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Filing date: **06/09/2010**

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

Proceeding	91184456
Party	Plaintiff L'Oreal USA, Inc.
Correspondence Address	Robert L. Sherman Paul, Hastings, Janofsky & Walker LLP 75 East 55th Street New York, NY 10022 UNITED STATES rls@paulhastings.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Natalie G. Furman
Filer's e-mail	rls@paulhastings.com
Signature	/ngf/
Date	06/09/2010
Attachments	Exhibit C-11 [L_OREAL PARIS App, OA, Tarr] 300 dpi.pdf ( 32 pages )(1069211 bytes ) Exhibit C-12 [BAYER App, OA, Tarr] 300 dpi.pdf ( 71 pages )(2624778 bytes ) Exhibit C-13 [NESTLE App, OA, Tarr] 300 dpi.pdf ( 110 pages )(4187907 bytes )

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

In the Matter of Application Serial No. 76/596,736  
Published in the Official Gazette on May 6, 2008  
Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

**ORAL ARGUMENT REQUESTED**

**OPPOSER'S NOTICE OF RELIANCE**

**(Part 1 continued beginning with Opposer's Exhibit C-11)**

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

In the Matter of Application Serial No. 76/596,736  
Published in the Official Gazette on May 6, 2008  
Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

**ORAL ARGUMENT REQUESTED**

**EXHIBIT C-11 TO OPPOSER'S NOTICE OF RELIANCE**



06-09-2004

U.S. Patent & TMOfo/TM Mail Ropt Dt. #67

Robert Victor Marcon,  
3471 Sinnicks Avenue,  
Niagara Falls, Ontario,  
Canada,  
L2J 2G6

For: (a) Perfumes and fragrances; (b) Vitamin, mineral, and herbal supplements, and combinations thereof; (c) Aloe vera drinks; (d) Shaving balms, lotions, creams, and soaps; and (e) Topical skin balms, namely; sunscreens, tanning balms, lotions, creams, combinations thereof; (f) Candles, both plain and scented; and (g) Shaving implements, in International Class 005.

Basis for Filing: Section 1(b) and 44(d)

L'OREAL PARIS

U.S. Patent & TM Ofo/TM



**76596736**

# UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 76/596736

**APPLICANT:** Marcon, Robert Victor

**\*76596736\***

**CORRESPONDENT ADDRESS:**  
ROBERT V. MARCON  
3471 SINNICKS AVENUE  
NIAGARA FALLS, ONTARIO  
CANADA L2J 2G6

**RETURN ADDRESS:**  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MARK:** L'OREAL PARIS

**CORRESPONDENT'S REFERENCE/DOCKET NO:** N/A

Please provide in all correspondence:

**CORRESPONDENT EMAIL ADDRESS:**

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

## OFFICE ACTION

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

Serial Number 76/596736

The assigned examining attorney has reviewed the referenced application and determined the following:

### Advisory Regarding Search Results

The search results for this application pertain to International Class 5 **only**. A search of the Office records is **DEFERRED** in all other classes until applicant responds to the issues raised in this Office action. TMEP §§704.02 and 810.01.

### Refusal Under Section 2(d) – Likelihood of Confusion

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the mark in U.S. Registration No. 2,200,948 as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* See the enclosed registration.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance,

sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978). TMEP §§1207.01 *et seq.*

The applicant has applied to register L'OREAL PARIS (Standard Character Drawing) for "Perfumes and fragrances; Vitamin, mineral, and herbal supplements, and combinations thereof; Aloe vera drinks; Shaving balms, lotions, creams, and soaps; Topical skin balms, namely; sunscreens, tanning balms, lotions, creams, and combinations thereof; Candles, both plain and scented; and Shaving implements." The registered mark is L'OREAL PROFESSIONNEL PARIS (and Design) for a variety of goods, including "dietary supplements" in International Class 5.

The examining attorney must look at the marks in their entireties under Section 2(d). Nevertheless, one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight is given to that dominant feature in determining whether there is a likelihood of confusion. *In re National Data Corp.*, 224 USPQ 749 (Fed. Cir. 1985); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (C.C.P.A. 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). TMEP §1207.01(b)(viii). In this case, the marks contain the same dominant wording, "L'OREAL." The applicant's mark consists of the word "L'OREAL" followed by the geographically descriptive wording "PARIS." The literal portion of the registrant's mark consists of the word "L'OREAL" followed by the descriptive word "PROFESSIONNEL" and the geographically descriptive word "PARIS," both of which have been disclaimed.

With respect to a comparison of the applicant's goods that are properly classified in International Class 5 and the registrant's goods, the goods are identical, in part. Both the applicant and the registrant manufacture/sell "supplements." To the extent the Class 5 goods are not identical, they are very highly related.

The goods/services of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods/services come from a common source. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978). TMEP §1207.01(a)(i).

Attached are copies of printouts from the USPTO X-Search database which show ten *representative* third-party registrations of marks used in connection with the same or similar goods as those of applicant and registrant. The printouts have probative value to the extent that they serve to suggest that the goods listed therein, namely, dietary supplements, and vitamin, mineral, and herbal supplements, are of a kind that may emanate from a single source. *In re Infinity Broadcasting Corp. of Dallas*, 60 USPQ2d 1214, 1218 (TTAB 2001), citing *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); and *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467, 1470 at n.6 (TTAB 1988).

The marks contain the same dominant wording. The goods are identical, in part, and are very highly related. The similarities among the marks and the goods are so great as to create a likelihood of confusion among consumers. The examining attorney must resolve any doubt as to the issue of likelihood of confusion in favor of the registrant and against the applicant **who has a legal duty to select a mark which is totally dissimilar to trademarks already being used.** *Burroughs Wellcome Co. v. Warner?Lambert Co.*, 203 USPQ 191 (TTAB 1979).

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informalities:

**1. Advisory Regarding Domestic Representative**

Applicant *may* designate a domestic representative upon whom notices or process may be served. Trademark Act Section 1(e), 15 U.S.C. §1051(e); 37 C.F.R. §2.24; TMEP §§604, 811 and 1013. If applicant does not designate a domestic representative, notices or process in proceedings affecting the mark may be served on the Director of the USPTO. Trademark Act Section 1(e), 15 U.S.C. §1051(e).

The examining attorney provides the following example for the applicant's convenience in preparing an Appointment of Domestic Representative, if he chooses to appoint a domestic representative.

DESIGNATION OF DOMESTIC REPRESENTATIVE

\_\_\_\_\_  
Identify the mark Serial No.

\_\_\_\_\_  
Name of applicant Date of signature

\_\_\_\_\_  
(Name of domestic representative)

whose postal address is \_\_\_\_\_  
\_\_\_\_\_

is hereby designated applicant's representative upon whom notice or process in proceedings affecting the mark may be served.

---

(Signature)

## 2. Identification and Classification of Goods

a. Applicant must clarify the number of classes for which registration is sought. The submitted filing fees are insufficient to cover all the classes in the application. Specifically, the application identifies goods that are classified in at least five international classes, however applicant paid the fee for only one class.

Applicant must either: (1) restrict the application to the number of class(es) covered by the fee already paid, or (2) pay the required fee for each additional class(es). 37 C.F.R. §2.86(a)(2); TMEP §§810.01, 1401.04, 1401.04(b) and 1403.01. See the Notice below regarding the January 31, 2005 fee changes.

b. The applicant has classified “Perfumes and fragrances . . . Aloe vera drinks; Shaving balms, lotions, creams, and soaps; Topical skin balms, namely; sunscreens, tanning balms, lotions, creams, and combinations thereof; Candles, both plain and scented; and Shaving implements” in International Class 5. The correct classifications are International Class 3 for the perfumes and fragrances, shaving balms, lotions, creams, and soaps, and topical skin balms; International Class 4 for the candles; International Class 8 for the shaving “implements”; and International Class 32 for the “aloe vera drinks.” The applicant must either delete the foregoing goods or add International Classes 3, 4, 8, and/or 32 to the application. 37 C.F.R. §§2.32(a)(7) and 2.85; TMEP §1401.04(b).

c. If applicant prosecutes this application as a combined, or multiple-class application, then applicant must comply with each of the following for those goods and/or services based on an intent to use the mark under Trademark Act Section 1(b) and/or a foreign registration under Trademark Act Section 44(e):

(1) Applicant must list the goods and/or services by international class with the classes listed in ascending numerical order. TMEP § 1403.01; and

(2) Applicant must submit a filing fee for each international class of goods and/or services not covered by the fee already paid. 37 C.F.R. §2.86(a)(2); TMEP §§810.01 and 1403.01.

d. For assistance with identifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>.

e. The applicant may adopt the following identification of goods in International Class 5, if accurate: Vitamin, mineral, and herbal supplements; and combinations thereof.

f. Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the

present identification.

### 3. **Significance of Wording in the Mark and Disclaimer**

Applicant must indicate specifically whether the goods will be manufactured or produced in, or will have an other connection with, the geographic location named in the mark. 37 C.F.R. §2.61(b); TMEP §1210.03. If the primary significance of a mark is to indicate a geographic location which is neither obscure nor remote and applicant's goods are manufactured or produced in the location indicated, then the public is likely to believe that the geographic term identifies the place from which the goods originate. *See In re Nantucket Allserve, Inc.*, 28 USPQ2d 1144 (TTAB 1993).

If "PARIS" is geographically descriptive of the source or origin of the goods, the applicant must disclaim the word "PARIS" apart from the mark as shown. Trademark Act Section 6, 15 U.S.C. §1056; TMEP §§1213 and 1213.03(a).

The computerized printing format for the *Trademark Official Gazette* requires a standard form for a disclaimer. TMEP §1213.08(a)(i). A properly worded disclaimer should read as follows:

No claim is made to the exclusive right to use PARIS apart from the mark as shown.

*See In re Owatonna Tool Co.*, 231 USPQ 493 (Comm'r Pats. 1983).

### 4. **Standard Character Drawing Claim**

Applicant must submit the following standard character claim: "The mark is presented in standard characters without claim to any particular font style, size, or color." 37 C.F.R. §2.52(a).

The Trademark Rules pertaining to drawings were amended on November 2, 2003. For applications filed after November 2, 2003, such as this one, applicants **must** follow the new standard character drawing rules. Exam Guide 01-03, section I.A.9.

### 5. **Registration Basis**

The applicant has filed asserting a bona fide intention to use the mark in commerce under Trademark Act Section 1(b), 15 U.S.C. §1051(b), and claiming priority under Section 44(d), 15 U.S.C. §1126(d), based on a foreign application. Under these circumstances, the applicant may rely solely on its intent to use the mark in commerce as the basis for registration and not the expected foreign registration, and still claim the benefit of the priority filing date. If the applicant chooses to do so, this Office will approve the case for publication without waiting for the applicant to submit the foreign registration. Of course, the application must be in condition for publication in all other respects. Moreover, while the application may be approved for publication, the mark will not be registered until an acceptable allegation of use has been filed.

If the applicant wishes to proceed relying on the applicant's intent to use the mark in commerce as the sole basis for registration, with the claim of priority, the applicant should so advise the examining attorney. TMEP §§806.02(f) and 806.04(b).

If the applicant does not so indicate, this Office will presume that the applicant wishes to rely on the

foreign registration as an additional basis for registration and will expect the applicant to submit a true copy, a photocopy, a certification, or a certified copy of the foreign registration and, if appropriate, an English translation. It is customary for the translator to sign the translation. TMEP §§1004.01 and 1004.01(b).

### **RESPONSE GUIDELINES**

1. No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. In addition to the identifying information required at the beginning of this letter, the applicant should provide a telephone number to speed up further processing.
2. Applicant may wish to hire a specialist attorney to assist in prosecuting this application because of the technicalities involved. The Office cannot aid in the selection of a trademark attorney. 37 C.F.R. §2.11. Applicant may wish to consult the Yellow Pages for a listing of attorneys specializing in trademark or intellectual property law, or seek guidance from its local Bar Association attorney-referral service.
3. In all correspondence to the Patent and Trademark Office, the applicant should list the name and law office of the examining attorney, the serial number of this application, the mailing date of this Office action, and the applicant's telephone number.
4. If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

A prompt response to this Office action will expedite the handling of this matter.

### **NOTICE: FEE CHANGE**

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are the fees that will be charged for filing a trademark application:

- (1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS); or
- (2) \$375 per international class if filed on paper

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

### **NOTICE: TRADEMARK OPERATION RELOCATION**

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

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

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/Barbara A. Gaynor/  
Barbara A. Gaynor  
Trademark Examining Attorney  
Law Office 115  
(571) 272-9164

**How to respond to this Office Action:**

You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://eteas.uspto.gov/V2.0/oa242/WIZARD.htm> and follow the instructions therein, but you must wait until at least 72 hours after receipt if the office action issued via e-mail). PLEASE NOTE: Responses to Office Actions on applications filed under the Madrid Protocol (Section 66(a)) **CANNOT** currently be filed via TEAS.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

Print: Jan 14, 2005

75215767

**DESIGN MARK**

**Serial Number**

75215767

**Status**

REGISTERED

**Word Mark**

L'OREAL PROFESSIONNEL PARIS

**Standard Character Mark**

No

**Registration Number**

2200948

**Date Registered**

1998/11/03

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

L'OREAL SOCIETE ANONYME FRANCE 14, rue Royale 75008 Paris FRANCE

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: perfume, toilet water; gels and non-medicated salts for the bath and the shower; toilet soaps; body deodorants; cosmetics, namely, creams, milks, lotions, gels and powders for face, body and hands; after sun lotions; sun block and sun screen preparations; makeup; hair care preparations, namely, shampoos, gels, sprays, mousses, oils, conditioners, coloring and decolorant preparations, permanent waving and curling preparations; and dentrifices; and essential oils for personal use.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: dietary supplements.

**Goods/Services**

Class Status -- ACTIVE. IC 008. US 023 028 044. G & S: razors.

**Goods/Services**

**Print: Jan 14, 2005**

**75215767**

Class Status -- ACTIVE. IC 011. US 013 021 023 031 034. G & S:  
electric hair dryers.

**Goods/Services**

Class Status -- ACTIVE. IC 021. US 002 013 023 029 030 033 040 050.  
G & S: hair combs, sponges for the removal of makeup and cleansing of  
the skin, hair brushes, shaving brushes and nail brushes.

**Goods/Services**

Class Status -- ACTIVE. IC 026. US 037 039 040 042 050. G & S:  
bobbin lace and embroidery, hair ribbons and braids, artificial  
flowers, hair ornaments, hair pins, hair slides, hair grips,  
non-electric hair curlers, false beards, false moustaches, wigs.

**Goods/Services**

Class Status -- ACTIVE. IC 042. US 100 101. G & S: hairdressing  
services and beauty salons.

**Goods/Services**

Class Status -- ACTIVE. IC 018. US 001 002 003 022 041. G & S:  
toiletary bags and cases sold empty.

**Foreign Country Name**

FRANCE

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

96/650374

**Foreign Filing Date**

1996/11/13

**Foreign Registration Number**

96/650374

**Foreign Registration Date**

1996/11/13

**Foreign Expiration Date**

2006/11/13

**Prior Registration(s)**

1753517

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PROFESSIONAL" or  
"PARIS" APART FROM THE MARK AS SHOWN.

**Translation Statement**

**Print: Jan 14, 2005**

**75215767**

The French word "PROFESSIONNEL" translates into English as "professional".

**Filing Date**

1996/12/19

**Examining Attorney**

FINE, STEVE

**Attorney of Record**

RUSSELL H FALCONER

**L'ORÉAL**  
**PROFESSIONNEL**  
PARIS

Print: Jan 14, 2005

78051562

**DESIGN MARK**

**Serial Number**

78051562

**Status**

REGISTERED

**Word Mark**

FIBER-PSYLL

**Standard Character Mark**

No

**Registration Number**

2525276

**Date Registered**

2002/01/01

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

WELLEMENTS, LLC LIMITED LIABILITY COMPANY ARIZONA 2555 E. CAMELBACK RD. SUITE 700 PHOENIX ARIZONA 85016

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: vitamin supplements; dietary supplements; herbal supplements; and nutritional supplements. First Use: 2001/05/29. First Use In Commerce: 2001/05/29.

**Filing Date**

2001/03/06

**Examining Attorney**

TAYLOR, DAVID

**Attorney of Record**

Glenn S. Bacal

**FIBER-PSYLL**

Print: Jan 14, 2005

78239246

**TYPED DRAWING**

**Serial Number**

78239246

**Status**

REGISTERED

**Word Mark**

POLILIPID

**Standard Character Mark**

No

**Registration Number**

2899502

**Date Registered**

2004/11/02

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Goode, Inc. CORPORATION NEVADA 2533 North Carson Street, Suite 5132  
Carson City NEVADA 98706

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Herbal supplements, vitamin and mineral supplements, herbal dietary  
and food supplements. First Use: 2002/10/14. First Use In Commerce:  
2002/10/14.

**Filing Date**

2003/04/17

**Examining Attorney**

SAUNDERS, ANDREA

**Attorney of Record**

Catherine H. Tran

Print: Jan 14, 2005

78246774

**TYPED DRAWING**

**Serial Number**

78246774

**Status**

REGISTERED

**Word Mark**

NATURES OASIS

**Standard Character Mark**

No

**Registration Number**

2898278

**Date Registered**

2004/10/26

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Tropical Oasis Inc. CORPORATION TEXAS 129 S. Tennessee McKinney TEXAS 75069

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: Nutraceuticals for use as a dietary supplement; dietary food supplements; vitamins; herbal products, namely vitamins, minerals and herbal supplements. First Use: 2004/06/20. First Use In Commerce: 2004/07/01.

**Filing Date**

2003/05/07

**Examining Attorney**

WATSON, JULIE

Print: Jan 14, 2005

78247912

**TYPED DRAWING**

**Serial Number**

78247912

**Status**

REGISTERED

**Word Mark**

FOOD ORIGINS

**Standard Character Mark**

No

**Registration Number**

2902434

**Date Registered**

2004/11/09

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Wild Marks, Inc. CORPORATION NEVADA 2325-B Renaissance Drive, Suite 10  
Las Vegas NEVADA 89119

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
NUTRITIONAL SUPPLEMENTS; HERBAL SUPPLEMENTS; MINERAL SUPPLEMENTS;  
VITAMINS; VITAMIN SUPPLEMENTS; MINERALS; HERBS AND HERBAL TINCTURES.  
First Use: 2004/03/30. First Use In Commerce: 2004/03/30.

**Filing Date**

2003/05/09

**Examining Attorney**

OSLICK, SCOTT

**Attorney of Record**

Miriam D. Trudell

Print: Jan 14, 2005

78266064

**DESIGN MARK**

**Serial Number**

78266064

**Status**

REGISTERED

**Word Mark**

IM INTEMEDICA, LLC

**Standard Character Mark**

No

**Registration Number**

2906400

**Date Registered**

2004/11/30

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Intemedica, LLC LTD LIAB CO NEVADA 9436 Double R Blvd., Suite B Reno  
NEVADA 89521

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Homeopathic Supplements, Herbal Supplements and Therapeutic  
Nutritionals, namely vitamin and mineral supplements. First Use:  
2003/04/01. First Use In Commerce: 2003/06/01.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE LLC APART FROM THE MARK  
AS SHOWN.

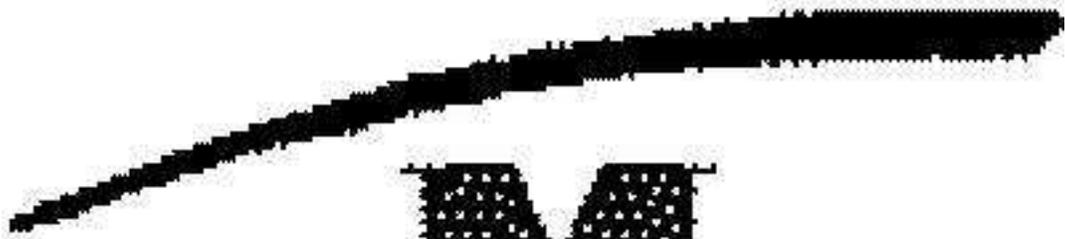
**Filing Date**

2003/06/23

**Examining Attorney**

WHITAKER-BROWN, TRACY

I



M

INTEMEDICA . INC.

Print: Jan 14, 2005

78269974

**TYPED DRAWING**

**Serial Number**

78269974

**Status**

REGISTERED

**Word Mark**

CALM SPIRIT

**Standard Character Mark**

No

**Registration Number**

2913918

**Date Registered**

2004/12/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

GOODE, INC. CORPORATION NEVADA 2533 NORTH CARSON STREET SUITE 5132  
CARSON CITY NEVADA 89706

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Herbal supplements, vitamin and mineral supplements, herbal dietary  
and food supplements. First Use: 1992/07/00. First Use In Commerce:  
1992/07/00.

**Filing Date**

2003/07/02

**Examining Attorney**

CLAYTON, CHERYL

**Attorney of Record**

Brent D. Sanders

Print: Jan 14, 2005

78275884

**TYPED DRAWING**

**Serial Number**

78275884

**Status**

REGISTERED

**Word Mark**

B'TWEENS

**Standard Character Mark**

No

**Registration Number**

2910664

**Date Registered**

2004/12/14

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

4Life Research, L.C. CORPORATION UTAH 9850 South 300 West Sandy UTAH 84070

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: Dietary and Nutritional Supplements, namely, vitamins, minerals, and herbal supplements; candy appetite suppressant which adds additional nutrition and energy. First Use: 2003/08/01. First Use In Commerce: 2003/08/01.

**Filing Date**

2003/07/18

**Examining Attorney**

FELDMAN, DAWN

**Attorney of Record**

John J. Brannelly

Print: Jan 14, 2005

78283568

**TYPED DRAWING**

**Serial Number**

78283568

**Status**

REGISTERED

**Word Mark**

CARB SELECT

**Standard Character Mark**

No

**Registration Number**

2918189

**Date Registered**

2005/01/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
NUTRITIONAL SUPPLEMENTS, HERBAL SUPPLEMENTS, VITAMIN SUPPLEMENTS,  
MINERAL SUPPLMENTS, VITAMIN AND MINERAL SUPPLEMENTS, DIETARY  
SUPPLEMENTS, DIETARY FOOD SUPPLEMENTS AND FOOD SUPPLEMENTS, ALL IN BAR  
FORM. First Use: 2003/12/01. First Use In Commerce: 2003/12/01.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CARB" APART FROM THE  
MARK AS SHOWN.

**Filing Date**

2003/08/05

**Examining Attorney**

SLOAN, CYNTHIA

Print: Jan 14, 2005

78283945

**TYPED DRAWING**

**Serial Number**

78283945

**Status**

REGISTERED

**Word Mark**

OMEGA FOCUS

**Standard Character Mark**

No

**Registration Number**

2912950

**Date Registered**

2004/12/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

doc's Guide, Inc. CORPORATION FLORIDA 2201 Cantu Court Suite 200  
Sarasota FLORIDA 34232

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Vitamins; nutritional supplements; mineral supplements; nutraceuticals  
for use as a dietary supplement; diet capsules; diet pills; dietary  
drink mix for use as a meal replacement; dietary food supplements;  
food for medically restricted diets; meal replacement and dietary  
supplement drink mixes; herbal supplements; appetite suppressants;  
dietary supplements; meal replacement drinks; meal replacement  
powders; nutritional drink mix for use as a meal replacement; and  
herbal and nutritional supplements. First Use: 2003/03/29. First Use  
In Commerce: 2003/03/29.

**Filing Date**

2003/08/06

**Examining Attorney**

KIM, SOPHIA S.

**Print: Jan 14, 2005**

**78283945**

**Attorney of Record**

JENNIFER L WHITELAW

Print: Jan 14, 2005

78283965

**DESIGN MARK**

**Serial Number**

78283965

**Status**

REGISTERED

**Registration Number**

2912951

**Date Registered**

2004/12/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(2) DESIGN ONLY

**Owner**

doc's Guide, Inc. CORPORATION FLORIDA 2201 Cantu Court Suite 200  
Sarasota FLORIDA 34232

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Vitamins; nutritional supplements; mineral supplements; nutraceuticals  
for use as a dietary supplement; diet capsules; diet pills; dietary  
drink mix for use as a meal replacement; dietary food supplements;  
food for medically restricted diets; meal replacement and dietary  
supplement drink mixes; herbal supplements; appetite suppressants;  
dietary supplements; meal replacement drinks; meal replacement  
powders; nutritional drink mix for use as a meal replacement; and  
herbal and nutritional supplements. First Use: 2003/03/29. First Use  
In Commerce: 2003/03/29.

**Description of Mark**

The mark consists of a stylized eye design.

**Filing Date**

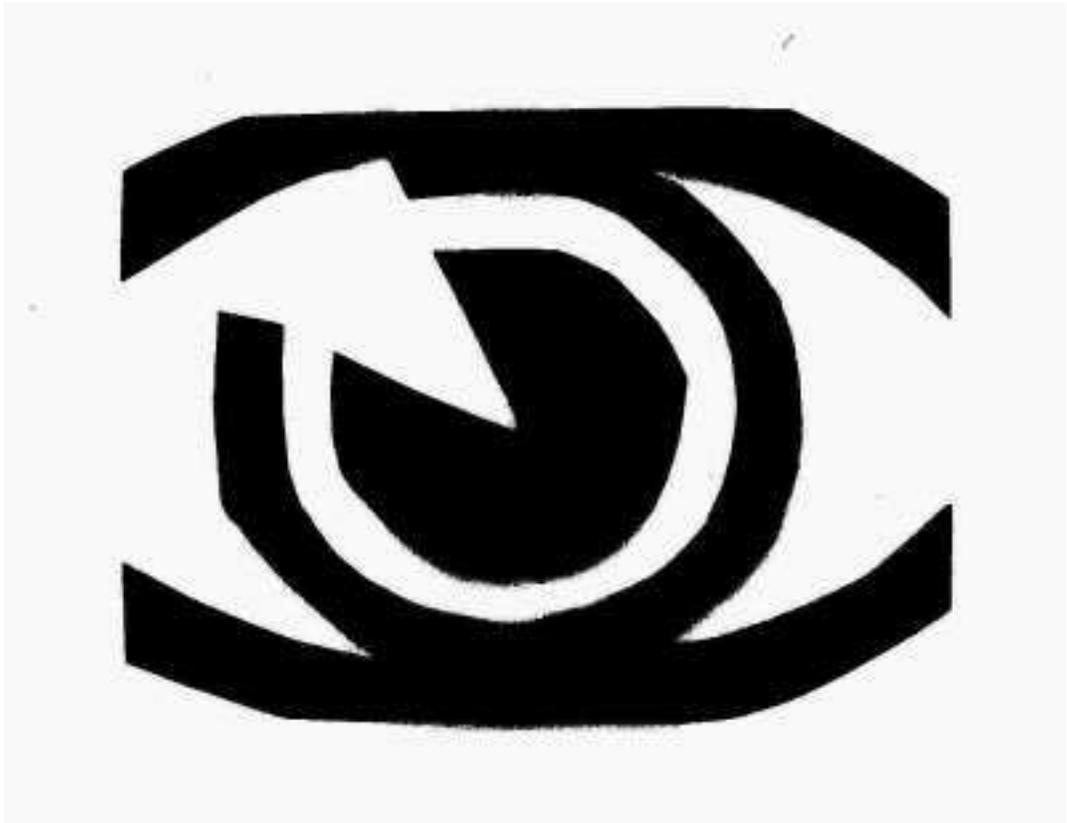
2003/08/06

**Examining Attorney**

KIM, SOPHIA S.

**Attorney of Record**

JENNIFER L WHITELAW



Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-06-08 19:21:49 ET

Serial Number: 76596736 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

# L'OREAL PARIS

(words only): [L'OREAL PARIS](#)

Standard Character claim: [Yes](#)

Current Status: [An opposition is now pending at the Trademark Trial and Appeal Board.](#)

Date of Status: [2010-01-14](#)

Filing Date: [2004-06-09](#)

Transformed into a National Application: [No](#)

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 115](#)

Attorney Assigned:  
[GAYNOR BARBARA ANNE](#)

Current Location: [845 -TTAB](#)

Date In Location: [2010-02-23](#)

---

## LAST APPLICANT(S)/OWNER(S) OF RECORD

---

1. [Marcon, Robert Victor](#)

**Address:**

[Marcon, Robert Victor](#)  
[3471 Sinnicks Avenue](#)  
[Niagara Falls, Ontario L2J 2G6](#)  
[Canada](#)

**Legal Entity Type:** [Individual](#)

**Country of Citizenship:** [Canada](#)

**Phone Number:** [\(905\) 354-2543](#)

**Fax Number:** (905) 354-7693

---

**GOODS AND/OR SERVICES**

---

**International Class:** 032

**Class Status:** Active

Aloe vera drinks

**Basis:** 1(b)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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**ADDITIONAL INFORMATION**

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**Foreign Application Number:** 1201383

**Country:** Canada

**Foreign Filing Date:** 2003-12-11

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

---

**PROSECUTION HISTORY**

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2010-01-14 - Reinstatement Granted - TTAB Decision Reversed

2009-11-10 - Abandonment Notice Mailed - After Inter Partes Decision

2009-11-10 - Abandonment - After inter partes decision (Initial exam)

2009-11-10 - Opposition terminated for Proceeding

2009-11-10 - Opposition sustained for Proceeding

2008-06-05 - Opposition instituted for Proceeding

2008-06-04 - Opposition papers filed

2008-05-06 - Published for opposition

2008-04-16 - Notice of publication

2008-03-28 - Law Office Publication Review Completed

2008-03-26 - Assigned To LIE

2008-03-12 - Approved For Pub - Principal Register  
2008-03-06 - Ex parte appeal terminated  
2008-03-06 - Ex parte appeal - Refusal reversed  
2007-09-27 - Examiner's statement mailed  
2007-09-27 - Examiners Statement - Completed  
2007-08-03 - Jurisdiction Restored To Examining Attorney  
2007-04-19 - Action denying request for reconsideration - mailed - Initial exam  
2007-04-19 - Continuation of final refusal mailed  
2007-03-28 - Jurisdiction Restored To Examining Attorney  
2007-02-01 - Jurisdiction Restored To Examining Attorney  
2006-10-27 - Ex parte appeal - Instituted  
2006-10-24 - EXPARTE APPEAL RECEIVED AT TTAB  
2006-04-17 - Final refusal mailed  
2006-04-16 - Final Refusal Written  
2006-03-24 - Amendment From Applicant Entered  
2006-02-17 - Communication received from applicant  
2006-02-17 - PAPER RECEIVED  
2005-08-12 - Non-final action mailed  
2005-08-12 - Non-Final Action Written  
2005-07-22 - Amendment From Applicant Entered  
2005-07-14 - Communication received from applicant  
2005-07-14 - PAPER RECEIVED  
2005-01-18 - Non-final action mailed  
2005-01-14 - Non-Final Action Written  
2005-01-09 - Assigned To Examiner  
2004-06-24 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Correspondent**

ROBERT V. MARCON  
3471 SINNICKS AVENUE  
NIAGARA FALLS, ON L2J 2G CANADA  
Phone Number: (905) 354-2543  
Fax Number: (905) 354-7693

---

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

In the Matter of Application Serial No. 76/596,736  
Published in the Official Gazette on May 6, 2008  
Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

**ORAL ARGUMENT REQUESTED**

**EXHIBIT C-12 TO OPPOSER'S NOTICE OF RELIANCE**



06-09-2004

U.S. Patent & TMOfo/TM Mail Rept Dt: #67

Robert Victor Marcon,  
3471 Sinnicks Avenue,  
Niagara Falls, Ontario,  
Canada,  
L2J 2G6

For: (a) Vitamin, mineral, and herbal supplements, and combinations thereof; (b) Dental products, namely; toothbrushes, toothpaste, dental floss, floss wands, mouthwash, dental whitening strips and pastes, dental desensitizing strips and pastes, and aerosol breath fresheners; (c) Bandages; (d) Cosmetics; (e) Topical skin balms namely; sunscreens, tanning balms, lotions, creams, and combinations thereof; and (f) Lozenges and throat sprays, in International Class 003.

Basis for Filing: Section 1(b) and 44(d)

**BAYER**

U.S. Patent & TM Ofc/TM



**76596737**

76596737

TRADEMARK APPLICATION SERIAL NO. \_\_\_\_\_

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

06/16/2004 KGIBBONS 00000145 76596737

01 FC:6001

335.00 OP

Mr. Robert V. Marcon,  
3471 Sinnicks Avenue,  
Niagara Falls, Ontario,  
Canada,  
L2J 2G6

June 8, 2004

Commissioner for Trademarks,  
2900 Crystal Drive,  
Arlington, Virginia,  
U.S.A.,  
22202-3514

**Re: "BAYER" Trademark Application**

Dear Sir:

I, Robert Victor Marcon, am hereby filing an application for the registration of the trademark BAYER.

Enclosed herein are the following documents:

- (1) The trademark application for BAYER; and
- (2) A money order in the amount of \$335.00 U.S. to cover the filing fee.

Thank you for your attention to this matter. Please contact me if you have any questions regarding this application.

**(CERTIFICATION)**

Mailed To: Commissioner for Trademarks,  
2900 Crystal Drive,  
Arlington, VA,  
U.S.A.,  
22202-3514

Mailing Date: 8 June 2004 in Niagara Falls, N.Y., U.S.A.

No. of Pages: Eleven (11)

Certification: I hereby certify that this correspondence and/or fee is being deposited in an envelope with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below and is addressed to the "Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA, U.S.A., 22202-3514".

Express Mail Label Number: EH960575899US  
Date of Deposit: 8 June 2004  
Name of Depositor: Robert V. Marcon

Signature of Depositor: Robert V. Marcon

Very Respectfully,

*Robert V. Marcon*

Mr. Robert V. Marcon  
Applicant Pro Se  
8 June 2004

1 **TRADEMARK/SERVICE MARK APPLICATION**

2 (15 U.S.C. Subsection 1051, 1126(d)&(e))

3  
4 **APPLICANT INFORMATION**

5 Name of Applicant: Robert Victor Marcon

6  
7 Residency Address: Street: 3471 Sinnicks Avenue

8 City/Province: Niagara Falls, Ontario

9 Country: Canada

10 Zip Code: L2J 2G6

11  
12 Correspondence Address: Street: 3471 Sinnicks Avenue

13 City/Province: Niagara Falls, Ontario

14 Country: Canada

15 Zip Code: L2J 2G6

16  
17 Other Communications: Telephone: (905) 354-2543

18 Facsimile: (905) 354-7693

19 E-Mail: Not Applicable

20  
21 **APPLICANT ENTITY INFORMATION**

22 (1) Applicant is an individual.

23 (2) Applicant is a citizen of Canada.

24  
25 **TRADEMARK/SERVICE MARK INFORMATION**

26 (1) The mark is:

27 **BAYER**

28  
29 (2) The mark is typed form.

30 **BASIS FOR FILING AND GOODS/SERVICES INFORMATION**

31 **Intent to Use: Section 1(b)**

32 The Applicant has a bona fide intention to use the mark in commerce  
33 on or in connection with the below-identified goods and/or services (15  
34 U.S.C. Subsection 1051(b)).

35

36 (1) International class 003.

37 (2) Listing of Goods and/or Services:

38 (a) Vitamin, mineral, and herbal supplements, and  
39 combinations thereof;

40 (b) Dental products, namely; toothbrushes, toothpaste,  
41 dental floss, floss wands, mouthwash, dental whitening  
42 strips and pastes, dental desensitizing strips and pastes,  
43 and aerosol breath fresheners;

44 (c) Bandages;

45 (d) Cosmetics;

46 (e) Topical skin balms namely; sunscreens, tanning balms,  
47 lotions, creams, and combinations thereof; and

48 (f) Lozenges and throat sprays.

49

50 **Foreign Priority: Section 44(d)**

51 The Applicant has a bona fide intention to use the mark in commerce  
52 on or in connection with the below-identified goods and/or services, and  
53 asserts a claim of priority based upon a foreign application in accordance with  
54 15 U.S.C. Section 1126(d).

55

56 (1) International Class Number(s): Not Known

57 (2) Listing of Goods and/or Services:

58 (a) Vitamin, mineral, and herbal supplements, and

- 59 combinations thereof;
- 60 (b) Dental products, namely; toothbrushes, toothpaste,  
61 dental floss, floss wands, mouthwash, dental whitening  
62 strips and pastes, dental desensitizing strips and pastes,  
63 and aerosol breath fresheners;
- 64 (c) Bandages;
- 65 (d) Cosmetics;
- 66 (e) Topical skin balms namely; sunscreens, tanning balms,  
67 lotions, creams, and combinations thereof; and
- 68 (f) Lozenges and throat sprays.
- 69 (3) Country of Foreign Filing: Canada
- 70 (4) Foreign Application Number: 1,201,366
- 71 (5) Date of Foreign Filing: 11 December 2003
- 72 (6) Application Docket Number: Mark-20

73

74 **FILING FEE INFORMATION**

- 75 (1) Filing Fee Calculation:
- 76 (a) Cost per Class: \$335.00 U.S.
- 77 (b) Number of Classes: 1
- 78 (c) Total Filing Fee: \$335.00 U.S.
- 79 (2) Method of Filing Fee Payment: Money Order

80

81 **DOMESTIC REPRESENTATIVE**

82 There is no domestic representative assigned to this application.

83

84 **SIGNATURE INFORMATION**

85 The Applicant request registration of the above-identified mark in the United  
86 States Patent and Trademark Office on the Principal Register established by Act of  
87 July 5, 1946 (15 U.S.C. Section 1051 et seq.) for the above-identified goods and/or

88 services.

89 The undersigned, being hereby warned that wilful false statements and the  
90 like so made are punishable by fine or imprisonment, or both, under 18 U.S.C.  
91 Section 1001, and that such wilful false statements may jeopardize the validity of  
92 the application or any resulting registrations, declares that he/she is properly  
93 authorized to execute this application on behalf of the applicant; he/she believes the  
94 applicant to be the owner of the trademark/service mark sought to be registered, or,  
95 if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes  
96 Applicant to be entitled to use such mark in commerce; to the best of his/her  
97 knowledge and belief no other person, firm, corporation, or association has the right  
98 to use the mark in commerce, either in identical form thereof or in such new  
99 resemblance thereto as to be likely, when used on or in connection with the  
100 goods/services of such other person, to cause confusion, or to cause mistake, or  
101 to deceive; and that all statements made of his/her knowledge are true; and that all  
102 statements made on information and belief are believed to be true.

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Signature:

Robert Victor Marcon

Print Name:

Robert Victor Marcon

Date Signed:

8 June 2004

Title:

Individual

**CONTACT INFORMATION**

Name of Contact:

Robert V. Marcon

Mailing Address:

Street:

3471 Sinnicks Avenue

City/Province:

Niagara Falls, Ontario

Country:

Canada

Zip Code:

L2J 2G6

117	Other Communications:	Telephone:	(905) 354-2543
118		Facsimile:	(905) 354-7693
119		E-Mail:	Not Applicable

**ATTENTION**

**FOREIGN REGISTRATION CERTIFICATE  
IS ENCLOSED INSIDE FILE  
JACKET**



**Office de la propriété  
intellectuelle  
du Canada**

Un organisme  
d'Industrie Canada

**Canadian  
Intellectual Property  
Office**

An Agency of  
Industry Canada

ROBERT MARCON  
3471 SINNICKS AVENUE  
NIAGARA FALLS  
ONTARIO L2J 2G6

Date	11 déc/Dec 2003
Votre référence - Your reference	
Numéro de dossier - File number	1201366

Requérant - Applicant:

ROBERT MARCON

Marque de commerce - Trade-mark:

BAYER

### AVIS DE RÉCEPTION

Nous accusons réception de la demande d'enregistrement de cette marque de commerce ainsi que du droit de production de la demande. La date de production de cette demande est:

**11 déc/Dec 2003**

Pour toute correspondance veuillez inclure le numéro de dossier mentionné ci-dessus.

Pour obtenir des renseignements sur les marques de commerce veuillez signaler le (819) 997-1936 ou visitez notre site Web au <http://opic.gc.ca>. De plus, vous pouvez obtenir de l'information concernant le statut de votre demande à partir de la Base de données des marques des commerce via notre site Web.

**Une feuille de vérification de votre demande est jointe à titre de révision. Si vous avez des questions concernant l'information qui y figure, veuillez communiquer avec :**

La Section des Formalités  
Place du Portage 1  
50, rue Victoria, Hull, (Québec) K1A 0C9  
Téléphone : (819) 997-1070 Télécopieur : (819) 953-6742

### FILING NOTICE

Receipt is acknowledged of the application and filing fee for the registration of this trade-mark. This application's filing date is:

For all future correspondence please include the file number stated above.

For general information on trade-marks please call (819) 997-1936 or visit our Web site at <http://cipo.gc.ca>. You may also obtain status information on your application from the Trade-marks Database on our Web site.

**A Proof Sheet of the application is attached for your review. If you have any questions on the information contained within the Proof Sheet please contact:**

Formalities Section  
Place du Portage 1  
50 Victoria Street, Hull, Quebec K1A 0C9  
Tel: (819) 997-1070 Fax: (819) 953-2476

Registraire des marques de commerce  
Registrar of Trade-marks

<http://opic.gc.ca> · Ottawa Hull K1A 0C9 · <http://cipo.gc.ca>

**Canada**



**APPL'N/DEM. NO 1 201 366**

**FORMALIZED/FORMALITÉS ACCOMPLIES**

**FILING DATE/DATE DE PRODUCTION:**

**11 déc/Dec 2003**

**APPLICANT/REQUÉRANT:**

ROBERT MARCON  
3471 SINNICKS AVENUE  
NIAGARA FALLS  
ONTARIO  
L2J 2G6

**TRADE-MARK/MARQUE DE COMMERCE:**

**BAYER**

**INDEX HEADINGS/RUBRIQUES:**

BAYER

\*

**WARES/MARCHANDISES:**

1. VITAMIN, MINERAL AND HERBAL SUPPLEMENTS AND COMBINATIONS THEREOF 2. DENTAL PRODUCTS, NAMELY; TOOTHBRUSHES, TOOTHPASTE, DENTAL FLOSS AND FLOSS WANDS, MOUTHWASH, DENTAL WHITENING STRIPS AND PASTES, DENTAL DESENSITIZING STRIPS AND PASTES, AEROSOL BREATH FRESHENERS 3. BANDAGES 4. COSMETICS 5. TOPICAL SKIN BALMS, NAMELY; SUNSCREENS, TANNING BALMS, LOTIONS, CREAMS AND COMBINATIONS THEREOF 6. LOZENGES AND THROAT SPRAYS.

**CLAIMS/REVENDEICATIONS:**

Proposed Use in CANADA on wares.

<b>Action</b>	<b>Date</b>	<b>BF</b>	<b>Comments/Commentaires</b>
filed/produite	2003/12/11		
created/créé	2003/12/11		
formalized/formalisée	2003/12/11		



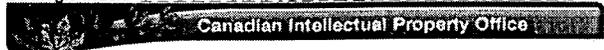
Canadian Intellectual Property Office / Office de la propriété intellectuelle du Canada



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[stratigis.gc.ca](http://stratigis.gc.ca)

Stratigis Index: [A](#) [B](#) [C](#) [D](#) [E](#) [F](#) [G](#) [H](#) [I](#) [J](#) [K](#) [L](#) [M](#) [N](#) [O](#) [P](#) [Q](#) [R](#) [S](#) [T](#) [U](#) [V](#) [W](#) [X](#) [Y](#) [Z](#)



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**CANADIAN TRADE-MARK DATA**

\*\*\* Note : Data on trade-marks is shown in the official language in which it was submitted.

The database was last updated on: 2004-03-23

**APPLICATION NUMBER:** 1201366      **REGISTRATION NUMBER:** not registered

**STATUS:** FORMALIZED

**FILED:** 2003-12-11

**FORMALIZED:** 2003-12-11

**APPLICANT:**  
 ROBERT MARCON  
 3471 SINNICKS AVENUE

NIAGARA FALLS  
 L2J 2G6  
 ONTARIO

**TRADE-MARK:**

**BAYER**

**INDEX HEADINGS:**

BAYER

**WARES:**

<http://stratigis.ic.gc.ca/SSG/1201/trdp120136600e.html>

28/03/2004

(1) 1. VITAMIN, MINERAL AND HERBAL SUPPLEMENTS AND COMBINATIONS THEREOF 2. DENTAL PRODUCTS, NAMELY; TOOTHBRUSHES, TOOTHPASTE, DENTAL FLOSS AND FLOSS WANDS, MOUTHWASH, DENTAL WHITENING STRIPS AND PASTES, DENTAL DESENSITIZING STRIPS AND PASTES, AEROSOL BREATH FRESHENERS 3. BANDAGES 4. COSMETICS 5. TOPICAL SKIN BALMS, NAMELY; SUNSCREENS, TANNING BALMS, LOTIONS, CREAMS AND COMBINATIONS THEREOF 6. LOZENGES AND THROAT SPRAYS

**CLAIMS:**

Proposed Use in CANADA.

<b>ACTION</b>	<b>DATE</b>	<b>BF</b>	<b>COMMENTS</b>
Filed	11 December 2003		
Created	11 December 2003		
Formalized	11 December 2003		

[Back](#)

# UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 76/596737

**APPLICANT:** Marcon, Robert Victor

**\*76596737\***

**CORRESPONDENT ADDRESS:**  
ROBERT V. MARCON  
3471 SINNICKS AVENUE  
NIAGARA FALLS, ONTARIO  
CANADA L2J 2G6

**RETURN ADDRESS:**  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MARK:** BAYER

**CORRESPONDENT'S REFERENCE/DOCKET NO:** N/A

Please provide in all correspondence:

**CORRESPONDENT EMAIL ADDRESS:**

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

## OFFICE ACTION

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

Serial Number 76/596737

The assigned examining attorney has reviewed the referenced application and determined the following:

### Advisory Regarding Search Results

The search results for this application pertain to International Classes 3 and 5 **only**. A search of the Office records is **DEFERRED** in all other classes until applicant responds to the issues raised in this Office action. TMEP §§704.02 and 810.01.

### Refusal Under Section 2(d) – Likelihood of Confusion

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the marks in U.S. Registration Nos. 0155612; 0155382; 0229153; 2,063,685; 2,065,441; and 2,645,337 (all owned by the same registrant) as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* See the enclosed registrations.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of

confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978). TMEP §§1207.01 *et seq.*

The applicant has applied to register BAYER (Standard Character Drawing) for “Vitamin, mineral, and herbal supplements, and combinations thereof; Dental products, namely; toothbrushes, toothpaste, dental floss, floss wands, mouthwash, dental whitening strips and pastes, dental desensitizing strips and pastes, and aerosol breath fresheners; bandages; Cosmetics; Topical skin balms namely; sunscreens, tanning balms, lotions, creams, and combinations thereof; and Lozenges and throat sprays.” The registered mark are all owned by Bayer Aktiengesellschaft and all contain the wording “BAYER.”

In the case of Registration No. 2,065,411, the marks are identical. Both marks are typed/standard character drawings of the word “BAYER.” In the case of Registration Nos. 0155612; 0155382; 0229153; and 2,063685, the marks are essentially phonetic equivalents. Similarity in sound alone is sufficient to find a likelihood of confusion. *Molenaar, Inc. v. Happy Toys Inc.*, 188 USPQ 469 (TTAB 1975); *In re Cresco Mfg. Co.*, 138 USPQ 401 (TTAB 1963). TMEP §1207.01(b)(iv).

With respect to Registration No. 2,645,337, the marks contain the same dominant wording, “BAYER.” The examining attorney must look at the marks in their entireties under Section 2(d). Nevertheless, one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight is given to that dominant feature in determining whether there is a likelihood of confusion. *In re National Data Corp.*, 224 USPQ 749 (Fed. Cir. 1985); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (C.C.P.A. 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). TMEP §1207.01(b)(viii). The applicant’s mark consists solely of the word “BAYER.” The literal portion of the registrant’s mark consists of the word “BAYER” preceded by the descriptive wording “EXTRA STRENGTH.” When the applicant’s mark is compared to a registered mark, “the points of similarity are of greater importance than the points of difference.” *Esso Standard Oil Co. v. Sun Oil Co.*, 229 F.2d 37, 108 USPQ 161 (D.C. Cir.), *cert. denied*, 351 U.S. 973, 109 USPQ 517 (1956). TMEP §1207.01(b).

If the marks of the respective parties are identical, or nearly identical, the relationship between the goods or services of the respective parties need not be as close to support a finding of likelihood of confusion as might apply where differences exist between the marks. *Ancor, Inc. v. Ancor Industries, Inc.*, 210 USPQ 70 (TTAB 1981). TMEP §1207.01(a). In this case, however, the goods are identical, in part. Both the applicant and the registrant manufacture/sell vitamin and mineral supplements (Registration Nos. 2,063,685 and 2,065,441). To the extent the goods are not identical, they are very highly related.

The goods/services of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods/services come from a common source. *In re Martin’s Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910

(TTAB 1978). TMEP §1207.01(a)(i).

Attached are copies of printouts from the USPTO X-Search database, which show ten *representative* third-party registrations of marks used in connection with the same or similar goods as those of applicant and registrant. The printouts have probative value to the extent that they serve to suggest that the goods listed therein, namely, skin care products and pharmaceuticals, are of a kind that may emanate from a single source. *In re Infinity Broadcasting Corp. of Dallas*, 60 USPQ2d 1214, 1218 (TTAB 2001), citing *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); and *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467, 1470 at n.6 (TTAB 1988).

Any goods or services in the registrant's normal fields of expansion must also be considered in order to determine whether the registrant's goods or services are related to the applicant's identified goods or services for purposes of analysis under Section 2(d). *In re General Motors Corp.*, 196 USPQ 574 (TTAB 1977). The test is whether purchasers would believe the product or service is within the registrant's logical zone of expansion. *CPG Prods. Corp. v. Perceptual Play, Inc.*, 221 USPQ 88 (TTAB 1983); TMEP §1207.01(a)(v). The attached third-party registrations show that skin care products are in the registrant's logical zone of expansion.

Moreover, the courts and scholarly authorities have long recognized a "doctrine of greater care" in pharmaceutical cases because of life and death risks to consumers regarding trademarks for drugs. This doctrine mandates a conservative approach to determining a likelihood of confusion between trademarks used on pharmaceutical preparations due to the harmful (and potentially lethal) consequences of mistakenly taking the wrong medication. "For these reasons, it is proper to require a lesser quantum of proof of confusing similarity for drugs and medicinal preparations." 3 J. Thomas McCarthy, MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION, §23:12; (4<sup>th</sup> ed. 2003); *See also Glenwood Laboratories, Inc., v. American Home Products Corp.*, 455 F.2d 1384, 173 USPQ 19 (C.C.P.A. 1972); *Sterling Drug, Inc., v. Sankyo Co.*, 139 USPQ 395 (TTAB 1963); *American Home Products Corp. v. USV Pharmaceutical Corp.*, 190 USPQ 357 (TTAB 1976); *Schering Corp. v. Alza Corp.*, 207 USPQ 504 (TTAB 1980). Thus courts have allowed a lower threshold of proof of confusing similarity for drugs and medicinal preparations.

The marks are identical, phonetic equivalents, or contain the same dominant wording. The goods are identical, in part, and are highly related. The similarities among the marks and the goods are so great as to create a likelihood of confusion among consumers. The examining attorney must resolve any doubt as to the issue of likelihood of confusion in favor of the registrant and against the applicant **who has a legal duty to select a mark which is totally dissimilar to trademarks already being used.** *Burroughs Wellcome Co. v. Warner?Lambert Co.*, 203 USPQ 191 (TTAB 1979).

## **2. Refusal Under Section 2(e)(4) – Mark is Primarily Merely a Surname**

The examining attorney also refuses registration on the Principal Register because the mark is primarily merely a surname. Trademark Act Section 2(e)(4), 15 U.S.C. §1052(e)(4); TMEP §1211. The examining attorney must consider the primary significance of the mark to the purchasing public to determine whether term is primarily merely a surname. *In re Kahan & Weisz Jewelry Mfg. Corp.*, 508 F.2d 831, 184 USPQ 42 (C.C.P.A. 1975). Please see the attached evidence from the USFIND File of the LexisNexis® computerized database, establishing the surname significance of "Bayer." TMEP §§1211 *et seq.* The evidence shows "Bayer" appearing 5003 times as a surname in a nationwide telephone directory of names.

A mark in an application under Trademark Act Section 1(b) is not eligible for registration on the Supplemental Register until an acceptable amendment to allege use under 37 C.F.R. §2.76 or statement of use under 37 C.F.R. §2.88 has been filed. 37 C.F.R. §§2.47(d) and 2.75(b); TMEP §1102.03. When a Section 1(b) application is amended to the Supplemental Register, the effective filing date of the application is the date of filing of the allegation of use. 37 C.F.R. §2.75(b); TMEP §§206.01 and 1102.03.

The applicant is advised, however, that amending the application to seek registration on the Supplemental Register will **not** overcome the Section 2(d) refusal discussed in subsection 1 above.

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informalities:

**1. Advisory Regarding Domestic Representative**

Applicant *may* designate a domestic representative upon whom notices or process may be served. Trademark Act Section 1(e), 15 U.S.C. §1051(e); 37 C.F.R. §2.24; TMEP §§604, 811 and 1013. If applicant does not designate a domestic representative, notices or process in proceedings affecting the mark may be served on the Director of the USPTO. Trademark Act Section 1(e), 15 U.S.C. §1051(e).

The examining attorney provides the following example for the applicant's convenience in preparing an Appointment of Domestic Representative, should he wish to do so.

DESIGNATION OF DOMESTIC REPRESENTATIVE

\_\_\_\_\_  
Identify the mark Serial No.

\_\_\_\_\_  
Name of applicant Date of signature

\_\_\_\_\_  
(Name of domestic representative)

whose postal address is \_\_\_\_\_

\_\_\_\_\_  
is hereby designated applicant's representative upon whom notice or process in proceedings affecting the mark may be served.

\_\_\_\_\_

(Signature)

**2. Identification and Classification of Goods**

a. Applicant must clarify the number of classes for which registration is sought. The submitted filing fees are insufficient to cover all the classes in the application. Specifically, the application identifies goods that are classified in at least four international classes; however, applicant paid the fee for only one class.

Applicant must either: (1) restrict the application to the number of class(es) covered by the fee already paid, or (2) pay the required fee for each additional class(es). 37 C.F.R. §2.86(a)(2); TMEP §§810.01, 1401.04, 1401.04(b) and 1403.01. See the Notice below regarding the January 31, 2005 fee changes.

b. The applicant has classified Vitamin, mineral, and herbal supplements, and combinations thereof; toothbrushes, dental floss, floss wands, bandages, lozenges, and throat sprays in International Class 3. The correct classification is International Class 5 for the vitamins and minerals, adhesive and surgical bandages, cough, medicated, and throat lozenges, and medicinal preparations for the mouth and as sprays; International Class 10 for compression bandages, elastic bandages, and orthopedic support bandages; International Class 21 for the toothbrushes, dental floss, and dental floss wands; and International Class 30 for non-medicated lozenges. The applicant must either delete the foregoing goods or add International Classes 5, 10, 21, and/or 30 to the application. 37 C.F.R. §§2.32(a)(7) and 2.85; TMEP §1401.04(b).

c. If applicant prosecutes this application as a combined, or multiple-class application, then applicant must comply with each of the following for those goods and/or services based on an intent to use the mark under Trademark Act Section 1(b) and/or a foreign registration under Trademark Act Section 44(e):

(1) Applicant must list the goods and/or services by international class with the classes listed in ascending numerical order. TMEP § 1403.01; and

(2) Applicant must submit a filing fee for each international class of goods and/or services not covered by the fee already paid. 37 C.F.R. §2.86(a)(2); TMEP §§810.01 and 1403.01.

d. The wording “mouthwash” in the identification of goods is too broad because it could include items classified in other classes. While non-medicated mouthwash is classified in International Class 3, “medicated” mouthwash is classified in International Class 5. The applicant must amend the identification to list each item by its common commercial name. TMEP §§1401.04(b), 1402.01 and 1402.03.

e. For assistance with identifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netathtml/tidm.html>.

f. The applicant may adopt the following identification of goods in International Class 3, if accurate: Dental products, namely, toothpaste, non-medicated mouthwash, dental whitening strips and pastes, dental desensitizing strips and pastes, and aerosol breath fresheners; Cosmetics; Topical skin balms namely; sunscreens, tanning balms, lotions, creams, and combinations thereof.

g. Please note that, while an application may be amended to clarify or limit the identification,

additions to the identification are not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the present identification.

### **3. Standard Character Drawing Claim**

Applicant must submit the following standard character claim: “The mark is presented in standard characters without claim to any particular font style, size, or color.” 37 C.F.R. §2.52(a).

The Trademark Rules pertaining to drawings were amended on November 2, 2003. For applications filed after November 2, 2003, such as this one, applicants **must** follow the new standard character drawing rules. Exam Guide 01-03, section I.A.9.

### **4. Registration Basis**

The applicant has filed asserting a bona fide intention to use the mark in commerce under Trademark Act Section 1(b), 15 U.S.C. §1051(b), and claiming priority under Section 44(d), 15 U.S.C. §1126(d), based on a foreign application. Under these circumstances, the applicant may rely solely on its intent to use the mark in commerce as the basis for registration and not the expected foreign registration, and still claim the benefit of the priority filing date. If the applicant chooses to do so, this Office will approve the case for publication without waiting for the applicant to submit the foreign registration. Of course, the application must be in condition for publication in all other respects. Moreover, while the application may be approved for publication, the mark will not be registered until an acceptable allegation of use has been filed.

If the applicant wishes to proceed relying on the applicant’s intent to use the mark in commerce as the sole basis for registration, with the claim of priority, the applicant should so advise the examining attorney. TMEP §§806.02(f) and 806.04(b).

If the applicant does not so indicate, this Office will presume that the applicant wishes to rely on the foreign registration as an additional basis for registration and will expect the applicant to submit a true copy, a photocopy, a certification, or a certified copy of the foreign registration and, if appropriate, an English translation. It is customary for the translator to sign the translation. TMEP §§1004.01 and 1004.01(b).

## **RESPONSE GUIDELINES**

1. No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. In addition to the identifying information required at the beginning of this letter, the applicant should provide a telephone number to speed up further processing.
2. Applicant may wish to hire a specialist attorney to assist in prosecuting this application because of the technicalities involved. The Office cannot aid in the selection of a trademark attorney. 37 C.F.R. §2.11. Applicant may wish to consult the Yellow Pages for a listing of attorneys specializing in trademark or intellectual property law, or seek guidance from its local Bar Association attorney-referral service.
3. In all correspondence to the Patent and Trademark Office, the applicant should list the name and law office of the examining attorney, the serial number of this application, the mailing date of this Office action, and the applicant's telephone number.
4. If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

A prompt response to this Office action will expedite the handling of this matter.

### **NOTICE: FEE CHANGE**

Effective January 31, 2005 and pursuant to the Consolidated Appropriations Act, 2005, Pub. L. 108-447, the following are the fees that will be charged for filing a trademark application:

- (1) \$325 per international class if filed electronically using the Trademark Electronic Application System (TEAS); or
- (2) \$375 per international class if filed on paper

These fees will be charged not only when a new application is filed, but also when payments are made to add classes to an existing application. If such payments are submitted with a TEAS response, the fee will be \$325 per class, and if such payments are made with a paper response, the fee will be \$375 per class.

The new fee requirements will apply to any fees filed on or after January 31, 2005.

### **NOTICE: TRADEMARK OPERATION RELOCATION**

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

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

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/Barbara A. Gaynor/  
Barbara A. Gaynor  
Trademark Examining Attorney  
Law Office 115  
(571) 272-9164

**How to respond to this Office Action:**

You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://eteas.uspto.gov/V2.0/oa242/WIZARD.htm> and follow the instructions therein, but you must wait until at least 72 hours after receipt if the office action issued via e-mail). PLEASE NOTE: Responses to Office Actions on applications filed under the Madrid Protocol (Section 66(a)) **CANNOT** currently be filed via TEAS.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

MAIL-IT REQUESTED: JANUARY 19, 2005

10083K

CLIENT:

LIBRARY: FINDER

FILE: USFIND

YOUR SEARCH REQUEST AT THE TIME THIS MAIL-IT WAS REQUESTED:

LAST-NAME (**BAYER**)

NUMBER OF DOCUMENTS FOUND WITH YOUR REQUEST THROUGH: **5003**

PRINTED THE SELECTED DOCUMENT NUMBERS: 1-100

DISPLAY FORMAT: CITE

1. BAYER, 4120 TENNYSON ST, WEST UNIVERSITY PLACE, TX 77005-2750, PERSON LOCATOR - USFIND
2. BAYER, 39 CHURCH ST APT 11, PORT JERVIS, NY 12771-2034, PERSON LOCATOR - USFIND
3. BAYER, 1312 BLUESAIL CIR, WESTLAKE VILLAGE, CA 91361-3409, PERSON LOCATOR - USFIND
4. BAYER, 2100 INDIAN RD, WAUKEGAN, IL 60087-4523, PERSON LOCATOR - USFIND
5. BAYER, 2108 INDIAN RD, WAUKEGAN, IL 60087-4523, PERSON LOCATOR - USFIND
6. BAYER, 25002 CRYSTAL CIR, LAKE FOREST, CA 92630-2509, PERSON LOCATOR - USFIND
7. BAYER, A, 166 E 34TH ST APT 5C, NEW YORK, NY 10016-4719, PERSON LOCATOR - USFIND
8. BAYER, A, 740 W 187TH ST APT 4K, NEW YORK, NY 10033-1224, PERSON LOCATOR - USFIND
9. BAYER, A, 333 E 75TH ST, NEW YORK, NY 10021-3049, PERSON LOCATOR - USFIND
10. BAYER, A, 3225 TURTLE CREEK BLVD APT 1243, DALLAS, TX 75219-5482, PERSON LOCATOR - USFIND
11. BAYER, A B, 5403 W WESTBERRY DR, SAN ANTONIO, TX 78228-1855, PERSON LOCATOR - USFIND
12. BAYER, A, 8 ROYAL RD, DANBURY, CT 06811-3242, PERSON LOCATOR - USFIND
13. BAYER, A, 451 W END AVE # 7D, NEW YORK, NY 10024-5329, PERSON LOCATOR - USFIND
14. BAYER, A & M, 2438 MILTON RD, EAST CLEVELAND, OH 44118-4635, PERSON LOCATOR - USFIND
15. BAYER, A, 20 ATHENA DR, LYSANDER, NY 13027-9291, PERSON LOCATOR - USFIND
16. BAYER, A C, 8120 NW 48TH LN, OCALA, FL 34482-2002, PERSON LOCATOR - USFIND
17. BAYER, A, 2707 WOODSTOCK RD, WEST HOLLYWOOD, CA 90046-1118, PERSON LOCATOR - USFIND
18. BAYER, A W, 3411 LA SELVA PL, ROLLING HILLS ESTATES, CA 90274-1057, PERSON LOCATOR - USFIND
19. BAYER, A, 16740 NE 9TH AVE APT 705, ULETA, FL 33162-2527, PERSON LOCATOR - USFIND
20. BAYER, A C, 1913 WOODBINE ST, KINGSPORT, TN 37660-1153, PERSON LOCATOR - USFIND
21. BAYER, A, 5229 N DIVERSEY BLVD, WHITEFISH BAY, WI 53217-5162, PERSON LOCATOR - USFIND
22. BAYER, A & C, 150 PALM VALLEY BLVD APT 4164, SAN JOSE, CA 95123-1075, PERSON LOCATOR - USFIND
23. BAYER, A E, 52 CIRCUIT DR, PROVIDENCE, RI 02905-3715, PERSON LOCATOR - USFIND
24. BAYER, A & J, 1320 S 157TH PLZ, OMAHA, NE 68130-2572, PERSON LOCATOR - USFIND
25. BAYER, A M, 198 RAINBOW TER, EFFORT, PA 18330-9248, PERSON LOCATOR - USFIND
26. BAYER, A, 615 OWENS ST, BLACKSBURG, VA 24060-7222, PERSON LOCATOR - USFIND
27. BAYER, A W, 3835 THORNTON DR, TAFT, OH 45236-3352, PERSON LOCATOR - USFIND
28. BAYER, A, 21964 NUGGET CANYON DR, HAYWARD, CA 94552-4863, PERSON LOCATOR - USFIND
29. BAYER, A M, 198 RAINBOW TER, EFFORT, PA 18330-9248, PERSON LOCATOR - USFIND
30. BAYER, A, 424 SAND CREEK RD, ALBANY, NY 12205-2736, PERSON LOCATOR - USFIND
31. BAYER, A, 5329 S RIDGE DR, CINCINNATI, OH 45224-3194, PERSON LOCATOR - USFIND
32. BAYER, A T, 1251 BROAD ST APT 7, HOKENDAUQUA, PA 18052-4951, PERSON LOCATOR - USFIND
33. BAYER, A, 1150 WASHINGTON BLVD, TRENTON, NJ 08691-3154, PERSON LOCATOR - USFIND
34. BAYER, A, 438 EVANS AVE, WOOD RIVER, IL 62095-1407, PERSON LOCATOR - USFIND
35. BAYER, A J, 2002 W SUNNYSIDE DR APT 2114, PHOENIX, AZ 85029-3585, PERSON LOCATOR - USFIND
36. BAYER, A, 3883 TREEBROOK DR, IMPERIAL, MO 63052-1186, PERSON LOCATOR - USFIND
37. BAYER, A, 1885 CALIFORNIA ST, MOUNTAIN VIEW, CA 94041-1761, PERSON LOCATOR - USFIND
38. BAYER, A, 309 POPLAR ST, ROSLINDALE, MA 02131-3654, PERSON LOCATOR - USFIND
39. BAYER, A M, 31 GARRISON RD, WELLESLEY, MA 02482-2342, PERSON LOCATOR - USFIND
40. BAYER, A M, 31 GARRISON RD, WELLESLEY, MA 02482-2342, PERSON LOCATOR - USFIND
41. BAYER, A, 32 EGGERT AVE, METUCHEN, NJ 08840-2506, PERSON LOCATOR - USFIND
42. BAYER, A, 421 HARRISON ST, SHARON, PA 16146-2415, PERSON LOCATOR - USFIND
43. BAYER, A C, 7441 SE CONCORD PL, HOBE SOUND, FL 33455-5888, PERSON LOCATOR - USFIND
44. BAYER, A, 1905 S 16TH ST, LAS VEGAS, NV 89104-3519, PERSON LOCATOR - USFIND
45. BAYER, A, 1905 S 16TH ST, LAS VEGAS, NV 89104-3519, PERSON LOCATOR - USFIND
46. BAYER, A & M, 47 KNOLL TER, HAZLET, NJ 07730-1341, PERSON LOCATOR - USFIND

47. BAYER, A, 423 GEORGETOWN ST, SHARPSVILLE, PA 16150-1404, PERSON LOCATOR - USFIND  
48. BAYER, A & M, 32 EGGERT AVE, METUCHEN, NJ 08840-2506, PERSON LOCATOR - USFIND  
49. BAYER, A J, 4324 TILSON LN, HOUSTON, TX 77041-9225, PERSON LOCATOR - USFIND  
50. BAYER, A, 1279 FRENCH RD APT 4, DEPEW, NY 14043-4820, PERSON LOCATOR - USFIND  
51. BAYER, A A, 6140 PHOENIX CT, WEDGEFIELD, SC 29168-9210, PERSON LOCATOR - USFIND  
52. BAYER, A, 1717 MOTT-SMITH DR APT, HONOLULU, HI 96822-2835, PERSON LOCATOR - USFIND  
53. BAYER, A & K, 1114 SOTOGRADE BLVD, EULESS, TX 76040-6042, PERSON LOCATOR - USFIND  
54. BAYER, A, 343 SOQUEL AVE, SANTA CRUZ, CA 95062-2305, PERSON LOCATOR - USFIND  
55. BAYER, A, 237 BAY ST, BAXLEY, GA 31513-0412, PERSON LOCATOR - USFIND  
56. BAYER, A, 511 LESLIE DR, HALLANDALE, FL 33009-2952, PERSON LOCATOR - USFIND  
57. BAYER, A, 9811 WESTVIEW DR APT 912, POMPANO BEACH, FL 33076-2540, PERSON LOCATOR - USFIND  
58. BAYER, A C, 264 WINDOVER GROVE DR, MEMPHIS, TN 38111-4560, PERSON LOCATOR - USFIND  
59. BAYER, A, 5005 GREEN OAKS DR, PLANO, TX 75023-5023, PERSON LOCATOR - USFIND  
60. BAYER, A, 2300 W COUNTY ROAD 38 E LOT 259, FORT COLLINS, CO 80526-6466, PERSON LOCATOR - USFIND  
61. BAYER, A, 1700 DOMAINE WAY, OAKLEY, CA 94561-3025, PERSON LOCATOR - USFIND  
62. BAYER, A, 26092 FLINTLOCK LN, ALISO VIEJO, CA 92653-6328, PERSON LOCATOR - USFIND  
63. BAYER, A, 2501 FULTON SQUARE LN APT 1, SACRAMENTO, CA 95821-2375, PERSON LOCATOR - USFIND  
64. BAYER, A, 80 SW 8TH AVE APT 105A, DANIA BEACH, FL 33004-3272, PERSON LOCATOR - USFIND  
65. BAYER, A, 3946 COUNTY ROAD 207, CALLISBURG, TX 76240-8207, PERSON LOCATOR - USFIND  
66. BAYER, A, 26092 FLINTLOCK LN, ALISO VIEJO, CA 92653-6328, PERSON LOCATOR - USFIND  
67. BAYER, AARON, 10601 SIX PINES RD APT 2017, THE WOODLANDS, TX 77380-3420, PERSON LOCATOR - USFIND  
68. BAYER, AARON, 10601 SIX PINES RD APT 2017, THE WOODLANDS, TX 77380-3420, PERSON LOCATOR - USFIND  
69. BAYER, AARON, 3508 QUAIL RUN DR, OKLAHOMA CITY, OK 73160-7722, PERSON LOCATOR - USFIND  
70. BAYER, AARON, 2600 NW 63RD ST, OKLAHOMA CITY, OK 73116-4950, PERSON LOCATOR - USFIND  
71. BAYER, AARON, 215 MOUNTAIN RD, GLASTONBURY, CT 06033-1512, PERSON LOCATOR - USFIND  
72. BAYER, AARON, 38 SUZANNE DR, MONSEY, NY 10952-2734, PERSON LOCATOR - USFIND  
73. BAYER, AARON, 16 KORITZ WAY, SPRING VALLEY, NY 10977-7830, PERSON LOCATOR - USFIND  
74. BAYER, AARON, 53 WASHINGTON AVE, SPRING VALLEY, NY 10977-1930, PERSON LOCATOR - USFIND  
75. BAYER, ABRAHAM J, 156 W 86TH ST APT 8B, NEW YORK, NY 10024-4031, PERSON LOCATOR - USFIND  
76. BAYER, ABIGAIL G, 814 E 29TH ST, HOUSTON, TX 77009-1026, PERSON LOCATOR - USFIND  
77. BAYER, ADELE A, 6700 W MAPLE RD APT 272, WEST BLOOMFIELD, MI 48322-3009, PERSON LOCATOR - USFIND  
78. BAYER, ADOLPH, 306 N ORANGE ST, STURGIS, MI 49091-1338, PERSON LOCATOR - USFIND  
79. BAYER, ADELAIDE, 308 N LINDEN ST, NORTH MASSAPEQUA, NY 11758-2575, PERSON LOCATOR - USFIND  
80. BAYER, ADA A, 136 GERARD DR, EAST HAMPTON, NY 11937-4704, PERSON LOCATOR - USFIND  
81. BAYER, ADAM, 733 W A AVE, KINGMAN, KS 67068-1210, PERSON LOCATOR - USFIND  
82. BAYER, ADA H, 3000 FOX MILL RD, OAKTON, VA 22124-1214, PERSON LOCATOR - USFIND  
83. BAYER, ADA H, 10864 BURR OAK WAY, SPRINGFIELD, VA 22015-2400, PERSON LOCATOR - USFIND  
84. BAYER, ADALBERT, 5313 N NEWCASTLE AVE, NORRIDGE, IL 60656-2019, PERSON LOCATOR - USFIND  
85. BAYER, ADOLPH, 1615 MEXICO ST, CASTROVILLE, TX 78009-3809, PERSON LOCATOR - USFIND  
86. BAYER, ADAM, 9822 EVANS RD, JACKSONVILLE, FL 32208-1524, PERSON LOCATOR - USFIND  
87. BAYER, ADAM, 2119 N 15TH AVE, HOLLYWOOD, FL 33020-2532, PERSON LOCATOR - USFIND  
88. BAYER, ADAM, 36068 J W ELLIOTT DR, CALLAHAN, FL 32011-3486, PERSON LOCATOR - USFIND  
89. BAYER, ADAM, 2119 N 15TH AVE, HOLLYWOOD, FL 33020-2532, PERSON LOCATOR - USFIND  
90. BAYER, AGNES, 330 REVERE AVE, BRONX, NY 10465-3014, PERSON LOCATOR - USFIND  
91. BAYER, AGNES, 330 REVERE AVE, BRONX, NY 10465-3014, PERSON LOCATOR - USFIND  
92. BAYER, AGNES, 76 N BREWSTER RD, BREWSTER, NY 10509-3955, PERSON LOCATOR - USFIND  
93. BAYER, AHARON, 38 LINCOLN AVE, SPRING VALLEY, NY 10977-7831, PERSON LOCATOR - USFIND  
94. BAYER, ALEXIS, 1 9TH ST SE, WASHINGTON, DC 20003-1306, PERSON LOCATOR - USFIND  
95. BAYER, ALBERT N, 1134 8TH AVE N, NAPLES, FL 34102-8117, PERSON LOCATOR - USFIND  
96. BAYER, ALLEN, 320 BISON LN, SAINT CHARLES, KY 42453-9713, PERSON LOCATOR - USFIND  
97. BAYER, ALBERT, 30003 FINK AVE, FARMINGTON HILLS, MI 48336-3413, PERSON LOCATOR - USFIND  
98. BAYER, ALVINA, 3582 LUCKY LN NW, MILTONA, MN 56354-8311, PERSON LOCATOR - USFIND  
99. BAYER, ALBERT J, 3109 BERMUDA DR, KILLEEN, TX 76549-2174, PERSON LOCATOR - USFIND  
100. BAYER, AL E, 11231 SAGEHAVEN DR, HOUSTON, TX 77089-4726, PERSON LOCATOR - USFIND

**TYPED DRAWING**

**Serial Number**

71134802

**Status**

REGISTERED AND RENEWED

**Word Mark**

"BAYER"

**Standard Character Mark**

No

**Registration Number**

0155612

**Date Registered**

1922/06/06

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

BAYER AKTIENGESELLSCHAFT JOINT STOCK COMPANY FED REP GERMANY  
KONZERNZENTRALE RP, MARKENSCHUTZ D-51368 LEVERKUSEN FED REP GERMANY

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006. G & S: Preparations or Medicines for Pains and Aches of Nervous or Organic Origin and for Rheumatic, Neuralgic, and Gouty Conditions; [ Absorbefacients, Alteratives; ] Analgesics, [ Local and Internal; ] Anodynes; Anti-Neuralgics, [ Local and Internal; ] Anti-Rheumatics, [ Local and Internal; ] Antiarthritics, Antipyretics [; Antiseptics, Local and Internal; Antigonorrhoeics, Antispasmodics, Antituberculous, Antimalarial, Antidiarrheal, Antisyphilitics; Astringents, Local and Internal; Local Anaesthetics, Cicatrizants, Diuretics, Digestants, Diaphoretics, Expectoants, Haematinics, Haemostatics, Hypnotics, Purgatives, Sedatives, and Tonics]. First Use: 1895/01/02. First Use In Commerce: 1895/01/02.

**Filing Date**

1920/07/12

**Examining Attorney**

**Print: Jan 19, 2005**

**71134802**

UNKNOWN

**Attorney of Record**

COLEEN CONNORS BUTLER

**DESIGN MARK**

**Serial Number**

71157406

**Status**

REGISTERED AND RENEWED

**Word Mark**

BAYER

**Standard Character Mark**

No

**Registration Number**

0155382

**Date Registered**

1922/05/30

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

BAYER AG JOINT STOCK COMPANY FED REP GERMANY KONZERNZENTRALE RP,  
MARKENSCHUTZ D-51368 LEVERKUSEN FED REP GERMANY

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006. G & S: Preparations or Medicines for Pains and Aches of Nervous or Organic Origin and for Rheumatic, Neuralgic, and Gouty Conditions; [ Absorbefacients, Alteratives; ] Analgesics, [ Local and Internal; ] Anodynes; Antineuralgics, [ Local and Internal; ] Antirheumatics, [ Local and Internal; ] Antiarthritics, Antipyretics, [ Antiseptics, Local and Internal; Antigonorrhoeics, Antileprics, Antispasmodics, Antituberculous, Antimalarial, Antidiarrheal, Antisyphilitic; Astringents, Local and Internal; Local Anaesthetics, Cicatrizants, Diuretics, Digestants, Diaphoretics, Expectorants, Hematinics, Hemostatics, Hypnotics, Purgatives, Sedatives, and General Tonics]. First Use: 1895/01/02. First Use In Commerce: 1895/01/02.

**Prior Registration(s)**

0067867;0068188;0069512

**Filing Date**

**Print: Jan 19, 2005**

**71157406**

1922/01/03

**Examining Attorney**

UNKNOWN

**Attorney of Record**

COLLEEN CONNORS BUTLER

**B  
A  
BAYER  
E  
R**

**DESIGN MARK**

**Serial Number**

71244738

**Status**

REGISTERED AND RENEWED

**Word Mark**

BAYER

**Standard Character Mark**

No

**Registration Number**

0229153

**Date Registered**

1927/06/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

BIPCO INC CORPORATION DELAWARE 103 FOULK ROAD, SUITE 288 WILMINGTON DELAWARE 19803

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006. G & S: PREPARATIONS OR MEDICINES FOR PAINS AND ACHES OF NERVOUS OR ORGANIC ORIGIN AND FOR RHEUMATIC, NEURALGIC, AND GOUTY CONDITIONS; [ ABSORBEFACIENTS, ALTERATIVES, ] ANALGESICS, [ LOCAL AND INTERNAL; ] ANODYNES; ANTINEURALGICS, [ LOCAL AND INTERNAL; ] ANTIRHEUMATICS, [ LOCAL AND INTERNAL; ] ANTIARTHRITICS, ANTIPYRETICS; [ ANTISEPTICS, LOCAL AND INTERNAL; ANTIGONORRHEICS, ANTILEPRICS, ANTISPASMODICS, ANTITUBERCULOUS, ANTIMALARIAL, ANTIDIARRHEAL, ANTISYPHILITICS; ASTRIGENTS, LOCAL AND INTERNAL; LOCAL ANESTHETICS, CICATRIZANTS, DIURETICS, DIGESTANTS, DIAPHORETICS, EXPECTORANTS, HEMATINICS, HEMOSTATICS, HYPNOTICS, PURGATIVES, SEDATIVES, AND GENERAL TONICS ].  
First Use: 1895/01/02. First Use In Commerce: 1895/01/02.

**Prior Registration(s)**

0067867;0068188;0069512;0155382;0155612;0160832;0160833;0201151;0212490-;AND OTHERS

**Print: Jan 19, 2005**

**71244738**

**Filing Date**

1927/02/23

**Examining Attorney**

UNKNOWN

**Attorney of Record**

COLLEEN C BUTLER



Print: Jan 19, 2005

74572760

**TYPED DRAWING**

**Serial Number**

74572760

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

BAYER

**Standard Character Mark**

No

**Registration Number**

2065441

**Date Registered**

1997/05/27

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

BAYER ATKIENGESELLSCHAFT JOINT STOCK COMPANY FED REP GERMANY 51368  
Leverkusen-Bayerwerk FED REP GERMANY

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
pharmaceutical preparations, namely, anti-fungals, anti-infectives and  
anti-hypertensives; vitamin and mineral supplements; dietetic food  
supplements; and diagnostic reagents for medical use. First Use:  
1995/09/30. First Use In Commerce: 1995/09/30.

**Prior Registration(s)**

0155612;1482868;1484862

**Section 2f Statement**

2(F) ENTIRE MARK

**Filing Date**

1994/09/12

**Examining Attorney**

CHARLON, BARNEY

**Print: Jan 19, 2005**

**74572760**

**Attorney of Record**  
FRED CARL III

Print: Jan 19, 2005

74572762

**DESIGN MARK**

**Serial Number**

74572762

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

BAYER

**Standard Character Mark**

No

**Registration Number**

2063685

**Date Registered**

1997/05/20

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

BAYER AKTIENGESELLSCHAFT JOINT STOCK COMPANY FED REP GERMANY 51368  
Leverkusen-Bayerwerk FED REP GERMANY

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
pharmaceutical preparations, namely anti-fungals, anti-infectives and  
anti-hypertensives; vitamin and mineral supplements; dietetic food  
supplements; and diagnostic reagents for medical use. First Use:  
1995/09/30. First Use In Commerce: 1995/09/30.

**Prior Registration(s)**

1482868;1484862;1531469

**Filing Date**

1994/09/12

**Examining Attorney**

CHARLON, BARNEY



**DESIGN MARK**

**Serial Number**

76230632

**Status**

REGISTERED

**Word Mark**

EXTRA STRENGTH BAYER

**Standard Character Mark**

No

**Registration Number**

2645337

**Date Registered**

2002/11/05

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Bayer Aktiengesellschaft JOINT STOCK COMPANY FED REP GERMANY D-51368  
Leverkusen-Bayerwerk FED REP GERMANY

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
analgesics. First Use: 1999/03/01. First Use In Commerce:  
1999/03/01.

**Prior Registration(s)**

0069512;2332568;AND OTHERS

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "EXTRA STRENGTH" APART  
FROM THE MARK AS SHOWN.

**Lining/Stippling Statement**

The drawing is lined for the color(s) red and the color is claimed as  
a feature of the mark.

**Description of Mark**

The mark consists of the wording "EXTRA STRENGTH BAYER" on an oblong

**Print: Jan 19, 2005**

**76230632**

tablet which is red on the left side and white on the right side. The broken outline of the goods is intended to show the position of the mark and is not a part of the mark.

**Filing Date**

2001/03/23

**Examining Attorney**

KIM, YONG

**Attorney of Record**

Stanley C. Macel, III



**DESIGN MARK**

**Serial Number**

75201510

**Status**

REGISTERED

**Word Mark**

WELEDA

**Standard Character Mark**

No

**Registration Number**

2197033

**Date Registered**

1998/10/20

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Weleda AG CORPORATION SWITZERLAND CH-4144, Arlesheim SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: cosmetical preparations, namely, body care preparations, namely, arnica massage oil, citrus body oil, citrus body lotion, citrus leg toner, citrus foot cream, citrus deodorant, sage deodorant, and unscented body lotion; skin care preparations; namely, iris hand and body lotion, iris cleansing lotion, iris moisturizing cream, iris night cream, iris face oil, iris skin care; baby care preparations, namely, calendula baby cream, medicated baby cream, calendula baby oil, calendula baby powder; bath care preparations, namely, rosemary bath oil, lavender bath oil, pine bath oil; herbal preparations, namely, arnica ointment, balsamicum healing ointment, calendula ointment; and oral care preparations, namely, lip balm; perfumery, namely, arnica essence, calendula essence, and other herbal essences; essential oils for personal use, namely, citronella oil, eucalyptus oil, lavender oil, lemon oil, pine oil, and rosemary oil; soaps, namely, iris soap, calendula baby soap, and rosemary soap; hair lotions; and dentifrices. First Use: 1985/11/24. First Use In Commerce: 1985/11/24.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: pharmaceutical and sanitary preparations, namely, oral care preparations, namely, pink toothpaste, plant gel toothpaste, natural salt toothpaste, calendula toothpaste, and mouthwash concentrate; fruit syrups, namely, birch syrup, black currant-lingonberry syrup, blackthorn syrup, rosehip-buffalo berry syrup; candies, namely, birch candies, blackthorn candies, sage and thyme cough candies; herbal teas, namely, lactagogue for nursing mothers, pinella -- a bitter, sonio bedtime tea, sytra tea for cough, triplex, a carminative, breakfast morning beverage, camomile flowers, birch leaves, horsetail herb; herbal products, namely, arnica ointment, balsamicum healing ointment, cinnabar compound, echinacea compound, ferrum phosphate tablets, infludorn pellets, medicated burn gel, melissengeist, and sedative pills; dietetic substances adapted for medical use, namely, dietary food supplements; dietary drink mix for use as a meal replacement; food for medically restricted diets; and meal replacement and dietary supplement drink mixes. First Use: 1985/11/24. First Use In Commerce: 1985/11/24.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: candies, bonbons. First Use: 1985/11/24. First Use In Commerce: 1985/11/24.

**Prior Registration(s)**

0205563

**Filing Date**

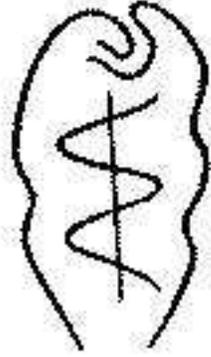
1996/11/21

**Examining Attorney**

KREHELY, KIMBERLY

**Attorney of Record**

Varen C. Belair



**VVELEDA**

**DESIGN MARK**

**Serial Number**

76345752

**Status**

REGISTERED

**Word Mark**

NIADYNE

**Standard Character Mark**

No

**Registration Number**

2813649

**Date Registered**

2004/02/10

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Niadyne, Inc. CORPORATION DELAWARE 2509 N. Campbell Avenue, #138  
Tucson ARIZONA 85719

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
non-medicated skin care preparations for the treatment and prevention  
of photo damage and hyper pigmentation in skin; non-medicated wrinkle  
removing skin preparations; non-medicated skin preparations for  
smoothing, softening, moisturizing, firming and enhancing tone of  
skin; non-medicated skin creams; non-medicated skin lotions;  
non-medicated skin cleansers; non-medicated skin exfoliating  
preparations; non-medicated hair care preparations; non-medicated  
soaps; non-medicated body oils; non-medicated bath gels, shower gels  
and body washes; non-medicated pre-moistened cosmetic tissues,  
towelettes and wipes; non-medicated eye creams. First Use:  
1997/05/00. First Use In Commerce: 2002/07/00.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
medicated skin care preparations for the treatment and prevention of  
photodamage, photoaging, intrinsic aging, actinic keratoses, skin

cancers, atopic dermatitis, telangiectasia, eczema, psoriasis, wrinkles, alopecia areata, lipodystrophy, dermatitis, hyperpigmentation, rosacea, seborrhea dermatitis and skin tags; medicated sun block and sun screen preparations; medicated hair care preparations; medicated hair growth stimulants; pharmaceutical preparations for the treatment of blood cholesterol levels, pharmaceutical preparations for the treatment and prevention of photodamage, photoaging, intrinsic aging, actinic keratoses, skin cancers, atopic dermatitis, telangiectasia, eczema, psoriasis, wrinkles, alopecia areata, lipodystrophy, dermatitis, hyperpigmentation, rosacea, seborrhea dermatitis and skin tags; pharmaceutical preparations for the treatment and prevention of hair loss; medicated transdermal patches for the delivery of micronutrients for the treatment of photodamage, photoaging, intrinsic aging, actinic keratoses, skin cancers, atopic dermatitis, telangiectasia, eczema, psoriasis, wrinkles, alopecia areata, lipodystrophy, dermatitis, hyperpigmentation, rosacea, seborrhea dermatitis and skin tags; medicated transdermal patches for the treatment of blood cholesterol levels; medicated transdermal patches for the treatment of photodamage, photoaging, intrinsic aging, actinic keratoses, skin cancers, atopic dermatitis, telangiectasia, eczema, psoriasis, wrinkles, alopecia areata, lipodystrophy, dermatitis, hyperpigmentation, rosacea, seborrhea dermatitis and skin tags; medicated pre-moistened tissues, towelettes and wipes. First Use: 1997/05/00. First Use In Commerce: 2002/07/00.

**Filing Date**

2001/12/04

**Examining Attorney**

WEIMER, CAROLINE

**Attorney of Record**

LEON MEDZHIBOVSKY

NIADYNE

**DESIGN MARK**

**Serial Number**

76352479

**Status**

REGISTERED

**Word Mark**

EURO PHARMA

**Standard Character Mark**

No

**Registration Number**

2800979

**Date Registered**

2003/12/30

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

EUROPHARMA, INC. CORPORATION WISCONSIN POST OFFICE BOX 22547 GREEN BAY WISCONSIN 54305

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: dietary, herbal, mineral and nutritional supplements; pharmaceuticals for the treatment of coughs, bronchial congestion, acne, headaches, cold and flu symptoms, drowsiness, fatigue, allergy and asthma symptoms, sleeplessness, premenstrual and menstrual problems, minor anxiety, nervous tension, stress, weight loss, sneezing, upset stomach, nausea, flakiness, irritation or itchiness of the skin, burning, irritations and pain of the eyes and nasal passages. First Use: 2003/04/03. First Use In Commerce: 2003/04/03.

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: cosmetics and non-medicated skin care preparations, namely, skin lotions, skin emollients, skin gels, skin moisturizers, skin toners and skin conditioners. First Use: 2003/04/10. First Use In Commerce: 2003/04/10.

**Print: Jan 19, 2005**

**76352479**

**Filing Date**

2001/12/27

**Examining Attorney**

GOODSAID, IRA J.

**Attorney of Record**

L. S. VAN LANDINGHAM, III

**EURO PHARMA**

**DESIGN MARK**

**Serial Number**

76355541

**Status**

REGISTERED

**Word Mark**

MEDICIS

**Standard Character Mark**

No

**Registration Number**

2649243

**Date Registered**

2002/11/12

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Medicis Pharmaceutical Corporation CORPORATION DELAWARE 8125 North Hayden Road Scottsdale ARIZONA 85258

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: Cosmetic preparations, namely, skin creams and lotions. First Use: 1989/08/14. First Use In Commerce: 1989/08/14.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: Pharmaceutical preparations, namely, dermatological preparations, medicated skin care preparations, anti-acne preparations, antibiotic preparations, antifungal preparations, anti-infective preparations, corticosteroid preparations, medicated shampoos, preparations for treatment of inflammatory skin disorders, preparations for treatment of pediculosis, preparations for treatment of rosacea, and preparations for treatment of pigmentation disorders, uneven pigmentation and actinic aging. First Use: 1989/12/00. First Use In Commerce: 1990/12/00.

**Goods/Services**

**Print: Jan 19, 2005**

**76355541**

Class Status -- ACTIVE. IC 041. US 100 101 107. G & S: Arranging and conducting educational conferences in the field of dermatology. First Use: 1994/11/00. First Use In Commerce: 1994/11/00.

**Prior Registration(s)**

1740476;1831028;1995177;2048165;2169710;2243683;2511710;AND OTHERS

**Filing Date**

2002/01/04

**Examining Attorney**

LOHR, AMY

**Attorney of Record**

Daiva K. Tautvydas



MEDICIS

**DESIGN MARK**

**Serial Number**

76424265

**Status**

REGISTERED

**Word Mark**

NU-MED

**Standard Character Mark**

No

**Registration Number**

2873276

**Date Registered**

2004/08/17

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Nu-Med, Inc. CORPORATION NEVADA C/O Jason Psaltides, Esq. 14101 NW 4th Street Sunrise FLORIDA 33325

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: cosmetic and toilet preparations; namely, facial cleansers, toners, moisturizers, wrinkle skin creams, nourishing skin serums; essential oils for personal use, lip colors and lip balm, nail polish, eyebrow pencils, mascara, eye shadow and colors, eye liner, make-up powder, make-up removing creams and washes, cleansing gels, skin toners and cover up, liquid foundation, blush; hair care preparations, including shampoos and cream rinses, styling mousse and gel, hair sprays, rinses and restoratives, soaps, namely, bar soaps for personal use, body shampoos and gels; bubble bath, hand, bath and body lotions and powders, colognes and perfumes, after shave lotion and balm, sun protection preparations; namely, sunscreen creams, sprays and lotions, after sun moisturizer, and lip balm. First Use: 1997/06/08. First Use In Commerce: 1997/06/08.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:

pharmaceuticals, namely, dietary food supplements in the form of vitamins, minerals, antioxidants, vegetable and fish oil supplements, protein supplements in powder form, and the like. First Use: 1997/06/08. First Use In Commerce: 1997/06/08.

**Goods/Services**

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: retail mail order catalog services featuring health and skin care products, cosmetics, fitness products, vitamins and nutritional supplements; and association services, namely, promoting the interests of independent sales representatives. First Use: 1997/06/08. First Use In Commerce: 1997/06/08.

**Filing Date**

2002/06/24

**Examining Attorney**

SALEMI, DOMINICK

**Attorney of Record**

JASON K. PSALTIDES



**DESIGN MARK**

**Serial Number**

76497551

**Status**

REGISTERED

**Word Mark**

DERMAFEX

**Standard Character Mark**

No

**Registration Number**

2911479

**Date Registered**

2004/12/14

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Cyclin Pharmaceuticals, Inc. CORPORATION WISCONSIN 1289 Deming Way  
Madison WISCONSIN 53717

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Antibacterial skin soaps, Cleaning preparations for skin, Face creams,  
Facial cleansers, Facial creams, Gel for skin, Skin care products  
namely, Skin clarifiers, Skin cleansers, Skin cleansing cream, Skin  
cleansing lotion, Skin cream. First Use: 2004/07/21. First Use In  
Commerce: 2004/07/21.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Acne medications, Acne treatment preparations, Antibacterial alcohol  
skin sanitizer gel, Antibacterial pharmaceuticals, Antibiotic creams,  
Antibiotic ointments, Antibiotics, Anti-infectives, Anti-microbial  
handwash, Antivirals, Dermatologicals, Fungal medications, General  
purpose germicide, Homeopathic pharmaceuticals for use in the  
treatment of acne, Medical cleansers for skin and wounds, Medicated  
facial and skin lotions, Medicated skin care preparations, Medicated  
skin preparation for use in treating acne and inflammation, Topical gel

**Print: Jan 19, 2005**

**76497551**

for medical and therapeutic use for acne and inflammation, Vaginal preparations namely antifungals, Wound dressings. First Use: 2002/11/19. First Use In Commerce: 2002/11/19.

**Filing Date**

2003/03/17

**Examining Attorney**

BUSH, KAREN K.

**DERMAFEX**

**TYPED DRAWING**

**Serial Number**

78045443

**Status**

REGISTERED

**Word Mark**

BIO-SENTRY

**Standard Character Mark**

No

**Registration Number**

2681109

**Date Registered**

2003/01/28

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Qualis Incorporated CORPORATION IOWA 4600 Park Avenue Des Moines IOWA 50321

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S: HAND AND BODY LOTIONS AND SHAMPOOS AND CONDITIONERS; LIQUID SOAPS FOR HANDS, FACE AND BODY. First Use: 0099/08/27. First Use In Commerce: 0099/08/27.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: OVER THE COUNTER PHARMACEUTICAL PRODUCTS PACKAGED FOR DIRECT CONSUMER USE, NAMELY, ACNE TREATMENTS; EXTERNAL ANALGESICS FOR MUSCLE TREATMENT; FIRST AID PRODUCTS, NAMELY, ANTI ITCH GELS, CREAMS AND SPRAYS, ANTIFUNGAL CREAM AND LIQUID; DERMATOLOGICALS; FEMININE HYGIENE PRODUCTS, NAMELY, HOME PREGNANCY TEST KITS AND GELS FOR USE AS A PERSONAL LUBRICANT. First Use: 1989/06/22. First Use In Commerce: 1989/06/22.

**Prior Registration(s)**

1632118;2000204

**Print: Jan 19, 2005**

**78045443**

**Filing Date**

2001/01/29

**Examining Attorney**

ASAR, SHARON

**Attorney of Record**

Bruce W. McKee

Print: Jan 19, 2005

78198709

**DESIGN MARK**

**Serial Number**

78198709

**Status**

REGISTERED

**Word Mark**

V

**Standard Character Mark**

No

**Registration Number**

2912687

**Date Registered**

2004/12/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Connetics Corporation CORPORATION DELAWARE 3290 West Bayshore Road  
Palo Alto CALIFORNIA 94303

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
COSMETICS AND SUNSCREENS IN A FOAM VEHICLE. First Use: 2003/02/14.  
First Use In Commerce: 2003/02/14.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
PHARMACEUTICAL PREPARATIONS, NAMELY, A DRUG DELIVERY SYSTEM COMPRISING  
A FOAM VEHICLE FOR THE DELIVERY OF A WIDE VARIETY OF THERAPEUTIC  
AGENTS. First Use: 2004/03/15. First Use In Commerce: 2004/03/15.

**Lineing/Stippling Statement**

The stippling is for shading purposes.

**Filing Date**

2002/12/30

**Examining Attorney**

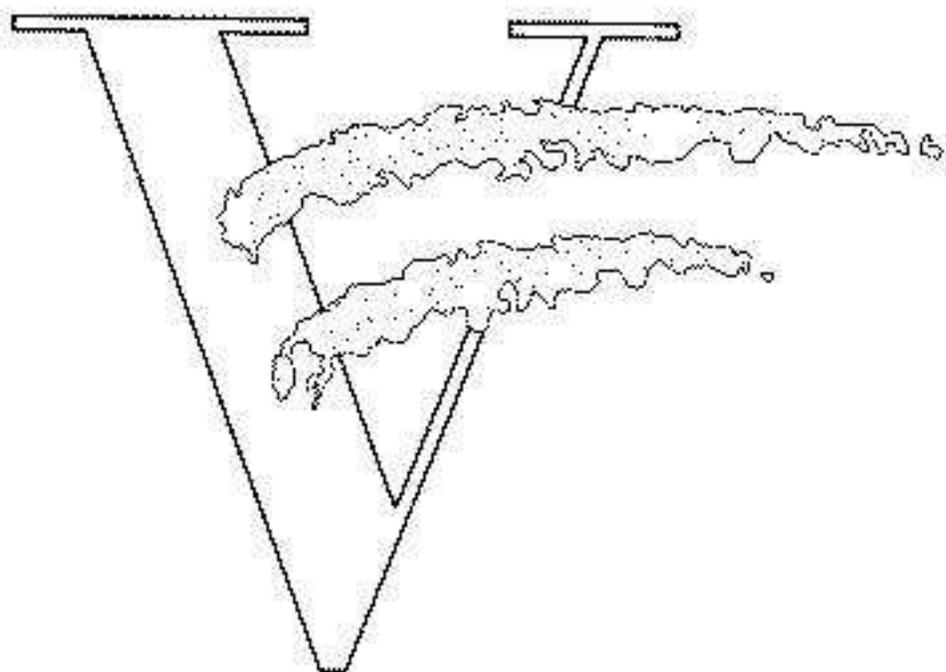
**Print: Jan 19, 2005**

**78198709**

KIM, YONG

**Attorney of Record**

Harold J. Milstein



**TYPED DRAWING**

**Serial Number**

78217236

**Status**

REGISTERED

**Word Mark**

ALVA

**Standard Character Mark**

No

**Registration Number**

2919881

**Date Registered**

2005/01/18

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Alva-Amco Pharmacal Cos., Inc. CORPORATION ILLINOIS 7711 Merrimac Ave.  
Niles ILLINOIS 60714

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
Skin moisturizer; hair lotions. First Use: 1996/12/13. First Use In  
Commerce: 1996/12/13.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Pharmaceutical preparations, namely, diuretic preparations; appetite  
suppressants; stimulant preparations; anti-fungal preparations;  
preparations for helping relief of fever blisters, cold sores, and  
their pain and itching; analgesic preparations; preparations for  
relief of back pain, leg pain, joint aches and pains; and preparations  
for menstrual pain, discomforts of cramps, spasms, back aches,  
headaches, muscular aches, breast tenderness, and pains due to over  
exertion, stress, and strain; preparations to lighten and resolve skin  
discoloration caused by age spots, sun damage, dark patches, post acne  
blemishes, freckles, and uneven skin tone; preparations to improve  
appearance of nails discolored by fungus infection or tobacco use;

Medical diagnostic test strips for use in the field of weight control;  
Medicated grooming preparations for controlling symptoms of psoriasis  
and seborrhea dermatitis, namely medicated shampoo and body wash;  
preparations to relieve stomach upset, fullness, and heartburn;  
Medicated body lotions; vitamin and mineral supplements; Nutritional  
supplements; Laxatives. First Use: 1949/03/02. First Use In  
Commerce: 1949/03/22.

**Prior Registration(s)**

0901719;1701354

**Filing Date**

2003/02/20

**Examining Attorney**

CLAYTON, CHERYL

**Attorney of Record**

James Michael Faier

**TYPED DRAWING**

**Serial Number**

78248078

**Status**

REGISTERED

**Word Mark**

DIVINE ESSENCE

**Standard Character Mark**

No

**Registration Number**

2917229

**Date Registered**

2005/01/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Earth Medicine Ltd. CORPORATION BELIZE 9755 Q St. Suite 259 Omaha  
NEBRASKA 68127

**Goods/Services**

Class Status -- ACTIVE. IC 003. US 001 004 006 050 051 052. G & S:  
After shave lotions, after sun lotions, age retardant gel, age  
retardant lotions, age spot reducing creams, aromatherapy lotions,  
aromatherapy creams, aromatherapy oils, aromatherapy pillows  
comprising potpourri in fabric containers, bath lotion, bath crystals,  
non-medicated bath salts, body cream, body oil, body powder, body  
scrub, body sprays, cosmetic preparations for skin renewal, essential  
oils for personal use, eye compresses for cosmetic purposes, eye  
cream, eye gel, facial cleansers, facial creams, facial emulsions,  
facial scrubs, fragrances for personal use, hair care preparations,  
hair cleaning preparations, hair conditioners, hair lotions, hair  
pomades, hair shampoo, massage oil, night cream, non-medicated body  
soaks, non-medicated compresses, non-medicated stimulating lotions for  
the skin, perfume oils, personal deodorants, pet shampoo, scented body  
spray, scented oils to produce aromas when heated, scented room  
sprays, shower gel, and skin care products, namely skin care  
clarifiers, skin cleansers, skin conditioners, skin cream, skin

emollients, skin lotions and skin moisturizers. First Use:  
2003/05/09. First Use In Commerce: 2003/05/09.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Air deodorizer, air fresheners, eye pillows containing aromatic  
substances for relief from headaches, insomnia and sinus discomfort,  
acne treatment preparations, allergy relief medication, analgesic  
preparations, analgesic balm, analgesics, antidotes for snake bit,  
anti-emetics, anti-coagulants, anti-convulsions, anti-depressants,  
anti-parasitics, herbal products namely aromatherapy packs containing  
herbs used for aromatherapy, herbal teas for medical purposes, herbal  
anti-itch and sore skin ointment for pets, homeopathic supplements,  
insect repellants in the nature of a lamp oil, medicated bath salts,  
medicated compresses, medicated hair care preparations, medicated hand  
wash, medicated shampoo, medicated skin care preparations, medicated  
sunburn lotions, motion sickness treatment preparations, nutritional  
supplements, pharmaceutical preparations namely anti-tussive cold  
preparations, appetite suppressants. First Use: 2003/05/09. First  
Use In Commerce: 2003/05/09.

**Filing Date**

2003/05/09

**Examining Attorney**

AYALA, LOURDES

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-06-08 19:25:16 ET

Serial Number: [76596737 Assignment Information](#)      [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

**BAYER**

(words only): [BAYER](#)

Standard Character claim: No

Current Status: [An office action with a suspension inquiry has been mailed.](#)

Date of Status: [2010-05-05](#)

Filing Date: [2004-06-09](#)

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: [Supplemental](#)

Law Office Assigned: [LAW OFFICE 115](#)

Attorney Assigned:  
[GAYNOR BARBARA ANNE](#)

Current Location: [M6X -TMO Law Office 115 - Examining Attorney Assigned](#)

Date In Location: [2010-05-04](#)

---

**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. [Marcon, Robert Victor](#)

**Address:**

[Marcon, Robert Victor](#)  
[3471 Sinnicks Avenue](#)  
[Niagara Falls, Ontario L2J 2G6](#)  
[Canada](#)

**Legal Entity Type:** [Individual](#)

**Country of Citizenship:** [Canada](#)

**Phone Number:** [\(905\) 354-2543](#)

**Fax Number:** (905) 354-7693

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**GOODS AND/OR SERVICES**

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**International Class:** 003

**Class Status:** Active

Non-medicated breath fresheners delivered via aerosol spray; Non-medicated mouthwash and gargle

**Basis:** 44(d)

**First Use Date:** (DATE NOT AVAILABLE)

**First Use in Commerce Date:** (DATE NOT AVAILABLE)

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**ADDITIONAL INFORMATION**

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**Color(s) Claimed:** Color is not claimed as a feature of the mark.

**Foreign Application Number:** 1,201,366

**Country:** Canada

**Foreign Filing Date:** 2003-12-11

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**MADRID PROTOCOL INFORMATION**

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(NOT AVAILABLE)

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**PROSECUTION HISTORY**

---

**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

2010-05-05 - Inquiry as to suspension mailed

2010-05-04 - Suspension Inquiry Written

2009-11-04 - Letter of suspension mailed

2009-11-04 - Suspension Letter Written

2009-11-03 - Amendment From Applicant Entered

2009-11-03 - Communication received from applicant

2009-11-02 - Assigned To LIE

2009-10-30 - PAPER RECEIVED

2009-05-06 - Letter of suspension mailed

2009-05-05 - Suspension Letter Written

2009-05-05 - Amendment From Applicant Entered  
2009-05-05 - Communication received from applicant  
2009-05-04 - PAPER RECEIVED  
2008-11-05 - Letter of suspension mailed  
2008-11-04 - Suspension Letter Written  
2008-11-04 - Amendment From Applicant Entered  
2008-11-04 - Communication received from applicant  
2008-11-03 - PAPER RECEIVED  
2008-05-08 - Letter of suspension mailed  
2008-05-07 - Suspension Letter Written  
2008-05-07 - Amendment From Applicant Entered  
2008-05-07 - Communication received from applicant  
2008-05-06 - PAPER RECEIVED  
2007-11-05 - Correspondence Mailed  
2007-11-02 - PAPER RECEIVED  
2007-11-05 - Suspension Inquiry Written  
2007-05-04 - Letter of suspension mailed  
2007-05-03 - Suspension Letter Written  
2007-05-03 - Amendment From Applicant Entered  
2007-04-09 - Communication received from applicant  
2007-05-03 - Assigned To LIE  
2007-04-09 - PAPER RECEIVED  
2006-11-09 - Letter of suspension mailed  
2006-11-08 - Suspension Letter Written  
2006-11-08 - Amendment From Applicant Entered  
2006-10-12 - Communication received from applicant

2006-10-16 - Correspondence Mailed  
2006-10-12 - PAPER RECEIVED  
2006-10-16 - Inquiry as to suspension mailed  
2006-10-14 - Suspension Inquiry Written  
2006-04-14 - Letter of suspension mailed  
2006-04-13 - Suspension Letter Written  
2006-03-24 - Amendment From Applicant Entered  
2006-02-17 - Communication received from applicant  
2006-02-17 - PAPER RECEIVED  
2006-02-15 - Inquiry as to suspension mailed  
2006-02-15 - Suspension Inquiry Written  
2005-08-15 - Letter of suspension mailed  
2005-08-12 - Suspension Letter Written  
2005-07-22 - Amendment From Applicant Entered  
2005-07-14 - Communication received from applicant  
2005-07-14 - PAPER RECEIVED  
2005-01-21 - Non-final action mailed  
2005-01-19 - Non-Final Action Written  
2005-01-09 - Assigned To Examiner  
2004-06-24 - New Application Entered In Tram

---

**ATTORNEY/CORRESPONDENT INFORMATION**

---

**Correspondent**

ROBERT V MARCON  
3471 SINNICKS AVE  
NIAGARA FALLS ONTARIO  
L2J 2G6  
CANADA  
Phone Number: (905) 354-2543

Fax Number: (905) 354-7693

---

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

In the Matter of Application Serial No. 76/596,736  
Published in the Official Gazette on May 6, 2008  
Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

**ORAL ARGUMENT REQUESTED**

**EXHIBIT C-13 TO OPPOSER'S NOTICE OF RELIANCE**



06-09-2004

U.S. Patent & TMOfo/TM Mail Rcpt Dt. #67

Robert Victor Marcon,  
3471 Sinnicks Avenue,  
Niagara Falls, Ontario,  
Canada,  
L2J 2G6

For: (a) Vitamin, mineral, and herbal supplements, and combinations thereof; (b) Over the counter medications, namely; analgesics, sleep aids and preparations for making the same, cold and flu medications; (c) Beer; (d) Ale; (e) Non-alcoholic malt beverages; (f) Non-alcoholic coolers and spritzers; (g) Alcoholic coolers and spritzers, namely; malt based, wine based, and distilled spirit based; (h) Distilled spirits; (i) Liqueurs; (j) Cordials; (k) Edible nuts and legumes, edible oils; and (l) Cheese, in International Class 32.

Basis for Filing: Section 1(b) and 44(d)

NESTLÉ

U.S. Patent & TM Ofc/TM



**76596738**

76596738

TRADEMARK APPLICATION SERIAL NO. \_\_\_\_\_

U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE  
FEE RECORD SHEET

06/16/2004 KGIBBONS 00000146 76596738

01 FC:6001

335.00 OP

Mr. Robert V. Marcon,  
3471 Sinnicks Avenue,  
Niagara Falls, Ontario,  
Canada,  
L2J 2G6

June 8, 2004

Commissioner for Trademarks,  
2900 Crystal Drive,  
Arlington, Virginia,  
U.S.A.,  
22202-3514

Re: "NESTLÉ" Trademark Application

Dear Sir:

I, Robert Victor Marcon, am hereby filing an application for the registration of the trademark NESTLÉ.

Enclosed herein are the following documents:

- (1) The trademark application for NESTLÉ; and
- (2) A money order in the amount of \$335.00 U.S. to cover the filing fee.

Thank you for your attention to this matter. Please contact me if you have any questions regarding this application.

**(CERTIFICATION)**

Mailed To: Commissioner for Trademarks,  
2900 Crystal Drive,  
Arlington, VA,  
U.S.A.,  
22202-3514

Mailing Date: 8 June 2004 in Niagara Falls, N.Y., U.S.A.

No. of Pages: Twelve (12)

Certification: I hereby certify that this correspondence and/or fee is being deposited in an envelope with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated below and is addressed to the "Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA, U.S.A., 22202-3514".

Express Mail Label Number: EH960575899US  
Date of Deposit: 8 June 2004  
Name of Depositor: Robert V. Marcon

Signature of Depositor: Robert V. Marcon

Very Respectfully,

*Robert V. Marcon*

Mr. Robert V. Marcon  
Applicant Pro Se  
8 June 2004

1 **TRADEMARK/SERVICE MARK APPLICATION**

2 **(15 U.S.C. Subsection 1051, 1126(d)&(e))**

3  
4 **APPLICANT INFORMATION**

5 Name of Applicant: Robert Victor Marcon

6  
7 Residency Address: Street: 3471 Sinnicks Avenue  
8 City/Province: Niagara Falls, Ontario  
9 Country: Canada  
10 Zip Code: L2J 2G6

11  
12 Correspondence Address: Street: 3471 Sinnicks Avenue  
13 City/Province: Niagara Falls, Ontario  
14 Country: Canada  
15 Zip Code: L2J 2G6

16  
17 Other Communications: Telephone: (905) 354-2543  
18 Facsimile: (905) 354-7693  
19 E-Mail: Not Applicable

20  
21 **APPLICANT ENTITY INFORMATION**

- 22 (1) Applicant is an individual.  
23 (2) Applicant is a citizen of Canada.

24  
25 **TRADEMARK/SERVICE MARK INFORMATION**

- 26 (1) The mark is:

27 **NESTLÉ**

- 28  
29 (2) The mark is typed form.

30 **BASIS FOR FILING AND GOODS/SERVICES INFORMATION**

31 **Intent to Use: Section 1(b)**

32 The Applicant has a bona fide intention to use the mark in commerce  
33 on or in connection with the below-identified goods and/or services (15  
34 U.S.C. Subsection 1051(b)).

35  
36 (1) International class 32.

37 (2) Listing of Goods and/or Services:

38 (a) Vitamin, mineral, and herbal supplements, and  
39 combinations thereof;

40 (b) Over the counter medications, namely; analgesics, sleep  
41 aids and preparations for making the same, cold and flu  
42 medications;

43 (c) Beer;

44 (d) Ale;

45 (e) Non-alcoholic malt beverages;

46 (f) Non-alcoholic coolers and spritzers;

47 (g) Alcoholic coolers and spritzers, namely; malt based, wine  
48 based, and distilled spirit based;

49 (h) Distilled spirits;

50 (i) Liqueurs;

51 (j) Cordials;

52 (k) Edible nuts and legumes, edible oils; and

53 (l) Cheese.

54  
55 **Foreign Priority: Section 44(d)**

56 The Applicant has a bona fide intention to use the mark in commerce  
57 on or in connection with the below-identified goods and/or services, and  
58 asserts a claim of priority based upon a foreign application in accordance with

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15 U.S.C. Section 1126(d).

- (1) International Class Number(s): Not Known
- (2) Listing of Goods and/or Services:
  - (a) Vitamin, mineral, and herbal supplements, and combinations thereof;
  - (b) Over the counter medications, namely; analgesics, sleep aids and preparations for making the same, cold and flu medications;
  - (c) Beer;
  - (d) Ale;
  - (e) Non-alcoholic malt beverages;
  - (f) Non-alcoholic coolers and spritzers;
  - (g) Alcoholic coolers and spritzers, namely; malt based, wine based, and distilled spirit based;
  - (h) Distilled spirits;
  - (i) Liqueurs;
  - (j) Cordials;
  - (k) Edible nuts and legumes, edible oils; and
  - (l) Cheese.
- (3) Country of Foreign Filing: Canada
- (4) Foreign Application Number: 1,201,360
- (5) Date of Foreign Filing: 11 December 2003
- (6) Application Docket Number: Mark-19

**FILING FEE INFORMATION**

- (1) Filing Fee Calculation:
  - (a) Cost per Class: \$335.00 U.S.
  - (b) Number of Classes: 1

88 (c) Total Filing Fee: \$335.00 U.S.  
89 (2) Method of Filing Fee Payment: Money Order  
90

91 **DOMESTIC REPRESENTATIVE**

92 There is no domestic representative assigned to this application.  
93

94 **SIGNATURE INFORMATION**

95 The Applicant request registration of the above-identified mark in the United  
96 States Patent and Trademark Office on the Principal Register established by Act of  
97 July 5, 1946 (15 U.S.C. Section 1051 et seq.) for the above-identified goods and/or  
98 services.

99 The undersigned, being hereby warned that wilful false statements and the  
100 like so made are punishable by fine or imprisonment, or both, under 18 U.S.C.  
101 Section 1001, and that such wilful false statements may jeopardize the validity of  
102 the application or any resulting registrations, declares that he/she is properly  
103 authorized to execute this application on behalf of the applicant; he/she believes the  
104 applicant to be the owner of the trademark/service mark sought to be registered, or,  
105 if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes  
106 Applicant to be entitled to use such mark in commerce; to the best of his/her  
107 knowledge and belief no other person, firm, corporation, or association has the right  
108 to use the mark in commerce, either in identical form thereof or in such new  
109 resemblance thereto as to be likely, when used on or in connection with the  
110 goods/services of such other person, to cause confusion, or to cause mistake, or  
111 to deceive; and that all statements made of his/her knowledge are true; and that all  
112 statements made on information and belief are believed to be true.

113  
114 Signature:

Robert Victor Marcon

115  
116 Print Name:

Robert Victor Marcon

117 Date Signed: 8 June 2004

118 Title: Individual

119

120 **CONTACT INFORMATION**

121 Name of Contact: Robert V. Marcon

122 Mailing Address: Street: 3471 Sinnicks Avenue

123 City/Province: Niagara Falls, Ontario

124 Country: Canada

125 Zip Code: L2J 2G6

126 Other Communications: Telephone: (905) 354-2543

127 Facsimile: (905) 354-7693

128 E-Mail: Not Applicable

**ATTENTION**

**FOREIGN REGISTRATION CERTIFICATE  
IS ENCLOSED INSIDE FILE  
JACKET**



**Office de la propriété  
intellectuelle  
du Canada**

Un organisme  
d'Industrie Canada

**Canadian  
Intellectual Property  
Office**

An Agency of  
Industry Canada

ROBERT MARCON  
3471 Sinnicks Avenue  
Niagara Falls  
ONTARIO L2J 2G6

Date	11 déc/Dec 2003
Votre référence - Your reference	
Numéro de dossier - File number	<b>1201360</b>

Requérant - Applicant:  
ROBERT MARCON

Marque de commerce - Trade-mark:  
NESTLE

### AVIS DE RÉCEPTION

Nous accusons réception de la demande d'enregistrement de cette marque de commerce ainsi que du droit de production de la demande. La date de production de cette demande est:

**11 déc/Dec 2003**

Pour toute correspondance veuillez inclure le numéro de dossier mentionné ci-dessus.

Pour obtenir des renseignements sur les marques de commerce veuillez signaler le (819) 997-1936 ou visitez notre site Web au <http://opic.gc.ca>. De plus, vous pouvez obtenir de l'information concernant le statut de votre demande à partir de la Base de données des marques des commerce via notre site Web.

Une feuille de vérification de votre demande est jointe à titre de révision. Si vous avez des questions concernant l'information qui y figure, veuillez communiquer avec :

La Section des Formalités  
Place du Portage I  
50, rue Victoria, Hull, (Québec) K1A 0C9  
Téléphone : (819) 997-1070 Télécopieur : (819) 953-6742

### FILING NOTICE

Receipt is acknowledged of the application and filing fee for the registration of this trade-mark. This application's filing date is:

For all future correspondence please include the file number stated above.

For general information on trade-marks please call (819) 997-1936 or visit our Web site at <http://cipo.gc.ca>. You may also obtain status information on your application from the Trade-marks Database on our Web site.

A Proof Sheet of the application is attached for your review. If you have any questions on the information contained within the Proof Sheet please contact:

Formalities Section  
Place du Portage I  
50 Victoria Street, Hull, Quebec K1A 0C9  
Tel: (819) 997-1070 Fax: (819) 953-2476

Registraire des marques de commerce  
Registrar of Trade-marks

**Canada**

<http://opic.gc.ca> · Ottawa Hull K1A 0C9 · <http://cipo.gc.ca>

OPIC



CIPO

**APPL'N/DEM. NO 1 201 360**

**FORMALIZED/FORMALITÉS ACCOMPLIES**

**FILING DATE/DATE DE PRODUCTION:**

**11 déc/Dec 2003**

**APPLICANT/REQUÉRANT:**

ROBERT MARCON  
3471 Sinnicks Avenue  
Niagara Falls  
ONTARIO  
L2J 2G6

**TRADE-MARK/MARQUE DE COMMERCE:**

**NESTLE**

**INDEX HEADINGS/RUBRIQUES:**

NESTLE  
\*

**WARES/MARCHANDISES:**

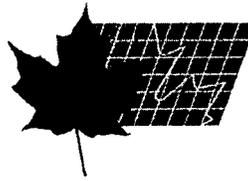
1. VITAMIN, MINERAL AND HERBAL SUPPLEMENTS AND COMBINATIONS THEREOF 2. OVER THE COUNTER MEDICATIONS, NAMELY; ANALGESICS, SLEEP AIDS AND PREPARATIONS FOR MAKING THE SAME, COLD AND FLU MEDICATIONS 3. BEER 4. ALE 5. NON ALCOHOLIC MALT BEVERAGES 6. NON ALCOHOLIC COOLERS AND SPRITZERS 7. ALCOHOLIC COOLERS AND SPRITZERS, NAMELY; MALT BASED, WINE BASED, DISTILLED SPIRIT BASED. 8. DISTILLED SPIRITS 9. LIQUEURS 10. CORDIALS 11. EDIBLE NUTS AND LEGUMES, EDIBLE OILS 12. CHEESE.

**CLAIMS/REVEDICATIONS:**

Proposed Use in CANADA on wares.

<b>Action</b>	<b>Date</b>	<b>BF</b>	<b>Comments/Commentaires</b>
filed/produite	2003/12/11		
created/créé	2003/12/11		
formalized/formalisée	2003/12/11		

OPIC  
OFFICE DE LA PROPRIÉTÉ  
INTELLECTUELLE DU CANADA  
MARQUES DE COMMERCE



Ottawa Hull K1A 0C9

CIPO  
CANADIAN INTELLECTUAL  
PROPERTY OFFICE  
TRADE-MARKS

ROBERT MARCON  
3471 Sinnicks Avenue  
Niagara Falls  
ONTARIO L2J 2G6

23 déc/Dec 2003  
*Votre référence Your File*  
*Notre référence Our File*  
1201360

RE: Trade-mark: NESTLÉ  
Applicant: ROBERT MARCON

---

Your correspondence of December 11, 2003 has been received and placed on file.

As you can see above, the accent has been put on the E.

However, the applicant was originally ROBERT MARCON, now it appears as ROBEEWRT MARCON. Please specify if this is a change of name, a correction or simply a typo.

A complete examination of the subject application will take place in due course.

If the applicant/agent has any questions or needs assistance in responding to this Office action, please telephone the assigned examiner.

Yours truly,

Chantal Touchette  
Examination Section  
(819) 997-2332  
fax: (819) 953-2476



Canadian Intellectual  
Property OfficeOffice de la propriété  
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Canadian Intellectual Property Office

[⇒ Search Page](#)**CANADIAN TRADE-MARK DATA**

\*\*\* Note : Data on trade-marks is shown in the official language in which it was submitted.

The database was last updated on: 2004-03-23

**APPLICATION NUMBER:**

1201360

**REGISTRATION NUMBER:** not

registered

**STATUS:**

SEARCHED

**FILED:**

2003-12-11

**FORMALIZED:**

2003-12-11

**APPLICANT:**ROBERT MARCON  
3471 Sinnicks Avenue

Niagara Falls

L2J 2G6

ONTARIO

**TRADE-MARK:****NESTLÉ****INDEX HEADINGS:**

NESTLE

**WARES:**<http://strategis.ic.gc.ca/SSG/1201/trdp120136000e.html>

28/03/2004

(1) 1. VITAMIN, MINERAL AND HERBAL SUPPLEMENTS AND COMBINATIONS THEREOF 2. OVER THE COUNTER MEDICATIONS, NAMELY; ANALGESICS, SLEEP AIDS AND PREPARATIONS FOR MAKING THE SAME, COLD AND FLU MEDICATIONS 3. BEER 4. ALE 5. NON ALCOHOLIC MALT BEVERAGES 6. NON ALCOHOLIC COOLERS AND SPRITZERS 7. ALCOHOLIC COOLERS AND SPRITZERS, NAMELY; MALT BASED, WINE BASED, DISTILLED SPIRIT BASED. 8. DISTILLED SPIRITS 9. LIQUEURS 10. CORDIALS 11. EDIBLE NUTS AND LEGUMES, EDIBLE OILS 12. CHEESE

**CLAIMS:**

Proposed Use in CANADA.

<b>ACTION</b>	<b>DATE</b>	<b>BF</b>	<b>COMMENTS</b>
Filed	11 December 2003		
Created	11 December 2003		
Formalized	11 December 2003		
Correspondence created	23 December 2003		
Search recorded	10 February 2004		
Examiner's first report	10 February 2004	10 June 2004	

[Back](#)

# UNITED STATES PATENT AND TRADEMARK OFFICE

**SERIAL NO:** 76/596738

**APPLICANT:** Marcon, Robert Victor

**\*76596738\***

**CORRESPONDENT ADDRESS:**  
ROBERT V. MARCON  
3471 SINNICKS AVENUE  
NIAGARA FALLS, ONTARIO  
CANADA L2J 2G6

**RETURN ADDRESS:**  
Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451

**MARK:** NESTLÉ

**CORRESPONDENT'S REFERENCE/DOCKET NO:** N/A

Please provide in all correspondence:

**CORRESPONDENT EMAIL ADDRESS:**

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

## OFFICE ACTION

**TO AVOID ABANDONMENT, WE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF OUR MAILING OR E-MAILING DATE.**

Serial Number 76/596738

The assigned examining attorney has reviewed the referenced application and determined the following:

### **Refusal Under Section 2(d) – Likelihood of Confusion**

The examining attorney refuses registration under Trademark Act Section 2(d), 15 U.S.C. §1052(d), because the applicant's mark, when used on or in connection with the identified goods, so resembles the marks in U.S. Registration Nos. 0380007; 0629231; 0630563; 0776699; 0766032; 0188089; 1,110,632; 1,105,743; 1,521,476; 1,534,496; 1,622,720; 2,046,519; 2,089,943; 2,081,154; 2,200,148; 2,291,305; 2,121,177; 2,216,671; 2,221,586; 2,468,680; 2,702,800; 2,663,879; 2,170,060; 2,204,415; 2,626,227; and 2,846,922 (all owned by the same registrant) as to be likely to cause confusion, to cause mistake, or to deceive. TMEP §§1207.01 *et seq.* See the enclosed registrations.

The examining attorney must analyze each case in two steps to determine whether there is a likelihood of confusion. First, the examining attorney must look at the marks themselves for similarities in appearance, sound, connotation and commercial impression. *In re E. I. DuPont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973). Second, the examining attorney must compare the goods or services to determine if they are related or if the activities surrounding their marketing are such that confusion as to

origin is likely. *In re August Storck KG*, 218 USPQ 823 (TTAB 1983); *In re International Telephone and Telegraph Corp.*, 197 USPQ 910 (TTAB 1978); *Guardian Products Co., v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978). TMEP §§1207.01 *et seq.*

The applicant has applied to register NESTLE (Standard Character Drawing) for “Vitamin, mineral, and herbal supplements, and combinations thereof; Over the counter medications, namely; analgesics, sleep aids and preparations for making the same, cold and flu medications; Beer; Ale; Non-alcoholic malt beverages; Non-alcoholic coolers and spritzers; Alcoholic coolers and spritzers, namely; malt based, wine based, and distilled spirit based; Distilled spirits; Liqueurs; Cordials; Edible nuts and legumes, edible oils; and Cheese.” The twenty-six cited registrations are all owned by Societe des Produits Nestle, S.A., and they all contain the same dominant wording, either in whole or in part, “NESTLE.”

In some cases, such as Registration Nos. 1,534,496; 2,221,586; and 2,846,922, the marks are identical. Both the applicant’s mark and the registrant’s marks consist solely of the typed/standard character drawing of the word “NESTLE.” In other cases, such as Registration Nos. 0380007; 0188089; 1,105,743; 1,521,476; 1,622,720; 2,089,943; 2,081,154; 2,291,305; 2,702,800; and 2,170,060, the applicant’s mark and literal portion of the registrant’s marks are essentially phonetic equivalents. Similarity in sound alone is sufficient to find a likelihood of confusion. *Molenaar, Inc. v. Happy Toys Inc.*, 188 USPQ 469 (TTAB 1975); *In re Cresco Mfg. Co.*, 138 USPQ 401 (TTAB 1963). TMEP §1207.01(b)(iv).

With respect to the remaining cited registrations, the examining attorney must look at the marks in their entireties under Section 2(d). Nevertheless, one feature of a mark may be recognized as more significant in creating a commercial impression. Greater weight is given to that dominant feature in determining whether there is a likelihood of confusion. *In re National Data Corp.*, 224 USPQ 749 (Fed. Cir. 1985); *Tektronix, Inc. v. Daktronics, Inc.*, 534 F.2d 915, 189 USPQ 693 (C.C.P.A. 1976). *In re J.M. Originals Inc.*, 6 USPQ2d 1393 (TTAB 1988). TMEP §1207.01(b)(viii). In this case, the applicant’s mark and the registrant’s marks all contain the same dominant wording, “NESTLE.” The applicant’s mark consists solely of the word “NESTLE.” The registrant’s marks consist of its corporate name “NESTLE” combined with other matter.

Marks may be confusingly similar in appearance where there are similar terms or phrases or similar parts of terms or phrases appearing in both applicant’s and registrant’s mark. *See e.g., Crocker Nat’l Bank v. Canadian Imperial Bank of Commerce*, 228 USPQ 689 (TTAB 1986), *aff’d* 1 USPQ2d 1813 (Fed. Cir. 1987) (COMMCASH and COMMUNICASH); *In re Phillips-Van Heusen Corp.*, 228 USPQ 949 (TTAB 1986) (21 CLUB and “21” CLUB (stylized)); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985) (CONFIRM and CONFIRMCELLS); *In re Collegian Sportswear Inc.*, 224 USPQ 174 (TTAB 1984) (COLLEGIAN OF CALIFORNIA and COLLEGIENNE); *In re Pellerin Milnor Corp.*, 221 USPQ 558 (TTAB 1983) (MILTRON and MILLTRONICS); *In re BASF A.G.*, 189 USPQ 424 (TTAB 1975) (LUTEXAL and LUTEX); TMEP §1207.01(b)(i).

Until such time as the applicant amends his identification of goods (see subsection 2 below), it would be fruitless to compare his goods with the goods of the registrant in any great detail. Instead, the examining attorney will discuss just some of the ways the applicant’s goods are related to the registrant’s goods.

In some cases, the goods are identical, in part. The applicant’s identification of goods includes “cheese.” Registration No. 0380007 contains “cheese.” Registration No. 2,468,680 contains several cheese products, namely, cheese soufflé, cheese spreads, cheese dips, and potatoes au gratin.

In most cases, however, the applicant's and the registrant's goods are not identical, but related. The applicant has applied to register his mark in International Class 32. The applicant's goods that are properly classified in International Class 32 are "Beer; Ale; Non-alcoholic malt beverages; Non-alcoholic coolers and spritzers." (See subsection 2 below). The registrant has several registrations that contain, in whole or in part, International Class 32. Registration No. 0776699 is NESTLE KEEN (and Design) for "INSTANT SOFT DRINK MIX." Registration No. 1,622,720 is NESTLE (and Design) for "fruit juices." Registration No. 2,468,680 is NESTLE MAKES THE VERY BEST (Typed) for "Fruit juices, fruit nectars, fruit drinks, vegetable juices, sparkling spring water with fruit juice, non-carbonated fruit drinks, non-carbonated lemonade, tea flavored soft drinks." Registration No. 2,702,800 is NESTLE (and Design) for "spring water." Registration No. 2,846,922 is NESTLE (Typed) for "DRINKING WATERS, NAMELY, SPRING WATER."

It is well-settled that the goods/services of the parties need not be identical or directly competitive to find a likelihood of confusion. They need only be related in some manner, or the conditions surrounding their marketing be such, that they could be encountered by the same purchasers under circumstances that could give rise to the mistaken belief that the goods/services come from a common source. *In re Martin's Famous Pastry Shoppe, Inc.*, 748 F.2d 1565, 223 USPQ 1289 (Fed. Cir. 1984); *In re Corning Glass Works*, 229 USPQ 65 (TTAB 1985); *In re Rexel Inc.*, 223 USPQ 830 (TTAB 1984); *Guardian Products Co., Inc. v. Scott Paper Co.*, 200 USPQ 738 (TTAB 1978); *In re International Telephone & Telegraph Corp.*, 197 USPQ 910 (TTAB 1978). TMEP §1207.01(a)(i).

Attached are copies of printouts from the USPTO X-Search database which show ten *representative* third-party registrations of marks used in connection with the same or similar goods as those of applicant and registrant. The printouts have probative value to the extent that they serve to suggest that the goods listed therein, namely, beer, ale, non-alcoholic malt beverages, non-alcoholic coolers and spritzers; and fruit drinks, fruit and vegetable juices, and drinking water, are of a kind that may emanate from a single source.

*In re Infinity Broadcasting Corp. of Dallas*, 60 USPQ2d 1214, 1218 (TTAB 2001), *citing In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); and *In re Mucky Duck Mustard Co., Inc.*, 6 USPQ2d 1467, 1470 at n.6 (TTAB 1988).

Moreover, any goods or services in the registrant's normal fields of expansion must also be considered in order to determine whether the registrant's goods or services are related to the applicant's identified goods or services for purposes of analysis under Section 2(d). *In re General Motors Corp.*, 196 USPQ 574 (TTAB 1977). The test is whether purchasers would believe the product or service is within the registrant's logical zone of expansion. *CPG Prods. Corp. v. Perceptual Play, Inc.*, 221 USPQ 88 (TTAB 1983); TMEP §1207.01(a)(v).

The marks are either identical, phonetic equivalents, or contain the same dominant wording. The goods are identical or related. The similarities among the marks and the goods are so great as to create a likelihood of confusion among consumers. The examining attorney must resolve any doubt as to the issue of likelihood of confusion in favor of the registrant and against the applicant **who has a legal duty to select a mark which is totally dissimilar to trademarks already being used.** *Burroughs Wellcome Co. v. Warner?Lambert Co.*, 203 USPQ 191 (TTAB 1979).

Although the examining attorney has refused registration, the applicant may respond to the refusal to register by submitting evidence and arguments in support of registration.

**Prior Pending Applications**

The examining attorney encloses information regarding pending Application Serial Nos. 76/134133; 76/222932; 76/269360; 78/106749; and 78/187437 (owned by the same registrant cited above). The filing dates of the referenced applications precede the applicant's filing date. There may be a likelihood of confusion between the applicant's mark and the referenced marks under Trademark Act Section 2(d), 15 U.S.C. §1052(d). If one or more of the referenced applications matures into a registration, the examining attorney may use the registrations as an additional basis for refusing registration in this case under Section 2(d). 37 C.F.R. §2.83; TMEP §1208.01.

If the applicant chooses to respond to the refusal to register, the applicant must also respond to the following informalities:

**1. Advisory Regarding Domestic Representative**

Applicant *may* designate a domestic representative upon whom notices or process may be served. Trademark Act Section 1(e), 15 U.S.C. §1051(e); 37 C.F.R. §2.24; TMEP §§604, 811 and 1013. If applicant does not designate a domestic representative, notices or process in proceedings affecting the mark may be served on the Director of the USPTO. Trademark Act Section 1(e), 15 U.S.C. §1051(e).

The examining attorney provides the following example for the applicant's convenience in preparing an Appointment of Domestic Representative, should he choose to designate a domestic representative.

DESIGNATION OF DOMESTIC REPRESENTATIVE

\_\_\_\_\_ Identify the mark Serial No. \_\_\_\_\_

\_\_\_\_\_ Name of applicant Date of signature \_\_\_\_\_

\_\_\_\_\_ (Name of domestic representative)

whose postal address is \_\_\_\_\_

\_\_\_\_\_ is hereby designated applicant's representative upon whom notice or process in proceedings affecting the mark may be served.

---

(Signature)

**2. Identification and Classification of Goods**

a. Applicant must clarify the number of classes for which registration is sought. The submitted filing fees are insufficient to cover all the classes in the application. Specifically, the application identifies goods that are classified in at least five international classes; however, applicant paid the fee for only one class of goods.

Applicant must either: (1) restrict the application to the number of class(es) covered by the fee already paid, or (2) pay the required fee for each additional class(es). 37 C.F.R. §2.86(a)(2); TMEP §§810.01, 1401.04, 1401.04(b) and 1403.01.

b. The applicant has classified “Vitamin, mineral, and herbal supplements, and combinations thereof; Over the counter medications, namely; analgesics, sleep aids and preparations for making the same, cold and flu medications” and “Alcoholic coolers and spritzers, namely; malt based, wine based, and distilled spirit based; Distilled spirits; Liqueurs; Cordials; Edible nuts and legumes, edible oils; and Cheese” in International Class 32. The correct classifications are International Class 5 for the “Vitamin, mineral, and herbal supplements, and combinations thereof; Over the counter medications, namely; analgesics, sleep aids and preparations for making the same, cold and flu medications”; International Class 33 for the “Alcoholic coolers and spritzers, namely; malt based, wine based, and distilled spirit based; Distilled spirits; Liqueurs; Cordials”; International Class 31 for nuts and legumes that are raw, unprocessed, or fresh; and International Class 29 for “edible oils; and Cheese” and nuts and legumes that are roasted, shelled, or otherwise processed. The applicant must either delete the foregoing goods or add International Classes 5, 33, 29, and/or 31 to the application. 37 C.F.R. §§2.32(a)(7) and 2.85; TMEP §1401.04(b).

c. If applicant prosecutes this application as a combined, or multiple-class application, then applicant must comply with each of the following for those goods and/or services based on an intent to use the mark under Trademark Act Section 1(b) and/or a foreign registration under Trademark Act Section 44(e):

(1) Applicant must list the goods and/or services by international class with the classes listed in ascending numerical order. TMEP § 1403.01; and

(2) Applicant must submit a filing fee for each international class of goods and/or services not covered by the fee already paid. 37 C.F.R. §2.86(a)(2); TMEP §§810.01 and 1403.01.

d. For assistance with identifying goods and/or services in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netathtml/tidm.html>.

e. The applicant must clarify the identification of goods by indicating the type(s) of non-alcoholic coolers and spritzers it sells, e.g., malt coolers and spritzers, etc. TMEP §1402.01.

f. The applicant may adopt the following identification of goods in International Class 32, if accurate: Beer; Ale; Non-alcoholic malt beverages; Non-alcoholic [indicate type(s), e.g., malt] coolers and spritzers;

g. Please note that, while an application may be amended to clarify or limit the identification, additions to the identification are not permitted. 37 C.F.R. §2.71(a); TMEP §1402.06. Therefore, the applicant may not amend to include any goods that are not within the scope of goods set forth in the present identification.

### **3. Standard Character Drawing Claim**

Applicant must submit the following standard character claim: “The mark is presented in standard characters without claim to any particular font style, size, or color.” 37 C.F.R. §2.52(a).

The Trademark Rules pertaining to drawings were amended on November 2, 2003. For applications filed after November 2, 2003, such as this one, applicants **must** follow the new standard character drawing rules. Exam Guide 01-03, section I.A.9.

### **4. Registration Basis**

The applicant has filed asserting a bona fide intention to use the mark in commerce under Trademark Act Section 1(b), 15 U.S.C. §1051(b), and claiming priority under Section 44(d), 15 U.S.C. §1126(d), based on a foreign application. Under these circumstances, the applicant may rely solely on its intent to use the mark in commerce as the basis for registration and not the expected foreign registration, and still claim the benefit of the priority filing date. If the applicant chooses to do so, this Office will approve the case for publication without waiting for the applicant to submit the foreign registration. Of course, the application must be in condition for publication in all other respects. Moreover, while the application may be approved for publication, the mark will not be registered until an acceptable allegation of use has been filed.

If the applicant wishes to proceed relying on the applicant’s intent to use the mark in commerce as the sole basis for registration, with the claim of priority, the applicant should so advise the examining attorney. TMEP §§806.02(f) and 806.04(b).

If the applicant does not so indicate, this Office will presume that the applicant wishes to rely on the foreign registration as an additional basis for registration and will expect the applicant to submit a true copy, a photocopy, a certification, or a certified copy of the foreign registration and, if appropriate, an English translation. It is customary for the translator to sign the translation. TMEP §§1004.01 and 1004.01(b).

## RESPONSE GUIDELINES

1. No set form is required for response to this Office action. The applicant must respond to each point raised. The applicant should simply set forth the required changes or statements and request that the Office enter them. The applicant must sign the response. In addition to the identifying information required at the beginning of this letter, the applicant should provide a telephone number to speed up further processing.
2. Applicant may wish to hire a specialist attorney to assist in prosecuting this application because of the technicalities involved. The Office cannot aid in the selection of a trademark attorney. 37 C.F.R. §2.11. Applicant may wish to consult the Yellow Pages for a listing of attorneys specializing in trademark or intellectual property law, or seek guidance from his local Bar Association attorney-referral service.
3. In all correspondence to the Patent and Trademark Office, the applicant should list the name and law office of the examining attorney, the serial number of this application, the mailing date of this Office action, and the applicant's telephone number.
4. If the applicant has any questions or needs assistance in responding to this Office action, please telephone the assigned examining attorney.

A prompt response to this Office action will expedite the handling of this matter.

### **NOTICE: TRADEMARK OPERATION RELOCATION**

The Trademark Operation has relocated to Alexandria, Virginia. Effective October 4, 2004, all Trademark-related paper mail (except documents sent to the Assignment Services Division for recordation, certain documents filed under the Madrid Protocol, and requests for copies of trademark documents) must be sent to:

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

Applicants, attorneys and other Trademark customers are strongly encouraged to correspond with the USPTO online via the Trademark Electronic Application System (TEAS), at <http://www.uspto.gov/teas/index.html>.

/Barbara A. Gaynor/  
Barbara A. Gaynor  
Trademark Examining Attorney  
Law Office 115  
(571) 272-9164

**How to respond to this Office Action:**

You may respond formally using the Office's Trademark Electronic Application System (TEAS) Response to Office Action form (visit <http://eteas.uspto.gov/V2.0/oa242/WIZARD.htm> and follow the instructions therein, but you must wait until at least 72 hours after receipt if the office action issued via e-mail). PLEASE NOTE: Responses to Office Actions on applications filed under the Madrid Protocol (Section 66(a)) **CANNOT** currently be filed via TEAS.

To respond formally via regular mail, your response should be sent to the mailing Return Address listed above and include the serial number, law office and examining attorney's name on the upper right corner of each page of your response.

To check the status of your application at any time, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov/>

For general and other useful information about trademarks, you are encouraged to visit the Office's web site at <http://www.uspto.gov/main/trademarks.htm>

**FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY.**

Print: Jan 10, 2005

71190424

**DESIGN MARK**

**Serial Number**

71190424

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

0188089

**Date Registered**

1924/08/19

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: Condensed Milk, and  
Evaporated Milk. First Use: 1878/00/00. First Use In Commerce:  
1878/00/00.

**Foreign Country Name**

SWITZERLAND

**Foreign Registration Number**

19,550

**Foreign Registration Date**

1905/10/02

**Prior Registration(s)**

0001170;0001171;0001171;0003274;0003281;0014575;0014575;0014575;0014713-  
;0014890

**Print: Jan 10, 2005**

**71190424**

**Filing Date**

1924/01/04

**Examining Attorney**

UNKNOWN

**NESTLÉ**

**DESIGN MARK**

**Serial Number**

71427167

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

0380007

**Date Registered**

1940/08/06

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

SOCIETE DES PRODUCTS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 005 029 030. US 046. G & S: Coffees, Coffee Extracts, Decaffeinated Coffees, and Decaffeinated Coffee Extracts, With or Without the Admixture of Other Food Ingredients; Infants' Foods; Cream; Sterilized Cream; Sterilized Milk; Milks, Whole, Evaporated, and Condensed, Vitaminized Evaporated and Vitaminized Condensed, Powdered and Vitaminized Powdered; Skimmed Milks, Whole, Evaporated, Condensed, and Powdered; Malted Milk; Cheese; Process Cheese; Butter; Yoghurt; Powdered Buttermilk; Ice Cream; Ice Cream Mix; Coffee with Milk (Cafe Au Lait); Baking Powder; Maltose Dextrin; Cereals of the Nature of Breakfast Foods, Milk Foods With or Without the Admixture of Other Food Ingredients and With or Without Added Vitamins; and Cereal Foods With or Without the Admixture of Other Food Ingredients and With or Without Added Vitamins. First Use: 1939/10/17. First Use In Commerce: 1939/10/17.

**Prior Registration(s)**

0011709;0011710;0032742;0032813;0069322;0145757;0145758;0145759;0147139-

**Print: Jan 10, 2005**

**71427167**

;0148906;0157724;0188089;AND OTHERS

**Filing Date**

1940/01/05

**Examining Attorney**

UNKNOWN

**Attorney of Record**

ROBERT H. SANDERS



Print: Jan 10, 2005

71642363

**DESIGN MARK**

**Serial Number**

71642363

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE QUIK

**Standard Character Mark**

No

**Registration Number**

0629231

**Date Registered**

1956/06/19

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: POWDERED, SWEETENED  
COCOA INTENDED TO BE USED TO MAKE CHOCOLATE MILK, CHOCOLATE SAUCE,  
CHOCOLATE FROSTING, AND THE LIKE. First Use: 1949/05/31. First Use  
In Commerce: 1949/05/31.

**Prior Registration(s)**

0074832;0567710;AND OTHERS

**Filing Date**

1953/02/17

**Examining Attorney**

UNKNOWN

NESTLÉ

Quik

Print: Jan 10, 2005

71689235

**DESIGN MARK**

**Serial Number**

71689235

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE'S CRUNCH

**Standard Character Mark**

No

**Registration Number**

0630563

**Date Registered**

1956/07/10

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

SOCIETE DES PRODUCTS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: MILK CHOCOLATE.  
First Use: 1937/11/00. First Use In Commerce: 1937/11/00.

**Prior Registration(s)**

0074832;0587919;AND OTHERS

**Section 2f Statement**

2(F) ENTIRE MARK

**Filing Date**

1955/06/09

**Examining Attorney**

UNKNOWN

**Attorney of Record**

ROBERT H SANDERS

**NESTLÉ'S  
CRUNCH**

Print: Jan 10, 2005

72121749

**DESIGN MARK**

**Serial Number**

72121749

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE KEEN

**Standard Character Mark**

No

**Registration Number**

0776699

**Date Registered**

1964/09/08

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045. G & S: INSTANT SOFT DRINK  
MIX. First Use: 1961/05/03. First Use In Commerce: 1961/05/03.

**Prior Registration(s)**

0074832;0712225;AND OTHERS

**Filing Date**

1961/06/09

**Examining Attorney**

UNKNOWN

Nestlé

Keen

Print: Jan 10, 2005

72168213

**DESIGN MARK**

**Serial Number**

72168213

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE'S CHOCO-BAKE

**Standard Character Mark**

No

**Registration Number**

0766032

**Date Registered**

1964/03/03

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

SOCIETE DES PRODUCTS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Pre-Melted  
Chocolate Product for Baking. First Use: 1963/04/02. First Use In  
Commerce: 1963/04/02.

**Prior Registration(s)**

0074832;0567710;0681916;AND OTHERS

**Filing Date**

1963/05/06

**Examining Attorney**

UNKNOWN

**NESTLÉ'S**

**CHOCO-  
BAKE**

Print: Jan 10, 2005

73139506

**DESIGN MARK**

**Serial Number**

73139506

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE CRUNCH

**Standard Character Mark**

No

**Registration Number**

1110632

**Date Registered**

1979/01/02

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: CHOCOLATE COATED  
ICE CREAM BARS. First Use: 1977/06/30. First Use In Commerce:  
1977/06/30.

**Prior Registration(s)**

0630563

**Filing Date**

1977/08/31

**Examining Attorney**

UNKNOWN

**Attorney of Record**

ROBERT H SANDERS

**Nestlé CRUNCH**

Print: Jan 10, 2005

73163697

**DESIGN MARK**

**Serial Number**

73163697

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

1105743

**Date Registered**

1978/11/07

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: MILK CHOCOLATE, HOT  
COCOA MIX, CANDY, AND COOKIE MIX. First Use: 1973/01/01. First Use  
In Commerce: 1973/01/01.

**Prior Registration(s)**

0074832;0310210;0739119

**Filing Date**

1978/03/27

**Examining Attorney**

UNKNOWN

**Attorney of Record**

ROBERT H SANDERS

**Nestlé**

**DESIGN MARK**

**Serial Number**

73571828

**Status**

PARTIAL SECTION 8 ACCEPTED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

1521476

**Date Registered**

1989/01/24

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND 1800 VEVEY  
CANTON OF VAUD SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 018 046. G & S: INFANT FORMULA,  
FORMULAS MANUFACTURED FOR SPECIFIC DIETARY PROBLEMS; PARTICULARLY OF  
THE YOUNG AND AGED; MILK POWDERS AND MILK-BASED PRODUCTS CONTAINING  
ADDED VITAMINS AND/OR MINERALS, AND CEREAL BASED FOODS FOR INFANTS,  
INVALIDS AND OTHER INDIVIDUALS HAVING SPECIAL DIETARY NEEDS.

**Goods/Services**

Class Status -- SECTION 8 - CLASS(ES) IN MULT. CL. REG.. IC 032. US  
045 046 048. G & S: [ PREPARED CARBONATED AND NON-CARBONATED SOFT  
DRINKS, INCLUDING MIXES FOR PREPARING SOFT DRINKS ].

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: CANNED OR PRESERVED  
VEGETABLES, FRUITS, MEATS, POULTRY AND FISH, JAMS, JELLIES, PRESERVES  
AND SOUPS, MILK PRODUCTS, NAMELY POWDERED, EVAPORATED, CONDENSED,  
SKIMMED, WHOLE MILK AND FLAVORED MILK, AND HYDROLYZED PLANT PROTEINS.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: COFFEE, INSTANT COFFEE, DECAFFEINATED COFFEE, DECAFFEINATED INSTANT COFFEE, COFFEE WITH OR WITHOUT THE ADD-MIXTURE OF OTHER INGREDIENTS, TEA, INSTANT TEA, TEA WITH OR WITHOUT THE ADD-MIXTURE OF OTHER INGREDIENTS, COCOA PREPARATIONS HAVING A BASE OF COCOA, CHOCOLATE, CHOCOLATE SYRUP, CANDY, COCOA, BAKERY GOODS, MIXES FOR MAKING BAKERY GOODS, ICE CREAM, ICE CREAM NOVELTIES, INGREDIENTS FOR THE PREPARATION OF ICE CREAM AND ICE CREAM NOVELTIES, SAUCES (EXCLUDING APPLE SAUCE AND CRANBERRY SAUCE), GRAVY MIXES AND SEASONINGS.

**Foreign Country Name**

SWITZERLAND

**Foreign Registration Number**

335130

**Foreign Registration Date**

1982/10/02

**Foreign Expiration Date**

2004/10/02

**Prior Registration(s)**

0011710;0186089;0262644

**Filing Date**

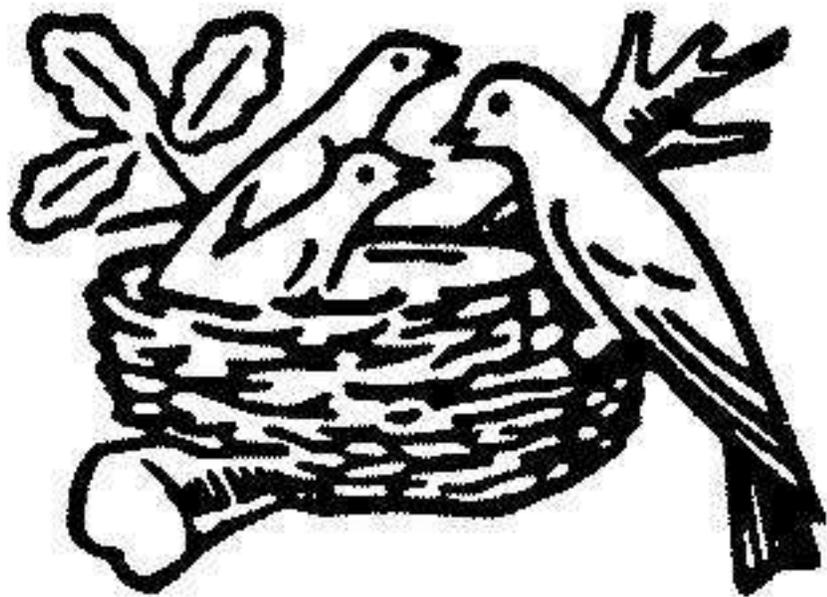
1985/12/05

**Examining Attorney**

SKORO, LINDA

**Attorney of Record**

ROBERT H. SANDERS



**Nestlé**

Print: Jan 10, 2005

73652919

**TYPED DRAWING**

**Serial Number**

73652919

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

1534496

**Date Registered**

1989/04/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY CANTON OF VAUD SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: MILK WITH ADDED  
NATURAL OR ARTIFICIAL FLAVORS. First Use: 1986/02/00. First Use In  
Commerce: 1986/02/00.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: ICE CREAM BARS.  
First Use: 1987/03/20. First Use In Commerce: 1987/03/20.

**Prior Registration(s)**

0011704;0011709;0011710;0074832;0188089;0262644;0310210;0317427;0321082-  
;0332629;0332630;0380007;0567710;0587919;0602857;0630563;0648666;068191-  
6;0734285;0739119;0745934;0750962;0836850;0878799;0878801;1035469;10997-  
50;1105743;1106786;1110632;1112402;1200569;1217734;AND OTHERS

**Filing Date**

1987/04/03

**Print: Jan 10, 2005**

**73652919**

**Examining Attorney**  
PRICE, JERRY L.

**Attorney of Record**  
DAVID G. HASSI

Print: Jan 10, 2005

74017273

**DESIGN MARK**

**Serial Number**

74017273

**Status**

REGISTERED AND RENEWED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

1622720

**Date Registered**

1990/11/13

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des produits nestle S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: MILK AND OTHER  
DAIRY PRODUCTS EXCLUDING ICE CREAM, ICE MILK AND FROZEN YOGURT. First  
Use: 1989/05/02. First Use In Commerce: 1989/05/02.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: COFFEE, TEA,  
CHOCOLATE, BAKERY GOODS, CANDY AND ICE CREAM. First Use: 1989/05/02.  
First Use In Commerce: 1989/05/02.

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 046. G & S: fruit juices.  
First Use: 1989/05/02. First Use In Commerce: 1989/05/02.

**Prior Registration(s)**

0380007;1521476;1537169

**Filing Date**

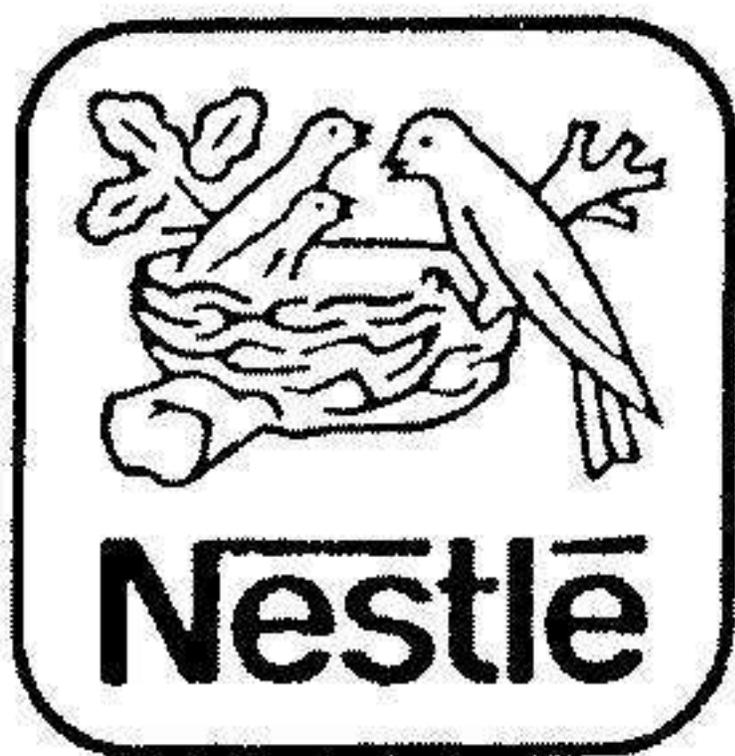
**Print: Jan 10, 2005**

**74017273**

1990/01/08

**Examining Attorney**  
PRICE, JERRY L.

**Attorney of Record**  
Robert H. Sanders



Print: Jan 10, 2005

74682312

**TYPED DRAWING**

**Serial Number**

74682312

**Status**

EX PARTE APPEAL PENDING

**Word Mark**

NESTLE COSMO

**Standard Character Mark**

No

**Registration Number**

2046519

**Date Registered**

1997/03/18

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: dairy-based  
chocolate flavored food beverage. First Use: 1996/04/01. First Use  
In Commerce: 1996/04/01.

**Prior Registration(s)**

1534496

**Filing Date**

1995/05/30

**Examining Attorney**

GIVENS, MONTIA O.

Print: Jan 10, 2005

75041638

**DESIGN MARK**

**Serial Number**

75041638

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

2089943

**Date Registered**

1997/08/19

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
infant formula and milk-free infant soy formula. First Use:  
1997/04/00. First Use In Commerce: 1997/04/00.

**Filing Date**

1996/01/11

**Examining Attorney**

MULLEN, MARK T.



Print: Jan 10, 2005

75098070

**DESIGN MARK**

**Serial Number**

75098070

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

2170060

**Date Registered**

1998/06/30

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: milk and milk  
products, namely, pasteurized milk, skim milk, whole milk, flavored  
milk, vitaminized milk, sterilized milk, evaporated milk, powdered  
milk, condensed milk, malted milk, and cream. First Use: 1997/01/00.  
First Use In Commerce: 1997/01/00.

**Prior Registration(s)**

0188089;1534496

**Filing Date**

1996/05/02

**Examining Attorney**

BISHOP WILSON, ANGELA

The Nestlé logo is centered on a white background. It consists of the word "Nestlé" in a white, bold, sans-serif font, set against a black, horizontally-oriented banner that has a slight wave or curve at its ends.

**Nestlé**

Print: Jan 10, 2005

75098953

**DESIGN MARK**

**Serial Number**

75098953

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

2081154

**Date Registered**

1997/07/22

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: candies. First  
Use: 1995/01/00. First Use In Commerce: 1995/01/00.

**Prior Registration(s)**

0739119;1105743

**Filing Date**

1996/05/06

**Examining Attorney**

BISHOP WILSON, ANGELA

**Attorney of Record**

Robert H. Sanders

**Nestlé**

The image shows the Nestlé logo in a bold, black, sans-serif font. The word "Nestlé" is centered horizontally. Below the text is a thick, black, curved line that starts under the 'N', dips down, and then rises to end under the 'é', resembling a stylized bird's nest or a swoosh.

Print: Jan 10, 2005

75106599

**DESIGN MARK**

**Serial Number**

75106599

**Status**

REGISTERED

**Word Mark**

NESTLE FOOD SERVICES

**Standard Character Mark**

No

**Registration Number**

2200148

**Date Registered**

1998/10/27

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: malted milk, liquid non-dairy coffee creamer and fortified and flavored instant malted dairy based food beverage, powdered non-dairy coffee creamer. First Use: 1995/12/00. First Use In Commerce: 1995/12/00.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: coffee and coffee extracts, coffee with or without the admixture of other ingredients, tea, cocoa. First Use: 1995/12/00. First Use In Commerce: 1995/12/00.

**Prior Registration(s)**

0739119;1105743

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FOOD SERVICES" APART FROM THE MARK AS SHOWN.

**Print: Jan 10, 2005**

**75106599**

**Filing Date**

1996/05/20

**Examining Attorney**

BISHOP WILSON, ANGELA

**Attorney of Record**

Robert H. Sanders



Print: Jan 10, 2005

75140208

**DESIGN MARK**

**Serial Number**

75140208

**Status**

REGISTERED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

2291305

**Date Registered**

1999/11/09

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
baby food, namely, infant cereal. First Use: 1998/05/00. First Use  
In Commerce: 1998/05/00.

**Filing Date**

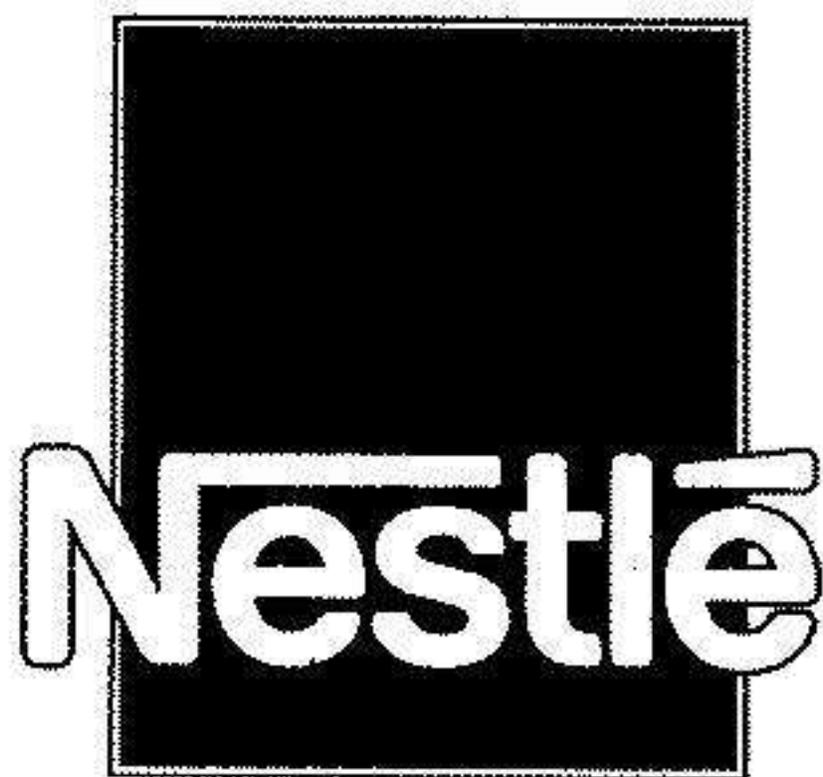
1996/07/26

**Examining Attorney**

CROCKETT, CYNTHIA

**Attorney of Record**

Robert H. Sanders



Print: Jan 10, 2005

75155985

**DESIGN MARK**

**Serial Number**

75155985

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

NESTLE ICE CREAM

**Standard Character Mark**

No

**Registration Number**

2121177

**Date Registered**

1997/12/16

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: ice cream, frozen  
ice cream novelties, and frozen novelties, namely, frozen confections.  
First Use: 1994/01/00. First Use In Commerce: 1994/01/00.

**Prior Registration(s)**

0739119;1105743

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ICE CREAM" APART FROM  
THE MARK AS SHOWN.

**Filing Date**

1996/08/26

**Examining Attorney**

BISHOP WILSON, ANGELA



Print: Jan 10, 2005

75199870

**TYPED DRAWING**

**Serial Number**

75199870

**Status**

REGISTERED

**Word Mark**

NESTLE FLIPZ

**Standard Character Mark**

No

**Registration Number**

2216671

**Date Registered**

1999/01/05

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: pretzels. First  
Use: 1997/05/00. First Use In Commerce: 1997/05/00.

**Prior Registration(s)**

0188089;0739119;AND OTHERS

**Filing Date**

1996/11/18

**Examining Attorney**

FRONT, MITCHELL

**Attorney of Record**

ROBERT H SANDERS

Print: Jan 10, 2005

75231856

**TYPED DRAWING**

**Serial Number**

75231856

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

NESTLE TREASURES

**Standard Character Mark**

No

**Registration Number**

2204415

**Date Registered**

1998/11/17

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: chocolates. First  
Use: 1998/06/29. First Use In Commerce: 1998/06/29.

**Prior Registration(s)**

0188089;0739119;AND OTHERS

**Filing Date**

1997/01/27

**Examining Attorney**

FRONT, MITCHELL

**Attorney of Record**

ROBERT H SANDERS

Print: Jan 10, 2005

75409100

**TYPED DRAWING**

**Serial Number**

75409100

**Status**

REGISTERED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

2221586

**Date Registered**

1999/02/02

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Complete nutritional preparations for the treatment of critically ill  
patients; complete nutritional supplements sold in liquid, soup, bar,  
powder or solid form; enteral formulas for providing nutrition; flavor  
packets for enteral formulas; and high protein nutrition formulas for  
oral and tube feeding. First Use: 1997/08/12. First Use In Commerce:  
1997/08/12.

**Prior Registration(s)**

0188089;0739119

**Filing Date**

1997/12/22

**Examining Attorney**

WILLIAMS KELLY L.

**Print: Jan 10, 2005**

**75409100**

**Attorney of Record**  
ROBERT H SANDERS

**DESIGN MARK**

**Serial Number**

75420571

**Status**

REGISTERED

**Word Mark**

NESTLE MAKES THE VERY BEST

**Standard Character Mark**

No

**Registration Number**

2468680

**Date Registered**

2001/07/17

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Infant formula, milk-free infant soy formula, meal replacement  
powders, dietary drink to be used as a replacement for a complete  
meal, or otherwise, for weight control. First Use: 1996/01/00. First  
Use In Commerce: 1996/01/00.

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: Milk products,  
namely, powdered, evaporated, condensed, and skimmed milk, whole milk  
and flavored milk, chocolate milk, fortified and flavored malted milk  
drink, milk and milk-based food beverages, powdered non-dairy coffee  
creamer, hash, meats, canned meats, meat-based spreads, canned fruits  
and vegetables, pie filling of a fruit or vegetable type, chili,  
cheese souffle', cheese spreads, cheese dips and bean dips, canned  
pimentos, canned chilis, canned chili peppers, prepared entrees  
consisting primarily of meat, fish or poultry, frozen prepared  
vegetable products such as corn souffle, spinach souffle and potatoes

au gratin, frozen prepared fruit products such as escaloped apples.  
First Use: 1996/01/00. First Use In Commerce: 1996/01/00.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Coffee, coffee with or without the add-mixture of other ingredients, tea, tea with or without the add-mixture of other ingredients, iced tea, red tea, chocolate, chocolate syrup, pre-melted chocolate product for baking, candy, chocolates, cocoa, hot cocoa mix, chocolate and strawberry flavorings for use in food and beverages, fortified and flavored instant malted milk drink, ice cream, frozen ice cream novelties, frozen confections, ice cream confections, sauces (excluding apple sauce and cranberry sauce), gravies, gravy mixes and seasonings, corn meal, hominy grits, pretzels, chocolate covered raisins, cookies, butterscotch flavored chocolate morsels for eating and cooking purposes, pasta and pasta sauces, taco seasoning mix, black bean sauce, taco and burrito dinners, sauces and salsa dips, taco shells, prepared entrees consisting primarily of pasta or rice, frozen pizza.  
First Use: 1996/01/00. First Use In Commerce: 1996/01/00.

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Fruit juices, fruit nectars, fruit drinks, vegetable juices, sparkling spring water with fruit juice, non-carbonated fruit drinks, non-carbonated lemonade, tea flavored soft drinks. First Use: 1996/01/00. First Use In Commerce: 1996/01/00.

**Prior Registration(s)**

0188089;0739119;AND OTHERS

**Filing Date**

1998/01/20

**Examining Attorney**

MCMORROW, RONALD

**Attorney of Record**

ROBERT H SANDERS

**NESTLE MAKES THE VERY BEST**

Print: Jan 10, 2005

75593262

**DESIGN MARK**

**Serial Number**

75593262

**Status**

REGISTERED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

2702800

**Date Registered**

2003/04/01

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: spring  
water. First Use: 2002/10/28. First Use In Commerce: 2002/10/28.

**Lining/Stippling Statement**

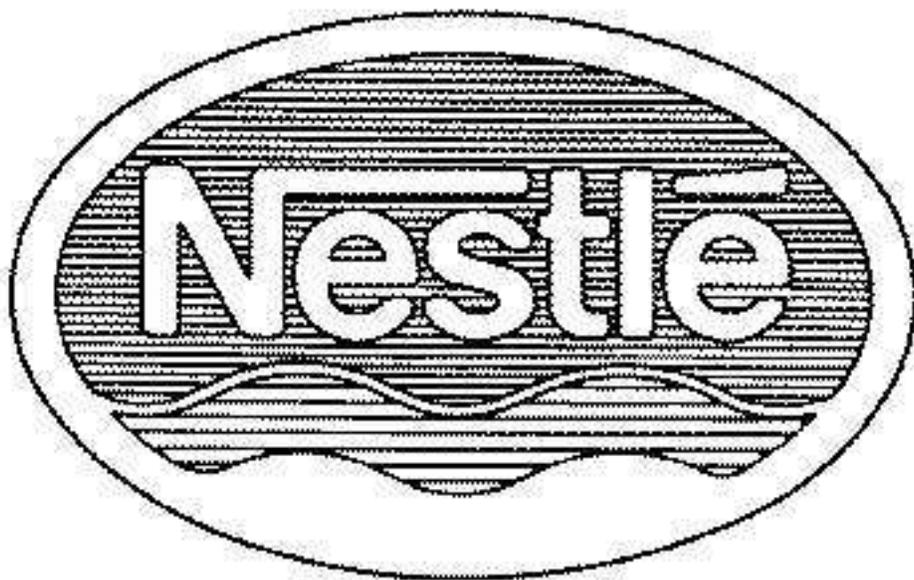
The drawing is lined for the color blue and color is claimed as a  
feature of the mark.

**Filing Date**

1998/11/23

**Examining Attorney**

LOUGHRAN, BARBARA A.



**DESIGN MARK**

**Serial Number**

75982796

**Status**

REGISTERED

**Word Mark**

NESTLE FOODSERVICES

**Standard Character Mark**

No

**Registration Number**

2663879

**Date Registered**

2002/12/17

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: Malted milk; liquid non-dairy coffee creamer and fortified and flavored instant malted dairy based food beverage; powdered non-dairy coffee creamer; soups; soup bases; evaporated milk; corned beef hash; chili with beans; chili without beans; beef stew; canned vegetables; canned entrees consisting primarily of meat with a sauce; canned entrees consisting primarily of meat and one or more vegetables. First Use: 1999/00/00. First Use In Commerce: 1999/00/00.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Coffee and coffee extracts; coffee with or without the mixture of other ingredients; tea and tea extracts; cocoa; canned entrees consisting primarily of pasta; pasta; macaroni and cheese; cheese sauce; salsa; sauces, excluding cranberry sauce and applesauce; sauce mixes, excluding cranberry sauce and applesauce; gravy mixes; seasoning mixes; bakery goods; mixes for making bakery goods; chocolate; candy; ice cream; chocolate topping;

**Print: Jan 10, 2005**

**75982796**

confectionery coatings consisting primarily of chocolate. First Use: 1999/00/00. First Use In Commerce: 1999/00/00.

**Prior Registration(s)**

0188089;0739119;2200148

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FOODSERVICES" APART FROM THE MARK AS SHOWN.

**Lining/Stippling Statement**

The drawing is lined for the color red and color is claimed as a feature of the mark.

**Filing Date**

1999/01/07

**Examining Attorney**

EULIN, INGRID

**Attorney of Record**

Robert H. Sanders



Print: Jan 10, 2005

76134133

**DESIGN MARK**

**Serial Number**

76134133

**Status**

FIFTH EXTENSION - GRANTED

**Word Mark**

NESTLE EXPRESSIONS

**Standard Character Mark**

No

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Chocolate.

**Prior Registration(s)**

0188089;0739119;AND OTHERS

**Filing Date**

2000/09/25

**Examining Attorney**

GRAY, CAROLYN

**Attorney of Record**

ROBERT H. SANDERS

NESTLE EXPRESSIONS

**DESIGN MARK**

**Serial Number**

76153549

**Status**

REGISTERED

**Word Mark**

NESTLE NESQUIK

**Standard Character Mark**

No

**Registration Number**

2626227

**Date Registered**

2002/09/24

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: Flavored milk, milk  
and milk based beverages. First Use: 2000/12/00. First Use In  
Commerce: 2000/12/00.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Chocolate milk,  
cocoa and cocoa based beverages, chocolate and strawberry flavorings  
for use in food and beverages, breakfast cereals, ice cream bars,  
candy. First Use: 2000/12/00. First Use In Commerce: 2000/12/00.

**Prior Registration(s)**

0188089;0739119

**Description of Mark**

The "NESTLE" portion of the mark appears in red. The "NESQUIK"  
portion of the mark appears in blue, is outlined in white and then  
outlined in light gold. The "NESTLE" and "NESQUIK" portions of the

**Print: Jan 10, 2005**

**76153549**

mark appear on a yellow background. The stripe below the "NESTLE" and "NESQUIK" portions of the mark appears in blue, and a white line appears above and below the stripe.

**Filing Date**

2000/10/26

**Examining Attorney**

AN, GI HYUN



Print: Jan 10, 2005

76222932

**TYPED DRAWING**

**Serial Number**

76222932

**Status**

THIRD EXTENSION - GRANTED

**Word Mark**

FROM NESTLE WITH LOVE

**Standard Character Mark**

No

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: DRINKING  
WATERS, NAMELY, STILL WATER, EFFERVESCENT WATER OR CARBONATED WATER,  
PROCESSED WATER, SPRING WATER, MINERAL WATER, FLAVORED WATER, FRUIT  
FLAVORED DRINKS, FRUIT JUICE, FRUIT NECTARS, LEMONADES, SODAS, SOFT  
DRINKS, SYRUPS, CONCENTRATES AND POWDERS USED IN THE PREPARATION OF  
SOFT DRINKS.

**Filing Date**

2001/03/12

**Examining Attorney**

SPILS, CAROL

**Attorney of Record**

ROBERT H. SANDERS

**DESIGN MARK**

**Serial Number**

76269360

**Status**

SECOND EXTENSION - GRANTED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Societe des Produits Nestle S.A. CORPORATION SWITZERLAND Case Postale  
353 1800 Vevey SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Coffee, coffee extracts and coffee-based preparations for making beverages; coffee substitutes and extracts of coffee substitutes; tea, tea extracts and tea-based preparations for making beverages; cocoa and preparations having a base of cocoa; chocolate; candy, natural sweeteners; bakery products, bread, yeast, pastry; biscuits, cakes, bakery desserts, puddings, ice cream; honey and honey substitutes; breakfast cereals; rice; pasta; preparations made from flour and cereals; sauces; seasonings for food; salad dressings; mayonnaise.

**Lining/Stippling Statement**

The lining is a feature of the mark and does not indicate color.

**Description of Mark**

The mark consists of a configuration of a jar design which includes a configuration of the jar lid.

**Filing Date**

2001/06/11

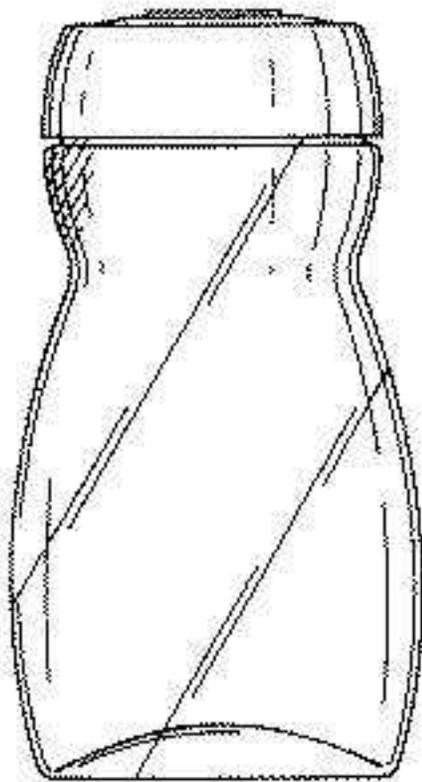
**Examining Attorney**

PRICE, W. KAY

**Print: Jan 10, 2005**

**76269360**

**Attorney of Record**  
JODY H. DRAKE



**TYPED DRAWING**

**Serial Number**

78106749

**Status**

NOTICE OF ALLOWANCE - ISSUED

**Word Mark**

NESTLE VITAFORT

**Standard Character Mark**

No

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Confectionaries,  
namely, candies and toffees; chewing gum.

**Prior Registration(s)**

0188089;0739119;1105743;1534496;2221586;AND OTHERS

**Filing Date**

2002/02/04

**Examining Attorney**

WELLS, KELLEY

**TYPED DRAWING**

**Serial Number**

78187437

**Status**

SECOND EXTENSION - GRANTED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: DRINKING  
WATERS, NAMELY, STILL WATER, EFFERVESCENT WATER OR CARBONATED WATER,  
PROCESSED WATER, MINERAL WATER, FLAVORED WATER, FRUIT FLAVORED DRINKS,  
FRUIT JUICE, FRUIT NECTARS, LEMONADES, SODAS, SOFT DRINKS, SYRUPS,  
CONCENTRATES AND POWDERS USED IN THE PREPARATION OF SOFT DRINKS.

**Prior Registration(s)**

0188089;1105743;1534496;2221586;AND OTHERS

**Filing Date**

2002/11/21

**Examining Attorney**

COLEMAN, CIMMERIAN

Print: Jan 10, 2005

78975270

**TYPED DRAWING**

**Serial Number**

78975270

**Status**

REGISTERED

**Word Mark**

NESTLE

**Standard Character Mark**

No

**Registration Number**

2846922

**Date Registered**

2004/05/25

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

SOCIETE DES PRODUITS NESTLE S.A. CORPORATION SWITZERLAND CASE POSTALE  
353 1800 VEVEY SWITZERLAND

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: DRINKING  
WATERS, NAMELY, SPRING WATER. First Use: 2002/10/26. First Use In  
Commerce: 2002/10/26.

**Prior Registration(s)**

0188089;1105743;1534496;2221586;AND OTHERS

**Filing Date**

2002/11/21

**Examining Attorney**

COLEMAN, CIMMERIAN

Print: Jan 11, 2005

78046118

**TYPED DRAWING**

**Serial Number**

78046118

**Status**

REGISTERED

**Word Mark**

NEW SUN

**Standard Character Mark**

No

**Registration Number**

2837152

**Date Registered**

2004/04/27

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

FRS TECHNOLOGIES LLC LIMITED LIABILITY COMPANY DELAWARE 51 LOCUST AVENUE, SUITE 302A NEW CANAN CONNECTICUT 06840

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: BEVERAGES, NAMELY, CARBONATED AND NON-CARBONATED MINERAL WATER AND TABLE WATER; ISOTONIC DRINKS, HYPERTONIC DRINKS AND HYPOTONIC DRINKS, NON-ALCOHOLIC CORDIALS; SMOOTHIES, FRUIT JUICES, FRUIT NECTARS, FRUIT DRINKS, SHANDIES, SOFT DRINKS, COLAS, POP, LEMONADE, ENERGY DRINKS, AND SPORT DRINKS; NON-ALCOHOLIC PREPARED COCKTAIL MIXES; BEER-BASED COOLERS; FLAVORED BREWED MALT-BASED ALCOHOLIC BEVERAGES IN THE NATURE OF BEER. First Use: 2001/08/00. First Use In Commerce: 2001/08/00.

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S: FOOD SUPPLEMENTS. First Use: 2002/01/00. First Use In Commerce: 2002/01/00.

**Filing Date**

2001/02/01

**Print: Jan 11, 2005**

**78046118**

**Examining Attorney**  
SPRUILL, DARRYL

**Attorney of Record**  
Michael J. MacDermott

**TYPED DRAWING**

**Serial Number**

78057775

**Status**

REGISTERED

**Word Mark**

ALIEN FOOD

**Standard Character Mark**

No

**Registration Number**

2639615

**Date Registered**

2002/10/22

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

KO, DAVID, D. INDIVIDUAL UNITED STATES P.O. BOX 25123 HONOLULU HAWAII  
96825

**Goods/Services**

Class Status -- ACTIVE. IC 005. US 006 018 044 046 051 052. G & S:  
Nutritional and dietary supplement. First Use: 2000/11/00. First Use  
In Commerce: 2000/11/00.

**Goods/Services**

Class Status -- ACTIVE. IC 025. US 022 039. G & S: Clothing,  
namely, shirts, pants, shorts, sweatshirts, t-shirts, jackets,  
swimwear, tank tops, jeans, wet suits, dresses, skirts, footwear, and  
headwear, namely caps, visors, hats, and stocking caps. First Use:  
2000/11/00. First Use In Commerce: 2000/11/00.

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Bottled  
waters, mineral waters, and aerated waters and other beverages,  
namely, flavored waters; soft drinks; fruit drinks and fruit juices;  
powders and syrups for making soft drinks, fruit drinks, fruit juices;  
and sports drinks; and alcoholic beverages, namely beer. First Use:

**Print: Jan 11, 2005**

**78057775**

2000/11/00. First Use In Commerce: 2000/11/00.

**Filing Date**

2001/04/11

**Examining Attorney**

ORTIGA, RAMONA

Print: Jan 11, 2005

78064616

**TYPED DRAWING**

**Serial Number**

78064616

**Status**

REGISTERED

**Word Mark**

RELAX YOUR BODY. FREE YOUR MIND.

**Standard Character Mark**

No

**Registration Number**

2610763

**Date Registered**

2002/08/20

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

KAVAZEN INC. CORPORATION CALIFORNIA 1732 San Pablo Avenue, Suite 7  
Berkeley CALIFORNIA 94702

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Flavored and unflavored drinking water, fruit drinks, fruit juices, soft drinks, carbonated and non-carbonated drinking water, beer, powders used in the preparation of soft drinks, preparations for the making of fruit drinks and fruit juices, and sports drinks. First Use: 2001/07/10. First Use In Commerce: 2001/07/10.

**Filing Date**

2001/05/21

**Examining Attorney**

BUCHANAN WILL, NORA

Print: Jan 11, 2005

78065404

**DESIGN MARK**

**Serial Number**

78065404

**Status**

REGISTERED

**Word Mark**

MAY CC

**Standard Character Mark**

No

**Registration Number**

2856677

**Date Registered**

2004/06/22

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

**Owner**

Allied Summit Technology Limited CORPORATION HONG KONG Unit 1609,  
Kerry Cargo Centre, 55 Wing Kei Road New Territories HONG KONG

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Bread; bread rolls; buns; cakes; cocoa; cocoa products; namely cocoa mixes, cocoa-based ingredients in confectionery products; coffee; coffee beverages with milk; coffee beverages; confectionery chips for baking; candy; pastries, sago; tea; vinegar; cocoa beverages with milk; cocoa-based beverages. First Use: 2002/04/18. First Use In Commerce: 2002/04/18.

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Aerated water; mineral water; non-alcoholic malt beverages; fruit juices; syrups, concentrates and powders for making fruit juices; concentrates, syrups or powders used in the preparation of beverages. First Use: 2002/04/18. First Use In Commerce: 2002/04/18.

**Filing Date**

2001/05/23

**Print: Jan 11, 2005**

**78065404**

**Examining Attorney**  
HICKEY, SUELLEN

**Attorney of Record**  
Nancy Johnson

*May CC*

Print: Jan 11, 2005

78083214

**TYPED DRAWING**

**Serial Number**

78083214

**Status**

REGISTERED

**Word Mark**

ALL THE WAY

**Standard Character Mark**

No

**Registration Number**

2837183

**Date Registered**

2004/04/27

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Center of the World, Inc. CORPORATION CALIFORNIA One Center of the World Plaza Felicity CALIFORNIA 922837777

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Beverages, namely, beer, ale and bottled water. First Use: 2003/04/11. First Use In Commerce: 2003/04/11.

**Filing Date**

2001/09/08

**Examining Attorney**

NADELMAN, ANDREA K.

**Attorney of Record**

Leslie F. Black

**DESIGN MARK**

**Serial Number**

78094108

**Status**

REGISTERED

**Registration Number**

2849189

**Date Registered**

2004/06/01

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(2) DESIGN ONLY

**Owner**

GOLDYEAR HOLDINGS LIMITED CORPORATION HONG KONG Unit D, 17/F.,  
Seabright Plaza 9-23 Shell Street, North Point HONG KONG HONG KONG

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: Processed fruits and/or vegetables and/or beans and/or nuts in soup; processed fruits and/or beans and/or nuts in syrup; jellies; milk and milk-based beverages; flavored milk; soy-based beverages used as a milk substitute. First Use: 2002/04/09. First Use In Commerce: 2002/04/09.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Beans and/or nuts pastes; fermented rice; tea-based beverages; coffee-based beverages; cocoa-based beverages; non-alcoholic food beverages containing tapioca and/or sago and/or barley; tapioca and/or sago and/or barley in syrup. First Use: 2002/04/09. First Use In Commerce: 2002/04/09.

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Beers; mineral and aerated waters; non-alcoholic non-carbonated fruit and vegetable-based drinks and beverages; fruit juices and vegetable juices; concentrates, extracts, powders, and syrups for making non-alcoholic non-carbonated beverages, namely fruit and vegetable-based drinks and beverages, fruit juices, and vegetable juices. First Use: 2002/04/09. First Use In Commerce: 2002/04/09.

**Print: Jan 11, 2005**

**78094108**

**Description of Mark**

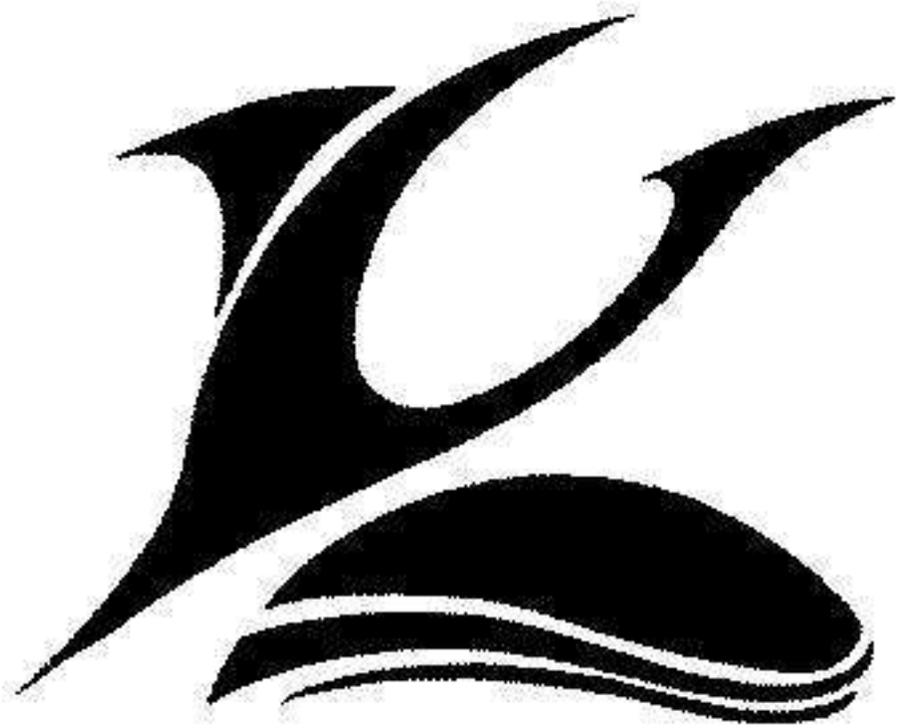
The mark consists of a flying heron.

**Filing Date**

2001/11/19

**Examining Attorney**

SLOAN, CYNTHIA



**DESIGN MARK**

**Serial Number**

78094819

**Status**

REGISTERED

**Word Mark**

JENLAIN BIERE DE GARDE AMBREE BRASSEURS DEPUIS QUATRE GENERATIONS  
DUYCK

**Standard Character Mark**

No

**Registration Number**

2818307

**Date Registered**

2004/02/24

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Brasserie Duyck JOINT STOCK COMPANY FRANCE Route Nationale JENLAIN  
FRANCE 59144

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Beers, ale  
and porter; mineral and sparkling drinking waters and soft drinks;  
syrups and preparations for making soft drinks. First Use:  
1970/12/31. First Use In Commerce: 1987/12/31.

**Prior Registration(s)**

1872722;2223804

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BIERE DE GARDE AMBREE"  
and "BRASSEURS DEPUIS QUATRE GENERATIONS" APART FROM THE MARK AS  
SHOWN.

**Translation Statement**

The English translation of "BRASSEURS DEPUIS QUATRE GENERATIONS" is  
"BREWERS FOR FOUR GENERATIONS". The English translation of "AMBREE"

**Print: Jan 11, 2005**

**78094819**

is "AMBER".

**Filing Date**

2001/11/23

**Examining Attorney**

BUCHANAN WILL, NORA

**Attorney of Record**

James Michael Faier



# JENLAIN

BIÈRE DE GARDE AMBRÉE

**TYPED DRAWING**

**Serial Number**

78105601

**Status**

REGISTERED

**Word Mark**

JOKO

**Standard Character Mark**

No

**Registration Number**

2863575

**Date Registered**

2004/07/13

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

KL FENIX CORPORATION CALIFORNIA 19401 SOUTH MAIN STREET SUITE 101  
GARDENA CALIFORNIA 90248

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: COFFEE, TEA, CHOCOLATE BEVERAGES, ICE MILK, MILK SHAKES, CEREAL BASED SNACK FOODS, CHEESE FLAVORED SNACKS, NAMELY, CORN SNACKS, CHEESE CURLS, CHEESE BALLS, GRANOLA BASED SNACK BARS, PUFFED CORN SNACKS, RICE BASED SNACK FOOD, WHEAT BASED SNACK FOODS, SNACK MIX CONSISTING PRIMARILY OF CRACKERS, PRETZELS, CANDIED NUTS OR POPPED POPCORN, AND PRETZELS. First Use: 2001/11/05. First Use In Commerce: 2003/11/10.

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: BEER AND LAGER, CARBONATED SOFT DRINKS, COLAS, DRINKING WATER, FRUIT DRINKS, FRUIT FLAVORED SOFT DRINKS, ISOTONIC DRINKS, POP, SOFT DRINKS, SPORTS DRINKS, TOMATO JUICE, VEGETABLE JUICE. First Use: 2001/11/05. First Use In Commerce: 2003/11/10.

**Goods/Services**

Class Status -- ACTIVE. IC 043. US 100 101. G & S: RESTAURANT

**Print: Jan 11, 2005**

**78105601**

SERVICES. First Use: 2001/11/05. First Use In Commerce: 2003/11/10.

**Translation Statement**

The English translation of "JOKO" is "THAT'S GOOD".

**Filing Date**

2002/01/29

**Examining Attorney**

SLOAN, CYNTHIA

**Attorney of Record**

DONALD S. GRIER

Print: Jan 11, 2005

78239847

**TYPED DRAWING**

**Serial Number**

78239847

**Status**

REGISTERED

**Word Mark**

PRIGAT

**Standard Character Mark**

No

**Registration Number**

2893241

**Date Registered**

2004/10/12

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

GAT GIVAT CHAIM, COOPERATIVE SOCIETY FOR PRESERVATION OF AGRICULTURAL PRODUCTS LTD. CORPORATION ISRAEL Kibbutz Givat Chaim Kibbutz Givat Chaim ISRAEL 38100

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: beers; mineral and aerated waters; fruit drinks, fruit juices, fruit nectars and fruit-based soft drinks; syrups, fruit concentrates and other preparations for making soft beverages with fruit flavoring. First Use: 1976/12/31. First Use In Commerce: 1999/06/30.

**Filing Date**

2003/04/20

**Examining Attorney**

BUTLER, MIDGE

**Attorney of Record**

Edward J. Chalfie

Print: Jan 11, 2005

78263134

**TYPED DRAWING**

**Serial Number**

78263134

**Status**

REGISTERED

**Word Mark**

OCHAKOVO

**Standard Character Mark**

No

**Registration Number**

2911802

**Date Registered**

2004/12/14

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

Moskovskiy Pivo-Bezalkogolnyi Kombinat Ochakovo Close Corporation  
CORPORATION RUSSIAN FED. Ul. Ryabinovaya, d. 44 Moscow RUSSIAN FED.  
121471

**Goods/Services**

Class Status -- ACTIVE. IC 032. US 045 046 048. G & S: Aerated  
water, mineral water, drinking waters, beer. First Use: 1994/12/31.  
First Use In Commerce: 2001/01/16.

**Goods/Services**

Class Status -- ACTIVE. IC 033. US 047 049. G & S: Wine, vodka,  
prepared alcoholic cocktails, hard cider. First Use: 1994/12/31.  
First Use In Commerce: 2001/01/16.

**Prior Registration(s)**

2632776

**Filing Date**

2003/06/17

**Examining Attorney**

**Print: Jan 11, 2005**

**78263134**

WILLIAMS, IRENE D.

**Attorney of Record**  
Judith Sapp

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2010-06-08 19:25:46 ET

Serial Number: 76596738 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

**NESTLÉ**

(words only): [NESTLÉ](#)

Standard Character claim: Yes

Current Status: [Abandoned-Failure To Respond Or Late Response](#)

Date of Status: [2006-09-30](#)

Filing Date: [2004-06-09](#)

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: [Supplemental](#)

Law Office Assigned: [LAW OFFICE 115](#)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov)

Current Location: [M6X -TMO Law Office 115 - Examining Attorney Assigned](#)

Date In Location: [2006-09-30](#)

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**LAST APPLICANT(S)/OWNER(S) OF RECORD**

---

1. [Marcon, Robert Victor](#)

**Address:**

[Marcon, Robert Victor](#)  
[3471 Sinnicks Avenue](#)  
[Niagara Falls, Ontario L2J 2G6](#)  
[Canada](#)

**Legal Entity Type:** [Individual](#)

**Country of Citizenship:** [Canada](#)  
**Phone Number:** [\(905\) 354-2543](#)  
**Fax Number:** [\(905\) 354-7693](#)

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### GOODS AND/OR SERVICES

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**International Class:** [005](#)  
**Class Status:** [Active](#)  
[Over the counter medications, namely, Analgesics; Sleep aids; Cold and flu medications](#)  
**Basis:** [1\(b\), 44\(d\)](#)  
**First Use Date:** [\(DATE NOT AVAILABLE\)](#)  
**First Use in Commerce Date:** [\(DATE NOT AVAILABLE\)](#)

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### ADDITIONAL INFORMATION

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**Foreign Application Number:** [1,201,360](#)  
**Country:** [Canada](#)  
**Foreign Filing Date:** [2003-12-11](#)

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### MADRID PROTOCOL INFORMATION

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[\(NOT AVAILABLE\)](#)

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### PROSECUTION HISTORY

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**NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.**

[2006-10-02 - Abandonment Notice Mailed - Failure To Respond](#)  
[2006-09-30 - Abandonment - Failure To Respond Or Late Response](#)  
[2006-02-27 - Action denying request for reconsideration - mailed - Initial exam](#)  
[2006-02-27 - Continuation of final refusal mailed](#)  
[2006-02-04 - Amendment From Applicant Entered](#)  
[2005-12-30 - Communication received from applicant](#)  
[2005-12-30 - PAPER RECEIVED](#)  
[2005-09-14 - Final refusal mailed](#)  
[2005-09-13 - Final Refusal Written](#)  
[2005-08-20 - Amendment From Applicant Entered](#)

2005-07-14 - Communication received from applicant

2005-07-14 - PAPER RECEIVED

2005-01-12 - Non-final action mailed

2005-01-11 - Non-Final Action Written

2005-01-09 - Assigned To Examiner

2004-06-24 - New Application Entered In Tram

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**ATTORNEY/CORRESPONDENT INFORMATION**

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**Correspondent**

ROBERT V. MARCON  
3471 SINNICKS AVENUE  
NIAGARA FALLS, ONTARIO  
CANADA L2J 2G6  
Phone Number: (905) 354-2543  
Fax Number: (905) 354-7693

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