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8 *Bonerge Lifescience (Hunan) Co., Ltd.*

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10  
11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13 **EASTERN DIVISION**

14 NANJING NUTRABUILDING BIO-TECH  
15 CO., LTD.,

16 Plaintiff,

17 v.

18 BONERGE LIFESCIENCE (HUNAN) CO.,  
19 LTD., et al.,

20 Defendants.

Case Number: 5:25-cv-00271-JGB-SHK

[Hon. Judge Jesus G. Bernal]

**DEFENDANT BONERGE LIFESCIENCE  
(HUNAN) CO., LTD.'S AMENDED  
ANSWER TO PLAINTIFF'S  
COMPLAINT**

1 Defendant Bonerge Lifescience (Hunan) Co., Ltd. (“Bonerge” or “Defendant”) submits the  
2 following amended answer, pursuant to F.R.C.P. 15(a)(1)(A), to Plaintiff Nanjing Nutrabuilding  
3 Bio-Tech Co., Ltd.’s (“NNB” or “Plaintiff”) Complaint (D.E. 1) as follows:

4 **PARTIES**

5 1. Defendant is without sufficient knowledge or information to form a belief as to the  
6 truth of the allegations in this paragraph, and on that basis denies each and every allegation contained  
7 therein.

8 2. Admitted that Bonerge is a business entity formed under the laws of the People’s  
9 Republic of China. Admitted that Bonerge has a registered address at Room 102, Building 7, Phase 1,  
10 Depu Wuhe Enterprise Park, No.1, NO.3 LuoSitang Road, Changsha, Hunan, China. With respect to  
11 all other allegations not explicitly admitted herein, denied.

12 3. Defendant is without sufficient knowledge or information to form a belief as to the  
13 truth of the allegations in this paragraph, and on that basis denies each and every allegation contained  
14 therein.

15 **JURISDICTION AND VENUE**

16 4. The allegations in this paragraph constitute legal conclusions rather than factual  
17 averments, and thus Defendant is not required to answer. Without waiving the foregoing contention  
18 and reserving all such rights: to the extent a response is deemed necessary, Defendant admits that the  
19 Court has subject matter jurisdiction over this action, otherwise denied.

20 5. Admitted that Defendant maintains a website at [www.bonerge.com](http://www.bonerge.com) and posts  
21 information on the website. Admitted that Defendant attended and exhibited at a trade show in  
22 Anaheim, California in 2024 to promote its products. With respect to all other allegations not  
23 explicitly admitted herein, denied.

24 6. Admitted that Defendant has a LinkedIn profile under the name “Bonerge Lifescience”  
25 and posts information on the LinkedIn page. Admitted that Defendant attended and exhibited at a  
26 trade show in Anaheim, California in 2024 to promote its products. With respect to all other  
27 allegations not explicitly admitted herein, denied.

28 NNB Exh. 2005, p. 002

1 7. Admitted that Defendant had a temp employee known as Jack Chen. With respect to  
2 all other allegations not explicitly admitted herein, denied.

3 8. Admitted that Bonerge issued a press release on or about July 31, 2024 through  
4 Business Wire. Admitted that Bonerge identified in the press release Ms. Ceilia Yang as contact.  
5 Admitted that Bonerge identified in the press release a phone number and an email address. Admitted  
6 that 949 is an area code for Orange County, California. With respect to all other allegations not  
7 explicitly admitted herein, denied.

8 9. Admitted that Defendant's website at [www.bonerge.com](http://www.bonerge.com) contains a footer listing  
9 contact information. With respect to all other allegations not explicitly admitted herein, denied.

10 10. Denied.

11 11. The allegations in this paragraph constitute legal conclusions rather than factual  
12 averments, and thus Defendant is not required to answer.

13 12. The allegations in this paragraph constitute legal conclusions rather than factual  
14 averments, and thus Defendant is not required to answer.

15 **FACTUAL ALLEGATIONS**

16 13. Admitted that Plaintiff has provided the patent registration information for the  
17 10,278,961 Patent (the "'961 patent"). Defendant is without sufficient knowledge or information to  
18 form a belief as to the truth of the allegations in this paragraph, and on that basis denies each and every  
19 allegation contained therein.

20 14. Admitted that the title appearing on the face of the '961 patent is "Administration of  
21 Berberine Metabolites." Admitted that the issue date appearing on the face of the '961 patent is May 7,  
22 2019, the filing date appearing on the face of the '961 patent is April 19, 2017 as U.S. Patent  
23 Application No. 15/491,933. Admitted that the U.S. Provisional Application No. 62/324,794, filed on  
24 April 19, 2016 appears on the face of the '961 patent. Otherwise, denied.

25 15. Admitted that the abstract of the '961 patent states that berberine metabolites, such as  
26 dihydroberberine and/or tetrahydroberberine, may be administered to manage blood glucose levels and  
27 the administration of a pharmaceutically effective amount of berberine metabolites, such as  
28 dihydroberberine, may improve glucose tolerance etc. Otherwise, denied.

1 16. Defendant is without sufficient knowledge or information to form a belief as to the  
2 truth of the allegations in this paragraph, and on that basis denies each and every allegation contained  
3 therein.

4 17. Defendant is without sufficient knowledge or information to form a belief as to the  
5 truth of the allegations in this paragraph, and on that basis denies each and every allegation contained  
6 therein.

7 18. Admitted that Defendant did not send letters to Plaintiff or Plaintiff's counsel. With  
8 respect to all other allegations not explicitly admitted herein, denied.

9 19. Defendant is without sufficient knowledge or information to form a belief as to the  
10 truth of the allegations in this paragraph, and on that basis denies each and every allegation contained  
11 therein.

12 20. Admitted that [allen.g@bonerge.com](mailto:allen.g@bonerge.com) is a valid Bonerge employee email address. With  
13 respect to all other allegations, Defendant is without sufficient knowledge or information to form a  
14 belief as to the truth of these allegations, and on that basis denies.

15 21. Admitted that [cecilia.y@bonerge.com](mailto:cecilia.y@bonerge.com) is a valid Bonerge employee email address.  
16 With respect to all other allegations, Defendant is without sufficient knowledge or information to form  
17 a belief as to the truth of these allegations, and on that basis denies.

18 22. Admitted that at least one representative of Bonerge was aware of Plaintiff's  
19 accusations of patent infringement. With respect to all other allegations not explicitly admitted herein,  
20 denied.

21 23. Admitted that Bonerge imports, offers to sell, and/or sells a dihydroberberine product in  
22 the U.S. With respect to all other allegations not explicitly admitted herein, denied.

23 24. Admitted that the recited claim language appears to be a copy of the Claim 1 language  
24 of the '961 patent. Otherwise, denied.

25 25. Admitted that the recited claim language appears to be a copy of the Claim 2 language  
26 of the '961 patent. Otherwise, denied.

27 26. Admitted that the recited claim language appears to be a copy of the Claim 5 language  
28 of the '961 patent. Otherwise, denied.

1 27. Admitted that the recited claim language appears to be a copy of the Claim 7 language  
2 of the '961 patent. Otherwise, denied.

3 28. Admitted that Bonerge imports a dihydroberberine product into the U.S. Admitted that  
4 Bonerge sells a dihydroberberine product to U.S. customers. Admitted that Bonerge applied to the  
5 U.S. trademark office for registration a GlucoSober mark. Admitted that the recited paragraph appears  
6 to be a copy of identification of goods description included in the federal trademark application  
7 submission. With respect to all other allegations not explicitly admitted herein, denied.

8 29. Defendant is without sufficient knowledge or information to form a belief as to the  
9 truth of the other allegations in this paragraph, and on that basis denies each and every other allegation  
10 contained therein.

11 30. Denied.

12 31. Denied.

13 32. Admitted that Plaintiff has not licensed or authorized Bonerge to make, use, import,  
14 offer to sell, and/or sell dihydroberberine-containing supplements used for managing glucose tolerance  
15 and/or reduce fasting glucose levels. Otherwise, denied.

16 33. Denied.

17 34. Denied.

18 **COUNT I – PATENT INFRINGEMENT – U.S. PATENT 10,278,961**

19 **(35 U.S.C. §§ 101 et seq.)**

20 35. Defendant repeats and incorporates by reference its responses to the allegations set  
21 forth in the preceding paragraphs.

22 36. Denied.

23 37. Denied.

24 38. Denied.

25 39. Denied.

26 40. Denied.

27 41. Denied.

28 42. Denied.

1 **Plaintiff's Prayer for Relief**

2 Defendant denies that Plaintiff is entitled to damages, compensatory or punitive, equitable relief,  
3 attorneys' fees, costs, pre-judgement interest or to any relief whatsoever arising from any claim or set  
4 of allegations set forth in the Complaint, and on that basis denies Plaintiff's Prayer for Relief in its  
5 entirety.

6 **General Denial**

7 Defendant denies each and every allegation in the Complaint to the extent not specifically  
8 admitted herein.

9 **Affirmative and Other Defenses**

10 Subject to the responses above, Defendant alleges and asserts the following defenses in response  
11 to the allegations in the Complaint, undertaking the burden of proof only as to those defenses deemed  
12 affirmative defenses by law, regardless of how such defenses are denominated herein. In addition to the  
13 affirmative defenses described below, subject to their responses above, Defendant specifically reserves  
14 all rights to allege additional affirmative defenses that become known through the course of discovery  
15 or further investigation in this action.

16 **FIRST DEFENSE**

17 **(Non-Infringement)**

18 Defendant does not infringe and has not directly infringed (either literally or under the doctrine  
19 of equivalents), induced infringement of, or contributed to the infringement of any valid and enforceable  
20 claims of the '961 Patent.

21 **SECOND DEFENSE**

22 **(Invalidity)**

23 The claims of the '961 Patent are invalid under 35 U.S.C. § 102 because the claims lack novelty,  
24 and are disclosed, taught, and suggested by the prior art.

25 The claims of the '961 Patent are invalid under 35 U.S.C. § 103 because the claims are obvious  
26 in view of the prior art.

27 The claims of the '961 Patent are invalid are invalid for failure satisfy the conditions set forth in  
28 35 U.S.C. § 112, including lack of written description, lack of enablement, and claim indefiniteness.

1 **THIRD DEFENSE**

2 **(Prosecution History Estoppel and/or Disclaimer)**

3 By reason of statements, representations, concessions, admissions, arguments, and/or  
4 amendments, whether explicit or implicit, made by or on behalf of the applicant during the prosecution  
5 of the patent application that led to the issuance of the '961 Patent, Plaintiff's claims of patent  
6 infringement are barred, in whole or in part, by the doctrine of prosecution history estoppel. To the  
7 extent Plaintiff's claims for infringement of any of the '961 Patent is based on the doctrine of  
8 equivalents, Plaintiff is barred under the doctrine of prosecution history estoppel and/or other limits to  
9 the doctrine of equivalents, and Plaintiff is estopped from claiming that the '961 Patent cover any  
10 accused method and/or product.

11 **FOURTH DEFENSE**

12 **(Damages and Cost Limitation)**

13 On information and belief, Plaintiff's claims for relief are limited or barred, in whole or in part,  
14 by 35 U.S.C. §§ 286, 287, and/or 288.

15 **PRAYER FOR RELIEF**

16 **WHEREFORE**, Defendant respectfully requests that the Court enters judgment in its favor  
17 and against Plaintiff, and grants the following relief:

- 18
- 19 A. Dismissing, with prejudice, the Complaint in its entirety against Defendant;
- 20 B. Denying all relief that Plaintiff seeks in its Complaint;
- 21 C. Declaring that Defendant does not now and has never infringed, induced the infringement  
22 of, or contributed to the infringement of any valid and enforceable claims of the '961  
23 patent;
- 24 D. Declaring that the claims of the '961 patent in the Complaint are invalid;
- 25 E. Awarding Defendant its costs, expenses, disbursements, and attorneys' fees incurred in  
26 connection with this action; and
- 27
- 28 F. Awarding Defendant any other relief the Court deems just and equitable.

1 Dated: April 24, 2025

Respectfully submitted,

2           /s/ Hua Chen          

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Attorney for Defendant  
*Bonerge Lifescience (Hunan) Co., Ltd*

**CERTIFICATE OF SERVICE**

Pursuant to Fed. R. Civ. P. 5(b), I hereby certify that on the 24th day of April, 2025, a true and correct copy of the foregoing **DEFENDANT BONERGE LIFESCIENCE (HUNAN) CO., LTD.’S AMENDED ANSWER TO PLAINTIFF’S COMPLAINT** was filed electronically via the Court’s CM/ECF system. Notice of filing will be served on all parties by operation of the Court’s EM/ECF system, and parties may access this filing through the Court’s CM/ECF system.

Dated: April 24, 2025

By: /s/ Hua Chen

Hua Chen