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Filing date: **04/21/2011**

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

Proceeding	91195823
Party	Plaintiff OMS Investments, Inc.
Correspondence Address	JOHN GARY MAYNARD III HUNTON & WILLIAMS LLP 951 EAST BYRD STREET, RIVERFRONT PLAZA EAST TOWER RICHMOND, VA 23219-4074 UNITED STATES hwritm@hunton.com
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Stephen P. Demm
Filer's e-mail	HWRITM@hunton.com
Signature	/Stephen P. Demm/
Date	04/21/2011
Attachments	Motion - Part 1.pdf (36 pages)(1296586 bytes) Motion - Part 2.pdf (29 pages)(1024166 bytes) Motion - Part 3.pdf (41 pages)(1035085 bytes) Motion - Part 4.pdf (42 pages)(1271035 bytes) Motion - Part 5.pdf (16 pages)(395483 bytes) Motion - Part 6.pdf (25 pages)(660323 bytes)

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

In the matter of Application Serial No.: 77/853,842
For the mark: CHAMPIONGRO
Published: March 30, 2010

_____)	
OMS Investments, Inc.,)	
)	
Opposer,	)	Opposition No. 91195823
)	
v.	)	MOTION FOR LEAVE TO FILE A
	)	FIRST AMENDED NOTICE OF
NCA Biotech, Inc.,	)	OPPOSITION
)	
Applicant.)	
_____)	

Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure and Rule 2.107(a) of the Trademark Rules of Practice, and for the reasons stated in the accompanying Brief in Support, Opposer OMS Investments, Inc. ("OMS") moves the Trademark Trial and Appeal Board for leave to file a First Amended Notice of Opposition, in the form attached hereto as Exhibit A.

OPPOSER'S BRIEF IN SUPPORT OF ITS MOTION FOR LEAVE TO FILE A FIRST AMENDED NOTICE OF OPPOSITION

OMS seeks leave to file a First Amended Notice of Opposition, in the form attached hereto as Exhibit A. OMS seeks to amend its Notice to assert new facts that have come into existence since it filed its initial Notice of Opposition and that provide grounds for denying Applicant registration of the proposed mark and terminating this opposition. The primary new facts are these: on January 14, 2011, OMS and Applicant NCA Biotech, Inc. ("NCA") settled this dispute on the basis that (among other obligations) NCA agreed: (1) to cease any plans to use the mark that is the subject of this opposition (the CHAMPIONGRO mark) and (2) to expressly abandon the CHAMPIONGRO intent-to-use application that is being opposed (Application Serial No. 77/853,842). OMS also seeks to amend its Notice of Opposition to update the information provided as to its registrations and applications for its "GRO Marks" as defined below.

I. BACKGROUND

In its initial Notice of Opposition, filed July 28, 2010, OMS noted its prior rights in its registered and famous MIRACLE-GRO mark and in a number of other registered marks featuring the "GRO" element (collectively, the "GRO Marks"), and asserted that NCA's applied-for CHAMPIONGRO mark creates a likelihood of confusion and a likelihood of dilution with OMS's GRO Marks. Soon after OMS filed its initial Notice of Opposition, OMS and NCA began trying to settle their dispute. OMS and NCA wanted to suspend the opposition so that their settlement efforts could proceed. On December 3, 2010, OMS filed a consented request to suspend the opposition for 90 days. The Board granted the 90-day suspension, OMS and NCA continued to engage in settlement discussions and to exchange settlement offers and responses, and (as set forth in greater detail below), on January 14, 2011, OMS and NCA reached a

settlement by which NCA agreed to refrain from using the CHAMPIONGRO mark and to abandon its CHAMPIONGRO application.

II. SUMMARY OF PERTINENT FACTS

As noted above, soon after OMS filed its initial Notice of Opposition, it and NCA began trying to settle this dispute. From the outset, OMS made clear that, as part of any settlement, NCA would have to agree to cease plans to use CHAMPIONGRO and to withdraw its CHAMPIONGRO intent-to-use application.

Accordingly, on November 18, 2010, OMS sent NCA a proposed Settlement and Release Agreement (“Settlement Agreement”) that, among other obligations, required NCA to “forever refrain, on a worldwide basis, from using, applying to register, or registering any mark consisting of or incorporating the term CHAMPIONGRO, the GRO Marks, any marks confusingly similar to the GRO Marks, or any mark which contains the famous and distinctive GRO element, in connection with any goods or services” and to “expressly abandon the CHAMPIONGRO Application by filing with the PTO a Request For Express Abandonment (Withdrawal) Of Application in substantially the form provided.” *See Exhibit B* (November 18, 2010 correspondence from OMS’s prior counsel to NCA’s counsel attaching proposed Settlement Agreement) at §§ 1, 3. NCA and its counsel reviewed the Settlement Agreement, and, on December 15, 2010, responded by making a counteroffer noting that NCA would agree to OMS’s proposed Settlement Agreement if OMS would choose one of two options, either: (1) drop from the Settlement Agreement a provision by which NCA would acknowledge OMS’s rights in its GRO Marks, or (2) pay NCA a monetary amount in order to keep that provision in. In particular, NCA offered as follows:

Therefore, we are asking EITHER:

You drop all the language[s] that would indicate our acknowledgment of your right of the GRO mark. The settlement agreement would simply state that NCA Biotech would give up the CHAMPIONGRO trademark application.

OR,

OMS pays NCA Biotech a reasonable sum for giving up the mark. We actually had a similar case about six years ago when we operated under a different name, in which we received \$6,000.00 to give up our mark...At any rate, if you decide to pay a sum to settle, we would then decide the amount. In such case, you can keep all the language[s] in the draft since our CEO would feel it to be justified then.

See Exhibit C (December 15, 2010 correspondence from NCA's counsel to OMS's prior counsel).

On January 14, 2011, OMS completed the Settlement Agreement by accepting the first of the two offers that NCA made in its December 15, 2010 correspondence. Specifically, OMS agreed to remove from the Settlement Agreement the provision by which NCA would have to have acknowledged OMS's rights in its GRO Marks: "As that email [*i.e.*, the December 15, 2010 email] indicates, you [*i.e.*, NCA] were willing to enter into the Settlement Agreement provided Scotts¹ paid you \$6,000, or it withdrew the language of the Agreement requiring NCA to recognize Scotts' rights in the GRO mark. The [sic] Scotts has elected the latter." See Exhibit D (January 14, 2011 correspondence from OMS's counsel to NCA's counsel).

Through OMS's offer, NCA's counteroffer, and OMS's acceptance of NCA's counteroffer, OMS and NCA have settled their dispute about the CHAMPIONGRO mark, as reflected in the finalized Settlement Agreement that OMS first sent to NCA on

¹ "Scotts," *i.e.*, The Scotts Company LLC, is the parent company of OMS.

January 14, 2011. As part of the Settlement Agreement, NCA has agreed to withdraw its CHAMPIONGRO application and to cease any plans to use the CHAMPIONGRO mark. See Exhibits C and D (Applicant's Counteroffer and Opposer's Acceptance of material terms of the Settlement Agreement).²

The Settlement Agreement obviates the need for any further proceedings in this opposition, for two reasons: (1) NCA has agreed to withdraw the CHAMPIONGRO application that is the subject of the opposition, and (2) NCA cannot have a good faith intent to use the applied-for CHAMPIONGRO mark, as it has agreed to cease any plans to use that mark.

III. ARGUMENT

A. THE BOARD LIBERALLY GRANTS LEAVE TO AMEND PLEADINGS.

"[T]he Board liberally grants leave to amend pleadings at any stage of a proceeding when justice so requires." TBMP Rule 507.02; *see also* Fed. R. Civ. P. 15(a)(2) (leave to amend should be granted when justice so requires). In fact, the Board "has recognized that 'amendments to pleadings should be allowed with great liberality at any stage in the proceeding where necessary to bring about a furtherance of justice unless it is shown that entry of the amendment would violate settled law or be prejudicial to the rights of any opposing parties.'" *Commodore Electronics Ltd. v. CBM Kabushiki Kaisha*, 26 U.S.P.Q.2d 1503, 1505 (T.T.A.B. 1993).

B. THE BOARD SHOULD GRANT OMS LEAVE TO AMEND ITS NOTICE OF OPPOSITION.

² Since that time, NCA has sought to reopen negotiations and to get OMS to agree to different settlement deals, but NCA's post-settlement maneuvers cannot alter the Settlement Agreement that was already reached.

Given the liberal standards that apply, the Board should clearly grant OMS leave to amend its Notice of Opposition. Critical new facts have developed since OMS filed its initial Notice, facts which provide at least two new grounds for refusing registration to NCA and thus for terminating this opposition. And allowing OMS to amend its Notice of Opposition will not prejudice NCA. No new discovery will be needed, as the relevant facts are already known to Applicant and cannot be disputed. In any event, NCA would clearly have sufficient time for any such discovery, as the parties have just begun to engage in discovery.

As detailed above, the new facts are that, on January 14, 2011, OMS and NCA settled their dispute about the CHAMPIONGRO mark. On that date, OMS accepted NCA's counteroffer by which: (1) a provision under which NCA would have recognized OMS's rights in its GRO Marks was deleted; and (2) NCA agreed to abandon its CHAMPIONGRO application and its plans to use the CHAMPIONGRO mark. After OMS accepted the Settlement Agreement by accepting NCA's counteroffer, however, NCA has attempted to undo the parties' Settlement Agreement -- and thus prolong this opposition -- by attempting to add new terms. But NCA's attempt to "reopen" negotiations cannot change the fact that a Settlement Agreement has already been formed. *See J&J Sports Productions, Inc., v. Corazon Cruz Chai*, No. 1:09-cv-00450 AWI GSA, slip op. at 3 (E.D. California July 29, 2010) ("Defendant may not simply change his mind and eschew the settlement.")

In any event, the Board should allow OMS to amend its Notice of Opposition based on the new facts and to allege new grounds for refusing to register NCA's CHAMPIONGRO mark. As is plain from OMS's proposed First Amended Notice of

Opposition, *see Exhibit A*, OMS is not seeking to have the Board *enforce* the terms of the Settlement Agreement against NCA. To the contrary, OMS is simply and properly seeking to assert the fact of that Settlement Agreement as additional grounds for refusing to register NCA's CHAMPIONGRO mark. As the Board has noted, "although other courts would be the proper tribunals in which to litigate a cause of action for enforcement or breach of [a settlement agreement], that is not sufficient reason for the board to decline to consider the agreement. . . . If the Agreement bars applicant's use of the Applicant's Mark, then applicant is not entitled to registration." *Bausch & Lomb Inc. v. Karl Storz GmbH & Co.*, 87 U.S.P.Q.2d 1526 (T.T.A.B. 2008).

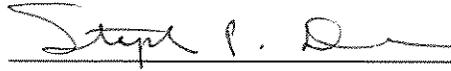
As the Board has also noted, granting a motion for leave to amend a notice of opposition in circumstances like these -- where new claims arise from a settlement agreement -- cannot prejudice an applicant like NCA: "opposers have provided sufficient basis for amending the notice of opposition to set forth the additional claims, which clearly did not arise until the settlement agreement had been executed." *Vaughn Russell Candy Co. and Toymax Inc. v. Cookies in Bloom, Inc.*, 47 U.S.P.Q.2d 1635 (T.T.A.B. 1998).

IV. CONCLUSION

For the foregoing reasons, Opposer's motion for leave to amend its Notice of Opposition should be granted.

Dated: April 21, 2011

Respectfully submitted,



John Gary Maynard, III

Stephen P. Demm

Janet W. Cho

Elizabeth A. Lim

Hunton & Williams LLP

951 East Byrd Street

Riverfront Plaza, East Tower

Richmond, Virginia 23219-4074

Telephone: (804) 788-8200

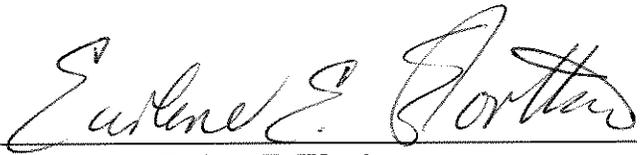
Attorneys for Opposer OMS Investments, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **MOTION FOR LEAVE TO FILE A FIRST AMENDED NOTICE OF OPPOSITION** has been properly served, via first class mail and e-mail, this 21st day of April, 2011, at the following addresses:

Stanley T. Hsiao, Esq.
NCA Biotech, Inc.
3406 Pomona Boulevard
Pomona, California 91768

stanleyth@cpbio.com

A handwritten signature in black ink, appearing to read "Earlene E. Wortham", written over a horizontal line.

Earlene E. Wortham

EXHIBIT A

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

In the matter of Application Serial No.: 77/853,842
For the mark: CHAMPIONGRO
Published: March 30, 2010

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Opposer,)	Opposition No. 91195823
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v.)	FIRST AMENDED NOTICE OF
)	OPPOSITION
)	
NCA Biotech, Inc.)	
)	
Applicant.)	
_____)	

FIRST AMENDED NOTICE OF OPPOSITION

OMS Investments, Inc., a corporation organized and existing under the laws of Delaware, with an office at 10250 Constellation Boulevard, Suite 2800, Los Angeles, California 90067 (“Opposer”), believes it will be damaged by registration of the CHAMPIONGRO mark shown in Application Serial No. 77/853,842, and hereby opposes its registration pursuant to 15 U.S.C. §§ 1051 et seq., including specifically 15 U.S.C. § 1063.

This First Amended Notice of Opposition has been timely filed. As grounds for its opposition, Opposer alleges as follows:

Applicant and Its CHAMPIONGRO Application

1. Upon information and belief, applicant NCA Biotech, Inc. is a California corporation with an address of 3406 Pomona Boulevard, Pomona, California 91768 (“Applicant”).

2. As evidenced in Application Serial No. 77/853,842, Applicant seeks to register the mark CHAMPIONGRO for “plant growth regulators for agricultural use” in International Class 1.

Opposer’s GRO Marks

3. Opposer, through its predecessors in interest and affiliates, has used in commerce the famous and distinctive MIRACLE-GRO mark since at least as early as 1951. Over the years, the mark has been used in connection with a wide range of agricultural and horticultural goods and services, including fertilizers, plant hormones and stimulants, and plant growing media in Class 1. Opposer owns numerous federal

trademark registrations and applications incorporating the famous and distinctive MIRACLE-GRO mark as reflected in the following representative registrations (the “MIRACLE-GRO Marks”):

Mark	Reg. No./ App. No.	Goods/Services
MIRACLE-GRO	0668868	Class 10: Water soluble plant food.
MIRACLE-GRO	1223038	Class 1: Fertilizer in the form of spikes for trees and shrubs.
MIRACLE-GRO POUR & FEED	2601682	Class 1: Fertilizer for home and garden use.
MIRACLE-GRO GARDEN WEED PREVENTER & PLANT FOOD	2618698	Class 1: Fertilizers for domestic use. Class 5: Herbicides for domestic use.
MIRACLE-GRO GARDEN WEED PREVENTER	2618699	Class 1: Fertilizers for domestic use. Class 5: Herbicides for domestic use.
MIRACLE-GRO TREE & SHRUB CARE	2809982	Class 44: Lawn, tree and shrub care, landscape gardening services and consulting services in the field of lawn, tree and shrub care and landscape gardening.
MIRACLE-GRO & Design	2820953	Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. Class 5: Herbicides for domestic use. Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. Class 31: Sphagnum peat moss.
MIRACLE-GRO & Design	2822655	Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. Class 5: Herbicides for domestic use. Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. Class 31: Sphagnum peat moss.
MIRACLE-GRO SELECT PLANTS	77/421528	Class 31: Live plants.
MIRACLE-GRO SELECT PLANTS & Design	2900658	Class 31: Living house plants.
MIRACLE-GRO & Design	2906855	Class 31: Live plants.
MIRACLE-GRO & Design	2906856	Class 31: Live plants.
MIRACLE-GRO MOISTURE CONTROL POTTING MIX CONTAINS AQUACOIR & Design	2935663	Class 1: Potting soil, growing media for plants.
MIRACLE-GRO & Design	2996098	Class 9: Protective work gloves. Class 21: Gardening gloves and gardening gloves for handling chemicals.

Mark	Reg. No./ App. No.	Goods/Services
MIRACLE-GRO	3074660	Class 9: Protective work gloves. Class 21: Gardening gloves and gardening gloves for handling chemicals.
MIRACLE-GRO GARDEN SOIL ROSES BONE MEAL ADDED TO GROW BIG, BEAUTIFUL BLOOMS! (PACKAGE) (COLOR)	3156217	Class 1: Garden soil, planting soil, soil containing additives, chemical soil conditioners, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO ORGANIC CHOICE & Design	3180531	Class 1: Fertilizers for domestic use, potting soil, blood meal, and bone meal.
MIRACLE-GRO GARDEN SOIL TREES & SHRUBS (PACKAGE) (COLOR)	3182529	Class 1: Garden soil, planting soil, soil containing additives, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO GARDEN SOIL FLOWERS & VEGETABLES & Design	3190987	Class 1: Garden soil, planting soil, soil containing additives, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO & Design	3233837	Class 1: Charcoal for horticultural purposes and for use as a soil conditioner; perlite for horticultural purposes and for use as a soil conditioner.
MIRACLE-GRO	3456832	Class 7: Composter machines and components thereof for recycling solid waste
MIRACLE-GRO	77/775762	Class 31: Flower, vegetable, plant and grass seeds for domestic and agricultural purposes.
MIRACLE-GRO COMPLETE	77/813595	Class 1: Growing media for plants
MIRACLE-GRO GRO-BAG	85/041740	Class 21: Gardening kits for home use comprised of plastic containers and potting soil.

True and correct copies of the electronic records for these registrations printed from the United States Patent and Trademark Office's ("USPTO") online database are attached as Exhibit 1. Each of the registrations noted above was issued on the Principal Register and is presently in full force and effect. Notably, Registration Nos. 0668868 and 1223038 are incontestable.

4. In addition, Opposer owns numerous other trademark applications and registrations containing the GRO suffix or component, including GRO POD, EARTHGRO, GARDEN-GRO, PRO GRO, GRO MIX, and SLO-GRO ("GRO Component Marks"), all as reflected below:

Mark	Reg. No./ App. No.	Goods/Services
GRO-POD	77/799595	Class 2: Containers for cultivating plants
EARTHGRO	1378337	Class 31: Top soil and peat humus.
EARTHGRO	1378721	Class 1: Cow manure, composted cow manure, dehydrated cow manure, potting soil.
EARTHGRO THE NATURAL CHOICE & Design	1723116	Class 1: Natural organic and mineral fertilizer for lawn and garden use, agricultural use and commercial use; cow manure, composted cow manure, dehydrated cow manure, potting soil and humus.
EARTHGRO THE NATURAL CHOICE & Design	1726060	Class 31: Top soil.
GARDEN-GRO	3498947	Class 31: Mulch.
GARDEN GRO	3917281	Class 1: Fertilizers.
ITS GRO TIME	3828745	Class 1: Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam.
ITS GRO TIME	3828746	Class 31: Grass seed; grass products, namely, grass sod and grass plugs; top soil; mulch; raw bark; peat moss; combination of grass seed, fertilizer and mulch for the purpose of lawn repair; soil containing fertilizer; live plants.
ITS GRO TIME	3552933	Class 44: Providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers ... via the internet; providing in-store consulting services on the subjects of gardening and lawn care and the use of related products, namely, plant foods, fertilizers ... and shrub care services; landscape gardening services; consulting services in the field of lawn, tree, and shrub care and landscape gardening.
PRO GRO	77/406779	Class 1: Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam.
SLO-GRO	77/727569	Class 31: Grass seed.
GRO-MIX	77/799605	Class 1: Growing media for plants.

True and correct copies of the electronic records for these registrations and applications printed from the USPTO's online database are attached as Exhibit 2 (the MIRACLE-GRO Marks and GRO Component Marks are hereinafter collectively referred to as the

“GRO Marks”). Notably, Registration Nos. 1378337, 1378721, 1723116, and 1726060 are incontestable.

5. The distinctiveness of the GRO Marks is buttressed by their widespread secondary meaning in the marketplace. Opposer has expended and continues to expend substantial time, money and effort in advertising and promoting the GRO Marks to identify itself as the source of its goods and services, such as in newspapers, magazines, sponsorships, and through nationally broadcast television and radio commercials.

6. In addition, the GRO Marks and products have been prominently featured on Opposer’s popular website www.scotts.com, among others. Over the years, the GRO Marks and the products associated with those marks have received a significant amount of unsolicited press and have been the subject of numerous articles in major publications. In addition, the strength of the GRO Marks is enhanced by Opposer’s vigilant and successful policing efforts of these marks.

7. As a result of Opposer’s efforts, the GRO Marks have become assets of substantial value and symbols of Opposer’s good will. Today, the GRO Marks are some of the most recognizable and valuable brands in the lawn and garden and horticulture industry. Moreover, due to the national, and indeed, worldwide consumer recognition of Opposer’s GRO Marks, consumers have come to recognize the suffix “GRO” as also symbolizing the goodwill inherent in the GRO Marks, and further, associate the “GRO” element solely with Opposer and its line of high quality products.

Opposer's Priority Over Applicant

8. No issue of priority exists with respect to Opposer's first use of one or more of its GRO Marks as set forth above and Applicant's CHAMPIONGRO mark. Opposer has used, promoted and advertised its goods under one or more of its GRO Marks in commerce for well over 50 years, since at least as early as 1951. Conversely, Applicant has not yet claimed use of the CHAMPIONGRO mark. Accordingly, Opposer has priority over Applicant with respect to the GRO Marks.

Applicant's CHAMPIONGRO Mark Creates a Likelihood of Confusion with Opposer's Prior GRO Marks

9. Applicant's proposed mark is confusingly similar to Opposer's GRO Marks because it is similar in appearance, sound and commercial impression, pursuant to 15 U.S.C. § 1052(d). Among other things, Applicant's proposed mark incorporates the word element "GRO," which is identical to the famous and distinctive "GRO" element in the GRO Marks. In addition, because the "GRO" word element is used as a suffix in connection with a prior word element, Applicant's proposed mark CHAMPIONGRO resembles Opposer's GRO Marks in commercial impression, and in particular its famous and distinctive MIRACLE-GRO mark. The likelihood of confusion between Applicant's proposed mark and Opposer's GRO Marks is further exacerbated because the goods proposed to be sold under Applicant's mark, namely "plant growth regulators for agricultural use," are identical or closely related to the products sold under Opposer's GRO Marks. Applicant's goods sold under the mark may be sold in the same or proximate channels of trade and to the same consumers as those sold under Opposer's

GRO Marks. Accordingly, consumers may believe, incorrectly, that CHAMPIONGRO is an extension of Opposer's family of GRO Marks.

10. Given the goodwill and public recognition arising from the association of the GRO Marks with Opposer, consumers are likely to believe that Opposer has licensed, approved or otherwise authorized Applicant's use of the CHAMPIONGRO mark when it has not.

11. The maturation of Applicant's application into registration will cause a likelihood of confusion, mistake or deception with respect to the source or origin of Applicant's goods. Consumers will erroneously believe that Applicant's goods are produced by or associated with Opposer.

Applicant's CHAMPIONGRO Mark Creates a Likelihood of Dilution with Opposer's Prior GRO Marks

12. Applicant's use and registration of the proposed mark will also cause dilution by tarnishment and dilution by blurring of Opposer's famous GRO Marks, whose fame was established well before Applicant's first use of its proposed mark, as prohibited by 15 U.S.C. § 1125(c).

13. Pursuant to 15 U.S.C. § 1063(a), Opposer will be damaged by registration of Applicant's proposed mark, which would grant Applicant a prima facie exclusive right to use the proposed mark despite Opposer's priority over Applicant and the likelihood of confusion, dilution and injury to goodwill that will be caused by Applicant's mark.

14. In summary, registration of the proposed mark would be incorrect and improper in view of the requirements of the Trademark Act of 1946, as amended, including specifically but not limited to the provisions of 15 U.S.C. §§ 1051, et seq.

The Agreement Reached by The Parties Requires Applicant to Explicitly Abandon Its CHAMPIONGRO Application and Bars Applicant's Use of the Mark

15. As an additional basis for opposition, Applicant is also not entitled to registration, because it agreed to expressly abandon its CHAMPIONGRO application and to forever refrain from using the CHAMPIONGRO mark in connection with its goods and services. The material terms of the Settlement and Release Agreement entered into by Applicant and Opposer are attached as Exhibits B, C and D to the Brief in Support of Opposer's Motion for Leave to File a First Amended Notice of Opposition that Opposer is filing herewith.

16. The Settlement and Release Agreement bars Applicant from using the CHAMPIONGRO mark, and thus Applicant is not entitled to registration. *Bausch & Lomb Inc. v. Karl Storz GmbH & Co.*, 87 U.S.P.Q.2d 1526 (T.T.A.B. 2008).

17. Moreover, Applicant is not entitled to registration, because it cannot use the CHAMPIONGRO mark in commerce without breaching the Settlement and Release Agreement. *Vaughn Russell Candy Co. and Toymax Inc. v. Cookies in Bloom, Inc.*, 47 U.S.P.Q.2d 1635 (T.T.A.B. 1998).

Applicant Cannot Demonstrate a Bona Fide Intent to Use the CHAMPIONGRO Mark

18. Applicant's agreement to forever refrain from using the CHAMPIONGRO mark in connection with any goods or services prevents it from meeting the requirements for registration of that mark pursuant to 15 U.S.C. § 1501(b-d).

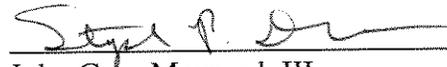
19. Applicant cannot demonstrate a bona fide intent to use the CHAMPIONGRO mark, because it has agreed to forever refrain from using that mark in

the Settlement and Release Agreement with Opposer. The material terms of the Settlement and Release Agreement reached by the Parties are attached as Exhibits B, C and D to the Brief in Support of Opposer's Motion for Leave to File a First Amended Notice of Opposition that Opposer is filing herewith.

WHEREFORE, Opposer prays that this Opposition be sustained, and that registration to Applicant for CHAMPIONGRO in Application Serial No. 77/853,842 for the goods identified in International Classes 1 be denied.

Dated: April 21, 2011

Respectfully submitted,



John Gary Maynard, III
Stephen P. Demm
Janet W. Cho
Elizabeth A. Lim
Hunton & Williams LLP
951 East Byrd Street
Riverfront Plaza, East Tower
Richmond, Virginia 23219-4074
Telephone: (804) 788-8200

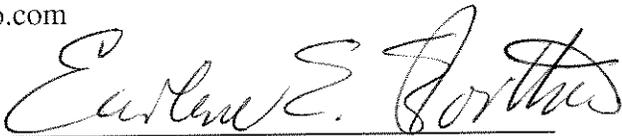
*Attorneys for Opposer OMS Investments,
Inc.*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **FIRST AMENDED NOTICE OF OPPOSITION** has been properly served upon the Applicant, via first class mail and e-mail, this 21th day of April, 2011, at the following addresses:

Stanley T. Hsiao, Esq.
NCA Biotech, Inc.
3406 Pomona Boulevard
Pomona, California 91768

stanleyth@cpbio.com

A handwritten signature in black ink, appearing to read "Earlene E. Wortham", written over a horizontal line.

Earlene E. Wortham

EXHIBIT B

Allen, Linda

From: Anderson, Britt
Sent: Thursday, November 18, 2010 3:46 PM
To: Stanley Hsiao
Cc: Hollander, Susan; Allen, Linda
Subject: OMS v. NCA Biotech (28405-302)
Attachments: Settlement Agreement (NCA BIOTECH) (2).DOC

Dear Mr. Hsiao -

Following our recent discussions, please see the attached draft settlement agreement in Word format. If you would like to discuss this matter by phone so that we can cover any aspects of the proposed agreement, please let me know. I will be available on Monday and Tuesday of next week if you would like to discuss the matter.

Regards,

Britt L. Anderson
manatt | phelps | phillips
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Tel.: (415) 291-7403
Fax: (415) 291-7474
e-mail: blanderson@manatt.com

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11/18/2010

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is effective as of _____, 2010 ("Effective Date") by and between OMS Investments, Inc., with a place of business at 10250 Constellation Boulevard, Suite 2800, Los Angeles, California 90067 ("OMS"), and NCA Biotech, Inc., 4802 Murrieta Street, Chino, CA 91710 ("NCA Biotech").

WHEREAS, since at least as early as 1951, OMS, through its predecessors in interest, has used and continues to use the MIRACLE-GRO trademark, which is famous and distinctive, in connection with a wide range of lawn and garden products, including fertilizers;

WHEREAS, OMS is the sole and exclusive owner of numerous trademark and service mark registrations and applications in the United States and throughout the world incorporating the MIRACLE-GRO mark and GRO suffix, including those U.S. registrations and applications listed at Exhibit A hereto (collectively, the "GRO Marks");

WHEREAS, OMS is the sole and exclusive owner of a famous and distinctive green and yellow trade dress, subject to U.S. Reg. No. 2,139,929, which is incontestable, and is used in connection with, in addition to other products, those sold under its GRO Marks (the "Green and Yellow Trade Dress");

WHEREAS, pursuant to Sections 7 and 33 of the Lanham Act, 15 U.S.C. §§ 1057(b) and 1115, each of the federally registered GRO Marks and the Green and Yellow Trade Dress are presumed, by virtue of its federal registration to be valid, registered, owned by OMS, and entitling OMS to the exclusive right to use the registered mark in commerce in connection with the goods listed therein, subject to any legal or equitable defense, including those found under Lanham Act Section 33(b), 15 U.S.C. § 1115(b);

WHEREAS, on or about October 3, 2006, NCA Biotech filed United States Trademark Application Serial No. 77/853,842 for CHAMPIONGRO in Class 1 for plant growth regulators for agricultural use (the "CHAMPIONGRO Application");

WHEREAS, on July 28, 2010, OMS filed a Notice of Opposition with the Trademark Trial and Appeal Board ("TTAB") against the CHAMPIONGRO Application alleging that the CHAMPIONGRO Mark is confusingly similar to and dilutive of the GRO Marks and therefore the CHAMPIONGRO Application should not mature to registration (the "Opposition");

WHEREAS, NCA Biotech currently uses the marks PHOTOGRO, ROOTGRO, MEGAGRO and HAPPYGRO ("NCA Biotech's Existing GRO MARKS") in connection with plant growth regulators for agricultural use;

WHEREAS, NCA Biotech currently uses green and yellow packaging in connection with its PHOTOGRO, MEGAGRO and HAPPYGRO products ("NCA Biotech's Green and Yellow Packaging");

WHEREAS, OMS and NCA Biotech wish to resolve any and all claims OMS may have against NCA Biotech arising out of the CHAMPIONGRO Application, NCA Biotech's Existing GRO Marks, and NCA Biotech's Green and Yellow Packaging.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Within five (5) days of the Effective Date hereof, NCA Biotech shall expressly abandon the CHAMPIONGRO Application by filing with the PTO a Request For Express Abandonment (Withdrawal) Of Application in substantially the form provided at Exhibit B.

2. Upon receipt of a service copy of NCA Biotech's Notice of Consented Express Abandonment pursuant to Section 1 above, OMS shall within five (5) business days withdraw the pending Opposition against the CHAMPIONGRO Application by filing with the TTAB a Notice of Consented Withdrawal of Opposition in substantially the same form as that attached hereto as Exhibit C.

3. NCA Biotech agrees that it shall forever refrain, on a worldwide basis, from using, applying to register, or registering any mark consisting of or incorporating the term CHAMPIONGRO, the GRO Marks, any marks confusingly similar to the GRO Marks, or any mark which contains the famous and distinctive GRO element, in connection with any goods or services, except that NCA Biotech may continue to use the marks PHOTOGRO, ROOTGRO, MEGAGRO and HAPPYGRO, provided that such marks are used only in connection with "plant growth regulators for agricultural use."

4. NCA Biotech agrees to phase out the NCA Biotech Green and Yellow Packaging by June 30, 2010 and replace it with packaging that does not predominantly consist of green and yellow. NCA Biotech further agrees to refrain from future use or adoption of any packaging consisting predominantly of green and yellow.

5. NCA Biotech hereby acknowledges OMS's ownership of and rights to the GRO Marks identified in Exhibit A attached hereto. NCA Biotech further acknowledges OMS's sole and exclusive right to use the GRO Marks, including the GRO element of those marks, in commerce and agrees not to contest or dispute, and agrees not to assist any third party in contesting or disputing, the validity or enforcement of any of the GRO Marks.

6. Subject to the full and complete performance by each of the parties hereto of all of the terms and conditions set forth herein, as well as the accuracy of the representations and warranties contained herein, the parties hereby mutually release and discharge one another, and each of their respective parents, subsidiaries, affiliates, partners, officers, directors, shareholders, agents, representatives, employees, successors, and assigns from any and all claims, causes or rights of action, liability, or obligations of any kind, type or nature, whether presently known or unknown, which each or any of them now has or may have against each other from the beginning of the world to the Effective Date hereof arising out of or in connection with the filing of the CHAMPIONGRO Application, the use by NCA Biotech of NCA Biotech's Existing GRO MARKS, and/or use by NCA Biotech of NCA Biotech's Green and Yellow Packaging. This mutual release does not release any party from any of the obligations contained in this Agreement.

7. NCA Biotech hereby expressly waives any and all rights and benefits which it may have under the terms of Section 1542 of the California Civil Code which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

8. The parties acknowledge that they have read this Agreement and understand all of its terms, and that this Agreement is executed voluntarily, without duress, and with full knowledge of its legal significance. The parties acknowledge that they have had the opportunity to obtain independent legal advice from an attorney of its choice with respect to the legal consequences of entering into this Agreement. The parties agree they have participated equally in the choice of language and terms of this Agreement and that no presumption shall exist with respect to the party initially drafting the Agreement.

9. This Agreement shall be binding on and inure to the benefit of the assigns, successors and licensees of the parties hereto. This Agreement contains the entire agreement of the parties on the subjects contained herein and supersedes any other oral or written representations by and agreements between the parties with respect to the subjects contained herein. This Agreement shall not be amended, modified, or supplemented except by a writing signed by an authorized representative of each party. The validity, construction and performance of this Agreement are governed by the laws of the State of California, without regard to or application of conflict of laws rules.

10. This Agreement may be executed in counterparts, each of which is deemed an original.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed by their duly authorized representatives who are authorized to bind the respective parties.

OMS Investments, Inc.

NCA Biotech, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

Mark	Reg. No/Ser. No.	Goods/Services
MIRACLE-GRO	0668868	Class 1: Water soluble plant food.
MIRACLE-GRO	1051605	Class 1: Plant food and fertilizer
MIRACLE-GRO	1223038	Class 1: Fertilizer in the form of spikes for trees and shrubs.
MIRACLE-GRO	2235973	Class 31: Flower, vegetable and plant seeds for domestic and agricultural purposes.
MIRACLE-GRO SELECT PLANTS	2525828	Class 31: Live plants.
MIRACLE-GRO POUR & FEED	2601682	Class 1: Fertilizer for home and garden use.
MIRACLE-GRO GARDEN WEED PREVENTER & PLANT FOOD	2618698	Class 1: Fertilizers for domestic use. Class 5: Herbicides for domestic use.
MIRACLE-GRO GARDEN WEED PREVENTER	2618699	Class 1: Fertilizers for domestic use. Class 5: Herbicides for domestic use.
MIRACLE-GRO SELECT PLANTS & Design	2723181	Class 31: Live plants and containers therefore.
MIRACLE-GRO PROFESSIONAL TREE & SHRUB CARE & Design	2758533	Class 44: Lawn, tree and shrub care, landscape gardening services and consulting services in the field of lawn, tree and shrub care and landscape gardening.
MIRACLE-GRO FAST ROOT	2787356	Class 1: Root stimulating hormone that converts plant cells to stem cells.
MIRACLE-GRO TREE & SHRUB CARE	2809982	Class 44: Lawn, tree and shrub care, landscape gardening services and consulting services in the field of lawn, tree and shrub care and landscape gardening.
MIRACLE-GRO SELECT PLANTS & Design	2816031	Class 21: Containers not of metal for use with plants and for commercial use. Class 31: Live plants.
MIRACLE-GRO & Design	2820953	Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. Class 5: Herbicides for domestic use. Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. Class 31: Sphagnum peat moss.
MIRACLE-GRO & Design	2822655	Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. Class 5: Herbicides for domestic use. Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. Class 31: Sphagnum peat moss.

Mark	Reg. No/Ser. No.	Goods/Services
MIRACLE-GRO	2856922	Class 21: Flower pots and planters.
MIRACLE-GRO & Design	2856923	Class 21: Flower pots and planters.
MIRACLE-GRO & Design	2856924	Class 21: Watering cans. Class 31: Flower, vegetable and plant seeds.
HAVE YOU USED MIRACLE-GRO LATELY?	2870768	Class 1: Lawn and garden fertilizer for domestic use; plant food; fertilizer in the form of spikes for houseplants, outdoor plants, trees, and shrubbery for domestic use; peat fertilizer; composts; humus; loam; manure; potting soil, soil conditioners, soil amendments, growing media for plants, all for domestic use. Class 16: Brochures about subjects of lawn care and landscape gardening and the use of products relating to lawn care and landscape gardening, including fertilizers, herbicides, fungicides, insecticides, grass seed, flower seeds, garden seeds, plant food, potting soil, soil conditioners and amendments, ground cover, and lawn and garden equipment and advices and information related to flowers and their care.
MIRACLE-GRO SELECT PLANTS & Design	2900658	Class 31: Living house plants.
MIRACLE-GRO SELECT PLANTS & Design	2723181	Class 31: Live plants and containers therefor
MIRACLE-GRO & Design	2906855	Class 31: Live plants.
MIRACLE-GRO & Design	2906856	Class 31: Live plants.
MIRACLE-GRO MOISTURE CONTROL POTTING MIX CONTAINS AQUACOIR & Design	2935663	Class 1: Potting soil, growing media for plants.
MIRACLE-GRO & Design	2996098	Class 9: Protective work gloves. Class 21: Gardening gloves and gardening gloves for handling chemicals.
MIRACLE-GRO	3074660	Class 9: Protective work gloves. Class 21: Gardening gloves and gardening gloves for handling chemicals.
MIRACLE-GRO GARDEN SOIL ROSES BONE MEAL ADDED TO GROW BIG, BEAUTIFUL BLOOMS! (PACKAGE) (COLOR)	3156217	Class 1: Garden soil, planting soil, soil containing additives, chemical soil conditioners, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO ORGANIC CHOICE & Design	3180531	Class 1: Fertilizers for domestic use, potting soil, blood meal, and bone meal.
MIRACLE-GRO GARDEN SOIL TREES & SHRUBS (PACKAGE) (COLOR)	3182529	Class 1: Garden soil, planting soil, soil containing additives, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.

Mark	Reg. No/Ser. No.	Goods/Services
MIRACLE-GRO GARDEN SOIL FLOWERS & VEGETABLES & Design	3190987	Class 1: Garden soil, planting soil, soil containing additives, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO & Design	3233837	Class 1: Charcoal for horticultural purposes and for use as a soil conditioner; perlite for horticultural purposes and for use as a soil conditioner.
MIRACLE-GRO	77/215022	Class 7: Composter machines and components thereof for recycling solid waste
EARTHGRO	1378337	Class 31: Top soil and peat humus.
EARTHGRO	1378721	Class 1: Cow manure, composted cow manure, dehydrated cow manure, potting soil.
EARTHGRO THE NATURAL CHOICE & Design	1723116	Class 1: Natural organic and mineral fertilizer for lawn and garden use, agricultural use and commercial use; cow manure, composted cow manure, dehydrated cow manure, potting soil and humus.
EARTHGRO THE NATURAL CHOICE & Design	1726060	Class 31: Top soil.
EARTHGRO THE NATURAL CHOICE DECORATIVE HARDWOOD MULCH FOR WELL-GROOMED LANDSCAPES & Design	2357372	Class 31: Mulch
EARTHGRO THE NATURAL CHOICE PLANTING SOIL FOR FLOWERS, TREES AND SHRUBS & Design	2484307	Class 1: Potting soil.
GARDEN GRO	76/653762	Class 1: Fertilizers
GARDEN-GRO	77/394176	Class 31: Mulch
PRO GRO	77/406779	Class 1: Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam
SLO GRO	78/614950	Class 31: Grass seed and grass sod for commercial and residential use

Mark	Reg. No/Ser. No.	Goods/Services
LET YOURSELF GRO	78/795657	<p>Class 1: Lawn and garden fertilizer, plant food, fertilizer in the form of spikes for houseplants, outdoor plants, trees and shrubbery; peat, compost, humus, loam and manure; potting soil, soil conditioners, soil amendments and growing media for plants all for domestic use.</p> <p>Class 5: Herbicides for domestic use.</p> <p>Class 21: Fertilizer mixers and sprayers attached to garden hoses.</p> <p>Class 31: Flower, vegetable, plant and grass seed; live plants.</p> <p>Class 44: Providing information via the internet on lawn care and landscape gardening, including how to use and apply fertilizers, herbicides, fungicides, insecticides, grass seed, flower seed, garden seeds, plant food, potting soil, soil conditioners and amendments and ground cover; providing information via the internet on the use of equipment for the lawn and garden; providing advice and information via the internet on flowers and their care.</p>
IT'S GRO TIME	77/341562	<p>Class 31: Grass seed; grass products, namely, grass sod and grass plugs; top soil; mulch; raw bark; peat moss; combination of grass seed, fertilizer and mulch for the purpose of lawn repair; soil containing fertilizer; live plants</p>
IT'S GRO TIME	77/341556	<p>Class 1: Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam</p>
IT'S GRO TIME	77/341566	<p>Class 44: Providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, including plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment via print, advertising, and the internet; providing in-store consulting services on the subjects of gardening and lawn care and the use of related products, including plant foods, fertilizers, pesticides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; lawn, tree, and shrub care services; landscape gardening services; consulting services in the field of lawn, tree, and shrub care and landscape gardening</p>

EXHIBIT B

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

_____	)	Opposition No. _____
OMS Investments, Inc.,)	
Opposer)	
	)	NOTICE OF CONSENTED
v.	)	EXPRESS ABANDONMENT
	)	PURSUANT TO 37 C.F.R. §2.68
NCA Biotech, Inc.,)	
Applicant.)	
_____)	

Applicant, NCA Biotech, Inc., hereby expressly abandons with prejudice its United States Trademark Application bearing Serial No. 77/853,842 to register the mark CHAMPIONGRO. Opposer, by its counsel, Manatt, Phelps & Phillips, LLP, has consented to this Notice of Express Abandonment. This Notice of Consented Express Abandonment is executed by Applicant and Opposer by signature of counsel having authority to bind each.

Respectfully submitted,

NCA BIOTECH, INC.

Date: _____, 2010

By: _____

Stanley T. Hsiao
4802 Murrieta Street
Chino, CA 91710
Telephone: (909) 348-5133
Attorney for Applicant, NCA Biotech, Inc.

MANATT, PHELPS & PHILLIPS, LLP

Date: _____, 2010

By: _____

Susan E. Hollander, Esq.
Britt L. Anderson, Esq.
1001 Page Mill Road, Bldg. 2
Palo Alto, CA 94304
Telephone: (650) 812-1300
*Attorneys for Opposer,
OMS Investments, Inc.*

EXHIBIT C

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

OMS Investments, Inc.,) Opposition No. _____
Opposer)
v.) NOTICE OF CONSENTED
NCA Biotech, Inc.,) WITHDRAWAL OF OPPOSITION
Applicant.) PURSUANT TO 37 C.F.R. §2.106(c)
_____)

Pursuant to 37 C.F.R. § 2.106(c), Opposer OMS Investments, Inc. ("Opposer") hereby withdraws with prejudice its Notice of Opposition to Applicant NCA Biotech, Inc.'s ("Applicant") U.S. Trademark Application Serial No. 77/853,842 in Class 1 in the above-identified opposition proceeding. Applicant has consented to this Notice of Consented Withdrawal. This Notice of Consented Withdrawal is executed by Applicant and by Opposer by signature of counsel having authority to bind each.

Respectfully submitted,

MANATT, PHELPS & PHILLIPS, LLP

Date: _____, 2010

By: _____
Susan E. Hollander, Esq.
Britt L. Anderson, Esq.
1001 Page Mill Road, Bldg. 2
Palo Alto, CA 94304
Telephone: (650) 812-1300
Attorneys for Opposer, OMS Investments, Inc.

NCA BIOTECH, INC.

Date: _____, 2010

By: _____
Stanley T. Hsiao
4802 Murrieta Street
Chino, CA 91710
Telephone: (909) 348-5133
Attorney for Applicant, NCA Biotech, Inc.

EXHIBIT C

From: Stanley Hslao [mailto:stanleyth@cpbio.com]
Sent: Wednesday, December 15, 2010 2:15 PM
To: Anderson, Britt
Subject: RE: OMS v. NCA Biotech (28405-302)

Dear Britt,

Sorry that I was unable to come back to you until now. We are a small but growing company. We have a lot of things going on.

I had the opportunity to discuss with our CEO regarding the content of the settlement agreement you drafted. To simply and frankly put, we feel that as drafted we are not gaining anything. Yet OMS gets not only whatever it wanted, but also a situation which can be used to facilitate your opposition in similar future cases.

Therefore, we are asking EITHER:

You drop all the languages that would indicate our acknowledgment of your right of GRO mark. The settlement agreement would simply state that NCA Biotech would give up the CHAMPIONGRO trademark application.

OR,

OMS pays NCA Biotech a reasonable sum for giving up the mark. We actually had a similar case about six years ago when we operated under a different name, in which we received \$6,000.00 to give up our mark. You did offer to pay us a sum of \$1,500.00 before. Our CEO was thinking that if \$6,000.00 was a reasonable amount six years ago, a reasonable amount now should be more than \$6,000.00. At any rate, if you decide to pay a sum to settle, we would then decide the amount. In such case, you can keep all the languages in the draft since our CEO would feel it to be justified then.

12/21/2010

Hope that you and your client understand our situation.

Best regards,

Stanley

From: Anderson, Britt [mailto:BLAnderson@manatt.com]
Sent: Thursday, December 09, 2010 7:58 PM
To: Stanley Hsiao
Cc: Holloway, Sonya
Subject: RE: OMS v. NCA Biotech (28405-302)

Mr. Hsiao -

Please let me know if you have had a chance to review the agreement.

Regards,
Britt Anderson

From: Stanley Hsiao [mailto:stanleyth@cpbio.com]
Sent: Friday, December 03, 2010 8:54 AM
To: Anderson, Britt
Subject: RE: OMS v. NCA Biotech (28405-302)

Britt,

I will be tied up today. I shall review the settlement agreement carefully and come back to you next week.
Stanley

From: Anderson, Britt [mailto:BLAnderson@manatt.com]
Sent: Thursday, December 02, 2010 3:52 PM
To: Stanley Hsiao
Cc: Allen, Linda
Subject: FW: OMS v. NCA Biotech (28405-302)

Mr. Hsiao -

Please let us know if you have had a chance to review this agreement. I left a telephone message today at your office.

Regards,
Britt Anderson

From: Anderson, Britt
Sent: Thursday, November 18, 2010 3:46 PM
To: 'Stanley Hsiao'
Cc: Hollander, Susan; Allen, Linda
Subject: OMS v. NCA Biotech (28405-302)

Dear Mr. Hsiao -

Following our recent discussions, please see the attached draft settlement agreement in Word format. If you

12/21/2010

would like to discuss this matter by phone so that we can cover any aspects of the proposed agreement, please let me know. I will be available on Monday and Tuesday of next week if you would like to discuss the matter.

Regards,

Britt L. Anderson
manatt | phelps | phillips
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Tel.: (415) 291-7403
Fax: (415) 291-7474
e-mail: blanderson@manatt.com

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IRS CIRCULAR 230 DISCLOSURE: To comply with requirements imposed by recently issued treasury regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written by us, and cannot be used by you, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another person any transaction or matter addressed herein. For information about this legend, go to <http://www.manatt.com/circ230>

IRS CIRCULAR 230 DISCLOSURE: To comply with requirements imposed by recently issued treasury regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written by us, and cannot be used by you, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another person any transaction or matter addressed herein. For information about this legend, go to <http://www.manatt.com/circ230>

EXHIBIT D

To: 'stanleyth@cpbio.com'[stanleyth@cpbio.com];
Cc: Maynard, John Gary[jgmaynard@hunton.com]; 'Anderson, Britt'[BLAnderson@manatt.com];
Ford, Tina[tford@hunton.com];
Subject: FW: NCA Biotech
Sent: Fri 1/14/2011 7:57:07 PM
From: Maynard, John Gary

[Email re settlement agreement \(NCA Biotech\) \(34032292\) \(1\).PDF](#)
[Comparison of Settlement Agmt \(NCA Biotech\) \(34126510\) \(1\).PDF](#)
[Settlement Agreement \(NCA Biotech\) \(revised version\) \(34126485\) \(1\).PDF](#)

Mr. Hasio

My name is John Gary Maynard. I recently took over this file from Manatt. I have copied Britt Anderson should you have any questions regarding my involvement.

I have also attached a copy of the last email correspondence between you and Mr. Anderson regarding settlement. As that email indicates, you were willing to enter into the Settlement Agreement provided Scotts paid you \$6,000, or it withdrew the language of the Agreement requiring NCA to recognize Scotts' rights in the GRO mark. The Scotts has elected the latter.

I have attached a redline as well as a revised agreement for your review and consideration. Presuming this meets your approval, please sign the document and return it to me by email.

We look forward to your prompt response.

<http://www.hunton.com> _
<http://www.hunton.com/media/emailsig/images/HW2.gif>
John Gary Maynard, III
Partner
jgmaynard@hunton.com

Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond, VA 23219
Phone: (804) 788-8772
Fax: (804) 343-4672
www.hunton.com

This communication is confidential and is intended to be privileged pursuant to applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this message in error, please notify Hunton & Williams LLP immediately by telephone (877-374-4937) and by electronic mail to:

help_desk@hunton.com and then delete this message and all copies and backups thereof.

Attachment
Email re settlement agreement (NCA
Biotech)_(34032292)_(1).PDF

From: Stanley Hsiao [mailto:stanleyth@cpbio.com]
Sent: Wednesday, December 15, 2010 2:15 PM
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12/21/2010

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Best regards,

Stanley

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Sent: Thursday, December 09, 2010 7:58 PM
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Cc: Holloway, Sonya
Subject: RE: OMS v. NCA Biotech (28405-302)

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Britt Anderson

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Subject: RE: OMS v. NCA Biotech (28405-302)

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Sent: Thursday, December 02, 2010 3:52 PM
To: Stanley Hsiao
Cc: Allen, Linda
Subject: FW: OMS v. NCA Biotech (28405-302)

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Following our recent discussions, please see the attached draft settlement agreement in Word format. If you

12/21/2010

would like to discuss this matter by phone so that we can cover any aspects of the proposed agreement, please let me know. I will be available on Monday and Tuesday of next week if you would like to discuss the matter.

Regards,

Britt L. Anderson
manatt | phelps | phillips
One Embarcadero Center, 30th Floor
San Francisco, CA 94111
Tel.: (415) 291-7403
Fax: (415) 291-7474
e-mail: blanderson@manatt.com

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IRS CIRCULAR 230 DISCLOSURE: To comply with requirements imposed by recently issued treasury regulations, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written by us, and cannot be used by you, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another person any transaction or matter addressed herein. For information about this legend, go to <http://www.manatt.com/circ230>

Attachment
Comparison of Settlement Agmt_(NCA
Biotech)_(34126510)_(1).PDF

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is effective as of _____, ~~2010~~**2011** ("Effective Date") by and between OMS Investments, Inc., with a place of business at 10250 Constellation Boulevard, Suite 2800, Los Angeles, California 90067 ("OMS"), and NCA Biotech, Inc., 4802 Murrieta Street, Chino, CA 91710 ("NCA Biotech").

WHEREAS, since at least as early as 1951, OMS, through its predecessors in interest, has used and continues to use the MIRACLE-GRO trademark, which is famous and distinctive, in connection with a wide range of lawn and garden products, including fertilizers;

WHEREAS, OMS is the sole and exclusive owner of numerous trademark and service mark registrations and applications in the United States and throughout the world incorporating the MIRACLE-GRO mark and GRO suffix, including those U.S. registrations and applications listed at Exhibit A hereto (collectively, the "GRO Marks");

WHEREAS, OMS is the sole and exclusive owner of a famous and distinctive green and yellow trade dress, subject to U.S. Reg. No. 2,139,929, which is incontestable, and is used in connection with, in addition to other products, those sold under its GRO Marks (the "Green and Yellow Trade Dress");

WHEREAS, pursuant to Sections 7 and 33 of the Lanham Act, 15 U.S.C. §§ 1057(b) and 1115, each of the federally registered GRO Marks and the Green and Yellow Trade Dress are presumed, by virtue of its federal registration to be valid, registered, owned by OMS, and entitling OMS to the exclusive right to use the registered mark in commerce in connection with the goods listed therein, subject to any legal or equitable defense, including those found under Lanham Act Section 33(b), 15 U.S.C. § 1115(b);

WHEREAS, on or about October 3, 2006, NCA Biotech filed United States Trademark Application Serial No. 77/853,842 for CHAMPIONGRO in Class 1 for plant growth regulators for agricultural use (the "CHAMPIONGRO Application");

WHEREAS, on July 28, 2010, OMS filed a Notice of Opposition with the Trademark Trial and Appeal Board ("TTAB") against the CHAMPIONGRO Application alleging that the CHAMPIONGRO Mark is confusingly similar to and dilutive of the GRO Marks and therefore the CHAMPIONGRO Application should not mature to registration (the "Opposition");

WHEREAS, NCA Biotech currently uses the marks PHOTOGRO, ROOTGRO, MEGAGROA and HAPPYGRO ("NCA Biotech's Existing GRO MARKS") in connection with plant growth regulators for agricultural use;

WHEREAS, NCA Biotech currently uses green and yellow packaging in connection with its PHOTOGRO, MEGAGRO and HAPPYGRO products ("NCA Biotech's Green and Yellow Packaging");

WHEREAS, OMS and NCA Biotech wish to resolve any and all claims OMS may have against NCA Biotech arising out of the CHAMPIONGRO Application, NCA Biotech's Existing GRO Marks, and NCA Biotech's Green and Yellow Packaging.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Within five (5) days of the Effective Date hereof, NCA Biotech shall expressly abandon the CHAMPIONGRO Application by filing with the PTO a Request For Express Abandonment (Withdrawal) Of Application in substantially the form provided at Exhibit B.

2. Upon receipt of a service copy of NCA Biotech's Notice of Consented Express Abandonment pursuant to Section 1 above, OMS shall within five (5) business days withdraw the pending Opposition against the CHAMPIONGRO Application by filing with the TTAB a Notice of Consented Withdrawal of Opposition in substantially the same form as that attached hereto as Exhibit C.

3. NCA Biotech agrees that it shall forever refrain, on a worldwide basis, from using, applying to register, or registering any mark consisting of or incorporating the term CHAMPIONGRO, the GRO Marks, any marks confusingly similar to the GRO Marks, or any mark which contains the famous and distinctive GRO element, in connection with any goods or services, except that NCA Biotech may continue to use the marks PHOTOGRO, ROOTGRO, MEGAGRO and HAPPYGRO, provided that such marks are used only in connection with "plant growth regulators for agricultural use."

4. NCA Biotech agrees to phase out the NCA Biotech Green and Yellow Packaging by June 30, 2010 and replace it with packaging that does not predominantly consist of green and yellow. NCA Biotech further agrees to refrain from future use or adoption of any packaging consisting predominantly of green and yellow.

~~5. NCA Biotech hereby acknowledges OMS's ownership of and rights to the GRO Marks identified in Exhibit A attached hereto. NCA Biotech further acknowledges OMS's sole and exclusive right to use the GRO Marks, including the GRO element of those marks, in commerce and agrees not to contest or dispute, and agrees not to assist any third party in contesting or disputing, the validity or enforcement of any of the GRO Marks.~~

~~6.~~ Subject to the full and complete performance by each of the parties hereto of all of the terms and conditions set forth herein, as well as the accuracy of the representations and warranties contained herein, the parties hereby mutually release and discharge one another, and each of their respective parents, subsidiaries, affiliates, partners, officers, directors, shareholders, agents, representatives, employees, successors, and assigns from any and all claims, causes or rights of action, liability, or obligations of any kind, type or nature, whether presently known or unknown, which each or any of them now has or may have against each other from the beginning of the world to the Effective Date hereof arising out of or in connection with the filing of the CHAMPIONGRO Application, the use by NCA Biotech of NCA Biotech's Existing GRO MARKS, and/or use by NCA Biotech of NCA Biotech's Green and Yellow Packaging. This mutual release does not release any party from any of the obligations contained in this Agreement.

~~7.6.~~ NCA Biotech hereby expressly waives any and all rights and benefits which it may have under the terms of Section 1542 of the California Civil Code which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if know by him must have materially affected his settlement with the debtor.

8.7. The parties acknowledge that they have read this Agreement and understand all of its terms, and that this Agreement is executed voluntarily, without duress, and with full knowledge of its legal significance. The parties acknowledge that they have had the opportunity to obtain independent legal advice from an attorney of its choice with respect to the legal consequences of entering into this Agreement. The parties agree they have participated equally in the choice of language and terms of this Agreement and that no presumption shall exist with respect to the party initially drafting the Agreement.

9.8. This Agreement shall be binding on and inure to the benefit of the assigns, successors and licensees of the parties hereto. This Agreement contains the entire agreement of the parties on the subjects contained herein and supersedes any other oral or written representations by and agreements between the parties with respect to the subjects contained herein. This Agreement shall not be amended, modified, or supplemented except by a writing signed by an authorized representative of each party. The validity, construction and performance of this Agreement are governed by the laws of the State of California, without regard to or application of conflicts of laws rules.

10.9. This Agreement may be executed in counterparts, each of which is deemed an original.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed by their duly authorized representatives who are authorized to bind the respective parties.

OMS Investments, Inc.

NCA Biotech, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

Mark	Reg. No/Ser. No..	Goods/Services
MIRACLE-GRO	0668868	Class 1: Water soluble plant food.
MIRACLE-GRO	1051605	Class 1: Plant food and fertilizer
MIRACLE-GRO	1223038	Class 1: Fertilizer in the form of spikes for trees and shrubs.
MIRACLE-GRO	2235973	Class 31: Flower, vegetable and plant seeds for domestic and agricultural purposes.
MIRACLE-GRO SELECT PLANTS	2525828	Class 31: Live plants.
MIRACLE-GRO POUR & FEED	2601682	Class 1: Fertilizer for home and garden use.
MIRACLE-GRO GARDEN WEED PREVENTER & PLANT FOOD	2618698	Class 1: Fertilizers for domestic use. Class 5: Herbicides for domestic use.
MIRACLE-GRO GARDEN WEED PREVENTER	2618699	Class 1: Fertilizers for domestic use. Class 5: Herbicides for domestic use.
MIRACLE-GRO SELECT PLANTS & Design	2723181	Class 31: Live plants and containers therefore.
MIRACLE-GRO PROFESSIONAL TREE & SHRUB CARE & Design	2758533	Class 44: Lawn, tree and shrub care, landscape gardening services and consulting services in the field of lawn, tree and shrub care and landscape gardening.
MIRACLE-GRO FAST ROOT	2787356	Class 1: Root stimulating hormone that converts plant cells to stem cells.
MIRACLE-GRO TREE & SHRUB CARE	2809982	Class 44: Lawn, tree and shrub care, landscape gardening services and consulting services in the field of lawn, tree and shrub care and landscape gardening.
MIRACLE-GRO SELECT PLANTS & Design	2816031	Class 21: Containers not of metal for use with plants and for commercial use. Class 31: Live plants.
MIRACLE-GRO & Design	2820953	Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. Class 5: Herbicides for domestic use. Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. Class 31: Sphagnum peat moss.
MIRACLE-GRO & Design	2822655	Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. Class 5: Herbicides for domestic use. Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. Class 31: Sphagnum peat moss.

Mark	Reg. No/Ser. No.	Goods/Services
MIRACLE-GRO	2856922	Class 21: Flower pots and planters.
MIRACLE-GRO & Design	2856923	Class 21: Flower pots and planters.
MIRACLE-GRO & Design	2856924	Class 21: Watering cans. Class 31: Flower, vegetable and plant seeds.
HAVE YOU USED MIRACLE-GRO LATELY?	2870768	Class 1: Lawn and garden fertilizer for domestic use; plant food; fertilizer in the form of spikes for houseplants, outdoor plants, trees, and shrubbery for domestic use; peat fertilizer; composts; humus; loam; manure; potting soil, soil conditioners, soil amendments, growing media for plants, all for domestic use. Class 16: Brochures about subjects of lawn care and landscape gardening and the use of products relating to lawn care and landscape gardening, including fertilizers, herbicides, fungicides, insecticides, grass seed, flower seeds, garden seeds, plant food, potting soil, soil conditioners and amendments, ground cover, and lawn and garden equipment and advices and information related to flowers and their care.
MIRACLE-GRO SELECT PLANTS & Design	2900658	Class 31: Living house plants.
MIRACLE-GRO SELECT PLANTS & Design	2723181	Class 31: Live plants and containers therefor
MIRACLE-GRO & Design	2906855	Class 31: Live plants.
MIRACLE-GRO & Design	2906856	Class 31: Live plants.
MIRACLE-GRO MOISTURE CONTROL POTTING MIX CONTAINS AQUACOIR & Design	2935663	Class 1: Potting soil, growing media for plants.
MIRACLE-GRO & Design	2996098	Class 9: Protective work gloves. Class 21: Gardening gloves and gardening gloves for handling chemicals.
MIRACLE-GRO	3074660	Class 9: Protective work gloves. Class 21: Gardening gloves and gardening gloves for handling chemicals.
MIRACLE-GRO GARDEN SOIL ROSES BONE MEAL ADDED TO GROW BIG, BEAUTIFUL BLOOMS! (PACKAGE) (COLOR)	3156217	Class 1: Garden soil, planting soil, soil containing additives, chemical soil conditioners, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO ORGANIC CHOICE & Design	3180531	Class 1: Fertilizers for domestic use, potting soil, blood meal, and bone meal.
MIRACLE-GRO GARDEN SOIL TREES & SHRUBS (PACKAGE) (COLOR)	3182529	Class 1: Garden soil, planting soil, soil containing additives, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.

Mark	Reg. No/Ser. No.	Goods/Services
MIRACLE-GRO GARDEN SOIL FLOWERS & VEGETABLES & Design	3190987	Class 1: Garden soil, planting soil, soil containing additives, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO & Design	3233837	Class 1: Charcoal for horticultural purposes and for use as a soil conditioner; perlite for horticultural purposes and for use as a soil conditioner.
MIRACLE-GRO	77/215022	Class 7: Composter machines and components thereof for recycling solid waste
EARTHGRO	1378337	Class 31: Top soil and peat humus.
EARTHGRO	1378721	Class 1: Cow manure, composted cow manure, dehydrated cow manure, potting soil.
EARTHGRO THE NATURAL CHOICE & Design	1723116	Class 1: Natural organic and mineral fertilizer for lawn and garden use, agricultural use and commercial use; cow manure, composted cow manure, dehydrated cow manure, potting soil and humus.
EARTHGRO THE NATURAL CHOICE & Design	1726060	Class 31: Top soil.
EARTHGRO THE NATURAL CHOICE DECORATIVE HARDWOOD MULCH FOR WELL-GROOMED LANDSCAPES & Design	2357372	Class 31: Mulch
EARTHGRO THE NATURAL CHOICE PLANTING SOIL FOR FLOWERS, TREES AND SHRUBS & Design	2484307	Class 1: Potting soil.
GARDEN GRO	76/653762	Class 1: Fertilizers
GARDEN-GRO	77/394176	Class 31: Mulch
PRO GRO	77/406779	Class 1: Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam
SLO GRO	78/614950	Class 31: Grass seed and grass sod for commercial and residential use

Mark	Reg. No/Ser. No..	Goods/Services
LET YOURSELF GRO	78/795657	<p>Class 1: Lawn and garden fertilizer, plant food, fertilizer in the form of spikes for houseplants, outdoor plants, trees and shrubbery; peat, compost, humus, loam and manure; potting soil, soil conditioners, soil amendments and growing media for plants all for domestic use.</p> <p>Class 5: Herbicides for domestic use.</p> <p>Class 21: Fertilizer mixers and sprayers attached to garden hoses.</p> <p>Class 31: Flower, vegetable, plant and grass seed; live plants.</p> <p>Class 44: Providing information via the internet on lawn care and landscape gardening, including how to use and apply fertilizers, herbicides, fungicides, insecticides, grass seed, flower seed, garden seeds, plant food, potting soil, soil conditioners and amendments and ground cover; providing information via the internet on the use of equipment for the lawn and garden; providing advice and information via the internet on flowers and their care.</p>
IT'S GRO TIME	77/341562	<p>Class 31: Grass seed; grass products, namely, grass sod and grass plugs; top soil; mulch; raw bark; peat moss; combination of grass seed, fertilizer and mulch for the purpose of lawn repair; soil containing fertilizer; live plants</p>
IT'S GRO TIME	77/341556	<p>Class 1: Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam</p>
IT'S GRO TIME	77/341566	<p>Class 44: Providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, including plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment via print, advertising, and the internet; providing in-store consulting services on the subjects of gardening and lawn care and the use of related products, including plant foods, fertilizers, pesticides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; lawn, tree, and shrub care services; landscape gardening services; consulting services in the field of lawn, tree, and shrub care and landscape gardening</p>

EXHIBIT B

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

_____	)	Opposition No. _____
OMS Investments, Inc.,)	
Opposer	)	NOTICE OF CONSENTED
	)	EXPRESS ABANDONMENT
v.	)	PURSUANT TO 37 C.F.R. §2.68
)	
NCA Biotech, Inc.,)	
Applicant.)	
_____)	

Applicant, NCA Biotech, Inc., hereby expressly abandons with prejudice its United States Trademark Application bearing Serial No. 77/853,842 to register the mark CHAMPIONGRO. Opposer, by its counsel, ~~Manatt, Phelps & Phillips~~Hunton & Williams, LLP, has consented to this Notice of Express Abandonment. This Notice of Consented Express Abandonment is executed by Applicant and Opposer by signature of counsel having authority to bind each.

Respectfully submitted,

NCA BIOTECH, INC.

Date: _____, ~~2011~~2011

By: _____

Stanley T. Hsiao
4802 Murrieta Street
Chino, CA 91710
Telephone: (909) 348-5133
Attorney for Applicant, NCA Biotech, Inc.

WILLIAMS, LLP

~~MANATT, PHELPS & PHILLIPS~~HUNTON &

Date: _____, ~~2011~~2011

By: _____

III, Esq.

~~Susan E. Hollander~~John Gary Maynard,
Britt L.~~Janet W. Anderson~~Cho, Esq.
4001 Page Mill Road, Bldg. 2951 E. Byrd Street
Palo Alto, CA 94304Richmond, VA 23219

Telephone: (650804) ~~812-1300788-8772~~
Attorneys for Opposer,
OMS Investments, Inc.

EXHIBIT C

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

_____	)	Opposition No. _____
OMS Investments, Inc.,)	
Opposer	)	NOTICE OF CONSENTED
	)	WITHDRAWAL OF OPPOSITION
v.	)	PURSUANT TO 37 C.F.R. §2.106(c)
)	
NCA Biotech, Inc.,)	
Applicant.)	
_____)	

Pursuant to 37 C.F.R. § 2.106(c), Opposer OMS Investments, Inc. (“Opposer”) hereby withdraws with prejudice its Notice of Opposition to Applicant NCA Biotech, Inc.’s (“Applicant”) U.S. Trademark Application Serial No. 77/853,842 in Class 1 in the above-identified opposition proceeding. Applicant has consented to this Notice of Consented Withdrawal. This Notice of Consented Withdrawal is executed by Applicant and by Opposer by signature of counsel having authority to bind each.

Respectfully submitted,

NCA BIOTECH, INC.

Date: _____, 20102011

By: _____

Stanley T. Hsiao
4802 Murrieta Street
Chino, CA 91710
Telephone: (909) 348-5133
Attorney for Applicant, NCA Biotech, Inc.

~~MANATT, PHELPS & PHILLIPSHUNTON &~~

WILLIAMS, LLP

Date: _____, 20102011

By: _____

~~Susan E. Hollander~~ John Gary Maynard,

III, Esq.

~~Britt L. Janet W. Anderson~~ Cho, Esq.
1001 Page Mill Road, Bldg. 2951 E. Byrd Street
Palo Alto, CA 94304 Richmond, VA 23219
Telephone: ~~(650)804~~ 812-1300788-8772
Attorneys for Opposer.

OMS Investments, Inc.

Attachment
Comparison of Settlement Agmt (NCA Biotech)
(revised version)_(34126485)_(1).PDF

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is effective as of _____, 2011 ("Effective Date") by and between OMS Investments, Inc., with a place of business at 10250 Constellation Boulevard, Suite 2800, Los Angeles, California 90067 ("OMS"), and NCA Biotech, Inc., 4802 Murrieta Street, Chino, CA 91710 ("NCA Biotech").

WHEREAS, since at least as early as 1951, OMS, through its predecessors in interest, has used and continues to use the MIRACLE-GRO trademark, which is famous and distinctive, in connection with a wide range of lawn and garden products, including fertilizers;

WHEREAS, OMS is the sole and exclusive owner of numerous trademark and service mark registrations and applications in the United States and throughout the world incorporating the MIRACLE-GRO mark and GRO suffix, including those U.S. registrations and applications listed at Exhibit A hereto (collectively, the "GRO Marks");

WHEREAS, OMS is the sole and exclusive owner of a famous and distinctive green and yellow trade dress, subject to U.S. Reg. No. 2,139,929, which is incontestable, and is used in connection with, in addition to other products, those sold under its GRO Marks (the "Green and Yellow Trade Dress");

WHEREAS, pursuant to Sections 7 and 33 of the Lanham Act, 15 U.S.C. §§ 1057(b) and 1115, each of the federally registered GRO Marks and the Green and Yellow Trade Dress are presumed, by virtue of its federal registration to be valid, registered, owned by OMS, and entitling OMS to the exclusive right to use the registered mark in commerce in connection with the goods listed therein, subject to any legal or equitable defense, including those found under Lanham Act Section 33(b), 15 U.S.C. § 1115(b);

WHEREAS, on or about October 3, 2006, NCA Biotech filed United States Trademark Application Serial No. 77/853,842 for CHAMPIONGRO in Class 1 for plant growth regulators for agricultural use (the "CHAMPIONGRO Application");

WHEREAS, on July 28, 2010, OMS filed a Notice of Opposition with the Trademark Trial and Appeal Board ("TTAB") against the CHAMPIONGRO Application alleging that the CHAMPIONGRO Mark is confusingly similar to and dilutive of the GRO Marks and therefore the CHAMPIONGRO Application should not mature to registration (the "Opposition");

WHEREAS, NCA Biotech currently uses the marks PHOTOGRO, ROOTGRO, MEGAGROA and HAPPYGRO ("NCA Biotech's Existing GRO MARKS") in connection with plant growth regulators for agricultural use;

WHEREAS, NCA Biotech currently uses green and yellow packaging in connection with its PHOTOGRO, MEGAGRO and HAPPYGRO products ("NCA Biotech's Green and Yellow Packaging");

WHEREAS, OMS and NCA Biotech wish to resolve any and all claims OMS may have against NCA Biotech arising out of the CHAMPIONGRO Application, NCA Biotech's Existing GRO Marks, and NCA Biotech's Green and Yellow Packaging.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Within five (5) days of the Effective Date hereof, NCA Biotech shall expressly abandon the CHAMPIONGRO Application by filing with the PTO a Request For Express Abandonment (Withdrawal) Of Application in substantially the form provided at Exhibit B.

2. Upon receipt of a service copy of NCA Biotech's Notice of Consented Express Abandonment pursuant to Section 1 above, OMS shall within five (5) business days withdraw the pending Opposition against the CHAMPIONGRO Application by filing with the TTAB a Notice of Consented Withdrawal of Opposition in substantially the same form as that attached hereto as Exhibit C.

3. NCA Biotech agrees that it shall forever refrain, on a worldwide basis, from using, applying to register, or registering any mark consisting of or incorporating the term CHAMPIONGRO, the GRO Marks, any marks confusingly similar to the GRO Marks, or any mark which contains the famous and distinctive GRO element, in connection with any goods or services, except that NCA Biotech may continue to use the marks PHOTOGRO, ROOTGRO, MEGAGRO and HAPPYGRO, provided that such marks are used only in connection with "plant growth regulators for agricultural use."

4. NCA Biotech agrees to phase out the NCA Biotech Green and Yellow Packaging by June 30, 2010 and replace it with packaging that does not predominantly consist of green and yellow. NCA Biotech further agrees to refrain from future use or adoption of any packaging consisting predominantly of green and yellow.

5. Subject to the full and complete performance by each of the parties hereto of all of the terms and conditions set forth herein, as well as the accuracy of the representations and warranties contained herein, the parties hereby mutually release and discharge one another, and each of their respective parents, subsidiaries, affiliates, partners, officers, directors, shareholders, agents, representatives, employees, successors, and assigns from any and all claims, causes or rights of action, liability, or obligations of any kind, type or nature, whether presently known or unknown, which each or any of them now has or may have against each other from the beginning of the world to the Effective Date hereof arising out of or in connection with the filing of the CHAMPIONGRO Application, the use by NCA Biotech of NCA Biotech's Existing GRO MARKS, and/or use by NCA Biotech of NCA Biotech's Green and Yellow Packaging. This mutual release does not release any party from any of the obligations contained in this Agreement.

6. NCA Biotech hereby expressly waives any and all rights and benefits which it may have under the terms of Section 1542 of the California Civil Code which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if know by him must have materially affected his settlement with the debtor.

7. The parties acknowledge that they have read this Agreement and understand all of its terms, and that this Agreement is executed voluntarily, without duress, and with full

knowledge of its legal significance. The parties acknowledge that they have had the opportunity to obtain independent legal advice from an attorney of its choice with respect to the legal consequences of entering into this Agreement. The parties agree they have participated equally in the choice of language and terms of this Agreement and that no presumption shall exist with respect to the party initially drafting the Agreement.

8. This Agreement shall be binding on and inure to the benefit of the assigns, successors and licensees of the parties hereto. This Agreement contains the entire agreement of the parties on the subjects contained herein and supersedes any other oral or written representations by and agreements between the parties with respect to the subjects contained herein. This Agreement shall not be amended, modified, or supplemented except by a writing signed by an authorized representative of each party. The validity, construction and performance of this Agreement are governed by the laws of the State of California, without regard to or application of conflicts of laws rules.

9. This Agreement may be executed in counterparts, each of which is deemed an original.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed by their duly authorized representatives who are authorized to bind the respective parties.

OMS Investments, Inc.

NCA Biotech, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

Mark	Reg. No/Ser. No..	Goods/Services
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MIRACLE-GRO	1051605	Class 1: Plant food and fertilizer
MIRACLE-GRO	1223038	Class 1: Fertilizer in the form of spikes for trees and shrubs.
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MIRACLE-GRO SELECT PLANTS	2525828	Class 31: Live plants.
MIRACLE-GRO POUR & FEED	2601682	Class 1: Fertilizer for home and garden use.
MIRACLE-GRO GARDEN WEED PREVENTER & PLANT FOOD	2618698	Class 1: Fertilizers for domestic use. Class 5: Herbicides for domestic use.
MIRACLE-GRO GARDEN WEED PREVENTER	2618699	Class 1: Fertilizers for domestic use. Class 5: Herbicides for domestic use.
MIRACLE-GRO SELECT PLANTS & Design	2723181	Class 31: Live plants and containers therefore.
MIRACLE-GRO PROFESSIONAL TREE & SHRUB CARE & Design	2758533	Class 44: Lawn, tree and shrub care, landscape gardening services and consulting services in the field of lawn, tree and shrub care and landscape gardening.
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MIRACLE-GRO TREE & SHRUB CARE	2809982	Class 44: Lawn, tree and shrub care, landscape gardening services and consulting services in the field of lawn, tree and shrub care and landscape gardening.
MIRACLE-GRO SELECT PLANTS & Design	2816031	Class 21: Containers not of metal for use with plants and for commercial use. Class 31: Live plants.
MIRACLE-GRO & Design	2820953	Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. Class 5: Herbicides for domestic use. Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. Class 31: Sphagnum peat moss.
MIRACLE-GRO & Design	2822655	Class 1: Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells. Class 5: Herbicides for domestic use. Class 21: Garden feeders, namely containers designed to hold plant food and are used to feed and water plants. Class 31: Sphagnum peat moss.

Mark	Reg. No/Ser. No..	Goods/Services
MIRACLE-GRO	2856922	Class 21: Flower pots and planters.
MIRACLE-GRO & Design	2856923	Class 21: Flower pots and planters.
MIRACLE-GRO & Design	2856924	Class 21: Watering cans. Class 31: Flower, vegetable and plant seeds.
HAVE YOU USED MIRACLE-GRO LATELY?	2870768	Class 1: Lawn and garden fertilizer for domestic use; plant food; fertilizer in the form of spikes for houseplants, outdoor plants, trees, and shrubbery for domestic use; peat fertilizer; composts; humus; loam; manure; potting soil, soil conditioners, soil amendments, growing media for plants, all for domestic use. Class 16: Brochures about subjects of lawn care and landscape gardening and the use of products relating to lawn care and landscape gardening, including fertilizers, herbicides, fungicides, insecticides, grass seed, flower seeds, garden seeds, plant food, potting soil, soil conditioners and amendments, ground cover, and lawn and garden equipment and advices and information related to flowers and their care.
MIRACLE-GRO SELECT PLANTS & Design	2900658	Class 31: Living house plants.
MIRACLE-GRO SELECT PLANTS & Design	2723181	Class 31: Live plants and containers therefor
MIRACLE-GRO & Design	2906855	Class 31: Live plants.
MIRACLE-GRO & Design	2906856	Class 31: Live plants.
MIRACLE-GRO MOISTURE CONTROL POTTING MIX CONTAINS AQUACOIR & Design	2935663	Class 1: Potting soil, growing media for plants.
MIRACLE-GRO & Design	2996098	Class 9: Protective work gloves. Class 21: Gardening gloves and gardening gloves for handling chemicals.
MIRACLE-GRO	3074660	Class 9: Protective work gloves. Class 21: Gardening gloves and gardening gloves for handling chemicals.
MIRACLE-GRO GARDEN SOIL ROSES BONE MEAL ADDED TO GROW BIG, BEAUTIFUL BLOOMS! (PACKAGE) (COLOR)	3156217	Class 1: Garden soil, planting soil, soil containing additives, chemical soil conditioners, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO ORGANIC CHOICE & Design	3180531	Class 1: Fertilizers for domestic use, potting soil, blood meal, and bone meal.
MIRACLE-GRO GARDEN SOIL TREES & SHRUBS (PACKAGE) (COLOR)	3182529	Class 1: Garden soil, planting soil, soil containing additives, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.

Mark	Reg. No/Ser. No..	Goods/Services
MIRACLE-GRO GARDEN SOIL FLOWERS & VEGETABLES & Design	3190987	Class 1: Garden soil, planting soil, soil containing additives, soil conditioners for agricultural, domestic or horticultural use and fertilizers for soil and potting soil.
MIRACLE-GRO & Design	3233837	Class 1: Charcoal for horticultural purposes and for use as a soil conditioner; perlite for horticultural purposes and for use as a soil conditioner.
MIRACLE-GRO	77/215022	Class 7: Composter machines and components thereof for recycling solid waste
EARTHGRO	1378337	Class 31: Top soil and peat humus.
EARTHGRO	1378721	Class 1: Cow manure, composted cow manure, dehydrated cow manure, potting soil.
EARTHGRO THE NATURAL CHOICE & Design	1723116	Class 1: Natural organic and mineral fertilizer for lawn and garden use, agricultural use and commercial use; cow manure, composted cow manure, dehydrated cow manure, potting soil and humus.
EARTHGRO THE NATURAL CHOICE & Design	1726060	Class 31: Top soil.
EARTHGRO THE NATURAL CHOICE DECORATIVE HARDWOOD MULCH FOR WELL-GROOMED LANDSCAPES & Design	2357372	Class 31: Mulch
EARTHGRO THE NATURAL CHOICE PLANTING SOIL FOR FLOWERS, TREES AND SHRUBS & Design	2484307	Class 1: Potting soil.
GARDEN GRO	76/653762	Class 1: Fertilizers
GARDEN-GRO	77/394176	Class 31: Mulch
PRO GRO	77/406779	Class 1: Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam
SLO GRO	78/614950	Class 31: Grass seed and grass sod for commercial and residential use

Mark	Reg. No/Ser. No..	Goods/Services
LET YOURSELF GRO	78/795657	<p>Class 1: Lawn and garden fertilizer, plant food, fertilizer in the form of spikes for houseplants, outdoor plants, trees and shrubbery; peat, compost, humus, loam and manure; potting soil, soil conditioners, soil amendments and growing media for plants all for domestic use.</p> <p>Class 5: Herbicides for domestic use.</p> <p>Class 21: Fertilizer mixers and sprayers attached to garden hoses.</p> <p>Class 31: Flower, vegetable, plant and grass seed; live plants.</p> <p>Class 44: Providing information via the internet on lawn care and landscape gardening, including how to use and apply fertilizers, herbicides, fungicides, insecticides, grass seed, flower seed, garden seeds, plant food, potting soil, soil conditioners and amendments and ground cover; providing information via the internet on the use of equipment for the lawn and garden; providing advice and information via the internet on flowers and their care.</p>
IT'S GRO TIME	77/341562	<p>Class 31: Grass seed; grass products, namely, grass sod and grass plugs; top soil; mulch; raw bark; peat moss; combination of grass seed, fertilizer and mulch for the purpose of lawn repair; soil containing fertilizer; live plants</p>
IT'S GRO TIME	77/341556	<p>Class 1: Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam</p>
IT'S GRO TIME	77/341566	<p>Class 44: Providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, including plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment via print, advertising, and the internet; providing in-store consulting services on the subjects of gardening and lawn care and the use of related products, including plant foods, fertilizers, pesticides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; lawn, tree, and shrub care services; landscape gardening services; consulting services in the field of lawn, tree, and shrub care and landscape gardening</p>

EXHIBIT B

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

_____	)	Opposition No. _____
OMS Investments, Inc.,)	
Opposer	)	NOTICE OF CONSENTED
	)	EXPRESS ABANDONMENT
v.	)	PURSUANT TO 37 C.F.R. §2.68
)	
NCA Biotech, Inc.,)	
Applicant.)	
_____)	

Applicant, NCA Biotech, Inc., hereby expressly abandons with prejudice its United States Trademark Application bearing Serial No. 77/853,842 to register the mark CHAMPIONGRO. Opposer, by its counsel, Hunton & Williams, LLP, has consented to this Notice of Express Abandonment. This Notice of Consented Express Abandonment is executed by Applicant and Opposer by signature of counsel having authority to bind each.

Respectfully submitted,

NCA BIOTECH, INC.

Date: _____, 2011

By: _____

Stanley T. Hsiao
4802 Murrieta Street
Chino, CA 91710
Telephone: (909) 348-5133
Attorney for Applicant, NCA Biotech, Inc.

HUNTON & WILLIAMS, LLP

Date: _____, 2011

By: _____

John Gary Maynard, III, Esq.
Janet W. Cho, Esq.
951 E. Byrd Street
Richmond, VA 23219
Telephone: (804) 788-8772
*Attorneys for Opposer,
OMS Investments, Inc.*

EXHIBIT C

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

_____	)	Opposition No. _____
OMS Investments, Inc.,)	
Opposer	)	NOTICE OF CONSENTED
	)	WITHDRAWAL OF OPPOSITION
v.	)	PURSUANT TO 37 C.F.R. §2.106(c)
)	
NCA Biotech, Inc.,)	
Applicant.)	
_____)	

Pursuant to 37 C.F.R. § 2.106(c), Opposer OMS Investments, Inc. ("Opposer") hereby withdraws with prejudice its Notice of Opposition to Applicant NCA Biotech, Inc.'s ("Applicant") U.S. Trademark Application Serial No. 77/853,842 in Class 1 in the above-identified opposition proceeding. Applicant has consented to this Notice of Consented Withdrawal. This Notice of Consented Withdrawal is executed by Applicant and by Opposer by signature of counsel having authority to bind each.

Respectfully submitted,

NCA BIOTECH, INC.

Date: _____, 2011

By: _____

Stanley T. Hsiao
4802 Murrieta Street
Chino, CA 91710
Telephone: (909) 348-5133
Attorney for Applicant, NCA Biotech, Inc.

HUNTON & WILLIAMS, LLP

Date: _____, 2011

By: _____

John Gary Maynard, III, Esq.
Janet W. Cho, Esq.
951 E. Byrd Street
Richmond, VA 23219
Telephone: (804) 788-8772
*Attorneys for Opposer,
OMS Investments, Inc.*

Exhibit 1

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:10:03 ET

Serial Number: 72046856 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 668868

Mark (words only): MIRACLE-GRO

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2008-07-23

Filing Date: 1958-02-28

Transformed into a National Application: No

Registration Date: 1958-10-28

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

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

Current Location: 40S -Scanning On Demand

Date In Location: 2009-01-16

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

1. SCOTTS MIRACLE-GRO PRODUCTS, INC.

Address:

SCOTTS MIRACLE-GRO PRODUCTS, INC.
800 PORT WASHINGTON BLVD.
PORT WASHINGTON, NY 11050
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Ohio

GOODS AND/OR SERVICES

U.S. Class: 010 (International Class 001)

Class Status: Active

WATER SOLUBLE PLANT FOOD

Basis: 1(a)

First Use Date: 1951-04-15

First Use in Commerce Date: 1951-04-15

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2009-01-16 - Case File In TICRS

2008-07-23 - Third renewal 10 year

2008-07-23 - Section 8 (10-year) accepted/ Section 9 granted

2008-07-22 - Assigned To Paralegal

2008-07-10 - TEAS Section 8 & 9 Received

1999-01-25 - Second renewal 10 year

1998-10-28 - Section 9 filed/check record for Section 8

1978-10-28 - First renewal

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Aimee A. Zaleski

Correspondent

Aimee A. Zaleski

The Scotts Company LLC

14111 Scottslawn Road

Marysville OH 43041

Phone Number: 937-644-7667

Fax Number: 937-644-7568

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:10:46 ET

Serial Number: 73283281 Assignment Information Trademark Document Retrieval

Registration Number: 1223038

Mark (words only): MIRACLE-GRO

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2003-03-22

Filing Date: 1980-10-24

Transformed into a National Application: No

Registration Date: 1983-01-11

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

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

Current Location: 40S -Scanning On Demand

Date In Location: 2008-04-11

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

1. OMS INVESTMENTS, INC.

Address:

OMS INVESTMENTS, INC.
100 WILSHIRE BLVD., SUITE 1230
SANTA MONICA, CA 90401
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizer in the Form of Spikes for Trees and Shrubs

Basis: 1(a)

First Use Date: 1980-10-01

First Use in Commerce Date: 1980-10-01

ADDITIONAL INFORMATION

Prior Registration Number(s):

1141943

6688680

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2008-04-11 - Case File In TICRS

2003-03-22 - First renewal 10 year

2003-03-22 - Section 8 (10-year) accepted/ Section 9 granted

2003-01-06 - Combined Section 8 (10-year)/Section 9 filed

2003-01-06 - PAPER RECEIVED

1989-05-22 - Section 8 (6-year) accepted & Section 15 acknowledged

1989-05-12 - Response received for Post Registration action

1989-04-18 - Post Registration action mailed Section 8 & 15

1988-12-30 - Section 8 (6-year) and Section 15 Filed

1983-01-11 - Registered - Principal Register

1982-10-19 - Published for opposition

1982-09-07 - Notice of publication

1982-01-05 - Non-final action mailed

1981-09-16 - Assigned To Examiner

1981-03-25 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

LAWRENCE E. ABELMAN

Correspondent

LAWRENCE E. ABELMAN
ABELMAN FRAYNE & SCHWAB
150 EAST 42ND STREET
NEW YORK, NY 10017-5612

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:11:46 ET

Serial Number: 75751306 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2601682

Mark (words only): MIRACLE-GRO POUR & FEED

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2008-08-04

Filing Date: 1999-06-29

Transformed into a National Application: No

Registration Date: 2002-07-30

Register: Principal

Law Office Assigned: LAW OFFICE 111

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

Current Location: 830 -Post Registration

Date In Location: 2008-08-04

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
Suite 2800 10250 Constellation Boulevard
Los Angeles, CA 900676228
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

fertilizer for home and garden use

Basis: 1(a)

First Use Date: 2002-03-04

First Use in Commerce Date: 2002-03-04

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2008-08-04 - Section 8 (6-year) accepted & Section 15 acknowledged

2008-07-09 - Assigned To Paralegal

2008-06-30 - TEAS Section 8 & 15 Received

2007-12-20 - Case File In TICRS

2006-02-10 - TEAS Change Of Correspondence Received

2006-02-03 - TEAS Change Of Correspondence Received

2002-07-30 - Registered - Principal Register

2002-04-22 - Allowed for Registration - Principal Register (SOU accepted)

2002-04-17 - Assigned To Examiner

2002-04-15 - Statement Of Use Processing Complete

2002-03-20 - Use Amendment Filed

2002-03-25 - PAPER RECEIVED

2002-01-31 - Extension 2 granted

2002-01-10 - Extension 2 filed

2001-09-25 - Extension 1 granted

2001-09-10 - Extension 1 filed

2001-07-10 - NOA Mailed - SOU Required From Applicant

2001-04-17 - Published for opposition

2001-04-04 - Notice of publication

2000-12-21 - Approved For Pub - Principal Register

2000-04-12 - Communication received from applicant

2000-01-10 - Letter of suspension mailed

1999-12-06 - Assigned To Examiner

1999-10-21 - Assigned To Examiner

1999-10-21 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Aimee A. Zaleski

Correspondent

Aimee A. Zaleski

The Scotts Company LLC

14111 Scottslawn Road

Marysville OH 43041

Phone Number: 937-644-7667

Fax Number: 937-644-7568

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This page was generated by the TARR system on 2011-04-20 12:12:04 ET

Serial Number: 76027637 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2618698

Mark (words only): MIRACLE-GRO GARDEN WEED PREVENTER & PLANT FOOD

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2008-09-30

Filing Date: 2000-04-14

Transformed into a National Application: No

Registration Date: 2002-09-10

Register: Principal

Law Office Assigned: LAW OFFICE 105

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

Current Location: 830 -Post Registration

Date In Location: 2008-09-30

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Boulevard Suite 2800
Los Angeles, CA 900676228
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizers for domestic use

Basis: 1(a)

First Use Date: 2001-03-01

First Use in Commerce Date: 2001-03-01

International Class: 005

Class Status: Active

Herbicides for domestic use

Basis: 1(a)

First Use Date: 2001-03-01

First Use in Commerce Date: 2001-03-01

ADDITIONAL INFORMATION

Disclaimer: "GARDEN WEED PREVENTER & PLANT FOOD"

Prior Registration Number(s):

1842586

2345472

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2008-09-30 - Section 8 (6-year) accepted & Section 15 acknowledged

2008-09-23 - Assigned To Paralegal

2008-09-18 - TEAS Section 8 & 15 Received

2007-10-04 - Case File In TICRS

2002-09-10 - Registered - Principal Register

2002-06-12 - Allowed for Registration - Principal Register (SOU accepted)

2002-06-10 - Statement Of Use Processing Complete

2002-05-29 - Use Amendment Filed

2001-12-11 - NOA Mailed - SOU Required From Applicant

2001-09-18 - Published for opposition
2001-08-29 - Notice of publication
2001-05-03 - Approved For Pub - Principal Register
2001-03-01 - Communication received from applicant
2001-03-01 - Communication received from applicant
2000-09-22 - Non-final action mailed
2000-09-18 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Aimee A. Zaleski

Correspondent

Aimee A. Zaleski
The Scotts Company LLC
14111 Scottslawn Road
Marysville OH 43041
Phone Number: 937-644-7667
Fax Number: 937-644-7568

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Serial Number: 76027638 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2618699

Mark (words only): MIRACLE-GRO GARDEN WEED PREVENTER

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2008-09-30

Filing Date: 2000-04-14

Transformed into a National Application: No

Registration Date: 2002-09-10

Register: Principal

Law Office Assigned: LAW OFFICE 105

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

Current Location: 830 -Post Registration

Date In Location: 2008-09-30

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Boulevard Suite 2800
Los Angeles, CA 900676228
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizers for domestic use

Basis: 1(a)

First Use Date: 2001-03-01

First Use in Commerce Date: 2001-03-01

International Class: 005

Class Status: Active

Herbicides for domestic use

Basis: 1(a)

First Use Date: 2001-03-01

First Use in Commerce Date: 2001-03-01

ADDITIONAL INFORMATION

Disclaimer: "GARDEN WEED PREVENTER"

Prior Registration Number(s):

1842586

2345472

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2008-09-30 - Section 8 (6-year) accepted & Section 15 acknowledged

2008-09-23 - Assigned To Paralegal

2008-09-18 - TEAS Section 8 & 15 Received

2007-10-04 - Case File In TICRS

2002-09-10 - Registered - Principal Register

2002-06-12 - Allowed for Registration - Principal Register (SOU accepted)

2002-06-10 - Statement Of Use Processing Complete

2002-05-29 - Use Amendment Filed

2001-12-11 - NOA Mailed - SOU Required From Applicant

2001-09-18 - Published for opposition
2001-08-29 - Notice of publication
2001-05-03 - Approved For Pub - Principal Register
2001-03-01 - Communication received from applicant
2000-09-22 - Non-final action mailed
2000-09-18 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Aimee A. Zaleski

Correspondent

Aimee A. Zaleski
The Scotts Company LLC
14111 Scottslawn Road
Marysville OH 43041
Phone Number: 937-644-7667
Fax Number: 937-644-7568

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This page was generated by the TARR system on 2011-04-20 12:12:34 ET

Serial Number: 76448805 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2809982

Mark (words only): MIRACLE-GRO TREE & SHRUB CARE

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2010-01-19

Filing Date: 2002-09-12

Transformed into a National Application: No

Registration Date: 2004-02-03

Register: Principal

Law Office Assigned: LAW OFFICE 111

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

Current Location: M20 -TMO Law Office 111

Date In Location: 2010-01-19

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 044

Class Status: Active

lawn, tree and shrub care, landscape gardening services and consulting services in the field of lawn, tree and shrub care and landscape gardening

Basis: 1(a)

First Use Date: 1998-01-31

First Use in Commerce Date: 1998-01-31

ADDITIONAL INFORMATION

Disclaimer: "TREE & SHRUB CARE"

Prior Registration Number(s):

1223038

2235973

2345472

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2010-01-19 - Section 8 (6-year) accepted & Section 15 acknowledged

2010-01-11 - Case Assigned To Post Registration Paralegal

2010-01-07 - TEAS Section 8 & 15 Received

2004-02-03 - Registered - Principal Register

2003-11-11 - Published for opposition

2003-10-22 - Notice of publication

2003-09-06 - Approved for Pub - Principal Register (Initial exam)

2003-08-06 - Communication received from applicant

2003-08-29 - Case File In TICRS

2003-08-06 - PAPER RECEIVED

2003-02-11 - Non-final action mailed

2003-02-06 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

Susan E. Hollander, Esq.

Manatt, Phelps & Phillips, LLP

1001 Page Mill Road, Bldg. 2

Palo Alto CA 94304

Phone Number: 650-812-1300

Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:13:31 ET

Serial Number: 76496455 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2820953

Mark



(words only): MIRACLE-GRO

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2010-03-26

Filing Date: 2003-03-04

Transformed into a National Application: No

Registration Date: 2004-03-09

Register: Principal

Law Office Assigned: LAW OFFICE 106

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

Current Location: L60 -TMEG Law Office 106

Date In Location: 2010-03-26

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd. , Suite 2800

Los Angeles, CA 90067
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells

Basis: 1(a)

First Use Date: 1997-01-00

First Use in Commerce Date: 1997-01-00

International Class: 005

Class Status: Active

Herbicides for domestic use

Basis: 1(a)

First Use Date: 2000-00-00

First Use in Commerce Date: 2000-00-00

International Class: 021

Class Status: Active

Garden feeders, namely, containers designed to hold plant food and are used to feed and water plants

Basis: 1(a)

First Use Date: 2000-12-31

First Use in Commerce Date: 2000-12-31

International Class: 031

Class Status: Active

Sphagnum peat moss

Basis: 1(a)

First Use Date: 2001-01-00

First Use in Commerce Date: 2001-01-00

ADDITIONAL INFORMATION

Description of Mark: The mark consists of the word "MIRACLE-GRO" in a bullseye logo with a green leaf dotting the "I" in "MIRACLE-GRO" and a yellow ring in the bullseye.

Design Search Code(s):

05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches

05.03.25 - Leaf, single; Other leaves

21.03.12 - Dart boards; Targets without crosshairs or alignment guides

26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles

26.01.21 - Circles that are totally or partially shaded.

27.03.04 - Plants forming letters or numerals

Prior Registration Number(s):

668868
1051605
1223038
2345472
2525828
2580976
2601682
2618698
2618699

MADRID PROTOCOL INFORMATION

(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.

- 2010-07-22 - Notice Of Suit
- 2010-03-26 - Section 8 (6-year) accepted & Section 15 acknowledged
- 2010-03-26 - Case Assigned To Post Registration Paralegal
- 2010-03-09 - TEAS Section 8 & 15 Received
- 2008-08-05 - Notice Of Suit
- 2008-06-17 - Notice Of Suit
- 2004-03-09 - Registered - Principal Register
- 2003-12-16 - Published for opposition
- 2003-11-26 - Notice of publication
- 2003-09-25 - Approved for Pub - Principal Register (Initial exam)
- 2003-08-11 - Communication received from applicant
- 2003-09-07 - Case File In TICRS
- 2003-08-11 - PAPER RECEIVED
- 2003-06-27 - Non-final action mailed
- 2003-06-25 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

Susan E. Hollander, Esq.

Manatt, Phelps & Phillips, LLP

1001 Page Mill Road, Bldg. 2

Palo Alto CA 94304

Phone Number: 650-812-1300

Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:13:45 ET

Serial Number: 76496458 Assignment Information Trademark Document Retrieval

Registration Number: 2822655

Mark



(words only): MIRACLE-GRO

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2010-03-10

Filing Date: 2003-03-04

Transformed into a National Application: No

Registration Date: 2004-03-16

Register: Principal

Law Office Assigned: LAW OFFICE 106

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

Current Location: L60 -TMEG Law Office 106

Date In Location: 2010-03-10

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

1. OMS INVESTMENTS, INC.

Address:

OMS INVESTMENTS, INC.
10250 Constellation Blvd., Suite 2800

Los Angeles, CA 90067

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizers for domestic use; plant food; garden soil; potting mix; seed starter mix for domestic use; root stimulating hormone that converts plant cells to stem cells

Basis: 1(a)

First Use Date: 1997-01-00

First Use in Commerce Date: 1997-01-00

International Class: 005

Class Status: Active

Herbicides for domestic use

Basis: 1(a)

First Use Date: 2000-00-00

First Use in Commerce Date: 2000-00-00

International Class: 021

Class Status: Active

Garden feeders, namely containers designed to hold plant food and are used to feed and water plants

Basis: 1(a)

First Use Date: 2000-12-31

First Use in Commerce Date: 2000-12-31

International Class: 031

Class Status: Active

Sphagnum peat moss

Basis: 1(a)

First Use Date: 2001-01-00

First Use in Commerce Date: 2001-01-00

ADDITIONAL INFORMATION

Description of Mark: The mark consists of the word "MIRACLE-GRO" in a bullseye logo with a leaf dotting the "I" in "MIRACLE-GRO" and a ring in the bullseye.

Design Search Code(s):

05.03.25 - Leaf, single; Other leaves

21.03.12 - Dart boards; Targets without crosshairs or alignment guides

26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles

26.01.21 - Circles that are totally or partially shaded.

27.03.04 - Plants forming letters or numerals

Prior Registration Number(s):

668868
1051605
1223038
2345472
2525828
2580976
2601682
2618698
2618699

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2010-03-10 - Section 8 (6-year) accepted & Section 15 acknowledged
2010-03-10 - Case Assigned To Post Registration Paralegal
2010-02-24 - TEAS Section 8 & 15 Received
2004-03-16 - Registered - Principal Register
2003-12-23 - Published for opposition
2003-12-03 - Notice of publication
2003-09-22 - Approved for Pub - Principal Register (Initial exam)
2003-08-11 - Communication received from applicant
2003-09-07 - Case File In TICRS
2003-08-11 - PAPER RECEIVED
2003-06-27 - Non-final action mailed
2003-06-25 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Susan E. Hollander, Esq.

Correspondent

Susan E. Hollander, Esq.
Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto CA 94304
Phone Number: 65-0812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:17:22 ET

Serial Number: 77421528 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

MIRACLE-GRO SELECT PLANTS

(words only): MIRACLE-GRO SELECT PLANTS

Standard Character claim: Yes

Current Status: A fourth request for extension of time to file a Statement of Use has been granted.

Date of Status: 2011-04-06

Filing Date: 2008-03-13

The Notice of Allowance Date is: 2009-04-07

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 107

Attorney Assigned:
JACKSON STEVEN W

Current Location: 700 -Intent To Use Section

Date In Location: 2010-03-27

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Live plants
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: "SELECT PLANTS"

Prior Registration Number(s):
2525828
2723181
2816031

MADRID PROTOCOL INFORMATION

(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.

2011-04-07 - Notice Of Approval Of Extension Request E-Mailed

2011-04-06 - Extension 4 granted

2011-04-05 - Extension 4 filed

2011-04-05 - TEAS Extension Received

2011-03-22 - Attorney Revoked And/Or Appointed

2011-03-22 - TEAS Revoke/Appoint Attorney Received

2010-10-09 - Notice Of Approval Of Extension Request E-Mailed

2010-10-08 - Extension 3 granted
2010-10-06 - Extension 3 filed
2010-10-06 - TEAS Extension Received
2010-03-30 - Notice Of Approval Of Extension Request E-Mailed
2010-03-28 - Extension 2 granted
2010-02-25 - Extension 2 filed
2010-03-27 - Case Assigned To Intent To Use Paralegal
2010-02-25 - TEAS Extension Received
2009-10-06 - Extension 1 granted
2009-10-06 - Extension 1 filed
2009-10-06 - TEAS Extension Received
2009-04-07 - NOA Mailed - SOU Required From Applicant
2009-01-13 - Published for opposition
2008-12-24 - Notice of publication
2008-12-09 - Law Office Publication Review Completed
2008-12-09 - Assigned To LIE
2008-12-03 - Approved For Pub - Principal Register
2008-11-19 - Teas/Email Correspondence Entered
2008-11-18 - Communication received from applicant
2008-11-18 - TEAS Response to Office Action Received
2008-05-22 - Notification Of Non-Final Action E-Mailed
2008-05-22 - Non-final action e-mailed
2008-05-22 - Non-Final Action Written
2008-05-20 - Assigned To Examiner
2008-03-20 - Notice Of Pseudo Mark Mailed
2008-03-19 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:42:49 ET

Serial Number: 78179743 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2900658

Mark



(words only): MIRACLE-GRO SELECT PLANTS

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2004-11-02

Filing Date: 2002-10-29

Transformed into a National Application: No

Registration Date: 2004-11-02

Register: Principal

Law Office Assigned: LAW OFFICE 114

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2004-09-22

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

Latest Status Info

10250 Constellation Place, Suite 2800
 Los Angeles, CA 90067
 United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
 living house plants
Basis: 1(a)
First Use Date: 2003-03-00
First Use in Commerce Date: 2003-03-00

ADDITIONAL INFORMATION

Disclaimer: "SELECT PLANTS"

Description of Mark: The mark consists of the words "MIRACLE-GRO" with an arbitrary design in green appearing over the letter "I" superimposed on a circle with a yellow border, "SELECT PLANTS" appearing on a purple ribbon with representation of a flowers in red, pink, purple and a red tomato, all appearing on a green and yellow background.

Design Search Code(s):

05.05.25 - Daffodils; Iris (flower); Other flowers
 05.09.25 - Coconuts; Other fruits
 05.11.04 - Tomatoes
 24.09.07 - Advertising, banners; Banners
 26.01.02 - Circles, plain single line; Plain single line circles
 26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles
 26.01.21 - Circles that are totally or partially shaded.
 26.11.02 - Plain single line rectangles; Rectangles (single line)
 26.11.20 - Rectangles inside one another
 26.11.21 - Rectangles that are completely or partially shaded

Prior Registration Number(s):

2525828
 2618698
 2618699

MADRID PROTOCOL INFORMATION

(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.

- 2010-07-22 - Notice Of Suit
- 2004-11-02 - Registered - Principal Register
- 2004-09-12 - Law Office Registration Review Completed
- 2004-08-20 - Assigned To LIE
- 2004-08-17 - Allowed for Registration - Principal Register (SOU accepted)
- 2004-08-17 - Assigned To Examiner
- 2004-08-16 - Statement Of Use Processing Complete
- 2004-08-02 - Use Amendment Filed
- 2004-08-02 - TEAS Statement of Use Received
- 2004-02-03 - NOA Mailed - SOU Required From Applicant
- 2003-11-11 - Published for opposition
- 2003-10-22 - Notice of publication
- 2003-09-17 - Approved For Pub - Principal Register
- 2003-08-25 - Communication received from applicant
- 2003-08-25 - PAPER RECEIVED
- 2003-07-11 - Final refusal mailed
- 2003-06-02 - Communication received from applicant
- 2003-06-18 - Case File In TICRS
- 2003-06-02 - PAPER RECEIVED
- 2003-04-28 - Non-final action mailed
- 2003-04-11 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
Lawrence E. Abelman

Correspondent

Lawrence E. Abelman
Abelman, Frayne & Schwab
150 East 42nd Street
New York NY 10017-5612
Phone Number: 212-949-9022
Fax Number: 212-949-9190

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:43:23 ET

Serial Number: 78349217 Assignment Information Trademark Document Retrieval

Registration Number: 2906855

Mark



(words only): MIRACLE-GRO

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2004-11-30

Filing Date: 2004-01-08

Transformed into a National Application: No

Registration Date: 2004-11-30

Register: Principal

Law Office Assigned: LAW OFFICE 111

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2004-11-30

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Boulevard, Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
live plants
Basis: 1(a)
First Use Date: 2001-03-05
First Use in Commerce Date: 2001-03-05

ADDITIONAL INFORMATION

Description of Mark: The mark consists of the words MIRACLE-GRO in a bulls-eye logo with a leaf dotting the letter "I" a ring in the bulls-eye.

Design Search Code(s):
05.05.25 - Daffodils; Iris (flower); Other flowers
26.01.03 - Circles, incomplete (more than semi-circles); Incomplete circles (more than semi-circles)
26.01.20 - Circles within a circle
26.01.21 - Circles that are totally or partially shaded.

Prior Registration Number(s):
668868
1051605
1223038

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2004-11-30 - Registered - Principal Register
2004-09-07 - Published for opposition
2004-08-18 - Notice of publication

2004-06-23 - Approved for Pub - Principal Register (Initial exam)

2004-06-23 - Assigned To Examiner

2004-01-13 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lawrence E. Abelman

Correspondent

Lawrence E. Abelman

Abelman, Frayne & Schwab

150 East 42nd Street

New York, NY 10017-5612

Phone Number: 212-949-9022

Fax Number: 212-949-9190

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:43:43 ET

Serial Number: 78349226 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 2906856

Mark



(words only): MIRACLE-GRO

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2004-11-30

Filing Date: 2004-01-08

Transformed into a National Application: No

Registration Date: 2004-11-30

Register: Principal

Law Office Assigned: LAW OFFICE 111

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2004-11-30

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Boulevard Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
live plants
Basis: 1(a)
First Use Date: 2001-03-05
First Use in Commerce Date: 2001-03-05

ADDITIONAL INFORMATION

Description of Mark: The color(s) the words MIRACLE-GRO in a bulls-eye logo with a green leaf dotting the "I" and a yellow ring in the bulls-eye is/are claimed as a distinctive feature of the mark.

Design Search Code(s):

05.05.25 - Daffodils; Iris (flower); Other flowers
26.01.03 - Circles, incomplete (more than semi-circles); Incomplete circles (more than semi-circles)
26.01.20 - Circles within a circle
26.01.21 - Circles that are totally or partially shaded.

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2004-11-30 - Registered - Principal Register

2004-09-07 - Published for opposition

2004-08-18 - Notice of publication

2004-06-23 - Approved for Pub - Principal Register (Initial exam)

2004-06-23 - Assigned To Examiner

2004-01-26 - Applicant amendment prior to exam entered

2004-01-26 - Communication received from applicant

2004-01-26 - TEAS Voluntary Amendment Received

2004-01-13 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lawrence E. Abelman

Correspondent

Lawrence E. Abelman

Abelman, Frayne & Schwab

150 East 42nd Street

New York, NY 10017-5612

Phone Number: 212-949-9022

Fax Number: 212-949-9190

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:44:03 ET

Serial Number: 75981470 Assignment Information Trademark Document Retrieval

Registration Number: 2935663

Mark



(words only): MIRACLE-GRO MOISTURE CONTROL POTTING MIX CONTAINS AQUACOIR

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2005-03-29

Filing Date: 2000-10-18

Transformed into a National Application: No

Registration Date: 2005-03-29

Register: Principal

Law Office Assigned: LAW OFFICE 116

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-03-29

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

1. OMS Investments, Inc.

Address:
OMS Investments, Inc.

1105 North Market Street
Wilmington, DE 19899
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
Potting soil, growing media for plants
Basis: 1(a)
First Use Date: 2000-12-15
First Use in Commerce Date: 2000-12-15

ADDITIONAL INFORMATION

Disclaimer: POTTING MIX CONTAINS

Description of Mark: The mark consists of the words MIRACLE-GRO MOISTURE CONTROL with an arbitrary design on a label.

Section 2(f), in part, as to MOISTURE CONTROL

Design Search Code(s):

26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles
26.01.21 - Circles that are totally or partially shaded.
26.11.20 - Rectangles inside one another

Prior Registration Number(s):

1051605
2345472
2533745

MADRID PROTOCOL INFORMATION

(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.

2011-02-28 - Attorney Revoked And/Or Appointed
2011-02-28 - TEAS Revoke/Appoint Attorney Received
2010-07-22 - Notice Of Suit

2005-03-29 - Registered - Principal Register
2005-01-04 - Published for opposition
2004-12-15 - Notice of publication
2004-11-01 - Law Office Publication Review Completed
2004-11-01 - Assigned To LIE
2004-10-09 - Approved for Pub - Principal Register (Initial exam)
2004-08-27 - Amendment From Applicant Entered
2004-08-11 - Communication received from applicant
2004-08-11 - PAPER RECEIVED
2004-08-03 - Final refusal mailed
2004-06-14 - Amendment From Applicant Entered
2004-06-14 - Communication received from applicant
2004-06-14 - PAPER RECEIVED
2003-12-29 - Non-final action mailed
2003-09-22 - Communication received from applicant
2003-09-22 - PAPER RECEIVED
2003-07-28 - Non-final action mailed
2003-06-09 - Communication received from applicant
2003-06-26 - Case File In TICRS
2003-06-09 - PAPER RECEIVED
2003-04-29 - Final refusal mailed
2003-03-17 - Reinstated
2002-12-23 - Petition To Revive-Received
2002-12-23 - PAPER RECEIVED
2002-12-09 - Abandonment - Failure To Respond Or Late Response

2002-09-19 - Amendment to Use approved
2002-09-17 - Amendment To Use Processing Complete
2001-02-13 - Use Amendment Filed
2001-09-29 - Divisional processing completed
2001-02-13 - Divisional request received
2001-02-13 - Unresponsive/Duplicate Paper Received
2001-04-12 - Non-final action mailed
2001-03-26 - Assigned To Examiner
2001-03-14 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza - East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:45:09 ET

Serial Number: 78464646 Assignment Information Trademark Document Retrieval

Registration Number: 2996098

Mark



(words only): MIRACLE-GRO

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2005-09-13

Filing Date: 2004-08-09

Transformed into a National Application: No

Registration Date: 2005-09-13

Register: Principal

Law Office Assigned: LAW OFFICE 114

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2005-08-04

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

1. OMS Investments, Inc.

Address:
OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009
Class Status: Active
protective Work gloves
Basis: 1(a)
First Use Date: 2005-03-31
First Use in Commerce Date: 2005-03-31

International Class: 021
Class Status: Active
Gardening gloves and gardening gloves for handling chemicals
Basis: 1(a)
First Use Date: 2005-03-31
First Use in Commerce Date: 2005-03-31

ADDITIONAL INFORMATION

Description of Mark: The mark consists of the words MIRACLE-GRO in special form within a circle and an arbitrary logo.

Design Search Code(s):

05.03.25 - Leaf, single; Other leaves
26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles
26.01.21 - Circles that are totally or partially shaded.
27.03.04 - Plants forming letters or numerals

Prior Registration Number(s):

1223038
2820953

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2005-09-13 - Registered - Principal Register
2005-08-02 - Law Office Registration Review Completed
2005-07-29 - Assigned To LIE
2005-07-27 - Allowed for Registration - Principal Register (SOU accepted)
2005-07-25 - Statement Of Use Processing Complete
2005-07-14 - Use Amendment Filed
2005-07-14 - TEAS Statement of Use Received
2005-02-15 - NOA Mailed - SOU Required From Applicant
2004-11-23 - Published for opposition
2004-11-03 - Notice of publication
2004-09-15 - Law Office Publication Review Completed
2004-08-30 - Assigned To LIE
2004-08-25 - Approved For Pub - Principal Register
2004-08-25 - Assigned To Examiner
2004-08-19 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lawrence E. Abelman

Correspondent

LAWRENCE E. ABELMAN
ABELMAN FRAYNE & SCHWAB
666 3RD AVE 10TH FL
NEW YORK NY 10017
Phone Number: 212-949-9022
Fax Number: 212-949-9190

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:45:22 ET

Serial Number: 78464648 Assignment Information Trademark Document Retrieval

Registration Number: 3074660

Mark

MIRACLE-GRO

(words only): MIRACLE-GRO

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2006-03-28

Filing Date: 2004-08-09

Transformed into a National Application: No

Registration Date: 2006-03-28

Register: Principal

Law Office Assigned: LAW OFFICE 114

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-02-16

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009
Class Status: Active
protective work gloves
Basis: 1(a)
First Use Date: 2005-03-31
First Use in Commerce Date: 2005-03-31

International Class: 021
Class Status: Active
Gardening gloves and gardening gloves for handling chemicals
Basis: 1(a)
First Use Date: 2005-03-31
First Use in Commerce Date: 2005-03-31

ADDITIONAL INFORMATION

Prior Registration Number(s):
1223038
2820953

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2006-03-28 - Registered - Principal Register
2006-02-07 - Data Modification Completed
2006-02-07 - PAPER RECEIVED
2006-02-14 - Law Office Registration Review Completed
2006-02-10 - Assigned To LIE

2006-02-09 - Allowed for Registration - Principal Register (SOU accepted)
2006-02-09 - Statement Of Use Processing Complete
2005-07-14 - Use Amendment Filed
2005-07-14 - TEAS Statement of Use Received
2005-02-15 - NOA Mailed - SOU Required From Applicant
2004-11-23 - Published for opposition
2004-11-03 - Notice of publication
2004-09-15 - Law Office Publication Review Completed
2004-08-30 - Assigned To LIE
2004-08-25 - Approved For Pub - Principal Register
2004-08-25 - Assigned To Examiner
2004-08-19 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Lawrence E. Abelman

Correspondent

LAWRENCE E. ABELMAN
ABELMAN, FRAYNE & SCHWAB
666 3RD AVE., 10TH FL
NEW YORK, NY 10017
Phone Number: 212-949-9022
Fax Number: 212-949-9190

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:45:39 ET

Serial Number: 78478913 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3156217

Mark



(words only): MIRACLE-GRO GARDEN SOIL ROSES BONE MEAL ADDED TO GROW BIG, BEAUTIFUL BLOOMS!

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2006-10-17

Filing Date: 2004-09-03

Transformed into a National Application: No

Registration Date: 2006-10-17

Register: Principal

Law Office Assigned: LAW OFFICE 116

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-10-17

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

GARDEN SOIL, PLANTING SOIL, SOIL CONTAINING ADDITIVES, CHEMICAL SOIL CONDITIONERS, SOIL CONDITIONERS FOR AGRICULTURAL, DOMESTIC OR HORTICULTURAL USE AND FERTILIZERS FOR SOIL AND POTTING SOIL

Basis: 1(a)

First Use Date: 2005-01-01

First Use in Commerce Date: 2005-01-01

ADDITIONAL INFORMATION

Color(s) Claimed: The color(s) red, pink, yellow, green, black and white is/are claimed as a feature of the mark.

Description of Mark and Any Color Part(s): The color yellow appears on the bottom two thirds of the package. The black bullet logo with a thin white circle within and the words MIRACLE-GRO unite the pink and yellow packaging. In the center of the trademark appears a picture of a woman gardening among a bed of red and pink roses. The plant portion of the roses are green. The rosebed is bordered by a white fence. The woman is wearing a beige hat. The word ROSES appears in white on a pink banner and the words GARDEN SOIL in black with a green leaf dotting the "I" in soil.

Disclaimer: GARDEN SOIL; ROSES; BONE MEAL ADDED TO GROW BIG BEAUTIFUL BLOOMS, and TIERRA PARA EL JARDIN

Description of Mark: The mark consists of the trademark MIRACLE-GRO on a circular logo, with the words GARDEN SOIL, ROSES, and the words BONE MEAL ADDED TO GROW BIG, BEAUTIFUL BLOOMS!, on a package with a figure of a person in a garden.

Name Portrait Consent: The person portrayed in the mark identifies a living individual whose consent is of record.

Translation: The English translation of "tierra para el jardin" is garden soil.

Design Search Code(s):

- 01.05.01 - Sun, rising or setting (partially exposed or partially obstructed); Sunrise
- 02.03.02 - Silhouettes of women; Women depicted as shadows or silhouettes of women
- 02.03.14 - Bonnets (women wearing); Women wearing bonnets
- 02.03.24 - Women, stylized, including women depicted in caricature form
- 05.05.02 - Roses
- 05.05.25 - Daffodils; Iris (flower); Other flowers

05.11.04 - Tomatoes

05.11.25 - Artichokes; Asparagus; Avocados; Broccoli; Celery; Other vegetables; Turnips

07.11.09 - Brick walls; Fences (including barbed wire and chain link); Garden equipment, fencing; Gates; Walls

26.01.13 - Circles, two (not concentric); Two circles

26.01.21 - Circles that are totally or partially shaded.

26.11.07 - Rectangles with a decorative border, including scalloped, ruffled and zig-zag edges

26.11.13 - Rectangles (exactly two rectangles); Two rectangles

26.11.20 - Rectangles inside one another

26.11.21 - Rectangles that are completely or partially shaded

26.11.25 - Rectangles with one or more curved sides

26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Prior Registration Number(s):

688868

2515267

2822655

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2006-10-17 - Registered - Principal Register

2006-08-01 - Published for opposition

2006-07-12 - Notice of publication

2006-06-16 - Law Office Publication Review Completed

2006-06-02 - Assigned To LIE

2006-06-01 - Approved for Pub - Principal Register (Initial exam)

2006-05-23 - Attorney Revoked And/Or Appointed

2006-05-23 - TEAS Revoke/Appoint Attorney Received

2006-05-23 - TEAS Change Of Correspondence Received

2006-05-11 - Amendment From Applicant Entered

2006-04-24 - Communication received from applicant
2006-04-24 - PAPER RECEIVED
2006-04-12 - Amendment to Use approved
2006-03-06 - Amendment To Use Processing Complete
2006-02-17 - Use Amendment Filed
2006-02-07 - PAPER RECEIVED
2006-02-17 - TEAS Amendment of Use Received
2005-12-02 - Non-final action mailed
2005-12-01 - Non-Final Action Written
2005-10-26 - Amendment From Applicant Entered
2005-10-11 - Communication received from applicant
2005-10-11 - PAPER RECEIVED
2005-04-15 - Non-final action mailed
2005-04-14 - Non-Final Action Written
2005-03-31 - Assigned To Examiner
2004-09-14 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

Susan E. Hollander, Esq.
Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg 2
Palo Alto CA 94304
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:46:09 ET

Serial Number: 78782928 Assignment Information Trademark Document Retrieval

Registration Number: 3180531

Mark



(words only): MIRACLE-GRO ORGANIC CHOICE

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2006-12-05

Filing Date: 2005-12-30

Transformed into a National Application: No

Registration Date: 2006-12-05

Register: Principal

Law Office Assigned: LAW OFFICE 103

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-12-05

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

1. OMS Investments, Inc.

Address:
OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
Fertilizers for domestic use, potting soil, blood meal, and bone meal
Basis: 1(a)
First Use Date: 2003-03-31
First Use in Commerce Date: 2003-03-31

ADDITIONAL INFORMATION

Disclaimer: "ORGANIC"

Design Search Code(s):
05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches
05.05.25 - Daffodils; Iris (flower); Other flowers
26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles
26.01.21 - Circles that are totally or partially shaded.

Prior Registration Number(s):
1223038
2820953
2978064

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2006-12-05 - Registered - Principal Register
2006-09-19 - Published for opposition
2006-08-30 - Notice of publication
2006-07-26 - Law Office Publication Review Completed

2006-07-21 - Assigned To LIE
2006-07-13 - Approved for Pub - Principal Register (Initial exam)
2006-07-13 - Teas/Email Correspondence Entered
2006-07-10 - Communication received from applicant
2006-07-10 - TEAS Response to Office Action Received
2006-06-26 - Non-final action e-mailed
2006-06-26 - Non-Final Action Written
2006-06-23 - Assigned To Examiner
2006-01-06 - Notice Of Design Search Code Mailed
2006-01-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

SUSAN E. HOLLANDER, ESQ.
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1020
Phone Number: 650-812-1300
Fax Number: 650-213-0260

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This page was generated by the TARR system on 2011-04-20 12:46:22 ET

Serial Number: 78478917 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3182529

Mark



(words only): MIRACLE-GRO GARDEN SOIL TREES & SHRUBS

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2006-12-12

Filing Date: 2004-09-03

Transformed into a National Application: No

Registration Date: 2006-12-12

Register: Principal

Law Office Assigned: LAW OFFICE 106

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2006-12-12

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

1. OMS Investments, Inc.

Address:
OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

GARDEN SOIL, PLANTING SOIL, SOIL CONTAINING ADDITIVES, SOIL CONDITIONERS FOR AGRICULTURAL, DOMESTIC OR HORTICULTURAL USE AND FERTILIZERS FOR SOIL AND POTTING SOIL

Basis: 1(a)

First Use Date: 2005-02-01

First Use in Commerce Date: 2005-02-01

ADDITIONAL INFORMATION

Color(s) Claimed: The colors blue, green, red, yellow, white, black, pink and brown are claimed as a feature of the mark.

Description of Mark and Any Color Part(s): The top one-third of the bag appearing above and adjacent to the trademark "Miracle-Gro" is in blue, the wording "Grows Big Beautiful Trees & Shrubs Guaranteed" appears in yellow upon a red rectangular background and yellow outer edges, the trademark "Miracle-Gro" appears in white upon a black circle with a yellow outer edge and the color white emanates from the black outer edge of the circles, the wording "Garden Soil" is in black with a white background, the wording "Trees & Shrubs" are in white upon a blue background, the wording "Tierra Para El Jardin" is in red, the leaf appearing above the letter "I" in "Soil" is green and white, the predominant color in the background of the lower part of the drawing below the blue is in yellow and the partial circle running through "Miracle-Gro" on top of the drawing and below the woman gardening is in green, the flowers surrounding the woman gardening are in the colors yellow, pink, red, green, white and orange, the woman gardener is wearing a yellow hat, white dress, and has a brown face, the edge of the drawing on the left and right sides is in blue and the irregularly shaped lines appearing below the wording "Garden Soil" and "Flowers & Vegetables" are in green.

Disclaimer: GARDEN SOIL; TREES & SHRUBS; GROWS BIG BEAUTIFUL TREES & SHRUBS GUARANTEED, and TIERRA PARA EL JARDIN

Name Portrait Consent: The likeness in the mark identifies Lynn Grace a living individual whose consent is of record.

Translation: The English translation of "tierra para el jardin" is garden soil.

Design Search Code(s):

- 01.05.01 - Sun, rising or setting (partially exposed or partially obstructed); Sunrise
- 02.03.02 - Silhouettes of women; Women depicted as shadows or silhouettes of women
- 02.03.14 - Bonnets (women wearing); Women wearing bonnets
- 02.03.24 - Women, stylized, including women depicted in caricature form

05.01.25 - Cypress tree; Other trees or bushes; Willow tree
05.05.02 - Roses
05.05.25 - Daffodils; Iris (flower); Other flowers
05.11.04 - Tomatoes
05.11.25 - Artichokes; Asparagus; Avocados; Broccoli; Celery; Other vegetables; Turnips
07.11.09 - Brick walls; Fences (including barbed wire and chain link); Garden equipment, fencing; Gates; Walls
26.01.13 - Circles, two (not concentric); Two circles
26.01.21 - Circles that are totally or partially shaded.
26.11.07 - Rectangles with a decorative border, including scalloped, ruffled and zig-zag edges
26.11.13 - Rectangles (exactly two rectangles); Two rectangles
26.11.20 - Rectangles inside one another
26.11.21 - Rectangles that are completely or partially shaded
26.11.25 - Rectangles with one or more curved sides
26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Prior Registration Number(s):

688868
2515267
2822655

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2006-12-12 - Registered - Principal Register
2006-09-26 - Published for opposition
2006-09-06 - Notice of publication
2006-07-26 - Law Office Publication Review Completed
2006-07-26 - Assigned To LIE
2006-06-28 - Approved for Pub - Principal Register (Initial exam)
2006-06-27 - Amendment to Use approved
2006-06-06 - Teas/Email Correspondence Entered
2006-05-02 - Communication received from applicant

2006-06-06 - Amendment To Use Processing Complete
2006-05-02 - Use Amendment Filed
2006-05-23 - Attorney Revoked And/Or Appointed
2006-05-23 - TEAS Revoke/Appoint Attorney Received
2006-05-23 - TEAS Change Of Correspondence Received
2006-05-02 - TEAS Amendment of Use Received
2006-04-24 - PAPER RECEIVED
2006-02-07 - Unresponsive/Duplicate Paper Received
2006-03-10 - Assigned To LIE
2006-02-07 - PAPER RECEIVED
2005-11-03 - Non-final action mailed
2005-11-03 - Non-Final Action Written
2005-10-13 - Amendment From Applicant Entered
2005-10-03 - Communication received from applicant
2005-10-03 - PAPER RECEIVED
2005-04-15 - Non-final action mailed
2005-04-15 - Non-Final Action Written
2005-04-13 - Assigned To Examiner
2005-03-31 - Assigned To Examiner
2004-09-14 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

Susan E. Hollander, Esq.

Manatt, Phelps & Phillips, LLP

1001 Page Mill Road, Bldg 2

Palo Alto CA 94304
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:46:35 ET

Serial Number: 78478903 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3190987

Mark



(words only): MIRACLE-GRO GARDEN SOIL FLOWERS & VEGETABLES

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2007-01-02

Filing Date: 2004-09-03

Transformed into a National Application: No

Registration Date: 2007-01-02

Register: Principal

Law Office Assigned: LAW OFFICE 106

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-01-02

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

GARDEN SOIL, PLANTING SOIL, SOIL CONTAINING ADDITIVES, SOIL CONDITIONERS FOR AGRICULTURAL, DOMESTIC OR HORTICULTURAL USE AND FERTILIZERS FOR SOIL AND POTTING SOIL

Basis: 1(a)

First Use Date: 2005-02-01

First Use in Commerce Date: 2005-02-01

ADDITIONAL INFORMATION

Color(s) Claimed: The colors green, red, yellow, white, black, pink, orange and brown are claimed as a feature of the mark.

Description of Mark and Any Color Part(s): The top one-third of the bag appearing above and adjacent to the trademark MIRACLE-GRO is in green, the wording GROWS PLANTS TWICE AS BIG AS TOPSOIL appears in yellow upon a red rectangular background and yellow outer edges, the trademark MIRACLE-GRO appears in white upon a black circle with a yellow outer edge and the color white emanates from the black outer edge of the circles, the wording "Garden Soil" is in black with a white background, the wording "Flowers & Vegetables" are in white upon a green background, the wording "Tierra Para El Jardin" is in red, the leaf appearing above the letter "I" in "Soil" is green and white, the predominant color in background of the lower part of the drawing below the green is in yellow and the partial circle running through MIRACLE-GRO on top of the drawing and below the woman gardening is in pink, the picket fence is white, the flowers directly behind the picket fence and the woman gardening are in the colors yellow, pink, red, green, white and orange, the woman gardener is wearing a brown hat, blue shirt, white pants, red shoes and has brown arms, the edge of the drawing on the left and right sides is in green as are the irregularly shaped lines appearing below the wording "Garden Soil" and "Flowers and Vegetables".

Disclaimer: GARDEN SOIL, FLOWERS & VEGETABLES, TOPSOIL and TIERRA PARA EL JARDIN

Name Portrait Consent: The likeness in the mark identifies Lynn Grace a living individual whose consent is of record.

Translation: The English translation of "tierra para el jardin" is garden soil.

Section 2(f), in part, as to "Grows Plants Twice As Big."

Design Search Code(s):

01.05.01 - Sun, rising or setting (partially exposed or partially obstructed); Sunrise

- 02.03.02 - Silhouettes of women; Women depicted as shadows or silhouettes of women
- 02.03.14 - Bonnets (women wearing); Women wearing bonnets
- 02.03.24 - Women, stylized, including women depicted in caricature form
- 05.05.02 - Roses
- 05.05.05 - Daisies
- 05.05.25 - Daffodils; Iris (flower); Other flowers
- 05.11.04 - Tomatoes
- 05.11.25 - Artichokes; Asparagus; Avocados; Broccoli; Celery; Other vegetables; Turnips
- 07.11.09 - Brick walls; Fences (including barbed wire and chain link); Garden equipment, fencing; Gates; Walls
- 26.01.13 - Circles, two (not concentric); Two circles
- 26.01.21 - Circles that are totally or partially shaded.
- 26.11.07 - Rectangles with a decorative border, including scalloped, ruffled and zig-zag edges
- 26.11.13 - Rectangles (exactly two rectangles); Two rectangles
- 26.11.20 - Rectangles inside one another
- 26.11.21 - Rectangles that are completely or partially shaded
- 26.11.25 - Rectangles with one or more curved sides
- 26.17.09 - Bands, curved; Bars, curved; Curved line(s), band(s) or bar(s); Lines, curved

Prior Registration Number(s):

688868
2515267
2822655

MADRID PROTOCOL INFORMATION

(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.

- 2010-07-22 - Notice Of Suit
- 2007-01-02 - Registered - Principal Register
- 2006-10-17 - Published for opposition
- 2006-09-27 - Notice of publication
- 2006-08-30 - Law Office Publication Review Completed
- 2006-07-14 - Approved for Pub - Principal Register (Initial exam)
- 2006-07-03 - Examiner's Amendment Entered
- 2006-06-29 - Assigned To LIE

2006-06-29 - EXAMINERS AMENDMENT E-MAILED
2006-06-29 - Examiners Amendment -Written
2006-06-27 - Amendment to Use approved
2006-06-06 - Amendment From Applicant Entered
2006-04-24 - Communication received from applicant
2006-06-06 - Teas/Email Correspondence Entered
2006-05-02 - Communication received from applicant
2006-06-02 - Amendment To Use Processing Complete
2006-05-02 - Use Amendment Filed
2006-05-23 - Attorney Revoked And/Or Appointed
2006-05-23 - TEAS Revoke/Appoint Attorney Received
2006-05-23 - TEAS Change Of Correspondence Received
2006-05-02 - TEAS Amendment of Use Received
2006-04-24 - PAPER RECEIVED
2006-02-07 - Unresponsive/Duplicate Paper Received
2006-03-10 - Assigned To LIE
2006-02-07 - PAPER RECEIVED
2005-11-04 - Non-final action mailed
2005-11-03 - Non-Final Action Written
2005-10-13 - Amendment From Applicant Entered
2005-10-03 - Communication received from applicant
2005-10-03 - PAPER RECEIVED
2005-04-15 - Non-final action mailed
2005-04-14 - Non-Final Action Written
2005-03-31 - Assigned To Examiner
2004-09-14 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

Susan E. Hollander, Esq.

Manatt, Phelps & Phillips, LLP

1001 Page Mill Road, Bldg 2

Palo Alto CA 94304

Phone Number: 650-812-1300

Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:46:48 ET

Serial Number: 76496457 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3233837

Mark



(words only): MIRACLE-GRO

Standard Character claim: No

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2007-04-24

Filing Date: 2003-03-04

Transformed into a National Application: No

Registration Date: 2007-04-24

Register: Principal

Law Office Assigned: LAW OFFICE 106

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2007-03-16

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Blvd, Suite 2800
Los Angeles, CA 900676228
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
CHARCOAL FOR HORTICULTURAL PURPOSES AND FOR USE AS A SOIL CONDITIONER;
PERLITE FOR HORTICULTURAL PURPOSES AND FOR USE AS A SOIL CONDITIONER
Basis: 1(a)
First Use Date: 2000-12-00
First Use in Commerce Date: 2000-12-00

ADDITIONAL INFORMATION

Description of Mark: The mark consists of the word "MIRACLE-GRO" in a bullseye logo with a green leaf dotting the "I" in "MIRACLE-GRO" and a yellow ring in the bullseye.

Design Search Code(s):

05.03.08 - More than one leaf, including scattered leaves, bunches of leaves not attached to branches
05.03.25 - Leaf, single; Other leaves
21.03.12 - Dart boards; Targets without crosshairs or alignment guides
26.01.17 - Circles, two concentric; Concentric circles, two; Two concentric circles
26.01.21 - Circles that are totally or partially shaded.
27.03.04 - Plants forming letters or numerals

Prior Registration Number(s):

668868
1051605
1223038
2345472
2525828
2580976
2601682
2618698
2618699

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2007-04-24 - Registered - Principal Register
2007-03-07 - Law Office Registration Review Completed
2007-03-07 - Assigned To LIE
2007-02-05 - Allowed for Registration - Principal Register (SOU accepted)
2007-01-23 - Statement Of Use Processing Complete
2006-11-16 - Use Amendment Filed
2006-11-16 - TEAS Statement of Use Received
2006-08-03 - Extension 5 granted
2006-07-06 - Extension 5 filed
2006-07-06 - TEAS Extension Received
2006-05-24 - Applicant/Correspondence Changes (Non-Responsive) Entered
2006-05-24 - TEAS Change Of Owner Address Received
2006-05-23 - Attorney Revoked And/Or Appointed
2006-05-23 - TEAS Revoke/Appoint Attorney Received
2006-05-24 - Extension 4 granted
2006-01-05 - Extension 4 filed
2006-05-23 - TEAS Change Of Correspondence Received
2006-02-07 - PAPER RECEIVED
2006-01-05 - TEAS Extension Received
2005-06-01 - Extension 3 granted
2005-05-13 - Extension 3 filed
2005-05-13 - TEAS Extension Received
2005-02-03 - Extension 2 granted
2005-01-17 - Extension 2 filed

2005-01-17 - TEAS Extension Received
2004-08-11 - Extension 1 granted
2004-07-27 - Extension 1 filed
2004-07-27 - TEAS Extension Received
2004-01-27 - NOA Mailed - SOU Required From Applicant
2003-11-04 - Published for opposition
2003-10-15 - Notice of publication
2003-09-02 - Approved For Pub - Principal Register
2003-08-01 - Communication received from applicant
2003-08-01 - PAPER RECEIVED
2003-06-27 - Non-final action mailed
2003-06-25 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander

Correspondent

SUSAN E. HOLLANDER
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL ROAD, BLDG. 2
PALO ALTO, CA 94304
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:47:01 ET

Serial Number: 77215022 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3456832

Mark

MIRACLE-GRO

(words only): MIRACLE-GRO

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-07-01

Filing Date: 2007-06-25

Transformed into a National Application: No

Registration Date: 2008-07-01

Register: Principal

Law Office Assigned: LAW OFFICE 105

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-07-01

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 007
Class Status: Active
composter machines and components thereof for recycling solid waste
Basis: 1(a)
First Use Date: 2007-03-12
First Use in Commerce Date: 2007-03-12

ADDITIONAL INFORMATION

Prior Registration Number(s):
2758533

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2008-07-01 - Registered - Principal Register
2008-04-15 - Published for opposition
2008-03-26 - Notice of publication
2008-03-12 - Law Office Publication Review Completed
2008-03-12 - Assigned To LIE
2008-02-20 - Approved for Pub - Principal Register (Initial exam)
2008-02-19 - Teas/Email Correspondence Entered
2008-02-19 - Communication received from applicant
2008-02-19 - TEAS Response to Office Action Received

2007-09-04 - Notification Of Non-Final Action E-Mailed

2007-09-04 - Non-final action e-mailed

2007-09-04 - Non-Final Action Written

2007-09-03 - Assigned To Examiner

2007-06-30 - Notice Of Pseudo Mark Mailed

2007-06-29 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq., Paul E. Thomas, Esq. and Gail I. Nevius Abbas, Esq.

Correspondent

SUSAN E. HOLLANDER, ESQ., PAUL E. THOMAS
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:49:10 ET

Serial Number: 77775762 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

MIRACLE-GRO

(words only): MIRACLE-GRO

Standard Character claim: Yes

Current Status: A second request for extension of time to file a Statement of Use has been granted.

Date of Status: 2011-02-01

Filing Date: 2009-07-07

The Notice of Allowance Date is: 2010-01-19

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 106

Attorney Assigned:
WELLS CHRISTOPHER WILLIAM

Current Location: 700 -Intent To Use Section

Date In Location: 2011-02-01

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

1. OMS Investments, Inc.

Address:

Latest Status Info

OMS Investments, Inc.
 10250 Constellation Blvd., Suite 2800
 Los Angeles, CA 90067
 United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
 Flower, vegetable, plant and grass seeds for domestic and agricultural use
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):
 1223038
 2235973
 2856922

MADRID PROTOCOL INFORMATION

(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.

2011-02-02 - Notice Of Approval Of Extension Request E-Mailed
 2011-02-01 - Extension 2 granted
 2011-01-06 - Extension 2 filed
 2011-02-01 - Case Assigned To Intent To Use Paralegal
 2011-01-06 - TEAS Extension Received
 2010-12-28 - Attorney Revoked And/Or Appointed
 2010-12-28 - TEAS Revoke/Appoint Attorney Received
 2010-06-19 - Notice Of Approval Of Extension Request E-Mailed

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:49:23 ET

Serial Number: 77813595 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

MIRACLE-GRO COMPLETE

(words only): MIRACLE-GRO COMPLETE

Standard Character claim: Yes

Current Status: A first request for extension of time to file a Statement of Use has been granted.

Date of Status: 2011-01-04

Filing Date: 2009-08-26

The Notice of Allowance Date is: 2010-07-06

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 106

Attorney Assigned:
WELLS CHRISTOPHER WILLIAM

Current Location: 700 -Intent To Use Section

Date In Location: 2010-07-06

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
Growing media for plants
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2011-01-06 - Notice Of Approval Of Extension Request E-Mailed
2011-01-04 - Extension 1 granted
2011-01-04 - Extension 1 filed
2011-01-04 - TEAS Extension Received
2010-12-28 - Attorney Revoked And/Or Appointed
2010-12-28 - TEAS Revoke/Appoint Attorney Received
2010-07-06 - NOA E-Mailed - SOU Required From Applicant
2010-05-11 - Notice Of Publication E-Mailed
2010-05-11 - Published for opposition
2010-04-02 - Law Office Publication Review Completed

- 2010-04-02 - Assigned To LIE
- 2010-03-17 - Approved For Pub - Principal Register
- 2010-03-12 - Teas/Email Correspondence Entered
- 2010-03-11 - Communication received from applicant
- 2010-03-11 - TEAS Response to Office Action Received
- 2010-03-11 - TEAS Change Of Correspondence Received
- 2009-09-11 - Notification Of Non-Final Action E-Mailed
- 2009-09-11 - Non-final action e-mailed
- 2009-09-11 - Non-Final Action Written
- 2009-09-11 - Assigned To Examiner
- 2009-09-03 - Notice Of Pseudo Mark Mailed
- 2009-09-02 - New Application Office Supplied Data Entered In Tram
- 2009-09-01 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza-East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:49:45 ET

Serial Number: 85041740 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

MIRACLE-GRO GRO-BAG

(words only): MIRACLE-GRO GRO-BAG

Standard Character claim: Yes

Current Status: A non-final Office action has been sent (issued) to the applicant. This is a letter from the examining attorney requiring additional information and/or making an initial refusal. The applicant must respond to this Office action. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Date of Status: 2011-01-12

Filing Date: 2010-05-18

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 117

Attorney Assigned:
LEE DOUGLAS M

Current Location: M8X -Law Office 117 - Examining Attorney Assigned

Date In Location: 2011-01-12

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 021

Class Status: Active

Gardening kits for home use comprised of plastic containers and potting soil

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Prior Registration Number(s):

668868

1223038

2935663

MADRID PROTOCOL INFORMATION

(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.

2011-01-12 - Notification Of Non-Final Action E-Mailed

2011-01-12 - NON-FINAL ACTION E-MAILED

2011-01-12 - Non-Final Action Written

2011-01-04 - Teas/Email Correspondence Entered

2011-01-04 - Communication received from applicant

2011-01-04 - TEAS Response to Office Action Received

2010-12-28 - Attorney Revoked And/Or Appointed

2010-12-28 - TEAS Revoke/Appoint Attorney Received

2010-07-13 - Notification Of Non-Final Action E-Mailed
2010-07-13 - Non-final action e-mailed
2010-07-13 - Non-Final Action Written
2010-07-12 - Assigned To Examiner
2010-05-26 - Notice Of Pseudo Mark Mailed
2010-05-25 - New Application Office Supplied Data Entered In Tram
2010-05-21 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza-East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999

Exhibit 2

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:54:54 ET

Serial Number: 77799595 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

GRO-POD

(words only): GRO-POD

Standard Character claim: Yes

Current Status: A second request for extension of time to file a Statement of Use has been granted.

Date of Status: 2011-02-01

Filing Date: 2009-08-07

The Notice of Allowance Date is: 2010-01-19

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 106

Attorney Assigned:
WELLS CHRISTOPHER WILLIAM

Current Location: 700 -Intent To Use Section

Date In Location: 2011-02-01

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 021
Class Status: Active
Containers for cultivating plants
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2011-02-02 - Notice Of Approval Of Extension Request E-Mailed
2011-02-01 - Extension 2 granted
2011-01-06 - Extension 2 filed
2011-02-01 - Case Assigned To Intent To Use Paralegal
2011-01-06 - TEAS Extension Received
2010-12-28 - Attorney Revoked And/Or Appointed
2010-12-28 - TEAS Revoke/Appoint Attorney Received
2010-06-19 - Notice Of Approval Of Extension Request E-Mailed
2010-06-17 - Extension 1 granted
2010-06-17 - Extension 1 filed

2010-06-17 - TEAS Extension Received
2010-01-19 - NOA Mailed - SOU Required From Applicant
2009-10-27 - Notice Of Publication E-Mailed
2009-10-27 - Published for opposition
2009-09-24 - Law Office Publication Review Completed
2009-09-24 - Assigned To LIE
2009-09-14 - Approved For Pub - Principal Register
2009-09-10 - Assigned To Examiner
2009-08-12 - Notice Of Pseudo Mark Mailed
2009-08-11 - New Application Office Supplied Data Entered In Tram
2009-08-11 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza-East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:55:40 ET

Serial Number: 73548581 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 1378337

Mark (words only): EARTHGRO

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2006-01-15

Filing Date: 1985-07-17

Transformed into a National Application: No

Registration Date: 1986-01-14

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

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

Current Location: 40S -Scanning On Demand

Date In Location: 2008-06-03

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

1. OMS INVESTMENTS, INC.

Address:

OMS INVESTMENTS, INC.
SUITE 2800 10250 CONSTELLATION BLVD.
LOS ANGELES, CA 90067
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031

Class Status: Active

TOP SOIL AND PEAT HUMUS

Basis: 1(a)

First Use Date: 1981-08-00

First Use in Commerce Date: 1981-08-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2008-06-03 - Case File In TICRS

2006-01-15 - First renewal 10 year

2006-01-15 - Section 8 (10-year) accepted/ Section 9 granted

2006-01-12 - Assigned To Paralegal

2005-12-05 - Combined Section 8 (10-year)/Section 9 filed

2005-12-05 - PAPER RECEIVED

1992-04-13 - Section 8 (6-year) accepted & Section 15 acknowledged

1992-01-10 - Section 8 (6-year) and Section 15 Filed

1986-01-14 - Registered - Principal Register

1985-10-22 - Published for opposition

1985-09-26 - Notice of publication

1985-09-06 - Approved for Pub - Principal Register (Initial exam)

1985-09-05 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

CORY M. AMRON
VORYS SATER SEYMOUR AND PEASE LLP
1825 L STREET N.W.
11TH FLOOR
WASHINGTON, DC 20036

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:56:13 ET

Serial Number: 74248033 Assignment Information Trademark Document Retrieval

Registration Number: 1723116

Mark



(words only): EARTHGRO THE NATURAL CHOICE

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2003-10-15

Filing Date: 1992-02-20

Transformed into a National Application: No

Registration Date: 1992-10-13

Register: Principal

Law Office Assigned: LAW OFFICE 13

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

Current Location: 40S -Scanning On Demand

Date In Location: 2008-03-14

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

1. OMS INVESTMENTS, INC.

Address:

OMS INVESTMENTS, INC.
100 WILSHIRE BLVD. SUITE 1230

SANTA MONICA, CA 90401
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
natural organic and mineral fertilizer for lawn and garden use, agricultural use and commercial use; cow manure, composted cow manure, dehydrated cow manure, potting soil and humus
Basis: 1(a)
First Use Date: 1991-09-01
First Use in Commerce Date: 1992-01-02

ADDITIONAL INFORMATION

Design Search Code(s):
01.07.25 - Globes, other

Prior Registration Number(s):
1378337
1378721
1403628

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2008-10-09 - Notice Of Design Search Code Mailed
2008-03-14 - Case File In TICRS
2003-10-15 - First renewal 10 year
2003-10-15 - Section 8 (10-year) accepted/ Section 9 granted
2002-07-24 - Combined Section 8 (10-year)/Section 9 filed
2003-09-29 - REINSTATED

2003-09-26 - FAX RECEIVED

2003-07-19 - Canceled Section 8 (10-year)/Expired Section 9

1998-02-07 - Section 8 (6-year) accepted & Section 15 acknowledged

1997-12-29 - Section 8 (6-year) and Section 15 Filed

1992-10-13 - Registered - Principal Register

1992-07-21 - Published for opposition

1992-06-19 - Notice of publication

1992-04-28 - Approved for Pub - Principal Register (Initial exam)

1992-04-16 - Examiner's amendment mailed

1992-04-15 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

CORY M AMRON
VORYS SATER SEYMOUR & PEASE LLP
1828 L STREET, N.W., 11TH FLOOR
WASHINGTON DC 20036

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:57:07 ET

Serial Number: 74248367 Assignment Information Trademark Document Retrieval

Registration Number: 1726060

Mark



(words only): EARTHGRO THE NATURAL CHOICE

Standard Character claim: No

Current Status: The registration has been renewed.

Date of Status: 2003-10-15

Filing Date: 1992-02-21

Transformed into a National Application: No

Registration Date: 1992-10-20

Register: Principal

Law Office Assigned: LAW OFFICE 13

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

Current Location: 40S -Scanning On Demand

Date In Location: 2008-03-18

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

1. OMS INVESTMENTS, INC.

Address:

OMS INVESTMENTS, INC.
100 WILSHIRE BLVD. SUITE 1230

SANTA MONICA, CA 90401
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
top soil
Basis: 1(a)
First Use Date: 1991-09-01
First Use in Commerce Date: 1992-01-02

ADDITIONAL INFORMATION

Design Search Code(s):
01.07.25 - Globes, other

Prior Registration Number(s):
1378337
1378721
1403628

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2008-10-09 - Notice Of Design Search Code And Pseudo Mark Mailed
2008-03-18 - Case File In TICRS
2003-10-15 - First renewal 10 year
2003-10-15 - Section 8 (10-year) accepted/ Section 9 granted
2002-07-24 - Combined Section 8 (10-year)/Section 9 filed
2003-09-29 - REINSTATED
2003-07-26 - Canceled Section 8 (10-year)/Expired Section 9

1998-01-30 - Section 8 (6-year) accepted & Section 15 acknowledged

1997-12-29 - Section 8 (6-year) and Section 15 Filed

1992-10-20 - Registered - Principal Register

1992-07-28 - Published for opposition

1992-06-26 - Notice of publication

1992-04-28 - Approved for Pub - Principal Register (Initial exam)

1992-04-16 - Examiner's amendment mailed

1992-04-15 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

CORY M AMRON

VORYS SATER SEYMOUR AND PEASE LLP

1828 L STREET, N.W. 11TH FLOOR

WASHINGTON DC 20036

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:57:19 ET

Serial Number: 77394176 Assignment Information Trademark Document Retrieval

Registration Number: 3498947

Mark

GARDEN-GRO

(words only): GARDEN-GRO

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-09-09

Filing Date: 2008-02-11

Transformed into a National Application: No

Registration Date: 2008-09-09

Register: Principal

Law Office Assigned: LAW OFFICE 107

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-09-09

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
mulch
Basis: 1(a)
First Use Date: 2008-02-09
First Use in Commerce Date: 2008-02-09

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit
2008-09-09 - Registered - Principal Register
2008-06-24 - Published for opposition
2008-06-04 - Notice of publication
2008-05-21 - Law Office Publication Review Completed
2008-05-21 - Assigned To LIE
2008-05-21 - Approved for Pub - Principal Register (Initial exam)
2008-05-20 - Assigned To Examiner
2008-02-15 - Notice Of Pseudo Mark Mailed
2008-02-14 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Gail I. Nevius Abbas and Christine M. Klenk

Correspondent

SUSAN E. HOLLANDER, GAIL I. NEVIUS
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-04-20 12:57:42 ET

Serial Number: 76653762 Assignment Information Trademark Document Retrieval

Registration Number: 3917281

Mark

GARDEN GRO

(words only): GARDEN GRO

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2011-02-08

Filing Date: 2006-01-19

Transformed into a National Application: No

Registration Date: 2011-02-08

Register: Principal

Law Office Assigned: LAW OFFICE 103

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2011-01-06

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

1. OMS INVESTMENTS, INC.

Address:

OMS INVESTMENTS, INC.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
fertilizers
Basis: 1(a)
First Use Date: 2008-02-09
First Use in Commerce Date: 2008-02-09

ADDITIONAL INFORMATION

Disclaimer: "GARDEN"

MADRID PROTOCOL INFORMATION

(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.

- 2011-04-13 - Attorney Revoked And/Or Appointed
- 2011-04-13 - TEAS Revoke/Appoint Attorney Received
- 2011-02-08 - Registered - Principal Register
- 2011-01-07 - Notice Of Acceptance Of Statement Of Use E-Mailed
- 2011-01-06 - Law Office Registration Review Completed
- 2011-01-06 - Assigned To LIE
- 2010-12-10 - Allowed for Registration - Principal Register (SOU accepted)
- 2010-11-26 - Statement Of Use Processing Complete
- 2010-11-20 - Use Amendment Filed
- 2010-11-22 - TEAS Statement of Use Received

2010-04-20 - Notice Of Approval Of Extension Request E-Mailed
2010-04-19 - Extension 5 granted
2010-04-15 - Extension 5 filed
2010-04-15 - TEAS Extension Received
2009-10-20 - Extension 4 granted
2009-10-06 - Extension 4 filed
2009-10-20 - Case Assigned To Intent To Use Paralegal
2009-10-06 - TEAS Extension Received
2009-04-29 - Extension 3 granted
2009-04-29 - Extension 3 filed
2009-04-29 - TEAS Extension Received
2008-10-10 - Extension 2 granted
2008-10-10 - Extension 2 filed
2008-10-10 - TEAS Extension Received
2008-05-09 - Extension 1 granted
2008-05-09 - Extension 1 filed
2008-05-09 - TEAS Extension Received
2007-11-20 - NOA Mailed - SOU Required From Applicant
2007-08-28 - Published for opposition
2007-08-08 - Notice of publication
2007-05-21 - Law Office Publication Review Completed
2007-05-18 - Approved For Pub - Principal Register
2007-01-24 - Assigned To Examiner
2007-01-24 - Amendment From Applicant Entered
2006-12-26 - Communication received from applicant
2007-01-24 - Assigned To LIE

2006-12-26 - PAPER RECEIVED
2006-06-27 - Attorney Revoked And/Or Appointed
2006-06-27 - TEAS Revoke/Appoint Attorney Received
2006-06-26 - Non-final action mailed
2006-06-23 - Non-Final Action Written
2006-06-23 - Assigned To Examiner
2006-02-04 - Application Filing Receipt Mailed
2006-01-31 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza - East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999

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This page was generated by the TARR system on 2011-04-20 12:57:59 ET

Serial Number: 77341556 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3828745

Mark

IT'S GRO TIME

(words only): IT'S GRO TIME

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-08-03

Filing Date: 2007-11-30

Transformed into a National Application: No

Registration Date: 2010-08-03

Register: Principal

Law Office Assigned: LAW OFFICE 110

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-06-28

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
Soil amendments, soil conditioners, and soil improving agents for domestic use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam
Basis: 1(a)
First Use Date: 2008-02-00
First Use in Commerce Date: 2008-02-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2010-08-03 - Registered - Principal Register
2010-06-29 - Notice Of Acceptance Of Statement Of Use E-Mailed
2010-06-28 - Law Office Registration Review Completed
2010-06-28 - Assigned To LIE
2010-06-15 - Allowed for Registration - Principal Register (SOU accepted)
2010-05-25 - Notice Of Approval Of Extension Request E-Mailed
2010-05-24 - Statement Of Use Processing Complete
2010-05-21 - Use Amendment Filed
2010-05-24 - Extension 4 granted
2010-05-21 - Extension 4 filed

2010-05-21 - TEAS Extension Received
2010-05-21 - TEAS Statement of Use Received
2010-01-08 - Extension 3 granted
2010-01-06 - Extension 3 filed
2010-01-06 - TEAS Extension Received
2009-07-13 - Extension 2 granted
2009-06-17 - Extension 2 filed
2009-07-13 - Case Assigned To Intent To Use Paralegal
2009-06-17 - TEAS Extension Received
2008-12-03 - Extension 1 granted
2008-12-03 - Extension 1 filed
2008-12-03 - TEAS Extension Received
2008-07-08 - NOA Mailed - SOU Required From Applicant
2008-04-15 - Published for opposition
2008-03-26 - Notice of publication
2008-03-11 - Law Office Publication Review Completed
2008-03-11 - Assigned To LIE
2008-02-15 - Approved For Pub - Principal Register
2008-02-11 - Assigned To Examiner
2007-12-06 - Notice Of Pseudo Mark Mailed
2007-12-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander

Correspondent

SUSAN E. HOLLANDER

MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

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This page was generated by the TARR system on 2011-04-20 12:58:32 ET

Serial Number: 77341562 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3828746

Mark

IT'S GRO TIME

(words only): IT'S GRO TIME

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2010-08-03

Filing Date: 2007-11-30

Transformed into a National Application: No

Registration Date: 2010-08-03

Register: Principal

Law Office Assigned: LAW OFFICE 110

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2010-06-28

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Top soil; mulch; soil containing fertilizer
Basis: 1(a)
First Use Date: 2008-02-00
First Use in Commerce Date: 2008-02-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

- 2010-08-03 - Registered - Principal Register
- 2010-06-29 - Notice Of Acceptance Of Statement Of Use E-Mailed
- 2010-06-28 - Law Office Registration Review Completed
- 2010-06-28 - Assigned To LIE
- 2010-06-15 - Allowed for Registration - Principal Register (SOU accepted)
- 2010-05-25 - Notice Of Approval Of Extension Request E-Mailed
- 2010-05-24 - Statement Of Use Processing Complete
- 2010-05-21 - Use Amendment Filed
- 2010-05-24 - Extension 4 granted
- 2010-05-21 - Extension 4 filed

2010-05-21 - TEAS Extension Received
2010-05-21 - TEAS Statement of Use Received
2010-01-08 - Extension 3 granted
2010-01-06 - Extension 3 filed
2010-01-06 - TEAS Extension Received
2009-07-13 - Extension 2 granted
2009-06-17 - Extension 2 filed
2009-07-13 - Case Assigned To Intent To Use Paralegal
2009-06-17 - TEAS Extension Received
2008-12-03 - Extension 1 granted
2008-12-03 - Extension 1 filed
2008-12-03 - TEAS Extension Received
2008-07-08 - NOA Mailed - SOU Required From Applicant
2008-04-15 - Published for opposition
2008-03-26 - Notice of publication
2008-03-11 - Law Office Publication Review Completed
2008-03-11 - Assigned To LIE
2008-02-15 - Approved For Pub - Principal Register
2008-02-11 - Assigned To Examiner
2007-12-06 - Notice Of Pseudo Mark Mailed
2007-12-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander

Correspondent

SUSAN E. HOLLANDER
MANATT, PHELPS & PHILLIPS, LLP

1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

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Serial Number: 77341566 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: 3552933

Mark

IT'S GRO TIME

(words only): IT'S GRO TIME

Standard Character claim: Yes

Current Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.

Date of Status: 2008-12-30

Filing Date: 2007-11-30

Transformed into a National Application: No

Registration Date: 2008-12-30

Register: Principal

Law Office Assigned: LAW OFFICE 110

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

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-12-30

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

1. OMS Investments, Inc.

Address:
OMS Investments, Inc.

10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 044

Class Status: Active

Providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment via the internet; providing in-store consulting services on the subjects of gardening and lawn care and the use of related products, namely, plant foods, fertilizers, pesticides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; lawn, tree, and shrub care services; landscape gardening services; consulting services in the field of lawn, tree, and shrub care and landscape gardening

Basis: 1(a)

First Use Date: 2008-02-00

First Use in Commerce Date: 2008-02-00

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2010-07-22 - Notice Of Suit

2008-12-30 - Registered - Principal Register

2008-10-14 - Published for opposition

2008-09-24 - Notice of publication

2008-09-09 - Law Office Publication Review Completed

2008-09-09 - Assigned To LIE
2008-08-29 - Approved for Pub - Principal Register (Initial exam)
2008-08-29 - Amendment to Use approved
2008-08-12 - Teas/Email Correspondence Entered
2008-08-11 - Communication received from applicant
2008-08-11 - TEAS Response to Office Action Received
2008-08-12 - Amendment To Use Processing Complete
2008-08-12 - Use Amendment Filed
2008-08-11 - TEAS Amendment of Use Received
2008-02-11 - Notification Of Non-Final Action E-Mailed
2008-02-11 - Non-final action e-mailed
2008-02-11 - Non-Final Action Written
2008-02-11 - Assigned To Examiner
2007-12-06 - Notice Of Pseudo Mark Mailed
2007-12-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, esq.

Correspondent

SUSAN E. HOLLANDER, ESQ.
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

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This page was generated by the TARR system on 2011-04-20 12:59:23 ET

Serial Number: 77406779 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

PRO GRO

(words only): PRO GRO

Standard Character claim: Yes

Current Status: A fourth request for extension of time to file a Statement of Use has been granted.

Date of Status: 2011-04-05

Filing Date: 2008-02-26

The Notice of Allowance Date is: 2009-04-07

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 107

Attorney Assigned:
JACKSON STEVEN W

Current Location: 700 -Intent To Use Section

Date In Location: 2010-04-06

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

1. OMS Investments, inc.

Address:

OMS Investments, inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

2011-04-06 - Notice Of Approval Of Extension Request E-Mailed

2011-04-05 - Extension 4 granted

2011-04-04 - Extension 4 filed

2011-04-04 - TEAS Extension Received

2011-03-22 - Attorney Revoked And/Or Appointed

2011-03-22 - TEAS Revoke/Appoint Attorney Received

2010-10-08 - Notice Of Approval Of Extension Request E-Mailed

2010-10-07 - Extension 3 granted

2010-10-06 - Extension 3 filed

2010-10-06 - TEAS Extension Received
2010-04-07 - Notice Of Approval Of Extension Request E-Mailed
2010-04-06 - Extension 2 granted
2010-03-10 - Extension 2 filed
2010-04-06 - Case Assigned To Intent To Use Paralegal
2010-03-10 - TEAS Extension Received
2009-10-06 - Extension 1 granted
2009-10-06 - Extension 1 filed
2009-10-06 - TEAS Extension Received
2009-04-07 - NOA Mailed - SOU Required From Applicant
2009-01-13 - Published for opposition
2008-12-24 - Notice of publication
2008-12-11 - Law Office Publication Review Completed
2008-12-11 - Assigned To LIE
2008-12-05 - Approved For Pub - Principal Register
2008-11-25 - Teas/Email Correspondence Entered
2008-11-24 - Communication received from applicant
2008-11-24 - TEAS Response to Office Action Received
2008-05-22 - Notification Of Non-Final Action E-Mailed
2008-05-22 - Non-final action e-mailed
2008-05-22 - Non-Final Action Written
2008-05-20 - Assigned To Examiner
2008-03-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza, East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999

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Serial Number: 77727569 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark

SLO-GRO

(words only): SLO-GRO

Standard Character claim: Yes

Current Status: A third request for extension of time to file a Statement of Use has been granted.

Date of Status: 2011-03-21

Filing Date: 2009-05-01

The Notice of Allowance Date is: 2009-09-29

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 101

Attorney Assigned:
PEREZ STEVEN M

Current Location: 700 -Intent To Use Section

Date In Location: 2010-09-22

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031
Class Status: Active
Grass seed
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

- 2011-03-22 - Notice Of Approval Of Extension Request E-Mailed
- 2011-03-21 - Extension 3 granted
- 2011-03-18 - Extension 3 filed
- 2011-03-18 - TEAS Extension Received
- 2011-02-28 - Attorney Revoked And/Or Appointed
- 2011-02-28 - TEAS Revoke/Appoint Attorney Received
- 2010-09-23 - Notice Of Approval Of Extension Request E-Mailed
- 2010-09-22 - Extension 2 granted
- 2010-08-27 - Extension 2 filed
- 2010-09-22 - Case Assigned To Intent To Use Paralegal

2010-08-27 - TEAS Extension Received
2010-01-27 - Extension 1 granted
2010-01-27 - Extension 1 filed
2010-01-27 - TEAS Extension Received
2009-09-29 - NOA Mailed - SOU Required From Applicant
2009-07-07 - Published for opposition
2009-06-17 - Notice of publication
2009-06-04 - Law Office Publication Review Completed
2009-06-03 - Assigned To LIE
2009-06-03 - Approved For Pub - Principal Register
2009-06-01 - Assigned To Examiner
2009-05-06 - Notice Of Pseudo Mark Mailed
2009-05-05 - New Application Office Supplied Data Entered In Tram
2009-05-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza - East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999

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This page was generated by the TARR system on 2011-04-20 12:59:51 ET

Serial Number: 77799605 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

GRO-MIX

(words only): GRO-MIX

Standard Character claim: Yes

Current Status: A second request for extension of time to file a Statement of Use has been granted.

Date of Status: 2011-02-01

Filing Date: 2009-08-07

The Notice of Allowance Date is: 2010-01-19

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 106

Attorney Assigned:
WELLS CHRISTOPHER WILLIAM

Current Location: 700 -Intent To Use Section

Date In Location: 2011-02-01

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

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
Growing media for plants
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(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.

- 2011-02-02 - Notice Of Approval Of Extension Request E-Mailed
- 2011-02-01 - Extension 2 granted
- 2011-01-06 - Extension 2 filed
- 2011-02-01 - Case Assigned To Intent To Use Paralegal
- 2011-01-06 - TEAS Extension Received
- 2010-12-28 - Attorney Revoked And/Or Appointed
- 2010-12-28 - TEAS Revoke/Appoint Attorney Received
- 2010-06-19 - Notice Of Approval Of Extension Request E-Mailed
- 2010-06-17 - Extension 1 granted
- 2010-06-17 - Extension 1 filed

2010-06-17 - TEAS Extension Received
2010-01-19 - NOA Mailed - SOU Required From Applicant
2009-10-27 - Notice Of Publication E-Mailed
2009-10-27 - Published for opposition
2009-09-24 - Law Office Publication Review Completed
2009-09-24 - Assigned To LIE
2009-09-14 - Approved For Pub - Principal Register
2009-09-10 - Assigned To Examiner
2009-08-12 - TEAS Amendment Entered Before Attorney Assigned
2009-08-12 - TEAS Voluntary Amendment Received
2009-08-12 - Notice Of Pseudo Mark Mailed
2009-08-11 - New Application Office Supplied Data Entered In Tram
2009-08-11 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

John Gary Maynard, III

Correspondent

John Gary Maynard, III
Hunton & Williams LLP
Riverfront Plaza-East Tower
951 East Byrd Street
Richmond VA 23219-4074
Phone Number: 804-788-8772
Fax Number: 804-344-7999
