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(Exceeds 100 pages)

Proceeding/Serial No: **77439283**

Filed: 2/22/2011

Title: **REQUEST FOR RECONSIDERATION AFTER
FINAL ACTION**

Part 1 of 1

77439283

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77439283
LAW OFFICE ASSIGNED	LAW OFFICE 105
MARK SECTION (no change)	
ARGUMENT(S)	

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Liquid Holding Company, Inc.
Mark: ECOLOGIC
Serial No.: 77/439,283
Filed: April 3, 2008
International Class: 1 and 5
Examining Attorney: Ronald McMorrow
Law Office: 105
Attorney Ref. No.: 08-40048-US

REQUEST FOR RECONSIDERATION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Commissioner:

In response to the Final Office Action dated August 19, 2010, Applicant responds as follows, without prejudice, and respectfully requests reconsideration of same. Applicant has concurrently filed a Notice of Appeal with the Trademark Trial and Appeal Board and requested suspension of the appeal pending reconsideration by the examiner.

REMARKS

I. Section 2(d) Refusal – Likelihood of Confusion

A. No Likelihood of Confusion Under the duPont Factors

Applicant respectfully asserts that the likelihood of confusion analysis in the present case must reach the same conclusion as found in Applicant's other applications for ECOLOGIC, discussed in part IB of this response, where no likelihood of confusion was found with respect to the cited ECOLOGIX mark. The factors for determining likelihood of confusion are set forth in In re E. I. du Pont de Nemours & Co., 476 F.2d 1357 (C.C.P.A. 1973). Not all factors will be relevant or given equal weight in every case. *See, In re Majestic Distilling Co.*, 315 F.3d 1311, 1315 (Fed. Cir. 2003); In re Dixie Restaurants, Inc., 105 F.3d 1405, 1406-07 (Fed. Cir. 1997); In re National Novice Hockey League, Inc., 222 USPQ 638, 640 (TTAB 1984). Here, Applicant believes the relevant factors for determining whether there is a likelihood of confusion are: (1) the appearance, sound, connotation and commercial impression created by the marks; (2) the relatedness of the goods; (3) the care and diligence of purchasers; and (4) the number and nature of other ECOLOG marks for environment-related goods. When each of these factors is properly considered, Applicant believes they weigh against a finding of likelihood of confusion, just as the present examiner and two other examiners concluded in Applicant's other ECOLOGIC cases.

1. ECOLOGIC and ECOLOGIX are Sufficiently Dissimilar in

Their Appearance, Sound, Connotation and Commercial Impression

The examiner alleges that Applicant's mark ECOLOGIC and the cited mark ECOLOGIX are highly similar in appearance, sound, connotation and overall commercial impression. Office Action p. 2.

Applicant respectfully asserts that the examiner's analysis fails to properly consider the marks in their entirety and in context.

When comparing two marks, if the common element of the marks is suggestive or otherwise weak, the other distinguishing elements in the mark carry more significance with respect to the commercial impressions created by the marks. TMEP 1207.01(b)(vii); *see, e.g., In re Bed & Breakfast Registry*, 791 F.2d 157 (Fed. Cir. 1986) (BED & BREAKFAST REGISTRY for making lodging reservations for others in private homes held not likely to be confused with BED & BREAKFAST INTERNATIONAL for room booking agency services); TMEP 1207.01(b)(ix); J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 23:42 (2008) (citing Keebler Co. v. Murray Bakery Products, 866 F.2d 1386 (Fed. Cir. 1989); other citations omitted); J. Thomas McCarthy, McCarthy on

Trademarks and Unfair Competition § 23:48 (2008) (citing Colgate-Palmolive Co. v. Carter-Wallace, Inc., 432 F.2d 1400 (C.C.P.A. 1970); Knapp-Monarch Co. v. Poloron Products, Inc., 134 U.S.P.Q. 412 (T.T.A.B. 1962) (THERMEX--THERM-A-JUG: no likelihood of confusion, as common “THERM” is suggestive of heat-insulating)).

Moreover, “[i]f two conflicting marks each have an aura of suggestion, but each suggests something different to the buyer, this tends to indicate a lack of likelihood of confusion.” J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 23:28 (2008) (citing Smith v. Tobacco By-Products & Chemical Corp., 243 F.2d 188 (C.C.P.A. 1957) (finding no likelihood of confusion between GREEN LEAF and BLACK LEAF because of the different suggestive connotations of the terms GREEN and BLACK). Even if the marks are phonetically similar, confusion can be avoided where the marks have different suggestive connotations. J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 23:28 (2008) (citing Gulf States Paper Corp. v. Crown Zellerbach Corp., 417 F.2d 795 (C.C.P.A. 1969) (finding that even though E-Z and CZ sound similar, each suggests something different such that there is no likelihood of confusion)).

Here, the similarity between ECOLOGIC and ECOLOGIX is the root ECOLOG. In both marks, ECOLOG is used in a suggestive manner to connote the environment. As such, in the context of their respective use on plant growth stimulants, weed killers and pesticides, the ECOLOG element is a less distinctive feature of the marks. The relative commonality of the term is also evident in the number of other registered marks containing the root ECOLOG for environment-related goods. *See* Exhibits B and C, attached hereto and incorporated herein by reference. Consequently, other unique features in the marks must be considered when comparing the overall commercial impressions created by the marks.

An analogous situation is presented in Knapp-Monarch, 134 U.S.P.Q. 412 (T.T.A.B. 1962), where the Board found no likelihood of confusion between THERM-A-JUG and THERMEX because “THERM” is suggestive of a heat-insulating product. Also, in a more recent case, Safer, Inc. v. OMS Investments, Inc., Opposition No. 91176445, 94 USPQ2d 1031 (TTAB 2010), the Board found no likelihood of confusion between the marks DEER-B-GON for “animal repellent used to repel deer and other ruminant animals and rabbits” and DEER AWAY for “repellent for repelling deer, other big game and rabbits.” In this case, the Board found that, even though the goods are legally identical, the

channels of trade and classes of purchasers are the same, and the marks engender the same connotation of getting rid of deer, confusion is not likely because of the different overall commercial impressions created by the distinctive portions of the marks, namely, B-GON and AWAY, and the high degree of care exercised by consumers when purchasing the products. The Board found that the marks in question were analogous to the marks in Sure-Fit Products Company v. Saltzson Drapery Company, 117 USPQ 295 (CCPA 1958) (finding no likelihood of confusion between SURE-FIT for slip covers and RITE-FIT for drapes and slip covers). In both cases, the Board found that, in view of the highly suggestive nature of the marks, the distinctive elements outweighed the similarity in meaning and commercial impression such that consumers are not likely to be confused, especially where the goods are of a nature that consumers are likely to exercise a high degree of care in making a purchase.

The current case is very similar to the cases cited above. Here, the only common element between Applicant's mark and the cited mark is the root word ECOLOG, which is suggestive of the environment. "The fact that the marks have a similar highly suggestive meaning is insufficient to support a likelihood of confusion finding where, as here, the marks otherwise differ in appearance and sound." Safer, Inc. at p. 37 (citing Calgon Corp. v. John H. Breck, Inc., 160 USPQ 343, 344).

Like in the above cited cases, the differences between Applicant's ECOLOGIC mark and the cited ECOLOGIX mark are significant. First, the mark ECOLOGIX is spelled with an "X", which creates a different visual impression since it is an obvious misspelling and aurally gives the mark a plural sound. The "X" also has additional significance in that it connotes a product that kills things. The letter "X" is commonly used in that manner and consumers are conditioned to understand the significance of such lettering. *See* Exhibit A, attached hereto and incorporated herein by reference. When the ECOLOGIX mark is viewed as a whole in connection with pesticides, the overall connotation of the mark is of a toxic product used in the environment that kills things.

In contrast, Applicant's mark uses the correct spelling for ECOLOGIC, which creates a different visual impression and from the cited mark and has a singular sound instead of the cited mark's plural sound created by the "X". Applicant's mark also evokes a sense of logic, purity and harmony with the environment, in contrast to the cited mark which evokes toxicity. Accordingly, not only do Applicant's mark and the cited mark look and sound different but, unlike in the Safer, Inc. case, the

marks also connote different meanings and are used on goods that perform different functions. Similar to the Safer, Inc. case, the marks have different overall commercial impressions created by the distinctive portions of the marks. Therefore, Applicant believes that the differences between the marks are significant and directly impact the overall commercial impression created by the marks such that consumers are not likely to be confused.

**2. Applicant's Goods and the Goods in the Cited
Registration**

Are Distinct Within the Broad Agricultural Chemicals

Field

The examiner further alleges that it is sufficient for likelihood of confusion that the marks would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source and cites third party websites and registrations to suggest that fertilizers and pesticides may emanate from a single source. Office Action pp. 2 and 3. However, even if certain manufacturers might sell both fertilizers and pesticides under the same mark, this does not dictate a finding of likelihood of confusion where, as here, the marks are visually and aurally different and have distinct (indeed opposite) connotations and commercial impressions.

There are many types of chemical agricultural products that serve very distinct purposes and are not likely to be deemed related by the average consumer. In this case, the goods at issue perform very different functions. Applicant's products relate to plants, including plant growth (stimulants and fertilizers) and weed killers. The registrant's product, on the other hand, relates to *animals*, in particular pesticides that kill animals. Within the broad field of agricultural chemicals, an ordinary consumer is not likely to consider these products to be in the same category since they are used for entirely different purposes – plant growth, plant death, and animal death. Therefore, for at least these reasons, Applicant asserts that any relatedness between Applicant's goods and the goods in the cited registration within the broad field of agricultural chemicals is not significant enough to overcome the differences between the marks and the distinct commercial impressions created by the marks.

Moreover, the Safer, Inc. case clearly demonstrates that even where the goods are legally

identical, the channels of trade and classes of purchasers are the same, and the marks engender the same connotation, confusion is not likely where the overall commercial impressions created by the marks is different and the goods are of a nature where a high degree of care is exercised by consumers when purchasing the goods. In the present case, not only are the goods distinguishable within the broad field of agricultural chemicals, the marks also engender different connotations, making confusion even less likely than in the Safer, Inc. case.

3. **Under the Conditions of Purchase, Consumers Will Exercise**

Great Care and Diligence When Making Purchasing Decisions

The examiner dismisses Applicant's argument that consumers of Applicant's goods and the goods in the cited registration are especially diligent and careful when making purchasing decisions. Specifically, the examiner alleges that "the fact that purchasers are sophisticated or knowledgeable in a particular field does not necessarily mean that they are sophisticated or knowledgeable in the field of trademarks or immune from source confusion." Office Action p. 3. However, the examiner has not rebutted Applicant's argument that consumers of lawn and garden care products are careful and diligent when making purchasing decisions. It is well settled that "circumstances suggesting care in purchasing may tend to minimize likelihood of confusion." TMEP § 1207.01(d)(vi).

Purchasers of Applicant's goods and the goods in the cited registration are likely to be very discriminating regarding their purchase. Typically, consumers that tend to a garden as a hobby or commercial farmers who raise crops for a living are extremely invested in their gardens and crops, and take great care in their growth and maintenance. In addition, these consumers tend to be environmentally aware, and will only use products to solve their specific problem without harming the ecosystem. Accordingly, they will exercise great care and diligence in selecting a product from a known and trusted source. Applicant's goods are used on plants, while the registrant's products are used to kill animals. The products are purchased by consumers who are trying to solve a very specific problem. A consumer is likely to exercise great care before purchasing these goods to ensure that they perform exactly as desired. The differences between the marks, as described above, are likely to be immediately apparent to consumers exercising care and diligence when selecting a product. At minimum, such care must be weighed as a factor minimizing any likelihood of confusion.

Moreover, Applicant notes the Board's finding in Safer, Inc. that purchasers of deer repellents are likely to exercise a high degree of care to ensure that the product performs as desired, without harming the surrounding environment. *See Safer, Inc.* at pp. 33-35. Plant growth stimulants, weed killers and pesticides are of a similar nature to deer repellents in that they are used for very specific purposes in the environment and are not purchased on impulse and without care. Consumers would not indiscriminately purchase a plant growth stimulant, weed killer or pesticide product without diligent investigation to ensure that it performs as desired and is safe for the intended purpose. Therefore, since consumers are likely to exercise a high degree of care when purchasing Applicant's goods and the goods in the cited registration, the differences between the marks are even more significant and should be afforded greater weight when comparing the marks.

4. The Root Word "ECOLOG" is Commonly Used.

Finally, Applicant notes that "[t]hird-party registrations may be relevant to show that the mark or a portion of the mark is descriptive, suggestive, or so commonly used that the public will look to other elements to distinguish the source of the goods or services." *See AMF Inc. v. American Leisure Products, Inc.*, 474 F.2d 1403, 1406 (C.C.P.A. 1973); TMEP 1207.01(d)(iv). "If the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, this evidence 'is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.'" TMEP1207.01(d)(iv); *see also Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772*, 396 F.3d 1369, 1373 (Fed. Cir. 2005).

Here, as already noted above, applicant asserts that the root word ECOLOG is commonly used on environment-related goods and, therefore, is subject to a narrow scope of protection. A search of the USPTO database shows numerous registered and/or allowed marks containing the root word ECOLOG. This is especially true for chemicals. *See Exhibit B*, attached hereto and incorporated herein by reference. The consuming public is well aware of the need for environmentally friendly chemicals because of the danger chemicals pose to both the consumer and the environment.

The use of the root word ECOLOG is not limited to chemicals, either. ECOLOG is somewhat of a "buzzword" used to identify all nature of environmentally friendly goods and services. *See Exhibit C*, attached hereto and incorporated herein by reference, for examples of ECOLOG being used in

registered marks for goods and services other than chemicals, such as environmental design firms, dietary supplements, artificial fireplace logs, light bulbs, environmentally friendly car rental services and papers and inks, just to name a few. The consuming public is practically bombarded with products containing the root word ECOLOG by companies seeking a competitive advantage by marketing products as “environmentally friendly.” This evidence is suggestive that consumers are conditioned to seeing the root ECOLOG on products used in the environment and that other distinctive elements in the mark are likely to carry greater significance when determining commercial impression.

5. DuPont Factors Weigh Against a Finding of Likelihood of Confusion in This Instance

Based on the above, Applicant believes that the relevant DuPont factors weigh against a finding of likelihood of confusion. Given the suggestiveness and commonality of the root word ECOLOG as used on products used in the environment, the other distinctive elements in the marks should be given greater significance when comparing the marks. The use of the letter “X” to spell ECOLOGIX in the cited mark has special significance when used on pesticides to indicate that the product kills things. In contrast, Applicant’s ECOLOGIC mark carries the opposite connotation suggesting something that works in harmony with the ecosystem. For at least these reasons, Applicant believes that the marks, when viewed as a whole, are not likely to cause confusion in the marketplace and should be allowed to co-exist on the Principal Registry, along with Applicant’s other ECOLOGIC marks already registered and/or allowed to register by the USPTO. Accordingly, Applicant respectfully requests that the examiner withdraw the 2(d) refusal.

B. Applicant’s Other ECOLOGIC Marks Have Been Allowed to Register.

The examiner has maintained and made final the refusal to register Applicant’s mark on the basis of an alleged conflict under Section 2(d) with the mark ECOLOGIX in U.S. Registration No. 2,234,465 for “biochemical products, namely, pesticides for domestic and agricultural uses” in International Class 1. Applicant notes that in the time since the examiner issued the Final Office Action, the USPTO has issued allowances and a registration for several of Applicant’s other ECOLOGIC marks, including the following (see certificates of registration, notices of allowance and online TESS records, attached hereto as Exhibit D and incorporated herein by reference):

Mark	Goods	Status
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ECOLOGIC APG-EM (77/619822)	Fertilizers	Registered on October 26, 2010
ECOLOGIC (77/457115)	Animal repellents; dog, cat, goose, rabbit, deer, bird, mammal, snake, mole, vole and insect repellents	Notice of Allowance issued on November 23, 2010
ECOLOGIC SG (77/485046)	Turf and ornamental root accelerator	Notice of Allowance issued on November 23, 2010
ECOLOGIC (77/342,972)	Plant growth stimulants	Registered on February 22, 2011.

The above cases were initially refused registration on the basis of an alleged likelihood of confusion with the cited ECOLOGIX mark under Section 2(d). In each case, after further consideration by the examiners (including the examiner in the present case and two other examiners), no likelihood of confusion was found and the refusals were withdrawn. While the results in these cases are not binding on the examiner in the current case, Applicant asserts that they show the strength of Applicant's position and establish a precedent for the current examiner's finding of no likelihood of confusion. The pending application is at least as different from ECOLOGIX as the other registrations and allowed applications, and therefore can easily co-exist without any likelihood of confusion. Applicant respectfully requests that the examiner allow the current ECOLOGIC application.

II. Insufficient Fees

Applicant has submitted herewith payment to cover the addition of one class. This payment should resolve any prior fee shortage. However, should there be any additional fees due and owing with respect to this application, the examiner is hereby authorized to charge such fees to Deposit Account No. 18-0586.

CONCLUSION

In view of the foregoing, this application is believed to be in condition for publication, and reconsideration and favorable action are respectfully requested. Applicant also respectfully requests the courtesy of a telephone interview should the examiner have any additional questions with respect to this application.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)

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SIGNATORY'S NAME	Matthew P. Frederick
SIGNATORY'S POSITION	Attorney of Record, PA Bar Member
DATE SIGNED	02/22/2011
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	YES
FILING INFORMATION SECTION	
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PTO Form (Rev 4/2008)
OMB No. 0751-0047 (Exp. 08/31/2014)

**Request for Reconsideration after Final Action
To the Commissioner for Trademarks:**

Application serial no. **77439283** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Liquid Holding Company, Inc.
Mark: ECOLOGIC
Serial No.: 77/439,283
Filed: April 3, 2008
International Class: 1 and 5
Examining Attorney: Ronald McMorrow
Law Office: 105
Attorney Ref. No.: 08-40048-US

REQUEST FOR RECONSIDERATION

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

Commissioner:

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I. Section 2(d) Refusal – Likelihood of Confusion

A. No Likelihood of Confusion Under the duPont Factors

Applicant respectfully asserts that the likelihood of confusion analysis in the present case must reach the same conclusion as found in Applicant's other applications for ECOLOGIC, discussed in part IB of this response, where no likelihood of confusion was found with respect to the cited ECOLOGIX mark. The factors for determining likelihood of confusion are set forth in In re E. I. du Pont de Nemours & Co., 476 F.2d 1357 (C.C.P.A. 1973). Not all factors will be relevant or given equal weight in every case. *See, In re Majestic Distilling Co.*, 315 F.3d 1311, 1315 (Fed. Cir. 2003); In re Dixie Restaurants, Inc., 105 F.3d 1405, 1406-07 (Fed. Cir. 1997); In re National Novice Hockey League, Inc., 222 USPQ 638, 640 (TTAB 1984). Here, Applicant believes the relevant factors for determining whether there is a likelihood

of confusion are: (1) the appearance, sound, connotation and commercial impression created by the marks; (2) the relatedness of the goods; (3) the care and diligence of purchasers; and (4) the number and nature of other ECOLOG marks for environment-related goods. When each of these factors is properly considered, Applicant believes they weigh against a finding of likelihood of confusion, just as the present examiner and two other examiners concluded in Applicant's other ECOLOGIC cases.

1. ECOLOGIC and ECOLOGIX are Sufficiently Dissimilar in

Their Appearance, Sound, Connotation and Commercial Impression

The examiner alleges that Applicant's mark ECOLOGIC and the cited mark ECOLOGIX are highly similar in appearance, sound, connotation and overall commercial impression. Office Action p. 2. Applicant respectfully asserts that the examiner's analysis fails to properly consider the marks in their entirety and in context.

When comparing two marks, if the common element of the marks is suggestive or otherwise weak, the other distinguishing elements in the mark carry more significance with respect to the commercial impressions created by the marks. TMEP 1207.01(b)(vii); *see, e.g., In re Bed & Breakfast Registry*, 791 F.2d 157 (Fed. Cir. 1986) (BED & BREAKFAST REGISTRY for making lodging reservations for others in private homes held not likely to be confused with BED & BREAKFAST INTERNATIONAL for room booking agency services); TMEP 1207.01(b)(ix); J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 23:42 (2008) (citing Keebler Co. v. Murray Bakery Products, 866 F.2d 1386 (Fed. Cir. 1989); other citations omitted); J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 23:48 (2008) (citing Colgate-Palmolive Co. v. Carter-Wallace, Inc., 432 F.2d 1400 (C.C.P.A. 1970); Knapp-Monarch Co. v. Poloron Products, Inc., 134 U.S.P.Q. 412 (T.T.A.B. 1962) (THERMEX--THERM-A-JUG: no likelihood of confusion, as common "THERM" is suggestive of heat-insulating)).

Moreover, "[i]f two conflicting marks each have an aura of suggestion, but each suggests something different to the buyer, this tends to indicate a lack of likelihood of confusion." J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 23:28 (2008) (citing Smith v. Tobacco By-Products & Chemical Corp., 243 F.2d 188 (C.C.P.A. 1957) (finding no likelihood of confusion between GREEN LEAF and BLACK LEAF because of the different suggestive connotations of the terms

GREEN and BLACK). Even if the marks are phonetically similar, confusion can be avoided where the marks have different suggestive connotations. J. Thomas McCarthy, McCarthy on Trademarks and Unfair Competition § 23:28 (2008) (citing Gulf States Paper Corp. v. Crown Zellerbach Corp., 417 F.2d 795 (C.C.P.A. 1969) (finding that even though E-Z and CZ sound similar, each suggests something different such that there is no likelihood of confusion)).

Here, the similarity between ECOLOGIC and ECOLOGIX is the root ECOLOG. In both marks, ECOLOG is used in a suggestive manner to connote the environment. As such, in the context of their respective use on plant growth stimulants, weed killers and pesticides, the ECOLOG element is a less distinctive feature of the marks. The relative commonality of the term is also evident in the number of other registered marks containing the root ECOLOG for environment-related goods. *See* Exhibits B and C, attached hereto and incorporated herein by reference. Consequently, other unique features in the marks must be considered when comparing the overall commercial impressions created by the marks.

An analogous situation is presented in Knapp-Monarch, 134 U.S.P.Q. 412 (T.T.A.B. 1962), where the Board found no likelihood of confusion between THERM-A-JUG and THERMEX because “THERM” is suggestive of a heat-insulating product. Also, in a more recent case, Safer, Inc. v. OMS Investments, Inc., Opposition No. 91176445, 94 USPQ2d 1031 (TTAB 2010), the Board found no likelihood of confusion between the marks DEER-B-GON for “animal repellant used to repel deer and other ruminant animals and rabbits” and DEER AWAY for “repellant for repelling deer, other big game and rabbits.” In this case, the Board found that, even though the goods are legally identical, the channels of trade and classes of purchasers are the same, and the marks engender the same connotation of getting rid of deer, confusion is not likely because of the different overall commercial impressions created by the distinctive portions of the marks, namely, B-GON and AWAY, and the high degree of care exercised by consumers when purchasing the products. The Board found that the marks in question were analogous to the marks in Sure-Fit Products Company v. Saltzson Drapery Company, 117 USPQ 295 (CCPA 1958) (finding no likelihood of confusion between SURE-FIT for slip covers and RITE-FIT for drapes and slip covers). In both cases, the Board found that, in view of the highly suggestive nature of the marks, the distinctive elements outweighed the similarity in meaning and commercial impression such that consumers are not likely to be confused, especially where the goods are of a nature that consumers are

likely to exercise a high degree of care in making a purchase.

The current case is very similar to the cases cited above. Here, the only common element between Applicant's mark and the cited mark is the root word ECOLOG, which is suggestive of the environment. "The fact that the marks have a similar highly suggestive meaning is insufficient to support a likelihood of confusion finding where, as here, the marks otherwise differ in appearance and sound." Safer, Inc. at p. 37 (citing Calgon Corp. v. John H. Breck, Inc., 160 USPQ 343, 344).

Like in the above cited cases, the differences between Applicant's ECOLOGIC mark and the cited ECOLOGIX mark are significant. First, the mark ECOLOGIX is spelled with an "X", which creates a different visual impression since it is an obvious misspelling and aurally gives the mark a plural sound. The "X" also has additional significance in that it connotes a product that kills things. The letter "X" is commonly used in that manner and consumers are conditioned to understand the significance of such lettering. *See* Exhibit A, attached hereto and incorporated herein by reference. When the ECOLOGIX mark is viewed as a whole in connection with pesticides, the overall connotation of the mark is of a toxic product used in the environment that kills things.

In contrast, Applicant's mark uses the correct spelling for ECOLOGIC, which creates a different visual impression and from the cited mark and has a singular sound instead of the cited mark's plural sound created by the "X". Applicant's mark also evokes a sense of logic, purity and harmony with the environment, in contrast to the cited mark which evokes toxicity. Accordingly, not only do Applicant's mark and the cited mark look and sound different but, unlike in the Safer, Inc. case, the marks also connote different meanings and are used on goods that perform different functions. Similar to the Safer, Inc. case, the marks have different overall commercial impressions created by the distinctive portions of the marks. Therefore, Applicant believes that the differences between the marks are significant and directly impact the overall commercial impression created by the marks such that consumers are not likely to be confused.

**2. Applicant's Goods and the Goods in the Cited
Registration
Are Distinct Within the Broad Agricultural Chemicals
Field**

The examiner further alleges that it is sufficient for likelihood of confusion that the marks would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source and cites third party websites and registrations to suggest that fertilizers and pesticides may emanate from a single source. Office Action pp. 2 and 3. However, even if certain manufacturers might sell both fertilizers and pesticides under the same mark, this does not dictate a finding of likelihood of confusion where, as here, the marks are visually and aurally different and have distinct (indeed opposite) connotations and commercial impressions.

There are many types of chemical agricultural products that serve very distinct purposes and are not likely to be deemed related by the average consumer. In this case, the goods at issue perform very different functions. Applicant's products relate to plants, including plant growth (stimulants and fertilizers) and weed killers. The registrant's product, on the other hand, relates to *animals*, in particular pesticides that kill animals. Within the broad field of agricultural chemicals, an ordinary consumer is not likely to consider these products to be in the same category since they are used for entirely different purposes – plant growth, plant death, and animal death. Therefore, for at least these reasons, Applicant asserts that any relatedness between Applicant's goods and the goods in the cited registration within the broad field of agricultural chemicals is not significant enough to overcome the differences between the marks and the distinct commercial impressions created by the marks.

Moreover, the Safer, Inc. case clearly demonstrates that even where the goods are legally identical, the channels of trade and classes of purchasers are the same, and the marks engender the same connotation, confusion is not likely where the overall commercial impressions created by the marks is different and the goods are of a nature where a high degree of care is exercised by consumers when purchasing the goods. In the present case, not only are the goods distinguishable within the broad field of agricultural chemicals, the marks also engender different connotations, making confusion even less likely than in the Safer, Inc. case.

3. **Under the Conditions of Purchase, Consumers Will Exercise**

Great Care and Diligence When Making Purchasing Decisions

The examiner dismisses Applicant's argument that consumers of Applicant's goods and the goods in the cited registration are especially diligent and careful when making purchasing decisions.

Specifically, the examiner alleges that “the fact that purchasers are sophisticated or knowledgeable in a particular field does not necessarily mean that they are sophisticated or knowledgeable in the field of trademarks or immune from source confusion.” Office Action p. 3. However, the examiner has not rebutted Applicant’s argument that consumers of lawn and garden care products are careful and diligent when making purchasing decisions. It is well settled that “circumstances suggesting care in purchasing may tend to minimize likelihood of confusion.” TMEP § 1207.01(d)(vi).

Purchasers of Applicant’s goods and the goods in the cited registration are likely to be very discriminating regarding their purchase. Typically, consumers that tend to a garden as a hobby or commercial farmers who raise crops for a living are extremely invested in their gardens and crops, and take great care in their growth and maintenance. In addition, these consumers tend to be environmentally aware, and will only use products to solve their specific problem without harming the ecosystem. Accordingly, they will exercise great care and diligence in selecting a product from a known and trusted source. Applicant’s goods are used on plants, while the registrant’s products are used to kill animals. The products are purchased by consumers who are trying to solve a very specific problem. A consumer is likely to exercise great care before purchasing these goods to ensure that they perform exactly as desired. The differences between the marks, as described above, are likely to be immediately apparent to consumers exercising care and diligence when selecting a product. At minimum, such care must be weighed as a factor minimizing any likelihood of confusion.

Moreover, Applicant notes the Board’s finding in Safer, Inc. that purchasers of deer repellents are likely to exercise a high degree of care to ensure that the product performs as desired, without harming the surrounding environment. *See Safer, Inc.* at pp. 33-35. Plant growth stimulants, weed killers and pesticides are of a similar nature to deer repellents in that they are used for very specific purposes in the environment and are not purchased on impulse and without care. Consumers would not indiscriminately purchase a plant growth stimulant, weed killer or pesticide product without diligent investigation to ensure that it performs as desired and is safe for the intended purpose. Therefore, since consumers are likely to exercise a high degree of care when purchasing Applicant’s goods and the goods in the cited registration, the differences between the marks are even more significant and should be afforded greater weight when comparing the marks.

4. The Root Word "ECOLOG" is Commonly Used.

Finally, Applicant notes that "[t]hird-party registrations may be relevant to show that the mark or a portion of the mark is descriptive, suggestive, or so commonly used that the public will look to other elements to distinguish the source of the goods or services." See AMF Inc. v. American Leisure Products, Inc., 474 F.2d 1403, 1406 (C.C.P.A. 1973); TMEP 1207.01(d)(iv). "If the evidence establishes that the consuming public is exposed to third-party use of similar marks on similar goods, this evidence 'is relevant to show that a mark is relatively weak and entitled to only a narrow scope of protection.'" TMEP1207.01(d)(iv); see also Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondée en 1772, 396 F.3d 1369, 1373 (Fed. Cir. 2005).

Here, as already noted above, applicant asserts that the root word ECOLOG is commonly used on environment-related goods and, therefore, is subject to a narrow scope of protection. A search of the USPTO database shows numerous registered and/or allowed marks containing the root word ECOLOG. This is especially true for chemicals. See Exhibit B, attached hereto and incorporated herein by reference. The consuming public is well aware of the need for environmentally friendly chemicals because of the danger chemicals pose to both the consumer and the environment.

The use of the root word ECOLOG is not limited to chemicals, either. ECOLOG is somewhat of a "buzzword" used to identify all nature of environmentally friendly goods and services. See Exhibit C, attached hereto and incorporated herein by reference, for examples of ECOLOG being used in registered marks for goods and services other than chemicals, such as environmental design firms, dietary supplements, artificial fireplace logs, light bulbs, environmentally friendly car rental services and papers and inks, just to name a few. The consuming public is practically bombarded with products containing the root word ECOLOG by companies seeking a competitive advantage by marketing products as "environmentally friendly." This evidence is suggestive that consumers are conditioned to seeing the root ECOLOG on products used in the environment and that other distinctive elements in the mark are likely to carry greater significance when determining commercial impression.

5. DuPont Factors Weigh Against a Finding of Likelihood of Confusion in This Instance

Based on the above, Applicant believes that the relevant DuPont factors weigh against a finding of

likelihood of confusion. Given the suggestiveness and commonality of the root word ECOLOG as used on products used in the environment, the other distinctive elements in the marks should be given greater significance when comparing the marks. The use of the letter “X” to spell ECOLOGIX in the cited mark has special significance when used on pesticides to indicate that the product kills things. In contrast, Applicant’s ECOLOGIC mark carries the opposite connotation suggesting something that works in harmony with the ecosystem. For at least these reasons, Applicant believes that the marks, when viewed as a whole, are not likely to cause confusion in the marketplace and should be allowed to co-exist on the Principal Registry, along with Applicant’s other ECOLOGIC marks already registered and/or allowed to register by the USPTO. Accordingly, Applicant respectfully requests that the examiner withdraw the 2(d) refusal.

B. Applicant’s Other ECOLOGIC Marks Have Been Allowed to Register.

The examiner has maintained and made final the refusal to register Applicant’s mark on the basis of an alleged conflict under Section 2(d) with the mark ECOLOGIX in U.S. Registration No. 2,234,465 for “biochemical products, namely, pesticides for domestic and agricultural uses” in International Class 1.

Applicant notes that in the time since the examiner issued the Final Office Action, the USPTO has issued allowances and a registration for several of Applicant’s other ECOLOGIC marks, including the following (see certificates of registratoin, notices of allowance and online TESS records, attached hereto as Exhibit D and incorporated herein by reference):

Mark	Goods	Status
ECOLOGIC APG-EM (77/619822)	Fertilizers	Registered on October 26, 2010
ECOLOGIC (77/457115)	Animal repellents; dog, cat, goose, rabbit, deer, bird, mammal, snake, mole, vole and insect repellents	Notice of Allowance issued on November 23, 2010
ECOLOGIC SG (77/485046)	Turf and ornamental root accelerator	Notice of Allowance issued on November 23, 2010
ECOLOGIC (77/342,972)	Plant growth stimulants	Registered on February 22, 2011.

The above cases were initially refused registration on the basis of an alleged likelihood of confusion with the cited ECOLOGIX mark under Section 2(d). In each case, after further consideration by the examiners (including the examiner in the present case and two other examiners), no likelihood of confusion was found and the refusals were withdrawn. While the results in these cases are not binding on

the examiner in the current case, Applicant asserts that they show the strength of Applicant's position and establish a precedent for the current examiner's finding of no likelihood of confusion. The pending application is at least as different from ECOLOGIX as the other registrations and allowed applications, and therefore can easily co-exist without any likelihood of confusion. Applicant respectfully requests that the examiner allow the current ECOLOGIC application.

II. Insufficient Fees

Applicant has submitted herewith payment to cover the addition of one class. This payment should resolve any prior fee shortage. However, should there be any additional fees due and owing with respect to this application, the examiner is hereby authorized to charge such fees to Deposit Account No. 18-0586.

CONCLUSION

In view of the foregoing, this application is believed to be in condition for publication, and reconsideration and favorable action are respectfully requested. Applicant also respectfully requests the courtesy of a telephone interview should the examiner have any additional questions with respect to this application.

EVIDENCE

Evidence in the nature of Exhibit A Website showing use of X Exhibit B TESS screen shots Exhibit C TESS screen shots Exhibit D TESS screen shots and PTO documents has been attached.

Original PDF file:

evi_67109845-155414221_-_ExhibitA.pdf

Converted PDF file(s) (31 pages)

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

Evidence-7

Evidence-8

Evidence-9

Evidence-10

Evidence-11

Evidence-12

Evidence-13

Evidence-14
Evidence-15
Evidence-16
Evidence-17
Evidence-18
Evidence-19
Evidence-20
Evidence-21
Evidence-22
Evidence-23
Evidence-24
Evidence-25
Evidence-26
Evidence-27
Evidence-28
Evidence-29
Evidence-30
Evidence-31

Original PDF file:

evi_67109845-155414221_._ExhibitB.pdf

Converted PDF file(s) (22 pages)

Evidence-1
Evidence-2
Evidence-3
Evidence-4
Evidence-5
Evidence-6
Evidence-7
Evidence-8
Evidence-9
Evidence-10
Evidence-11
Evidence-12
Evidence-13
Evidence-14
Evidence-15
Evidence-16
Evidence-17
Evidence-18
Evidence-19
Evidence-20
Evidence-21
Evidence-22

Original PDF file:

evi_67109845-155414221_._ExhibitC.pdf

Converted PDF file(s) (13 pages)

Evidence-1

Evidence-2
Evidence-3
Evidence-4
Evidence-5
Evidence-6
Evidence-7
Evidence-8
Evidence-9
Evidence-10
Evidence-11
Evidence-12
Evidence-13

Original PDF file:

evi_67109845-155414221_._ExhibitD.pdf

Converted PDF file(s) (14 pages)

Evidence-1
Evidence-2
Evidence-3
Evidence-4
Evidence-5
Evidence-6
Evidence-7
Evidence-8
Evidence-9
Evidence-10
Evidence-11
Evidence-12
Evidence-13
Evidence-14

FEE(S)

Fee(s) in the amount of \$325 is being submitted.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Matthew P. Frederick/ Date: 02/22/2011

Signatory's Name: Matthew P. Frederick

Signatory's Position: Attorney of Record, PA Bar Member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the

applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is filing a Notice of Appeal in conjunction with this Request for Reconsideration.

RAM Sale Number: 3282
RAM Accounting Date: 02/23/2011

Serial Number: 77439283
Internet Transmission Date: Tue Feb 22 16:26:09 EST 2011
TEAS Stamp: USPTO/RFR-67.109.84.5-201102221626090900
66-77439283-480c5bea9f9832d20f3835cabccf
7c360dc-CC-3282-20110222155414221484

EXHIBIT A



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Bird-X Yard Gard Ultrasonic Animal Repeller

Model # YGX Internet/Catalog # 202021738

\$49.97/EA-Each

Ships FREE with \$249.00 Order

Online Only

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Description

Humane, effective, maintenance-free electronic Yard Gard is a superb pest deterrent. Always on guard, it keeps animals away from your property without messy or expensive chemical solutions. Independent laboratory testing has proven Yard Gard sound technology to be a highly effective form of pest control. Use it to repel dogs, cats, deer, raccoons, skunks, opossums, armadillos, rodents, bats, and other creatures.

- Built-in infrared motion detector activates when pests move into its coverage zone
- Continuous or motion-sensor operation modes
- Mount Yard Guard anywhere with keyhole slots
- Durable and weatherproof
- MFG Brand Name : Bird-X
- MFG Model # : YGX
- MFG Part # : YGX

Specifications

- Assembled Depth (In Inches) : 7 in
- Assembled Height (In Inches) : 5 in

- Assembled Weight (In LBS) : 3 lb
- Assembled Width (In Inches) : 12 in

More Info

Warranty

For warranty information on this product, please call our Internet Customer Service Center at 1-800-435-4654.

Shipping

Most orders ship out in 2-3 business days. Allow an additional 3-7 days for Standard Ground Delivery.

Please review the Description tab for any special delivery circumstances and/or delivery exceptions.

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Bird-X Balcony Guard Ultrasonic Bird Repeller

Model # BGX Internet/Catalog # 202021737

\$49.97/EA-Each

Ships FREE with \$249.00 Order

Online Only

Zoom View More Views

Be the first to > Write a review.
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Learn More.

Description

Balcony Guard utilizes ultrasonic sound waves to efficiently and effectively frighten, annoy, and intimidate birds and other wildlife within its 900 sq. ft. range. Birds don't like this at all and will stay away. Ultrasonic means that it is virtually silent to humans, so you can effectively get rid of birds while maintaining a comfortable, enjoyable, bird-free environment for yourself.

- Ultrasonic: unit operates at frequencies that are nearly silent to humans
- Installs easily: mount it nearly anywhere
- Continuous operation: repels birds with 24/7, day-only or night-only modes
- Variable frequencies: repels different birds with different settings
- Weatherproof: sleek, weatherproof casing is designed to withstand years of outdoor use
- Real sounds: high quality digital playback
- Maintenance-free: when installed properly, no ongoing maintenance is required
- No moving parts: no mechanical repairs needed
- Warranty: Bird Guard features a 6-month manufacturer's warranty
- MFG Brand Name : Bird-X
- MFG Model # : BGX
- MFG Part # : BGX

Specifications

- Assembled Depth (In Inches) : 7 in
- Assembled Height (In Inches) : 5 in
- Assembled Weight (In LBS) : 3 lb
- Assembled Width (In Inches) : 12 in

More Info

Warranty

For warranty information on this product, please call our Internet Customer Service Center at 1-800-435-4654.

Shipping

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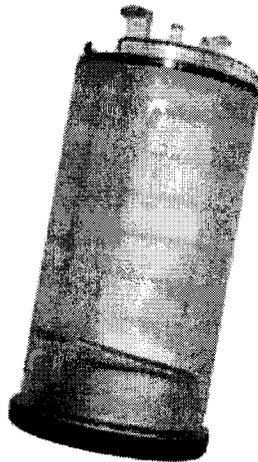
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Mosquito Magnet Lurex3 Insect Attractant for Mosquito Magnet

Model # LUREX3N Internet/Catalog # 100620803
Store SKU # 598654

\$24.99/EA-Each

Ships FREE with \$249.00 Order

This item cannot be shipped to the following state(s): AK, HI

☆☆☆☆ Be the first to > Write a review.
Write a review for a chance to win a \$250 Gift Card.
[Learn More.](#)

Description

Mosquito Magnet® Lurex3 Biting Insect Attractant lures insects to your trap, away from you and your family. Replace Lurex3 every 21 days to increase your catch rates. Attracts hard-to-catch, aggressive day-biters such as the Asian Tiger mosquito. Used by those living in the southern US region and Hawaii.

- Biting insect attractant
- Increases catch rate
- Outdoor use only
- Use with all Mosquito Magnet® Models
- MFG Brand Name : Mosquito Magnet
- MFG Model # : LUREX3N
- MFG Part # : LUREX3N

Specifications

- Assembled Depth (In Inches) : 1.8 in
- Assembled Height (In Inches) : 3.5 in
- Assembled Weight (In LBS) : .243 lb
- Assembled Width (In Inches) : 1.8 in

You May Also Like Items

				
Warranty 1/2 Acre Champion	Koolatron 1 Acre Corded	Koolatron Electronic Racket	Mosquito Magnet Defender Biting Insect	Mosquito Magnet Liberty Biting Insect Trap
For warranty information on this product, please call our Internet Customer Service Center at 1-800-435-4354.				
Model MK05G \$99.99/BX-Box	Model MK12G \$299.00/BX-Box	Model RZ02C \$9.99/BG-Bag	Model MM4001 \$247.00/EA-Each	Model MM3000 \$499.00/EA-Each

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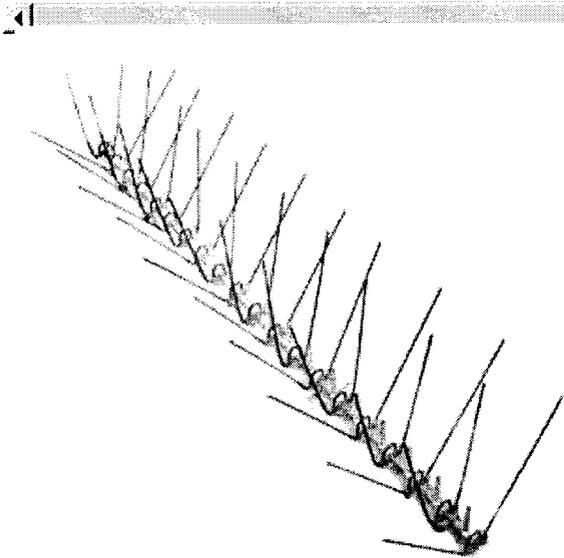
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Bird-X Stainless Bird Spikes Kit, 10 Ft.

Model # STS10RX Internet/Catalog # 100670390
Store SKU # 668023

\$44.99/EA-Each

Ships FREE with \$249.00 Order

This item cannot be shipped to the following state(s): HI,AK

☆☆☆☆☆ Be the first to > Write a review.
Write a review for a chance to win a \$250 Gift Card.
[Learn More.](#)

Description

Block pest birds from their favorite landing and roosting surfaces with Stainless Bird Spikes! Tough long-lasting polycarbonate and stainless steel material, provides decades of maintenance-free protection. Stainless bird spikes won't mar the look of a building. The density of stainless steel spikes are branched from the clear polycarbonate base to offer impenetrable coverage. The flexibility of spikes allow mounting on most surfaces and are easy to install with adhesive. Stackable 24 in. sections make it easy to carry a quantity of spikes, and help minimize waste. Each foot of spikes covers two linear feet, and a spread or width of up to 6 inches. Use for pigeons, sparrows, seagulls, swallows and more! Use on ledges, beams, rafters, railings, air conditioners, signs, windowsills, gutters, roof perimeters, chimneys, support structures, awnings, poles, lights, statues, trusses, building projections and anywhere else birds roost. 10 feet per box (5 two foot strips).

- Permanent solution
- Easy to install
- Humane to birds
- Durable construction
- MFG Brand Name : Bird-X
- MFG Model # : STS10RX
- MFG Part # : STS10RX

Specifications

- Assembled Depth (In Inches) : 24.0 in
- Assembled Height (In Inches) : 4.5 in
- Assembled Weight (In LBS) : 2.0 lb
- Assembled Width (In Inches) : 5.0 in

More Info

Warranty

For warranty information on this product, please call our Internet Customer Service Center at 1-800-435-4654.

Shipping

Most orders ship out in 2-3 business days. Allow an additional 3-7 days for Standard Ground Delivery.

Please review the Description tab for any special delivery circumstances and/or delivery exceptions.

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Bird-X Transonic Ultrasonic Bug Chaser

Model # TXBUGX Internet/Catalog # 202021740

\$29.97/EA-Each

Ships FREE with \$249.00 Order

Online Only

Description

This tiny electronic repeller packs a lot of punch in a small package, with a coverage area of 1500 square feet. Weighing in at only 1.1 pounds, this unit targets roaches, ants, spiders, fleas, ticks and other crawling pests. The powerful sound waves chase these critters away with a continuous array of sonic and ultrasonic signals. This hostile environment makes the point clear – stay away!

- Effective: proven transonic technology, trusted in commercial facilities and homes worldwide
- Easy operation: glue, traps and poisonous chemical repellents are no longer needed, just plug it in and watch critters disappear
- Use it anywhere: with a coverage area of up to 1500 sq. ft., no space is safe for the crawlers; garages, basements and kitchens are only the beginning
- Clean and safe: pet-friendly and environmentally sound, Bugchaser takes the worry out of pest control
- Cost effective and time saving: with a choice of three settings, this low profile device lets you choose the sound pattern to match your pest

MFG Brand Name: Bird-X
 MFG Model #: TXBUGX
 MFG Part #: TXBUG

Specifications

- Assembled Depth (In Inches) : 4 in
- Assembled Height (In Inches) : 4 in
- Assembled Weight (In LBS) : 1 lb
- Assembled Width (In Inches) : 3 in

More Info

Warranty

For warranty information on this product, please call our Internet Customer Service Center at 1-800-435-4654.

Shipping

Most orders ship out in 2-3 business days. Allow an additional 3-7 days for Standard Ground Delivery.

Please review the Description tab for any special delivery circumstances and/or delivery exceptions.

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† Local store prices may vary from those displayed. Products shown as available are normally stocked but inventory levels cannot be guaranteed.

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Maxide 38.4 Oz. Ready-to-Spray Insect Killer



38.4 Oz. Ready-to-Spray Insect Killer

- Season-Long Control
- Kills many insects on contact
- Waterproof within 1 hour
- Guaranteed results or your money back

Maxide 38.4 Oz. Ready-to-Spray Insect Killer

Item #: 321214 | Model #: 1080

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\$14.97

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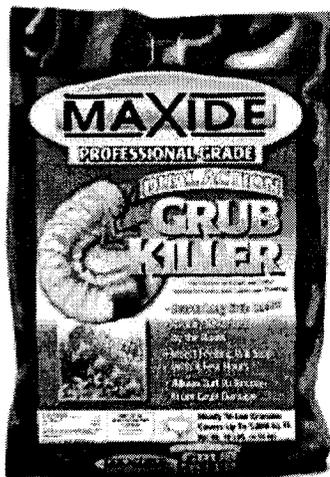
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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Maxide 10 Lbs. Professional Grade Duel Action Grub Killer



10 Lbs. Professional Grade Duel Action Grub Killer

- Kills grub on contact
- Season Long Control
- Allows Turf to Recover from Grub Damage
- Insects stop feeding within a few hours

Maxide 10 Lbs. Professional Grade Duel Action Grub Killer

Item #: 112457 | Model #: 1136

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\$16.97

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Spectracide 32 Oz. Ready-to-Use Immunox 3-in-1



32 Oz. Ready-to-Use Immunox 3-in-1

- 3 products in 1 - insect and disease control plus fertilizer
- Protects for up to 2 weeks
- Kills insects on contact
- Prevents and cures disease

Spectracide 32 Oz. Ready-to-Use Immunox 3-in-1

Item #: 7434 | Model #: HG-62325-3

Be the first to [review this product!](#)

\$4.97

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : ORTHO 24 Oz. Home Defense MAX Perimeter and Indoor Insect Killer



ORTHO 24 Oz. Home Defense MAX Perimeter and Indoor Insect Killer

Item #: 3273 | Model #: 0195010

★★★★★ (1 reviews)

\$4.98

24 Oz. Home Defense MAX Perimeter and Indoor Insect Killer

- Up to 12-month control indoors for listed insects: crickets, spiders (excluding black widow and brown recluse), carpet beetles, earwigs, firebrats, moths and silverfish
- Kills ants, cockroaches, spiders and other listed insects
- Non-staining
- Odor free

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : ORTHO 10 Lbs. Bug-B-Gon MAX Insect Killer for Lawns Granules



10 Lbs. Bug-B-Gon MAX Insect Killer for Lawns Granules

- Kills by contact
- Covers up to 10000 square feet
- Use at first sign of infestation
- Keeps on killing insects for 3 months.

ORTHO 10 Lbs. Bug-B-Gon MAX Insect Killer for Lawns Granules

Item #: 125810 | Model #: 0167050

★★★★★ (6 reviews)

\$9.47

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Mosquito Magnet Lurex3 Mosquito Attractant



Lurex3 Mosquito Attractant

- Biting insect attractant
- Increases catch rate
- Outdoor use only
- Use with all models

Mosquito Magnet Lurex3 Mosquito Attractant

Item #: 143625 | Model #: LUREX3N

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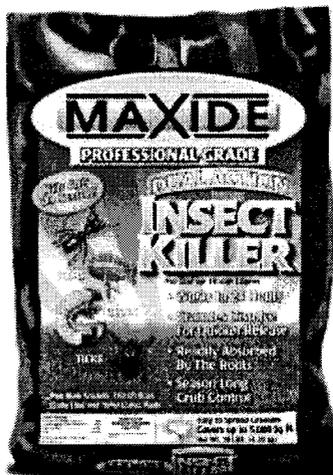
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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : [Maxide 10 Lbs. Full Season Insecticide](#)



10 Lbs. Full Season Insecticide

- Kills over 50 insects - Above & Below Ground
- Fast Acting - Kills in 24 Hours
- Granules dissolve for quicker release
- Readily absorbed by the roots

Maxide 10 Lbs. Full Season Insecticide

Item #: 111542 | Model #: 1036

★★★★★ (3 reviews)

\$14.97

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : ORTHO 2.5 Lbs. MAX Insect Killer Granules



2.5 Lbs. MAX Insect Killer Granules

- Outdoor Granules
- Controls up to 35 listed insects
- Convenient shaker applicator
- Outdoor perimeter treatment

ORTHO 2.5 Lbs. MAX Insect Killer Granules

Item #: 250012 | Model #: 0196010

Be the first to [review this product!](#)

\$7.47

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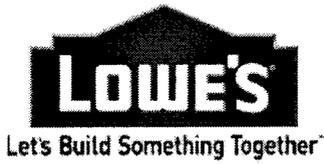
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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Hot Shot 16 Oz. MaxAttrax Roach Powder



16 Oz. MaxAttrax Roach Powder

- Kills cockroaches
- Also kills ants, silverfish, palmetto bugs and waterbugs
- Long-lasting
- Odorless
- 1 Lb.

Hot Shot 16 Oz. MaxAttrax Roach Powder

Item #: 94589 | Model #: 94589

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\$4.37

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Spectracide 16 Oz. Immunox Multipurpose Fungicide Spray Concentrate



Spectracide 16 Oz. Immunox Multipurpose Fungicide Spray Concentrate

Item #: 31001 | Model #: 31001

Be the first to [review this product!](#)

Enter Your ZIP Code to View Real-Time Pricing and Availability for Your Local Store:

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16 Oz. Immunox Multipurpose Fungicide Spray Concentrate

- Protects up to 2 weeks
- Prevents and cures disease on roses, shrubs and lawns

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Hot Shot Oz. MaxAttrax Ultra-Brand Nest Destroyer Roach Bait



Hot Shot Oz. MaxAttrax Ultra-Brand Nest Destroyer Roach Bait

Item #: 56806 | Model #: 56806

Be the first to review this product!

Enter Your ZIP Code to View Real-Time Pricing and Availability for Your Local Store:

ZIP Code: [Find My ZIP](#)

Oz. MaxAttrax Ultra-Brand Nest Destroyer Roach Bait

- Kills roaches in 24 hours
- Also kills roaches remaining in the nest
- Lasts up to 3 months

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Spectracide 10 Lbs. Immunox Lawn Disease Control Granules



Spectracide 10 Lbs. Immunox Lawn Disease Control Granules

Item #: 63740 | Model #: 63740

Be the first to review this product!

\$15.97

10 Lbs. Immunox Lawn Disease Control Granules

- Cures and prevents all major lawn diseases, including brown patch, dollarspot, fusarium blight and more
- Can be used on all types of lawns
- Apply anytime throughout the year
- 10 Lb.

Featured Promotions

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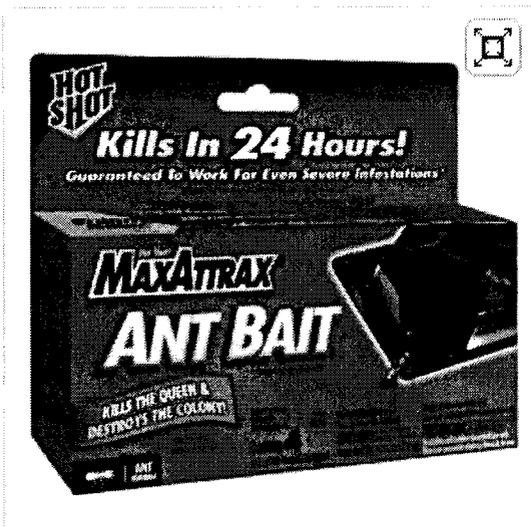
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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : Hot Shot 4-Count MaxAttrax Ant Bait



4-Count MaxAttrax Ant Bait

- Kills ants in 24 hours
- Kills the queen
- Lasts up to 3 months
- Unique attractant gets ants to the bait fast, so they die fast
- 4 count

Hot Shot 4-Count MaxAttrax Ant Bait

Item #: 46293 | Model #: 46293

★★★★★ (3 reviews)

\$2.17

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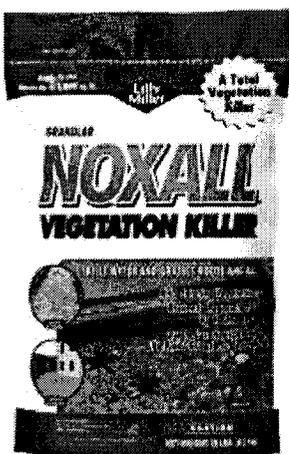
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Home : [Lawn & Garden](#) : [Lawn Care](#) : [Grass & Weed Killer](#) : Lilly Miller 10 Lbs. Noxall Vegetation Killer Granules



10 Lbs. Noxall Vegetation Killer Granules

- Kills weeds and grasses, roots and all
- Prevents regrowth for up to one year
- Ready to use, no mixing
- Use in locations where no plant growth is desired

Lilly Miller 10 Lbs. Noxall Vegetation Killer Granules

Item #: 5662 | Model #: 0906000

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\$31.97

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Home : [Lawn & Garden](#) : [Insect & Pest Control](#) : [Raid 30 Oz. Starter Max Bug Barrier](#)



30 Oz. Starter Max Bug Barrier

- Last up to 12 months
- Auto Trigger gives continual spray with a single press
- Indoor and Outdoor
- Leaves no odor

Raid 30 Oz. Starter Max Bug Barrier

Item #: 324247 | Model #: 608414

Be the first to [review this product!](#)

\$8.47

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ECOLOGIC

Word Mark ECOLOGIC

Goods and Services IC 003. US 001 004 006 050 051 052. G & S: Cleaning preparations; namely, all-purpose cleaners, bathroom cleaners, bleaches, carpet cleaners, dishwashing detergents, drain cleaners, fabric softeners, glass cleaners, floor cleaners, furniture polishes, heavy duty degreasers, laundry detergents, laundry sours, metal polishes, multi-purpose degreasers, oven cleaners, presoaks, rinse additives, soaps, spot removers, tile cleaners and toilet bowl cleaners. FIRST USE: 20020102. FIRST USE IN COMMERCE: 20020102

IC 005. US 006 018 044 046 051 052. G & S: All-purpose disinfectants, odor neutralizing preparations for use on carpets, clothes, textiles and hard surfaces, and sanitizers for commercial, household, institutional and industrial use. FIRST USE: 20020102. FIRST USE IN COMMERCE: 20020102

IC 021. US 002 013 023 029 030 033 040 050. G & S: Manual cleaning preparation dispensers and soap dispensers. FIRST USE: 20020102. FIRST USE IN COMMERCE: 20020102

IC 041. US 100 101 107. G & S: Educational services, namely, conducting programs in the proper selection, installation, and use of cleaning products, disinfecting products, sanitizing products and dispensers. FIRST USE: 20020102. FIRST USE IN COMMERCE: 20020102

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility Classification Code SHAPES-MISC Miscellaneous shaped designs

Serial Number 78418345

Filing Date May 13, 2004

Current Filing Basis 1A

Original Filing Basis 1B
Published for Opposition November 23, 2004
Registration Number 3442196
Registration Date June 3, 2008
Owner (REGISTRANT) ECOLOGIC SOLUTIONS, INC. CORPORATION NEW YORK 71 OCEAN PARKWAY
 BROOKLYN NEW YORK 11218

 (REGISTRANT) ECOLOGIC SOLUTIONS, INC. CORPORATION NEW YORK 71 OCEAN PARKWAY
 BROOKLYN NEW YORK 11218

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record THEODORE L BLUMBERG
Prior Registrations 1796723
Type of Mark TRADEMARK. SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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EcoLogic Solutions

Word Mark ECOLOGIC SOLUTIONS
Goods and Services IC 003. US 001 004 006 050 051 052. G & S: All purpose cleaning preparations; Automotive cleaning preparations; Carpet cleaning preparations; Cleaning preparations for household purposes; Cleaning preparations for industrial and household use that are all environmentally preferable; Decalcifying and descaling preparations for cleaning household products; Floor stripping/cleaning preparation; General-purpose cleaning, polishing, and abrasive liquids and powders; Glass cleaning preparations; Hand cleaners; Household cleaning preparations. FIRST USE: 20020901. FIRST USE IN COMMERCE: 20020901

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Trademark Search Facility Classification Code LETTER-3-OR-MORE ECO Combination of three or more letters as part of the mark

Serial Number 77062953
Filing Date December 13, 2006
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition July 15, 2008

Registration Number 3507009
Registration Date September 30, 2008
Owner (REGISTRANT) EcoLogic Solutions Inc. CORPORATION NEW YORK po box 482 brooklyn NEW YORK 11218
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Word Mark ECOLOGICALLY ADVANTAGEOUS SF6 CLOSED LOOP HANDLING
Goods and Services IC 001. US 001 005 006 010 026 046. G & S: Chemicals for commercial purposes, namely chemical products for electronic switchgears
Mark Drawing Code (3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design 24.15.01 - Arrows forming a circle or an arc of a circle
Search Code 26.01.01 - Circles as carriers or as single line borders
 26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles
 26.01.21 - Circles that are totally or partially shaded.
Serial Number 76270731
Filing Date June 14, 2001
Current Filing Basis 44E
Original Filing Basis 44E
Published for Opposition March 18, 2003
Registration Number 2723253
Registration Date June 10, 2003
Owner
 (REGISTRANT) SOLVAY FLUOR UND DERIVATE GmbH CORPORATION FED REP GERMANY Hans-Bockler-Allee 20 30173 Hannover FED REP GERMANY
 (LAST LISTED OWNER) SOLVAY FLUOR GMBH LIMITED LIABILITY COMPANY FED REP GERMANY HANS-

BOECKLER-ALLEE 20 HANNOVER FED REP GERMANY D-30173

Assignment Recorded ASSIGNMENT RECORDED

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CLOSED LOOP HANDLING" and "SF6" APART FROM THE MARK AS SHOWN

Description of Mark The lining in the drawing is intended to indicate the following colors: the mark contains an annular border in which the zone containing "ECOLOGICALLY ADVANTAGEOUS" is the color green, the zone containing "CLOSED LOOP HANDLING" is the color orange, and the two zones between the green zone and the orange zone contain a blend of the colors green and orange in which there is a transition from green and orange and from orange to green respectively, the lettering for "ECOLOGICALLY ADVANTAGEOUS" and "CLOSED LOOP HANDLING" is the color white, and the mark further contains a circle which is the color blue, and the lettering "SF6" within the circle is in the color green.

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 8 (6-YR).

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Typed Drawing

Word Mark **ECOLOGIENA**
Goods and Services IC 001. US 001 005 006 010 026 046. G & S: TEST KITS USED TO MEASURE AND DETECT POLLUTANTS IN WATER AND IN BODILY FLUIDS FOR SCIENTIFIC AND MEDICAL RESEARCH PURPOSES, CONSISTING OF REAGENTS, CHEMICALS FOR TREATING WATER, LITMUS PAPER, FILTERS, TEST TUBES, PLATES AND TRAYS, AND OTHER TESTING APPARATUS, SOLD AS A UNIT. FIRST USE: 19980900. FIRST USE IN COMMERCE: 20021200

IC 005. US 006 018 044 046 051 052. G & S: [TEST KITS USED TO MEASURE AND DETECT POLLUTANTS IN WATER AND IN BODILY FLUIDS FOR MEDICAL DIAGNOSTIC PURPOSES, CONSISTING OF REAGENTS, CHEMICALS FOR TREATING WATER, LITMUS PAPER, FILTERS, TEST TUBES, PLATES AND TRAYS, AND OTHER TESTING APPARATUS, SOLD AS A UNIT]. FIRST USE: 19980900. FIRST USE IN COMMERCE: 20021200

Mark Drawing Code (1) TYPED DRAWING

Serial Number 75552898

Filing Date September 14, 1998

Current Filing Basis 1A

Original Filing Basis 1B

Published for Opposition May 22, 2001

Change In Registration CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 2845088

Registration Date May 25, 2004

Owner (REGISTRANT) JAPAN ENVIROCHEMICALS, LTD. CORPORATION JAPAN 3-8 DOSHOMACHI, 2-CHOME, CHUO-KU OSAKA JAPAN 541-0045

(LAST LISTED OWNER) TOKIWA CHEMICAL INDUSTRIES CO., LTD. CORPORATION JAPAN 4-16-22 KAMI-

IKEBUKURO, TOSHIMA-KU TOKYO JAPAN 170-0012
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record M. Scott Alprin
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 8 (6-YR).
Live/Dead Indicator LIVE

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Typed Drawing

Word Mark **ECOLOGIX**
Goods and Services IC 005. US 006 018 044 046 051 052. G & S: biochemical products, namely, pesticides for domestic and agricultural uses. FIRST USE: 19960708. FIRST USE IN COMMERCE: 19960708
Mark Drawing Code (1) TYPED DRAWING
Serial Number 74588860
Filing Date October 21, 1994
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition August 15, 1995
Registration Number 2234465
Registration Date March 23, 1999
Owner (REGISTRANT) DOMINION BIOSCIENCES, INC. CORPORATION VIRGINIA 1872 Pratt Drive Blacksburg VIRGINIA 24060
 (LAST LISTED OWNER) CLEARY CHEMICAL CORPORATION CORPORATION NEW JERSEY 1049 ROUTE 27 PO BOX 909 SOMERSET NEW JERSEY 088750010
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record TAMA L. DRENSKI
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090330.
Renewal 1ST RENEWAL 20090330

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Typed Drawing

Word Mark **ECOLOGY THROUGH TECHNOLOGY**
Goods and Services IC 001. US 005 006. G & S: surfactants, dampening solutions, anti-set off powders and adhesives for application to and treatment of papers in offset printing processes. FIRST USE: 19900301. FIRST USE IN COMMERCE: 19900301

 IC 003. US 052. G & S: chemicals for application to printing machinery for cleansing purposes after printing; solvents, cleaning preparations and detergents, all for use in printing processes. FIRST USE: 19901115. FIRST USE IN COMMERCE: 19901115

Mark Drawing Code (1) TYPED DRAWING
Serial Number 74045114
Filing Date April 2, 1990
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition April 16, 1991
Registration Number 1649863
Registration Date July 9, 1991
Owner (REGISTRANT) Varn Products Company, Inc. CORPORATION NEW JERSEY 175 Route 208 Oakland NEW JERSEY 07436

 (LAST LISTED OWNER) VARN INTERNATIONAL, INC. CORPORATION BY MERGER, BY CHANGE OF NAME DELAWARE 8 ALLERMAN ROAD OAKLAND NEW JERSEY 07436

Assignment Recorded ASSIGNMENT RECORDED

Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20011211.
Renewal 1ST RENEWAL 20011211
Live/Dead
Indicator LIVE

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**EXIST THE POWER OF THE
EARTH THE HAND OF THE MAN
THE HOLY ECOLOGY**

Word Mark	EXIST THE POWER OF THE EARTH THE HAND OF THE MAN THE HOLY ECOLOGY
Goods and Services	IC 031, US 001 046, G & S: AGRICULTURAL GRAINS FOR PLANTING; FRESH FRUITS AND VEGETABLES; AGRICULTURAL, FRUIT AND FLOWER SEEDS; LIVE PLANTS AND FLOWERS; FOODS FOR THE ANIMALS. FIRST USE: 20040419. FIRST USE IN COMMERCE: 20040419
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	78744317
Filing Date	November 1, 2005
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	February 27, 2007
Registration Number	3241467
Registration Date	May 15, 2007
Owner	(REGISTRANT) FERMANELLI, RAUL ALBERTO INDIVIDUAL ARGENTINA RUTA 9, KM. 6 1/2 FERREYRA, CORDOBA ARGENTINA 5020
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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MICROECOLOGIES

Word Mark MICROECOLOGIES

Goods and Services IC 037. US 100 103 106. G & S: Building inspection services for new buildings, namely, inspecting mold, lead based paint, chemical vapors, asbestos, heating/ventilation/air conditioning (HVAC) systems, waterproofing; remediation services in the indoor environment, namely, remediation of asbestos and lead based paint; restoration services, namely, drying and dehumidification services of indoor building structures; general construction contracting. FIRST USE: 19931201. FIRST USE IN COMMERCE: 19931201

IC 040. US 100 103 106. G & S: Remediation services in the indoor environment, namely, remediation of mold and chemical vapors in the nature of odor neutralization. FIRST USE: 19931201. FIRST USE IN COMMERCE: 19931201

IC 042. US 100 101. G & S: Residential and commercial inspection and testing for the existence of mold, lead based paint, chemical vapors, asbestos; residential, commercial and industrial inspection and testing of heating/ventilation/air conditioning (HVAC) systems. FIRST USE: 19931201. FIRST USE IN COMMERCE: 19931201

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 77447573

Filing Date April 14, 2008

Current Filing Basis 1A

Original Filing

Basis 1A
Published for Opposition March 31, 2009
Registration Number 3637606
Registration Date June 16, 2009
Owner (REGISTRANT) Microecologies Inc. CORPORATION NEW YORK 1829 Madison Avenue New York NEW YORK 10035
Attorney of Record Larry Miller
Type of Mark SERVICE MARK
Register PRINCIPAL-2(F)
Live/Dead Indicator LIVE

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Word Mark
Goods and Services

MICRO ECOLOGIES

IC 037. US 100 103 106. G & S: Building inspection services for new buildings, namely, inspecting mold, lead based paint, chemical vapors, asbestos, heating/ventilation/air conditioning (HVAC) systems, waterproofing; remediation services in the indoor environment, namely, remediation of asbestos and lead based paint; restoration services, namely, drying and dehumidification services of indoor building structures; general construction contracting. FIRST USE: 19931201. FIRST USE IN COMMERCE: 19931201

IC 040. US 100 103 106. G & S: Remediation services in the indoor environment, namely, remediation of mold and chemical vapors in the nature of odor neutralization. FIRST USE: 19931201. FIRST USE IN COMMERCE: 19931201

IC 042. US 100 101. G & S: Residential and commercial inspection and testing for the existence of mold, lead based paint, chemical vapors, asbestos; residential, commercial and industrial inspection and testing of heating/ventilation/air conditioning (HVAC) systems. FIRST USE: 19931201. FIRST USE IN COMMERCE: 19931201

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

26.11.10 - Rectangles divided once into two sections
 26.11.21 - Rectangles that are completely or partially shaded
 26.17.02 - Bands, wavy; Bars, wavy; Lines, wavy; Wavy line(s), band(s) or bar(s)

Trademark Search Facility Classification Code

SHAPES-BAR-BANDS Designs with bar, bands or lines
 SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons

Serial Number 77445428
Filing Date April 10, 2008
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition March 31, 2009
Registration Number 3637599
Registration Date June 16, 2009
Owner (REGISTRANT) Microecologies Inc. CORPORATION NEW YORK 1829 Madison Avenue New York NEW YORK 10035
Attorney of Record Larry Miller
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the word "micro" which appears in the upper left hand part of a shaded rectangle and the word "ecologies" which appears in the lower part of the rectangle.
Type of Mark SERVICE MARK
Register PRINCIPAL-2(F)
Live/Dead Indicator LIVE

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nutri-lawn

ecology friendly lawn care

Word Mark	NUTRI-LAWN ECOLOGY FRIENDLY LAWN CARE
Goods and Services	IC 044. US 100 101. G & S: Lawn care services; providing lawn and yard care and maintenance services, namely, the application of fertilizers, herbicides, and insecticides, aeration services, overseeding services, dethatching, grass cutting, irrigating, tree and shrub care, lawn rolling, namely, applying weight to a lawn to even out the ground, hydroseeding, and top dressing, namely, applying compost and/or topsoil to existing lawns; landscape gardening services; and landscape design. FIRST USE: 20061010. FIRST USE IN COMMERCE: 20061010
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	05.13.03 - Grasses 26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s) 26.17.06 - Bands, diagonal; Bars, diagonal; Diagonal line(s), band(s) or bar(s); Lines, diagonal 26.17.13 - Letters or words underlined and/or overlined by one or more strokes or lines; Overlined words or letters; Underlined words or letters 27.03.05 - Objects forming letters or numerals
Trademark Search Facility Classification Code	NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks SHAPES-BAR-BANDS Designs with bar, bands or lines SHAPES-MISC Miscellaneous shaped designs VEG Plant life such as trees,flowers,fruits,grains,nuts,wreaths,and leaves
Serial Number	77020840
Filing Date	October 13, 2006
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	October 16, 2007

Registration Number 3587628
Registration Date March 10, 2009
Owner (REGISTRANT) Nutrilawn US Inc. CORPORATION MASSACHUSETTS 126 Prospect Street Cambridge MASSACHUSETTS 02139
Attorney of Record Evelyn H. McConathy
Prior Registrations 1886733;2017135
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ECOLOGY FRIENDLY LAWN CARE" APART FROM THE MARK AS SHOWN
Description of Mark Color is not claimed as a feature of the mark. The mark consists of the words "Nutri-Lawn" above a solid black line and the words "ecology friendly lawn care" below the solid black line.
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Typed Drawing

Word Mark THE ECOLOGY WORKS

Goods and Services IC 005, US 006 018 044 046 051 052, G & S: chemical for controlling flea infestation in carpets and the like. FIRST USE: 19950315. FIRST USE IN COMMERCE: 19950726

Mark Drawing Code (1) TYPED DRAWING

Serial Number 74374106

Filing Date April 1, 1993

Current Filing Basis 1A

Original Filing Basis 1B

Published for Opposition May 23, 1995

Registration Number 1988777

Registration Date July 23, 1996

Owner (REGISTRANT) Ecology Works, Inc., The CORPORATION FLORIDA P. O. Box 187 HOBE SOUND CALIFORNIA 33475

Attorney of Record David Pressman

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20060614.

Renewal 1ST RENEWAL 20060614

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Applied Ecological
Services, Inc.



Word Mark	APPLIED ECOLOGICAL SERVICES, INC.
Goods and Services	IC 042. US 100 101. G & S: ENVIRONMENTAL ASSESSMENT AND MONITORING OF AIR, WATER, SOIL, VEGETATION AND ANIMAL POPULATIONS; ECOSYSTEM RESTORATION SERVICES. FIRST USE: 19790615. FIRST USE IN COMMERCE: 19790615
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	03.15.24 - Stylized birds and bats 03.15.25 - Cardinals; Crows; Doves; Other birds; Pigeons; Ravens; Robins; Woodpeckers 05.03.25 - Leaf, single; Other leaves 26.11.12 - Rectangles with bars, bands and lines 26.11.21 - Rectangles that are completely or partially shaded
Serial Number	75578834
Filing Date	October 28, 1998
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	January 11, 2000
Registration Number	2337759
Registration Date	April 4, 2000

Owner (REGISTRANT) APPLIED ECOLOGICAL SERVICES, INC. CORPORATION WISCONSIN 17921 Smith Road P.O. Box 256 Brodhead WISCONSIN 53520

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "APPLIED ECOLOGICAL SERVICES, INC." APART FROM THE MARK AS SHOWN

Description of Mark THE LINING IN THE DRAWING IS A FEATURE OF THE MARK AND IS NOT INTENDED TO INDICATE COLOR.

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

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Typed Drawing

Word Mark BODY ECOLOGY
Goods and Services IC 005, US 008 018 044 046 051 052. G & S: dietary supplements. FIRST USE: 19910901. FIRST USE IN COMMERCE: 19910901
Mark Drawing Code (1) TYPED DRAWING
Serial Number 75577740
Filing Date November 10, 1998
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition June 6, 2000
Registration Number 2380511
Registration Date August 29, 2000
Owner (REGISTRANT) Gates, Donna INDIVIDUAL UNITED STATES 124 Santiago Drive Jupiter FLORIDA 33458
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BODY" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
Live/Dead Indicator LIVE

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Typed Drawing

Word Mark ECOLOG
Goods and Services IC 004, US 001 006 015, G & S: Artificial logs for use in fireplaces and wood stoves. FIRST USE: 20020901. FIRST USE IN COMMERCE: 20021200
Mark Drawing Code (1) TYPED DRAWING
Serial Number 76514329
Filing Date May 15, 2003
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition November 8, 2005
Registration Number 3052083
Registration Date January 31, 2006
Owner (REGISTRANT) LES BUCHES ECOLOG INC. FEDERAL CORP. CANADA 609 RUE LAURENT, GRANBY QUEBEC CANADA J2G 8Y0
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record ARTHUR F DIONNE
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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Typed Drawing

Word Mark ECOLOGIC
Goods and Services IC 011. US 013 021 023 031 034. G & S: full line of lamps, namely, incandescent lamps, halogen lamps, and high intensity lamps. FIRST USE: 19970100. FIRST USE IN COMMERCE: 19980514
Mark Drawing Code (1) TYPED DRAWING
Serial Number 75099896
Filing Date May 7, 1996
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition August 26, 1997
Registration Number 2184551
Registration Date August 25, 1998
Owner (REGISTRANT) Osram Sylvania Inc. CORPORATION DELAWARE 100 Endicott Street Danvers MASSACHUSETTS 01923
Attorney of Record Robert Clark,
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090303.
Renewal 1ST RENEWAL 20090303
Live/Dead Indicator LIVE

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The logo features a stylized road with dashed lines receding into the distance, positioned above the word "ecologic" in a large, bold, lowercase sans-serif font. Below "ecologic" is the word "transportation" in a smaller, lowercase sans-serif font.

Word Mark	ECOLOGIC TRANSPORTATION
Goods and Services	IC 039. US 100 105. G & S: Car rental services, namely, rental of environmentally-friendly vehicles ; Motorcycle rentals ; Transportation of passengers and passenger's luggage ; Transportation reservation services; Rental of bicycles ; Rental of scooters for transportation purposes ; Travel information ; Rental of electric vehicles. FIRST USE: 20081216. FIRST USE IN COMMERCE: 20090201
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	07.11.07 - Highways with lines or dividers; intersections (roads) with lines or dividers; Roads with lines or dividers; Streets with lines or dividers
Trademark Search Facility	ART-07.11 Structural Works
Classification Code	SHAPES-BAR-BANDS Designs with bar, bands or lines
Serial Number	77773912
Filing Date	July 2, 2009
Current Filing Basis	1A
Original Filing Basis	1A;1B
Published for Opposition	November 10, 2009
Registration Number	3742442
Registration Date	January 26, 2010
Owner	(REGISTRANT) Ecologic Sciences, Inc. CORPORATION NEVADA Suite H 1333 Ocean Avenue Santa Monica CALIFORNIA 90401

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TRANSPORTATION" APART FROM THE MARK AS SHOWN

Description of Mark Color is not claimed as a feature of the mark. The mark consists of the stylized word "ecologic" above the word "transportation" with a design consisting of a road with road stripes above the wording.

Type of Mark SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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ECOLOGY

Word Mark ECOLOGY
Goods and Services IC 016. US 002 005 022 023 029 037 038 050. G & S: WRITING PAPER, ART PAPER, INK JET PAPER. FIRST USE: 20081100. FIRST USE IN COMMERCE: 20081100
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77762949
Filing Date June 18, 2009
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition November 3, 2009
Registration Number 3739781
Registration Date January 19, 2010
Owner (REGISTRANT) Pacon Corporation CORPORATION WISCONSIN 2525 North Casaloma Drive Appleton WISCONSIN 549138865
Attorney of Record Cobby J. Shereff
Prior Registrations 0962795;2274421
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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ECOLOGIC APG-EM

Word Mark ECOLOGIC APG-EM
Goods and Services IC 001. US 001 005 006 010 026 046. G & S: FERTILIZERS. FIRST USE: 20091005. FIRST USE IN COMMERCE: 20091005
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Trademark Search Facility LETS-2 EM Two letters or combinations of multiples of two letters
 LETTER-3-OR-MORE APG Combination of three or more letters as part of the mark
Classification Code NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks
Serial Number 77619822
Filing Date November 21, 2008
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition April 27, 2010
Registration Number 3868086
Registration Date October 26, 2010
Owner (REGISTRANT) Liquid Holding Company, Inc. CORPORATION DELAWARE Box 300 Brodheadsville PENNSYLVANIA 18322
Attorney of Maryellen Feehery Hank

Record

Type of Mark TRADEMARK
Register PRINCIPAL
**Live/Dead
Indicator** LIVE

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United States of America

United States Patent and Trademark Office

ECOLOGIC APG-EM

Reg. No. 3,868,086

Registered Oct. 26, 2010

Int. Cl.: 1

TRADEMARK

PRINCIPAL REGISTER

LIQUID HOLDING COMPANY, INC. (DELAWARE CORPORATION)
BOX 300
BRODHEADSVILLE, PA 18322

FOR: FERTILIZERS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 10-5-2009; IN COMMERCE 10-5-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-619,822, FILED 11-21-2008.

ALEXANDER L. POWERS, EXAMINING ATTORNEY



David J. Kyvas

Director of the United States Patent and Trademark Office



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ECOLOGIC

Word Mark ECOLOGIC
Goods and Services IC 005. US 006 018 044 046 051 052. G & S: ANIMAL REPELLENTS; DOG, CAT, GOOSE, RABBIT, DEER, BIRD, MAMMAL, SNAKE, MOLE, VOLE AND INSECT REPELLENTS
Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 77457115
Filing Date April 24, 2008
Current Filing Basis 1B
Original Filing Basis 1B
Published for Opposition September 28, 2010
Owner (APPLICANT) Liquid Holding Company, Inc. CORPORATION DELAWARE Box 300 Brodheadsville PENNSYLVANIA 18322
Attorney of Record Maryellen Feehery Hank
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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U.S. Patent and Trademark Office (USPTO)

NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Nov 23, 2010

MARYELLEN FEEHERY HANK
REED SMITH LLP
1650 MARKET STREET
2500 ONE LIBERTY PLACE
PHILADELPHIA, PA 19103

ATTORNEY
REFERENCE NUMBER

08-40078-US

**** IMPORTANT INFORMATION: 6 MONTH DEADLINE ****

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of Use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months calculated from the issue date of the NOA until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION. Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at <http://www.uspto.gov/teas/index.html> (under "INTENT-TO-USE (ITU) FORMS"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

**** Registration Subject to Cancellation for Fraudulent Statements ****

Ensure that statements made in filings to the USPTO are accurate, as inaccuracies may result in the cancellation of your trademark registration. The lack of a bona fide intention to use the mark with all goods and/or services included in an application or the lack of use on all goods and/or services for which you claimed use could jeopardize the validity of your registration, possibly resulting in its cancellation.

The following information should be reviewed for accuracy:

SERIAL NUMBER: 77/457115

MARK: ECOLOGIC (STANDARD CHARACTER MARK)
OWNER: Liquid Holding Company, Inc.
Box 300
Brodheads ville , PENNSYLVANIA 18322

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO

Section 1(b): YES

Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

005 - ANIMAL REPELLENTS; DOG, CAT, GOOSE, RABBIT, DEER, BIRD, MAMMAL, SNAKE, MOLE, VOLE AND
INSECT REPELLENTS -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS



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ECOLOGIC SG

Word Mark	ECOLOGIC SG
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: turf and ornamental root accelerator
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77485046
Filing Date	May 28, 2008
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	September 28, 2010
Owner	(APPLICANT) Liquid Holding Company, Inc. CORPORATION DELAWARE Box 300 Brodheadsville PENNSYLVANIA 18322
Attorney of Record	Maryellen Feehery Hank
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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NOTICE OF ALLOWANCE

NOTE: If any data on this notice is incorrect, please fax a request for correction to the Intent to Use Unit at 571-273-9550. Please include the serial number of your application on ALL correspondence with the USPTO.

ISSUE DATE: Nov 23, 2010

MARYELLEN FEEHERY HANK
REED SMITH LLP
1650 MARKET STREET
2500 ONE LIBERTY PLACE
PHILADELPHIA, PA 19103

ATTORNEY
REFERENCE NUMBER

08-40107-US

**** IMPORTANT INFORMATION: 6 MONTH DEADLINE ****

You filed the trademark application identified below based upon a bona fide intention to use the mark in commerce. You must use the mark in commerce and file a Statement of Use (a.k.a. Allegation of Use) before the USPTO will register the mark. You have six (6) MONTHS from the ISSUE DATE of this Notice of Allowance (NOA) to file either a Statement of Use, or if you are not yet using the mark in commerce, a Request for Extension of Time to File a Statement of Use ("Extension Request"). If you file an extension request, you must continue to file a new request every six months calculated from the issue date of the NOA until the Statement of Use is filed. Applicant may file a total of five (5) extension requests. FAILURE TO FILE A REQUIRED DOCUMENT DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF YOUR APPLICATION. Please note that both the "Statement of Use " and "Extension Request" have many legal requirements including fees. Therefore, we encourage use of the USPTO forms, available online at <http://www.uspto.gov/teas/index.html> (under "INTENT-TO-USE (ITU) FORMS"), to avoid the possible omission of important information. Please note that the Trademark Electronic Application System (TEAS) provides line-by-line help instructions for completing the Extension Request or Statement of Use forms online. If you do not have access to the Internet, you may call 1-800-786-9199 to request the printed form(s).

**** Registration Subject to Cancellation for Fraudulent Statements ****

Ensure that statements made in filings to the USPTO are accurate, as inaccuracies may result in the cancellation of your trademark registration. The lack of a bona fide intention to use the mark with all goods and/or services included in an application or the lack of use on all goods and/or services for which you claimed use could jeopardize the validity of your registration, possibly resulting in its cancellation.

The following information should be reviewed for accuracy:

SERIAL NUMBER: 77/485046

MARK: ECOLOGIC SG (STANDARD CHARACTER MARK)
OWNER: Liquid Holding Company, Inc.
Box 300
Brodheads ville , PENNSYLVANIA 18322

This application has the following bases, but not necessarily for all listed goods/services:

Section 1(a): NO

Section 1(b): YES

Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

001 - turf and ornamental root accelerator -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

ADDITIONAL INFORMATION MAY BE PRESENT IN THE USPTO RECORDS



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ECOLOGIC

Word Mark	ECOLOGIC
Goods and Services	IC 001. US 001 005 006 010 026 046. G & S: Plant growth stimulants. FIRST USE: 20090900. FIRST USE IN COMMERCE: 20090900
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77342972
Filing Date	December 3, 2007
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	December 7, 2010
Owner	(APPLICANT) LIQUID HOLDING COMPANY, INC. CORPORATION DELAWARE BOX 300 BRODHEADSVILLE PENNSYLVANIA 18322
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	Maryellen Feehery Hank, Esq.
Prior Registrations	3868086
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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United States of America

United States Patent and Trademark Office

ECOLOGIC

Reg. No. 3,921,510

Registered Feb. 22, 2011

Int. Cl.: 1

TRADEMARK

PRINCIPAL REGISTER

LIQUID HOLDING COMPANY, INC. (DELAWARE CORPORATION)
BOX 300
BRODHEADSVILLE, PA 18322

FOR: PLANT GROWTH STIMULANTS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 9-0-2009; IN COMMERCE 9-0-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NO. 3,868,086.

SER. NO. 77-342,972, FILED 12-3-2007.

DAVID TOOLEY, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

RAM SALE NUMBER: 3282
RAM ACCOUNTING DATE: 20110223

INTERNET TRANSMISSION DATE:

2011/02/22

SERIAL NUMBER:

77/439283

Description	Fee Code	Transaction Date	Fee	Number Of Classes	Total Fees Paid
New App	7001	2011/02/22	325	1	325