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18 Attorneys for Plaintiffs
19 RK Solutions, LLC and VND Butyrate, LLC

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 **RK SOLUTIONS, LLC and VND**
23 **BUTYRATE, LLC,**

24 **Plaintiffs,**

25 **v.**

26 **VITAJLOY USA INC. and SUZHOU**
27 **VITAJLOY BIO-TECH CO., LTD.**

28 **Defendants,**

Civil Action No. 2:18-cv-6608

JURY TRIAL DEMANDED

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 Plaintiffs RK Solutions, LLC (“RK Solutions”) and VND Butyrate, LLC (“VND
3 Butyrate”) (collectively “Plaintiffs”) file this patent infringement action against
4 Defendants Vitajoy USA Inc. (“Vitajoy Inc.”) and Suzhou Vitajoy Bio-Tech Co., Ltd.
5 (“Vitajoy Ltd.”) (collectively “Defendants”), pursuant to the Patent Laws of the United
6 States of America, 35 U.S.C. § 101 *et seq.*

7 **BACKGROUND**

8 1. Plaintiff RK Solutions is the exclusive licensee of U.S. Patent No.
9 6,613,356 (“the ‘356 Patent” or “Patent-in-Suit”), entitled “Patent for inventions
10 covering weight loss medication and method” (“the ‘356 Patent,” attached as Exhibit
11 A). Plaintiff VND Butyrate is the licensor and owner of the ‘356 Patent. Plaintiffs
12 have the right to assert all causes of action arising under the ‘356 Patent and the right
13 to remedies for infringement thereof.

14 2. The inventive concepts of the ‘356 Patent are generally directed to
15 processes and compositions of matter for causing weight loss or avoidance of weight
16 gain through oral administration of butyric acid or one or more enumerated
17 pharmaceutically effective and acceptable salts or derivatives of butyric acid.

18 **PARTIES**

19 3. Plaintiff RK Solutions, LLC is a Utah Limited Liability Company
20 headquartered at 2040 East Holladay Rd, Suite 102, Holladay, UT 84117.

21 4. Plaintiff VND Butyrate, LLC is a Texas Limited Liability Company with
22 a principal place of business at 8710 Donys Drive, Suite 400, Houston, Texas 77040.

23 5. Defendant Vitajoy USA Inc. is a California corporation headquartered
24 at 18227 Railroad Street, City of Industry, CA 91748. Vitajoy USA Inc. may be served
25 with process by delivering a summons and a true and correct copy of this Complaint to
26 its registered agent for receipt of service of process, Charles Kuo, 18227 Railroad
27 Street, City of Industry, CA 91748.

28 6. Defendant Suzhou Vitajoy Bio-Tech Co., Ltd. is a Chinese corporation

1 headquartered at B13-102, No192, Tinglan Lane, Industrial Park 215026, Suzhou,
2 China.

3 7. On information and belief, Vitajoy Inc. is a wholly-owned subsidiary of
4 Vitajoy Ltd.

5 **JURISDICTION AND VENUE**

6 8. This action arises under the patent laws of the United States, Title 35 of
7 the United States Code. Accordingly, this Court has subject matter jurisdiction under
8 28 U.S.C. §§ 1331 and 1338(a).

9 9. This Court has personal jurisdiction over Defendants because, among
10 other reasons, Defendants have established minimum contacts with the forum state of
11 California.

12 10. Venue is proper in this District under 28 U.S.C. § 1400(b) because
13 Defendants have committed acts of patent infringement in this District, reside in this
14 District or in a foreign country, and have a regular and established place of business in
15 this District, located at 18227 Railroad Street, City of Industry, CA 91748.

16 **COUNT I**

17 **INFRINGEMENT OF U.S. PATENT NO. 6,613,356**

18 11. Plaintiffs incorporate by reference each of the allegations in the
19 foregoing paragraphs, and further allege as follows:

20 12. On September 2, 2003, the United States Patent and Trademark Office
21 issued the ‘356 Patent for inventions generally directed to processes and compositions
22 of matter for causing weight loss or avoidance of weight gain through oral
23 administration of butyric acid or one or more pharmaceutically effective and acceptable
24 salts or derivatives of butyric acid, including beta-hydroxybutyrate (“BHB”) products.

25 13. On July 27, 2017, RK Solutions gave notice to Defendants that their
26 actions, including offers for sale of BHB, constitute a violation of the ‘356 Patent, and
27 demanded that Defendants cease and desist from their infringing activities. Defendants
28 did not respond and have continued to engage in infringing activities.

1 14. Defendants have been and are now directly and indirectly infringing one
2 or more claims of the ‘356 Patent, including but not limited to claims 1, 14 and 17, in
3 this judicial District and elsewhere in the United States.

4 15. For example, Defendants directly and indirectly infringe the ‘356 Patent
5 by making, selling, using, offering for sale, or importing products, including but not
6 limited to sodium betahydroxybutyrate, calcium betahydroxybutyrate, potassium
7 betahydroxybutyrate, and magnesium betahydroxybutyrate products (the “BHB
8 Products”). In conjunction with the BHB Products, Defendants also provide tablets,
9 capsules and softgels, including for products designed for weight loss or avoidance of
10 weight gain.

11 16. With knowledge of the ‘356 Patent, Defendants know or should have
12 known, and specifically intend, for the BHB Products to be used to infringe the claims
13 of the ‘356 Patent, for example by being incorporated into products (including tablets,
14 capsules and softgels) that Defendants know or should have known, and specifically
15 intend, to be orally administered for the purpose of weight loss or avoidance of weight
16 gain.

17 17. Defendants have committed these acts of infringement without license
18 or authorization.

19 18. Defendants have injured Plaintiffs and are liable to Plaintiffs for direct
20 and indirect infringement of the claims of the ‘365 Patent pursuant to 35 U.S.C. §
21 271(a), (b), and (c).

22 19. As a result of Defendants’ infringement of the ‘365 Patent, Plaintiffs
23 have suffered harm and seek injunctive relief and monetary damages in an amount
24 adequate to compensate for infringement, but in no event less than a reasonable royalty
25 for the use made of the invention by Defendants, together with interest and costs as
26 fixed by the Court.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiffs respectfully pray for entry of judgment as follows:

- 1 1. That Defendants have directly and indirectly infringed one or more
- 2 claims of the '365 Patent;
- 3 2. That Defendants be ordered to provide an accounting;
- 4 3. That Plaintiffs are entitled to, and should recover, all damages to which
- 5 they are entitled under 35 U.S.C. § 284, but in no event less than a reasonable
- 6 royalty;
- 7 4. That Plaintiffs, as the prevailing party, shall recover from Defendants
- 8 all taxable costs of Court;
- 9 5. That Plaintiffs shall recover from Defendant all pre- and post-judgment
- 10 interest on the damages award, calculated at the highest interest rates allowed by law;
- 11 6. That Plaintiffs are entitled to enhanced damages of up to three times
- 12 the amount found by the jury or ordered by the Court, pursuant to 35 U.S.C. § 284;
- 13 7. That this case is exceptional and that Plaintiffs shall therefore recover
- 14 their attorneys' fees and other recoverable expenses, pursuant to 35 U.S.C. § 285;
- 15 8. That Defendants are permanently enjoined from further infringement
- 16 of the '356 Patent; and
- 17 9. Such other and further relief as the Court deems appropriate.

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JURY TRIAL DEMANDED

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs request a trial by jury of any issues so triable by right.

Dated: August 1, 2018

Respectfully submitted,

/s/ Ethan J. Brown
Ethan J. Brown

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