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Bodybuilding.Com, LLC

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

BODYBUILDING.COM, LLC, a Delaware  
Limited Liability Company,

Plaintiff,

vs.

PhD FITNESS, LLC, a California Limited  
Liability Company; JIM STOPPANI, an  
Individual,

Defendants.

Case No. 1:16-cv-00271-EJL-CWD

DECLARATION OF MICHAEL FILLMORE IN  
SUPPORT OF PLAINTIFF/COUNTERCLAIM  
DEFENDANT'S MOTION FOR  
PRELIMINARY INJUNCTION

PhD FITNESS, LLC, a California Limited Liability Company; JIM STOPPANI, an Individual,

Counterclaimants,

vs.

BODYBUILDING.COM, LLC, a Delaware Limited Liability Company,

Counterclaim Defendant.

**DECLARATION OF MICHAEL FILLMORE**

I, Michael Fillmore, declare as follows:

1. I am a Senior Business Intelligence Analyst at Bodybuilding.com. I submit this declaration in support of Plaintiff/Counterclaim Defendant Bodybuilding.com, LLC's ("Bodybuilding.com") Motion for Preliminary Injunction. I have personal knowledge of the facts set forth below, and can and will testify thereto if called as a witness in this action.

2. I have been employed at Bodybuilding.com since June 1, 2010. In my position as Senior Business Intelligence Analyst, I am familiar with and responsible for gathering, processing, and maintaining information and data regarding Bodybuilding.com's sales of products through its retail website, including but not limited to the sale of Bodybuilding.com's JYM nutritional supplements.

3. During the course of the parties Development Agreement, from May 2013 until May 2016, Bodybuilding.com has sold over 2.78 million units of JYM nutritional supplements through its retail website. Since the Development Agreement expired on May 17, 2016, Bodybuilding.com has sold over 564,000 units of JYM nutritional supplements, through Sep. 27, 2016.

4. The JYM nutritional supplements have long been among the best-selling products at Bodybuilding.com. In 2015, they were the number two brand sold based on nutritional supplement revenue. In 2015, products sold under the JYM trademark also had, based on Bodybuilding.com unit sales, the #3 Fat Burner (Shred JYM), the #2 Fish Oil (Omega JYM), the top two products in Testosterone Boosters (ZMA JYM and Alpha JYM), the #3 and #8 products in Post Workout Recovery (Post JYM Active Matrix and Post JYM Carb respectively), the #1

Pre Workout Booster (Pre JYM), the #3 Vitamin (Vita JYM), and finally the #5 Protein (Pro JYM).

I declare under penalty of perjury under the laws of the United States of America and the State of Idaho that the foregoing is true and correct.

Executed on this 29 day of September, 2016 in Boise, Idaho.



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Michael Fillmore