

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FREEDOM HEALTH, LLC,)
c/o John Hall, Agent)
7541 Vinemont Court)
Hudson, Ohio 44236,)
Plaintiff,)

Case No. _____

Judge _____

vs.)

FIGUEROLA GROUP, INC.)
c/o Antonio Figuerola, Agent)
3220 Calzada Avenue)
Santa Ynez, CA 93460)
Defendant.)

**COMPLAINT FOR
PATENT INFRINGEMENT**

COMPLAINT

Plaintiff, Freedom Health, LLC ("Freedom Health"), through its attorneys, alleges for its Complaint against Figuerola Group, Inc. ("Figuerola") as follows:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 271 *et seq.* based upon infringement by Defendant Figuerola of patents owned by Freedom Health.

THE PARTIES

2. Freedom Health is a Delaware limited liability company with a place of business at 65 Aurora Industrial Parkway, Aurora, Ohio.

3. The Defendant Figuerola is, upon information and belief, a California corporation having a principal place of business at 3220 Calzada Avenue, Santa Ynez, California 93460-8706, having identified Antonio Figuerola as its agent for service of process located at 51 Industrial Way, Buellton, California 93427.

JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a), because this civil action arises under the Patent Act.

5. This Court has personal jurisdiction over Figuerola, pursuant to Ohio's long-arm statute, Ohio Rev. Code Ann. § 2307.382, and otherwise because, on information and belief, the infringing goods are offered for sale and/or sold in the State of Ohio and because the injury of Figuerola's infringement will be felt mainly in the State of Ohio where Freedom Health is located.

6. Venue is proper in this district pursuant to 28 U.S. C. § 1391(b) because, upon information and belief, a substantial part of the events giving rise to the claims occurred in this district and because the Defendant is subject to personal jurisdiction in this district.

COUNT I INFRINGEMENT OF U.S. PATENT NO. 7,658,964

7. Plaintiff incorporates herein by reference and realleges each and every allegation contained in paragraphs 1-6, above.

8. On February 9, 2010, United States Patent No. 7,658,964, entitled "Dietary Supplement and Method for Increasing the Colostrum Immunoglobulin Levels in Equine

Mares" (the "'964 Patent"), was duly and legally issued to inventors Peter M.J. Bedding and Franklin L. Pellegrini.

9. The '964 Patent was assigned to Freedom Health.

10. Defendant has been and is making, using, selling, and offering to sell within the United States dietary supplements for horses that embody the inventions of and are within the scope of the '964 Patent thereby infringing, both directly and indirectly, at least one claim of the '964 Patent.

11. Defendant's infringing activities include, without limitation, the making, using, selling, and offering to sell dietary supplements for horses, including without limitation "Figuerola Strike Equine."

12. Upon information and belief, Figuerola provides users' manuals or other instructions to users of "Figuerola Strike Equine" to administer such product to horses as a dietary supplement.

13. Defendant has been and is making, using, selling, and offering to sell "Figuerola Strike Equine" and providing users' manuals or other instructions for administering such product. Defendant's actions constitute active inducement of infringement of the '964 Patent in violation of 35 U.S.C. § 271(b), both literally and under the doctrine of equivalents.

14. Upon information and belief, Figuerola's infringing acts have been and continue to be willful in that it has knowledge of Freedom Health's rights under the '964 Patent, but has continued to infringe and actively induced infringement by others.

15. As a result of Figuerola's actions, Freedom Health has suffered and will continue to suffer substantial harm, together with certain irreparable injuries, which will continue until and unless Figuerola is enjoined by this Court.

COUNT II
INFRINGEMENT OF U.S. PATENT NO. 7,824,706

16. Plaintiff incorporates herein by reference and realleges each and every allegation contained in paragraphs 1-15, above.

17. On November 2, 2010, United States Patent No. 7,824,706 entitled "Dietary Supplement and Method for the Treatment of Digestive Tract Ulcers in Equines" (the "'706 Patent"), was duly and legally issued to inventors Peter M.J. Bedding and Franklin L. Pellegrini.

18. The '706 Patent was assigned to Freedom Health.

19. Defendant has been and is making, using, selling, and offering to sell within the United States dietary supplements for horses that embody the inventions of and are within the scope of the '706 Patent thereby infringing, both directly and indirectly, at least one claim of the '706 Patent.

20. Defendant's infringing activities include, without limitation, the making, using, selling, and offering to sell dietary supplements for horses, including without limitation "Figuerola Strike Equine."

21. Upon information and belief, Figuerola provides users' manuals or other instructions to users of "Figuerola Strike Equine" to administer such product to horses as a dietary supplement.

22. Defendant has been and is making, using, selling, and offering to sell "Figuerola Strike Equine" and providing users' manuals or other instructions for administering such product. Defendant's actions constitute active inducement of infringement of the '706 Patent in violation of 35 U.S.C. § 271(b), both literally and under the doctrine of equivalents.

23. Upon information and belief, Figuerola's infringing acts have been and continue to be willful in that it has knowledge of Freedom Health's rights under the '706 Patent, but has continued to infringe and actively induced infringement by others.

24. As a result of Figuerola's actions, Freedom Health has suffered and will continue to suffer substantial harm, together with certain irreparable injuries, which will continue until and unless Figuerola is enjoined by this Court.

**COUNT III
INFRINGEMENT OF U.S. PATENT NO. 8,197,842**

25. Plaintiff incorporates herein by reference and realleges each and every allegation contained in paragraphs 1-24, above.

26. On June 12, 2012, United States Patent No. 8,197,842 entitled "Dietary Supplement and Method" (the "'842 Patent"), was duly and legally issued to inventors Peter M.J. Bedding and Franklin L. Pellegrini.

27. The '842 Patent was assigned to Freedom Health.

28. Defendant has been and is making, using, selling, and offering to sell within the United States dietary supplements for horses that embody the inventions of

and are within the scope of the '842 Patent thereby infringing, both directly and indirectly, at least one claim of the '842 Patent.

29. Defendant's infringing activities include, without limitation, the making, using, selling, and offering to sell dietary supplements for horses, including without limitation "Figuerola Strike Equine."

30. Upon information and belief, Figuerola provides users' manuals or other instructions to users of "Figuerola Strike Equine" to administer such product to horses as a dietary supplement.

31. Defendant has been and is making, using, selling, and offering to sell "Figuerola Strike Equine" and providing users' manuals or other instructions for administering such product. Defendant's actions constitute active inducement of infringement of the '842 Patent in violation of 35 U.S.C. § 271(b), both literally and under the doctrine of equivalents.

32. Upon information and belief, Figuerola's infringing acts have been and continue to be willful in that it has knowledge of Freedom Health's rights under the '842 Patent, but has continued to infringe and actively induced infringement by others.

33. As a result of Figuerola's actions, Freedom Health has suffered and will continue to suffer substantial harm, together with certain irreparable injuries, which will continue until and unless Figuerola is enjoined by this Court.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Freedom Health asks this Court to enter judgment in its favor and against Figuerola as follows:

- A. Finding that Figuerola has infringed and/or induced others to infringe the '964 Patent, the '706 Patent, and/or the '842 Patent;
- B. Awarding damages to Freedom Health under 35 U.S.C. § 284, along with interest and costs, for Figuerola's infringement of the '964 Patent, the '706 Patent, and/or the '842 Patent;
- C. Entering a permanent injunction under 35 U.S.C. § 283 enjoining Figuerola, its agents, sales representatives, distributors, servants and employees, attorneys, affiliates, subsidiaries, successors and assigns, and any and all persons or entities acting at, through, under, or in active concert or in participation with any or all of them, from infringing the '964 Patent, the '706 Patent, and/or the '842 Patent;
- D. Finding that this case is an exceptional case under 35 U.S.C. § 285, and awarding Freedom Health its attorneys' fees and costs;
- E. Finding that Figuerola's infringement of the '964 Patent, the '706 Patent, and/or the '842 Patent was willful, and trebling any damages awarded; and
- F. Awarding to Freedom Health such other and further relief as the Court deems just and equitable.

JURY DEMAND

Freedom Health requests a trial by jury on all issues so triable.

Dated this 14th day of June, 2012.

BY *s/Craig P. Kvale*
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