

ESTTA Tracking number: **ESTTA674542**

Filing date: **05/27/2015**

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

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Mastronardi Produce, Ltd.
Granted to Date of previous extension	05/27/2015
Address	2100 Road 4 East Kingsville, ON N9Y 2E5 CANADA

Attorney information	Mark D. Schneider Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C. 2701 Troy Center Drive, Ste. 330 Troy, MI 48084 UNITED STATES doctet@patlaw.com, dnichols@patlaw.com Phone:248-647-6000
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### Applicant Information

Application No	86169088	Publication date	01/27/2015
Opposition Filing Date	05/27/2015	Opposition Period Ends	05/27/2015
Applicant	Underwood, Craig H. 5696 Los Angeles Avenue Somis, CA 93066 UNITED STATES		

### Goods/Services Affected by Opposition

Class 031. First Use: 2013/11/01 First Use In Commerce: 2013/11/01 All goods and services in the class are opposed, namely: FRESH ARTICHOKES
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4702054	Application Date	11/23/2011
Registration Date	03/17/2015	Foreign Priority Date	06/08/2011
Word Mark	SUNSET TIME VINE...EVOLUTION OF THE TOMATO		

Design Mark	<p><b>SUNSET TIME VINE...EVOLUTION OF THE TOMATO</b></p>		
Description of Mark	NONE		
Goods/Services	<p>Class 016. First use: First Use: 0 First Use In Commerce: 0 Plastic shopping bags, namely, polypropylene bags</p> <p>Class 031. First use: First Use: 0 First Use In Commerce: 0 Fresh fruit; * Fresh * vegetables *, namely, tomatoes, peppers, cucumbers, and eggplant *</p>		

U.S. Registration No.	4336619	Application Date	12/08/2008
Registration Date	05/21/2013	Foreign Priority Date	08/19/2008

Word Mark	SUNSET ORGANICS		
Design Mark	<p><b>SUNSET ORGANICS</b></p>		
Description of Mark	NONE		
Goods/Services	<p>Class 031. First use: First Use: 2008/09/30 First Use In Commerce: 2008/09/30 Organic fresh, raw and unprocessed vegetables, namely, tomatoes, peppers, cucumbers, and eggplant</p>		

U.S. Registration No.	4024358	Application Date	05/09/2008
Registration Date	09/13/2011	Foreign Priority Date	03/18/2008
Word Mark	SUNSET KIDZ		

Design Mark	<b>SUNSET KIDZ</b>
Description of Mark	NONE
Goods/Services	Class 031. First use: First Use: 2008/12/04 First Use In Commerce: 2008/12/04 Fresh hydroponic tomatoes, fresh hydroponic vegetables, * namely, tomatoes, peppers, cucumbers, and eggplant *

Attachments	85479625#TMSN.png( bytes ) 77628536#TMSN.png( bytes ) 77470888#TMSN.png( bytes ) MAS-26680_08 - Notice of Opposition.pdf(19934 bytes ) Exhibit A - Sunset Chokes reduced.pdf(2772052 bytes ) Exhibit B - Sunset Produce.pdf(922989 bytes ) Exhibit C - Sunset Grown.pdf(770515 bytes ) Exhibit D - Sunset Vine.pdf(587071 bytes ) Exhibit E - Sunset Organics.pdf(1506025 bytes ) Exhibit F - Sunset Kidz.pdf(1727914 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mark D. Schneider/
Name	Mark D. Schneider
Date	05/27/2015

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

In re Serial No. 86169088

Filed: January 17, 2014

MASTRONARDI PRODUCE, LTD.,

Opposer,

Opposition No.

vs.

CRAIG H. UNDERWOOD,

Applicant.

\_\_\_\_\_ /

**NOTICE OF OPPOSITION**

Mastronardi Produce, Ltd. (“Opposer”), having a principal place of business in Kingsville, Ontario, Canada, believes that it will be damaged by registration of the mark shown in Serial No. 86169088, in International Class 031, and hereby opposes the same.

As grounds of opposition, it is alleged that:

1. Craig H. Underwood (“Applicant”), seeks registration of the mark SUNSET CHOKES for fresh artichokes in International Class 031, as evidenced by the attached page from the Trademark Status and Document Retrieval (TSDR) (**Exhibit A**) (“Applicant’s Mark”). Applicant’s Mark was filed on January 17, 2014, based on §1(a), with an alleged date of first use in commerce of November 1, 2013. Applicant’s Mark was published for opposition on January 27, 2015. Opposer was granted until May 27, 2015 to file an opposition in this matter in response to a request to extend time to oppose that was filed on February 17, 2015.

2. Opposer owns and has used a wide variety of trademarks incorporating the first term SUNSET as their dominant element for a variety of fresh produce, including, without limitation: SUNSET PRODUCE (**Exhibit B**), SUNSET GROWN (**Exhibit C**), SUNSET TIME VINE...EVOLUTION OF THE TOMATO; SUNSET ORGANICS; and SUNSET KIDZ since priority to any use of Applicant's Mark by Applicant (referred to herein as "Opposer's Marks.") Opposer owns a number of U.S. Registrations for various of its Sunset Marks, including:

- Reg. No. 4702054 for SUNSET TIME VINE...EVOLUTION OF THE TOMATO for, *inter alia*, fresh fruit; fresh vegetables, namely, tomatoes, peppers cucumbers and eggplant; (**Exhibit D**)
- Reg. No. 4336619 for SUNSET ORGANICS for Organic fresh, raw and unprocessed vegetables, namely, tomatoes, peppers, cucumbers, and eggplant; (**Exhibit E**)
- Reg. No. 4024358 for SUNSET KIDZ for Fresh hydroponic tomatoes, fresh hydroponic vegetables, namely, tomatoes, peppers, cucumbers, and eggplant. (**Exhibit F**)

3. Opposer's use of Opposer's Marks has been extensive and continuous since at least as early as December 4, 2008, and Opposer's Marks constitute extremely valuable assets of Opposer.

4. Opposer's priority or use of Opposer's Marks precedes Applicant's first use of its Mark by approximately five years.

5. Applicant's Mark, SUNSET CHOKES is nearly identical to Opposer's Marks, sharing the identical dominant element "SUNSET," and is used on identical, or nearly

identical goods, namely fresh artichokes, which is known by the descriptive term “chokes,” which component term is disclaimed in Applicant’s pending application. As a result of the identity of the dominant component SUNSET in Applicant’s mark, and the identity of the underlying goods, Applicant’s Mark and Opposer’s Marks create nearly identical commercial impressions, and consumers are likely to be confused into believing that Applicant, or its goods, are related to or affiliated with Opposer or Opposer’s goods. If the Applicant is permitted to use and register the pending mark for the goods listed in the Application herein opposed, confusion in trade resulting in damage and injury to the Opposer would be caused and would result by reason of use of the nearly identical mark on identical or closely related goods by both Applicant and Opposer. Persons familiar with Opposer’s use of the term and mark would be likely to buy Applicant’s goods as and for goods offered by the Opposer. Any such confusion in trade inevitably would result in loss of sales to the Opposer.

6. Given the nature of the underlying products – fresh produce—any defect in Applicant’s goods, such as e-coli or salmonella, would likely be confused with Opposer’s goods and mistaken therefor, causing extensive and irreversible damage to Opposer, its excellent reputation, and its sales.

7. If the Applicant is granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of Applicant's mark for related goods, in direct conflict with Opposer's rights deriving from its own common law and statutory rights for Opposer's Marks. Such a conflicting registration would be a source of damage and injury to the Opposer.

WHEREFORE, the Opposer prays that the application Serial No. 86169088 be rejected, that no notice of allowance or registration be issued thereon to Applicant, and that this opposition be sustained in favor of the Opposer. Opposer hereby gives notice that after hearing and in any appeal on this opposition proceeding, it will rely on its exhibits annexed to this notice of opposition as evidence in support of this notice of opposition.

The filing fee of this opposition in the amount of \$300.00 is enclosed.

Opposer hereby appoints the attorneys of Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C., a law firm having a place of business at 2701 Troy Center Drive, Ste. 330, Troy, Michigan 48084 to act as attorneys for Opposer herein, with full power to prosecute said opposition, to transact all relative business in the United States Patent and Trademark Office and in the United States courts, and to receive all official communications in connection with this opposition.

Respectfully submitted,

s/ Mark D. Schneider

GIFFORD, KRASS, SPRINKLE,  
ANDERSON & CITKOWSKI, P.C.  
2701 Troy Center Drive, Ste. 330  
Troy, MI 48084  
(248) 647-6000  
(248) 647-5210 – Facsimile  
docket@patlaw.com

Dated: May 27, 2015

*Attorney for Opposer*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **NOTICE OF OPPOSITION** was sent via First Class Mail to:

Craig H. Underwood  
5696 Los Angeles Avenue  
Somis, CA 93066

John E. Kelley  
Kelley & Kelley, LLP  
6320 Canoga Ave., Ste. 1650  
Woodland Hills, CA 91367-7704

on this 27th day of May, 2015.

s/ Mark D. Schneider  
GIFFORD, KRASS, SPRINKLE,  
ANDERSON & CITKOWSKI, P.C.  
2701 Troy Center Drive, Ste. 330  
Troy, MI 48084  
(248) 647-6000  
(248) 647-5210 – Facsimile  
docket@patlaw.com

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that the foregoing **NOTICE OF OPPOSITION** was electronically filed with the TTAB on this 27<sup>th</sup> day of May, 2015.

s/ Mark D. Schneider  
GIFFORD, KRASS, SPRINKLE,  
ANDERSON & CITKOWSKI, P.C.  
2701 Troy Center Drive, Ste. 330  
Troy, MI 48084  
(248) 647-6000  
(248) 647-5210 – Facsimile  
docket@patlaw.com

**Generated on:** This page was generated by TSDR on 2015-05-27 15:06:21 EDT

**Mark:** SUNSET CHOKES

SUNSET CHOKES

**US Serial Number:** 86169088

**Application Filing Date:** Jan. 17, 2014

**Register:** Principal

**Mark Type:** Trademark

**Status:** A request for an extension of time to file an opposition has been filed with the Trademark Trial and Appeal Board. For further information, see TTABVUE on the Trademark Trial and Appeal Board web page.

**Status Date:** Feb. 17, 2015

**Publication Date:** Jan. 27, 2015

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## Mark Information

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**Mark Literal Elements:** SUNSET CHOKES

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

**Disclaimer:** "CHOKES"

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## Goods and Services

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**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (...) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks "\*" identify additional (new) wording in the goods/services.

**For:** FRESH ARTICHOKEs

**International Class(es):** 031 - Primary Class

**U.S Class(es):** 001, 046

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Nov. 01, 2013

**Use in Commerce:** Nov. 01, 2013

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## Basis Information (Case Level)

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**Filed Use:** Yes

**Currently Use:** Yes

**Amended Use:** No

**Filed ITU:** No

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** No

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** No

**Amended 44E:** No

**Filed 66A:** No

**Currently 66A:** No

**Filed No Basis:** No

**Currently No Basis:** No

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## Current Owner(s) Information

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**Owner Name:** Underwood, Craig H.

**Owner Address:** 5696 Los Angeles Avenue  
Somis, CALIFORNIA 93066  
UNITED STATES

**Legal Entity Type:** INDIVIDUAL

**Citizenship:** UNITED STATES

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## Attorney/Correspondence Information

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### Attorney of Record

**Attorney Name:** John E. Kelly

**Docket Number:** 55755-Underw

**Attorney Primary Email Address:** [Rachael@Kelly-KelleyLaw.com](mailto:Rachael@Kelly-KelleyLaw.com)

**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** JOHN E. KELLY  
KELLY & KELLEY, LLP  
6320 CANOGA AVE STE 1650

WOODLAND HILLS, CALIFORNIA 91367-7704  
UNITED STATES

Phone: (818) 347-7900

Fax: (818) 340-2859

Correspondent e-mail: [Rachael@Kelly-KelleyLaw.com](mailto:Rachael@Kelly-KelleyLaw.com)

Correspondent e-mail Yes  
Authorized:

Domestic Representative - Not Found

## Prosecution History

Date	Description	Proceeding Number
Feb. 17, 2015	EXTENSION OF TIME TO OPPOSE RECEIVED	
Jan. 27, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 27, 2015	PUBLISHED FOR OPPOSITION	
Jan. 07, 2015	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 24, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Dec. 24, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 17, 2014	PREVIOUS ALLOWANCE COUNT WITHDRAWN	
Dec. 09, 2014	WITHDRAWN FROM PUB - OG REVIEW QUERY	99910
Nov. 21, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	68123
Nov. 20, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Oct. 24, 2014	AMENDMENT FROM APPLICANT ENTERED	68123
Oct. 24, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	68123
Oct. 17, 2014	ASSIGNED TO LIE	68123
Oct. 16, 2014	PAPER RECEIVED	
Apr. 27, 2014	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Apr. 27, 2014	NON-FINAL ACTION E-MAILED	6325
Apr. 27, 2014	NON-FINAL ACTION WRITTEN	77654
Apr. 21, 2014	ASSIGNED TO EXAMINER	77654
Jan. 30, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 21, 2014	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information

TM Attorney: CHOSID, ROBIN S

Law Office Assigned: LAW OFFICE 102

### File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date in Location: Dec. 24, 2014

## Proceedings

### Summary

Number of Proceedings: 1

### Type of Proceeding: Extension of Time

Proceeding Number: [86169088](#)

Filing Date: Feb 17, 2015

Status: Not Instituted

Status Date: Feb 17, 2015

Interlocutory Attorney:

### Defendant

Name: Underwood, Craig H.

Correspondent Address: JOHN E. KELLY  
KELLY & KELLEY, LLP  
6320 CANOGA AVE STE 1650  
WOODLAND HILLS CA , 91367-7704

### Associated marks

Mark	Application Status	Serial Number	Registration Number
SUNSET CHOKES	Request For Extension of Time to File Opposition	<a href="#">86169088</a>	

**Potential Opposer(s)**

**Name:** Mastronardi Produce, Ltd.

**Correspondent Address:** Kurt Koenig  
Koenig & Associates  
920 Garden St.  
Santa Barbara CA , 93101  
UNITED STATES

**Correspondent e-mail:** [Kurt@incip.com](mailto:Kurt@incip.com)

**Prosecution History**

<b>Entry Number</b>	<b>History Text</b>	<b>Date</b>	<b>Due Date</b>
1	INCOMING - EXT TIME TO OPPOSE FILED	Feb 17, 2015	
2	EXTENSION OF TIME GRANTED	Feb 17, 2015	

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**From:** TMOfficialNotices@USPTO.GOV  
**Sent:** Tuesday, January 27, 2015 00:23 AM  
**To:** Rachael@Kelly-KelleyLaw.com  
**Subject:** Official USPTO Notice of Publication Confirmation: U.S. Trademark SN 86169088: SUNSET CHOKES:  
Docket/Reference No. 55755-Underw

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## **TRADEMARK OFFICIAL GAZETTE PUBLICATION CONFIRMATION**

**U.S. Serial Number:** 86169088  
**Mark:** SUNSET CHOKES  
**International Class(es):** 031  
**Owner:** Underwood, Craig H.  
**Docket/Reference Number:** 55755-Underw

The mark identified above has been published in the Trademark Official Gazette (TMOG) on Jan 27, 2015.

### **To Review the Mark in the TMOG:**

Click on the following link or paste the URL into an internet browser: <https://tmog.uspto.gov/#issueDate=2015-01-27&serialNumber=86169088>

On the publication date or shortly thereafter, the applicant should carefully review the information that appears in the TMOG for accuracy. If any information is incorrect due to USPTO error, the applicant should immediately email the requested correction to [TMPostPubQuery@uspto.gov](mailto:TMPostPubQuery@uspto.gov). For applicant corrections or amendments after publication, please file a post publication amendment using the form available at <http://teasroa.uspto.gov/ppa/>. For general information about this notice, please contact the Trademark Assistance Center at 1-800-786-9199.

### **Significance of Publication for Opposition:**

- \* Any party who believes it will be damaged by the registration of the mark may file a notice of opposition (or extension of time therefor) with the Trademark Trial and Appeal Board. If no party files an opposition or extension request within thirty (30) days after the publication date, then eleven (11) weeks after the publication date a certificate of registration should issue.

To check the status of the application, go to [http://tsdr.uspto.gov/#caseNumber=86169088&caseType=SERIAL\\_NO&searchType=statusSearch](http://tsdr.uspto.gov/#caseNumber=86169088&caseType=SERIAL_NO&searchType=statusSearch) or contact the Trademark Assistance Center at 1-800-786-9199. Please check the status of the application at least every three (3) months after the application filing date.

To view this notice and other documents for this application on-line, go to [http://tsdr.uspto.gov/#caseNumber=86169088&caseType=SERIAL\\_NO&searchType=documentSearch](http://tsdr.uspto.gov/#caseNumber=86169088&caseType=SERIAL_NO&searchType=documentSearch). NOTE: This notice will only become available on-line the next business day after receipt of this e-mail.



UNITED STATES PATENT AND TRADEMARK OFFICE

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Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
[www.uspto.gov](http://www.uspto.gov)

Jan 7, 2015

**NOTICE OF PUBLICATION**

1. Serial No.:  
86-169,088
2. Mark:  
SUNSET CHOKES  
(STANDARD CHARACTER MARK)
3. International Class(es):  
31
4. Publication Date:  
Jan 27, 2015
5. Applicant:  
Underwood, Craig H.

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the *Official Gazette* on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

Copies of the trademark portion of the *Official Gazette* containing the publication of the mark may be obtained from:

The Superintendent of Documents  
U.S. Government Printing Office  
PO Box 371954  
Pittsburgh, PA 15250-7954  
Phone: 202-512-1800

By direction of the Commissioner.

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**Email Address(es):**

Rachael@Kelly-KelleyLaw.com

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**From:** TMOfficialNotices@USPTO.GOV  
**Sent:** Wednesday, January 7, 2015 03:23 AM  
**To:** Rachael@Kelly-KelleyLaw.com  
**Subject:** Official USPTO Notification of Notice of Publication: U.S. Trademark SN 86169088: SUNSET CHOKES:  
Docket/Reference No. 55755-Underw

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### NOTIFICATION OF "NOTICE OF PUBLICATION"

Your trademark application (Serial No. 86169088) is scheduled to publish in the *Official Gazette* on Jan 27, 2015. To preview the Notice of Publication, go to <http://tdr.uspto.gov/search.action?sn=86169088>. If you have difficulty accessing the Notice of Publication, contact [TDR@uspto.gov](mailto:TDR@uspto.gov).

**PLEASE NOTE:**

1. The Notice of Publication may not be immediately available but will be viewable within 24 hours of this e-mail notification.
2. You will receive a second e-mail on the actual "Publication Date," which will include a link to the issue of the *Official Gazette* in which the mark has published.

Do NOT hit "Reply" to this e-mail notification. If you have any questions about the content of the Notice of Publication, contact [TMPostPubQuery@uspto.gov](mailto:TMPostPubQuery@uspto.gov).

## Trademark Snap Shot Publication & Issue Review Stylesheet

(Table presents the data on Publication & Issue Review Complete)

### OVERVIEW

SERIAL NUMBER	86169088	FILING DATE	01/17/2014
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHOSID, ROBIN S	L.O. ASSIGNED	102

### PUB INFORMATION

RUN DATE	12/25/2014		
PUB DATE	01/27/2015		
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE		
STATUS DATE	12/24/2014		
LITERAL MARK ELEMENT	SUNSET CHOKES		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

### MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	SUNSET CHOKES

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Underwood, Craig H.
ADDRESS	5696 Los Angeles Avenue Somis, CA 93066
ENTITY	01-INDIVIDUAL
CITIZENSHIP	United States of America

### GOODS AND SERVICES

INTERNATIONAL CLASS	031
DESCRIPTION TEXT	FRESH ARTICHOKES

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	031	FIRST USE DATE	11/01/2013	FIRST USE IN COMMERCE DATE	11/01/2013	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"CHOKES"

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
12/24/2014	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	016
12/24/2014	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	015
12/17/2014	ZZZX	Z	PREVIOUS ALLOWANCE COUNT WITHDRAWN	014
12/09/2014	PBCR	Z	WITHDRAWN FROM PUB - OG REVIEW QUERY	013
11/21/2014	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	012
11/20/2014	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	011
10/24/2014	ACEC	I	AMENDMENT FROM APPLICANT ENTERED	010
10/24/2014	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
10/17/2014	ALIE	A	ASSIGNED TO LIE	008
10/16/2014	MAIL	I	PAPER RECEIVED	007

04/27/2014	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
04/27/2014	GNRT	F	NON-FINAL ACTION E-MAILED	005
04/27/2014	CNRT	R	NON-FINAL ACTION WRITTEN	004
04/21/2014	DOCK	D	ASSIGNED TO EXAMINER	003
01/30/2014	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
01/21/2014	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	John E. Kelly
CORRESPONDENCE ADDRESS	JOHN E. KELLY KELLY & KELLEY, LLP 6320 CANOGA AVE STE 1650 WOODLAND HILLS, CA 91367-7704
DOMESTIC REPRESENTATIVE	NONE

# SUNSET CHOKES

**Trademark Snap Shot Publication Stylesheet**  
(Table presents the data on Publication Approval)

**OVERVIEW**

SERIAL NUMBER	86169088	FILING DATE	01/17/2014
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHOSID, ROBIN S	L.O. ASSIGNED	102

**PUB INFORMATION**

RUN DATE	12/25/2014		
PUB DATE	01/27/2015		
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE		
STATUS DATE	12/24/2014		
LITERAL MARK ELEMENT	SUNSET CHOKES		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	SUNSET CHOKES

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Underwood, Craig H.
ADDRESS	5696 Los Angeles Avenue Somis, CA 93066
ENTITY	01-INDIVIDUAL
CITIZENSHIP	United States of America

### GOODS AND SERVICES

INTERNATIONAL CLASS	031
DESCRIPTION TEXT	FRESH ARTICHOKES

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	031	FIRST USE DATE	11/01/2013	FIRST USE IN COMMERCE DATE	11/01/2013	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"CHOKES"

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
12/24/2014	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	016
12/24/2014	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	015
12/17/2014	ZZZX	Z	PREVIOUS ALLOWANCE COUNT WITHDRAWN	014
12/09/2014	PBCR	Z	WITHDRAWN FROM PUB - OG REVIEW QUERY	013
11/21/2014	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	012
11/20/2014	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	011
10/24/2014	ACEC	I	AMENDMENT FROM APPLICANT ENTERED	010
10/24/2014	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
10/17/2014	ALIE	A	ASSIGNED TO LIE	008
10/16/2014	MAIL	I	PAPER RECEIVED	007

04/27/2014	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
04/27/2014	GNRT	F	NON-FINAL ACTION E-MAILED	005
04/27/2014	CNRT	R	NON-FINAL ACTION WRITTEN	004
04/21/2014	DOCK	D	ASSIGNED TO EXAMINER	003
01/30/2014	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
01/21/2014	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	John E. Kelly
CORRESPONDENCE ADDRESS	JOHN E. KELLY KELLY & KELLEY, LLP 6320 CANOGA AVE STE 1650 WOODLAND HILLS, CA 91367-7704
DOMESTIC REPRESENTATIVE	NONE

# SUNSET CHOKES

# NOTE TO THE FILE

SERIAL NUMBER: 86169088

DATE: 12/24/2014

NAME: rchosid

## NOTE:

### Searched:

- Google
- Lexis/Nexis
- OneLook
- Wikipedia
- Acronym Finder
- Other: Librarian

### Discussed ID with:

- Senior Atty
- Managing Atty
  
- Protest evidence reviewed

### Checked:

- Geographic significance
- Surname
- Translation
- ID with ID/CLASS mailbox

### Discussed Geo. Sig. with:

- Senior Atty
- Managing Atty

Checked list of approved Canadian attorneys and agents

### Discussed file with

#### Attorney/Applicant via:

- phone
- email
  
- Requested Law Library search for:
- Issued Examiner's Amendment and entered changes in TRADEUPS
  
- PRINT**     **DO NOT PRINT**     Added design code in TRADEUPS
- Description of the mark
- Translation statement
- Re-imaged standard character drawing
- Negative translation statement
- Consent of living individual
- Contacted TM MADRID ID/CLASS about misclassified definite ID
- Changed TRADEUPS to:
  
- OTHER: all library varietal databases

## Trademark Snap Shot Publication & Issue Review Stylesheet

(Table presents the data on Publication & Issue Review Complete)

### OVERVIEW

SERIAL NUMBER	86169088	FILING DATE	01/17/2014
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHOSID, ROBIN S	L.O. ASSIGNED	102

### PUB INFORMATION

RUN DATE	11/22/2014		
PUB DATE	N/A		
STATUS	681-PUBLICATION/ISSUE REVIEW COMPLETE		
STATUS DATE	11/21/2014		
LITERAL MARK ELEMENT	SUNSET CHOKES		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

### FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

### MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	SUNSET CHOKES

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Underwood, Craig H.
ADDRESS	5696 Los Angeles Avenue Somis, CA 93066
ENTITY	01-INDIVIDUAL
CITIZENSHIP	United States of America

### GOODS AND SERVICES

INTERNATIONAL CLASS	031
DESCRIPTION TEXT	FRESH ARTICHOKES

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	031	FIRST USE DATE	11/01/2013	FIRST USE IN COMMERCE DATE	11/01/2013	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"CHOKES"

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
11/21/2014	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	012
11/20/2014	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	011
10/24/2014	ACEC	I	AMENDMENT FROM APPLICANT ENTERED	010
10/24/2014	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
10/17/2014	ALIE	A	ASSIGNED TO LIE	008
10/16/2014	MAIL	I	PAPER RECEIVED	007
04/27/2014	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
04/27/2014	GNRT	F	NON-FINAL ACTION E-MAILED	005
04/27/2014	CNRT	R	NON-FINAL ACTION WRITTEN	004
04/21/2014	DOCK	D	ASSIGNED TO EXAMINER	003

01/30/2014	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
01/21/2014	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	John E. Kelly
CORRESPONDENCE ADDRESS	JOHN E. KELLY KELLY & KELLEY, LLP 6320 CANOGA AVE STE 1650 WOODLAND HILLS, CA 91367-7704
DOMESTIC REPRESENTATIVE	NONE

# SUNSET CHOKES

**Trademark Snap Shot Publication Stylesheet**  
(Table presents the data on Publication Approval)

**OVERVIEW**

SERIAL NUMBER	86169088	FILING DATE	01/17/2014
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHOSID, ROBIN S	L.O. ASSIGNED	102

**PUB INFORMATION**

RUN DATE	11/21/2014		
PUB DATE	N/A		
STATUS	680-APPROVED FOR PUBLICATON		
STATUS DATE	11/20/2014		
LITERAL MARK ELEMENT	SUNSET CHOKES		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPub 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	SUNSET CHOKES

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Underwood, Craig H.
ADDRESS	5696 Los Angeles Avenue Somis, CA 93066
ENTITY	01-INDIVIDUAL
CITIZENSHIP	United States of America

### GOODS AND SERVICES

INTERNATIONAL CLASS	031
DESCRIPTION TEXT	FRESH ARTICHOKES

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	031	FIRST USE DATE	11/01/2013	FIRST USE IN COMMERCE DATE	11/01/2013	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"CHOKES"

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
11/20/2014	CNSA	O	APPROVED FOR PUB - PRINCIPAL REGISTER	011
10/24/2014	ACEC	I	AMENDMENT FROM APPLICANT ENTERED	010
10/24/2014	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
10/17/2014	ALIE	A	ASSIGNED TO LIE	008
10/16/2014	MAIL	I	PAPER RECEIVED	007
04/27/2014	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
04/27/2014	GNRT	F	NON-FINAL ACTION E-MAILED	005
04/27/2014	CNRT	R	NON-FINAL ACTION WRITTEN	004
04/21/2014	DOCK	D	ASSIGNED TO EXAMINER	003
01/30/2014	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED	002

			IN TRAM	
01/21/2014	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY	John E. Kelly
CORRESPONDENCE ADDRESS	JOHN E. KELLY KELLY & KELLEY, LLP 6320 CANOGA AVE STE 1650 WOODLAND HILLS, CA 91367-7704
DOMESTIC REPRESENTATIVE	NONE

# SUNSET CHOKES

# NOTE TO THE FILE

SERIAL NUMBER: 86169088

DATE: 11/20/2014

NAME: rchosid

## NOTE:

### Searched:

Google  
 Lexis/Nexis  
 OneLook  
 Wikipedia  
 Acronym Finder  
 Other:

### Discussed ID with:

Senior Atty  
 Managing Atty  
  
 Protest evidence reviewed

### Checked:

Geographic significance  
 Surname  
 Translation  
 ID with ID/CLASS mailbox

### Discussed Geo. Sig. with:

Senior Atty  
 Managing Atty

Checked list of approved Canadian attorneys and agents

### Discussed file with

#### Attorney/Applicant via:

phone  
 email

Left message with  
Attorney/Applicant

Requested Law Library search  
for:

Issued Examiner's Amendment  
and entered changes in TRADEUPS

**PRINT**  **DO NOT PRINT**

Added design code in TRADEUPS

Description of the mark

Translation statement

Re-imaged standard character  
drawing

Negative translation statement

Consent of living individual

Contacted TM MADRID ID/CLASS  
about misclassified definite ID

Changed TRADEUPS to:

OTHER: w/d refusals and prior pendings

**Trademark Snap Shot Amendment & Mail Processing Stylesheet**  
(Table presents the data on Amendment & Mail Processing Complete)

**OVERVIEW**

SERIAL NUMBER	86169088	FILING DATE	01/17/2014
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	CHOSID, ROBIN S	L.O. ASSIGNED	102

**PUB INFORMATION**

RUN DATE	10/25/2014		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	10/24/2014		
LITERAL MARK ELEMENT	SUNSET CHOKES		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

**FILING BASIS**

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	YES	1 (a)	YES	1 (a)	NO
1 (b)	NO	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

**MARK DATA**

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	SUNSET CHOKES

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

### CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Underwood, Craig H.
ADDRESS	5696 Los Angeles Avenue Somis, CA 93066
ENTITY	01-INDIVIDUAL
CITIZENSHIP	United States of America

### GOODS AND SERVICES

INTERNATIONAL CLASS	031
DESCRIPTION TEXT	FRESH ARTICHOKES

### GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	031	FIRST USE DATE	11/01/2013	FIRST USE IN COMMERCE DATE	11/01/2013	CLASS STATUS	6-ACTIVE
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### MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
DISCLAIMER W/PREDETER TXT	"CHOKES"

### PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
10/24/2014	ACEC	I	AMENDMENT FROM APPLICANT ENTERED	010
10/24/2014	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
10/17/2014	ALIE	A	ASSIGNED TO LIE	008
10/16/2014	MAIL	I	PAPER RECEIVED	007
04/27/2014	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
04/27/2014	GNRT	F	NON-FINAL ACTION E-MAILED	005
04/27/2014	CNRT	R	NON-FINAL ACTION WRITTEN	004
04/21/2014	DOCK	D	ASSIGNED TO EXAMINER	003
01/30/2014	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002

01/21/2014

NWAP

I

NEW APPLICATION ENTERED IN TRAM

001

**CURRENT CORRESPONDENCE INFORMATION**

ATTORNEY

John E. Kelly

CORRESPONDENCE ADDRESS

JOHN E. KELLY  
KELLY & KELLEY, LLP  
6320 CANOGA AVE STE 1650  
WOODLAND HILLS, CA 91367-7704

DOMESTIC REPRESENTATIVE

NONE

# SUNSET CHOKES

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Alexandria, Virginia 22313-1451

John E. Kelly, Reg. No. 24,289

Date

*(Handwritten signature and date) 10/13/14*

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant:	Craig H. Underwood	)	
Serial No.:	86/169,088	)	
Filed:	January 17, 2014	)	Law Office 102
Mark:	SUNSET CHOKES	)	
Int. Class:	31	)	
Our Docket:	55755	)	
Examiner:	Robin S. Chosid-Brown, Esq.	)	

Assistant Commissioner for Trademarks  
**Box Response**  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

Dear Ms. Chosid-Brown:

This responds to the Trademark Examining Attorney's Office Action emailed April 27, 2014 regarding the above-identified trademark application for registration of SUNSET CHOKES/Int. Cl. 31.

**IN THE SPECIFICATION**

Please substitute the following description-of-goods:

FRESH ARTICHOKES/Int. Cl. 31

Please state the following disclaimer:

No claim is made to the exclusive right to use "CHOKES"  
part from the mark as shown.



\*10-16-2014\*

## REMARKS

The application has been amended by substituting a revised and more specific description-of-goods for Int. Cl. 31, i.e., fresh artichokes.

Registration has been refused, based on likelihood of confusion under the Trademark Act, Section 2(d), relative to two registrations, i.e., U.S. Reg. No. 4,336,619 for SUNSET ORGANICS, granted May 21, 2013, used for goods described as organic fresh, raw and unprocessed vegetables/Int. Cl. 31 -and- U.S. Reg. No. 4,024,358 for SUNSET KIDZ, granted September 13, 2011, used for goods described as fresh hydroponic tomatoes, fresh hydroponic vegetables, namely tomatoes, peppers, cucumbers, and eggplant/Int. Cl. 31. Both cited registrations are owned by Mastronardi Produce Ltd., a Canadian company.

Applicant will address this basis of rejection with the request that upon reconsideration, the mark SUNSET CHOKES be approved for publication.

In addition, the Examiner has noted five (5) prior-filed applications for marks which, if registered, might be cited under the Trademark Act §2(d) to bar registration of Applicant's mark, i.e.:

- U.S. App. S.N. 85/944,489 for a SUNSET/Sun Logo, filed May 28, 2013 and used for various goods described as fruits, vegetables, etc./Int. Cl. 31 and owned by Mastronardi Produce Ltd.;
- U.S. App. S.N. 85/423,495 for registration of SUNSET GROWN, filed September 15, 2011 and used for various goods described as fresh, raw, and unprocessed fruits, vegetables, etc./Int. Cl. 31 and owned by Mastronardi Produce Ltd.;
- U.S. App. S.N. 77/573,830 for SUNSET ORGANIC, filed September 18, 2008 and used for various goods described as organic fresh, raw and unprocessed fruit and organic fresh, raw and unprocessed vegetables, etc./Int. Cl. 31 and owned by Mastronardi Produce Ltd.;

- U.S. App. S.N. 77/713,382 for SUNSET CANDY TOMATOES, filed April 14, 2009 and used for various goods described as fresh tomatoes; raw tomatoes, etc./Int. Cl. 31 and owned by Mastronardi Produce Ltd.; and
- U.S. App. S.N. 77/793,217 for a SUNSET/Horizon & Rays Logo, filed July 30, 2009 and used for goods described as vegetables, namely, fresh onions/Int. Cl. 31 and owned by Sunset Produce, LLC.

The two cited registrations and the first four applications listed above are commonly owned by a Canadian company, i.e., Mastronardi Produce Ltd. These six marks will sometimes be referred to as owned by the Canadian company (or the like).

**1. ARGUMENT: NO LIKELIHOOD OF CONFUSION EXISTS UNDER SECTION 2(d) BETWEEN APPLICANT'S ENTIRE MARK "SUNSET CHOKES" AND REGISTRANT'S CITED MARKS "SUNSET ORGANICS" AND "SUNSET KIDZ"**

The Examiner has refused registration based upon U.S. Reg. No. 4,336,619 for the words SUNSET ORGANICS, granted May 21, 2013 and U.S. Reg. No. 4,024,358 for SUNSET KIDZ, granted September 13, 2011, both for goods within Int. Cl. 31.

When the customary factors that contribute to determining the ultimate question of likelihood of confusion are accorded their proper weight under In re E.I. du Pont d Nemours & Co., 476 F.2d 1357, 177 USPQ 563 (CCPA 1973) - it should be concluded that none exists in this case.

As mentioned in du Pont, supra, the multiple factors or "evidentiary elements are not listed" in "order of merit" and "[e]ach may from case to case play a dominant role". When all relevant evidence of record bearing on the ultimate question is considered in this case, it will be shown that at most, there may be a possibility, but not a likelihood of confusion.

The resemblances between Applicant's mark SUNSET CHOKES and the cited registrations for SUNSET ORGANICS and SUNSET KIDZ are outweighed by the points of difference and there is no likelihood of confusion. 15 U.S.C. §1052(d).

Applicant respectfully requests reconsideration and the Examiner's approval for publication of Applicant's mark SUNSET CHOKES.

**DU PONT FACTOR (1) CONSIDERED**

Applicant acknowledges there is some similarity between its mark and the two registered marks. All include the word "SUNSET". The registrations include the words ORGANICS or KIDZ and Applicant's mark includes the word CHOKES. The overall commercial impressions created by Applicant's mark on one hand and the two cited registrations on the other hand, are readily distinguishable.

There are many instances where, as a practical matter, related products or services marketed under the same or closely similar names can be concurrently used without causing likelihood of confusion. The District Court in Mushroom Makers Inc. v. R.G. Barry Corp., \_\_\_ F. Supp. \_\_\_, 196 USPQ 471 (DC SD NY 1977) ruled there was no likelihood of confusion between Mushroom used for women's sportswear on one hand, and Mushrooms used for women's casual footwear, on the other hand. Aff'd 199 USPQ 65 (2d Cir. 1978). See also Westwood Coach Mfg. Co. v. Ford Motors Co., 388 F.2d 627 (7<sup>th</sup> Cir. 1968); Chandon Champagne Corp. v. San Marino Wine Corp., 335 F.2d 531 (2d Cir. 1964); Hiram Walker & Sons v. Castlewood Int'l., 196 USPQ 636 (TTAB 1977).

The word "SUNSET", as used for Registrant's two marks is relatively weak. Underscoring the weak character of the word "SUNSET" as used by both Registrant and Applicant - attention is invited to the analysis of du Pont factor (6) which shows, *inter alia*, multiple usage by third parties of the term "SUNSET" embodied in federal marks granted for a wide range of goods and services. Over 900 federal marks generally include "SUNSET" and over 50 federal marks in Int. Cl. 31 include "SUNSET".

It is not a coincidence that so many federal marks include the word SUNSET, as it has pleasant descriptive meanings and connotations.

Most dictionaries include definitions for the word SUNSET that indicate a time when the sun disappears under the earth's horizon (or the like). The root word "SUN" conjures warmth, light, brightness, as well as health and happiness (figuratively). All of these characteristics, to a lesser degree, are included in the word SUNSET. Moreover, advertising, and promotional materials for all manner of fruits, vegetables and other foods often include claims of or reference to nutrition, vitamin, health, and similar desired benefits.

As explained in In re Box Solutions Corp., 79 USPQ2d 1953, 1955-7 "[t]hird - party registrations can be used in the manner of a dictionary definition to illustrate how a term is perceived in the trade or industry" and whether it has "descriptive significance" and is "weak". [BOX SOLUTIONS Logo found not confusingly similar to registered BOX Logo, used for same category of goods.] Third party marks constitute evidence that corroborate the descriptiveness or weakness of terms. See Knight Textile Corp. v. Jones Investment Co., 75 USPQ2d 1313, 1316 (TTAB 2005).

As a practical matter, marks that include common and widespread terms, e.g., "sunset", are readily distinguishable from marks that include the very same common and widespread term, i.e., "sunset", but include additional moderately distinctive terms. In this case, Applicant's entire mark employing the word "CHOKES" is sufficiently distinguishable from Registrant's two marks, i.e., SUNSET ORGANICS and SUNSET KIDZ.

When the entireties of the respective marks are considered, it may be determined that they are more dissimilar than similar and there is no likelihood of

confusion. StonCor Grp., Inc. v. Specialty Coatings, Inc., \_\_\_ F.3d \_\_\_, 111 USPQ2d 1649, 1651 (Fed. Cir. 2014).

du Pont factor (1) provides moderate evidence against likelihood of confusion.

#### **DU PONT FACTOR (2) CONSIDERED**

Applicant acknowledges some similarity between the respective goods. While Registrant's descriptions-of-goods for the two cited registrations cover a number of vegetables, etc., neither registration specifies artichokes. Similarly, none of the Canadian company's four noted applications specify artichokes. In contrast, the only goods stated in Applicant's revised description-of-goods are very specific, i.e., fresh artichokes.

Applicant is requesting registration for SUNSET CHOKES in connection with a single and unique type of vegetable, i.e., artichokes. The second term of the combination mark "CHOKES" reinforces and reminds that the focus is upon ARTICHOKES. The Examiner has noted a definition for "CHOKES" as used in connection with or for artichokes and this second term has been disclaimed from Applicant's combination mark. Artichokes normally require special handling in being cooked and otherwise prepared for human consumption. The "CHOKE" component reminds consumers as to the specific nature of this particular vegetable.

The degree of similarity between the respective goods in this case, as a practical matter, is minor. As noted by the Board in Nat'l Rural Elec. Coop. Ass'n. v. Suzlon Wind Energy Corp. 78 USPQ2d 1881, 1885 (TTAB 2006), "Merely because parties operate in the same broad industry does not, by itself, establish that their goods and services are related". In this case, Applicant's goods are sufficiently different from the Registrant's goods to assist in dispelling likelihood of confusion, even though included in Int. Cl. 31.

du Pont factor (2) provides moderate evidence against likelihood of confusion.

### **DU PONT FACTOR (6) CONSIDERED**

An analysis of du Pont factor (6) relative to the evidence of record further shows that the shared term "SUNSET", as embodied in Registrant's two marks (and four TM applications), is extensively used by others. The term "SUNSET" is weak as source indicator and entitled to a limited scope of protection.

It is well established in the law that adoption of the same or similar terms by third parties tends to show that the term is "weak" and entitled to only a narrow scope of protection. Shoe Corp. of America v. Juvenile Shoe Corp., 121 USPQ 510 (CCPA 1959); Elizabeth Arden Sales Corp. v. Kinney Shoe Corp., 161 USPQ 543 (TTAB 1969); ABC Consolidated Corp. v. Chandler, 170 USPQ 417 (TTAB 1971).

As shown by the current USPTO website TESS, the term "SUNSET" is included in over 940 federal marks, LIVE or DEAD, in all Int. Cls. A partial printout is attached as Exhibit A, 3 pages.

As shown by the current USPTO website TESS, the term "SUNSET" is included in 58 federal marks, LIVE or DEAD, in Int. Cl. 31. A full printout is attached as Exhibit B, 2 pages.

Some of the individual federal marks, currently the subject of "LIVE" registrations in Int. Cl. 31 are identified below, with copies attached:

- U.S. Reg. No. 2,829,018 for SUNSET, granted April 6, 2004, used for fresh potatoes/Int. Cl. 31 [Exhibit B-1];
- U.S. Reg. No. 1,880,788 for SUNSET SEEDLESS, granted February 28, 1995, used for fresh table grapes/Int. Cl. 31 [Exhibit B-2];
- U.S. Reg. No. 2,731,606 for a TROPICAL SUNSET/Pineapple Logo, granted July 1, 2003, used for fresh fruits, namely pineapple/Int. Cl. 31 [Exhibit B-3];
- U.S. Reg. No. 3,063,395 for SUNSET, granted February 28, 2006, used for live plants and seeds of foxglove/Int. Cl. 31 [Exhibit B-4];

- U.S. Reg. No. 2,956,963 for SUNSET BING, granted May 31, 2005, used for live cherry trees of the brown CV variety/Int. Cl. 31 [Exhibit B-5];
- U.S. Reg. No. 3,755,887 for CRIMSON SUNSET, granted March 2, 2010, used for living trees, excluding crabapple trees/Int. Cl. 31 [Exhibit B-6];
- U.S. Reg. No. 4,114,452 for SPREADING SUNSET, granted March 20, 2012, used for live plants/Int. Cl. 31 [Exhibit B-7];
- U.S. Reg. No. 2,534,270 for WESTERN SUNSETS, granted January 29, 2002, used for live plants/Int. Cl. 31 [Exhibit B-8]; and
- U.S. Reg. No. 1,887,372 for PACIFIC SUNSET, granted April 4, 1995, used for living trees/Int. Cl. 31 [Exhibit B-9].

As shown by the current USPTO website TESS, the term "SUNSET" is included in 35 federal marks, LIVE or DEAD, in Int. Cl. 30. A full printout is attached as Exhibit C, 2 pages.

As shown by the current USPTO website TESS, the term "SUNSET" is included in 50 federal marks, LIVE or DEAD, in Int. Cl. 29. A full printout is attached as Exhibit D, 2 pages.

Whether or not some of the federal marks identified in the above Exhibits that include "SUNSET" are currently in actual use - they indeed form a body of admissible evidence underscoring the weakness of the term.

In Truescents LLC v. Ride Skin Care LLC, 81 USPQ2d 1334 (TTAB 2006), the Board concluded that the "dominant feature" of an asserted mark was "inherently weak" and therefore "- - entitled only to the narrowest scope of protection" - while noting "- - printouts from the Office's TARR and TESS databases of forty-six third-party registrations and applications - - include the word - - and cover a wide variety of goods and services". Specifically, it was determined that "GENUINE RIDE SKIN CARE" (for skin products) was not likely to cause confusion with GENUINE SKIN (also for skin care

products), stating “[s]imply put, the dissimilarity between the marks is dispositive in this case” - even though the challenged mark entirely encompassed the prior registered mark.

Third party registrations may be considered in the same manner as a dictionary to show the meaning or significance of a term used in a trade. Tektronix, Inc. v. Daktronics, Inc., 187 USPQ 588, 592 (TTAB 1975).

The fact that the USPTO has allowed so many third party registrations containing the shared word SUNSET, constitutes evidence showing it has a well understood meaning and therefore, by extension, is weak as a source indicator. Red Carpet Corp. v. Johnstown American Enterprises Inc., 7 USPQ2d 1404, 1406 (TTAB 1988).

The fact that “SUNSET” has been included in so many U.S. applications, whether or not abandoned and so many U.S. registrations, whether or not cancelled - constitutes further evidence that the term is generally weak. In analyzing the Section 2(d) issues, likelihood of confusion does not exist in this case.

A consideration of the voluminous evidence bearing on du Pont factor (6) points far away from likelihood of confusion.

**A CONSIDERATION OF ALL RELEVANT DU PONT FACTORS  
SHOWS THERE IS NO LIKELIHOOD OF CONFUSION**

There is no likelihood that an appreciable number of ordinarily prudent purchasers would be misled or confused as to the sources of the goods associated with Applicant’s and Registrant’s marks.

In In Re Hearst Corp., 25 USPQ2d 1238 (Fed. Cir. 1992), the name VARGA GIRL was deemed not confusingly similar to the registered mark VARGAS, although both were used for print products and some were identical. The Appellate Court pointed to the significant contribution derived from the additional word component “GIRL”.

Notwithstanding some resemblances between the marks in this case (attributable primarily to the weak term "HOLLYWOOD") - Applicant's and Registrant's composite marks include other elements that are sufficiently different to preclude likelihood of confusion.

In In re Coors Brewing Co., 343 F.3d 1340, 68 USPQ2d 1059 (Fed. Cir. 2003), the Federal Circuit reversed the Board's<sup>1</sup> determination that Applicant's mark prominently displaying BLUE MOON with a "full moon" design and used for beer would likely cause confusion with a registered mark also prominently displaying BLUE MOON with a full moon design and used for restaurant services. As noted by the Court of Appeals, a finding that "two marks are generally similar" does not establish a likelihood of confusion in part because as a matter of basic trademark law, "similarity is not a binary factor but is a matter of degree". As also noted by the Court of Appeals, when "there are significant differences" in the two marks being compared, "similarity is a less important factor".

In Conde Nast Publications, Inc. v. Miss Quality, Inc., 597 F.2d 1404, 184 USPQ 422 (CCPA 1975), the Court of Appeals affirmed the Board's decision that COUNTRY VOGUES used for ladies' clothing was not likely to cause confusion with the famous and registered mark VOGUE, used for magazines and directed largely to women's apparel. Notwithstanding the fact that the entirety of the established mark was included in the challenged mark, the Court of Appeals concluded there was no likelihood of confusion under Section 2(d) and stated the following rationale:

---

<sup>1</sup>In the same case, the Board had previously reversed the Examiner's decision that Applicant's BLUE MOON mark used for beer would cause likelihood of confusion relative to two registered "BLUE MOON" marks used for wine.

“COUNTRY VOGUES and VOGUE do not look or sound alike. The only similarity between them is that VOGUE is part of the mark COUNTRY VOGUES, and the dissimilarities between the marks, viewed in their entireties, outweigh this similarity sufficiently to leave no doubt.”

When the entirety of Applicant's mark SUNSET CHOKES, used for artichokes, is measured against the entirety of Registrant's two marks SUNSET ORGANICS and SUNSET KIDZ - bearing in mind the weakness of the only common term “SUNSET” - an application of the du Pont factors compels a conclusion that there is no likelihood of confusion in this case. The same conclusion is compelled with reference to the marks of the Canadian company's four applications, as well as the third parties' SUNSET-related application with goods restricted to “onions”/Int. Cl. 31.

#### **CONCLUSION**

The remote possibility that some inattentive purchaser might mistakenly confuse the sources of Applicant's goods and the Canadian company's goods - is not a situation amounting to likelihood of confusion. As indicated in Witco Chemical Co. v. Whitfield Chemical Co., 418 F.2d 1403, 1405, 164 USPQ 43, 44-45 (CCPA 1969), when evaluating a Section 2(d) issue, the court should not be “- - concerned with the mere theoretical possibilities of confusion, deception or mistake or with a de minimis situation, but with the practicalities of the commercial world of which the trademark laws deal”.

It is respectfully requested that upon reconsideration, the Examiner approve Applicant's mark SUNSET CHOKES/Int. Cl. 31 for publication.

Respectfully submitted,



Dated: October 13, 2014

John E. Kelly  
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Woodland Hills, California 91367  
(818) 347-7900/Fax: (818) 340-2859  
[Rachael@Kelly-KelleyLaw.com](mailto:Rachael@Kelly-KelleyLaw.com)



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Current Search: S1: (sunset)[COMB] docs: 947 occ: 2069

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	86413957		SUNSET WALK	TSDR	LIVE
2	86413286		ACOUSTIC SUNSET I.P.A.	TSDR	LIVE
3	86413165		ACOUSTIC SUNSET	TSDR	LIVE
4	86174449	4616614	SUNSET	TSDR	LIVE
5	86137159		MR SUNSET JEFF HAKMAN	TSDR	LIVE
6	86292966		MANGO SUNSET	TSDR	LIVE
7	86123792		STORYVILLE SUNSET	TSDR	LIVE
8	86088256		TAHITIAN SUNSET	TSDR	LIVE
9	86306140		SUNSET ROYALE BEACHWEAR	TSDR	LIVE
10	86198697	4609406	DBS	TSDR	LIVE
11	86198694	4609404	DISCO BEFORE SUNSET	TSDR	LIVE
12	86126489	4611317	SUNSET ORANGE DREAM DANISH	TSDR	LIVE
13	86283985		SMF SUNSET MUSIC FESTIVAL	TSDR	LIVE
14	86280184		MALIBU AT SUNSET	TSDR	LIVE
15	86294108		LBISUNSET.COM	TSDR	LIVE
16	86256561		PARADISE FOUND. SUNSET BAY.	TSDR	LIVE
17	86035887	4606994	AEGEAN SUNSET	TSDR	LIVE
18	86384553		SUNSET JUNCTION	TSDR	LIVE
19	86293686		OAHU COCONUT SUNSET	TSDR	LIVE
20	86379123		CSUNSET	TSDR	LIVE
21	86128538		SUNSET CYLINDER EXCHANGE LLC	TSDR	LIVE
22	86282177		SUNSET COFFEE	TSDR	LIVE
23	86232892		VERMILION SUNSET	TSDR	LIVE
24	86370014		ULTRA SUNSET	TSDR	LIVE

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25	86367824		ULTRA SUNSET	TSDR	LIVE
26	86202490		SUNSET ARCADE	TSDR	LIVE
27	86035601		SUNSET RUBY	TSDR	DEAD
28	86162151	4579945	NINE MILE SUNSET	TSDR	LIVE
29	86035848	4581695	INTO THE SUNSET PET TRANSITION CENTER	TSDR	LIVE
30	86344695		THE DEN ON SUNSET	TSDR	LIVE
31	86225472		SUNSET BY THE POOL	TSDR	LIVE
32	86195568	4576030	SUNSETS CURVE	TSDR	LIVE
33	86035840	4577453	INTO THE SUNSET	TSDR	LIVE
34	86107307		SAFARI SUNSET	TSDR	DEAD
35	86336222		SUNSET	TSDR	LIVE
36	86046964		OLIVER'S ON SUNSET	TSDR	DEAD
37	86046958		OLIVER'S PRIME ON SUNSET	TSDR	DEAD
38	86246826		RUBY SUNSET	TSDR	LIVE
39	86246125		URBAN SUNSET	TSDR	LIVE
40	86237415		SUNSET REDCLAY	TSDR	LIVE
41	86231271		THE ORIGINAL ROXY ON SUNSET, EST. 1972	TSDR	LIVE
42	86225568		SUNSET BAY	TSDR	LIVE
43	86221393		SUNSET NOVELTIES VIDEOS & GIFTS	TSDR	LIVE
44	86127092	4560360	SUNSET & PALM TREES 800 9600	TSDR	LIVE
45	86000276		JIMMY'S SUNSET GRILL	TSDR	LIVE
46	86294447		COSTES ON SUNSET	TSDR	LIVE
47	86258524		THE SUNSET NATURAL DIAMOND COLLECTION	TSDR	LIVE
48	86200270		SUNSET & SPRING	TSDR	LIVE
49	86187655		SUNSET ORANGE	TSDR	LIVE
50	86169088		SUNSET CHOKES	TSDR	LIVE

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[http://tmsearch.uspto.gov/bin/showfield?f=toc&state=4806%3A2v3z50.1.1&p\\_search=se...](http://tmsearch.uspto.gov/bin/showfield?f=toc&state=4806%3A2v3z50.1.1&p_search=se...) 10/10/2014



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	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
51	86140152		SUNSET TO SUNRISE	TSDR	LIVE
52	86110641		FAR AWAY BELLA SUNSET	TSDR	LIVE
53	86105141		ROYAL SUNSET CLOTHING	TSDR	LIVE
54	86098452	4543247	SUNSETMONTGEBAY.COM	TSDR	LIVE
55	86073549		8255 SUNSET RECORD AND FILMWORKS	TSDR	LIVE
56	86049931	4510482	SUNSET CAPITAL OF ALABAMA.	TSDR	LIVE
57	86035726	4513984	SUNSET COSMETIC SURGERY	TSDR	LIVE
58	86035590		SUNSET SAPPHIRE	TSDR	DEAD
59	86008041	4500931	SUNSET SOLAR	TSDR	LIVE
60	86000487	4480826	SUNSET	TSDR	LIVE
61	85400186		SUNSET	TSDR	LIVE
62	85593037	4614203	SUNSET SPINNER	TSDR	LIVE
63	85256096	4614090	SUNSET BAY	TSDR	LIVE
64	85817254		SUNSET BLVD NEWS	TSDR	LIVE
65	85844063		LIVE ON SUNSET	TSDR	LIVE
66	85516102		USHUAIA HOTEL	TSDR	LIVE
67	85856857		SUNSET OVERDRIVE	TSDR	LIVE
68	85418874		INTO THE SUNSET	TSDR	LIVE
69	85418427		SUNSET BLOOM	TSDR	LIVE
70	85915563		CANNABUCHA SUNSET	TSDR	LIVE
71	85499971		SEX AND THE CITY SUNSET	TSDR	LIVE
72	85748050	4564922	POLIHALE SUNSET	TSDR	LIVE
73	85868400		LIVE ON SUNSET		DEAD
74	85675103		PLAY AT SUNSET		LIVE

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2	86246826		RUBY SUNSET	TSDR	LIVE
3	86246125		URBAN SUNSET	TSDR	LIVE
4	86225568		SUNSET BAY	TSDR	LIVE
5	86169088		SUNSET CHOKES	TSDR	LIVE
6	85944489		SUNSET	TSDR	LIVE
7	85688643	4446064	SUNSET WESTERNGARDEN COLLECTION	TSDR	LIVE
8	85479625		SUNSET TIME VINE...EVOLUTION OF THE TOMATO	TSDR	LIVE
9	85423495		SUNSET GROWN	TSDR	LIVE
10	85369358	4114452	SPREADING SUNSET	TSDR	LIVE
11	85320038	4369071	SUMMER SUNSET	TSDR	LIVE
12	85168037	4040864	AFRICAN SUNSET	TSDR	LIVE
13	85135686		SUNSET STRIP	TSDR	DEAD
14	85094879		SUNSET FINGERLINGS	TSDR	DEAD
15	78879014		EVER RED SUNSET	TSDR	DEAD
16	78582661	3063395	SUNSET	TSDR	LIVE
17	78323100	3010559	SONORAN SUNSET	TSDR	LIVE
18	78289718	2956963	SUNSET BING	TSDR	LIVE
19	78219236		SUNSET	TSDR	DEAD
20	78219219		SUNSET	TSDR	DEAD
21	77713382		SUNSET CANDY TOMATOES	TSDR	LIVE
22	77793217		SUNSET	TSDR	LIVE
23	77755156	3774301	SUNSET PIXIE	R	LIVE

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24	77664683	3707976	SUNSET HILLS FARM ALPACAS	TSDR	LIVE
25	77660346	3739009	SUNSET RIDGE CATTLE COMPANY	TSDR	LIVE
26	77634285	3755887	CRIMSON SUNSET	TSDR	LIVE
27	77632955		SUNSET	TSDR	DEAD
28	77628536	4336619	SUNSET ORGANICS	TSDR	LIVE
29	77614016	3638941	S	TSDR	LIVE
30	77573830		SUNSET ORGANIC	TSDR	LIVE
31	77573824		SUNSET ORGANIX	TSDR	DEAD
32	77470888	4024358	SUNSET KIDZ	TSDR	LIVE
33	76706203		TRI-COLOR SUNSET	TSDR	LIVE
34	76583759		SUNSET MELON	TSDR	DEAD
35	76451476	2916600	WALKABOUT SUNSET	TSDR	LIVE
36	76396327	2731606	TROPICAL SUNSET	TSDR	LIVE
37	76354156		SUNSET	TSDR	DEAD
38	76354155	2818005	VALLEY SUNSET	TSDR	DEAD
39	76348445	2615313	BALBOA SUNSET	TSDR	LIVE
40	76324431	2829018	SUNSET	TSDR	LIVE
41	76290039	2534270	WESTERN SUNSETS	TSDR	LIVE
42	76219591	2705236	CHEROKEE SUNSET	TSDR	DEAD
43	76209987	2617221	THE SUNSET LINE	TSDR	DEAD
44	75830615	2587141	SUNSET BEST OF THE WEST COLLECTION	TSDR	DEAD
45	75466451		SUNSET TRAILS	TSDR	DEAD
46	75407583		SPREADING SUNSET	TSDR	DEAD
47	75083831	2060990	AUTUMN SUNSET	TSDR	LIVE
48	75002394		SUNSET	TSDR	DEAD
49	75001805		SUNSET	TSDR	DEAD
50	74514411	1893270	RED TURBANA READY TO EAT WHEN THE COLOR OF A TROPICAL SUNSET	TSDR	DEAD
51	74434300	1887372	PACIFIC SUNSET	TSDR	LIVE
52	74434269	1915260	NORWEGIAN SUNSET	TSDR	LIVE
53	74430828	1880788	SUNSET SEEDLESS	TSDR	LIVE
54	74277641		READY TO EAT WHEN THE COLOR OF A TROPICAL SUNSET RED TURBANA	TSDR	DEAD
55	73670195		SUNSET	TSDR	DEAD
56	73313458	1211783	SUNSET	TSDR	DEAD
57	72271532	0865972	RED SUNSET	TSDR	LIVE
58	71223795	0211573	GOLDEN SUNSET BRAND	TSDR	DEAD

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**Int. Cl.: 31**

**Prior U.S. Cls.: 1 and 46**

**United States Patent and Trademark Office**

**Reg. No. 2,829,018**

**Registered Apr. 6, 2004**

**TRADEMARK  
PRINCIPAL REGISTER**

**SUNSET**

**BASIC AMERICAN, INC. (DELAWARE COR-  
PORATION)  
600 MONTGOMERY STREET, 28TH FLOOR  
SAN FRANCISCO, CA 94104**

**FIRST USE 6-1-1964; IN COMMERCE 6-1-1964.**

**SER. NO. 76-324,431, FILED 10-15-2001.**

**FOR: FRESH POTATOES, IN CLASS 31 (U.S. CLS. 1  
AND 46).**

**YVONNE JONES, EXAMINING ATTORNEY**

**Exhibit B-1 to  
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Int. Cl.: 31

Prior U.S. Cl.: 46

**United States Patent and Trademark Office** **Reg. No. 1,880,788**  
Registered Feb. 28, 1995

**TRADEMARK  
PRINCIPAL REGISTER**

**SUNSET SEEDLESS**

MARKO ZANINOVICH, INC. (CALIFORNIA  
CORPORATION)  
ROUTE 1, BOX 910  
DELANO, CA 93215

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

FOR: FRESH TABLE GRAPES, IN CLASS 31  
(U.S. CL. 46).

SER. NO. 74-430,828, FILED 9-1-1993.

FIRST USE 7-22-1993; IN COMMERCE  
7-31-1993.

TINA POMPEY, EXAMINING ATTORNEY

Exhibit B-2 to  
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**Int. Cl.: 31**

**Prior U.S. Cls.: 1 and 46**

**United States Patent and Trademark Office**

**Reg. No. 2,731,606**

**Registered July 1, 2003**

**TRADEMARK  
PRINCIPAL REGISTER**



**TROPICAL SUNSET**

TERRASOL CORP S.A. (ECUADOR CORPORATION)  
KM. 3 1/2 VIA SANTO DOMINGO-QUININDE  
SANTO DOMINGO DE LOS COLORADOS, ECUADOR

FIRST USE 11-0-2001; IN COMMERCE 11-0-2001.

SER. NO. 76-396,327, FILED 4-17-2002.

FOR: FRESH FRUITS, NAMELY PINEAPPLE, IN  
CLASS 31 (U.S. CLS. 1 AND 46).

INGRID C. EULIN, EXAMINING ATTORNEY

Exhibit B-3 to  
Amendment/Response  
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Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

Reg. No. 3,063,395

United States Patent and Trademark Office

Registered Feb. 28, 2006

TRADEMARK  
PRINCIPAL REGISTER

SUNSET

DENVER BOTANIC GARDENS, INC. (COLOR-  
ADO NON-PROFIT CORPORATION)  
909 YORK STREET  
DENVER, CO 80206 AND  
COLORADO STATE UNIVERSITY (COLORADO  
STATE AGENCY)  
DEPARTMENT OF HORTICULTURE & LAND-  
SCAPE  
ARCHITECTURE  
FORT COLLINS, CO 80523

FOR: LIVE PLANTS AND SEEDS OF FOXGLOVE,  
IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 5-10-2004; IN COMMERCE 5-10-2004.

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

SER. NO. 78-582,661, FILED 3-8-2005.

ESTHER BELENKER, EXAMINING ATTORNEY

Exhibit B-4 to  
Amendment/Response  
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Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

**United States Patent and Trademark Office**

**Reg. No. 2,956,963**

Registered May 31, 2005

**TRADEMARK  
PRINCIPAL REGISTER**

**SUNSET BING**

VAN WELL NURSERY, INC. (WASHINGTON  
CORPORATION)  
2821 GRANT ROAD  
EAST WENATCHEE, WA 98101

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

FOR: LIVE CHERRY TREES OF THE BROWN CV  
VARIETY, IN CLASS 31 (U.S. CLS. 1 AND 46).

SER. NO. 78-289,718, FILED 8-20-2003.

FIRST USE 6-4-2002; IN COMMERCE 6-4-2002.

MELVIN AXILBUND, EXAMINING ATTORNEY

Exhibit B-5 to  
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# United States of America

United States Patent and Trademark Office

## CRIMSON SUNSET

**Reg. No. 3,755,887** J. FRANK SCHMIDT & SON CO. (OREGON CORPORATION)  
Registered Mar. 2, 2010 9500 S.E. 327TH AVENUE  
BORING, OR 97009

**Int. Cl.: 31** FOR: LIVING TREES, EXCLUDING CRABAPPLE TREES, IN CLASS 31 (U.S. CLS. 1 AND 46).

**TRADEMARK PRINCIPAL REGISTER** FIRST USE 2-5-2009; IN COMMERCE 2-5-2009.

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

OWNER OF U.S. REG. NOS. 865,972, 1,887,372, AND 1,915,260.

SN 77-634,285, FILED 12-16-2008.

ROBIN CHOSID, EXAMINING ATTORNEY



*David S. Kappas*

Director of the United States Patent and Trademark Office

Exhibit B-6 to  
Amendment/Response  
S.N. 86/169,088

**United States of America**  
United States Patent and Trademark Office

# Spreading Sunset

**Reg. No. 4,114,452**

**Registered Mar. 20, 2012**

**Int. Cl.: 31**

**TRADEMARK**

**PRINCIPAL REGISTER**

MONROVIA NURSERY COMPANY INC (CALIFORNIA CORPORATION)  
817 E MONROVIA PLACE  
AZUSA, CA 91702

FOR: LIVE PLANTS, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 5-8-1956; IN COMMERCE 5-8-1956.

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

OWNER OF U.S. REG. NO. 2,216,451.

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

SER. NO. 85-369,358, FILED 7-12-2011.

KAREN K. BUSH, EXAMINING ATTORNEY



*David J. Kappas*

Director of the United States Patent and Trademark Office

Exhibit B-7 to  
Amendment/Response  
S.N. 86/169,088

**Int. Cl.: 31**

**Prior U.S. Cls.: 1 and 46**

**United States Patent and Trademark Office**

**Reg. No. 2,534,270**

**Registered Jan. 29, 2002**

**TRADEMARK  
PRINCIPAL REGISTER**

**WESTERN SUNSETS**

**COLOR STAR GROWERS, INC. (COLORADO  
CORPORATION)  
11610 WELD COUNTY ROAD 14 1/2  
FORT LUPTON, CO 80621**

**FIRST USE 1-1-2001; IN COMMERCE 2-1-2001.**

**SER. NO. 76-290,039, FILED 7-25-2001.**

**FOR: LIVE PLANTS, IN CLASS 31 (U.S. CLS. 1  
AND 46).**

**LINDA M. KING, EXAMINING ATTORNEY**

**Exhibit B-8 to  
Amendment/Response  
S.N. 86/169,088**

**Int. Cl.: 31**

**Prior U.S. Cl.: 1**

**United States Patent and Trademark Office**

**Reg. No. 1,887,372**

**Registered Apr. 4, 1995**

**TRADEMARK  
PRINCIPAL REGISTER**

**PACIFIC SUNSET**

**J. FRANK SCHMIDT & SON CO. (OREGON  
CORPORATION)  
9500 SE 327TH AVENUE  
BORING, OR 970090189**

**FIRST USE 1-6-1993; IN COMMERCE  
1-6-1993.**

**SER. NO. 74-434,300, FILED 9-7-1993.**

**FOR: LIVING TREES, IN CLASS 31 (U.S. CL.  
1).**

**KEVIN L. SAUL, EXAMINING ATTORNEY**

**Exhibit B-9 to  
Amendment/Response  
S.N. 86/169,088**



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Refine Search

Current Search: S2: (sunset)[BI] and (030)[IC] docs: 50 occ: 102

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	86292966		MANGO SUNSET	TSDR	LIVE
2	86126489	4611317	SUNSET ORANGE DREAM DANISH	TSDR	LIVE
3	86282177		SUNSET COFFEE	TSDR	LIVE
4	86370014		ULTRA SUNSET	TSDR	LIVE
5	86162151	4579945	NINE MILE SUNSET	TSDR	LIVE
6	85748050	4564922	POLIHALE SUNSET	TSDR	LIVE
7	85622746	4385212	SUNRISE TO SUNSET	TSDR	LIVE
8	78973050	3268391	SUNSET SALSA	TSDR	LIVE
9	78720202	3259447	CITRUS SUNSET	TSDR	DEAD
10	78322349	2903444	SUNSET SIPPER	TSDR	LIVE
11	78038411	2794528	SUNSET MILLS	TSDR	DEAD
12	77867173	3891258	SUNSET FIELDS	TSDR	LIVE
13	77815878		SUNSET SALSA	TSDR	DEAD
14	77746411	3757005	SUNSET SLUSH CLASSIC ITALIAN ICE	TSDR	LIVE
15	77640747		THUMB BUTTE SUNSET	TSDR	DEAD
16	77621379		SUNSET JAVA	TSDR	DEAD
17	77104795	3301552	CAJUN SUNSET	TSDR	LIVE
18	77075067	3456280	SUNSET SWEETS	TSDR	LIVE
19	77478007	3585945	SUNSET SLUSH CLASSIC ITALIAN ICE	TSDR	LIVE
20	77223448	3525160	SUNSET STRAWBERRY	TSDR	LIVE
21	77220611		SUNSET ORCHARDS CRUNCHABLES	TSDR	DEAD
22	77218109	3528481	SUNSET ORCHARDS CRUNCHABLES	TSDR	LIVE
23	77152343	3437266	SUNSET TRAILS	TSDR	LIVE
24	76560693	3043345	SUNSET ROSE	TSDR	LIVE

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D

25	76457051	2911430	SICILIAN SUNSET	TSDR	DEAD
26	76195774		COLOMBIAN SUNSET	TSDR	DEAD
27	75593952	2285591	KONA SUNSET	TSDR	DEAD
28	75481994	2230860	SUNSET BAKING CO.	TSDR	DEAD
29	75466451		SUNSET TRAILS	TSDR	DEAD
30	75336262	2358056	SUNSET HARVEST	TSDR	DEAD
31	75152250		SUNSET GRILL	TSDR	DEAD
32	75142347	2168247	CAROLINA SUNSET	TSDR	DEAD
33	75099395		SUNSET STRIP	TSDR	DEAD
34	75028583		SUNSET FLATS	TSDR	DEAD
35	74800135		SUNSET ORCHARDS	TSDR	DEAD
36	74695582		HAWAIIAN SUNSET	TSDR	DEAD
37	74490760	1887349	MEDITERRANEAN SUNSET	TSDR	LIVE
38	74284289	1757083	SUNSET SALSA	TSDR	DEAD
39	74175362	1697858	KONA SUNSET ROAST	TSDR	DEAD
40	73420066	1289263	ALMOND SUNSET	TSDR	LIVE
41	73752123	1544730	SUNSET BLEND	TSDR	DEAD
42	73601250	1438246	SUNSET GOLD	TSDR	DEAD
43	73333826		ALMOND SUNSET	TSDR	DEAD
44	72250877	0844685	SUNSET	TSDR	DEAD
45	72197427	0790082	SUNSET GOLD	TSDR	DEAD
46	72157279	0755650	SUNSET RIDGE	TSDR	DEAD
47	71643650	0594318	SUNSET	TSDR	DEAD
48	71580011	0532142	SUNSET	TSDR	LIVE
49	71285882	0308944	SUNSET GOLD	TSDR	DEAD
50	71069309	0092390	SUNSET	TSDR	LIVE

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Current Search: S1: (sunset)[BI] and (029)[IC] docs: 35 occ: 72

	Serial Number	Reg. Number	Word Mark	Check Status	Live/Dead
1	85391909		SUNSET VALLEY SPROUTS	TSDR	DEAD
2	85191836		SUNSET BEACH OYSTERS	TSDR	DEAD
3	77930986		SUNSET OLIVE OIL	TSDR	DEAD
4	77867173	3891258	SUNSET FIELDS	TSDR	LIVE
5	77434587		MANGO KIWI SUNSET	TSDR	DEAD
6	77304900	3440437	SUNSET DIPS	TSDR	LIVE
7	77076374	3550720	SUNSET GRILL	TSDR	LIVE
8	76457051	2911430	SICILIAN SUNSET	TSDR	DEAD
9	76262403	2642129	GIANNECCHINI CALIFORNIA EXTRA VIRGIN OLIVE OIL PRODUCED BY SUNSET OLIVE GROVE OROVILLE, CA	TSDR	DEAD
10	76245008	2697168	REDS TURBANA EAT WHEN THE COLOR OF A TROPICAL SUNSET	TSDR	DEAD
11	76163725	2636734	SUNSET CREEK	TSDR	LIVE
12	75466451		SUNSET TRAILS	TSDR	DEAD
13	75300220	2156882	SUNSET FARM BRAND	TSDR	LIVE
14	75293987	2216729	SUNSET CLASSICS	TSDR	DEAD
15	75280357		SUNSET BAY	TSDR	DEAD
16	75261280		CALIFORNIA SUNSET	TSDR	DEAD
17	75152250		SUNSET GRILL	TSDR	DEAD
18	75099395		SUNSET STRIP	TSDR	DEAD
19	75001805		SUNSET	TSDR	DEAD
20	74315574	1826482	SUNSET RIDGE FARMS	TSDR	DEAD
21	74315560	1771675	SUNSET RIDGE FARMS	TSDR	DEAD
22	74272971		SUNSET FARM BRAND	TSDR	DEAD

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23	74161227		SUNSET	TSDR	DEAD
24	74006082	1639387	SUNSET ORCHARDS	TSDR	LIVE
25	74005735	1616890	SUNSET ORCHARDS	TSDR	DEAD
26	73430840	1341115	SUNSET RIDGE	TSDR	DEAD
27	73421561	1299019	SUNSET FARM BRAND	TSDR	DEAD
28	73182831	1190839	SUNSET STRIP	TSDR	LIVE
29	73147561	1138858	COUNTRY SUNSET	TSDR	DEAD
30	73126546	1088838	S SUNSET	TSDR	DEAD
31	72220548	0807345	SUNSET GOLD	TSDR	DEAD
32	72197427	0790082	SUNSET GOLD	TSDR	DEAD
33	72054454	0674702	SUNSET	TSDR	DEAD
34	71662550	0625535	SUNSET	TSDR	DEAD
35	71285882	0308944	SUNSET GOLD	TSDR	DEAD

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 S.N. 86/169,088

**To:** Underwood, Craig H. ([Rachael@Kelly-KelleyLaw.com](mailto:Rachael@Kelly-KelleyLaw.com))

**Subject:** U.S. TRADEMARK APPLICATION NO. 86169088 - SUNSET CHOKES - 55755-Underw

**Sent:** 4/27/2014 8:55:15 AM

**Sent As:** ECOM102@USPTO.GOV

**Attachments:** [Attachment - 1](#)  
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**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 86169088

**MARK:** SUNSET CHOKES

**\*86169088\***

**CORRESPONDENT ADDRESS:**

JOHN E. KELLY  
KELLY & KELLEY, LLP  
6320 CANOGA AVE STE 1650  
WOODLAND HILLS, CA 91367-7704

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**APPLICANT:** Underwood, Craig H.

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

55755-Underw

**CORRESPONDENT E-MAIL ADDRESS:**

Rachael@Kelly-KelleyLaw.com

**OFFICE ACTION**

**STRICT DEADLINE TO RESPOND TO THIS LETTER**

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO  
MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS**

OF THE ISSUE/MAILING DATE BELOW.

**ISSUE/MAILING DATE: 4/27/2014**

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62, 2.65(a); TMEP §§711, 718.03.

### **PRIOR-FILED APPLICATIONS**

The filing dates of pending U.S. Application Serial Nos. 85944489, 85423495, 7757380, 77713382 and 77793217 precede applicant's filing date. See attached referenced applications. If one or more of the marks in the referenced applications register, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion with the registered mark(s). See 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced applications.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the marks in the referenced applications. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

### **SECTION 2(d) REFUSAL – LIKELIHOOD OF CONFUSION**

Registration of the applied-for mark is refused because of a likelihood of confusion with the mark in U.S. Registration No. 4336619 and 4024358. Trademark Act Section 2(d), 15 U.S.C. §1052(d); *see* TMEP §§1207.01 *et seq.* See the enclosed registration.

Trademark Act Section 2(d) bars registration of an applied-for mark that so resembles a registered mark that it is likely a potential consumer would be confused, mistaken, or deceived as to the source of the goods and/or services of the applicant and registrant. See 15 U.S.C. §1052(d). A determination of likelihood of confusion under Section 2(d) is made on a case-by case basis and the factors set forth in *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 177 USPQ 563 (C.C.P.A. 1973) aid in this determination. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d 1344, 1349, 98 USPQ2d 1253, 1256 (Fed. Cir. 2011) (citing *On-Line Careline, Inc. v. Am. Online, Inc.*, 229 F.3d 1080, 1085, 56 USPQ2d 1471, 1474 (Fed. Cir. 2000)). Not all the *du Pont* factors, however, are necessarily relevant or of equal weight, and any one of the factors may control in a given case, depending upon the evidence of record. *Citigroup Inc. v. Capital City Bank Grp., Inc.*, 637 F.3d at 1355, 98 USPQ2d at 1260; *In re Majestic Distilling Co.*, 315 F.3d 1311, 1315, 65 USPQ2d 1201, 1204 (Fed. Cir. 2003); *see In re E. I. du Pont de Nemours & Co.*, 476 F.2d at 1361-62, 177 USPQ at 567.

In this case, the following factors are the most relevant: similarity of the marks, similarity and nature of the goods and/or services, and similarity of the trade channels of the goods and/or services. See *In re Viterra Inc.*, 671 F.3d 1358, 1361-62, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012); *In re Dakin's Miniatures Inc.*, 59 USPQ2d 1593, 1595-96 (TTAB 1999); TMEP §§1207.01 *et seq.*

In any likelihood of confusion determination, two key considerations are similarity of the marks and similarity or relatedness of the goods and/or services. *Syndicat Des Proprietaires Viticulteurs De Chateauf-neuf-Du-Pape v. Pasquier DesVignes*, 107 USPQ2d 1930, 1938 (TTAB 2013) (citing *Federated*

*Foods, Inc. v. Fort Howard Paper Co.*, 544 F.2d 1098, 1103, 192 USPQ 24, 29 (C.C.P.A. 1976)); *In re Iolo Techs., LLC*, 95 USPQ2d 1498, 1499 (TTAB 2010); see TMEP §1207.01. That is, the marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression.

*In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Additionally, the goods and/or services are compared to determine whether they are similar or commercially related or travel in the same trade channels. See *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369-71, 101 USPQ2d 1713, 1722-23 (Fed. Cir. 2012); *Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1165, 64 USPQ2d 1375, 1381 (Fed. Cir. 2002); TMEP §1207.01, (a)(vi).

## **Comparison of the Marks**

The applicant's mark is SUNSET CHOKES.

The registrant's marks are SUNSET ORGANICS and SUNSET KIDZ.

Marks are compared in their entireties for similarities in appearance, sound, connotation, and commercial impression. *In re Viterra Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *In re E. I. du Pont de Nemours & Co.*, 476 F.2d 1357, 1361, 177 USPQ 563, 567 (C.C.P.A. 1973)); TMEP §1207.01(b)-(b)(v). Similarity in any one of these elements may be sufficient to find the marks confusingly similar. *In re White Swan Ltd.*, 8 USPQ2d 1534, 1535 (TTAB 1988); see *In re 1st USA Realty Prof'ls, Inc.*, 84 USPQ2d 1581, 1586 (TTAB 2007); TMEP §1207.01(b).

Consumers are generally more inclined to focus on the first word, prefix, or syllable in any trademark or service mark. See *Palm Bay Imps., Inc. v. Veuve Clicquot Ponsardin Maison Fondée En 1772*, 396 F.3d 1369, 1372, 73 USPQ2d 1689, 1692 (Fed. Cir. 2005); *Presto Prods., Inc. v. Nice-Pak Prods., Inc.*, 9 USPQ2d 1895, 1897 (TTAB 1988) (“it is often the first part of a mark which is most likely to be impressed upon the mind of a purchaser and remembered” when making purchasing decisions).

In this case, the first word, "SUNSET," is identical. The remainder of the marks is descriptive wording, e.g., "organics" and "chokes." Hence, the memorable portion, "SUNSET," is the wording that consumers are likely to remember as the source identifier. The marks create a similar overall commercial impression.

## **Comparison of the Goods**

The applicant's goods are artichokes. The registrant's goods are fresh vegetables including tomatoes, peppers, cucumbers, herbs, lettuce and eggplant.

The goods and/or services of the parties need not be identical or even competitive to find a likelihood of confusion. See *On-line Careline Inc. v. Am. Online Inc.*, 229 F.3d 1080, 1086, 56 USPQ2d 1471, 1475 (Fed. Cir. 2000); *Recot, Inc. v. Becton*, 214 F.3d 1322, 1329, 54 USPQ2d 1894, 1898 (Fed. Cir. 2000) (“[E]ven if the goods in question are different from, and thus not related to, one another in kind, the same goods can be related in the mind of the consuming public as to the origin of the goods.”); TMEP §1207.01(a)(i).

The respective goods and/or services need only be “related in some manner and/or if the circumstances surrounding their marketing [be] such that they could give rise to the mistaken belief that [the goods and/or services] emanate from the same source.” *Coach Servs., Inc. v. Triumph Learning LLC*, 668 F.3d 1356, 1369, 101 USPQ2d 1713, 1722 (Fed. Cir. 2012) (quoting *7-Eleven Inc. v. Wechsler*, 83 USPQ2d

1715, 1724 (TTAB 2007)); *Gen. Mills Inc. v. Fage Dairy Processing Indus. SA*, 100 USPQ2d 1584, 1597 (TTAB 2011); TMEP §1207.01(a)(i).

The trademark examining attorney has attached evidence from the USPTO's X-Search database consisting of a number of third-party marks registered for use in connection with the same or similar goods and/or services as those of both applicant and registrant in this case. This evidence shows that the goods and/or services listed therein, namely, artichokes and eggplant, lettuce, and cucumbers, are of a kind that may emanate from a single source under a single mark. *See In re Anderson*, 101 USPQ2d 1912, 1919 (TTAB 2012); *In re Albert Trostel & Sons Co.*, 29 USPQ2d 1783, 1785-86 (TTAB 1993); *In re Mucky Duck Mustard Co.*, 6 USPQ2d 1467, 1470 n.6 (TTAB 1988); TMEP §1207.01(d)(iii).

In conclusion, the applicant and registrant's marks create a similar overall commercial impression and the evidence demonstrates that the goods are related goods. Registration is denied because there is a likelihood of confusion as to the source of the goods.

Although applicant's mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal(s), applicant must also respond to the requirement set forth below.

### **DISCLAIMER REQUIRED**

Applicant must disclaim the descriptive wording "CHOKES" apart from the mark as shown because it merely describes an ingredient, quality, characteristic, function, feature, purpose, or use of applicant's goods and/or services. *See* 15 U.S.C. §§1052(e)(1), 1056(a); *DuoProSS Meditech Corp. v. Inviro Med. Devices, Ltd.*, 695 F.3d 1247, 1251, 103 USPQ2d 1753, 1755 (Fed. Cir. 2012) (quoting *In re Oppedahl & Larson LLP*, 373 F.3d 1171, 1173, 71 USPQ2d 1370, 1371 (Fed. Cir. 2004)); *In re Steelbuilding.com*, 415 F.3d 1293, 1297, 75 USPQ2d 1420, 1421 (Fed. Cir. 2005).

Specifically, the attached evidence shows that the "choke" of an artichoke is the cluster of immature florets at the center of the artichoke. Thus the wording, "choke," merely describes a feature of an artichoke.

An applicant may not claim exclusive rights to terms or designs that others may need to use to describe or show their goods or services in the marketplace. *See Dena Corp. v. Belvedere Int'l, Inc.*, 950 F.2d 1555, 1560, 21 USPQ2d 1047, 1051 (Fed. Cir. 1991); *In re Aug. Storck KG*, 218 USPQ 823, 825 (TTAB 1983). A disclaimer of unregistrable matter does not affect the appearance of the mark; that is, a disclaimer does not physically remove the disclaimed matter from the mark. *See Schwarzkopf v. John H. Breck, Inc.*, 340 F.2d 978, 978, 144 USPQ 433, 433 (C.C.P.A. 1965); TMEP §1213.

If applicant does not provide the required disclaimer, the USPTO may refuse to register the entire mark. *See In re Stereotaxis Inc.*, 429 F.3d 1039, 1040-41, 77 USPQ2d 1087, 1088-89 (Fed. Cir. 2005); TMEP §1213.01(b).

Applicant should submit a disclaimer in the following standardized format:

**No claim is made to the exclusive right to use "CHOKES" apart from the mark as shown.**

For an overview of disclaimers and instructions on how to satisfy this disclaimer requirement online using the Trademark Electronic Application System (TEAS) form, please go to

<http://www.uspto.gov/trademarks/law/disclaimer.jsp>.

## RESPONSE GUIDELINES

For this application to proceed toward registration, applicant must explicitly address each refusal and/or requirement raised in this Office action. If the action includes a refusal, applicant may provide arguments and/or evidence as to why the refusal should be withdrawn and the mark should register. Applicant may also have other options for responding to a refusal and should consider such options carefully. To respond to requirements and certain refusal response options, applicant should set forth in writing the required changes or statements.

If applicant does not respond to this Office action within six months of the issue/ mailing date, or responds by expressly abandoning the application, the application process will end, the trademark will fail to register, and the application fee will not be refunded. *See* 15 U.S.C. §1062(b); 37 C.F.R. §§2.65(a), 2.68(a), 2.209(a); TMEP §§405.04, 718.01, 718.02. Where the application has been abandoned for failure to respond to an Office action, applicant's only option would be to file a timely petition to revive the application, which, if granted, would allow the application to return to active status. *See* 37 C.F.R. §2.66; TMEP §1714. There is a \$100 fee for such petitions. *See* 37 C.F.R. §§2.6, 2.66(b)(1).

/rscb/  
Robin S. Chosid-Brown  
Trademark Examining Attorney  
Law Office 102  
571-272-9252  
robin.chosid-brown@uspto.gov

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**All informal e-mail communications relevant to this application will be placed in the official application record.**

**WHO MUST SIGN THE RESPONSE:** It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

**PERIODICALLY CHECK THE STATUS OF THE APPLICATION:** To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at [TrademarkAssistanceCenter@uspto.gov](mailto:TrademarkAssistanceCenter@uspto.gov) or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

**TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS:** Use the TEAS form at

<http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

Print: Apr 28, 2014

77628536

**DESIGN MARK**

**Serial Number**

77628536

**Status**

REGISTERED

**Word Mark**

SUNSET ORGANICS

**Standard Character Mark**

Yes

**Registration Number**

4336619

**Date Registered**

2013/05/21

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Mastronardi Produce Ltd. CORPORATION CANADA c/o Koenig & Associates  
920 Garden Street, Suite A Santa Barbara CALIFORNIA 93101

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: Organic fresh, raw and unprocessed vegetables, namely, tomatoes, peppers, cucumbers, and eggplant. First Use: 2008/09/30. First Use In Commerce: 2008/09/30.

**Foreign Country Name**

CANADA

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

1407757

**Foreign Filing Date**

2008/08/19

**Print: Apr 26, 2014**

**77628536**

**Foreign Registration Number**

TMA804,862

**Foreign Registration Date**

2011/08/19

**Foreign Expiration Date**

2026/08/19

**Disclaimer Statement**

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

**Filing Date**

2008/12/08

**Examining Attorney**

FALK, ERIN

**Attorney of Record**

Kurt Koenig

# SUNSET ORGANICS

Print: Apr 26, 2014

77470888

**DESIGN MARK**

**Serial Number**

77470888

**Status**

REGISTERED

**Word Mark**

SUNSET KIDZ

**Standard Character Mark**

Yes

**Registration Number**

4024358

**Date Registered**

2011/09/13

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Mastronardi Produce Ltd. CORPORATION CANADA 920 Garden Street, Suite A  
Santa Barbara CALIFORNIA 93101

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: Fresh  
hydroponic tomatoes, fresh hydroponic vegetables, \* namely, tomatoes,  
peppers, cucumbers, and eggplant \*. First Use: 2008/12/04. First Use  
In Commerce: 2008/12/04.

**Foreign Country Name**

CANADA

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

1387860

**Foreign Filing Date**

2008/03/18

**Print: Apr 26, 2014**

**77470888**

**Foreign Registration Number**

TMA794634

**Foreign Registration Date**

2011/04/04

**Foreign Expiration Date**

2026/04/04

**Filing Date**

2008/05/09

**Examining Attorney**

BELL, MARLENE

**Attorney of Record**

Kurt Koenig

**SUNSET KIDZ**

**DESIGN MARK**

**Serial Number**

85944489

**Status**

PREVIOUS ACTION/ALLOWANCE COUNT WITHDRAWN

**Word Mark**

SUNSET

**Standard Character Mark**

No

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

Mastronardi Produce Ltd. CORPORATION CANADA c/o Koenig & Associates  
920 Garden St. Santa Barbara CALIFORNIA 93101

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: Fresh, Raw and unprocessed Fruits; Fresh, Raw and unprocessed vegetables, namely, tomatoes, peppers, cucumbers, herbs, carrots, lettuces, and eggplant. First Use: 2012/11/30. First Use In Commerce: 2012/11/30.

**Foreign Country Name**

CANADA

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

1603951

**Foreign Filing Date**

2012/11/27

**Foreign Registration Number**

TMA859724

**Foreign Registration Date**

2013/09/10

**Print: Apr 26, 2014**

**85944489**

**Foreign Expiration Date**

2028/09/10

**Prior Registration(s)**

4024358;4336619

**Description of Mark**

The mark consists of the word "SUNSET" in blue within a stylized circular sunset design in the colors orange, green and blue. The color white appears as background and is not part of the mark.

**Colors Claimed**

The color(s) orange, green and blue is/are claimed as a feature of the mark.

**Filing Date**

2013/05/28

**Examining Attorney**

MORENO, PAUL

**Attorney of Record**

Kurt Koenig



**DESIGN MARK**

**Serial Number**

85423495

**Status**

SUSPENSION LETTER - MAILED

**Word Mark**

SUNSET GROWN

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Mastronardi Produce Ltd. CORPORATION CANADA c/o Koenig & Associates  
920 Garden Street, Suite A Santa Barbara CALIFORNIA 93101

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: Fresh, raw, and unprocessed fruit; Fresh, raw, and unprocessed tomatoes; Fresh, raw and unprocessed vegetables, namely, tomatoes, peppers, cucumbers, and eggplant.

**Foreign Country Name**

CANADA

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

1522332

**Foreign Filing Date**

2011/04/05

**Prior Registration(s)**

4024358

**Disclaimer Statement**

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

**Print: Apr 26, 2014**

**85423495**

**Filing Date**

2011/09/15

**Examining Attorney**

SPRUILL, DARRYL

**Attorney of Record**

Kurt Koenig

SUNSET GROWN

**Print: Apr 28, 2014**

**77573830**

**DESIGN MARK**

**Serial Number**

77573830

**Status**

FIRST EXTENSION - GRANTED

**Word Mark**

SUNSET ORGANIC

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Mastronardi Produce Ltd. CORPORATION CANADA 920 Garden Street, Suite D  
c/o Koenig & Associates Santa Barbara CALIFORNIA 93101

**Goods/Services**

Class Status -- ACTIVE, IC 031, US 001 046, G & S: Organic fresh,  
raw and unprocessed fruit and organic fresh, raw and unprocessed  
vegetables, namely, tomatoes, peppers, cucumbers, and eggplant.

**Foreign Country Name**

CANADA

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

1387861

**Foreign Filing Date**

2008/03/18

**Foreign Registration Number**

TMA798346

**Foreign Registration Date**

2011/05/25

**Foreign Expiration Date**

**Print: Apr 26, 2014**

**77573830**

2026/05/25

**Disclaimer Statement**

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

**Filing Date**

2008/09/18

**Examining Attorney**

SOBRAL, CHRISTINA

**Attorney of Record**

Kurt Koenig

SUNSET ORGANIC

**DESIGN MARK**

**Serial Number**

77713382

**Status**

SUSPENSION LETTER - MAILED

**Word Mark**

SUNSET CANDY TOMATOES

**Standard Character Mark**

Yes

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Mastronardi Produce Ltd. CORPORATION CANADA c/o Koenig & Associates  
920 Garden Street, Suite A Santa Barbara CALIFORNIA 93101

**Goods/Services**

Class Status -- ACTIVE, IC 031, US 001 046, G & S: Fresh tomatoes;  
Raw tomatoes; Unprocessed tomatoes.

**Foreign Country Name**

CANADA

**Foreign Priority**

FOREIGN PRIORITY CLAIMED

**Foreign Application Number**

1414417

**Foreign Filing Date**

2008/10/14

**Disclaimer Statement**

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

**Filing Date**

2009/04/14

**Examining Attorney**

**Print: Apr 26, 2014**

**77713382**

BROWN, BARBARA

**Attorney of Record**  
Kurt Koenig

# SUNSET CANDY TOMATOES

**DESIGN MARK**

**Serial Number**

77793217

**Status**

REPORT COMPLETED SUSPENSION CHECK - CASE STILL SUSPENDED

**Word Mark**

SUNSET

**Standard Character Mark**

No

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

SUNSET PRODUCE, LLC LIMITED LIABILITY COMPANY WASHINGTON 30103 WEST  
GWINN PROSSER WASHINGTON 99350

**Goods/Services**

Class Status -- ACTIVE, IC 031, US 001 046, G & S: Vegetables,  
namely, fresh onions. First Use: 1990/07/01. First Use In Commerce:  
1990/07/01.

**Description of Mark**

The mark consists of the word "Sunset" in front of an artistic rendering of a sun dropping below a horizon with rays radiating outwardly from the sun. The color blue appears as the background for the letters of the word "Sunset", said letters being white, and the color blue also appears as the outline for the sun and the sun rays. The color red appears as the sun and alternating sun rays. The color yellow appears as alternating rays of the sun.

**Colors Claimed**

The color(s) blue, white, red and yellow is/are claimed as a feature of the mark.

**Filing Date**

2009/07/30

**Examining Attorney**

LORENZO, KATHLEEN

**Print: Apr 26, 2014**

**77793217**

**Attorney of Record**  
WILLIAM A. JECKLE



**DESIGN MARK**

**Serial Number**

75201762

**Status**

REGISTERED AND RENEWED

**Word Mark**

HANDPICKED FROM THE WORLD'S FINEST FARMS

**Standard Character Mark**

No

**Registration Number**

2138504

**Date Registered**

1998/02/24

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

FRIENDLY FRUIT, INC. DBA Sid Wainer & Son CORPORATION MASSACHUSETTS  
2301 Purchase Street New Bedford MASSACHUSETTS 02746

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: cheeses, olive oil, marinated artichokes, sunflower oil, almond oil, hazelnut oil, pinenut oil, pistachio oil, walnut oil, dried fruits, dried beans, dried mushrooms, dried peppers, and processed nuts. First Use: 1996/06/00. First Use In Commerce: 1996/06/00.

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: pasta, unprocessed grains for eating, rice, and balsamic vinegar. First Use: 1996/06/00. First Use In Commerce: 1996/06/00.

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: fresh carrots, tomatoes, lettuce, leafy greens, squash, berries, melons, potatoes, mushrooms, truffles, beans, olives. First Use: 1996/06/00. First Use In Commerce: 1996/06/00.

**Disclaimer Statement**

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "HANDPICKED FROM THE WORLD'S FINEST FARMS" APART FROM THE MARK AS SHOWN.

**Lining/Stippling Statement**

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

**Filing Date**

1996/11/19

**Examining Attorney**

LEE, TERESA

**Attorney of Record**

SUSAN B. FLOHR



***Handpicked from the World's Finest Farms***

**DESIGN MARK**

**Serial Number**

76461748

**Status**

REGISTERED AND RENEWED

**Word Mark**

RIPE 'N READY

**Standard Character Mark**

No

**Registration Number**

2894247

**Date Registered**

2004/10/19

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(1) TYPED DRAWING

**Owner**

RNR TREE FRUIT LLC LIMITED LIABILITY COMPANY CALIFORNIA 150 NEWMARK AVENUE PARLIER CALIFORNIA 94648

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: Fresh vegetables, namely artichokes, asparagus, eggplant, green beans, broad beans, climbing beans, dwarf beans, soy beans, beets, broccoli, brussel sprouts, cabbage, calabrese, bell peppers, carrots, cauliflower, celery, chard, chives, squash, zucchini, summer squash, water cress, garlic, cucumbers, kale, radishes, leek, lettuce, escarole, cantaloupes, honeydew melons, casaba melons, watermelons, persian melons, okra, onions, endive, parsnips, potatoes, peas, sugar peas, peppers, Anaheim peppers, cherry bomb peppers, jalapeno peppers, habanero peppers, Thai dragon peppers, big banana sweet peppers, pumpkins, radicchio, rhubarb, shallots, spinach, spaghetti squash, acorn squash, corn, sweet potatoes, swiss chard, tomatoes, turnips, mushrooms and herbs; fresh fruit, namely apples, apricots, bananas, prunes, blackberries, blueberries, cherries, cranberries, currants, avocados, figs, gooseberries, grapefruit, grapes, kiwis, lemons, limes, loquats, mangos, olives, oranges, coconuts, papayas, peaches, pears, pineapple, plum, pomegranates, quince, raspberry, strawberry,

**Print: Apr 26, 2014**

**76481748**

mandarins, nectarines, boysenberries, pluots, apriums, pluvcots,  
persimmons, kumquats, carambolas. First Use: 1997/08/00. First Use  
In Commerce: 1997/08/00.

**Prior Registration(s)**

1593294

**Filing Date**

2002/10/25

**Examining Attorney**

FRONT, MITCHELL

**Attorney of Record**

Tracy A. Agrall

**RIPE 'N READY**

**DESIGN MARK**

**Serial Number**

77219984

**Status**

REGISTERED

**Word Mark**

SARDILLI

**Standard Character Mark**

Yes

**Registration Number**

3597127

**Date Registered**

2009/03/31

**Type of Mark**

TRADEMARK; SERVICE MARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

DON N. SARDILLI INDIVIDUAL UNITED STATES 71 PERIA DRIVE ROCKY HILL  
CONNECTICUT 06067

**Goods/Services**

Class Status -- ACTIVE. IC 039. US 100 105. G & S: packaging food for transportation; warehousing services, namely, storage, distribution, pick-up, packaging, and shipping of food products; distribution services, namely, delivery of food products, excluding all beverages, except dairy-based beverages. First Use: 1959/00/00. First Use In Commerce: 1959/00/00.

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: oils and fats for food; olive oil; lentils; preserved vegetables, namely, anise, artichokes, asparagus, beets, turnips, carrots, squash, zucchini, green beans, wax beans, yellow beans, bok choy, ginger root, broccoli, brussel sprouts, cabbage, cauliflower, celery, frisse, chicory, endive, corn, cucumbers, English cucumbers, eggplant, escarole, fiddleheads, garlic, arrugula, collard greens, kale, swiss chard, horseradish, leeks, lettuce, mushrooms, okra, onions, parsley, parsnips, peas, peppers, pickles, potatoes, radishes, radicchio, rhubarb, scallions,

shallots, spinach, alfalfa sprouts, tofu, bean sprouts, tomatoes, rutabagas, watercress, cauliflower; preserved fruits, namely, apples, avocados, bananas, blackberries, blueberries, cranberries, raspberries, strawberries, cherries, coconuts, figs, grapes, grapefruit, kiwi, lemons, limes, mangoes, cantaloupe, honeydew melon, watermelons, nectarines, oranges, peaches, papaya, pears, pineapples, fruit salad; dried fruits, namely, apples, avocados, bananas, blackberries, blueberries, cranberries, raspberries, strawberries, cherries, coconuts, figs, grapes, grapefruit, kiwi, lemons, limes, mangoes, cantaloupe, honeydew melon, watermelons, nectarines, oranges, peaches, papaya, pears, pineapples; processed nuts, namely, almonds, cashews, walnuts, pecans, peanuts, hazelnuts, brazil nuts, macadamia nuts, pinenuts, and pistachios; butter; cheese; dairy products excluding ice cream, ice milk and frozen yogurt. First Use: 1959/00/00. First Use In Commerce: 1959/00/00.

### Goods/Services

Class Status -- ACTIVE. IC 035. US 100 101 102. G & S: wholesale distributorship featuring food products, excluding all beverages, except dairy-based beverages; merchandise packaging; packaging food to the order and specification of others. First Use: 1959/00/00. First Use In Commerce: 1959/00/00.

### Goods/Services

Class Status -- ACTIVE. IC 030. US 046. G & S: flour; bread; rice; spices; vinegar; processed herbs, namely, basil, cilantro, chives, lemon grass, dill, mint, oregano, rosemary, sage, tarragon, thyme. First Use: 1959/00/00. First Use In Commerce: 1959/00/00.

### Goods/Services

Class Status -- ACTIVE. IC 031. US 001 046. G & S: fresh vegetables, namely, anise, artichokes, asparagus, beets, turnips, carrots, squash, zucchini, green beans, wax beans, yellow beans, bok choy, ginger root, broccoli, brussel sprouts, cabbage, cauliflower, celery, frisse, chicory, endive corn, cucumbers, English cucumbers, eggplant, escarole, fiddleheads, garlic, arrugula, collard greens, kale, swiss chard, horseradish, leeks, lettuce, mushrooms, okra, onions, parsley, parsnips, peas, peppers, pickles, potatoes, radishes, radicchio, rhubarb, scallions, shallots, spinach, alfalfa sprouts, tofu, bean sprouts, tomatoes, rutabagas, watercress, cauliflower; raw vegetables, namely, anise, artichokes, asparagus, beets, turnips, carrots, squash, zucchini, green beans, wax beans, yellow beans, bok choy, ginger root, broccoli, brussel sprouts, cabbage, cauliflower, celery, frisse, chicory, endive corn, cucumbers, English cucumbers, eggplant, escarole, fiddleheads, garlic, arrugula, collard greens, kale, swiss chard, horseradish, leeks, lettuce, mushrooms, okra, onions, parsley, parsnips, peas, peppers, pickles, potatoes, radishes, radicchio, rhubarb, scallions, shallots, spinach, alfalfa sprouts, tofu, bean sprouts, tomatoes, rutabagas, watercress, cauliflower; fresh fruits, namely, apples, avocados, bananas, blackberries, blueberries, cranberries, raspberries, strawberries, cherries,

coconuts, figs, grapes, grapefruit, kiwi, lemons, limes, mangoes, cantaloupe, honeydew melon, watermelons, nectarines, oranges, peaches, papaya, pears, pineapples, fruit salad; fresh nuts, namely, almonds, cashews, walnuts, pecans, peanuts, hazelnuts, brazil nuts, macadamia nuts, pinenuts, and pistachios; raw nuts, namely, almonds, cashews, walnuts, pecans, peanuts, hazelnuts, brazil nuts, macadamia nuts, pinenuts, and pistachios; raw herbs, namely, basil, cilantro, chives, lemon grass, dill, mint, oregano, rosemary, sage, tarragon, thyme.  
First Use: 1959/00/00. First Use In Commerce: 1959/00/00.

**Section 2f Statement**

2(F) ENTIRE MARK

**Filing Date**

2007/07/01

**Examining Attorney**

BEN, LINDSEY

**Attorney of Record**

NANCY KENNEDY

SARDILLI

**DESIGN MARK**

**Serial Number**

78317719

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

FRESH 1 BRAND

**Standard Character Mark**

No

**Registration Number**

2993230

**Date Registered**

2005/09/06

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

C.H. Robinson Worldwide, Inc. CORPORATION DELAWARE 14701 Charlson Road  
Eden Prairie MINNESOTA 55347

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: Fresh cut fruit and packaged mixed fruit; fresh cut vegetables and packaged garden salad mix. First Use: 2002/03/00. First Use In Commerce: 2002/03/00.

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: Fresh fruits, namely, tangerines, tangelo, tangor, raspberries, pineapples, apples, cantaloupe, grapes, honeydews, watermelons, oranges, strawberries, kiwi fruit, grapefruit, lemons, limes, nectarines, peaches, plums and pears; Fresh vegetables, namely, iceberg lettuce, beans, corn, peas, okra, squash, brussels sprouts, eggplants, artichokes, sweet potatoes, spinach, cabbage, romaine, green leaf, red leaf lettuce, carrots, escarole, celery, tomatoes, lettuce, turnips, parsnips, onions, potatoes, radishes, green onions, asparagus, avocados, broccoli, cauliflower, cucumbers and peppers. First Use: 1989/01/00. First Use In Commerce: 1989/01/00.

**Print: Apr 26, 2014**

**78317719**

**Prior Registration(s)**

1718531;2769240

**Disclaimer Statement**

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

**Filing Date**

2003/10/23

**Examining Attorney**

WELLS, KELLEY

**Attorney of Record**

Tara J. Anderson



**DESIGN MARK**

**Serial Number**

78374918

**Status**

SECTION 8-ACCEPTED

**Word Mark**

HOLIVE

**Standard Character Mark**

Yes

**Registration Number**

3080522

**Date Registered**

2006/04/11

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

MIDWEST SCIENCES INC. CORPORATION MICHIGAN 16 MOUNTAINVIEW DRIVE  
WESTON CONNECTICUT 06883

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: Olive oil and other food products, namely, oils and fats for food, edible fats, powdered oils and fats, processed oils and fats, vegetable oils and fats, cooking oil, blended oil, edible oil, hardened oils, namely, hydrogenated oil; vegetable oil, salad oil, preserved vegetables in oil, canned processed olives, olive pastes, preserved, dried and cooked olives; processed olive puree, processed olives, tinned olives, candied fruit, candied fruit snacks, canned fruits, canned or bottled fruits, crystallized fruit, fresh cut fruits, canned cut fruits, bottled cut fruits, dried fruit mixes, dried fruits, dry or aromatized fruit, food package combinations consisting primarily of cheese, meat and/or processed fruit; frozen fruits, fruit and soy based snack food, fruit and vegetable salads, fruit chips, fruit conserves, fruit leathers, fruit paste, fruit pectin, fruit peels, fruit preserves, fruit pulps, fruit rinds, fruit salads, fruit topping, fruits preserved in alcohol, fruit-based filling for cakes and pies, fruit-based snack food, fruit-based spreads, glazed fruits, milk based

beverages containing fruit juice, milk drinks containing fruits, pickled fruits, processed vegetables and fruits, fresh sliced fruits, canned sliced fruits, bottled sliced fruits, snack mix consisting primarily of processed fruits, processed nuts and/or raisins; canned or bottled vegetables, fresh cut vegetables, canned cut vegetables, bottled cut vegetable, dried vegetables, formed textured vegetable protein for use as a meat extender or meat substitute, frozen vegetables, fruit and vegetable salads, pickled vegetables, preserved vegetables, preserved, dried, cooked and grilled vegetables; pre-cut vegetable salad, processed vegetables and fruits, vegetable mousse, vegetable oils, vegetable oils and fats, vegetable paste, vegetable puree, vegetable salads, processed vegetables; instant frozen, vegetable-based food beverages; vegetable-based spreads, butter substitutes, margarine substitutes; canned, cooked or otherwise processed tomatoes, shelled nuts, roasted nuts, processed nuts, processed apples, processed apricots, processed artichokes, processed asparagus, processed avocados, processed beans, processed beets, processed cabbage, processed dates, processed edible seeds, processed lemons, processed citrus fruits, namely, oranges, grapefruits, tangerines, clementines; processed onions, processed peaches, processed peppers, canned, cooked or otherwise processed tomatoes, canned, cooked or otherwise processed cucumbers. First Use: 2003/01/04. First Use In Commerce: 2003/02/01.

**Filing Date**

2004/02/26

**Examining Attorney**

NADELMAN, ANDREA K.

HOLIVE

**DESIGN MARK**

**Serial Number**

78654035

**Status**

SECTION 8 & 15-ACCEPTED AND ACKNOWLEDGED

**Word Mark**

KINGDOM FRESH GREENHOUSE

**Standard Character Mark**

No

**Registration Number**

3331154

**Date Registered**

2007/11/06

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

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

**Owner**

ALMERIMEX, S.A. DE C.V. CORPORATION MEXICO Gonzalez de la Vega No. 331  
Parque Industrial de Gomez Palacio Gomez Palacio, Durango MEXICO

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: [ Live animals;  
] fresh fruits; fresh vegetables, namely, artichokes, asparagus,  
beans, beets, broccoli, Brussels sprouts, cabbage, carrots,  
cauliflower, celery, Chinese cabbage, chicory, endives, escarole,  
cucumbers, corn, eggplants, fennel, garlic, kale, leeks, lettuce,  
mushrooms, okra, onions, parsley, parsnips, peppers, potatoes,  
radishes, rhubarb, rutabagas, shallots, spinach, sweet potatoes,  
tomatoes, turnips, yams, and watercress; [ seed, namely, seed for  
grass, seed to cultivate fruits, seed to cultivate vegetables, seed to  
cultivate flowers, seed for birds; ] live and dried plants; [ natural  
flowers; ] hothouse tomatoes; [ malt for brewing and distilling ].  
First Use: 2005/10/01. First Use In Commerce: 2005/10/01.

**Disclaimer Statement**

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

**Colors Claimed**

The colors red, white, yellow and green are claimed as a feature of the mark.

**Part of Mark in Color**

The color red appears on the letters for the words kingdom fresh. The color green is on the leaves, the wording greenhouse, the oval surrounding the mark and the background of the lower half of the mark. The color white is the background on the upper half. The color yellow appears on panels coming from behind the leaves.

**Filing Date**

2005/06/20

**Examining Attorney**

FISHER, HANNAH M.

**Attorney of Record**

Robert J. Kenney



**DESIGN MARK**

**Serial Number**

85187415

**Status**

REGISTERED

**Word Mark**

LIVING SALAD

**Standard Character Mark**

Yes

**Registration Number**

4199226

**Date Registered**

2012/08/28

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

THE GRACIOUS LIVING GROUP, LLC LIMITED LIABILITY COMPANY CALIFORNIA  
19951 Glen Haven Drive Yorba Linda CALIFORNIA 92886

**Goods/Services**

Class Status -- ACTIVE. IC 031. US 001 046. G & S: Live fish for food purposes; Live plants, namely, Lettuce, Spinach, Arugula, Greens, namely, Cress, Endive, Escarole, Micro-Greens, Sprouts, Wheatgrass, Mustard Greens, Chard, Broccoli, Fresh Herbs, Carrots, Tomatoes, Vegetables, namely, Carrots, cucumbers, squash, peas, beans, eggplants, zucchini, peppers, and cabbages; Live Lobsters; Live Oysters; Live Shrimp; Unprocessed anchovies; Unprocessed apples; Unprocessed apricots; Unprocessed artichokes; Unprocessed asparagus; Unprocessed avocados; Unprocessed bean sprouts; Unprocessed beans; Unprocessed beets; Unprocessed blueberries; Unprocessed cabbage; Unprocessed collard greens; Unprocessed corn; Unprocessed dates; Unprocessed fruits; Unprocessed ginger; Unprocessed hearts of palm; Unprocessed herbs; Unprocessed lettuce; Unprocessed mushrooms; Unprocessed olives; Unprocessed onions; Unprocessed oranges; Unprocessed peaches; Unprocessed peppers; Unprocessed potatoes; Unprocessed tomatoes; Unprocessed vegetables; Unprocessed zucchini.  
First Use: 2012/03/01. First Use In Commerce: 2012/03/01.

**Disclaimer Statement**

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

**Filing Date**

2010/11/30

**Examining Attorney**

VANSTON, KATHLEEN M.

**Attorney of Record**

Allan Howard Grant

# LIVING SALAD

**DESIGN MARK**

**Serial Number**

76657641

**Status**

SECTION 8-ACCEPTED

**Word Mark**

CENTO

**Standard Character Mark**

Yes

**Registration Number**

3210011

**Date Registered**

2007/02/20

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

Alanric Food Distributors, Inc. CORPORATION NEW JERSEY 100 Cento  
Boulevard West Deptford NEW JERSEY 08086

**Goods/Services**

Class Status -- ACTIVE. IC 030. US 046. G & S: Pasta sauce, clam  
sauce, tomato sauce, pizza sauce, vinegars, capers, bread crumbs,  
herbs and seasonings, namely, parsley, oregano, Italian seasoning,  
basil, bay leaves, rosemary, dehydrated onion powder, garlic powder,  
canned minced garlic; ground black pepper, red crushed ground pepper  
and dried hot chili pepper; prepared spaghetti sauce, canned pesto  
sauce; spices. First Use: 1982/00/00. First Use In Commerce:  
1982/00/00.

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: Processed fruits  
and vegetables, prepared fruits and vegetables, sardines, pickled  
cauliflower, canned tomatoes, organic canned tomatoes; crushed  
tomatoes, tomato paste, edible oils, namely, olive oil, blended oil,  
corn oil, canned anchovies, canned clams, canned tuna fish, canned  
chick peas, processed beans, canned and jarred peppers, stuffed  
peppers, pepperoni, giardiniera, processed pignoli nuts, processed

eggplant, processed artichokes, processed mushrooms, cheeses, namely Romano, asiago, parmesan and provolone and grated cheeses, pickled vegetables, soups, chicken broth, processed olives, caponata. First Use: 1982/00/00. First Use In Commerce: 1982/00/00.

**Prior Registration(s)**

1255450;1308207;2343591;AND OTHERS

**Translation Statement**

The mark can be translated as "one hundred".

**Filing Date**

2006/03/28

**Examining Attorney**

HAN, DAWN

**Attorney of Record**

Roberta Jacobs-Meadway

**CENTO**

**DESIGN MARK**

**Serial Number**

78517373

**Status**

PARTIAL SECTION 8 & 15 ACCEPTED AND ACKNOWLEDGED

**Word Mark**

LISA

**Standard Character Mark**

Yes

**Registration Number**

3041190

**Date Registered**

2006/01/10

**Type of Mark**

TRADEMARK

**Register**

PRINCIPAL

**Mark Drawing Code**

(4) STANDARD CHARACTER MARK

**Owner**

PERFORMANCE FOOD GROUP, INC. CORPORATION COLORADO 12650 ARAPHOE ROAD  
CENTENNIAL COLORADO 80112

**Goods/Services**

Class Status -- SECTION 8 - CANCELLED. IC 003. US 001 004 006 050  
051 052. G & S: [ Liquid Soap ]. First Use: 1970/01/01. First Use  
In Commerce: 1970/01/01.

**Goods/Services**

Class Status -- ACTIVE. IC 029. US 046. G & S: processed clams,  
processed anchovies, processed tomatoes, cheese, ground beef,  
processed meats, processed pignoli nuts, olive oil, processed olives,  
processed peppers, processed eggplant, processed mushrooms, tomato  
paste, processed artichokes, giardiniera, canned chick peas, canned  
kidney beans, sausage, bacon, shaved steak and fresh and frozen veal.  
First Use: 1970/01/01. First Use In Commerce: 1970/01/01.

**Goods/Services**

Class Status -- SECTION 8 - CANCELLED. IC 030. US 046. G & S: [  
seasonings, bread crumbs, flour, pasta, spices, capers, spaghetti  
sauce, pizza sauce, vinegar, gnocchi, stuffed shells, lasagna and

**Print: Apr 26, 2014**

**78517373**

meatballs j. First Use: 1970/01/01. First Use In Commerce:  
1970/01/01.

**Name/Portrait Statement**

The name LISA does not identify a living individual.

**Filing Date**

2004/11/16

**Examining Attorney**

TIERNEY MARGERY ANN

**Attorney of Record**

GARRETT M. WEBER

LISA

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## How to Cook and Eat an Artichoke by canida

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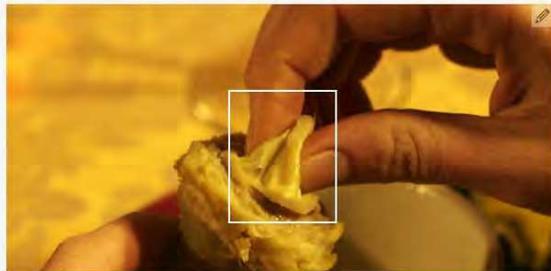
Powering Design

Arduino

Gardening

Solar

### Step 7: Remove choke





The artichoke is a relative of the thistle, and if allowed to mature they open to display a lovely purple flower. The cluster of immature florets at the center of the artichoke is known as the "choke", and should not be eaten.

Remove and discard the last small leaves covering the choke; they usually pick up some of the fuzzy bits, and so are best simply disposed of. Use a spoon or your finger to scrape out the soft, furry choke without losing any of the tasty heart below.



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**To:** Underwood, Craig H. ([Rachael@Kelly-KelleyLaw.com](mailto:Rachael@Kelly-KelleyLaw.com))  
**Subject:** U.S. TRADEMARK APPLICATION NO. 86169088 - SUNSET CHOKES - 55755-Underw  
**Sent:** 4/27/2014 8:55:16 AM  
**Sent As:** ECOM102@USPTO.GOV  
**Attachments:**

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)**

**IMPORTANT NOTICE REGARDING YOUR  
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED  
ON **4/27/2014** FOR U.S. APPLICATION SERIAL NO. 86169088

Please follow the instructions below:

**(1) TO READ THE LETTER:** Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

**(2) TIMELY RESPONSE IS REQUIRED:** Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **4/27/2014** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

**Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response** because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at [http://www.uspto.gov/trademarks/teas/response\\_forms.jsp](http://www.uspto.gov/trademarks/teas/response_forms.jsp).

**(3) QUESTIONS:** For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail [TSDR@uspto.gov](mailto:TSDR@uspto.gov).

**WARNING**

**Failure to file the required response by the applicable response deadline will result in the**

**ABANDONMENT of your application.** For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

**PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION:** Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see [http://www.uspto.gov/trademarks/solicitation\\_warnings.jsp](http://www.uspto.gov/trademarks/solicitation_warnings.jsp).

\*\*\* User:Rchosid \*\*\*

#	Total Marks	Dead Marks	Live Viewed Docs	Live Viewed Images	Status/ Search Duration	Search
01	1	0	1	1	0:01	86169088[SN]
02	3532	N/A	0	0	0:03	*{"SZ"}{v}ns{V}t*[bi,ti]
03	32644	N/A	0	0	0:02	*ch{V}{"CKQX"}*[bi,ti]
04	26	20	6	4	0:01	2 and 3
05	943	N/A	0	0	0:01	*sunset*[bi,ti]
06	336	N/A	0	0	0:02	5 and 031[cc]
07	139	0	139	115	0:02	6 not dead[ld]

Session started 4/26/2014 8:52:24 PM

Session finished 4/26/2014 8:59:09 PM

Total search duration 0 minutes 12 seconds

Session duration 6 minutes 45 seconds

Default NEAR limit=1ADJ limit=1

Sent to TICRS as Serial Number: 86169088

# Trademark/Service Mark Application, Principal Register

Serial Number: 86169088

Filing Date: 01/17/2014

The table below presents the data as entered.

Input Field	Entered
<b>SERIAL NUMBER</b>	86169088
<b>MARK INFORMATION</b>	
*MARK	<a href="#">SUNSET CHOKES</a>
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	SUNSET CHOKES
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
<b>APPLICANT INFORMATION</b>	
*OWNER OF MARK	Underwood, Craig H.
*STREET	5696 Los Angeles Avenue
*CITY	Somis
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	93066
PHONE	(818) 347-7900
FAX	(818) 340-2859
EMAIL ADDRESS	Rachael@Kelly-KelleyLaw.com
<b>LEGAL ENTITY INFORMATION</b>	
TYPE	individual
COUNTRY OF CITIZENSHIP	United States

<b>GOODS AND/OR SERVICES AND BASIS INFORMATION</b>	
<b>INTERNATIONAL CLASS</b>	031
<b>*IDENTIFICATION</b>	<b>FRESH VEGETABLES, NAMELY, ARTICHOKES</b>
<b>FILING BASIS</b>	SECTION 1(a)
<b>FIRST USE ANYWHERE DATE</b>	At least as early as 11/01/2013
<b>FIRST USE IN COMMERCE DATE</b>	At least as early as 11/01/2013
<b>SPECIMEN FILE NAME(S)</b>	<a href="#">\\TICRS\EXPORT16\IMAGEOUT 16\861\690\86169088\xml1\ APP0003.JPG</a>
<b>SPECIMEN DESCRIPTION</b>	scanned photograph of product produce bag
<b>ATTORNEY INFORMATION</b>	
<b>NAME</b>	John E. Kelly
<b>ATTORNEY DOCKET NUMBER</b>	55755-Underwood
<b>FIRM NAME</b>	KELLY & KELLEY, LLP
<b>INTERNAL ADDRESS</b>	Suite 1650
<b>STREET</b>	6320 Canoga Avenue
<b>CITY</b>	Woodland Hills
<b>STATE</b>	California
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	91367
<b>PHONE</b>	(818) 347-7900
<b>FAX</b>	(818) 340-2859
<b>EMAIL ADDRESS</b>	Rachael@Kelly-KelleyLaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>OTHER APPOINTED ATTORNEY</b>	all other attorneys associated with the law firm
<b>CORRESPONDENCE INFORMATION</b>	
<b>NAME</b>	John E. Kelly
<b>FIRM NAME</b>	KELLY & KELLEY, LLP
<b>INTERNAL ADDRESS</b>	Suite 1650
<b>STREET</b>	6320 Canoga Avenue

<b>CITY</b>	Woodland Hills
<b>STATE</b>	California
<b>COUNTRY</b>	United States
<b>ZIP/POSTAL CODE</b>	91367
<b>PHONE</b>	(818) 347-7900
<b>FAX</b>	(818) 340-2859
<b>EMAIL ADDRESS</b>	Rachael@Kelly-KelleyLaw.com
<b>AUTHORIZED TO COMMUNICATE VIA EMAIL</b>	Yes
<b>FEE INFORMATION</b>	
<b>NUMBER OF CLASSES</b>	1
<b>FEE PER CLASS</b>	325
<b>*TOTAL FEE DUE</b>	325
<b>*TOTAL FEE PAID</b>	325
<b>SIGNATURE INFORMATION</b>	
<b>SIGNATURE</b>	/John E. Kelly/
<b>SIGNATORY'S NAME</b>	John E. Kelly
<b>SIGNATORY'S POSITION</b>	Attorney of record, California bar member
<b>DATE SIGNED</b>	01/17/2014

---

## Trademark/Service Mark Application, Principal Register

**Serial Number: 86169088**

**Filing Date: 01/17/2014**

### To the Commissioner for Trademarks:

**MARK:** SUNSET CHOKES (Standard Characters, see [mark](#))

The literal element of the mark consists of SUNSET CHOKES.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Craig H. Underwood, a citizen of United States, having an address of

5696 Los Angeles Avenue

Somis, California 93066

United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 031: FRESH VEGETABLES, NAMELY, ARTICHOSES

In International Class 031, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 11/01/2013, and first used in commerce at least as early as 11/01/2013, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) scanned photograph of product produce bag.

[Specimen File 1](#)

The applicant's current Attorney Information:

John E. Kelly and all other attorneys associated with the law firm of KELLY & KELLEY, LLP

Suite 1650

6320 Canoga Avenue

Woodland Hills, California 91367

United States

The attorney docket/reference number is 55755-Underwood.

The applicant's current Correspondence Information:

John E. Kelly

KELLY & KELLEY, LLP

Suite 1650

6320 Canoga Avenue

Woodland Hills, California 91367  
(818) 347-7900(phone)  
(818) 340-2859(fax)  
Rachael@Kelly-KelleyLaw.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

### **Declaration**

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

### **Declaration Signature**

Signature: /John E. Kelly/ Date: 01/17/2014  
Signatory's Name: John E. Kelly  
Signatory's Position: Attorney of record, California bar member  
RAM Sale Number: 86169088  
RAM Accounting Date: 01/21/2014

Serial Number: 86169088  
Internet Transmission Date: Fri Jan 17 18:17:48 EST 2014  
TEAS Stamp: USPTO/BAS-67.112.171.194-201401171817482  
29303-86169088-5009a105da15b9121f2114ae3  
591c016cdfc4dbb4fc17edab36df08089d4aa90b  
1-CC-5443-20140117181010778217

# SUNSET CHOKES

CALIFORNIA ARTICHOKES®

# Sunset Chokes™

CRACKING DISCIPLINE™

For only one  
artichoke  
with an exciting  
cracking sound!

From the same growers who bring you the best  
artichokes, we've created a new variety that  
cracks like a nut!

UNDERWOOD



# SUNSET CHOKES

CALIFORNIA ARTICHOKES®

# Sunset Chokes™

CRACKING DISCIPLINE™

For only one  
artichoke  
with an exciting  
cracking sound!

From the same growers who bring you the best  
artichokes, we've created a new variety that  
cracks like a nut!

UNDERWOOD



# EXHIBIT B

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Food & Grocery

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Featuring: **D&D**, **SUNSET**, **GIANT**

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[Nancy Reid](#) Always excited for summer and fresh fruits and veggies!  
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  - Jessica Tull**  
May 20 at 5:56pm · · 1 · 1  
SUNSET® Produce was giving away free samples near my workplace yesterday... See More  
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  - Marilyn Wall**  
May 20 at 1:33pm · · 1  
I love your vine on tomatoes but lately I have cut them open and... See More  
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November 8, 2013 · · 1

We can't stop looking at the holiday recipes and party ideas in Fresh & Festive Holiday 2013!  
Please download the eZine so we can drool together! <http://ow.ly/qyZgc>

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Khalid Mahmood Shouq, Tonia Jabour, Kim Sherwell and 3 others like this.

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November 7, 2013 · · 1

Now this, friends, brings a whole new meaning to the idea of lollipops. Grilled Tomato "Lollipop" Toasts from White On Rice Couple: <http://ow.ly/qBwYA>

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November 6, 2013 · · 1

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Kingsville, ON  
[sunsetgrown.com](http://sunsetgrown.com)  
Joined June 2009



Tweets | Tweets & replies | Photos & videos

Pinned Tweet  
SUNSET® Produce @sunsetgrown · Apr 15  
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→ [ow.ly/LBVGR](http://ow.ly/LBVGR)



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- Sevilla
- #AnAudiencewithUnionJ
- Destination America
- #AskDrew
- Rick Santorum
- #ItsAGoodMorningBecause
- The Hills
- #ATLonHits1
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-  Birds Eye Vegetables



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The Loser Lifestyle Guide  
[bit.ly](http://bit.ly/1jPBeyl)

Have them in circles 40 people




**SUNSET Grown**  
Shared publicly - Oct 30, 2013



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The Loser Lifestyle Guide  
bit.ly

+1 Add a comment...

In their circles 16 people

- America's Test Kitchen
- I Heart Vegetables
- Birds Eye Vegetables

Have them in circles 40 people

ULTRA

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Congratulations to our President and CEO, Paul Mastrorand, on being awarded Ernst & Young's Entrepreneur of the Year!

Pictured here is Paul with last year's winners, Greg Taylor and Cam Heaps of Steam Whistle Piloner. <http://ow.ly/qkqff>



+2

**SUNSET Grown**  
Shared publicly · Aug 30, 2013

These veggie fritter-cakes are a perfect appetizer for your Labor Day get-together!



+1 Add a comment...

**SUNSET Grown**

**SUNSET Grown**  
Shared publicly · Oct 14, 2013

Say HELLO to YELO tomatoes!

SUNSET® Say HELLO to YELO™!



**Generated on:** This page was generated by TSDR on 2015-05-27 15:01:29 EDT

**Mark:** SUNSET TIME VINE...EVOLUTION OF THE TOMATO

SUNSET TIME  
VINE...EVOLUTION OF THE  
TOMATO

**US Serial Number:** 85479625  
**Application Filing Date:** Nov. 23, 2011  
**US Registration Number:** 4702054  
**Registration Date:** Mar. 17, 2015  
**Filed as TEAS Plus:** Yes  
**Currently TEAS Plus:** Yes  
**Register:** Principal  
**Mark Type:** Trademark  
**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.  
**Status Date:** Mar. 17, 2015  
**Publication Date:** Feb. 26, 2013

## Mark Information

**Mark Literal Elements:** SUNSET TIME VINE...EVOLUTION OF THE TOMATO  
**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.  
**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK  
**Disclaimer:** "TOMATO"

## Related Properties Information

**Claimed Ownership of US Registrations:** 4024358

## Foreign Information

**Priority Claimed:** Yes  
**Foreign Application Number:** 1530898  
**Foreign Application Filing Date:** Jun. 08, 2011  
**Foreign Registration Number:** TMA827416  
**Foreign Registration Date:** Jul. 03, 2012  
**Foreign Application/Registration Country:** CANADA  
**Foreign Expiration Date:** Jul. 03, 2027

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Plastic shopping bags, namely, polypropylene bags

**International Class(es):** 016 - Primary Class

**U.S Class(es):** 002, 005, 022, 023, 029, 037, 038, 050

**Class Status:** ACTIVE

**Basis:** 44(e)

**For:** Fresh fruit; \* Fresh \* vegetables \*, namely, tomatoes, peppers, cucumbers, and eggplant \*

**International Class(es):** 031 - Primary Class

**U.S Class(es):** 001, 046

**Class Status:** ACTIVE

**Basis:** 44(e)

## Basis Information (Case Level)

**Filed Use:** No

**Currently Use:** No

**Amended Use:** No

**Filed ITU:** Yes

**Currently ITU:** No

**Amended ITU:** No

**Filed 44D:** Yes

**Currently 44D:** No

**Amended 44D:** No

**Filed 44E:** No

**Currently 44E:** Yes

**Amended 44E:** No

Filed 66A: No  
Filed No Basis: No

Currently 66A: No  
Currently No Basis: No

## Current Owner(s) Information

**Owner Name:** Mastronardi Produce Ltd.  
**Owner Address:** c/o Koenig & Associates  
920 Garden Street  
Santa Barbara, CALIFORNIA 93101  
UNITED STATES  
**Legal Entity Type:** CORPORATION  
**State or Country Where Organized:** CANADA

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Mark D. Schneider  
**Attorney Primary Email Address:** [doCKET@patlaw.com](mailto:doCKET@patlaw.com)  
**Docket Number:** MAS-16219/08  
**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** Mark D. Schneider  
Gifford Krass Sprinkle Citkowski  
2701 Troy Center Drive, Suite 330  
Troy, MICHIGAN 48084  
UNITED STATES  
**Phone:** 248-647-6000  
**Fax:** 248-647-5210  
**Correspondent e-mail:** [doCKET@patlaw.com](mailto:doCKET@patlaw.com)  
**Correspondent e-mail Authorized:** Yes

### Domestic Representative

**Domestic Representative Name:** Mark D. Schneider  
**Phone:** 248-647-6000  
**Fax:** 248-647-5210  
**Domestic Representative e-mail:** [doCKET@patlaw.com](mailto:doCKET@patlaw.com)  
**Domestic Representative e-mail Authorized:** Yes

## Prosecution History

Date	Description	Proceeding Number
May 13, 2015	ATTORNEY REVOKED AND/OR APPOINTED	
May 13, 2015	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Mar. 26, 2015	AMENDMENT UNDER SECTION 7 - ISSUED	75184
Mar. 26, 2015	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	75184
Mar. 18, 2015	TEAS SECTION 7 REQUEST RECEIVED	
Mar. 18, 2015	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Mar. 17, 2015	REGISTERED-PRINCIPAL REGISTER	
Dec. 24, 2014	1(B) BASIS DELETED; PROCEED TO REGISTRATION	76538
Oct. 23, 2014	NOTICE OF ALLOWANCE CANCELLED	76538
Oct. 22, 2014	TEAS POST PUBLICATION AMENDMENT RECEIVED	
May 08, 2014	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
May 07, 2014	EXTENSION 2 GRANTED	76538
Apr. 18, 2014	EXTENSION 2 FILED	76538
May 06, 2014	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76538
Apr. 18, 2014	TEAS EXTENSION RECEIVED	
Oct. 24, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST E-MAILED	
Oct. 22, 2013	EXTENSION 1 GRANTED	98765
Oct. 22, 2013	EXTENSION 1 FILED	98765
Oct. 22, 2013	TEAS EXTENSION RECEIVED	
Apr. 23, 2013	NOA E-MAILED - SOU REQUIRED FROM APPLICANT	
Feb. 26, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	

Feb. 26, 2013	PUBLISHED FOR OPPOSITION	
Feb. 20, 2013	TEAS VOLUNTARY AMENDMENT RECEIVED	
Feb. 06, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Jan. 24, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	73787
Jan. 09, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Jan. 08, 2013	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Jan. 07, 2013	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Jan. 07, 2013	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Jul. 10, 2012	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Jul. 10, 2012	INQUIRY TO SUSPENSION E-MAILED	
Jul. 10, 2012	SUSPENSION INQUIRY WRITTEN	76731
Jul. 02, 2012	LIE CHECKED SUSP - TO ATTY FOR ACTION	73787
Jul. 02, 2012	ASSIGNED TO LIE	73787
Dec. 31, 2011	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Dec. 31, 2011	LETTER OF SUSPENSION E-MAILED	6332
Dec. 31, 2011	SUSPENSION LETTER WRITTEN	76731
Dec. 31, 2011	ASSIGNED TO EXAMINER	76731
Dec. 01, 2011	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Nov. 26, 2011	NEW APPLICATION ENTERED IN TRAM	

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## Maintenance Filings or Post Registration Information

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**Change in Registration:** Yes

**Amendment to a Registration/Renewal Certificate:** In the statement, line 7 before vegetables "fresh" is inserted, and after vegetables "namely tomatoes, peppers, cucumbers, and eggplant" is inserted.

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## TM Staff and Location Information

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**TM Staff Information - None**

**File Location**

**Current Location:** POST REGISTRATION

**Date in Location:** Mar. 26, 2015

# United States of America

United States Patent and Trademark Office

## SUNSET TIME VINE...EVOLUTION OF THE TOMATO

**Reg. No. 4,702,054**

**Registered Mar. 17, 2015**

**Amended Apr. 28, 2015**

**Int. Cls.: 16 and 31**

**TRADEMARK**

**PRINCIPAL REGISTER**

MASTRONARDI PRODUCE LTD. (CANADA CORPORATION)  
C/O KOENIG & ASSOCIATES  
920 GARDEN STREET  
SANTA BARBARA, CA 93101

FOR: PLASTIC SHOPPING BAGS, NAMELY, POLYPROPYLENE BAGS , IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50). .

FOR: FRESH FRUIT; \* FRESH \* VEGETABLES \*, NAMELY, TOMATOES, PEPPERS, CUCUMBERS, AND EGGPLANT \*, IN CLASS 31 (U.S. CLS. 1 AND 46). .

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

PRIORITY CLAIMED UNDER SEC. 44(D) ON CANADA APPLICATION NO. 1530898, FILED 6-8-2011, REG. NO. TMA827416, DATED 7-3-2012.

OWNER OF U.S. REG. NO. 4,024,358.

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

SER. NO. 85-479,625, FILED 11-23-2011.



*Michelle K. Lee*

Director of the United States  
Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. See 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\* See 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the United States Patent and Trademark Office (USPTO). The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. See 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. See 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

**NOTE: A courtesy e-mail reminder of USPTO maintenance filing deadlines will be sent to trademark owners/holders who authorize e-mail communication and maintain a current e-mail address with the USPTO. To ensure that e-mail is authorized and your address is current, please use the Trademark Electronic Application System (TEAS) Correspondence Address and Change of Owner Address Forms available at <http://www.uspto.gov>.**

**Generated on:** This page was generated by TSDR on 2015-05-27 14:59:47 EDT

**Mark:** SUNSET ORGANICS

SUNSET ORGANICS

**US Serial Number:** 77628536  
**Application Filing Date:** Dec. 08, 2008  
**US Registration Number:** 4336619  
**Registration Date:** May 21, 2013  
**Register:** Principal  
**Mark Type:** Trademark  
**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.  
**Status Date:** May 21, 2013  
**Publication Date:** Dec. 20, 2011

## Mark Information

**Mark Literal Elements:** SUNSET ORGANICS  
**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.  
**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK  
**Disclaimer:** "ORGANICS"

## Foreign Information

**Priority Claimed:** Yes  
**Foreign Application Number:** 1407757  
**Foreign Application Filing Date:** Aug. 19, 2008  
**Foreign Registration Number:** TMA804.862  
**Foreign Registration Date:** Aug. 19, 2011  
**Foreign Application/Registration Country:** CANADA  
**Foreign Expiration Date:** Aug. 19, 2026

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*...\* identify additional (new) wording in the goods/services.

**For:** Organic fresh, raw and unprocessed vegetables, namely, tomatoes, peppers, cucumbers, and eggplant  
**International Class(es):** 031 - Primary Class  
**U.S Class(es):** 001, 046  
**Class Status:** ACTIVE  
**Basis:** 1(a) 44(e)  
**First Use:** Sep. 30, 2008  
**Use in Commerce:** Sep. 30, 2008

## Basis Information (Case Level)

<b>Filed Use:</b> No	<b>Currently Use:</b> Yes	<b>Amended Use:</b> No
<b>Filed ITU:</b> Yes	<b>Currently ITU:</b> No	<b>Amended ITU:</b> No
<b>Filed 44D:</b> Yes	<b>Currently 44D:</b> No	<b>Amended 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> Yes	<b>Amended 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No	
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No	

## Current Owner(s) Information

**Owner Name:** Mastronardi Produce Ltd.  
**Owner Address:** c/o Koenig & Associates  
 920 Garden Street, Suite A  
 Santa Barbara, CALIFORNIA 93101  
 UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where Organized: CANADA

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Mark D. Schneider  
**Attorney Primary Email Address:** [docket@patlaw.com](mailto:docket@patlaw.com)  
**Docket Number:** MAS-19819/08  
**Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** Mark D. Schneider  
Gifford Krass Sprinkle Citkowski  
2701 Troy Center Drive, Suite 330  
Troy, MICHIGAN 48084  
UNITED STATES  
**Phone:** 248-647-6000  
**Fax:** 248-647-5210  
**Correspondent e-mail:** [docket@patlaw.com](mailto:docket@patlaw.com)  
**Correspondent e-mail Authorized:** Yes

### Domestic Representative

**Domestic Representative Name:** Mark D. Schneider  
**Phone:** 248-647-6000  
**Fax:** 248-647-5210  
**Domestic Representative e-mail:** [docket@patlaw.com](mailto:docket@patlaw.com)  
**Domestic Representative e-mail Authorized:** Yes

## Prosecution History

Date	Description	Proceeding Number
May 13, 2015	ATTORNEY REVOKED AND/OR APPOINTED	
May 13, 2015	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
May 21, 2013	REGISTERED-PRINCIPAL REGISTER	
Apr. 15, 2013	PAPER RECEIVED	
Apr. 15, 2013	TTAB RELEASE CASE TO TRADEMARKS	205664
Apr. 15, 2013	OPPOSITION TERMINATED NO. 999999	205664
Apr. 15, 2013	OPPOSITION DISMISSED NO. 999999	205664
Jun. 18, 2012	OPPOSITION INSTITUTED NO. 999999	205664
Jan. 18, 2012	EXTENSION OF TIME TO OPPOSE RECEIVED	
Dec. 20, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Dec. 20, 2011	PUBLISHED FOR OPPOSITION	
Nov. 30, 2011	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Nov. 16, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	67287
Nov. 15, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 15, 2011	DATA MODIFICATION COMPLETED	67287
Oct. 27, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Oct. 26, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Oct. 26, 2011	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Jun. 15, 2011	NOTICE OF ACCEPTANCE OF AMENDMENT TO ALLEGE USE E-MAILED	
Jun. 14, 2011	USE AMENDMENT ACCEPTED	68181
Jun. 14, 2011	AMENDMENT TO USE PROCESSING COMPLETE	67287
Jun. 08, 2011	USE AMENDMENT FILED	67287
Jun. 08, 2011	TEAS AMENDMENT OF USE RECEIVED	
May 18, 2011	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
May 18, 2011	INQUIRY TO SUSPENSION E-MAILED	
May 18, 2011	SUSPENSION INQUIRY WRITTEN	68181
Nov. 18, 2010	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Nov. 18, 2010	LETTER OF SUSPENSION E-MAILED	6332

Nov. 18, 2010	SUSPENSION LETTER WRITTEN	68181
Nov. 16, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	67287
Nov. 16, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	67287
Nov. 13, 2010	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Nov. 13, 2010	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Nov. 13, 2010	INQUIRY TO SUSPENSION E-MAILED	
Nov. 13, 2010	SUSPENSION INQUIRY WRITTEN	68181
Oct. 14, 2010	LIE CHECKED SUSP - TO ATTY FOR ACTION	67287
Apr. 06, 2010	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Apr. 06, 2010	LETTER OF SUSPENSION E-MAILED	6332
Apr. 06, 2010	SUSPENSION LETTER WRITTEN	68181
Apr. 01, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	67287
Apr. 01, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	67287
Mar. 26, 2010	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Mar. 26, 2010	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Mar. 26, 2010	INQUIRY TO SUSPENSION E-MAILED	
Mar. 26, 2010	SUSPENSION INQUIRY WRITTEN	68181
Feb. 26, 2010	LIE CHECKED SUSP - TO ATTY FOR ACTION	67287
Feb. 26, 2010	ASSIGNED TO LIE	67287
Aug. 26, 2009	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Aug. 26, 2009	LETTER OF SUSPENSION E-MAILED	6332
Aug. 26, 2009	SUSPENSION LETTER WRITTEN	68181
Aug. 25, 2009	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Aug. 24, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Aug. 24, 2009	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Mar. 10, 2009	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Mar. 10, 2009	NON-FINAL ACTION E-MAILED	6325
Mar. 10, 2009	NON-FINAL ACTION WRITTEN	68181
Mar. 05, 2009	ASSIGNED TO EXAMINER	68181
Dec. 11, 2008	NEW APPLICATION ENTERED IN TRAM	

## TM Staff and Location Information

### TM Staff Information - None

#### File Location

**Current Location:** PUBLICATION AND ISSUE SECTION

**Date in Location:** May 21, 2013

## Proceedings

### Summary

**Number of Proceedings:** 2

### Type of Proceeding: Opposition

**Proceeding Number:** [91205664](#)

**Filing Date:** Jun 18, 2012

**Status:** Terminated

**Status Date:** Apr 15, 2013

**Interlocutory Attorney:** ROBERT COGGINS

#### Defendant

**Name:** Mastronardi Produce Ltd.

**Correspondent Address:** KURT KOENIG  
 KOENIG & ASSOCIATES  
 920 GARDEN ST STE A  
 SANTA BARBARA CA , 93101  
 UNITED STATES

**Correspondent e-mail:** [Kurt@incip.com](mailto:Kurt@incip.com)

### Associated marks

Mark	Application Status	Serial Number	Registration Number
SUNSET ORGANICS	Registered	<a href="#">77628536</a>	<a href="#">4336619</a>

**Plaintiff(s)**

**Name:** Basic American, Inc.

**Correspondent Address:** ROCHELLE D ALPERT  
MORGAN LEWIS & BOCKIUS LLP  
1 MARKET, SPEAR ST TOWER  
SAN FRANCISCO CA , 94105  
UNITED STATES

**Correspondent e-mail:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com) , [kaltoff@morganlewis.com](mailto:kaltoff@morganlewis.com)

**Associated marks**

Mark	Application Status	Serial Number	Registration Number
SUNSET	Renewed	<a href="#">76324431</a>	<a href="#">2829018</a>

**Prosecution History**

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jun 18, 2012	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jun 18, 2012	Jul 28, 2012
3	PENDING, INSTITUTED	Jun 18, 2012	
4	D'S MOT FOR EXTEN. OF TIME W/ CONSENT	Jul 19, 2012	
5	EXTENSION OF TIME GRANTED	Jul 19, 2012	
6	D'S MOT FOR EXTEN. OF TIME W/ CONSENT	Aug 27, 2012	
7	EXTENSION OF TIME GRANTED	Aug 27, 2012	
8	ANSWER	Sep 26, 2012	
9	P'S MOTION TO STRIKE	Oct 12, 2012	
10	MOTION TO AMEND ANSWER/AMENDED ANSWER OR COUNTERCLAIM	Nov 01, 2012	
11	D'S OPPOSITION/RESPONSE TO MOTION	Nov 01, 2012	
12	TRIAL DATES RESET	Nov 07, 2012	
13	MOT TO AMEND APPLICATION	Feb 21, 2013	
14	CONSOLIDATED (PARENT)	Nov 15, 2012	
15	BD DECISION: DISMISSED W/O PREJ	Apr 15, 2013	
16	TERMINATED	Apr 15, 2013	

**Type of Proceeding: Extension of Time**

**Proceeding Number:** [77628536](#)

**Filing Date:** Jan 18, 2012

**Status:** Terminated

**Status Date:** Jun 19, 2012

**Interlocutory Attorney:**

**Defendant**

**Name:** Mastronardi Produce Ltd.

**Correspondent Address:** KURT KOENIG  
KOENIG & ASSOCIATES  
PO BOX 1140  
SUMMERLAND CA , 93067-1140  
UNITED STATES

**Associated marks**

Mark	Application Status	Serial Number	Registration Number
SUNSET ORGANICS	Registered	<a href="#">77628536</a>	<a href="#">4336619</a>

**Potential Opposer(s)**

**Name:** Basic American, Inc.

**Correspondent Address:** Rochelle D. Alpert  
Morgan, Lewis & Bockius LLP  
One Market, Spear Street Tower  
San Francisco CA , 94105  
UNITED STATES

**Correspondent e-mail:** [ralpert@morganlewis.com](mailto:ralpert@morganlewis.com) , [lweinberg@morganlewis.com](mailto:lweinberg@morganlewis.com) , [kurt@incip.com](mailto:kurt@incip.com) , [patricia.marquez@morganlewis.com](mailto:patricia.marquez@morganlewis.com) , [sfrademarks@morganlewis.com](mailto:sfrademarks@morganlewis.com)

**Associated marks**

Mark		Application Status	Serial Number	Registration Number
Prosecution History				
Entry Number	History Text		Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED		Jan 18, 2012	
2	EXTENSION OF TIME GRANTED		Jan 18, 2012	
3	INCOMING - EXT TIME TO OPPOSE FILED		Apr 13, 2012	
4	EXTENSION OF TIME GRANTED		Apr 13, 2012	

# United States of America

United States Patent and Trademark Office

## SUNSET ORGANICS

**Reg. No. 4,336,619**

**Registered May 21, 2013**

**Int. Cl.: 31**

**TRADEMARK**

**PRINCIPAL REGISTER**

MASTRONARDI PRODUCE LTD. (CANADA CORPORATION)  
C/O KOENIG & ASSOCIATES  
920 GARDEN STREET, SUITE A  
SANTA BARBARA, CA 93101

FOR: ORGANIC FRESH, RAW AND UNPROCESSED VEGETABLES, NAMELY, TOMATOES, PEPPERS, CUCUMBERS, AND EGGPLANT, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 9-30-2008; IN COMMERCE 9-30-2008.

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

PRIORITY CLAIMED UNDER SEC. 44(D) ON CANADA APPLICATION NO. 1407757, FILED 8-19-2008, REG. NO. TMA 804,862, DATED 8-19-2011, EXPIRES 8-19-2026.

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

SER. NO. 77-628,536, FILED 12-8-2008.

ERIN FALK, EXAMINING ATTORNEY



*Sean Street Lee*

Acting Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
DOCUMENTS BELOW DURING THE SPECIFIED TIME PERIODS.**

**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
reminder of these filing requirements.**

**\*ATTENTION MADRID PROTOCOL REGISTRANTS:** The holder of an international registration with an extension of protection to the United States under the Madrid Protocol must timely file the Declarations of Use (or Excusable Nonuse) referenced above directly with the USPTO. The time periods for filing are based on the U.S. registration date (not the international registration date). The deadlines and grace periods for the Declarations of Use (or Excusable Nonuse) are identical to those for nationally issued registrations. *See* 15 U.S.C. §§1058, 1141k. However, owners of international registrations do not file renewal applications at the USPTO. Instead, the holder must file a renewal of the underlying international registration at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol, before the expiration of each ten-year term of protection, calculated from the date of the international registration. *See* 15 U.S.C. §1141j. For more information and renewal forms for the international registration, see <http://www.wipo.int/madrid/en/>.

**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**



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**Mark:** SUNSET KIDZ

SUNSET KIDZ

**US Serial Number:** 77470888  
**Application Filing Date:** May 09, 2008  
**US Registration Number:** 4024358  
**Registration Date:** Sep. 13, 2011  
**Register:** Principal  
**Mark Type:** Trademark  
**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.  
**Status Date:** Sep. 13, 2011  
**Publication Date:** Jun. 28, 2011

## Mark Information

**Mark Literal Elements:** SUNSET KIDZ  
**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.  
**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

## Foreign Information

**Priority Claimed:** Yes  
**Foreign Application Number:** 1387860  
**Foreign Application Filing Date:** Mar. 18, 2008  
**Foreign Registration Number:** TMA794634  
**Foreign Registration Date:** Apr. 04, 2011  
**Foreign Application/Registration Country:** CANADA  
**Foreign Expiration Date:** Apr. 04, 2026

## Goods and Services

**Note:** The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Fresh hydroponic tomatoes, fresh hydroponic vegetables, \* namely, tomatoes, peppers, cucumbers, and eggplant \*  
**International Class(es):** 031 - Primary Class  
**U.S Class(es):** 001, 046  
**Class Status:** ACTIVE  
**Basis:** 1(a) 44(e)  
**First Use:** Dec. 04, 2008  
**Use in Commerce:** Dec. 04, 2008

## Basis Information (Case Level)

<b>Filed Use:</b> No	<b>Currently Use:</b> Yes	<b>Amended Use:</b> No
<b>Filed ITU:</b> Yes	<b>Currently ITU:</b> No	<b>Amended ITU:</b> No
<b>Filed 44D:</b> No	<b>Currently 44D:</b> No	<b>Amended 44D:</b> No
<b>Filed 44E:</b> No	<b>Currently 44E:</b> Yes	<b>Amended 44E:</b> No
<b>Filed 66A:</b> No	<b>Currently 66A:</b> No	
<b>Filed No Basis:</b> No	<b>Currently No Basis:</b> No	

## Current Owner(s) Information

**Owner Name:** Mastronardi Produce Ltd.  
**Owner Address:** 920 Garden Street, Suite A  
Santa Barbara, CALIFORNIA 93101  
UNITED STATES  
**Legal Entity Type:** CORPORATION  
**State or Country Where Organized:** CANADA

## Attorney/Correspondence Information

### Attorney of Record

**Attorney Name:** Mark D. Schneider **Docket Number:** MAS-20519/08  
**Attorney Primary Email Address:** [doCKET@patlaw.com](mailto:doCKET@patlaw.com) **Attorney Email Authorized:** Yes

### Correspondent

**Correspondent Name/Address:** Mark D. Schneider  
 Gifford Krass Sprinkle Citkowski  
 2701 Troy Center Drive, Suite 330  
 Troy, MICHIGAN 48084  
 UNITED STATES  
**Phone:** 248-647-6000 **Fax:** 248-647-5210  
**Correspondent e-mail:** [doCKET@patlaw.com](mailto:doCKET@patlaw.com) **Correspondent e-mail Authorized:** Yes

### Domestic Representative

**Domestic Representative Name:** Mark D. Schneider **Phone:** 248-647-6000  
**Fax:** 248-647-5210  
**Domestic Representative e-mail:** [doCKET@patlaw.com](mailto:doCKET@patlaw.com) **Domestic Representative e-mail Authorized:** Yes

## Prosecution History

Date	Description	Proceeding Number
May 13, 2015	ATTORNEY REVOKED AND/OR APPOINTED	
May 13, 2015	TEAS REVOKE/APPOINT ATTORNEY RECEIVED	
Apr. 11, 2013	AMENDMENT UNDER SECTION 7 - ISSUED	76293
Apr. 05, 2013	TEAS RESPONSE TO OFFICE ACTION-POST REG RECEIVED	
Mar. 03, 2013	POST REGISTRATION ACTION MAILED - SEC. 7	76293
Mar. 03, 2013	CASE ASSIGNED TO POST REGISTRATION PARALEGAL	76293
Feb. 20, 2013	TEAS SECTION 7 REQUEST RECEIVED	
Sep. 13, 2011	REGISTERED-PRINCIPAL REGISTER	
Jun. 28, 2011	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jun. 28, 2011	PUBLISHED FOR OPPOSITION	
May 26, 2011	LAW OFFICE PUBLICATION REVIEW COMPLETED	73787
May 21, 2011	NOTICE OF ACCEPTANCE OF AMENDMENT TO ALLEGE USE E-MAILED	
May 20, 2011	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 20, 2011	USE AMENDMENT ACCEPTED	76629
May 07, 2011	AMENDMENT TO USE PROCESSING COMPLETE	73787
May 07, 2011	USE AMENDMENT FILED	73787
Apr. 16, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Apr. 15, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Apr. 15, 2011	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Apr. 15, 2011	TEAS AMENDMENT OF USE RECEIVED	
Feb. 15, 2011	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Feb. 15, 2011	LETTER OF SUSPENSION E-MAILED	6332
Feb. 15, 2011	SUSPENSION LETTER WRITTEN	76629
Feb. 14, 2011	TEAS/EMAIL CORRESPONDENCE ENTERED	73787
Feb. 14, 2011	CORRESPONDENCE RECEIVED IN LAW OFFICE	73787
Feb. 07, 2011	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Aug. 11, 2010	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Aug. 11, 2010	INQUIRY TO SUSPENSION E-MAILED	
Aug. 11, 2010	SUSPENSION INQUIRY WRITTEN	76629

Jul. 30, 2010	LIE CHECKED SUSP - TO ATTY FOR ACTION	73787
Jan. 16, 2010	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jan. 16, 2010	LETTER OF SUSPENSION E-MAILED	6332
Jan. 16, 2010	SUSPENSION LETTER WRITTEN	76629
Jan. 07, 2010	TEAS/EMAIL CORRESPONDENCE ENTERED	73787
Jan. 07, 2010	CORRESPONDENCE RECEIVED IN LAW OFFICE	73787
Jan. 07, 2010	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
Jan. 07, 2010	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
Jan. 07, 2010	INQUIRY TO SUSPENSION E-MAILED	
Jan. 07, 2010	SUSPENSION INQUIRY WRITTEN	76629
Dec. 28, 2009	LIE CHECKED SUSP - TO ATTY FOR ACTION	73787
Jun. 24, 2009	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Jun. 24, 2009	LETTER OF SUSPENSION E-MAILED	6332
Jun. 24, 2009	SUSPENSION LETTER WRITTEN	76629
Jun. 18, 2009	TEAS/EMAIL CORRESPONDENCE ENTERED	73787
Jun. 18, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	73787
Jun. 15, 2009	TEAS RESPONSE TO SUSPENSION INQUIRY RECEIVED	
May 07, 2009	NOTIFICATION OF INQUIRY AS TO SUSPENSION E-MAILED	
May 07, 2009	INQUIRY TO SUSPENSION E-MAILED	
May 07, 2009	SUSPENSION INQUIRY WRITTEN	76629
Apr. 21, 2009	LIE CHECKED SUSP - TO ATTY FOR ACTION	73787
Oct. 21, 2008	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Oct. 21, 2008	LETTER OF SUSPENSION E-MAILED	6332
Oct. 21, 2008	SUSPENSION LETTER WRITTEN	76629
Sep. 10, 2008	TEAS/EMAIL CORRESPONDENCE ENTERED	73787
Sep. 10, 2008	CORRESPONDENCE RECEIVED IN LAW OFFICE	73787
Sep. 10, 2008	ASSIGNED TO LIE	73787
Sep. 03, 2008	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Aug. 28, 2008	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Aug. 28, 2008	NON-FINAL ACTION E-MAILED	6325
Aug. 28, 2008	NON-FINAL ACTION WRITTEN	76629
Aug. 25, 2008	ASSIGNED TO EXAMINER	76629
Aug. 14, 2008	APPLICANT/CORRESPONDENCE CHANGES (NON-RESPONSIVE) ENTERED	88888
Aug. 14, 2008	TEAS CHANGE OF OWNER ADDRESS RECEIVED	
May 14, 2008	NOTICE OF PSEUDO MARK MAILED	
May 13, 2008	NEW APPLICATION ENTERED IN TRAM	

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### **Maintenance Filings or Post Registration Information**

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**Change in Registration:** Yes

**Correction made to Registration:** The following "namely, tomatoes, peppers, cucumbers, and eggplant" is inserted at end of the class.

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### **TM Staff and Location Information**

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**TM Staff Information - None**

**File Location**

**Current Location:** POST REGISTRATION

**Date in Location:** May 16, 2013

**United States of America**  
United States Patent and Trademark Office

# SUNSET KIDZ

**Reg. No. 4,024,358**

**Registered Sep. 13, 2011**

**Amended May 14, 2013**

**Int. Cl.: 31**

**TRADEMARK**

**PRINCIPAL REGISTER**

MASTRONARDI PRODUCE LTD. (CANADA CORPORATION)  
920 GARDEN STREET, SUITE A  
SANTA BARBARA, CA 93101

FOR: FRESH HYDROPONIC TOMATOES, FRESH HYDROPONIC VEGETABLES, \* NAMELY, TOMATOES, PEPPERS, CUCUMBERS, AND EGGPLANT \*, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 12-4-2008; IN COMMERCE 12-4-2008.

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

PRIORITY CLAIMED UNDER SEC. 44(D) ON CANADA APPLICATION NO. 1387860, FILED 3-18-2008, REG. NO. TMA 794634, DATED 4-4-2011.

SER. NO. 77-470,888, FILED 5-9-2008.



*Sean Street Lee*

Acting Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL  
TRADEMARK REGISTRATION**

**WARNING: YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT FILE THE  
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**Requirements in the First Ten Years\***

**What and When to File:**

***First Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) between the 5th and 6th years after the registration date. *See* 15 U.S.C. §§1058, 1141k. If the declaration is accepted, the registration will continue in force for the remainder of the ten-year period, calculated from the registration date, unless cancelled by an order of the Commissioner for Trademarks or a federal court.

***Second Filing Deadline:*** You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between the 9th and 10th years after the registration date.\*  
*See* 15 U.S.C. §1059.

**Requirements in Successive Ten-Year Periods\***

**What and When to File:**

You must file a Declaration of Use (or Excusable Nonuse) **and** an Application for Renewal between every 9th and 10th-year period, calculated from the registration date.\*

**Grace Period Filings\***

The above documents will be accepted as timely if filed within six months after the deadlines listed above with the payment of an additional fee.

**The United States Patent and Trademark Office (USPTO) will NOT send you any future notice or  
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**NOTE: Fees and requirements for maintaining registrations are subject to change. Please check the USPTO website for further information. With the exception of renewal applications for registered extensions of protection, you can file the registration maintenance documents referenced above online at <http://www.uspto.gov>.**

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