

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

Le-Vel Brands, LLC,

Plaintiff,

v.

Thrival Nutrition, LLC.

Defendant.

CIVIL ACTION NO.

COMPLAINT FOR TRADEMARK
INFRINGEMENT AND UNFAIR
COMPETITION

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff Le-Vel Brands, LLC (“Le-Vel”) by its undersigned attorneys, alleges as follows, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters.

NATURE OF THE ACTION

1. This is an action for trademark infringement and unfair competition under federal, state, and/or common law. Le-Vel brings this action against Thrival Nutrition, LLC (“Defendant”) because Defendant is unlawfully offering and selling supplements under the infringing name and mark THRIVAL NUTRITION. Defendant launched and continues to sell supplement products under its infringing name notwithstanding Le-Vel’s THRIVE and THRIVE-formative trademark rights, notwithstanding Defendant’s intimate knowledge of Le-Vel, and notwithstanding “constant” actual consumer confusion of untold numbers occurring in the marketplace. No better said than by Defendant itself:



Thrive Nutrition

April 27 · 🌐

Part 🙌 of dissecting nutrition multilevel marketing / direct sales with 📺

..... Thrive by Le-Vel!

-
-

A company that I'm CONSTANTLY being confused with 🙄, which we have no affiliation! A common ingredient I found in their products is maltodextrin



27 Apr Is Thrive Le-Vel Healthy? {A Nutritionist's Take}

Posted at 06:00h in Nutrition by Lahana Vigliano

This is our 2nd blog post in the series of **Dissecting Health MLM/Direct Sales Companies**. Check out our first one on [Juice Plus](#).

No, me and Thrive Le-Vel aren't affiliated! I can't tell you how many times I've been mistaken for this company. We have no affiliation whatsoever with each other. Thrive Nutrition is the company I founded and I fully own it.



Lahana Vigliano

April 27 · 🌐

Dissecting MLM/direct sale nutrition companies part 🙌

Thrive by Le-Vel (And we are NOT affiliated. I am in no way shape or form connected to this company. You have no idea how many times people thought Thrive was this. 🙄😬)

2. Defendant's activities and products are likely to and do confuse, deceive, or mislead consumers into believing Defendant's activities are authorized by or affiliated with Le-Vel, and/or that such products are offered, licensed, or approved by Le-Vel. Le-Vel seeks to enjoin Defendant's unlawful use of THRIVAL NUTRITION and recover actual damages, Defendant's profits, and other relief, including attorneys' fees and costs.

THE PARTIES

3. Plaintiff Le-Vel Brands, LLC is a Texas limited liability company with its principal place of business at 9201 Warren Parkway #200, Frisco, Texas 75035.

4. Defendant Thrival Nutrition, LLC is a Texas limited liability company with an address at 12704 Monterey Path, Austin, Texas 78732.

JURISDICTION AND VENUE

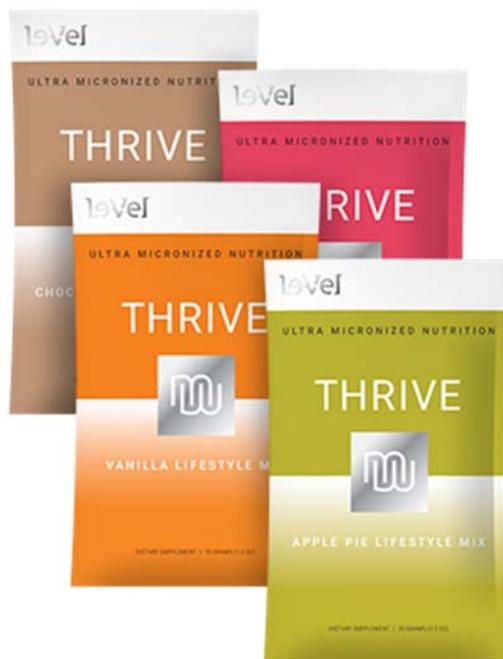
4. This action arises under the federal Trademark Act, 15 U.S.C. §§ 1051, *et seq.* and the related laws of the state of Texas. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b).

5. This Court has personal jurisdiction over Defendant, and venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because Le-Vel is being harmed in this District and because Defendant is offering, and has sold, infringing goods into this District.

LE-VEL AND ITS THRIVE NAME AND TRADEMARK

6. Le-Vel is a lifestyle company that offers dietary and nutritional supplements and related coaching/lifestyle/wellness programs, conventions, and educational materials. Le-Vel formulates its products with premium ingredients and high levels of nutrition, giving customers the opportunity to live healthy, balanced, and premium lifestyles.

7. Le-Vel's flagship product line is sold under the brand THRIVE and various THRIVE-formative marks (the "THRIVE Marks"). Le-Vel's THRIVE product line consists of a wide range of supplements for physical and mental wellness and healthy living, including supplements formulated specifically for men, women, and children; nutritional shakes, energy shakes, drink mixes, and gels; nootropics; and transdermal supplement products:





8. Le-Vel has continuously used its THRIVE Marks in commerce since 2012.

9. The THRIVE name and THRIVE Marks are indelibly tied with Le-Vel’s overall corporate identity, such that Le-Vel is commonly known as “THRIVE” in the marketplace.

10. Le-Vel owns numerous valid and subsisting U.S. trademark registrations and applications for its THRIVE Marks, some of which include the following:

Mark	Goods	App./Reg. No. App./Reg. Date	First-Use Date
THRIVE (and Design)	Topical patches featuring vitamin, mineral, plant extract, antioxidant, enzyme, probiotic, and amino acid preparations used for general health and wellness in Class 5.	5772374 06/11/2019	08/2012
THRIVE EXPERIENCE (and Design)	Nutritional supplements, namely, vitamin, mineral, plant extract, antioxidant, enzyme, probiotic, and amino acid preparations and supplements used for general health and wellness in Class 5. Providing online retail store services using account-based user information in the field of nutritional preparations and	5174403 04/04/2017	12/2012 for Classes 5 and 44. 10/2013 for Class 35.

Mark	Goods	App./Reg. No. App./Reg. Date	First-Use Date
	<p>supplements; providing an incentive award program for consumers that provides for discounted pricing and free product return of nutritional preparations and supplements with purchase in Class 35.</p> <p>A nutritional plan for general health and wellness consisting of consulting advice and recommendations on nutritional supplements and nutritional consulting advice and recommendations on nutritional preparations in Class 44.</p>		
THRIVE BY LE-VEL	Nutritional supplements, namely, vitamin, mineral, plant extract, antioxidant, enzyme, probiotic, and amino acid preparations used for general health and wellness in Class 5.	5169444 03/28/2017	11/2012
RELEASE THE THRIVE	Nutritional supplements, namely, vitamin, mineral, plant extract, antioxidant, enzyme, probiotic, and amino acid preparations used for general health and wellness in Class 5.	5144648 02/21/2017	02/2015

SALE AND PROMOTION OF LE-VEL'S THRIVE PRODUCTS

11. Le-Vel's THRIVE products are sold through its online store directly to consumers, who are introduced to the products through a vast network of authorized independent promoters.

12. Le-Vel's THRIVE products have enjoyed substantial success and have been widely sold and distributed since their introduction in 2012. Le-Vel now has more than eight

million independent Brand Promoters and customers around the world, topped \$1 billion in total sales in May 2017, and surpassed \$2 billion in total sales in September 2019.

13. Since 2012, Le-Vel has offered and continues to offer thousands of THRIVE health and wellness educational conventions, seminars, and events nationwide, e.g.:



A promotional poster for a "THRIVE AFTER FIVE" event in Baltimore, MD. The top features the "Le-Vel" logo and the text "Baltimore, MD" in a large, white, cursive font. Below this, it says "WEDNESDAY, MAY 22ND FROM 7:30-9PM" and "JIMMYS FAMOUS SEAFOOD 6526 HOLABIRD AVE | BALTIMORE, MD 21224". The poster includes five headshots of speakers: Samantha Pasley (LV Millionaire), Eryn Young (LV Millionaire), Denise Lawrence, Addy Molony, and Ashley Wilhelm. Each headshot has a "200K VIP" badge. A "SPECIAL GUEST Bernard Pierce Super Bowl Champ" is also featured. At the bottom, there are images of THRIVE product boxes (1, 2, 3) and a list of benefits: *Weight Management, *Digestive & Immune Support, *Calms General Discomforts, *Antioxidant Support, *Mental Clarity and Focus, *Lean Muscle Support, and *Joint Support. The background shows a city skyline at night with lights reflecting on water.

LVA Niota, TN **THRIVE LOCAL**

FRIDAY, JUNE 7TH at 7:00 pm

 ASHLEY & JUSTIN SULLIVAN SPECIAL GUESTS	 JEFF & TABITHA SCOTT HOSTS	 WESLEY & HOLLY AVERETTE GUEST SPEAKERS	 BRANDON & HEATHER FRAZIER GUEST SPEAKERS	 TRISH GOEN GUEST SPEAKER
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The Church Of Niota 2068 Hwy 11 Niota, TN. 37826

LVA Rise & Thrive! OPEN LOCAL

 BRIAN & STACY RAAP HOSTS	 JENNI LANGE HOST	 NATASHA ROBERSON	 CAROL LAWSON	 KELLY MILLS
 SANDY SMALL	 JOY SWAN	 TARRRI SCHOENBERGER	 KATRINA HOUTAKKER	

SAT, FEBRUARY 10TH AT 9:00AM
CHAMPPS
3100 DODGE ST. | DUBUQUE, IA 52001

THRIVE AND DRIVE

CALENDAR LAUNCHING FEBRUARY 2018

LEVEL OPEN LOCAL!
CHARLOTTE, NORTH CAROLINA
FRIDAY, JANUARY 11TH
DOORS OPEN @ 6:30PM
EVENT BEGINS @ 7:00PM
Location: Embassy Suites, 1917 Ayrley Town Blvd, Charlotte, NC 28273

Elise Lininger Michele Klawitter Kevin Beauchamp Blair Critch Kellie Hoover Andrea Caughman Amber Rice Beth Graves

Come learn more about the Thrive Experience!

do you THRIVE? ? ? ? ? ? ? ? ? ?

Guests: Casey Carter Crissann Campbell

IOWA Local Thursday, Nov 9th
One Team - One Dream 6:30-8:00 PM
(doors open at 6)

Come learn how the Thrive experience is helping others live the life they deserve!

Hosted by: R. Todd Crase Kendra Ollinger

Holiday Inn Hotel & Suites-Jordan Creek
6075 Mills Civic Pkwy
West Des Moines, IA

14. Since 2012, Le-Vel has shared and continues to provide THRIVE health and wellness articles and videos on its website and official blog, e.g.:



How to THRIVE on the Go: Tips for Packing and Traveling

LE-VEL CULTURE

THE LV LIFE

BY LE-VEL / ON AUGUST 14, 2019 / 0 COMMENTS



15. Le-Vel also maintains an educational/product experience website for its various THRIVE products at <https://thrive-reviews.com/>.

16. Le-Vel and its founders have a tremendous online following, including over three million Facebook followers. Le-Vel's promotional videos have been viewed on YouTube over ten million times.

17. Le-Vel has long promoted and displayed its THRIVE Marks in a variety of ways, including as a standalone brand, as part of THRIVE-formative terms or phrases, as well as in connection with other Le-Vel names and marks through Le-Vel's website, social media, and product packaging, e.g.:









18. Le-Vel has spent over \$25 million in advertising, marketing, and promoting the THRIVE Marks in connection with its products through a variety of media, promotional and marketing initiatives, and celebrity endorsements. Some of the celebrity users of Le-Vel's products include: (1) Emmitt Smith, the all-time leading rusher in the history of the National Football League ("NFL"); (2) Andy Roddick, one-time #1 ranked tennis player in the world and a tennis Hall-of-Famer; (3) Dick and Rick Hoyt of Team Hoyt, the father and son team who have participated in over 1,000 races to raise awareness for and instill confidence in the physically challenged (Rick is a spastic quadriplegic with cerebral palsy, and his father, Dick, pushes, pulls, and carries him through races such as the Ironman triathlon); (4) Kirk Hammett, lead guitarist for the band Metallica; (5) Don Mattingly, Major League Baseball ("MLB") Hall-of-Famer; (6) Amy Purdy, *New York Times* best-selling author, runner-up in *Dancing with the Stars*, and medalist in the 2014 Winter Paralympic Games; (7) Olga Tanon, five-time Grammy-winning artist; (8) Brian Westbrook, former All-Pro NFL player; (9) Drake White, country music performing artist; (10) television and movie actor Kevin Sorbo from shows such as *Hercules*;

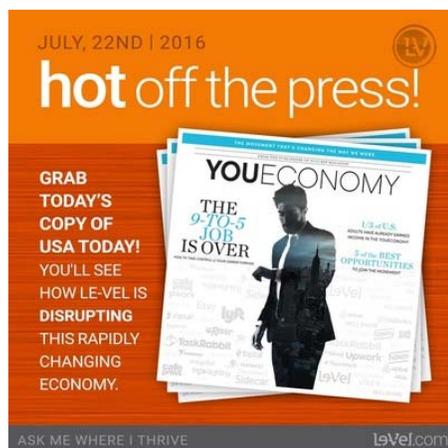
(11) Missy Robertson from the *Duck Dynasty* series; (12) former All-Pro NFL player, Bernard Pierce; and many others.



19. In addition, Le-Vel and the THRIVE Marks have been featured (1) at Times Square during the New Year’s Eve ball drop and throughout the holiday season, including during the Macy’s Thanksgiving Day Parade; (2) on billboards throughout the United States during national billboard campaigns; (3) in football stadiums across the United States during college and professional football games; (4) in the “Rise and Thrive” marketing campaign, which has been viewed by millions of individuals around the globe; (5) in a nationally distributed magazine, *Thrivin’*, found in thousands of bookstores throughout the U.S.; (6) in hundreds of press releases and blogs circulated throughout the world; and (7) in Facebook and YouTube ads receiving millions of views and interactions.

20. Further, the THRIVE Marks have received notable third-party press, attention, and recognition. In 2016, Le-Vel was featured in *USA Today*, along with Uber, Etsy, and two other companies, as the leaders in the “YouEconomy.” In 2019, Le-Vel was again featured in

USA Today as the nutritional movement taking the country by storm. In 2016, Le-Vel received the *Direct Selling News* Bravo Growth Award, which recognizes the largest year-over-year growth in the world in direct sales. In 2015, Le-Vel was featured in the *Houston Business Journal* for its substantial and meaningful charitable works and efforts. In 2015 and 2016, Le-Vel was named to the *Direct Selling News* Global 100, an exclusive ranking of the top revenue-generating companies worldwide in the direct selling industry. Le-Vel has also been featured in *Direct Selling News* on multiple occasions and has been the cover story twice. In 2013-2017, Le-Vel was featured in *Success from Home* magazine, the first time that a company has been featured as the exclusive company in full-length *Success from Home* issues four years in a row, e.g.:



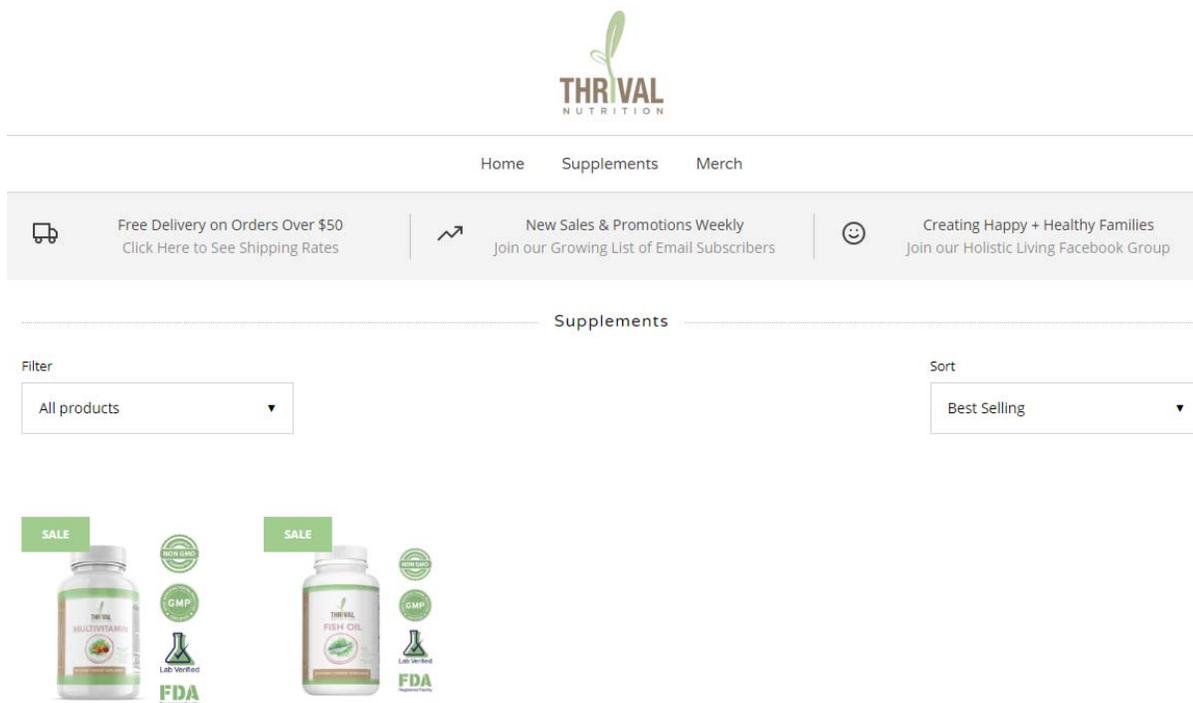


21. As a result of extensive use, sales, advertising, promotion, commercial success, and third-party recognition, the THRIVE Marks are well known and strong.

DEFENDANT AND ITS WRONGFUL ACTS

22. Defendant Thrival Nutrition, LLC is a producer and seller of various supplements.

23. Defendant offers its dietary supplements under the name THRIVAL, which is promoted online through its website, <https://shop.thrivalnutrition.com/>, as depicted below:



24. Defendant markets and promotes its nutritional supplements under the mark and name THRIVAL on product packaging and in promotional materials:



A promotional graphic for THRIVAL Multivitamin. On the left, three bottles of the product are shown, with a red arrow pointing to the central bottle. The background shows a woman and a child with their arms raised in a window, suggesting a healthy and happy lifestyle. The text on the right reads: 'Want To Start Your Day Off Nourished?' followed by 'Our multivitamin has nutrients you can absorb + utilize, so you're body has the building blocks it needs!'.



25. Defendant also uses THRIVAL in marketing themes, taglines, and promotional items, as depicted in the examples below from Defendant's website

(<https://shop.thrivalnutrition.com/>), Facebook page

(<https://www.facebook.com/thrivalnutrition/>), and YouTube page (https://www.youtube.com/channel/UC51T_UiFk5hYo3dsuKaN1qQ):

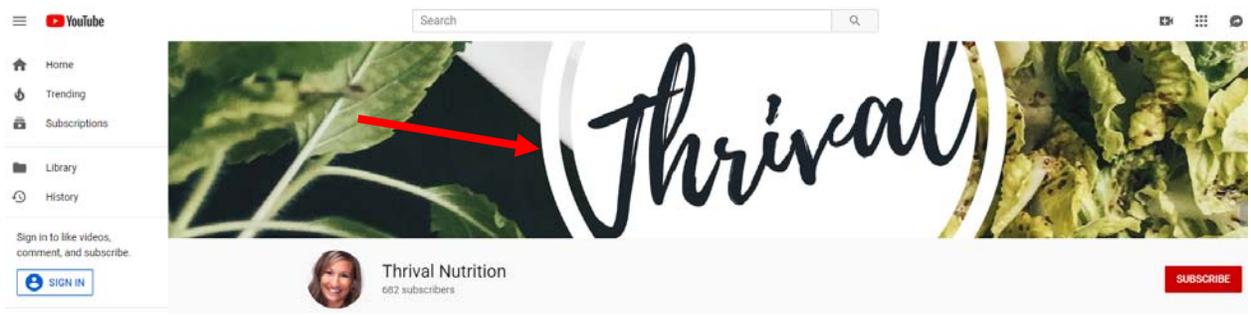
Text THRIVAL to 31966 to Join our Tribe (Special Deals!)



Bella + Canvas Unisex Thrival
Tank
\$20.00



American Apparel Unisex
Thrival Tank
\$20.00



26. Defendant also filed intent-to-use Trademark Application Serial No. 87703015 for THRIVAL NUTRITION covering “dietary and nutritional supplements” in Class 5 on November 30, 2017.

ACTUAL CONSUMER CONFUSION IS CONSTANT AND UNTOLD

27. Consumers are “constantly” confusing Defendant and its THRIVAL mark with Le-Vel and its THRIVE Marks, so much so that Defendant “cannot tell [] how many times” it has happened.

28. In an April 27, 2019 Facebook post, available at <https://www.facebook.com/thrivalnutrition/photos/a.1681337412088324/2289289824626410/?type=3> and depicted below, Defendant stated that Le-Vel was “a company that [it is] CONSTANTLY being confused with”:



29. Also on April 27, 2019, Defendant posted an article on its blog entitled “Is Thrive by Le-Vel Healthy? {A Nutritionist’s Take}”, available at <https://thrivalnutrition.com/is-thrive-le-vel-healthy-a-nutritionists-take/> and depicted below, where Defendant stated, “I can’t tell you how many times I’ve been mistaken for [Le-Vel].”:

Is Thrive by Le-Vel Healthy?

{A Nutritionist's Take}



27 Apr Is Thrive Le-Vel Healthy? {A Nutritionist's Take}

Posted at 06:00h in Nutrition by Lahana Vigliano

This is our 2nd blog post in the series of **Dissecting Health MLM/Direct Sales Companies**. Check out our first one on [Juice Plus](#).



No, me and Thrive Le-Vel aren't affiliated! I can't tell you how many times I've been mistaken for this company. We have no affiliation whatsoever with each other. Thrival Nutrition is the company I founded and I fully own it.

30. And in yet another Facebook post on April 27, 2019, available at

<https://www.facebook.com/lahana.uadan/posts/10161713929070274>, Defendant's CEO and

founder, Lahana Vigliano, stated, "[y]ou have no idea how many times people thought Thrival was [Thrive by Le-Vel].":



Lahana Vigliano

April 27 · 🌐

Dissecting MLM/direct sale nutrition companies part 🙌

Thrive by Le-Vel (And we are NOT affiliated. I am in no way shape or form connected to this company. You have no idea how many times people thought Thrival was this. 🤔😬)

LE-VEL'S OBJECTION TO DEFENDANT

31. Le-Vel objected to Defendant's use of THRIVAL and asked that Defendant stop causing consumer confusion and using its infringing name. Defendant refused to do so.

INJURY TO THE PUBLIC AND LE-VEL

32. Defendant's unauthorized use of the mark and name THRIVAL is likely to cause and has caused significant confusion, mistake, and deception as to the source or origin of Defendant's products, and is likely to falsely suggest, and has already falsely suggested, a sponsorship, connection, or association between Defendant, its products, and/or its commercial activities with Le-Vel, its THRIVE Marks, and its commercial activities.

33. Defendant's trademark application for the mark THRIVAL NUTRITION conflicts with Le-Vel's prior rights in THRIVE.

34. Defendant's unauthorized use of THRIVAL has damaged and irreparably injured Le-Vel, and, if permitted to continue, will further damage and irreparably injure Le-Vel, its reputation and goodwill, the THRIVE Marks, and the public's interest in being free from confusion.

35. Defendant is aware of Le-Vel's rights, knows of constant consumer confusion of untold numbers, and chose to disregard such rights and confusion by willingly continuing its infringing activities over Le-Vel's objections. As a result, Defendant has acted knowingly, willfully, in reckless disregard of Le-Vel's prior rights, and in bad faith.

FIRST CLAIM FOR RELIEF

Trademark Infringement Under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1)

36. Le-Vel repeats and realleges each and every allegation set forth above.

37. The acts of Defendant constitute infringement of Le-Vel's registered THRIVE Marks in violation of 15 U.S.C. § 1114.

38. Without Le-Vel's consent, Defendant has used and continues to use in commerce reproductions, copies, and colorable imitations of Le-Vel's registered THRIVE Marks in connection with the offering, distribution, and advertising of supplements and related products,

which has caused and is likely to continue to cause significant confusion, cause mistake, or deceive, in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

39. Defendant's acts of trademark infringement are knowing, intentional, and willful in violation of 15 U.S.C. § 1114.

40. As a result of Defendant's acts of trademark infringement, Le-Vel is suffering irreparable harm, for which it has no adequate legal remedy.

41. Unless and until Defendant is enjoined by this Court, Defendant will continue to commit acts of trademark infringement and cause consumer confusion and irreparable harm to Le-Vel.

42. Le-Vel is entitled to recover Defendant's profits, all damages that Le-Vel has sustained from Defendant's infringement, prejudgment interest, and the costs of the action pursuant to 15 U.S.C. § 1117.

43. Because Defendant's conduct is willful, Plaintiff is also entitled to recover treble damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

SECOND CLAIM FOR RELIEF

Trademark Infringement, False Designation of Origin, Passing Off, and Unfair Competition Under Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A)

44. Le-Vel repeats and realleges each and every allegation set forth above.

45. Defendant's use of THRIVAL, as described above, has and is likely to continue to cause significant confusion, mistake, or deception as to the origin, sponsorship, or approval of Defendant, its products, and/or its commercial activities by or with Le-Vel and its THRIVE Marks, and thus constitutes trademark infringement, false designation of origin, passing off, and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

46. Defendant's unauthorized use of THRIVAL is knowing, intentional, and willful in violation of 15 U.S.C. § 1125.

47. As a result of Defendant's acts, Le-Vel is suffering irreparable harm, for which it has no adequate legal remedy.

48. Unless and until Defendant is enjoined by this Court, Defendant will continue to commit infringing acts, and will continue to deceive the public and cause irreparable harm to Le-Vel.

49. Le-Vel is entitled to recover Defendant's profits, all damages that Le-Vel has sustained from Defendant's infringing acts, prejudgment interest, and the costs of the action pursuant to 15 U.S.C. § 1117.

50. Because Defendant's conduct is willful, Plaintiff is also entitled to recover treble damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

THIRD CLAIM FOR RELIEF

Common-Law Trademark Infringement, Passing Off, and Unfair Competition

51. Le-Vel repeats and realleges each and every allegation set forth above.

52. The activities described above constitute common-law trademark infringement and misappropriation of the goodwill associated with Le-Vel's THRIVE Marks and constitutes passing off, trademark infringement, and unfair competition in violation of Texas common law.

53. By making unauthorized use of THRIVAL, Defendant is committing trademark infringement in violation of Texas common law and other applicable common law.

54. Defendant's unauthorized use of THRIVAL is knowing, intentional, and willful.

55. As a result of Defendant's acts of trademark infringement, Le-Vel is suffering irreparable harm, for which it has no adequate legal remedy.

56. Unless and until Defendant is enjoined by this Court, Defendant will continue to commit acts of trademark infringement, and will continue to cause consumer confusion and irreparable harm to Le-Vel.

57. Le-Vel is entitled to recover Defendant's profits, all damages that Le-Vel has sustained from Defendant's infringement and unfair competition, and the costs of the action, including attorneys' fees.

FOURTH CLAIM FOR RELIEF

Injury to Business Reputation

58. Le-Vel repeats and realleges each and every allegation set forth above.

59. Le-Vel owns the THRIVE Marks, and those marks are valid at common law, are distinctive, and are registered under the federal trademark statute, 15 U.S.C. §§ 1051, *et seq.*

60. Defendant's unauthorized use of THRIVAL is an act likely to injure Le-Vel's business reputation or to dilute the distinctive quality of Le-Vel's THRIVE Marks, in violation of Section 16.29 of the Texas Business & Commerce Code, Tex. Bus. & Com. Code Ann. § 16.29.

61. Defendant's unauthorized use of THRIVAL is knowing, intentional, and willful.

62. As a result of Defendant's acts of trademark infringement, Le-Vel is suffering irreparable harm, for which it has no adequate legal remedy.

63. Le-Vel is entitled to injunctive relief, and to other appropriate remedies and relief.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, Le-Vel respectfully demands a trial by jury on all issues properly triable before a jury in this action.

PRAYER FOR RELIEF

WHEREFORE, Le-Vel requests that this Court enter judgment in its favor on each and every claim for relief set forth above and award it relief including, but not limited to, the following:

A. A finding that Defendant (i) has infringed Le-Vel's registered trademark in violation of 15 U.S.C. § 1114; (ii) has violated Section 43(a) of the Lanham Act (15 U.S.C. § 1125); (iii) has infringed Le-Vel's trademarks under the common law of the State of Texas; and (iv) has injured Le-Vel's business reputation in violation of Tex. Bus. & Com. Code Ann. § 16.29;

B. An Order declaring that Defendant's use of THRIVAL infringes Le-Vel's rights in its THRIVE Marks and constitutes trademark infringement, unfair competition, passing off, and injury to business reputation under federal and/or state law, as detailed above;

C. An Order declaring that Defendant's Application Serial No. 87703015 for the THRIVAL NUTRITION mark conflicts with Le-Vel's prior rights, as detailed above;

D. An Order enjoining Defendant and its employees, agents, partners, officers, directors, owners, shareholders, principals, subsidiaries, related companies, affiliates, distributors, dealers, and all persons in active concert or participation with any of them:

1. From using, registering, or seeking to use or register THRIVAL, THRIVE, and/or any other marks, logos, or designs that are confusingly or substantially similar to Le-Vel's THRIVE Marks for supplements and related products and services; and
2. From representing by any means whatsoever, directly or indirectly, that any products offered by Defendant, or any activities undertaken by

Defendant, are associated or connected in any way with Le-Vel or sponsored or authorized by or affiliated with Le-Vel.

E. An Order directing Defendant to, within thirty (30) days after the entry of the injunction, file with this Court and serve on Le-Vel's attorneys a report in writing and under oath setting forth in detail the manner and form in which Defendant has complied with the injunction.

F. An Order directing Defendant to immediately destroy all products, packaging, advertisements, promotional materials, stationery, forms, and/or any other materials and things that contain or bear THRIVAL, THRIVE, and/or any other marks, logos, or designs that are confusingly or substantially similar to Le-Vel's THRIVE Marks for supplements and related products and services.

G. An Order requiring Defendant to account for and pay to Le-Vel any and all profits arising from the foregoing acts in accordance with 15 U.S.C. § 1117 and other applicable laws.

H. An Order requiring Defendant to pay Le-Vel damages in an amount as yet undetermined caused by the foregoing acts and trebling such damages in accordance with 15 U.S.C. § 1117 and other applicable laws.

I. An Order requiring Defendant to pay Le-Vel punitive, exemplary, and/or statutory damages as allowed by law in an amount to be determined due to the foregoing willful acts of Defendant.

J. An Order requiring Defendant to pay Le-Vel its costs and attorneys' fees in this action pursuant to 15 U.S.C. § 1117 and other applicable laws.

K. An Order awarding Le-Vel pre-judgment and post-judgment interest on any monetary award made part of the judgment against Defendant.

L. Other relief as the Court may deem just and appropriate.

Dated: September 25, 2019

Respectfully submitted,

/s/ Clyde M. Siebman

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