

Charles C. Weller, Esq. (SBN: 207034)
CHARLES C. WELLER, APC
11412 Corley Court
San Diego, California 92126
Tel: 858.414.7465
Fax: 858.300.5137

Attorneys for Plaintiff
APPLIED LIFESCIENCE RESEARCH INDUSTRIES, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

APPLIED LIFESCIENCE RESEARCH
INDUSTRIES, INC., a Nevada corporation,

Plaintiff,

v.

BPI SPORTS, LLC, a Florida limited liability
company, d/b/a EXT SPORTS

Defendant.

Case No.: **'12CV2339 CAB RBB**

COMPLAINT FOR:

- 1. TRADEMARK INFRINGEMENT
[15 U.S.C. § 1114(1)];**
- 2. FALSE DESIGNATION OF ORIGIN
[15 U.S.C. § 1125(a)]**
- 3. UNFAIR COMPETITION UNDER
LANHAM ACT § 4334**
- 4. UNFAIR COMPETITION UNDER
CALIFORNIA BUSINESS AND
PROFESSIONS CODE § 17200 et seq**
- 5. COMMON LAW TRADEMARK
INFRINGEMENT;**
- 6. CALIFORNIA COMMON LAW
UNFAIR COMPETITION;**
- 7. COMMON LAW INJURY TO
BUSINESS REPUTATION**
- 8. ACCOUNTING;**
- 9. CONSTRUCTIVE TRUST**

**DEMAND FOR JURY TRIAL
[F.R.Civ.P. 38]**

Plaintiff APPLIED LIFESCIENCE RESEARCH INDUSTRIES, INC. ("ALRI" or
"Plaintiff") complains against Defendant BPI SPORTS, LLC ("BPI Sports" or "Defendant") as
follows:

NATURE OF THE ACTION

1
2 1. This is an action for trademark infringement and unfair competition. Plaintiff is
3 the maker of advanced human extreme performance nutraceutical and nutritional products.
4 ALRI has been manufacturing high-end dietary and nutritional supplements for more than ten
5 (10) years.

6 2. ALRI is a highly innovative dietary supplement nutraceutical manufacturer and
7 has brought to market various products which have transformed the performance sport
8 supplement and dietary supplement industry. ALRI came to its position of industry leadership
9 by hard work, substantial investment in research and development, and through constant
10 innovation in the way of new product development. As a result of its endeavors, ALRI has
11 created and owns valuable intellectual property in the form of patents, trademarks, copyrights
12 and trade secrets. Plaintiff has spent considerable resources to protect its valuable intellectual
13 property. Plaintiff currently owns more than two (2) dozen federal trademark registrations and
14 has dozens of other trademark applications currently pending with the United States Patent and
15 Trademark Office (USPTO).

16 3. One of ALRI's valuable trademarks pertains to the word "CHAIN" which has
17 been used for since 2008 in several of ALRI's product names for use in association with dietary
18 and nutritional supplements. These trademarked product names include CHAIN'D OUT,
19 CHAIN'D REACTION, and CHAIN ESSENTIALS. Both CHAIN'D OUT and CHAIN'D
20 REACTION are registered trademarks by the USPTO and CHAIN ESSENTIALS has been
21 granted a Notice of Allowance by the USPTO.

22 4. Defendant BPI Sports is currently marketing and advertising a dietary
23 supplement product called CHAIN. Defendant's dietary supplement product CHAIN is similar
24 in ingredients to Plaintiff's dietary supplements CHAIN ESSENTIALS and CHAIN'D OUT.
25 All of these are amino acid dietary supplements.

26 5. Defendant's actions in manufacturing, marketing and distributing dietary
27 supplement products using the name CHAIN constitute trademark infringement, unfair
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1 competition and other actionable claims. Accordingly, Plaintiff brings this action to enjoin
2 Defendants from further infringement of Plaintiff's Mark, to enjoin them from further unfair
3 competition, and to obtain damages and other redress for Defendant's wrongful acts. Plaintiff
4 demands a trial by jury.

5 **JURISDICTION AND VENUE**

6 6. This Court has subject matter jurisdiction over the federal claims in this action
7 pursuant to Section 39 of the Lanham Act, 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331 and
8 1338(a). This Court has ancillary subject matter jurisdiction over Plaintiffs state law claims
9 under the principles of pendent jurisdiction and pursuant to 28 U.S.C. Section 1367(a). These
10 state-law claims form part of the same case or controversy, and derive from a common nucleus
11 of operative facts.

12 7. Venue is proper in this Court pursuant to 28 U.S.C. Section 1391(b) and
13 1391(c), as this is a judicial district in which a substantial part of the events giving rise to the
14 claims asserted herein arose, and in which a substantial part of the injury to Plaintiff took place
15 and continues to take place.

16 **THE PARTIES**

17 8. Plaintiff ALRI, is, and at all times mentioned herein was, a corporation
18 organized and existing under the laws of Nevada and qualified by the State of California to do
19 business in California, with its principal place of business in the State of California. At all
20 relevant times, ALRI has been in the business of manufacturing and distributing dietary
21 supplements.

22 9. Plaintiff is informed and believes, and on that basis alleges, that BPI Sports is a
23 limited liability company formed under the laws of the State of Florida, with its principal place
24 of business in the State of Florida. Plaintiff is informed and believes, and on that basis alleges,
25 that BPI Sports is doing business as EXT Sports. Upon information and belief, at all relevant
26 times, BPI Sports has been in the business of manufacturing and producing dietary
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1 supplements. Plaintiff is informed and believes, and on that basis alleges, that BPI Sports
2 advertises, promotes, sells and distributes its products in interstate and international commerce,
3 including in the State of California.

4 **FACTS COMMON TO ALL CAUSES OF ACTION**

5 10. ALRI is a leading dietary supplement manufacturer; it has been in the business
6 since 2001, and has been distributing and selling its products in the United States since that
7 time.

8 11. ALRI has unique product names for each of its dietary supplement products
9 which are protected by federal trademark registration and/or common law trademark rights.
10 ALRI has no less than two (2) dozen federally registered trademarks and dozens of other
11 pending federal trademark applications.

12 12. One of ALRI's valuable trademarks pertains to the word "CHAIN" which has
13 been used for since 2008 in several of ALRI's product names for use in association with dietary
14 and nutritional supplements. These trademarked product names include CHAIN'D OUT,
15 CHAIN'D REACTION, and CHAIN ESSENTIALS.

16 13. On January 20, 2009, the USPTO granted ALRI U.S. Trademark Registration
17 No. 3,564,030 for CHAIN'D OUT in connection with International Class 5 for dietary and
18 nutritional supplements. A true, accurate and correct copy of U.S. Trademark Registration No.
19 3,564,030 for CHAIN'D OUT is attached as Exhibit "A".

20 14. On May 24, 2011, the USPTO granted ALRI U.S. Trademark Registration No.
21 3,966,357 for CHAIN'D REACTION in connection with International Class 5 for dietary and
22 nutritional supplements. A true, accurate and correct copy of U.S. Trademark Registration No.
23 3,966,357 for CHAIN'D REACTION is attached as Exhibit "B".

24 15. On July 13, 2011, ALRI applied for U.S. Trademark Application No. 85370387
25 for registration of the mark CHAIN ESSENTIALS in connection with International Class 5 for
26 dietary and nutritional supplements, dietary food supplements, dietary supplemental drinks, and
27 dietary supplements. ALRI has been using the arbitrary and distinctive trademark CHAIN
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1 ESSENTIALS for use in association with a dietary supplement consisting of an amino acid
2 formulation in powder form since as early as August 1, 2011. USPTO has since granted ALRI
3 Notice of Allowance for the mark CHAIN ESSENTIALS.

4 16. ALRI's has been using the mark CHAIN in connection with its dietary
5 supplement products since as early as June 1, 2008. ALRI's use of the mark CHAIN, the
6 registered trademarks CHAIN'D OUT and CHAIN'D REACTION, and the pending federal
7 trademark application for CHAIN ESSENTIALS comprise ALRI's intellectual property rights
8 in the word CHAIN for dietary and nutritional supplements (collectively referred to hereby as
9 the "Mark").

10 17. Since at least as early as June 1, 2008, ALRI has used the Mark to identify its
11 various products, and to distinguish them from those sold by others. The Mark has appeared
12 prominently on ALRI's products and in trade literature and advertising materials. ALRI has
13 expended significant time, money and effort to establish public recognition of the Mark, which
14 it has used in promoting the sale of its various products. ALRI has also diligently and
15 consistently policed its rights in the Mark. As a result of these efforts, ALRI has established
16 substantial consumer recognition of the Mark. ALRI has built up and now has valuable
17 goodwill connected with the Mark, and considers the Mark among its important and valuable
18 assets.

19 18. On or about July 18, 2012, BPI Sports applied for registration of the mark EXT
20 SPORTS CHAIN, through the filing of an intent-to-use application with the USPTO, which
21 was assigned Serial No. 85/680694. The goods in BPI Sports' application presently are:
22 "dietary and nutritional supplements." BPI Sports has disclaimed the exclusive right to use the
23 word "SPORTS" apart from their mark as filed.

24 19. Defendant is currently marketing and advertising a dietary supplement product
25 called CHAIN. Attached as Exhibit "C" to this Complaint is a true and correct copy of
26 Defendant's dietary supplement product CHAIN as featured on its website at
27 www.extsports.net/products/chain. Defendant's dietary supplement product CHAIN is similar
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1 in ingredients to Plaintiff's dietary supplements CHAIN ESSENTIALS and CHAIN'D OUT.
2 All of these products are amino acid supplements in powder form. All of these products are
3 sold in the exact same retail channels.

4 20. Defendant's actions in manufacturing, marketing, and distributing dietary
5 supplement products with the CHAIN mark constitute trademark infringement and unfair
6 competition.

7 21. Defendant's product will be distributed and sold in the same types of retail
8 channels and to the same classes of purchases as ALRI's products which contain the Mark.

9 22. Defendant's use of the Mark is likely to cause confusion, mistake, or deception
10 in the minds of the public.

11 23. Defendant's infringement constitutes a willful and malicious violation of
12 ALRI's trademark rights. Accordingly, Plaintiff brings this action to enjoin Defendant from
13 further infringement of Plaintiff's Mark, to enjoin Defendant from further unfair competition,
14 and to obtain damages and other redress for Defendant's wrongful acts.

15 **CLAIM I**

16 **TRADEMARK INFRINGEMENT**

17 **[15 U.S.C. § 1114(1)]**

18 24. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
19 in Paragraphs 1 through 23 above.

20 25. Plaintiff has used the mark CHAIN since at least as early as June 1, 2008, and
21 has used it in interstate commerce continuously since that time in connection with the
22 marketing, distribution and sale of dietary and nutritional supplements.

23 26. The marks CHAIN'D OUT and CHAIN'D REACTION were granted
24 registration by the United States Patent and Trademark Office on January 20, 2009, and May
25 24, 2011, respectively, on the Principal Register, in International Class 5. (Collectively these
26 marks shall be referred to as the CHAIN'D marks.)

27 27. The CHAIN'D marks are used on various dietary supplement products
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1 manufactured by ALRI and are distributed throughout the country.

2 28. Defendant has copied or colorably imitated the CHAIN'D marks and have used
3 it on its products and advertisements intended to be used in commerce in connection with the
4 sale, distribution, or advertising of Defendant's goods, which is likely to cause confusion, cause
5 mistake, or deceive, in violation of 15 U.S.C. § 1114(1). Plaintiff is informed and believes, and
6 thereon alleges, that Defendants have committed these acts with knowledge that they would
7 cause confusion, cause mistake, or deceive, and with the intent to do so.

8 29. Plaintiff is informed and believes, and thereon alleges, that as a proximate
9 result of Defendant's wrongful conduct as herein alleged, Defendant has made substantial
10 profits and Plaintiff has sustained substantial damage, each in amounts to be proven at trial.
11 Plaintiff is entitled to recover all of Defendant's profits, plus an amount equal to three times its
12 actual damages, plus the costs of this action (including reasonable attorneys' fees), pursuant to
13 15 U.S.C. § 1117(a).

14 30. Plaintiff has no adequate remedy at law and, unless Defendants are permanently
15 enjoined from unlawfully using the CHAIN mark or any colorable imitation thereof, Plaintiff
16 will continue to suffer irreparable harm as a result of Defendant's conduct as herein alleged.

17 **CLAIM II**

18 **FALSE DESIGNATION OF ORIGIN**

19 **[15 U.S.C. §1125(a)]**

20 31. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
21 in Paragraphs 1 through 30 above.

22 32. Defendant's use of the Mark is likely to cause confusion, cause mistake, or
23 deceive as to the origin, sponsorship, or approval of Defendant's product by Plaintiff, in
24 violation of 15 U.S.C. § 1125(a)(1)(A).

25 33. Plaintiff is informed and believes, and on that basis alleges, that, as a proximate
26 result of Defendant's wrongful conduct as herein alleged, Defendant has and will make
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1 substantial profits and Plaintiff has and will sustain substantial damage, each in amounts to be
2 proven at trial. Plaintiff is entitled to recover all of Defendant's profits, plus an amount equal to
3 three times its actual damages, plus the costs of this action (including reasonable attorneys'
4 fees), pursuant to 15 U.S.C. § 1117(a).

5 34. Defendant's unauthorized and infringing use of the Mark has been and is likely
6 to cause confusion and mistake in the minds of the relevant public and to deceive them as to
7 the origin, authorization, or sponsorship of Defendant's goods, and to cause consumers to
8 erroneously believe that Plaintiff has produced, participated in, approved and/or endorsed
9 Defendant's goods and/or the use of the Mark in or on the goods.

10 35. Defendant's unlawful use of the Mark will irreparably harm Plaintiff, in that
11 Defendant is offering inferior quality goods under a mark which is identical or confusingly
12 similar to Plaintiff's Mark, thus leaving customers and consumers to believe, erroneously, that
13 Defendant's inferior goods are in fact manufactured, sold, sponsored or endorsed by Plaintiff.

14 36. Plaintiff has no adequate remedy at law, and, unless Defendant is enjoined from
15 unlawfully using the Mark, Plaintiff will continue to suffer irreparable harm as a result of
16 Defendant's conduct as herein alleged.

17 **CLAIM III**

18 **UNFAIR COMPETITION UNDER LANHAM ACT § 4334**

19 37. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
20 in Paragraphs 1 through 36 above.

21 38. Defendant's use of the Mark to promote, market, or sell dietary supplements in
22 direct competition with ALRI's dietary supplement products constitutes Unfair Competition
23 pursuant to 15 U.S.C. § 1125(a). Defendant's use of the Mark is likely to cause confusion,
24 mistake, and deception among consumers. Defendant's unfair competition has caused and will
25 continue to cause damage to ALRI, and is causing irreparable harm to ALRI for which there is
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1 no adequate remedy at law.

2 **CLAIM IV**

3 **UNFAIR COMPETITION UNDER CALIFORNIA BUSINESS AND PROFESSIONS**
4 **CODE § 17200 et seq.**

5 39. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
6 in Paragraphs 1 through 38 above.

7 40. Defendant's actions discussed herein constitute unfair competition within the
8 meaning of California Business and Professions Code § 17200, et seq.

9 41. Pursuant to California Business and Professions Code § 17203, ALRI is entitled
10 to preliminary and permanent injunctive relief ordering Defendant to cease this unfair
11 competition, as well as disgorgement of all of Defendant's profits associated with this unfair
12 competition.

13 **CLAIM V**

14 **COMMON LAW TRADEMARK INFRINGEMENT**

15 42. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
16 in Paragraphs 1 through 41 above.

17 43. Plaintiff has acquired common law trademark rights in the Mark in connection
18 with, among other things, the manufacture, production, promotion, sale and distribution of
19 dietary and nutritional supplements.

20 44. The actions of Defendant as alleged herein are likely to create confusion,
21 mistake and deception of consumers into believing that Defendant's infringing and
22 unauthorized use of the Mark is authorized, licensed, or sponsored by, or otherwise associated
23 with Plaintiff's common law trademark rights in the Mark.

24 45. Plaintiff is informed and believes, and thereon alleges, that in doing the acts
25 herein alleged, Defendant acted maliciously, fraudulently, oppressively, and in bad faith, with
26 an intent to injure Plaintiff.

27 46. The foregoing actions of Defendant constitute infringement of Plaintiff's
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1 trademarks in violation of federal common law and the common law of the State of California.

2 47. Plaintiff is informed and believes, and thereon alleges, that as a proximate result
3 of Defendant's wrongful conduct as herein alleged, Plaintiff has sustained substantial damage in
4 amount to be proven at trial.

5 48. Plaintiff is informed and believes, and thereon alleges, that Defendant has
6 engaged in the malicious, fraudulent and oppressive conduct herein alleged with a willful and
7 conscious disregard for the rights of Plaintiff. Plaintiff is informed and believes, and thereon
8 alleges, that the unlawful conduct herein alleged on the part of Defendant was authorized,
9 ratified, or carried on by one or more of its respective officers, directors, or managing agents.
10 As a result of such malicious, fraudulent, or oppressive conduct on the part of Defendant,
11 Plaintiff is entitled to recover punitive or exemplary damages from them pursuant to Section
12 3294 of the California Civil Code in an amount to be proven at trial.

13 49. Plaintiff has no adequate remedy at law, and, unless Defendant is enjoined from
14 unlawfully using the Mark, Plaintiff will continue to suffer irreparable harm as a result of
15 Defendant's conduct as herein alleged.

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17 **CLAIM VI**

18 **CALIFORNIA COMMON LAW UNFAIR COMPETITION**

19 50. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
20 in Paragraphs 1 through 49 above.

21 51. Defendant's conduct herein alleged constitutes unfair competition in violation of
22 the common law of the State of California.

23 52. Plaintiff is informed and believes, and thereon alleges, that as a proximate result
24 of Defendant's wrongful conduct as herein alleged, Defendant has or will make substantial
25 profits and Plaintiff has or will sustain substantial damage, each in amounts to be proven at
26 trial.

27 53. Plaintiff has no adequate remedy at law and, unless Defendant is enjoined from
28 unlawfully using the Mark, Plaintiff will continue to suffer irreparable harm as a result of

1 Defendant's conduct as herein alleged.

2 54. Plaintiff is informed and believes, and thereon alleges, that in doing the acts
3 herein alleged, Defendant acted maliciously, fraudulently, oppressively, and in bad faith, with
4 an intent to injure Plaintiff. Plaintiff is informed and believes, and thereon alleges, that the
5 unlawful conduct herein alleged on the part of Defendant was authorized, ratified, or carried
6 on by one or more of its respective officers, directors, or managing agents. Plaintiff is
7 informed and believes, and thereon alleges, that Defendant has engaged in the malicious,
8 fraudulent and oppressive conduct herein alleged with a willful and conscious disregard for the
9 rights of Plaintiff. As a result of such malicious, fraudulent, or oppressive conduct on the part
10 of Defendant, Plaintiff is entitled to recover punitive or exemplary damages pursuant to
11 Section 3294 of the California Civil Code in an amount to be proven at trial.
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13 **CLAIM VII**

14 **COMMON LAW INJURY TO BUSINESS REPUTATION**

15 55. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
16 in Paragraphs 1 through 54 above.

17 56. Plaintiff alleges that Defendant's use of Plaintiff's Mark inures and creates a
18 likelihood of injury to ALRI's business reputation because persons encountering ALRI and its
19 products will believe that ALRI is affiliated with or related to or has the approval of BPI
20 Sports, and any adverse reaction by the public to BPI Sports and the quality of its products and
21 the nature of its business will injure the business reputation of ALRI and the goodwill that it
22 enjoys in connection with its business.
23

24 **CLAIM VIII**

25 **ACCOUNTING**

26 57. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
27 in Paragraphs 1 through 56 above.

28 58. An accounting is required to determine the amount of profits derived by

1 Defendant from its unlawful conduct.

2 **CLAIM IX**

3 **CONSTRUCTIVE TRUST**

4 59. Plaintiff re-alleges and incorporates herein by reference each allegation set forth
5 in Paragraphs 1 through 58 above.

6 60. Plaintiff has no adequate remedy at law and has sustained irreparable harm as a
7 result of Defendant's unlawful conduct as herein alleged. Defendant holds all ill-gotten gains
8 from such unlawful conduct, in an amount to be proven at trial, in constructive trust for the
9 benefit of Plaintiff.

10 **DEMAND FOR JURY TRIAL**

11 61. Plaintiff hereby demands a trial by jury on the claims asserted herein.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

14 **On Claim I (Trademark Infringement):**

15 1. That Defendant be required to account for and pay over to Plaintiff all
16 profits derived from their unlawful conduct in an amount to be proven at trial;

17 2. For an award of three times Plaintiff's actual damages in an amount to be
18 proven at trial;

19 3. For an award, at Plaintiffs election, to recover statutory damages in lieu of
20 actual damages and profits pursuant to 15 U.S.C. §1117(c); and

21 4. For a preliminary and permanent injunction prohibiting Defendant, and its
22 officers, directors, agents, employees, representatives, parents, subsidiaries, affiliates,
23 successors, and assigns, from using the Mark in any manner in connection with their promotion
24 and/or sale of their goods and/or services.

25 **On Claim II (False Designation of Origin):**

26 1. That Defendant be required to account for and pay over to Plaintiff all profits
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1 derived by them from their unlawful conduct in an amount to be proven at trial;

2 2. For an award of three times Plaintiff's actual damages in an amount to be
3 proven at trial; and

4 3. For a preliminary and permanent injunction prohibiting Defendant, and its
5 officers, directors, agents, employees, representatives, parents, subsidiaries, affiliates,
6 successors, and assigns, from using the Mark in any manner in connection with their promotion
7 and/or sale of their goods and/or services.

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9 **On Claim III (Unfair Competition Under Lanham Act):**

10 1. That Defendant be required to account for and pay over to Plaintiff all profits
11 derived by them from their unlawful conduct in an amount to be proven at trial;

12 2. For an award of three times Plaintiff's actual damages in an amount to be
13 proven at trial; and

14 3. For a preliminary and permanent injunction prohibiting Defendant, and its
15 officers, directors, agents, employees, representatives, parents, subsidiaries, affiliates,
16 successors, and assigns, from using the Mark in any manner in connection with their promotion
17 and/or sale of their goods and/or services.

18
19 **On Claim IV (Unfair Competition Under California Business and Professions Code §
17200, et seq.):**

20 1. For compensatory damages in an amount to be proven at trial;

21 2. For punitive or exemplary damages in an amount to be proven at trial; and

22 3. For a preliminary and permanent injunction prohibiting Defendant, and its
23 officers, directors, agents, employees, representatives, parents, subsidiaries, affiliates,
24 successors, and assigns, from using the Mark in any manner in connection with their promotion
25 and/or sale of their goods and/or services.

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27 **On Claim V (Common Law Trademark Infringement):**

28 1. For compensatory damages in an amount to be proven at trial;

2. For punitive or exemplary damages in an amount to be proven at trial; and

3. For a preliminary and permanent injunction prohibiting Defendant, and its officers, directors, agents, employees, representatives, parents, subsidiaries, affiliates, successors, and assigns, from using the Mark in any manner in connection with their promotion and/or sale of their goods and/or services.

On Claim VI (Common Law Unfair Competition):

4. For compensatory damages in an amount to be proven at trial;

5. For punitive or exemplary damages in an amount to be proven at trial; and

6. For a preliminary and permanent injunction prohibiting Defendant, and its officers, directors, agents, employees, representatives, parents, subsidiaries, affiliates, successors, and assigns, from using the Mark in any manner in connection with their promotion and/or sale of their goods and/or services.

On Claim VII (Common Law Injury to Business Reputation):

1. For compensatory damages in an amount to be proven at trial;

2. For punitive or exemplary damages in an amount to be proven at trial; and

3. For a preliminary and permanent injunction prohibiting Defendant, and its officers, directors, agents, employees, representatives, parents, subsidiaries, affiliates, successors, and assigns, from using the Mark in any manner in connection with their promotion and/or sale of their goods and/or services.

On Claim VIII (Accounting):

1. That Defendant be required to account for all profits derived by its from their unlawful conduct pursuant to 15 U.S.C. § 1117.

On Claim IX (Constructive Trust):

1. That Defendant is holding, as constructive trustees for the benefit of Plaintiff, all profits derived by Defendant from its unlawful conduct in an amount to be proven at trial.

On All Claims:

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2 1. That Defendant BPI Sports and its agents, officers, employees, representatives,
3 successors, assigns, attorneys and all other persons acting for, with, by, through or under
4 authority from Defendant, and each of them, be preliminarily and permanently enjoined from:
5 (a) using ALRI's Mark, or any colorable imitation thereof; (b) using any trademark that
6 imitates or is confusingly similar to or in anyway similar to ALRI's Mark, or that is likely to
7 cause confusion, mistake, deception, or public misunderstanding as to the origin of ALRI's
8 products or their connectedness to Defendant.
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10 2. That Defendant be required to file with the Court and serve on ALRI within
11 thirty (30) days after entry of the Injunction, a report in writing under oath setting forth in detail
12 the manner and form in which Defendant has complied with the Injunction;
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14 3. That, pursuant to 15 U.S.C. § 1117, Defendant be held liable for all damages
15 suffered by ALRI resulting from the acts alleged herein;
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17 4. That the Defendant be ordered pursuant to 15 U.S.C. § 1118 to deliver up for
18 destruction all containers, labels, signs, prints, packages, advertising, promotional material or
19 the like in possession, custody or under the control of Defendant bearing a trademark found to
20 infringe ALRI's Mark.
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22 5. That the Court declare this to be an exceptional case and award ALRI its full
23 costs and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.
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25 6. For prejudgment interest in the maximum amount provided by law;
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27 7. That the Court grant ALRI any other remedy to which it may be entitled as
28 provided for in 15 U.S.C. §§ 1116 and 1117 or under state law; and
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 8. For such other or further relief as the Court deems just and proper.

1
2 Dated: September 25, 2012

CHARLES C. WELLER, A.P.C.

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4 By: s/Charles C. Weller
5 CHARLES C. WELLER, ESQ.
6 Attorneys for Plaintiff
7 Applied Lifescience Research Industries, Inc.
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