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9 and

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17 Attorneys for Plaintiff  
18 BTL Industries, Inc.

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

19 BTL INDUSTRIES, INC.,

20 Plaintiff,

21 v.

22 DOLL HAUS AESTHETICS and  
23 HONORÉE TREADWELL,

24 Defendants.  
25  
26

CASE NO. 2:23-cv-08707

**COMPLAINT FOR  
PATENT INFRINGEMENT,  
TRADEMARK INFRINGEMENT,  
AND UNFAIR COMPETITION**

**DEMAND FOR JURY TRIAL**

1 Plaintiff BTL Industries, Inc. (“BTL”) files this Complaint for patent  
2 infringement, trademark infringement, and unfair competition against Doll Haus  
3 Aesthetics and Honorée Treadwell, and alleges as follows:  
4

5 **PARTIES**

6 1. BTL is a Delaware corporation with a principal place of business at 362  
7 Elm Street, Marlborough, Massachusetts 01752.

8 2. On information and belief, Doll Haus Aesthetics is a California company  
9 with a principal address of 1010 Wilshire Boulevard, Suite 114, Los Angeles,  
10 California 90017.

11 3. On information and belief, Honorée Treadwell is an individual residing  
12 at 1122 West 6th Street, Apartment 2758, Los Angeles, California 90017.

13 4.

14 **JURISDICTION AND VENUE**

15 5. Subject-matter jurisdiction over BTL’s claims arising under the patent  
16 laws of the United States, 35 U.S.C. § 100, *et seq.*, and the Lanham Act, 15 U.S.C. §§  
17 1051 and 1121, exists pursuant to 28 U.S.C. §§ 1331, 1332, and 1338(a)-(b).

18 6. Subject-matter jurisdiction for the trademark and unfair competition  
19 claims exists with respect to the claims asserted in this Complaint pursuant to 28  
20 U.S.C. §§ 1331 and 1338.

21 7. This Court has personal jurisdiction over Doll Haus Aesthetics and  
22 Honorée Treadwell because they or their employees have committed acts of patent  
23 infringement under 35 U.S.C. § 271(a), (b), or (c), and are subject to this Court’s  
24 jurisdiction under 28 U.S.C. §1400(b).

25 8. This Court has personal jurisdiction over Defendant Doll Haus  
26 Aesthetics because, on information and belief, it is a California company and has its  
27 principal place of business in this District.  
28

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1 15. The first such device that BTL developed was the EMSCULPT® device,  
2 a standalone, non-invasive, FDA-cleared aesthetic body-contouring device. *See*  
3 **Exhibit 1**, attached hereto (BTL Webpage Printout).

4 16. BTL’s EMSCULPT® device created a new market in which it quickly  
5 became the innovative industry leader. Before BTL launched the EMSCULPT®  
6 device in 2018, no other product used high-intensity, focused, electromagnetic  
7 technology to tone and firm muscle for non-invasive, aesthetic body contouring.

8 17. The aesthetic industry has recognized BTL’s innovation, hailing them as  
9 having taken “the aesthetics industry by storm;” praising BTL as being the first to  
10 apply high-intensity, focused, electromagnetic energy technology for aesthetics; and  
11 lauding the EMSCULPT® device as having “transformed treatment protocols.” *See*  
12 **Exhibit 2**, attached hereto (BTL March 2019 Press Release).

13 18. BTL’s EMSCULPT NEO® device is FDA-cleared and uses high-  
14 intensity, electromagnetic energy to induce powerful muscle contractions—  
15 unachievable through typical voluntary contractions—to contour an individual’s  
16 physique. The EMSCULPT NEO® device is currently cleared by the FDA as a non-  
17 invasive treatment for the abdomen, buttocks, arms, calves, and thighs. BTL markets  
18 and distributes their EMSCULPT NEO® device to healthcare professionals and  
19 licenses these professionals to provide treatment services using the device.

20 19. The EMSCULPT NEO® device has been a breakthrough development in  
21 the aesthetics industry, receiving plaudits from some of the industry’s largest  
22 companies. For example, the EMSCULPT NEO® device won Dermascope.com’s  
23 Aesthetician’s Choice Award in 2022 and Glamour magazine described the device as  
24 “revolutionary.” *See* **Exhibit 3**, attached hereto (Dermascope and Glamour Awards).

25 **A. The Asserted Patent**

26 20. On November 19, 2019, the United States Patent and Trademark Office  
27 (the “USPTO”) duly and lawfully issued U.S. Patent No. 10,478,634 (the “634  
28 patent”), entitled “Aesthetic Method of Biological Structure Treatment by Magnetic

1 Field” to BTL Medical Technologies SRO. A true and correct copy of the ’634 patent  
2 is attached to this Complaint as **Exhibit 4**, attached hereto (US10478634). The ’634  
3 patent was exclusively licensed to BTL, and BTL possesses the exclusive right of  
4 recovery for any past, present, or future infringement of the ’634 patent, including  
5 equitable relief and damages.

6 ***B. BTL’s Trademarks***

7 21. BTL uses and licenses registered and unregistered trademarks and trade  
8 dress to market their aesthetic equipment and treatments in the United States,  
9 including the following federally registered trademarks for HIFEM<sup>®</sup>, EMSCULPT<sup>®</sup>,  
10 EMSCULPT NEO<sup>®</sup>, and EM<sup>®</sup> (collectively, the “BTL Trademarks”):

- 11 • Registration No. 5,688,619 for HIFEM<sup>®</sup> in Class 10 for, among other things,  
12 “surgical and aesthetic medicine procedures, namely, body shaping, fat  
13 removal” and in Class 44 for “health care services;”
- 14 • Registration No. 5,572,801 for EMSCULPT<sup>®</sup> in Class 10 for, among other  
15 services, “medical apparatus and instruments for body toning and body  
16 shaping” and “medical apparatus and instruments for the removal of fat;”
- 17 • Registration No. 6,069,279 for EMSCULPT<sup>®</sup> in Class 44 for, among other  
18 services, “medical services;”
- 19 • Registration No. 6,373,947 for EMSCULPT NEO<sup>®</sup> in Class 10 for, among  
20 other services, “medical apparatus and instruments for body toning and  
21 body shaping” and “medical apparatus and instruments for the removal of  
22 fat” and in Class 44 for, among other services, “medical services;”
- 23 • Registration No. 6,206,098 for stylized EM<sup>®</sup> in Class 10 for, among other  
24 things, “apparatus and instruments for body toning and body shaping, and  
25 apparatus and instruments for the removal of fat” and in Class 44 for, among  
26 other things, “beauty salon services;” and
- 27 • Registration No. 5,915,636 for EM<sup>®</sup> in Class 10 for, among other things,  
28 “apparatus and instruments for body toning and body shaping, and apparatus

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1 and instruments for the removal of fat” and in Class 44 for, among other  
2 things, “beauty salon services.”

3 22. BTL has continuously and exclusively used the BTL Trademarks and  
4 has never abandoned them. The BTL Trademarks are validly registered in the United  
5 States and are in full force and effect. True and correct status copies of the trademark  
6 registrations for each of the above trademarks, obtained from the Trademark Status  
7 Document Retrieval (the “TSDR”) database of the USPTO, are attached to this  
8 Complaint as **Exhibit 5**, attached hereto (TSDR Status Copies). These registrations  
9 constitute *prima facie* evidence of validity of the BTL Trademarks and BTL’s  
10 exclusive right to use the BTL Trademarks under 15 U.S.C. § 1057(b).

11 23. The BTL Trademarks, therefore, perform an important source-  
12 identifying function for BTL’s aesthetic body-contouring devices like the  
13 EMSCULPT® and associated treatment services. The BTL Trademarks signify to  
14 purchasers that the body-contouring devices come from BTL, and the body-  
15 contouring services are rendered by BTL’s devices and administered by BTL-trained  
16 and BTL-authorized service providers. The market reputation and consumer goodwill  
17 associated with the BTL Trademarks are of significant value to BTL.

18  
19 **NATURE OF THIS ACTION**

20 24. This is a civil action brought by BTL arising out of Defendants’ past and  
21 present patent infringement in violation of the patent laws of the United States, 35  
22 U.S.C. § 1 *et seq.*; past trademark infringement, unfair competition, false designation  
23 of origin, and false advertising under the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a);  
24 and common law trademark infringement and unfair competition.

25 25. Upon information and belief, Defendants have since at least June 3,  
26 2022, advertised a service using a device they called EMSLIM NEO, as part of their  
27 advertising. Upon information and belief, Defendants’ use of the EMSLIM NEO  
28 device and infringing activity is ongoing, despite attorneys for BTL informing

1 Defendants that their activities violate BTL’s rights on numerous occasions. On June  
2 3, 2022, attorneys for BTL sent Defendants via FedEx and Email a letter informing  
3 Defendants of their infringing activities. BTL followed up with emails on June 21,  
4 2022, September 16, 2022, October 21, 2022, and November 18, 2022. BTL followed  
5 up with an email and another letter on June 9, 2023. BTL followed up with a final  
6 letter sent via FedEx and Email on August 28, 2023. In this letter, BTL indicated that  
7 it was the final warning and continued violation would result in a lawsuit if no  
8 response was received. Despite these efforts and outreaches, Defendants have never  
9 responded to BTL. *See Exhibit 6*, attached hereto (Letters and Emails).

10 26. The images below are representative of Defendants’ infringing conduct:

11  
12 ///

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14 ///

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**EMslim Neo 10w**

**How It Works**

EMslim NEO is the world's first and only technology that uses **Radiofrequency** and **HIEMT** (high intensity electromagnetic field) to **eliminate fat and build muscles non-invasively.**

**30 minutes**

**LESS -30% Fat**  
on average\*

**+25% Muscle MORE**  
on average\*

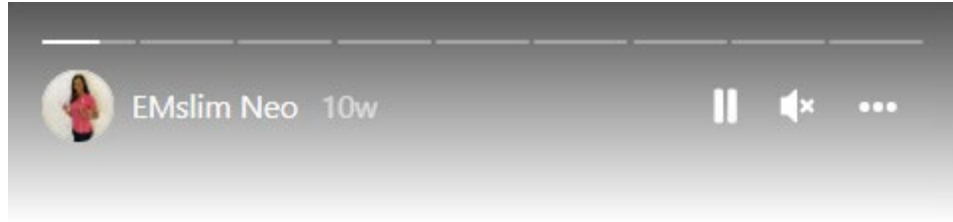
**RF**      **HIEMT+**

Fat Breakdown	Muscle Warm-Up	Supramaximal Contraction	After Treatment
In less than 4 minutes the temperature in fat reaches levels that cause their permanent damage.	The muscle temperature raises by several degrees, similar to what a warm-up activity does before any workout.	Muscles in the treated area are contracted at intensities that are not achievable during routine exercise.	The fat cells are slowly removed from the body and the strained muscle fibers initiate a growth process. This results in fat elimination and muscle building.



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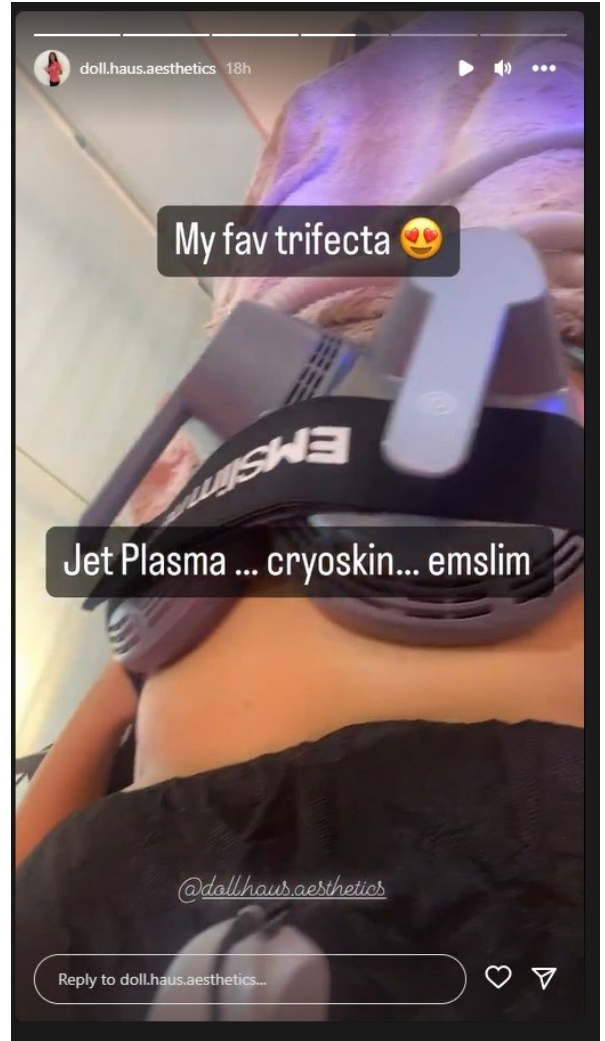
**EMSLIM NEO**  
The first 2-in-1 Solution for Body Contouring Treatments  
Two therapies in a single procedure

**RF & HIEMT + for**  
**LESS Fat** **Muscle MORE**

Optional

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27. Defendants’ use of EMSLIM NEO and HIEMT is without BTL’s authorization.

28. Upon information and belief, the EMSLIM NEO device that Defendants advertise (the “Accused Device”) is not an authentic BTL EMSCULPT NEO® device yet is similarly advertised for toning muscles in a patient. Upon information and belief, Defendants’ Accused Device uses time-varying, magnetic fields that are applied to a patient’s skin and held there using a flexible belt attached to an applicator that includes a magnetic-field-generating coil. Upon information and belief, the magnetic-field-generating coil generates a time-varying, magnetic field, and the device applies a magnetic flux of 50 T cm<sup>2</sup> to 1,500 T cm<sup>2</sup> and causes muscle

1 contraction.

2 29. Upon information and belief, Defendant Honorée Treadwell is the active  
3 agent behind the acts of Defendant Doll Haus Aesthetics.

4  
5 **COUNT I: INFRINGEMENT OF U.S. PATENT NO. 10,478,634**

6 30. BTL repeats and re-alleges paragraphs 1-28 as if fully set forth herein.

7 31. The '634 patent is directed towards a method for toning muscles in a  
8 patient using time-varying, magnetic fields. Claim 1 of the patent recites:

9 A method for toning muscles in a patient using time-varying magnetic fields,  
10 the method comprising:

11 placing a first applicator comprising a magnetic field generating coil in contact  
12 with a patient's skin or clothing at a body region of the patient, wherein  
13 the body region is an abdomen or a buttock;

14 coupling the first applicator to the patient with an adjustable flexible belt so  
15 that the belt holds the first applicator to the patient's skin or clothing;  
16 providing energy to the magnetic field generating coil in order to generate a  
17 time-varying magnetic field; and

18 applying a magnetic fluence of 50 T cm<sup>2</sup> to 1,500 T cm<sup>2</sup> to the body region,  
19 wherein the time-varying magnetic field is applied to the body region with a  
20 magnetic flux density sufficient to cause a muscle contraction in the body  
21 region.

22 32. For the reasons stated in paragraphs 23-28, Defendants' goods meet each  
23 and every limitation of at least claim 1 of the '634 patent.

24 33. Defendants have induced infringement and continue to induce direct  
25 infringement, literally or under the doctrine of equivalents, of at least claim 1 of the  
26 '634 patent by making, using, offering to sell, selling, or importing the Accused  
27 Device in the United States and by encouraging, promoting, and instructing customers  
28 to use the Accused Device in a manner that directly infringes the '634 patent.

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1 34. Defendants' infringement of the '634 patent has been, and continues to  
2 be, willful and malicious. On information and belief, Defendants have been aware of  
3 the '634 patent since before the filing of this Complaint and have infringed the '634  
4 patent willfully and deliberately and with knowledge that such conduct violates 35  
5 U.S.C. § 271. Defendants were aware of BTL's products for the reasons stated in  
6 paragraphs 23-28, and BTL marked their products with a reference to their online  
7 patent listing at [www.btl.net.com/patents](http://www.btl.net.com/patents). Moreover, BTL informed Defendants of  
8 their patent infringement by letter on June 3, 2022.

9  
10 **COUNT II: TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114**

11 35. BTL repeats and re-alleges paragraphs 1-28 as if fully set forth herein.

12 36. By using EMSLIM NEO and HIEMT, Defendants are creating confusion  
13 among the consuming public as to the source, origin, sponsorship, and/or affiliation  
14 of the Accused Device and services with BTL.

15 37. Defendants' conduct relating to the BTL Trademarks is without  
16 authorization.

17 38. Defendants are thus in violation of 15 U.S.C. § 1114 regarding the BTL  
18 Trademarks and 15 U.S.C. § 1125(a) regarding the use of EMSLIM NEO, HIEMT,  
19 or other confusingly similar terms.

20 39. Honorée Treadwell is the active agent behind the actions of the other  
21 Defendant.

22 40. Defendants' actions have caused BTL irreparable harm for which BTL  
23 is entitled to a permanent injunction under 15 U.S.C. § 1116.

24 41. Such acts further cause harm to BTL for which BTL is entitled to recover  
25 actual damages as well as the costs of any necessary corrective advertising.

26 42. Because Defendants' conduct is willful, malicious, and exceptional, BTL  
27 is entitled to an accounting of profits, attorneys' fees, and multiplied damages.

28

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**COUNT III: FEDERAL UNFAIR COMPETITION, FALSE DESIGNATION  
OF ORIGIN, AND FALSE ADVERTISING UNDER 15 U.S.C. § 1125**

43. BTL repeats and re-alleges paragraphs 1-28 as if fully set forth herein.

44. Defendants have no right to use the BTL Trademarks in connection with their goods and/or services, yet Defendants have passed off their goods and/or services to the public as if they were BTL’s goods.

45. Defendants have falsely held themselves out to customers and potential customers as being connected with BTL.

46. Defendants have acted with intent to confuse or deceive the public as to the source and origin of their goods and services.

47. The public has in fact been confused or deceived by the source and origin of Defendants’ goods and services.

48. Honorée Treadwell is the active agent behind the conduct of the other Defendant.

49. Defendants’ unlawful conduct is willful and malicious and constitutes unfair competition under 15 U.S.C. § 1125.

**COUNT IV: COMMON LAW TRADEMARK INFRINGEMENT  
AND UNFAIR COMPETITION**

50. BTL repeats and re-alleges paragraphs 1-28 as if fully set forth herein.

51. Defendants have without authorization, intentionally, willfully, and maliciously used the BTL Trademarks, confusingly similar variations of these trademarks, and research findings from the BTL Studies to promote, market, offer for sale, and sell their goods and services.

52. Defendants’ actions have caused and are likely to cause consumer confusion for reasons stated in paragraphs 23-28.

53. Defendants’ actions have caused and will continue to cause BTL to sustain actual damages and lost profits in this District.

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1 54. BTL has no adequate remedy at law and will continue to suffer  
2 irreparable harm unless Defendants are enjoined.

3 55. Because of Defendants’ unlawful conduct as alleged above, BTL has  
4 been substantially injured and is entitled to damages and profits attributable to the  
5 unlawful conduct, which are presently indeterminate, and the costs of this action.  
6

7 **PRAYER FOR RELIEF**

8 WHEREFORE BTL requests entry of judgment against Defendants as follows:

- 9 1. A judgment that Defendants have infringed one or more claims of U.S.  
10 Patent No. 10,478,634 in violation of 35 U.S.C. § 271(b)-(c);
- 11 2. An award of damages for infringement of the ’634 patent, with said  
12 damages to be trebled because of the intentional, willful, and malicious  
13 nature of Defendants’ infringement, as provided by 35 U.S.C. § 284;
- 14 3. A judgment that Defendants have willfully and maliciously infringed one  
15 or more claims of the ’634 patent;
- 16 4. A determination that this case is “exceptional” under 35 U.S.C § 285 and  
17 an award of BTL’s reasonable attorneys’ fees;
- 18 5. An order permanently enjoining Defendants, their officers, directors,  
19 employees, agents, and all persons acting in concert with them, from  
20 infringing the ’634 patent;
- 21 6. A judgment that Defendants have violated the Lanham Act, 15 U.S.C. §  
22 1114, by committing acts of trademark infringement;
- 23 7. A judgment that the HIEMT mark is confusingly similar to BTL’s  
24 HIFEM<sup>®</sup> trademark and that Defendants’ use of that mark, as alleged in  
25 this Complaint, infringes BTL’s HIFEM<sup>®</sup> trademark;
- 26 8. A judgment that the EMSLIM NEO mark is confusingly similar to  
27 BTL’s EMSCULPT NEO<sup>®</sup> trademarks and that Defendants’ use of that  
28 mark, as alleged in this Complaint, infringes BTL’s EMSCULPT NEO<sup>®</sup>

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- 1 trademarks;
- 2 9. A judgment that the EMSLIM NEO mark is confusingly similar to
- 3 BTL’s EM<sup>®</sup> trademark and that Defendants’ use of that mark, as alleged
- 4 in this Complaint, infringes BTL’s EM<sup>®</sup> trademark;
- 5 10. A judgment that Defendant Honorée Treadwell’s conduct in violating
- 6 BTL’s Trademarks is willful and malicious;
- 7 11. A judgment that Defendants have violated the Lanham Act, 15 U.S.C. §
- 8 1125(a), by committing acts of federal unfair competition, false
- 9 designation of origin, and false advertising;
- 10 12. An award of damages for Defendants’ infringement of the BTL
- 11 Trademarks, including Defendants’ profits, any damages sustained by
- 12 BTL, and the costs of the action as provided by 15 U.S.C. § 1117(a),
- 13 with said damages to be trebled because of the intentional, willful, and
- 14 malicious nature of Defendants’ infringement, as provided by 15 U.S.C.
- 15 § 1117(b);
- 16 13. A judgment that this case is “exceptional” under 15 U.S.C. § 1117(a) and
- 17 an award of reasonable attorneys’ fees;
- 18 14. An award of damages against Defendants as a result of their wrongful
- 19 acts against BTL in an amount to be proved at trial;
- 20 15. An award of any and all of Defendants’ profits arising from the foregoing
- 21 acts;
- 22 16. An award of pre-and post-judgment interest of any monetary damages at
- 23 the highest rate allowed by law;
- 24 17. Permanent injunctive relief enjoining Defendants from:
- 25 i. using the BTL Trademarks or any confusingly similar marks, in
- 26 any manner in connection with the promotion, marketing, advertising,
- 27 offering for sale, or sale of any good or service that is not a good or
- 28 service offered by a genuine BTL product, or is not authorized by BTL

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to be offered in connection with the BTL Trademarks;  
ii. passing off, inducing, or enabling others to sell or pass off any good or service as a good or service offered by a genuine BTL product, or any other good or service offered by BTL, that is not BTL's or not offered under the authorization, control, or supervision of BTL and approved by BTL for sale under the BTL Trademarks;  
iii. committing any acts calculated to cause consumers to believe that Defendants' goods or services are those sold under the authorization, control, or supervision of BTL, or are sponsored by, approved by, or otherwise connected with BTL; and  
iv. further infringing BTL's Trademarks and damaging BTL's goodwill.

///  
///  
///

- 1 18. An award of BTL’s costs and expenses in this action; and
- 2 19. For such other relief as the Court may deem just and proper.

3  
4 DATED: October 16, 2023

PAYNE & FEARS LLP

5  
6 /s/ Randy R. Haj

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**JURY DEMAND**

Under Rule 38 of the Federal Rules of Civil Procedure, Plaintiff BTL Industries, Inc. respectfully demands a trial by jury of any issues triable of right by a jury.

DATED: October 16, 2023

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