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

Proceeding	91186148
Party	Defendant The Great Atlantic & Pacific Tea Company, Inc.
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Signature	/Arlana S. Cohen/
Date	05/14/2014
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NOTICE OF FILING TRIAL TESTIMONY

Opposition No. 91186148, 91186863

(Consolidated as 91186148)

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

-----X

PUBLIX ASSET MANAGEMENT COMPANY, :

Opposer, : Opposition No. 91186148
Opposition No. 91186863
(Consolidated as 91186148)

v.

THE GREAT ATLANTIC & PACIFIC TEA
COMPANY, INC., :

Applicant. :

-----X

NOTICE OF FILING TRIAL TESTIMONY

PLEASE TAKE NOTICE that pursuant to Trademark Rule 2.125, Applicant/Respondent The Great Atlantic & Pacific Tea Company, Inc. ("A&P") is filing the trial testimony of The Clorox Company, by Adam Brink, taken on October 9, 2013 and the accompanying Applicant's Exhibits DDDD – XXXX.

Portions of the testimony were designated as "Confidential Document Subject to Protective Order Filed Under Seal Pursuant to 37 CFR 2.126(d)" pursuant to the Protective Order and are being filed simultaneously under seal.

Dated: New York, New York
May __, 2014

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.
Attorneys for Applicant

By: 

Arlana S. Cohen

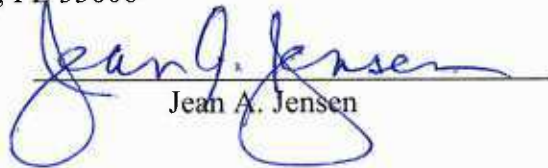
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NOTICE OF FILING TRIAL TESTIMONY
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Filing Trial Testimony has been served on opposer by first class mail, postage prepaid on May __, 2014 addressed to its attorneys as follows:

James Lake, Esq.
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601 South Boulevard
Tampa, FL 33606


Jean A. Jensen

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CERTIFIED COPY

In The Matter Of:

PUBLIX ASSET MANAGEMENT COMPANY

v.

THE GREAT ATLANTIC & PACIFIC TEA COMPANY

ADAM BRINK - Vol. 1

October 9, 2013

***CONFIDENTIAL PORTION
UNDER SEPARATE COVER***

MERRILL CORPORATION

Legalink, Inc.

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Phone: 212.557.7400
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

CERTIFIED COPY

PUBLIX ASSET MANAGEMENT
COMPANY,

Opposer,

vs.

Opposition No. 91186148
Opposition No. 91186863

THE GREAT ATLANTIC & PACIFIC
TEA COMPANY, INC.,

Applicant.

_____ /

TRIAL TESTIMONY OF ADAM BRINK

October 9, 2013

Reported by:
Natalie Y. Botelho
CSR No. 9897

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21			
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23		----oOo----	
24			
25			

1 BE IT REMEMBERED THAT, on Wednesday, October
2 9, 2013, commencing at the hour of 11:15 o'clock a.m. of
3 the said day, at the offices of THE CLOROX COMPANY, 1221
4 Broadway, Oakland, California, before me, NATALIE Y.
5 BOTELHO, a Certified Shorthand Reporter for the State of
6 California, personally appeared ADAM BRINK, a witness in
7 the above-entitled court and cause, who, being by me
8 first duly sworn, was examined in said cause.

9

10 APPEARANCE OF COUNSEL

11

12 FOR OPPOSER (via telephone):

13 THOMAS & LoCICERO, PL
14 BY: JAMES B. LAKE, ESQ.
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16 FOR APPLICANT (via telephone):

17 COWAN, LIEBOWITZ & LATMAN, P.C.
18 BY: ARLANA S. COHEN, ESQ.
1133 Avenue of the Americas
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19 (212)790-9200

20 FOR THE WITNESS:

21 THE CLOROX COMPANY
22 BY: GILLIAN THACKRAY, SENIOR CORPORATE COUNSEL
1221 Broadway
Oakland, CA 94612

23

24 ALSO PRESENT:

25 Gabrielle Scalise (via telephone)

1 WEDNESDAY, OCTOBER 9, 2013, 11:15 A.M.

2

3 ADAM BRINK,

4 being first duly sworn, testified as follows:

5

6 DIRECT EXAMINATION BY MS. COHEN

7 MS. COHEN: Q. Mr. Brink, how are you?

8 A. I'm fine. Thanks.

9 Q. And what is your -- where are you employed?

10 A. At The Clorox Company.

11 Q. And is that the corporate name of the company?

12 A. It is.

13 Q. And where are you located?

14 A. In Oakland, California.

15 Q. And what is the business of The Clorox
16 Company?

17 A. It's a manufacturer of consumer packaged goods
18 and -- manufacturer and seller of consumer packaged
19 goods.

20 Q. And what is your position at Clorox -- at The
21 Clorox Company?

22 A. Corporate counsel.

23 Q. And as part of the position as corporate
24 counsel, are you familiar with some of the trademarks of
25 Clorox?

1 A. Yes.

2 Q. And are you familiar with some of the products
3 of Clorox?

4 A. Yes.

5 Q. Okay. Thank you. Does Clorox sell a -- sell
6 products using the name Green Works?

7 A. Yes.

8 Q. And generally what is Green Works?

9 A. I don't understand the question.

10 Q. I'm sorry. I'll rephrase it. Generally Green
11 Works pertains to a type of -- line of products? A
12 product name? Just generally.

13 A. Green Works is a trademark of The Clorox
14 Company.

15 Q. Fair enough. I'm not sure if you have in
16 front of you -- let's try to move this along -- a
17 document, on the bottom it's labeled C22.

18 Natalie?

19 MS. COHEN: The witness has the document in
20 front of him, and I have a copy of it. You want the
21 page C21?

22 THE WITNESS: C22.

23 MS. COHEN: 22.

24 MS. THACKRAY: 22. Okay.

25 MS. COHEN: Q. Mr. Brink, I'm going to show

1 you a copy of the document which is stamped on the
2 bottom C22. You have that in front of you?

3 A. Yes.

4 Q. And does this appear to be a copy of a
5 registration certificate owned by Clorox?

6 A. Yes.

7 Q. And if you could please tell me what trademark
8 is shown in this document.

9 A. Green Works.

10 Q. And does it have a registration number
11 showing?

12 A. Yes.

13 Q. And what is that?

14 A. 3,902,592.

15 Q. And does it have a registration date --

16 A. Yes.

17 Q. -- showing? And what is that?

18 A. January 11, 2011.

19 Q. Okay. And if you see on here, it's for
20 particular products. If you could tell me what products
21 this registration is for.

22 A. Glass cleaning preparations, bathroom cleaning
23 preparations.

24 Q. Thank you. Do you know if Clorox currently
25 sells Green Works glass cleaning preparations?

1 A. Yes.

2 Q. So they do?

3 A. Yes.

4 Q. Thank you. And do they currently sell Green
5 Works bathroom cleaning preparations?

6 A. Yes.

7 Q. If you see -- strike that.

8 Do you know for how long Clorox has been
9 selling Green Works glass cleaning preparations and
10 bathroom cleaning preparations?

11 A. Well, according to the trademark registration,
12 we're talking about -- yes, I do.

13 Q. And for how long is that?

14 A. Since May 17th, 2007.

15 Q. And you believe it's accurate that Clorox has
16 been selling these products since 2007?

17 A. Yes.

18 MS. COHEN: I would now like you to mark this
19 as Applicant's Exhibit DDDDD as in "David."

20 MS. THACKRAY: Alana, are we just talking
21 about the page with C22?

22 MS. COHEN: Correct. That's it. These are
23 all separate.

24 (Whereupon Applicant's Exhibit DDDD was
25 marked for identification.)

1 MS. THACKRAY: We're set.

2 MS. COHEN: Thank you. I'd like to offer into
3 evidence Applicant's DDDD. Any objection?

4 MR. LAKE: No objection.

5 MS. COHEN: Thank you, Jim.

6 Q. Adam, if you could have -- if someone could
7 hand you C23, please.

8 MS. THACKRAY: He has it.

9 MS. COHEN: Thank you.

10 Q. Adam, I'm showing you a picture of a product
11 which is labeled on the bottom C23. Is that product the
12 Green Works glass -- a Green Works glass cleaner as
13 referenced in the registration in Applicant's DDDD?

14 A. Yes.

15 Q. And is this picture the packaging in which the
16 glass cleaner is currently sold?

17 A. I do not know.

18 Q. Have you -- has Clorox changed the packaging
19 from time to time?

20 A. Yes.

21 Q. Is it true that "Green Works" is always two
22 words on the labeling?

23 A. Yes.

24 Q. And is it true that "Green Works" is always
25 two words in its trademark?

1 A. Yes.

2 MS. COHEN: I'd like to mark C23 as
3 Applicant's EEEE.

4 (Whereupon Applicant's Exhibit EEEE was
5 marked for identification.)

6 MS. COHEN: Thank you. I'd like to offer into
7 evidence Applicant's EEEE. Any objection?

8 MR. LAKE: No objection.

9 MS. COHEN: Q. Adam -- may I call you Adam,
10 Mr. Brink?

11 A. That's fine, yes.

12 Q. Thank you. I'd like you to look at a document
13 numbered C24, if you have that.

14 A. Yes.

15 Q. And if you could describe -- I believe this is
16 also a copy of a registration certificate?

17 A. Yes.

18 Q. And is this document also pertaining to glass
19 cleaning preparations and bathroom cleaning
20 preparations?

21 A. Yes.

22 Q. And if you could tell me the registration
23 number and the date of this document.

24 A. Registration No. 3,902,593, registered on
25 January 11, 2011.

1 Q. And so is this the design of the corresponding
2 design marked for the mark we had discussed as DDDD?

3 A. Yes, the logo version.

4 Q. Thank you.

5 And I'd like to mark as FFFF the document C24.

6 (Whereupon Applicant's Exhibit FFFF was
7 marked for identification.)

8 MS. COHEN: I'd like to offer it into
9 evidence.

10 MR. LAKE: No objection.

11 MS. COHEN: Q. Mr. Brink, do you know if the
12 design as shown in FFFF is still in use?

13 A. My understanding is that it is.

14 Q. And is it your understanding that it has been
15 in use since May of 2007?

16 A. My understanding is that it was used back in
17 May of 2007, yes.

18 Q. Is it your uncertainty whether it was used
19 since May of 2007?

20 A. I don't know if there was a -- if there has
21 been a recent change in the label.

22 Q. Oh, very recent change?

23 A. Yes.

24 Q. Okay. Thank you. Going to show you another
25 document, C25.

1 A. Yes.

2 Q. And does that appear to be another
3 registration certificate for the mark Green Works?

4 A. Yes.

5 Q. And for what products does this pertain to?

6 A. Laundry detergent/stain removers.

7 Q. Thank you. And the registration number and
8 date is...?

9 A. 3,687,407, registration date September 22,
10 2009.

11 Q. And does Clorox currently sell laundry
12 detergent and stain removers with the name Green Works?

13 A. Yes.

14 Q. And do you know for approximately how long
15 Clorox has been selling these products?

16 A. Based on the information on this trademark
17 registration, it's since March 30, 2009.

18 Q. And do you have any reason to believe that
19 they haven't been sold since then?

20 A. No.

21 MS. COHEN: I'd like to offer GGGG, if you
22 have marked it, Natalie. I forget.

23 (Whereupon Applicant's Exhibit GGGG was
24 marked for identification.)

25 MS. COHEN: I'd like to offer GGGG.

1 MR. LAKE: No objection.

2 MS. COHEN: Thank you.

3 Q. I'd like to have someone show you C26.

4 A. Yes.

5 Q. Thank you. And if you can tell me what C26 is
6 a photograph of, Adam.

7 A. It looks like a photograph of laundry
8 detergent sold under the Green Works trademark.

9 Q. Is it your understanding that this is the
10 laundry detergent that was sold for a period of time
11 from 2009 up until recently, when you may have changed
12 the packaging?

13 A. Yes.

14 Q. Thank you.

15 If you could mark this as HHHH.

16 (Whereupon Applicant's Exhibit HHHH was
17 marked for identification.)

18 MS. COHEN: And I'd like to offer HHHH.

19 MR. LAKE: No objection.

20 MS. COHEN: Thank you.

21 Q. I'd like to show you Exhibit C27, Adam.

22 A. Yes, I have it.

23 Q. Is that another registration certificate?

24 A. It is.

25 Q. And is that the corresponding design

1 registration for the laundry detergent and stain
2 remover?

3 A. Yes, it is.

4 Q. And the registration number, please?

5 A. 3,690,558.

6 Q. And it's dated...?

7 A. September 29, 2009.

8 MS. COHEN: All right. I'd liked to mark this
9 as IIII.

10 (Whereupon Applicant's Exhibit IIII was
11 marked for identification.)

12 MS. COHEN: I'd like to offer IIII.

13 MR. LAKE: No objection.

14 MS. COHEN: Q. All right. I'm going to show
15 you C28, Adam.

16 A. I have it.

17 Q. And this is another registration certificate,
18 correct?

19 A. Yes.

20 Q. And what is -- this is also for laundry
21 detergent and stain remover?

22 A. Yes.

23 Q. And is this an alternate design to the design
24 shown in IIII?

25 A. Yes.

1 Q. And the date of first use on the document in
2 C28 appears to be March of 2009. You believe that is
3 correct?

4 A. Yes.

5 Q. Is this registration claiming color as a
6 feature of the mark?

7 A. Yes.

8 Q. So this appears to be the corresponding
9 registration for -- which claims color for the same
10 products?

11 A. I don't understand the question.

12 Q. Strike it.

13 Can we mark this as JJJJ, please.

14 (Whereupon Applicant's Exhibit JJJJ was
15 marked for identification.)

16 MS. COHEN: I'd like to offer it.

17 MR. LAKE: No objection.

18 MS. COHEN: Q. Let me move my outline around
19 a little bit. Adam, there's a document C2 and C3 that
20 was produced to us by Clorox. If someone could find
21 that. Mr. Brink, you have in front of you C2 and C3,
22 which is entitled "Complete listing of Unit UPC's for
23 Retail Customers: Food-Drug-Mass, Home Hardware,
24 eCommerce, and Club," period?

25 A. Yes, I do.

1 Q. And can you tell me what this list is?

2 A. It appears to be a list of the products that
3 are sold in -- sold to retail customers under the Green
4 Works trademark in the United States.

5 Q. The list of the items, the list of the product
6 items by SKU all named Green Works, correct?

7 A. Right. It seems to be a list of the products
8 that are sold under the Green Works trademark.

9 Q. Okay. Because I was wondering about the UPC's
10 definition of what that means.

11 A. I don't know the definition of "UPC."

12 Q. Okay. Well, it seems like some of the items
13 are the same generic item, but perhaps in a different
14 size or fragrance. Like it will have a lemon cleaner
15 and a regular scent, it seems.

16 A. That's correct.

17 Q. So is it your testimony that each of these
18 products is currently sold in the United States?

19 A. To the best of my knowledge, yes.

20 MS. COHEN: Can we mark this two-page document
21 as KKKK, please.

22 (Whereupon Applicant's Exhibit KKKK was
23 marked for identification.)

24 MS. COHEN: I'd like to offer into evidence
25 KKKK.

1 MR. LAKE: No objection.

2 MS. COHEN: Thank you.

3 Q. Mr. Brink, are you -- do you know where the
4 items shown in the list of KKKK are sold generally?

5 A. Based on the title, it's -- it lists
6 food-drug-mass market, home hardware, eCommerce, and
7 club channel.

8 Q. Are you testifying -- excuse me. Is it safe
9 to say that Green Works products are sold in
10 food-drug-mass, home hardware, eCommerce, and club
11 channels?

12 A. To the best of my knowledge, yes.

13 Q. If you could find -- there's a chart that you
14 also produced on C11, 12, and 13.

15 A. Yes, I have it.

16 Q. And these seem to be -- well, let's just start
17 with C12 for a moment.

18 A. Okay.

19 Q. It says, "2012 Chains and Suppliers in the
20 Grocery Universe"?

21 A. Yes.

22 Q. Do you know what this list on C12 is?

23 A. It looks like it's a listing of retailers,
24 specifically grocery retailers. Yeah.

25 Q. Is it a list of grocery retailers in America

1 that in 2012 sold Green Works products?

2 MR. LAKE: Objection; leading.

3 MS. THACKRAY: Can we take a break for a few
4 minutes?

5 MS. COHEN: Absolutely.

6 MS. THACKRAY: Thank you.

7 MS. COHEN: Natalie, off the record for a few
8 minutes.

9 (Recess taken from 11:41 a.m. to
10 11:43 a.m.)

11 MS. THACKRAY: Can you restate the question,
12 Arlana?

13 MS. COHEN: Sure.

14 Q. Mr. Brink, looking at the list on C12, is this
15 list a list of supermarkets which in 2012 sold Green
16 Works products?

17 MR. LAKE: Objection; leading.

18 THE WITNESS: This appears to be a list
19 produced from IRI listing the grocery stores that report
20 their numbers into IRI, and the -- I could -- I do know
21 that Clorox sells into some of these stores.

22 MS. COHEN: Q. Clorox sells Green Works
23 products to some of these stores?

24 A. That's correct.

25 Q. What is IRI?

1 A. I probably can't give you a great answer on
2 that, but it is a firm or a company that we -- that
3 tracks sales in a large percentage of the -- in grocery
4 stores, in drug stores, in club channels, I believe, and
5 collects that information, and then companies are able
6 to access it for sales figures.

7 Q. Okay. Well, Clorox produced the documents
8 C12, 13, 14, 15, and 11 -- sorry -- in response to my
9 subpoena asking for information where Green Works
10 products are sold. Is that your understanding of what
11 these documents are?

12 A. Yes.

13 Q. So it's your understanding that Green Works
14 products are sold in supermarkets; is that correct?

15 A. Yes.

16 Q. And are Green Works products sold in mass
17 retailers?

18 A. Yes.

19 Q. And are Green Works products sold in drug
20 chains?

21 A. Yes.

22 Q. And is it your understanding that Green Works
23 products are sold nationwide?

24 A. Yes.

25 Q. Is it your understanding that Green Works

1 products are sold in the majority of supermarkets in the
2 United States?

3 A. Yes.

4 Q. Thank you.

5 MS. THACKRAY: And just to clear something up,
6 Arlana -- this is Gillian. Let me just make a
7 representation on the record that we produced sales data
8 in response to the subpoena request that we had pulled
9 from IRI. We provided these pages explaining what IRI
10 is, to help you understand where the sales data was
11 coming from, but we did not verify that each and every
12 place listed in this IRI universe does actually sell
13 Green Works, because that would have been unduly
14 burdensome to do.

15 MS. COHEN: Okay. I appreciate that. So then
16 in a sense, these -- page 11 through 15 are tied to
17 pages -- are you saying pages C4 through C10?

18 MS. THACKRAY: Correct.

19 MS. COHEN: Okay. Thank you.

20 Q. So let's look at C4 through C10, please.

21 This is not marked "confidential," but if
22 you'd like the discussion of them to be confidential,
23 it's your call.

24 MS. THACKRAY: Yeah. In fact -- sorry -- it
25 appears that something got misdome in the marking. The

1 documents produced at C1 through C10 should all have had
2 the marking that is found on C1, that they're
3 confidential of The Clorox Company and produced pursuant
4 to protective order. I believe they were part of a
5 spreadsheet that was sent all together, so they should
6 all have been so marked.

7 MS. COHEN: Okay. Thank you. It's probably
8 the way Excel prints out. So I will have Natalie, off
9 the record, when we have a break, to mark the subsequent
10 pages after C1 with the same notation that is on C1. So
11 that will be C1 through C15, I believe. But we may not
12 use those, but in any event... And we had already
13 marked KKKK, the SKU list, which is C2 and C3. Do those
14 need to be confidential, Gillian?

15 MS. THACKRAY: I don't believe so.

16 MS. COHEN: Okay. Thank you. So we're only
17 going to be marking C1, 4, 5, 6 -- C1, and then 4
18 through 15.

19 MS. THACKRAY: 4 through 10. 11, 12, 13, and
20 14 are not confidential.

21 MS. COHEN: Okay. Thank you very much.

22 Okay. Let's keep going, and then we'll come
23 back to these numbers so Gabby can stay on the phone.
24 Okay?

25 MS. THACKRAY: Sure.

1 MS. COHEN: Q. Okay. Mr. Brink, do you know
2 if Clorox advertises its Green Works products?

3 A. Yes.

4 Q. And do you know in what -- by what means
5 Clorox advertises its Green Works products?

6 A. Yes. In digital, in online search, on print
7 ads, television, and consumer promotions.

8 Q. Thank you. And do you believe that Clorox has
9 been advertising its Green Works products since their
10 introduction?

11 A. Yes.

12 Q. And do you know approximately how much Clorox
13 has spent annually on advertising its Green Works
14 products since their introduction?

15 MS. THACKRAY: Is this confidential
16 information, then, Arlana?

17 MS. COHEN: Depends if he knows the answer.

18 MS. THACKRAY: So the simple answer, "yes" or
19 "no."

20 THE WITNESS: Yes.

21 MS. COHEN: Yes. Okay. I suppose if we are
22 going to discuss those numbers, then we would have this
23 start the confidential part of the transcript, Natalie.
24 And then Gabby, you're going to have to go.

25 MS. SCALISE: Go out now?

1 MS. COHEN: Please. And I can e-mail you back
2 when you can call back.

3 She's a good girl. She's already off.

4 (Pages 25 - 30 are marked "Confidential"
5 and bound separately.)

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1 (Whereupon Applicant's Exhibit LLLL and
2 Applicant's Exhibit MMMM were marked for
3 identification.)

4 MS. THACKRAY: L is confidential. M is not.

5 MR. LAKE: Could you tell me the Bates numbers
6 for L and M?

7 MS. COHEN: I guess C1 and then 4, 5, 6, 7, 8,
8 9, and 10 is LLLL, correct?

9 MS. THACKRAY: Correct.

10 MR. LAKE: Okay.

11 MS. COHEN: And then M -- and that's a
12 confidential document. And then C11, 12, 13, 14, and 15
13 is MMMM, correct?

14 MS. THACKRAY: Correct.

15 MS. COHEN: Okay.

16 MR. LAKE: Thank you.

17 MS. COHEN: I'd like to offer Exhibit LLLL
18 into evidence. Any objection?

19 MR. LAKE: No objection.

20 MS. COHEN: And I'd like to offer MMMM into
21 evidence. Any objection?

22 MR. LAKE: No objection.

23 MS. COHEN: Thank you.

24 Q. Mr. Brink, how are you?

25 A. I'm doing great. Thanks.

1 Q. Okay. Let's show you document labeled C16 --
2 couple of documents. C16, C17 for now.

3 A. I have them. Thank you.

4 Q. Thank you. And are these examples of actual
5 advertisements -- excuse me. Are these proofs of actual
6 advertisements for Green Works that later ran in
7 publications?

8 A. Yes, they appear to be.

9 Q. And the products shown on C16, is that an
10 array of Green Works products as sold?

11 A. That's correct, yes.

12 Q. And if you could see C18, 19, 20, 21, are
13 these examples of other advertisements that Clorox has
14 run for Green Works?

15 A. Yes.

16 Q. And if you look at C21, please.

17 A. Yes.

18 Q. Is -- the labeling on C21 looks a little
19 different than the labeling on C16?

20 A. Yes.

21 Q. Is the labeling on C21 a more recent labeling,
22 or is it a particular style or type of labeling used in
23 a particular channel or trade, or if you could tell me
24 what it is?

25 A. That is our Green Works trademark and products

1 that is also sold under our Clorox Commercial Solutions
2 brand or trademark, and that is designed to be sold
3 into -- not as much into the commercial -- I'm sorry --
4 into the retail space, but more to a commercial or
5 industrial or janitorial services and the like.

6 Q. I see. So --

7 A. It's not usually for home use or home
8 consumption, but rather professional use.

9 Q. Okay. Thank you very much. I had given the
10 court reporter a New York Times article that is bearing
11 the number A&P 2562. Do you have that?

12 A. Yes, I do.

13 Q. Thank you. And if you look in the center of
14 the page 2562, on the page printed out from the
15 NewYorkTimes.com, it shows a flower and the word
16 "Clorox" and then the word "Green Works." You see that?

17 A. Yes, I do.

18 Q. Is that the current design used by Clorox for
19 Green Works?

20 A. That's my understanding, yes.

21 Q. Thank you. And if you look at the second page
22 of this in the New York Times printout, it states that
23 Clorox spent more than \$25 million a year on advertising
24 for Green Works in 2008 and 2009. Do you see that? Do
25 you see that on page 2562A, Adam?

1 A. Yes, I do.

2 Q. Do you believe that is accurate?

3 A. Yes.

4 Q. Thank you.

5 Since the break, can we have this not on the
6 confidential portion? I don't know. Natalie, since the
7 break, if you could make that not the confidential
8 portion.

9 MS. THACKRAY: That's fine.

10 MS. COHEN: Thank you. Okay. I'd like to
11 mark as Exhibit NNNN these ads of 16, 17, 18, 19, and
12 20. And then we'll do the commercial thing as a
13 separate one, if that's okay.

14 (Whereupon Applicant's Exhibit NNNN and
15 Applicant's Exhibit OOOO were marked for
16 identification.)

17 MS. COHEN: I'd like to offer Applicant's NNNN
18 and OOOO into evidence.

19 MR. LAKE: No objection.

20 MS. COHEN: Thank you.

21 And the New York Times article, I'd like to
22 offer that as PPPP, or first mark it as PPPP, please.

23 (Whereupon Applicant's Exhibit PPPP was
24 marked for identification.)

25 MS. COHEN: I'd like to offer the article of

1 the New York Times.

2 MR. LAKE: I don't object to it being
3 admitted. I do object to any use of the article for its
4 truth, other than the content that Mr. Brinks already
5 testified to.

6 MS. COHEN: Okay. Thank you. And what are we
7 up to? PPPP? Thank you. All right. And I think I can
8 tell Gabrielle to get back on. Is that okay?

9 MS. THACKRAY: Yes, that's fine.

10 MS. COHEN: Q. Do you know where in the
11 particular supermarket generally the Green Works
12 products would be sold?

13 A. Yes.

14 Q. And where would that be?

15 A. The cleaning products would be in the cleaning
16 aisle, and the laundry products would be in the laundry
17 aisle, I suspect.

18 Q. So they would be sold with the other brands of
19 the type of products that it is?

20 A. That's my understanding, yes.

21 Q. If you look at the New York Times article
22 again. I'm sorry. PPPP.

23 A. Yes.

24 Q. On the second page, it states that the Green
25 Works products would be sold in the cleaning section

1 with the traditional products. You see that?

2 A. I do.

3 Q. Okay. Do you believe that that's accurate as
4 to where Green Works products are sold?

5 A. Yes.

6 Q. And who's Mr. Gere? Do you know? Oh, sorry.
7 Strike that. I see. I thought he was with Clorox.
8 Strike it.

9 All right. Just a few more registrations. If
10 you would look at what is labeled C29. Mr. Brink, is
11 that a copy of another registration for Green Works that
12 Clorox owns?

13 A. Yes.

14 Q. And what is the registration number of that?

15 A. 3,902,596.

16 Q. And the date?

17 A. January 11, 2011.

18 Q. And what kind of products is this registration
19 for?

20 A. It lists all-purpose cleaners, toilet bowl
21 detergents, disposable wipes impregnated with compounds
22 for household use, dishwashing detergents, bathroom
23 cleaning preparations, glass and cleaning surface
24 preparations.

25 Q. And is it your understanding that Clorox

1 currently sells those products with the Green Works
2 mark?

3 A. That's my understanding, yes.

4 Q. And do you know approximately when Clorox
5 began selling products bearing the Green -- these
6 products bearing the Green Works mark?

7 A. According to this registration, it was first
8 used in May 17, 2007.

9 Q. And is it your understanding that the
10 information on the registration is accurate?

11 A. Yes.

12 MS. COHEN: I'd like to have that marked as
13 QQQQ, C29, please.

14 (Whereupon Applicant's Exhibit QQQQ was
15 marked for identification.)

16 MS. COHEN: I'd like to offer QQQQ into
17 evidence. Any objection?

18 MR. LAKE: No objection.

19 MS. COHEN: Thank you.

20 Q. Mr. Brink, if you see A&P 81 and 82, sir.

21 A. Yes, I have it.

22 Q. Thank you. Does that appear to be a bottle of
23 Green Works multi-surface cleaner as actually sold in
24 commerce?

25 A. Yes.

1 MS. COHEN: Okay. I'd like to have marked as
2 RRRR this document, please.

3 (Whereupon Applicant's Exhibit RRRR was
4 marked for identification.)

5 MS. COHEN: And I'd like to offer RRRR. Any
6 objection?

7 MR. LAKE: No objection.

8 MS. COHEN: Thank you.

9 Q. I'd like to show you another document
10 Mr. Brink, labeled C21. You see that? Oh, sorry. C30.

11 A. Yes, I have that.

12 Q. Can you tell me what that is?

13 A. Looks like a U.S. trademark registration
14 certificate for the Green Works trademark.

15 Q. And does this -- what product is this one for,
16 sir?

17 A. It lists non-chlorine bleach for household
18 use, namely household and laundry bleach.

19 Q. Thank you. And the registration number and
20 date, please?

21 A. Registration No. 3,974,852, registered on
22 June 7th, 2011.

23 Q. And do you -- is it your understanding that
24 Clorox currently sells Green Works non-chlorine bleach
25 for household use, namely, household and laundry bleach?

1 A. To the best of my knowledge, yes.

2 Q. I'm going to show you a product in -- marked
3 as C31. Do you see that?

4 A. I do.

5 Q. And is this a photograph of the -- can you
6 tell me what this is?

7 A. It looks -- to the best of my knowledge, it
8 looks like a Green Works branded bleach product.

9 Q. Thank you.

10 Okay. I'd like to mark C30 and 31 together as
11 SSSS.

12 (Whereupon Applicant's Exhibit SSSS was
13 marked for identification.)

14 MS. COHEN: Q. I'd like to show you C32,
15 please.

16 A. Yes.

17 Q. And is that another reg -- trademark
18 registration for Green Works?

19 A. Yes, it is.

20 Q. And what products are these for -- this one
21 for?

22 A. Dish cloths, hand towels, kitchen towels that
23 are manufactured from organic cotton.

24 Q. Thank you. And the registration number and
25 date?

1 A. Registration No. 4,286,944, registered
2 February 5, 2013.

3 Q. And does Clorox currently sell the products
4 listed in C32?

5 A. No. We have a licensee sell these products.

6 Q. But are products then bearing the Green Works
7 mark sold currently?

8 A. Yes.

9 Q. On the products that are listed in C32?

10 A. Yes.

11 Q. Thank you. And show you what is on page C33.

12 A. Yes.

13 Q. Can you tell me what that photograph is a
14 photograph of?

15 A. It appears to be an all-purpose towel and an
16 all-purpose cloth branded with the Green Works
17 trademark.

18 Q. Thank you. And do you know where in a
19 supermarket these products would be displayed?

20 A. I don't. I would assume in the cleaning
21 aisle.

22 Q. You assume that they'd be in the aisle with
23 other towels and other cloths?

24 MR. LAKE: Objection; leading.

25 THE WITNESS: I assume -- I assume that --

1 yes. I assume that they're in a -- if a supermarket has
2 an aisle that has towels and cloths, I'm assuming that
3 they're in that aisle.

4 MS. COHEN: Q. Thank you.

5 Okay. I'd like to mark as TTTT the C32 and
6 C33.

7 (Whereupon Applicant's Exhibit TTTT was
8 marked for identification.)

9 MS. COHEN: I'd like to offer TTTT.

10 MR. LAKE: No objection.

11 MS. COHEN: Thank you.

12 Q. I'd like to show you a document which is
13 labeled C34 and 35 because it's printed out as two pages
14 from the Trademark Office TESS system. Do you see that?

15 A. Yes, I do.

16 Q. And what is this document?

17 A. This appears to be a printout from the United
18 States Patent and Trademark Office for a trademark
19 application for Green Works in association with Green
20 cleaners, namely, naturally-derived cleaners for use on
21 floor, carpet, fabric, and upholstery.

22 Q. Thank you. And this bears serial number
23 85387069, filed on August 2nd, 2011. You see that?

24 A. I do. I can confirm that.

25 Q. Is it your understanding that Clorox still has

1 an intention to sell products bearing -- these products
2 bearing Green Works?

3 A. I don't believe that this is an active
4 trademark application, to the best of my knowledge.

5 Q. Well, if I'll show you on C36, it shows on
6 approval of an extension request for the same serial
7 number. Do you see that?

8 A. Yes, I do.

9 Q. And it seems that the date of this was
10 July 18th, 2013. Does this document help you refresh
11 your recollection about this application?

12 A. Yes. Based on this information, this appears
13 to be -- still be an active trademark application.

14 Q. Thank you.

15 I'd like to mark as UUUU this document, C34,
16 35, and 36.

17 (Whereupon Applicant's Exhibit UUUU was
18 marked for identification.)

19 MS. COHEN: Q. I'd like to show you, sir, a
20 couple more registrations. C37 and 38, please.

21 A. Yes.

22 Q. And actually, this appears to me to be an
23 application -- I'm sorry -- not a registration.

24 A. Yes.

25 Q. And the products that are applied for here?

1 A. Bath towels, beach towels, mattress covers,
2 and pillow cases that are manufactured from organic
3 cotton.

4 Q. And then I think it has one more product in
5 international class 27. Do you see that?

6 A. I do see that. Bath mats.

7 Q. Thank you. And do you know if Clorox has a
8 present intention to sell these products under Green
9 Works?

10 A. We have a present intention to have our
11 licensee sell these products under the Green Works
12 trademark, yes.

13 Q. Okay. Thank you. And I'll show you, to the
14 extent for completeness, C39. See C39?

15 A. I do, yes.

16 Q. And that appears to be an extension --
17 approval of an extension request for the same serial
18 number?

19 A. Yes, it does.

20 Q. Thank you.

21 I'd like to mark as VVVV this document,
22 please.

23 (Whereupon Applicant's Exhibit VVVV was
24 marked for identification.)

25 MS. COHEN: Q. Mr. Brink, if you look at the

1 document C40, 41.

2 A. Yes.

3 Q. And is that another application to register
4 Green Works for these same products that are in VVVV?

5 A. Yes.

6 Q. And if you look at C42, it has an extension
7 request. Is it your understanding that Clorox or its
8 licensee maintains an intention to sell these products
9 under Green Works?

10 A. Yes.

11 Q. Thank you.

12 I'd like to mark this as WWWW.

13 (Whereupon Applicant's Exhibit WWWW was
14 marked for identification.)

15 MS. COHEN: I'd like to offer WWWW. Any
16 objection?

17 MR. LAKE: No objection.

18 MS. COHEN: Thank you.

19 Q. Mr. Brink, are you aware of any additional
20 products that Clorox intends to sell under Green Works?
21 And if it's confidential, we could -- don't list them
22 until we go off the public transcript.

23 MS. THACKRAY: Can we take a brief break?

24 MS. COHEN: Sure.

25 MS. THACKRAY: Off the record.

1 (Discussion off the record.)

2 MS. THACKRAY: Could you read back the
3 question, please?

4 MS. COHEN: Yes.

5 Q. Mr. Brink, are you aware of any additional
6 products that Clorox intends to sell under Green Works?

7 A. I'm not aware of any specific products.

8 Q. Okay. Mr. Brink, do you know if any of the
9 Green Works trademarks applications were opposed by
10 Publix?

11 A. To the best of my knowledge, none were opposed
12 by Publix.

13 Q. Do you know if Clorox ever got a cease and
14 desist letter from Publix regarding Green Works?

15 A. I am not aware of a cease and desist letter
16 that Clorox got from Publix regarding Green Works.

17 Q. Do you know if Clorox ever objected to any
18 mark that is used by Publix which also has the word
19 "Green" in it?

20 A. Can you repeat the question, please?

21 Q. Are you aware of any objections that Clorox
22 has ever had with respect to a mark owned by Publix
23 which has "Green" in it?

24 A. No.

25 Q. Do you think consumers are familiar with your

1 Green Works products?

2 MR. LAKE: Objection; calls for speculation.

3 THE WITNESS: Yes.

4 MS. COHEN: Okay. I have no further
5 questions, Mr. Brink.

6 MR. LAKE: Okay. Mr. Brink, I have --

7 MS. COHEN: And thank you.

8 THE WITNESS: Yes.

9 MR. LAKE: Mr. Brink, I have just a few -- and
10 actually, off the record. Let me ask one question off
11 the record.

12 (Discussion off the record.)

13 CROSS-EXAMINATION BY MR. LAKE

14 MR. LAKE: Q. Mr. Brink, let me ask you to
15 look with me at Exhibit LLLL, which I believe is some
16 sales information. And I'm not going to ask you to
17 repeat the specific numbers. We can -- we don't need to
18 make this confidential.

19 A. Yes, I have it.

20 Q. Okay. And I just want to make sure I
21 understand the source of this information. I understood
22 that these numbers came from what IRI told you it
23 compiled from retailers; is that correct?

24 A. That's correct, yes.

25 Q. Okay. So you did not personally verify these

1 numbers?

2 A. Personally, no.

3 Q. And you don't know that Clorox personally
4 calculated these numbers then?

5 A. I do not.

6 Q. Okay. Let me ask you a little about the goods
7 that are sold with the Green Works mark on them. There
8 are no Green Works food products, correct?

9 A. That's correct.

10 Q. Okay. No pet products, to your knowledge?

11 A. Did you say "pet"?

12 Q. Yes, pet, P-E-T.

13 A. There are no pet products sold under the Green
14 Works trademark by Clorox.

15 Q. Okay. And I do mean specifically Clorox's
16 Green Works. I'm not asking you about some third party
17 that might be using Green Works. I'm asking you the
18 scope of Clorox's Green Works product on it.

19 A. Yes.

20 Q. There aren't any Green Works stores operated
21 by Clorox, are there?

22 A. No.

23 Q. And there aren't any services that Clorox
24 offers under a service mark Green Works, are there?

25 A. No.

1 Q. Okay. Let me ask you to flip to Exhibit UUUU,
2 which is one of the TESS printouts that Ms. Cohen asked
3 you about.

4 A. Yes.

5 Q. I just want to make sure we're clear about
6 this. You're not aware of any products currently being
7 sold that carry the Green Works mark and are
8 naturally-derived cleaners for use on floor, carpet,
9 fabric, and upholstery, are you?

10 A. I'm not aware, no.

11 Q. Okay. And then let me ask you the same
12 question with regard to Exhibit VVVV. That's the
13 printout for bath towels, beach towels, mattress covers,
14 and pillow cases that's manufactured from organic
15 cotton, and bath mats. Do you see that?

16 A. Yes, I do.

17 Q. You're not aware of the Green Works mark
18 currently being used by Clorox or a licensee for those
19 products, are you?

20 A. I am not aware, no.

21 Q. Okay. And Ms. Cohen asked you during your
22 testimony about first-use dates. You're not personally
23 aware of any of the first-use dates that are in these
24 registration certificates, are you?

25 MS. COHEN: I object to the question. He's

1 not speaking about himself personally. He's speaking as
2 a representative from Clorox. I'm not sure what your
3 question is.

4 MR. LAKE: My question -- I'll repeat it. And
5 certainly if you want to object, Ms. Cohen, that's fine.

6 Q. But my question, Mr. Brink, is, you're not
7 personally aware of the first-use dates for any of these
8 products, for Clorox Green Works products, are you?

9 A. I -- yeah, I think that I am personally aware
10 of the first date of sale for some of the products, yes.

11 Q. And tell me how you know this.

12 A. Because I was working for the company at the
13 time. I was active in the trademark filings, clearance,
14 prosecution with the United States Patent and Trademark
15 Office. I worked with the business to get dates of
16 first use.

17 Q. Okay. And how long have you worked for The
18 Clorox Company?

19 A. About ten years.

20 Q. Okay. And I think -- the reason I asked, I
21 think in your answer a moment ago, you said for some of
22 these products you're involved. Are there some that
23 predated your involvement with trademarks?

24 A. No.

25 Q. Okay.

1 A. But I personally filed statements of use, and
2 I personally worked with the business on some of them,
3 and then --

4 Q. I see.

5 A. -- my paralegals and other attorneys may have
6 worked on others.

7 Q. Okay. You're not aware of the Green Works
8 marking used by Clorox for air fresheners, are you?

9 A. Can you repeat the question?

10 Q. Sure, sure. I'm just wondering if Clorox
11 sells -- let me ask it -- let me rephrase the question.
12 How about that?

13 A. Mm-hmm.

14 Q. Are you aware of Clorox selling any air
15 fresheners under the brand name Green Works?

16 A. I'm not.

17 Q. Okay. And are you aware of Clorox selling any
18 automobile cleaning products under the brand name Green
19 Works?

20 A. I'm not.

21 MS. COHEN: Objection. I would assume some of
22 these products could be used to clean your automobile.

23 MR. LAKE: Q. Mr. Brink, you can go ahead and
24 answer.

25 MS. THACKRAY: I think the court reporter

1 caught his answer. Do you want to read it?

2 (Record read.)

3 MR. LAKE: I don't have any further questions.

4 REDIRECT EXAMINATION BY MS. COHEN

5 MS. COHEN: Q. Just to be -- go back a
6 second, please. So Mr. Brink, you believe the dates of
7 first use set forth in the filings for Green Works are
8 accurate; is that correct?

9 A. Are there any particular filings you're
10 referring to, or all of them?

11 Q. I'm referring to the dates of first use in the
12 registrations that we have marked.

13 A. To the best of my knowledge, yes.

14 Q. They're accurate?

15 A. Yes.

16 Q. Thank you. And in terms of the sales figures
17 that we talked about, do you believe that the sales
18 figures from IRI are accurate?

19 A. To the best of my knowledge, yes.

20 Q. And IRI is a service that Clorox routinely
21 uses?

22 A. Yes.

23 Q. And to the best of your knowledge, it's a
24 service that is used by other sellers of products in the
25 United States?

1 A. To the best of my knowledge, yes.

2 Q. Does -- sorry. Just I wanted to add another
3 exhibit, if I could. Does Green Works advertise -- I
4 think you said -- on the Internet?

5 A. Yes.

6 Q. Do you know -- do you have a Green Works Web
7 site?

8 A. Yes.

9 Q. And do you know the URL of the Green Works Web
10 site?

11 A. I believe it's greenworkscleaners.com.

12 Q. Okay. I think you have a document out there,
13 A&P 1091. Do you see that? Does this appear to be a
14 printout from that Web site?

15 A. Yes.

16 MR. LAKE: I'm sorry, Arlana. Is that in the
17 stack that you sent me?

18 MS. COHEN: Yes, but it didn't have a C number
19 on it. It was within the pile of the documents with the
20 C numbers on it, and it's a previously produced document
21 that I -- 1091.

22 MS. THACKRAY: It's near the end of the
23 registrations. In our stack it was between C36 and C37.

24 MS. COHEN: Thank you.

25 MR. LAKE: Thank you. I found it. Thank you

1 very much.

2 MS. COHEN: Q. I think, Adam, you said this
3 appears to be a printout from your Green Works Web page;
4 is that correct?

5 A. That's correct.

6 Q. Thank you.

7 And I'd like to mark this as Applicant's VVVV.
8 I'm sorry. XXXX.

9 (Whereupon Applicant's Exhibit XXXX was
10 marked for identification.)

11 MS. COHEN: I'd like to offer XXXX.

12 MR. LAKE: No objection.

13 MS. COHEN: And no further questions.

14 MR. LAKE: I do have one follow-up question.

15 RE-CROSS-EXAMINATION BY MR. LAKE

16 MR. LAKE: Q. Mr. Brink, let me ask you to
17 refer to the New York Times article.

18 A. Yes.

19 Q. In the middle of the second page, I believe
20 Ms. Cohen asked you about the advertising expenditures
21 as reported in this article. The paragraph begins,
22 "According to Kantar Media, Clorox spent more than
23 25 million a year." Do you see that sentence?

24 MS. THACKRAY: It's the middle of the second
25 column.

1 THE WITNESS: Yes, I do.

2 MR. LAKE: Q. Would you read aloud the
3 following sentence, "Kantar Media said that figure
4 dropped"?

5 A. "Kantar Media said that that figure dropped to
6 almost \$600,000 -- spent mostly on Internet
7 advertising -- in 2011, a figure that doubled to
8 \$1.2 million last year."

9 Q. Do you have any reason to doubt the accuracy
10 of that statement?

11 A. No.

12 MR. LAKE: Okay. That's all I have.

13 MS. COHEN: Okay.

14 (Whereupon, the deposition was concluded
15 at 12:54 p.m.)

16 ---oOo---

17
18 I declare under penalty of perjury, under the
19 laws of the United States, that the foregoing is true
20 and correct. Subscribed at
21 Oakland, California, this 7th
22 day of November 2013.

23
24
25 Adam Brink
Witness

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CERTIFICATE OF REPORTER

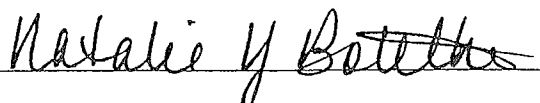
I, Natalie Y. Botelho, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth, and nothing but the truth in the within-entitled.

The said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of said witness was thereafter reduced to typewriting, by computer, under my direction and supervision;

That before completion of the deposition review of the transcript [] was|[X] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed are appended hereto.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: October 15, 2013


NATALIE Y. BOTEHO, CSR No. 9897

United States of America

United States Patent and Trademark Office

GREEN WORKS

Reg. No. 3,902,592

Registered Jan. 11, 2011

Int. Cl.: 3

TRADEMARK

PRINCIPAL REGISTER

THE CLOROX COMPANY (DELAWARE CORPORATION)
1221 BROADWAY
OAKLAND, CA 94612

FOR: GLASS CLEANING PREPARATIONS; BATHROOM CLEANING PREPARATIONS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 5-17-2007; IN COMMERCE 5-17-2007.

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

OWNER OF U.S. REG. NOS. 3,412,200, 3,595,789, AND 3,603,530.

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

SER. NO. 77-769,255, FILED 6-26-2009.

KATINA MISTER, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

APPLICANT'S EXHIBIT DDDD
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

APPLICANT'S EXHIBIT EEEE
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863



United States of America
United States Patent and Trademark Office



Reg. No. 3,902,593

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FIRST USE 5-17-2007; IN COMMERCE 5-17-2007.

OWNER OF U.S. REG. NOS. 3,412,200, 3,595,789, AND 3,603,530.

THE COLOR(S) BLUE, GREEN AND ORANGE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

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

THE MARK CONSISTS OF THE WORD "GREEN" IN BLUE ABOVE THE WORD "WORKS" IN GREEN WITH A YELLOW FLOWER ABOVE THE LETTER "N" IN THE WORD "GREEN".

SER. NO. 77-769,273, FILED 6-26-2009.

KATINA MISTER, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

APPLICANT'S EXHIBIT FFFF
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

C 000024

Complete listing of Unit UPCs for Retail Customers: Food-Drug-Mass (FDM), Home Hardware (HHW), eCommerce, and Club.

GREEN WORKS NATURALLY DERIVED CHLORINE-FREE BLEACH
Green Works Naturally Derived Chlorine-Free Bleach 60fo
GREEN WORKS LAUNDRY
Green Works Natural Laundry Detergent Liquid Original 45fo
Green Works Natural Laundry Detergent Liquid Original 90fo
Green Works Natural Laundry Detergent Liquid Free & Clear 45fo
Green Works Natural Laundry Detergent Liquid Free & Clear 90fo
Green Works Natural Laundry Detergent Liquid Lavender 45fo
Green Works Oxi Stain Remover 56oz
GREEN WORKS
Green Works All Purpose Cleaner Spray 32fo
Green Works All Purpose Cleaner Spray Simply Lemon 32fo
Green Works General Bathroom Cleaner Spray 24fo
Green Works Natural Bathroom Cleaner 30fo
Green Works Glass Cleaner Spray 32fo
Green Works Glass & Surface Cleaner Spray 32fo
Green Works Toilet Bowl Cleaner Manual 24fo
Green Works Natural Wipes Original 30ct
Green Works Natural Wipes Original 3x30ct
Green Works Natural Wipes Original 62ct
Green Works Natural Wipes Water Lily 30ct
Green Works Natural Wipes Water Lily 62ct
Green Works All Purpose Cleaner Commercial Solutions Spray 32fo
Green Works General Bathroom Cleaner Commercial Solutions Spray 24fo
Green Works Glass & Surface Cleaner Commercial Solution Spray 32fo
GREEN WORKS NATURAL DISHWASHING LIQUID
Green Works Natural Dishwashing Liquid Original 22fo
Green Works Natural Dishwashing Liquid Original 2x22fo
Green Works Natural Dishwashing Liquid Free & Clear 22fo
Green Works Natural Dishwashing Liquid Simply Tangerine 22fo

APPLICANT'S EXHIBIT **KKKK**
 PUBLIX v. THE GREAT ATLANTIC &
 PACIFIC TEA COMPANY
 Opp. No. 91186148 and Opp. No. 91186863

Green Works Natural Dishwashing Liquid Water Lily 22fo

VALUE PALLETS

Green Works Natural Laundry Detergent Liquid Original 90fo Value Pallet

Green Works Natural Laundry Detergent Liquid Original 162fo

Green Works Natural Wipes Water Lily 2x30ct

Green Works Natural Dishwashing Liquid Original 4x22fo

Green Works Natural Dishwashing Liquid Water Lily 2x22fo

Green Works

Figure 1: Sales & Advertising and Sales Promotion Trends

	FY08	FY09	FY10	FY11	FY12
Net Customer Sales	\$ 37,528,213	\$ 64,891,377	\$ 49,038,048	\$ 38,777,081	\$ 32,904,191

Figure 2: Green Works Regional Breakdown

	FY08	FY09	FY10	FY11	FY12
North Central	NA	NA	22%	22%	22%
Northeast	NA	NA	23%	23%	23%
South	NA	NA	33%	31%	31%
Western	NA	NA	22%	23%	23%

Note:

- 1) Based on IRI MJLO sales data which has comprised ~86% of total Green Works sales
- 2) Regional data classified according to Census definitions
 Northeast: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, New Jersey
 North Central: Wisconsin, Michigan, Illinois, Indiana, Ohio, Missouri, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa
 South: Delaware, Maryland, District of Columbia, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Kentucky, Tennessee, Mississippi, Alabama, Oklahoma, Texas, Arkansas, Louisiana
 West: Idaho, Montana, Wyoming, Nevada, Utah, Colorado, Arizona, New Mexico, Alaska, Washington, Oregon, California, Hawaii

Figure 3: Green Works Sales by Channel

	FY08	FY09	FY10	FY11	FY12
Total Food	NA	NA	\$ 20,622,408	\$ 15,343,686	\$ 11,530,644
Total Drug	NA	NA	\$ 2,308,377	\$ 1,226,226	\$ 704,797
Mass (Walmart/Target/Kmart/S	NA	NA	\$ 21,094,410	\$ 15,787,625	\$ 13,412,137
Other	NA	NA	\$ 2,252,649	\$ 836,471	\$ 386,554

Source: IRI MJLO sales data

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APPLICANT'S EXHIBIT LLLL
 PUBLIX v. THE GREAT ATLANTIC &
 PACIFIC TEA COMPANY
 Opp. No. 91186148 and Opp. No. 91186863

TTL CLOROX
GREEN
WORKS
FRANCHISE
CY 2009

	TOTAL U.S.- MULO	TOTAL U.S.- FOOD	TOTAL U.S.- DRUG	Mass Channel (Walmart/Target/Kmart /Shopko)	NORTH CENTRAL - MULO - CENSUS REGION	NORTHEAST - MULO - CENSUS REGION	SOUTH - MULO - CENSUS REGION	WESTERN - MULO - CENSUS REGION
Dollar Sales	\$56,894,332	\$23,824,046	\$2,705,372	\$25,235,344	\$12,029,880	\$13,012,832	\$19,768,628	\$12,082,989
Unit Sales	18,951,950	7,446,875	721,609	9,215,972	4,104,765	4,102,157	6,787,846	3,957,183

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CY 2010

TOTAL U.S.- MULO	TOTAL U.S. - FOOD	TOTAL U.S. - DRUG	Mass Channel (Walmart/Target/K mart/Shopko)	NORTH CENTRAL - MULO - CENSUS REGION	NORTHEAST - MULO - CENSUS REGION	SOUTH - MULO - CENSUS REGION	WESTERN - MULO - CENSUS REGION
\$40,436,172	\$18,358,150	\$1,769,037	\$18,940,774	\$8,984,139	\$9,344,714	\$12,962,557	\$9,144,762
13,744,906	5,863,449	548,886	6,789,466	3,099,783	3,049,642	4,561,274	3,034,208

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CY 2011

TOTAL U.S.- MULO	TOTAL U.S.- FOOD	TOTAL U.S.- DRUG	Mass Channel (Walmart/Targ et/Kmart/Shop ko)	NORTH CENTRAL - MULO - CENSUS REGION	NORTHEAST - MULO - CENSUS REGION	SOUTH - MULO - CENSUS REGION	WESTERN - MULO - CENSUS REGION
\$28,160,374	\$12,976,655	\$847,838	\$13,849,932	\$6,192,832	\$6,658,255	\$8,703,183	\$6,606,104
9,504,334	4,134,516	256,467	4,894,345	2,136,549	2,133,892	3,048,552	2,185,341

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Pursuant to Protective Order/Attorney's Eyes Only*

Report 01

CY 2012

TOTAL U.S.- MULO	TOTAL U.S.- FOOD	TOTAL U.S.- DRUG	Mass Channel (Walmart/Targ et/Kmart/Shop ko)	NORTH CENTRAL - MULO - CENSUS REGION	NORTHEAST - MULO - CENSUS REGION	SOUTH - MULO - CENSUS REGION	WESTERN - MULO - CENSUS REGION
\$24,322,732	\$9,878,588	\$538,653	\$12,701,292	\$5,377,284	\$5,982,989	\$7,590,710	\$5,371,751
7,986,939	3,109,668	151,766	4,408,853	1,827,461	1,844,683	2,574,483	1,740,312

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FY 2010

TOTAL U.S.- MULO	TOTAL U.S.- FOOD	TOTAL U.S.- DRUG	Mass Channel (Walmart/Targ et/Kmart/Shop ko)	NORTH CENTRAL - MULO - CENSUS REGION	NORTHEAST - MULO - CENSUS REGION	SOUTH - MULO - CENSUS REGION	WESTERN - MULO - CENSUS REGION
\$46,277,844	\$20,622,408	\$2,308,377	\$21,094,410	\$10,067,291	\$10,662,391	\$15,275,768	\$10,272,393
15,483,592	6,397,291	634,437	7,576,164	3,433,642	3,418,876	5,292,743	3,338,332

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FY 2011

TOTAL U.S.- MULO	TOTAL U.S.- FOOD	TOTAL U.S.- DRUG	Mass Channel (Walmart/Targ et/Kmart/Shop ko)	NORTH CENTRAL - MULO - CENSUS REGION	NORTHEAST - MULO - CENSUS REGION	SOUTH - MULO - CENSUS REGION	WESTERN - MULO - CENSUS REGION
\$33,194,010	\$15,343,688	\$1,226,226	\$15,787,625	\$7,334,264	\$7,740,847	\$10,448,900	\$7,670,001
11,350,887	4,933,571	401,986	5,668,278	2,561,802	2,520,065	3,690,320	2,578,700

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FY 2012

TOTAL U.S.- MULO	TOTAL U.S.- FOOD	TOTAL U.S.- DRUG	Mass Channel (Walmart/Targ et/Kmart/Shop ko)	NORTH CENTRAL - MULO - CENSUS REGION	NORTHEAST - MULO - CENSUS REGION	SOUTH - MULO - CENSUS REGION	WESTERN - MULO - CENSUS REGION
\$26,036,132	\$11,530,644	\$704,797	\$13,412,137	\$5,831,198	\$6,108,452	\$8,050,037	\$6,046,447
8,662,304	3,641,037	192,632	4,653,447	1,977,800	1,943,956	2,783,421	1,957,127

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MULTI-OUTLET

Multi-Outlet reporting includes the aggregation of the following:

- **Grocery Outlet** – Stores with \$2M + annual ACV
- **Drug Outlet**– All chain and independent drug retailers, excluding Rx sales
- **Mass Merchandiser Outlet** – Includes census chains: Target, Kmart, Shopko
- **Census Walmart** – Census data from Supercenters, Division 1 and Neighborhood Market
- **Census Club** – BJ's, Sam's Club chains only
- **Census Dollar** – Dollar General, Family Dollar, Fred's chains only
- **Census Military** –Defense Commissary Agency (DeCA)

The following pages provide further details of each outlet noted above.

APPLICANT'S EXHIBIT *MM MM*
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

* This list includes chains with market share of 0.5% or more within at least one InfoScan market.

MULTI-OUTLET

2012 Chains and Suppliers in the *GROCERY* Universe*

A & P	GERBES	PUBLIX
ACME MARKET	GIANT EAGLE	QUALITY FOOD CENTER
AFFILIATED FOOD SUPPLIED STORES	GIANT FOOD (CARLISLE PA)	RAINBOW
ALBERTSONS	GIANT FOOD (LANDOVER MD)	RALEYS
ALDI	GROCERS SUPPLY SUPPLIED STORES	RALPHS
ALL OTHER	GROCERY OUTLET	RANDALLS
ASSOCIATED FOOD SUPPLIED STORES	H E BUTT	REASORS
ASSOCIATED GROCERS SUPPLIED STORES	H.E. BUTT CENTRAL	ROUSES
AWG SUPPLIED STORES	H-E-B	SAFEWAY
BAKERS SUPERMARKET	HALE-HALSELL SUPPLIED STORES	SAVE A LOT
BASHAS/FOOD CITY	HANNAFORD	SAVE MART
BEL AIR	HARMONS	SCHNUCK MARKETS
BI LO	HARRIS TEETER	SHAWS
BIG Y	HARVEYS	SHOP N SAVE
BOZZUTOS	HEN HOUSE	SHOPPERS FOOD
BROOKSHIRE BROTHERS	HOMELAND	SHOPRITE
BROOKSHIRE FOODS	HORNBAACHERS/SV	SMART & FINAL
BRUNOS	HY VEE	SMITHS FOOD
C & S WHOLESALE SUPPLIED STORES	IGA	SPARTAN SUPPLIED STORES
C TOWN	INGLES MARKET	STATER BROTHERS
CENTRAL GROCERS SUPPLIED STORES	JACK & JILL	STOP & SHOP
CERTCO SUPPLIED STORES	JEWEL/JEWEL-OSCO	SUPER S
CITY MARKETS	KING KULLEN	SUPER SAVER FOODS INDEPENDENT
COPPS	KING SOOPERS	SUPERIOR SUPER WAREHOUSE
CUB FOODS	KINGS SUPER	SUPERVALU SUPPLIED STORES
DAHLS FOOD	KROGER	SWEETBAY
DEMOULAS/MARKET BASKET	LOWES	TESCO
DIERBERGS	MARKET BASKET/TX	THRIFTWAY/AWG
DILLONS	MARSH	TOM THUMB
DOMINICKS	MARTINS	TOPS MARKETS
F W ALBRECHT	MEIJER	TRADER JOES
FAMILY FARE	MITCHELL GROCERY SUPPLIED STORES	UKRUPS
FAREWAY STORES	NASH FINCH SUPPLIED STORES	UNIFIED WESTERN GROCERS SUPPLIED STORES
FARM FRESH	NOB HILL	UNITED SUPERMARKETS
FIESTA MART	OTH GENERAL TRAD	VONS
FOOD CITY	OTH KEY FOOD STO	WALDBAUMS
FOOD LION	OTH MERCHANT DIS	WAREHOUSE MARKET
FOOD TOWN	OTH ROUNDYS	WAREMART
FOOD 4 LESS/FOODS CO	OTH WEST COAST	WEGMANS
FOODMAXX	PATHMARK	WEIS MARKETS
FRED MEYER	PICK N SAVE	WHOLE FOODS
FRY'S FOOD STORE	PIGGLY WIGGLY	WINN DIXIE
GENUARDIS	PRICE CHOPPER	

Excludes Alaska, Hawaii, and Puerto Rico

** This list includes chains with market share of 0.5% or more within at least one InfoScan market.*

2012 Chains and Suppliers in the **DRUG STORE** Universe*

ALL OTHER
BARTELL
CVS/LONGS
DISCOUNT DRUG MA
DUANE READE
HY VEE DRUG
KERR INC.
MARCS
NAVARRO
RITE AID
SNYDERS
THRIFTY-WHITE
WALGREENS

Excludes Alaska, Hawaii and Puerto Rico

2012 Chains and Suppliers in the *MASS MERCHANDISER* Universe*

KMART
KMART SUPERCENTERS
SHOPKO
TARGET
TARGET PFRESH
TARGET SUPERCENTERS

Excludes Alaska, Hawaii and Puerto Rico

2012 Chains and Suppliers in the *WALMART* Universe

WALMART

Includes Supercenter, Division 1 and Neighborhood Market stores

Excludes Hawaii and Puerto Rico

2012 Chains and Suppliers in the *CLUB STORE* Universe

BJ's

SAM'S CLUB

Excludes Hawaii and Puerto Rico

2012 Chains and Suppliers in the *DOLLAR STORE* Universe

DOLLAR GENERAL

FAMILY DOLLAR

FRED'S

Excludes Hawaii and Puerto Rico

2012 Chains and Suppliers in the *MILITARY* Universe

DEFENSE COMMISSARY AGENCY (DeCA)

Commissaries in the Continental U.S. are included

Excludes commissaries outside the Continental U.S.

Advertisement

APPLICANT'S EXHIBIT *WWW*
PUBLIX v. THE GREAT ATLANTIC &
PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

Green within reach



New Green Works™ cleaners from Clorox — the natural choice

For years, green and easy just didn't go together. If it was green, it often meant paying a whole lot more for a lot less — less function, less form (hemp shirts, anyone?), just plain less. Setting out to find a natural product really would take an entire village — and a compass. When it came to green cleaners, they either weren't very green or very effective cleaners, or both. It's easy to see why consumers tended to give up.

Finally, big companies are getting the message. With its new plant-based Green Works™ line of products, Clorox has brought cleaning to green: The products are 99 percent natural, work as well or better than conventional cleaners and the price is right.

Never thought of putting Clorox and green in the same sentence? "As surprising as it sounds, it's a good sign," says Jessica Buttmer, marketing director for Green Works™ products. "If we're serious about living greener, we need big companies like Clorox involved and committed."

After nearly 100 years in business, Clorox certainly knows about cleaning, and with ingredients derived from lemon, corn and coconut, it's a natural.

Plant-based Green Works™ products, starting from \$2.99, are now available at Target® stores.
www.greenworkscleaners.com



The maker of Green Works™ natural cleaners is a proud supporter of the Sierra Club's efforts to preserve and protect the planet.

NI-4580

All images and art print CMYK unless otherwise noted. Comments DO NOT print.

	DATE: 12/17/09 11/27/07 12/28/07 12/11/07 12/12/09 12/19/07 12/14/07		BRAND: GW PG# 13241 SPEC# NI-4580	PROJECT TITLE: Microsoft Target Assist build PROJECT MANAGE/EXT# The Wong/Janice Bird CADS READY FILE NAME NI-4580_GW_ADR_TargR6-V1-02008	R6 V1	XXXX XXXX XXXX XXXX
	DESIGNER: [] [] [] [] [] [] [] [] PROOFER: [] [] [] [] [] [] [] [] DIRECTOR: [] [] [] [] [] [] [] []	STAGE: Mechanical DIMENSIONS: 7.25" x 10.5" RELEASE DATE: 12/14/2007	XXXX XXXX XXXX XXXX			

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advertisement

How green are your cleaners?

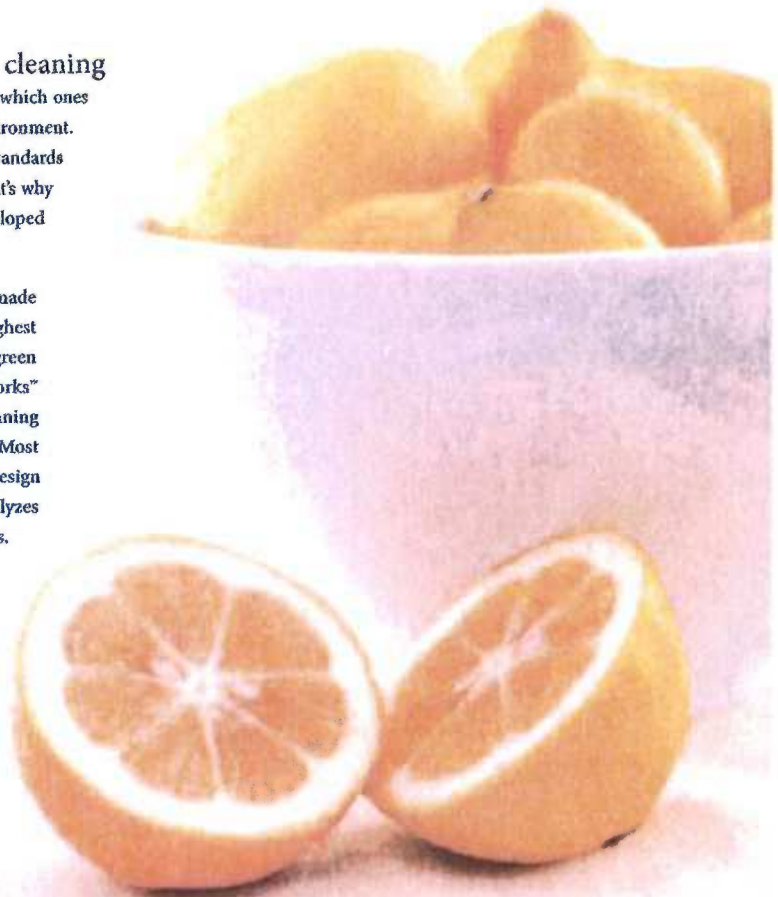
With so many new green cleaning products on the market, it's hard to know which ones really have a minimal impact on the environment. Despite all the hype, there are no industry standards defining "natural" in cleaning products. That's why Clorox set its own high bar when it developed Green Works™ household cleaners.

Ninety-nine percent of the ingredients are made from coconut, lemon and corn, the highest amount of plant-based ingredients of any green cleaner on the market. Every Green Works™ product is made using biodegradable cleaning agents and packaged in recyclable bottles. Most of the cleaners are certified by the EPA's Design for the Environment program, which analyzes ingredients and picks the greenest products.

Green Works™ products clean as well as conventional cleaners. Pick up a bottle next time you're at the supermarket or drugstore. You really can clean your home without hurting the planet.



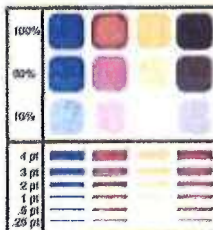
www.greenworkscleaners.com



The maker of Green Works™ natural cleaners is a proud supporter of the Sierra Club's efforts to preserve and protect the planet.

IN-30712

All images and art print CMYK unless otherwise noted. Comments DO NOT print.



creative CREATIVE SERVICES		BRAND GW PG# 13796 @PCC# NI-10112	PROJECT TITLE Green Works National Geographic PROJECT MANAGER/EXT# Jenise Bird CADS READY FILE NAME 2008-20000	R2	
DATE 03/28/08 03/31/08 05/05/08 05/30/08 06/02/08 06/05/08 06/09/08	DESIGNER MDR EC	PROOFER	DIRECTOR	STAGE R2 DIMENSIONS 8" x 10.5" RELEASE DATE 03/28/08	V1
<small>ALL PLACED MARGINS ARE 0.25". ALL COLORS ARE APPROXIMATE. THIS PROOF IS FOR PRESENTATION PURPOSES ONLY.</small>					

NAME Jenise Bird	TITLE Project Manager
PHONE 415-398-1234	FAX 415-398-1234
EMAIL jbird@clorox.com	SIGNATURE

- 1. Change light bulbs to energy-efficient CFLs



- 2. Install a high-efficiency toilet

- 3. Carpool



- 4. Rent or swap clothing, handbags and accessories

- 5. Walk

- 6. Read the news online

10

Easy, affordable steps to impact your home and protect the planet.

- 7. Install a low-flow shower head



- 8. Turn off appliances and electronics when not in use

- 9. Drink filtered tap water instead of bottled water



- 10. Use natural household cleaners



It's surprisingly easy and affordable to do a world of good. "Basic green steps don't require much effort or financial commitment, yet their eco-significance is as great (and sometimes greater) than those requiring big money and big struggle," says Josh Dorfman, green entrepreneur and author of "The Lazy Environmentalist: Your

Guide to Easy, Stylish, Green Living" and the new "The Lazy Environmentalist on a Budget."

Small changes in your lifestyle, some you've been hearing about for years and others that have recently become simpler, help you save money and help save the planet.

"Reduce, reuse and recycle. It's no longer simply a mantra for environmental activists," he says. "It's a ticket for everyone to save money while protecting our planet."



Green Works™ natural cleaners, made with biodegradable, plant-based ingredients, provide the cleaning power you need, for just pennies more than conventional cleaners. Green Works™ natural cleaners are recognized for using safer chemistry by the Environmental Protection Agency's Design for Environment program.

The maker of Green Works™ natural cleaners is a proud supporter of the Sierra Club's efforts to preserve and protect the planet.



How green are your cleaners?

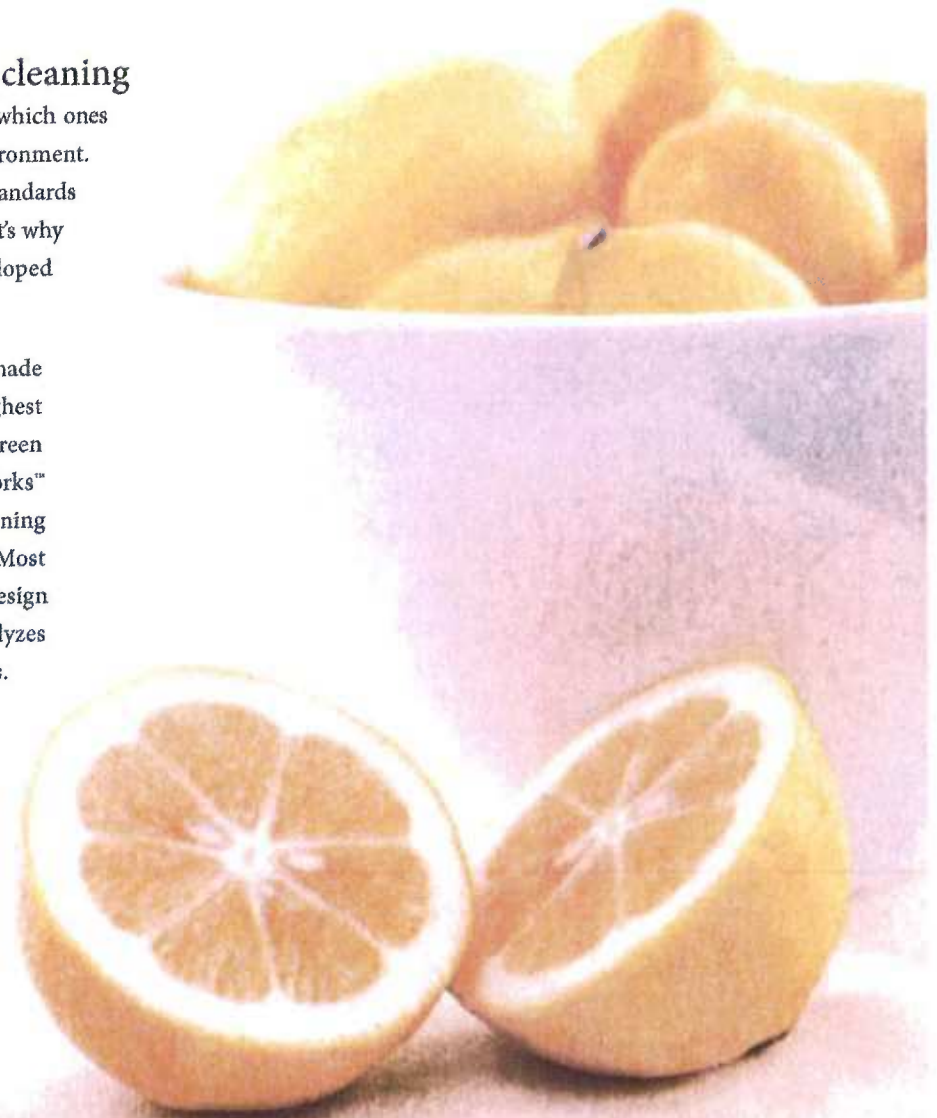
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Ninety-nine percent of the ingredients are made from coconut, lemon and corn, the highest amount of plant-based ingredients of any green cleaner on the market. Every Green Works™ product is made using biodegradable cleaning agents and packaged in recyclable bottles. Most of the cleaners are certified by the EPA's Design for the Environment program, which analyzes ingredients and picks the greenest products.

Green Works™ products clean as well as conventional cleaners. Pick up a bottle next time you're at the supermarket or drugstore. You really can clean your home without hurting the planet.



www.greenworkscleaners.com



The maker of Green Works™ natural cleaners is a proud supporter of the Sierra Club's efforts to preserve and protect the planet.

C 000019

Advertisement

green acres

Lauren Koslow (Kate, DAYS OF OUR LIVES) lives on an organic farm and is dedicated to preserving the environment.

"I'm an old hippie," laughs Lauren Koslow, explaining her dedication to the environment. To teach those values to her children — Zach and Millikate, now 19 and 17 — she and her husband, Nick Schillace, bought a 15-acre farm, intending to keep show horses.

When they discovered how many chemical products were involved, they started The House of Green Stables to create organic fly spray, ointment and horse treats. They grew lavender for the products and soon branched out to heirloom vegetables.

Koslow is militant about reducing, recycling and reusing.

“I'm always looking for better products that fit in with our model of living,” she says. “I use new Green Works™ Natural Glass & Surface Cleaner and Natural All-Purpose Cleaner, and they work wonderfully. It's inspiring to realize that there are things that we can do as individuals.”

The maker of Green Works™ natural cleaners is a proud supporter of the Sierra Club's efforts to preserve and protect the planet.



Photo courtesy of JPI Studios

New Green Works™ cleaners from Clorox — the natural choice

With its new plant-based Green Works™ line, Clorox has brought cleaning to green: The products are 99 percent natural, work as well as or better than conventional cleaners and the price is right.

Never thought of putting Clorox and green in the same sentence? As surprising as it sounds, it's a good sign, says Jessica Buttimer, marketing director for Green Works™ products: "If we're serious about living greener, we need big companies like Clorox involved and committed."



Plant-based Green Works™ products, starting from \$2.99, are now available at stores everywhere.

C 000020

Green within reach



New Green Works™ cleaners from Clorox — the natural choice

For years, green and easy just didn't go together. Most green cleaners either weren't very green or weren't very effective cleaners, or both. No wonder consumers gave up. Finally, big businesses are getting the message.

With its new plant-based Green Works™ line of products, Clorox has brought cleaning to green: The products are 99 percent natural and work as well or better than conventional cleaners. And the price is right.

Never thought of putting Clorox and green in the same sentence? As surprising as it sounds, it's a good sign. "If we're serious about living greener, we need big companies like Clorox involved and committed," says Jessica Buttner, marketing director for Green Works™ products.

The U.S. Environmental Protection Agency's Design for the Environment Program partners with leading

companies to make safer products for consumers and the environment. Design for the Environment recognition means that the product uses the safest possible ingredients that also ensure the product performs well. (www.epa.gov/dfe)

After nearly 100 years in business, Clorox certainly knows about cleaning, and with ingredients derived from lemon, corn and coconut, Green Works™ cleaners are a natural.



Improve Your Home. Add The Environment.

Plant-based Green Works™ products are now available at The Home Depot® stores and online.

Every product with The Home Depot's Eco Options label, including Green Works™ products, has less of an impact on the environment than competing products. For more information, visit www.homedepot.com/ecoptions.

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ADVERTISING

In an Overhaul, Clorox Aims to Get Green Works Out of Its Niche

By JANE L. LEVERE Published: April 21, 2013

GREEN WORKS, Clorox's line of environmentally friendly housecleaning products, is using Earth Day to introduce a fund-raising promotion on Twitter as part of an overall revamp of its marketing strategy.

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Green Works is Clorox's line of naturally derived cleaners.

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The Green Works campaign pokes fun at consumers who have made a status symbol out of being environmentally correct.

products as being "affordable, effective, accessible and approachable" — no doubt stems from a precipitous decline in sales.

The brand — introduced in 2008 with a controversial endorsement by the Sierra Club — has carried prices at least 20 percent higher than traditional housecleaning products and has been promoted with retailers' natural and organic products.

In January, however, Green Works recommended that retailers eliminate its price premium and promote its products with traditional housecleaning products. The new policies will be phased in starting this summer.

Clorox's contract with the Sierra Club, which involved a \$1.3 million payment to the environmental organization, will expire this December; the Sierra Club logo, which has appeared on all Green Works packaging, will be eliminated from new, bolder packaging that will begin appearing this summer as part of the overhauled marketing strategy.

The new strategy — which Green Works' brand manager, Shekinah Eliassen, said was meant to promote its

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APP 2562

Chris Gokiart, president of Critical Mass, said the social media initiatives — which are being promoted with digital banner advertising — are intended to “help customers become owners of and advocates for the brand.”

The campaign also involves a [new Green Works Web site](#), introduced in January, and magazine advertising in April, May and June issues of women’s magazines and People. One ad says, “You don’t have to be perfect to be green,” while another says, “You don’t have to be a trust fund baby to be green.”

Kevin Tuerff, president of EnviroMedia, an Austin-based environmental marketing company, said the new social media strategy could “enhance brand awareness, though it may not translate into sales.”

Wendy Nicholson, who follows Clorox for Citi, said organic personal care products generally have been more successful than organic household products. “People tend to care more about all-natural, organic products going into the body, as opposed to being used on their dishes or clothes,” she said.

A version of this article appeared in print on April 22, 2013, on page B6 of the New York edition with the headline: In an Overhaul, Clorox Aims to Get Green Works Out of Its Niche.

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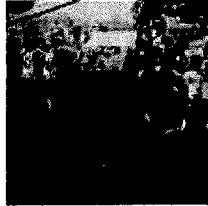
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MUSIC



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United States of America
United States Patent and Trademark Office



Reg. No. 3,902,596

Registered Jan. 11, 2011

Int. Cl.: 3

TRADEMARK

PRINCIPAL REGISTER

THE CLOROX COMPANY (DELAWARE CORPORATION)
1221 BROADWAY
OAKLAND, CA 94612

FOR: ALL-PURPOSE CLEANERS; TOILET BOWL DETERGENTS; DISPOSABLE WIPES IMPREGNATED WITH COMPOUNDS FOR HOUSEHOLD USE; DISHWASHING DETERGENTS; BATHROOM CLEANING PREPARATIONS; GLASS AND SURFACE CLEANING PREPARATIONS, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 5-17-2007; IN COMMERCE 5-17-2007.

OWNER OF U.S. REG. NOS. 3,412,200, 3,595,789, AND 3,603,530.

THE COLOR(S) BLUE, GREEN, BLACK, YELLOW AND ORANGE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

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

THE MARK CONSISTS OF THE WORD "GREEN" IN BLUE ABOVE THE WORD "WORKS" IN GREEN WITH A YELLOW FLOWER ABOVE THE LETTER "N" IN THE WORD "GREEN". ALL OF THE ABOVE IS SITUATED OVER A FLOWER WITH YELLOW PETALS WITH ORANGE SHADES APPEARING TOWARD THE CENTER OF THE FLOWER, GREEN CENTER, AND BLACK SHADOW SURROUNDING THE GREEN CENTER.

SER. NO. 77-771,745, FILED 6-30-2009.

KATINA MISTER, EXAMINING ATTORNEY



David J. Kyros

Director of the United States Patent and Trademark Office

APPLICANT'S EXHIBIT QQQQ
PUBLIX v. THE GREAT ATLANTIC &
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Opp. No. 91186148 and Opp. No. 91186863



APPLICANT'S EXHIBIT RRRR
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Opp. No. 91186148 and Opp. No. 91186863

A&P 00081



A&P 00082

United States of America

United States Patent and Trademark Office

GREEN WORKS

Reg. No. 3,974,852

Registered June 7, 2011

Int. Cl.: 3

TRADEMARK

PRINCIPAL REGISTER

THE CLOROX COMPANY (DELAWARE CORPORATION)
1221 BROADWAY
OAKLAND, CA 94612

FOR: NON CHLORINE BLEACH FOR HOUSEHOLD USE, NAMELY, HOUSEHOLD AND LAUNDRY BLEACH, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 1-23-2011; IN COMMERCE 1-23-2011.

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

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

SN 77-299,649, FILED 10-9-2007.

MICHAEL TANNER, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

APPLICANT'S EXHIBIT SSSS
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PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

C 000030



United States of America
United States Patent and Trademark Office



Reg. No. 4,286,944

Registered Feb. 5, 2013

Int. Cl.: 24

TRADEMARK

PRINCIPAL REGISTER

THE CLOROX COMPANY (DELAWARE CORPORATION)
1221 BROADWAY
OAKLAND, CA 94612

FOR: DISH CLOTHS, HAND TOWELS, KITCHEN TOWELS THAT ARE MANUFACTURED FROM ORGANIC COTTON, IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 6-30-2012; IN COMMERCE 6-30-2012.

OWNER OF U.S. REG. NOS. 3,412,200, 3,687,407, AND OTHERS.

THE COLOR(S) GREEN, YELLOW, BLUE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

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

THE MARK CONSISTS OF WORD "GREEN" IN BLUE ABOVE THE WORD "WORKS" IN GREEN WITH A YELLOW FLOWER ABOVE THE LETTER "N" IN THE WORD "GREEN".

SN 85-977,842, FILED 11-17-2010.

AMY ALFIERI, EXAMINING ATTORNEY



Lynn Stewart Kew
Acting Director of the United States Patent and Trademark Office

APPLICANT'S EXHIBIT TTTT
PUBLIX v. THE GREAT ATLANTIC &
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Opp. No. 91186148 and Opp. No. 91186863

C 000032





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Word Mark	GREEN WORKS
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Green cleaners, namely, naturally-derived cleaners for use on floor, carpet, fabric and upholstery
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	05.05.25 - Daffodils; Iris (flower); Other flowers
Serial Number	85387069
Filing Date	August 2, 2011
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	May 8, 2012
Owner	(APPLICANT) Clorox Company, The CORPORATION DELAWARE 1221 Broadway Oakland CALIFORNIA 94612
Attorney of Record	Tim Humphrey
Prior Registrations	3412200;3595789;3902593;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GREEN" APART FROM THE MARK AS SHOWN
Description of Mark	The color(s) blue, green and orange is/are claimed as a feature of the mark. The mark consists of the word, "green", in blue above the word, "works", in green with a yellow flower above the letter, "n", in the word, "green".
Type of Mark	TRADEMARK

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C 000035

From: TMOOfficialNotices@USPTO.GOV
Sent: Thursday, July 18, 2013 00:12 AM
To: trademarks@clorox.com
Subject: Trademark Serial Number 85387069 : Official USPTO Notice of Approval of Extension Request

NOTICE OF APPROVAL OF EXTENSION REQUEST

Serial Number: 85387069
Mark: GREEN WORKS(STYLIZED/DESIGN)
Owner: Clorox Company, The
Extension Request Number: 2
Docket/Reference Number:
Notice of Allowance Date: Jul 3, 2012

The USPTO issued a Notice of Allowance on **Jul 3, 2012** for the trademark application identified above. Applicant's **SECOND** request for Extension of Time to File a Statement of Use has been **GRANTED**.

PLEASE NOTE:

1. Applicant must continue to file extension requests every six (6) months calculated from the date the Notice of Allowance was issued until a Statement of Use is filed, or the USPTO will hold the application abandoned.
2. Applicant may only request a total of five (5) extensions of time.
3. Applicant may **NOT** file a Statement of Use more than thirty-six (36) months from the date the Notice of Allowance was issued.

For further information, including information on filing and maintenance requirements for U.S. trademark applications and registrations and required fees, please consult the USPTO website at <http://www.uspto.gov/> or call the Trademark Assistance Center at 1-800-786-9199.

To check the status of an application, go to <http://tarr.uspto.gov/>.

To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=85387069>.
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Word Mark	GREEN WORKS
Goods and Services	IC 024. US 042 050. G & S: Bath towels, beach towels, mattress covers and pillow cases that are manufactured from organic cotton
	IC 027. US 019 020 037 042 050. G & S: Bath mats
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	05.05.25 - Daffodils; Iris (flower); Other flowers
Serial Number	85179497
Filing Date	November 17, 2010
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	December 6, 2011
Owner	(APPLICANT) The Clorox Company CORPORATION DELAWARE 1221 Broadway Oakland CALIFORNIA 94612
Attorney of Record	Adam C. Brink
Prior Registrations	3412200;3603530;3687407;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GREEN" APART FROM THE MARK AS SHOWN
Description of Mark	The color(s) green, yellow, blue is/are claimed as a feature of the mark. The mark consists of word "GREEN" in blue above the word "WORKS" in green with a yellow flower above the letter "N" in the word "GREEN".
Type of Mark Register	TRADEMARK PRINCIPAL

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PUBLIX v. THE GREAT ATLANTIC & PACIFIC TEA COMPANY
Opp. No. 91186148 and Opp. No. 91186863

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From: TMOOfficialNotices@USPTO.GOV
Sent: Tuesday, August 13, 2013 00:10 AM
To: trademarks@clorox.com
Subject: Trademark Serial Number 85179497 : Official USPTO Notice of Approval of Extension Request

NOTICE OF APPROVAL OF EXTENSION REQUEST

Serial Number: 85179497
Mark: GREEN WORKS(STYLIZED/DESIGN)
Owner: The Clorox Company
Extension Request Number: 3
Docket/Reference Number:
Notice of Allowance Date: Jan 31, 2012

The USPTO issued a Notice of Allowance on **Jan 31, 2012** for the trademark application identified above. Applicant's **THIRD** request for Extension of Time to File a Statement of Use has been **GRANTED**.

PLEASE NOTE:

1. Applicant must continue to file extension requests every six (6) months calculated from the date the Notice of Allowance was issued until a Statement of Use is filed, or the USPTO will hold the application abandoned.
2. Applicant may only request a total of five (5) extensions of time.
3. Applicant may **NOT** file a Statement of Use more than thirty-six (36) months from the date the Notice of Allowance was issued.

For further information, including information on filing and maintenance requirements for U.S. trademark applications and registrations and required fees, please consult the USPTO website at <http://www.uspto.gov/> or call the Trademark Assistance Center at 1-800-786-9199.

To check the status of an application, go to <http://tarr.uspto.gov/>.

To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=85179497>.
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Green Works

Word Mark	GREEN WORKS
Goods and Services	IC 024. US 042 050. G & S: Bath towels; Beach towels; Mattress covers; Pillow cases that are manufactured from organic cotton
	IC 027. US 019 020 037 042 050. G & S: Bath mats
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85157584
Filing Date	October 20, 2010
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	February 12, 2013
Owner	(APPLICANT) The Clorox Company CORPORATION CALIFORNIA 1221 Broadway Oakland CALIFORNIA 94612
Attorney of Record	Adam C. Brink
Prior Registrations	3412200;3603530;3687407;AND OTHERS
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GREEN" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

APPLICANT'S EXHIBIT *WWW*
 PUBLIX v. THE GREAT ATLANTIC & PACIFIC TEA COMPANY
 Opp. No. 91186148 and Opp. No. 91186863

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From: TMOfficialNotices@USPTO.GOV
Sent: Friday, September 20, 2013 00:11 AM
To: trademarks@clorox.com
Subject: Trademark Serial Number 85157584 : Official USPTO Notice of Approval of Extension Request

NOTICE OF APPROVAL OF EXTENSION REQUEST

Serial Number: 85157584
Mark: GREEN WORKS(STANDARD CHARACTER MARK)
Owner: The Clorox Company
Extension Request Number: 1
Docket/Reference Number:
Notice of Allowance Date: Apr 9, 2013

The USPTO issued a Notice of Allowance on **Apr 9, 2013** for the trademark application identified above. Applicant's **FIRST** request for Extension of Time to File a Statement of Use has been **GRANTED**.

PLEASE NOTE:

1. Applicant must continue to file extension requests every six (6) months calculated from the date the Notice of Allowance was issued until a Statement of Use is filed, or the USPTO will hold the application abandoned.
2. Applicant may only request a total of five (5) extensions of time.
3. Applicant may **NOT** file a Statement of Use more than thirty-six (36) months from the date the Notice of Allowance was issued.

For further information, including information on filing and maintenance requirements for U.S. trademark applications and registrations and required fees, please consult the USPTO website at <http://www.uspto.gov/> or call the Trademark Assistance Center at 1-800-786-9199.

To check the status of an application, go to <http://tarr.uspto.gov/>.

To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=85157584>.

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From the makers of Clorox® products

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Opp. No. 91186148 and Opp. No. 91186863

A&P001091