

11-02-1998

1 SHEET
ONLY

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office



Tab settings

To the Honorable Commissioner of

100865403

the attached original documents or copy thereof.

1. Name of conveying party(ies):

Omni Vitamin and Nutrition Corp.

10-2-98

- Individual(s)
- General Partnership
- Corporation-State Delaware
- Other
- Association
- Limited Partnership

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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: October 14, 1998

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

Name: NBTY, INC.

Internal Address:

Street Address: 90 Orville Drive

City: Bohemia State: NY ZIP: 11716

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Delaware
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from Assignment)
Additional name(s) & address(es) attached? Yes No

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

A. Trademark Application No.(s)

1,111,588

B. Trademark registration No.(s)

<1,111,588>

Additional numbers attached? Yes No

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

Name: Olga Gonzalez

Internal Address:

Street Address: Olga Gonzalez, P.A.
3191 Coral Way, Suite 609

City: Miami State: FL ZIP: 33145

6. Total number of applications and registrations involved:

one

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

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: 07-1550

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

DO NOT USE THIS SPACE

9. Statement and signature.

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

OLGA GONZALEZ
Name of Person Signing

Signature

OCT-20, 1998
Date

Total number of pages comprising cover sheet: one

OMB No. 0651-0011 (exp. 4/94)

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Mail documents to be recorded with required cover sheet information to:

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

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

TRADEMARK

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ASSIGNMENT

WHEREAS, Omni Vitamin and Nutrition Corp., a Delaware corporation having its principal place of business at 90 Orville Drive, Bohemia, New York 11716, (hereinafter "ASSIGNOR"), is the owner of all right, title and interest in and to the mark D-ALPHA PLUS which is the subject of United States Trademark Registration No. 1,111,588 for vitamin capsules (hereinafter "The Mark"); and

WHEREAS, NBTY, INC., a Delaware corporation having its principal place of business at 90 Orville Drive, Bohemia, New York 11716, (hereinafter "ASSIGNEE"), is desirous of acquiring the entire right, title and interest in, to and under The Mark, and the goodwill associated therewith;

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and adequacy of which are hereby mutually acknowledged, ASSIGNOR hereby irrevocably sells, assigns, transfers and conveys unto ASSIGNEE, its successors and assigns, ASSIGNOR'S entire right, title and interest in and to: (a) The Mark; (b) all registrations of The Mark, whether state, federal or foreign; (c) any and all applications to register The Mark, whether state, federal or foreign; (d) all common law rights in, to and under The Mark; (e) all other rights in, to and under The Mark, together with the goodwill of the business symbolized by The Mark; (f) any and all rights to royalties, profits, compensations, license fees or other payments or remuneration of any kind relating to The Mark and/or the goodwill under The Mark; and (g) all claims or causes of action ASSIGNOR has or may have in connection with The Mark, including

but not limited to, the right to sue and recover damages for any and all past infringements of The Mark.

AND, FURTHER, ASSIGNOR hereby covenants that it has full right to convey the entire right herein assigned, and that it has not executed, and will not execute, any agreements inconsistent herewith.

IN WITNESS WHEREOF, Omni Vitamin and Nutrition Corp., by an authorized officer of same, has caused this Assignment to be executed on this 14 day of October, 1998.

Omni Vitamin and Nutrition Corp.

BY: Michael C. Duban
Michael C. Duban
Vice President Legal

State of New York)
County of Westchester)

On the 14th day of October, 1998, before me personally came Michael C. Duban, to me known, who, being by me duly sworn, did depose and say that he resides at 81 Main Street, Suite 205, White Plains, New York 10601, that he is the Vice-President, Legal of Omni Vitamin and Nutrition Corp., the corporation described in and which executed the above instrument; and that he/she signed his/her name thereto by authority of the Board of Directors of said corporation.

By: Margaret Ferreri Buchel (Seal)
Notary Public

MARGARET FERRERI Buchel
Notary Public, State of New York
No. 4919619
Qualified in Putnam County
Commission Expires February 8, 192000