ESTTA Tracking number: **ESTTA252539**

Filing date: **12/03/2008**

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

Proceeding	91185360
Party	Plaintiff Repellex USA Inc.
Correspondence Address	Jason J. Romero Osborn Maledon, P.A. 2929 N. Central Ave. , Ste. 2100 Phoenix, AZ 85012 UNITED STATES trademarks@omlaw.com
Submission	Motion to Suspend for Civil Action
Filer's Name	Jason J. Romero
Filer's e-mail	jromero@omlaw.com
Signature	/Jason J. Romero/
Date	12/03/2008
Attachments	Repellex - Motion To Suspend Board Proceedings Pending Resolution Of Civil Action.pdf (5 pages)(110206 bytes) Repellex - Exhibit 1.pdf (10 pages)(260494 bytes) Repellex - Exhibit 2.pdf (35 pages)(1137963 bytes) Repellex - Exhibit 3.pdf (34 pages)(1000028 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial Nos. 77/348,544 and 77/364,657

Applicant:	Amarjeet S. Grewal
Filed:	77/348,544 – December 10, 2007 77/364,657 – January 4, 2008
Marks:	77/348,544 – NATURA 77/364,657 – REPELLEX.COM
Published:	May 27, 2008

Repellex USA, Inc., Opposer, v. Amarjeet S. Grewal, Applicant.	Opposition No. 91/185,360 Application Serial No. 77/348,544, 77/364,657

MOTION TO SUSPEND BOARD PROCEEDINGS PENDING RESOLUTION OF CIVIL ACTION

Opposer, Repellex USA, Inc. ("Repellex USA"), by and through its counsel, hereby moves pursuant to 37 CFR § 2.117 that this opposition proceeding be suspended pending resolution of the related civil litigation between these parties, currently pending in the Second Circuit Court for Berrien County, Michigan.

Repellex USA filed this Opposition on July 23, 2008, opposing Applicant's applications for registration of the marks REPELLEX.COM and NATURA on the grounds that Applicant's marks are likely to cause confusion among consumers with Repellex USA's registered mark,

REPELLEX, and common law mark, NATURA. Applicant filed its Answer on August 29, 2008.

Five days later, on September 3, 2008, Applicant's entity, Repellex Lawn & Garden Products, Inc. ("RLGP") filed a civil action against Repellex USA in the Second Circuit Court for Berrien County, Michigan. While not a model of clarity, the thrust of RLGP's complaint appears to be that Repellex USA entered into one or more contracts with RLGP and certain affiliated entities (collectively "the Companies") for the transfer and sale of either all of the Companies' stock, or all of the Companies' tangible and intangible assets; that the Companies performed by transferring to Repellex USA all of their tangible and intangible assets; and that Repellex USA failed to perform under the contract(s). (A true and correct copy of RLGP's Complaint is attached hereto as Exhibit 1).

On October 2, 2008, Repellex USA filed its Answer/Counterclaim and Third Party Claim in the Michigan state court action. Among the claims, Repellex USA asserts against the Companies and Mr. and Mrs. Grewal, Repellex USA alleges: 1) trademark infringement under the Lanham Act with respect to Repellex USA's federally registered REPELLEX mark; 2) common law trademark infringement and unfair competition with respect to Repellex USA's common law NATURA mark; 3) false designation of origin and unfair competition under the Lanham Act with respect to the REPELLEX mark; and, 4) breach of an assignment agreement under which RLGP assigned all of its intellectual property assets to Repellex USA. Repellex USA requested both money damages, and injunctive relief prohibiting any of the Counterdefendants or Third Party Defendants from *inter alia*, copying and infringing Repellex USA's intellectual property. (A true and correct copy of Repellex USA's Answer/Counterclaim and Third Party Claim is attached hereto as Exhibit 2).

RLGP was properly served and filed its responsive pleading in the Michigan state court action on October 22, 2008.[1] (A true and correct copy of RLGP's "Answer" to Counterclaim is attached hereto as Exhibit 3).

Pursuant to 37 CFR § 2.117(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...." Resolution of the various claims in the Michigan state court litigation will have a direct bearing on the present Opposition proceeding pending before the Board. In this opposition proceeding, Applicant asserts that Repellex USA lacks standing to bring this opposition, and challenges Repellex USA's ownership claims to the REPELLEX and NATURA marks. The precise question of proper ownership of these marks is directly at issue in the claims before the Michigan state court. Moreover, resolution of Repellex USA's trademark infringement and unfair competition allegations will require the Michigan state court to determine likelihood of confusion between Applicant's marks and Repellex USA's marks. Indeed, resolution of the Michigan state court claims will likely be dispositive for the present opposition. *See The Other Telephone Company v. Connecticut National Telephone Company, Inc.*, 181 U.S.P.Q. 125 (TTAB 1974) (suspending opposition proceedings where state court litigation would "directly affect the resolution of the issue of likelihood of confusion").

[1] Despite Repellex USA's best efforts, the Third Party Defendants have, to date, avoided service of process. Nevertheless, the Third Party Defendants have actual knowledge of Repellex USA's claims, as they consist of entities affiliated with RLGP and Mr. and Mrs. Grewal who are the owners of RLGP and the affiliated entities.

WHEREFORE, Repellex USA respectfully requests the Board enter an Order suspending these opposition proceedings pending the resolution of the civil suit in which the parties are involved.

DATED this 3rd day of December, 2008.

Respectfully submitted,

Repellex USA, INC.

By:

Jason J. Romero
Jonathan F. Ariano

Attorneys for Opposer
Repellex USA, Inc.,

Osborn Maledon, P.A.
2929 N. Central Avenue, Suite 2100
Phoenix, Arizona 85012
(602) 640-9000
fax (602) 640-9050
e-mail: *trademarks@omlaw.com*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion to Suspend Board Proceedings Pending Resolution of Civil Action was served on counsel for Opposer, this 3rd day of December, 2008, by sending same via U.S. First Class Mail, postage prepaid, to:

Michael R. Kutas
Michael R. Kutas, Attorney, PLLC
2088 Flanders Road
Charlotte, MI 48813

By: Jason J. Romero

EXHIBIT 1

STATE OF MICHIGAN

IN THE 2nd CIRCUIT COURT FOR THE COUNTY OF BERRIEN

REPELLEX LAWN & GARDEN PRODUCTS, INC.,

Plaintiff,

V

REPELLEX USA, INC

Defendant.

Case No. 08 - 0346 -CK T

Hon. LYNDA A. TOLEN

Byron P. Gallagher, Jr. (P42996)
Peter C. Brown (P71592)
The Gallagher Law Firm, PLC
Attorney for Plaintiff
2408 Lake Lansing Rd.
Lansing, MI 48912
(517) 853-1515 – direct line
(517) 853-1501 – fax

DUPLICATE ORIGINAL

RECEIVED
SEP 0 9 2008
GALLAGHER LAW FIRM

COMPLAINT

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in this Complaint.

Plaintiff Repellex Lawn & Garden Products, Inc., says for its Complaint against Defendant Repellex USA, Inc.:

Parties, Jurisdiction, Venue

1. Plaintiff is a corporation organized under the laws of British Columbia, Canada.
2. Defendant is a Michigan Corporation with registered office in Berrien County, Michigan.
3. The acts, occurrences, and omissions that gave rise to this cause of action occurred in Berrien County, Michigan.

4. The amount in controversy exceeds $25,000 and Plaintiff is seeking equitable relief.
5. The Court has jurisdiction over this dispute.
6. Berrien County is an appropriate venue for this dispute.

General Allegations

7. Plaintiff is engaged in the business of manufacturing and selling garden chemicals.
8. Defendant is in the business of manufacturing and selling garden chemicals.
9. In September 2005, Eric Summa and his wife Elizabeth Summa (collectively "Summa") traveled to Vancouver, British Columbia to meet with Amarjeet Grewal ("Grewal") to discuss purchasing Grewal's shares of stock in ASG Consultants, Inc. ("ASG"), Natura Products, Inc.("Natura"), Repellex Lawn & Garden Products, Inc. ("Repellex"), all incorporated under the laws of British Columbia (collectively "Companies").
10. In January 2006, Grewal provided Summa with three years of financial information, including customer information for the Companies.
11. From February though April 2006, Summa reviewed the financial information for the Companies.
12. In approximately August 2006, Summa's accountant valued the Companies at $500,000 CDN.
13. In December 2006, Summa retained Miller, Thomson LLP a law firm in Vancouver to draft an agreement to purchase stock owned by Grewal in Plaintiff.

14. On February 1, 2007, Summa incorporated Defendant Repellex, USA, Inc. as a Michigan Corporation which was to be the purchaser under the Purchase Agreement.

15. In early February 2007, Summa's attorney Kevin Sorochan finalized a proposed Share Purchase Agreement, which was never signed. A copy of this document is in the possession of Defendant and therefore not attached to this Complaint.

16. In early February 2007, after Exhibit A was drafted, Summa and Grewal reached a verbal agreement under which Defendant agreed to purchase 100% of the outstanding shares of ASG, Natura and Repellex for $325,000 CDN representing 65% of Summa's accountant's value of the Companies and an assignment of 35% of the to be issued shares in Defendant.

17. In early March 2007, the verbal agreement for stock purchase was modified by Summa and Grewal so that under the modified verbal agreement, Summa would pay approximately $45,000 directly to various vendors of Plaintiff for outstanding account payables and receive a credit against the Purchase Price and Plaintiff agreed to a $25,000 reduction from the Purchase Price for other vendor account payables Plaintiff would pay with the sale proceeds received from Defendant.

18. On March 7, 2007, ASG performed under the contract by sending Defendant in Niles by semi-truck a trailer containing manufacturing equipment, supplies and bottles along with Invoice 3398 in the amount of $97,055.50 which was required by US Customs. A copy of this invoice is in the possession of Defendant and therefore not attached to this Complaint.

19. On March 28, 2007, ASG performed under the contract by Grewal traveling to Niles, Michigan to set up the manufacturing operation and took care of shipping backorders totaling $20,000 which were billed by Defendant.

20. Grewal's expenses related to his travel were not reimbursed by Defendant.

21. On April 14, 2007, ASG performed under the contract by sending sent Defendant in Niles by semi-truck a second trailer containing the remaining contents of ASG's Vancouver warehouse, including, manufacturing equipment, supplies and bottles along with Invoice 3474 in the amount of $48,571.00 which was required by US Customs. A copy of this invoice is in the possession of Defendant and therefore not attached to this Complaint.

22. After April 14, 2007, the parties' verbal contract was modified at the request of Summa to change from a share sale to an asset sale and Defendant agreed to purchase from ASG (1) manufacturing equipment, supplies and bottles with a value of $97,055.50, (2) the remaining contents of ASG's Vancouver warehouse, with a value of $48,571.00, (3) Accounts Receivable with a value of approximately $25,000, (4) the US Registered trademark REPELLEX with a value of $125,000, and (5) the REPELLEX website with a value of approximately $5,000. Defendant agreed to pay Plaintiff $350,000 for (1) to (5) above representing $325,000 for the asset value and $25,000 for the accounts receivable and to also assign 35% of the shares in Plaintiff to Defendant.

23. On May 15, 2007, ASG performed under the contract by assigning the REPELLEX trademark to Defendant for $125,000. A copy of this document is in the possession of Defendant and therefore not attached to this Complaint.

24. On May 15, 2007, Defendant partially performed under the contract by paying Plaintiff $125,000 for the REPELLEX trademark.

25. Defendant partially performed under the contract by paying Plaintiff's vendors approximately $19,000, including $10,000 to Maestro Graphics for root saver bags, $2,000 to Cratex and $7,000 to other of Plaintiff's vendors.

26. Defendant partially performed under the contract by paying Plaintiff $25,000.

27. On June 4, 2007 Plaintiff sent Defendant an email with the REPELLEX FTP website information and password.

28. On June 12, 2007, Defendant sent Plaintiff a Sales Summary for February to June 2007 showing 9200 units sold year to date for gross sales of $ 79,334.90.

29. On July 10, 2007, Defendant drafted a proposed Consultancy Agreement for Grewal which was never signed by Grewal because it was not part of the Contract. A copy of this document is in the possession of Defendant and therefore not attached to this Complaint.

30. On September 5, 2007, Grewal sent Summa an email with a new offer under which Plaintiff would adjust the amount Defendant owed Plaintiff by crediting Defendant $75,000 for Defendant's requested Consulting Agreement if Defendant would agree to Grewal's proposed consulting agreement and further adjusting the amount Defendant owed Plaintiff by crediting Defendant an additional $25,000 leaving a balance owed of $106,000 if Defendant accepted this offer. A copy of this e-mail is in the possession of Defendant and therefore not attached to this Complaint.

31. Defendant did not respond to Grewal's September 5, 2007 offer.

32. ASG and Natura have assigned their claims against Defendant to Plaintiff.

I. Breach of Contract

33. Plaintiff incorporates by reference the previous allegations.

34. The parties entered into a verbal contract as described above.

35. Defendant has breached the contract by not paying Plaintiff the balance owed under the contract and not delivering 35% of the issued shares of Defendant.

36. Plaintiff has been damaged by Defendant's breach in the total amount of $156,000 and the fair value of 35% of the issued shares of Defendant.

II. Promissory Estoppel

37. Plaintiff incorporates by reference the previous allegations.

38. Defendant explicitly promised Plaintiff that Defendant would purchase personal property, trademark and goodwill outlined above from ASG for the Purchase Price and 35% of the shares to be issued in Defendant.

39. Defendant's promise was clear, definite, and unequivocal and was specifically made to induce Plaintiff to deliver the personal property, trademark and goodwill for Defendant's benefit.

40. In reliance on the promise, and to its substantial detriment, Plaintiff performed all that was expected of it by Defendant.

41. Plaintiff faithfully delivered the personal property, trademark and goodwill to Defendant in exchange for inadequate compensation.

42. Despite Plaintiff's repeated requests and demands, Defendant has refused to make full payment of the Purchase Price to Plaintiff and transfer to Plaintiff the promised 35% of the issued shares of Defendant.

43. To avoid injustice, this court must specifically enforce Defendant's promise to Plaintiff.

44. At the time of making the promise and inducing the action on Plaintiff's part, Defendant could reasonably foresee that his failure to perform pursuant to the promise would cause the damages Plaintiff has suffered.

45. Plaintiff is entitled to a judgment of this court compelling specific performance by Defendant to transfer 35% of the issued shares of Defendant in addition to the monetary consideration.

III. Unjust Enrichment

46. Plaintiff incorporates by reference the previous allegations.

47. Defendant received a benefit from Plaintiff.

48. An inequity results to Plaintiff because of the retention of the benefit by Defendant.

WHEREFORE, Plaintiff requests the Court grant the relief requested in this Complaint and award Plaintiff money damages and equitable relief together with costs, interest and attorney fees as permitted by law.

Dated: September 3, 2008

Byron P. Gallagher, Jr. (P42996)
Attorney for Plaintiff

Approved, SCAO

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT 2ND JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 08- 0346 -CK T

Court address **811 Port Street, St Joseph, Michigan 49085**

Court telephone no. **(269) 983-7111**

Plaintiff's name(s), address(es), and telephone no(s).
Repellex Lawn & Garden Products, Inc

v

Defendant's name(s), address(es), and telephone no(s).
Repellex USA, Inc. a Michigan corporation
c/o Eric Summa, Registered Agent, ~~1345~~ S 3rd Street
Niles, MI 49120 1445

RECEIVED
SEP 09 2008
JG
GALLAGHER LAW PLLC

Plaintiff's attorney, bar no., address, and telephone no.
Byron P. Gallagher, Jr., P42996
2408 Lake Lansing Rd.
Lansing, Michigan 48912
(517) 853-1500

SUMMONS **NOTICE TO THE DEFENDANT**: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). (MCR 2.111[C])
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued	This summons expires	Court clerk
9/4/08	12/4/08	M. LOUISE STINE

*This summons is invalid unless served on or before its expiration date.
This document must be sealed by the seal of the court.

COMPLAINT ***Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.***

Family Division Cases

☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.

General Civil Cases

☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.

☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.

VENUE

Plaintiff(s) residence (include city, township, or village)	Defendant(s) residence (include city, township, or village)
British Columbia, Canada	**Niles, Berrien County, Michigan**

Place where action arose or business conducted
Niles, Berrien County, Michigan

9/3/08
Date

Signature of attorney/plaintiff

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

PROOF OF SERVICE

SUMMONS AND COMPLAINT
Case No. 08- -CK

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

☐ **OFFICER CERTIFICATE**
I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party (MCR 2.104[A][2]), and that: (notarization not required)

OR

☐ **AFFIDAVIT OF PROCESS SERVER**
Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

☐ I served personally a copy of the summons and complaint,
☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint, together with _____
List all documents served with the Summons and Complaint

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

☐ I have personally attempted to serve the summons and complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

I declare that the statements above are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Mileage fee	Total fee
$		$	$

_____
Signature

_____
Name (type or print)

_____
Title

Subscribed and sworn to before me on _____ (Date), _____ County, Michigan.

My commission expires: _____ (Date) Signature: _____ (Deputy court clerk/Notary public)

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____ (Attachments)

_____ on _____ (Day, date, time)

_____ on behalf of _____.
Signature

EXHIBIT 2

OSBORN MALEDON
A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW
The Phoenix Plaza
21st Floor
2929 North Central Avenue
Phoenix, Arizona 85012-2793
P.O. Box 36379
Phoenix, Arizona 85067-6379
Telephone 602.640.9000
Facsimile 602.640.9050

REC'D OSBORN MALEDON P.A.
OCT - 6 2008

STATE OF MICHIGAN
IN THE 2ND CIRCUIT COURT FOR THE COUNTY OF BERRIEN

REPELLEX LAWN & GARDEN PRODUCTS, INC.,
Plaintiff,

V.

REPELLEX USA, INC.,
Defendant.

REPELLEX USA, INC.
Counterclaimant/Third Party Plaintiff,

V.

REPELLEX LAWN & GARDEN PRODUCTS, INC.,
Counterdefendant,

AMARJEET S. GREWAL and KALWINDER GREWAL, husband and wife, and ASG CONSULTANTS, INC, NATURA PRODUCTS, INC.,
Third Party Defendants.

Case No. 08-0346-CK

ANSWER OF DEFENDANT/ COUNTERCLAIMAINT REPELLEX USA, INC.

-AND-

COUNTERCLAIM AND THIRD PARTY CLAIM OF REPELLEX, USA, INC.

Honorable Lynda A. Tolen

Byron P. Gallagher, Jr. (P42996)
Peter C. Brown (P71592)
The Gallagher Law Firm, PLC
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jcabou@omlaw.com jromero@omlaw.com
Attorneys for Repellex USA, Inc.

kwiktag ® 073 660 577

Defendant Repellex USA, Inc. ("Repellex USA"), for its Answer to Plaintiff's Complaint responds in accordingly numbered paragraphs as follows.

PARTIES, JURISDICTION, VENUE

1. In response to paragraph 1, Repellex USA is without knowledge or information sufficient to form a belief as to the truth of the matters asserted in paragraph 1 and therefore denies them.

2. Repellex USA admits the allegations set forth in paragraph 2.

3. Repellex USA admits, that some of the acts, occurrences, and omissions alleged by Plaintiff occurred in Berrien County, Michigan. Otherwise, Paragraph 3 states a legal conclusion to which no response is required. To the extent a response is deemed required, Repellex USA denies the allegations of Paragraph 3.

4. Repellex USA admits that the amount in controversy exceeds $25,000. Repellex USA further admits that Plaintiff's Complaint purports to seek equitable relief. Repellex USA denies that Plaintiff is entitled to any relief, including equitable relief, in this matter.

5. Repellex USA admits that this court has jurisdiction over this case.

6. Paragraph 6 states a legal conclusion to which no response is required. To the extent a response is deemed required, Repellex USA denies that Berrien County is the appropriate venue for this action.

GENERAL ALLEGATIONS

7. Repellex USA is without knowledge or information sufficient to form a belief as to whether Plaintiff is presently engaged in the business of manufacturing and selling

garden chemicals and therefore Repellex USA denies the allegations of Paragraph 7.

8. Repellex USA admits the allegations set forth in paragraph 8.

9. Repellex USA admits that Eric and Elizabeth Summa are husband and wife and that they met with Amarjeet Grewal ("Grewal") in Vancouver, British Columbia during the fall of 2005 to discuss purchasing the assets of certain businesses believed to be owned by Mr. Grewal. Repellex USA denies the remaining allegations set forth in paragraph 9.

10. Repellex USA denies the allegations set forth in paragraph 10. Repellex USA affirmatively alleges that Grewal agreed to provide complete and accurate financial information for ASG Consultants, Inc. ("ASG"), Natura Products, Inc. ("Natura"), and Repellex Lawn & Garden Products, Inc. ("Repellex Lawn & Garden") (collectively "Companies") by January 2006. Repellex USA further avers that Grewal did not, however, comply with his obligation to timely provide such information.

11. Repellex USA denies the allegations set forth in paragraph 11. Repellex USA affirmatively alleges that Grewal failed to provide the necessary financial information to Repellex USA in January 2006 as promised.

12. Repellex USA admits that Craig W. Farmer, CPA, provided a "Business Valuation Report" dated September 8, 2006, valuing the Companies at $485,000 USD. Repellex USA denies the remaining allegations set forth in paragraph 12. Repellex USA affirmatively alleges that Mr. Farmer's valuation of the companies was inaccurate and improperly inflated based upon misrepresentations and omissions knowingly, intentionally, and maliciously made by Grewal regarding the Companies' financial status, as set forth more fully in Repellex USA's Counterclaim.

13. Repellex USA avers that the allegations in Paragraph 13 call for an answer that is protected by the Attorney Client Privilege. To the extent a further answer is deemed required to the allegations in Paragraph 13, Repellex USA denies them.

14. The allegations set forth in paragraph 14 refer to a "Purchase Agreement" which is nowhere defined in the Complaint. Therefore, Repellex USA denies the allegations of Paragraph 14. Repellex USA avers, however, that it was incorporated in Michigan on February 1, 2007.

15. The allegations in Paragraph 15 refer to a "Share Purchase Agreement" which is nowhere defined in the Complaint. Therefore Repellex USA denies the allegations of Paragraph 15. Repellex USA avers, however, that no agreement memorializing any purchase of shares in the Companies was ever signed by any party. Repellex USA affirmatively alleges that on February 12, 2007, it provided, through its counsel a "Draft" Share Purchase Agreement (the "Draft Agreement") to Grewal. Repellex USA further alleges that the Draft Agreement provided to Grewal was accompanied by an outline of the 21 outstanding issues Repellex USA required to be resolved by Grewal prior to finalizing and executing the Draft Agreement. Grewal failed to resolve most of the outstanding issues indicated by Repellex USA, ultimately resulting in Repellex USA's withdrawal of its offer to purchase shares of the Companies.

16. Repellex USA affirmatively alleges that no exhibits accompanied the Complaint that was served upon Repellex USA; Repellex USA thus lacks information sufficient to form a belief about the truth of the matters asserted in Paragraph 16 and therefore denies them.

17. Repellex USA denies the allegations set forth in paragraph 17. Repellex USA avers, as set forth more fully in its Counterclaim, that the parties never reached an agreement for the purchase of shares of the Companies, and Repellex USA was not able to take possession of the Companies prior to the "early order season." Nevertheless, Repellex USA, in exchange for promises by Plaintiff that remain unfulfilled, made substantial payments to Plaintiff's creditors and vendors during this period for which it has not been

reimbursed.

18. The allegations of paragraph 18 refer to a "contract" which is nowhere defined in the Complaint and state legal conclusions relating to that "contract." No response is required to the legal conclusions stated in Paragraph 18. To the extent a response is deemed required to any of the allegations in Paragraph 18, Repellex USA denies them. Repellex USA admits, however, that on or about March 7, 2007, it received a shipment of equipment and supplies along with invoice 3398 in the amount of $97,055.50 from the Companies. Repellex USA further admits that it possesses a copy of invoice 3398. Repellex USA further avers that it paid all of the expenses associated with the packing and shipping of the equipment and supplies to its location in Michigan. Repellex USA further affirmatively alleges that invoice 3398 is not an accurate representation of the value of the equipment and supplies shipped to it on March 7, 2007.

19. The allegations of paragraph 19 refer to a "contract" which is nowhere defined in the Complaint and state legal conclusions relating to that "contract." No response is required to the legal conclusions stated in Paragraph 19. To the extent a response is deemed required to any of the allegations in Paragraph 19, Repellex USA denies them. Repellex USA admits that Grewal traveled to Niles, Michigan on March 28, 2007.

20. Repellex USA admits only that it paid no money to Grewal as reimbursement for his expenses incurred for his travel to Michigan in March 2007. Otherwise, Repellex USA denies the allegations of Paragraph 20. Repellex USA further denies that it owes Grewal for any travel expenses and affirmatively alleges that Grewal failed to submit receipts or an expense report substantiating his claim for reimbursement.

21. The allegations of paragraph 21 refer to a "contract" which is nowhere defined in the Complaint and state legal conclusions relating to that "contract." No response is required to the legal conclusions stated in Paragraph 21. To the extent a response is deemed

required to any of the allegations in Paragraph 21, Repellex USA denies them. Repellex USA admits that on or about April 14, 2007, it received a shipment of equipment and supplies along with invoice 3474 in the amount of $48,571.00 from the Companies. Repellex USA further admits that it possesses a copy of invoice 3474. Repellex USA affirmatively alleges that it paid all of the expenses associated with the packing and shipping of the equipment and supplies to Repellex USA's location in Michigan. Repellex USA further affirmatively alleges that invoice 3474 is not an accurate representation of the value of the equipment and supplies shipped to Repellex USA on April 14, 2007.

22. Repellex USA denies the allegations set forth in paragraph 22.

23. Repellex USA admits that it purchased the intellectual property of the Companies for a cash payment of $125,000 USD and admits that the Repellex trademark was assigned to it as part of this purchase. Repellex USA denies the remaining allegations set forth in paragraph 23.

24. Repellex USA admits that it paid Repellex Lawn & Garden $125,000 USD for the Companies' intellectual property, including the Repellex trademark. Repellex USA denies the remaining allegations set forth in paragraph 24.

25. Repellex USA admits that in addition to the $125,000 USD it paid to purchase the Companies' intellectual property, Repellex USA also paid the Companies' creditors and vendors in excess of $50,000 USD. Repellex USA affirmatively alleges that some of these funds were paid directly to Grewal with the intention that he would disperse the monies to the Companies' creditors and vendors. Upon information and belief, Grewal did not pay some of these creditors and vendors, but kept some of the money for his personal gain. Repellex USA denies the remaining allegations set forth in paragraph 25.

26. Repellex USA admits that it made a cash payment to Grewal in the amount of $25,000 USD on September 6, 2007. Repellex USA denies the remaining allegations set for

the in paragraph 26.

27. Repellex USA admits the allegations set forth in paragraph 27.

28. Repellex USA is without knowledge or information sufficient to form a belief regarding the allegations set forth in paragraph 28, and therefore denies them.

29. Repellex USA is without knowledge or information sufficient to form a belief regarding the allegations set forth in paragraph 29, and therefore denies them.

30. Repellex USA admits receiving an e-mail from Grewal on September 5, 2007 providing what Grewal described as a "quick accounting summary." Repellex USA denies that this email was an "offer" of any kind and further denies the remaining allegations set forth in paragraph 30.

31. Repellex USA denies that there was any "offer" on September 5, 2007 and denies all other allegations set forth in paragraph 31.

32. The allegations set forth in Paragraph 32 state legal conclusions to which no response is required and about which Repellex USA has no knowledge. Repellex USA denies that ASG and Natura have any claims against Repellex USA. To the extent a response is deemed required to the allegations is Paragraph 32, Repellex USA is without knowledge or information sufficient to form a belief as to the truth of these allegations and therefore denies them.

I. BREACH OF CONTRACT

33. Repellex USA repeats and realleges its response to all preceding paragraphs as if fully set forth herein.

34. Repellex USA denies the allegations set forth in paragraph 34.

35. Repellex USA denies the allegations set forth in paragraph 35.

36. Repellex USA denies the allegations set forth in paragraph 36.

II. PROMISSORY ESTOPPEL

37. Repellex USA repeats and realleges its response to all preceding paragraphs as if fully set forth herein.

38. Repellex USA denies the allegations set forth in paragraph 38.

39. Repellex USA denies the allegations set forth in paragraph 39.

40. Repellex USA denies the allegations set forth in paragraph 40.

41. Repellex USA denies the allegations set forth in paragraph 41.

42. Repellex USA denies the allegations set forth in paragraph 42.

43. Repellex USA denies the allegations set forth in paragraph 43.

44. Repellex USA denies the allegations set forth in paragraph 44.

45. Repellex USA denies the allegations set forth in paragraph 45.

III. UNJUST ENRICHMENT

46. Repellex USA repeats and realleges its response to all preceding paragraphs as if fully set forth herein.

47. Repellex USA denies the allegations set forth in paragraph 47.

48. Repellex USA denies the allegations set forth in paragraph 48.

All allegations of the Complaint not expressly admitted herein are denied.

IV. AFFIRMATIVE DEFENSES

For its affirmative defenses, Repellex USA alleges failure to state a claim, in whole or in part, upon which relief can be granted, accord and satisfaction, estoppel, failure of consideration, contributory negligence, fraud, the instrument or transaction on which Plaintiff bases its claims for relief is void or voidable, laches, license, payment, waiver, release, and unclean hands.

WHEREFORE, Repellex USA respectfully requests that Plaintiff's Complaint be dismissed and the Court grant any other relief it deems appropriate.

HOWARD & HOWARD ATTORNEYS, P.C.

Date: October 2, 2008

By: _____

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COUNTERCLAIM/THIRD PARTY CLAIM

For its counterclaim and third party claim against Amarjeet S. Grewal and Kalwinder K. Grewal, husband and wife (collectively "Grewal"), ASG Consultants, Inc. ("ASG"), Natura Products, Inc. ("Natura"), and Repellex Lawn & Garden Products, Inc. ("Repellex Lawn & Garden") (ASG, Natura and Repellex Lawn & Garden are collectively referred to as the "Companies"), and such John and Jane Does as may be added at a later date, Repellex USA, Inc. ("Repellex") alleges as follows:

PARTIES

1. Repellex USA is a Michigan corporation with its principal place of business at 1445 S. Third St., Niles, MI 49120.

2. Amarjeet and Kalwinder Grewal, husband and wife, are residents of Maple Ridge, British Columbia, Canada. Kalwinder Grewal is, upon information and belief, the wife of Amarjeet Grewal, and is sued both in her capacity as President of Repellex Lawn & Garden and in her capacity as a member of the marital community consisting of her and her husband. At all times material hereto, Amarjeet Grewal was acting for and on behalf of his marital community, and on his own behalf, and on behalf of the Companies, with respect to the matters that are the subject of this Counterclaim.

3. Upon information and belief, ASG is a foreign corporation organized under the laws of British Columbia, Canada.

4. Upon information and belief, Natura is a foreign corporation organized under the laws of British Columbia, Canada.

5. Upon information and belief, Repellex Lawn & Garden is a foreign corporation organized under the laws of British Columbia, Canada.

6. Upon information and belief, Grewal is a Canadian citizen who began

sometime in the late 1990s manufacturing and selling lawn and garden chemicals within the United States through the Companies.

7. Upon information and belief, Grewal has repeatedly and persistently violated the immigration laws of the United States by transacting business and engaging in other "non-tourist" activities in the United States without the appropriate visas and other immigration-related permissions required by the laws of the United States.

Grewal's Companies Struggle and Grewal Seeks a Buyer for Them.

8. In the fall of 2005, Grewal invited Eric and Elizabeth Summa to Vancouver, British Columbia to discuss the possibility of the Summas purchasing Grewal's lawn and garden chemical business.

9. Upon information and belief, Grewal's effort to sell his business was motivated, at least in part, by increased regulatory scrutiny of his product shipments between Canada and the United States and the concomitant costs associated with that scrutiny.

10. Based on these initial discussions in Vancouver, the Summas began to explore purchasing the assets of the Companies.

Grewal and the Summas Begin to Negotiate the Sale and Purchase of the Companies' Assets.

11. Because the Companies' were struggling and because Grewal believed that Eric's skill and reputation as a salesperson and businessman could immediately assist the Companies, the Summas and Grewal agreed that Eric would assist Grewal with the Companies' business during 2006 in exchange for a discount on the purchase price of the assets should the Summas ultimately decide to make such a purchase.

12. As part of this same agreement whereby Eric would assist Grewal during the 2006 business year, Grewal also agreed to provide complete and accurate financial information for the Companies by January 2006 so that the Summas could conduct a due

diligence review of the Companies and their assets prior to deciding whether to purchase those assets.

13. In what proved to be a harbinger of future behavior, Grewal failed to provide complete and accurate financial information for the Companies by January 2006 as promised.

14. In contrast, throughout 2006 Eric fulfilled his commitment to assist Grewal with the operation of the Companies in that year. The Summas established a distribution facility in the United States and Eric began marketing Repellex products to customers in the United States.

15. Shortly thereafter, the Summas learned that Grewal's reputation in the lawn and garden industry was quite poor and that the Repellex brand name had been severely compromised by Grewal's past shoddy business dealings, failures in performance, and inability to ship orders in a timely manner.

16. Relying on his own personal and professional reputation, Eric convinced customers to return to the Repellex brand. Eric also rebuilt relationships with Repellex customers and secured independent sales firms to carry the Repellex product lines.

17. For his part, Grewal delayed several months in getting any financial information to the Certified Public Accountant retained by the Summas to provide a valuation of the Companies. Grewal's failure promptly to provide the necessary financial information caused significant delays in the negotiations between Grewal and the Summas.

18. The parties had originally contemplated closing on an agreement for Grewal to sell the Companies' assets well in advance of the 2007 "early order period" for animal and insect repellents. The "early order period" generally begins in early February and continues through the end of March.

Grewal Withholds Vital Information and Knowingly Misrepresents the State of the Companies.

19. Upon information and belief, Grewal made numerous misrepresentations

regarding the financial status of the Companies.

20. First, more than half of the revenues on the reports produced by Grewal to show potential future revenues for the Companies consisted of revenue from the sale of "systemic tablets." However, the United States Environmental Protection Agency ("EPA") had placed a "stop-sale" order on these tablets beginning in January 2006 because the Companies were selling them illegally, without EPA approval, in the United States.

21. While the Repellex USA and the Summas were aware of the "stop-sale" order, Grewal knowingly and intentionally misrepresented the nature of this EPA order, averring that the issue could easily be rectified. Repellex USA and the Summas subsequently learned that, in fact, the "systemic tablets" could not be brought into EPA compliance, and Repellex USA has never able to manufacture and sell the "systemic tablets."

22. Second, Grewal knowingly and intentionally failed to disclose numerous outstanding payables, judgments, and liens against the Companies.

23. Third, Grewal knowingly and intentionally failed to disclose that the Companies had failed to procure and/or maintain the licenses and approvals required by the United States Government and various state governments to sell the Companies' products in the United States.

24. Fourth, Grewal knowingly and intentionally misrepresented the quantity and quality of the Companies' physical assets.

25. Finally, Grewal knowingly and intentionally misrepresented that the Companies possessed product formulas that qualified for exemption from EPA registration requirements pursuant to Section 25(b) of the Federal Insecticide Fungicide Rodenticide Act ("FIFRA"). As set forth more fully below, this representation was false at the time of its making, known by Grewal to be false, and made to the Summas and Repellex USA with the intent that they rely upon it.

26. Due to Grewal's delayed disclosures, the parties did not begin formal negotiations regarding the purchase of the Companies' assets until January 2007. On January 16, 2007, the Summas submitted to Grewal a proposed outline of terms for the purchase of the Companies' assets. [Proposed Outline of Terms for Asset Purchase Agreement attached as **Exhibit A**].

Grewal Insists on a Share Purchase Agreement and the Summas Begin Negotiating with Him.

27. Grewal rejected the Summas' asset purchase proposal two days later and submitted a counterproposal requiring the Summas to purchase the outstanding equity of the Companies rather than the assets. Grewal was adamant that the deal be structured as a share purchase agreement. Ultimately, the Summas acquiesced to Grewal's demand, and the parties began negotiating the purchase of the Companies' outstanding shares.

28. On February 1, 2007, the Summas incorporated Repellex USA, Inc. ("Repellex USA") in Michigan to serve as the purchasing entity for the shares of the Companies and the vehicle through which the Summas would manufacture and sell natural and organic animal repellents to customers throughout the United States and internationally.

29. On February 12, 2007, Repellex USA, through counsel, submitted a "draft" Share Purchase Agreement to Grewal (the "Agreement"). [Share Purchase Agreement attached as **Exhibit B**].

30. Repellex USA stressed that time was of the essence, but that the nature of a share purchase, as opposed to an asset purchase, required significantly more due diligence, and would require Grewal to satisfy certain conditions precedent before Repellex USA would consummate the transaction.

31. The material terms of the February 12, 2007 Agreement, included the following:

a. Repellex USA would purchase 100% of the outstanding shares of the

Companies in exchange for a cash payment of $225,000 USD (the "Cash Payment") and a distribution to Grewal of shares representing 35% of the outstanding shares of Repellex USA;

b. Repellex USA would hold back $15,000 USD pending resolution of certain litigation and tax claims against the Companies and other liabilities set forth in a Schedule of Commitments and Liabilities;

c. the amount of the Cash Payment was subject to reduction in order to account for claims against the Companies accruing prior to the closing date;

d. the Agreement was subject to termination for the Companies' failure to satisfy any of the conditions precedent.

32. Along with the draft Agreement, counsel for Repellex USA included a cover letter outlining twenty-one outstanding issues and obligations constituting conditions precedent to be met by Grewal prior to the parties entering into any share purchase agreement. [February 12, 2007 Correspondence from Kevin Sorochan to Geoffrey Gould attached as **Exhibit C**].

33. As a condition precedent to Repellex USA entering into the Agreement, Repellex USA required the Counterdefendant/Third Party Defendants to provide additional information concerning the assets, liabilities and corporate records of the Companies, including a summary of shareholdings, copies of material contracts, lists of assets of each company, details regarding any encumbrances on the Companies' assets, list of employees, copies of all permits, licenses and registrations held by the companies, and a list of tax liabilities.

The Parties Reach an Agreement in Principle and Repellex USA Begins Performance of It.

34. The parties essentially agreed on the material terms above on or about

February 12, 2007, but they did not execute a formal Share Purchase Agreement. Instead, working in good faith to ensure a successful 2007 season, Repellex USA, from February through May 2007, proceeded in good faith with no purchase agreement in place, in reliance on Grewal's and the Companies' promises to satisfy the conditions precedent and finalize the deal.

35. Without finalizing the share purchase agreement, or satisfying the conditions precedent, Grewal unilaterally transferred responsibility to Repellex USA for production and distribution of the Repellex and Natura products.

36. Grewal transferred the Companies' manufacturing equipment, supplies, and packaging to Repellex USA's Berrien County, Michigan warehouse in two shipments on March 7 and March 28, 2007. Repellex USA paid all costs associated with the shipping of these assets and sent a Repellex USA employee to British Columbia to assist with the shipments.

37. Repellex USA sent its employee to British Columbia and agreed to take possession of these assets because of Grewal's and the Companies' specific, knowing, and intentional representations that the manufacturing assets were well-maintained and functional and that the supplies and packaging materials were in usable, salable condition.

38. Contrary to Grewal's representations, much of the equipment that arrived in Michigan was in disrepair, and the supplies and packaging were unusable. Repellex USA was forced to pay for the repair and/or disposal of many of these assets sent by Grewal and the Companies.

39. In the early Spring of 2007, Grewal traveled to Michigan to assist Repellex USA in the production process. Grewal and the Companies could not or would not provide Repellex USA with written product formulas and manufacturing specifications, but instead manufactured a number of Repellex and Natura products themselves on behalf of Repellex

USA.

40. Repellex USA faced significant quality issues with the products manufactured by Grewal and the Companies during this time and received a number of serious customer complaints.

41. The formulations produced for Repellex USA by Grewal and the Companies were not stable, and during the warm summer months, the liquid "gassed up" and literally exploded on customers' shelves.

42. Previously unaware of Grewal's and the Companies' shoddy work and eager to satisfy its customers, Repellex USA replaced a large percentage of the products produced by Grewal at great expense to the company. Repellex USA estimates it shipped at least twenty-five (25) replacement orders as a result of Grewal's shoddy work.

Unbeknownst to Repellex USA Grewal Begins Secretly Selling Repellex USA's Product, Hiding the Proceeds, and Stealing Thousands of Dollars Paid to Repellex USA by its Customers

43. At the same time as he was purporting to assist Repellex USA in manufacturing its products Grewal continued to sell these products from time to time himself and he would send customers to Repellex USA to have their orders filled. During the spring and summer of 2007, Grewal remained in control of the www.repellex.com website and the Companies' toll-free phone number.

44. Upon information and belief, Grewal would accept orders made online or by phone, charge customers' credit cards and then request that Repellex USA fill the orders, claiming they were "backorders" or "replacements."

45. While Repellex USA did fill these orders, Repellex USA received no payment for them from Grewal or the end-user. Grewal kept all of the proceeds himself.

46. Furthermore, upon information and belief, Grewal kept some finished product

at his warehouse in Vancouver and did not transfer it to Repellex USA in Michigan with the other assets and did not disclose that he was holding back this inventory.

47. Upon information and belief, Grewal accepted and filled orders during 2007 without the knowledge of Repellex USA (the "Secret Sales") and kept the proceeds of such sales for the benefit of himself and his Companies.

48. Upon information and belief Grewal, unbeknownst to the Summas or Repellex USA, also continued to distribute "systemic tablets" in the United States in violation of the EPA's stop-sale order. Grewal sold some of these "systemic tablets" under the Repellex name, despite explicit instructions from Repellex USA that he must cease and desist from selling illegal products and from using the Repellex mark in connection with those sales.

49. Upon information and belief, Grewal shipped many of these Secret Sales using the Repellex USA, name, and on some occasions, the Repellex USA Federal Express shipping account, causing Repellex USA to incur the shipping costs while receiving no revenue for the Secret Sales.

50. Neither Grewal nor the Companies ever reimbursed Repellex USA for the revenue from these Secret Sales or the shipping costs. Repellex USA estimates the revenue collected by Grewal from his fraudulent Secret Sales scheme to exceed $15,000 USD.

51. Upon information and belief, in addition to his Secret Sales revenue, Grewal also intercepted, stole, and then negotiated checks made out to Repellex USA by its customers.

52. Repellex USA ultimately learned of Grewal's criminal and tortious actions from customers when Repellex USA called them to discuss late payment of invoices. When Repellex USA confronted Grewal about his criminal and tortious behavior, Grewal admitted intercepting the checks, but refused to return the funds he had stolen and converted.

Unaware of Grewal's and the Companies' Bad Acts, Repellex USA Continues to Negotiate a Purchase of the Companies

53. During this same period, the Summas personally made substantial capital contributions to Repellex USA and worked diligently without compensation to rebuild the Repellex brand and re-establish a customer base in the United States and abroad from which Repellex USA and Grewal both stood to benefit.

54. As with many fledgling small businesses, Repellex USA operated at a loss during 2007. However, despite the revenues he was pocketing from his Secret Sales and the intercepted and stolen Repellex USA checks, Grewal and the Companies began to make consistent and urgent demands for cash from the Summas and Repellex USA. Throughout 2007, Repellex USA advanced more than $50,000 USD to the Counterdefendants, or, upon being asked by Grewal, to the Companies' vendors on the Companies' behalf.

55. In May 2007, Grewal began to aggressively pressure Repellex USA and the Summas for a substantial advance payment on the Share Purchase Agreement, notwithstanding his failure to satisfy the conditions precedent to such agreement, and notwithstanding Grewal's unscrupulous and fraudulent behavior during the preceding months. For obvious reasons, the Summas and Repellex USA refused to make additional general cash advances to Grewal.

56. However, in an effort to assist Grewal and the Companies with his and their financial needs and hopefully begin to bring closure to the sale of the Companies to Repellex USA, Repellex USA ultimately agreed on May 16, 2007, to make a cash payment of $125,000 USD in exchange for all of the intellectual property assets of the Companies, including all rights to the federally registered trademark, REPELLEX, registration No. 3,082,198, all rights to the registered "repellex.com" domain name and website, the common law rights to the NATURA Mark, and all chemical formulations for the production of

products under the NATURA and REPELLEX Marks, which formulations were represented by Grewal and the Companies to be compliant with Section 25(b) of the Federal Insecticide Fungicide Rodenticide Act ("FIFRA").

57. In addition, Repellex USA agreed that Grewal would retain a 50 year license to manufacture, market and sell animal and insect repellent products, organic herbicides, insecticides or fertilizers within Canada, Australia or New Zealand using the Repellex and Natura Trademarks and their accompanying EPA 25B formulations without any royalty commission or monetary payment during that period. The parties agreed that the details of such license agreement would be worked out following the consummation of the Agreement.

58. That same day, May 16, 2007, Grewal forwarded to Repellex USA an Assignment Agreement for the "Repellex" registered trademark (the "Assignment Agreement"). [May 16, 2007 Assignment Agreement attached as **Exhibit D**].

59. Repellex USA wished to have the Assignment Agreement reviewed by counsel; however Grewal insisted that he must have cash immediately, and he threatened to walk away from the deal completely unless Repellex signed the Assignment Agreement immediately and sent him a cashier's check for the $125,000 USD purchase price. Repellex USA once again acquiesced, signing the Assignment Agreement on May 17, 2007 and forwarding a cashier's check in the amount of $125,000 USD the following day.

60. Although the parties remained hopeful that a final share acquisition could be consummated, all parties agreed that the purchase of the Companies' intellectual property, as detailed in Paragraph 56, was final.

61. Grewal's May 16, 2007 assignment of the Repellex mark was recorded with the United States Patent and Trademark Office on July 22, 2007.

62. On May 18, 2007, Grewal sent to Repellex USA written manufacturing instructions for the Repellex Fruit and Vegetable product. Contrary to Grewal's earlier

representations, the manufacturing instructions included the use of ingredients that were not approved by the EPA for "FIFRA 25(b) products."

63. Ultimately, Repellex USA learned that none of the formulas sold by the Counterdefendants to Repellex USA were EPA compliant and thus they were unusable in the United States. Repellex USA and Grewal then jointly contacted Rod Bradbury at EcoSafe lab to discuss reformulating the nineteen (19) different Repellex and Natura formulations to comply with EPA standards. Bradbury estimated the cost of that project to be in excess of $50,000 USD.

64. Repellex USA and Grewal agreed (1) that Repellex USA would advance Grewal the funds to pay EcoSafe lab to develop the two most critical formulas and (2) that Grewal would re-develop the remaining formulations to be EPA-compliant and provide complete manufacturing specifications to Repellex USA prior to closing on the still-contemplated sale of the Companies and (3) that the payment to EcoSafe by Repellex would be applied as an advance payment to Grewal of any remaining cash consideration to be paid as part of the sale of the Companies to Repellex USA.

65. On June 4, 2007, Grewal transferred to Repellex USA the ownership of and FTP information for the registered domain name: www.repellex.com.

66. On July 5, 2007, Repellex USA advanced Grewal $7,000 USD for the express purpose of Grewal completing the two product formulations with EcoSafe lab, and instructed Grewal that given the previous misrepresentations and Repellex USA's inability to fill orders without EPA-compliant product formulations, time was of the essence. Grewal assured Repellex USA that it would have the EPA-compliant product formulations by September 1, 2007.

67. In late August 2007, Repellex USA contacted EcoSafe directly to learn the status of the re-designed product formulas. EcoSafe informed Repellex USA, that they had

only just begun the work, because they did not receive a $1,000 down payment from Grewal until a few days prior to Repellex USA's call. They now anticipated completing the work on September 23, 2007, three weeks later than Repellex USA had been promised by Grewal.

68. Repellex USA confronted Grewal regarding the information it had received from EcoSafe, and Grewal confessed that he had used the $7,000 advance payment from Repellex USA to pay his property taxes, and had simply lied to Repellex USA about the status of the EcoSafe product reformulations.

69. Ultimately, Grewal simply stole Repellex USA's $7,000 and never provided the EPA-compliant formulas he promised to deliver.

70. Repellex USA was forced to pay EcoSafe directly for the development of the EPA-compliant product formulations. Grewal did not, however, return the $7,000.

71. On September 5, 2007, despite having repeatedly defrauded the Summas and Repellex USA and having converted thousands of dollars of funds belonging to Repellex USA, and without satisfying the conditions precedent to the share purchase agreement, Grewal wrote to Repellex USA seeking an additional advance payment to help Grewal satisfy the remaining conditions precedent to the Agreement.

72. In addition to requesting funds, Grewal attached to his e-mail correspondence a "consulting agreement" and requested that Repellex USA sign the agreement so that Grewal could provide it to a lender in order to secure a personal loan.

73. In an effort to convince Repellex USA to execute the "consulting agreement," Grewal subsequently explained that he did not intend to enforce the "consulting agreement," but simply needed it as evidence of income for the bank. According to Grewal, once the loan was funded, the parties could ignore the "consulting agreement."

74. Repellex USA refused to assist Grewal in committing fraud upon a lending institution and refused to sign the "consulting agreement."

75. On September 6, 2007, after repeated telephone calls and e-mails from Grewal, Repellex USA once again succumbed to Grewal's intense pressure and advanced Grewal $25,000 USD to assist him and the Companies in satisfying the remainder of the conditions precedent to the Agreement. In return, Grewal promised to fulfill all of his obligations, including providing the EPA-approved product formulations by the end of that month so that the parties could close on the Agreement.

Grewal Fails to Comply with the Explicit Conditions Precedent to the Agreement.

76. Grewal never fulfilled his obligations or those of the Companies.

77. Despite being asked repeatedly by Repellex USA, over the nine months during which Repellex USA had already begun performing in good faith, Counterdefendant/Third Party Defendants failed to provide sufficient corporate records and financial information as requested by Repellex USA to satisfy this condition precedent.

78. As an additional condition precedent to Repellex USA entering into the Agreement, Repellex USA required the Companies to provide evidence that they had resolved certain outstanding claims pending against the Companies.

79. Counterdefendant/Third Party Defendants failed to resolve many of the outstanding claims against the Companies, even after Repellex USA had advanced funds to Grewal to assist him in resolving such claims.

Repellex USA Realizes Grewal is a Thief and a Charlatan with No Intention of Performing, and Repellex USA is Forced to Withdraw its Offer.

80. On September 23, 2007, the date by which Grewal had promised delivery of the new EPA-approved formulas, Grewal once again contacted Repellex USA and demanded an additional advance of funds. Repellex USA refused to make any further advances.

81. On September 24, 2007, counsel for Repellex USA sent Counterdefendant/Third Party Defendants a letter proposing a timeline and terms for the

completion of the share acquisition of the Companies. The proposal required the parties to execute a final share purchase agreement on or before October 1, 2007, with a closing date of October 5, 2007. The proposal further granted Grewal an extension until November 1, 2007, to provide the two EPA-compliant product formulas from EcoSafe.

82. Counterdefendant/Third Party Defendants failed to meet any of the deadlines set forth in the September 24, 2007 proposal. Instead, on October 11, 2007, Counterdefendants sent a counteroffer to Repellex USA demanding additional funds at closing and extending the deadline for completing the EPA-compliant product formulas for an additional six months.

83. As a result of the failures, breaches, and bad and criminal acts described above by Counterdefendant/Third Party Defendants, on October 16, 2007, Repellex USA formally withdrew its offer to purchase the outstanding shares of the Companies.

84. On October 16, 2007, Repellex USA gave written notice to Counterdefendant/Third Party Defendants that it was withdrawing its offer to acquire the outstanding shares of the Companies, citing the inability of the parties to reach a fair and reasonable settlement for the Companies and the failure to reach a definitive Purchase Agreement over the course of eleven months. [Notice of Withdrawal of Purchase Offer attached as **Exhibit E**].

85. In its Notice of Withdrawal of Purchase Offer, Repellex USA made one final offer to settle the matter by purchasing the tangible assets in its possession for the generous sum of $101, 638.25 USD less the $50,234.57 USD previously advanced by Repellex USA. Repellex USA made clear it would make such payment as a concession of goodwill to Counterdefendant/Third Party Defendants, as the amount was a gross exaggeration of the fair market value of the assets shipped by the Companies to Repellex USA.

86. Then Repellex USA additionally offered to make an extra $50,000 USD

payment to Grewal in the hopes that an otherwise contentious and time-consuming negotiation could reach a swift and amicable conclusion.

87. In the alternative, Repellex USA offered to release the tangible assets to the Companies in exchange for repayment of the $50,234.57 USD Repellex had previously advanced to the Companies during the negotiations.

88. On October 18, 2007, Grewal e-mailed Repellex USA agreeing to the asset purchase structure but indicating he would send a counterproposal on the terms. [E-mail from Grewal to Repellex USA dated October 18, 2007 attached as **Exhibit F**].

89. On October 31, 2007, Counterdefendant/Third Party Defendants, through counsel sent a counteroffer to Repellex USA agreeing to the final asset purchase of the remaining assets, but demanding payment in the amount of $118,000 USD without any deduction for prior advances.

All the While, Grewal and the Companies are Tarnishing Repellex USA's Trademark, Stealing Repellex USA's Customers, and Continuing their Tortious and Criminal Behaviors

90. Shortly after receiving the counteroffer, Repellex USA began receiving telephone calls from customers requesting information regarding orders they had placed with Grewal and paid for by credit card in October 2007. Repellex USA was unaware of these orders, had not taken these orders, and never received payment for these orders.

91. Nevertheless, in order to satisfy angry callers, Repellex USA offered to ship the products free of charge to these customers. Upon information and belief Grewal continued to hold himself out as an employee or agent for Repellex USA in order to obtain customer orders, despite explicit instructions from Repellex USA months earlier that he cease and desist such actions. Upon information and belief, Grewal pocketed the payments from these customers.

92. On November 27, 2007, Repellex USA, through counsel, sent correspondence to counsel for Counterdefendant/Third Party Defendants rejecting the October 31, 2007 counteroffer, and withdrawing the October 16, 2007 offer, which had been contingent on a swift resolution of the matter. [November 27, 2007 correspondence to Geoff Gould attached as **Exhibit G**]

93. Repellex USA offered to release the physical assets in its possession upon payment by Counterdefendant/Third Party Defendants of the $50,340.95 USD previously advanced by Repellex USA for the assets. In addition, Repellex USA demanded that the Counterdefendant/Third Party Defendants cease and desist from: 1) using the Repellex and Natura marks in any way inconsistent with Repellex USA's intellectual property rights; 2) shipping products to parties in the United States using Repellex USA's return address; and 3) processing payments from parties in the United States for "Repellex" products.

94. Upon information and belief, Counterdefendant/Third Party Defendants continue to market and sell lawn and garden chemical products using the Repellex and Natura trademarks to customers in the United States in violation of Repellex USA's intellectual property and other rights.

95. Upon information and belief, Counterdefendant/Third Party Defendants continue to hold themselves out as owners, agents or affiliates of Repellex USA to third parties in the United States. Counterdefendants have made such misrepresentations both to customers and to other third parties with whom Repellex USA has contractual relationships or is in the process of negotiating contractual relationships.

96. On February 1, 2008, Repellex USA launched its new "Repellex" and "Natura" product lines. Repellex USA revised all of the product formulations to make them EPA-compliant, developed all new product labels to differentiate the lines from previous Repellex and Natura Products, and implemented a new website design for

www.repellex.com.

97. Upon information and belief, Counterdefendant/Third Party Defendants copied the new Repellex USA logos and trade dress and have used them and continue to use them to market, and sell products to customers in the United States using the marks "Repel-It" and "Natura."

98. Upon information and belief, Counterdefendant/Third Party Defendants copied product images from Repellex USA's website and used and continue to use them to market and sell lawn and garden chemicals in direct and unlawful competition with Repellex USA.

99. Upon information and belief, Counterdefendant/Third Party Defendants copied Repellex USA's website design and have used and continue to use the design to market and sell lawn and garden chemicals at Counterdefendant/Third Party Defendants' website "www.repel-it.com" in direct and unlawful competition with Repellex USA.

COUNT I

(Trademark Infringement Under the Lanham Act)

100. Repellex USA realleges and incorporates herein by reference each of the allegations of Paragraphs 1 - 99 above.

101. Repellex USA is the registered owner by recorded assignment of the federally registered trademark, REPELLEX, registration No. 3,082,198.

102. Counterdefendant/Third Party Defendants' use of the "Repellex," and "Repel-It" Marks and variants thereof to market, promote and sell lawn and garden chemicals in direct competition with Repellex USA constitutes trademark infringement pursuant to 15 U.S.C. § 1114.

103. Counterdefendant/Third Party Defendants' infringement was committed knowingly and with the intent that it cause confusion, mistake or deception.

104. Counterdefendant/Third Party Defendants' intentional and willful infringement of Repellex USA's Repellex® registered trademark has caused and will continue to cause damage to Counterclaimant.

COUNT II

(Common Law Trademark Infringement and Unfair Competition)

105. Repellex USA realleges and incorporates herein by reference each of the allegations of Paragraphs 1 - 104 above.

106. Repellex USA is the owner by assignment of all common law rights in the mark NATURA. The NATURA Mark has been continuously used by Repellex USA and/or its predecessors-in-interest in commerce in connection with herbicides, insecticides and fungicides for home, garden and lawn use and for professional use, as well as for animal repellents for deer, rabbits, dogs, cats, moles and gophers since at least as early as April 1, 2002.

107. The NATURA mark creates a distinctive designation of origin of the goods on which it is used. Repellex USA's use of the NATURA mark has been and continues to be widely publicized through extensive advertising and sales throughout the United States. As a result, consumers recognize the NATURA mark as indicative of lawn and garden chemicals sold by Repellex USA.

108. Counterdefendant/Third Party Defendants' use of the the NATURA mark in connection with the promotion, marketing or sale of Counterdefendants' goods constitutes a false designation of origin that is likely to cause confusion or cause mistake or to deceive consumers as to an affiliation, connection, or association with Repellex USA, or as to Repellex USA's sponsorship or approval of Counterdefendants' goods, services and commercial activities.

109. Counterdefendant/Third Party Defendants' conduct is willful, deliberate and with bad intent to profit from Repellex USA's trademark.

110. Counterdefendant/Third Party Defendants' conduct has caused and will continue to cause damage to Repellex USA.

COUNT III

(False Designation of Origin and Unfair Competition Under the Lanham Act)

111. Repellex USA realleges and incorporates herein by reference each of the allegations of Paragraphs 1 - 110 above.

112. Counterdefendant/Third Party Defendants' use of the "Repellex" and "Repel-It" marks and variants thereof to promote, market or sell their lawn & garden chemicals in direct competition with Repellex USA's products constitutes unfair competition pursuant to 15 U.S.C. § 1125(a).

113. Counterdefendant/Third Party Defendants' use of the "Repellex" and "Repel-It" marks and variants thereof is likely to cause confusion, mistake and deception among consumers as to the affiliation, connection or association between Repellex USA and Counterdefendant/Third Party Defendants, and as to origin, sponsorship or approval of Counterdefendant/Third Party Defendants' goods by Repellex USA.

114. Counterdefendant/Third Party Defendants' unfair competition has caused and will continue to cause damage to Repellex USA.

COUNT IV

(Breach of Contract)

115. Repellex USA realleges and incorporates herein by reference each of the allegations of Paragraphs 1 - 114 above.

116. Repellex USA entered into a contract, the Assignment Agreement, with Repellex Lawn & Garden for the purchase of all of the intellectual property assets of

Repellex Lawn & Garden, including all rights to the federally registered trademark, REPELLEX, registration No. 3,082,198, all rights to the registered "repellex.com" domain name and website, the common law rights to the NATURA Mark, and all chemical formulations for the production of products under the NATURA and REPELLEX Marks, which formulations were represented to be compliant with FIFRA Section 25(b).

117. Repellex USA performed its obligations under the Assignment Agreement by providing a cash payment in the amount of $125,000 USD and agreeing to grant the Grewals a license to manufacture, market and sell animal and insect repellent products, organic herbicides, insecticides or fertilizers within Canada, Australia or New Zealand using the Repellex and Natura Trademarks and their accompanying EPA 25B formulations for a period of 50 years without any royalty commission or monetary payment during that period.

118. Counterdefendant/Third Party Defendants breached this agreement by, *inter alia*, failing to provide Repellex USA with written chemical formulations for the Repellex and Natura products compliant with FIFRA Section 25(b), selling animal and insect repellent products in the United States using the REPELLEX and NATURA marks, applying for Trademark registration for the NATURA mark, applying for trademark registration for confusingly similar marks including, but not limited "REPELLEX.COM" and "REPEL-IT", and misrepresenting to customers and other third parties that Counterdefendants are the owners of the intellectual property sold to Repellex USA.

119. Repellex USA has been and continues to be damaged by Counterdefendant/Third Party Defendants' breach of contract in an amount to be proven at trial.

COUNT V

(Conversion)

120. Repellex USA realleges and incorporates herein by reference each of the

allegations of Paragraphs 1 - 119 above.

121. Counterdefendant/Third Party Defendants have wrongfully and without justification asserted dominion over property belonging, in whole or in part, to Repellex USA in a manner that has deprived Repellex USA of its rights to the property. This property includes, without limitation, monies paid by checks and credit cards from customers who purchased Repellex USA products through Grewal and whose payments were intercepted by Grewal.

122. As a direct result of Counterdefendant/Third Party Defendants' conversion of Repellex USA's property, Repellex USA has suffered damages in an amount to be proven at trial.

COUNT VI

(Tortious Interference with Business Expectancy)

123. Repellex USA realleges and incorporates herein by reference each of the allegations of Paragraphs 1 - 122 above.

124. Repellex USA had a reasonable expectancy that it would continue to do business with its customers.

125. Counterdefendant/Third Party Defendants are aware of Repellex USA's existing and prospective relationships with its customers and potential customers.

126. Using improper motives and means, Counterdefendant/Third Party Defendants intentionally engaged in the acts described above for the purpose of interfering with Repellex USA's enjoyment and benefit of its contractual and prospective business relationships and expectancies with its customers, thereby causing substantial damage to Repellex USA in an amount to be proven at trial.

COUNT VII

(Fraudulent Misrepresentation)

127. Repellex USA realleges and incorporates herein by reference each of the allegations of Paragraphs 1 - 126 above.

128. Counterdefendant/Third Party Defendants, through Grewal, fraudulently misrepresented the financial status of the Companies and the nature and value of the Companies' intellectual property and tangible assets. Specifically Grewal made the following material misrepresentations: (a) Grewal misrepresented the Companies' potential future revenues by misrepresenting that Repellex USA could easily resolve the EPA stop-sale order which banned the sale of "systemic tablets" in the United States, which sales represented approximately 50% of the Companies' reported revenues through 2005; (b) Grewal misrepresented that the Companies possessed and could sell written formulas and manufacturing specifications that qualified for exemption from EPA registration requirements pursuant to FIFRA § 25(b); (c) Grewal misrepresented the condition and utility of the Companies' manufacturing equipment.

129. Grewal's fraudulent misrepresentations were intended to deceive Repellex USA to the benefit of Counterdefendant/Third Party Defendants and to the detriment of Repellex USA.

130. Grewal knew that Repellex USA was relying on his misrepresentations to their detriment.

131. Repellex USA did rely on the misrepresentations of Grewal and did not discover until after making a substantial investment in the transaction that the representations and assurances by Grewal were false and were intended to deceive Repellex USA.

132. As a result of Grewal's false and fraudulent conduct (on his own behalf and

on behalf of the Companies), Repellex USA has been damaged in an amount to be proven at trial.

COUNT VIII

(Negligence)

133. Repellex USA realleges and incorporates herein by reference each of the allegations of Paragraphs 1 - 132 above.

134. Grewal, as the only individual with knowledge of the Repellex and Natura formulas and manufacturing specifications, owed Repellex USA a duty to exercise reasonable care, skill and diligence in the manufacturing of the Repellex and Natura products on behalf of Repellex USA.

135. Grewal breached his duties owed to Repellex USA by negligently manufacturing unstable products as described above.

136. As a direct and proximate cause of Grewal's negligence and/or gross negligence Repellex USA suffered damages in an amount to be proven at trial.

COUNT IX

(Unjust Enrichment)

137. Repellex USA realleges and incorporates herein by reference each of the allegations of Paragraphs 1 - 136 above.

138. As described above, Counterdefendant/Third Party Defendants caused Repellex USA to make payments to Counterdefendants or to third parties on Counterdefendants' behalf in an amount exceeding $175,000, the exact amount to be proven at trial.

139. Counterdefendant/Third Party Defendants enjoyed the benefits of these payments, and by their actions have sought to deny Repellex USA the enjoyment of any consideration in exchange for these payments.

140. Counterdefendant/Third Party Defendants have been unjustly enriched at the expense of Repellex USA. Justice and equity require that Repellex USA receives restitution for the benefits unjustly received by Counterdefendants.

WHEREFORE, Repellex USA respectfully requests:

A. Damages and punitive damages in an amount to be proven at trial;

B. A permanent injunction prohibiting Counterdefendant/Third Party Defendants from disparaging Repellex USA, interfering with Repellex USA's customers, copying and infringing Repellex USA's intellectual property or otherwise engaging in any conduct inconsistent with the rights of Repellex USA.

C. Repellex USA's reasonable costs and expenses, including attorneys' fees incurred in connection with the prosecution of this action to the extent allowed by law;

D. Such other and further relief as the Court may deem just and appropriate.

HOWARD & HOWARD ATTORNEYS, P.C.

Date: October 2, 2008

By: _____

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EXHIBIT 3

STATE OF MICHIGAN

IN THE 2nd CIRCUIT COURT FOR THE COUNTY OF BERRIEN

REPELLEX LAWN & GARDEN PRODUCTS, INC.,

Plaintiff/Counterdefendant

Case No. 08 -0346-CK-T

V

Hon. Lynda A. Tolen

REPELLEX USA, INC

Defendant/Counterclaimant

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ANSWER AND AFFIRMATIVE DEFENSES TO COUNTERCLAIM WITH PROOF OF SERVICE

Plaintiff/Counterclaim Defendant Repellex Lawn & Garden Products, Inc. ("RLGP") says for its Answer to the Counterclaim of Defendant Repellex USA, Inc.:

Parties

1. Admitted.
2. RLGP denies as untrue that any individual is acting in anything other than a representative capacity of RLGP.
3. Admitted.
4. Admitted.
5. Admitted.
6. Denied as untrue. Grewal never manufactured or sold lawn & garden chemicals within the United States. All manufacturing activities were undertaken in Vancouver, British Columbia, Canada. All finished product was packaged and shipped to the US, clearing all required US Custom, EPA and USDA qualifications. All proper USDA Veterinary and Ag-Canada permits and paperwork accompanied each and every shipment. Commissioned Manufacturer's Representatives handled all sales activities in the United States. Regional lawn and garden distributors handled all shipping to dealers. RLGP shipped product directly to these distributors.
7. Denied as untrue. Grewal has never violated any immigration laws of the United States. Grewal has never transacted any business or Non-tourist activities that required any type of US Visa or special immigration related permission. Having retained a Washington State US immigration specialist counsel to insure proper compliance to US immigration laws, Grewal is very well versed with respect to the limitations regarding his US activities. As required by US laws, Grewal has always declared his intentions to immigration officers on every visit to the United States. His attendance at distributor tradeshows was to inform and educate garden center owners about the technical advantages of the Natura/Repellex product lines. This was done in the presence of US

based regional Manufacturer Reps, who were hired to secure product sales. Grewal has never transported any filled bottles of Repellex/Natura products during his visits. The majority of the declared material transported to the US included marketing and technical information along with tradeshow displays. Grewal did not undertake any activity that in any way, sense or form would take away jobs from American Citizens. Grewal actually contributed hundreds of thousands of dollars to the US Economy by purchasing the majority of his raw materials, bottles, sprayers, etc from US based suppliers, and had those materials shipped back to Canada. Grewal also contributed thousands of dollars to distributor-sponsored US charities.

8. Admitted as to Amar Grewal. Denied as untrue as to Kal Grewal.
9. Denied as untrue. Grewal's motivation to sell the business was not due to increased regulatory scrutiny of his product shipments during border crossing. After 10 years of cross border shipping, ASG had become a specialist in handling cross-border clearances, the cornerstone of their business. Numerous on-line systems had been implemented by US customs to streamline clearances after 9/11. This actually greatly reduced our paper requirements. Grewal's motivation was his desire to spend more time with his two young children. Grewal never wanted to sell the whole company; his discussions with Summa were for a partnership arrangement.
10. Denied as untrue. Based upon the initial discussions, Summa began to explore the option of setting up a partnership with Grewal, through the purchase of shares of the companies. This transaction was never set up as an asset sale.
11. Denied as untrue. At this time Repellex and Natura were doing exceptionally well. Although the gross sales had come down over the last 2 years, the overall profitability of the business was increasing, with the implementation of cost cutting measures that helped the bottom line. We were on the verge of launching new products including granular repellents; Neem based insecticides and a line of new Soil Microbiological

additives to both the Natura and Repellex lines. We had also completed new label designs to create a whole new look for both the Repellex and Natura lines, which in combination with preliminary discussions concerning the purchase of an EPA registered Animal repellent called "BrowseBan" would position these companies in the forefront of the US Organic Marketplace. Even Summa was complementary of the company's accomplishments. The following confirm the positive state of the companies:

(i)	*Arett's New Product Invitation*	*Dated 9/20/06*
(ii)	*Repellex testimonial Highland Gardens*	*Dated 9/2306*
(iii)	*Positive feedback from Summa*	*Dated 4/10/08*
(iv)	*Valuation dated 9-23-06*	*Dated: 9/23/06*

Based upon Summas past reputation as a salesperson in the lawn & garden industry, Grewal refused Summas offer to become involved in the business. Summa was adamant with respect to working in the business as part of his due diligence. Grewal reluctantly conceded to his demands in order to continue forward with the deal. Grewal never agreed to any reduction in the purchase price of shares, or any type of re-imbursements for Summa, other than expenses, while Summa undertook his "due diligence". Summa also requested unsuccessfully, to have funds transferred to his wife, Elizabeth Summa, while he undertook his due diligence. A quick summary of Summa personal traits that had led to his reputation in the industry, revealed themselves during this due diligence phase:

- Inexperience: Left manufacturer rep group that represented Wolf Garten Tools/ Town & Country gloves after only a year.
- Unethical: Summa contacts both these manufacturers and attempts to steal them away from his former employer. Wolf Garten flatly refused, but Town and Country switched.
- Untruthful: Summa constantly lied to his managers at 3M with respect to his outside ventures, even after being confronted.

- Fraudulent: Utilizing 3M vehicles to travel to tradeshows, submitted expense statements for reimbursements from both 3M and Repellex. Submitting false invoices and expense reports to Repellex with Elizabeth Summa as the beneficiary. Never providing actual cell phone bills, and photocopied cell phone statements with "sections" blacked over.

12. Denied as untrue .The acts, occurrences, and omissions that gave rise to this cause of action occurred in Berrien County, Michigan. Grewal clearly indicated that the companies' year-end was January 31, and that the earliest we would be able to provide the most updated financials would be at least 2-3 months, as the shipments for the Early-Order took precedent over all other activities. Summa fully understood the situation and accepted the delay.

13. Denied as untrue for the reasons stated above.

14. Denied as untrue. During his "due diligence phase" Summa immediately started to represent himself as the new owner of RLGP. Grewal started receiving emails/telephone calls from long time customers who were upset with Summas' foul manner and arrogant behavior. Upon confronting Summa with these accusations, he denied them. The "Summa distribution center", was nothing more than an old, dirty, run-down corner of an industrial warehouse. The product was in disarray, with many boxes damaged. After the initial inspection, Grewal immediately ceased all future shipments. Summa requested payment for monthly rent. Grewal conceded to his demands, and forwarded thousands of dollars. Grewal unsuccessfully requested copies of invoices from the warehouse owner directly. These funds, along with fraudulent payments outlined on Summas emails for an Elizabeth Curran-Dorsano, were all made out to Mr. Summa. Therefore, verification of declared income on 2006-2007 IRS returns should reflect this income. Emails confirmations include:

(i)	*Trade Show Expenses*	*Dated: July 30,2006*
(ii)	*Monthly Expenses*	*Dated: April 16, 2006*
(iii)	*Receipts Fraud*	*Dated: May 30, 2006*

15. Denied as untrue. As Summa continued to misrepresent himself to Repellex distributors and customers around the country, we started receiving more insight into his past dealings with other companies when he was working for Wolf Garten Tools. This can be confirmed through his previous employer. It was his reputation that was extremely untrustworthy. He had a habit of "over promising and under delivering." When confronted by Mrs. Grewal, with respect to his fraudulent claims related to RLGP, Summa stated, "...Amar and I do have somewhat of an agreement even though it is not written..."

16. Denied as untrue. Summas' arrogance and immaturity combined with poor social skills, immediately resulted in both the Natura and Repellex brands being damaged. After almost a year, and $10,000 in expenses Summa racked up during his cross-country sales flights to see "old customers" like "Jerry's" in Oregon and "Summer Winds" in San Francisco... Summa never provided Repellex a SINGLE purchase order! Summas' previous reputation in the industry had not been forgotten. This unethical and wasteful behavior continued as Summa hired "independent sales firms" for Washington and Minnesota. These firms, whose commissions were paid by RLGP, were instructed by Summa only to communicate with him directly. Neither of these firms ever provided RLGP with any orders. All orders were sent to Summa. Meanwhile, Grewal was constantly putting out fires that Summa created, constantly reassuring customers that the management transition would be smooth, and generally putting his reputation built upon 10 years of honestry and hardwork, on the line. It was Grewals' 10 year personnel relationship with over 90% of the customers, that made up the core of the Repellex business, that allowed this partnership to move forward.

17. Denied as untrue. As outlined earlier, Summa was well aware of the companies' year-end and agreed to the delay in being able to produce financial information. Summa did

receive 3 years of detailed QuickBooks files for all companies, including customer lists, invoices, purchase orders, supplier lists, etc. This was done in good faith, and assisted Summa and his CPA when they completed the $500K valuation of the three companies. Summa knew these files were the 12 years of "Goodwill" all three companies had accumulated. This financial information gave Summa a view of the exceptional current state of all three companies. Upon receiving these files and the CPA valuation, Summa continued to put into motion his pre-conceived plan: to obtain the Repellex trademark. Once this was transferred, Summa would have the information necessary to run the business without Grewal, and utilize the money that he had not paid for the goodwill and equipment to fight any litigation Grewal pursued.

18. Admitted.

19. Denied as untrue. Over 3 years of detailed QuickBooks files and financial statements were available, and promptly provided. Summa was able to obtain a CPA valuation on RLGP using this information. A share sale agreement was drafted based upon this valuation by Summa's own attorney, Kevin Sorochan.

20. Denied as untrue. Summa's own CPA came up with the valuation on the company. Summa had disclosed the current status of all the products in Natura and Repellex. This included the systemic tablets, as well as the new additions of granular Mole, Mosquito, Dog and Cat products. Summa also disclosed the preliminary discussions relating to the purchase and addition of Kalsec's EPA registered "Browseban" animal repellent, to the Repellex line. Even with the QuickBooks information available, Summa again attempted to "over-state the facts." Summa not only was aware of the exact percentage that the "Systemic Tablet Sales" made up between 2003 and the stop sale in 2006, but he was aware of all details related to those sales. A quick overview based upon QuickBooks information reveals a different picture:

o Item 10045/10003 - 500 Tablets:	8.18%
o Item 10004 – 30 Tablet Packages:	7.60%
o Item 10040 – 200 Tablet Packages:	5.90%
o Item 10005 – 50 Tablet Packages:	5.72%
TOTAL:	27.40%

This is a far stretch from "more than half of the revenues on the reports produced by Grewal.". Any potential future sales are purely speculative at best.

21. The EPA stop sale on the Systemic Tablets was public knowledge. This order indicated that the tablets would have to undergo normal EPA registration requirements. Grewal made no claims that this specific product would be given any special treatment and in no way misrepresented a publicly available news release. As expected, Summa again attempted to hide the truth, by failing to mention that it was actually the Summas who hired an EPA registration firm called **Technology Sciences Group, Inc** (TSG) to evaluate the feasibility of getting the Systemic Tablets registered. Summa even sent a copy of the TSG evaluation report to Grewal directly. To further assist Summa, Grewal even coordinated with his registration consultant, to provide lower costs for the lab toxicity and product chemistry requirements. Overall, the registration costs were extremely low; with the potential for an additional waiver of EPA registration fees for small US based companies like Repellex-USA. Overall, the consultant: Amy Plato Roberts of TSG, provided a very optimistic and cost-effective review with respect to the potential EPA registration of the previous systemic tablet. This registration endorsement was not factored into the valuation by Summa. Grewal was damaged by relying upon Summas' CPA, and by not having this EPA endorsement taken into consideration for that valuation. The actual amount of the damage based upon this undervaluation will be determined at Trial. Confirmation of this is shown in

(i) TSGUSA Evaluation
(ii) TSG Consultants Evaluation

22. Denied as untrue. Grewal not only disclosed all outstanding payables, judgments and liens against the companies, but he signed a Power of Attorney allowing Summa's Attorney, Kevin Sorochan to contact revenue Canada or any other State or Federal agency directly to receive confidential company information. This clearly shows the faith, goodwill and openness Grewal was putting into his discussions with Summa. The actual copies of the tax and lien searches undertaken by Summas' Vancouver attorney are: Lien Summary from Sorochan and ASG Tax Results from Sorochan

23. Denied as untrue. Grewal manufactured and sold Repellex and Natura products in the United States for over 12 years. In order to maintain customers, registrations were always completed in a timely manner, and the fees paid ASAP. Upon initiating this joint venture with the Summas, and fully explaining the crucial nature of the registrations along with the penalties that would be incurred if any registration lapsed, Grewal went over every state individually with the Summas to insure no confusion. In order to start manufacturing and shipping from the US, we would have to revise the labels and submit new registration fees. The Summas gave Grewal constant reassurances that they would fulfill this requirement prior to shipping any product out. Unfortunately, the criminal and fraudulent nature of this couple resulted in Grewal being penalized by both Michigan and Washington state to the tune of $ 9,000 USD, for allowing the registrations to lapse. Grewal paid these penalties. The Summas never reimbursed Grewal, even though they continued to sell and benefit from those registrations. Summas' confirmation of understanding the registration requirements, and accepting the responsibility for compliance, is shown by the *Registration Summa 25(B) Exempt States, dated June 07, 2007and 25(b) exempt List 2007, dated June 07,2007.*

24. Denied as untrue. A full accounting of every box and contents shipped to Repellex USA was inspected and cross-referenced to the US Customs invoice that accompanied each

shipment. Each trailer was pulled aside, and the contents removed, counted and inspected by US Custom Officers in Blaine, Washington port of entry. If there were any discrepancies in quantities, the shipment would have been turned back. Therefore the quantity was exact. With respect to quality, Grewal actually went to Michigan, and helped unload the shipments. None of the equipment or supplies had been damaged in transit. The equipment was set-up and running within 24 hours. Product was manufactured and over 20K worth of backorders were shipped out and invoiced within the first week. Almost 80k was invoiced in the 60 days following receipt of shipment with the physical assets that were supposedly "misrepresented in quality". A summary of those sales is contained in *Repellex USA Inventory Profitability Report, dated June 12, 2007.*

25. Denied as untrue. All formulations that Grewal was utilizing prior to the initiation of discussions with Summa, were 100% FIFRA exempt under Section 25(b). In early 2005, Grewal had submitted samples of a competitor's dried blood based product: Plantskydd, to Grewals' development consultant, Ecosafe, for shelf life stability studies. Product analysis by Ecosafe confirmed the presence of vegetable oil: soybean, canola or castor, and high concentration of NaCl, table salt. Grewal also found secondary peaks that he interpreted as sodium lauryl sulfate, potassium sorbate and/or lecithin. Grewal then undertook lab scale homogenizing to produce blood and egg powder samples. Stable suspensions were quickly formulated and bought into the production cycle. All product manufactured and shipped from Canada utilized these new formulae. Ecosafe Consultants can confirm these discussions along with the date of receipt of the Plantskydd sample from Grewal. Directly due to Summas' ongoing refusal to sign even a letter of intent with respect to the Share Agreement, Grewal did not release these formulations to Summa. Grewal continued to work on the shelf life studies through Ecosafe, utilizing various percentages of Castor/Soybean/Canola Oil and measuring

H2S production. Grewal forwarded $ 1000.00 to continue these studies. These funds were from Grewal, not Summa. Realizing that Grewal was not undertaking any type of reformulation work until Summa signed the Share Agreement, Summa fraudulently convinced Ecosafe that he had completed the purchase of Repellex, and that he would finance the new formula development work. Ecosafe, not confirming these lies, completed the same reformulation work for Summa and sent the completed work on November 16, 2007. Grewal only realized of this deceitful theft of intellectual property in January 2008, when he was contacted by Ecosafe attempting to return his initial deposit check. It was at this time that Grewal realized that Summa had fraudulently obtained the end result of almost 10 years of product development work by Grewal. Ecosafe immediately apologized for not confirming the Charlatans' story. They did confirm that Summa was charged the full $8000 for the work. Copies of all development work undertaken by Ecosafe were sent to Grewal ASAP and is shown in *Dried Blood Flowable MFG1, dated November 16, 2007.*

26. Denied as untrue. Grewal provided all required information in a timely manner. Full disclosures were provided including power of attorney requests to Mr. Kevin Sorochan to contact Revenue Canada, and the BC Personnel Property registrar. Only after repeated requests from Grewals attorney to provide the discussed Share Agreement, did Summa decide to change the whole transaction to an asset sale agreement. The sole purpose of this change was to ensure that Summa did not have to give up 35% shares of Repellex USA. Based upon the huge devaluation Summa attempted to place on the company value, Grewal rejected the offer ASAP.
27. Admitted.
28. Admitted.
29. Admitted.
30. Admitted.

31. a. Denied as untrue. Repellex USA would purchase 100% of the outstanding shares of the Companies in exchange for $ 325,000 USD (the "Cash Payment") and a distribution of shares representing 35% of the outstanding shares of Repellex USA.

b. Admitted.

c. Admitted.

d. RLGP lacks knowledge or information sufficient to form a belief as to the truth of this allegation. RLGP incorporates the facts supporting its claims made in the complaint.

32. RLGP lacks knowledge or information sufficient to form a belief as to the truth of this allegation. RLGP incorporates the facts supporting its claims made in the complaint.

33. RLGP lacks knowledge or information sufficient to form a belief as to the truth of this allegation. RLGP incorporates the facts supporting its claims made in the complaint.

34. Denied as untrue. No agreement was made as to a $225,000 payment. Based upon the valuations, the cash portion was to be $ 325,000 based upon the 500,000 valuations. Grewal instructs Summa to make these corrections and resubmit. Summa does not provide change for almost 2 months.

35. Denied as untrue. Upon repeated threats that he would pull out of the deal, and the damage the backorders were causing to his reputation, Summa demanded that finished product and full manufacturing assets be transferred to Niles, Michigan immediately. Grewal requested that an agreement for sale of the company in principle be signed prior to sending the equipment and supplies. Summa accused Grewal of not trusting him, and that the deal was off if he needed him to sign any type of promissory note, against the equipment. Summa even volunteered to send his sales manager, another shareholder in Repellex USA, Mr. Jeff Wienke to help load the equipment and supplies.

36. Admitted.

37. RLGP lacks knowledge or information sufficient to form a belief as to the truth of this allegation. RLGP incorporates the facts supporting its claims made in the complaint.

38. Denied as untrue. All equipment and supplies that were loaded into the two trailers were in excellent working order. This was confirmed by Grewal who flew to Michigan and helped set up the equipment and train Summa on its operation. All plastic bottle and sprayers were in undamaged packages, and the chemicals were in sealed metal/steel drums. The trucking company reported no damage to the supplies or the equipment during transit. Mr. Jeff Wienke verified the excellent status of all the equipment and supplies at loading, and confirmed the same to Summa. Items were detailed in customs clearances, with item numbers and quantities. Customs officers verified these. All equipment was set up and under production within 24 hours of arriving in Niles, producing over 80K worth of backorders over the next 60 days. All supplies on the US Customs invoice were actually devalued to 40% of their current actual market value. A sample comparison of certain bottles on the shipments clearly show the difference in valuations listed on the invoices, and the current market value of those same supplies:

DETAILS	QTY	AMT	TOTAL	2008	REPLACEMENT $
Green Garden Sprayers	5673	0.25	1418.25	0.70	3971.10
Calmer trigger Sprayer	2500	0.10	250.00	0.35	875.00
Hub 32oz Bottles	1948	0.25	487.00	0.56	1090.88
CKS 32oz Sprayers	4600	0.20	920.00	0.34	1564.00
TOTAL:			3075.25		7500.98

Two of the 2008 quotes to verify these current valuation figures are contained in:
2008 Hub Plastics Quote *Dated: May 6, 2008*
CKS Quote 6236 Bottles *Dated: August 28,2008*

39. Denied as untrue. Grewal did not travel to Michigan to assist Repellex in the production process. Grewal "would not" provide written product formulas. Grewal traveled to Michigan for the following three purposes:

(a) To verify the receipt and condition of the equipment and supplies
(b) To help supervise the set-up and equipment training in the production plant
(c) To have Summa sign the letter of intent for the Share Agreement

Prior to his visit, Grewal clearly informed Summa that Summa needed to

(1) Sign the letter of intent with respect to the Share Agreement

(2) Have an industrial homogenizer available for formulations.

Upon arriving in Niles, Summa again came up with numerous excuses not to sign the Agreement. Based upon his penny-pinching habits, Summa had decided to build a shear blender instead of buying an industrial version. This homogenizer was not completed upon Grewals arrival. Based upon Summa's sly behavior, Grewal refused to provide formulations, and made arrangements to return to Vancouver ASAP. Summa promised to take care of Grewals requests, but also threatened to pull out of the deal if the backorders were cancel. Summa requested any formulations to fill the backorders. Early R&D formulations developed through Ecosafe, were stable with regular blenders, but were not List 25B approved. Summa chose to use these formulations, herein referred to as the "Summa Formulations". Grewal notified Summa that he is not to place RLGP labels on these products. Grewal refuses to associate himself with Summas blatant and unscrupulous disregard for EPA regulations.

40. Denied as untrue. As expected Repellex USA's "Summa formulations" resulted in unstable product that both gassed up and exploded on customers shelves.... problems RLGP had not experienced for almost a decade. Grewal again volunteered to disclose the Castor Oil based formulations that RLGP had developed the year before, in cooperation with Ecosafe. All Summa would have to undertake was:

(a) Spend the funds necessary to purchase an industrial homogenizer

(b) Provide Grewal with a signed letter of Intent to purchase shares.

Summa again refused. It become clear to Grewal at this point that Summa had no intention at all to complete the Share agreement. Summa would do whatever was necessary to obtain these formulations over the next few months.

41. Denied as untrue. See Answer ¶40.

42. Denied as untrue. See Answer ¶40.

43. Denied as untrue. Grewal continued to sell Repellex products up to the date of the Repellex trademark assignment: May 17, 2007. The Vancouver warehouse was emptied by March 28, 2007. Grewal then spent a week in Niles, Michigan setting up the production plant. On June 06, 2007, Grewal transferred the FTP information for the repellex.com website. After the transfer of the Repellex trademark, the remaining Repellex inventory was disposed of and the warehouse was sold. Grewal continued to move forward with the intention of completing the deal and partnering up with Repellex USA. Based upon the commission agreement Summa had fraudulently proposed, Grewal continued to sell products and forward all orders to Summa, under the false expectation of future payments. Various attempts to transfer the toll free number were unsuccessful due to cross border issues.

44. Denied as untrue. Prior to the Assignment of the Repellex trademark, on May 16, 2007, Grewal had all internet, email or direct sales filled by Summa and billed by Grewal. This included orders that may have been "backorders or replacements". Grewal was still incurring thousands of dollars a month in overhead expenses. After May 16, 2007, Summa proposed the Sales incentive program to ensure that Grewal would continue to sell product for Summa, under the fraudulent promise of future commissions. Once Grewal shipped all his manufacturing equipment, he could no longer produce any product. Grewal actually forwarded over 20K worth of new Repellex sales to Summa over 90 days following transfer of the equipment, website and Repellex trademark. Grewal never saw any of the "promised" commissions from those sales.

45. Denied as untrue. After the shipment of the RLGP equipment on March 28, 2008 and until the assignment of the Repellex trademark on April 16, 2008, Grewal and RLGP submitted all orders to Summa to ship, but continued to bill those customers. After May 16, 2007 all orders were shipped and billed by Summa.

46. Denied as untrue. Any Repellex product kept in the Vancouver warehouse was not saleable, as per viewed by Mr. Jeff Wienke, during his initial visit in March 2007. Secondly, RLGP needed the USDA Veterinary permit signed by Summa, to ship any products into the US. Summa canceled this permit upon the shipment of the 2nd trailer of equipment from Vancouver. No product could ship across the border after this point.

47. Denied as untrue. RLGP accepted orders until the date of the Repellex trademark assignment on May 16, 2007. Summa undertook all shipping for those orders. All billing was undertaken by RLGP. After May 16, 2007 all orders received by Grewal were forwarded to Summa under the "Summa Sales Incentive Program." Grewal or RLGP never received commission payments from those sales.

48. Denied as untrue. Repellex USA or Summa never sent any Cease and Desist notification to either Grewal or RLGP. Upon information and belief, unbeknownst to Grewal or RLGP, Summa continued to market and obtain orders for "systemic tablets" from both overseas and domestic clients, in violation of the EPA stop sale. Any and all sales of "systemic tablets after the initial Summa visit in September 2005 were undertaken jointly and with the complete knowledge of both Summa and Repellex USA. Numerous dealers requesting credits, returned "systemic tablets" to the Niles, Michigan warehouse. Any and all sales of the "systemic tablets" prior to the May 16, 2007 assignment of the Repellex trademark were undertaken using the Repellex trademark. Shipping location origins for any potential "systemic tablet" sales can be verified.

49. Denied as untrue. Grewal did not have "secret" inventory, equipment to produce inventory, or even the raw materials to mix to produce inventory. Second, even if Grewal did have inventory available, the cancellation of the USDA Veterinary permit by Summa, would not have allowed the shipment of any product to the US. Third, all sales up to and including the date of the Repellex trademark assignment, were done by RLGP. Grewal never shipped any product under Repellex USA. Fourth, Grewal was still under the

assumption that he was to receive a 35% Share of Repellex USA, which would allow him to have 35% ownership of the Repellex trademark. The "Repellex FedEx" Account number was actually a sub-account of CH Robinsons' FedEx Account. RLGP made numerous payments to this account and had all rights to use it. Summa set up a separate account for Repellex USA, once he received the final formulations from Ecosafe and withdrew his offer. This account information was never provided to Grewal or RLGP.

50. Denied as untrue. Summa and Repellex USA never confronted Grewal or RLGP with respect to requesting any reimbursements or credits to be applied at closing with respect to the so-called "Secret sales". Summa was fully aware that Grewal had no inventory, had no means to produce any inventory, and could never ship product across the US border without the USDA Veterinary permit. It was actually Summa who had been making secret sales of both Repellex and Natura products . Summa was secretly shipping and billing customers, without notifying RLGP or Grewal. Grewal never received reimbursements for these "Summa Sales". Grewal and Natura Products Inc. were damaged by these sales in an amount to be determined at Trial.

51. Denied as untrue. Grewal never intercepted any checks made out to Repellex USA. Grewal is also unsure how he may have been able to steal checks made out to Repellex USA. If checks were received and deposited they would have been made out to Repellex Lawn & Garden products. If Repellex USA sent incorrect billing instructions, and Grewal accidentally received and deposited payment under Repellex Lawn & Garden, we immediately notified Summa. Summa would put the amount as a credit against final payment, which Grewal agreed to. Examples of this included the wire transfer from an overseas tablet order (SERPA), and the dealer Theisens. Total amount of these two checks was approximately $ 1800.00 USD. Grewal did receive one payment from Commerce-Midwest Division (Mollema) for almost $ 8000.00USD. This

check was made out to Repellex USA, and was immediately sent via FedEx to Summa. It was impossible for Grewal to cash any check that had Repellex USA listed as the vendor. The Summa statement further shows the illiterate nature of the Summa couple. Their accusations are unfounded, callous, without justification and border on criminal. Grewal and Natura Products Inc. continue to be damaged by these accusations, in an amount to be proven at Trial.

52. Denied as untrue. As stated earlier, Grewal was never confronted with respect to any intercepted or stolen checks. Grewal disclosed any checks that may have been deposited under RLGP. Grewal also returned numerous checks made out to Repellex USA. All checks that were deposited under RLGP were deducted from the "final payment" by Summa as a credit. However, in April 2006, it was Summa who attempted to have Repellex's largest customer: TrueValu, redirect check payments to Repellex USA. Luckily, billing changes required on line access, and Summa did not have the passwords. Upon confrontation, Summa indicated he was only trying to track shipments. Grewal actually provided the VMD on-line passwords to Summa a year later: March 17, 2007, without any signed agreement, based solely on good faith - once Summa had completed the Repellex trademark assignment.

53. Denied as untrue. Summa made the minimum necessary payments in order to continue his scheme to defraud Grewal, all the while never signing any type of Agreement. Any contributions by Summa were made to Repellex USA, not to Grewal. These "contributions" did not include purchasing equipment, supplies or raw materials, which Grewal had sent. The contributions were for labor, shipping and sales. These operational costs would be generating immediate cash flow. If Summa claims to have made substantial contributions to cover these costs, he must have been making

"Substantial Sales" to justify these Based upon the first 60 days, "Sales to year attachment", showing almost $ 80K in sales, clearly showed that the Repellex Brand was not tarnished and the customer base Grewal had provided continued their support of the brand. Summa has made several references to his uncompensated work during this period. However, Summa had requested participation in everyday company activities as part of his due diligence. It was actually Grewal who consulted Summa in all facets of the business for over 18 months, without any compensation. Any fees that Summa felt he was due for his efforts, which resulted in a grand total of 1 order being invoiced by RLGP in 18 months, is vastly overshadowed by the weeks and weeks of consulting, training, set-up and sales that Grewal provided to Summa. If Summa had been hired solely as a Repellex Salesman, he would not have lasted 2 months. Summa never requested any type of reimbursement initially when he requested involvement as part of his due diligence. Summa also did nothing to add value to the Repellex brand or customer service. If anything, his over-commitments to 3M, Town and Country and Broweban actually damaged the Repellex and Natura brands, by creating ownership confusion in the marketplace. Natura Products Inc. continues to be damaged by Summa by an amount to be determined at trial. Grewal was never aware of all of Summas' side ventures.

54. Denied as untrue. Summas'"Side Ventures," in combination with monthly Expense reports Summa continued to submit to Repellex without any sales or justified work, resulted in Grewal demanding a closure of the deal. Grewal was starting to realize that Summa had no intention of ever closing. Grewal then attempted to get Summa to honor the smaller commitments he had agreed to: the outstanding payables. Summa only paid those payables that produced an immediate benefit to Summa: labels, graphics, advertisements, etc. Summa had no regard for the fact that Grewal had no other source of income, but still had to support a family. More than half of the $ 50K Summa had

forwarded had gone directly to payables... leaving less than 20K for Grewals' living expenses for over 2 years. This minimum income resulted in Grewal missing numerous payments, resulting in credit damage to an extent to be determined at trial.

55. Denied as untrue. See Answer ¶54.

56. Denied as untrue. The $125,000 payment was specifically only for the Repellex trademark. As stated in the assignment agreement this amount did not cover any of the intellectual property, goodwill or formulation assets of RLGP. This amount did not pay for the repellex.com domain name or website. It did not pay for any rights to the Natura trademark or any intellectual property or formulations associated with the Natura line.

57. Admitted.

58. Admitted.

59. Denied as untrue. Summa did not return the signed Repellex trademark specific Assignment letter for almost 10 days. During that time Grewal received a revised Assignment letter from Summas' Attorney, attempting to include the Repellex Goodwill. This was immediately rejected by Grewal, who warned Summa to stop playing games. Summa signed Grewal' Assignment letter and sent the $ 125K as outlined. Summa was fully aware that if the final Share Agreement was not completed, this Assignment would be void, as stated clearly in the Assignment letter. One day before Grewal sent the Assignment letter (May 15,2007), Grewal sent Summa a letter outlining the fact that the $ 125K was just a deposit against the eventual Share Agreement. Secondly, that the only way the tangible and intellectual property was going to be transferred, was upon completion of the Share Agreement as contained in that communication: Clarification of No Intellectual Property Transfer, dated: 05-15-2007.

60. Denied as untrue. The trademark assignment referenced in Paragraph 56, clearly did not include the intellectual property for either Repellex or Natura products. Therefore, there was no sale or transfer of the company Goodwill. This intellectual property formed the

basis of the Repellex trademark assignment, and would have been transferred upon the signing of the Share Agreement. Since this never occurred, Grewal still retains all rights to the Repellex trademark, and will revoke this "empty Repellex assignment," with the US Patent & Trademark office.

61. Admitted.

62. Denied as untrue. Summa attempted to have Grewal confirm that along with the Assignment of the Repellex trademark, that Grewal would send the approved 25 B formulas. Grewal refused, indicating the formulas were available once the final share agreement or letter of intent was signed. Grewal also notified Summa that the List 25(b) formulation book could be held in Trust by Mr. Gould, with specific instructions to release it to Summa upon the receipt of:

(i) A signed share agreement
(ii) The 35% Shares of Repellex USA made out to Mr. Grewal
(iii) A cashiers check for the balance of $ 175K USD made to Mr. Grewal

The next day Grewal received an apology from Summa along with an explanation indicating that he had contacted his attorney with respect to preparing the letter of intent. Summa also requested that in good faith, Grewal at least provide Summa with the Fruit & Vegetable formula for a large backorder. Grewal then questioned Summa with respect to the industrial Homogenizer. As expected, Summa still had not completed it. Summa then requested any formulation that would work on the equipment he had. Again, Grewal made sure Summa was aware that without the homogenizer, the formula could NOT be EPA LIST 25(B) approved. He acknowledged this fact, and produced and sent the order regardless of future consequences. Even by June 18, 2007, Summa still had not signed the "Letter of Intent" that his so-called attorney had been working on a month earlier. Summa still had not built his high shear homogenizer that Grewal had requested over a year earlier. At this point Summa requested a Weed Concentrate formula that again was not EPA List 25(b) approved. All these formulae are referred

herein as the "Summa formulations" and are contained in Weed-A-Tak Conc. Formula 2001, dated: June 18, 2007.

63. Denied as untrue. Repellex USA knew that Grewal had all the 25(b) formulations, but would only release them once the final share agreement was signed. Grewal even offered to have the Agreement signed with specific Subjects and timeframes to allow full evaluations of all the formulations. Summa still refused to sign. During these discussions, Grewal accidentally made note of the fact that the development consultant, Ecosafe, was currently undertaking storage tests on the same 25(B) canola based blood formulations that were in the formulae book. It was at this point that Summa secretly went directly to Rod Bradbury at Ecosafe and started inquiries with respect to the re-formulations of the Blood products, unbeknownst to Grewal. Summa fraudulently represented himself, as the new owner of Repellex/Natura and indicated that he would pay for all new formulations. Upon request from Summa, Bradbury provided a quote to reformulate all 19 Repellex and Natura products, with a total cost over $50,000USD. Bradbury also knew there were only two main groups of formulae: Protein Suspensions and Oil based emulsions. The same procedure could be used for numerous products (ie: all blood and egg suspensions). This was also true with all the oil-based formulations including castor oil, clove, citronella, etc. Therefore, the actual cost of the two reformulations was less than 10K. Summa received confirmation of the blood formula on November 16, 2007 from Ecosafe. On November 17, 2007 Summa instructed his attorneys to take any and all offers off the table.

64. Denied as untrue. Repellex USA and Grewal never agreed that the $ 7K eventually forwarded by Summa would be used for any re-formulation work. These funds were specifically requested to cover day-to-day expenses by Grewal including property taxes. Summa was aware that Grewal had developed EPA compliant formulations, and these would be available upon the completion of the Share Agreement. Grewal does agree

that these funds would be applied as an advance payment against the final cash consideration to be paid at the completion of the sale.

65. Admitted.

66. Denied as untrue. Grewal admits that on July 07, 2007 Summa did advance him $ 7K. However, Summa was fully aware that Grewal had to file his property taxes by July 01, 2007 and that Grewal had requested funds for this purpose over a month earlier. By this time Summa not only had the equipment, with no liens, but also the Repellex trademark, the companies QuickBooks files, and the repellex.com website. Summa had forwarded Grewal a total of only $ 175K to cover all outstanding Accounts payable and the Repellex trademark. Therefore, Grewal used this $ 7K to pay his back taxes and ensure that the State did not initiate foreclosure proceedings on his residence. Having developed the EPA approved formulas almost a year earlier; Grewal was not going to pay Ecosafe to reproduce his development work. Grewal did need Ecosafe to undertake the accelerated storage tests on his vegetable oil based formulations. Grewal forwarded $1000 for these specific tests to be initiated. Grewal was still unbeknownst of the discussions between Ecosafe and Summa. Grewal again requested the completion of the Share Agreement to receive the EPA compliant formulations; in return Grewal would have all liens removed as detailed in Kevin Sorochans' review. Summa again refused to sign.

67. Denied as untrue. Any communication between EcoSafe and Summa was done under the fraudulent misrepresentation by Summa as being the new owner of Repellex/Natura. Rod Bradbury clearly confirmed to Summa the receipt of the $ 1000 retainer from Grewal, and the initiation of Grewal's work. Summa instructed Bradbury to cease all work for Grewal, return the retainer check and start on the re-formulation of the dried blood product. Having already analyzed the Plantskydd sample sent by Grewal the previous year, it was a relatively quick re-formulation procedure for Bradbury. Bradbury

submitted the completed re-formulation to Summa on November 16, 2007. Grewal had continued to provide assistance to Summa with respect to advising the addition of Canola Oil and salt to all Repellex blood based labels and MSDS Sheets that were being sent to printing as early as May 2007, six months prior to the completion of the Ecosafe formulations for Summa. Email confirmations of these include Summa Confirmation of adding Canola, Dated: May 07-2007 and MSDS – Repellex Tree Saver Attachment, dated: May 07-2007.

68. Denied as untrue. Summa never confronted Grewal with respect to the $ 7,000. Summa had been very aware of Grewals' intent to use the funds for property taxes. Summa was secretly attempting to initiate intellectual theft of the Repellex formulations through fraudulent misrepresentation to Ecosafe. Summa was extremely careful not to create any type of conflict that may have alerted Grewal to his true schemes. In early March 2007, the verbal agreement for stock purchase was modified by Summa and Grewal so that under the modified verbal agreement, Summa would pay approximately $45,000 directly to various vendors of Plaintiff for outstanding account payables and receive a credit against the Purchase Price and Plaintiff agreed to a $25,000 reduction from the Purchase Price for other vendor account payables Plaintiff would pay with the sale proceeds received from RLGP.
69. Denied as untrue. Ultimately, Grewal used the $ 7,000 for what he had requested them for. The EPA compliant formulations for Repellex –Natura were available for Summa upon completing either the share agreement or a tentative letter of intent. Summa offered to sign neither.
70. Denied as untrue for the reason Repellex USA agreed to pay $7,000 to Grewal without any requirements and Repellex USA was contractually obligated to pay EcoSafe under their own contract.

71. Denied as untrue.

72. Admitted, as this was part of the agreements.

73. Denied as untrue. This consulting agreement was in essence a prepayment of Repellex USA dividends for a period of one year. Total income to Grewal would have been $ 42K for the year. This would translate out to approximately netting $ 120 k in total dividends from Repellex in any given year, since Grewal owned 35% of the corporation. Second, although the contract was for only 1 year, the repayment plan had no date. Summa was fully aware of this. (ie) Repellex would pay Grewal $ 42k for 12 months worth of consulting. This amount would then be held back from future dividends up to $42K. Grewal would only start to receive future dividends for his 35% of Repellex USA, once this $42,000 consulting fee was paid back. Grewal is unable to understand how this agreement would have been able to be "ignored" once signed. Grewal would receive his consulting fees for the 1-year...and future dividends after the first $ 42K . This was an Agreement approved by Summa. Summa also knew this consulting agreement would assist our mortgage refinancing. However, it was not written in any type of confusing or fraudulent manner. It was not designed to attempt any type of financial fraud, which the Summa's seem to have perfected with their fake invoices and double expenses reports submitted to various corporations for re-imbursements.

74. Denied as untrue for the reasons stated in Answer ¶73.

75. Denied as untrue. On September 06, 2007 unbeknownst to Grewal, Summa was in constant communication with Ecosafe. He had initiated the development of the Canola oil blood formulations. He was also in the middle of his early order tradeshow season. Grewal was tired of waiting, and indicted that if he did not receive a large portion of the outstanding $ 175K, that he would be notifying his attorneys to call the deal off. In view of the orders that Summa was accumulating from the tradeshows, in combination with the work he had tricked Ecosafe into undertaking, Summa realized he just needed to

hold Grewal off for approximately 30-45 days more. The early order tradeshows would be done, and Ecosafe would have his formulations. Combined with the Repellex Trademark and Grewals manufacturing equipment.... He would no longer need Grewal. Therefore, in an attempt to keep Grewal quiet for another month, Summa forwarded an additional $ 25K with the promise that he would complete the Share Agreement within 30 days. Summa became unavailable in October due to "Work Commitments/Vacation" and his last communication is on November 27, 2007...after he had received the Canola based blood formulation from Ecosafe.

76. Denied as untrue. Grewal fulfilled all requests for settlement of liens, tax returns, financial information, customer verifications, formulations, etc. Even after 2 years of "due diligence" Summa still would not sign the share agreement, and even after conversion to an asset sale for the assets he had and had used to produce income.

77. Denied as untrue. Summa received clear and concise financial information far beyond what is normally provided under the pretense of "due diligence". This information formed the basis of the company goodwill, and is being currently used by Summa to produce sales and income.

78. Denied as untrue. As summarized by Summa's Vancouver attorney, Kevin Sorochan, and his finding through the personnel property registrar in British Columbia, all 3 outstanding claims were in Small claims...under $ 10K each. The total was less than $15K Cdn. Grewal had offered to have this full amount put into trust, as Grewal had several counterclaims against these vendors and needed the claims to go through the legal system.

79. Denied as untrue. Summa never provided any funds to settle these claims, including the largest from a LTL trucking company for $ 9200 USD. Summa clearly indicated that Grewal had reaped the benefit of their transport to sell product, so Summa was not going to pay for them. Grewal then provided a summary of his counterclaims, clearly

showing the multiple shipments that had been lost and damaged by this vendor, and why Grewal needed to ensure it was properly evaluated. Grewal did not want Summa to pay for this claim.

80. Denied as untrue. Grewal had stated from as early as March 2007 (When he was working with Summa on new label, and when Summa was requesting info on % of Canola Oil to add to the formula), that the formulations were available as soon as Summa completed the Letter of Intent, or Share Agreement or even provided the balance of the outstanding funds owing. Therefore, this claim again continues the lies, fraud and deceit that have become the trademark of the Summa couple. Grewal has no record of any communication with Summa on this date.

81. Admitted.

82. Denied as untrue. Grewal has no written communication with respect to this communication. Having completed the formulations, Grewal would easily have been able to provide formulations at closing. Grewal would not have needed any extension.

83. Denied as untrue. Summa withdrew its offer to purchase shares of the companies for the sole purpose of attempting to remove the transfer of 35% of Repellex USA stock as part of the amount to be paid to Grewal. By converting the deal to an Asset sale, Summa no longer has to transfer the 35% shares of Repellex-USA along with the future dividends associated with these shares. Based upon the previous record, Grewal did not expect Summa to pay any money at all, so he called Summas bluff and accepted the "Asset Sale" for a final payment of only $118,000. Grewal knew Summa was only stalling, with no intention of paying.

84. Admitted.

85. Denied as untrue in that the payment was in lieu of "goodwill".

86. Denied as untrue. The September 24, 2007 letter clearly indicated the fact that Summa realized he never paid for Repellex Goodwill and was attempting to obtain this with a

proposal that reduced the value of the equipment and inventory even further. He also offered only $ 50K for the total Goodwill of the companies.

87. Denied as untrue. The Repellex alternative offer is both unscrupulous, and insulting, Repellex USA only offered to release the balance of the tangible assets, notwithstanding the use of the equipment or the supplies and chemicals used to produce sales and income. Repellex also is not willing to return the intangible assets that were fraudulently obtained including the company goodwill and intellectual property.

88. Admitted.

89. Admitted.

90. Denied as untrue. Under the Summa scenario, any customer receiving and paying RLGP for product, would have the RLGP toll free number. Therefore, if the customer placed an order on that 800 number, and paid that order with a credit card, then they probably would have called that number looking for their product. Grewal did not ship any product with the Repellex trade name on it after the May 16, 2007 Trademark assignment. Grewal sent all orders to Summa after May 16, 2007 based upon the "Summa Sales Incentive program". Therefore, Grewal believes these claims to be a fabrication combined with hearsay due to the mode of communication: telephone calls.

91. Denied as untrue. Grewal was only holding himself as a 35% shareholder in the new partnership, once the agreement was signed. Repellex USA never gave any instructions with respect to the cease and desist instructions. Summa actually encouraged Grewal to go out and get Sales for Repellex USA, under the" Summa Incentive Program ".

92. Admitted.

93. Denied as untrue. Grewal has not sold any product under the Repellex trade name, after the May 16, 2007. Summas' failure to complete the underlying Share Agreement that would form the basis of the trademark associated Goodwill, places the Repellex Assignment as "Empty". Grewal has submitted a Cease and Desist Order to Repellex

USA and the Summas for the Repellex trademark. Second, Grewal never transferred the Natura trademark, or any associated intellectual or goodwill property. Natura belongs to Grewal and is operated under Natura Products, Inc., a separate BC corporation that has been in business for almost 6 years. Summa even attempted to put a slight variation on this trademark, "Natura." In an attempt to fraudulently register this mark, Elizabeth Summa even made false claims that she had been using this mark for over 8 years. Grewal has filed a formal complaint with the USPTO, with respect to this fraudulent behavior and recommended a full investigation, based upon the Summa's current opposition to Grewal's Natura trademark application.

94. Denied as untrue for the reasons stated in Answer ¶93.

95. Denied as untrue. Grewal has notified customers of his pending opposition to the validity of the Repellex Assignment, based upon the non-completion of the underlying Goodwill Shareholder/Asset agreement. Grewal is currently promoting his existing Natura Products Inc. Company to customers along with his new line of Repellent products under the Repel-It banner.

96. The pleader lacks knowledge or information to form a belief as to the truth of this allegation.

97. Denied as untrue.

98. Denied as untrue.

99. Denied as untrue.

COUNT I
Trademark Infringement under the Lanham Act

100. RLGP incorporates the other paragraphs of this answer and its complaint.

101. RLGP lacks knowledge or information sufficient to form a belief as to the truth of this allegation.

102. Denied as untrue. Repellex USA bases its ownership of the REPELLEX trademark on a conditional event that did not take place. As such, Plaintiff Repellex Lawn & Garden Products, Inc., asserts continued ownership over the REPELLEX mark.

103. Denied as untrue.

104. Denied as untrue.

COUNT II
Common Law Trademark Infringement and Unfair Competition

105.RLGP incorporates the other paragraphs of this answer and its complaint.

106.RLGP lacks knowledge or information sufficient to form a belief as to the truth of this allegation.

107. Denied as untrue. At no time has Repellex USA acquired any rights in the NATURA mark. While a transfer of these rights was contemplated by the parties, no agreement was ever consummated transferring any rights in the NATURA mark to Repellex USA.

108. Neither Admits nor Denies. Repellex USA makes unsupported factual assertions to which Counterdefendant/Third Party Defendants leaves Plaintiff to its proofs.

109.Denied as untrue. Third Party Defendant Natura Products, Inc. is the rightful owner of the NATURA mark. As such, use of a trademark by the rightful owner of the mark cannot be the basis of consumer confusion or false designation of origin.

110. Denied as untrue.

COUNT III
False Designation of Origin and Unfair Competition Under the Lanham Act

111. RLGP incorporates the other paragraphs of this answer and its complaint.

112. RLGP lacks knowledge or information sufficient to form a belief as to the truth of this allegation.

113. Denied as untrue. As the rightful owners of the REPLLEX and NATURA marks respectively, Counterdefendant/Third Party Defendants assert that their use marks similar to marks they already own cannot form the basis for a claim of unfair competition, without

additional proof by Repellex USA that it in fact is the owner of a separate mark that may be confused with Counterdefendant/Third Party Defendants' use of marks similar to their REPELLEX and NATURA marks.

114. Denied as untrue.

COUNT IV
Breach of Contract

115. RLGP incorporates the other paragraphs of this answer and its complaint.

116. Denied as untrue in that the contract between the parties consist of various written and verbal agreements.

117. Denied as untrue.

118. Denied as untrue.

119. Denied as untrue.

COUNT V
Conversion

120. RLGP incorporates the other paragraphs of this answer and its complaint.

121. Denied as untrue.

122. Denied as untrue.

COUNT VI
Tortious Interference with Business Expectancy

123. RLGP incorporates the other paragraphs of this answer and its complaint.

124. Denied as untrue.

125. Denied as untrue.

126. Denied as untrue.

COUNT VII
Fraudulent Misrepresentation

127. RLGP incorporates the other paragraphs of this answer and its complaint.

128. Denied as untrue.

129. Denied as untrue.

130. Denied as untrue.

131. Denied as untrue.

132. Denied as untrue.

COUNT VIII
Negligence

133. RLGP incorporates the other paragraphs of this answer and its complaint.

134. Denied as untrue.

135. Denied as untrue.

136. Denied as untrue.

COUNT IX
Unjust Enrichment

137. RLGP incorporates the other paragraphs of this answer and its complaint.

138. Denied as untrue.

139. Denied as untrue.

140. Denied as untrue.

AFFIRMATIVE DEFENSES

RLGP may rely on the following affirmative defenses:

141. The claim is barred in whole or part by some or all of the defenses contained in MCR 2.116(C)(7) including release, payment, prior judgment, immunity granted by law, statute of limitation, statute of frauds and agreement to arbitrate, infancy or other disability of Repellex USA or assignment or other disposition of the claim before commencement of the action.

142. Rescission or release.

143. Mistake, innocent misrepresentation, impossibility of performance.

144. RLGP has acted at all times in good faith.

145. Repellex USA has no lawful right to own, possess, or assert title to the property at

issue.

146. Repellex USA has failed to mitigate its damages.

147. Repellex USA intentionally acquiesced in RLGP's acquisition of the property.

148. The converted property has no value.

149. RLGP holds lawful title to the property.

150. RLGP has a lien on and/or right to foreclose upon the property as collateral for Repellex USA's debt.

151. Privilege is a defense where the actions constituting interference are privileged by law

152. RLGP reserves the right to add any affirmative defenses as they become known.

WHEREFORE, RLGP respectfully requests that this Court dismiss Repellex USA's CounterClaim and Third Party Claim and award RLGP its costs, attorney fees and any other relief this Court deems just and equitable.

Dated: October 22, 2008

Byron P. Gallagher, Jr. (P42996)
Attorney for Plaintiff

PROOF OF SERVICE

I declare to the best of my knowledge, information and belief that I served by first class mail and email the foregoing to all counsel of record on October 22, 2008.

Valerie J. Lawver