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9 and
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16 Attorneys for Plaintiff, Ginseng
17 Board of Wisconsin, Inc.

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**

20 GINSENG BOARD OF WISCONSIN, INC.,)
21 a Wisconsin corporation,)

22 Plaintiff,)

23 vs.)

24 TRIPLE LEAF TEA, INC, a California)
25 corporation, VINCENT TEA)
26 INTERNATIONAL, INC., a California)
27 Corporation, and JOHNSON LAM,)

28 Defendants.)

Case No.: 5:09-cv-01784-SBA

**CONSENT DECREE, ORDER FOR
JUDGMENT AND JUDGMENT**

Consent Decree

WHEREAS the parties have agreed to resolve this case pursuant to the terms of a
Settlement Agreement entered into between them, without adjudication of any issue of fact or

1 law, the terms of which provide, inter alia, for the execution and entry of this *Consent Decree*
2 *and Order*.

3 NOW THEREFORE, on the joint motion of Plaintiff and Defendants, it is hereby
4 ORDERED, ADJUDGED, and DECREED as follows:
5

6 **Jurisdiction**

7 1. This Court has jurisdiction of the subject matter and of the parties.

8 **Injunctive Relief**

9 2. Triple Leaf Tea, Inc.; Vincent Tea International, Inc.; and Johnson Lam, their
10 officers, agents, servants, employees, attorneys, and those persons in active concert or
11 participation with them who receive actual notice of this ORDER by personal service or
12 otherwise, are hereby permanently enjoined from:
13

14 (a) Using Ginseng Board of Wisconsin Inc.'s Certification Mark (USPTO
15 registration no. 1755967), or any other mark which is confusingly similar to Ginseng
16 Board of Wisconsin Inc.'s certification mark, in any illegal way or manner, including
17 but not limited to use in conjunction with the sale, offering for sale, advertisement or
18 marketing of ginseng or products containing ginseng; and
19

20 (b) Doing any other illegal act or thing likely to induce the belief that any
21 ginseng or products containing ginseng which are sold, offered for sale, or marketed by
22 them are in any way sponsored, affiliated, licensed, endorsed or certified by Ginseng
23 Board of Wisconsin, Inc.; provided, however, that nothing herein shall otherwise limit
24 or impair the right or ability of Triple Leaf Tea, Inc.; Vincent Tea International, Inc.; or
25 Johnson Lam from selling Wisconsin grown ginseng not bearing Ginseng Board of
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1 Wisconsin Inc.'s Certification Mark, or a colorable or confusingly similar imitation
2 thereof.

3 (c) Any use by Defendants of marks in a manner that does not violate trademark
4 law is permitted. For example, Defendants use of the mark attached hereto as Exhibit A
5 is permitted and does not constitute a violation of this Consent Decree.
6

7 **Costs of Action**

8 3. Each party shall bear the attorney fees, costs and disbursements each has incurred in
9 prosecuting or defending this action.
10

11 The parties, by their counsel, hereby consent to the terms and conditions of the *Consent*
12 *Decree* as set forth above, and consent to the entry thereof.

13 Dated this 18th day of December, 2009.

14
15 HOPKINS McCARTHY LLC

16
17 by: /s/ Michael T. Hopkins .
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13 Attorneys for Defendants
14

15 **Order for Judgment**

16 **BASED UPON THE FOREGOING**, it is hereby **ORDERED** that judgment be
17 entered in favor of the Plaintiff, Ginseng Board of Wisconsin, Inc., and against the Defendants,
18 Triple Leaf Tea, Inc.; Vincent Tea International, Inc.; and Johnson Lam, pursuant to all of the
19 terms and conditions recited above in said *Consent Decree*.

20 Dated this 9th day of February 2010.

21
22 
23 _____
24 Honorable Sandra Brown Armstrong
25 U.S. District Court Judge

26 **Judgment**

27 ~~BASED UPON THE FOREGOING *Consent Decree* and *Order for Judgment*,~~
28 ~~judgment is hereby entered in favor of Plaintiff, Ginseng Board of Wisconsin, Inc., and against~~

1 ~~Defendants, Triple Leaf Tea, Inc.; Vincent Tea International, Inc.; and Johnson Lam, pursuant~~
2 ~~to all of the terms and conditions recited above in said *Consent Decree* and incorporated into~~
3 ~~the *Order for Judgment*~~

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5 Dated this ____ day of _____, 2009.

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Honorable Sandra B. Armstrong
U.S. District Court Judge