

The Honorable _____

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KONA USA, INC., a Washington corporation,)	
)	Civil Action No.
Plaintiff,)	
)	COMPLAINT FOR WILLFUL
v.)	TRADEMARK INFRINGEMENT,
)	FALSE DESIGNATION OF ORIGIN,
DBM NUTRITION, an Illinois company, and)	AND UNFAIR COMPETITION
DARIN BOOTON, an individual,)	
)	DEMAND FOR JURY TRIAL
Defendants.)	
)	
)	

Plaintiff, Kona USA, Inc., for its complaint herein, alleges as follows:

NATURE OF ACTION

1. This is an action for willful, knowing and intentional federal trademark infringement, false designation of origin, and unfair competition arising under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, Washington State common law and the Washington State Consumer Protection Act, RCW § 19.86.020.

1 **THE PARTIES**

2 2. Plaintiff Kona USA, Inc. ("Kona USA") is a corporation organized and existing
3 under the laws of the State of Washington, with its place of business located at 2455 Salashan,
4 Ferndale, Washington 98248.

5 3. On information and belief, Defendant DBM Nutrition ("DBM") is a company
6 organized and existing under the laws of the State of Illinois with an address at P.O. Box 1177,
7 St. Charles, Illinois 60174.

8 4. On information and belief, Defendant Darin Booton ("Booton") is the chief
9 executive officer of DBM. On information and belief, Booton directed and controlled or had
10 the opportunity to direct and control the activities complained of herein.

11 **JURISDICTION AND VENUE**

12 5. The Court has original jurisdiction over Plaintiff's trademark infringement and
13 federal unfair competition claims pursuant to 28 U.S.C. §§ 1331 and 1338(a). The Court has
14 supplemental jurisdiction over the state law unfair competition and unfair business practices
15 claims pursuant to 28 U.S.C. § 1338(b), because those claims are joined with substantial and
16 related claims under the Lanham Act.

17 6. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) because a
18 substantial part of the events or omissions giving rise to the claims at issue occurred in the State
19 of Washington and in this district, a substantial part of the injury to the property and rights of
20 Kona USA that is the subject of these claims occurred in this judicial district, and Defendants
21 do business in this judicial district by, *inter alia*, promoting and marketing events in the State of
22 Washington under marks that infringe and dilute Kona USA's trademark KONA (the "Kona
23 Mark"). Within the State of Washington, and more specifically this judicial district,
24 Defendants have willfully infringed upon and diluted the KONA Mark and have competed
25 unfairly with Kona USA with knowledge that Kona USA's principal place of business is in this
26 judicial district. Defendants directed their intentional infringement, dilution and unfair

1 competition towards Kona USA, and thereby Defendants assumed the risk that injuring Kona
2 USA in this judicial district would subject them to personal jurisdiction within this Court.

3 **PLAINTIFF AND ITS RIGHTS**

4 7. Kona USA is a Washington corporation with its principal place of business in
5 Ferndale, Washington. Kona USA is engaged in the manufacture and sale of bicycles, bicycle
6 parts, bicycle components and equipment, and related accessories and clothing products, both
7 nationally and internationally.

8 8. Kona USA has continuously used the KONA Mark in the United States in
9 connection with the sale and marketing of all of its products, including bicycles, bicycle
10 components and accessories, clothing and a variety of promotional items, since at least as early
11 as 1989. Kona USA has sponsored and continues to sponsor teams of cyclists that compete in
12 cyclo-cross, mountain-biking and other competitive cycling events. Kona USA is the owner of
13 U.S. Trademark Registration No. 1642717 for the KONA Mark for bicycles in International
14 Class 12, with an effective priority date of April 7, 1989, and the registration has become
15 incontestable. A copy of the trademark registration is attached hereto as Exhibit A.

16 9. Plaintiff's KONA Mark symbolizes extensive goodwill and consumer
17 recognition, which have been developed by substantial sales of products under the KONA
18 Mark and through substantial and extensive advertising, promoting and popularizing of the
19 mark and trade name in the United States.

20 10. As a result of such use and advertising, Plaintiff's KONA Mark is well known in
21 the United States and is recognized as identifying the high-quality goods of Kona USA. The
22 KONA Mark, and its associated goodwill, are valuable assets of Plaintiff. Attached hereto as
23 Exhibit B are printouts from www.konaworld.com explaining the KONA goods and services.

24 **DEFENDANTS AND THEIR UNLAWFUL ACTIVITIES**

25 11. On information and belief, Defendants first began using the KONA
26 ENDURANCE mark to promote goods to the public on January 14, 2007. At that time,

1 Defendants were aware of Kona USA's use of the KONA Mark for the manufacture and sale of
2 bicycles, bicycle parts, bicycle components and equipment, and related accessories and clothing
3 products. Despite their knowledge of Kona USA's well-known KONA Mark, Defendants
4 chose to adopt and use KONA ENDURANCE as their trademark.

5 12. Defendants first filed a trademark application for KONA ENDURANCE for
6 nutritional supplements with the U.S. Patent and Trademark Office in February 2007, to which
7 Plaintiff filed a Notice of Opposition in September 2007 (attached hereto as Exhibit C).
8 Defendants never responded to the Notice, so the application was abandoned by order of the
9 U.S. Patent and Trademark Office, attached hereto as Exhibit D.

10 13. Despite abandoning their first trademark application in December 2007 and
11 being on notice of Plaintiff's senior rights in the KONA Mark, after Plaintiff opposed the
12 application, Defendants chose to file another application for the KONA ENDURANCE mark
13 on February 4, 2008 for endurance supplements and vitamins. Again, in December 2008,
14 Defendants abandoned the trademark application after the U.S. Patent and Trademark Office
15 rejected the application.

16 14. With knowledge of Plaintiff's senior rights in the Kona Mark and of Plaintiff's
17 disapproval of Defendants' use of the KONA ENDURANCE mark, Defendants have continued
18 to market, sell and offer to sell their KONA ENDURANCE goods and services, including from
19 their websites www.dbmnutrition.com and www.konaendurance.com, where Defendants
20 actively solicit consumers, participants and fans to use and/or purchase KONA ENDURANCE
21 goods and services. Defendants have also willfully increased their activities to directly
22 compete with Plaintiff. For example, Defendants are now promoting and sponsoring a KONA
23 ENDURANCE cycling team, offering cycling goods under the KONA ENDURANCE mark,
24 and using cycling as a marketing tool for the KONA ENDURANCE goods.

25 15. Defendants are offering under the KONA ENDURANCE mark goods and
26 services that are the same or substantially similar to goods and services offered and registered

1 by Kona USA under its KONA Mark, including: (i) cycling clothing products, and (ii) cycling
2 related goods and services. Attached hereto as Exhibits E are printouts from
3 www.dmbnutrition.com and www.konaendurance.com explaining the KONA ENDURANCE
4 goods and services. Attached as Exhibit F are photographs of an actual KONA ENDURANCE
5 Cycling Team jersey along with a bottle of KONA ENDURANCE supplements.

6 16. In December 2008, Kona USA notified Defendants by letter that Defendants'
7 use of the KONA ENDURANCE mark infringed Kona USA's rights in its KONA Mark.

8 17. Despite having knowledge of Kona USA's use of and rights in its KONA Mark,
9 Defendants have continued their use of the KONA ENDURANCE mark.

10
11 **FIRST CLAIM**
TRADEMARK INFRINGEMENT, 15 U.S.C. § 1114

12 18. Kona USA repeats and realleges the allegations set forth in paragraphs 1 through
13 17 of this Complaint.

14 19. Defendants' use of the KONA ENDURANCE mark to market and sell
15 Defendants' goods and services is likely to cause confusion and mistake. Such use of the
16 KONA ENDURANCE mark by Defendants deceives, and is likely to deceive, others into
17 believing that Defendants' goods and services are sponsored by, approved by, or affiliated with
18 Kona USA, which they are not.

19 20. Defendants' marketing and sale of goods and services under the KONA
20 ENDURANCE mark infringes Kona USA's rights in its registered KONA Mark.

21 21. Defendants have actual and constructive knowledge of Kona USA's rights in its
22 registered KONA Mark, but despite such knowledge, Defendants have continued their
23 infringing behavior in disregard of Kona USA's rights.

24 22. Defendants' acts violate the Lanham Act, 15 U.S.C. § 1114.

1 23. Defendants knew or should have known of Kona USA's rights, and Defendants'
2 conduct and continuation of that conduct were knowing, willful, and deliberate, making this an
3 exceptional case within the meaning of 15 U.S.C. § 1117.

4 24. Kona USA has been and continues to be damaged in a manner that cannot be
5 fully measured or compensated in economic terms and for which there is no adequate remedy
6 at law. The actions of Defendants have damaged and will continue to damage Kona USA's
7 market, reputation and goodwill. Such irreparable harm will continue unless Defendants' acts
8 are restrained and/or enjoined during the pendency of this action and thereafter.

9 25. Kona USA has been damaged by Defendants' actions in an amount to be proven
10 at trial.

11 **SECOND CLAIM**
LANHAM ACT § 43(a) FALSE DESIGNATION OF ORIGIN

12 26. Kona USA repeats and realleges the allegations set forth in paragraphs 1 through
13 25 of this Complaint.

14 27. Defendants' use of the KONA ENDURANCE mark for their goods and services
15 constitutes false designation of origin, false or misleading description, and/or false or
16 misleading representation. Such unauthorized use is likely to cause confusion, mistake, or
17 deception of others as to the affiliation, connection, or association of Defendants with Kona
18 USA, and is likely to cause confusion, mistake, or deception as to the origin, sponsorship, or
19 approval of the goods and services of Defendants with those of Kona USA.

20 28. Such false designations, description, and/or representation constitutes unfair
21 competition and is an infringement of Kona USA's rights in its KONA Mark in violation of
22 Section 43(a) of the federal Lanham Act, 15 U.S.C. § 1125(a).

23 29. Kona USA has been, and will continue to be, damaged by such false description,
24 false representation, and false designation of origin in a manner and amount that cannot fully be
25 measured or compensated in economic terms. Defendants' actions have damaged, and will
26 continue to damage, Kona USA's market, reputation, and goodwill, and may discourage current

1 and potential customers from dealing with Kona USA. Such irreparable harm will continue
2 unless Defendants' acts are restrained and/or enjoined during the pendency of this action and
3 thereafter.

4 30. Kona USA has been damaged by Defendants' actions in an amount to be proven
5 at trial.

6 **THIRD CLAIM**
UNFAIR COMPETITION UNDER RCW 19.86.020

7 31. Kona USA repeats and realleges the allegations set forth in paragraphs 1 through
8 30 of this Complaint.

9 32. Defendants' use of the KONA ENDURANCE mark infringes Kona USA's
10 KONA Mark and constitutes an unfair method of competition in business and an unfair trade
11 practice in business, as well as a fraudulent representation, which is damaging to the public
12 interest in violation of the Washington Consumer Protection Act, RCW 19.86.020.

13 33. Defendants' infringing use of the KONA ENDURANCE mark in connection
14 with the promotion, marketing and sale of goods and services has been knowing, willful, and
15 deliberate.
16

17 34. Kona USA has been and will continue to be irreparably injured by reason of
18 Defendants' unfair methods of competition and unfair trade practices in violation of the
19 Washington Consumer Protection Act. Such irreparable damage will continue unless the acts
20 of Defendants are enjoined during the pendency of this action and thereafter.
21

22 **Prayer for Relief**

23 WHEREFORE, Kona USA prays for judgment as follows:

24 1. That Defendants and their officers, agents, servants, employees, attorneys and
25 all other persons in active concert or participation with any of them, be enjoined and restrained
26

1 during the pendency of this action and permanently thereafter from using the mark or
2 designation "KONA ENDURANCE," including any mark or name that is confusingly similar
3 or dilutive of Kona USA's KONA Mark.

4 2. That Defendants and their officers, agents, servants, employees, attorneys and
5 all other persons in active concert or participation with any of them, be enjoined and restrained
6 during the pendency of this action and permanently thereafter from all acts of trademark
7 infringement, trademark dilution, false designation of origin, unfair competition and unfair
8 business practices, including the use of the KONA ENDURANCE mark or any other trademark
9 or trade name that is likely to cause confusion, to cause mistake, to deceive consumers or that is
10 likely to dilute Kona USA's KONA Mark.

11
12 3. That Defendants be directed to file with this Court and serve on Kona USA's
13 counsel within thirty (30) days after the service of an injunction, a report in writing, under oath,
14 setting forth in detail the manner and form in which Defendants have complied with the
15 injunction.

16
17 4. That Defendants, jointly and severally, be required to pay to Kona USA such
18 damages as Kona USA has sustained, or will sustain, in consequence of Defendants' false
19 designation of origin, unfair competition, trademark infringement, and dilution and to account
20 for all gains, profits, and advantages derived by Defendants that are attributable to such
21 unlawful acts; and that such damages be trebled as provided by 15 U.S.C. § 1117.

22
23 5. That the Court adjudge this to be an exceptional case and award Kona USA its
24 reasonable attorneys' fees as provided by 15 U.S.C. § 1117.

25 6. That Defendants be ordered to pay Kona USA such damages as Kona USA has
26 sustained in consequence of Defendants' unfair business practices and unfair competition,

1 together with Kona USA's costs of suit including reasonable attorneys' fee, and that such
2 damages be trebled, as provided by R.C.W. 19.26.090.

3 7. That Defendants be ordered to pay Kona USA prejudgment interest on all sums
4 allowed by law.

5 8. That Defendants be ordered to pay Kona USA its costs of suit incurred herein.

6 9. That Kona USA be awarded such other and further relief as the Court may deem
7 equitable.
8

9 **Demand for Jury Trial**

10 Plaintiff demands a trial by jury as to all issues so triable.

11 DATED this 15th day of June, 2009.

12
13 Respectfully submitted,

14 SEED IP Law Group PLLC

15
16 s/Kevin S. Costanza
17 Kevin S. Costanza, WSBA #25,153
18 701 Fifth Avenue, Suite 5400
19 Seattle, Washington 98104
20 Telephone: (206) 622-4900

21 Attorneys for Plaintiff
22 KONA USA INC.

23
24
25
26
1397288_1.DOC

Exhibit A

Int. Cl.: 12

Prior U.S. Cl.: 19

United States Patent and Trademark Office

Reg. No. 1,642,717

Registered Apr. 30, 1991

**TRADEMARK
PRINCIPAL REGISTER**

KONA

TBG THE BICYCLE GROUP INC. (CANADA
CORPORATION)
206 - 1206 HAMILTON STREET
VANCOUVER, BRITISH COLUMBIA, CANADA
V6B 2S9

PRIORITY CLAIMED UNDER SEC. 44(D) ON
CANADA APPLICATION NO. 616928, FILED
10-11-1988, REG. NO. 370624, DATED 7-13-1990,
EXPIRES 7-13-2005.

SER. NO. 73-791,929, FILED 4-7-1989.

FOR: BICYCLES, IN CLASS 12 (U.S. CL. 19).

ELLEN A. RUBEL, EXAMINING ATTORNEY

Exhibit B




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WEBSTORE





KONA
2009 BIKES

TRY OUR
BIKE 
FINDER




INTERNATIONAL MOUNTAIN BICYCLING ASSOCIATION

4 / 83  

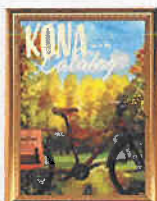

HISTORIC OPPORTUNITY FOR NEW MOUNTAIN BIKE ACCESS IN MARIN

California State Parks has announced a proposal to open a singletrack trail for mountain biking in Marin County, on the shoulders of Mt. Tamalpais. The agency plans to allow bicycle use on the 4-mile Bill's Trail segment, and is soliciting public comments on the project. The commentary period ends on 6-26.

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BAR?
SCANDIUM?
IS DR. DEW REALLY
WHAT'S A DOCTOR?
A "MAGIC LINK" ?

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WEBSTORE

KONA²⁰⁰⁹ BIKES

BIKE FINDER

YOU ARE A...

Man

Woman

Kid



SHONKY
CLICK FOR DETAILS



UTE
CLICK FOR DETAILS



SMOKE
CLICK FOR DETAILS



AFRICABIKE THREE
CLICK FOR DETAILS



HUMU
CLICK FOR DETAILS



AFRICABIKE ONE
CLICK FOR DETAILS



MAJOR JAKE
CLICK FOR DETAILS



JAKE THE SNAKE
CLICK FOR DETAILS



JAKE
CLICK FOR DETAILS



DR LEW
CLICK FOR DETAILS



DR DEW
CLICK FOR DETAILS



DEW FS
CLICK FOR DETAILS



DEW DROP
CLICK FOR DETAILS



DEW DELUXE
CLICK FOR DETAILS



DEW PLUS
CLICK FOR DETAILS



DEW
CLICK FOR DETAILS



SUTRA
CLICK FOR DETAILS



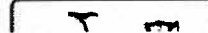
KING ZING
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ZING DELUXE
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KONA CLOTHING

Kona's Clothing Program returns with a host of new styles and materials, along with refinements to existing pieces aimed at helping riders rail life-both on and off the bike. From performance savvy gloves and feature-laden riding gear, to stylish casual pieces and our own custom designed T-shirts. You're going to feel good in this year's crop of Kona gear.

OUT OF BOUNDS

It's the most comprehensive and well thought out line of riding gear ever produced by Kona. Every detail has been meticulously tested to ensure the materials, fit and durability of these pieces exceed the needs of today's wilds-of-the-world charging cyclist. Kona Out of Bounds jerseys use CoolMax tech with a High-IQ anti-bacterial (no reek) finish and feature details like a shammy for cleaning goggles and sunglasses. V-neck and round neck styles are large enough to fit armour underneath, while models like the Andy and the Script incorporate a slightly slimmer fit.



Shorts are designed to be highly adjustable and bombproof while retaining high breathability. Pieces like the fully lined, DWR coated, critically sealed, waterproof/breathable Freddy Jacket is so versatile you could wear it spring skiing. Women's pieces all employ the same high performance fabric as the men's. We've invested heavily in the fit of the Out of Bounds women's line, which also features two bras, one padded and the other highlighted by a really cool cut-out back.

ROAD

Manufactured by Champion, Kona's jerseys, shorts and legwarmers feature progressive yet subtle graphics and construction focused on performance and comfort. Kona's road jerseys are made with a microfiber CS-Tech polyester wicking fabric, and are anatomically shaped and tailored to a full-out road riding position.



BASICS

We've designed our own sizing and fit when it comes to Kona's Basic line of stylish hoodies and T-shirts. For Kona original T-shirt's we make both a slim and a basic cut, as seen in the eye-catching Tool and Totem. For Women's T-shirts we use longer, slimmer female specific fits using a slightly see-through, worn-in "slubbed" fabric.



Super comfortable Men's Hoodies feature flat-laying three-piece hoods, while the Women's Hoodies use a slightly thinner French Terry fabric with a loop back for a cleaner look. The line is highlighted by the foil graphic Tiger Hoody. Raaaarrrr.

ORGANICS

Because we're committed to making the world a better place, Kona's Organic T-shirts use 100% organic cotton and vegetable dies in the screening process. This year we offer in a "heathered" fabric, three men's and two women's styles, with the proceeds of the Africa T-shirts going to Kona's AfricaBike program (url).



ASPHALT

It's clothing designed for looking and feeling smart during post ride shenanigans. Women's pullover and full-zip hoodies feature an extra-large bottom band and raw edges-the Varsity features a scuba neck and a lipstick pocket, and each incorporates three-piece hoods and a heavy-duty, warm, jacket-like feel. The men's new poly-filled and chord trimmed Lumber Jacket oozes style. So do the collection's fully printed hoodies, ultra-hip Dew Line Track Jacket, polo shirts and lined, mid-knee length "suit" styled Demo Dave shorts.



ACCESSORIES

HATS

Straight brim, curved brim, wicked colours, cooler-than-thought graphics and styles for both women and men. Available in S/M, and L/XL.



GLOVES

Hands. Those crucial tools of interaction. Better keep them comfortable. Help them hang on just a little longer. Let them be cool, in more ways than one. Whether you're downtown or way out in the woods, Kona's got you covered with two durable styles designed specifically to fit women's hands, and four different models specifically geared for men-including the ever popular Chevron and Supreme. Check out JC Signature glove for digging jumps and riding high in the air over them.



SOCKS

All our socks are made by SOS in Colorado, and feature CoolMax CoreSpun fibers to wick moisture away from the foot quickly, providing an excellent defense against blisters. We put the CoolMax on the inside of the sock where it belongs and the nylon on the outside to provide lasting durability. The cuff uses Lycra for a truly gentle, supportive ankle band. For colder conditions, check out our high quality wool socks.



BEANIES

With two reversible models-the Plaid and the Japanese-along with the cozy Hand Knit, and the Fidel military-wool fashion hat, Kona's got a functional, stylish, trend-setting beanie for any occasion.



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Your First Name:

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SUBSCRIBE[Home](#) [Clothing](#) [Men's](#) [Road](#) [Club Jersey](#)[Click to enlarge](#)**Club Jersey****RRP:** ~~\$100.00~~
Your Price: **\$50.00** (excluding tax)
(You save \$50.00)
SKU: 1301
Rating: Not Rated
Availability: Usually ships in 24 hours**Size:**
 S
 M
 L
 XL**Quantity:** 1 **ADD TO CART****Add to Wish List**

Click the button below to add the Club Jersey to your wish list.

ADD TO WISHLIST**Related Products**[Stripes Calf Sock](#)**\$10.00**Not Rated[Men's Supreme Glove](#)**\$50.00**Not Rated[Men's Road Glove](#)**\$25.00**Not Rated[Block Tall Sock](#)**\$10.00**Not Rated[Asphalt Pin Stripe Tall Sock](#)**\$10.00**

★★★★★

[Race Jersey](#)~~\$100.00~~ **\$50.00**Not Rated[Bib Short](#)~~\$115.00~~ **\$92.00**Not Rated[Stripes Club Jersey](#)**\$100.00**Not Rated[Stanley Race Jersey](#)**\$100.00**Not Rated[Bib Shorts](#)**\$115.00**Not Rated[Leg Warmers](#)**\$50.00**Not Rated[Arm Warmers](#)**\$30.00**Not Rated[Skully Beanie](#)**\$25.00**Not Rated

Product Description

COLOR

Black/Shiraz

FABRIC CONTENT

M-TEC EXTREME, M-TEC STINGER AND MAXIM LITE

SPECS

3-POCKETS IN THE BACK AND ZIPPER IN THE FRONT

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Stanley Race Jersey

Price: **\$100.00** (excluding tax)**SKU:** 1621**Rating:** Not Rated**Availability:** Usually ships in 24 hours**Size:** S M L XL**Quantity:**

1

[ADD TO CART](#)

Add to Wish List

Click the button below to add the Stanley Race Jersey to your wish list.

[ADD TO WISHLIST](#)

Related Products

Stripes Calf Sock

\$10.00

Not Rated

Wool Tall Sock

\$12.00

Not Rated

Short Wool Sock

\$12.00

Not Rated

Men's Supreme Glove

\$50.00

Not Rated

Men's Road Glove

\$25.00

Not Rated

Block Tall Sock

\$10.00

Not Rated

Asphalt Pin Stripe Tall Sock

\$10.00

★★★★★

Bib Short

~~\$115.00~~ **\$92.00**

Not Rated

Bib Shorts

\$115.00

Not Rated

Leg Warmers

\$50.00

Not Rated

Arm Warmers

\$30.00

Not Rated

Product Description

COLOR

Bright White/Avocado Green

FABRIC CONTENT

100% Polyester

SPECS

RACE JERSEY-TIGHT FIT Microfiber CS-Tech polyester wicking fabric

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[WRITE A REVIEW](#)

This product hasn't received any reviews yet. Be the first to review this product!

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Club Jersey

~~\$100.00~~ **\$50.00**

Not Rated

[Choose Options](#)

Exhibit C

ESTTA Tracking number: **ESTTA162628**

Filing date: **09/13/2007**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Kona USA, Inc.		
Entity	Corporation	Citizenship	Washington
Address	2455 Salashan Ferndale, WA 98248 UNITED STATES		

Attorney information	Kevin S. Costanza Seed IP Law Group PLLC 701 Fifth Avenue, Suite 5400 Seattle, WA 98104 UNITED STATES KevinC.docketing@SeedIP.com, litcal@SeedIP.com Phone:206-622-4900		
----------------------	--	--	--

Applicant Information

Application No	77106777	Publication date	08/14/2007
Opposition Filing Date	09/13/2007	Opposition Period Ends	09/13/2007
Applicant	Booton, Darin 522 Cedar Street St. Charles, IL 60174 UNITED STATES		

Goods/Services Affected by Opposition

Class 005. First Use: 2007/01/14 First Use In Commerce: 2007/02/05 All goods and services in the class are opposed, namely: Nutritional supplements
--

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1642717	Application Date	04/07/1989
Registration Date	04/30/1991	Foreign Priority Date	10/11/1988
Word Mark	KONA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use:		

	BICYCLES
--	----------

Attachments	SP-NoticeOfOpp.PDF (3 pages)(113493 bytes)
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Signature	/Kevin S. Costanza/
Name	Kevin S. Costanza
Date	09/13/2007

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

KONA USA, INC.,)	Opposition No. _____
)	
Opposer,)	Serial No. 77/106777
)	
v.)	
)	
DARIN BOOTON,)	Docket No. 130043.806
)	
Applicant.)	
<hr style="width: 40%; margin-left: 0;"/>		

NOTICE OF OPPOSITION

Opposer Kona USA, Inc. ("Opposer"), which has a principal place of business in Ferndale, Washington, believes that it would be damaged by registration of the mark KONA ENDURANCE shown in United States Trademark Application Serial No. 77/106777 filed by Darin Booton (hereinafter "Applicant"), and published for opposition on August 14, 2007. Therefore, Opposer opposes that application.

1. Opposer is a corporation organized under the laws of the State of Washington with an address at 2455 Salashan, Ferndale, Washington 98248. Opposer is engaged in the manufacture and sale of bicycles, bicycle parts, bicycle components and equipment, and related accessories and clothing products, both nationally and internationally.

2. Opposer has continuously used the mark KONA in the United States as a house mark in connection with the sale and marketing of all of its products, including bicycles, bicycle components and accessories, clothing and a variety of promotional items, since at least as early as 1989. Opposer has sponsored and continues to sponsor teams of cyclists that compete in cyclo-cross, mountain-biking and other competitive cycling events. Opposer is the owner of U.S.

Trademark Registration No. 1642717 for bicycles in International Class 12, with an effective priority date of April 7, 1989, and the registration has become incontestable.

3. Opposer has continuously conducted business in the United States under the trade names KONA and KONA USA since at least as early as 1989, well prior to the January 14, 2007 first-use date stated in Applicant's application. Opposer's KONA mark and KONA USA trade name are hereafter collectively referred to as the "KONA Mark and Name."

4. Opposer's KONA Mark and Name symbolize extensive goodwill and consumer recognition, which have been developed by substantial sales of products under the KONA Mark and Name and through substantial and extensive advertising, promoting and popularizing of the mark and trade name in the United States.

5. As a result of such use and advertising of Opposer's KONA Mark and Name, the mark and trade name are well known in the United States and are recognized as identifying the high-quality goods of Opposer. The KONA Mark and Name, and the goodwill associated with them, are valuable assets of Opposer.

6. Applicant has filed to register the mark KONA ENDURANCE for nutritional supplements. Such supplements are commonly marketed to athletes and participants in endurance sports including endurance cycling. Upon information and belief, Applicant's nutritional supplements are in fact marketed to athletes competing in professional bicycle competitions. The mark KONA ENDURANCE as used for the nutritional supplements described in Applicant's application is confusingly and deceptively similar to Opposer's KONA Mark and Name as used for the bicycles and cycling products marketed and sold by Opposer in connection with Opposer's business, such that the trade and purchasing public are likely to be confused by and deceived into believing that Applicant's goods originate with or are otherwise authorized by, sponsored by, licensed by, or associated with Opposer.

7. Upon information and belief, neither Applicant nor any predecessor-in-interest of Applicant has acquired any rights in KONA ENDURANCE as a trademark or service mark prior to the January 14, 2007 first-use date stated in Applicant's application.

8. In view of the similarity of the parties' respective marks and goods, Applicant's mark KONA ENDURANCE so resembles the KONA Mark and Name used by and associated with Opposer, and not at any time abandoned, that Applicant's use and registration of its proposed mark is likely to cause confusion, or to cause mistake or to deceive.

9. The products described in Applicant's application are so closely related to the products sold and marketed by Opposer that if the parties' respective products are marketed and sold under confusingly similar marks, a likelihood of confusion will result.

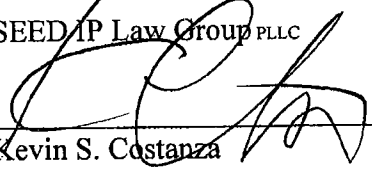
10. By reason of all of the foregoing, Opposer would be greatly damaged by the registration of KONA ENDURANCE to Applicant.

WHEREFORE, Opposer prays that this Opposition be sustained and the mark refused registration.

DATED this 13TH day of September, 2007.

Respectfully submitted,

SEED IP Law Group PLLC



Kevin S. Costanza
701 Fifth Avenue, Suite 5400
Seattle, Washington 98104
(206) 622-4900
Fax: (206) 682-6031

Attorneys for Opposer
KONA USA, INC.

Exhibit D

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

mc

Mailed: December 22, 2007

Opposition No. 91179493

Kona USA, Inc.

v.

Darin Booton

On November 7, 2007, the Board sent a notice of default to applicant because no answer had been filed.

The record shows no response thereto.

Accordingly, judgment by default is hereby entered against applicant, the opposition is sustained, and registration to applicant is refused. See Fed. R. Civ. P. 55, and Trademark Rule 2.106(a).

*By the Trademark Trial
and Appeal Board*

Exhibit E

KONA
ENDURANCE™

creating winning speed™

ENGLISH | FRENCH | GERMAN

PROFESSIONAL SUPPLEMENTS | ATHLETES | SPONSORSHIP | BLOG | MEDIA | SHOP | CONTACT US



Bryan Rhodes, NZL
Subaru Canada Ironman Winner 2008
UK Ironman Winner 2005
2 time Malaysia Ironman Winner

Top Pros use Kona Endurance



Danny Finneran
Rock Racing Pro Team
National Team Pursuit squad
Track National Championships

Kona Endurance PRO is a very potent endurance supplement that is all the rage throughout the pro triathlon and pro cycling ranks.

[+ Learn more](#)

Full Power Supplements



We have the range of supplements that are 'faster by design'. Use PRO for the best way to add a rocket to your times, so maximise your results.

[+ View the Supplement Range](#)

Race Sponsorship



We are looking for the next big thing in Triathlon, Cycling or Running, we can help you build something great, go for the Podium.

[+ See Sponsorship Offers](#)



[SITE MAP](#) | [CERTIFICATE OF ANALYSIS](#) | [PRIVACY POLICY](#)

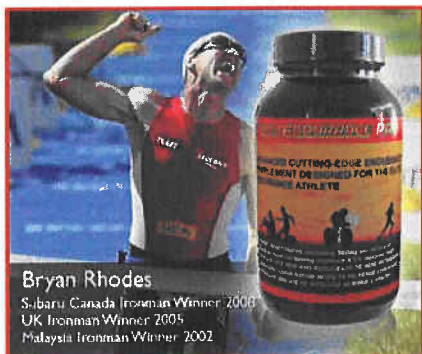




ENGLISH | FRENCH | GERMAN

PROFESSIONAL SUPPLEMENTS | ATHLETES | SPONSORSHIP | BLOG | MEDIA | SHOP | CONTACT US

Kona Endurance PRO



Bryan Rhodes
Subaru Canada Ironman Winner 2009
UK Ironman Winner 2005
Malaysia Ironman Winner 2002

Kona Endurance PRO is a very potent endurance supplement that is all the rage throughout the pro triathlon and pro cycling ranks.

[LEARN MORE](#)

[ORDER NOW](#)

CitraBeta Shot



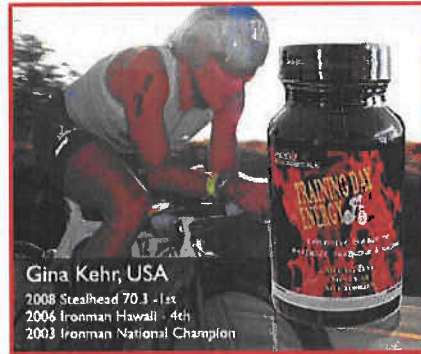
Brian Lavelle
12th Ironman Arizona
7th Half Ironman Triathlon
9th World Championship 70.3 Series

Deliver physiological gains in endurance within 5 days! If you are looking to ramp your training immediately, then CitraBeta Shot is for you.

[LEARN MORE](#)

[ORDER NOW](#)

Training Day Energy



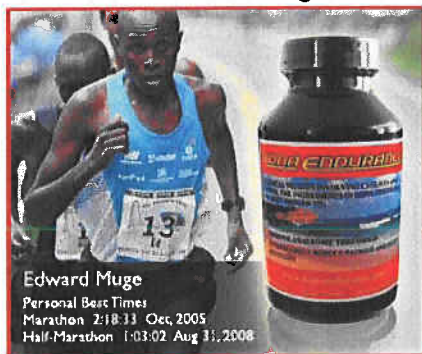
Gina Kehr, USA
2008 Steehead 70.3 - 1st
2006 Ironman Hawaii - 4th
2003 Ironman National Champion

Kona Endurance Training Day Energy is formulated for the endurance athlete and contains no sugar or caffeine. You will immediately relieve exhaustion, enhance mental alertness, and get primed for a killer training session.

[LEARN MORE](#)

[ORDER NOW](#)

Kona Endurance Original



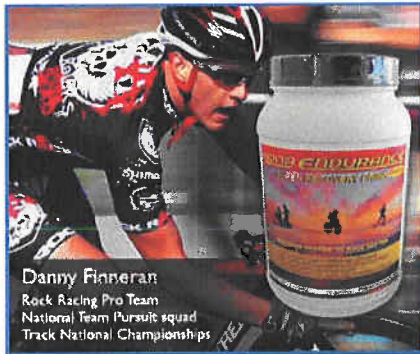
Edward Muge
Personal Best Times
Marathon 2:18:33 Oct, 2005
Half-Marathon 1:03:02 Aug 31, 2008

Kona Endurance Original is an extremely effective endurance supplement that is loaded with endurance enhancing agents. Research documents that the endurance athlete will increase VO2 max and a reduce lactic acid buildup.

[LEARN MORE](#)

[ORDER NOW](#)

Super Recovery



Danny Finneran
Rock Racing Pro Team
National Team Pursuit squad
Track National Championships

Kona Endurance Super Recovery is designed for professional and elite endurance athletes. It contains industry leading levels of carbohydrates, protein, amino acids and electrolytes.

Chocolate Blast

[ORDER NOW](#)

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ENGLISH | FRENCH | GERMAN

PROFESSIONAL SUPPLEMENTS ATHLETES SPONSORSHIP BLOG MEDIA SHOP CONTACT US

Kona Endurance Race Team Sponsorship Application

Kona Endurance - Faster by Design

We are committed to creating great supplements for athletes - our driving aim is to improve performance. Improvement to us means going faster - both in training and on race day. Don't you want to go faster, be stronger and last longer? We have a great team of Pros and Age Group Elite and are looking for the next team members. So if you think you can bring something to our team, if you think you would benefit from a full sponsorship that includes a fresh supply of the powerhouse Kona Endurance PRO and a race top to show how you got to the front of the pack. Got what it takes? Select the team that's right for you, read up on the details then fill in the form. Let us know what makes you a great sponsorship opportunity.

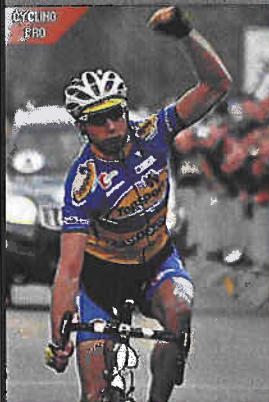
APPLY FOR RACE SPONSORSHIP RUNNING TEAM

APPLY FOR RACE SPONSORSHIP CYCLING TEAM



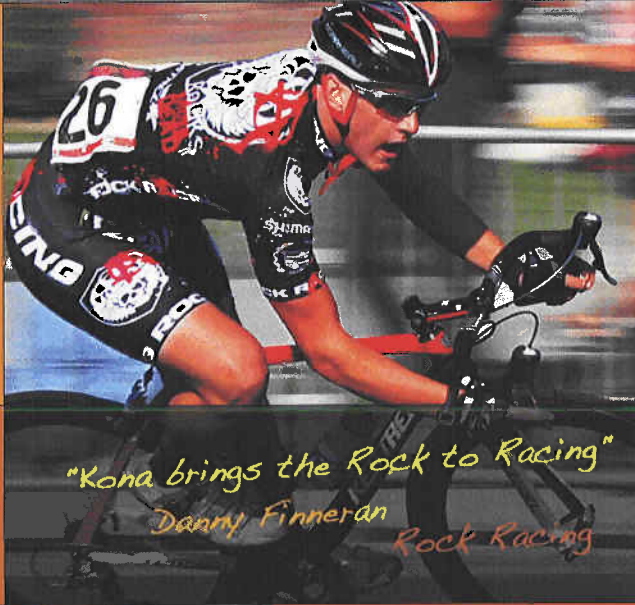
APPLY FOR RACE SPONSORSHIP TRIATHLON TEAM

Pro Athletes using Kona Endurance Supplements



Johan Coenen, Belgium

Professional Cyclist - Rides for Topsport
 "Riding on the Pro Tour is exciting, lots of hard work and I need the best supplements so I can push to the front. Kona Endurance is there for me, helping me do what I love - Race in the Pro Tours."
 + Learn about Kona Endurance Pro



"Kona brings the Rock to Racing"
 Danny Finneran
 Rock Racing



Bryan Rhodes, USA

Subaru Canada Ironman Winner 2008
 "Finding my true potential is no easy task, with Kona Endurance Pro I'm able to unlock it."
 + Learn about Kona Endurance Pro



Bryan Lavelle, USA

7th at Ironman 70.3 Boise
 "At the Pro level, it's all about going faster and Kona opens the door to that speed."
 + Learn about Kona Endurance Pro



Gina Kehr, USA

4th Subaru Ironman 70.3 Worlds '06
 "As a mother of 2, I need to be maximizing my workouts and recovering superfast. That's why I use Kona Endurance as my supplement of choice. It makes me faster and powers my training."
 + Learn about Kona Endurance Pro



Edward Muge, Kenya

1st Nairobi Marathon '05
 "It's all about being able to bring it on race day. Kona supports me with science, I bring the determination."
 + Learn about Kona Endurance Pro



Steve Smith, USA

2nd M60-64 Ironman 70.3 World's
 "Increasing my oxygen intake is so important in



Evan Plews, USA

1st NMBS Marathon '06
 "I need to recover from hard training fast,

 <p>TRIATHLON PRO</p>	<p>being able to race for the win, Kona's CitraBeta Shot helps me power harder for longer." + Learn about Kona Endurance Pro</p>	 <p>CYCLING PRO</p>	<p>Kona's Super Recovery Drink has me back out training sooner." + Learn about Kona Endurance Pro</p>
--	---	---	--

Kona Endurance Sponsorship

Kona Endurance Team Sponsorship.

DBM Nutrition is very interested in working with professional triathletes and cyclists in broadening the world wide appeal of Kona Endurance. To apply fill in the form and tell us about what makes you stand out in the endurance world.

[+ Select your speciality.](#)



Sponsorship Fast Track

Want to be a sponsored endurance athlete and gain instant admission into the Kona Endurance Triathlon, Cycling or Running Team? Increase your VO2 max, raise lactic acid and start setting some serious PR's this season.

[+ Learn more about this Sponsorship Program](#)

Age Group Athletes using Kona Endurance Supplements



TRIATHLON TEAM

Patti Weil, USA

Kona Endurance Triathlon Team
 "Increasing my oxygen intake is so important in being able to race for the win. Kona's CitraBeta Shot helps me power harder for longer."

[+ Learn about Kona Endurance Pro](#)



RUNNING TEAM

Wibke Hannigan

Kona Endurance Running Team
 "I need to recover from hard training fast. Kona's Super Recovery Drink has me back out training sooner."

[+ Learn about Kona Endurance Pro](#)



TRIATHLON TEAM

Kellie Smirnoff, USA

Kona Endurance Triathlon Team
 "Increasing my oxygen intake is so important in being able to race for the win. Kona's CitraBeta Shot helps me power harder for longer."

[+ Learn about Kona Endurance Pro](#)



TRIATHLON TEAM

Ross Stewart, Australia

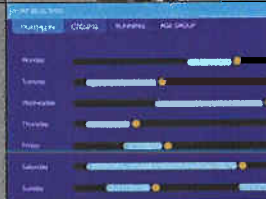
Kona Endurance Triathlon Team
 "PRO allows me to breathe with ease even when pushing hard in a Masters swim class"

[+ Learn about Kona Endurance Pro](#)

Kona Endurance Teams

View our Teams and see who is using Kona Endurance Supplements to go faster. It's a select team of great athletes that have found a way to improve the results of training.

[+ View the teams](#)



Team Downloads

Now that you're part of the team and have Team Level access, log in to find some detailed training guides, get some banners or logos for your blog, submit race photos in Kona Endurance gear and more.

[+ Login to the Team pages](#)



[SITE MAP](#) [CERTIFICATE OF ANALYSIS](#) [PRIVACY POLICY](#)





KONA
ENDURANCE™
creating winning speed™

BRAND NEW SITE
COMING SOON

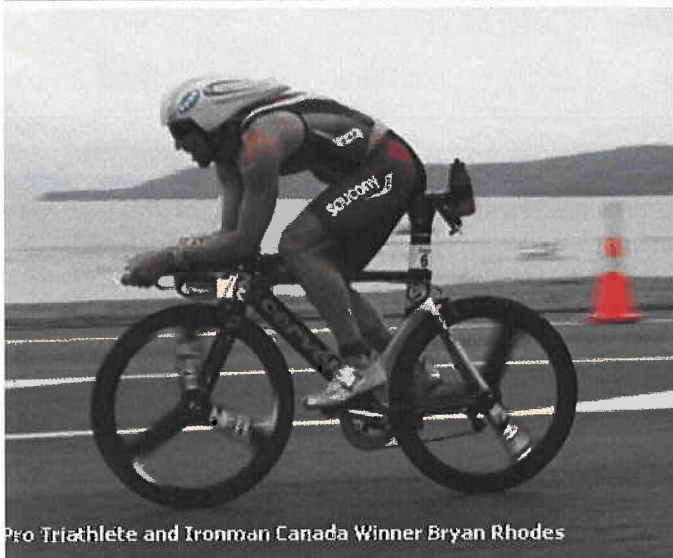
[CLICK ANYWHERE TO CONTINUE](#)

Home

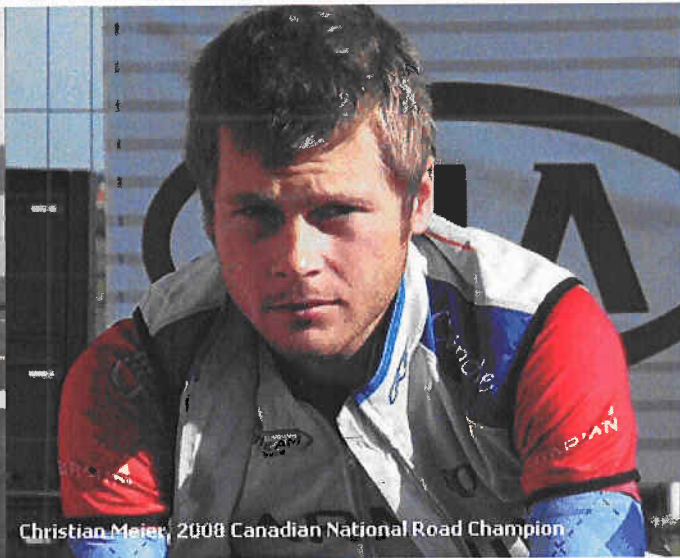
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Race Team Apply

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Pro Triathlete and Ironman Canada Winner Bryan Rhodes



Christian Meier, 2008 Canadian National Road Champion

Browse Products:

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Kona Endurance
CitraBeta Shot

Kona Endurance

Kona Endurance
Super Recovery

Kona Endurance
Training Day Energy

endurance supplements

energy & recovery



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World-Class Endurance Supplements, Energy Supplements and Recovery Drinks

KONA ENDURANCE products are the most powerful, most potent endurance supplements, energy supplements and recovery drinks in the world. It's clinically documented that you will increase your VO2 Max, reduce lactic acid, replace muscle glycogen and speed recovery. If you want to increase your oxygen intake and go faster, come see why professional and amateur athletes worldwide choose KONA ENDURANCE supplements to build a bigger motor.

FREE Kona Sponsorship

Kona Endurance is looking for amateur triathletes, cyclists and runners. We will supply you with FREE Kona racewear and FREE supplements.



[sign up>>](#)



Browse Products:

Kona Endurance PRO

Kona Endurance
CitraBeta Shot

Kona Endurance

Kona Endurance
Super Recovery

Kona Endurance
Training Day Energy

endurance supplements

energy & recovery



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Kona Endurance



KONA ENDURANCE

[Supplement Facts](#) / [Additional Research](#) / [Certificate of Analysis](#)

Kona Endurance is an extremely effective endurance supplement that is loaded with endurance enhancing agents. Research documents that the endurance athlete will increase VO2 max and a reduce lactic acid buildup. The net result is you are going to speed up recovery faster than you ever have. Containing Cordyceps sinensis (min 8% cordycepic acid) and Rhodiola rosea (min 3% rosavins), Kona Endurance will deliver physiological improvements in endurance, period. If you want to go faster and not break the bank, then Kona Endurance is the answer.

A brief summary of Kona Endurance ingredients

Rhodiola rosea (minimum 3.0% rosavins)

An adaptogen that is native to the high altitude Polar Regions of Europe and Asia. Rhodiola rosea containing minimum 3.0% rosavins is the most potent strain available worldwide. In a recent double blind placebo controlled randomized study, it was scientifically documented that Rhodiola rosea increases VO2 Max in addition to significantly reducing fatigue. Recent research documents rhodiola rosea increases maximum oxygen intake and increased run time to exhaustion.

Cordyceps sinensis

(NOW with 8% Cordycepic acid)

An adaptogen that is primarily native to the plateaus of China and Tibet above 12,000 feet. In addition to scientific documentation that confirms it's ability to increase energy and endurance, the legendary running coach, Ma Junren (Newsweek, Sept 27, 1993), attributes many of the long distance running world records to the athlete's use of Cordyceps sinensis. When evaluating Cordyceps sinensis, the active ingredient is Cordycepic acid or Mannitol. 7% Cordycepic acid is generally regarded as the most potent available, Kona Endurance supplements are now formulated with 8% Cordycepic acid.

Kona Endurance is a safe, legal, stimulant-free endurance supplement that abides by all athletic governing bodies, including WADA, USADA, UCI, IOC and USAT.

Kona Endurance

Gain strength without breaking the bank

120 Capsules

Retail Price: \$49.95

Your Price: \$39.95

Save
20%

 ADD TO CART

FREE Kona Sponsorship

Kona Endurance is looking for amateur athletes, cyclists and runners. We will supply you with FREE Kona racewear and FREE supplements.



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Browse Products:

Kona Endurance PRO

Kona Endurance CitraBeja Shot

Kona Endurance

Kona Endurance Super Recovery

Kona Endurance Training Day Energy

endurance supplements

energy & recovery



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Kona Endurance Race Teams

Kona Endurance wants to sponsor you. We are looking for age-group triathletes, cyclists and runners to join the Kona Endurance Race Teams. We are currently selecting endurance athletes to sponsor for our 2009 Kona Endurance Triathlon Team, 2009 Kona Endurance Running Team and our 2009 Kona Endurance Cycling Team. This offer is FREE, we will give you free Kona Endurance Racewear and set you up with free Kona Endurance PRO, our most potent endurance supplement. This is a true sponsorship, you pay absolutely nothing! This is your chance to become an endurance athlete with a full sponsorship ride. Sign up today!

[Click here to join the Kona Triathlon Team](#) [Click here to join the Kona Running Team](#) [Click here to join the Kona Cycling Team](#)

[Click here for information on our new INSTANT sponsorship program for 2009](#)

Congratulations to our most recent selections. We are adding more athletes this month:

J.F. Houpert of Montreal, Quebec
 Ross Stewart of San Francisco, CA
 Erin McCarty of Los Gatos, CA
 Dale Van De Loo of Menasha, WI
 Eric Milbrandt of Pittsburgh, PA
 Joshua Pettit of South Jordan, UT
 Dale Plant of Bellingham, WA
 Brett Stewart of Phoenix, AZ
 Wiebke Brewer Hannigan of Sykesville, MD
 Travis Kubicek of Seattle, WA
 Barb Danielson of Kelowna, British Columbia
 Jason Warner of Phoenix, AZ

Vinny Aguiar	M57	Foxboro, MA	Kona Endurance Triathlon Team
Chris Ashley	M	Winnepeg, Canada	Kona Endurance Cycling Team
Paulo Baranda	M	Portugal, Spain	Kona Endurance Triathlon Team
James Barnes	M45	Breckenridge, CO	Kona Endurance Cycling Team
Markus Biegel	M PRO	Germany	Kona Endurance Triathlon Team
AJ Carr	M	San Antonio, TX	Kona Endurance Cycling Team

Gavin Champion	M35	New Zealand	Kona Endurance Triathlon Team
Brad Culp	M21	Chicago, IL	Kona Endurance Triathlon Team
Kevin Delaney	M	Satellite Beach, FL	Kona Endurance Triathlon Team
Rav Dighe	M	U.K.	Kona Endurance Triathlon Team
Greg Dunn	M42	Cooper City, FL	Kona Endurance Cycling Team
John Drury	M45	Folsom, CA	Kona Endurance Triathlon Team
Eric Fanyo	M23	Arvada, CA	Kona Endurance Triathlon Team
Danny Finneran	M PRO	Oak Park, CA	Kona Endurance Cycling Team
Graeme Glabb	M28	Ontario, Canada	Kona Endurance Triathlon Team
Pedro Gomes	M PRO	Lisbon, Portugal	Kona Endurance Triathlon Team
Brian Grenier	M49	Pine Knoll Shores, NC	Kona Endurance Cycling Team
Brian Hale	M48	Madison, WI	Kona Endurance Running Team
Robert Haviland	M40	Jensen Beach, FL	Kona Endurance Triathlon Team
Bill Hess	M	Gainesville, FL	Kona Endurance Triathlon Team
Lonnie Hunter	M43	Draper, UT	Kona Endurance Triathlon Team
Andrew Jakubowitch	M28	Newark, DE	Kona Endurance Triathlon Team
Lisa James	F	South Bend, IN	Kona Endurance Triathlon Team
Lou Johnson	M49	Prospect Heights, IL	Kona Endurance Triathlon Team
Aaron Kamnetz	M PRO	Madison, WI	Kona Endurance Triathlon Team
Richard Kimeli	M PRO	Keyna	Kona Endurance Running Team
Randy Kubasiak	M	Averill Park, NY	Kona Endurance Running Team
Bevan Leach	M PRO	Australia	Kona Endurance Triathlon Team
Thomas Liby	M36	Boise, ID	Kona Endurance Triathlon Team
Darren Lill	M PRO	South Africa	Kona Endurance Cycling Team
Wayne McInnis	M	Pensacola, FL	Kona Endurance Triathlon Team
Christian Meier	M PRO	BC, Canada	Kona Endurance Cycling Team
Dan Mitchell	M38	Wauwatosa, WI	Kona Endurance Triathlon Team
Alisdair Park	M37	Glasgow, UK	Kona Endurance Triathlon Team
Shanna Pentico	F	Bradenton, FL	Kona Endurance Triathlon Team
Mark Preston	M53	Bronte, NSW Australia	Kona Endurance Triathlon Team
Mal Prior	M47	Ketchum, ID	Kona Endurance Running Team
Mary Jo Pugh	F	Helotes, TX	Kona Endurance Running Team
Michael Quincy	M48	Kent, England	Kona Endurance Triathlon Team
Robert Reid	M46	Alberta, Canada	Kona Endurance Cycling Team
Bryan Rhodes	M PRO	Boulder, CO	Kona Endurance Triathlon Team
Tesha Romsey	F37	Deland, FL	Kona Endurance Triathlon Team
Gary Roy	M49	New Britain, CT	Kona Endurance Triathlon Team
Larry Rube	M52	Boise, ID	Kona Endurance Cycling Team
Chris Russell	M	Littleton, MA	Kona Endurance Running Team
John Sarich	M66	Honolulu, HI	Kona Endurance Triathlon Team
Michael Sayers	M PRO	Sacramento, CA	Kona Endurance Cycling Team
Patrick Schuster	M35	Arlington, TX	Kona Endurance Triathlon Team
Frank Senders	M45	Meerle, Belgium	Kona Endurance Triathlon Team
Craig Skorich	M33	St. Augustine, FL	Kona Endurance Triathlon Team
Kellie Smirnoff	F	Jacksonville, FL	Kona Endurance Triathlon Team
Steven Smith	M59	Granger, IN	Kona Endurance Triathlon Team
Aleksandar Sorenson-Markovic	M PRO	Denmark	Kona Endurance Triathlon Team
John Stiner	M45	Park City, UT	Kona Endurance Running Team
Sarah Stiner	F47	Park City, UT	Kona Endurance Running Team
Stephanie Swigart	F26	Hockessin, DE	Kona Endurance Triathlon Team
Matthew Vahey	M35	Avondale, PA	Kona Endurance Cycling Team
Robert Van Meir	M40	Goldsboro, NC	Kona Endurance Triathlon Team
Scott Vaughan	M37	Incline Village, NV	Kona Endurance Cycling Team
Dan Verner	M40	Island Lake, IL	Kona Endurance Cycling Team
Jaime Vigaray	M37	Marbella, Spain	Kona Endurance Triathlon Team
Patrice Weil	F49	Suffern, NY	Kona Endurance Triathlon Team
Leo West	M45	Malibu, CA	Kona Endurance Triathlon Team
Rob Wilby	M33	Cheshire, U.K.	Kona Endurance Triathlon Team

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Race Team Apply

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KONA ENDURANCE Cycling Race Team

First Name:

Last Name:

Address:

City:

State/Province:

Country:

Zip Code:

Age:

Email Address:

Phone:

**Kona Endurance Team Cycling
Jersey Size**

- Small
- Medium
- Large
- X-Large

Any Current Sponsors?

- Yes
- No

If yes, please explain:

**Best podium finish, please
explain:**

**Tell us a little about yourself, such
as race history, best results, etc.**

2009 race plans:

If selected will you wear KONA
ENDURANCE Cycling Jersey?

- Yes
- No

Submit Form

Exhibit F



**KONA
ENDURANCE**

PACTIMO

**KONA
ENDURANCE**

Train Harder, Race Faster

**KONA
ENDURANCE**

PACTIMO

PACTIMO



PAC

PAC

KONA
ENDURANCE

Train Harder, Race Faster

DBM Nutrition

DB
PAC



PACTIMO



PACTIMO



PACTIMO
SPORTS APPAREL
PACTIMO.COM





PACTIMO



PACTIMO
www.pactimo.com



Congratulations on your purchase of Pactimo apparel. Constructed from the finest materials and rigorously tested by world class athletes, Pactimo apparel performs to the highest of standards. Our cutting edge design and technology matches your passion for sport. Our mission is to make you look great and feel great while you...

enjoy the ride

PACTIMO
www.pactimo.com

KONA ENDURANCE PRO

**ADVANCED CUTTING-EDGE ENDURANCE
SUPPLEMENT DESIGNED FOR THE ELITE
ENDURANCE ATHLETE**



**POTENT ADAPTOGENS (including 360mg of *Rhodiola rosea*
containing 5.1% rosavins) THAT INCREASE VO₂ MAX AND
REDUCE LACTIC ACID METABOLISM
BRANCHED CHAIN AMINO ACIDS TO INCREASE ENDURANCE
CITRULLINE MALATE TO INCREASE AEROBIC CAPACITY**

120 CAPSULES

PATENT PENDING

ENDURANCE SUPPLEMENT

MAR 7 0 2011

KONA ENDURANCE PRO™ contains a very potent combination of exotic adaptogens and amino acids. It is designed specifically to address the three needs of every endurance athlete: increasing oxygen intake, reducing lactic acid and speeding recovery.

Rhodiola rosea (5.1% rosavins) - An adaptogen that is native to the high altitude Polar Regions of Europe and Asia. Rhodiola rosea containing 5.1% rosavins is the most potent strain available worldwide. In a recent double blind placebo controlled randomized study¹, it was scientifically documented that Rhodiola rosea increases VO2 Max in addition to significantly reducing fatigue.

Cordyceps sinensis (7% Cordycepic acid) - An adaptogen that is primarily native to the plateaus of China and Tibet above 12,000 feet. In addition to scientific documentation that confirms it's ability to increase energy and endurance, the legendary running coach, Ma Junren (Newsweek, Sept 27, 1993) attributes many of the long distance running world records to the athlete's use of Cordyceps sinensis.

Branched Chain Amino Acids - Precise 2:1:1 ratio of Leucine, Isoleucine, Valine. Science documents these amino acids benefit the endurance athlete by increasing endurance, delaying fatigue and reducing muscle fatigue.

Citrulline Malate - A very unique amino acid has been proven to dramatically improve aerobic performance by reducing blood lactate levels. The net result is that it enhances endurance athletic performance.

KONA ENDURANCE PRO™ IS A SAFE, LEGAL ENDURANCE SUPPLEMENT THAT ABIDES BY ALL ATHLETIC GOVERNING BODIES, INCLUDING UCI, WADA AND USADA.

1. De Boek K, Eijnde B.O, Ramackers M, Hespel P. Int J Sport Nutr Exerc Metab. 2004 Jun; 14(3): 298-307

STORE IN A COOL DRY PLACE

please visit our website: www.konaendurance.com

DIRECTIONS: Take 4 capsules daily with morning meal

SUPPLEMENT FACTS

Serving Size: 4 Capsules
Servings Per Container: 30

Amount Per Serving		%DV*
Rhodiola rosea	360mg	*
Minimum 5.1% rosavins		
Cordyceps Sinensis	1200mg	*
Minimum 7.0% cordycepic acid		
Kona Amino Blend	800mg	*
(Luecine, Isoluecine, Valine, Citrulline Malate 2:1)		

*Daily Value Not Established

Other Ingredients: Gelatin Capsule

DBM Nutrition
P.O. Box 1177
St. Charles, IL 60174

100% Satisfaction
Guaranteed



MAR 10 2011