

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MANNATECH, INC.,

Plaintiff,

v.

**COUNTRY LIFE, LLC,
COUNTRY LIFE MANUFACTURING,
LLC, EVENBETTERNOW, LLC,
MICRO HEALTH SOLUTIONS, LLC,
NEW SUN, INC., OASIS ADVANCED
WELLNESS, LLC, ROEX, INC.,
VDF FUTURECEUTICALS, INC.,
ANGEL CARE USA, INC., FLORIDA
NUTRI LABS, LLC, WY'S ENTERPRISES
OF SPRINGFIELD, INC. and
JOHN DOES 1-17,**

Defendants.

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**CIVIL ACTION NO.
3:10-CV-0533-O**

AMENDED COMPLAINT

Plaintiff Mannatech, Inc. files this Amended Complaint against Defendants Country Life, LLC, Country Life Manufacturing, LLC, EvenBetterNow, LLC, Micro Health Solutions, LLC, New Sun, Inc., Oasis Advanced Wellness, LLC, Roex, Inc., VDF Futureceuticals, Inc., Angel Care, USA, Inc., Florida Nutri Labs, LLC, Wy's Enterprises of Springfield, Inc. and John Does 1-17 ("Defendants") and shows the Court as follows.

I. PARTIES

1. Plaintiff Mannatech, Inc. ("*Mannatech*") is a corporation organized and existing under the laws of the State of Texas, with its principal place of business at 600 S. Royal Lane, Suite 200, Coppell, Texas 75019.

2. Defendant Country Life, LLC (“*Country Life*”) is a limited liability company organized and existing under the laws of the State of New York, with its principal place of business at 180 Vanderbilt Motor Parkway, Hauppauge, New York 11788. Country Life was properly served on April 21, 2010.

3. Defendant Country Life Manufacturing, LLC (“*Country Life Manufacturing*”) is a limited liability company organized and existing under the laws of the State of New York, with its principal place of business at 180 Vanderbilt Motor Parkway, Hauppauge, New York 11788. Country Life Manufacturing was properly served on April 21, 2010.

4. Defendant EvenBetterNow, LLC (“*EvenBetterNow*”) is a limited liability company organized and existing under the laws of the State of Arizona, with its principal place of business at 1870 W. Prince Rd Ste. 54, Tucson, Arizona 85705. An Agreed Judgment has been entered against EvenBetterNow.

5. Defendant Micro Health Solutions, LLC (“*Micro Health*”) is a limited liability company organized and existing under the laws of the State of Delaware, with its principal place of business at 354 Stegall Place, Dawsonville, Georgia 30534. An Agreed Judgment has been entered against Micro Health.

6. Defendant New Sun, Inc. (“*New Sun*”) is a corporation organized and existing under the laws of the State of Florida, with its principal place of business at 215 Linda Vista Drive, Hendersonville, North Carolina 28792. New Sun was properly served on March 25, 2010.

7. Defendant Oasis Advanced Wellness, LLC (“*Oasis*”) is a limited liability company organized and existing under the laws of the State of Texas, with its principal place of business at 16770 Imperial Valley Dr. #210, Houston, Texas 77060. An Agreed Judgment has been entered against Oasis.

8. Defendant Roex, Inc. (“*Roex*”) is a corporation organized and existing under the laws of the State of California, with its principal place of business at 16841 Armstrong Avenue, Irvine, California 92606. Roex filed an answer to Mannatech’s Complaint.

9. Defendant VDF Futureceuticals, Inc (“*Futureceuticals*”) is a corporation organized and existing under the laws of the State of Illinois, with its principal place of business at 819 N. Dixie Highway, Momence, Illinois 60954. Futureceuticals filed an answer to Mannatech’s Complaint.

10. Defendant Angel Care USA, Inc. (“*Angel Care*”) is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business at 490 Cochran Drive NW, Atlanta, Georgia 30327. Angel Care may be served through its registered agent, G. Paul Baldwin, 4871 Village Creek Drive, Dunwoody, Georgia 30338.

11. Defendant Florida Nutri Labs, LLC (“*Florida Nutri Labs*”) is a limited liability company organized and existing under the laws of the State of Florida, with its principal place of business at 2810 Parkway Street, Unit 2, Lakeland Florida, 33811. Florida Nutri Labs may be served through its registered agent, Craig E. Behrenfeld, 601 Bayshore Blvd., Suite 700, Tampa, Florida 33606.

12. Defendant Wy’s Enterprises of Springfield, Inc. (“*Wy’s Enterprises*”) is a corporation organized and existing under the laws of the State of Missouri, with its principal place of business at 1371 N. Marlowe Ave., Springfield, Missouri 65802. Wy’s Enterprises may be served through its registered agent, John C. Wikoff, 1371 N. Marlowe Ave., Springfield, Missouri 65802.

13. John Does 1- 17 are manufacturers or distributors who make, offer for sale or sell products that infringe one or more of Mannatech’s Patents.

II. JURISDICTION AND VENUE

14. The Court has original jurisdiction over Plaintiff's claims arising under the Patent Act. *See* 28 U.S.C. § 1338(a) (original jurisdiction of any civil action arising under an Act of Congress relating to patents and trademarks).

15. This Court has specific personal jurisdiction over the non-resident Defendants, Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Roex, Futureceuticals, Angel Care, Florida Nutri Labs, and Wy's Enterprises because they have purposefully availed themselves of the privilege of conducting activities in the State of Texas by selling products in the State of Texas or by placing products into the stream of commerce with the expectation that they will be purchased by consumers in the State of Texas.

16. In the alternative, upon information and belief, the Court has general personal jurisdiction over the non-resident Defendants, Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Roex, Futureceuticals, Angel Care, Florida Nutri Labs, and Wy's Enterprises because their contacts with the State of Texas are sufficiently substantial and of such a nature as to make the state's assertion of jurisdiction reasonable.

17. Venue is proper in this judicial district under 28 U.S.C. § 1400(b) because each of the Defendants is deemed to reside in this district. *See* 28 U.S.C. § 1391(c).

18. Venue is proper as to Defendants Country Life and Country Life Manufacturing because their infringing products are offered for sale and sold at a number of stores in Dallas, Texas. *See* Exhibit A (Turk Decl. ¶ 4) (authenticating pages from Realfood Organics' web site listing stores at which Realfood Organics' products are available in Dallas, Texas); Exhibit B (Krueger Decl. ¶ 3) (establishing sale of Realfood Organics Glyconutrient Complex at Sprouts Farmers' Market in Dallas, Texas).

19. Venue is proper as to Defendants EvenBetterNow, Micro Health, New Sun, Oasis, and Roex because each of these Defendants offers for sale, sells and ships infringing products to residents of this district. *See* Exhibit B (Krueger Decl. ¶¶ 4-8) (establishing sale and shipment to each product to an address within the Northern District of Texas).

20. Venue is proper as to Defendant Futureceuticals because its product, *Glycoberry* 8, is one of the ingredients of the infringing products distributed by Defendants Country Life and Country Life Manufacturing to retail stores in this judicial district. *See* Exhibit A (Turk Decl. ¶¶ 2-3) (authenticating pages from Realfood Organics' web site listing Realfood Organics Glyconutrient Complex Ingredients and Specifications and stores at which Realfood Organics' products are available in Dallas, Texas).

21. Venue is proper as to Defendants Angel Care, Florida Nutri Labs and Wy's Enterprises because they manufacture and place into the stream of commerce infringing products which are sold to residents in this judicial district. *See* Exhibit C (Lanphier Decl. ¶ 7) (identifying Angel Care as the manufacturer of *GlycoEssentials* 7); Exhibit D (Posch Decl. ¶ 7) (identifying Wy's Enterprises and Florida Nutri Labs as the manufacturers and distributors of *GlycoBalance*); Exhibit B (Krueger Decl. ¶ 7) (establishing sale and shipment of *GlycoEssentials* 7 and *GlycoBalance* to an address within the Northern District of Texas).

III. BACKGROUND FACTS

A. Mannatech's Patents

22. Mannatech is the owner of all right, title, and interest in and to United States Patent Numbers 6,929,807 ("807 Patent"), 7,157,431 ("431 Patent"), 7,199,104 ("104 Patent") and 7,202,220 ("220 Patent"), each of which is entitled "Compositions of Plant Carbohydrates

as Dietary Supplements.” For ease of reference, the ‘807, ‘431, ‘104 and ‘220 Patents are referred to herein collectively as “Mannatech’s Patents.”

23. Mannatech’s Patents generally describe dietary supplement compositions that provide certain “essential saccharides” or “glyconutrients” that are believed to be important in maintaining good health. Mannatech lists the patent numbers of all of Mannatech Patents on its website and marks its Ambrotose[®] and Advanced Ambrotose[®] products with the patent numbers for the ‘431, ‘104 and ‘220 Patents.

24. The claims of Mannatech’s Patents generally cover compositions of dietary supplements comprised of saccharides. For example, claim 1 of the ‘807 Patent recites:

A dietary supplement composition, comprising: nutritionally effective amounts of isolated and purified galactose, glucose, mannose, N-acetylneuraminic acid, fucose, N-acetylgalactosamine, N-acetylglucosamine and xylose.

(‘807 Patent, col. 18, ll. 27-32.) As construed in earlier cases, the “isolated and purified” saccharides may be in monomeric, oligomeric or polymeric form. *See Mannatech, Inc. v. Techmedica Health, Inc.*, --- F. Supp. 2d ----, No. 3:06-CV-00813, 2009 WL 3614359 (N.D. Tex. Oct. 29, 2009); *Mannatech, Inc. v. Glycobiotics Int’l, Inc.*, 513 F. Supp. 2d 754 (N.D. Tex. 2007).

B. Defendants Country Life and Country Life Manufacturing’s Infringing Products

25. Defendants Country Life and Country Life Manufacturing sell dietary supplement products using the trademark “Realfood Organics.” Among the dietary supplement products sold by Country Life and Country Life Manufacturing are *Her Daily Nutrition*, *His Daily Nutrition*, *Your Daily Nutrition*, *Ultimate Daily Nutrition* and *Glyconutrient Complex* (hereinafter “Country Life’s Accused Products.”) Photographs of a bottle of Realfood Organics’ *Glyconutrient Complex* are attached as Exhibit E.

26. Country Life and Country Life Manufacturing advertise that Country Life's Accused Products contain ACTIVAlone[®] and GlycoBerry 8[®], "a complex of all eight essential glyconutrients."

27. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Country Life's Accused Products infringe Mannatech's '807, '431 and '220 Patents, literally or under the doctrine of equivalents.

28. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Country Life and Country Life Manufacturing have actively induced others to infringe Mannatech's '807, '431 and '220 Patents by encouraging others to manufacture Country Life's Accused Products and by encouraging their customers to use Country Life's Accused Products.

C. Defendant EvenBetterNow's Infringing Product

29. Defendant EvenBetterNow offers for sale and sells dietary supplements through its website www.evenbetternow.com. Among the dietary supplement products offered for sale by EvenBetterNow is *EBN[®] Glyconutrients*. Photographs of a bottle of *EBN[®] Glyconutrients* are attached as Exhibit F.

30. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, *EBN[®] Glyconutrients* infringes Mannatech's '431, '104 and '220 Patents, literally or under the doctrine of equivalents.

31. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, EvenBetterNow has actively induced others to infringe Mannatech's '807, '431 and '220 Patents by encouraging others to manufacture *EBN[®] Glyconutrients* and by encouraging its customers to use *EBN[®] Glyconutrients*.

D. Defendant Micro Health's Infringing Product

32. Defendant Micro Health offers for sale and sells dietary supplements through its website www.microhealthsolutions.com. Among the dietary supplement products offered for sale by Micro Health is *Glyco Balance*. Photographs of a bottle of *Glyco Balance* are attached as Exhibit G.

33. Micro Health advertises *Glyco Balance* as “[p]roviding 8 essential saccharides for enhanced immune system cell function.”

34. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, *Glyco Balance* infringes Mannatech's '431, '104 and '220 Patents, literally or under the doctrine of equivalents.

35. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Micro Health has actively induced others to infringe Mannatech's '431, '104 and '220 Patents by encouraging others to manufacture *Glyco Balance* and by encouraging its customers to use *Glyco Balance*.

36. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Micro Health contracted with Defendant Wy's Enterprises for the manufacturing of *Glyco Balance*.

37. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Defendant Wy's Enterprises subcontracted with Defendant Florida Nutri Labs for the manufacturing *Glyco Balance*.

38. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Defendant Wy's Enterprises purchases all of the

ingredients in *Glyco Balance* and ships them to Florida Nutri Labs where the ingredients are weighed and blended and put into individual containers for retail sale.

39. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Defendant Wy's Enterprises infringes Mannatech's '431, '104 and '220 Patents directly by selling *Glyco Balance* and indirectly by supplying all of the ingredients necessary to make *Glyco Balance* to Florida Nutri Labs.

40. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Defendant Florida Nutri Labs infringes Mannatech's '431, '104 and '220 Patents by making and selling *Glyco Balance*.

E. Defendant New Sun's Infringing Product

41. Defendant New Sun offers for sale and sells dietary supplements through its website www.newsun.net. Among the dietary supplement products offered for sale by New Sun is *Salmana*. Photographs of a bottle of *Salmana* are attached as Exhibit H.

42. New Sun advertises that *Salmana* is "[a] Natural Complex of 8 Essential Saccharides."

43. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, *Salmana* infringes Mannatech's '807, '431 and '220 Patents, literally or under the doctrine of equivalents.

44. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, New Sun has actively induced others to infringe Mannatech's '807, '431 and '220 Patents by encouraging others to manufacture *Salmana* and by encouraging its customers to use *Salmana*.

F. Defendant Oasis' Infringing Product

45. Defendant Oasis offers for sale and sells dietary supplements through its website www.oasisadvancedwellness.com. Among the dietary supplement products offered for sale by Oasis is *GlycoEssential 7*. Photographs of a bottle of *GlycoEssential 7* are attached as Exhibit I.

46. Oasis advertises that “[t]he eight essential saccharides our bodies need are mannose, glucose, galactose, xylose, fucose (not to be confused with fructose), N-acetylglucosamine, N-acetylgalactosamine, and N-acetylneuraminic acid” and that “GlycoEssential 7 leaves out glucose and adds in medicinal mushrooms.”

47. Upon information and belief, and without prejudice to Mannatech’s right to amend as additional information comes to light, *GlycoEssential 7* infringes Mannatech’s ‘431, ‘104 and ‘220 Patents, literally or under the doctrine of equivalents.

48. Upon information and belief, and without prejudice to Mannatech’s right to amend as additional information comes to light, Oasis has actively induced others to infringe Mannatech’s ‘431, ‘104 and ‘220 Patents by encouraging others to manufacture *GlycoEssential 7* and by encouraging its customers to use *GlycoEssential 7*.

49. Upon information and belief, and without prejudice to Mannatech’s right to amend as additional information comes to light, Oasis contracted with Defendant Angel Care for the manufacturing of *GlycoEssential 7*.

50. Upon information and belief, and without prejudice to Mannatech’s right to amend as additional information comes to light, Defendant Angel Care infringes Mannatech’s ‘431, ‘104 and ‘220 Patents by making and selling *GlycoEssential 7*.

G. Defendant Roex's Infringing Product

51. Defendant Roex offers for sale and sells dietary supplements through its website www.roex.com. Among the dietary supplement products offered for sale by Roex is *Cell Talk*. Photographs of a bottle of *Cell Talk* are attached as Exhibit J.

52. Roex advertises that "The good news is that there are healthy sugars available and necessary for our body's health. These sugars include glucose, galactose, fucose, mannose, xylose, n-acetyl glucosamine, n-acetyl-neuramic acid and n-acetyl-galactosamine – all of which you will find in Cell Talk from Roex."

53. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, *Cell Talk* infringes Mannatech's '807 Patent, literally or under the doctrine of equivalents.

54. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Roex has actively induced others to infringe Mannatech's '807 Patent by encouraging others to manufacture *Cell Talk* and by encouraging its customers to use *Cell Talk*.

H. Defendant Futureceuticals' Infringing Product

55. Defendant Futureceuticals markets itself as a "business-to-business developer and manufacturer of bulk nutritional supplement and functional food raw materials." Among the nutritional supplement products offered for sale by Futureceuticals is *GlycoBerry* 8. Futureceuticals advertises that "GlycoBerry™ 8 . . . is the world's first product that provides *standardized, scientifically-validated levels of all eight of the essential monosaccharides: Mannose, Fucose, Xylose, Galactose, Glucose, N-acetylneuraminic acid (sialic acid), N-*

acetylgalactosamine and Nacetylglucosamine.” See Exhibit K (VDF Futureceuticals Fact Sheet for *GlycoBerry 8*) (emphasis in original).

56. Upon information and belief, Futureceuticals’ sold *GlycoBerry 8* to Country Life or Country Life Manufacturing for use as an ingredient in Country Life’s Accused Products. The “Supplement Facts” for Country Life’s Accused Products list *GlycoBerry 8* as one of the ingredients. See Exhibit A (Turk Decl. ¶ 5) (authenticating pages from Realfood Organics’ web site listing Realfood Organics Glyconutrient Complex Ingredients and Specifications).

57. Upon information and belief, Defendant Futureceuticals knew and expected that its accused product, *GlycoBerry 8*, would be used as an ingredient in dietary supplement products sold by Country Life or Country Life Manufacturing, and perhaps others, and that such products would be distributed to stores throughout the United States, including Texas.

58. Upon information and belief, and without prejudice to Mannatech’s right to amend as additional information comes to light, *GlycoBerry 8* infringes Mannatech’s ‘807 Patent, literally or under the doctrine of equivalents.

59. Upon information and belief, and without prejudice to Mannatech’s right to amend as additional information comes to light, Futureceuticals has actively induced others to infringe Mannatech’s ‘807 Patent by encouraging its customers to make, use, sell and offer to sell dietary supplement products containing *GlycoBerry 8*.

60. Upon information and belief, and without prejudice to Mannatech’s right to amend as additional information comes to light, Futureceuticals has contributed to the infringement of the ‘807, ‘431 and ‘220 Patents by Defendants Country Life and Country Life Manufacturing.

IV. CONDITIONS PRECEDENT

61. All conditions precedent have been performed or have occurred.

V. COUNT ONE: INFRINGEMENT OF THE '807 PATENT

62. Plaintiff incorporates by reference paragraphs 1 – 61 as if fully set forth herein.

63. On August 16, 2005, U.S. Patent 6,929,807, entitled “Compositions of Plant Carbohydrates as Dietary Supplements,” was issued to Mannatech. Since its issuance, Mannatech has been, and continues to be, the owner of all right, title and interest in and to the '807 Patent.

64. Upon information and belief, Defendants Country Life, Country Life Manufacturing, New Sun, Roex and Futureceuticals have infringed, and are infringing, the '807 Patent, literally or, in the alternative, under the doctrine of equivalents, by making, using, offering for sale or selling dietary supplement products which embody the invention disclosed and claimed in the '807 Patent. *See* 35 U.S.C. § 271(a).

65. Upon information and belief, Defendants Country Life, Country Life Manufacturing, New Sun, Roex and Futureceuticals have induced, and are inducing, infringement of the '807 Patent by encouraging others to make, use, offer for sale or sell dietary supplement products which embody the invention disclosed and claimed in the '807 Patent. *See* 35 U.S.C. § 271(b).

66. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Defendant Futureceuticals has contributed to the infringement of the '807 Patent by Defendants Country Life and Country Life Manufacturing by selling *GlycoBerry 8* for use as a component of Country Life's Accused Products, such component constituting a material part of the invention, knowing the same to be especially made

or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. *See* 35 U.S.C. § 271(c).

67. As a direct and proximate result of Defendants Country Life, Country Life Manufacturing, New Sun, Roex and Futureceuticals' conduct, Mannatech has suffered, and will continue to suffer, irreparable injury for which it has no adequate remedy at law. Mannatech has also been damaged and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

68. The willful and deliberate nature of Defendants Country Life, Country Life Manufacturing, New Sun, Roex and Futureceuticals' infringement renders this an exceptional case and thus, Mannatech is further entitled to treble damages, as well as its actual attorneys' fees and litigation costs.

VI. COUNT TWO: INFRINGEMENT OF THE '431 PATENT

69. Plaintiff incorporates by reference paragraphs 1 – 68 as if fully set forth herein.

70. On January 2, 2007, U.S. Patent 7,157,431, entitled "Compositions of Plant Carbohydrates as Dietary Supplements," was issued to Mannatech. Since its issuance, Mannatech has been, and continues to be, the owner of all right, title and interest in and to the '431 Patent.

71. Upon information and belief, Defendants Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Oasis, Angel Care, Florida Nutri Labs and Wy's Enterprises' have infringed, and are infringing, the '431 Patent literally or, in the alternative, under the doctrine of equivalents, by making, using, offering for sale or selling dietary supplement products which embody the invention disclosed and claimed in the '431 Patent. *See* 35 U.S.C. § 271(a).

72. Upon information and belief, Defendants Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Oasis, Angel Care, Florida Nutri Labs and Wy's Enterprises' have induced, and are inducing, infringement of the '431 Patent by encouraging others to make, use, offer for sale or sell dietary supplement products which embody the invention disclosed and claimed in the '431 Patent. *See* 35 U.S.C. § 271(b).

73. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Defendant Futureceuticals has contributed to the infringement of the '431 Patent by Defendants Country Life and Country Life Manufacturing by selling *GlycoBerry 8* for use as a component of Country Life's Accused Products, such component constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. *See* 35 U.S.C. § 271(c).

74. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, Defendant Wy's Enterprises has contributed to the infringement of the '431 Patent by Defendant Florida Nutri Labs by providing all of the ingredients necessary to make Micro Health Solutions' product *GlycoBalance*, such components constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. *See* 35 U.S.C. § 271(c).

75. As a direct and proximate result of Defendants Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Oasis, Futureceuticals, Angel Care, Florida Nutri Labs and Wy's Enterprises' conduct, Mannatech has suffered, and will continue to suffer, irreparable injury, for which it has no adequate remedy at law. Mannatech has also been

damaged and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

76. The willful and deliberate nature of Defendants Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Oasis, Futureceuticals, Angel Care, Florida Nutri Labs and Wy's Enterprises' infringement renders this an exceptional case and thus, Mannatech is further entitled to treble damages, as well as its actual attorneys' fees and litigation costs.

VII. COUNT THREE: INFRINGEMENT OF THE '104 PATENT

77. Plaintiff incorporates by reference paragraphs 1 – 76 as if fully set forth herein.

78. On April 3, 2007, U.S. Patent 7,199,104, entitled "Compositions of Plant Carbohydrates as Dietary Supplements," was issued to Mannatech. Since its issuance, Mannatech has been, and continues to be, the owner of all right, title and interest in and to the '104 Patent.

79. Upon information and belief, defendants EvenBetterNow, Micro Health, Oasis, Angel Care, Florida Nutri Labs and Wy's Enterprises' have infringed, and are infringing, the '104 Patent literally or, in the alternative, under the doctrine of equivalents, by making, using, offering for sale or selling dietary supplement products which embody the invention disclosed and claimed in the '104 Patent. *See* 35 U.S.C. § 271(a).

80. Upon information and belief, defendants EvenBetterNow, Micro Health, Oasis, Angel Care, Florida Nutri Labs and Wy's Enterprises' have induced, and are inducing, infringement of the '104 Patent by encouraging others to make, use, offer for sale or sell dietary supplement products which embody the invention disclosed and claimed in the '104 Patent. *See* 35 U.S.C. § 271(b).

81. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, defendant Wy's Enterprises has contributed to the infringement of the '104 Patent by defendant Florida Nutri Labs by providing all of the ingredients necessary to make Micro Health Solutions' product *GlycoBalance*, such components constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. *See* 35 U.S.C. § 271(c).

82. As a direct and proximate result of Defendants EvenBetterNow, Micro Health, Oasis, Angel Care, Florida Nutri Labs and Wy's Enterprises' conduct, Mannatech has suffered, and will continue to suffer, irreparable injury, for which it has no adequate remedy at law. Mannatech has also been damaged and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

83. The willful and deliberate nature of defendants EvenBetterNow, Micro Health, Oasis, Angel Care, Florida Nutri Labs and Wy's Enterprises' infringement renders this an exceptional case and thus, Mannatech is further entitled to treble damages, as well as its actual attorneys' fees and litigation costs.

VIII. COUNT FOUR: INFRINGEMENT OF THE '220 PATENT

84. Plaintiff incorporates by reference paragraphs 1 – 84 as if fully set forth herein.

85. On April 10, 2007, U.S. Patent 7,202,220, entitled "Compositions of Plant Carbohydrates as a Dietary Supplement," was issued to Mannatech. Since its issuance, Mannatech has been, and continues to be, the owner of all right, title and interest in and to the '220 Patent.

86. Upon information and belief, Defendants Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Oasis, Angel Care, Florida Nutri Labs and Wy's Enterprises' have infringed, and are infringing, the '220 Patent literally or, in the alternative, under the doctrine of equivalents, by making, using, offering for sale or selling dietary supplement products which embody the invention disclosed and claimed in the '220 Patent. *See* 35 U.S.C. § 271(a).

87. Upon information and belief, defendants Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Oasis, Angel Care, Florida Nutri Labs and Wy's Enterprises' have induced, and are inducing, infringement of the '220 Patent by encouraging others to make, use, offer for sale or sell dietary supplement products which embody the invention disclosed and claimed in the '220 Patent. *See* 35 U.S.C. § 271(b).

88. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, defendant Futureceuticals has contributed to the infringement of the '220 Patent by defendants Country Life and Country Life Manufacturing by selling *GlycoBerry 8* for use as a component of Country Life's Accused Products, such component constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. *See* 35 U.S.C. § 271(c).

89. Upon information and belief, and without prejudice to Mannatech's right to amend as additional information comes to light, defendant Wy's Enterprises has contributed to the infringement of the '220 Patent by Defendant Florida Nutri Labs by providing all of the ingredients necessary to make Micro Health Solutions' product *GlycoBalance*, such components constituting a material part of the invention, knowing the same to be especially made or

especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use. *See* 35 U.S.C. § 271(c).

90. As a direct and proximate result of Defendants Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Oasis, Futureceuticals, Angel Care, Florida Nutri Labs and Wy's Enterprises' conduct, Mannatech has suffered, and will continue to suffer, irreparable injury, for which it has no adequate remedy at law. Mannatech has also been damaged and, until an injunction issues, will continue to be damaged in an amount yet to be determined.

91. The willful and deliberate nature of Defendants Country Life, Country Life Manufacturing, EvenBetterNow, Micro Health, New Sun, Oasis, Futureceuticals, Angel Care, Florida Nutri Labs and Wy's Enterprises' infringement renders this an exceptional case and thus, Mannatech is further entitled to treble damages, as well as its actual attorneys' fees and litigation costs.

IX. DEMAND FOR JURY TRIAL

92. Plaintiff hereby demands a trial by jury. *See* Fed. R. Civ. P. 38.

X. PRAYER

WHEREFORE, Plaintiff demands:

(1) That Defendants, their agents, affiliates, subsidiaries, successors and assigns, and any and all persons or entities acting in concert or participation with any or all of them, be enjoined during the pendency of this action, and thereafter for the life of the patents, from infringing, directly or indirectly, Mannatech's Patents in any manner.

(2) That Defendants be required to deliver up all infringing products in their possession or under their control to be impounded during the pendency of this action, and to be destroyed once all appeals have been exhausted.

(3) That Defendants be required to pay Mannatech such damages as Mannatech has sustained as a result of such patent infringement, and that such patent infringement damages be trebled pursuant to 35 U.S.C. § 284.

(4) That this case be adjudged and decreed exceptional under 35 U.S.C. § 285, entitling Mannatech to an award of reasonable attorney fees, and that such attorney fees be awarded.

(5) That Mannatech be awarded its costs, prejudgment interest, and post-judgment interest on all damages.

(6) That Defendants be required to file with the Court within 30 days after entry of final judgment of this cause a written statement under oath setting forth the manner in which it has complied with the final judgment.

(7) That Mannatech be awarded such other and further relief as the Court deems just and equitable, both at law and in equity.

Dated: May 14, 2010

Respectfully submitted,

/s/ Eric W. Pinker, P.C.

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