

06-01-1998

U.S. ASSIGNMENT RECORD

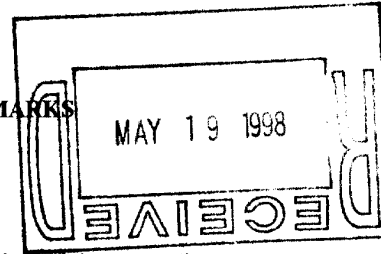
MRD 5-19-98



100723447

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

TRADEMARKS



1. Name of conveying party(ies):

GARD CORPORATION  
2840 Roe Lane  
Kansas City, Kansas 66103-1543

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

CITGO PETROLEUM CORPORATION  
P.O. Box 3758  
Tulsa, Oklahoma 74102-3758

<input type="checkbox"/> Individual(s)	<input type="checkbox"/> Association	<input type="checkbox"/> Individual(s)	<input type="checkbox"/> Association
<input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Partnership	<input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Partnership
<input checked="" type="checkbox"/> Corporation (State of Kansas)	<input type="checkbox"/> Other	<input checked="" type="checkbox"/> Corporation (State of Delaware)	<input type="checkbox"/> Other

If assignee is not described in the United States, a domestic representative designation is attached:  Yes  No  
(Designation must be a separate document from Assignments)

Additional name(s) of conveying party(ies) attached?  Yes  No

Additional name(s) of conveying party(ies) attached?  Yes  No

3. Nature of Conveyance:

<input checked="" type="checkbox"/> Assignment	<input type="checkbox"/> Merger
<input type="checkbox"/> Security Agreement	<input type="checkbox"/> Change of Name
<input type="checkbox"/> Other _____	

Execution Date: March 17, 1998

4. Application Nos. or Registration Nos.

A. Trademark Application No.(s) 75/178,449  
Additional Numbers Attached?  Yes  No

B. Trademark Registration No.(s)  
Additional Numbers Attached?  Yes  No

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

**HEAD, JOHNSON & KACHIGIAN**  
Attn: Rachel Blue  
228 West 17th Place  
Tulsa, Oklahoma 74119

6. Total number of applications/registrations involved: 1

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

Enclosed  
 Authorized to be charged to deposit account  
 Any fees, charges or credits necessary during the prosecution of this application may be charged to the deposit account of the undersigned, No. 08-1500, unless otherwise notified.

8. Deposit account number: 08-1500

(Attached duplicate copy of this page if paying by deposit account)

9. Statement and signature.

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

Rachel Blue  
Name of Person Signing

Rachel Blue Signature  
 May 14, 1998  
 TRADEMARK

REEL: 1732 FRAME: 065

06/25/98 1732-065 00000000 75178449 40.00 DP

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**TRADEMARK ASSIGNMENT**  
*with License-Back to Assignor for:*

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**TRANSGARD**

*United States Patent and Trademark Office Application No. 75/178,449*  
*and*

*All Common Law Trademark Rights of Gard Corporation*

**Dated: March 18, 1998**

**WHEREAS**, I, Leslie D. Cohn, am President of Gard Corporation, a Kansas corporation having a business address of 2840 Roe Lane, Kansas City, Kansas 66103-1543; and

**WHEREAS** Gard Corporation is the owner of the trademark TRANSGARD said trademark having been adopted and used by Gard Corporation since at least 1956 for transmission fluid additives and in advertising and marketing the same throughout the United States; and

**WHEREAS** said TRANSGARD trademark having been first registered on the Principal Register of the United States Patent and Trademark Office by Gard Oil Products, Inc., on June 17, 1958 as Registration No. 663,010, and for which Affidavits 8 & 15 were accepted on June 25, 1964, and which registration continued for twenty years until June 17, 1978, and renewal for which having not been made through inadvertence, but such non-renewal not representing in any manner any abandonment by Gard Corporation of its TRANSGARD trademark the use of which has been ongoing and continuous in the United States since at least 1956; and

**WHEREAS** said TRANSGARD trademark having been re-registered by Gard Corporation on August 18, 1981 as Registration No. 1,165,111, and such registration having lapsed through inadvertence, but such lapse not representing in any manner any abandonment by Gard Corporation of its TRANSGARD trademark the use of which has been ongoing and continuous in the United States since at least 1956; and

**WHEREAS**, Gard Corporation has continued to own, and has continued to use the trademark TRANSGARD in commerce and interstate commerce, unabated, for transmission fluid additives and transmission fluid containing the TRANSGARD additive, in international class 1; and

**WHEREAS**, Gard Corporation has made application for registration of its TRANSGARD trademark in the United States Patent and Trademark Office by the filing of the application attached hereto as "Schedule A" and made a part hereof; and

**WHEREAS**, I, Leslie Cohn, am authorized by the attached resolution of the Gard Corporation Board of Directors (Exhibit B) to assign the right, title and interest of Gard Corporation in and to said TRANSGARD trademark, and the goodwill of the business symbolized thereby; and

**WHEREAS**, CITGO Petroleum Corporation, a Delaware corporation having a business address of P.O. Box 3758, Tulsa, Oklahoma is desirous of acquiring all of the right, title and interest of Gard Corporation in and to said TRANSGARD trademark and the goodwill of the business symbolized thereby; and is desirous of providing to Gard Corporation a license-back of the rights to the TRANSGARD trademark for continuation of Gard Corporation's sales of TRANSGARD transmission fluid additive and transmission fluids containing the TRANSGARD transmission fluid additive (Exhibit A); and

**WHEREAS**, Gard Corporation is desirous of transferring to CITGO Petroleum Corporation its entire right, title and interest in the trademark TRANSGARD and the goodwill of the business symbolized thereby.

**NOW, THEREFORE**, for One Hundred Seven Thousand Dollars (\$107,000.00) and other good and valuable consideration, receipt of which is hereby acknowledged, Gard Corporation ("Assignor") does hereby assign unto CITGO PETROLEUM CORPORATION ("Assignee") all right, title and interest in and to the TRANSGARD trademark ("Mark"), together with the goodwill of the business symbolized by the mark, and parties agree as follows:

**1. The Mark**

The Mark being assigned by Assignor to Assignee hereunder, together with all associated goodwill, is as listed below:

<u>Mark</u>	<u>Trademark Application Serial No.</u>
TRANSGARD	75/178,449

**2. Assignment**

Assignor does hereby sell, assign, transfer, and convey to Assignee its entire right, title, and interest throughout the world in and to the Mark and any and all rights to any registrations thereof or applications for registration thereof which may now or hereafter exist, together with all of Assignor's goodwill associated therewith and symbolized thereby.

**3. Goodwill**

The said sale, transfer, assignment, and conveyance includes all the goodwill of the business of Assignor associated with and symbolized by the Mark.

**4. Assignor's Representations**

Assignor represents and warrants as follows:

- (A) Assignor has the right to transfer ownership of the Mark and all the goodwill associated therewith to Assignee free of any and all liens, claims, charges, encumbrances, licenses, mortgages, or security interests.
- (B) The transfer of ownership of the Mark, as provided herein, will not breach any agreement, covenant, or understanding to which Assignor is a party and will not violate any law, rule, regulation, ordinance, or decree of any municipal or governmental agency, entity, or branch.
- (C) The Mark, to the knowledge of Assignor, has not infringed and does not infringe any mark owned by any third party, and Assignor has not previously licensed, sold, transferred, conveyed, granted, or given to any third party any title to or rights in the Mark which would, in any way, interfere with the exclusive, uninterrupted, and unencumbered ownership and right of use by Assignee.

**5. Other Actions**

Assignor agrees to execute and deliver all instruments and documents and to do all other reasonable acts appropriate to perfect in Assignee clear title to the Mark and the rights transferred hereunder.

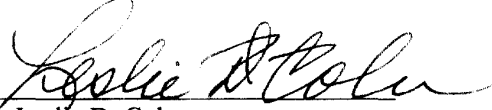
7. Additional Rights

In addition to the other rights referenced herein, Assignor agrees to cooperate with Assignee in any action, at Assignee's expense, before the United States Patent and Trademark Office, and the United States Patent and Trademark Office is authorized to receive and act upon all instructions, communications, correspondence, or other information sent or provided by Assignee and relating to Trademark Application Serial No. 75//178,449 to the same extent as if this Assignment had not been made and such item had been received from Assignor.

IN WITNESS WHEREOF, the Assignor and Assignee have entered into this Assignment of Trademark as of the day and year first above written.

Executed this 17th day of March 1998.

GARD CORPORATION

By:   
Leslie D. Cohn  
President

STATE OF KANSAS )  
 ) ss.  
COUNTY OF WYANDOTTE )

The foregoing instrument was acknowledged before me this 17 day of March 1998, by Leslie D. Cohn, President of Gard Corporation, a Kansas Corporation, who acknowledged to me that he executed the same for the uses and purposes therein expressed, acting for and on behalf of said corporation, in his capacity as such officer.

My appointment expires: 9-8-99

SEAL PATRICIA A. FERRELL  
NOTARY PUBLIC  
STATE OF KANSAS

  
Notary Public

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## **TRADEMARK LICENSE AGREEMENT**

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### **TRANSGARD**

*United States Patent and Trademark Office Application No. 75/178,449*

*and*

*All Common Law Trademark Rights of Gard Corporation*

### **Exhibit A**

**THIS LICENSE AGREEMENT** (this "Agreement"), entered into and dated as of March 18, 1998, is made between **CITGO PETROLEUM CORPORATION** a Delaware corporation having a business address of P.O. Box 3758, Tulsa, Oklahoma ("LICENSOR"), and **GARD CORPORATION**, a Kansas corporation having a business address of 2840 Roe Lane, Kansas City, Kansas 66103-1543 ("LICENSEE").

LICENSOR is the owner by assignment from LICENSEE of all right, title and interest in and to the trademark TRANSGARD ("TRADEMARK") and for which LICENSEE filed an application for Federal Trademark Registration on October 10, 1997, in connection with "transmission fluid additives."

LICENSEE acknowledges LICENSOR's rights in and to the TRADEMARK, alone and in combination with other terms, and LICENSOR and LICENSEE desire for LICENSEE to have the right to use the TRADEMARK in connection with "transmission fluid additives" and in connection with "transmission fluid identified as containing TRANSGARD transmission fluid additive."

**NOW, THEREFORE**, in consideration of the payment by LICENSEE to LICENSOR of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the mutual covenants specified herein, the parties hereto agree as follows:

#### **1. GRANT OF LICENSE.**

LICENSOR hereby grants to LICENSEE an exclusive, worldwide (the "Territory"), royalty-free, and perpetual right and license to use the TRADEMARK in connection with "transmission fluid additives" and in connection with "transmission fluid identified as containing TRANSGARD transmission fluid additive." (the "LICENSED GOODS"). LICENSOR reserves no right in itself to use the TRADEMARK on the LICENSED GOODS or to license any third party to use the TRADEMARK on the LICENSED GOODS. However, it is understood and agreed that LICENSOR shall use the TRANSGARD trademark in connection with transmission fluid. It is further understood and agreed by both parties that they believe no confusion of the public and no likelihood of confusion of the public will result from each parties respective use the TRADEMARK.

TRADEMARK

REEL: 1732 FRAME: 0661

**2. ASSIGNMENT AND SUBLICENSING OF RIGHTS**

LICENSEE shall not sublicense or assign its rights under this Agreement without the prior written consent of LICENSOR, which shall not be unreasonably withheld, except that LICENSEE may at any time, or from time to time, grant a security interest in its rights under this Agreement without the prior written consent of LICENSOR.

**3. INCONTESTABILITY**

During the term of this Agreement, LICENSEE shall not, directly or indirectly, contest, or aid others in contesting, the validity of the TRADEMARK, or LICENSOR'S exclusive ownership of the TRADEMARK, or LICENSOR's right to use the TRADEMARK (subject to LICENSEE's exclusive right to use the TRADEMARK for the LICENSED GOODS).

**4. CONTROL OVER THE NATURE AND QUALITY OF THE LICENSED GOODS**

LICENSEE agrees that it is of fundamental importance to LICENSOR that the LICENSED GOODS be of high quality. LICENSOR agrees that the LICENSED GOODS are presently of high quality, and LICENSEE agrees to maintain the present quality levels. Not more than once every twelve months, LICENSOR may request from LICENSEE, and, upon being requested, LICENSEE shall promptly provide to LICENSOR, a free sample of the LICENSED GOODS, so that LICENSOR may determine, in its reasonable discretion, whether the LICENSED GOODS continue to be of high quality.

**5. TERM.**

This Agreement shall remain continuously in effect from and after March 18, 1998.

**6. REPRESENTATIONS**

LICENSOR represents and warrants that to LICENSOR's knowledge:

- (i) it is the sole and exclusive owner of the TRADEMARK;
- (ii) the TRADEMARK does not infringe the rights of any third party;
- (iii) the TRADEMARK is not being infringed by any third party; and
- (iv) LICENSOR has not granted to any third party any rights that would impinge upon or otherwise be inconsistent with the rights granted herein to LICENSEE.

**7. GOODWILL**

The goodwill arising from LICENSEE'S use of the TRADEMARK shall inure to the sole benefit of LICENSEE, and any enhancement in the value of LICENSOR's use of the Trademark resulting from the efforts of LICENSEE shall be effected to the sole benefit of LICENSOR.

TRADEMARK

REEL: 1732 FRAME: 0662

**8. ARBITRATION OF TERMS**

Any dispute under this Agreement shall be resolved by arbitration held in Kansas City, Missouri, in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). If either party desires to make a claim against the other party under this Agreement, it shall send notice thereof to the other party ("Claim Notice"). Within thirty (30) days after the Claim Notice, each party shall select an arbitrator; the two arbitrators so chosen shall select a third arbitrator; and the three arbitrators selected shall arbitrate the dispute. If either party fails to select an arbitrator within such thirty (30)-day period, the arbitrator selected by the other party shall arbitrate the dispute. Each party shall bear its own fees for legal counsel and expert witnesses, but the other costs of the arbitration (including, but not limited to, transcription costs and arbitrator fees) shall be allocated between the parties in whatever proportion the arbitrator or arbitral panel deems appropriate.

**9. BREACH OF EXCLUSIVITY**

LICENSOR acknowledges that any breach of LICENSEE's exclusive right to use the TRADEMARK in connection with the LICENSED GOODS constitutes a harm not compensable in money. LICENSEE shall have the right, without posting a bond, to obtain immediate injunctive relief to protect its exclusive rights to use the TRADEMARK in connection with the LICENSED GOODS. Such an injunction shall remain in place until the dispute is resolved through arbitration as prescribed in Section 8 above.

**10. NOTICE**

Any notice, demand, claim, request or other communication under this Agreement shall be in writing and may be personally served, telecopied or sent by courier service or United States mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a telecopy or four business days after deposit in the United States mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto (until notice of a change thereof is delivered as provided in this Section 10) shall be as set forth in the first paragraph of this License Agreement.

**11. GENERAL.**

This Agreement and the Trademark Assignment (incorporated herein by reference) constitutes the entire agreement between the parties concerning the subject matter hereof. Any waiver, variation or amendment of any term or condition of this Agreement shall be effective only if signed by duly authorized representatives of both parties. If any provision hereof is determined by any court of competent jurisdiction to be void, invalid, or unenforceable, the offending provision shall be deemed stricken, and the remainder of this Agreement



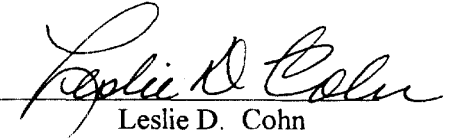
shall continue in full force and effect as if the offending provision had never been contained herein. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the parties hereto have entered into this Agreement on the date first written above.

CITGO PETROLEUM CORPORATION

GARD CORPORATION,

BY:   
Signature

BY:   
Leslie D. Cohn  
President

W.A. DeVore  
Name (Please type or print)

Senior Vice President, Marketing  
Title

**GARD CORPORATION**  
**SECRETARY'S CERTIFICATE**  
**Exhibit B**

I, Jack W. Cohn, hereby certify that I am the duly elected, qualified and acting Secretary of Gard Corporation, a Kansas corporation (the "Company"), and that as such, I am familiar with the facts herein certified and am duly authorized to certify the same and do hereby further certify, on behalf of the Company, that reproduced below is a true, correct and complete copy of duly adopted resolutions of the Board of Directors of the Company adopted by consent of a majority of the directors dated March 17, 1998. Such Resolutions have not been amended or modified, are in full force and effect in the form adopted.

**1. The Board of Directors hereby adopts the following resolutions authorizing the sale of the TRANSGARD trademark to CITGO Petroleum, Inc. ("Buyer"):**

**RESOLVED**, that the corporation sell its entire right, title and interest in its TRANSGARD trademark to Buyer pursuant to that certain Trademark Assignment and License-Back Agreement to be entered into and dated as of March 18, 1998 (the "Trademark Assignment with License-Back"), substantially in the form reviewed by the Board of Directors:

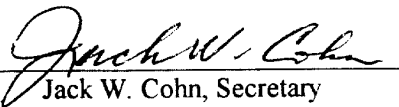
**FURTHER RESOLVED**, that the President of the corporation be, and he hereby is, authorized and directed for and on behalf of the corporation to execute and deliver the Trademark Assignment with License-Back, with such changes as are determined by the President of the corporation to be necessary, appropriate or advisable in his sole discretion, such determination to be conclusively evidenced by his execution and delivery thereof;

**FURTHER RESOLVED**, that the President and the Secretary of the corporation be, and they hereby are, authorized and directed for and on behalf of the corporation to execute such documents, instruments, agreements, contracts, deeds, or other papers containing such terms and conditions or provisions as they may deem necessary or appropriate to evidence the foregoing transactions and to do such other acts as may seem necessary or appropriate to carry into effect the intention of the foregoing resolutions; and

**FURTHER RESOLVED**, that all actions heretofore taken by the officers of the corporation with respect to the foregoing resolutions be, and they hereby are, ratified, confirmed and approved in all respects.

IN WITNESS WHEREOF, I have executed this certificate, on behalf of the Company, this 17th day of March, 1998.

GARD CORPORATION

By   
Jack W. Cohn, Secretary

**SCHEDULE A**

**APPLICATION FOR TRADEMARK REGISTRATION**

**Serial No. 75/178,449**

**TRANSGARD**

FILING RECEIPT FOR TRADEMARK APPLICATION

Receipt on the DATE OF FILING of the application for registration and filing fees is acknowledged for the mark identified below. The DATE OF FILING is contingent upon the collection of any payment made by check or draft. Your application will be considered in the order in which it was received and you will be notified as to the examination thereof. Correspondence should be expected from the Patent and Trademark Office in approximately months. When inquiring about this application, include the SERIAL NUMBER, DATE OF FILING, OWNER NAME, and MARK.

11/01/96

06

RICHARD P STITT
10990 QUIVIRA RD STE 280
OVERLAND PARK KS 66210-1812

TMPRE

ATTORNEY
REFERENCE NUMBER
DKT.1125

PLEASE REVIEW THE ACCURACY OF THE FILING RECEIPT DATA.

A request for correction to the filing receipt should be submitted within 30 days to the following address: ASSISTANT COMMISSIONER FOR TRADEMARKS, 2900 CRYSTAL DRIVE, ARLINGTON, VIRGINIA 22202-3513. The correspondence should be marked to the attention of the Office of Trademark Program Control. The Patent and Trademark Office will review the request and make corrections when appropriate.

SERIAL NUMBER: 75/178449

DATE OF FILING: 10/08/1996

MARK: TRANS GARD

MARK TYPE(S): TRADEMARK

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

SECTION 1(A): YES

SECTION 1(B): NO

SECTION 44: NO

ATTORNEY: RICHARD P STITT

OWNER NAME: GARD CORPORATION

OWNER ADDRESS: 2840 Roe Lane

Kansas City

KANSAS 661031543

ENTITY: CORPORATION

CITIZENSHIP/DOMICILE: KANSAS

INTERNATIONAL CLASS

DATE OF FIRST USE

DATE OF FIRST USE IN COMMERCE

001

12/02/1956

12/01/1956

ONLY THOSE DATES OF USE AND CLASSES FILED UNDER SECTION 1(A) ARE LISTED

GOODS/SERVICES BY INTERNATIONAL CLASS

001-transmission fluid additives

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED

TRADEMARK

TRADEMARK § 1(a)

*IN THE UNITED STATES PATENT AND TRADEMARK OFFICE*

TRADEMARK: TRANS GARD

CLASS NO.: Int. Cl. 1

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

GARD CORPORATION is a corporation incorporated and in good standing under the laws of the State of Kansas, having a business address of 2840 Roe Lane, Kansas City, Kansas 66103-1543.

GARD CORPORATION has adopted and is using the trademark shown in the accompanying drawing in commerce for:

TRANSMISSION FLUID ADDITIVES

and requests that said trademark be registered in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946.

The trademark was first used in connection with the goods December 1, 1956; was first used in connection with the goods in interstate commerce December 1, 1956; and has been in continuous use in such commerce and is now in use in such commerce.

The trademark is used on labels affixed to the goods and on packages in which the goods are shipped and sold, and the trademark is used in promoting and advertising the same.

TRADEMARK  
REEL: 1732 FRAME: 0668

Three identical specimens showing the trademark as actually used are presented herewith.

The applicant is the owner of, at least, the following United States Trademark Registrations which form a part of applicant's GARD family of marks:

Gard's	U.S. Reg. No. 964,538
HydraGard	U.S. Reg. No. 1,884,543
GardFleet	U.S. Reg. No. 1,883,274
SpinGard	U.S. Reg. No. 1,881,805
GardGear	U.S. Reg. No. 1,883,274
GardWay	U.S. Reg. No. 1,881,803

### ***POWER OF ATTORNEY***

Applicant hereby appoints:

Richard P. Stitt  
Attorney at Law  
10990 Quivira Road, Suite 280  
Overland Park, Kansas 66210-1812  
Telephone:(913) 451-4990  
Facsimile:(913) 451-2864

to prosecute this application to register, to transact all business in the Patent and Trademark Office in connection therewith, and to receive the certificate of registration.


(Docket DKT 1125)

TRADEMARK  
REEL: 1732 FRAME: 0669

DECLARATION

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

GARD CORPORATION

By:   
Leslie D. Cohn  
President

Dated: 9-18-96

(Docket DKT 1125)

TRADEMARK  
REEL: 1732 FRAME: 0670

Applicant:

GARD CORPORATION

Business Address:

2840 Roe Lane  
Kansas City, Kansas 66103-1543

First Use:

In connection with the goods December  
1, 1956; in interstate commerce  
December 1, 1956.

Goods:

TRANSMISSION FLUID ADDITIVES

TRANS GARD

(Docket DKT 1125)

RECORDED: 05/19/1998

TRADEMARK  
REEL: 1732 FRAME: 0671