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

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Novalis LLC		
Entity	Limited Liability Company	Citizenship	Connecticut
Address	90 Salmon Brook Street Granby, CT 06035 UNITED STATES		

Attorney information	David A. Menard Murtha Cullina LLP CityPlace 1, 185 Asylum Street Hartford, CT 06103 UNITED STATES dmenard@murthalaw.com, rzitzelsberger@murthalaw.com Phone:860-240-6047
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Registration Subject to Cancellation

Registration No	3784796	Registration date	05/04/2010
Registrant	Carolina Nurseries, Inc. 739 Gaillard Road Moncks Corner, SC 29461 UNITED STATES		

Goods/Services Subject to Cancellation

Class 031. First Use: 2001/00/00 First Use In Commerce: 2001/00/00 All goods and services in the class are cancelled, namely: Living plants

Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel.pdf(225578 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 Overnight Courier on this date.

Signature	/David A. Menard/
Name	David A. Menard
Date	06/25/2013

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

In re Registration No. 3784796)
Mark: Plants That Work In The Shade)
Date Registered: May 4, 2010)
)
NOVALIS LLC,)
)
Petitioner,)
)
v.)
)
CAROLINA NURSERIES, INC.,)
)
Registrant.)

PETITION TO CANCEL

Novalis LLC, a Connecticut limited liability company having its principal place of business at 90 Salmon Brook Street, Granby, Connecticut 06035, believes that it is damaged by Registration No. 3784796, and hereby petitions to cancel the same. As grounds for cancellation, Petitioner asserts that:

1. Upon information and belief, Registrant was a Delaware corporation having its principal place of business at 739 Gaillard Road, Moncks Corner, South Carolina 29461.
2. Upon information and belief, Registrant operated a plant growers association named "Novalis" under which it used and licensed the "Plants that Work" family of marks.
3. Upon information and belief, Registrant entered into bankruptcy and as part of a judgment against Registrant, Registrant sold substantially all of its business, assets and properties, including substantially all of its registered marks, including other marks that use the phrase "Plants That Work".

4. Upon information and belief, Registrant has not been a functioning operating company since no later than December 3, 2010.

5. Petitioner is the owner of the successor to the original Novalis plant growers association, with substantially the same membership of the original organization.

6. Petitioner has acquired substantially all of the marks originally owned by Registrant.

7. Petitioner has two applications Serial Nos. 85-693,262 and 85-693,275 for marks that use the phrase "Plants That Work". Petitioner's applications have been cited as being confusing with the Registered Mark, which has been abandoned.

8. Petitioner currently owns the rights to eight marks that use the "Plants that Work" core, each of which was formally owned by Registrant. The marks and registration numbers are:

<u>Trademark</u>	<u>Registration Number</u>
Plants That Work	2445607
Plants That Work	2500930
Plants That Work Bring on the Heat	3242332
Plants That Work	3247238
Plants That Work by Color	3517570
Plants That Work Garden Sensations	3544147
Plants That Work in Nooks & Crannies	3556599
Plants That Work in the Kitchen	3726323

9. Upon information and belief, it was the intention of the Registrant and the bankruptcy judgment transferee that the family of "Plants that Work" marks be assigned to Applicant, and that the Registered Mark was inadvertently omitted. For example, in its November 4, 2009 application for the mark "PLANTS THAT WORK IN THE SHADE," Registrant specifically cited as prior registrations 2445067, 2500930, 3232332 and others, all of which have now been assigned to Petitioner.

10. Upon information and belief, cancellation of the Registered Mark is necessary for Petitioner to conduct its business without interruption, which is substantially the same business as the now defunct owner of the Registered Mark.

WHEREFORE, Petitioner prays that Registration No 3784796 be cancelled because the Registered Mark has been abandoned by Registrant.

Dated: June 25, 2013

Respectfully submitted,


David A. Menard
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition for Cancellation was served, via overnight courier, on Registrant Carolina Nurseries at the following address:

739 Gaillard Road
Moncks Corner, South Carolina 29461


David A. Menard
Attorney for Petitioner