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[Your Name]

[Your Title]

[Your Company]

[Street Address, City, State ZIP]

May 14, 2026

[Opposing Counsel Name]

[Firm Name]

[Address]

Re: U.S. Patent No. 7670612 — Response to Assertion of Infringement

Dear Counsel,

We acknowledge receipt of your correspondence asserting infringement of U.S. Patent No. 7670612 (the "7670612 Patent"). After preliminary review, we have substantial concerns about the validity, enforceability, and scope of the asserted claims, summarized below. We reserve all rights and defenses.

1. Subject Patent — Summary

Patent Summary: US 7,670,612 B2

Title: Multi-phase, multi-compartment capsular delivery apparatus and methods for using same

Assignee: INNERCAP Technologies Inc

Inventor: Fred H. Miller

Filing Date: March 19, 2004

Issue Date: March 2, 2010

Abstract:

The patent describes a multi-compartment capsule for delivering at least two ingredients that may be physically or chemically incompatible. The capsule has at least two separate chambers. One chamber contains an ingredient in a first physical state (such as a liquid, solid, or gas), and the second chamber contains another ingredient in a different physical state. The ingredients are chosen from nutraceuticals, vitamins, dietary...

2. Validity Concerns under 35 U.S.C. § 102 — Prior Art

We have identified prior-art references that, in our preliminary view, anticipate one or more asserted claims of the 7670612 Patent:

Analysis of Prior Art Cited in US Patent 7,670,612

Below is an analysis of the most relevant prior art cited by the applicant and the USPTO examiner during the prosecution of US patent 7,670,612. This analysis focuses on the potential for each reference to anticipate the independent claims of the '612 patent under 35 U.S.C. § 102, which requires a single prior art reference to disclose every element of a claimed invention. The independent claims of interest are:

- Claim 1: A multi-compartment capsule containing at least two different ingredients (selected from nutraceuticals, vitamins, dietary supplements, or minerals) in at least two different physical states (e.g., liquid, solid, gas).
- Claim 11: A method of delivering the capsule of Claim 1 by oral administration.

1. U.S. Patent 6,214,376 B1

- Full Citation: De-Vriendt, "Compartmented capsule," U.S. Patent 6,214,376 B1, assigned to Banner Pharmacaps, Inc.
- Dates: Filed: September 23, 1998; Issued: April 10, 2001.
- Brief Description: This patent discloses a soft gelatin capsule containing at least two compartments...

3. Obviousness under 35 U.S.C. § 103

Independent of § 102, we believe the asserted claims are obvious in view of combinations of prior art that a person having ordinary skill in the art would have been motivated to combine:

Obviousness Analysis of US Patent 7,670,612 under 35 U.S.C. § 103

Based on the prior art of record, the independent claims of US patent 7,670,612 are highly vulnerable to a challenge of obviousness under 35 U.S.C. § 103. An invention is considered obvious if the differences between the claimed invention and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art (POSA).

A POSA in this context would be a pharmaceutical formulation scientist or engineer circa 2002-2004 with experience in designing oral dosage forms, including capsules, and knowledge of formulating active ingredients such as pharmaceuticals, vitamins, and dietary supplements.

Analysis of Independent Claim 1

Claim 1 recites: A multi-compartment capsule comprising:

- (a) At least two receiving chambers.
- (b) A first ingredient in a first chamber, where the ingredient is a nutraceutical, vitamin, dietary supplement, or mineral, and is in a first physical state (e.g., solid, liquid, gas).
- (c) A second...

4. Request

In light of the foregoing, we request that your client (i) provide a detailed claim chart identifying each accused product or service and mapping every limitation of each asserted claim, (ii) identify any prior art known to your client, including any references cited during prosecution or reexamination, and (iii) substantiate the basis for any damages or licensing demand. We are prepared to discuss the matter further once we have received and reviewed the foregoing.

Sincerely,

[Your Name]

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