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Attorney for Plaintiff

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 Ariix, LLC,

11 *Plaintiff,*

12 vs.

13 NutriSearch Corporation and
14 Lyle MacWilliam,

15 *Defendants.*

Case No.: '17CV0320 LAB BGS

Complaint

JURY TRIAL DEMANDED

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1 Plaintiff Ariix, LLC alleges as follows upon actual knowledge
2 with respect to itself and its own acts, and upon information and belief
3 as to all other matters.

4 NATURE OF THE ACTION

5 The *NutriSearch Comparative Guide to Nutritional Supplements*
6 has long been relied upon by consumers and professionals to
7 determine which supplement products they should purchase.
8 Unfortunately for consumers and competition, NutriSearch
9 Corporation developed a lucrative close relationship with one of the
10 world's largest direct sales supplement companies, Usana Health
11 Sciences, Inc.

12 Usana and Ariix fiercely compete for sales representatives and
13 customers. Ariix is a much newer company in the market and has
14 made it its mission to outcompete Usana on quality and value—and it
15 has succeeded on those fronts. But Usana has something Ariix doesn't:
16 NutriSearch's coveted Gold Medal of Achievement—a designation that
17 is a key marketing tool for any direct sales supplement company able
18 to obtain it. Four companies have obtained the Gold Medal to date.
19 Ariix vigorously sought the Gold Medal, spending hundreds of
20 thousands of dollars on laboratory analyses and certifications that
21 NutriSearch required and submitting multiple applications to
22 NutriSearch. Each time, NutriSearch came up with a new excuse to
23 deny Ariix's application.
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25 When NutriSearch ran out of excuses, it admitted Ariix had
26 "pioneered" a new standard for the Gold Medal and *still* refused to
27 award it because it claimed to be reworking its criteria, while
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1 grandfathering current Gold Medal holders during a two-year lull.
2 Now, nearly two years later, NutriSearch is publishing its new edition
3 and, once again, NutriSearch is excluding Ariix from its highest medal
4 ranking.

5 NutriSearch expressly claims to take an objective approach to
6 “simply document[ing] recent findings in the scientific literature” and
7 takes pains to disclaim that neither Lyle MacWilliam nor NutriSearch
8 “is associated with any manufacturer or product represented in [the]
9 guide.” But it turns out instead that NutriSearch has a long, lucrative,
10 and cozy relationship of associating with Usana: NutriSearch’s
11 founder and author of the guide, Lyle MacWilliam, has earned a
12 substantial amount in “speaking fees” from Usana and continues to do
13 so today; NutriSearch’s current CEO is a former Usana distributor.
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15 NutriSearch did not just fail to disclose its conflicts of interest.
16 It affirmatively deceived consumers into believing it is an objective,
17 neutral evaluator, when in reality it is a shill for one of the largest
18 incumbents in the market. Without public disclosure, it gave that
19 incumbent special “grandfathering” privileges when it banned others
20 from using the same labs for certification. And it continues to refuse
21 Ariix the product ranking that it admitted Ariix had earned.

22 This is an action for damages, declaratory, and injunctive relief
23 for false advertising under Section 43(a) of the Lanham Act, 15 U.S.C.
24 § 1125(a).
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1 **JURISDICTION AND VENUE**

2 1. This Court has subject-matter jurisdiction over this action
3 under 28 U.S.C. § 1331 and 15 U.S.C. § 1121 because this action arises
4 under the laws of the United States.

5 2. Venue is proper in the Southern District of California
6 under 28 U.S.C. § 1391(b)(3) because there is no judicial district in
7 which this action might otherwise be brought and Defendants are
8 subject to personal jurisdiction in this district. Venue is also proper
9 under 28 U.S.C. § 1391(c)(3) because Defendants are not residents in
10 the United States.

11 3. Defendants are subject to personal jurisdiction in
12 California because they have minimum contacts with the State of
13 California and this action arises from those contacts:
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15 A. Defendants interacted with and harmed Plaintiff,
16 who maintains an office in California, has 4,879
17 representatives working in California, and conducted
18 \$5,183,352.30 in sales in California in 2016.

19 B. Defendants published books in the stream of
20 commerce and purposefully availed themselves to the
21 privilege of conducting activities in California through their
22 expectation that the books would be purchased and relied
23 upon by consumers within the State of California.

24 C. Defendants sold books to Usana representatives in
25 California.

26 D. Moreover, Defendants had direct interactions with
27 and certified or rated several California-based manufacturers
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in their guides, including Blueberry Health Sciences in Irvine, California.

E. Subjecting Defendants to suit in California would not offend traditional notions of fair play and substantial justice because Defendants intended to sell books in California and expect California residents to make purchasing decisions in California as a result.

F. The State of California has an interest for this case to be heard in California because California consumers have been deceived by Defendants.

G. The United States, as the relevant sovereign, has an interest in having this case heard in a U.S. District Court because Defendants violated federal law, and Congress has authorized jurisdiction in this Court. 15 U.S.C. § 1121.

PARTIES

4. Plaintiff Ariix, LLC is an international health and wellness company that markets exclusively branded products through independent representatives, with its principle place of business in Bountiful, Utah. It works with world-renowned experts to promote healthy living through toxic-free products that, after only five short years since Ariix’s founding, are available through a carefully curated network of sales representatives in more than a dozen nations including the United States.

5. Defendant NutriSearch Corporation is a Canadian company with its principle place of business in British Columbia, Canada. NutriSearch publishes the *NutriSearch Comparative Guide*

1 to *Nutritional Supplements* relied upon for purchase decisionmaking
2 by sales professionals and consumers alike. NutriSearch sells its
3 publications throughout the United States and the World, including in
4 California.

5 6. Defendant Lyle MacWilliam is a Canadian citizen
6 residing in British Columbia, Canada. MacWilliam is the author the
7 the *NutriSearch Comparative Guide to Nutritional Supplements*.

8 7. NutriSearch and its employees and agents participated
9 personally in the unlawful conduct challenged in this complaint and,
10 to the extent they did not personally participate, they authorized,
11 acquiesced, set in motion, or otherwise failed to take necessary steps
12 to prevent the acts complained of in this complaint.

13 **SUBSTANTIVE ALLEGATIONS**

14 8. Ariix is a health and wellness company that utilizes a
15 direct sales model to distribute its products which include, among
16 other things, nutritional supplements. It competes for both customers
17 and independent sales representatives.

18 9. Ariix holds trademarks for its brand name: Ariix,
19 Registration No. 4242877 (registered Nov. 13, 2012, valid until Nov.
20 13, 2022); ARIIX, Registration No. 4250956 (registered Nov. 27, 2012,
21 valid until Nov. 27, 2022).

22 10. Quality in the supplement industry varies widely and,
23 thus, consumers and sales representatives often rely on third-party
24 product reviews to guide their purchase decisionmaking.

25 11. The *NutriSearch Comparative Guide to Nutritional*
26 *Supplements* is the comparative supplement review guide that many
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1 turn to, particularly sales representatives in the supplement direct
2 marketing industry. Due to its longevity and other factors further
3 explained below, the NutriSearch guide has become the trusted name
4 among these independent sales representatives.

5 12. Indeed, independent sales representatives make
6 decisions about which companies to work with and which products to
7 sell based on the ratings contained within the guide.

8 13. NutriSearch bills itself as an independent company that
9 presents only objective data and analyses to the purchasing public. It
10 publicly prides itself on separating the good from the bad in an
11 industry that has been viewed as existing in a regulatory wild west.
12 NutriSearch seizes upon supplement scandals as a marketing tool.

13 14. NutriSearch publishes two versions of its guide: a
14 consumer edition and a professional edition. The professional edition
15 is primarily used by sales representatives.

16 15. The current professional edition is the 5th Professional
17 Edition. NutriSearch does not publish a new edition each year, but
18 instead publishes updates from time to time.

19 20 16. Each edition of the guide contains the following
21 statement:

22 This guide is intended to assist in sorting through the maze
23 of nutritional supplements available in the marketplace
24 today. It is not a product endorsement and does not make
25 any health claim. It simply documents recent findings in
the scientific literature.

26 This guide was not commissioned by any public sector or
27 private sector interest, or by any company whose products
28 may be represented herein. The research, development,
and findings are the sole creative effort of the author and

1 NutriSearch Corporation, neither of whom is associated
2 with any manufacturer or product represented in this
3 guide.

4 17. NutriSearch does not itself conduct laboratory testing or
5 certifications of the products it reviews. Rather, it requires companies
6 seeking inclusion in the guide to undergo expensive and elaborate
7 testing through one of two companies it approves of: NSF
8 International (NSF) and U.S. Pharmacopeial Convention (USP).

9 18. The most important marketing tool (as it relates to the
10 guide) is NutriSearch's Gold Medal of Achievement Award. As the
11 guide explains, Gold Medal of Achievement winners

12 have invested significant time, resources, and money to
13 ensure their products are manufactured to the highest
14 standards possible

15 Deservedly so, NutriSearch recognizes these companies
16 and their products as the *Best of the Best*. Graphs of each
17 company's highest-scoring product are included [in the
18 guide].

19 Lyle MacWilliam, *The NutriSearch Comparative Guide to Nutritional
20 Supplements*, 78 (5th Prof. ed. 2014).

21 19. Ariix is not Gold Medal certified. It has been seeking
22 Gold Medal status since at least 2014 and has spent several hundred
23 thousand dollars trying to comply with NutriSearch's ever-changing
24 lab certification requirements to attain Gold Medal certification for its
25 Ariix Optimal line of products.

26 20. Ariix's sales representatives understand that Gold
27 Medal status is fundamentally important to their sales strategy,
28 particularly because Ariix's fiercest competitor, Usana, markets its

1 products as Gold Medal certified. Sales representatives lose sales to
2 competing products as a result.

3 21. Ariix thus made achieving Gold Medal status its top
4 priority beginning in 2014. But each time Ariix submits its
5 application, NutriSearch comes up with a new, previously unstated
6 requirement or reason why NutriSearch will not certify Ariix.

7 22. Ariix first applied for Gold Medal status in February
8 and March 2014. NutriSearch denied the application in August 2014
9 because Ariix (admittedly) misunderstood the requirements of its
10 submission.

11 23. Ariix made its corrected (second) submission one week
12 later August 13, 2014. NutriSearch again denied Ariix's application
13 September 16, 2014. While the application was under review by
14 NutriSearch, an NBC Dateline expose on the issue of "dry-labbing" at
15 ISO-certified laboratories caused NutriSearch to no longer accept ISO-
16 17025-certified laboratory reports and certifications. NutriSearch,
17 however, applied this new policy *only* on a going-forward basis and
18 exempted Usana and other previous recipients from re-certifying in an
19 approved laboratory, despite acknowledging that "previous GOLD
20 Medal recipients had, in some cases, relied on ISO-17025-certified labs
21 to achieve GOLD Medal status." NutriSearch also specifically
22 acknowledged that "this disclosure was not in any way a reflection on
23 ARIIX."
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25 24. Immediately thereafter, on NutriSearch's prompting,
26 Ariix undertook an expensive new full analysis of its formulation. Due
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1 to NutriSearch’s new requirements, NSF did not even have the
2 analytical procedures necessary to verify certain nutrients.

3 25. As NutriSearch would later acknowledge, Ariix
4 “diligently worked with NSF scientists to develop” these protocols and
5 procedures and that Ariix’s “pioneering” work would “ ‘up the game’
6 for all future contenders of the NutriSearch GOLD Medal.”

7 26. NutriSearch thanked Ariix for “pioneering new ground”
8 by developing new testing protocols with NSF. NutriSearch stated
9 that “[t]here is unlikely to be a new edition of the Professional guide
10 for some time, as the 5th edition is not long out of the box; however, as
11 previously mentioned, we can insert your NutriSearch GOLD Medal
12 of Achievement into future printings of the existing guide once current
13 stock has been depleted.”
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15 27. One month later, on May 13, 2015, Ariix submitted its
16 third application with its final full NSF laboratory reports. Less than
17 two weeks after that, on May 23, NutriSearch denied Ariix the Gold
18 Medal that NutriSearch had just admitted it had earned and which
19 Ariix had even set a new standard for attaining.

20 28. NutriSearch claimed that because of the dry-labbing
21 allegations that it had known of for nearly a year, “it came to the
22 difficult decision to suspend any further revisions of the 5th edition of
23 the guide” to create a sixth edition because it “could no longer
24 confidently assure the consumer that *what is on the label is what*
25 *is in the bottle.*” (Emphasis added.) NutriSearch did not, however,
26 publicly question or disclose its own reservations about the validity of
27 the information in its current publications.
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1 29. Interestingly, Ariix was the *only* qualified recipient of
2 the Gold Medal of Achievement that had at any point submitted 100%
3 of its laboratory certifications from a non-ISO-17025 laboratory; it was
4 also the *only* qualified recipient to submit full labs exclusively from a
5 NutriSearch-approved laboratory.

6 30. Moreover, NutriSearch at one time justified its ever-
7 morphing criteria by citing to a new label claim by Usana regarding
8 “cell-signaling,” but never required Usana to undergo this new testing
9 regimen.

10 31. NutriSearch gave no timeline for these revisions and
11 stated that it intended to grandfather its current recipients, including
12 Ariix’s direct competitor Usana, at least until it could publish the next
13 edition. NutriSearch has not disclosed the grandfathering privileges
14 to the public.

15 32. Thereafter, NutriSearch’s responsiveness to Ariix’s
16 inquiries became sporadic and eventually stopped. NutriSearch did
17 not notify Ariix when it finalized its new criteria or when it began
18 accepting applications for the 6th edition. The 6th edition is set for
19 publication within the next two months.

21 **NutriSearch’s Hidden Affiliation and Bias**

22 33. NutriSearch has long had a cozy relationship with
23 Usana. Lyle MacWilliam, author of the guide and former CEO of
24 NutriSearch, is a former Usana sales representative, a former member
25 of Usana’s scientific advisory board, and has had regular speaking
26 engagements at Usana’s global and regional sales representative
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1 meetings. Indeed, MacWilliam originally designed the guide as a tool
2 to sell Usana products himself.

3 34. The current CEO of NutriSearch, Gregg Gies, is also a
4 former Usana representative.

5 35. Usana has given other consideration to NutriSearch,
6 including by heavily promoting its guide and encouraging its
7 representatives and consumers to purchase the guide. The bulk of
8 MacWilliam's income and a substantial portion of NutriSearch's
9 revenue comes from Usana or Usana-derivative work.

10 36. During its earlier communications with MacWilliam,
11 Ariix discovered that MacWilliam had been a keynote speaker at a
12 recent Usana convention. Given the importance of the guide in the
13 direct sales supplement industry and the fierce competition between
14 Ariix and Usana, Ariix intimated a desire and eventually made an
15 offer to MacWilliam to speak at one of its conventions.
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17 37. On September 17, 2014, MacWilliam declined a
18 speaking engagement with Ariix, stating he would not be taking any
19 more speaking engagements and citing his changing priorities and
20 desire to be at home with his family. Nevertheless, MacWilliam
21 continued to take paid speaking engagements with Usana on a regular
22 basis.

23 38. Ariix questioned MacWilliam's apparent exclusive
24 relationship with Usana on multiple occasions. In 2015, after
25 MacWilliam had already told Ariix that he was "retiring" from
26 speaking, Gies deflected by explaining that the speaking engagement
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1 had occurred some time ago, assuring Ariix that MacWilliam was not
2 playing favorites in choosing speaking engagements.

3 39. But MacWilliam continued to consistently take paid
4 speaking engagements with Usana.

5 40. The Gold Medal of Achievement is not the first time
6 NutriSearch’s bias against Ariix has reared its head. In 2011,
7 NutriSearch rated Ariix Optimal at 3.5 stars. After public criticism
8 and incontrovertible evidence that Ariix was a top-quality product,
9 NutriSearch stated it was revising Ariix’s rating to five stars, but it
10 never actually published or publicly acknowledged this five-star
11 rating.
12

13 **COUNT I**

14 **THE LANHAM ACT, 15 U.S.C. § 1125(a)**

15 **False Advertising or Promotion**

16 41. Plaintiff repeats each and every allegation contained in
17 the paragraphs above and incorporates by reference each preceding
18 paragraph as though fully set forth at length herein.

19 42. Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)
20 provides:

21 (1) Any person who, on or in connection with any goods
22 or services, or any container for goods, uses in commerce any
23 word, term, name, symbol or device, or any combination
24 thereof, or any false designation of origin, false or misleading
description of fact, or false or misleading representation of
fact, which—. . .

25 (B) in commercial advertising or promotion,
26 misrepresents the nature, characteristics, qualities, or
27 geographic origin of his or her or another person’s goods,
services, or commercial activities,
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1 shall be liable in a civil action by any person who believes that
2 he or she is likely to be damaged by such act.

3 43. Defendant NutriSearch made false and/or misleading
4 descriptions and/or representations of fact in each of its consumer and
5 professional edition guides.

6 44. NutriSearch’s statements that neither NutriSearch nor
7 the author of the guide “is associated with any manufacturer or
8 product represented in this guide” is literally false:

9 A. MacWilliam has a long-running association with
10 Usana as a keynote speaker at its conferences. This directly
11 contradicts the statements on the inside cover pages of
12 NutriSearch’s guides.

13 B. MacWilliam has turned down offers for speaking
14 engagements at Ariix events, citing personal reasons, while
15 continuing to speak on behalf of Usana. This directly
16 contradicts the statements on the inside cover pages of
17 NutriSearch’s guides.

18 C. Both MacWilliam and Gies are former Usana
19 commissioned sales representatives.

20 45. NutriSearch also made numerous misleading claims:

21 • **It is not a product endorsement.**

22 This is misleading because a substantial proportion of
23 NutriSearch’s revenue comes from Usana sales
24 representatives who purchase the guide as a sales
25 tool. MacWilliam originally created the guide as a
26 sales tool. And NutriSearch sells supplement
27 companies on the marketing benefits of participating
28 in its guide.

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- **It simply documents recent findings in the scientific literature.**

This is misleading because NutriSearch bases its ratings on its own, subjective, and ever-changing criteria rather than any scientific process. NutriSearch also failed to disclose that some of the award winners, like Usana, are grandfathered into less-intensive standards than other supplement companies.

- **Over 1,500 U.S. and Canadian supplements were scientifically rated and compared.**

This is misleading because NutriSearch bases its ratings on its own, subjective, and ever-changing criteria rather than any peer-reviewed scientific process.

- **The guide is an “independent publication.”**

This is misleading because NutriSearch has a long-running relationship with Usana.

- **Suggestions of neutral evaluation for Gold Medal of Achievement awards based on “independent laboratory testing” using a “higher standard of evidence” provide “assurance to the consumer.”**

This is misleading because NutriSearch bases its ratings on its own, subjective, and ever-changing criteria rather than any scientific process. It is also misleading because NutriSearch grandfathered certain favored manufacturers and exempted them from obtaining new laboratory certifications.

- **“[O]nly four manufacturers have completed the necessary steps to earn a Gold Medal of Achievement.”**

This is misleading because Ariix has not only completed the necessary steps, it jumped through additional hoops and “set a new, higher bar” for the

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Gold Medal of Achievement, yet it has not been awarded the endorsement.

- Other context suggesting the guide is neutral and objective in its ratings of various supplement products is false and misleading.

46. The misstatements contain objective claims as to the neutrality of NutriSearch rather than subjective opinion or puffery. NutriSearch made the statements with the intent of causing consumers to rely upon them.

47. The misstatements were made in connection with goods and services offered by NutriSearch as well as goods offered by Ariix, all of which are in interstate commerce.

48. NutriSearch is not a direct competitor of Ariix, but has caused harm by deceiving consumers in a way that causes them to withhold trade from Ariix and to instead trade with Ariix's competitors. The misstatements directly reduced Ariix's revenues by causing both consumers and professionals to select Usana over Ariix.

49. The statements constitute a commercial advertising or promotion because:

A. They were designed to promote the goods and services of NutriSearch.

B. They propose commercial transactions, including but not limited to, the purchase of the guide itself, purchases of periodic updates to the guide, and the purchase of top-rated products featured in the guide.

C. They promote other companies that propose commercial transactions.

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D. They were motivated by NutriSearch’s economic interests.

E. They are sufficiently disseminated to the relevant purchasing public and, in fact, target said purchasing public.

F. They are in a “traditional advertising format” to the extent that publishers expect purchasers of books to read the statements prior to purchase, which are contained in the inside covers of the book.

50. Consumers are likely to be, and actually have been, deceived by the statements made by NutriSearch in two ways: first, consumers decided to purchase NutriSearch guides because of the statements; and second, consumers (which includes end-consumers and supplement sales representatives) made supplement purchasing decisions because of the statements.

51. The statements relate to descriptions or representations of fact that misrepresent the nature, characteristics, and quality of NutriSearch and its products. The statements also relate to descriptions or representations of fact that misrepresent the nature, characteristics, and quality of Ariix and its services, as well as the nature, characteristics, and quality of its primary competitor, Usana.

REQUEST FOR RELIEF

WHEREFORE, Ariix requests that this Court:

- A. Enter a temporary restraining order against Defendants to enjoin them from continuing their illegal acts;
- B. Declare that Defendants’ conduct violates Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a);

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- C. Enter judgment against Defendants;
- D. Award Ariix compensatory damages;
- E. Award Ariix pre- and post-judgment interest at the applicable rates on all amounts awarded;
- F. Award Ariix its costs and expenses of this action, including its reasonable attorneys’ fees necessarily incurred in bringing and pressing this case, as provided in 15 U.S.C. § 1117(a);
- G. Grant permanent injunctive relief to prevent the recurrence of the violations for which redress is sought in this complaint; and
- H. Order any other such relief as the Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all claims.

DATED: February 16, 2017

Bona Law PC

s/ Jarod Bona

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CIVIL COVER SHEET

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
Ariix, LLC

(b) County of Residence of First Listed Plaintiff Davis
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Jarod Bona
Bona Law PC
4275 Executive Square, Suite 200, La Jolla, CA 92037 (858) 964-4589

DEFENDANTS
NutriSearch Corporation and Lyle MacWilliam

County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
'17CV0320 LAB BGS

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 (Place an "X" in One Box for Plaintiff and One Box 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 type="checkbox"/> 5	<input 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. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. 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 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
§ 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)

Brief description of cause:
False advertising or promotion

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 02/16/2017 SIGNATURE OF ATTORNEY OF RECORD: s/ Jarod Bona

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RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____