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*Attorneys for Plaintiff*

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13 **UNITED STATES DISTRICT COURT**  
14 **SOUTHERN DISTRICT OF CALIFORNIA**  
15

16 **THERMOLIFE INTERNATIONAL, LLC**

17 Plaintiff,

18 vs.

19 **NEW WHEY NUTRITION, LLC,**

20 Defendant.  
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22

Case No. **'13CV2199 H NLS**

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

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1 Plaintiff Thermolife International, LLC (“Plaintiff”) hereby alleges for its  
2 Complaint against New Whey Nutrition, LLC (“Defendant”), on personal  
3 knowledge as to its own activities and on information and belief as to the activities  
4 of others, as follows:

5 **I. THE PARTIES**

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

9 2. Plaintiff is and was at all relevant times the exclusive licensee of the  
10 following United States Patents:

11 a. Patent No. 6,117,872, titled “Enhancement of Exercise  
12 Performance by Augmenting Endogenous Nitric Oxide Production  
13 or Activity”; and

14 b. Patent No. 7,452,916, titled “Enhancement of Vascular Function  
15 By Modulation of Endogenous Nitric Oxide Production or  
16 Activity.”

17 3. The above patents are and were owned by The Board of Trustees of  
18 the Leland Stanford Junior University (“Stanford University”) and Plaintiff  
19 exclusively licenses and licensed the patents from Stanford University.

20 4. The above patents are referred to herein as the “patents in suit.”

21 5. Plaintiff has been given the right by Stanford University to institute  
22 suit with respect to past, current, and future infringement of the patents in suit,  
23 including this suit against Defendant.

24 6. Defendant is a corporation organized and existing under the laws of  
25 Florida with a principal place of business at 5707 Dot Com Court, Suite 1079 in  
26 Oviedo, Florida, 32765.

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## II. JURISDICTION AND VENUE

7. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, and 1367.

8. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

9. This Court has personal jurisdiction over Defendant. By way of example and without limitation, Defendant, directly or through intermediaries (including distributors, retailers, and others), makes, manufactures, ships, distributes, advertises, markets, offers for sale, and/or sells dietary supplement products that infringe on one or more claims of the patents in suit (hereinafter the “accused products”), which include without limitation products sold under the “Crea Nox” brand name, in the United States, the State of California, and the Southern District of California.

10. By way of further example and without limitation, Defendant has purposefully and voluntarily placed the accused products into the stream of commerce with the expectation that they will be purchased in the Southern District of California, and the products are actually purchased in the Southern District of California.

## III. THE DEFENDANT’S INFRINGEMENTS

11. Defendant has committed the tort of patent infringement within the State of California, and more particularly, within the Southern District of California, by virtue of the fact that Defendant has formulated, made, manufactured, shipped, distributed, advertised, offered for sale, and/or sold the accused products in this District, and continues to do so.

### A. DIRECT INFRINGEMENTS

12. Defendant’s employees, agents, representatives and other persons sponsored by or who endorse Defendant and Defendant’s products in advertising

1 and marketing activities, have taken, used, and orally administered the accused  
2 products.

3 13. The accused products are formulated, made, manufactured, shipped,  
4 distributed, advertised, offered for sale, and sold by Defendant to include certain  
5 ingredients that, by virtue of their inclusion in the products, infringe one or more  
6 claims of one or more of the patents in suit.

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

15 15. The purposes for which these ingredients are included in the accused  
16 products are and were, without limitation, to enhance nitric oxide production, to  
17 improve nitric oxide activity, to produce nitric oxide, to boost nitric oxide levels in  
18 the body, and to enhance physical performance.

19 16. Defendant encouraged and/or is aware of the fact that its employees,  
20 agents, representatives and other persons sponsored by Defendant or who endorse  
21 Defendant and Defendant's products in advertising and marketing activities orally  
22 administered and administer the accused products and practice and practiced the  
23 methods disclosed in one or more claim of one or more of the patents in suit, and  
24 these employees, agents, representatives and other persons sponsored by Defendant  
25 or who endorse Defendant and Defendant's products in advertising and marketing  
26 activities are and were acting under Defendant's direction and control when  
27 practicing those methods.

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1 17. Therefore, Defendant is and was a direct infringer of one or more  
2 claims of one or more of the patents in suit, and Defendant practices and practiced  
3 the methods as set forth in one or more claims of one or more of the patents in suit.

#### 4 **B. INDIRECT INFRINGEMENTS**

5 18. End-users of Defendant's accused products were and are also direct  
6 infringers of one or more claims of one or more of the patents in suit.

7 19. End-users of Defendant's accused products have taken, used, and  
8 orally administered the accused products.

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

13 21. The accused products are and were formulated, made, manufactured,  
14 shipped, distributed, advertised, offered for sale, and/or sold by Defendant to  
15 include specific ingredients for certain purposes that, because of their inclusion in  
16 the products for such purposes, infringe and infringed one or more claims of one or  
17 more of the patents in suit, and as a result, when end-users of Defendant's accused  
18 products orally administer and administered the accused products, they are and  
19 were practicing the methods disclosed in those claims.

20 22. Defendant's labels and advertising for the accused products explain  
21 and explained the elements and essential elements of one or more of the methods  
22 disclosed in the patents in suit, and those labels and advertising statements  
23 encourage, urge, and induce the accused products' end-users, and did so in the past,  
24 to purchase and orally ingest the products to practice those methods, and end-users  
25 do and did practice those methods.

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

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

5           25. The inclusion of the specific infringing compounds in the products is  
6 and was material to practicing such methods.

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

12           27. Defendant intentionally and knowingly induced, encouraged, and  
13 urged end-users of the accused products to purchase and orally administer the  
14 accused products for the purposes of practicing the claimed methods, by having  
15 them orally ingest the compounds disclosed in such claims.

16           28. Defendant has and had knowledge of the fact that the accused  
17 products, particularly as administered, infringe on one or more claims of the patents  
18 in suit.

19           29. Defendant has and had direct, firsthand knowledge of the patents in  
20 suit.

21           30. For example and without limitation, Plaintiff believes Defendant has  
22 had knowledge of the patents in suit since November 2006, when an ongoing  
23 settlement of a patent infringement case relating to at least some of the patents in  
24 suit against Herbalife, a well-known company in Defendant's industry, was  
25 announced in press releases issued in a highly publicized manner. Plaintiff believes  
26 Defendant's employees, agents, and representatives saw the press releases and were  
27 aware of the settlement and thus the patents in suit.

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

10           32. By way of further example and without limitation, Defendant received  
11 written notice of the patents in suit from Plaintiff in April 2013.

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

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

17           35. Defendant did not cease its own direct infringement, nor its  
18 contributory infringement or inducement of infringement by end-users, despite its  
19 knowledge of the patents in suit and the end-users' infringing activities with respect  
20 to the patents in suit.

#### 21                           IV.     FIRST CAUSE OF ACTION

#### 22                           Infringement of U.S. Patent No. 7,452,916

23           36. Plaintiff repeats and re-alleges the allegations of the foregoing  
24 paragraphs of this Complaint as if fully set forth herein.

25           37. Defendant has in the past literally and directly infringed or directly  
26 infringed under the doctrine of equivalents one or more claims of United States  
27 Patent No. 7,452,916 by making, using, selling, and offering for sale the accused  
28 products, or any one of those products.

1           38. In addition to the fact that Defendant makes, uses, sells, and offers for  
2 sale the accused products, and did so in the past, further examples of Defendant's  
3 direct infringements include, without limitation, the fact that Defendant encouraged  
4 and/or is aware of the fact that its employees, agents, representatives and other  
5 persons sponsored by or who endorse Defendant and Defendant's products in  
6 advertising and marketing activities orally administer the accused products and  
7 practice the methods disclosed in one or more claims of United States Patent No.  
8 7,452,916, and these employees, agents, representatives and other persons  
9 sponsored by or who endorse Defendant and Defendant's products in advertising  
10 and marketing activities acted under Defendant's direction and control when  
11 practicing those methods.

12           39. Defendant encouraged and was aware of these persons' oral  
13 administration of the accused products for these purposes, these persons are acting  
14 under Defendant's direction and control, and therefore Defendant directly practiced  
15 the methods disclosed in United States Patent No. 7,452,916.

16           40. End-users of Defendant's accused products were also direct infringers  
17 of one or more claims of United States Patent No. 7,452,916.

18           41. End-users of Defendant's accused products have taken, used, and  
19 orally administered the accused products.

20           42. The accused products were formulated, made, manufactured, shipped,  
21 distributed, advertised, offered for sale, and sold by Defendant to include certain  
22 ingredients that, by virtue of their inclusion in the products, infringed one or more  
23 claims of United States Patent No. 7,452,916.

24           43. The accused products were formulated, made, manufactured, shipped,  
25 distributed, advertised, offered for sale, and sold by Defendant to include specific  
26 ingredients for purposes that, by their inclusion in the products for such purposes,  
27 infringed one or more claims of United States Patent No. 7,452,916, and as a result,  
28 when end-users of Defendant's accused products orally administered the accused



1 products, they were practicing the methods disclosed in one or more claims of that  
2 patent.

3 44. Defendant's labels and advertising for the accused products explained  
4 the elements and essential elements of the methods disclosed in United States  
5 Patent No. 7,452,916, and those labels and advertising statements encouraged,  
6 urged, and induced the accused products' end-users to purchase and orally ingest  
7 the products to practice those methods, and end-users did practice those methods.

8 45. Defendant therefore specifically intended to cause these end-users to  
9 directly infringe the claimed methods of United States Patent No. 7,452,916, and  
10 had in fact urged them to do so.

11 46. The accused products were not suitable for non-infringing uses, and  
12 none of Defendant's labels or advertisements for the accused products disclosed  
13 any uses for the products, nor for the compounds disclosed in the claimed methods,  
14 that did not infringe upon such methods.

15 47. The inclusion of these specific infringing compounds in the products  
16 was material to practicing such methods.

17 48. Defendant had knowledge that the accused products were especially  
18 adapted by end-users of the products for the practicing of such methods, and,  
19 indeed, Defendant encouraged, urged, and induced the accused products' end-users  
20 to purchase and orally administer the accused products to practice such methods.

21 49. Defendant intentionally and knowingly induced, encouraged, and  
22 urged end-users of the accused products to purchase and orally administer the  
23 accused products for the purposes disclosed in one or more claims of United States  
24 Patent No. 7,452,916, by having them orally ingest the compounds disclosed in  
25 such claims.

26 50. Defendant had knowledge of the fact that the accused products,  
27 particularly as administered, infringed on one or more claims of United States  
28 Patent No. 7,452,916.

1 51. Defendant also had direct, firsthand knowledge of United States Patent  
2 No. 7,452,916 itself.

3 52. Defendant's activities were without express or implied license by  
4 Plaintiff.

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

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

## 11 V. SECOND CAUSE OF ACTION

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

13 55. Plaintiff repeats and re-alleges the allegations of the foregoing  
14 paragraphs of this Complaint as if fully set forth herein.

15 56. Defendant has in the past and still is literally and directly infringing or  
16 directly infringing under the doctrine of equivalents one or more claims of United  
17 States Patent No. 6,117,872 by making, using, selling, and offering for sale the  
18 accused products, or any one of those products, and will continue to do so unless  
19 enjoined by this Court.

20 57. In addition to the fact that Defendant makes, uses, sells, and offers for  
21 sale the accused products, further examples of Defendant's direct infringements  
22 include, without limitation, the fact that Defendant has encouraged and/or is aware  
23 of the fact that its employees, agents, representatives and other persons sponsored  
24 by or who endorse Defendant and Defendant's products in advertising and  
25 marketing activities orally administer the accused products and practice the  
26 methods disclosed in one or more claims of United States Patent No. 6,117,872,  
27 and these employees, agents, representatives and other persons sponsored by or  
28 who endorse Defendant and Defendant's products in advertising and marketing

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

3 58. 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  
6 practicing the methods disclosed in United States Patent No. 6,117,872.

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

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

11 61. 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  
14 claims of United States Patent No. 6,117,872.

15 62. 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. 6,117,872, 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  
21 patent.

22 63. Defendant's labels and advertising for the accused products explain the  
23 elements and essential elements of the methods disclosed in United States Patent  
24 No. 6,117,872, and those labels and advertising statements encourage, urge, and  
25 induce the accused products' end-users to purchase and orally ingest the products to  
26 practice those methods, and end-users do practice those methods.

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

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

8           66. The inclusion of these specific infringing compounds in the products is  
9 material to practicing such methods.

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

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

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

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

25          71. Defendant's activities have been without express or implied license by  
26 Plaintiff.

27          72. As a result of Defendant's acts of infringement, Plaintiff has suffered  
28 and will continue to suffer damages in an amount to be proved at trial.

1 73. As a result of Defendant's acts of infringement, Plaintiff has 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 74. Defendant's past infringements and/or continuing infringements have  
5 been deliberate and willful, and this case is therefore an exceptional case, which  
6 warrants an award of treble damages and attorneys' fees in accordance with 35  
7 U.S.C. § 285.

8 **VI. PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for entry of judgment against Defendant as  
10 follows:

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

13 2. That injunctions, preliminary and permanent, be issued by this Court  
14 restraining Defendant, its officers, agents, servants, directors, and employees, and  
15 all persons in active concert or participation with each, from directly or indirectly  
16 infringing, or inducing or contributing to the infringement by others of, United  
17 States Patent No. 6,117,872;

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

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

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

28 6. That Plaintiff be awarded its interest and costs of suit incurred in this

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action;

7. Compensatory damages;

8. Punitive damages; and

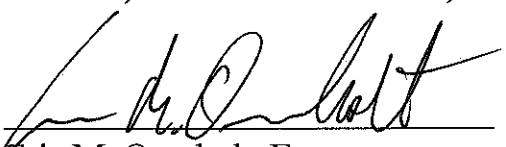
9. That Plaintiff be awarded such other and further relief as this Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

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

DATED: September 13, 2013

**HIDEN, ROTT & OERTLE, LLP**

By:   
Eric M. Overholt, Esq.  
*Attorneys for Plaintiff*

# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

THERMOLIFE INTERNATIONAL, LLC

(b) County of Residence of First Listed Plaintiff Los Angeles County  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

SEE ATTACHMENT

## DEFENDANTS

NEW WHEY NUTRITION, LLC

County of Residence of First Listed Defendant \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**'13CV2199 H NLS**

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	COLLECTOR STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PERSONS/RELATIONS	IMMIGRATION		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions		

## V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. section 1331, 1338, 1367; 15:1126

Brief description of cause:  
Patent Litigation

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Hon. Janis L. Sammartino

DOCKET NUMBER 13-CV-651

DATE 9/13/13

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

ATTACHMENT TO CIVIL COVER SHEET

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