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9 **UNITED STATES DISTRICT COURT**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 THERMOLIFE INTERNATIONAL, LLC  
and THE BOARD OF TRUSTEES OF  
12 THE LELAND STANFORD JUNIOR  
UNIVERSITY,

13 Plaintiffs,

14 vs.

15 NATROL, INC.,

16 Defendant  
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Case No. **'13CV2120 GPC KSC**

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

1 Plaintiff ThermoLife International, LLC and The Board of Trustees of the Leland  
2 Stanford Junior University (collectively “Plaintiffs”) hereby alleges for their Complaint  
3 against Natrol, Inc. (“Defendant”), on personal knowledge as to their own activities and  
4 on information and belief as to the activities of others, as follows:

5 **I. THE PARTIES**

6 1. Plaintiff ThermoLife International, LLC (“ThermoLife”) is a limited  
7 liability company organized and existing under the laws of Arizona, with a place of  
8 business at 1811 Ocean Front Walk in Venice, California, 90291.

9 2. Plaintiff The Board of Trustees of the Leland Stanford Junior University  
10 (“Stanford University”) is an institution of higher education having powers under the  
11 laws of the State of California, with a place of business at 1705 El Camino Real in Palo  
12 Alto, California, 94306-1106.

13 3. Plaintiff ThermoLife is the exclusive licensee of the following United  
14 States Patents:

- 15 a. Patent No. 6,646,006, titled “Enhancement of Vascular Function By  
16 Modulation of Endogenous Nitric Oxide Production or Activity”;  
17 b. Patent No. 6,117,872, titled “Enhancement of Exercise Performance by  
18 Augmenting Endogenous Nitric Oxide Production or Activity”;  
19 c. Patent No. 5,891,459, titled “Enhancement of Vascular Function By  
20 Modulation of Endogenous Nitric Oxide Production or Activity”; and  
21 d. Patent No. 7,452,916, titled “Enhancement of Vascular Function By  
22 Modulation of Endogenous Nitric Oxide Production or Activity.”

23 4. The above patents are owned by Plaintiff Stanford University and Plaintiff  
24 ThermoLife exclusively licenses the patents from Plaintiff Stanford University.

25 5. The above patents are referred to herein as the “patents in suit.”

26 6. Plaintiff ThermoLife has been given the right by Plaintiff Stanford  
27 University to institute suit with respect to infringement of the patents in suit, including  
28 this suit against Defendant.



1 distributed, advertised, offered for sale, and/or sold the accused products in this District,  
2 and continues to do so.

3 **A. DIRECT INFRINGEMENTS**

4 15. Defendant's employees, agents, representatives and other persons  
5 sponsored by or who endorse Defendant and Defendant's products in advertising and  
6 marketing activities, have taken, used, and orally administered the accused products.

7 16. The accused products are formulated, made, manufactured, shipped,  
8 distributed, advertised, offered for sale, and sold by Defendant to include certain  
9 ingredients that, by virtue of their inclusion in the products, infringe one or more claims  
10 of one or more of the patents in suit.

11 17. The accused products are formulated, made, manufactured, shipped,  
12 distributed, advertised, offered for sale, and sold by Defendant to include specific  
13 ingredients for certain purposes that, by virtue of their inclusion in the products for such  
14 purposes, infringe one or more claims of one or more of the patents in suit, and as a  
15 result, when Defendant's employees, agents, representatives and other persons  
16 sponsored by or who endorse Defendant and Defendant's products in advertising and  
17 marketing activities orally administer the accused products, they are practicing the  
18 methods disclosed in those claims.

19 18. These infringing ingredients, and/or combinations thereof, include, without  
20 limitation, L-Arginine, Grape Skin Extract, Grape Seed Extract, Arginine AKG, L-  
21 Citrulline Malate, L-Arginine AKG, L-Arginine HCl, L-Arginine Pyroglutamate,  
22 Arginine Ketoisocaproate, ACTINOS, ACTINOS2, Beta-Alanine and L-Taurine, as set  
23 forth on Defendant's labels for the accused products.

24 19. The purposes for which these ingredients are included in the accused  
25 products are, without limitation, to enhance nitric oxide production, to improve nitric  
26 oxide activity, to produce nitric oxide, to boost nitric oxide levels in the body, and to  
27 enhance physical performance.

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1 in suit, and those labels and advertising statements encourage, urge, and induce the  
2 accused products' end-users to purchase and orally ingest the products to practice those  
3 methods, and end-users do practice those methods.

4 27. Defendant has therefore specifically intended to cause these end-users to  
5 directly infringe the claimed methods of these patents, and has in fact urged them to do  
6 so.

7 28. The accused products are not suitable for non-infringing uses, and none of  
8 Defendant's labels or advertisements for the accused products disclose any uses for the  
9 products, nor for the compounds disclosed in the claimed methods of the patents in suit,  
10 that do not infringe upon such methods.

11 29. The inclusion of the specific infringing compounds in the products is  
12 material to practicing such methods.

13 30. Defendant has knowledge that the accused products are especially adapted  
14 by end-users of the products for the practicing of such methods, and, indeed, Defendant  
15 encourages, urges, and induces the accused products' end-users to purchase and orally  
16 administer the accused products to practice such methods, and has done so in the past.

17 31. Defendant has intentionally and knowingly induced, encouraged, and  
18 urged end-users of the accused products to purchase and orally administer the accused  
19 products for the purposes of practicing the claimed methods, by having them orally  
20 ingest the compounds disclosed in such claims.

21 32. Defendant has knowledge of the fact that the accused products, particularly  
22 as administered, infringe on one or more claims of the patents in suit.

23 33. Defendant has direct, firsthand knowledge of the patents in suit.

24 34. For example and without limitation, Defendant has had knowledge of the  
25 patents in suit since November 2006, when an ongoing settlement of a patent  
26 infringement case relating to at least some of the patents in suit against Herbalife, a  
27 well-known company in Defendant's industry, was announced in press releases issued  
28

1 in a highly publicized manner. Defendant's employees, agents, and representatives saw  
2 the press releases and were aware of the settlement and thus the patents in suit.

3 35. By way of further example and without limitation, Defendant has sold its  
4 products through retailers, including online retailers, and those retailers have sold other  
5 companies' products whose labels and/or advertisements have been prominently  
6 marked with one or more of the patents in suit, by patent number, including without  
7 limitation the products manufactured and sold by Herbalife, Daily Wellness, and  
8 Vitality Research Labs. Defendant's employees, agents, and representatives have seen  
9 these labels and advertisements and, thus, Defendant has direct knowledge of the  
10 patents in suit.

11 36. Defendant has brazenly and willfully decided to infringe the patents in suit  
12 despite knowledge of the patents' existence and its knowledge of the accused products'  
13 infringements of the patents.

14 37. At a minimum, and in the alternative, Plaintiff pleads that Defendant  
15 willfully blinded itself to the infringing nature of the accused products' sales.

16 38. Defendant has not ceased its own direct infringement, nor its contributory  
17 infringement or inducement of infringement by end-users, despite its knowledge of the  
18 patents in suit and the end-users' infringing activities with respect to the patents in suit.

19 39. United States Patent No. 5,428,070 and Patent No. 5,945,452, patents  
20 which Defendant has had prior knowledge of, are also licensed exclusively to Plaintiff  
21 ThermoLife by Stanford University, to include the right to sue for infringement, and  
22 Plaintiffs will seek to amend this Complaint if facts revealing Defendant's  
23 infringements of these patents are ascertained.

#### 24 **IV. FIRST CAUSE OF ACTION**

##### 25 **Infringement of U.S. Patent No. 6,646,006**

26 40. Plaintiffs repeat and re-allege the allegations of the foregoing paragraphs  
27 of this Complaint as if fully set forth herein.

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1           41. Defendant has in the past and still is literally and directly infringing or  
2 directly infringing under the doctrine of equivalents one or more claims of United  
3 States Patent No. 6,646,006 by making, using, selling, and offering for sale the accused  
4 products, and will continue to do so unless enjoined by this Court.

5           42. In addition to the fact that Defendant makes, uses, sells, and offers for sale  
6 the accused products, further examples of Defendant's direct infringements include,  
7 without limitation, the fact that Defendant has encouraged and/or is aware of the fact  
8 that its employees, agents, representatives and other persons sponsored by or who  
9 endorse Defendant and Defendant's products in advertising and marketing activities  
10 orally administer the accused products and practice the methods disclosed in one or  
11 more claims of United States Patent No. 6,646,006, and these employees, agents,  
12 representatives and other persons sponsored by or who endorse Defendant and  
13 Defendant's products in advertising and marketing activities are acting under  
14 Defendant's direction and control when practicing those methods.

15           43. Defendant has encouraged and is aware of these persons' oral  
16 administration of the accused products for these purposes, these persons are acting  
17 under Defendant's direction and control, and therefore Defendant is directly practicing  
18 the methods disclosed in United States Patent No. 6,646,006.

19           44. End-users of Defendant's accused products are also direct infringers of one  
20 or more claims of United States Patent No. 6,646,006.

21           45. End-users of Defendant's accused products have taken, used, and orally  
22 administered the accused products.

23           46. The accused products are formulated, made, manufactured, shipped,  
24 distributed, advertised, offered for sale, and sold by Defendant to include certain  
25 ingredients that, by virtue of their inclusion in the products, infringe one or more claims  
26 of United States Patent No. 6,646,006.

27           47. The accused products is formulated, made, manufactured, shipped,  
28 distributed, advertised, offered for sale, and sold by Defendant to include specific



1 ingredients for purposes that, by their inclusion in the products for such purposes,  
2 infringe one or more claims of United States Patent No. 6,646,006, and as a result,  
3 when end-users of Defendant's accused products orally administer the accused  
4 products, they are practicing the methods disclosed in one or more claims of that patent.

5 48. Defendant's labels and advertising for the accused products explain the  
6 elements and essential elements of the methods disclosed in United States Patent No.  
7 6,646,006, and those labels and advertising statements encourage, urge, and induce the  
8 accused products' end-users to purchase and orally ingest the products to practice those  
9 methods, and end-users do practice those methods.

10 49. Defendant has therefore specifically intended to cause these end-users to  
11 directly infringe the claimed methods of United States Patent No. 6,646,006, and has in  
12 fact urged them to do so.

13 50. The accused products are not suitable for non-infringing uses, and none of  
14 Defendant's labels or advertisements for the accused products disclose any uses for the  
15 products, nor for the compounds disclosed in the claimed methods, that do not infringe  
16 upon such methods.

17 51. The inclusion of these specific infringing compounds in the products is  
18 material to practicing such methods.

19 52. Defendant has knowledge that the accused products are especially adapted  
20 by end-users of the products for the practicing of such methods, and, indeed, Defendant  
21 encourages, urges, and induces the accused products' end-users to purchase and orally  
22 administer the accused products to practice such methods, and have done so in the past.

23 53. Defendant has intentionally and knowingly induced, encouraged, and  
24 urged end-users of the accused products to purchase and orally administer the accused  
25 products for the purposes disclosed in one or more claims of United States Patent No.  
26 6,646,006, by having them orally ingest the compounds disclosed in such claims.

27 54. Defendant has knowledge of the fact that the accused products, particularly  
28 as administered, infringe on one or more claims of United States Patent No. 6,646,006.

1 55. Defendant also has direct, firsthand knowledge of United States Patent No.  
2 6,646,006.

3 56. Defendant's activities have been without express or implied license by  
4 Plaintiff.

5 57. As a result of Defendant's acts of infringement, Plaintiffs have suffered  
6 and will continue to suffer damages in an amount to be proved at trial.

7 58. As a result of Defendant's acts of infringement, Plaintiffs have been and  
8 will continue to be irreparably harmed by Defendant's infringements, which will  
9 continue unless Defendant is enjoined by this Court.

10 59. Defendant's past infringements and/or continuing infringements have been  
11 deliberate and willful, and this case is therefore an exceptional case, which warrants an  
12 award of treble damages and attorneys' fees in accordance with 35 U.S.C. § 285.

13 **V. SECOND CAUSE OF ACTION**

14 **Infringement of U.S. Patent No. 5,891,459**

15 60. Plaintiffs repeat and re-allege the allegations of the foregoing paragraphs  
16 of this Complaint as if fully set forth herein.

17 61. Defendant has in the past and still is literally and directly infringing or  
18 directly infringing under the doctrine of equivalents one or more claims of United  
19 States Patent No. 5,891,459 by making, using, selling, and offering for sale the accused  
20 products, and will continue to do so unless enjoined by this Court.

21 62. In addition to the fact that Defendant makes, uses, sells, and offers for sale  
22 the accused products, further examples of Defendant's direct infringements include,  
23 without limitation, the fact that Defendant has encouraged and/or is aware of the fact  
24 that its employees, agents, representatives and other persons sponsored by or who  
25 endorse Defendant and Defendant's products in advertising and marketing activities  
26 orally administer the accused products and practice the methods disclosed in one or  
27 more claims of United States Patent No. 5,891,459, and these employees, agents,  
28 representatives and other persons sponsored by or who endorse Defendant and

1 Defendant's products in advertising and marketing activities are acting under  
2 Defendant's direction and control when practicing those methods.

3 63. Defendant has encouraged and is aware of these persons' oral  
4 administration of the accused products for these purposes, these persons are acting  
5 under Defendant's direction and control, and therefore Defendant is directly practicing  
6 the methods disclosed in United States Patent No. 5,891,459.

7 64. End-users of Defendant's accused products are also direct infringers of one  
8 or more claims of United States Patent No. 5,891,459.

9 65. End-users of Defendant's accused products have taken, used, and orally  
10 administered the accused products.

11 66. The accused products are formulated, made, manufactured, shipped,  
12 distributed, advertised, offered for sale, and sold by Defendant to include certain  
13 ingredients that, by virtue of their inclusion in the products, infringe one or more claims  
14 of United States Patent No. 5,891,459.

15 67. The accused products is formulated, made, manufactured, shipped,  
16 distributed, advertised, offered for sale, and sold by Defendant to include specific  
17 ingredients for purposes that, by their inclusion in the products for such purposes,  
18 infringe one or more claims of United States Patent No. 5,891,459, and as a result,  
19 when end-users of Defendant's accused products orally administer the accused  
20 products, they are practicing the methods disclosed in one or more claims of that patent.

21 68. Defendant's labels and advertising for the accused products explain the  
22 elements and essential elements of the methods disclosed in United States Patent No.  
23 5,891,459, and those labels and advertising statements encourage, urge, and induce the  
24 accused products' end-users to purchase and orally ingest the products to practice those  
25 methods, and end-users do practice those methods.

26 69. Defendant has therefore specifically intended to cause these end-users to  
27 directly infringe the claimed methods of United States Patent No. 5,891,459, and has in  
28 fact urged them to do so.

1           70. The accused products are not suitable for non-infringing uses, and none of  
2 Defendant's labels or advertisements for the accused products disclose any uses for the  
3 products, nor for the compounds disclosed in the claimed methods, that do not infringe  
4 upon such methods.

5           71. The inclusion of these specific infringing compounds in the products is  
6 material to practicing such methods.

7           72. Defendant has knowledge that the accused products are especially adapted  
8 by end-users of the products for the practicing of such methods, and, indeed, Defendant  
9 encourages, urges, and induces the accused products' end-users to purchase and orally  
10 administer the accused products to practice such methods, and have done so in the past.

11           73. Defendant has intentionally and knowingly induced, encouraged, and  
12 urged end-users of the accused products to purchase and orally administer the accused  
13 products for the purposes disclosed in one or more claims of United States Patent No.  
14 5,891,459, by having them orally ingest the compounds disclosed in such claims.

15           74. Defendant has knowledge of the fact that the accused products, particularly  
16 as administered, infringe on one or more claims of United States Patent No. 5,891,459.

17           75. Defendant also has direct, firsthand knowledge of United States Patent No.  
18 5,891,459.

19           76. Defendant's activities have been without express or implied license by  
20 Plaintiff.

21           77. As a result of Defendant's acts of infringement, Plaintiffs have suffered  
22 and will continue to suffer damages in an amount to be proved at trial.

23           78. As a result of Defendant's acts of infringement, Plaintiffs have been and  
24 will continue to be irreparably harmed by Defendant's infringements, which will  
25 continue unless Defendant is enjoined by this Court.

26           79. Defendant's past infringements and/or continuing infringements have been  
27 deliberate and willful, and this case is therefore an exceptional case, which warrants an  
28 award of treble damages and attorneys' fees in accordance with 35 U.S.C. § 285.

1 **VI. THIRD CAUSE OF ACTION**

2 **Infringement of U.S. Patent No. 7,452,916**

3 80. Plaintiffs repeat and re-allege the allegations of the foregoing paragraphs  
4 of this Complaint as if fully set forth herein.

5 81. Defendant has in the past and still is literally and directly infringing or  
6 directly infringing under the doctrine of equivalents one or more claims of United  
7 States Patent No. 7,452,916 by making, using, selling, and offering for sale the accused  
8 products, and will continue to do so unless enjoined by this Court.

9 82. In addition to the fact that Defendant makes, uses, sells, and offers for sale  
10 the accused products, further examples of Defendant's direct infringements include,  
11 without limitation, the fact that Defendant has encouraged and/or is aware of the fact  
12 that its employees, agents, representatives and other persons sponsored by or who  
13 endorse Defendant and Defendant's products in advertising and marketing activities  
14 orally administer the accused products and practice the methods disclosed in one or  
15 more claims of United States Patent No. 7,452,916, and these employees, agents,  
16 representatives and other persons sponsored by or who endorse Defendant and  
17 Defendant's products in advertising and marketing activities are acting under  
18 Defendant's direction and control when practicing those methods.

19 83. Defendant has encouraged and is aware of these persons' oral  
20 administration of the accused products for these purposes, these persons are acting  
21 under Defendant's direction and control, and therefore Defendant is directly practicing  
22 the methods disclosed in United States Patent No. 7,452,916.

23 84. End-users of Defendant's accused products are also direct infringers of one  
24 or more claims of United States Patent No. 7,452,916.

25 85. End-users of Defendant's accused products have taken, used, and orally  
26 administered the accused products.

27 86. The accused products are formulated, made, manufactured, shipped,  
28 distributed, advertised, offered for sale, and sold by Defendant to include certain

1 ingredients that, by virtue of their inclusion in the products, infringe one or more claims  
2 of United States Patent No. 7,452,916.

3 87. The accused products is formulated, made, manufactured, shipped,  
4 distributed, advertised, offered for sale, and sold by Defendant to include specific  
5 ingredients for purposes that, by their inclusion in the products for such purposes,  
6 infringe one or more claims of United States Patent No. 7,452,916, and as a result,  
7 when end-users of Defendant's accused products orally administer the accused  
8 products, they are practicing the methods disclosed in one or more claims of that patent.

9 88. Defendant's labels and advertising for the accused products explain the  
10 elements and essential elements of the methods disclosed in United States Patent No.  
11 7,452,916, and those labels and advertising statements encourage, urge, and induce the  
12 accused products' end-users to purchase and orally ingest the products to practice those  
13 methods, and end-users do practice those methods.

14 89. Defendant has therefore specifically intended to cause these end-users to  
15 directly infringe the claimed methods of United States Patent No. 7,452,916, and has in  
16 fact urged them to do so.

17 90. The accused products are not suitable for non-infringing uses, and none of  
18 Defendant's labels or advertisements for the accused products disclose any uses for the  
19 products, nor for the compounds disclosed in the claimed methods, that do not infringe  
20 upon such methods.

21 91. The inclusion of these specific infringing compounds in the products is  
22 material to practicing such methods.

23 92. Defendant has knowledge that the accused products are especially adapted  
24 by end-users of the products for the practicing of such methods, and, indeed, Defendant  
25 encourages, urges, and induces the accused products' end-users to purchase and orally  
26 administer the accused products to practice such methods, and have done so in the past.

27 93. Defendant has intentionally and knowingly induced, encouraged, and  
28 urged end-users of the accused products to purchase and orally administer the accused

1 products for the purposes disclosed in one or more claims of United States Patent No.  
2 7,452,916, by having them orally ingest the compounds disclosed in such claims.

3 94. Defendant has knowledge of the fact that the accused products, particularly  
4 as administered, infringe on one or more claims of United States Patent No. 7,452,916.

5 95. Defendant also has direct, firsthand knowledge of United States Patent No.  
6 7,452,916.

7 96. Defendant's activities have been without express or implied license by  
8 Plaintiff.

9 97. As a result of Defendant's acts of infringement, Plaintiffs have suffered  
10 and will continue to suffer damages in an amount to be proved at trial.

11 98. As a result of Defendant's acts of infringement, Plaintiffs have been and  
12 will continue to be irreparably harmed by Defendant's infringements, which will  
13 continue unless Defendant is enjoined by this Court.

14 99. Defendant's past infringements and/or continuing infringements have been  
15 deliberate and willful, and this case is therefore an exceptional case, which warrants an  
16 award of treble damages and attorneys' fees in accordance with 35 U.S.C. § 285.

17 **VII. FOURTH CAUSE OF ACTION**

18 **Infringement of U.S. Patent No. 6,117,872**

19 100. Plaintiffs repeat and re-allege the allegations of the foregoing paragraphs  
20 of this Complaint as if fully set forth herein.

21 101. Defendant has in the past and still is literally and directly infringing or  
22 directly infringing under the doctrine of equivalents one or more claims of United  
23 States Patent No. 6,117,872 by making, using, selling, and offering for sale the accused  
24 products, and will continue to do so unless enjoined by this Court.

25 102. In addition to the fact that Defendant makes, uses, sells, and offers for sale  
26 the accused products, further examples of Defendant's direct infringements include,  
27 without limitation, the fact that Defendant has encouraged and/or is aware of the fact  
28 that its employees, agents, representatives and other persons sponsored by or who

1 endorse Defendant and Defendant's products in advertising and marketing activities  
2 orally administer the accused products and practice the methods disclosed in one or  
3 more claims of United States Patent No. 6,117,872, and these employees, agents,  
4 representatives and other persons sponsored by or who endorse Defendant and  
5 Defendant's products in advertising and marketing activities are acting under  
6 Defendant's direction and control when practicing those methods.

7 103. Defendant has encouraged and is aware of these persons' oral  
8 administration of the accused products for these purposes, these persons are acting  
9 under Defendant's direction and control, and therefore Defendant is directly practicing  
10 the methods disclosed in United States Patent No. 6,117,872.

11 104. End-users of Defendant's accused products are also direct infringers of one  
12 or more claims of United States Patent No. 6,117,872.

13 105. End-users of Defendant's accused products have taken, used, and orally  
14 administered the accused products.

15 106. The accused products are formulated, made, manufactured, shipped,  
16 distributed, advertised, offered for sale, and sold by Defendant to include certain  
17 ingredients that, by virtue of their inclusion in the products, infringe one or more claims  
18 of United States Patent No. 6,117,872.

19 107. The accused products is formulated, made, manufactured, shipped,  
20 distributed, advertised, offered for sale, and sold by Defendant to include specific  
21 ingredients for purposes that, by their inclusion in the products for such purposes,  
22 infringe one or more claims of United States Patent No. 6,117,872, and as a result,  
23 when end-users of Defendant's accused products orally administer the accused  
24 products, they are practicing the methods disclosed in one or more claims of that patent.

25 108. Defendant's labels and advertising for the accused products explain the  
26 elements and essential elements of the methods disclosed in United States Patent No.  
27 6,117,872, and those labels and advertising statements encourage, urge, and induce the  
28



1 accused products' end-users to purchase and orally ingest the products to practice those  
2 methods, and end-users do practice those methods.

3 109. Defendant has therefore specifically intended to cause these end-users to  
4 directly infringe the claimed methods of United States Patent No. 6,117,872, and has in  
5 fact urged them to do so.

6 110. The accused products are not suitable for non-infringing uses, and none of  
7 Defendant's labels or advertisements for the accused products disclose any uses for the  
8 products, nor for the compounds disclosed in the claimed methods, that do not infringe  
9 upon such methods.

10 111. The inclusion of these specific infringing compounds in the products is  
11 material to practicing such methods.

12 112. Defendant has knowledge that the accused products are especially adapted  
13 by end-users of the products for the practicing of such methods, and, indeed, Defendant  
14 encourages, urges, and induces the accused products' end-users to purchase and orally  
15 administer the accused products to practice such methods, and have done so in the past.

16 113. Defendant has intentionally and knowingly induced, encouraged, and  
17 urged end-users of the accused products to purchase and orally administer the accused  
18 products for the purposes disclosed in one or more claims of United States Patent No.  
19 6,117,872, by having them orally ingest the compounds disclosed in such claims.

20 114. Defendant has knowledge of the fact that the accused products, particularly  
21 as administered, infringe on one or more claims of United States Patent No. 6,117,872.

22 115. Defendant also has direct, firsthand knowledge of United States Patent No.  
23 6,117,872.

24 116. Defendant's activities have been without express or implied license by  
25 Plaintiff.

26 117. As a result of Defendant's acts of infringement, Plaintiffs have suffered  
27 and will continue to suffer damages in an amount to be proved at trial.

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1 118. As a result of Defendant's acts of infringement, Plaintiffs have been and  
2 will continue to be irreparably harmed by Defendant's infringements, which will  
3 continue unless Defendant is enjoined by this Court.

4 119. Defendant's past infringements and/or continuing infringements have been  
5 deliberate and willful, and this case is therefore an exceptional case, which warrants an  
6 award of treble damages and attorneys' fees in accordance with 35 U.S.C. § 285.

7 **VIII. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for entry of judgment against Defendant as  
9 follows:

10 1. A declaration that Defendant has infringed the patents in suit, under 35  
11 U.S.C. §§ 271 *et seq.*;

12 2. That injunctions, preliminary and permanent, be issued by this Court  
13 restraining Defendant, its officers, agents, servants, directors, and employees, and all  
14 persons in active concert or participation with each, from directly or indirectly  
15 infringing, or inducing or contributing to the infringement by others of, the patents in  
16 suit;

17 3. That Defendant be required to provide to Plaintiffs an accounting of all  
18 gains, profits, and advantages derived by Defendant's infringement of the patents in  
19 suit, and that Plaintiffs be awarded damages adequate to compensate Plaintiffs for the  
20 wrongful infringing acts by Defendant, in accordance with 35 U.S.C. § 284;

21 4. That the damages awarded to Plaintiffs with regard to the patents in suit be  
22 increased up to three times, in view of Defendant's willful infringement, in accordance  
23 with 35 U.S.C. § 284;

24 5. That this case be declared to be exceptional in favor of Plaintiffs under 35  
25 U.S.C. § 285, and that Plaintiffs be awarded their reasonable attorneys' fees and other  
26 expenses incurred in connection with this action;

27 6. That Plaintiffs be awarded their interest and costs of suit incurred in this  
28 action;

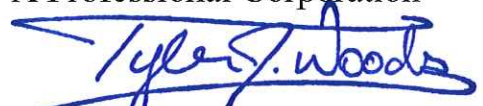


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**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs hereby demand a jury trial for all issues in this case that properly are subject to a jury trial.

Respectfully submitted,  
NEWPORT TRIAL GROUP  
A Professional Corporation

  
By: Tyler J. Woods  
Attorneys for Plaintiffs

Dated: September 10, 2013