i> <i>(Subscribe & save \$8.10)</i>

c. *Webpage Design – Initial Purchase Page:* As of April 18, 2021, the initial purchase page of the Jot Ultra Coffee and OneBy website were nearly identical, as follows below and on p. 17 below.

Jot Ultra Coffee	OneBy
<i>2 columns, featuring a cream-colored column at left and a white column at right</i>	<i>2 columns, featuring a cream-colored column at left and a white column at right</i>
<i>Product name is upper left corner (left column)</i>	<i>Product name is upper left corner (left column)</i>
<i>Product name followed by 5 yellow stars signifying product reviews (left column)</i>	<i>Product name followed by 5 yellow stars signifying product reviews (left column)</i>
<i>\$24 / bottle (makes 14 cups) (left column)</i>	<i>\$23 (each bottle makes 17 cups) (left column)</i>

Jot Ultra Coffee	OneBy
<i>The purest most concentrated form of liquid coffee in the world. Ultra Coffee is uncommonly smooth, with unmatched clarity of flavor. A tablespoon is all you need to transform any liquid into a truly remarkable cup. (left column)</i>	<i>Super concentrated and radically fast. Each bottle of OneBy makes 17 cups of perfection with each. Simply dilute and enjoy. Add one tablespoon of OneBy to hot water, iced water or milk of your choice. The result? A silky mouthful tasting of chocolate, nuts, and fruit with a long and gentle finish. (left column)</i>
<i>Ingredients: Filtered Water, Organic Coffee (left column)</i>	<i>Ingredients: Filtered Water, Single-Origin Peruvian Coffee (left column)</i>
<i>Buy Now (yellow background, bottom left)</i>	<i>Buy Now (yellow background, bottom left)</i>
<i>Make Selection (14 Cups Per bottle) (upper right corner)</i>	<i>Make Selection (17 Cups Per bottle) (upper right corner)</i>
<i>Single \$24.00 (with thumbnail image) (upper right corner)</i>	<i>One Bottle \$23.00 (with thumbnail image) (upper right corner)</i>
<i>Double \$48.00 + free shipping (with thumbnail image) (upper right corner)</i>	<i>Two Bottles \$46.00 + free shipping (with thumbnail image) (upper right corner)</i>
<i>Triple \$68.40 + free shipping + 5% off (with thumbnail image) (right column)</i>	<i>Three Bottles \$62.10 + free shipping + 10 percent off (with thumbnail image) (right column)</i>

Images of these webpages appear on p. 18 below.

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Jot Ultra Coffee


[How-To](#)
[Shop](#)
[Process](#)

Ultra Coffee

★★★★★ 5,854 Verified Reviews

\$24 / bottle (makes 14 cups)

The purest, most concentrated form of liquid coffee in the world. Ultra Coffee is uncommonly smooth, with unmatched clarity of flavor. A tablespoon is all you need to transform any liquid into a truly remarkable cup.

Ingredients: Filtered Water, Organic Coffee.

[Buy Now](#)

Make Selection (14 Cups Per Bottle):

Single
\$24.00

Free Shipping

Double
\$48.00

Free Shipping + 5% Off

Triple
\$68.40
~~\$72.00~~

OneBy


[About](#)

OneBy Coffee

★★★★★ 116 reviews

\$23.00 (each bottle makes 17 cups)

[Description](#) [Ask a question](#)

Super concentrated and radically fast. Each bottle of OneBy makes 17 cups of perfection with ease.

How it Works: Simply dilute and enjoy. Add one tablespoon of OneBy to hot water, iced water, or milk of your choice. The result? A silky mouthfeel tasting of chocolate, nuts, and fruit with a long and gentle finish.

Ingredients: Filtered Water, Single-Origin Peruvian Coffee

[Buy Now](#)



Make Selection (17 Cups Per Bottle):

One Bottle
\$23

Free Shipping

Two Bottles
\$46

Free Shipping + 10% Off

Three Bottles
\$62.10
~~\$69~~

See **Ex. 11** for copies of these webpages.

d. *Webpage Design – Secondary Purchase Page:* As of April 18, 2021, the secondary purchase page of the Jot Ultra Coffee and OneBy website were nearly identical, as follows below and on p. 20.

Jot Ultra Coffee	OneBy
<i>4 lines of text</i>	<i>4 lines of text</i>
<i>Cream-colored background</i>	<i>Cream-colored background</i>
<i>The first line of text contains 4 drop-down menu items on the first line of text, including How-To, Shop, Process and Quick Buy</i>	<i>The first line of text contains 4 drop-down menu items on the first line of text, including About, Reviews, Shop, and Buy Now</i>
<i>The second line of text contains ordering information for an individual bottle: Single One cup a day for two-weeks 14 cups \$24.00 (Subscribe & save \$4.00)</i>	<i>The second line of text contains ordering information for an individual bottle: One Bottle enough for one 17 cups \$23.00 (Subscribe & save \$3.45)</i>
<i>The second line of text contains a thumbnail image of the JOT product (center) and an arrow button (right)</i>	<i>The second line of text contains a thumbnail image of the OneBy product (center) and an arrow button (right)</i>
<i>The third line of text contains ordering information for two bottles: Free Shipping Double For twice-a-day drinkers or couples 28 cups \$48.00 (Subscribe & save \$8.00)</i>	<i>The third line of text contains ordering information for two bottles: Free Shipping Two Bottles Great for couples 34 cups \$46.00 (Subscribe & save \$6.90)</i>
<i>The third line of text contains a thumbnail image of two JOT products (center) and an arrow button (right)</i>	<i>The third line of text contains a thumbnail image of two OneBy products (center) and an arrow button (right)</i>
<i>The fourth line of text contains ordering information for three bottles: Free Shipping + 5% Off Triple For families of the ultra-caffeinated 42 cups \$68.40 (Subscribe & save \$11.40)</i>	<i>The fourth line of text contains ordering information for three bottles: Free Shipping + 10% Off Three Bottles Perfect for families 51 cups \$62.10 (Subscribe & save \$9.32)</i>
<i>The fourth line of text contains a thumbnail image of three JOT products (center) and an arrow button (right)</i>	<i>The fourth line of text contains a thumbnail image of three OneBy products (center) and an arrow button (right)</i>

Jot Ultra Coffee


[How-To](#)
[Shop](#)
[Process](#)

Quick Buy

Single

One cup a day for two-weeks



14 cups

\$24.00
(Subscribe & save \$4.00)

→

Free Shipping

Double

For twice-a-day drinkers or couples



28 cups

\$48.00
(Subscribe & save \$8.00)

→

Free Shipping + 5% Off

Triple

For families or the ultra-caffeinated



42 cups

\$68.40
~~\$72.00~~
(Subscribe & save \$11.40)

→

OneBy

[About](#)
[Reviews](#)
[Shop](#)
[Buy Now](#)



One Bottle

Enough for one



17 cups

\$23
(Subscribe & save \$3.45)

→

Free Shipping

Two Bottles

Great for couples



34 cups

\$46
(Subscribe & save \$6.90)

→

Free Shipping + 10% Off

Three Bottles

Perfect for families



51 cups

\$62.10
~~\$69~~
(Subscribe & save \$9.32)

→

See **Ex. 12** for copies of these webpages.

36. OneBy's actions are infringing and damaging to Jot Labs and are likely to cause confusion or mistake, and/or to deceive the public as to the source of Jot Labs' Jot Ultra Coffee products.

37. On April 20, 2021, Jot Labs notified OneBy Coffee that OneBy Coffee is infringing Jot Labs' above-described rights. OneBy has: (a) continued to offer for sale and sell the infringing products; (b) continued to offer its OneBy Coffee products for sale as individual bottles for \$19.99, or through a multiple purchase subscription model, with free shipping and price discounts for volume purchases; and, (c) it further also continues to market and sell its products using website pages that are nearly identical to those of Jot Ultra Coffee.

38. The amount of damage to Jot Labs is unclear. OneBy's conduct is likely to cause actual confusion in the marketplace and immediate and irreparable injury to Jot Labs and will continue to damage Jot Labs and the public, unless enjoined by this Court.

FIRST CLAIM FOR RELIEF

**(Trade Dress Infringement under § 43(a)
of the Federal Lanham Act, 15 U.S.C. § 1125(a))**

39. Jot Labs repeats and incorporates by reference the preceding allegations of this Complaint, ¶¶ 1-38, inclusive, as if fully set forth herein.

40. Jot Labs' Jot Ultra Coffee trade dress rights are valid, non-functional and are both inherently distinctive and have acquired distinctiveness.

41. OneBy's use in commerce of its trade dress is likely to cause confusion, deception, and mistake by creating the false and misleading impression that OneBy's goods are

manufactured or distributed by Jot Labs, are associated or connected with Jot Labs, or have been sponsored, endorsed, or approved by Jot Labs.

42. OneBy's actions have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception among members of the public and to cause injury to Jot Labs' in an uncertain amount, for which Jot Labs has no adequate remedy at law.

43. OneBy's actions are intentional, willful, and in bad faith.

44. OneBy's conduct described above has caused and is likely to continue causing substantial injury to the public and to Jot Labs. Jot Labs is entitled to injunctive relief, damages, disgorgement of OneBy's profits, and attorney fees and costs.

SECOND CLAIM FOR RELIEF

(Unfair Competition under § 43(a) of the Federal Lanham Act, 15 U.S.C. § 1125(a))

45. Jot Labs repeats and incorporates by reference the preceding allegations of this Complaint, ¶¶ 1-38 and 39-44, inclusive, as if fully set forth herein.

46. OneBy has engaged in this false designation of origin and false description and representation of its compressed coffee products in interstate commerce and has caused and is likely to continue to cause confusion, mistake, and deception as to the origin, sponsorship, approval or association of OneBy's goods, services and commercial activities with Jot Labs' Jot Ultra Coffee in violation of section 43(a) of the Lanham Act (15 U.S.C. § 1125(a)).

47. OneBy's acts complained of herein have damaged Jot Labs in an uncertain amount, and will continue to damage Jot Labs, causing injury to Jot Labs unless enjoined.

THIRD CLAIM FOR RELIEF

**(Trademark Infringement under § 32
of the Federal Lanham Act, 15 U.S.C. § 1114)**

48. Jot Labs repeats and incorporates by reference the preceding allegations of this Complaint, ¶¶ 1-38, 39-44, and 46-47, inclusive, as if fully set forth herein.

49. Jot Labs is the owner of a portfolio of Federal intellectual property assets, including the following Federally registered United States trademarks: JOT, U.S. Fed. Reg. No. 6115196, in Class 030 for “Coffee”; JOT (and Design), U.S. Fed. Reg. No. 6200025 in Class 030 for “Coffee”; and, JOT (Design), U.S. Fed. Reg. No. 6204668, also in Class 030 for “Coffee” (collectively, the “JOT Trademarks”).

50. OneBy’s actions described in this Complaint are willful and have caused and are likely to cause confusion, or to cause mistake, or to deceive as to OneBy’s affiliation, connection, or association with Jot Labs, or as to the origin, sponsorship, or approval of OneBy’s commercial activities by Jot Labs.

51. As a direct and proximate consequence of OneBy’s actions, Jot Labs has suffered, and continues to suffer, irreparable injury and monetary damage in an uncertain amount. Such harm will continue and increase unless OneBy is preliminarily and permanently enjoined from its unlawful conduct.

FOURTH CLAIM FOR RELIEF

(Unfair Competition under Colorado Common Law)

52. Jot Labs repeats and incorporates by reference the preceding allegations of this Complaint, ¶¶ 1-38, 39-44, 46-47, and 49-51, inclusive, as if fully set forth herein.

53. Through its actions as described above, OneBy violated the Colorado common law prohibiting trademark infringement and unfair competition.

54. As a direct and proximate result of OneBy's wrongful conduct, Jot Labs has been and will continue to be damaged.

55. Unless an injunction is issued enjoining OneBy's unfairly competitive conduct, Jot Labs will continue to be damaged irreparably. Jot Labs has no adequate remedy at law.

56. On information and belief, OneBy has acted with willful intent, fraud, oppression and malice, such that Jot Labs is entitled to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing allegations, Jot Labs prays for judgment against OneBy, as follows:

1. That the Court enter a judgment in favor of Jot Labs and against OneBy on all counts alleged herein;
2. That the Court enter a judgment against OneBy that is has:
 - a. Infringed Jot Labs' rights in Jot Labs' JOT Trademarks;
 - b. Infringed Jot Labs' trade dress for Jot Labs' product packaging and labeling, including its website materials, marketing slogans and the overall look and feel of its products and website;
 - c. Infringed Jot Labs' common law copyright-protected material, including its website materials, sales pricing structure and marketing slogans;
 - d. Used false designations of origin and false descriptions and representations in commerce which are likely to cause confusion, and/or mistake, and/or to deceive as to the origin, sponsorship or approval under 15 U.S.C. § 1125(a); and,
 - e. Engaged in unfair competition.

3. That this court issue a temporary, preliminary, and permanent injunction under 15 U.S.C. § 1116 and any other applicable statute enjoining OneBy, its officers, directors, principals, agents, servants, employees, successors, and assigns, and all those in active concert or participation with them, enjoining them from:

a. Manufacturing, marketing, distributing, offering, circulating, selling, offering for sale (including without limitation at trade shows, in print media, and on all websites owned, affiliated, or sponsored by OneBy, and requiring them to request removal from all websites not owned, affiliated or sponsored by OneBy (regardless of source)), which merchandise, import, promote or display any product in association with the JOT Trademarks (or any confusingly similar variation thereof);

b. Manufacturing, marketing, distributing, offering, circulating, selling, offering for sale (including without limitation at trade shows, in print media, and on all websites owned, affiliated, or sponsored by OneBy, and requiring them to request removal from all websites not owned, affiliated or sponsored by OneBy (regardless of source)), which merchandise, import, promote or display any product in association with or any product that includes Jot Labs' trade dress or any confusingly similar variations thereof, in association with Jot Ultra Coffee;

c. Engaging in any other activity constituting an infringement of the JOT Trademarks, and/or Jot Labs' trade dress for its Jot Ultra Coffee and Jot IP;

d. Using any false designation of origin or false description which can or is likely to lead the trade or public, or individual members thereof, to erroneously believe either that any product manufactured, distributed, offered for sale, sold, licensed, sponsored,

approved, endorsed, or authorized by OneBy was manufactured, distributed, offered for sale, sold, licensed, sponsored, approved, endorsed, or authorized by Jot Labs, or that OneBy or its affiliates are affiliated, connected and/or associated with Jot Labs;

e. Destroying, concealing, altering, or otherwise disposing of any documents, electronic images or other evidence that relates or refers to the advertising, promotion, production, distribution, sale, or giving away of any goods in association with Jot Trademarks, and/or Jot Labs' trade dress for its Jot Ultra Coffee and Jot IP; and

f. Assisting, aiding or abetting any other person or entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (e) above.

4. That this court order OneBy:

a. To recall its OneBy coffee products from all distribution channels in whichever form, and providing proof of such recall; and,

b. To deliver up for destruction all infringing OneBy products, labels, packages, advertising, promotional material, or other materials in its possession.

5. An order under 15 U.S.C. § 1117 requiring OneBy to account to Jot Labs for any and all profits derived by OneBy from the activities complained of herein;

6. An order requiring OneBy to pay Jot Labs' general, special, actual, and/or statutory damages, along with any other damages allowable under 15 U.S.C. § 1117 and any other applicable statute or at common law, according to proof at trial;

7. An order requiring OneBy to pay Jot Labs a reasonable sum to cover the cost of corrective advertising to alleviate the existing, known and unknown confusion resulting from OneBy's actions described herein;

8. An order requiring OneBy to pay Jot Labs both the reasonable costs of this action and reasonable attorney fees incurred by Jot Labs in prosecuting this action;
9. For punitive damages in a sum to be ascertained at trial;
10. For interest at the highest rate allowed by law; and,
11. For any and all such additional relief as the Court deems just and proper under the circumstances.

Dated this 18th day of May, 2021.

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DEMAND FOR A JURY TRIAL

Plaintiff demands a jury trial on all claims so triable.

Dated this 18th day of May, 2021.

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s/ James Juo

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