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8

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11

12 **THE TAWNSAURA GROUP, LLC,**

13 Plaintiff,

14 vs.

15 **VITAL PHARMACEUTICALS, INC.**
d/b/a VPX SPORTS NUTRITION
16 **SUPPLEMENT COMPANY,**

17 Defendant
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Case No. **SACV12-02065 JST (ANx)**

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

2012 NOV 29 AM 10:35
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

FILED

COPY
BY FAX

1 Plaintiff The Tawnsaura Group, LLC ("Plaintiff") hereby alleges for its
2 Complaint against Vital Pharmaceuticals, Inc. d/b/a VPX Sports Nutrition Supplement
3 Company ("Defendant"), on personal knowledge as to its own activities and on
4 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 Nevada, with a registered office at 50 West Liberty Street, Suite 1100, Reno,
8 Nevada 89501.

9 2. Plaintiff is the owner and assignee of United States Patent No. 5,874,471
10 ("the '471 patent") titled "Orthomolecular Medical Use of L-Citrulline for
11 Vasoprotection, Relaxative Smooth Muscle Tone and Cell Protection," and United
12 States Patent No. 6,028,107 ("the '107 patent") titled "Orthomolecular Medical Use of
13 L-Citrulline for Vasoprotection, Relaxative Smooth Muscle Tone and Cell Protection,"
14 and Plaintiff licenses the '471 patent and the '107 patent to more than one third-party
15 and is in negotiations to license the patents to numerous other parties.

16 3. Upon information and belief, Defendant Vital Pharmaceuticals, Inc. d/b/a
17 VPX Sports Nutrition Supplement Company is a corporation organized and existing
18 under the laws of Florida with a principal place of business at 1600 North Park Drive in
19 Weston, Florida, 33326-3210.

20 II. JURISDICTION AND VENUE

21 4. This is an action for patent infringement arising under the patent laws of
22 the United States, Title 35 of the United States Code. Accordingly, this Court has
23 subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338, and 1367.

24 5. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

25 6. This Court has personal jurisdiction over Defendant. Defendant, directly
26 or through intermediaries (including distributors, retailers, and others), ships,
27 distributes, offers for sale, sells, and advertises its nutritional supplement products in
28 the United States, the State of California, and the Central District of California,

1 including the products "12 Gauge Shotgun," "N.O. Shotgun," and "N.O. Synthesize."
2 Defendant has purposefully and voluntarily placed these products into the stream of
3 commerce with the expectation that they will be purchased in the Central District of
4 California.

5 **III. THE DEFENDANT'S INFRINGING PRODUCTS**

6 7. The label and/or advertisements for Defendant's product 12 Gauge
7 Shotgun state that the product contains, inter alia, the ingredient "L-Citrulline Malate,"
8 provides "muscle fullness and blood-engorged pumps," and increases "blood flow and
9 nitric oxide levels."

10 8. The label and/or advertisements for Defendant's product N.O. Shotgun,
11 also known as N.O. Shotgun MHF-1, and for Defendant's product N.O. Synthesize,
12 also known as N.O. Synthesize MHF-1, state that the products contain, inter alia, the
13 ingredient "Citrulline Malate," provide "muscle fullness and blood-engorged pumps,"
14 and increase "blood flow and nitric oxide levels."

15 9. These three products all contain the ingredient L-citrulline.

16 10. As set forth herein, these products infringe the claimed methods of the
17 '471 patent and the '107 patent, and are therefore referred to herein as "the products
18 that infringe the claimed methods."

19 **IV. THE DEFENDANT'S INFRINGEMENTS**

20 11. Defendant's employees, agents, representatives and other persons
21 sponsored by or who endorse Defendant and Defendant's products in advertising and
22 marketing activities, have taken, used, and orally administered the products that
23 infringe the claimed methods which have the effect, without limitation, of increasing
24 the plasma level of arginine in the persons taking the products from a low or normal
25 fasting level to a level which is up to three times an average overnight fasting level and
26 increasing the plasma concentration of arginine in the persons taking the products from
27 a low or normal fasting concentration to a level which is up to three times an average
28 overnight fasting arginine level of about 90 mu.mole per liter of plasma. These persons

1 included persons who, without limitation, were in good health, were in a condition of
2 increased or continuing brain or neural activities, or were in a condition of increased or
3 continuing muscular activities. Defendant has encouraged and/or is aware of these
4 persons' oral administration of the products that infringe the claimed methods for these
5 purposes, and these persons are acting under Defendant's direction and control.
6 Therefore, Defendant practices the methods as set forth in the '471 patent and the '107
7 patent and is a direct infringer of the patents.

8 12. End-users of Defendant's products that infringe the claimed methods are
9 also direct infringers of the '471 patent and the '107 patent, because they have taken,
10 used, and orally administered the products that infringe the claimed methods which
11 have the effect, without limitation, of increasing the plasma level of arginine in the
12 persons taking the products from a low or normal fasting level to a level which is up to
13 three times an average overnight fasting level and/or increasing the plasma
14 concentration of arginine in the persons taking the products from a low or normal
15 fasting concentration to a level which is up to three times an average overnight fasting
16 arginine level of about 90 μ mole per liter of plasma. These persons included persons
17 who, without limitation, were in good health, were in a condition of increased or
18 continuing brain or neural activities, or were in a condition of increased or continuing
19 muscular activities. Therefore, they practice the methods as set forth in the '471 patent
20 and the '107 patent.

21 13. By way of example and without limitation, a consumer named "Eddie
22 Cortes" posted a Testimonial on Defendant's website at
23 <http://www.vpxsports.com/supplement-testimonial/no-shotgun-by-eddie-cortes> writing
24 that the product NO Shotgun "provides me with a great pump." This is just one of
25 many end-users of the infringing products who has practiced the methods as set forth in
26 the '471 patent and the '107 patent and is a direct infringer of the patents.

27 14. Plaintiff believes facts to be ascertained during discovery in this matter
28 will demonstrate that Defendant's labels and advertising for the products that infringe

1 the claimed methods explain the elements and essential elements of the methods
2 disclosed in the '471 patent and the '107 patent to end-users and encourage, urge, and
3 induce the products' end-users to purchase and orally administer the products to
4 practice those methods, and end-users do practice those methods, and that Defendant
5 has therefore specifically intended to cause these end-users to directly infringe the
6 claimed methods of the patents, and has urged them to do so. Plaintiff intends to amend
7 this complaint at the appropriate time to include more specific allegations pertaining to
8 these facts.

9 15. Defendant's products that infringe the claimed methods are not suitable for
10 non-infringing uses, and none of Defendant's labels or advertisements for the products
11 disclose any uses for the products nor for the citrulline in those products that do not
12 infringe upon the methods disclosed in the '471 patent and the '107 patent. The
13 inclusion of the citrulline content in the products are, in fact, material to practicing the
14 methods disclosed in the '471 patent and the '107 patent.

15 16. Plaintiff believes facts to be ascertained during discovery in this matter
16 will demonstrate that Defendant has knowledge that its products that infringe the
17 claimed methods are especially adapted by end-users of the products for the practicing
18 of the methods disclosed in the '471 patent and '107 patent, and, indeed, Defendant
19 encourages, urges, and induces the products' end-users to purchase and orally
20 administer the products to practice those methods, and has done so in the past. Plaintiff
21 intends to amend this complaint at the appropriate time to include more specific
22 allegations pertaining to these facts.

23 17. Plaintiff believes facts to be ascertained during discovery in this matter
24 will demonstrate that Defendant has intentionally and knowingly induced, encouraged,
25 and urged end-users of the products that infringe the claimed methods to purchase and
26 orally administer the products for the purpose, without limitation, of increasing the
27 plasma level of arginine in the persons taking the products from a low or normal fasting
28 level to a level which is up to three times an average overnight fasting level and

1 increasing the plasma concentration of arginine in the persons taking the products from
2 a low or normal fasting concentration to a level which is up to three times an average
3 overnight fasting arginine level of about 90 μ mole per liter of plasma, including by
4 end-users who, without limitation, were in good health, were in a condition of increased
5 or continuing brain or neural activities, or were in a condition of increased or
6 continuing muscular activities. Plaintiff intends to amend this complaint at the
7 appropriate time to include more specific allegations pertaining to these facts.

8 18. Plaintiff believes facts to be ascertained during discovery in this matter
9 will demonstrate that Defendant had actual, first-hand knowledge of the '471 patent and
10 the '107 patent as early as the time Defendant launched each of the products that
11 infringe the claimed methods in the marketplace. By way of example and without
12 limitation, Plaintiff believes such facts to be ascertained will include the fact that
13 Defendant employs and engages sophisticated, experienced legal counsel with expertise
14 in patent law, and that Defendant, through its counsel, conducts or should conduct due
15 diligence on the potential for Defendant's products to infringe on patents and knew or
16 should have known that the products that infringe the claimed methods actually infringe
17 or could infringe on the '471 patent and '107 patent, but Defendant decided to infringe
18 the patents anyway or ignored the risk of infringement. By way of further example and
19 without limitation, Plaintiff believes such facts to be ascertained will include the fact
20 that Defendant became aware of the '471 patent and '107 patent following the filing of
21 lawsuits by Plaintiff against Defendant's competitors arising out of infringements by
22 those competitors of the patents. Plaintiff intends to amend this complaint at the
23 appropriate time to include more specific allegations pertaining to these facts.

24 19. In the alternative, Plaintiff believes facts to be ascertained during
25 discovery in this matter will demonstrate that Defendant subjectively believed at the
26 time Defendant launched each of the products that infringe the claimed methods in the
27 marketplace that there is or was a high probability of the fact that patents existed that
28 covered the use of citrulline as in the products and that Defendant took deliberate

1 actions to avoid confirming that fact, including not conducting due diligence as to
2 potential patent infringements, and that Defendant therefore willfully blinded itself to
3 the infringing nature of its sales of the products that infringe the claimed methods.
4 Plaintiff intends to amend this complaint at the appropriate time to include more
5 specific allegations pertaining to these facts.

6 20. At a minimum, Defendant will become aware of the '471 patent and the
7 '107 patent at the time of the filing and service of this Complaint, yet Defendant will
8 likely not cease its own direct infringement, nor what Plaintiff believes is Defendant's
9 indirect infringement by contributory infringement or inducement of infringements by
10 end-users, despite such knowledge. Plaintiff intends to amend this complaint at the
11 appropriate time to include more specific allegations pertaining to these post-filing
12 activities, based on facts to be ascertained during discovery in this matter.

13 21. The earliest exact date Defendant obtained knowledge of the '471 patent
14 and the '107 patent is within the exclusive possession and control of Defendant.
15 However, Plaintiff believes facts to be ascertained during discovery in this matter will
16 demonstrate that Defendant specifically induces end-users to use its products, and
17 particularly the citrulline component in the products, to provide "muscle fullness and
18 blood-engorged pumps" and increase "blood flow and nitric oxide levels," and
19 Defendant knows and intends that end-users achieve those objectives by practicing the
20 methods as set forth in the '471 and '107 patents. Plaintiff believes facts to be
21 ascertained during discovery in this matter will demonstrate that this is why Defendant
22 includes citrulline in its products – for the purposes of improving of the health of end-
23 users to increase the plasma level of arginine in end-users to a level from a low or
24 normal fasting level to a level which is up to three times an average overnight fasting
25 level, and improving the health of end-users to increase the plasma concentration of
26 arginine in the subject to a level from a low or normal fasting concentration to a level
27 which is up to three times an average overnight fasting arginine level of about 90
28 mu.mole per liter of plasma – and Defendant knows that end-users purchase and ingest

1 the products, and particularly the citrulline content of the products, for those purposes.
2 Plaintiff intends to amend this complaint at the appropriate time to include more
3 specific allegations pertaining to these facts.

4 **V. FIRST CAUSE OF ACTION**

5 **Infringement of U.S. Patent No. 5,874,471**

6 22. Plaintiff repeats and re-alleges the allegations of the foregoing paragraphs
7 of this Complaint as if fully set forth herein.

8 23. Defendant has in the past and still is literally and directly infringing or
9 directly infringing under the doctrine of equivalents one or more claims of the '471
10 patent by making, using, selling, and offering for sale nutritional supplements
11 embodying the patented invention, and will continue to do so unless enjoined by this
12 Court.

13 24. The claims of the '471 patent infringed by Defendant include claims 1, 2,
14 20, 21, and 28.

15 25. Examples of Defendant's direct infringement includes, without limitation,
16 the fact that Defendant's employees, agents, representatives and other persons
17 sponsored by or who endorse Defendant and Defendant's products in advertising and
18 marketing activities, have taken, used, and orally administered the products that
19 infringe the claimed methods which have the effect, without limitation, of increasing
20 the plasma level of arginine in the persons taking the products from a low or normal
21 fasting level to a level which is up to three times an average overnight fasting level.
22 These persons included persons who, without limitation, were in good health, were in a
23 condition of increased or continuing brain or neural activities, or were in a condition of
24 increased or continuing muscular activities. Defendant has encouraged and/or is aware
25 of these persons' oral administration of the products that infringe the claimed methods
26 for these purposes, these persons are acting under Defendant's direction and control,
27 and therefore Defendant is directly practicing the methods set forth in the '471 patent.
28

1 26. Plaintiff believes facts to be ascertained during discovery in this matter
2 will demonstrate that Defendant is also literally and indirectly or indirectly infringing
3 under the doctrine of equivalents, through contributory and/or induced infringement,
4 one or more claims of the '471 patent. Plaintiff intends to amend this First Cause of
5 Action at the appropriate time once more specific facts pertaining to Defendant's acts
6 of indirect infringement are ascertained.

7 27. Defendant's activities have been without express or implied license by
8 Plaintiff.

9 28. Plaintiff believes facts to be ascertained during discovery in this matter
10 will demonstrate that the infringement by Defendant has been and continues to be
11 willful, and Plaintiff intends to amend this First Cause of Action at the appropriate time
12 once more specific facts pertaining to Defendant's willful acts of infringement are
13 ascertained.

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

16 30. As a result of Defendant's acts of infringement, Plaintiff has been and will
17 continue to be irreparably harmed by Defendant's infringements, which will continue
18 unless Defendant is enjoined by this Court.

19 31. Plaintiff believes facts to be ascertained during discovery in this matter
20 will demonstrate that Defendant's past infringement and/or continuing infringement has
21 been deliberate and willful, and that this case is therefore an exceptional case, which
22 warrants an award of treble damages and attorneys' fees in accordance with 35 U.S.C. §
23 285. Plaintiff intends to amend this First Cause of Action at the appropriate time once
24 more specific facts pertaining to Defendant's deliberate and willful acts of infringement
25 are ascertained.

26 **VI. SECOND CAUSE OF ACTION**
27 **Infringement of U.S. Patent No. 6,028,107**
28

1 32. Plaintiff repeats and re-alleges the allegations of the foregoing paragraphs
2 of this Complaint as if fully set forth herein.

3 33. Defendant has in the past and still is literally and directly infringing or
4 directly infringing under the doctrine of equivalents one or more claims of the '107
5 patent by making, using, selling, and offering for sale nutritional supplements
6 embodying the patented invention, and will continue to do so unless enjoined by this
7 Court.

8 34. The claims of the '107 patent infringed by Defendant include claims 1, 2,
9 15, and 16.

10 35. Plaintiff believes facts to be ascertained during discovery in this matter
11 will demonstrate that Defendant is also literally and indirectly or indirectly infringing
12 under the doctrine of equivalents, through contributory and/or induced infringement,
13 one or more claims of the '107 patent. Plaintiff intends to amend this Second Cause of
14 Action at the appropriate time once more specific facts pertaining to Defendant's acts
15 of indirect infringement are ascertained.

16 36. Examples of Defendant's direct infringement includes, without limitation,
17 the fact that Defendant's employees, agents, representatives and other persons
18 sponsored by or who endorse Defendant and Defendant's products in advertising and
19 marketing activities, have taken, used, and orally administered the products that
20 infringe the claimed methods which have the effect, without limitation, of increasing
21 the plasma concentration of arginine in the persons taking the products from a low or
22 normal fasting concentration to a level which is up to three times an average overnight
23 fasting arginine level of about 90 μmole per liter of plasma. These persons included
24 persons who, without limitation, were in good health, were in a condition of increased
25 or continuing brain or neural activities, or were in a condition of increased or
26 continuing muscular activities. Defendant has encouraged and/or is aware of these
27 persons' oral administration of the products that infringe the claimed methods for these
28

1 purposes, these persons are acting under Defendant's direction and control, and
2 therefore Defendant is directly practicing the methods set forth in the '107 patent.

3 37. Defendant's activities have been without express or implied license by
4 Plaintiff.

5 38. Plaintiff believes facts to be ascertained during discovery in this matter
6 will demonstrate that the infringement by Defendant has been and continues to be
7 willful, and Plaintiff intends to amend this Second Cause of Action at the appropriate
8 time once more specific facts pertaining to Defendant's willful acts of infringement are
9 ascertained.

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

12 40. As a result of Defendant's acts of infringement, Plaintiff has been and will
13 continue to be irreparably harmed by Defendant's infringements, which will continue
14 unless Defendant is enjoined by this Court.

15 41. Plaintiff believes facts to be ascertained during discovery in this matter
16 will demonstrate that Defendant's past infringement and/or continuing infringement has
17 been deliberate and willful, and that this case is therefore an exceptional case, which
18 warrants an award of treble damages and attorneys' fees in accordance with 35 U.S.C. §
19 285. Plaintiff intends to amend this Second Cause of Action at the appropriate time
20 once more specific facts pertaining to Defendant's deliberate and willful acts of
21 infringement are ascertained.

22 **VII. PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays for entry of judgment against Defendant as
24 follows:

25 1. A declaration that Defendant has infringed the '471 patent and the '107
26 patent under 35 U.S.C. §§ 271 *et seq.*;

27 2. That injunctions, preliminary and permanent, be issued by this Court
28 restraining Defendant, its respective officers, agents, servants, directors, and employees,

1 and all persons in active concert or participation with each, from directly infringing the
2 '471 patent and the '107 patent;

3 3. That Defendant be required to provide to Plaintiff an accounting of all
4 gains, profits, and advantages derived by Defendant's infringement of the '471 patent
5 and the '107 patent, and that Plaintiff be awarded damages adequate to compensate
6 Plaintiff for the wrongful infringing acts by Defendant, in accordance with 35 U.S.C. §
7 284;

8 4. That, at the appropriate time after more specific facts pertaining to
9 Defendant's acts of indirect, willful, and deliberate infringement are ascertained and
10 this Complaint is amended to include such facts: (a) injunctions, preliminary and
11 permanent, be issued by this Court restraining Defendant, its respective officers, agents,
12 servants, directors, and employees, and all persons in active concert or participation
13 with each, from indirectly infringing the '471 patent and the '107 patent; (b) Defendant
14 be required to provide to Plaintiff an accounting of all gains, profits, and advantages
15 derived by Defendant's indirect infringement of the '471 patent and the '107 patent; (c)
16 Plaintiff be awarded damages adequate to compensate Plaintiff for the wrongful
17 infringing acts by Defendant, in accordance with 35 U.S.C. § 284; and (d) the damages
18 awarded to Plaintiff with regard to the '471 patent and the '107 patent be increased up
19 to three times, in view of Defendant's willful infringement, in accordance with 35
20 U.S.C. § 284;

21 5. That, at the appropriate time after more specific facts pertaining to
22 Defendant's acts of willful and deliberate infringement are ascertained and this
23 Complaint is amended to include such facts, this case be declared to be exceptional in
24 favor of Plaintiff under 35 U.S.C. § 285, and that Plaintiff be awarded its reasonable
25 attorneys' fees and other expenses incurred in connection with this action;

26 6. That Plaintiff be awarded its interest and costs of suit incurred in this
27 action;

28 7. Compensatory damages;

1 8. Punitive damages; and

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

4
5 Respectfully submitted,
6 NEWPORT TRIAL GROUP
7 A Professional Corporation



8 Dated: November 28, 2012

9 By: Scott J Ferrell
10 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: November 28, 2012

By: Scott J Ferrell
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 Josephine Tucker and the assigned discovery Magistrate Judge is Arthur Nakazato.

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

SACV12- 2065 JST (ANx)

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

THE TAWNSAURA GROUP, LLC,

PLAINTIFF(S)

v.

VITAL PHARMACEUTICALS, INC. d/b/a VPX
 SPORTS NUTRITION SUPPLEMENT COMPANY

DEFENDANT(S).

CASE NUMBER

SACV12-02065 JST (ANx)

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: 11-29-12

By: Lori Wagers
 Deputy Clerk
LORI WAGERS
 (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 ☐)
THE TAWNSAURA GROUP, LLC,

DEFENDANTS
VITAL PHARMACEUTICALS, INC. d/b/a VPX SPORTS NUTRITION
SUPPLEMENT COMPANY

(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.)

☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S.
Government Not a Party)

☐ 2 U.S. Government Defendant ☒ 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.)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<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

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.)

35 USC §§271, et seq; 35 USC §§284; 35 USC §§285

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

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 Habeas Corpus	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 General	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	PROPERTY RIGHTS
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input checked="" type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	SOCIAL SECURITY
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	REAL PROPERTY	IMMIGRATION	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land				FEDERAL TAX SUITS
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

SACV12-02065 JST (ANx)

FOR OFFICE USE ONLY: Case Number: _____

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

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEETVIII(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
	THE TAWNSAURA GROUP, LLC - Washoe County, Nevada

(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
	VITAL PHARMACEUTICALS, INC. d/b/a VPX SPORTS NUTRITION SUPPLEMENT COMPANY - Broward County, FL

(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 - Orange County, 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 November 28, 2012

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))