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23 **UNITED STATES DISTRICT COURT**  
24 **DISTRICT OF NEVADA**

25 TRICORBRAUN INC.,

26 Plaintiff,

27 v.

28 GHOST, LLC,

Defendant.

Case No.: \_\_\_\_\_

**COMPLAINT FOR PATENT  
INFRINGEMENT**

Jury Trial Demanded

Plaintiff TricorBraun Inc. ("TricorBraun"), for its complaint against Defendant Ghost, LLC ("Ghost"), hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for infringement of United States Patent No. 9,541,441 (the "441 patent"). This action arises under the Patent Act, 35 U.S.C. §§ 1 et seq.

**THE PARTIES**

2. TricorBraun is a Missouri corporation having a principal place of business at 6 CityPlace Drive, 1000, St. Louis, MO 63141.

3. Upon information and belief, Ghost is a Nevada limited liability company having a principal place of business at 170 S. Green Valley Parkway, Suite 300, Henderson, Nevada 89012.

**JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States, 35 U.S.C. §§ 1 et seq.

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Ghost because it is a Nevada company with its principal place of business in Nevada, and therefore has continuous and systematic contacts with the State of Nevada. Furthermore, Ghost has advertised for sale, used, sold and offered to sell its Ghost Legend pre-workout products, which are housed in containers that infringe the '441 patent, in the State of Nevada and the District of Nevada, thereby purposefully availing itself of privileges of conducting business in Nevada and this District.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1400(b) because Ghost is a Nevada company with a principal place of business in this District, and therefore resides in the State of Nevada and within this judicial District. In addition, Ghost has a regular and established place of business in this District and has committed acts of infringement in this District by at least using, selling, and offering to sell its infringing Ghost Legend products in this District.

**THE '441 PATENT**

8. On January 10, 2017, the United States Patent and Trademark Office duly and legally issued the '441 patent, entitled "Integrated Measuring Scoop Apparatus." A true and correct copy of the '441 patent is attached hereto as Exhibit 1. U.S. Patent Application No. 13/588,565, which issued as the '441 patent, claims priority to U.S. Provisional Application No. 61/525,045, which was filed on August 18, 2011.

9. TricorBraun is the owner by assignment of the entire right, title and interest in and

1 to the '441 patent, including the right to sue and recover past, present and future damages for  
2 infringement.

3 10. TricorBraun sells and offers to sell products that practice the claims of the '441  
4 patent, in addition to licensing third parties to sell and offer to sell products that practice the  
5 claims of the '441 patent.

6 **DEFENDANT'S ACCUSED PRODUCTS**

7 11. Ghost sells Ghost Legend pre-workout products housed in containers that include a  
8 measuring scoop specifically designed to be supported by the body of the container below the  
9 container's opening, which enables the scooping structure to remain above the contents of the  
10 container. This container and integrated scooping structure is referred to herein as the "Accused  
11 Containers."

12 12. On information and belief, Ghost's making, using, selling, offering for sale, and/or  
13 importation of the Accused Containers without TricorBraun's authorization infringes the claims  
14 of the '441 patent.

15 13. On or about July 24, 2017, TricorBraun notified Ghost that the Accused  
16 Containers infringed the '441 patent, but Ghost has not ceased its infringing activities.

17 **COUNT 1: INFRINGEMENT OF THE '441 PATENT**

18 14. TricorBraun re-alleges and incorporates by reference the allegations set forth in  
19 paragraphs 1-13 as if fully set forth herein.

20 15. TricorBraun is the owner of all right, title and interest in the '441 patent.

21 16. The '441 patent is valid, enforceable and duly issued in full compliance with Title  
22 35 of the United States Code.

23 17. In violation of 35 U.S.C. § 271, Ghost infringes one or more claims of the '441  
24 patent, either literally or under the doctrine of equivalents, by making, using, selling, offering to  
25 sell, and/or importing the Accused Containers.

26 18. By way of non-limiting example, Ghost directly infringes at least claim 1 of the  
27 '441 patent, either literally or under the doctrine of equivalents, by making, using, selling,  
28 offering to sell, and/or importing the Accused Containers, which include a container body with an

1 integral mounting ring having a mounting protrusion extending inwardly from the mounting ring;  
2 a cap with a lid and skirt that engages the container body; a measuring scoop with a handle and  
3 bowl, both the handle and bowl specifically designed to be supported by the body of the container  
4 below the container's opening and the lid, the bowl having a recessed area on its exterior surface  
5 terminating in an upper support surface, or the equivalent thereof.

6 19. As a direct and proximate result of Ghost's acts of infringement, TricorBraun has  
7 been and continues to be damaged, and TricorBraun is entitled to recover from Ghost damages  
8 sustained as a result of Ghost's infringement of the '441 patent.

9 20. Ghost's acts of infringement have caused, and will continue to cause, irreparable  
10 harm to TricorBraun. Both companies sell related equipment, i.e., containers with integrated  
11 measuring scoops, and TricorBraun and its licensees are forced to compete against products that  
12 infringe its own patented invention, causing at least lost sales, market share and reputational  
13 damage to TricorBraun and its licensees. These harms are difficult to quantify and will occur over  
14 the remaining fourteen (14) years of the life of the '441 patent if Ghost is not enjoined, rendering  
15 legal damages inadequate. Accordingly, TricorBraun is entitled to injunctive relief enjoining  
16 Ghost from further infringement of the '441 patent.

17 21. On information and belief, Ghost's infringement occurred with knowledge of the  
18 '441 patent, and thus has been and will continue to be willful and deliberate, entitling  
19 TricorBraun attorney's fees and expenses under 35 U.S.C. § 285 and enhanced damages under 35  
20 U.S.C. § 284.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, TricorBraun prays that judgment be entered in its favor and that the  
23 Court:

24 A. Enter judgment that Ghost has infringed one or more claims of the asserted  
25 patents;

26 B. Enter a permanent injunction enjoining Ghost and its officers, directors,  
27 employees, agents, consultants, contractors, suppliers, distributors and all other acting in privity  
28 with Ghost from further infringement of the '441 patent;

1 C. Award damages to TricorBraun adequate to compensate it for Ghost's  
2 infringement of the '441 patent in an amount to be proven at trial, together with pre-judgment and  
3 post-judgment interest and costs, as fixed by the Court;

4 D. Enter judgment that Ghost's infringement of the '441 patent has been willful and  
5 award TricorBraun treble damages under 35 U.S.C. § 284;

6 E. Award TricorBraun its costs, expenses and reasonable attorney's fees and  
7 expenses incurred in this action under 35 U.S.C. § 285, 28 U.S.C. § 1927, the Court's inherent  
8 powers, or on any other applicable basis;

9 F. Further relief as the Court may deem just and proper.

10 **JURY DEMAND**

11 Plaintiff demands trial by jury on all matters triable by jury.

12 Dated: November 6, 2017

Respectfully submitted,

13 HOWARD & HOWARD

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