

<b>TO: Mail Stop 8</b> <b>Director of the U.S. Patent &amp; Trademark Office</b> P.O. Box 1450 Alexandria, VA 22313-1450	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Northern District of California on the following  Patents or  Trademarks:

DOCKET NO. CV 08-04396 CRB	DATE FILED 9/19/08	U.S. DISTRICT COURT 450 Golden Gate Avenue, P.O. Box 36060, San Francisco, CA 94102
PLAINTIFF RAINBOW LIGHT INTERNATIONAL SYSTEMS, INC.		DEFENDANT NATURAL ORGANICS, INC., ET AL.
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 see Complaint		
2 1,805,769		
3 1,598,122		
4 1,685,022		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT
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CLERK Richard W. Wicking	(BY) DEPUTY CLERK Sheila Rash	DATE
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RICHARD W. WIERING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA S.J.

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E-filing

ADR

Attorneys for Plaintiff

RAINBOW LIGHT NUTRITIONAL SYSTEMS, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

RAINBOW LIGHT NUTRITIONAL  
SYSTEMS, INC.,

Plaintiff,

vs.

NATURAL ORGANICS, INC., dba  
NATURE'S PLUS,

Defendant.

C08 NO. 04396 CRB

COMPLAINT

1. Federal Trademark Infringement
2. Federal Unfair Competition and False Designation of Origin
3. Federal Trademark Dilution
4. California Trademark Dilution
5. California Unfair Competition
6. Common Law Trademark Infringement
7. Common Law Unfair Competition

DEMAND FOR JURY TRIAL

Plaintiff, Rainbow Light Nutritional Systems, Inc. ("Rainbow Light" or "Plaintiff"),  
alleges as follows:

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**NATURE OF ACTION**

1. Rainbow Light is the owner of the famous trademark RAINBOW LIGHT for nutritional supplements, multivitamins and natural health products. Defendant Natural Organics, Inc., dba Nature's Plus ("Natural Organics" or "Defendant"), has adopted the mark RAINBOW LIGHTNING for certain of its nutritional supplement products. This is an action to redress violations of the federal Lanham Act for infringement of a federally registered trademark (15 U.S.C. § 1114), unfair competition and false designation of origin (15 U.S.C. § 1125(a)), dilution of a federally registered trademark (15 U.S.C. § 1125(c)), violation of the California Business and Professions Code for trademark dilution (Cal. Bus. & Prof. Code § 14247) and unfair competition (Cal. Bus. & Prof. Code § 17200), and common law trademark infringement and unfair competition, as the result of the willful adoption and use by Defendant of colorable imitations of Rainbow Light's famous name and mark, as more fully set forth hereinafter. Plaintiff seeks preliminary and permanent injunctive relief restraining Defendant's infringement of Plaintiff's trademark, treble monetary damages, attorneys' fees and related relief.

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**THE PARTIES**

2. Plaintiff Rainbow Light is a Delaware corporation with its principal place of business located at 125 McPherson Street, Santa Cruz, California 95060.
3. On information and belief, Defendant Natural Organics is a New York corporation with its principal place of business located at 548 Broadhollow Road, Melville, New York 11747-3708.

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**JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over Rainbow Light's claims under and pursuant to 15 U.S.C. § 1121 and 28 U.S.C. § 1338(a), as the claims arise under the federal Lanham Act, 15 U.S.C. §§ 1051-1127. This Court also has pendent jurisdiction over all related claims herein in accordance with 28 U.S.C. § 1338(b).

- 1 5. On information and belief, Natural Organics, either directly or through its agents,  
2 transacts business in the State of California and within this judicial district, and  
3 expected or should reasonably have expected its acts to have consequence in the State  
4 of California and within this judicial district.
- 5 6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c), as Natural  
6 Organics is doing business in this judicial district and therefore may be found in this  
7 district, and as a substantial part of the events giving rise to the claims alleged herein  
8 occurred in this judicial district.

9 **INTRADISTRICT ASSIGNMENT**

- 10 7. This intellectual property action is in an excepted category of Local Rule 3-2(c),  
11 Assignment of a Division, and will be assigned on a district-wide basis.

12 **ALLEGATIONS COMMON TO ALL CLAIMS**

- 13 8. Rainbow Light is a leading manufacturer and distributor of nutritional supplements,  
14 multivitamins and natural health products.
- 15 9. Founded in Santa Cruz, California in 1981, Rainbow Light has continuously sold a  
16 wide variety of dietary, nutritional and vitamin products under its RAINBOW LIGHT  
17 name and mark. Rainbow Light's products are directed toward a broad range of  
18 consumers, including adult men and women, older men and women, pregnant women,  
19 infants, children and teens.
- 20 10. Over the past twenty-seven years, Rainbow Light has become a well known brand in  
21 the marketplace, widely recognized for its commitment to providing high quality and  
22 innovative products. Rainbow Light has led the industry in the development of whole  
23 food-based formulation of nutritional products and has consistently provided products  
24 based on the most currently available scientific and nutritional data.
- 25 11. Many of Rainbow Light's products are the top-selling products among competitors in  
26 the marketplace. Rainbow Light has also been recognized for its dedication to the  
27 community and the environment, for providing educational programs and support for  
28 health care professionals and the public, and for its support of charitable causes.

- 1 12. Rainbow Light owns incontestable U.S. trademark registrations for its RAINBOW  
2 LIGHT mark, specifically, U.S. Reg. No. 1,805,769 for the mark "RAINBOW  
3 LIGHT", U.S. Reg. No. 1,598,122 for the mark "RAINBOW LIGHT NUTRITIONAL  
4 SYSTEMS", and U.S. Reg. No. 1,685,022 for "RAINBOW LIGHT" and Rainbow  
5 Design. True and correct copies of the certificates of registration are attached hereto as  
6 Exhibit A.
- 7 13. RAINBOW LIGHT is a fanciful mark, and is therefore highly distinctive. The term  
8 "Rainbow Light" has no descriptive meaning as applied to nutritional supplements,  
9 multivitamins or natural health products, or any of the goods covered by Rainbow  
10 Light's registrations or in connection with which Rainbow Light uses the RAINBOW  
11 LIGHT mark.
- 12 14. Since 1981, Rainbow Light has invested substantial resources in establishing its  
13 distinctive RAINBOW LIGHT name and mark, and in marketing, promoting and  
14 advertising the RAINBOW LIGHT brand in California and across the United States.
- 15 15. Rainbow Light's products are sold in a wide range of stores in California and  
16 throughout the United States, including, among others, national retailers such as Target,  
17 CVS Pharmacy, Rite-Aid Pharmacy, and Whole Foods Market. Rainbow Light's  
18 products are also sold widely online, including through Rainbow Light's website,  
19 rainbowlight.com, as well through many other popular websites such as amazon.com  
20 and drugstore.com.
- 21 16. As a result of Rainbow Light's long-term and widespread use of the RAINBOW  
22 LIGHT name and mark on all of its products, Rainbow Light's investment of resources  
23 in its brand, and the strong and loyal base of customers that Rainbow Light has built for  
24 its products, the RAINBOW LIGHT mark enjoys a high degree of consumer  
25 recognition and has become a famous mark. Rainbow Light enjoys substantial and  
26 valuable goodwill embodied in its RAINBOW LIGHT mark.
- 27 17. Defendant Natural Organics is a manufacturer and distributor of nutritional  
28 supplements, multivitamins and natural health products. Natural Organics competes

1 directly with Rainbow Light in the marketplace and consequently the Rainbow Light  
2 company and brand are well known to Natural Organics.

3 18. Natural Organics has introduced into the marketplace and is selling, in commerce,  
4 certain of its nutritional supplement products under the name RAINBOW  
5 LIGHTNING. The RAINBOW LIGHTNING packaging not only prominently features  
6 the RAINBOW LIGHTNING name but also otherwise imitates features of Rainbow  
7 Light's product packaging.

8 19. Natural Organics' RAINBOW LIGHTNING mark is nearly identical to Plaintiff's  
9 RAINBOW LIGHT name and mark, and is likely to confuse consumers into believing  
10 that Natural Organics' "Rainbow Lightning" nutritional supplement products are  
11 affiliated with, associated with, or sponsored by Rainbow Light, and Natural Organics  
12 will unjustly benefit from such association.

13 20. Natural Organics' use of the RAINBOW LIGHTNING mark is also likely to dilute the  
14 distinctiveness of Plaintiff's famous RAINBOW LIGHT mark by blurring through  
15 association arising from the similarity between the RAINBOW LIGHTNING and  
16 RAINBOW LIGHT marks.

17 21. Natural Organics' RAINBOW LIGHTNING mark wholly incorporates Rainbow  
18 Light's distinctive RAINBOW LIGHT mark, and thus is likely to cause an association  
19 between the RAINBOW LIGHTNING and RAINBOW LIGHT marks that impairs the  
20 distinctiveness of Plaintiff's famous RAINBOW LIGHT mark and weakens the  
21 connection in consumers' minds between the RAINBOW LIGHT mark and Rainbow  
22 Light's products.

23 22. On information and belief, Natural Organics' use of the RAINBOW LIGHTNING  
24 mark is designed to trade on the established reputation and goodwill of Rainbow Light.

25 23. Rainbow Light sent multiple letters to Natural Organics over several months advising  
26 Natural Organics of Rainbow Light's valuable trademark rights and demanding that  
27 Natural Organics cease all use of the RAINBOW LIGHTNING mark and any other  
28 marks that are confusingly similar to Rainbow Light's name and mark.

1 24. Natural Organics' failure to comply with Rainbow Light's demands demonstrates a  
2 deliberate intent to continue to willfully infringe Plaintiff's rights in the RAINBOW  
3 LIGHT name and mark.

4 **FIRST CAUSE OF ACTION**

5 (Federal Trademark Infringement under 15 U.S.C. § 1114)

6 25. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-24 of this  
7 Complaint.

8 26. The actions of Defendant described above and specifically, without limitation,  
9 Defendant's unauthorized use, in commerce, of a mark nearly identical to Plaintiff's  
10 registered RAINBOW LIGHT mark, in connection with the sale, offering for sale,  
11 distribution or advertising of Defendant's "Rainbow Lightning" products, constitute  
12 trademark infringement in violation of 15 U.S.C. § 1114.

13 27. The actions of Defendant described above are likely to cause consumers to be confused,  
14 mistaken or deceived into believing that Defendant's "Rainbow Lightning" products  
15 are affiliated with, associated with, or sponsored by Rainbow Light, and Defendant will  
16 unjustly benefit from such association.

17 28. The actions of Defendant, if not enjoined, will continue. Plaintiff has suffered and  
18 continues to suffer damages in an amount to be proven at trial consisting of, among  
19 other things, diminution in the value of and goodwill associated with the RAINBOW  
20 LIGHT mark and injury to Plaintiff's business. Plaintiff is therefore entitled to  
21 injunctive relief pursuant to 15 U.S.C. § 1116.

22 29. Pursuant to 15 U.S.C. § 1117, Plaintiff is entitled to recover damages in an amount to  
23 be determined at trial, Defendant's profits, and the costs of this action. Furthermore,  
24 Plaintiff is informed and believes, and on that basis alleges, that the actions of  
25 Defendant were undertaken willfully and with the intention of causing confusion,  
26 mistake, or deception, making this an exceptional case entitling Plaintiff to recover  
27 additional treble damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

28 **SECOND CAUSE OF ACTION**

1 (Federal Unfair Competition and False Designation of Origin under 15 U.S.C. § 1125(a))

2 30. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-29 of this  
3 Complaint.

4 31. The actions of Defendant described above and specifically, without limitation,  
5 Defendant's unauthorized use, in commerce, of a mark nearly identical to Plaintiff's  
6 RAINBOW LIGHT mark, in connection with the sale, offering for sale, distribution or  
7 advertising of Defendant's "Rainbow Lightning" products, constitute unfair  
8 competition and false designation of origin in violation of 15 U.S.C. § 1125(a).

9 32. The actions of Defendant described above are likely to cause consumers to be confused,  
10 mistaken or deceived into believing that Defendant's "Rainbow Lightning" products  
11 are affiliated with, associated with, or sponsored by Rainbow Light, and Defendant will  
12 unjustly benefit from such association.

13 33. The actions of Defendant, if not enjoined, will continue. Plaintiff has suffered and  
14 continues to suffer damages in an amount to be proven at trial consisting of, among  
15 other things, diminution in the value of and goodwill associated with the RAINBOW  
16 LIGHT mark and injury to Plaintiff's business. Plaintiff is therefore entitled to  
17 injunctive relief pursuant to 15 U.S.C. § 1116.

18 34. Pursuant to 15 U.S.C. § 1117, Plaintiff is entitled to recover damages in an amount to  
19 be determined at trial, Defendant's profits, and the costs of this action. Furthermore,  
20 Plaintiff is informed and believes, and on that basis alleges, that the actions of  
21 Defendant were undertaken willfully and with the intention of causing confusion,  
22 mistake, or deception, making this an exceptional case entitling Plaintiff to recover  
23 additional treble damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

24 **THIRD CAUSE OF ACTION**

25 (Federal Trademark Dilution under 15 U.S.C. § 1125 (c))

26 35. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-34 of this  
27 Complaint.

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- 1 36. As a result of Plaintiff's long-term and widespread use of the RAINBOW LIGHT name  
2 and mark on all of its products, Plaintiff's investment of resources in its brand, and the  
3 strong and loyal base of customers that Plaintiff has built for its products, the  
4 RAINBOW LIGHT mark enjoys a high degree of consumer recognition throughout the  
5 United States, and is a famous mark within the meaning of Section 43(c) of the United  
6 States Trademark Act, 15 U.S.C. § 1125(c).
- 7 37. The RAINBOW LIGHT mark became famous before Defendant began using the  
8 RAINBOW LIGHTNING mark.
- 9 38. Defendant's RAINBOW LIGHTNING mark wholly incorporates Plaintiff's  
10 RAINBOW LIGHT mark, and thus is likely to cause an association between the  
11 RAINBOW LIGHTNING and RAINBOW LIGHT marks that impairs the  
12 distinctiveness of Plaintiff's famous RAINBOW LIGHT mark and weakens the  
13 connection in consumers' minds between the RAINBOW LIGHT mark and Rainbow  
14 Light's products.
- 15 39. Defendant's use of the RAINBOW LIGHTNING mark is likely to cause dilution by  
16 blurring based on a number of relevant considerations, including:
- 17 (a) Plaintiff's RAINBOW LIGHT mark is entirely subsumed within  
18 Defendant's RAINBOW LIGHTNING mark, and the marks in their  
19 entirety are nearly identical;
  - 20 (b) The RAINBOW LIGHT mark is inherently distinctive;
  - 21 (c) Rainbow Light is engaging in substantially exclusive use of the  
22 RAINBOW LIGHT mark;
  - 23 (d) The RAINBOW LIGHT mark is widely recognized by the general  
24 consuming public of the United States;
  - 25 (e) On information and belief, Defendant intended to create an association  
26 with the RAINBOW LIGHT mark.
- 27 40. The actions of Defendant described above and specifically, without limitation,  
28 Defendant's unauthorized use, in commerce, of a mark nearly identical to Plaintiff's

1 famous and distinctive RAINBOW LIGHT mark, constitute use of a mark that is likely  
2 to cause dilution by blurring in violation of 15 U.S.C. § 1125(c).

3 41. The actions of Defendant, if not enjoined, will continue. Plaintiff has suffered and  
4 continues to suffer damages in an amount to be proven at trial consisting of, among  
5 other things, diminution in the value of and goodwill associated with the RAINBOW  
6 LIGHT mark and injury to Plaintiff's business. Plaintiff is therefore entitled to  
7 injunctive relief pursuant to 15 U.S.C. §§ 1116 and 1125(c).

8 42. On information and belief, the actions of Defendant were undertaken willfully and with  
9 the intention of trading on the recognition of Plaintiff's famous RAINBOW LIGHT  
10 mark. Pursuant to 15 U.S.C. § 1117, Plaintiff is therefore entitled to recover damages  
11 in an amount to be determined at trial, Defendant's profits, and the costs of this action.  
12 Furthermore, Plaintiff is informed and believes, and on that basis alleges, that the  
13 actions of Defendant were undertaken willfully and with the intention of causing  
14 dilution by blurring of Plaintiff's famous and distinctive RAINBOW LIGHT mark,  
15 making this an exceptional case entitling Plaintiff to recover additional treble damages  
16 and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

17 **FOURTH CAUSE OF ACTION**

18 (State Trademark Dilution under Cal. Bus. & Prof. Code § 14247)

19 43. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-42 of this  
20 Complaint.

21 44. As a result of Plaintiff's long-term and widespread use of the RAINBOW LIGHT name  
22 and mark on all of its products, Plaintiff's investment of resources in its brand, and the  
23 strong and loyal base of customers that Plaintiff has built for its products, the  
24 RAINBOW LIGHT mark enjoys a high degree of consumer recognition throughout  
25 California, and is a famous mark within the meaning of Cal. Bus. & Prof. Code §  
26 14247.

27 45. The RAINBOW LIGHT mark became famous before Defendant began using the  
28 RAINBOW LIGHTNING mark.

1 46. Defendant's RAINBOW LIGHTNING mark wholly incorporates Plaintiff's  
2 RAINBOW LIGHT mark, and thus is likely to cause an association between the  
3 RAINBOW LIGHTNING and RAINBOW LIGHT marks that impairs the  
4 distinctiveness of Plaintiff's famous RAINBOW LIGHT mark and weakens the  
5 connection in consumers' minds between the RAINBOW LIGHT mark and Rainbow  
6 Light's products.

7 47. Defendant's use of the RAINBOW LIGHTNING mark is likely to cause dilution by  
8 blurring based on a number of relevant considerations, including:

9 (f) Plaintiff's RAINBOW LIGHT mark is entirely subsumed within  
10 Defendant's RAINBOW LIGHTNING mark, and the marks in their  
11 entirety are nearly identical;

12 (g) The RAINBOW LIGHT mark is inherently distinctive;

13 (h) Rainbow Light is engaging in substantially exclusive use of the  
14 RAINBOW LIGHT mark;

15 (i) The RAINBOW LIGHT mark is widely recognized by the general  
16 consuming public of California;

17 (j) On information and belief, Defendant intended to create an association  
18 with the RAINBOW LIGHT mark.

19 48. The actions of Defendant described above and specifically, without limitation,  
20 Defendant's unauthorized use, in commerce, of a mark nearly identical to Plaintiff's  
21 famous and distinctive RAINBOW LIGHT mark, constitute use of a mark that is likely  
22 to cause dilution by blurring in violation of Cal. Bus. & Prof. Code § 14247.

23 49. The actions of Defendant, if not enjoined, will continue. Plaintiff has suffered and  
24 continues to suffer damages in an amount to be proven at trial consisting of, among  
25 other things, diminution in the value of and goodwill associated with the RAINBOW  
26 LIGHT mark and injury to Plaintiff's business. Plaintiff is therefore entitled to  
27 injunctive relief pursuant to Cal. Bus. & Prof. Code § 14247.

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1 50. On information and belief, the actions of Defendant were undertaken willfully and with  
2 the intention of causing dilution by blurring of Plaintiff's famous and distinctive  
3 RAINBOW LIGHT mark. Plaintiff is therefore entitled to receive up to three times  
4 Defendant's profits and up to three times all damages suffered pursuant to Cal. Bus. &  
5 Prof. Code §§ 14247 and 14250(a).

6 **FIFTH CAUSE OF ACTION**

7 (State Unfair Competition under Cal. Bus. & Prof. Code § 17200)

8 51. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-50 of this  
9 Complaint.

10 52. The actions of Defendant described above and specifically, without limitation,  
11 Defendant's unauthorized use, in commerce, of a mark nearly identical to Plaintiff's  
12 registered RAINBOW LIGHT mark, in connection with the sale, offering for sale,  
13 distribution or advertising of Defendant's "Rainbow Lightning" products, constitute  
14 unfair competition in violation of Cal. Bus. & Prof. Code § 17200.

15 53. The actions of Defendant described above are likely to cause consumers to be confused,  
16 mistaken or deceived into believing that Defendant's "Rainbow Lightning" products  
17 are affiliated with, associated with, or sponsored by Rainbow Light, and Defendant will  
18 unjustly benefit from such association.

19 54. The actions of Defendant, if not enjoined, will continue. The actions of Defendant  
20 described above have caused damages to Plaintiff consisting of, among other things,  
21 diminution in the value of and goodwill associated with the RAINBOW LIGHT mark  
22 and injury to Plaintiff's business. Plaintiff is therefore entitled to injunctive relief  
23 pursuant to Cal. Bus. & Prof. Code § 17203.

24 55. On information and belief, Defendant has profited from its unlawful actions. Plaintiff  
25 is therefore entitled to restitution.

26 **SIXTH CAUSE OF ACTION**

27 (Common Law Trademark Infringement)

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56. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-55 of this Complaint.
57. The actions of Defendant described above and specifically, without limitation, Defendant's unauthorized use, in commerce, of a mark nearly identical to Plaintiff's registered RAINBOW LIGHT mark, in connection with the sale, offering for sale, distribution or advertising of Defendant's "Rainbow Lightning" products, constitute trademark infringement in violation of the common law of the State of California.
58. The actions of Defendant described above are likely to cause consumers to be confused, mistaken or deceived into believing that Defendant's "Rainbow Lightning" products are affiliated with, associated with, or sponsored by Rainbow Light, and Defendant will unjustly benefit from such association.
59. The actions of Defendant, if not enjoined, will continue. Plaintiff has suffered and continues to suffer damages consisting of, among other things, diminution in the value of and goodwill associated with the RAINBOW LIGHT mark, and injury to Plaintiff's business. Plaintiff is entitled to recover damages in an amount to be determined at trial and injunctive relief. Furthermore, Plaintiff is informed and believes, and on that basis alleges, that Defendant's actions were fraudulent, and were undertaken willfully and maliciously with the intention of causing confusion, mistake, or deception. Plaintiff is therefore entitled to exemplary damages in an amount to be determined in the enlightened conscience of the jury.

**SEVENTH CAUSE OF ACTION**  
(Common Law Unfair Competition)

60. Plaintiff realleges and incorporates the allegations contained in paragraphs 1-59 of this Complaint.
61. The actions of Defendant described above and specifically, without limitation, Defendant's unauthorized use, in commerce, of a mark nearly identical to Plaintiff's registered RAINBOW LIGHT mark, in connection with the sale, offering for sale,

1 distribution or advertising of Defendant's "Rainbow Lightning" products, constitute  
2 unfair competition in violation of the common law of the State of California.

3 62. The actions of Defendant described above are likely to cause consumers to be confused,  
4 mistaken or deceived into believing that Defendant's "Rainbow Lightning" products  
5 are affiliated with, associated with, or sponsored by Rainbow Light, and Defendant will  
6 unjustly benefit from such association.

7 63. The actions of Defendant, if not enjoined, will continue. Plaintiff has suffered and  
8 continues to suffer damages consisting of, among other things, diminution in the value  
9 of and goodwill associated with the RAINBOW LIGHT mark, and injury to Plaintiff's  
10 business. Plaintiff is entitled to recover damages in an amount to be determined at trial  
11 and injunctive relief. Furthermore, Plaintiff is informed and believes, and on that basis  
12 alleges, that Defendant's actions were fraudulent, and were undertaken willfully and  
13 maliciously with the intention of causing confusion, mistake, or deception. Plaintiff is  
14 therefore entitled to exemplary damages in an amount to be determined in the  
15 enlightened conscience of the jury.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff requests that judgment be entered as follows:

18 1. That Defendant, its principals, partners, franchisees, agents, employees, licensees,  
19 affiliates, any parent and subsidiary companies, attorneys and representatives and  
20 all of those in privity with or acting under its direction and/or pursuant to its  
21 control, be preliminarily and permanently enjoined and restrained, from directly or  
22 indirectly:

23 a. Using the mark RAINBOW LIGHTNING, or terms, marks, symbols or  
24 indicia confusingly similar to the RAINBOW LIGHT mark, in connection  
25 with the production, advertisement, promotion, distribution, offering for sale  
26 or selling of nutritional supplements, multivitamins and natural health  
27 products;

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b. Performing any acts or using any service marks, trademarks, names, words or phrases that are likely to cause confusion, to cause mistake, to deceive or otherwise mislead the public into believing that the services or goods of Defendant originate with, or are affiliated with, associated with, or sponsored by Rainbow Light;

2. That Defendant be required to file with the Court, and serve on Plaintiff, a statement under oath evidencing compliance with any preliminary or permanent injunctive relief ordered by the Court within fourteen (14) days after the entry of such order of injunctive relief;

3. That Defendant, its principals, partners, franchisees, agents, employees, licensees, affiliates, any parent and subsidiary companies, attorneys and representatives and all of those in privity with or acting under its direction and/or pursuant to its control, be required to deliver up for destruction all advertising, signs, labels, wrappers, packaging, and any other materials bearing the RAINBOW LIGHTNING mark;

4. That Defendant be ordered to pay Plaintiff monetary damages for the harm resulting from its infringement of Plaintiff's mark and its other wrongful actions, as described above, in an amount to be determined at trial;

5. That Plaintiff's damages be trebled and that Defendant be ordered to pay Plaintiff's attorneys' fees on the basis that this is an exceptional case;

6. That Defendant be ordered to provide restitution to Plaintiff;

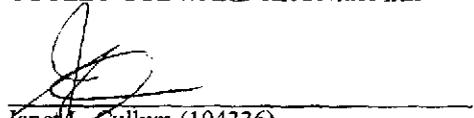
7. That Defendant be ordered to pay exemplary damages; and

That Plaintiff have such other and further relief as this Court shall deem just and proper on the merits.

1 Dated: September 18 2008

Respectfully submitted,

COOLEY GODWARD KRONISH LLP



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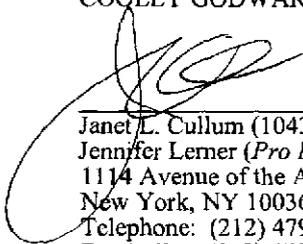
**DEMAND FOR JURY TRIAL**

Plaintiff hereby requests a trial by jury in this matter.

Dated: September 11, 2008

Respectfully submitted,

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