

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA**

ACCESS GLOBAL SCIENCES LLC,

Plaintiff,

vs.

ALEXANDER LEBED, GEORGE GONCHAR,  
MICHAEL FRIDMAN, DMITRY KUZMENKOV,  
MARK KATSOS, CONTESSA DUBOIS, HEALTH  
SOLUTION LLC, HEALTH SOLUTION USA LLC,  
LIFE NUTRITION LLC, LIFE NUTRITION USA  
LLC, NATURE SUPPLEMENTS LLC, NATURE  
SUPPLEMENTS USA LLC, PL NUTRITION LLC,  
PRIVATE LABEL NUTRITION LLC, PRIVATE  
LABEL NUTRITION USA LLC, SPORT  
NUTRITION & VITAMINS LLC, SPORT  
SUPPLEMENTS LLC, THE SUPPLEMENT SHOP  
LLC, and VIP VITAMINS LLC,

Defendants.

C.A. No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff, Access Global Sciences LLC (“Plaintiff” OR “AGS”), hereby alleges as follows against Defendants Alexander Lebed (“Lebed”), George Gonchar (“Gonchar”), Michael Fridman (“Fridman”), Dmitry Kuzmenkov (“Kuzmenkov”), Mark Katsos (“Katsos”), Contessa Dubois (“Dubois”), Health Solution LLC (“Health Solution”), Health Solution USA LLC (“Health Solution USA”), Life Nutrition LLC (“Life Nutrition”), Life Nutrition USA LLC (“Life Nutrition USA”), Nature Supplements LLC (“Nature Supplements”), Nature Supplements USA LLC (“Nature Supplements USA”), PL Nutrition LLC (“PL Nutrition”), Private Label Nutrition LLC (“Private Label”), Private Label Nutrition USA LLC (“Private Label USA”) Sport Nutrition & Vitamins LLC (“Sport Nutrition”), Sport Supplements LLC (“Sport Supplements”), The

Supplement Shop LLC (“Supplement Shop”) and VIP Vitamins LLC (“VIP Vitamins”). Defendants Lebed, Gonchar, Fridman, Kuzmenkov, Katsos, and Dubois are collectively referred to herein as the “Individual Defendants.” All Defendants that are LLCs are collectively referred to herein as the “LLC Defendants.” The Individual Defendants and LLC Defendants together are collectively referred to herein as “Defendants.”

### **NATURE OF THE CLAIMS**

1. This is an action for patent infringement arising under 35 U.S.C. § 1, *et seq.* Plaintiff is the owner of U.S. Pat. Nos. 11,241,403 (the “403 Patent”) and 11,020,362 (the “362 Patent”) (collectively, the “Asserted Patents”). *See* Exhibits A and B. The Asserted Patents include claims for unique formulations of the health supplement Beta-Hydroxybutyrate (“BHB”). Without authorization, Defendants make, use, offer for sale, and sell products that infringe the Asserted Patents through hundreds of listings on the e-commerce platform eBay.com (collectively, the “Accused Products”). Plaintiff seeks injunctive relief and damages adequate to compensate for Defendants’ infringement.

### **THE PARTIES**

2. AGS is a Utah limited liability company with a principal place of business at 2157 Lincoln St, Salt Lake City, UT 84106.

3. On information and belief, Lebed is an individual residing at 4600 Old Oak Rd, Doylestown, PA 18902. In 2005, Lebed was investigated by the FBI and indicted on over 100 criminal counts, including for wire fraud, mail fraud, and money laundering related to a business that he owned and operated in Pennsylvania. Lebed pleaded guilty to dozens of counts.

4. On information and belief, Gonchar is an individual residing at 7915 Bustleton Ave, Philadelphia, PA 19152. In 2012, Gonchar was also investigated by the FBI and indicted in a

separate money laundering scheme related to a different business that he owned and operated in Pennsylvania. Gonchar was also found guilty on multiple counts.

5. On information and belief, Fridman is an individual residing at 126 Moredun Rd, Philadelphia, PA 19115.

6. On information and belief, Kuzmenkov is an individual residing at 1728 Balas Cir, Southampton, PA 18966.

7. On information and belief, Katsos is an individual residing at 139 Swamp Rd, Newtown, PA 18940.

8. On information and belief, Dubois is an individual residing at 301 Brook Meadow Dr, Mechanicsburg, PA 17050.

9. On information and belief, Health Solution is a Pennsylvania limited liability company with a registered address at 2030 County Line Rd, #220, Huntingdon Valley, PA 19006. Also on information and belief, Health Solution was formed by Gonchar and Kuzmenkov but now Kuzmenkov is the sole member, manager, and owner.

10. On information and belief, Health Solution USA is a Pennsylvania limited liability company with a registered address at 2337 Philmont Ave, Ste 108, Huntingdon Valley, PA 19006. Also on information and belief, the members, managers, and owners of Health Solution USA are Lebed, Gonchar, and Fridman.

11. On information and belief, Life Nutrition is a Pennsylvania limited liability company with a registered address at 634 Stream Ridge Lane, Feasterville, PA 19053. Also on information and belief, Fridman is the member, manager, and owner of Life Nutrition.

12. On information and belief, Life Nutrition USA LLC is a limited liability company with a registered address at 9754 Hilspach St, Philadelphia, PA 19115. Also on information and belief, Gonchar is the sole member, manager, and owner of Life Nutrition USA LLC.

13. On information and belief, Nature Supplements is a Pennsylvania limited liability company with a registered address at 26 Moredun Rd, Philadelphia, PA 19115. Also on information and belief, Fridman is the sole member, manager, and owner of Nature Supplements.

14. On information and belief, Nature Supplements USA is a Pennsylvania limited liability company with a registered address at 148 E Street Rd, #324, Feasterville, PA 19053. On information and belief, Lebed is the sole owner and member of Nature Supplements USA.

15. On information and belief, PL Nutrition is a Pennsylvania limited liability company with a registered address at 4201 Neshaminy Boulevard, #108, Bensalem, PA 19020. Also on information and belief, PL Nutrition was formed by Kuzmenkov but now Lebed is the sole member, manager, and owner.

16. On information and belief, Private Label is a Pennsylvania limited liability company with a registered address at 4201 Neshaminy Boulevard, #108, Bensalem, PA 19020. Also on information and belief, Private Label was formed by Kuzmenkov but now Lebed is the sole member, manager, and owner.

17. On information and belief, Private Label USA is a Pennsylvania limited liability company with a registered address at 4201 Neshaminy Boulevard, #108, Bensalem, PA 19020. Also on information and belief, Private Label USA was formed by Kuzmenkov but now Lebed is the sole member, manager, and owner.

18. On information and belief, Sport Nutrition is a Pennsylvania limited liability company with a registered address at 4201 Neshaminy Boulevard, #108, Bensalem, PA 19020. Also on information and belief, Lebed is the sole member, manager, and owner of Sport Nutrition.

19. On information and belief, Sport Supplements is a Pennsylvania limited liability company with a registered address at 137 Swamp Rd, Newtown, PA 18940. Also on information and belief, Katsos is the sole member, manager, and owner of Sport Supplements.

20. On information and belief, Supplement Shop is a Pennsylvania limited liability company with a registered address at 1146 Brockton Cir, New Cumberland, PA 17070. Also on information and belief, Dubois is the sole member, manager, and owner of Supplement Shop.

21. On information and belief, VIP Vitamins is a Pennsylvania limited liability company with a registered address at 148 E Street Rd, #166 Feasterville, PA 19053. Also on information and belief, Lebed is the sole member, manager, and owner of VIP Vitamin.

22. As alleged in Paragraphs 2-21, *supra*, of the thirteen LLC Defendants, six are wholly-owned by Lebed. Another is owned by Lebed, Gonchar, and Fridman. Another by just Gonchar. Two others by just Fridman. One was previously owned by Gonchar but is now owned by Kuzmenkov. Three were previously owned by Kuzmenkov but are now owned by Lebed. One more is owned by Katsos and another by Dubois.

23. On information and belief, including based on the facts alleged in Paragraphs 9-22 *supra* and 29-33 and 41-49 *infra*, the Individual Defendants conspire together to willfully infringe the Asserted Patents by making, offering for sale, selling, and using the Accused Products.

24. On information and belief, including based on the facts alleged in Paragraphs 9-22 *supra* and 29-33 and 41-49 *infra*, the Individual Defendants created a complex web of the

interrelated LLC Defendants in a fraudulent attempt to mask their identities and shield themselves from liability, including for the misconduct alleged herein.

25. On information and belief, including based on the facts alleged in Paragraphs 9-22 *supra* and 29-33 and 41-49 *infra*, because the LLC Defendants were created in a fraudulent attempt to shield the Individual Defendants from liability, each of the LLC Defendants is undercapitalized and has been since it was formed.

26. On information and belief, including based on the facts alleged in Paragraphs 9-22 *supra* and 29-33 and 41-49 *infra*, the LLC Defendants fail to adhere to any corporate formalities, including a failure to maintain separate bank accounts for the LLC Defendants, a failure to hold corporate meetings, and a failure to keep proper business records.

27. On information and belief, including based on the facts alleged in Paragraphs 9-22 *supra* and 29-33 and 41-49 *infra*, the LLC Defendants commingle all assets with their corresponding Individual Defendants. In fact, on information and belief, the LLC Defendants have no assets beyond their business names and registrations.

28. On information and belief, including based on the facts alleged in Paragraphs 9-22 *supra* and 29-33 and 41-49 *infra*, all funds for each LLC Defendant are improperly siphoned directly to their corresponding Individual Defendants.

29. On information and belief, while the LLC Defendants are registered under various Pennsylvania addresses, all but one address is either (1) residential, (2) mail-only (i.e. a P.O. Box), or (3) non-existent. Defendants' only commercial address is a warehouse located at 2337 Philmont Ave, Ste 108, Huntingdon Valley, PA, which is the registered address for Health Solution USA.

30. While investigating Defendants' infringement in this matter, Plaintiff purchased sample products from each of the Defendants. Plaintiff made the sample purchases for all products

on the same day. USPS tracking data reveals that all shipping labels for the test purchases were printed the following day within 30 minutes of each other. All of the packages were then taken to the **same post office at the same time** in Huntingdon Valley—the closest post office to Defendants’ warehouse at 2337 Philmont Ave, Ste 108, Huntingdon Valley, PA.

31. All of the products were shipped in identical Uline Poly Bubble Mailers with identical Pitney Bowes labels and identically-formatted invoices folded in an identical manner inside each envelope.

32. Although they were marketed with different bottles online, the test products were each sealed in identical brown bottles with identical red caps and identical tamper-proof seals. Each bottle contains the same quantity (60) of identical pills. Each product is called “Keto 3000.” Furthermore, each of the bottles bears one of just three, identically-formatted lot numbers (30068, 33493, or 34032)—indicating that they were all manufactured by the same entity, in the same facility, at around the same time.



33. Even Defendants struggle to untangle the intricate web of entities created to mask their wrongdoing. As just one example, the eBay account for “Health Solution USA” states in separate locations in the seller profile and listing descriptions that it is Health Solution USA LLC (owned by Lebed, Gonchar, and Fridman), Health Solution LLC (owned by Kuzmenkov), The Supplement Shop LLC (owned by Dubois), and Supplements LLC (a non-existent entity).

34. For at least the reasons alleged in Paragraphs 2-33, *supra*, on information and belief, the Defendants operate as a single entity, are alter-egos of each other, and are effectively the same entity—at least for purposes of the misconduct alleged herein.

35. Furthermore, for at least the reasons alleged in Paragraphs 2-34, *supra*, on information and belief, the LLC Defendants are sham entities and are merely facades created in a fraudulent attempt to shield their corresponding Individual Defendants from liability, including for the egregious and willful misconduct alleged herein. There is no corporate veil and each of the Defendants—including each of the Individual Defendants—is jointly and severally liable for the misconduct alleged herein.

### **JURISDICTION AND VENUE**

36. This court has original subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a) because this matter arises under the patent laws of the United States, 35 U.S.C. § 1, *et seq.*

37. This Court has personal jurisdiction over Defendants at least because each Defendant is resident in Pennsylvania and because each Defendant engages in the patent infringements giving rise to this action from within Pennsylvania.

38. Venue is proper in this district under 28 U.S.C § 1400(b) because each Defendant either resides in this district and/or engages in the patent infringements giving rise to this action from a principal place of business within this district. On information and belief, all Defendants



reside in this district except Dubois and Katsos and their LLCs—Supplement Shop and Sport Supplements. On information and belief, all Defendants—including Dubois, Katsos, Supplement Shop, and Sport Supplements—have the same principal place of business at 2337 Philmont Ave, Ste 108, Huntingdon Valley, PA from which they conduct a substantial portion of the infringing activities giving rise to this action, including making, offering for sale, selling, using, and distributing the Accused Products.

### **BACKGROUND**

39. Plaintiff is a leader and innovator in the field of exogenous ketones and ketogenic precursor supplement products. These products aid the body in producing and sustaining elevated levels of ketone bodies in the blood and assist in the body's transition into nutritional ketosis. Plaintiff has patent rights in many unique formulations of BHB, including those claimed in the Asserted Patents.

40. Defendants make, use, offer for sale, and sell the Accused Products through nearly 400 product listings on eBay.com with a formula that blatantly infringes Plaintiff's exclusive rights in the Asserted Patents. Although Defendants sell the Accused Products under various brands, all of the Accused Products are advertised and sold under the same name: Keto 3000.

41. For at least the reasons alleged in Paragraphs 30-35 and 39-40, *supra*, the Accused Products are, in fact, all the same product, and on information and belief, are manufactured, marketed, sold, and shipped by the same entity on behalf of all the Defendants.

42. On information and belief, Defendants, operating under Health Solution LLC, Health Solution USA LLC, and The Supplement Shop LLC, sell the Accused Products through at least the following 57 listings on eBay.com:

<https://www.ebay.com/itm/226099808627>  
<https://www.ebay.com/itm/326094756413>

<https://www.ebay.com/itm/226099813361>  
<https://www.ebay.com/itm/226099814207>

<https://www.ebay.com/itm/226099827099>  
<https://www.ebay.com/itm/226099824090>  
<https://www.ebay.com/itm/326094767441>  
<https://www.ebay.com/itm/224046676446>  
<https://www.ebay.com/itm/224046676449>  
<https://www.ebay.com/itm/226099827109>  
<https://www.ebay.com/itm/326094756419>  
<https://www.ebay.com/itm/324343211657>  
<https://www.ebay.com/itm/326094756429>  
<https://www.ebay.com/itm/326094759995>  
<https://www.ebay.com/itm/226099808597>  
<https://www.ebay.com/itm/226099808618>  
<https://www.ebay.com/itm/226099808620>  
<https://www.ebay.com/itm/226099808624>  
<https://www.ebay.com/itm/226099808626>  
<https://www.ebay.com/itm/226099808632>  
<https://www.ebay.com/itm/226099808637>  
<https://www.ebay.com/itm/226099808639>  
<https://www.ebay.com/itm/326094756436>  
<https://www.ebay.com/itm/326094756457>  
<https://www.ebay.com/itm/326094759933>  
<https://www.ebay.com/itm/326094759982>  
<https://www.ebay.com/itm/326094760001>  
<https://www.ebay.com/itm/326094760006>  
<https://www.ebay.com/itm/326094760030>  
<https://www.ebay.com/itm/226099815483>  
<https://www.ebay.com/itm/326094764875>

<https://www.ebay.com/itm/326094767392>  
<https://www.ebay.com/itm/226099827064>  
<https://www.ebay.com/itm/326094769586>  
<https://www.ebay.com/itm/326094774959>  
<https://www.ebay.com/itm/226099835519>  
<https://www.ebay.com/itm/326094764908>  
<https://www.ebay.com/itm/326094779045>  
<https://www.ebay.com/itm/326094766490>  
<https://www.ebay.com/itm/326094767893>  
<https://www.ebay.com/itm/326094766432>  
<https://www.ebay.com/itm/226099808591>  
<https://www.ebay.com/itm/226099808601>  
<https://www.ebay.com/itm/226099808610>  
<https://www.ebay.com/itm/226099808631>  
<https://www.ebay.com/itm/326094756400>  
<https://www.ebay.com/itm/326094756418>  
<https://www.ebay.com/itm/226099814197>  
<https://www.ebay.com/itm/326094760033>  
<https://www.ebay.com/itm/326094760036>  
<https://www.ebay.com/itm/326094760037>  
<https://www.ebay.com/itm/226099827083>  
<https://www.ebay.com/itm/326094769563>  
<https://www.ebay.com/itm/326094769618>  
<https://www.ebay.com/itm/226099836423>  
<https://www.ebay.com/itm/226099837198>  
<https://www.ebay.com/itm/326094778632>

43. On information and belief, Defendants, operating under Life Nutrition LLC and Life Nutrition USA LLC, sell the Accused Products through at least the following 48 listings on eBay.com:

<https://www.ebay.com/itm/256403583281>  
<https://www.ebay.com/itm/256403583294>  
<https://www.ebay.com/itm/256403583312>  
<https://www.ebay.com/itm/266659276735>  
<https://www.ebay.com/itm/256403585446>  
<https://www.ebay.com/itm/266659279473>  
<https://www.ebay.com/itm/266659279481>  
<https://www.ebay.com/itm/256194524028>  
<https://www.ebay.com/itm/256403585432>  
<https://www.ebay.com/itm/256403585454>  
<https://www.ebay.com/itm/264735289202>  
<https://www.ebay.com/itm/254426033385>  
<https://www.ebay.com/itm/256403602192>

<https://www.ebay.com/itm/256403602193>  
<https://www.ebay.com/itm/256403602194>  
<https://www.ebay.com/itm/256403602195>  
<https://www.ebay.com/itm/256403602196>  
<https://www.ebay.com/itm/256403602197>  
<https://www.ebay.com/itm/256403602198>  
<https://www.ebay.com/itm/256403602199>  
<https://www.ebay.com/itm/256403602200>  
<https://www.ebay.com/itm/256403602209>  
<https://www.ebay.com/itm/266659300800>  
<https://www.ebay.com/itm/266659300801>  
<https://www.ebay.com/itm/266659300804>  
<https://www.ebay.com/itm/266659300805>

<https://www.ebay.com/itm/266659300807>  
<https://www.ebay.com/itm/266659300811>  
<https://www.ebay.com/itm/256403602266>  
<https://www.ebay.com/itm/266659300822>  
<https://www.ebay.com/itm/266659300847>  
<https://www.ebay.com/itm/266659300878>  
<https://www.ebay.com/itm/266288266089>  
<https://www.ebay.com/itm/255185176650>  
<https://www.ebay.com/itm/265366804299>  
<https://www.ebay.com/itm/254716127363>  
<https://www.ebay.com/itm/256404675088>

<https://www.ebay.com/itm/266661018162>  
<https://www.ebay.com/itm/266661018177>  
<https://www.ebay.com/itm/256404675081>  
<https://www.ebay.com/itm/256404675094>  
<https://www.ebay.com/itm/266661018169>  
<https://www.ebay.com/itm/256404675107>  
<https://www.ebay.com/itm/256404675121>  
<https://www.ebay.com/itm/256404675122>  
<https://www.ebay.com/itm/256404675123>  
<https://www.ebay.com/itm/266661018198>  
<https://www.ebay.com/itm/266661018219>

44. On information and belief, Defendants, operating under Nature Supplements LLC,

sell the Accused Products through at least the following 63 listings on eBay.com:

<https://www.ebay.com/itm/284486295578>  
<https://www.ebay.com/itm/276441131923>  
<https://www.ebay.com/itm/285832109057>  
<https://www.ebay.com/itm/285832108587>  
<https://www.ebay.com/itm/285832118639>  
<https://www.ebay.com/itm/276441124779>  
<https://www.ebay.com/itm/285832107005>  
<https://www.ebay.com/itm/285832111138>  
<https://www.ebay.com/itm/284454680468>  
<https://www.ebay.com/itm/284381398798>  
<https://www.ebay.com/itm/276441129879>  
<https://www.ebay.com/itm/276441128027>  
<https://www.ebay.com/itm/285832106029>  
<https://www.ebay.com/itm/276441145180>  
<https://www.ebay.com/itm/276441128026>  
<https://www.ebay.com/itm/285832123154>  
<https://www.ebay.com/itm/284486295555>  
<https://www.ebay.com/itm/284486269234>  
<https://www.ebay.com/itm/276441132581>  
<https://www.ebay.com/itm/274966414608>  
<https://www.ebay.com/itm/276441121920>  
<https://www.ebay.com/itm/276441129178>  
<https://www.ebay.com/itm/285832109076>  
<https://www.ebay.com/itm/285559129909>  
<https://www.ebay.com/itm/285832103779>  
<https://www.ebay.com/itm/276441129103>  
<https://www.ebay.com/itm/276441135220>  
<https://www.ebay.com/itm/285832114150>  
<https://www.ebay.com/itm/285832106485>  
<https://www.ebay.com/itm/276441132571>

<https://www.ebay.com/itm/285832110050>  
<https://www.ebay.com/itm/285832123816>  
<https://www.ebay.com/itm/276441125762>  
<https://www.ebay.com/itm/276441135160>  
<https://www.ebay.com/itm/284486284341>  
<https://www.ebay.com/itm/285832116728>  
<https://www.ebay.com/itm/276441146128>  
<https://www.ebay.com/itm/285832103232>  
<https://www.ebay.com/itm/276441139667>  
<https://www.ebay.com/itm/285832104866>  
<https://www.ebay.com/itm/276441140439>  
<https://www.ebay.com/itm/285832102557>  
<https://www.ebay.com/itm/276441124830>  
<https://www.ebay.com/itm/276441151562>  
<https://www.ebay.com/itm/274043844274>  
<https://www.ebay.com/itm/276441146056>  
<https://www.ebay.com/itm/276441133012>  
<https://www.ebay.com/itm/285832108330>  
<https://www.ebay.com/itm/276441146130>  
<https://www.ebay.com/itm/276441147044>  
<https://www.ebay.com/itm/284486269172>  
<https://www.ebay.com/itm/276441135134>  
<https://www.ebay.com/itm/285832122224>  
<https://www.ebay.com/itm/276441153484>  
<https://www.ebay.com/itm/276441142704>  
<https://www.ebay.com/itm/276441152421>  
<https://www.ebay.com/itm/285140211088>  
<https://www.ebay.com/itm/285832108653>  
<https://www.ebay.com/itm/276441135132>  
<https://www.ebay.com/itm/276441135708>

<https://www.ebay.com/itm/285832110568>  
<https://www.ebay.com/itm/285832113783>

<https://www.ebay.com/itm/276441122521>

45. On information and belief, Defendants, operating under PL Nutrition LLC, sell the

Accused Products through at least the following 48 listings on eBay.com:

<https://www.ebay.com/itm/224074928979>  
<https://www.ebay.com/itm/224629707116>  
<https://www.ebay.com/itm/226099969012>  
<https://www.ebay.com/itm/226099969015>  
<https://www.ebay.com/itm/226099969020>  
<https://www.ebay.com/itm/226099969027>  
<https://www.ebay.com/itm/226099969065>  
<https://www.ebay.com/itm/226099969090>  
<https://www.ebay.com/itm/226099969118>  
<https://www.ebay.com/itm/226099969715>  
<https://www.ebay.com/itm/226099969826>  
<https://www.ebay.com/itm/226099969880>  
<https://www.ebay.com/itm/226099973340>  
<https://www.ebay.com/itm/226099974190>  
<https://www.ebay.com/itm/226099976936>  
<https://www.ebay.com/itm/225946017011>  
<https://www.ebay.com/itm/225523085066>  
<https://www.ebay.com/itm/226099979707>  
<https://www.ebay.com/itm/226099981786>  
<https://www.ebay.com/itm/226099981795>  
<https://www.ebay.com/itm/226099983162>  
<https://www.ebay.com/itm/226099983186>  
<https://www.ebay.com/itm/226099983236>  
<https://www.ebay.com/itm/226099984521>

<https://www.ebay.com/itm/226099985411>  
<https://www.ebay.com/itm/226099985442>  
<https://www.ebay.com/itm/226099985467>  
<https://www.ebay.com/itm/226099985495>  
<https://www.ebay.com/itm/226099985570>  
<https://www.ebay.com/itm/226099986686>  
<https://www.ebay.com/itm/226099986690>  
<https://www.ebay.com/itm/226099986694>  
<https://www.ebay.com/itm/226099986739>  
<https://www.ebay.com/itm/226099986826>  
<https://www.ebay.com/itm/226099986860>  
<https://www.ebay.com/itm/226099988096>  
<https://www.ebay.com/itm/226099989075>  
<https://www.ebay.com/itm/226099989906>  
<https://www.ebay.com/itm/226099989997>  
<https://www.ebay.com/itm/226099990040>  
<https://www.ebay.com/itm/226099990072>  
<https://www.ebay.com/itm/226099990112>  
<https://www.ebay.com/itm/226099990791>  
<https://www.ebay.com/itm/226099990794>  
<https://www.ebay.com/itm/226099990797>  
<https://www.ebay.com/itm/226099990836>  
<https://www.ebay.com/itm/226099990989>  
<https://www.ebay.com/itm/226099991757>

46. On information and belief, Defendants, operating under Private Label Nutrition

LLC and Private Label Nutrition USA LLC, sell the Accused Products through at least the following 63 listings on eBay.com:

<https://www.ebay.com/itm/285830273950>  
<https://www.ebay.com/itm/276439785394>  
<https://www.ebay.com/itm/276439785395>  
<https://www.ebay.com/itm/285830273609>  
<https://www.ebay.com/itm/285830260059>  
<https://www.ebay.com/itm/276439785775>  
<https://www.ebay.com/itm/276439794761>  
<https://www.ebay.com/itm/276439794765>  
<https://www.ebay.com/itm/274394620549>

<https://www.ebay.com/itm/283911042227>  
<https://www.ebay.com/itm/274034253329>  
<https://www.ebay.com/itm/274973647419>  
<https://www.ebay.com/itm/284476132324>  
<https://www.ebay.com/itm/274973648374>  
<https://www.ebay.com/itm/274973648866>  
<https://www.ebay.com/itm/285830273602>  
<https://www.ebay.com/itm/276439785404>  
<https://www.ebay.com/itm/285830267500>

<https://www.ebay.com/itm/276439781402>  
<https://www.ebay.com/itm/276439781479>  
<https://www.ebay.com/itm/285830255289>  
<https://www.ebay.com/itm/285830255311>  
<https://www.ebay.com/itm/276439781948>  
<https://www.ebay.com/itm/285830255727>  
<https://www.ebay.com/itm/285830259598>  
<https://www.ebay.com/itm/276439791295>  
<https://www.ebay.com/itm/285830267495>  
<https://www.ebay.com/itm/285830267499>  
<https://www.ebay.com/itm/276439791364>  
<https://www.ebay.com/itm/285830259518>  
<https://www.ebay.com/itm/276439791291>  
<https://www.ebay.com/itm/276439791301>  
<https://www.ebay.com/itm/276439784856>  
<https://www.ebay.com/itm/276439781462>  
<https://www.ebay.com/itm/285830255286>  
<https://www.ebay.com/itm/285830259579>  
<https://www.ebay.com/itm/285830266232>  
<https://www.ebay.com/itm/276439794235>  
<https://www.ebay.com/itm/276439789884>  
<https://www.ebay.com/itm/285830273029>  
<https://www.ebay.com/itm/285830273049>

<https://www.ebay.com/itm/276439789888>  
<https://www.ebay.com/itm/283875150134>  
<https://www.ebay.com/itm/274394641724>  
<https://www.ebay.com/itm/283857174832>  
<https://www.ebay.com/itm/274973661156>  
<https://www.ebay.com/itm/285830248298>  
<https://www.ebay.com/itm/285830248285>  
<https://www.ebay.com/itm/285830248311>  
<https://www.ebay.com/itm/276439774024>  
<https://www.ebay.com/itm/276439774026>  
<https://www.ebay.com/itm/276439774030>  
<https://www.ebay.com/itm/285830248266>  
<https://www.ebay.com/itm/285830248267>  
<https://www.ebay.com/itm/285830248287>  
<https://www.ebay.com/itm/276439774048>  
<https://www.ebay.com/itm/285830248259>  
<https://www.ebay.com/itm/285830248261>  
<https://www.ebay.com/itm/285830248281>  
<https://www.ebay.com/itm/285830248262>  
<https://www.ebay.com/itm/285830248296>  
<https://www.ebay.com/itm/276439774039>  
<https://www.ebay.com/itm/283911055133>

47. On information and belief, Defendants, operating under Sport Nutrition & Vitamins

LLC and Sport Supplements LLC, sell the Accused Products through at least the following 49 listings on eBay.com:

<https://www.ebay.com/itm/116062192805>  
<https://www.ebay.com/itm/116160840784>  
<https://www.ebay.com/itm/116160840780>  
<https://www.ebay.com/itm/116160840786>  
<https://www.ebay.com/itm/116160840806>  
<https://www.ebay.com/itm/116160840809>  
<https://www.ebay.com/itm/116160840811>  
<https://www.ebay.com/itm/124157395673>  
<https://www.ebay.com/itm/124399334449>  
<https://www.ebay.com/itm/123924224603>  
<https://www.ebay.com/itm/124212605352>  
<https://www.ebay.com/itm/124857886161>  
<https://www.ebay.com/itm/116160854194>  
<https://www.ebay.com/itm/116160854200>  
<https://www.ebay.com/itm/116160854206>  
<https://www.ebay.com/itm/116160854209>  
<https://www.ebay.com/itm/126452231611>

<https://www.ebay.com/itm/126452231639>  
<https://www.ebay.com/itm/116160854394>  
<https://www.ebay.com/itm/126452231847>  
<https://www.ebay.com/itm/126452231868>  
<https://www.ebay.com/itm/126452231870>  
<https://www.ebay.com/itm/116160854404>  
<https://www.ebay.com/itm/116160854405>  
<https://www.ebay.com/itm/126452231883>  
<https://www.ebay.com/itm/126452231923>  
<https://www.ebay.com/itm/116160854421>  
<https://www.ebay.com/itm/116160854435>  
<https://www.ebay.com/itm/126452231909>  
<https://www.ebay.com/itm/115046156404>  
<https://www.ebay.com/itm/114475540296>  
<https://www.ebay.com/itm/124831843304>  
<https://www.ebay.com/itm/123924239406>  
<https://www.ebay.com/itm/114248650527>

<https://www.ebay.com/itm/124212607936>  
<https://www.ebay.com/itm/124212610278>  
<https://www.ebay.com/itm/114190880985>  
<https://www.ebay.com/itm/116160872589>  
<https://www.ebay.com/itm/116160872571>  
<https://www.ebay.com/itm/126452240364>  
<https://www.ebay.com/itm/126452240383>  
<https://www.ebay.com/itm/116160872608>

<https://www.ebay.com/itm/126452240378>  
<https://www.ebay.com/itm/126452240395>  
<https://www.ebay.com/itm/116160872592>  
<https://www.ebay.com/itm/116160872604>  
<https://www.ebay.com/itm/124953795342>  
<https://www.ebay.com/itm/123924267884>  
<https://www.ebay.com/itm/123924269661>

48. On information and belief, Defendants, operating under VIP Vitamins LLC, sell the

Accused Products through at least the following 49 listings on eBay.com:

<https://www.ebay.com/itm/293642235409>  
<https://www.ebay.com/itm/296209633546>  
<https://www.ebay.com/itm/296209633547>  
<https://www.ebay.com/itm/296209633550>  
<https://www.ebay.com/itm/296209633554>  
<https://www.ebay.com/itm/296209633557>  
<https://www.ebay.com/itm/296209633568>  
<https://www.ebay.com/itm/296209633586>  
<https://www.ebay.com/itm/296209633599>  
<https://www.ebay.com/itm/293623363170>  
<https://www.ebay.com/itm/294479930942>  
<https://www.ebay.com/itm/294029604099>  
<https://www.ebay.com/itm/296209649135>  
<https://www.ebay.com/itm/296209649141>  
<https://www.ebay.com/itm/296209649149>  
<https://www.ebay.com/itm/296209649157>  
<https://www.ebay.com/itm/296209649158>  
<https://www.ebay.com/itm/296209649162>  
<https://www.ebay.com/itm/296209649164>  
<https://www.ebay.com/itm/296209649175>  
<https://www.ebay.com/itm/296209649180>  
<https://www.ebay.com/itm/296209649183>  
<https://www.ebay.com/itm/296209649185>  
<https://www.ebay.com/itm/296209649187>  
<https://www.ebay.com/itm/296209649192>

<https://www.ebay.com/itm/296209649193>  
<https://www.ebay.com/itm/296209649194>  
<https://www.ebay.com/itm/296209649195>  
<https://www.ebay.com/itm/296209649197>  
<https://www.ebay.com/itm/296209649199>  
<https://www.ebay.com/itm/296209649201>  
<https://www.ebay.com/itm/296209649203>  
<https://www.ebay.com/itm/296209649204>  
<https://www.ebay.com/itm/296209649205>  
<https://www.ebay.com/itm/296209649206>  
<https://www.ebay.com/itm/296209649207>  
<https://www.ebay.com/itm/295963690999>  
<https://www.ebay.com/itm/296209657940>  
<https://www.ebay.com/itm/294361947800>  
<https://www.ebay.com/itm/296209660199>  
<https://www.ebay.com/itm/296209660202>  
<https://www.ebay.com/itm/296209660211>  
<https://www.ebay.com/itm/296209660216>  
<https://www.ebay.com/itm/296209660217>  
<https://www.ebay.com/itm/296209660224>  
<https://www.ebay.com/itm/296209660225>  
<https://www.ebay.com/itm/296209660231>  
<https://www.ebay.com/itm/296209660249>  
<https://www.ebay.com/itm/296209660251>

49. As alleged herein, the Accused Products are all the same and each Accused Product infringes Plaintiff's exclusive rights in the Asserted Patents in the same manner.

50. Plaintiff and its BHB products—especially those products clearly marked with the Asserted Patents—are famous in the health and wellness industry, and particularly among BHB-

supplement retailers. Plaintiff's products—including those products clearly marked with the Asserted Patents—set the standard for quality and effectiveness in the industry. Plaintiff's products—including those products clearly marked with the Asserted Patents—are found through online marketplaces and brick-and-mortar stores around the country, including Amazon, Walmart, Target, Walgreens, and more. Plaintiff also has dozens of licensees of the Asserted Patents that sell products clearly marked with the Asserted Patents through various retailers. Plaintiff has ardently sought to protect its rights in the Asserted Patents, including by engaging in enforcement actions against other online retailers, including on eBay.com. On information and belief, at least considering the pervasiveness of Plaintiff's products marked with the Asserted Patents and those of its licensees, as well as the deliberate steps that the Defendants' have taken to mask their identities and the massive scale of their infringements, the Defendants are fully aware of the Asserted Patents and their infringements are willful.

51. Plaintiff directly competes with Defendants in the market for BHB supplements. Plaintiff has suffered harm from Defendants' infringements in the form of lost profits and diverted sales and market share.

**COUNT I**  
**Patent Infringement – '403 Patent**  
**35 U.S.C. § 271**

52. Plaintiff incorporates and realleges the allegations of each preceding paragraph as if fully set forth herein.

53. Plaintiff owns all rights in the '403 Patent.

54. On February 8, 2022, the '403 Patent, titled "Beta-hydroxybutyrate mixed salt compositions and methods of use" was duly and legally issued. A true and correct copy of the '403 Patent is attached as Exhibit A.



55. Plaintiff and its licensees have marked their products in accordance with 35 U.S.C. § 287(a).

56. Without license or authorization, Defendants make, use, import, offer for sale, and/or sell the Accused Products containing compounds that infringe the '403 Patent.

57. On information and belief, although they are marketed under different brands, each of the Accused Products is made with the same concentrations of the same ingredients, as exemplified below for Defendants' infringing Keto 3000 product:



<b>Supplement Facts</b>		
Serving Size: 4 Capsules		
Serving Per Container: 15		
	Amount	% Daily Value
Magnesium Beta-Hydroxybutyrate	1000 mg	*
Calcium Beta-Hydroxybutyrate	1000 mg	*
Sodium Beta-Hydroxybutyrate	1000 mg	*

\* Daily Value (DV) not established.

**OTHER INGREDIENTS:** Gelatin (bovine), vegetable magnesium stearate, and silicon dioxide.



**NON-GMO**

This product is manufactured and packaged in a facility which may also process milk, soy, wheat, egg, peanuts, tree nuts, fish, & crustacean shellfish.

**KEEP OUT OF REACH OF CHILDREN. DO NOT USE IF SAFETY SEAL IS DAMAGED OR MISSING. STORE IN A COOL, DRY PLACE.**

<https://www.ebay.com/itm/276441129178>

58. Representative claim 1 of the '403 Patent is reproduced below:

1. A composition for increasing ketone level in a subject, comprising:
  - a plurality of beta-hydroxybutyrate salts comprised of:
    - at least one beta-hydroxybutyrate salt selected from:
      - calcium beta-hydroxybutyrate; and
      - magnesium beta-hydroxybutyrate; and
    - at least one other beta-hydroxybutyrate salt selected from:
      - sodium beta-hydroxybutyrate;
      - potassium beta-hydroxybutyrate;
      - calcium beta-hydroxybutyrate;
      - magnesium beta-hydroxybutyrate; and
      - amino acid salts of beta-hydroxybutyrate,



wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,  
wherein the composition is in solid and/or powder form,  
wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.

59. As advertised in Defendants' product labels and listings, the Accused Products infringe at least representative claim 1 of the '403 Patent in the manner described below.

60. To the extent the preamble of claim 1 is limiting, the Accused Products meet the preamble of claim 1 as set forth below:

1. **A composition for increasing ketone level in a subject, comprising:  
a plurality of beta-hydroxybutyrate salts comprised of:**  
at least one beta-hydroxybutyrate salt selected from:  
calcium beta-hydroxybutyrate; and  
magnesium beta-hydroxybutyrate; and  
at least one other beta-hydroxybutyrate salt selected from:  
sodium beta-hydroxybutyrate;  
potassium beta-hydroxybutyrate;  
calcium beta-hydroxybutyrate;  
magnesium beta-hydroxybutyrate; and  
amino acid salts of beta-hydroxybutyrate,  
wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,  
wherein the composition is in solid and/or powder form,  
wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.



61. The Accused Products further meet the limitations of claim 1 as set forth below:
1. A composition for increasing ketone level in a subject, comprising:  
a plurality of beta-hydroxybutyrate salts comprised of:

at least one beta-hydroxybutyrate salt selected from:  
 calcium beta-hydroxybutyrate; and  
**magnesium beta-hydroxybutyrate**; and  
 at least one other beta-hydroxybutyrate salt selected from:  
 sodium beta-hydroxybutyrate;  
 potassium beta-hydroxybutyrate;  
 calcium beta-hydroxybutyrate;  
 magnesium beta-hydroxybutyrate; and  
 amino acid salts of beta-hydroxybutyrate,  
 wherein the beta-hydroxybutyrate salts comprise at least 20% by total  
 weight of calcium beta-hydroxybutyrate and/or magnesium beta-  
 hydroxybutyrate,  
 wherein the composition is in solid and/or powder form,  
 wherein the composition is free of medium chain fatty acids having 6 to 12  
 carbons and glycerides or other esters thereof.

<b>Supplement Facts</b>		
<b>Serving Size:</b> 4 Capsules		
<b>Serving Per Container:</b> 15		
	Amount	% Daily Value
Magnesium Beta-Hydroxybutyrate	<b>1000 mg</b>	*
Calcium Beta-Hydroxybutyrate	<b>1000 mg</b>	*
Sodium Beta-Hydroxybutyrate	<b>1000 mg</b>	*

\* Daily Value (DV) not established.

**OTHER INGREDIENTS:** Gelatin (bovine), vegetable magnesium stearate, and silicon dioxide.

62. The Accused Products further meet the limitations of claim 1 as set forth below:
1. A composition for increasing ketone level in a subject, comprising:  
 a plurality of beta-hydroxybutyrate salts comprised of:  
 at least one beta-hydroxybutyrate salt selected from:  
 calcium beta-hydroxybutyrate; and  
 magnesium beta-hydroxybutyrate; and  
 at least one other beta-hydroxybutyrate salt selected from:  
**sodium beta-hydroxybutyrate**;  
 potassium beta-hydroxybutyrate;  
**calcium beta-hydroxybutyrate**;  
 magnesium beta-hydroxybutyrate; and  
 amino acid salts of beta-hydroxybutyrate,  
 wherein the beta-hydroxybutyrate salts comprise at least 20% by total  
 weight of calcium beta-hydroxybutyrate and/or magnesium beta-  
 hydroxybutyrate,

wherein the composition is in solid and/or powder form,  
 wherein the composition is free of medium chain fatty acids having 6 to 12  
 carbons and glycerides or other esters thereof.

<b>Supplement Facts</b>		
<b>Serving Size:</b> 4 Capsules		
<b>Serving Per Container:</b> 15		
	Amount	% Daily Value
Magnesium Beta-Hydroxybutyrate	<b>1000 mg</b>	*
Calcium Beta-Hydroxybutyrate	<b>1000 mg</b>	*
Sodium Beta-Hydroxybutyrate	<b>1000 mg</b>	*

\* Daily Value (DV) not established.

**OTHER INGREDIENTS:** Gelatin (bovine), vegetable magnesium stearate, and silicon dioxide.

63. The Accused Products further meet the limitations of claim 1 as set forth below:

1. A composition for increasing ketone level in a subject, comprising:
    - a plurality of beta-hydroxybutyrate salts comprised of:
      - at least one beta-hydroxybutyrate salt selected from:
        - calcium beta-hydroxybutyrate; and
        - magnesium beta-hydroxybutyrate; and
      - at least one other beta-hydroxybutyrate salt selected from:
        - sodium beta-hydroxybutyrate;
        - potassium beta-hydroxybutyrate;
        - calcium beta-hydroxybutyrate;
        - magnesium beta-hydroxybutyrate; and
        - amino acid salts of beta-hydroxybutyrate,
    - wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,**
- wherein the composition is in solid and/or powder form,  
 wherein the composition is free of medium chain fatty acids having 6 to 12  
 carbons and glycerides or other esters thereof.

<b>Supplement Facts</b>		
Serving Size: 4 Capsules		
Serving Per Container: 15		
	Amount	% Daily Value
Magnesium Beta-Hydroxybutyrate	<b>1000 mg</b>	*
Calcium Beta-Hydroxybutyrate	<b>1000 mg</b>	*
Sodium Beta-Hydroxybutyrate	<b>1000 mg</b>	*

\* Daily Value (DV) not established.

**OTHER INGREDIENTS:** Gelatin (bovine), vegetable magnesium stearate, and silicon dioxide.

64. The Accused Products further meet the limitations of claim 1 as set forth below:

1. A composition for increasing ketone level in a subject, comprising:
  - a plurality of beta-hydroxybutyrate salts comprised of:
    - at least one beta-hydroxybutyrate salt selected from:
      - calcium beta-hydroxybutyrate; and
      - magnesium beta-hydroxybutyrate; and
    - at least one other beta-hydroxybutyrate salt selected from:
      - sodium beta-hydroxybutyrate;
      - potassium beta-hydroxybutyrate;
      - calcium beta-hydroxybutyrate;
      - magnesium beta-hydroxybutyrate; and
      - amino acid salts of beta-hydroxybutyrate,
  - wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,
  - wherein the composition is in solid and/or powder form,**
  - wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.



65. The Accused Products further meet the limitations of claim 1 as set forth below:

1. A composition for increasing ketone level in a subject, comprising:
  - a plurality of beta-hydroxybutyrate salts comprised of:
    - at least one beta-hydroxybutyrate salt selected from:
      - calcium beta-hydroxybutyrate; and
      - magnesium beta-hydroxybutyrate; and
    - at least one other beta-hydroxybutyrate salt selected from:
      - sodium beta-hydroxybutyrate;
      - potassium beta-hydroxybutyrate;
      - calcium beta-hydroxybutyrate;
      - magnesium beta-hydroxybutyrate; and
      - amino acid salts of beta-hydroxybutyrate,
  - wherein the beta-hydroxybutyrate salts comprise at least 20% by total weight of calcium beta-hydroxybutyrate and/or magnesium beta-hydroxybutyrate,
  - wherein the composition is in solid and/or powder form,
  - wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.**

<b>Supplement Facts</b>		
Serving Size: 4 Capsules		
Serving Per Container: 15		
	Amount	% Daily Value
Magnesium Beta-Hydroxybutyrate	1000 mg	*
Calcium Beta-Hydroxybutyrate	1000 mg	*
Sodium Beta-Hydroxybutyrate	1000 mg	*
* Daily Value (DV) not established.		
<b>OTHER INGREDIENTS:</b> Gelatin (bovine), vegetable magnesium stearate, and silicon dioxide.		

66. Defendants have directly infringed claim 1 of the '403 Patent in the United States by making, using, offering for sale, selling, and/or importing the Accused Products in violation of 35 U.S.C. § 271(a). As such, Defendants are liable for direct infringement of the '403 Patent under 35 U.S.C. § 271(a).

67. Defendants have indirectly infringed the '403 Patent in this District and elsewhere in the United States by inducing others—including their own customers—to infringe the Asserted

Patents. Defendants have actual knowledge of their infringement of the '403 Patent. As such, Defendants are liable for indirect infringement of the '403 Patent under 35 U.S.C. § 271(b).

68. Defendants' infringement of the '403 Patent is willful and this case is exceptional.

69. Plaintiff has suffered harm as a result of Defendants' infringement of the '403 Patent, including in the form of lost profits and diverted sales and market share. Plaintiff is therefore entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount that is to be proven at trial.

**COUNT II**  
**Patent Infringement – '362 Patent**  
**35 U.S.C. § 271**

70. Plaintiff incorporates and realleges the allegations of each preceding paragraph as if fully set forth herein.

71. Plaintiff owns all rights in the '362 Patent.

72. On June 1, 2021, the '362 Patent, titled "Beta-hydroxybutyrate mixed salt compositions and methods of use" was duly and legally issued. A true and correct copy of the '362 Patent is attached as Exhibit B.

73. Plaintiff and its licensees have marked their products in accordance with 35 U.S.C. § 287(a).

74. Without license or authorization, Defendants make, use, import, offer for sale, and/or sell the Accused Products containing compounds that infringe the '362 Patent.

75. On information and belief, although they are marketed under different brands, each of the Accused Products is made with the same concentrations of the same ingredients, as exemplified below for Defendants' infringing Keto 3000 product:



Supplement Facts		
Serving Size: 4 Capsules		
Serving Per Container: 15		
	Amount	% Daily Value
Magnesium Beta-Hydroxybutyrate	1000 mg	*
Calcium Beta-Hydroxybutyrate	1000 mg	*
Sodium Beta-Hydroxybutyrate	1000 mg	*

\* Daily Value (DV) not established.

**OTHER INGREDIENTS:** Gelatin (bovine), vegetable magnesium stearate, and silicon dioxide.



This product is manufactured and packaged in a facility which may also process milk, soy, wheat, egg, peanuts, tree nuts, fish, & crustacean shellfish.

KEEP OUT OF REACH OF CHILDREN. DO NOT USE IF SAFETY SEAL IS DAMAGED OR MISSING. STORE IN A COOL, DRY PLACE.

<https://www.ebay.com/itm/276441129178>

76. Representative claim 1 of the '362 Patent is reproduced below:

1. A composition for increasing blood ketone level in a subject, comprising:
  - at least three beta-hydroxybutyrate salts selected from:
    - sodium beta-hydroxybutyrate;
    - potassium beta-hydroxybutyrate;
    - calcium beta-hydroxybutyrate; and
    - magnesium beta-hydroxybutyrate;
  - wherein the composition is in solid and/or powder form,
  - wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.

77. As advertised in Defendants' product labels and listings, the Accused Products infringe at least representative claim 1 of the '362 Patent in the manner described below.

78. To the extent the preamble of claim 1 is limiting, the Accused Products meet the preamble of claim 1 as set forth below:

1. **A composition for increasing blood ketone level in a subject, comprising:**
  - at least three beta-hydroxybutyrate salts selected from:
    - sodium beta-hydroxybutyrate;
    - potassium beta-hydroxybutyrate;
    - calcium beta-hydroxybutyrate; and
    - magnesium beta-hydroxybutyrate;
  - wherein the composition is in solid and/or powder form,
  - wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.





79. The Accused Products further meet the limitations of claim 1 as set forth below:

A composition for increasing blood ketone level in a subject, comprising:

**at least three beta-hydroxybutyrate salts selected from:**

**sodium beta-hydroxybutyrate;**

potassium beta-hydroxybutyrate;

**calcium beta-hydroxybutyrate; and**

**magnesium beta-hydroxybutyrate;**

wherein the composition is in solid and/or powder form,

wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.

Supplement Facts		
Serving Size: 4 Capsules		
Serving Per Container: 15		
	Amount	% Daily Value
Magnesium Beta-Hydroxybutyrate	1000 mg	*
Calcium Beta-Hydroxybutyrate	1000 mg	*
Sodium Beta-Hydroxybutyrate	1000 mg	*

\* Daily Value (DV) not established.

**OTHER INGREDIENTS:** Gelatin (bovine), vegetable magnesium stearate, and silicon dioxide.

80. The Accused Products further meet the limitations of claim 1 as set forth below:

1. A composition for increasing blood ketone level in a subject, comprising:

at least three beta-hydroxybutyrate salts selected from:

sodium beta-hydroxybutyrate;

potassium beta-hydroxybutyrate;

calcium beta-hydroxybutyrate; and

magnesium beta-hydroxybutyrate;

**wherein the composition is in solid and/or powder form,**

wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.





The Accused Products further meet the limitations of claim 1 as set forth below:

1. A composition for increasing blood ketone level in a subject, comprising:
  - at least three beta-hydroxybutyrate salts selected from:
    - sodium beta-hydroxybutyrate;
    - potassium beta-hydroxybutyrate;
    - calcium beta-hydroxybutyrate; and
    - magnesium beta-hydroxybutyrate;
  - wherein the composition is in solid and/or powder form,

**wherein the composition is free of medium chain fatty acids having 6 to 12 carbons and glycerides or other esters thereof.**

<b>Supplement Facts</b>		
Serving Size: 4 Capsules		
Serving Per Container: 15		
	Amount	% Daily Value
Magnesium Beta-Hydroxybutyrate	1000 mg	*
Calcium Beta-Hydroxybutyrate	1000 mg	*
Sodium Beta-Hydroxybutyrate	1000 mg	*
* Daily Value (DV) not established.		
<b>OTHER INGREDIENTS:</b> Gelatin (bovine), vegetable magnesium stearate, and silicon dioxide.		

81. Defendants have directly infringed claim 1 of the '362 Patent in the United States by making, using, offering for sale, selling, and/or importing the Accused Products in violation of

35 U.S.C. § 271(a). As such, Defendants are liable for direct infringement of the '362 Patent under 35 U.S.C. § 271(a).

82. Defendants have indirectly infringed the '362 Patent in this District and elsewhere in the United States by inducing others—including their own customers—to infringe the Asserted Patents. Defendants have actual knowledge of their infringement of the '362 Patent. As such, Defendants are liable for indirect infringement of the '362 Patent under 35 U.S.C. § 271(b).

83. Defendants' infringement of the '362 Patent is willful and this case is exceptional.

84. Plaintiff has suffered harm as a result of Defendants' infringement of the '362 Patent, including in the form of lost profits and diverted sales and market share. Plaintiff is therefore entitled to recover damages sustained as a result of Defendants' wrongful acts in an amount that is to be proven at trial.

#### **PRAYER FOR RELIEF**

Wherefore, Plaintiff respectfully prays that the Court enter judgment in its favor and award the following relief against Defendants:

A. A judgment that Defendants infringed the '403 Patent directly and indirectly by inducement;

B. A judgment that Defendants infringed the '362 Patent directly and indirectly by inducement;

C. A finding that the Defendants' misconduct alleged herein was willful and that this case is exceptional;

D. An order and judgment enjoining Defendants and their officers, directors, employees, agents, licensees, representatives, affiliates, related companies, servants, successors

and assigns, and any and all persons acting in privity or in concert with any of them, from infringing Plaintiff's patents;

E. An award of actual damages in an amount to be determined at trial for patent infringement;

F. Plaintiff's costs and attorneys' fees;

G. A judgment for treble damages and other punitive damages;

H. Any such other and further relief as the Court deems proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a jury trial on all matters triable to a jury.

DATED May 24, 2024.

Respectfully submitted,

/s/ Jonathan L Cochran

Jonathan L. Cochran

[jcochran@levanstapleton.com](mailto:jcochran@levanstapleton.com)

**LEVAN STAPLETON SEGAL COCHRAN LLC**

1760 Market Street, Suite 403

Philadelphia, PA 19103

Tel: (215) 261-5210

/s/ Brian N. Platt

Brian N. Platt (*pro hac vice forthcoming*)

[bplatt@wnlaw.com](mailto:bplatt@wnlaw.com)

Collin D. Hansen (*pro hac vice forthcoming*)

[chansen@wnlaw.com](mailto:chansen@wnlaw.com)

**WORKMAN NYDEGGER**

60 East South Temple, Suite 1000

Salt Lake City, UT 84111

Tel: (801) 533-9800

*Counsel for Plaintiff Axxess Global Sciences LLC*