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16 **UNITED STATES DISTRICT COURT**
17
18 **CENTRAL DISTRICT OF CALIFORNIA**
19

20 **FEDERAL TRADE COMMISSION,**

21 Plaintiff,

22 v.

23 **MARC CHING**, individually and also
24 doing business as **WHOLE LEAF**
25 **ORGANICS,**

26 Defendant.

) Case No.: 2:20-cv-3775
)
) **COMPLAINT FOR A TEMPORARY**
) **RESTRAINING ORDER AND**
) **PRELIMINARY INJUNCTION**
) **PURSUANT TO SECTIONS 13(A) AND**
) **(B) OF THE FEDERAL TRADE**
) **COMMISSION ACT**

27 Plaintiff, the Federal Trade Commission (“FTC” or “Commission) petitions
28 this Court to enter a temporary restraining order and grant a preliminary injunction
enjoining Marc Ching, individually and also doing business as Whole Leaf Organics

1 (“Defendant”) from disseminating false or unsubstantiated advertisement claims in
2 connection with the labeling, advertising, marketing, distribution, and sale of:
3 1) Thrive, a product that purportedly treats, prevents or reduces the risk of
4 Coronavirus disease 2019 (“COVID-19”), a potentially deadly disease for which
5 there is no proven treatment; and 2) CBD-EX, CBD-RX, and CBD-Max, products
6 that purportedly treat cancer. The FTC seeks this provisional relief pursuant to
7 Sections 13(a) and (b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C.
8 §§ 53(a) and (b), and Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.
9 Absent such provisional relief, Defendant would be free to continue disseminating
10 false and unsubstantiated claims that: 1) Thrive treats, prevents or reduces the risk of
11 COVID-19; and 2) CBD-EX, CBD-RX, and CBD-Max treat cancer.

12 The Commission requires the aid of this Court to prevent interim harm to
13 consumers during the pendency of an administrative trial on the merits. The
14 Commission has already initiated that administrative proceeding, pursuant to Section
15 5 of the FTC Act, 15 U.S.C. § 45, by filing an administrative complaint on April 22,
16 2020. The administrative hearing will determine whether Defendant’s
17 representations violate Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45 and 52,
18 and will provide all parties a full opportunity to conduct discovery and present
19 testimony and other evidence regarding Plaintiff’s allegations.

20 **JURISDICTION AND VENUE**

21 1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331,
22 1337(a), and 1345.

23 2. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), (b)(2), and
24 (c)(1), and 15 U.S.C. § 53(a) and (b).

25 3. Section 13(a) of the FTC Act, 15 U.S.C. § 53(a) provides in pertinent
26 part:

27 Whenever the Commission has reason to believe –

28 (1) that any person, partnership, or corporation is engaged in, or is

1 about to engage in, the dissemination or the causing of the
2 dissemination of any advertisement in violation of section 52 of
3 this title, and

4 (2) that the enjoining thereof pending the issuance of a complaint by
5 the Commission under section 45 of this title, and until such
6 complaint is dismissed by the Commission or set aside by the
7 court on review, or the order of the Commission to cease and
8 desist made thereon has become final within the meaning of
9 section 45 of this title, would be to the interest of the public,
10 the Commission by any of its attorneys designated by it for such purpose
11 may bring suit in a district court of the United States or in the United
12 States court of any Territory, to enjoin the dissemination or the causing
13 of the dissemination of such advertisement. Upon proper showing a
14 temporary injunction or restraining order shall be granted without bond.
15 Any suit may be brought where such person, partnership, or corporation
16 resides or transacts business, or wherever venue is proper under section
17 1391 of Title 28. In addition, the court may, if the court determines that
18 the interests of justice require that any other person, partnership, or
19 corporation should be a party in such suit, cause such other person,
20 partnership, or corporation to be added as a party without regard to
21 whether venue is otherwise proper in the district in which the suit is
22 brought. In any suit under this section, process may be served on any
23 person, partnership, or corporation wherever it may be found.

24 4. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b) provides in pertinent
25 part:

26 Whenever the Commission has reason to believe –

27 (1) that any person, partnership, or corporation is violating, or is
28 about to violate, any provision of law enforced by the Federal

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Trade Commission, and
(2) that the enjoining thereof pending the issuance of a complaint by the Commission and until such complaint is dismissed by the Commission or set aside by the court on review, or until the order of the Commission made thereon has become final, would be in the interest of the public –
the Commission by any of its attorneys designated by it for such purpose may bring suit in a district court of the United States to enjoin any such act or practice. Upon a proper showing that weighing the equities and considering the Commission’s likelihood of ultimate success, such action would be in the public interest, and after notice to the defendant, a temporary restraining order or a preliminary injunction may be granted without bond

5. Sections 13(a) and (b) of the FTC Act, 15 U.S.C. § 53(a) and (b), authorize nationwide service of process, and personal jurisdiction exists where service is effected pursuant to federal statute. Fed. R. Civ. P. 4(k)(1)(C). Additionally, Defendant conducts business in this District. Defendant is subject to personal jurisdiction in this District, and venue is proper in this District under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(1) and 15 U.S.C. §53(a), (b).

PLAINTIFF

6. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41–58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce.

7. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to seek preliminary injunctive relief pending the Commission’s

1 adjudication of the challenged conduct in an administrative proceeding. 15 U.S.C.
2 § 53(a), (b).

3 **DEFENDANT**

4 8. Defendant Marc Ching (“Defendant”), also doing business as Whole
5 Leaf Organics, resides in this District, and in connection with the matters alleged
6 herein, transacts or has transacted business in this District and throughout the United
7 States. At all times material to this Complaint, acting alone or in concert with others,
8 he has formulated, directed, controlled, had the authority to control, or participated in
9 the acts and practices set forth in this Complaint. Defendant has advertised,
10 marketed, distributed, or sold Thrive, CBD-EX, CBD-RX, and CBD-Max to
11 consumers throughout the United States.

12 **COMMERCE**

13 9. At all times material to this Complaint, Defendant has maintained a
14 substantial course of trade in or affecting commerce, as “commerce” is defined in
15 Section 4 of the FTC Act, 15 U.S.C. § 44.

16 **DEFENDANT’S BUSINESS ACTIVITIES**

17 **DEFENDANT’S COVID-19 CLAIMS: THRIVE**

18 10. Thrive is an ingestible product that is sold in capsule form, consisting
19 primarily of a combination of Vitamin C and herbal extracts.

20 11. Since at least December 2018, Defendant has advertised, offered for
21 sale, distributed, and sold Thrive to consumers through his website
22 www.wholeleaforganics.com. The suggested retail price for one bottle of Thrive
23 containing 50 capsules is \$36.99.

24 12. Beginning in or about March 2020, Defendant has represented that
25 Thrive treats, prevents or reduces the risk of COVID-19.

26 13. Defendant has also represented that the benefits of Thrive are clinically
27 or scientifically proven. In fact, there is no competent and reliable scientific evidence
28 that Thrive or any of its ingredients treats, prevents or reduces the risk of COVID-19.

1 14. To induce consumers to purchase Thrive, Defendant has disseminated or
2 caused to be disseminated advertisements for Thrive through its website
3 www.wholeleaforganics.com, including, but not limited to, the attached Exhibit 1.
4 Pages from the website www.wholeleaforganics.com in or around April 2020 and
5

6 Whole Leaf Organics
7 The Best in Preventative Supplemental
8 Care
9

10 **PROTECT YOURSELF -**
11 **THRIVE: ANTI VIRAL**
12 **WELLNESS BOOSTER**

13 CONTAINING CLINICALLY RESEARCHED
14 INGREDIENTS, THRIVE CAN HELP MAKE
15 A DIFFERENCE IN YOUR LIFE.

16 FORMULATED WITH POTENT ANTIVIRAL
17 HERBAL EXTRACTS, THRIVE BY WHOLE
18 LEAF ORGANICS IS THE PERFECT WAY
19 TO STRENGTHEN YOUR IMMUNITY
20 AGAINST PATHOGENS LIKE "COVID-19,"
21 **THE CORONAVIRUS.**

22 RECOMMENDED DOSE FOR ADULTS - 1
23 CAPSULE 3 TIMES A DAY. SAFE FOR
24 DAILY SHORT TERM USE, AND TO
25 COMBAT AILMENTS THE FLU, COLDS,
26 BRONCHIAL INFECTIONS, FUNGAL AND
27 YEAST BASED ISSUES, AS WELL AS THE
28 CORONAVIRUS.



26 Formulated with clinically tested and proven ingredients.
27 Our time test formulas are proven and deliver results

28 attached hereto contain the following statements and depiction, among others:

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DEFENDANT’S CANCER CLAIMS: CBD PRODUCTS

15. CBD-EX is an ingestible product that is sold in capsule form, consisting primarily of a combination of cannabidiol (“CBD”) and herbal extracts. CBD-RX and CBD-MAX are oils consisting primarily of CBD and hemp extract.

16. Since at least December 2018, Defendant has advertised, offered for sale, distributed, and sold CBD-EX, CBD-RX, CBD-Max to consumers through his website www.wholeleaforganics.com. The suggested retail price for one bottle of CBD-EX containing 30 capsules is \$39.99. The suggested retail price for one 30 ml bottle of CBD-RX is \$75.00. The suggested retail price for one 1000 mg bottle of CBD-MAX is \$125.00.

17. Defendant has represented that CBD-EX, CBD-RX, and CBD-Max provide extraordinary health benefits. Specifically, Defendant has represented that CBD-EX, CBD-RX, and CBD-Max treat cancer.

18. Defendant has also represented that the benefits of CBD-EX, CBD-RX, and CBD-Max are clinically or scientifically proven. There are no competent and reliable human clinical trials of CBD-EX, CBD-RX, and CBD-Max to substantiate the advertised health claims for these products.

19. In November 2019, the Food and Drug Administration (“FDA”) sent Defendant a letter warning that Defendant was making unapproved new drug claims in violation of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C § 355(a) and 331(d), by claiming that CBD-EX, CBD-RX, and CBD-Max are intended for use in the mitigation, treatment, or prevention of diseases. FDA gave Defendant fifteen days to take corrective action. To date, Defendant has not removed the unapproved drug claims from the Defendant’s website www.wholeleaforganics.com.

20. To induce consumers to purchase CBD-EX, Defendant has disseminated or caused to be disseminated advertisements for CBD-EX through its website www.wholeleaforganics.com, including, but not limited to, the attached

1 Exhibits 2 and 5. Pages from the website www.wholeleaforganics.com in or around
2 April 2020 and attached hereto contain the following statements and depiction among
3 others:



6

7 Extraordinary Genius

8

9 **Expertly crafted. Superior in genius - CBD EX combines the most effective cancer and immune**
10 **regulating clinically tested components into one simple supplement.**

11 ***



13

14 The most effective innovation in cancer and
15 immune related proactive supplement support
16 in the past ten years. CBD-EX combines the
17 best in cancer fighting elements, into one
18 simple capsule.

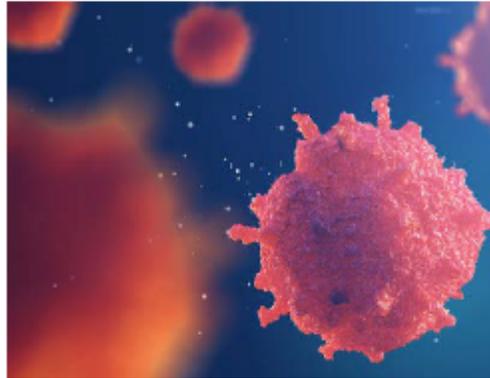
19

20 Containing clinically tested ingredients, CBD-
21 EX is a dynamic force in anti inflammation
22 protocols, targeting manipulated cells while
23 working to protect healthy ones. Formulated
24 containing Coriolus Versicolor Mushroom,
25 CBD-EX seeks to inhibit the spread of mutated
26 malignant cells, directly attacking the problem.

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Cell manipulation

The manipulation of cells is how cancer spreads and moves through the body. The most effective thing you can do in regards to fighting against cancer, is to control the way it manipulates and cross transfers into other cells.

CBD EX - Compounded with infrared separated CBD and beta glucan Coriolis Versicolor, our CBD-EX formulation is specifically created to combat cancer and de-manipulate active cells. Infused with Curcumin, our CBD-EX formulation reduces cell inflammation, while at the same time targeting mutated nuclei.

Containing clinically tested cancer proactive ingredients, CBD-EX can be taken in consistent high therapeutic doses.

21. To induce consumers to purchase CBD-RX, Defendant has disseminated or caused to be disseminated advertisements for CBD-RX including, but not limited to, the attached Exhibit 3. Pages from the website www.wholeleaforganics.com in or around April 2020 contain the following statements and depiction among others:

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Clinically Tested. Scientifically Balanced.

Whole Leaf Organics CBD-Rx is a practitioner formulated, and clinically tested cannabinoid nutraceutical line. Our formulations have been proven to be effective at reducing inflammation, and minimizing the way cancer cells manipulate neighbor cells - the key factor in being successful when trying to be proactive against disease.



Our prescription strength CBD-Rx products are effective for both therapeutic and maintenance needs. Non psychoactive in nature, our cannabinoid extracts focus specifically on inflammation reduction, minimizing manipulation of other cells as tumors spread and work to ravage through the body.

While effective in combatting cancer, cannabinoids have been proven to be beneficial in reducing arthritis, and immune mediated responses. The terpenes in CBD also work in regards to reducing brain inflammation, and can help to reduce anxiety in people, helping to regulate adrenal activity.

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The CBD-Rx Difference...

Equivalent to 2000 mg of full spectrum cbd, our Whole Leaf Organics flagship product CBD-Rx is formulated containing 250mg of sub matrix infared isolate compounds. Clinically tested to be eight times

<https://www.wholeleaforganics.com/cbd-rx>[4/3/2020 2:07:20 PM]

Whole Leaf Organics



stronger than full spectrum cbd oil, our proprietary purification process removes all the waxes, chlorophylls, and unnecessary substances within the plant, preserving the terpenes and cannabinoid compounds necessary to reduce inflammation and fight against things like cancer and immune related disorders.

Clinically tested in patient unit control groups, our CBD-Rx formulation was researched to reduce inflammation within the body, brain and organs - and was effective in helping those struggling with terminal cancers fight against systemic histamine reactive causing compounds.

22. To induce consumers to purchase CBD-Max, Defendant has disseminated or caused to be disseminated advertisements for CBD-Max, including, but not limited to, the attached Exhibits 4 and 5. Pages from the website www.wholeleaforganics.com in or around April 2020 contain the following statements and depiction among others:

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← BACK TO PRODUCTS



CBD MAX 1000mg

\$125.00

Pure in design, our high potency concentrate contains active CBD suspended in Hemp Ariel Extract oil. Utilizing our proprietary extraction technique, WL Hemp CBD Max contains 1000mg of CBD, CBC, CBG, CBG-A, CBC-A, CBN and terpenes, that works to site target areas in the body that are compromised and inflamed.

Backed by scientific research and formulation, CBD Max delivers concentrated active CBD for individuals looking for intense therapeutic needs. Filler free, and compounded without any carrier oils - CBD Max its the ultimate in high intensity immune system and inflammation support.

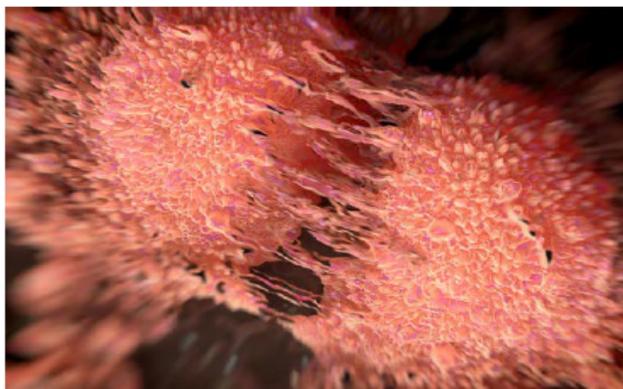
Lab tested and third party certified, Whole Leaf

<https://www.wholeleaforganics.com/products/cbd-max-1000mg>[4/8/2020 3:21:26 PM]

Whole Leaf Organics

Organics is the leader in pure hemp extract products, providing overall supportive care.

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Cancer division

A key characteristic of cancer cells is the division of the nuclei in a process called mitosis. Unlike normal cells, cancer cells divide uncontrollably and in time work to create blood vessels that feed and supply them with additional oxygen, glucose, and hormones. In fighting against cancer, it is important to reduce the rate at which cells divide, cut off the supply of food and oxygen.

Years of working with cancer and fighting to reduce internal inflammation, has lead us to formulate a variety of supplements effective at slowing mutated cell division, and reduce the supply of food and oxygen to cancer cells.

CBD MAX - Our full spectrum CBD extract oil is terpene rich, CO2 extracted containing only the purest and most vital constituencies.

1000mg per ounce, CBD MAX reduces inflammation, and works to inhibit the division of mutated cells.

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Count II

False and Unsubstantiated Cancer Claims

30. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of CBD-EX, CBD-RX, and CBD-Max, including through the means described in Paragraphs 20 through 22, Defendant has represented, directly or indirectly, expressly or by implication, that CBD-EX, CBD-RX, and CBD-Max treat cancer.

31. The representation set forth in Paragraph 30 is false or misleading or was not substantiated at the time the representation was made.

32. Therefore, the making of the representation as set forth in Paragraph 30 of this Complaint constitutes a deceptive act or practice and the making of false advertisements in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

Count III

False Proof Claim for Thrive

33. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of Thrive including through the means described in Paragraph 14, Defendant has represented, directly or indirectly, expressly or by implication, that Thrive, is clinically or scientifically proven to treat, prevent, or reduce the risk of COVID-19.

34. In truth and in fact, Thrive is not clinically or scientifically proven to treat, prevent, or reduce the risk of COVID-19.

35. Therefore, the making of the representation as set forth in Paragraph 33 of this Complaint is false and misleading, and constitutes a deceptive act or practice and the making of false advertisements in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

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Count IV

False Proof Claims for CBD Products

36. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of CBD-EX, CBD-RX, and CBD-Max, including through the means described in Paragraphs 20 through 22, Defendant has represented, directly or indirectly, expressly or by implication, that CBD-EX, CBD-RX, and CBD-Max are clinically or scientifically proven to treat cancer.

37. In truth and in fact, CBD-EX, CBD-RX, and CBD-Max are not clinically or scientifically proven to treat cancer.

38. Therefore, the making of the representation as set forth in Paragraph 36 of this Complaint is false and misleading, and constitutes a deceptive act or practice and the making of false advertisements in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

CONSUMER INJURY

39. Consumers are likely to suffer substantial injury as a result of Defendant’s violations of the FTC Act. Absent injunctive relief by this Court, Defendant is likely to continue to injure consumers and harm the public interest.

**LIKELIHOOD OF SUCCESS ON THE MERITS,
BALANCE OF EQUITIES, AND NEED FOR RELIEF**

40. Section 13(a) of the FTC Act, 15 U.S.C. § 53(a), authorizes the Commission, whenever it has reason to believe that a person, partnership, or corporation has engaged in the dissemination or the causing of the dissemination of any advertising in violation of Section 12 of the FTC Act, 15 U.S.C. § 52 (prohibiting false advertising relating to, inter alia, food and drugs), to seek preliminary relief to prevent the dissemination of such advertisement until the Commission can adjudicate the lawfulness of the conduct in an administrative proceeding. The court may grant such a temporary injunction or restraining order upon a proper showing.

1 41. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b) authorizes the
2 Commission, whenever it has reason to believe that a person, partnership, or
3 corporation has violated the FTC Act, to seek preliminary relief to prevent the
4 dissemination of false or unsubstantiated advertising claims until the Commission can
5 adjudicate the lawfulness of the conduct in an administrative proceeding. In deciding
6 whether to grant relief authorized by Section 13(b), this Court must balance the
7 likelihood of the Commission’s ultimate success on the merits against the public
8 equities, using a sliding scale. The principal public equity weighing in favor of
9 issuance of preliminary injunctive relief is the public interest in effective enforcement
10 of the FTC Act.

11 42. The Commission is likely to succeed in proving that advertisements
12 disseminated by Defendant violated Sections 5 and 12 of the FTC Act. In particular,
13 the Commission is likely to succeed in demonstrating, among other things, that:

14 a. There is no competent and reliable scientific evidence supporting
15 Defendant’s representation that Thrive treats, prevents or reduces the risk of COVID-
16 19;

17 b. There is no competent and reliable scientific evidence supporting
18 Defendant’s representation that CBD-EX, CBD-RX, and CBD-Max, alone or in
19 combination, treat cancer;

20 c. No scientific or clinical tests prove that Thrive treats, prevents or
21 reduces the risk of COVID-19; and

22 d. No scientific or clinical tests prove that CBD-EX, CBD-RX, and
23 CBD-Max treat cancer.

24 43. Preliminary relief is warranted and necessary. Consumers are suffering
25 and will continue to suffer substantial injury as a result of Defendant’s violations of
26 the FTC Act. Absent preliminary relief, should the Commission rule, after the full
27 administrative proceeding, that Defendant’s conduct is unlawful, remediating the
28

1 harm caused by consumers who use Thrive, CBD-EX, CD-RX, and CBD-Max would
2 be difficult, if not impossible.

3 44. Accordingly, the equitable relief requested here is in the public interest.

4 Wherefore, Plaintiff respectfully requests that this Court:

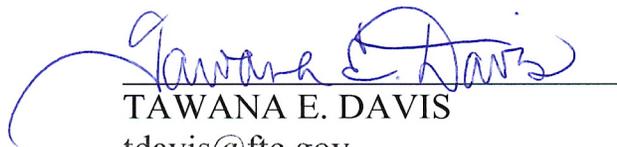
- 5 a) Enter the proposed temporary restraining order;
- 6 b) Preliminarily enjoin Defendant from further violations of the FTC Act;
- 7 c) Retain jurisdiction and status quo until any administrative proceeding
- 8 initiated by the Commission is concluded; and
- 9 d) Award such other and further relief as the Court may determine as
- 10 appropriate, just, and proper.

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Respectfully submitted,

ALDEN F. ABBOTT
General Counsel

Dated: 4/24/2020



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