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

Proceeding	92062808
Party	Defendant Compass Minerals America Inc.
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Attachments	Registrant_s Motion to Suspend Proceedings and Suggestions in Support.PDF(4916655 bytes)

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

GAIA ENTERPRISES, INC.,)	
Petitioner,)	
)	
v.)	Cancellation No.: 92062808
)	Serial No.: 85/009,174
COMPASS MINERALS AMERICA INC.,)	Reg. No.: 3,963,355
Registrant.)	Mark: SURE PAWS
)	Filed: April 8, 2010
)	Registered: May 17, 2011
)	Class: 01

Trademark Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1451
Alexandria, VA 22313-1451

**REGISTRANT'S MOTION TO SUSPEND PROCEEDINGS
AND SUGGESTIONS IN SUPPORT**

Pursuant to 37 C.F.R. 2.117(a), Compass Minerals America Inc. ("Compass Minerals") respectfully moves the Trademark Trial and Appeal Board to suspend the above-referenced cancellation proceeding (the "Cancellation Proceeding") until the Civil Action (defined below) between parties, which bears on and is likely dispositive of the issues before the Board, is concluded. In support of its motion, Compass Minerals submits the following.

On March 18, 2016, Compass Minerals filed a Complaint in the U.S. District Court for the District of Kansas, styled Compass Minerals America Inc. v. Gaia Enterprises, Inc., Case No. 2:16-cv-02175 (the "Civil Action"). The Complaint in the Civil Action seeks: (1) a declaration that Gaia's SAFE PAW (U.S. Reg. No. 4,288,928) and SAFE PAW and Design (U.S. Reg. No. 4,156,873) marks (collectively the "Gaia Marks") are invalid and an order cancelling the registrations for these marks; and (2) to the extent that Gaia owns valid rights in the Gaia Marks, a declaratory judgment that Compass Minerals' use of the composite mark SAFE STEP SURE

PAWS does not infringe either of the Gaia Marks. A copy of the Complaint in the Civil Action is attached as Exhibit A. All counts in the Civil Action relate to the validity and scope of Gaia's rights in and to the SAFE PAW and SAFE PAW and Design marks, which marks are the basis of this Cancellation Proceeding.

It is within the Board's discretion to aid in the efficient resolution of the dispute between the parties by suspending the current Cancellation Proceeding until there is a final determination in the co-pending Civil Action. 37 C.F.R. 2.117(a) provides, in pertinent part:

(a) Whenever it shall come to the attention of the Trademark Trial and Appeal Board that a party or parties to a pending case are engaged in a civil action...which may have a bearing on the case, proceedings before the Board may be suspended until termination of the civil action....

See also TBMP § 510.02(a) ("To the extent that a civil action in a federal district court involves issues in common with those in a proceeding before the Board, the decision of the federal district court is often binding upon the Board, while the decision of the Board is not binding upon the court."). A civil action does not need to dispose of the Board proceeding to warrant suspension. Rather, the civil action need only have a *bearing* on the issues before the Board. *See New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011); *General Motors Corp v. Cadillac Club Fashions, Inc.*, 22 USPQ2d 1933 (TTAB 1992) (relief sought in federal district court included an order directing Office to cancel registration involved in cancellation proceeding).

This Cancellation Proceeding and the pending Civil Action both involve the same parties and both require a determination of the validity of Gaia's Marks. In this Cancellation Proceeding, Gaia has asserted a likelihood of confusion with its SAFE PAW marks and fraud as the basis for

seeking cancellation of Compass Minerals' SURE PAWS registration¹. If the federal court determines both of Gaia's Marks are invalid and orders the associated registrations cancelled, Gaia would no longer have standing to seek cancellation of Compass Mineral's registration for SURE PAWS on the asserted basis. If the federal court were to determine that one, but not both, of Gaia's Marks is invalid, that result would still have a bearing on the cancellation action because the scope of Gaia's trademark rights is a necessary prerequisite to the Board's determination of whether there is a likelihood of confusion caused by Compass Minerals' registration and whether Compass Minerals' statements during prosecution were fraudulent. Moreover, the findings of the federal court in the Civil Action will have a direct bearing on essential underpinnings of the fraud claim in the Cancellation Proceeding, such as whether Gaia has any rights in the Gaia Marks, and if so, whether there exists any impermissible similarity between the relevant marks as used in commerce.

Because the outcome of the Civil Action has the potential to dispose of the pending Cancellation Proceeding, suspension is appropriate. *See Whopper-Burger, Inc. v. Burger King Corp.*, 171 USPQ 805, 807 (TTAB 1971) (granting a motion to suspend when, "[t]here can be no doubt therefore that the outcome of the civil action will have a direct bearing on the question of the rights of the parties herein and may in fact completely resolve all the issues"). Further, even if the Civil Action does not entirely dispose of the pending Cancellation Proceeding, it unquestionably has a *bearing* on the issues before the Board, making suspension appropriate. *New Orleans Louisiana Saints LLC*, 99 USPQ2d 1550 at 1552.

The foregoing motion is made in good faith and not for the purpose of delay. For the reasons set forth herein, Compass Minerals respectfully requests the Board grant its motion to

¹ Compass Minerals is currently challenging the adequacy of the pleadings on both counts in its earlier filed Motion to Dismiss this Cancellation Proceeding.

suspend the above-referenced Cancellation Proceeding pending the outcome of the directly-related Civil Action.

Respectfully submitted,

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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

COMPASS MINERALS AMERICA INC.,

Plaintiff,

v.

GAIA ENTERPRISES, INC.,

Defendant.

CIVIL ACTION NO. 2:16-cv-2175

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Compass Minerals America Inc. (“Compass Minerals”), for its Complaint against Defendant Gaia Enterprises, Inc. (“Gaia”), alleges as follows:

NATURE OF THE ACTION

1. Compass Minerals is a leading producer of salts, minerals, plant nutrients, and deicing products, including pet-friendly deicing products sold under its SAFE STEP® and SURE PAWS® trademarks used in combination. Gaia has accused Compass Minerals of infringing Gaia’s rights in its alleged SAFE PAW trademarks, under which it markets a competing deicing product (the “Competing Product”). This is an action seeking: (1) cancellation of Gaia’s federal registrations for its alleged SAFE PAW trademarks on the grounds that they are merely descriptive of the goods for which they are registered and have not acquired distinctiveness; and (2) a declaratory judgment that (a) Compass Minerals’ use of its SURE PAWS® trademark does not infringe any rights of Gaia and (b) that Gaia has no valid trademark rights in its alleged SAFE PAW marks, either by statute or at common law.

THE PARTIES

2. Compass Minerals is a Delaware corporation with its principal place of business, and corporate headquarters, at 9900 W. 109th Street, Suite 100, Overland Park, Kansas 66210. Compass Minerals' Kansas headquarters is the primary hub of activity for finance, sales, and operations of the salt technology and products involved in this suit.

3. Upon information and belief, Gaia is a Pennsylvania corporation with its principal place of business at 103 Roy Lane, Huntingdon Valley, Pennsylvania 19006.

JURISDICTION AND VENUE

4. This action arises under the trademark laws of the United States, 15 U.S.C. § 1051, et seq. This Court has original jurisdiction over the subject matter of this action pursuant to 15 U.S.C. §§ 1119 and 1121(a) and 28 U.S.C. §§ 1331, 1338(a), and 2201.

5. This Court has personal jurisdiction over Gaia because it does business in interstate commerce in the United States, including within this District. Gaia markets, distributes and sells the Competing Product within this District at various brick-and-mortar stores—such as Costco and Sam's Club—and through online retailers (e.g. Amazon.com). Gaia's online sales are directed to the citizens of this District.

6. Within the past six months, Gaia has sold the Competing Product at Costco stores in Kansas.

7. Within the past six months, Gaia has sold the Competing Product at Sam's Club stores in Kansas.

8. Within the past six months, Gaia has sold the Competing Product at PetSmart stores in Kansas.

9. The Competing Product is also offered for sale by the Kansas Humane Society, which is located within this District. *See* Exhibit A (receipt showing the purchase of the Competing Product from the Kansas Humane Society on March 7, 2016).

10. Gaia proudly advertises that the Competing Product is also available at a variety of internet retailers, all of which allow residents of Kansas to purchase the Competing Product and have it shipped directly to Kansas. *See* www.safepaw.com/locator-internet.html (last visited March 7, 2016). Gaia also advertises that its Competing Product “can be purchased nationally (cold weather states) via hardware stores, veterinarian offices, pet supply stores, and grocery/drug chains.” *See* www.safepaw.com/faq.html#q03 (last visited March 7, 2016).

11. Through its sales and promotional efforts, Gaia directs its advertising and sales efforts to citizens of Kansas and sells its Competing Product within this District.

12. As detailed below, Gaia’s conduct has harmed, and will continue to harm, Compass Minerals, which is located in this District.

13. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

FACTS APPLICABLE TO ALL COUNTS

A. Compass Minerals’ SAFE STEP® SURE PAWS® Trademarks and Products.

14. Since 1844, Compass Minerals, directly and through its predecessor entities, has been in the business of mining and supplying mineral products to consumers. Today, Compass Minerals is a major producer and supplier of salts and other minerals for home and professional uses throughout the United States. In its basic form, salt is a mineral composed of sodium and chlorine and is used for a variety of applications such as deicing roads, highways, and walkways, softening hard water, providing nutrition to livestock, and cooking.

15. One of Compass Minerals' most popular mineral-based product families is the SAFE STEP® family of deicing products, including its pet-friendly SAFE STEP® SURE PAWS® product. Compass Minerals' SAFE STEP® SURE PAWS® product is marketed for residential use and was specifically formulated so that it would not irritate pets' paws or skin. This formulation was developed using a proprietary blend of minerals that includes Magnesium Chloride, which occurs naturally in the ocean and in other sea beds. Magnesium Chloride is a high quality, ecologically friendly product that is used for low temperature deicing. As a deicing agent, Magnesium Chloride helps prevent ice from bonding (i.e. freezing) and is gentle on concrete, vegetation, and skin, making it ideal for home ice melting use—particularly in homes with pets.

16. Since at least 1971, Compass Minerals (directly and through its predecessor entities) has used its SAFE STEP® trademark continuously and extensively in interstate commerce. Compass Minerals' rights in and to the SAFE STEP® trademark are embodied, in part, in United States Trademark Registration 1,070,471, which has been registered on the Principal Register since August 2, 1977. A copy of this registration is attached as Exhibit B to this Complaint.

17. Compass Minerals owns all right, title, and interest in the SAFE STEP® trademark. Compass Minerals' SAFE STEP® trademark has been registered and in continuous use for more than five consecutive years and has become incontestable pursuant to 15 U.S.C. § 1065.

18. Compass Minerals' SAFE STEP® mark has appeared extensively on the product packaging, advertising, in-store displays, and deicing product family point of purchase materials.

Consumers have come to associate the SAFE STEP® mark with Compass Minerals and its family of deicing products.

19. As a result of Compass Minerals' long, extensive, widespread, and substantially exclusive use, the SAFE STEP® trademark has developed significant and valuable goodwill. The SAFE STEP® trademark enjoys a favorable reputation among consumers as identifying high quality, non-irritating, environmentally friendly deicing products sold exclusively by Compass Minerals.

20. Compass Minerals has been using its SURE PAWS® trademark continuously and extensively in interstate commerce since at least 2010. Compass Minerals rights in and to the SURE PAWS® trademark are embodied, in part, in United States Trademark Registration No. 3,963,355, which has been registered on the Principal Register since May 17, 2011. A copy of this registration is attached as Exhibit C to this Complaint.

21. Compass Minerals owns all right, title, and interest in the SURE PAWS® trademark.

22. Compass Minerals' SURE PAWS® mark has appeared extensively on the product packaging, advertising, in-store displays, and point of purchase material for products in the deicing product family. Consumers have come to associate the SURE PAWS® mark with Compass Minerals and its unique family of deicing products.

23. Compass Minerals only uses its SURE PAWS® mark in combination with its SAFE STEP® mark.

24. Consumers have come to associate the combined use of the SAFE STEP® and SURE PAWS® marks with Compass Minerals and the pet friendly, non-irritating,

environmentally safe characteristics of the high quality deicing products produced exclusively by Compass Minerals.

25. As a result of Compass Minerals' long, extensive, widespread, and substantially exclusive use of the SAFE STEP® and SURE PAWS® trademarks, the trademarks used in combination have developed significant and valuable goodwill and Compass Minerals enjoys a favorable reputation among consumers as identifying deicing products sold exclusively by Compass Minerals.

26. Compass Minerals' SAFE STEP® SURE PAWS® product is sold nationwide through a variety of chain stores including True Value, Ace Hardware and Do it Best. The product is also sold through several internet retailers such as The Home Depot online and Amazon.com. The SAFE STEP® SURE PAWS® product is sold in plastic jugs as well as 20 pound bags. An example of Compass Minerals' SAFE STEP® SURE PAWS® product is pictured below.



B. Gaia's Competing Product and Petition to Cancel Compass Minerals' Mark.

27. Gaia manufactures and sells a deicing product under an alleged SAFE PAW trademark. Gaia's Competing Product has been sold nationwide at stores including Sam's Club, PetSmart, and Costco, and competes directly with Compass Minerals' SAFE STEP® SURE PAWS® product. An image of the Competing Product is below:



28. Instead of using salts like Magnesium Chloride as the primary deicing component of the formulation, the Competing Product claims to utilize a proprietary modified amide/glycol admixture.

29. The Competing Product also contains, in more than *de minimis* amounts, Carbynol Diamide—the chemical name for urea—which releases nitrates that can contaminate waterways by depleting the oxygen in the water.

30. On July 19, 2011, Gaia filed a trademark application, United States Serial No. 85/374,903, with the United States Patent and Trademark Office (“USPTO”) for the graphic depiction of the word “SAFE PAW” juxtaposed with a drawing of the paw print of an animal.

31. On November 10, 2011, the USPTO issued an office action against Gaia’s application for SAFE PAW, requiring that Gaia disclaim the phrase “SAFE PAW” apart from the mark as a whole. Gaia responded to this requirement with a claim of acquired distinctiveness-in-part for the phrase “SAFE PAW” based on five years of continuous and substantially exclusive use.

32. On June 12, 2012, the USPTO issued United States Trademark Registration No. 4,156,873 for the SAFE PAW graphic mark. A copy of this registration is attached as Exhibit D to this Complaint.

33. On June 28, 2012, after the “SAFE PAW” graphic mark registered, Gaia filed an application, United States Serial No. 85/663,741, for the standard character mark “SAFE PAW.” On February 12, 2013, the USPTO issued United States Trademark Registration No. 4,288,928 for the SAFE PAW standard character mark. A copy of this registration is attached as Exhibit E to this Complaint.

34. The phrase “SAFE PAW,” when used in connection with the goods identified in Registration No. 4,156,873 and Registration No. 4,288,928, is merely descriptive in that the phrase immediately informs consumers that Gaia’s chemical preparations for melting snow and ice are safe for an animal’s paws. Consumers can reach such conclusions without requiring imagination, thought, or perception.

35. The merely descriptive nature of the phrase “SAFE PAW” is reflected in Gaia’s own marketing materials, including the following statements from Gaia’s website, among others:

- a. Ice Melter Pet & Child Safe
- b. Gaia Enterprises Safe Paw Ice Melter is 100% salt-free and is guaranteed pet and child safe (MSDS)!
- c. Safe Paw is the only 100% salt-free ice melter on the market and it is 100% safe for pets, children, surfaces, and the environment.
- d. Guaranteed safe for pets and children.
- e. Safe Paw is the safest and most advanced ice melter.

True and correct printouts from Gaia's website showing the above statements are attached hereto as Exhibit F.

36. The specimens of use submitted for Gaia's applications for both Registration No. 4,156,873 and Registration No. 4,288,928 also reflect the descriptiveness of the phrase "SAFE PAWS." The specimens specifically state that Gaia's SAFE PAW product is "Safe on Paws, Eyes and Skin." A true and correct copy of the specimen submitted with the application for Registration No. 4,156,873 is attached hereto as Exhibit G. A true and correct copy of the specimen submitted with the application for Registration No. 4,288,928 is attached as Exhibit H.

37. On December 9, 2015, Gaia filed a Petition to Cancel Compass Minerals' SURE PAWS® trademark with the Trademark Trial and Appeal Board ("TTAB"). A copy of this Petition is attached to this Complaint as Exhibit I.

38. In the Petition to Cancel, Gaia alleges that it has used its mark SAFE PAW since at least May 1, 1995. Ex. I ¶ 5.

39. Gaia claims in the Petition to Cancel that "Registrant's SURE PAWS mark, when applied to the Registrant's goods, creates a false and misleading suggestion of a connection with the Petitioner's SAFE PAW marks creating a likelihood of consumer confusion as to the source

of Petitioner's goods such that consumers are likely to believe that Respondent is the source of said items." Ex I ¶ 12.

40. Gaia does not ask the TTAB to cancel Compass Minerals' SAFE STEP® trademark in its Petition to Cancel. To date, Gaia has never challenged the validity of the SAFE STEP® trademark.

41. However, Gaia does assert in the Petition to Cancel that consumers are "likely to be confused when seeing the similarity of the products." Ex. I ¶ 6. Even though Compass Minerals' SAFE STEP® mark is not subject to the Petition to Cancel, Gaia notes that the SAFE STEP® mark, when used in conjunction with the SURE PAWS® mark, will likely "cause even more customer confusion" with Gaia's alleged SAFE PAW mark. Ex. I ¶ 5.

42. Following the filing of Gaia's Petition to Cancel, counsel for Gaia communicated to counsel for Compass Minerals that Gaia's dispute with Compass Minerals regarding the SURE PAWS® mark cannot be resolved without the payment of money or the provision of other consideration by Compass Minerals beyond the cessation of use of the SURE PAWS® trademark and the cancellation of the SURE PAWS® trademark registration.

43. Gaia has also demanded that Compass Minerals' stop using its SURE PAWS® mark.

44. Through its Petition to Cancel, threats, and related allegations, Gaia has cast a cloud over Compass Minerals' ability to use its SURE PAWS® mark alone, or in combination with its SAFE STEP® mark.

45. Gaia's threats and demands pertaining to Compass Minerals' use of its SURE PAWS® mark, have deprived, or will deprive, Compass Minerals of business and revenue relating to the sales of its products branded with the mark.

Count I: Declaration of Non-infringement of the SAFE PAW Graphic Mark

46. Compass Minerals incorporates herein by reference the allegations contained in paragraphs 1 through 45, as if fully set forth herein.

47. An actual controversy exists between Gaia and Compass Minerals as to Compass Minerals' rights to use its SURE PAWS® mark and whether Compass Minerals is infringing Gaia's alleged SAFE PAW graphic mark, as set forth in United States Trademark Registration No. 4,156,873.

48. Gaia claims that Compass Minerals' use of its SURE PAWS® mark in connection with pet-friendly deicing products is likely to cause confusion, to cause mistake, and/or to deceive customers and potential customers of Gaia and Compass Minerals as to the origin, sponsorship, or approval of Compass Minerals' goods, or as to some affiliation, connection, or association of Compass Minerals with Gaia.

49. Gaia's alleged SAFE PAW graphic mark is not a valid trademark that is entitled to protection under the Lanham Act.

50. The goods recited in Registration No. 4,156,873 and sold under Gaia's alleged SAFE PAW graphic mark are chemical preparations for melting snow and ice that are purported to be safe for an animal's paws.

51. Gaia's alleged SAFE PAW graphic mark is merely descriptive when used in connection with Gaia's goods, including the Competing Product.

52. Gaia's alleged SAFE PAW graphic mark has not acquired distinctiveness.

53. Compass Minerals always uses its SURE PAWS® mark in combination with its SAFE STEP® mark. The combination of Compass Minerals' SURE PAWS® and SAFE STEP® marks is immediately recognized in the minds of consumers as symbolic of Compass

Minerals as the source of goods sold in connection with the SURE PAWS® and SAFE STEP® marks.

54. Compass Minerals' use of its SURE PAWS® and SAFE STEP® marks in combination is distinctive in terms of appearance, sound, connotation, and commercial impression from SAFE PAW.

55. Gaia's alleged SAFE PAW graphic mark includes a drawing of the paw print of an animal. No such drawing, nor any confusingly similar drawing, is present on, or in relation to, the packaging of the Compass Minerals products bearing its SAFE STEP® SURE PAWS® marks.

56. As a result, there is no likelihood of confusion based on Compass Minerals' use of its SURE PAWS® mark.

57. Notwithstanding the lack of confusion, Gaia has demanded that Compass Minerals cease using its SURE PAWS® mark.

58. Gaia has indicated to Compass Minerals that this dispute cannot be resolved without the payment of money or the provision of other consideration by Compass Minerals beyond the cessation of use of the SURE PAWS® trademark and the cancellation of the SURE PAWS® trademark registration.

59. The controversy between the parties warrants relief declaring the rights and liabilities of the parties pursuant to 28 U.S.C. § 2201, and declaring and finding that Compass Minerals has not infringed Gaia's registration for its alleged SAFE PAW graphic mark and that Gaia has no right to exclude or prohibit Compass Minerals from using its SURE PAWS® mark for deicing products.

Count II: Declaration of Non-infringement of the SAFE PAW Standard Character Mark

60. Compass Minerals incorporates herein by reference the allegations contained in paragraphs 1 through 59, as if fully set forth herein.

61. An actual controversy exists between Gaia and Compass Minerals as to Compass Minerals' rights to use its SURE PAWS® mark and whether Compass Minerals is infringing Gaia's alleged SAFE PAW standard character mark, as set forth in United States Trademark Registration No. 4,288,928.

62. Gaia claims that Compass Minerals' use of its SURE PAWS® mark in connection with pet-friendly deicing products is likely to cause confusion, to cause mistake, and/or to deceive customers and potential customers of Gaia and Compass Minerals as to the origin, sponsorship, or approval of Compass Minerals' goods, or as to some affiliation, connection, or association of Compass Minerals with Gaia.

63. Gaia's alleged SAFE PAW standard character mark is not a valid trademark that is entitled to protection under the Lanham Act.

64. The goods recited in Registration No. 4,288,928 and sold under Gaia's alleged SAFE PAW standard character mark are chemical preparations for melting snow and ice that are purported to be safe for an animal's paws.

65. Gaia's alleged SAFE PAW standard character mark is merely descriptive when used in connection with Gaia's goods, including the Competing Product.

66. Gaia's alleged SAFE PAW standard character mark has not acquired distinctiveness.

67. Compass Minerals always uses its SURE PAWS® mark in combination with its SAFE STEP® mark. The combination of Compass Minerals' SURE PAWS® and SAFE

STEP® marks is immediately recognized in the minds of consumers as symbolic of Compass Minerals as the source of goods sold in connection with the SURE PAWS® and SAFE STEP® marks.

68. Compass Minerals' use of SURE PAWS® and SAFE STEP® marks in combination is distinctive in terms of appearance, sound, connotation, and commercial impression from SAFE PAW.

69. As a result, there is no likelihood of confusion based on Compass Minerals' use of its SURE PAWS® mark.

70. Notwithstanding the lack of confusion, Gaia has demanded that Compass Minerals cease using its SURE PAWS® mark.

71. Gaia has indicated to Compass Minerals that this dispute cannot be resolved without the payment of money or the provision of other consideration by Compass Minerals beyond the cessation of use of the SURE PAWS® trademark and the cancellation of the SURE PAWS® trademark registration.

72. The controversy between the parties warrants relief declaring the rights and liabilities of the parties pursuant to 28 U.S.C. § 2201, and declaring and finding that Compass Minerals has not infringed Gaia's registration for its alleged SAFE PAW standard character mark and that Gaia has no right to exclude or prohibit Compass Minerals from using its SURE PAWS® mark for pet-friendly deicing products.

Count III: Declaration of Invalidity of the SAFE PAW Graphic Mark

73. Compass Minerals incorporates herein by reference the allegations contained in paragraphs 1 through 72, as if fully set forth herein.

74. A mark is merely descriptive if it consists merely of words descriptive of the qualities, ingredients, or characteristics of the goods related to the mark or if it conveys information regarding a function, or purpose, or use of the goods.

75. The SAFE PAW graphic mark, as depicted in Registration No. 4,156,873, is merely descriptive of the goods sold by Gaia.

76. The goods recited in Registration No. 4,156,873 and sold under Gaia's alleged SAFE PAW graphic mark are chemical preparations for melting snow and ice that are purported to be safe for an animal's paws.

77. The SAFE PAW graphic mark has not acquired distinctiveness.

78. Because the SAFE PAW graphic mark is merely descriptive of the goods and services for which it is registered and because the mark has not acquired distinctiveness, the registration of said mark was granted contrary to the requirements of 15 U.S.C. § 1052(e)(1) and is subject to cancellation under 15 U.S.C. § 1064.

79. The continued registration of U.S. Trademark Registration No. 4,156,873 in the face the mark's mere descriptiveness of the registered goods places Gaia in a position to deceive or mislead the public, casts a cloud on Compass Minerals' right to use its SURE PAWS® trademark, and interferes with Compass Minerals' legitimate right to sell goods in connection with its registered mark in interstate commerce.

80. Unless the Registration for the SAFE PAW graphic mark is declared invalid and canceled, Compass Minerals will be unnecessarily impaired, clouded, and frustrated, and will continue to be damaged.

81. This Court has the power to order the Director of the USPTO to declare invalid and cancel the registration of a merely descriptive trademark pursuant to 15 U.S.C. § 1119.

Count IV: Declaration of Invalidity of the SAFE PAW Standard Character Mark

82. Compass Minerals incorporates herein by reference the allegations contained in paragraphs 1 through 81, as if fully set forth herein.

83. The SAFE PAW standard character mark, as depicted in Registration No. 4,156,873, is merely descriptive of the goods sold by Gaia.

84. The goods recited in Registration No. 4,288,928 and sold under Gaia's alleged SAFE PAW standard character mark are chemical preparations for melting snow and ice that are purported to be safe for an animal's paws.

85. The SAFE PAW standard character mark has not acquired distinctiveness.

86. Because the SAFE PAW standard character mark is merely descriptive of the goods and services for which it is registered and because the mark has not acquired distinctiveness, the registration of said mark was granted contrary to the requirements of 15 U.S.C. § 1052(e)(1) and is subject to cancellation under 15 U.S.C. § 1064.

87. The continued registration of U.S. Trademark Registration No. 4,288,928 in the face of the mark's mere descriptiveness of the registered goods places Gaia in a position to deceive or mislead the public, casts a cloud on Compass Minerals' right to use its SURE PAWS® trademark, and interferes with Compass Minerals' legitimate right to sell goods in connection with its registered mark in interstate commerce.

88. Unless the Registration for the SAFE PAW standard character mark is declared invalid and canceled, Compass Minerals will be unnecessarily impaired, clouded, and frustrated, and will continue to be damaged.

89. This Court has the power to order the Director of the USPTO to declare invalid and cancel the registration of a merely descriptive trademark pursuant to 15 U.S.C. § 1119.

RELIEF SOUGHT ON ALL COUNTS

WHEREFORE, Compass Minerals prays for an Order and Judgment against Gaia Enterprises, Inc. as follows:

A. Declaring that Gaia does not have any valid or protectable interests in its alleged SAFE PAW graphic mark under the Lanham Act;

B. Declaring that Gaia does not have any valid or protectable interests in its alleged SAFE PAW standard character mark under the Lanham Act;

C. Declaring that Compass Minerals' use of its SURE PAWS® trademark does not infringe Gaia's alleged SAFE PAW graphic mark;

D. Declaring that Compass Minerals' use of its SURE PAWS® trademark does not infringe Gaia's alleged SAFE PAW standard character mark;

E. Ordering cancellation of U.S. Trademark Registration No. 4,156,873 based on mere descriptiveness;

F. Ordering cancellation of U.S. Trademark Registration No. 4,288,928 based on mere descriptiveness;

G. Awarding Compass Minerals its costs, attorneys' fees, and expenses incurred herein;

H. Entering judgment for Compass Minerals and against Gaia on all claims asserted in this action; and

I. Awarding such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Compass Minerals demands a trial by jury on all issues so triable.

Dated: March 18th, 2016

Respectfully submitted,

/s/ B. Scott Eidson

B. Scott Eidson, #57757MO
scott.eidson@stinsonleonard.com
STINSON LEONARD STREET LLP
7700 Forsyth Boulevard, Suite 1100
St. Louis, MO 63105
Telephone: (314) 259-4500
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Chicago, Illinois 60601-1692
Telephone: (312) 269-1556
Facsimile: (312) 782-8585

Attorneys for Plaintiff
Compass Minerals America Inc.

EXHIBIT A

[Home](#) » [View Cart](#) » [Order & Customer Details](#) » [Order Review](#) » [Order Results](#)

Order Results

[Order & Customer Details](#) » [Review](#) » [Complete](#)

Product	Qty	Price	Subtotal
SafePaw Ice Melt	1	\$17.99	\$17.99
Subtotal:			\$17.99
Shipping:			\$11.40
Tax (7.5%):			\$2.20
Total:			\$31.59

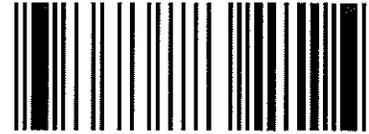
ORDER RESULTS

Order ID: 12059

Your order has been submitted for processing successfully. A confirmation/receipt email has been sent to your email address which contains all the information on this page as well as important order notes. Please review those notes as there may be additional actions needed to complete your order. If you have any questions about your order you can contact us at any time. To track the status of your order, log in to your account and select 'Order History'. Thank you for your order and we appreciate your business.

EXHIBIT A

Kansas Humane Society
3313 N Hillside St
Wichita, KS 67220
US



Order: 12059

Date 03/07/2016	Time 12:34pm
Store Contact http://www.kshumane.org/shop/ pcornwell@kshumane.org (316) 524-9196	
Customer PO	

Customer
Email: murrayc@compassminerals.com
Phone: 9132093752

Bill To
Cameron Murray
Compass Minerals
9900 West 109th Street
Overland Park, KS 66210
US

Ship To
Cameron Murray
Compass Minerals
9900 West 109th Street
Overland Park, KS 66210
US

	Item Description	Part #	Qty	Unit Price	Total
	1 SafePaw Ice Melt	2553	1	\$17.99	\$17.99



Subtotal:	\$17.99
([USPS] Priority Mail 2-Day%u2122) Shipping:	\$11.40
Tax:	\$2.20
Total:	31.59

Thank you for choosing Kansas Humane Society

Thanks!

PET & CHILD SAFE!
100% SALT-FREE, ENVIRONMENTALLY SAFE!

Safe Paw[®]

Ice Melter

**NO. 1
SELLING
BRAND**

NEW TRACTION AGENT



Like us on Facebook

Patents No. 4,597,664; 6,124,612; 6,124,613; 6,124,614; 6,124,615; 6,124,616; 6,124,617; 6,124,618; 6,124,619; 6,124,620; 6,124,621; 6,124,622; 6,124,623; 6,124,624; 6,124,625; 6,124,626; 6,124,627; 6,124,628; 6,124,629; 6,124,630; 6,124,631; 6,124,632; 6,124,633; 6,124,634; 6,124,635; 6,124,636; 6,124,637; 6,124,638; 6,124,639; 6,124,640; 6,124,641; 6,124,642; 6,124,643; 6,124,644; 6,124,645; 6,124,646; 6,124,647; 6,124,648; 6,124,649; 6,124,650; 6,124,651; 6,124,652; 6,124,653; 6,124,654; 6,124,655; 6,124,656; 6,124,657; 6,124,658; 6,124,659; 6,124,660; 6,124,661; 6,124,662; 6,124,663; 6,124,664; 6,124,665; 6,124,666; 6,124,667; 6,124,668; 6,124,669; 6,124,670; 6,124,671; 6,124,672; 6,124,673; 6,124,674; 6,124,675; 6,124,676; 6,124,677; 6,124,678; 6,124,679; 6,124,680; 6,124,681; 6,124,682; 6,124,683; 6,124,684; 6,124,685; 6,124,686; 6,124,687; 6,124,688; 6,124,689; 6,124,690; 6,124,691; 6,124,692; 6,124,693; 6,124,694; 6,124,695; 6,124,696; 6,124,697; 6,124,698; 6,124,699; 6,124,700; 6,124,701; 6,124,702; 6,124,703; 6,124,704; 6,124,705; 6,124,706; 6,124,707; 6,124,708; 6,124,709; 6,124,710; 6,124,711; 6,124,712; 6,124,713; 6,124,714; 6,124,715; 6,124,716; 6,124,717; 6,124,718; 6,124,719; 6,124,720; 6,124,721; 6,124,722; 6,124,723; 6,124,724; 6,124,725; 6,124,726; 6,124,727; 6,124,728; 6,124,729; 6,124,730; 6,124,731; 6,124,732; 6,124,733; 6,124,734; 6,124,735; 6,124,736; 6,124,737; 6,124,738; 6,124,739; 6,124,740; 6,124,741; 6,124,742; 6,124,743; 6,124,744; 6,124,745; 6,124,746; 6,124,747; 6,124,748; 6,124,749; 6,124,750; 6,124,751; 6,124,752; 6,124,753; 6,124,754; 6,124,755; 6,124,756; 6,124,757; 6,124,758; 6,124,759; 6,124,760; 6,124,761; 6,124,762; 6,124,763; 6,124,764; 6,124,765; 6,124,766; 6,124,767; 6,124,768; 6,124,769; 6,124,770; 6,124,771; 6,124,772; 6,124,773; 6,124,774; 6,124,775; 6,124,776; 6,124,777; 6,124,778; 6,124,779; 6,124,780; 6,124,781; 6,124,782; 6,124,783; 6,124,784; 6,124,785; 6,124,786; 6,124,787; 6,124,788; 6,124,789; 6,124,790; 6,124,791; 6,124,792; 6,124,793; 6,124,794; 6,124,795; 6,124,796; 6,124,797; 6,124,798; 6,124,799; 6,124,800; 6,124,801; 6,124,802; 6,124,803; 6,124,804; 6,124,805; 6,124,806; 6,124,807; 6,124,808; 6,124,809; 6,124,810; 6,124,811; 6,124,812; 6,124,813; 6,124,814; 6,124,815; 6,124,816; 6,124,817; 6,124,818; 6,124,819; 6,124,820; 6,124,821; 6,124,822; 6,124,823; 6,124,824; 6,124,825; 6,124,826; 6,124,827; 6,124,828; 6,124,829; 6,124,830; 6,124,831; 6,124,832; 6,124,833; 6,124,834; 6,124,835; 6,124,836; 6,124,837; 6,124,838; 6,124,839; 6,124,840; 6,124,841; 6,124,842; 6,124,843; 6,124,844; 6,124,845; 6,124,846; 6,124,847; 6,124,848; 6,124,849; 6,124,850; 6,124,851; 6,124,852; 6,124,853; 6,124,854; 6,124,855; 6,124,856; 6,124,857; 6,124,858; 6,124,859; 6,124,860; 6,124,861; 6,124,862; 6,124,863; 6,124,864; 6,124,865; 6,124,866; 6,124,867; 6,124,868; 6,124,869; 6,124,870; 6,124,871; 6,124,872; 6,124,873; 6,124,874; 6,124,875; 6,124,876; 6,124,877; 6,124,878; 6,124,879; 6,124,880; 6,124,881; 6,124,882; 6,124,883; 6,124,884; 6,124,885; 6,124,886; 6,124,887; 6,124,888; 6,124,889; 6,124,890; 6,124,891; 6,124,892; 6,124,893; 6,124,894; 6,124,895; 6,124,896; 6,124,897; 6,124,898; 6,124,899; 6,124,900; 6,124,901; 6,124,902; 6,124,903; 6,124,904; 6,124,905; 6,124,906; 6,124,907; 6,124,908; 6,124,909; 6,124,910; 6,124,911; 6,124,912; 6,124,913; 6,124,914; 6,124,915; 6,124,916; 6,124,917; 6,124,918; 6,124,919; 6,124,920; 6,124,921; 6,124,922; 6,124,923; 6,124,924; 6,124,925; 6,124,926; 6,124,927; 6,124,928; 6,124,929; 6,124,930; 6,124,931; 6,124,932; 6,124,933; 6,124,934; 6,124,935; 6,124,936; 6,124,937; 6,124,938; 6,124,939; 6,124,940; 6,124,941; 6,124,942; 6,124,943; 6,124,944; 6,124,945; 6,124,946; 6,124,947; 6,124,948; 6,124,949; 6,124,950; 6,124,951; 6,124,952; 6,124,953; 6,124,954; 6,124,955; 6,124,956; 6,124,957; 6,124,958; 6,124,959; 6,124,960; 6,124,961; 6,124,962; 6,124,963; 6,124,964; 6,124,965; 6,124,966; 6,124,967; 6,124,968; 6,124,969; 6,124,970; 6,124,971; 6,124,972; 6,124,973; 6,124,974; 6,124,975; 6,124,976; 6,124,977; 6,124,978; 6,124,979; 6,124,980; 6,124,981; 6,124,982; 6,124,983; 6,124,984; 6,124,985; 6,124,986; 6,124,987; 6,124,988; 6,124,989; 6,124,990; 6,124,991; 6,124,992; 6,124,993; 6,124,994; 6,124,995; 6,124,996; 6,124,997; 6,124,998; 6,124,999; 6,125,000

NET WT 13.1 (2.4) LBS 3.92 (1.72) KG

- Non-Toxic Safe if Ingested
- Safe on Paws, Eyes & Skin
- Safe on Concrete* & Lawns
- Melts in Sub-Zero Temps
- Safe on all Decking Materials



EXHIBIT B

Int. Cl.: 1

Prior U.S. Cl.: 6

United States Patent Office

Reg. No. 1,070,471
Registered Aug. 2, 1977

TRADEMARK

Principal Register

SAFE STEP

Koos, Inc. (Wisconsin corporation)
4500 13th Court
Kenosha, Wis. 53140

For: ICE MELTER FOR USE ON DRIVEWAYS,
SIDEWALKS, STEPS, PARKING LOTS, PAVEMENT,
AND THE LIKE, in CLASS 1 (U.S. CL. 6).
First use Jan. 7, 1971; in commerce Jan. 7, 1971.

Ser. No. 88,671, filed May 27, 1976.

D. E. SHALLANT, Examiner

Int. Cl.: 1

Prior U.S. Cl.: 6

United States Patent Office

Reg. No. 1,070,471
Registered Aug. 2, 1977

TRADEMARK

Principal Register

SAFE STEP

Koos, Inc. (Wisconsin corporation)
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Kenosha, Wis. 53140

**For: ICE MELTER FOR USE ON DRIVEWAYS,
SIDEWALKS, STEPS, PARKING LOTS, PAVEMENT,
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First use Jan. 7, 1971; in commerce Jan. 7, 1971.

Ser. No. 88,671, filed May 27, 1976.

D. E. SHALLANT, Examiner

Int. Cl. : 1

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4500 13th Court
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For: ICE MELTER FOR USE ON DRIVEWAYS,
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AND THE LIKE, in CLASS 1 (U.S. CL. 6).

First use Jan. 7, 1971; in commerce Jan. 7, 1971.

Ser. No. 88,671, filed May 27, 1976.

D. E. SHALLANT, Examiner

Int. Cl.: 1

Prior U.S. Cl.: 6

Reg. No. 1,070,471

United States Patent and Trademark Office

Registered Aug. 2, 1977

10 Year Renewal

Renewal Term Begins Aug. 2, 1997

**TRADEMARK
PRINCIPAL REGISTER**

SAFE STEP

IMC AGRIBUSINESS INC. (DELAWARE CORPORATION)
1503 3RD ST. SW
WINTER HAVEN, FL 33880, BY ASSIGNMENT AND CHANGE OF NAME FROM KOOS, INC. (WISCONSIN CORPORATION) KENOSHA, WI

FOR: ICE MELTER FOR USE ON DRIVEWAYS, SIDEWALKS, STEPS, PARKING LOTS, PAVEMENT, AND THE LIKE, IN CLASS 1 (U.S. CL. 6).
FIRST USE 1-7-1971; IN COMMERCE 1-7-1971.

SER. NO. 73-088,671, FILED 5-27-1976.

*In testimony whereof I have hereunto set my hand
and caused the seal of The Patent and Trademark
Office to be affixed on Oct. 14, 1997.*

COMMISSIONER OF PATENTS AND TRADEMARKS

EXHIBIT C

United States of America

United States Patent and Trademark Office

SURE PAWS

Reg. No. 3,963,355

NORTH AMERICAN SALT COMPANY (DELAWARE CORPORATION)

Registered May 17, 2011

9900 WEST 109TH STREET, SUITE 100
KANSAS CITY, MO 66210

Int. Cl.: 1

FOR: DE-ICING AND ICE PREVENTION PREPARATION FOR ROADWAYS, SIDEWALKS
AND OTHER PAVED SURFACES, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

TRADEMARK

FIRST USE 9-22-2010; IN COMMERCE 9-22-2010.

PRINCIPAL REGISTER

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

SN 85-009,174, FILED 4-8-2010.

TARA PATE, EXAMINING ATTORNEY



David J. Kyjko

Director of the United States Patent and Trademark Office

EXHIBIT D

United States of America
United States Patent and Trademark Office

**Safe
Paw** 

Reg. No. 4,156,873

GAIA ENTERPRISES, INC. (PENNSYLVANIA CORPORATION)
18 ANN CIRCLE
RICHBORO, PA 18954

Registered June 12, 2012

Int. Cl.: 1

FOR: CHEMICAL PREPARATIONS FOR MELTING SNOW AND ICE, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

TRADEMARK

FIRST USE 5-1-1995; IN COMMERCE 5-1-1995.

PRINCIPAL REGISTER

THE MARK CONSISTS OF WORD "SAFE" IS OVER TOP OF WORD "PAW" AND TO THE RIGHT OF WORD "PAW" IS A GRAPHIC OF A PAW PRINT WITH A CROSS WITHIN IT.

SEC. 2(F) AS TO "SAFE PAW".

SER. NO. 85-374,903, FILED S.R. 7-19-2011 AM. P.R. 1-11-2012.

CURTIS FRENCH, EXAMINING ATTORNEY



David J. Kyffers

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>.

EXHIBIT E

United States of America
United States Patent and Trademark Office

SAFE PAW

Reg. No. 4,288,928

GAIA ENTERPRISES, INC. (PENNSYLVANIA CORPORATION)
103 ROY LANE

Registered Feb. 12, 2013

HUNTINGDON VALLEY, PA 19006

Int. Cl.: 1

FOR: CHEMICAL PREPARATIONS FOR MELTING SNOW AND ICE, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

TRADEMARK

FIRST USE 5-1-1995; IN COMMERCE 5-1-1995.

PRINCIPAL REGISTER

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

OWNER OF U.S. REG. NO. 4,156,873.

SEC. 2(F).

SER. NO. 85-663,741, FILED 6-28-2012.

MIDGE BUTLER, EXAMINING ATTORNEY



Lisa 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>.

EXHIBIT F



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[Store Locator](#)

[News & Media](#)

[Contact Us](#)

[MSDS](#)



When winter snow and ice arrive many people use ice melter to prevent slips and falls. But did you know that most ice melters contain salt that can harm your pets, children, and the environment?

The Solution

Gaia Enterprises [Safe Paw™ Ice Melter](#) is **100% salt-free** and is **guaranteed pet and child safe (MSDS)**! Safe Paw has been used and recommended with confidence for years by veterinarians, animal hospitals, groomers, shelters, and humane societies making it the #1 selling brand!

Safe Paw was recently awarded the [PTPA Green Product Seal](#) and was included in the [Whole Green Catalog: 1000 Best Things for You and the Earth.](#)

News & Media

01/22/2016

[The Safest Ice-Melt Products for Your Pet in the Snow](#)
Wall Street Journal

01/18/2015

[Cold Weather Tips To Keep Your Pup Safe](#)
Fox & Friends

01/18/2012

[What Cures Your Cold can Also Kill Your Pet](#)
Associated Press

12/23/2011

[Many De-Icers Are Dangerous to Pets](#)
KREX News

12/28/2011

[Watch Out for Your Pup's Paws! Ice Melt Can Injure Dogs](#)
AccuWeather.com

Join Our Mailing List

Sign up to receive Safe Paw™ mailers and/or email updates.





Safe Paw
Ice Melter



Ice Melter
Pet & Child Safe
100% Salt-Free, Environmentally Safe!



**NO. 1
SELLING
BRAND**



Safe Paw[®]
featured in the
**THE WALL STREET
JOURNAL.**
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[Using Safe Paw](#)

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Product Info

Safe Paw™ is the only 100% salt-free ice melter on the market and it is 100% safe for pets, children, surfaces, and the environment. Safe Paw's pellets are green to make it easy for consumers to distinguish it from [rock salt and salt-based ice melters](#). Safe Paw benefits include:

- Guaranteed safe for pets and children
- Environmentally safe
- Won't harm decking of any kind
- Safe on asphalt, concrete, and pavers
- Safe on plants and shrubs
- Proprietary traction agent (helps prevent slips and falls)
- Won't stain or destroy flooring

How Safe Paw Works

No other ice and snow melter works like [Safe Paw](#). It is totally unique. Safe Paw is a patented dual-effect compound made of a modified crystalline amide core infused with special glycol admixture and traction agents.

This composition gives Safe Paw a two-way timed released action. The liquid component starts melting ice instantly while breaking surface tension. This allows the crystal-core to penetrate and destabilize ice which speeds up melting. All this while proprietary traction agent provides slip protection.

Safe Paw gives you another advantage. Unlike other products, Safe Paw attracts solar heat to provide extra melting-power during daylight hours.

Once Safe Paw has melted the ice and snow, it leaves an invisible "shield" that prevents ice from sticking to surfaces for up to 3 days. This "Teflon effect" makes shoveling easier.

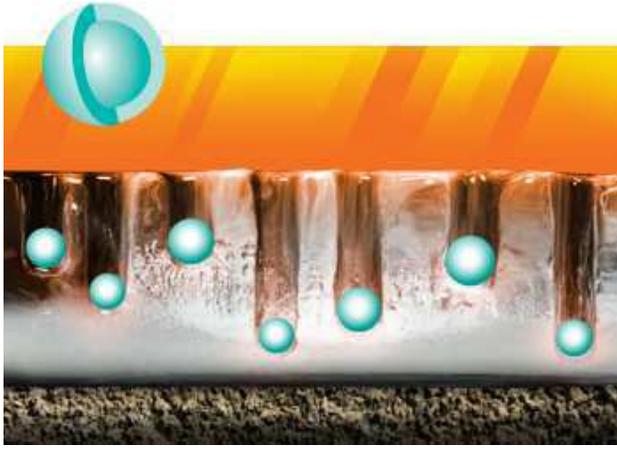
Join Our Mailing List

Sign up to receive Safe Paw™ mailers and/or email updates.

Winter Pet Safety

Keep your pet happy and healthy throughout winter with these important [safety tips](#).





Safe Paw is a patented dual-effect compound made of a modified crystalline amide core infused with special glycol admixture and traction agents

STORE LOCATOR ▶



Safe Paw
Ice Melter



Ice Melter
Pet & Child Safe
100% Salt-Free, Environmentally Safe!



**NO. 1
SELLING
BRAND**



Safe Paw[®]
featured in the
**THE WALL STREET
JOURNAL.**
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[FAQ's](#)

[Store Locator](#)

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[MSDS](#)

Using Safe Paw

Safe Paw™ is the safest and most advanced ice melter. It has unique characteristics so we've provided these tips to help you get the most out of your purchase.

- Safe Paw is highly concentrated. You don't need to use as much [Safe Paw](#) as you would use with salt or other ice melters.
- Safe Paw retains heat better than other ice melters. Store indoors, at room temperature, to ensure maximum performance.
- Spread Safe Paw before winter precipitation. This will create a barrier that prevents ice from bonding to surfaces for about 3 days. If there is accumulation within that period, you won't have to chip away at underlying ice when shoveling.
- Ice melters sometimes need a little assistance on black ice. Scratch or roughen black ice with a shovel before applying Safe Paw. Once the surface tension is broken, Safe Paw will go to work.
- Safe Paw is a great traction agent. Keeping a jug in the car can help you get out of a slippery situation. If your car gets stuck in snow or ice, clear the ruts and sprinkle Safe Paw around tires to increase traction.
- Safe Paw is very effective so you don't need to use as much as other products. Applying excessive amounts may lead to the browning of grass or temporarily coloring surfaces. If this occurs, reduce the amount of Safe Paw you are using and follow these steps:
 - If grass browns, water the affected area and hold off on fertilizing. Let nature take its course. The color should return by the end of spring.
 - Surface coloring from overuse is temporary and will fade over time when exposed to water and sunlight. To speed up the fading process use OxyClean or a similar product.
- Safe Paw is 100% salt-free and environmentally safe so you can use it in more places than salt-based ice melters. Use Safe Paw anywhere you are concerned about ice including roofs, gutters, cars, stairs, decking, and flooring.

[Join Our Mailing List](#)

Sign up to receive Safe Paw™ mailers and/or email updates.

Winter Pet Safety

Keep your pet happy and healthy throughout winter with these important [safety tips](#).



If you have questions please call us at (800) 783-7841 or email info@safepaw.com.

EXHIBIT G



Safe Paw™

Ice Melter
Pet & Child Safe

100% Salt Free, Environmentally Safe!

*Caring
Means
Protecting
Your Family
with
Safe Paw*

- Non-Toxic Safe
- Safe on Paws, Eyes and Skin
- Safe on Concrete® and Lawns
- Works in Sub-Zero Temps

Net Wt. 8.0lb. 6oz (3.72kg) Patented



EXHIBIT H



EXHIBIT I

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

GAIA ENTERPRISES, INC.

Petitioner

vs.

COMPASS MINERALS AMERICA, INC.

Registrant

Cancellation No.

In the Matter of Reg. No. 3963355

Mark: SURE PAWS

Date Registered: May 17, 2011

PETITION TO CANCEL

As grounds for this cancellation, it is alleged that:

1. Petitioner, Gaia Enterprises, Inc., a Pennsylvania corporation with its principal place of business at 103 Roy Lane, Huntingdon Valley, Pennsylvania 19006, believes that it is or will be damaged by the continued registration of Registration No. 3963355 and hereby petitions the Trademark Trial and Appeal Board to cancel the same.

2. Upon information and belief, Registrant, Compass Minerals America, Inc., is a Delaware corporation with its principal place of business at 9900 W. 109th Street, Suite 100, Overland Park, Kansas 66210.

3. Description of Registrant's Registration No. 3963355: Filed under Section 1(b) on April 8, 2010 for the mark SURE PAWS; registered on the Principal Register in International Class 1 for "de-icing and ice prevention preparation for roadways, sidewalks and other paved surfaces." First use anywhere and in commerce alleged to be September 22, 2010.

4. Petitioner's first use anywhere and in commerce was at least May 1, 1995, well before the Registrant's first use dates. Description of Petitioner's Registrations: (1) Registration

No. 4156873 filed under Section 1(a) on July 19, 2011 for the mark SAFE PAW and design; registered on the Principal Register in International Class 1 for “chemical preparations for melting snow and ice.” First use anywhere and in commerce was at least May 1, 1995. (2) Registration No. 4288928 filed under Section 1(a) on June 28, 2012 for the mark SAFE PAW; registered on the Principal Register in International Class 1 for “chemical preparations for melting snow and ice.” First use anywhere and in commerce was at least May 1, 1995.

5. Petitioner has been continuously and extensively using its marks in interstate commerce from at least May 1, 1995 until the present. Its use has been extensive and had been known to the Registrant and its predecessors for a long period of time prior to Registrant’s application for registration of the mark at issue. Among Petitioner’s customers was the Costco Wholesale Corporation which featured Petitioner’s safe and salt free de-icing products in locations throughout the United States. Since 1995, Petitioner packaged its preparations in a number of containers including a unique plastic bottle design that was essentially copied by the Registrant indicating that the Registrant was not only familiar with the Petitioner and Petitioner’s trademark but adopted Registrant’s trademark and package design with the intention of usurping the goodwill and markets developed by the Petitioner. A photo of Petitioner’s package is attached hereto as Exhibit A and a photo of Registrant’s package is attached hereto as Exhibit B. In addition to applying the confusingly similar SURE PAWS mark to the packaging, Registrant also applied the phrase SAFE STEP to the packaging, which is likely to cause even more customer confusion with Petitioner’s SAFE PAW trademark.

6. An example of how confusion can occur can be found when searching for the product on Amazon.com. A search resulted in the page attached hereto as Exhibit C. It shows the Petitioner’s and Registrant’s products side by side. Clearly, a consumer is likely to be confused when seeing the similarity of the products.

7. It is important to note that the composition of the products is not similar. Both products can melt ice, but they do so in very different ways. The Petitioner’s product does not include any caustic salts such as sodium chloride which can be damaging to an animal’s paws.

The Registrant's product, which claims not to have salt, includes magnesium chloride which is a salt having caustic and corrosive properties that are similar to sodium chloride. Not only do these compounds harm pet animal paws, but sodium chloride and magnesium chloride also corrode metals and other surfaces whereas the Petitioner's product, which does not contain either salt, does not cause such negative effects. Furthermore, melt water containing magnesium chloride is highly electrically conductive and can negatively affect electrical circuitry. Therefore, a consumer of Registrant's product who is dissatisfied with it is likely to shun the Petitioner's product believing that it likewise contains a caustic compound, thereby harming Petitioner's goodwill, disparaging its product and diluting the value of Petitioner's brand.

8. In spite of Registrant's knowledge of Petitioner's goods and its marks, Registrant nevertheless filed its application to register its deliberately confusingly similar mark stating in Registrant's declaration, under oath, that "...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..." This statement was false when it was made.

9. The Registrant's intention was to willfully interfere with the Petitioner's business by confusing the public as to source and sponsorship and to try to wrongfully profit off the brand recognition and goodwill that Petitioner had generated for its "SAFE PAW" brand.

False Suggestion of a Connection, Disparagement and Likelihood of Confusion

10. Petitioner incorporates by reference herein paragraphs 1 through 9 above as though fully set forth in this Count.

11. Petitioner has, since at least May 1, 1995, used its mark in conjunction with its promotion and sale of de-icing products. Petitioner established rights in its mark prior to Registrant in that Registrant had not used its mark in commerce prior to September 22, 2010. Petitioner's first use of the mark predates any demonstrable use of the mark by Registrant.

12. Registrant's SURE PAWS mark, when applied to the Registrant's goods, creates a false and misleading suggestion of a connection with the Petitioner's SAFE PAW marks creating a likelihood of consumer confusion as to the source of Petitioner's goods such that consumers are likely to believe that Respondent is the source of said items. The goods recited in Registrant's registration overlap and are closely related to the Petitioner's goods as they are specified in the Petitioner's registrations made of record above and in the Petitioner's common law uses dating back to at least May 1, 1995. They are both marketed as being ice melting products that are safe for the paws of household pets. Ordinary consumers of the products in the marketplace would find the goods as marketed under their respective names and uses to be confusingly similar.

13. As stated above, the Registrant's product that is sold under the confusingly similar trademark SURE PAWS is inferior to the Petitioner's product that is sold under the trademark SAFE PAW. Registrant's product may cause harm rather than prevent harm as does the Petitioner's product. As such, Registrant's use of its confusingly similar mark is likely to tarnish the Petitioner's mark and bring it into contempt and disrepute.

Fraud

14. Petitioner incorporates by reference herein paragraphs 1 through 13 above as though fully set forth in this Count.

15. Registrant committed actual fraud on the USPTO and the public by virtue of the inaccurate factual statements it made under oath when filing the application for the subject trademark.

16. Registrant filed the application for the subject trademark for a name that Registrant knew was confusingly similar to the Petitioner's trademarks as part of a plan to interfere with the valuable goodwill that the Petitioner has earned through its significant sales and marketing efforts. Registrant's intent was to confuse the public and the channels of trade in order to disrupt the business of the Petitioner. In fact, actual disruption has occurred in that valuable business relationships that the Petitioner had developed have been lost by the actions of

the Registrant. Registrant chose to mislead the USPTO by its statement that "...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 allowed the USPTO to rely on this falsehood.

17. Specifically, all factual statements in Registrant's application regarding its right to use a name confusingly similar to the Petitioner's name were made knowingly of their falsity. Registrant and its principals knew about the activities of the Petitioner and how Petitioner was using its marks. Registrant intended to confuse the public and to hide the ball from the USPTO. Registrant made knowing, false statements under oath.

18. Registrant's statements were material to the examination of the application for the mark that is the subject of this proceeding. Registrant knew that its rights were inferior to the rights of the Petitioner and its statements to the opposite are among the most material statements that an applicant can make to the USPTO regarding a trademark application.

19. Registrant fully intended that the USPTO rely on its misrepresentations in order to obtain allowance of its application. The USPTO relies on the integrity of declarants presenting information and does no independent investigation or corroboration of facts contained in declarations and other filings. Based on the false statements of the Registrant, the USPTO allowed the subject application and registered the confusingly similar mark. The USPTO would not have done so if the Registrant had been truthful in its declaration.

20. The Registrant knowingly made false and material representations of fact in order to induce the PTO to register the "SURE PAWS" mark.

21. Based on the aforementioned facts, Registrant knowingly made material false statements and committed fraud in order to procure rights to which it is not entitled.

WHEREFORE, Petitioner Gaia Enterprises, Inc. prays that this Petition be sustained and that the registration of the subject mark be cancelled. The filing fee under 37 C.F.R. Section

2.6(a)(16) is being submitted contemporaneously herewith.

Respectfully submitted:

Dated: December 9, 2015

By: / Christopher Darrow/
Christopher Darrow (CA Bar No. 70701)

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CERTIFICATE OF SERVICE

I hereby certify that on December 9, 2015, I served a copy of the foregoing Petition to Cancel on the Registrant by mailing a copy thereof by First Class Mail, postage prepaid, addressed to Registrant at Registrants' correspondence address of record in the records of the Patent and Trademark Office as follows.

Compass Minerals America, Inc.
9900 W. 109th Street, Suite 100
Overland Park, Kansas 66210

Courtesy copy by email to:

Elizabeth A. Tassi
Stinson Leonard Street LLP
Stinson Trademark Administrator
1201 Walnut Street, Suite 2900
Kansas City, Missouri 64106-2150
816.842.8600
Trademark@stinsonleonard.com

Attorneys for Registrant

/ Christopher Darrow /
Christopher Darrow