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15 **UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

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17 FEDERAL TRADE COMMISSION,

18 Plaintiff,

19 v.

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21 ALFA SCIENTIFIC DESIGNS, INC.;  
NAISHU WANG, M.D., Ph.D.; and  
22 DAVID F. H. ZHOU, M.D., Ph.D.,

23 Defendants.  
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Case No. 00CV 0081 BTM (NLS)

**AMENDED COMPLAINT FOR  
PERMANENT INJUNCTION  
AND OTHER EQUITABLE  
RELIEF**

25 Plaintiff, the Federal Trade Commission ("FTC" or "Commission" ), by its undersigned  
26 attorneys, alleges as follows:  
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1 below. She resides and transacts business in the Southern District of California.

2 7. **Defendant David F. H. Zhou, M.D., Ph.D.** (“Zhou”), is the Chief Executive  
3 Officer, Managing Director of Marketing and New Business Development of ASD. He conducts  
4 business at 11494 Sorrento Valley Road, Suite M, San Diego, California 92121. Individually, or  
5 in concert with others, Zhou directs, controls, formulates, or participates in the acts and practices  
6 complained of below. He transacts business in the Southern District of California.

7 **COMMERCE**

8 8. Defendants’ course of trade is in or affecting commerce, within the meaning of  
9 Section 4 of the FTC Act, 15 U.S.C. § 44.

10 **DEFENDANTS’ BUSINESS PRACTICES**

11 9. Since at least October 1998, and continuing thereafter, defendants have marketed  
12 tests that purportedly test for HIV infection in humans (“HIV tests”), including “Alfa HIV-1/2  
13 Rapid Tests,” through the Internet and other means. HIV is the virus that causes acquired  
14 immunodeficiency syndrome (“AIDS”), an infectious disease characterized by immune system  
15 failure. To date, two strains of HIV have been identified: Type 1 and Type 2.

16 10. For purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, defendants’ HIV test  
17 constitutes a “device” as “device” is defined in Section 15 of the FTC Act, 15 U.S.C. §55.

18 11. The Uniform Resource Locator (“URL”) of defendants’ Internet Web site is  
19 “www.alfascientific.com.” The Web site, www.alfascientific.com, is a Web site registered to  
20 defendants. Orders submitted through the Web site are transmitted to defendants.

21 12. In the course of marketing their HIV tests, defendants represent that their tests  
22 provide accurate results. Defendants’ Web site contains the following statements:

- 23 • [The HIV test] is double antigen “sandwich” assay for the detection of  
24 HIV-1/2 specific antibodies in human whole blood or serum samples with  
25 very high specificity and sensitivity.
- 26 • **NEW IMPROVEMENTS IN ONE-STEP RAPID TESTS!!** Alfa  
27 Scientific Designs, Inc. is launching a new and improved rapid tests (sic)  
28 for the early and accurate detection of HIV -I/II . . .

00CV 0081 BTM (NLS)

- Alfa provides more than 70 high quality diagnostic tests in both one-step rapid test and traditional ELISA test formats with consistent, accurate performance.

**DEFENDANTS' VIOLATIONS OF THE FTC ACT**

13. Defendants have represented, expressly or by implication, that their HIV tests accurately detect the presence of HIV antibodies. In fact, defendants' HIV tests do not accurately detect the presence of HIV antibodies. Therefore, defendants' representation as set forth in this paragraph is false and misleading, and constitutes a deceptive act or practice and false advertising, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

**CONSUMER INJURY**

14. Defendants' violations of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, have injured and will continue to injure consumers. In addition, defendants have been unjustly enriched as a result of its unlawful practices. Absent injunctive relief by the Court, defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

**THIS COURT'S POWER TO GRANT RELIEF**

15. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes this Court to issue injunctive and other equitable relief, including consumer redress, disgorgement and restitution, to prevent and remedy any violations of any provision of law enforced by the FTC.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b) and this Court's own equitable powers, requests that this Court:

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(2) Award such additional equitable relief as the Court may determine to be just and proper.

Respectfully submitted,

DATED: \_\_\_\_\_

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DARREN A. BOWIE  
  
Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION