

1 KILPATRICK TOWNSEND & STOCKTON LLP
 2 DAVID K. CAPLAN (Bar No. 181174)
 3 *dcaplan@kilpatricktownsend.com*
 4 CAROLINE Y. BARBEE (Bar No. 239343)
 5 *cbarbee@kilpatricktownsend.com*
 9720 Wilshire Blvd, Penthouse Suite
 Beverly Hills, California 90212
 Telephone: (310) 248-3830
 Facsimile: (310) 860-0363

JS-6

6 KILPATRICK TOWNSEND & STOCKTON LLP
 7 ROBERT POTTER (Admitted *Pro Hac Vice*)
 8 *rpotter@kilpatricktownsend.com*
 OLIVIA HARRIS (Admitted *Pro Hac Vice*)
 9 *oharris@kilpatricktownsend.com*
 The Grace Building
 11 1114 Avenue of the Americas
 12 New York, New York 10036
 13 Telephone: (212) 775-8700
 Facsimile: (212) 775-8800

Attorneys for Plaintiffs
 L'OREAL USA CREATIVE, INC. and
 L'OREAL USA, INC.

14 **UNITED STATES DISTRICT COURT**
 15 **CENTRAL DISTRICT OF CALIFORNIA**
 16 **WESTERN DIVISION**

17 **L'OREAL USA CREATIVE, INC.**
 18 **and L'OREAL USA, INC.,**

CASE NO.: 2:16-cv-08673 FMO
(FFMx)

Plaintiffs,

v.

FINAL JUDGMENT UPON
CONSENT AS TO DEFENDANTS
LOUIS LIN, INDIVIDUALLY AND
D/B/A SKINCARE3, MICHAEL
LEE, INDIVIDUALLY AND D/B/A
SAKURAMARKET AND/OR
GRASSLIMA, AND TERESA
 TSAI, INDIVIDUALLY AND
D/B/A TREASURES GALORE45

21 **MAGGY TSUI**, individually and d/b/a
 22 **MADAMESKINCARE; LOUIS LIN**,
 23 individually and d/b/a **SKINCARE3;**
 24 **MICHAEL LEE**, individually and
 25 d/b/a **SAKURAMARKET; TERESA**
 26 **TSAI** and **AARON LI**, individually
 and d/b/a **TREASURES GALORE45;**
 27 **MICHAEL LEE, AKINA MUKAI,**
 28 and **MAGGIE TSUI**, individually and
 d/b/a **GRASSLIMA**, and **DOES 1-10**
 acting in concert with them,

Defendants.

1 Plaintiffs L'Oréal USA Creative, Inc. ("L'Oréal Creative") and L'Oréal USA,
2 Inc. ("L'Oréal USA") (collectively, "Plaintiffs"), having filed a Complaint and First
3 Amended Complaint in this Action charging Defendants Louis Lin, individually and
4 d/b/a Skincare3, Michael Lee, individually and d/b/a Sakuramarket and/or Grasslima,
5 and Teresa Tsai, individually and d/b/a TreasuresGalore45 (collectively, "Stipulating
6 Defendants") (Plaintiffs and Stipulating Defendants collectively, the "Parties"), *inter*
7 *alia*, with Federal Trademark Counterfeiting and Infringement, Federal Unfair
8 Competition, State Unfair Competition, and Common Law Trademark Infringement
9 and Unfair Competition, and the Parties desiring to settle the controversy between
10 them, it is by Stipulation:

11 **ORDERED, ADJUDGED AND DECREED** as between the Parties hereto
12 that:

13 1. The United States District Court for the Central District of California has
14 subject matter jurisdiction over this Action and personal jurisdiction over Stipulating
15 Defendants for the purposes of this Action.

16 2. Stipulating Defendants were each properly and timely served with a
17 copy of Plaintiffs' First Amended Complaint in this Action.

18 3. Plaintiffs own many intellectual property rights for their
19 SKINCEUTICALS line of products, including without limitation all common law
20 trademark rights in L'Oréal Creative's registered SKINCEUTICALS trademark, as
21 well as other trademarks and trade dress appearing on and/or used in connection with
22 the marketing and promotion of Plaintiffs' SKINCEUTICALS line of products,
23 including without limitation the following registered trademarks:

24 SKINCEUTICALS®, C E FERULIC®, PHLORETIN CF®, PHYTO +®, and
25 SKINCEUTICALS HYDRATING B5 GEL® (collectively, the "SKINCEUTICALS
26 Marks").

27 4. L'Oréal Creative owns all federal trademark rights in its registrations for
28 the SKINCEUTICALS Marks, including without limitation U.S. Trademark Reg.

1 Nos. 2,156,487 (SKINCEUTICALS); 2,930,299 (SKINCEUTICALS HYDRATING
2 B5 GEL); 3,497,589 (C E FERULIC); 3,574,640 (PHLORETIN CF); and 4,067,122
3 (PHYTO +) (collectively, the “Registered Marks”).

4 5. Stipulating Defendants promoted, distributed, offered for sale, and sold
5 goods, identical in type to those listed in L’Oréal Creative’s registrations for its
6 Registered Marks, bearing trademarks and other indicia that are identical to,
7 substantially indistinguishable from, or otherwise confusingly similar to its
8 Registered Marks (the “Counterfeit Goods”).

9 6. Stipulating Defendants’ Counterfeit Goods have not been manufactured,
10 licensed, authorized, sponsored, endorsed, or approved by Plaintiffs, and the
11 Stipulating Defendants are not associated, affiliated, or connected with Plaintiffs, or
12 licensed, authorized, sponsored, endorsed, or approved by Plaintiffs in any way.

13 7. Stipulating Defendants, and any employees, agents, servants, officers,
14 representatives, directors, attorneys, successors, affiliates, assigns, and entities owned
15 or controlled by Stipulating Defendants, and all those in active concert and
16 participation with Stipulating Defendants, and each of them who receives notice
17 directly or otherwise of such injunction are permanently enjoined and restrained from

18 a) importing, exporting, manufacturing, producing, distributing,
19 circulating, selling, offering for sale, advertising, promoting or displaying any
20 Counterfeit Goods, and any other products that tend to deceive, mislead, or confuse
21 the public into believing that Stipulating Defendants’ products in any way originate
22 with, are sanctioned by, or are affiliated with L’Oréal;

23 b) imitating, copying, or making unauthorized use of L’Oréal
24 Creative’s Registered Marks, other indicia of L’Oréal’s SKINCEUTICALS line of
25 products, or any other trademarks or trade dress used by or associated with L’Oréal;

26 c) importing, exporting, manufacturing, producing, distributing,
27 circulating, selling, offering for sale, advertising, promoting or displaying any
28 product bearing any simulation, reproduction, counterfeit, copy or colorable imitation

1 of L'Oréal Creative's Registered Marks, other indicia of L'Oréal's
2 SKINCEUTICALS line of products, or any other trademarks or trade dress used by or
3 associated with L'Oréal;

4 d) using L'Oréal Creative's Registered Marks, other indicia of
5 L'Oréal's SKINCEUTICALS line of products, or any other trademarks or trade dress
6 used by or associated with L'Oréal, and/or any simulation, reproduction, counterfeit,
7 copy or colorable imitation thereof, in connection with the importation, promotion,
8 advertisement, display, sale, offering for sale, manufacture, production, circulation or
9 distribution of any product in such fashion as to relate or connect, or tend to relate or
10 connect, such product in any way to L'Oréal or to any goods sold, manufactured,
11 sponsored, approved by or connected with L'Oréal;

12 e) using any false designation of origin or false description, or
13 performing any act which is likely to lead members of the trade or public to believe
14 that any product manufactured, distributed or sold by any of Stipulating Defendants is
15 in any manner associated or connected with L'Oréal, or is sold, manufactured,
16 licensed, sponsored, approved or authorized by L'Oréal;

17 f) engaging in any other activity constituting unfair competition with
18 L'Oréal, or constituting infringement and/or counterfeiting of L'Oréal Creative's
19 Registered Marks;

20 g) forming new entities or associations, or utilizing any other device
21 for the purpose of circumventing or otherwise avoiding the prohibitions set forth in
22 subparagraphs (a) through (f) above; and

23 h) instructing, assisting, aiding or abetting any other person or entity
24 in engaging in or performing any of the activities referred to in subparagraphs (a)
25 through (g) above.

26 8. Stipulating Defendants shall, within thirty (30) days of the Court's entry
27 of this Judgment:

28

1 ~~a) make available to L'Oréal for review, inspection and copying all~~
2 ~~books, records (including all hard drives on computers used for business purposes,~~
3 ~~including servers, as well as all computer disks and back up disks) and other~~
4 ~~documents and things concerning all transactions relating to the purchase or sale of~~
5 ~~Counterfeit Goods or any other products or packaging incorporating a simulation,~~
6 ~~reproduction, counterfeit, copy or colorable imitation of L'Oréal Creative's~~
7 ~~Registered Marks, other indicia of L'Oréal's SKINCEUTICALS line of products, or~~
8 ~~any other trademarks or trade dress used by or associated with L'Oréal; and provide~~
9 ~~to L'Oréal the names, addresses and all other contact information in their possession~~
10 ~~(e.g., telephone numbers, fax numbers) for the source(s) of such products and~~
11 ~~packaging, including all manufacturers, distributors and/or suppliers;~~

12 b) deliver to L'Oréal's counsel for destruction ~~at Stipulating~~
13 ~~Defendants' costs~~ any and all Counterfeit Goods, as well as all signs, products,
14 components of products, liquids, gels, sera, substances, packaging, promotional
15 material, advertising material, catalogs and any other item that bears, contains or
16 incorporates L'Oréal Creative's Registered Marks, other indicia of L'Oréal's
17 SKINCEUTICALS line of products, or any other trademarks or trade dress used by or
18 associated with L'Oréal, and/or any simulation, reproduction, counterfeit, copy or
19 colorable imitation thereof;

20 ~~e) recall from all distributors, retailers or other recipients any and all~~
21 ~~Counterfeit Goods as well as all other products and packaging sold or distributed by~~
22 ~~Stipulating Defendants under or in connection with L'Oréal Creative's Registered~~
23 ~~Marks, other indicia of L'Oréal's SKINCEUTICALS line of products, or any other~~
24 ~~trademarks or trade dress used by or associated with L'Oréal, or any simulation,~~
25 ~~reproduction, counterfeit, copy or colorable imitation thereof, and, upon recall,~~
26 ~~deliver such goods up to L'Oréal's counsel for destruction at Stipulating Defendants'~~
27 ~~cost; and~~

1 ~~d) file with the Court and serve upon L'Oréal's counsel a report in~~
2 ~~writing under oath setting forth in detail the manner and form in which Stipulating~~
3 ~~Defendants have complied with subparagraphs (a) through (e) above.~~

4 9. Any products turned over to Plaintiffs' counsel by Stipulating
5 Defendants may be destroyed ~~at Stipulating Defendants' expense~~ and/or disposed of
6 at Plaintiffs' judgment and in such manner as Plaintiffs deem appropriate.

7 ~~10. Upon receipt of any subpoena issued pursuant to Rule 45 of the Federal~~
8 ~~Rules of Civil Procedure, Stipulating Defendants shall cooperate in good faith with~~
9 ~~Plaintiffs in pursuing the source(s) of any Counterfeit Goods by supplying necessary,~~
10 ~~reasonable, and relevant documents, information and/or testimony.~~

11 11. Stipulating Defendants shall notify Plaintiffs' counsel on an ongoing
12 basis of any Counterfeit Goods they may be offered or receive. Such notification
13 shall be made within fifteen (15) business days of Stipulating Defendants' learning
14 that they have been offered or have received such product. No liability shall attach to
15 Stipulating Defendants in connection with their timely identification of any
16 Counterfeit Goods pursuant to this provision, provided Stipulating Defendants are
17 otherwise in compliance with the terms of this Judgment and the Parties' settlement
18 agreement (the "Agreement").

19 12. Pursuant to the terms of the Agreement, this Judgment is hereby entered
20 in favor of Plaintiffs against Stipulating Defendants. Each party is to bear its own fees
21 and costs unless the Agreement provides otherwise.

22 13. This Court retains jurisdiction to enforce the terms of this Judgment ~~and~~
23 ~~the Agreement~~, should that be necessary.

24 14. This Judgment shall be deemed to have been served upon the Parties at
25 the time of its execution by the Court.

26 ~~15. The Court expressly determines that there is no just reason for delay in~~
27 ~~entering this Judgment, and pursuant to Rule 54(b) of the Federal Rules of Civil~~

1 ~~Procedure, the Court directs entry of judgment against Stipulating Defendants as~~
2 ~~specified herein~~

3

4

5 Dated: May 31, 2017

_____/s/_____

6

Hon. Fernando M. Olguin
United States District Judge

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28