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2013 FEB 21 PM 2:37

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY _____

1 Tyler J. Woods (State Bar No. 232464)
twoods@trialnewport.com
2 Richard H. Hikida (State Bar No. 196149)
rhikida@trialnewport.com
3 Scott J. Ferrell (State Bar No. 202091)
sferrell@trialnewport.com
4 NEWPORT TRIAL GROUP
A Professional Corporation
5 895 Dove Street, Suite 425
Newport Beach, CA 92660
6 Tel: (949) 706-6464
Fax: (949) 706-6469

7 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 THERMOLIFE INTERNATIONAL, LLC, Case No. CV13-01274 DSF (JPRx)

12 Plaintiff,

COMPLAINT FOR PATENT
INFRINGEMENT

13 vs.

JURY TRIAL DEMANDED

14 GNC CORPORATION; GENERAL
15 NUTRITION CENTERS, INC.; and
16 GENERAL NUTRITION
CORPORATION,

17 Defendants

COPY BY FAX

1 Plaintiff Thermolife International, LLC (“Plaintiff”) hereby alleges for its
2 Complaint against GNC Corporation; General Nutrition Centers, Inc.; and General
3 Nutrition Corporation (collectively “Defendant”), on personal knowledge as to its own
4 activities and on information and belief as to the activities of others, as follows:

5 **I. THE PARTIES**

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

9 2. Plaintiff is the owner and assignee of United States Patent No. 8,202,908
10 (“the ‘908 patent”) titled “D-Aspartic Acid Supplement,” and Plaintiff licenses the ‘908
11 patent to several third-parties and is in negotiations to license the patents to numerous
12 other parties.

13 3. On information and belief, GNC Corporation is a corporation incorporated
14 under the laws of the State of Delaware with a principal place of business at 300 6th
15 Avenue in Pittsburgh, Pennsylvania, 15222.

16 4. On information and belief, General Nutrition Centers, Inc. is a corporation
17 incorporated under the laws of the State of Delaware with a principal place of business
18 at 300 6th Avenue in Pittsburgh, Pennsylvania, 15222.

19 5. On information and belief, General Nutrition Corporation is a corporation
20 incorporated under the laws of the Commonwealth of Pennsylvania with a principal
21 place of business at 300 6th Avenue in Pittsburgh, Pennsylvania, 15222.

22 6. GNC Corporation; General Nutrition Centers, Inc.; and General Nutrition
23 Corporation are affiliated companies that derive their revenues principally from product
24 sales through “GNC”-branded company-owned and franchisee-owned stores and on the
25 internet, primarily through www.gnc.com. They are collectively referred to herein as
26 “Defendant.”

27 ///

28 ///

16. Defendant manufactures, markets, advertises, offers for sale, and sells the accused products.

17. As part of its transaction of business in this jurisdiction, Defendant sells its accused products to various distributors and retailers with places of business within the Central District of California.

18. The labels and advertisements for Defendant's product Rebel state, as relevant to this matter and without limitation, as follows:

- a. The product contains "D-Aspartic Acid (DAA)"
- b. It is to be taken by oral ingestion.
- c. "anabolic compound featuring d-aspartic acid...."
- d. "For maximum results consume 2 scoops daily"
- e. The product includes 1 gram of DAA per scoop.

IV. THE DEFENDANT'S INFRINGEMENTS

19. Defendant has committed the tort of patent infringement within the State of California, and more particularly, within the Central District of California, by virtue of the fact that Defendant has shipped, distributed, offered for sale, sold, and advertised, and continues to ship, distribute, offer for sale, sell, and advertise the accused products in this District.

A. DIRECT INFRINGEMENTS

20. Defendant's employees, agents, representatives and other persons sponsored by or who endorse Defendant and Defendant's products in advertising and marketing activities, have taken, used, and orally administered the accused products, which Defendant has formulated and distributed and sold to include a D-aspartic acid compound as defined in the '908 patent for the specific reason of increasing the levels of testosterone in adult male humans taking the products, by having them orally ingest the D-aspartic acid compound present in the product in an amount and for a time sufficient to increase the levels of testosterone.

1 21. Defendant has encouraged and/or is aware of these persons' oral
2 administration of the accused products for these purposes, and these employees, agents,
3 representatives and other persons sponsored by or who endorse Defendant and
4 Defendant's products in advertising and marketing activities are acting under
5 Defendant's direction and control when practicing the method disclosed in the '908
6 patent.

7 22. Therefore, Defendant directly practices the method as set forth in the '908
8 patent and it is a direct infringer of the patent.

9 **B. INDIRECT INFRINGEMENTS**

10 23. End-users of Defendant's accused products are also direct infringers of the
11 '908 patent, because they have taken, used, and orally ingested the accused products
12 which Defendant has formulated to include a D-aspartic acid compound as defined in
13 the '908 patent for the specific reason of increasing the levels of testosterone in adult
14 male humans taking the products, by having them orally ingest the a D-aspartic acid
15 compound as defined in the '908 patent present in the products in an amount and for a
16 time sufficient to increase their levels of testosterone.

17 24. These end-users practice the method as set forth in the '908 patent and are
18 direct infringers of the patent.

19 25. Defendant's labels and advertising for the accused products explain the
20 elements and essential elements of the method disclosed in the '908 patent to end-users
21 and encourage, urge, and induce the accused products' end-users to purchase and orally
22 ingest the products to practice that method, and end-users do practice that method.

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

26 27. The accused products are not suitable for non-infringing uses, and none of
27 Defendant's labels or advertisements for the accused products disclose any uses for the
28

1 products nor for the D-aspartic acid compound as defined in the '908 patent in those
2 products that do not infringe upon the method disclosed in the '908 patent.

3 28. The inclusion of the D-aspartic acid compound in the products is material
4 to practicing the method disclosed in the '908 patent.

5 29. Defendant has knowledge that the accused products are especially adapted
6 by end-users of the products for the practicing of the method disclosed in the '908
7 patent, and, indeed, Defendant encourages, urges, and induces the products' end-users
8 to purchase and orally administer the accused products to practice that method, and has
9 done so in the past.

10 30. Defendant has intentionally and knowingly induced, encouraged, and
11 urged end-users of the accused products to purchase and orally administer the accused
12 products for the purpose, without limitation, of increasing the levels of testosterone in
13 adult male humans taking the products, by having them orally ingest the D-aspartic acid
14 compound as defined in the '908 patent present in the products in an amount and for a
15 time sufficient to increase the levels of testosterone.

16 31. Defendant had actual, first-hand knowledge of the '908 patent after the
17 June 19, 2012 issuance of the patent, the day of which a very publicly available and
18 widely known press release was issued by Plaintiff announcing the issuance of the
19 patent. The press release stated as follows:

20 "ThermoLife International, LLC (ThermoLife) announced today
21 that the United States Patent and Trademark Office (USPTO)
22 issued U.S. Patent No. 8,202,908 (the '908 patent) for
23 ThermoLife's novel use of D-Aspartic acid (DAA). The patented
24 method uses a DAA compound to increase the levels of
25 testosterone, growth hormone, and/or insulin-like growth factor 1
26 in adult males. The potential benefits of DAA are astounding and
27 the patented method will transform testosterone boosting dietary
28 supplements and methods.

1 ThermoLife has a long history of developing innovative and
2 proven products and processes. With the addition of the '908
3 patent, ThermoLife has been awarded seven patents covering
4 more than 20 various compounds and methods of use, and still
5 has many pending applications in the pipeline and new
6 technologies at various stages of development.

7 These patents protect ThermoLife's innovative and proven
8 products and methods, as well as validate ThermoLife's market
9 leadership in new dietary ingredient research. These patents also
10 allow ThermoLife to continue building confidence with its
11 licensing partners and give consumers and companies that work
12 with ThermoLife assurance that they are buying one-of-a-kind
13 products that they cannot get elsewhere.

14 **About Thermolife**

15 Founded in 1998, ThermoLife is dedicated to developing real
16 products and methods that work. ThermoLife is a leading
17 manufacturer in the sports nutrition and supplement industry.
18 ThermoLife is committed to developing only the purest, most
19 effective, and innovative products. For more information about
20 ThermoLife and its patents, or to license any of ThermoLife's
21 patented ingredients contact Ron Kramer at
22 Ron(at)ThermoLife(dot)com."

23 32. Thereafter, Plaintiff sent detailed communications to Defendant to notify
24 Defendant of the patent prior to the filing of this suit.

25 33. Defendant has brazenly and willfully decided to infringe the '908 patent
26 despite knowledge of the patent's existence and each of their infringements of the
27 patent.

28 ///

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

3 35. Defendant has not ceased its own direct infringements, contributory
4 infringements, or inducements of infringements by end-users despite their clear
5 knowledge of the '908 patent.

6 36. In sum, Defendant specifically induces end-users to use the accused
7 products, and particularly the d-aspartic acid compound in these products, for
8 increasing the levels of testosterone in adult male humans taking the products, by
9 having them orally ingest the d-aspartic acid compound present in the products in an
10 amount and for a time sufficient to increase the levels of testosterone, which is the very
11 method described in the '908 patent.

12 37. This method is the sole reason Defendant includes the d-aspartic acid
13 compound in their products, and end-users' experiences are consistent with the fact that
14 they have practiced the method, in that end-users have increased their levels of
15 testosterone by ingesting the d-aspartic acid compound present in the accused products.

16 38. Defendant's infringing activities have not stopped despite its knowledge of
17 the patent's existence.

18 V. FIRST CAUSE OF ACTION

19 **Infringement of U.S. Patent No. 8,202,908**

20 39. Plaintiff repeats and re-alleges the allegations of the foregoing paragraphs
21 of this Complaint as if fully set forth herein.

22 40. The Defendant has in the past and still is literally infringing or infringing
23 under the doctrine of equivalents, directly and indirectly through contributory and/or
24 induced infringement, claims 1 and 2 of the '908 patent by making, using, selling, and
25 offering for sale dietary supplements embodying claims 1 and 2 of the patented
26 invention, and will continue to do so unless enjoined by this Court.

27 41. Examples of Defendant's direct infringement include, without limitation,
28 the fact that Defendant's employees, agents, representatives and other persons

1 sponsored by or who endorse Defendant and Defendant's products in advertising and
2 marketing activities, have taken, used, and orally administered the accused products
3 which have the effect, without limitation, of increasing the levels of testosterone in
4 adult male humans taking the products, by having them orally ingest the D-aspartic acid
5 compound present in the products in an amount and for a time sufficient to increase the
6 levels of testosterone, and when administered pursuant to the accused products'
7 instructions for use, leading to an ingestion of about 1 to 20 grams of the D-aspartic
8 acid compound daily.

9 42. Defendant has encouraged and is aware of these persons' oral
10 administration of the accused for these purposes, these persons are acting under
11 Defendant's direction and control, and therefore Defendant is directly practicing the
12 method set forth in the '908 patent.

13 43. End-users of the accused products are also direct infringers of the '908
14 patent, because they have taken, used, and orally ingested the accused products which
15 have the effect, without limitation, of increasing the levels of testosterone in adult male
16 humans taking the products, by having them orally ingest the D-aspartic acid compound
17 present in the products in an amount and for a time sufficient to increase the levels of
18 testosterone, and when administered pursuant to the accused products' instructions for
19 use, leading to an ingestion of between about 1 to 20 grams of the D-aspartic acid
20 compound daily.

21 44. Therefore, these end-users practice the method as set forth in the '908
22 patent and directly infringe the patent.

23 45. Defendant's labels and advertising explain the elements or essential
24 elements of the method disclosed in the '908 patent to end-users and encourage, urge,
25 and induce the products' end-users to purchase and orally administer the accused
26 products to practice that method.

27 46. The accused products are not suitable for non-infringing uses, and none of
28 Defendant's labels or advertisements for the products disclose any uses for the D-

1 aspartic acid compound in the products that do not infringe upon the method disclosed
2 in the '908 patent.

3 47. Defendant has knowledge that the accused products are especially adapted
4 by end-users of the products for increasing the levels of testosterone in adult male
5 humans taking the accused products, by having them orally ingest the D-aspartic acid
6 compound present in the products in an amount and for a time sufficient to increase the
7 levels of testosterone.

8 48. Defendant encourages, urges, and induces the accused products' end-users
9 to purchase and orally administer the products to increase the levels of testosterone in
10 adult male humans taking the products, by having them orally ingest the D-aspartic acid
11 compound present in the products in an amount and for a time sufficient to increase the
12 levels of testosterone – and Defendant has done so in the past.

13 49. Defendant therefore is liable for contributory infringement of claims 1 and
14 2 of the '908 patent.

15 50. Defendant has intentionally and knowingly induced, encouraged, and
16 urged end-users of the accused products to purchase and orally administer the products
17 for the purpose, without limitation, of increasing the levels of testosterone in adult male
18 humans taking the products, by having them orally ingest the D-aspartic acid compound
19 present in the products in an amount and for a time sufficient to increase the levels of
20 testosterone, and instructing them to do so in a daily amount of between about 1 and 20
21 grams of the compound daily.

22 51. Defendant has actual, first-hand knowledge of the '908 patent, but has not
23 ceased their contributory infringement or inducement of infringements by end-users
24 despite their knowledge of the '908 patent.

25 52. Defendant is therefore liable for induced infringement of claims 1 and 2 of
26 the '908 patent.

27 53. Defendant's activities have been without express or implied license by
28 Plaintiff.

1 54. The infringements by Defendant have been and continue to be willful,
2 since the infringements have not ceased.

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

5 56. As a result of Defendant's acts of infringement, Plaintiff has been and will
6 continue to be irreparably harmed by Defendant's infringements and inducements,
7 which will continue unless Defendant is enjoined by this Court.

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

12 **VI. PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for entry of judgment against Defendant as
14 follows:

15 1. A declaration that Defendant has infringed the '908 patent under 35 U.S.C.
16 §§ 271 *et seq.*;

17 3. That injunctions, preliminary and permanent, be issued by this Court
18 restraining Defendant, its respective officers, agents, servants, directors, and employees,
19 and all persons in active concert or participation with each, from directly or indirectly
20 infringing, or inducing or contributing to the infringement by others of, the '908 patent;

21 4. That Defendant be required to provide to Plaintiff an accounting of all
22 gains, profits, and advantages derived by Defendant's infringement of the '908 patent,
23 and that Plaintiff be awarded damages adequate to compensate Plaintiff for the
24 wrongful infringing acts by Defendant, in accordance with 35 U.S.C. § 284;

25 5. That the damages awarded to Plaintiff with regard to the '908 patent be
26 increased up to three times, in view of Defendant's willful infringement, in accordance
27 with 35 U.S.C. § 284;

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

4 7. That Plaintiff be awarded its interest and costs of suit incurred in this
5 action;

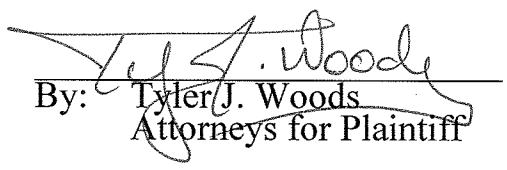
6 8. Compensatory damages;

7 9. Punitive damages; and

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

10 Respectfully submitted,
11 NEWPORT TRIAL GROUP
12 A Professional Corporation

13 Dated: February 20, 2013

14 By: 
15 Tyler J. Woods
16 Attorneys for Plaintiff

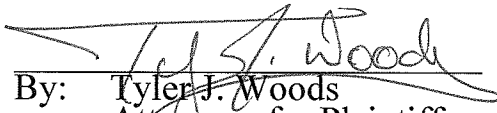
DEMAND FOR JURY TRIAL

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.

Respectfully submitted,

NEWPORT TRIAL GROUP
A Professional Corporation

Dated: February 20, 2013


By: Tyler J. Woods
Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge Dale S. Fischer and the assigned discovery Magistrate Judge is Jean P. Rosenbluth.

The case number on all documents filed with the Court should read as follows:

CV13 - 1274 DSF (JPRx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ **Western Division**
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

☐ **Southern Division**
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

☐ **Eastern Division**
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Name & Address: NEWPORT TRIAL GROUP
 Tyler J. Woods (State Bar No. 232464)
 Richard H. Hikida (State Bar No. 196149)
 Scott J. Ferrell (State Bar No. 202091)
 895 Dove Street, Ste 425, Newport Beach, CA 92660

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

THERMOLIFE INTERNATIONAL LLC

CASE NUMBER

PLAINTIFF(S)

CV13-01274 DSF (JPRx)

v.

GNC CORPORATION GENERAL NUTRITION
 CENTERS, INC.; and GENERAL NUTRITION
 CORPORATION

SUMMONS

DEFENDANT(S).

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Newport Trial Group, whose address is 895 Dove Street, Suite 425, Newport Beach, CA 92660. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: FEB 21 2013

By: A. J. [Signature]

Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

Name & Address: NEWPORT TRIAL GROUP
 Tyler J. Woods (State Bar No. 232464)
 Richard H. Hikida (State Bar No. 196149)
 Scott J. Ferrell (State Bar No. 202091)
 895 Dove Street, Ste 425, Newport Beach, CA 92660

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

THERMOLIFE INTERNATIONAL LLC

PLAINTIFF(S)

v.

GNC CORPORATION GENERAL NUTRITION
 CENTERS, INC.; and GENERAL NUTRITION
 CORPORATION

DEFENDANT(S).

CASE NUMBER

CV13-01274 DSF (JPRx)

SUMMONS

TO: DEFENDANT(S):

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached ☒ complaint ☐ amended complaint ☐ counterclaim ☐ cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Newport Trial Group, whose address is 895 Dove Street, Suite 425, Newport Beach, CA 92660. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

Clerk, U.S. District Court

Dated: FEB 21 2013

By: A. Gonzalez

Deputy Clerk

(Seal of the Court)



[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3)].

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> THERMOLIFE INTERNATIONAL, LLC		DEFENDANTS GNC CORPORATION; GENERAL NUTRITION CENTERS, INC.; and GENERAL NUTRITION CORPROATION	
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) NEWPORT TRIAL GROUP, 895 Dove Street, Suite 425, Newport Beach, CA 92660 Tel; (949) 706-6464 Fax (949)706-6469		Attorneys (If Known)	

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border: none;"> <tr> <td style="width:40%;">Citizen of This State</td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:40%;">Incorporated or Principal Place of Business in this State</td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td></td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td></td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF		<input type="checkbox"/> 1	<input type="checkbox"/> 1		<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 checked="" type="checkbox"/> 5	<input checked="" 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
Citizen of This State	PTF	DEF	Incorporated or Principal Place of Business in this State	PTF	DEF																				
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Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input checked="" type="checkbox"/> 5	<input checked="" 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. 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 Multi-District Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)
CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No **MONEY DEMANDED IN COMPLAINT:** \$ TBD

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 28 U.S.C. §§ 1331, 1338, and 1367

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <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"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <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 Loan (Excl. 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 REAL PROPERTY <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	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. 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-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <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 BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 535 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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FOR OFFICE USE ONLY: Case Number: CV13-01274 DSF (JPRx)

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes
 If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes
 If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	THERMOLIFE INTERNATIONAL, LLC - Maricopa County, Arizona

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	GNC CORPORATION; GENERAL NUTRITION CENTERS, INC.; and GENERAL NUTRITION CORPORATION - Allegheny County, Pennsylvania

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Plaintiff's Claim - Los Angeles, CA	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date February 20, 2013

Notice to Counsel/Parties: The CV-71 (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. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))