



Press Release  
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For Immediate Release:

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## **Cantor Colburn LLP Wins Summary Judgment for a Host of Nutritional Supplement Defendants**

*Plaintiff has filed more than 100 patent infringement suits in past year*

A federal judge in the U.S. District Court for the Central District of California invalidated a nutritional supplement patent held by Plaintiff Thermolife International LLC and granted summary judgment to a host of Defendants. Thermolife has filed more than 100 patent infringement suits concerning such supplements in various jurisdictions since 2012. Cantor Colburn partner Jeffery B. Arnold, who specializes in pharmaceutical and nutritional supplement litigation and intellectual property protection, coordinated a joint defense effort among several of the defendants, resulting in a cost-effective defense for the respective clients. Cantor Colburn Partner and Litigation Practice Co-Chair William J. Cass argued the case on behalf of the defendants in the proceeding.

“Our goal was to expedite a motion schedule without protracted discovery,” said Arnold, “which we were able to accomplish.”

U.S. District Judge Gary A. Feess found U.S. Patent Number 8,202,908 invalid and granted summary judgment to a host of Defendants, including Bio-Engineered Supplements and Nutrition Inc.; Bronson Laboratories Inc.; Hi-Tech Pharmaceuticals Inc.; Infinite Labs LLC; Lecheek LLC; Maximum Human Performance LLC; Muscle Warfare Inc.; Nutrex Research Inc.; Pharmafreak Holdings Inc.; Purus Labs Inc.; Reaction Nutrition LLC; SNI LLC; Lone Star Distribution, Inc.; All Star Health; Redefine Nutrition LLC; S A N Nutrition Group; GNC Corporation; General Nutrition Centers Inc.; General Nutrition Corporation; Kilosports Inc.; DNA Sports Nutrition; Nutrition Zone Worldwide Inc.; and Nutraplanet.

Judge Feess' ruling ends 12 months of litigation between the parties. Thermolife sued several of the defendants in October, 2012, but the case was dismissed without prejudice for violation of the American Invents Act (AIA). Thereafter, Thermolife filed several individual actions, which were subsequently consolidated for discovery by Judge Feess. Thermolife claimed defendants' respective products containing D-aspartic acid violated the two method claims of the '908 patent, entitled “D-aspartic Acid Supplement.” The claims of the '908 patent are directed to a method of increasing male testosterone, growth hormone and/or insulin-like growth factor by orally ingesting a D-aspartic acid compound.

Defendants filed for summary judgment in July, arguing that the '908 patent was anticipated by an Italian patent application made publically available one year and two weeks before the



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earliest priority date. Thermolife asserted that the publication was not “published” nor publically available until after the one-year priority date. Judge Feess agreed with defendants and declared the ‘908 as anticipated by the reference.

Lecheek LLC; Maximum Human Performance LLC; Purus Labs Inc; Reaction Nutrition LLC; Lone Star Distribution; All Star Health; Redefine Nutrition LLC; and Nutraplanet are represented by Cantor Colburn LLP.

“This was a team effort by the defendants and their counsel to stand up to a vexatious litigant,” said Cass.

The case is *ThermoLife International LLC v. Better Body Sports LLC et al.*, case 2:12-cv-09229-GAF-FFM, in the U.S. District Court for the Central District of California.

#### **About Cantor Colburn LLP**

Cantor Colburn is one of the largest, full-service intellectual property law firms in the country, with growing offices in Hartford, Washington, D.C., Atlanta, Houston, and Detroit. The attorneys in Cantor Colburn’s litigation practice have extensive and diverse experience in intellectual property, commercial, and business litigation cases. In recent rankings, Cantor Colburn was ranked 7th in the country for issued U.S. Patents and 24th for registered U.S. Trademarks. As well, the firm has extensive practice in other intellectual property areas, such as validity and infringement opinions, reexaminations, interferences, licensing, due diligence regarding acquisitions and divestitures, and technology transfer agreements. The firm’s clients are among the leading companies in the United States and around the world, including Fortune 100 companies, privately-held companies, select high tech start-ups, and universities. For more information, go to [www.cantorcolburn.com](http://www.cantorcolburn.com).

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