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14	UNITED STATES DISTRICT COURT		
15	SOUTHERN DISTRICT		
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17	FEDERAL TRADE COMMISSION,		
18	Plaintiff,		
19	V.	Case No. 00CV 0081 BTM (NLS)	
20		AMENDED COMPLAINT FOR PERMANENT INJUNCTION	
21	ALFA SCIENTIFIC DESIGNS, INC.; NAISHU WANG, M.D., Ph.D.; and	AND OTHER EQUITABLE RELIEF	
22	DAVID F. H. ZHOU, M.D., Ph.D.,		
23	Defendants.		
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25	Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), by its undersigned		
26	attorneys, alleges as follows:		
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1 1. This is an action under Section 13(b) of the Federal Trade Commission Act ("FTC 2 Act"), 15 U.S.C. § 53(b), to secure injunctive relief and other equitable relief against defendants 3 for their deceptive acts and practices and false advertising in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52. 4 5 JURISDICTION AND VENUE 2. 6 This Court has subject matter jurisdiction over plaintiff's claim pursuant to 15 7 U.S.C. §§ 45(a), 52, and 53(b), and 28 U.S.C. §§ 1331, 1337(a) and 1345. 8 3. Venue in the United States District Court for the Southern District of California is 9 proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c). 10 **THE PARTIES** 11 4. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41 - 58. The FTC enforces Sections 5(a) and 12 of the FTC Act, 15 12 U.S.C. §§ 45(a) and 52, which prohibit, respectively, deceptive acts or practices, and false 13 advertisements for food, drugs, devices, services or cosmetics, in or affecting commerce. The 14 FTC is authorized under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to initiate federal 15 district court proceedings to enjoin violations of the FTC Act, and to secure such equitable relief 16 17 as may be appropriate in each case. 18 5. Defendant Alfa Scientific Designs, Inc. ("ASD"), is a California corporation doing business at 11494 Sorrento Valley Road, Suite M, San Diego, California 92121, and with 19 20 its registered office located at 7454 Park Village Road, San Diego, California 92129. It markets 21 products that putatively test for a variety of medical conditions, including infection with the 22 human immunodeficiency virus ("HIV"). 23 6. Defendant Naishu Wang, M.D., Ph.D. ("Wang") is President of ASD. Wang resides at 7454 Park Village Road, San Diego, California 92129, and conducts business at 11494 24 Sorrento Valley Road, Suite M, San Diego, California 92121. Individually, or in concert with 25 others, Wang directs, controls, formulates, or participates in the acts and practices complained of 26 27 00CV 0081 BTM (NLS) 28

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1 below. She resides and transacts business in the Southern District of California.

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

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.

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DEFENDANTS' BUSINESS PRACTICES

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

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

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CONSUMER INJURY

10 14. Defendants' violations of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) 11 and 52, have injured and will continue to injure consumers. In addition, defendants have been 12 unjustly enriched as a result of its unlawful practices. Absent injunctive relief by the Court, 13 defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public 14 interest.

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THIS COURT'S POWER TO GRANT RELIEF

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

PRAYER FOR RELIEF

20 WHEREFORE, plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C.

21 § 53(b) and this Court's own equitable powers, requests that this Court:

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