

1 Mark D. Nielsen, Esq., CA Bar No. 210,023
2 *mark.nielsen@solidcounsel.com*
3 SCHEEF & STONE, LLP
4 2600 Network Boulevard, Suite 400
5 Frisco, Texas 75034
6 Telephone: (214) 472-2100
7 Fax: (214) 472-2150

8 Daniel M. Cislo, Esq., CA Bar No. 125,378
9 *dan@cislo.com*
10 C. Wook Pak, Esq., CA Bar No. 244,780
11 *wpak@cislo.com*
12 CISLO & THOMAS LLP
13 12100 Wilshire Boulevard, Suite 1700
14 Los Angeles, California 90025
15 Telephone: (310) 451-0647
16 Fax: (310) 394-4477

17 Attorneys for Plaintiff,
18 Nanjing Nutrabuilding Bio-Tech Co., Ltd.

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

21 NANJING NUTRABUILDING BIO-
22 TECH CO., LTD.,

23 Plaintiff,

24 vs.

25 BONERGE LIFESCIENCE (HUNAN)
26 CO., LTD., and DOES 1-9,
27 INCLUSIVE,

28 Defendants.

) Case No.

) **COMPLAINT FOR PATENT**
) **INFRINGEMENT**

) **[DEMAND FOR JURY TRIAL]**

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 For its complaint, Plaintiff Nanjing Nutrabuilding Bio-Tech Co., Ltd. alleges
3 as follows:

4
5 **PARTIES**

6 1. Plaintiff Nanjing Nutrabuilding Bio-Tech Co., Ltd. (“Plaintiff” or
7 “NNB”) is a company organized under the laws of the People’s Republic of China
8 with a place of business at No. 270 Jiqingmen Street, Suning Huigu, Building E6,
9 Room 2105, Nanjing, China 210017.

10 2. Defendant Bonerge Lifescience (Hunan) Co., Ltd. (“Defendant” or
11 “Bonerge”) is a business entity, on information and belief, formed under the laws of
12 the People’s Republic of China, with a place of business in this judicial district at
13 2049 S. Hellman Ave, Unit A, Ontario, California 91761. In addition, Bonerge may
14 have places of business having the addresses of either Bldg # 7B, Depu Parkview,
15 E&D Zone, Changsha, Hunan China 414000, or Room 102, Building 7, Depu Wuhe
16 Enterprise Park, Changsha City, Hunan, China, or Room 102, Building 7, Phase 1,
17 Depu Wuhe Enterprise Park, No.1, NO.3 LuoSitang Road, Changsha, Hunan,
18 Changsha, Hunan 410000, CN, which each may be the same location.

19 3. The true names and capacities, whether individual, corporate, or
20 otherwise of Defendants Does 1-9 inclusive, are unknown to Plaintiff, who therefore
21 sues them by such fictitious names. Plaintiff will seek leave to amend this complaint
22 to allege their true names and capacities when they have been ascertained. Plaintiff
23 is informed and believes and thereon alleges that each of the fictitiously named
24 Defendants is responsible in some manner for the occurrences herein alleged. At all
25 times herein mentioned, Defendants Does 1-9 inclusive were the agents, servants,
26 employees or attorneys of their co-defendants, and in doing the things hereinafter
27 alleged were acting within the course and scope of their authority as those agents,
28 servants, employees or attorneys, and with the permission and consent of their co-

1 defendants.

2
3 **JURISDICTION AND VENUE**

4 4. This Court has subject matter jurisdiction over this action pursuant to 28
5 U.S.C. § 1331 and § 1338(a) as it arises under Acts of Congress related to patents.

6 5. On information and belief, Bonerge attended and exhibited (in Booth
7 4182) the Natural Product Expo West trade show in this judicial district in Anaheim,
8 California to promote its products, including the product accused herein of infringing
9 NNB’s patent. Bonerge posted an article on its website on or about April 28, 2024
10 about its attendance at this show. See <https://bonerge.com/site-List-7.html> and
11 https://bonerge.com/index/Article/show/cat_id/7/id/24. See **Exhibits 1-2**, attached
12 hereto.

13 6. Bonerge, holding themselves out as Bonerge Lifescience on LinkedIn
14 also posted about its attendance at the Nature Product Expo West, including
15 referencing the accused product in this case. On information and belief, the trade
16 show referenced by Bonerge occurred on or about March 13-16, 2024 in this judicial
17 district at the Convention Center in Anaheim, California. See **Exhibits 3-5**, attached
18 hereto.

19 7. Also, according to Bonerge’s LinkedIn page, it has “associated
20 members” in this judicial district, including Jack Chen. Jack Chen’s LinkedIn page
21 indicates he is in Los Angeles, California. See **Exhibits 6-7**, attached hereto.

22 8. In addition, in a press release by Bonerge dated July 31, 2024, Bonerge
23 identifies as its “Contacts” a Cecilia Yang having an email address of
24 sales@bonerge.com and a telephone number of (949) 712-7328, and (949) is an
25 Orange County, California area code. See **Exhibit 8**, attached hereto.

26 9. Furthermore, on Bonerge’s website (www.bonerge.com), the footer of
27 most, if not every, page of the website appears as follows,
28



1
2
3
4
5 and contains contact information that precisely corresponds to Cecilia Yang’s contact
6 information on Bonerge’s press release referenced above in Exhibit 8. The same
7 footer also contains an address in this judicial district at 2049 S. Hellman Ave, Unit
8 A, Ontario California 91761. Thus, Bonerge has a physical presence in this judicial
9 district. The “Contact” tab on Bonerge’s website also contains the same information.
10 See **Exhibit 9**, attached hereto.

11 10. The foregoing demonstrates that Bonerge actively markets, offers to
12 sell, and on information and belief, sells its products in and through this judicial
13 district, including the accused dihydroberberine product; and, it does so with full
14 understanding and intention that its dihydroberberine product will be compounded
15 into tablets or capsules and used in product sold by its customers to end users for
16 purposes of managing glucose tolerance, managing blood glucose levels, related
17 metabolic benefits, and weight loss.

18 11. Accordingly, this Court has personal jurisdiction over Bonerge in that,
19 on information and belief, Bonerge has committed, and continues to commit, acts of
20 direct and/or indirect infringement in violation of 35 U.S.C. § 271 in this judicial
21 district, by having a physical presence in this judicial district at 2049 S. Hellman Ave,
22 Unit A, Ontario California 91761, by placing products, including the accused
23 infringing product, into the stream of commerce from this judicial district, with the
24 knowledge and understanding that such products are used, imported, offered for sale,
25 and/or sold in this judicial district and elsewhere in the U.S.

26 12. Venue is proper in this judicial district as to Bonerge pursuant to 28
27 U.S.C. § 1400(b) in that Bonerge resides in this judicial district at 2049 S. Hellman
28 Ave, Unit A, Ontario California 91761 and/or Bonerge has committed acts of

1 infringement in this judicial district as detailed herein, and has a regular and
2 established, physical place of business in this judicial district at 2049 S. Hellman
3 Ave, Unit A, Ontario California 91761. On information and belief, the accused
4 product referenced herein is at least imported, shipped to, stored in, and shipped from
5 Bonerge’s facility in Ontario, California to customers in the U.S., including at least,
6 on information and belief, Nature’s Fusions of Orem, Utah.

7
8 **FACTUAL ALLEGATIONS**

9 13. NNB owns United States Patent No. 10,278,961 (the “’961 Patent”) by
10 virtue of several assignments. The ‘961 Patent is attached hereto as **Exhibit 10**. The
11 ‘961 Patent may also be referred to herein as the “patent-in-suit.”

12 14. The ‘961 Patent, entitled “Administration of Berberine Metabolites,”
13 which issued on May 7, 2019, was filed on April 19, 2017 as U.S. Patent Application
14 No. 15/291,933, which itself claims priority to U.S. Provisional Application No.
15 62/324,794, filed on April 19, 2016.

16 15. The patent-in-suit describes berberine metabolites, including
17 dihydroberberine, and its administration of pharmaceutically effective amounts of
18 berberine metabolites, including dihydroberberine, to manage and improve glucose
19 tolerance and related metabolic issues (e.g., metabolic syndrome).

20 16. On or about September 12, 2024, NNB, through counsel, provided
21 written notice of the infringement of the patent-in-suit via a letter to Bonerge. *See*
22 **Exhibit 11**, attached hereto. The letter was delivered to Bonerge on or about
23 September 25, 2024.

24 17. On or about October 29, 2024, NNB, through counsel, sent a second
25 letter to Bonerge regarding allegations of infringement of the patent-in-suit by
26 Bonerge. *See* **Exhibit 12**, attached hereto.

27 18. To the best of NNB’s knowledge, Bonerge did not respond to either of
28 these letters.

1 19. On or about November 5, 2024, NNB, through counsel, provided written
2 notice of the infringement of the patent-in-suit via a letter attached to an email to
3 Nature’s Fusions or Orem, Utah. *See Exhibit 13*, attached hereto. Exhibit 14, *infra*,
4 shows the emailing of this letter on November 5, 2024.

5 20. On or about November 6, 2024, Nature’s Fusions, in turn, via email
6 from Matt Peterson (matt@naturesfusions.com) to NNB’s counsel added a
7 representative of Bonerge to the email thread (allen.g@bonerge.com) and stated in
8 part to NNB’s counsel, “You can speak with the manufacturer of the ingredient we
9 use in our product. Allen from Bonerge.” *See Exhibit 14*, attached hereto.

10 21. The next day (November 6, 2024), Matt Peterson further responded and
11 added Cecilia.Y@bonerge.com to the email thread and stated, “Cecilia from our
12 manufacturer, who has also worked extensively with U.S. patent laws, is copied here
13 and available for further questions.” *See Exhibit 14*.

14 22. Accordingly, multiple representatives of Bonerge were given actual
15 notice of the accusations of infringement of one or more of the claims of the ‘961
16 Patent by no later than November 6, 2024, but more likely by no later than on or
17 about September 25, 2024.

18 23. On information and belief, Bonerge makes, uses, imports, offers to sell,
19 and/or sells its dihydroberberine product in the U.S. with full understanding and
20 intention that its dihydroberberine product will be compounded into tablets or
21 capsules and used in product sold by its customers to end users for purposes of
22 managing glucose tolerance, managing blood glucose levels, related metabolic
23 benefits, and weight loss. *See Exhibits 15-18*, attached hereto.

24 24. By way of example only, and without waiving any right to assert
25 infringement of any other claim of the ‘961 Patent either directly or indirectly, claim
26 1 reads: “A method of managing glucose tolerance in an individual, the method
27 comprising: administering, to an individual, a pharmaceutically effective amount of
28 dihydroberberine, wherein the pharmaceutically effective amount of

1 dihydroberberine comprises approximately 25 mg to approximately 800 mg of
2 dihydroberberine.”

3 25. By way of example only, and without waiving any right to assert
4 infringement of any other claim of the ‘961 Patent either directly or indirectly, claim
5 2 reads: “The method of claim 1 wherein the administration of dihydroberberine
6 reduces fasting glucose levels.”

7 26. By way of example only, and without waiving any right to assert
8 infringement of any other claim of the ‘961 Patent either directly or indirectly, claim
9 5 reads: “The method of claim 1 wherein the dihydroberberine is orally administered
10 as a capsule or tablet.”

11 27. By way of example only, and without waiving any right to assert
12 infringement of any other claim of the ‘961 Patent either directly or indirectly, claim
13 7 reads: “The method of claim 1 wherein the dihydroberberine is administered at
14 least once daily.”

15 28. On information and belief, Bonerge imports dihydroberberine into the
16 U.S., stores it at its location in Ontario, California, takes orders from customers (e.g.,
17 Nature’s Fusions), and ships the dihydroberberine product from its Ontario,
18 California facility to its customers. And, Bonerge at all relevant times herein has
19 done, and does so, knowing full well how its customers and end users will use the
20 dihydroberberine (e.g., as a supplement for healthy metabolism, weight loss, blood
21 sugar control), and intending for the same to occur. Bonerge markets its
22 dihydroberberine product under the name GLUCOSOBBER and at all relevant times
23 herein has known, knows, and continues to know full well that dihydroberberine is
24 used to control glucose levels, manage glucose tolerance, and support healthy
25 metabolism. In its federal trademark application for GLUCOSOBBER, the
26 identification of goods states:

27 Dietary beverage supplements for human consumption in
28 liquid and dry mix form for therapeutic purposes; Dietary

1 supplement drink mixes; Dietary supplemental drinks;
2 Dietary supplements; Dietary supplements for animals;
3 Dietary supplements for humans; **Dietary supplements**
4 **for lowering glucose levels**; Dietary supplements in the
5 form of capsules, tablets, caplets, powder, liquids, syrups,
6 gummies, gels and soft chews; **Dietary supplements in**
7 **the nature of weight loss powders**; Dietary and nutritional
8 supplements; **Dietary and nutritional supplements used**
9 **for weight loss**; Dietary food supplements; Food
10 supplements; Herbal supplements; Meal replacement bars
11 for weight loss purposes; Nutritional food additives for
12 medical purposes in the nature of natural food extracts
13 derived from plants, fruits and vegetables; Nutritional
14 supplements; **Nutritional supplements for lowering**
15 **glucose levels**; Nutritional supplements in the form of
16 capsules, tablets, caplets, powder, liquids, syrups,
17 gummies, gels and soft chews; Plant extracts, other than
18 essential oils, for medical, veterinary and pharmaceutical
19 purposes; Plant extracts, other than essential oils, for
20 pharmaceutical purposes; Plant and herb extracts, other
21 than essential oils, for medicinal purposes; Powdered
22 nutritional supplement concentrate; Powdered nutritional
23 supplement drink mix; **Glucose dietary supplements**;
24 Natural dietary supplements; Nutraceuticals for use as a
25 dietary supplement; Nutritional and dietary supplements
26 formed and packaged as bars; Nutritional supplement meal
27 replacement bars for boosting energy; Vitamins and dietary
28 food supplements for animals.

1 See **Exhibit 19**, attached hereto (emphasis added).

2 29. In addition, inasmuch as Nature’s Fusions has admitted that its
 3 dihydroberberine manufacturer is Bonerge, Natures Fusions’ website recently
 4 included a photograph of the bottle of its dihydroberberine-containing product as follows
 5 (see **Exhibits 20-21**, attached hereto):



20 30. Thus, Nature’s Fusions’ product is labeled and marketed consistent with
 21 Bonerge’s statements about dihydroberberine, including the following:

Dihydroberberine 97% HPLC

- ★ Berberine is one of the best known and most effective natural Glucose Disposal Agents.
- ★ With large amounts of scientific research showing significant improvements of Berberine to insulin sensitivity, fasting glucose levels, HbA1c reduction, nutrient partitioning, and far more.
- ★ Research suggests that dihydroberberine is up to 5 times better than standard berberine, bringing incredible effects at lower doses - and fewer side effects.

The Detail

Dihydroberberine Helps To Improve Glucose and Lipid Metabolic Health

Until now, there are large amounts of scientific research showing that in reduce blood sugar levels; promote lipid conversion; help for loss weight, **Dihydroberberine(DHB) has better effect than Berberine(BBR)**.

1. Maintain Blood Sugar Standard

BBR has been shown to adjust Sugar metabolism in human body through reduced glucose absorption; inhibit gluconeogenesis; regulate insulin levels; active PKC and AMPK.

DHB shows better effect than BBR in adjust sugar metabolism, a study, which the subjects were mice shows BBR and DHB all can improve 44% insulin sensitivity. Compared with DHB and BBR for improving insulin sensitivity. The results shows that to cause the same reaction with DHB, you need five times more than BBR.

2. Lipid Metabolism

The effect of BBR on fat loss is thought to be related to the improvement of insulin sensitivity and the activation of AMPK enzyme. In addition, BBR has been shown to lower cholesterol levels and thus reduce the risk of heart disease, this is thought to be caused by BBR's inhibitory effect on an enzyme called PCSK9, which when inhibited causes more LDL (bad cholesterol) to be removed from the blood.

One study compared the pancreatic lipase inhibition of BBR and DHB, the results shows that because of the affinity of DHB is stronger than BBR, the BBR has a lower inhibitory action compared to DHB on pancreatic lipase.

3. Weight Loss and Prevent Obesity

BBR can regulate blood glucose and lipid balance in many ways, indicating that it can help regulate body weight. In one study, subjects were given BBR over time, after 12 weeks, their BMI levels dropped from 31.5 to 27.4. DHB has stronger ability in these aspect,so DHB may be considered a more effective weight-loss aid than BBR.

From: https://www.bonerge.com/index/Article/show/cat_id/10/id/1 (accessed January 22, 2025).

31. Bonerge at all relevant times has been fully aware of the glucose management efficacy of berberine and dihydroberberine and has intentionally marketed its dihydroberberine product to supplement sellers such as Nature’s Fusions in order to induce them to formulate it into dihydroberberine-containing supplements in the form of capsules or tablets, for example, to then be sold to end users in the U.S. to enable them to manage their own glucose tolerance and/or reduce fasting glucose levels. In other words, Bonerge is knowingly and intentionally inducing and/or contributing to the infringement of one or more of the claims of the ‘961 Patent by selling a product it knows will be administered by end users to manage their own

1 glucose tolerance and/or reduce fasting glucose levels.

2 32. NNB has not licensed or otherwise authorized Bonerge (or its dealers,
3 distributors, customers, affiliates, or the like) to make, use, import, offer to sell,
4 and/or sell dihydroberberine-containing supplements used for managing glucose
5 tolerance and/or reduce fasting glucose levels. In other words, the making, using,
6 importing, offering to sell, and/or selling of dihydroberberine-containing
7 supplements used for managing glucose tolerance and/or reduce fasting glucose
8 levels by Bonerge (or its dealers, distributors, customers, affiliates, or the like) is
9 unauthorized.

10 33. Bonerge's infringement of the patent-in-suit is willful. Bonerge has
11 known about the '961 Patent since at least as early as November 6, 2024, but more
12 likely since on or about September 25, 2024, and is not known to have altered its
13 infringing product/system or activities, or the advertising, marketing, and/or
14 promotion thereof with respect its infringing product/system since that time.

15 34. Bonerge is therefore liable to NNB for money damages pursuant to 35
16 U.S.C. § 284 from at least as early as November 6, 2024, but more likely since on or
17 about September 25, 2024, if not the issue date of the '961 Patent. In addition,
18 Bonerge must be deterred from any further violations of NNB's rights in the patent-
19 in-suit through a permanent injunction. Bonerge should also be required to pay
20 NNB's attorneys' fees, expenses, and costs for its willful and blatant disregard of
21 NNB's patent rights.

22
23 **COUNT I – PATENT INFRINGEMENT – U.S. PATENT 10,278,961**

24 **(35 U.S.C. §§ 101 et seq.)**

25 35. NNB hereby repeats and incorporates herein by reference the allegations
26 set forth in paragraphs 1 through 34 above.

27 36. NNB's '961 Patent (*see Exhibit 10*) has at all relevant times subsequent
28 to its issue date been fully enforceable and is now fully enforceable.

1 37. Subsequent to the issuance of the ‘961 Patent, Bonerge has directly
2 and/or indirectly infringed the ‘961 Patent by making, using, importing, offering to
3 sell, and/or selling, and continuing to make, use, import, offer to sell and/or sell
4 dihydroberberine-containing supplements used for managing glucose tolerance
5 and/or reduce fasting glucose levels, which come within the scope of at least one
6 claim of the ‘961 Patent, and/or that come within a range of equivalents of at least
7 one claim of the ‘961 Patent, intentionally inducing and/or contributing to the
8 infringing activities of others in the form of their use of dihydroberberine-containing
9 supplements used for managing glucose tolerance and/or reduce fasting glucose
10 levels, as well as the administration by end users of the dihydroberberine-containing
11 supplements used for managing glucose tolerance and/or reduce fasting glucose
12 levels.

13 38. The making, using, importing, offering to sell, and/or selling of the
14 accused product(s) by Bonerge, including in, from, and/or through its distribution
15 facility in Ontario, California, and/or contributing to and/or inducing the infringing
16 activities of others (including through at least advertising, marketing, promotion, and
17 instructions and information provided to end users and/or installers on, for example,
18 Bonerge’s website, product literature), has been without authority or license from
19 NNB and is in violation of NNB’s rights under the ‘961 Patent, thereby infringing
20 the ‘961 Patent.

21 39. As set forth above, Bonerge was put on notice of the ‘961 Patent and its
22 infringement since at least as early as September of 2024, and for at least the same
23 amount of time, Bonerge has been aware of and extensively promoted the use of
24 dihydroberberine in connection with managing glucose tolerance and/or reduce
25 fasting glucose levels, and has encouraged the use of dihydroberberine for those
26 purposes.

27 40. For the reasons stated elsewhere herein, Bonerge’s infringement of
28 NNB’s ‘961 Patent has been, and is, willful, with knowledge of, and in disregard for

1 the exclusive rights of NNB set forth in its '961 Patent.

2 41. The amount of money damages due NNB as a result of Bonerge's
3 infringing acts will be determined according to proof at trial, with NNB being entitled
4 to damages adequate to compensate it for the infringements, but in no event less than
5 a reasonable royalty.

6 42. The harm to NNB arising from Bonerge's acts of infringement of
7 NNB's '961 Patent is not fully compensable by money damages. Rather, NNB has
8 suffered and continues to suffer irreparable harm which has no adequate remedy at
9 law and which will continue unless Bonerge's conduct is enjoined. NNB is therefore
10 also entitled to a preliminary injunction, to be made permanent on entry of the
11 judgment, preventing Bonerge from further acts of infringement.

12
13 **PRAYER FOR RELIEF**

14 WHEREFORE, NNB demands judgment against Bonerge, as follows:

15 A. A finding that Bonerge has directly and/or indirectly infringed the
16 patent-in-suit.

17 B. For an order preliminarily and permanently enjoining Bonerge, and its
18 officers, directors, agents, servants, customers, distributors, re-sellers, affiliates,
19 employees, and contractors, and all other persons acting in concert with it from
20 committing any further acts of infringement, including but not limited to,
21 manufacturing, using, importing, offering to sell, and selling dihydroberberine-
22 containing supplements used for managing glucose tolerance, supporting healthy
23 metabolism, and/or reduce fasting glucose levels, contributing to, inducing, or
24 otherwise aiding, abetting, or assisting others in such infringing activities;

25 C. For an order directing Bonerge to file with this Court and to serve on
26 NNB within thirty (30) days after service on Bonerge of the injunction granted herein,
27 or such extended period as the Court may direct, a report in writing, under oath,
28 setting forth in detail the manner and form in which Bonerge has complied with the

1 injunction and order of the Court;

2 D. For a judgment to be entered for NNB against Bonerge awarding
3 damages adequate to compensate NNB for the infringement, but in no event less than
4 a reasonable royalty;

5 E. For a judgment awarding to NNB prejudgment and postjudgment
6 interest until the award is fully paid;

7 F. For a judgment that Bonerge has willfully and deliberately infringed
8 NNB's patent rights, such that it is determined that this is an exceptional case
9 entitling NNB to enhanced damages under the Patent Laws of the United States;

10 G. For an award to NNB of costs, expenses, and attorneys' fees, incurred
11 in bringing this action under the Patent Laws of the United States; and,

12 H. For such other and further relief as this Court may deem just and
13 equitable under the circumstances.

14
15 Respectfully submitted:

16 SCHEEF & STONE LLP

17 Dated: January 31, 2025

18 By: /s/ Mark D. Nielsen
19 Mark D. Nielsen

20 CISLO & THOMAS LLP

21 Daniel M. Cislo

22 C. Wook Pak

23 Attorneys for Plaintiff,
24 NANJING NUTRABUILDING BIO-
25 TECH CO., LTD.
26
27
28

DEMAND FOR JURY TRIAL

1
2 NNB hereby demands a trial by jury on all issues raised by the Complaint so
3 triable.
4

5 Respectfully submitted:
6 SCHEEF & STONE LLP

7 Dated: January 31, 2025

8 By: /s/ Mark D. Nielsen
9 Mark D. Nielsen

10 CISLO & THOMAS LLP
11 Daniel M. Cislo
12 C. Wook Pak

13 Attorneys for Plaintiff,
14 NANJING NUTRABUILDING BIO-
15 TECH CO., LTD.
16
17
18
19
20
21
22
23
24
25
26
27
28