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20 Attorneys for Plaintiff BLOOM NU LLC

21 **IN THE UNITED STATES DISTRICT COURT**
22 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

23 BLOOM NU LLC,

24 Plaintiff,

25 v.

26 THERMOLIFE INTERNATIONAL,
27 LLC,

28 Defendant.

Case No. 2:24-cv-5442

**COMPLAINT AND REQUEST
FOR DECLARATORY
JUDGMENT AND DEMAND
FOR JURY TRIAL**

1 Plaintiff Bloom Nu LLC (“Bloom”), by and through its counsel, files this
2 Complaint against ThermoLife International, LLC (“ThermoLife”) seeking a
3 declaration of non-infringement with respect to U.S. Patent No. 8,455,531 (the “’531
4 patent”) and asserting claims of tortious interference with a business relationship and
5 interference with a prospective business advantage. Bloom alleges as follows:

6 **NATURE AND BASIS OF THE ACTION**

7 1. This is an action arising under the Declaratory Judgment Act, 28 U.S.C.
8 § 2201 and the patent laws of the United States, Title 35 of the United States Code
9 seeking declaratory judgment of non-infringement with respect to U.S. Patent No.
10 8,455,531 (the “’531 patent”). A copy of the ’531 patent is attached hereto as Exhibit
11 A.

12 2. This is also an action for tortious interference with a business
13 relationship and interference with prospective business advantage based on
14 ThermoLife’s intentional interference with Bloom’s business relationship with
15 Amazon.com, Inc. (“Amazon”).

16 3. As discussed herein, ThermoLife filed a complaint with Amazon
17 alleging that certain of Bloom’s products that are sold on Amazon’s website infringe
18 the ’531 patent and requesting that Amazon take action on ThermoLife’s complaint
19 via Amazon’s Patent Evaluation Express Process (the “APEX Process”). This action
20 on ThermoLife’s part has created a justiciable controversy between ThermoLife and
21 Bloom. Accordingly, Bloom brings this action to free itself from ThermoLife’s
22 unwarranted allegations of patent infringement and to seek relief from ThermoLife’s
23 interference in Bloom’s business relationship with Amazon.

24 **THE PARTIES**

25 4. Bloom is a Delaware limited liability company with its principal place
26 of business at 523 Victoria Avenue, Venice, California 90291.

27 5. ThermoLife is a limited liability company organized and existing under
28 the laws of Arizona. According to Arizona Secretary of State filings, ThermoLife’s

1 registered agent is Ronald L. Kramer, who states that his address is 1334 E. Chandler
2 Blvd., #5-D76, Phoenix, Arizona 85048; however, this location is a Mailboxes &
3 More store.

4 6. ThermoLife has an additional business address located at 1220 East Hill
5 Street, Signal Hill, California 90755. According to California Secretary of State
6 filings, ThermoLife’s registered agent is Ronald L. Kramer, who states that his
7 address is 1220 East Hill Street, Signal Hill, California 90755.

8 **JURISDICTION AND VENUE**

9 7. This Court has federal question jurisdiction because this action arises
10 under the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202 and under
11 the Patent Laws of the United States, 35 U.S.C. §§ 1 *et seq.*

12 8. This Court has subject matter jurisdiction over this action under 28
13 U.S.C. §§ 1331, 1338(a), and 2201(a), and supplemental jurisdiction pursuant to 28
14 U.S.C. § 1367.

15 9. According to California Secretary of State filings for ThermoLife,
16 affirmed under oath by Ronald Kramer on August 16, 2023, the “Street Address of
17 Principal Office of LLC” is 1220 East Hill Street, Signal Hill, California 90755,
18 which is in the Central District of California. Therefore, the Central District of
19 California has general personal jurisdiction over ThermoLife. *See Daimler AG v.*
20 *Bauman*, 571 U.S. 117, 139 (2014)

21 10. Upon information and belief, ThermoLife has committed acts within
22 this judicial district giving rise to this action and has established minimum contacts
23 with the forum such that the exercise of jurisdiction over ThermoLife would not
24 offend traditional notions of fair play and substantial justice.

25 11. By instituting the APEX Process against Bloom, who has its principal
26 place of business in the Central District of California: (1) ThermoLife purposefully
27 directed enforcement activities at the Central District of California, (2) this suit arises
28 out of and relates to ThermoLife’s activities within the Central District of California,

1 and (3) the assertion of personal jurisdiction over ThermoLife by the Central District
2 of California is reasonable and fair. *See Snaprays v. Lighting Def. Grp.*, 100 F.4th
3 1371, 1375–78 (Fed. Cir. 2024) (holding that patentee who submits an infringement
4 claim to Amazon through the APEX Process is subject to jurisdiction in the home
5 district of the accused infringer). Therefore, the Central District of California has
6 specific personal jurisdiction over ThermoLife. *Id.*

7 12. Accordingly, ThermoLife is subject to the Court’s personal jurisdiction
8 and venue is proper at least under 28 U.S.C. §§ 1391(b) and (c) and 1400(b).

9 13. As discussed herein, ThermoLife’s actions give rise to a substantial,
10 immediate, real, and justiciable controversy between Bloom and ThermoLife. A
11 judicial declaration is necessary to determine the parties’ respective rights.

12 **BACKGROUND**

13 14. Bloom was founded in 2019 by mental health advocate, and fitness
14 entrepreneur, Mari Llewellyn, and her husband, Gregory LaVecchia. The company
15 offers high-quality, delicious health supplements designed to help everyone “bloom”
16 into their best selves.

17 15. Bloom’s supplement product lines include, but are not limited to:
18 Greens & Superfoods, Greens Stick Packs, and Pre-Workout. These products are
19 offered in multiples flavors and sizes.

20 16. Bloom sells its Greens & Superfoods, Greens Stick Packs, Pre-Workout,
21 and other products through a variety of retail channels including brick and mortar
22 stores (*i.e.*, 600+ Target stores) and on online platforms. Each year, Bloom sells a
23 substantial amount of its inventory on amazon.com.

24 17. ThermoLife does not develop or sell its own supplements or foods.
25 Instead, ThermoLife holds a patent portfolio, including the ’531 patent, and makes
26 money by forcing companies wishing to market supplement products to purchase
27
28

1 non-exclusive sub-licenses from ThermoLife.¹ ThermoLife’s website, www.
2 thermolife.com, advertises its patent portfolio.

3 18. In April 2024, Bloom received notice that ThermoLife had filed a claim
4 with Amazon, though Amazon’s APEX Process, alleging that Bloom’s Superfood
5 Greens (a.k.a. Greens & Superfoods), Original Pre-Workout, and High Energy Pre-
6 Workout products infringe claim 62 of the ’531 patent.

7 19. Upon information and belief, the purpose of the APEX Process is to
8 evaluate the merits of patent infringement claims against products listed on
9 amazon.com. A patent owner or exclusive licensee initiates the APEX Process
10 unilaterally by submitting an APEX Agreement (“Agreement”) to Amazon that
11 identifies products listed on amazon.com that allegedly infringe a specified claim of
12 the patent holder’s asserted patent.

13 20. Upon information and belief, during the APEX Process, an Amazon-
14 appointed evaluator reviews the patent infringement claim and makes a yes or no
15 decision about whether the accused products are likely to infringe the asserted claim.
16 If the evaluator concludes the products are likely to infringe the asserted claim,
17 Amazon will remove the products from www.amazon.com within ten (10) business
18 days of Amazon’s receipt of the decision. There is no discovery, claim construction,
19 trial, or hearing allowed, and there is no process for reconsideration or appeal of the
20 evaluator’s decision. The only two defenses other than non-infringement based on
21 failure to meet one or more claim limitations are: (i) a court has already found the
22 asserted claim invalid or unenforceable; or (ii) that the accused products were on sale
23 one year or more before the asserted patent’s earliest effective filing date.

24 ¹ Lex Machina, which tracks lawsuit filings by party, shows that Thermolife has been
25 involved in 183 federal district court cases between January 1, 2009 and June 25,
26 2024, including 50 cases in the Central District of California. In 2013, ThermoLife
27 was the third most litigious patent plaintiff in the US federal courts. Owen Byrd &
28 Brian Howard, *Lex Machina 2013 Patent Litigation Year in Review* 8 (2014),
[http://pages.lexmachina.com/rs/lexmachina/images/LexMachina-2013%20
Patent%20Litigation%20Year%20in%20Review.pdf](http://pages.lexmachina.com/rs/lexmachina/images/LexMachina-2013%20Patent%20Litigation%20Year%20in%20Review.pdf).

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COUNT I

Declaratory Judgment of Non-Infringement of the '531 Patent

21. Bloom incorporates by reference the preceding paragraphs as though fully set forth herein.

22. ThermoLife is the owner of the '531 patent.

23. By engaging in the APEX Process, ThermoLife has taken the position that Bloom infringes at least one claim of the '531 patent. Bloom has not infringed and does not infringe any claim of the '531 patent, either directly or indirectly, contributorily or by inducement, literally or under the doctrine of equivalents, or in any manner whatsoever. For example, and without limitation, Bloom's Greens & Superfoods (in all flavors and sizes), Greens Stick Packs (in all flavors and sizes), and Pre-Workout (Original and High Energy, in all flavors and sizes), alone or in combination, do not infringe the '531 patent directly or indirectly, contributorily or by inducement, literally or under the doctrine of equivalents, or in any manner whatsoever.

24. An actual controversy exists between Bloom and ThermoLife as to Bloom's non-infringement of the '531 patent as evidenced by ThermoLife's engagement of the Amazon APEX Process and Bloom's filing of this action.

25. A judicial decision is necessary and appropriate so that Bloom may ascertain its rights with respect to the '531 patent.

26. Bloom seeks, and is entitled to, a declaration from this Court that Bloom has not infringed and does not infringe any claim of the '531 patent, either directly or indirectly, contributorily or by inducement, literally or under the doctrine of equivalents, or in any manner whatsoever.

COUNT II

Tortious Interference With A Business Relationship

27. Bloom incorporates by reference the preceding paragraphs as though fully set forth herein.

1 28. A business relationship exists between Bloom and Amazon, with the
2 probability and reasonable expectation of future economic benefit to Bloom as a
3 result of that relationship.

4 29. As an Amazon seller, Bloom features and sells Bloom-branded
5 products, including the Superfoods & Greens and Pre-Workout products, on
6 www.amazon.com and has built an online customer base through Amazon that
7 includes many repeat customers.

8 30. ThermoLife had actual knowledge of the business relationship between
9 Bloom and Amazon, which is demonstrated by ThermoLife's submission to Amazon
10 of an infringement complaint against Bloom's products.

11 31. Because it knew of Bloom's relationship with Amazon and wished to
12 injure Bloom, ThermoLife submitted an infringement claim to Amazon. In doing so,
13 ThermoLife intentionally sought to halt Bloom's sales of Superfood Greens (a.k.a.
14 Greens & Superfoods), Original Pre-Workout, and High Energy Pre-Workout on
15 amazon.com and thereby intentionally induce or cause a breach of Bloom's business
16 relationship with Amazon.

17 32. Bloom's Superfood Greens (a.k.a. Greens & Superfoods), Original Pre-
18 Workout, and High Energy Pre-Workout products do not infringe the '531 patent and
19 ThermoLife knew or should have known that at the time it submitted its infringement
20 allegations to Amazon.

21 33. Bloom has and will continue to expend significant amounts of time,
22 effort, and money on legal fees to defend against ThermoLife's allegations as part of
23 the APEX Process. In addition, Bloom will suffer economic harm to the extent the
24 APEX Process results in a decision adverse to Bloom, as Amazon will remove the
25 listings for the Superfoods & Greens and Pre-Workout products. Bloom will lose
26 millions of dollars in sales each month that the Amazon listings remain inactive. In
27 addition, Bloom's valuable brand, reputation, and goodwill will be irreparably
28 damaged by any takedown of its products, which will have a compounding

1 deleterious effect on Bloom’s business going forward.

2 34. Bloom is entitled to damages for ThermoLife’s tortious conduct.

3 **COUNT III**

4 **Tortious Interference With Prospective Economic Advantage**

5 35. Bloom incorporates by reference the preceding paragraphs as though
6 fully set forth herein.

7 36. A business relationship exists between Bloom and Amazon, with the
8 probability and reasonable expectation of future economic benefit to Bloom as a
9 result of that relationship.

10 37. As an Amazon seller, Bloom features and sells Bloom-branded
11 products, including the Superfoods & Greens and Pre-Workout products, on
12 www.amazon.com and has built an online customer base through Amazon that
13 includes many repeat customers.

14 38. ThermoLife had actual knowledge of the business relationship between
15 Bloom and Amazon, which is demonstrated by ThermoLife’s submission to Amazon
16 of an infringement complaint against Bloom’s products.

17 39. Because it knew of Bloom’s relationship with Amazon and wished to
18 injure Bloom, ThermoLife submitted an infringement claim to Amazon. In doing so,
19 ThermoLife intentionally sought to halt Bloom sales of Superfood Greens (a.k.a.
20 Greens & Superfoods), Original Pre-Workout, and High Energy Pre-Workout on
21 amazon.com and thereby intentionally induce or cause a breach of Bloom’s business
22 relationship with Amazon.

23 40. Bloom’s Superfood Greens (a.k.a. Greens & Superfoods), Original Pre-
24 Workout, and High Energy Pre-Workout products do not infringe the ’531 patent and
25 ThermoLife knew or should have known that at the time it submitted its infringement
26 allegations to Amazon.

27 41. Bloom has and will continue to expend significant amounts of time,
28 effort, and money on legal fees to defend against ThermoLife’s allegations as part of

1 the APEX Process. In addition, Bloom will suffer economic harm to the extent the
2 APEX Process results in a decision adverse to Bloom, as Amazon will remove the
3 listings for the Superfoods & Greens and Pre-Workout products. Bloom will lose
4 millions of dollars in sales each month that the Amazon listings remain inactive. In
5 addition, Bloom's valuable brand, reputation, and goodwill will be irreparably
6 damaged by any takedown of its products, which will have a compounding
7 deleterious effect on Bloom's business going forward.

8 42. Bloom is entitled to damages for ThermoLife's tortious conduct.
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RELIEF REQUESTED

WHEREFORE, Bloom, reserving its right to amend its pleadings and to add additional claims, defenses, affirmative defenses, and counterclaims, respectfully requests that this Court enter judgment in its favor as follows and award Bloom the following relief:

- a) adjudge and declare that Bloom has not infringed and is not infringing any claim of the '531 patent;
- b) enter judgment in favor of Bloom and against ThermoLife on Bloom's tortious interference claims;
- c) award Bloom damages sufficient to compensate Bloom for the injury it has sustained as a result of ThermoLife's interference with Bloom's business relationship with Amazon and Bloom's prospective business advantage relating thereto;
- d) award all other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Under Rule 38(b) of the Federal Rules of Civil Procedure, Bloom demands a trial by jury of all issues so triable.

Dated: June 27, 2024

LESLEY SWANSON HOLMES
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STEPHANIE N. DEBROW
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