

ESTTA Tracking number: **ESTTA725729**

Filing date: **02/08/2016**

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

Proceeding	92062880
Party	Defendant Paramount Brand Roses, Inc.
Correspondence Address	PARAMOUNT BRAND ROSES INC PO BOX 460 BERKELEY HEIGHTS, NJ 07922 UNITED STATES
Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	Nicole G. McDonough
Filer's e-mail	NMCDONOUGH@COLESCHOTZ.COM
Signature	/s/ Nicole G. McDonough
Date	02/08/2016
Attachments	Paramount Brand Roses, Inc. - Motion to Dismiss.pdf(8514 bytes) Paramount Brand Roses, Inc. Brief in Support of Motion to Dismiss (Exhibits Separate).pdf(25843 bytes) Paramount Brand Roses, Inc. Exhibits A and B to Brief in Support of Motion to Dismiss.pdf(1078800 bytes) Paramount Brand Roses, Inc. Exhibits C thru E to Brief in Support of Motion to Dismiss.pdf(4710736 bytes) Paramount Brand Roses, Inc. - Proof of Service of Motion to Dismiss.pdf(8675 bytes)

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

_____)	Cancellation No.: 92062880
POULSEN ROSER A/S,)	Registration No. 1980921
)	
Petitioner,)	Mark: PARAMOUNT
vs.)	
PARAMOUNT BRAND ROSES, INC.,)	MOTION TO DISMISS PETITION
)	FOR CANCELLATION
Respondent.)	
_____)	

TO: James J. Saul, Esq.
FAEGRE BAKER DANIELS LLP
311 S. Wacker Drive
Suite 4300
Chicago, IL 60606
Attorneys for Petitioner

PLEASE TAKE NOTICE that pursuant to Fed. R. Civ. P. 12(b)(6), respondent Paramount Brand Roses, Inc. (“Respondent”) hereby moves before the Trademark Trial and Appeal Board for entry of an Order granting Respondent’s motion to dismiss the Petition for Cancellation filed by petitioner Poulsen Roser A/S (“Petitioner”) in its entirety with prejudice for lack of standing pursuant to 15 U.S.C. § 1064 and failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6).

PLEASE TAKE FURTHER NOTICE that Respondent shall rely on the brief and accompanying exhibits submitted herewith.

PLEASE TAKE FURTHER NOTICE that oral argument is requested if Petitioner files timely opposition.

COLE SCHOTZ P.C.
Attorneys for Respondent Paramount Brand
Roses, Inc.

By: /s/ Nicole G. McDonough
David M. Kohane
Nicole G. McDonough

DATED: February 8, 2016

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

POULSEN ROSER A/S,)	Cancellation No.: 92062880
)	Registration No. 1980921
)	
Petitioner,)	Mark: PARAMOUNT
vs.)	
)	
PARAMOUNT BRAND ROSES, INC.,)	
)	
Respondent.)	
)	

**RESPONDENT’S BRIEF IN SUPPORT OF MOTION TO DISMISS
PETITION FOR CANCELLATION FOR LACK OF STANDING
PURSUANT TO 15 U.S.C. § 1064 AND FAILURE TO STATE A CLAIM
PURSUANT TO FED. R. CIV. P. 12(b)(6)**

This action stems from a conclusory and wholly deficient Petition for Cancellation filed by Petitioner Poulsen Roser A/S (“Petitioner”). In a barely two-page pleading, Petitioner alleges that Respondent Paramount Brand Roses, Inc. (“Paramount”) abandoned its incontestable U.S. Trademark Registration No. 1980921 for the mark PARAMOUNT (the “Registered Mark”) pursuant to 15 U.S.C. § 1127. However, the Petition for Cancellation fails to allege facts to support Petitioner’s standing to maintain this proceeding and contains nothing more than a recitation of the statutory definition of “abandonment” to support its claim. Tellingly, Petitioner has not alleged a single substantive factual allegation that shows it has a “real interest” in the outcome of this proceeding or that Paramount abandoned its Registered Mark. These deficiencies are fatal to Petitioner’s claim. Because Petitioner has not demonstrated its standing to pursue this action and the Petition for Cancellation falls woefully short of stating a claim, it must be dismissed.

I. STATEMENT OF FACTS

Paramount is the record owner of the Registered Mark, originally registered on June 18, 1996. (Petition for Cancellation (“Pet.”) ¶ 4.) The Registered Mark covers “live plants and flower seeds” in International Class 31. (Id.) The Registered Mark specifies that the PARAMOUNT mark was first used in commerce on May 16, 1986. (A copy of the registration certificate for the Registered Mark is attached hereto as Exhibit A.)¹ The Registered Mark is incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065. (A copy of the Combined Declaration of Use and Incontestability under Sections 8 and 15 filed by Paramount is attached hereto as Exhibit B.) Paramount is current with its renewal obligations pursuant to Sections 8 and 9 of the Lanham Act, 15 U.S.C. §§ 1058 and 1059. (Id.; a copy of the Renewal filed on January 13, 2006 is attached hereto as Exhibit C.) The United States Patent and Trademark Office (“USPTO”) issued its Notice of Acceptance of the most recent Section 8 Declaration and Section 9 Renewal on April 13, 2006. (A copy of the Notice of Acceptance is attached hereto as Exhibit D.)

On November 30, 2015, Paramount served Petitioner with a cease and desist letter informing Petitioner that the Registered Mark is incontestable and Paramount “has continuously used the Registered Mark to identify its brand of roses, which roses have been sold in retailers throughout the United States, including The Home Depot.” (A copy of the November 30, 2015 letter referenced in the Petition for Cancellation is attached hereto as Exhibit E.) Paramount also demanded that Petitioner cease and desist from using the term “PARAMOUNT” in connection with its products. (Id.) In response to the November 30 correspondence, Petitioner filed the

¹ The Board may consider “certain objective, verifiable facts available from Office records under a motion to dismiss,” without converting the motion to one for summary judgment. See Nike, Inc. v. Palm Beach Crossfit Inc. d/b/a Crossfit CityPlace, Opposition No. 91218512 *7 (T.T.A.B. Sept. 11, 2015)

Petition for Cancellation on December 29, 2015, alleging that Paramount abandoned the Registered Mark. However, the Petition for Cancellation contains no substantive factual allegations related to Petitioner's interests in the Registered Mark and/or this action, or to the purported abandonment by Paramount of its Registered Mark.

II. LEGAL ARGUMENT

A motion to dismiss should be granted where the petitioner fails to allege facts that would, if proven demonstrate, "that (1) the petitioner has **standing** to maintain the proceeding, **and** (2) a **valid ground exists for cancelling** the respondent's registration. Otto Int'l, Inc. v. Otto Kern GMBH, 83 U.S.P.Q.2d 1861, 1863 (T.T.A.B. 2007) (emphasis added).

Petitioner's failure to allege any facts to support its standing to maintain this action and/or its claim for abandonment mandate dismissal of the Petition for Cancellation.

A. Petitioner Has Not Alleged Facts To Establish That It Has Standing To Pursue Its Claim For Abandonment.

Standing is a threshold issue to be addressed by the Trademark Trial and Appeal Board. 15 U.S.C. § 1064 provides that a petition to cancel a registered mark may be filed "by any person who believes that he is or will be damaged . . ." The Board and courts have interpreted this standing requirement to mean that, if a petitioner "does not plead facts sufficient to show a personal interest in the outcome beyond that of the general public, the case may be dismissed for failure to state a claim." Lipton Indus., Inc. v. Ralston Purina Co., 670 F.2d 1024, 1028, 213 U.S.P.Q. 185 (C.C.P.A. 1982); Nike, Inc. v. Palm Beach Crossfit Inc. d/b/a Crossfit CityPlace, Opposition No. 91218512 *5 (T.T.A.B. Sept. 11, 2015) (noting that the Twombly and Iqbal standards apply in Trademark Trial and Appeal Board proceedings). The purpose behind this "real interest" requirement is to "prevent mere intermeddlers who do not raise a real controversy from bringing oppositions or cancellation proceedings in the PTO." Ritchie v. Simpson, 170

F.3d 1092, 1095, 50 U.S.P.Q.2d 1023 (Fed. Cir. 1999) (citing Lipton Indus., Inc., *supra*, 670 F.2d at 1028).

With the exception of a fleeting reference to the November 30, 2015 cease and desist letter it received from Paramount, Petitioner failed to allege facts that demonstrate the source of its alleged interest in this action, any relationship to the Registered Mark, and/or any damage it is suffering as a result of the Registered Mark. Petitioner never responded to the cease and desist letter to admit or deny its alleged misuse of the Registered Mark, and the Petition for Cancellation contains no allegations that Petitioner uses the Registered Mark and/or seeks to do so. As a result, Petitioner has not alleged any “direct and personal stake” in the outcome of this cancellation proceeding. *See Otto*, *supra*, 83 U.S.P.Q.2d at 1863 (citing Ritchie v. Simpson, 170 F.3d 1092, 50 U.S.P.Q.2d 1023, 1025 (Fed. Cir. 1999)). Petitioner’s failure to allege facts to show that it has standing to pursue this cancellation proceeding is grounds for dismissal of the Petition for Cancellation. *Id.*

B. The Petition For Cancellation Must Be Dismissed Because It Contains Conclusory Allegations And Fails To Adequately State A Claim For Abandonment

Fed. R. Civ. P. 8(a)(2) requires that a pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” This rule “demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007)). Since the Supreme Court’s holdings in Twombly and Iqbal, it is clear that “[a] pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’” *Id.* Therefore, a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) is properly granted by the Board when the petitioner has failed to “state a claim to relief that is plausible on its face.” Iqbal, 556 U.S. at 678 (citing Twombly, 550 U.S. at 570). To demonstrate “facial plausibility”,

the petitioner must plead factual content that enables the Board to draw reasonable inferences regarding respondent's liability for the alleged misconduct. See id. **“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”** Id.; see Nike, Inc., supra, *5 (emphasis added). Here, Petitioner's claim of abandonment is a “formulaic recitation of the elements of a cause of action”, supported by “mere conclusory statements,” and it must therefore be dismissed.

To adequately plead a cause of action for abandonment, a petitioner must allege, either:

(1) . . . use [of the mark] has been discontinued with intent not to resume such use. Intent to resume may be inferred from circumstances. Nonuse for 3 consecutive years shall be prima facie evidence of abandonment. . . .

[or]

(2) . . . any course of conduct of the owner . . . [that] causes the mark to become the generic name for the goods or services on or in connection with which it is used or otherwise to lose its significance as a mark.

[15 U.S.C. § 1127; see 15 U.S.C. § 1064.]

Rather than plead any facts whatsoever to support its claim, the Petition for Cancellation contains solely the following conclusory allegations:

The ‘921 Registration Should Be Cancelled for Abandonment

8. Upon information and belief, Respondent ceased using PARAMOUNT in connection with live plants and flower seeds on or about January 1, 2009.

9. Upon information and belief, Respondent intended not to resume use of PARAMOUNT in connection with live plants and flower seeds.

10. Upon information and belief, Respondent did not intend to resume use of the PARAMOUNT mark for at least a three year period immediately following the date on which Respondent ceased use of the PARAMOUNT mark.

11. As a result of its non-use of PARAMOUNT in connection with the goods identified in the '921 Registration with an intention not to resume use, Respondent has abandoned the PARAMOUNT mark with respect to those goods within the meaning of 15 U.S.C. § 1127.

12. Petitioner will be damaged if Respondent attempts to enforce trademark rights in PARAMOUNT when Respondent has abandoned the mark.

[Pet. ¶¶ 8-12.]

These conclusory allegations are the type of threadbare recitals of the elements of a cause of action the Supreme Court warned against – and held insufficient to support a claim – in Iqbal and Twombly. Petitioner has not alleged any facts whatsoever to support these legal conclusions, and its claims are therefore entirely implausible. Like the petitioner in Otto, Petitioner has failed to allege facts that set forth a prima facie case of abandonment, which has deprived Paramount of fair notice regarding Petitioner's theory of abandonment. See Otto, supra. As a result of these deficiencies, the Board should grant Petitioner's motion to dismiss, and dismiss the Petition for Cancellation with prejudice.

CONCLUSION

The Petition for Cancellation is devoid of any substantive factual allegation from which the Board could determine that: (i) Petitioner has standing to pursue this proceeding; and/or (ii) Respondent has abandoned its Registered Mark. Petitioner has not specified how the Registered Mark causes it to suffer damages, and therefore Petitioner has not demonstrated a "real interest" in the cancellation of Paramount's incontestable registration. Furthermore, the conclusory allegations in the Petition for Cancellation – which amount to nothing more than a recitation of the elements of a claim for abandonment – are wholly insufficient. Dismissal of the Petition for Cancellation is required because requiring Paramount to respond to this proceeding would

deprive Paramount of the fair notice of Petitioner's theory of abandonment, to which Paramount is entitled in accordance with the Board's decision in Otto, supra.

For the foregoing reasons, Respondent Paramount Brand Roses, Inc. respectfully requests the Board dismiss the Petition for Cancellation with prejudice.

COLE SCHOTZ P.C.
Attorneys for Respondent Paramount Brand
Roses, Inc.

By: /s/ Nicole G. McDonough
David M. Kohane
Nicole G. McDonough

DATED: February 8, 2016

EXHIBIT A

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office **Reg. No. 1,980,921**
Registered June 18, 1996

**TRADEMARK
PRINCIPAL REGISTER**

PARAMOUNT

PARAMOUNT NURSERY PACKAGING CO.
(NEW JERSEY CORPORATION)
P.O. BOX 237
WEST GROVE, PA 193900237

FIRST USE 5-16-1986; IN COMMERCE
5-16-1986.

SER. NO. 74-678,783, FILED 5-22-1995.

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

DONNA MIRMAN, EXAMINING ATTORNEY

EXHIBIT B

INITIAL EXAMINATION CHECKLIST

Name: THERESA JORDAN

Date: FEB 21 2006

Reg.#: 1980921

TM SPECIALIST PLEASE CHECK

CHECK MAIL DATE

CHECK REGISTRATION NUMBER

CHECK MARK

CHECK REGISTER (SUPPLEMENTAL ERROR)

CHECK OWNER

CHECK OWNER ADDRESS

COMMERCE STATEMENT

15 CHECK STATEMENT

CHECK GOODS OR SERVICES

CHECK DECLARATION

CHECK SIGNATURE

CHECK DATE OF EXECUTION

CHECK FEE

CHECK SPECIMEN

CHECK CORRESPONDENCE ADDRESS

DM

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COMBINED DECLARATION OF USE & INCONTESTABILITY
UNDER SECTIONS 8 & 15 (15 U.S.C. SECTIONS 1058 & 1065)
(With Power of Attorney)

U.S. Patent & TMO/TM Mail Rpt. Dt. #57



04-03-2002

To the Commissioner for Trademarks

Docket No. 884.3.002
Trademark: PARAMOUNT

1980921

Registration Number: ~~198021~~
Registration Date: June 18, 1996
Name of Owner: PARAMOUNT BRAND ROSES, INC.
Address of Owner: P.O. Box 460,
Berkeley Heights, NJ 07922-0460

The Owner hereby appoints the below named domestic representative upon whom notice or process in the proceedings affecting the mark may be served.

Name of Domestic Rep.:
Address of Domestic Representative:
(Required ONLY if the owner's address is outside the United States)

The Owner has been using the above-identified mark for five (5) consecutive years after the date of registration, or the date of publication under Section 12(c), and is still using the mark in commerce on or in connection with all goods listed in the above-identified registration, except for the following:

04/08/2002 LBOWDEN 00000001 1980921
01 FC:372 100.00 OP
02 FC:373 200.00 OP

≡CCCCC°°Çx°ÇÇ'RyR°°DS≡CCCCC°°Çx°ÇÇ'RyR°°DS

04/11/2002 JHARLEY 00000032 198021
01 FC:372 100.00 OP
02 FC:373 200.00 OP

Adjustment date: 05/08/2002 LBOWDEN
04/11/2002 JHARLEY 00000032 198021
01 FC:372 -100.00 OP
02 FC:373 -200.00 OP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COMBINED DECLARATION OF USE & INCONTESTABILITY
UNDER SECTIONS 8 & 15 (15 U.S.C. SECTIONS 1058 & 1065)
(With Power of Attorney)

Docket No. **884.3.002**
Trademark: **PARAMOUNT**

Registration Number: **198021**
Registration Date: **June 18, 1996**
Name of Owner: **PARAMOUNT BRAND ROSES, INC.**
Address of Owner: **P.O. Box 460**
Berkeley Heights, NJ 07922-0460

POWER OF ATTORNEY

The Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Dear Sir:

I hereby appoint:

Kenneth Watov, Esq.
Registration No. 26,042
Watov & Kipnes, P.C.
P.O. Box 247
Princeton Junction, NJ 08550

as principal attorney(s) to submit this document and to transact all business in the Patent and Trademark Office connected therewith.

By: Al Mea, President

Al Mea, President
Paramount Brand Roses, Inc.

Dated: 2-7-2002

Send to:
Box Post Reg
Fee
Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

Certificate of Mailing by First Class Mail

I certify that this document and enclosed fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

Certificate of Mailing by Express Mail

I certify that this document and fee is being deposited on _____ with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Kenneth Watov

Signature of Person Mailing Correspondence

Kenneth Watov

Typed or Printed Name of Person Mailing Correspondence

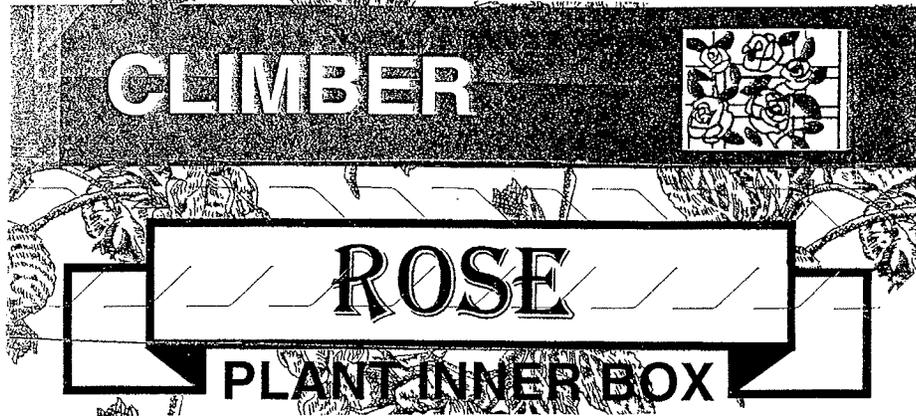
EV 026599666 US

"Express Mail" Mailing Label Number

PHOTOGRAPH OF BOX WITH STICK-ON LABEL SHOWING
TRADEMARK/REGISTRATION NO. 1980921



FRONT OF SHIPPING BOX WITH STICK-ON LABEL SHOWING
TRADEMARK/REGISTRATION NO. 1980921



Climbing Pink Peace

Climbing Rose

Magnificent, very fragrant
blooms of deep dusty pink on
long stems. Leathery foliage.
Vigorous, bushy, very free
blooming plant.

Bloom Size Large, very double
Fragrance Strong rose
Height/Habit Medium/upright
Foliage Leathery

 **Paramount**

M2007

SIDE PANEL OF BOX
REGISTRATION NO. 1980921

ZIP
TAB

PARAMOUNT BRAND ROSES

WORLD SERIES
COLLECTION

Climbing
All Time Favorites
Sub Zero +
Landscape
Antique
Patio

For more rose information, visit our website:
www.me-a-nursery.com

Paramount Brand Roses
ROSEBUSH PLANTING NEEDS

- TROWEL OR SHOVEL
- ROSE FOOD
- ROSE SOIL MIX
- POT FOR PATIO
- GLOVES

ZIP
TAB

REGISTRATION FORM COVER SHEET
TRADEMARKS ONLY

Docket No.:
884.3.002

Tab settings → → → ▼ ▼ ▼ ▼ ▼ ▼ ▼ ▼

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):
PARAMOUNT NURSERY PACKAGING CO. CORPORATION

Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State **NJ**
 Other _____

Additional names(s) of conveying party(ies) Yes No

2. Name and address of receiving party(ies):

Name: **PARAMOUNT BRAND ROSES, INC.**

Internal Address: _____

Street Address: **P.O. Box 460**

City: **Berkeley Heights** State: **NJ** ZIP: **07922**

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State **New Jersey**
 Other _____

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from
Additional name(s) & address(es) Yes N

3. Nature of conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other _____

Execution Date: **February 7, 2002**

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

Additional numbers Yes No

B. Trademark Registration No.(s)

1980921

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: **Kenneth Watov**

Internal Address: _____

Street Address: **Watov & Kipnes, P.C.**

P.O. Box 247

City: **Princeton Junction** State: **NJ** ZIP: **08550**

6. Total number of applications and registrations involved:..... **1**

7. Total fee (37 CFR 3.41):.....\$ **\$40.00**

Enclosed
 Authorized to be charged to deposit account

8. Deposit account number:

23-0510

DO NOT USE THIS SPACE

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Kenneth Watov *Kenneth Watov* **April 3, 2002**

Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and **2**

ASSIGNMENT OF REGISTERED TRADEMARK

ASSIGNMENT

WHEREAS, PARAMOUNT NURSERY PACKAGING CO., a New Jersey corporation having its principal offices at P.O. Box 237, West Grove, PA 19390-0237, has adopted, used, and is using and is the owner of the following trademark now registered in the United States Patent and Trademark Office:

<i>Trademark</i>	<i>Registration No.</i>	<i>Registered</i>
PARAMOUNT	1980921	June 18, 1996

WHEREAS, PARAMOUNT BRAND ROSES, INC., a New Jersey corporation having its principal offices at P.O. Box 460, Berkeley Heights, NJ 07922-0460, is desirous of acquiring said registered trademark,

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, PARAMOUNT NURSERY PACKAGING CO., hereby assigns to PARAMOUNT BRAND ROSES, INC., all right, title and interest in the United States in and to said trademark, together with the goodwill of the business symbolized by said trademark and registration thereof.

Signed at Berkeley Heights NJ, this 7th day of February 2002.

PARAMOUNT NURSERY
PACKAGING CO.

By 
Al Mea, President

State of New Jersey
County of Union

SS:

On this 7 th day of February, 2002, personally appeared Al Mea, to me known and known to me to be President of PARAMOUNT NURSERY PACKAGING CO., the assignor above named, and acknowledged that he executed the foregoing Assignment on behalf of said assignor and pursuant to authority duly received.


Notary Public

8843002

MARY JANE RUBINO
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires April 20, 2002

Docket No. 884.3.002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRANSMITTAL LETTER, COMBINED DECLARATION OF USE AND INCONTESTABILITY
UNDER SECTIONS 8 & 15

Name of Owner: **PARAMOUNT BRAND ROSES, INC.**

U.S. Patent & TMO/TM Mail Rept. Dt. #57

Trademark: **PARAMOUNT**



04-03-2002

International Class(es): 31

TO THE COMMISSIONER FOR TRADEMARKS:

Transmitted herewith is a Combined Declaration of Use and Incontestability under Sections 8 & 15 and fee calculated as follows:

Total # Classes		Fee/class			
1	x	\$300.00	=	BASIC FEE	\$300.00
Check here if filing during grace period <input type="checkbox"/>				GRACE PERIOD FEE	\$0.00
				TOTAL FEE	\$300.00

- A check in the amount of \$300.00 is attached.
- Please charge Deposit Account No. _____ in the amount of _____
A duplicate copy of this sheet is enclosed.
- The Commissioner is hereby authorized to charge payment of any fees associated with this Declaration or credit any overpayment to Deposit Account No. 23-0510
A duplicate copy of this sheet is enclosed.

Certificate of Mailing by Express Mail

I certify that this transmittal letter, the enclosed document and fee is being deposited on _____ with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Kenneth Watov
Signature of Person Mailing Correspondence

Kenneth Watov

Typed or Printed Name of Person Mailing Correspondence

EV 026599666 US

"Express Mail" Mailing Label Number

Certificate of Mailing by First Class Mail

I certify that this transmittal letter, the enclosed document and fee is being deposited on _____ with the U.S. Postal Service as first class mail under 37 C.F.R. 1.8 and is addressed to the Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513.

Signature of Person Mailing Correspondence

Typed or Printed Name of Person Mailing Correspondence

Kenneth Watov
Signature

Dated: April 3, 2002

Note: Enclosed herewith are photocopies of a "Recordation Form Cover Sheet-Trademarks Only," and an "Assignment of Registered Trademark" for assigning the subject Registration No. 1980921 from Paramount Nursery Packaging Co. to Paramount Brand Roses, Inc., as mailed to Box Assignment on April 3, 2002.



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

ASSISTANT COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3513

FEB. 23, 1996

NOTICE OF PUBLICATION UNDER 12(a)

- | | |
|---------------------------------|----------------------|
| 1. Serial No.: | 2. Mark: |
| 74/678,783 | PARAMOUNT |
| 3. Applicant: | 4. Publication Date: |
| PARAMOUNT NURSERY PACKAGING CO. | MAR. 26, 1996 |

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 at \$20.00 each for domestic orders, or at \$25.00 each for foreign orders from:

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

By direction of the Commissioner.

KENNETH WATOV
WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction, NJ 08550

TMP&I

PUBLICATION/REGISTRATION EXAMINATION WORK SHEET

Reviewer: Tawana Campbell L.O.: 101 Date: 2/6/96 Serial No.: 678783

I certify all information in the database matched the information in the file and no corrections were required. *True*

INSTRUCTIONS: If the information in the database does not match the information in the file the reviewer should check the ERROR column. After correction (text editing), the EDITED column should be checked. **RETAIN IN FILE WRAP.**

SCREEN	ERROR	EDITED	ERROR FOUND DURING REVIEW REQUIRING AMENDMENT OF:
AM			Mark Type:
			Register:
			Mark: <input type="checkbox"/> MDC:
PY			Owner: <input type="checkbox"/> Name: <input type="checkbox"/> MDC:
			<input type="checkbox"/> Citizenship:
			<input type="checkbox"/> Entity Type:
			DBA/AKA/TA Statement:
			Address: <input type="checkbox"/> Inter <input type="checkbox"/> City <input type="checkbox"/> State/Country <input type="checkbox"/> Zip
CL			Assignment or Name Change:
			Composed of:
			International Class: U.S. Class:
			First Use: First Use in Commerce:
			Goods and Services:
AM			Amended Register: P.R.: S.R.:
			Amended Reg. Date:
O T H E R			Disclaimer:
			Description of Mark:
			Lining and Stippling Statement:
			Translation of Words in Mark:
			Name/Portrait Description/Consent:
			Section 2(f): <input type="checkbox"/> In Part <input type="checkbox"/> Limitation Statement <input type="checkbox"/> Entire Mark
			Use in Another Form:
			Certification Statement:
			Concurrent Use Statement:
			Prior U.S. Registrations:
FN			Domestic Representative:
			Foreign Country of Origin:
			Foreign Application No.: Frgn. Appl. Filing Date:
			Section 44(d): Y/N Section 44(e): Y/N
			Foreign Registration No.: Frgn. Reg. Date:
			Foreign Registration Expiration Date:
CD			Foreign Renewal Reg. No.: Frgn. Reg. Renewed:
			Foreign Registration Renewed Expiration Date:
			Attorney Name:
			Correspondence: <input type="checkbox"/> Name <input type="checkbox"/> Inter St. Address <input type="checkbox"/> City/State/Zip
			Attorney Docket Number:

Other: _____

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Text Editor _____
Date

AMENDMENT EXAMINATION WORK SHEET

Name: Debra Campbell L.O.: 101 Date: 12/21 Serial No.: 678783

INSTRUCTIONS: To certify amendments the R&A Clerk should check the "AMENDED" column. The Text Editor should check "ENTERED" after the amendment has been entered.
 RETAIN IN FILE.

SCREEN	AMENDED	ENTERED	AMENDED TO:
AM			Mark Type:
			Register:
			Mark: <input type="checkbox"/> MDC:
PY			Owner: <input type="checkbox"/> Name:
			<input type="checkbox"/> Citizenship:
			<input type="checkbox"/> Entity Type:
			DBA/AKA/TA Statement
			Address: <input type="checkbox"/> Inter <input type="checkbox"/> City <input type="checkbox"/> State/Country <input type="checkbox"/> Zip
			Assignment or Name Change:
CL			Composed of:
			International Class: U.S. Class:
			First Use: First Use in Commerce:
			Goods and Services:
AM			Amended Register: P.R.: S.R.:
			Amended Reg Date:
O T H E R			Disclaimer:
			Description of Mark:
			Lining and Stippling Statement:
			Translation of Words in Mark:
			Name/Portrait Description/Consent:
			Section 2(f): <input type="checkbox"/> In Part <input type="checkbox"/> Limitation Statement <input type="checkbox"/> Entire Mark
			Use in Another Form:
			Certification Statement:
			Concurrent Use Statement:
			Prior U.S. Registrations:
FN			Domestic Representative:
			Foreign Country of Origin:
			Foreign Application No.: Frgn. Appl. Filing Date:
			Section 44(e) Claimed: Y/N Section 44(d) Claimed: Y/N
			Foreign Registration No.: Frgn. Reg. Date:
			Foreign Registration Expiration Date:
			Foreign Renewal Reg. No.: Frgn. Reg. Renewed:
		Foreign Registration Renewed Expiration Date:	
CD			Attorney Name:
			Correspondence: <input type="checkbox"/> Name <input type="checkbox"/> Inter St. Address <input type="checkbox"/> City/State/Zip
			Attorney Docket Number:

Other: _____

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.
 _____ 12/22/95 Initial Box if No Amendments are required.

**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

SERIAL NO. 74/678783		APPLICANT PARAMOUNT NURSERY PACKAGING CO.		PAPER NO. <i>A</i>
MARK PARAMOUNT		ADDRESS ASSISTANT COMMISSIONER FOR TRADEMARKS 2900 Crystal Drive Arlington, Virginia 22202-3513		
ADDRESS KENNETH WATOV WATOV & KIPNES, P.C. P.O. Box 247 Princeton Junction, NJ 08550		ACTION NO. 01	If no fees are enclosed, the address should include the words "Box 5." Please provide in all correspondence:	
FORM PTO-1525 (5-90)		MAILING DATE 12/21/95	1. Filing Date, serial number, mark and Applicant's name.	
U.S. DEPT. OF COMM. PAT. & TM OFFICE		REF. NO. 884.3.002	2. Mailing date of this action.	
			3. Examining Attorney's name and Law Office number.	
			4. Your telephone number and ZIP code.	

EXAMINER'S AMENDMENT

EXAMINING ATTORNEY		PERSON CALLED/INTERVIEWED		TELEPHONE NUMBER	
Donna L. Mirman		Kenneth Watov			
X	TELEPHONE CALL	INTERVIEW DATE		X	ATTORNEY
	PERSONAL INTERVIEW	December 18, 1995			APPLICANT

CALL RECORD/NOTES

OFFICE SEARCH: The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.
RE: Serial Number 74/678783

In accordance with the authorization granted by the above Applicant or attorney, the application has been AMENDED as indicated below. No response is necessary unless there is an objection to the amendment.

✓CS

The identification of goods is amended to read: *Live plants and flower seeds.*

The method-of-use clause is amended to insert the wording: "and catalogs."

Donna L. Mirman

Donna L. Mirman, Trademark Attorney
Law Office 101, (703) 308-9101 ext 144

1/6

245.W-361

74678783



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : PARAMOUNT NURSERY PACKAGING CO.
 State of Incorporation : New Jersey
 Business Address : P.O. Box 237
 West Grove, PA 19390-0237
 Mark : PARAMOUNT
 Int'l. Class : 31

03
PA

May 8, 1995

Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

APPLICATION FOR REGISTRATION OF
TRADEMARK ON PRINCIPAL REGISTER

SIR:

The above identified Applicant on Information and Belief has adopted and is using the trademark shown in the accompanying drawing for the following goods: PACKAGING AND SALE OF
Active plants and flower seeds
~~HORTICULTURAL PRODUCTS~~ in International Class 31, and requests that said mark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

Re: KA
GS
plant
(031)

The trademark, on information and belief, was first used on the goods on or before May 16, 1986; was first used on the goods in interstate commerce on or before May 16, 1986; and is now in use in such commerce.

The mark is used by applying it directly to the goods, and six specimens showing the mark as actually used for the goods/services are presented herewith.

POWER OF ATTORNEY

Applicant hereby appoints (KENNETH WATOV) and ALLEN R. KIPNES members of the Bars of the States of New Jersey, and New York, respectively, of (WATOV & KIPNES, P.C.) located at (P.O. Box 247, Princeton Junction, New Jersey 08550,) to prosecute this application for registration, to transact all business in the U.S. Patent and Trademark Office in connection therewith, and to receive the Certificate of Registration, with all correspondence to be sent to their above address to the attention of Kenneth Watov.

DECLARATION

The undersigned Al Mea declares that he is the President and Chief Executive Officer of Applicant company, and is authorized to execute this declaration on its behalf; he believes the Applicant company to be owner of the mark sought to be registered; to the best of his knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce, either in the identical form or in such near resemblance thereto as to be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; and that the facts set forth in this application are true.

It is further declared by the undersigned that all statements made herein of undersigned's own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under the Title 18 U.S. Code 1001, and that such willful false statements may jeopardize the validity of this application or any registration issuing thereon.

PARAMOUNT NURSERY PACKAGING CO.

Dated: May 10, 1995

By Al Mea President
Al Mea, President

Address all correspondence to:

Kenneth Watov, Esq.
WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction, NJ 08550
Telephone No. (609) 243-0330



*NJ AND NY BARS
+NY BAR ONLY

WATOV & KIPNES

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

Mailing Address:
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

Express Mail Address:
186 Princeton-Hightstown Rd.
Building 3A
Princeton Junction, NJ 08550

74678783

PATENTS, TRADEMARKS,
COPYRIGHTS AND
RELATED MATTERS

(609) 243-0330
FAX: (609) 275-1010

8843002.TRL

May 16, 1995

Assistant Commissioner for Trademarks
Box Trademark Application
2900 Crystal Drive
Arlington, VA 22202-3513

RE: New U.S. Trademark Application
Trademark : PARAMOUNT
Our File No.: 884.3.002

Dear Sir:

Enclosed herewith are:

1. The Application for Registration in International Class 31, including a Power of Attorney.
2. Six (6) specimens for the mark as actually used.
3. A check No. 3221 in the amount of \$245.00 covering the filing fee for the Application.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this matter, or credit any overpayment, to Deposit Account No. 23-0510.

Please direct all further communications respecting the above referenced Application and file to the undersigned at the address indicated in the letterhead.

Very truly yours,

Kenneth Watov
Reg. No. 26,042
Attorney for Applicant

KW/blk
Encs.

TRADEMARK APPLICATION SERIAL NO. 74678783

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

140 KJ 06/12/95 74678783

0 361 245.00 CK 8843002.TRL

PTO-1555
(5/87)

SERIES CODE & SERIAL NUMBER 74 / 678783

CODING SHEET FOR PSEUDO MARKS AND DESIGN SEARCH CODES

MARK DRAWING CODE
(please circle appropriate MDC)

1 2 3 5 6

PSEUDO MARK (PM) _____

WIPO/DESIGN SEARCH CODES

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

NAME: Sidonia M. Williams

ITU: Y or **N**

P - ① S - 2

SERIAL NO.: 74/678283

TRADEMARK APPLICATION FILE DATA WORKSHEET

CLASS DATA

1. INTERNATIONAL CLASS	31									
2. COLLECTIVE TM or SM	T	S	T	S	T	S	T	S	T	S
3. FEE PAID	Y	N	Y	N	Y	N	Y	N	Y	N
4. PRIOR US CLASS(ES)										
5. 1ST USE DATE	5-16-1986									
6. 1ST USE IN COMM DATE	5-16-1986									
7. IN ANOTHER FORM CODE	1	2	1	2	1	2	1	2	1	2
8. IN ANOTHER FORM STATEMENT	AF CODE IN MARGIN TEXT IN []									
9. GOODS/SERVICES	GS INTERNATIONAL CLASS IN MARGIN, TEXT []									
10. CERTIFICATION STATEMENT	CS IN MARGIN, TEXT IN []									

FOREIGN DATA

1. PRIORITY CLAIMED	Y	N	Y	N	Y	N	Y	N	Y	N
2. COUNTRY CODE										
3. FOREIGN APPLICATION										
4. FOREIGN FILING DATE										
5. FOREIGN REG #										
6. FOREIGN REG DATE										
7. FOREIGN EXPIRATION DATE										
8. RENEWAL #										
9. RENEWAL REG DATE										
10. RENEWAL EXPIRATION DATE										

NOTFS TO DATA ENTRY PERSONNEL:

Trademark Assignment Abstract of Title

Total Assignments: 1

Serial #: 74678783 **Filing Dt:** 05/22/1995 **Reg #:** 1980921 **Reg. Dt:** 06/18/1996

Registrant: PARAMOUNT NURSERY PACKAGING CO.

Mark: PARAMOUNT

Assignment: 1

Reel/Frame: <u>2489 / 0697</u>	Received: 04/24/2002	Recorded: 04/12/2002	Mailed: 06/19/2002	Pages: 2
---------------------------------------	-----------------------------	-----------------------------	---------------------------	-----------------

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: PARAMOUNT NURSERY PACKAGING CO. CORPORATION

Exec Dt: 02/07/2002

Entity Type: CORPORATION

Citizenship: NEW JERSEY

Assignee: PARAMOUNT BRAND ROSES, INC.

P.O. BOX 460
BERKELEY HEIGHTS, NEW JERSEY 07922

Entity Type: CORPORATION

Citizenship: NEW JERSEY

Correspondent: WATOV & KIPNES, P.C.

KENNETH WATOV
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

Search Results as of: 2/21/2006 1:39:10 P.M.

If you have any comments or questions concerning the data displayed, contact OPR / Assignments at 571-272-3350
Web interface last modified: September 28, 2005

TRADEMARK ASSIGNMENT QUERY AS OF 6/26/2002 9:13:36
REEL/FRAME DATA

REEL: 2489
FRAME: 0697

NUMBER OF PAGES: 002

ELECTRONIC SUBMISSIONN
PTAS SUBMISSION: Y

DATE LAST UPDATED: 06/19/2002
DATE IN SYSTEM:
DATE KEYED IN:
RECORDATION DATE: 04/12/2002
DATE MAILED: 06/19/2002
ASSIGNMENT RECEIPT DATE: 04/24/2002
CONVEY EFFECTIVE DATE:

CORRESPONDENCE

NAME: WATOV & KIPNES, P.C.
KENNETH WATOV
P.O. BOX 247
PRINCETON JUNCTION, NJ 08550

BRIEF CODE: 22

BRIEF TEXT: ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL

CONVEYING PARTY DATA

ENTRY: 001
NAME: PARAMOUNT NURSERY PACKAGING CO. CORPORATION
FORMERLY:
ENTITY: 03 - CORPORATION
ENTITY TEXT:
CITIZENSHIP: NJ - NEW JERSEY
EXECUTION DATE: 02/07/2002

40

RECEIVING PARTY DATA

ENTRY: 600
NAME: PARAMOUNT BRAND ROSES, INC.
COMPOSED OF:
DBA/AKA/TA:
ADDRESS: P.O. BOX 460
BERKELEY HEIGHTS
STE/CTRY CODE: NJ - NEW JERSEY
ZIP CODE: 07922
ENTITY: 03 - CORPORATION
ENTITY TEXT:
CITIZENSHIP: NJ - NEW JERSEY

DOMESTIC REPRESENTATIVE DATA

NAME:

PROPERTY DATA

SERIAL NUMBER: 74678783 FILING DATE: 05/22/1995
REGISTRATION NUMBER: 1980921 ISSUE DATE: 06/18/1996
WORD MARK: PARAMOUNT
MARK DESCRIPTION: WORDS, LETTERS, OR NUMBERS IN TYPED FORM
LOCATION: 837 - POST REGISTRATION
LOCATION DATE: 05/08/02
EXAMINER: MIRMAN, DONNA



74678783

INT. CL.
31
PRIOR USE CL.
1,46

Applicant - PARAMOUNT NURSERY PACKAGING CO.

Address - P.O. Box 237
West Grove, PA 19390-0237

Date of First Use - On or before May 16, 1986

In Interstate Commerce - On or before May 16, 1986

Goods/Services - Packaging and sale of horticultural products.

PARAMOUNT

Address all correspondence to:

Kenneth Watov, Esq.
WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction, NJ 08550
Telephone No. (609) 243-0330

EXPIRES
MAR 26 1996

*** User: EX291206 ***

STMT NUMBER	TOTAL MARKS	LIVE VIEWED	DEAD VIEWED	SEARCH
01	160	0	0	PHRASCH :paramount:
02	166	0	0	PHONSCH paramount ^ paramounts
03	36	22	14	PHRASCH (1 ^ 2) & 031/cc

TERMINAL SESSION STARTED 12/18/95 11:13 A.M. (EASTERN TIME)
TERMINAL SESSION FINISHED 12/18/95 11:19 A.M. (EASTERN TIME)
ELAPSED TIME THIS SESSION 0 HRS AND 6 MIN

EXHIBIT C

4

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COMBINED DECLARATION OF USE IN COMMERCE AND APPLICATION FOR RENEWAL OF REGISTRATION OF MARK UNDER SECTIONS 8 & 9 (15 U.S.C. SECTIONS 1058 & 1059)

To the Commissioner for Trademarks

Docket No. 884.3.002
Trademark: **PARAMOUNT**

Registration Number: 1980921
Registration Date: June 18, 1996
Name of Owner: Paramount Brand Roses, Inc.
Address of Owner: P.O. Box 460
Berkeley Heights, NJ 07922-0460

P11

The Owner hereby appoints the below named domestic representative upon whom notice or process in the proceedings affecting the mark may be served.

Name of Domestic Rep.:
Address of Domestic Representative:
(Required ONLY if the owner's address is outside the United States)

The Owner is using the above-identified mark in commerce on or in connection with all goods listed in the above-identified registration, and hereby requests that the above-identified registration be renewed for all goods listed in the registration, except for the following:

01/23/2005 HPHAM1 00000128 1980921
01 FC:6205 100.00 OP
02 FC:6201 400.00 OP

as evidenced by the attached specimen(s) showing the mark as currently used in commerce.

DECLARATION

The undersigned, being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this document, declares that I am properly authorized to execute this document on behalf of the Owner; and all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Signature: Kenneth Watov
 Name: **Kenneth Watov, Esq., Reg. No. 26,042**
 Title: **Attorney At Law of New Jersey**
 Date: **January 12, 2006**

Indicate below the nature of authority under which signatory signs:

- A person with legal authority to bind the Owner; or
 A person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the Owner; or
 An attorney as defined in 37 C.F.R. 10.1(c) who has an actual or implied written or verbal power of attorney from the Owner.

Contact Information:

Address all correspondence in this matter to the following:

Name: Kenneth Watov, Esq.
 Company/Firm Name: WATOV & KIPNES, P.C.
 Address Line 1: P.O. Box 247
 Address Line 2: _____
 City: Princeton Junction
 State: New Jersey
 Country: US
 ZIP Code/Postal Code: 08550
 Telephone Number: (609) 243-0330
 Fax Number: (609) 275-1010
 Email Address: WKKen@aol.com

- Applicant will accept correspondence by email.
 Applicant will **not** accept correspondence by email.

Send to:
 Commissioner for Trademarks
 P.O. Box 1451
 Alexandria, VA 22313-1451

Certificate of Mailing by First Class Mail

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451" [37 CFR 1.8(a)] on

 (Date)

 Signature of Person Mailing Correspondence

 Typed or Printed Name of Person Mailing Correspondence

Certificate of Mailing by Express Mail

I certify that this transmittal letter, the enclosed application and fee is being deposited on

January 12, 2006

(Date)

with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Kenneth Watov

Signature of Person Mailing Correspondence

Kenneth Watov

Typed or Printed Name of Person Mailing Correspondence

EV 721458833 US

"Express Mail" Mailing Label Number

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
 COMBINED DECLARATION OF USE IN COMMERCE AND APPLICATION FOR RENEWAL OF REGISTRATION
 OF MARK UNDER SECTIONS 8 & 9 (15 U.S.C. SECTIONS 1058 & 1059)

Name of Registrant: **Paramount Brand Roses, Inc.**

Registration Number: **1980921**

Trademark: **PARAMOUNT**

International Class(es): **31**

TO THE COMMISSIONER FOR TRADEMARKS:

Transmitted herewith is an Combined Declaration of Use in Commerce and Application for Renewal of Registration of Mark under Sections 8 & 9 and fee calculated as follows:

Total # Classes		Fee/class		
1	x	\$500.00	=	BASIC FEE
				\$500.00
Check here if filing during grace period			<input type="checkbox"/>	GRACE PERIOD FEE
				\$0.00
				TOTAL FEE
				\$500.00

- A check in the amount of **\$500.00** is attached.
- Please charge Deposit Account No. _____ in the amount of _____
- The Director is hereby authorized to charge payment of any fees associated with this Declaration or credit any overpayment to Deposit Account No. **23-0510**
- Payment by credit card. Form PTO-2038 is attached.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Certificate of Mailing by Express Mail

I certify that this transmittal letter, the enclosed application and fee is being deposited on <p align="center">January 12, 2006 <i>(Date)</i></p> with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 and is addressed to the Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451. <i>Kenneth Watov</i> Signature of Person Mailing Correspondence Kenneth Watov Typed or Printed Name of Person Mailing Correspondence EV 721458833 US "Express Mail" Mailing Label Number

Certificate of Mailing by First Class Mail

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451" [37 CFR 1.8(a)] on <p align="center">_____ <i>(Date)</i></p> Signature of Person Mailing Correspondence Typed or Printed Name of Person Mailing Correspondence

Kenneth Watov

 Signature

Dated: **January 12, 2006**

Kenneth Watov, Esq., Reg. No. 26,042
WATOV & KIPNES, P.C.
 P.O. Box 247
 Princeton Junction, NJ 08550
 (609) 243-0330



01-13-2006

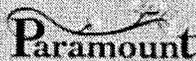
Patented

Exclusive varieties

#1 Grade

Robust root system

More blooms

 Paramount

Quality blooms since 1928

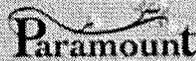
Patented

Exclusive varieties

#1 Grade

Robust root system

More blooms

 Paramount

Quality blooms since 1928

Floribunda

Heavy blooms with
large clusters of flowers

Lower-growing bushes

Variety of planting options
(beds of color, border planting or
companion plants)

 Paramount

Quality blooms since 1928



For valuable rose
information, visit the website
of the American Rose Society
at www.ars.org/.

The
Paramount
Quality Rose Nurseries, Inc.
Mea Nursery, Lindale, TX



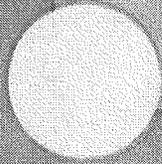
For valuable rose
information, visit the website
of the American Rose Society
at www.ars.org/.

The
Paramount
Quality Rose Nurseries, Inc.
Mea Nursery, Lindale, TX



For valuable rose
information, visit the website
of the American Rose Society
at www.ars.org/.

The
Paramount
Mea Nursery, Lindale, TX



Paramount
Quality Roses Since 1928

CLIMBING ROSE

Vigorous Varieties

Packaged by Meo Nursery, Lincoln, TX

Paramount

Quality Roses Since 1923

Backed by Tradition and Experience

Planting and Care Tips

Planting temperatures

If there are light frosts or nighttime temperatures are consistently below freezing, consider storing your plants for a short time until the temperatures are at or above freezing.

Storing

If storing plants, find a cool, dark location such as a garage or basement. Cut a hole in the top of the bag and add water to keep the roots moist. Periodically mist the canes.

Preparing your rose to plant

12 to 24 hours before planting remove the plant from its packaging and soak the roots in water to both add moisture and clean off the insulating mix used to protect the roots during the transition from the field to your garden.

Soil for planting

Soil mixture should be 2/3 garden soil to 1/3 organic mixture (peat, compost, rotted manure or other organic mixture) plus 1 cup of Bone Meal.

Where to plant

Choose a well-drained location with at least 4 to 6 hours of daily sun. Space plants at least 3 feet apart for good air circulation.

Planting

Prepare a hole approximately 18" inches in diameter by 18" deep. In the middle of the hole form a soil pyramid. Spread the bare roots over the pyramid and then fill in the hole with your soil mixture up to the bud union (where the canes begin) keeping the union about 1" above the soil level.

Watering

New plant: After planting your rose, thoroughly water-in your plant to saturate the ground and move the soil in contact with the roots. Then water twice weekly for the next two weeks.
Established plant: Water every 7 to 10 days.

Protecting your new plant against cold/heat

If there is a light frost or temperatures drop below freezing or hot drying sun, cover the canes of your plants with brown bags to protect the canes from damage.

Feeding

Begin feeding your plants once a week in the second week with a water-soluble fertilizer. After first flowering, apply Epsom Salts one time only (2 tablespoons salt per 1 gallon water).

For more information, visit our website at www.mea-nursery.com.

Para más información, visite nuestro sitio en la red del Internet: www.mea-nursery.com.

Consejos para plantar y cuidar plantas

Temperaturas para plantar

Si hay escarchas ligeras o si las temperaturas nocturnas se encuentran consistentemente bajo el punto de congelación, querrá considerar almacenar sus plantas durante un período corto hasta que las temperaturas se encuentren al nivel de congelación o arriba del mismo.

Almacenamiento

Al almacenando plantas, querrá encontrar un sitio fresco, tal como la esquina de una cochera. Corte un hoyo en la parte superior de la bolsa y agregue agua para mantener las raíces húmedas. Querrá humedecer los tallos periódicamente.

Preparando su rosa para plantar

Entre 12 a 24 horas antes de que vaya a sembrar, remueva la planta de su empaque y remoje las raíces en agua para agregar humedad al igual que limpiar la mezcla de aislamiento que se usa para proteger las raíces durante la transición del campo a su jardín.

Tierra para plantar

La mezcla de tierra debería ser 2/3 tierra de jardín a 1/3 de mezcla orgánica (turba, residuos orgánicos tipo compost, estiércol descompuesto u otra mezcla orgánica) más 1 taza de Harina de Huesos.

Dónde plantar

Elija un sitio de buen drenaje que reciba al menos 4 a 6 horas de sol a diario. Coloque las plantas dejando un espacio de tres pies entre sí para permitir buena circulación de aire.

Cómo plantar

Prepara un hoyo de aproximadamente 18" pulgadas de diámetro por 18" de profundidad. En el medio del hoyo forme una pirámide de tierra. Esparaza las raíces desnudas sobre la pirámide y luego llene el hoyo con su mezcla de tierra hasta la unión de los capullos (donde comienzan los tallos) manteniendo la unión aproximadamente 1" sobre el nivel de la tierra.

Cómo regar

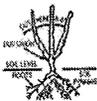
Planta nueva: Luego de plantar su rosa, riegue su planta completamente de manera que el suelo quede saturado y mueva la tierra que esté en contacto con las raíces. Luego riegue dos veces por semana durante las próximas dos semanas.
Planta establecida: Riegue cada 7 a 10 días.

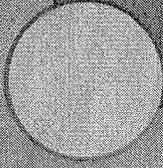
Cómo proteger su nueva planta contra el frío/el calor

Si hay una escarcha ligera o si las temperaturas caen a un nivel por debajo del nivel de congelación o de sol muy caliente y secanse, cubra los tallos de sus plantas con bolsas color café para resguardar los tallos de posibles daños.

Nutrición

Comience a nutrir sus plantas una vez por semana durante la segunda semana con un fertilizante soluble en agua. Luego del primer florecimiento, aplique Sales de Epsom solamente una vez (2 cucharadas de sal por 1 galón de agua).





Paramount
Quality Roses Since 1928

#1 GRADE ROSE

Top Grade

Paramount

Quality Roses Since 1928

Backed by Tradition and Experience

Mea Nursery has been growing America's finest roses for more than seven decades. Founded in 1928 in New Jersey, Mea Nursery began by growing and selling top-quality cut roses to flower markets in the area. Mea's reputation for quality and dependability grew, and by the mid-1950s Mea Nursery was selling packaged dormant roses from coast to coast. The company soon moved to deep East Texas to take advantage of a longer growing season and the dark, rich organic soil. Mea Nursery—still owned by the family of Joseph P. Mea—operates in Lindale, Texas. The nursery grows and sells dormant roses, container roses and chrysanthemums nationwide.

Planting and Care Tips

Where to plant

Choose a well-drained location in full sun (at least six to six hours daily). Space your plants for good air circulation, but protect the roses from gusting winds.

Preparing the soil

Loosen and turn your soil to a depth of about 12 inches. Incorporate peat, compost, manure or another organic mixture at a ratio of about two-thirds garden soil to one-third organic mixture. For each rose bush, dig a hole approximately 18" x 18" x 18" in the prepared soil.

Preparing your rose

Remove your rose from the packaging, taking care not to disturb the organic packing material or delicate roots. (If you are unable to plant your rose immediately, immerse the roots in a pail of water.) The canes (branches) have been pre-pruned for planting. If browning of the cane tips has occurred, prune any darkened area.

Planting

Plant your rose bush so that bud union (where branches and roots join) is just above the bed. Surround the roots with the enriched soil, then pack the soil by tamping and watering. Leave a small basin around the rose bush and water at least twice a week until the plant starts growing.

Watering

Your new rose should be watered twice a week until it starts growing. Water roses during dry periods, and you'll see continuous blooming throughout the growing season. If rain isn't sufficient, sprinkle to be sure your rose receives at least an inch of water a week. (Sprinkling should be followed by the application of a fungicide within 24 hours.)

Feeding

Fertilizing is best done in the spring after growth has started. Repeat every six to eight weeks, as growth requires. Fall treatments are not advised.



Consejos para plantar y cuidar plantas

¿Dónde plantar

Escoga un lugar bien drenado y soleado (por lo menos seis horas diarias.) Deje suficiente espacio entre los rosales para que el aire circule bien, pero protéjalos contra ráfagas de viento.

Preparando la tierra

Alloje y déle vuelta a su tierra, alcanzando una profundidad de aproximadamente dos pies. Incorpore musgo de pantano, estiércol vegetal, abono, o alguna otra mezcla orgánica. En esta tierra, previamente preparada, plante cada rosal en un hoyo de aproximadamente 18" x 18" x 18".

Preparando sus rosas

Remueva su rosal del empaque, cuidándose de no perturbar el material orgánico donde está empaçado o las delicadas raíces. (Si es imposible plantar su rosal inmediatamente, sumerja las raíces en un recipiente con agua.) Las cañas (ramas) han sido podadas previamente para el plantado. Si las extremidades de la caña se han puesto de color café, corte el área oscurecida.

Plantando

Plante su rosal de manera que la unión del brote (donde las ramas y las raíces se juntan) quede en la superficie del lecho de tierra. Rodee las raíces con la tierra preparada enriquecida, entonces apriete la tierra por medio de apisonamiento y riego. Haga una cuenca alrededor del rosal y riéguelo mínimo dos veces por semana, hasta que la planta haya dado señales de crecimiento.

Regando

Riegue los rosales durante los periodos de clima secos, y habrá florecimiento continuo durante la época de crecimiento. Si la lluvia no es suficiente, riegue sus rosales para asegurarse de que estos reciban por lo menos una pulgada de agua cada semana.

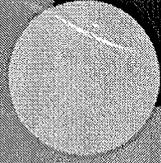
Alimentando

El fertilizante actúa mejor en la primavera, después de que la planta ha dado señales de crecimiento. Repita de cada seis a ocho semanas, o como lo requiera la planta dependiendo de su crecimiento. No es aconsejable fertilizar sus plantas en el otoño.

For more information, visit our website at www.mea-nursery.com.

Para más información, visite nuestro sitio en la red del internet: www.mea-nursery.com.





Paramount
Quality Roses Since 1928

PATENTED ROSE

Exclusive Varieties

Packaged by Mea Nursery Lindale TX

Paramount

Quality Roses Since 1928

Backed by Tradition and Experience

Mea Nursery has been growing America's finest roses for more than seven decades. Founded in 1928 in New Jersey, Mea Nursery began by growing and selling top-quality cut roses to flower markets in the area. Mea's reputation for quality and dependability grew, and by the mid-1950s Mea Nursery was selling packaged dormant roses coast to coast. The company soon moved to deep East Texas to take advantage of a longer growing season and the dark, rich organic soil. Mea Nursery—still owned by the family of Joseph P. Mea—operates in Lindale, Texas. The nursery grows and sells dormant roses, container roses and chrysanthemums nationwide.

Planting and Care Tips

Where to plant

Choose a well-drained location in full sun (at least four to six hours daily). Space your plants for good air circulation, but protect the roses from gusting winds.

Preparing the soil

Loosen and turn your soil to a depth of about two feet. Incorporate peat, compost, manure or another organic mixture at a ratio of about two-thirds garden soil to one-third organic mixture. For each rose bush, dig a hole approximately 18" x 18" x 18" in the prepared soil.

Preparing your rose

Remove your rose from the packaging, taking care not to disturb the organic packing material or delicate roots. (If you are unable to plant your rose immediately, immerse the roots in a pail of water.) The canes (branches) have been prepared for planting. If any curling of the cane tips has occurred, prune any darkened area.

Planting

Plant your rose bush so that bud union (where branches and roots join) is just above the bed. Surround the roots with the enriched soil, then pack the soil by tamping and watering. Leave a small basin around the rose bush and water at least twice a week until the plant starts growing.

Watering

Your new rose should be watered twice a week until it starts growing. Water roses during dry periods, and you'll see continuous blooming throughout the growing season.

If rain isn't sufficient, sprinkle to be sure your rose receives at least an inch of water a week. (Sprinkling should be followed by the application of a fungicide within 24 hours.)

Feeding

Fertilizing is best done in the spring after growth has started. Repeat every six to eight weeks, as growth requires. Fall treatments are not advised.



Consejos para plantar y cuidar rosas

¿Dónde plantar?

Elige un lugar bien drenado y soleado (por lo menos seis horas diarias). Deje suficiente espacio entre los rosales para que el aire circule bien, pero protéjalos contra ráfagas de viento.



Preparando la tierra

Altoje y déle vuelta a su tierra, alcanzando una profundidad de aproximadamente dos pies. Incorpore musgo de pantano, estiércol vegetal, abono, o alguna otra mezcla orgánica. En esta tierra, previamente preparada, plante cada rosal en un hoyo de aproximadamente 18" x 18" x 18".



Preparando sus rosas

Remueva su rosal del empaque, cuidándose de no perturbar el material orgánico donde está empacado o las delicadas raíces. (Si es imposible plantar su rosal inmediatamente, sumerja las raíces en un recipiente con agua.) Las cañas (ramas) han sido podadas previamente para el plantado. Si las extremidades de la caña se han puesto de color café, corte el área oscurecida.



Plantando

Plante su rosal de manera que la unión del brote (donde las ramas y las raíces se juntan) quede en la superficie del lecho de tierra. Rodee las raíces con la tierra preparada enriquecida, entonces apriete la tierra por medio de apisonamiento y riego. Haga una cuenca alrededor del rosal y riéguelo mínimo dos veces por semana, hasta que la planta haya dado señales de crecimiento.



Regando

Riegue los rosales durante los periodos de clima secos, y habrá florecimiento continuo durante la época de crecimiento. Si la lluvia no es suficiente, riegue sus rosales para asegurarse de que estos reciban por lo menos una pulgada de agua cada semana.



Alimentando

El fertilizante actúa mejor en la primavera, después de que la planta ha dado señales de crecimiento. Repita de cada seis a ocho semanas, o como lo requiera la planta dependiendo de su crecimiento. No es aconsejable fertilizar sus plantas en el otoño.

For more information, visit our website at www.mea-nursery.com.

Para mas información, visite nuestro sitio en la red del Internet: www.mea-nursery.com.



Go with someone who specializes in one thing

Rose Bushes



4 Gallon Climbing Trellis
Rose Bush

Paramount® Brand Roses
PO Box 460
Berkeley Heights, NJ
07922
Phone: 908-464-6300
Fax: 908-464-8267
E-mail: mearoses@aol.com

Paramount®
Brand Roses, Inc.

CALL AL MEA
908-464-6300

Incoming Correspondence Routing Sheet

Work Location: Post Registration (PRU)

Mark: PARAMOUNT

Reg. No.: 1980921



Serial No: 74678783



Mail Date: 01132006



Doc. Type: Combined Section 8 and 9



Examiner: 69967 - MIRMAN, DONNA

CASE IN TICRS: NO

Process in Accordance with Standard Operating Procedure and Work Steps.

Fee

RAM Mail Date: 011306



Incoming Correspondence Routing Sheet

Physical Location: CENTRAL DOCKET

Mark: PARAMOUNT

Reg. No.: 1980921



Serial No: 74678783



Mail Date: 01132006



Doc. Type: Combined Section 8 and 9



Examiner: 69967 - MIRMAN, DONNA

CASE IN TICRS: NO

Process in Accordance with Standard Operating Procedure and Work Steps.

Fee

RAM Mail Date: 011306



EXHIBIT D

Side - 1



**NOTICE OF ACCEPTANCE OF §8
DECLARATION AND §9 RENEWAL
MAILING DATE: Apr 13, 2006**

The declaration and renewal application filed in connection with the registration identified below meets the requirements of Sections 8 and 9 of the Trademark Act, 15 U.S.C. §§1058 and 1059. The declaration is accepted and renewal is granted. The registration remains in force.

For further information about this notice, visit our website at: <http://www.uspto.gov>. To review information regarding the referenced registration, go to <http://tarr.uspto.gov>.

REG NUMBER: 1980921
MARK: PARAMOUNT
OWNER: PARAMOUNT BRAND ROSES, INC.

Side - 2

UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR TRADEMARKS
P.O. BOX 1451
ALEXANDRIA, VA 22313 1451

FIRST-CLASS
MAIL
U.S POSTAGE
PAID

KENNETH WATOV
WATOV & KIPNES, PC
P O BOX 247
PRINCETON JUNCTION, NJ 08550

EXHIBIT E

Cole Schotz P.C.

Nicole G. McDonough
Associate
Admitted in NJ and NY

Reply to New Jersey Office
Writer's Direct Line: 201-525-6208
Writer's Direct Fax: 201-678-6208
Writer's E-Mail: nmcdonough@coleschotz.com

Court Plaza North
25 Main Street
P.O. Box 800
Hackensack, NJ 07602-0800
201-489-3000 201-489-1536 fax

—
New York

—
Delaware

—
Maryland

—
Texas

November 30, 2015

FOR SETTLEMENT PURPOSES ONLY

VIA INTERNATIONAL FEDERAL EXPRESS

Person in Charge
Poulsen Roser A/S
Kratbjerg 332 DK-3480
Fredensborg, Denmark

Re: PARAMOUNT - U.S.P.T.O. Reg. No. 1980921

Dear Sir or Madam:

This firm represents Paramount Brand Roses, Inc. (the "Company"), which owns the registered trademark PARAMOUNT, Registration Number 1980921 (the "Registered Mark") for "live plants and flower seeds." The United States Patent and Trademark Office issued Registration Number 1980921 for the Registered Mark on June 18, 1996. The Company has continuously used the Registered Mark and filed its Section 15 Affidavit of Incontestability on June 18, 2006, which affidavit was accepted by the USPTO. The Company uses the Registered Mark to identify its brand of roses, which roses have been sold in retailers throughout the United States, including The Home Depot. There is no dispute that the PARAMOUNT Registered Mark is active, valid, in full force and effect, and incontestable.

It is clear that you recognize the established goodwill and notoriety associated with the PARAMOUNT Registered Mark because, as has now come to the Company's attention, you have improperly advertised your roses as PARAMOUNT® roses on your Internet website and in catalogues distributed throughout the United States. It is obvious that you and your company are engaged in a flagrant and transparent attempt to trade on the Company's goodwill, dilute the strength of the PARAMOUNT Registered Mark, and unlawfully divert United States customers by falsely making the public believe your roses are the same as and/or affiliated with the Company and its PARAMOUNT Registered Mark. Your unlawful actions expose you and your company to liability under federal and state law, including but not limited to damages, disgorgement of ill-gotten profits, treble damages/profits, punitive damages, preliminary and permanent injunctions, and attorneys' fees.

Cole Schotz P.C.

Person in Charge
November 30, 2015
Page 2

On behalf of the Company, we demand that you cease and desist forthwith from using the term "PARAMOUNT" in connection with your goods, remove the infringing use from your website, recall and destroy all materials in which you advertised your roses as "PARAMOUNT" roses, and provide an accounting to the Company of all profits you earned on the sale of roses improperly advertised as "PARAMOUNT" roses. We further demand that you provide a statement, under oath, that you have complied with this demand within 10 days of the date of this letter. If we do not receive a compliant response within 10 days of the date of this letter, we will have no choice but to assume you are not prepared to enter into an amicable resolution and will proceed accordingly.

Finally, notice is hereby provided that you and your company, and any affiliated company or persons, shall refrain from taking any action to destroy, discard, tamper with, or delete any documentation (electronic or paper) concerning the issues that would arise in any potential litigation related to this matter. You must take all steps necessary to ensure the preservation of all documents which may be relevant to any litigation stemming from your company's use of the infringing mark and trade dress, including all electronically formatted or stored documents in the possession, custody, or control of you, your company, and any related entities. In this regard, any document retention or destruction policy and all computer backup protocols should be adjusted to ensure the preservation of all such documents. Failure to do so will expose you, your company, and any other involved, to additional legal liability.

Please be guided accordingly.

Very truly yours,

COLE SCHOTZ P.C.



Nicole G. McDonough

NGM:erc

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

_____)	Cancellation No.: 92062880
POULSEN ROSER A/S,)	Registration No. 1980921
)	
Petitioner,)	Mark: PARAMOUNT
vs.)	
)	PROOF OF SERVICE
PARAMOUNT BRAND ROSES, INC.,)	
)	
Respondent.)	
_____)	

NICOLE G. MCDONOUGH, Esq. being of full age, hereby deposes and says:

1. I am an attorney with the law firm Cole Schotz P.C. attorneys for Respondent, Paramount Brand Roses, Inc. (“Respondent”), in the above-captioned matter. I am over the age of eighteen (18) years and not a party to this action.

2. On the 8th day of February 2016, this office filed and served a copy of the following document(s) on behalf of the Respondent:

- (a) Motion to Dismiss Petition for Cancellation; and
- (b) Brief in Support of Motion with accompanying Exhibits

In the following manner:

Via the ESTTA electronic filing system with the Trademark Trial and Appeal Board, Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

Via Federal Express overnight delivery upon the following:

James J. Saul, Esq.
FAEGRE BAKER DANIELS LLP
311 S. Wacker Drive
Suite 4300
Chicago, IL 60606
Attorneys for Petitioner

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By: /s/ Nicole G. McDonough
Nicole G. McDonough

Dated: February 8, 2016