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As of: March 22, 2022 7:24 PM Z

## *Thermolife Int'l v. Human Power of N Co.*

United States District Court for the Western District of Texas, Waco Division

December 21, 2021, Decided; December 21, 2021, Filed

6-21-CV-00144-ADA

### Reporter

2021 U.S. Dist. LEXIS 249770 \*; 2021 WL 6303232

THERMOLIFE INTERNATIONAL, LLC, Plaintiff -vs-  
HUMAN POWER OF N COMPANY, Defendant

**Subsequent History:** Stay granted by, Motion denied by  
[Thermolife Int'l v. Human Power of N Co., 2022 U.S. Dist. LEXIS 28572 \(W.D. Tex., Feb. 17, 2022\)](#)

### Core Terms

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Patent, Counterclaim, RESTRAINING, EMERGENCY, pursued

**Counsel:** [\*1] For THERMOLIFE INTERNATIONAL, LLC, Plaintiff, Counter Defendant: Gregory K. Sobolski, LEAD ATTORNEY, PRO HAC VICE, Latham & Watkins LLP, San Francisco, CA; Robert J. Gajarsa, LEAD ATTORNEY, PRO HAC VICE, Russ, August & Kabat LLP, Washington, DC; Amy Hayden, Russ August & Kabat, Los Angeles, CA; Christian John Hurt, The Davis Firm PC, Longview, TX; Marc A. Fenster, Russ August & Kabat, Los Angeles, CA; Reza Mirzaie, Russ August & Kabat, Los Angeles, CA; William E. Davis, III, The Davis Firm, PC, Longview, TX; Steven Joseph Udick, Russ August & Kabat, Frisco, TX.

For Human Power Of N Company, doing business as Humann, formerly known as Neogenis Labs, Inc., Defendant: Michael Pohl, LEAD ATTORNEY, PRO HAC VICE, Norton Rose Fulbright US LLP, Austin, TX; Gabriel Scott Culver, Norton Rose Fulbright US LLP,

Austin, TX; Jacqueline Groves Baker, Norton Rose Fulbright, Dallas, TX; Robert L. Rouder, Shearman and Sterling, LLP, Austin, TX; United Sta, Saul H. Perloff, Shearman and Sterling, LLP, Austin, TX; Stephanie N. DeBrow, Norton Rose Fulbright, Austin, TX; Brett Christopher Govett, Norton Rose Fulbright US LLP, Dallas, TX.

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**Judges:** ALAN D ALBRIGHT, UNITED STATES DISTRICT JUDGE.

**Opinion by:** ALAN D ALBRIGHT

### Opinion

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**ORDER GRANTING DEFENDANT'S SECOND EMERGENCY APPLICATION FOR TEMPORARY RESTRAINING ORDER**

Before the Court is Defendant Human Power of N Company's ("HumanN") Second Emergency Application for Temporary Restraining Order and Anti-Interference Injunction filed. ECF No. 66. Plaintiff ThermoLife International, LLC ("ThermoLife") did not file a response, but presented its arguments during the hearing held on December 7, 2021.

ThermoLife initiated this action in this Court, asserting the '968, '531, and '140 patents against HumanN, and previously pursued evaluation of the same patents through Amazon's Patent Evaluation Process. The Court granted HumanN's first emergency application of TRO and enjoined ThermoLife from pursuing the [\*3] Amazon Patent Evaluation Process for those patents. Dkts. 11 and 33.

Subsequently, ThermoLife started to pursue evaluation of U.S. Patent No. 10,842,813 (the "'813 patent'"), which is related to the '948 and '140 patents, through Amazon's Patent Evaluation Process. HumanN sought the Court's leave to file its First Amended Answer and Counterclaim, seeking to add counterclaims for a declaratory judgment of non-infringement and invalidity of the '813 patent. Dkt. 65. The Court granted HumanN's motion for leave to file its First Amended Answer and Counterclaim and now the '813 patent is also at issue in this litigation.

Having considered the parties' arguments during the December 7 hearing and consistent with the Court's previous TRO ruling, the Court finds good cause exists to temporarily restrain ThermoLife from pursuing evaluation of the '813 patent through Amazon's Patent Evaluation Process.

IT IS THEREFORE ORDERED THAT, effective immediately, ThermoLife shall refrain from taking any action to further pursue evaluation through Amazon's Patent Evaluation Process any of the patents at issue

already pending in this case until further order of this Court.

**SIGNED** this 21th day of December, 2021.

/s/ Alan D Albright

ALAN D ALBRIGHT

UNITED STATES DISTRICT JUDGE

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