

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
PALM BEACH DIVISION**

NUTRITIONAL PRODUCTS
INTERNATIONAL INC.,

Plaintiff,

-against-

TRULIFE DISTRIBUTION INC.,

Defendant.

Civil Action No. _____

COMPLAINT
(Jury Trial Demanded)

Plaintiff, NUTRITIONAL PRODUCTS INTERNATIONAL INC.
(www.nutricompany.com) (hereinafter referred to as "NPI" and/or "Plaintiff"), by and through undersigned counsel, files this Complaint against Defendant TRULIFE DISTRIBUTION INC. (hereinafter referred to as "Trulife" and/or "Defendant") and alleges as follows:

PRELIMINARY STATEMENT

1. This is an action for unfair competition, and false designation of origin under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a), the Florida Deceptive and Unfair Trade Practices Act, Florida Statute §501.01, et seq., and under the common laws of unfair competition, all arising from false or misleading material statements of fact made by Trulife in commercial advertisement and promotion with the intention to deceive NPI's clients and prospective clients. Defendant has made these statements in interstate commerce and has caused or is likely to cause competitive or commercial injury to NPI.

2. Plaintiff seeks injunctive and monetary relief.

JURISDICTION AND VENUE

3. This court has jurisdiction over this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, and 1338(a) and (b), and pursuant to the principles of supplemental jurisdiction under 28 U.S.C. § 1367.

4. Venue is proper in this district under 28 U.S.C § 1391(b)(1), in that Defendant resides in this district and 28 U.S.C. § 1391(b)(2), in that a substantial part of the events or omissions giving rise to the claims occurred in this district.

PARTIES

5. Plaintiff, NUTRITIONAL PRODUCTS INTERNATIONAL INC., is a Florida corporation with its principal business in Boca Raton, Florida. NPI is a world-renowned distribution platform for nutritional brands. NPI plays the role of U.S. headquarters for foreign brands, utilizing a proprietary methodology it terms “evolution of distribution.” NPI has provided a “turnkey”, one stop solution for foreign brands seeking U.S distribution since 2008. In addition, NPI also helps contemporary brands in the United States expand their distribution.

6. Defendant, TRULIFE DISTRIBUTION INC., is a Florida Corporation with its principal place of business in Boca Raton, Florida. Trulife, in business since May 2019, claims to have the same infrastructure and knowledge as NPI and purports to help companies in the United States expand distribution.

GENERAL ALLEGATIONS

7. Defendant Trulife’s President is a former executive of the Plaintiff corporation, NPI, during which time he had access to various “case studies” compiled by Plaintiff related to its business.

8. The case studies were success stories that were achieved by NPI and its founder Mitch Gould (hereinafter referred to as “Mr. Gould”). Mr. Gould is well known throughout the nutrition industry on a global level.

9. In 2019, Plaintiff became aware that its former executive decided to clone the NPI operation in its entirety for his own benefit. This was accomplished primarily by establishing two companies, Nutrasales, Inc. and TRULIFE DISTRIBUTION INC.

10. Litigation in both federal court and Florida state court ensued between the corporations and their principals. These litigations were resolved on or about July 8, 2021, through mediation.

11. None of the acts alleged herein predate the settlement of any of these prior actions.

12. On or about February 14, 2022, plaintiffs were copied on an email that was addressed to “briang@nutricompany.com.” which was never created by NPI’s IT department, and it is believed that discovery will reveal that it was fraudulently created by defendant, a competitor, to sabotage and convert NPI business to Trulife.

13. Upon information and belief, another potential client of NPI called upon Trulife in February of 2022, for help with distribution of a product. After multiple phone calls and zoom meetings with the Trulife team, the potential client sent samples for review to the addresses 1279 W. Palmetto Park Road #2636 Boca Raton FL 33486, and 16542 Sea Glass St. Winter Garden, FL 34787. Upon information and belief, 1279 W. Palmetto Park Road #2636 Boca Raton FL 33486 is the principal place of business of Trulife.

14. The original presentation to this potential client from Trulife was a setup fee and monthly fee and commission on sales. Then, the potential client received an email with various cases studies and testimonies that purported to be Trulife’s own. Trulife utilized these case studies

to induce clients to pay set up and monthly fees. Without these case studies, it would be difficult for Trulife to induce any potential client to pay their fees. However, the potential client became suspicious, and after internet research, realized that these case studies did not represent Trulife's performance. They represented NPI's performance.

15. Plaintiff is in possession of email threads to this client, where Trulife sent NPI case studies as if they were from Trulife. The studies were wrongfully converted into Trulife case studies.

16. Trulife's continuing attempts to unfairly compete with NPI by utilizing an email address made to appear to originate from NPI and by misrepresenting NPI case studies as Trulife case studies are damaging NPI and its clients and potential clients. NPI seeks both to be made whole and to stop these misrepresentations in the future.

COUNT I
PERMANENT INJUNCTION AS TO TRULIFE'S USE OF NPI'S CASE STUDIES

17. Plaintiff hereby repeats and realleges each and every allegation set forth in paragraphs 1 through 16 as if fully set forth herein.

18. NPI has no adequate remedy at law and will continue to be irreparably harmed if a permanent injunction is not granted requiring Trulife to cease its misrepresentations.

19. While damages from July 2021 to present may be determined by expert testimony at trial, this will not address future damages from Trulife's continuing misrepresentations. There is no adequate remedy at law to stop Trulife from misrepresenting to clients that NPI case studies are Trulife case studies.

20. NPI has a clear legal right to the relief requested and has a substantial likelihood of success on the merits.

21. Trulife's soliciting of NPI's clients and potential clients throughout the world utilizing the NPI case studies has resulted in harm to NPI.

22. In addition, Trulife has caused confusion in the marketplace within the nutrition, health and wellness industry. NPI will continue to suffer irreparable injury unless a permanent injunction is issued.

23. Prohibiting Trulife, whose principal is a former employee of NPI, from making these misrepresentations to solicit customers clearly is in furtherance of the public interest of protecting legitimate business interests.

24. By reason of the acts and conduct of Trulife as alleged herein, NPI has been required to retain the services of the undersigned counsel for the purpose of bringing this action and has obligated itself to pay a reasonable fee for counsel's service.

25. All conditions precedent to the maintenance of this action have been performed or fulfilled.

WHEREFORE, NPI demands a permanent injunction against Trulife and requests the following relief against Trulife:

- a) A permanent injunction prohibiting Trulife from misrepresenting NPI case studies as Trulife case studies;
- b) A permanent injunction prohibiting Trulife from creating and utilizing email accounts appearing to be NPI domains.
- c) NPI's reasonable attorneys' fees and costs in bringing this action.
- d) An award for compensatory and punitive damages for all harm suffered; and,
- e) Any further relief this Court deems just and proper.

COUNT II
VIOLATIONS OF FLORIDA'S DECEPTIVE AND UNFAIR TRADE PRACTICES ACT
(DAMAGES)

26. Plaintiff adopts and realleges paragraphs 1 through 16 as if fully set forth herein.

27. This is an action brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Florida Statute §501.01, *et seq.*

28. Plaintiff is a "consumer" as that term is defined under the Florida Deceptive and Unfair Trade Practices Act.

29. Defendant's actions described herein constitute unfair or deceptive trade practices, unfair methods of competition, unconscionable acts or practices, and/or unfair or deceptive acts or practices under Chapter 501 and specifically under Florida Statute §501.204 and Florida law.

30. As a direct and proximate result of Defendant's violations of the Florida Deceptive and Unfair Trade Practices Act, the Plaintiff has suffered damages.

31. Florida Statute §501.211(2) provides for an award of attorneys' fees in favor of Plaintiff should they prevail.

32. Plaintiff has been obligated to retain the undersigned law firm to pursue this matter against the Defendant, and to pay them a reasonable fee for their services.

WHEREFORE, the Plaintiff, NPI, requests judgment for damages against the Defendant, TRULIFE, including interest, attorneys' fees, and court costs.

COUNT III
VIOLATIONS OF FLORIDA'S DECEPTIVE AND UNFAIR TRADE PRACTICES ACT
(INJUNCTIVE RELIEF)

33. Plaintiff adopts and realleges paragraphs 1 through 16 above as is if fully set forth herein.

34. Pursuant to Florida Statute §501.211(1), the Plaintiff is entitled to injunctive relief against the Defendant, to enjoin their past and/or continued conduct, including:

- a. Using NPI's case studies;
- b. Using the fraudulently created email address briang@nutricompany.com.
- c. Representing to any third persons that they are, or are affiliated with, Plaintiff;
- d. Taking any other action to misrepresent to the public that the Defendant is affiliated with Plaintiff.

35. Florida Statute §§501.211 and 501.2105 provides for an award of attorneys' fees in favor of Plaintiff should they prevail.

36. Plaintiff has been obligated to retain the undersigned law firm to pursue this matter against the Defendant, and to pay them a reasonable fee for their services.

37. Plaintiff has no adequate remedy at law because the amount of the damage is difficult or impossible to ascertain and of a character that cannot be remedied solely by money. Plaintiff has and will continue to suffer harm if Defendant continues to infringe upon Plaintiff's tradename and continue to mislead and confuse the public.

WHEREFORE, the Plaintiff, NPI, demands judgment against the Defendant, TRULIFE, for a permanent injunction, attorneys' fees, court costs, and any other and further relief as this Court deems just and proper.

COUNT IV
LANHAM ACT- FALSE DESIGNATIONS
(DAMAGES)

38. Plaintiff adopts and realleges paragraphs 1 through 16 as if fully set forth herein.

39. This is an action brought pursuant to Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a) and the Anti-Cybersquatting Consumer Protection Act (“ACPA”), 15 U.S.C. 1125(d)(1)(A).

40. Defendant, through the foregoing conduct, including but not limited to, using the fraudulently created email address briang@nutricompany.com, utilizing the Plaintiff’s case studies on their website, telling customers that it is affiliated with the Plaintiff, having used in commerce a word, term, name, symbol, or device, or any combination thereof, or false designation of origin, false or misleading description of fact, or false or misleading representation of fact which:

a. is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of its goods, services, or commercial activities by another person; or

b. in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of another person’s goods, services or commercial activities.

41. As a direct and proximate result of the Defendant’s actions, the Plaintiff has suffered substantial damages.

WHEREFORE, the Plaintiff, NPI, requests judgment against the Defendant, TRULIFE, including compensatory damages, defendant’s profits, treble damages, additional damages awarded by the court, statutory damages, interest, attorneys’ fees, and court costs.

REQUEST FOR JURY TRIAL

Plaintiff, NPI, hereby requests a jury trial for all issues so triable.

Respectfully filed this 6th day of May 2022.

HANTMAN & ASSOCIATES

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By: /s/ Robert J. Hantman

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