

11-02-1998



100867091

COVER SHEET  
TRADEMARKS ONLY

MRD 10/20/98

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)  
Document ID # \_\_\_\_\_
- Correction of PTO Error  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_
- Corrective Document  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

Conveyance Type

- Assignment  License
- Security Agreement  Nunc Pro Tunc Assignment
- Merger
- Change of Name
- Other \_\_\_\_\_

Effective Date  
Month Day Year  
10 1 98

Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

Name The Scotts Company

10 31 98

Formerly \_\_\_\_\_

- Individual  General Partnership  Limited Partnership  Corporation  Association
- Other \_\_\_\_\_

Citizenship/State of Incorporation/Organization Ohio

Receiving Party

Mark if additional names of receiving parties attached

Name DMS Investments Inc.

DBA/AKATA \_\_\_\_\_

Composed of \_\_\_\_\_

Address (line 1) 1105 North Market Street

Address (line 2) \_\_\_\_\_

Address (line 3) Wilmington  
City

Delaware  
State/Country

19899  
Zip Code

- Individual  General Partnership  Limited Partnership
- Corporation  Association
- Other \_\_\_\_\_

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Citizenship/State of Incorporation/Organization Delaware

FOR OFFICE USE ONLY

11/02/1998 DNGUYEN 00000007 361932

01 FC:461  
02 FC:482

40.00 OP  
625.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

TRADEMARK  
REEL: 1806 FRAME: 0696

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name JOSEPH R. DREITLER

Address (line 1) VORYS SATER SEYMOUR and PEASE LLP

Address (line 2) 52 EAST GAY STREET

Address (line 3) COLUMBUS OHIO 43216-1008

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number 614 464-6383

Name JOSEPH R. DREITLER

Address (line 1) VORYS SATER SEYMOUR and PEASE LLP

Address (line 2) 52 EAST GAY STREET

Address (line 3) COLUMBUS OHIO 43216-1008

Address (line 4)

Pages Enter the total number of pages of the attached conveyance document including any attachments.

# 7

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)


<u>361,932</u>	<u>761,533</u>	<u>871,230</u>
<u>500,130</u>	<u>789,285</u>	<u>878,980</u>
<u>500,195</u>	<u>818,123</u>	<u>896,713</u>

Number of Properties

Enter the total number of properties involved.

# 26

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 665.00

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

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. Charges to deposit account are authorized, as indicated herein.

JOSEPH R. DREITLER

Name of Person Signing

Joseph R Dreitler

Signature

10/23/98

Date Signed

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name JOSEPH R. DREITLER

Address (line 1) VORYS SATER SEYMOUR and PEASE LLP

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Trademark Application Number(s)

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<u>910,827</u>	<u>959,164</u>	<u>1,082,114</u>
<u>917,006</u>	<u>962,399</u>	<u>1,224,823</u>
<u>919,655</u>	<u>1,036,054</u>	<u>1,225,655</u>

Number of Properties

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JOSEPH R. DREITLER

Name of Person Signing

Joseph R. Dreitler

Signature

10/23/98

Date Signed

Domestic Representative Name and Address

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Trademark Application Number(s)

Three empty boxes for Trademark Application Number(s).

Registration Number(s)

Registration numbers: 1,255,770, 1,756,388, 1,824,069, 1,527,615, 1,774,886, 1,932,487, 1,576,008, 1,803,613.

Number of Properties

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Authorization to charge additional fees:

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Statement and Signature

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JOSEPH R. DREITLER

Joseph R. Dreidler

10/23/98

Name of Person Signing

Signature

Date Signed

**NUNC PRO TUNC ASSIGNMENT**

STATE OF OHIO     )  
                           ) SS:  
 COUNTY OF UNION)

WHEREAS, The Scotts Company, an Ohio corporation located at 14111 Scottslawn Road, Marysville, Ohio 43041, has adopted, owns and used the trademarks shown on the attached Schedule A; and,

WHEREAS, OMS Investments, Inc., a Delaware corporation, located and doing business at 1105 North Market Street, Wilmington, Delaware 19899, is desirous of acquiring all of the right, title and interest in and to the aforesaid marks, the registrations thereof, including all trade names embodying wholly or in part the aforesaid marks as of an effective date of October 1, 1998.

NOW, THEREFORE, for ten dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, The Scotts Company does hereby assign, sell, transfer and convey to OMS Investments, Inc., all of its right, title and interest in and to the said marks and trade names, including all claims for past infringement and all causes of action with respect to or arising out of the said marks and trade names, together with the good will of its business symbolized by the name, the marks, and the registrations thereof.

The Scotts Company further covenants with OMS Investments, Inc., to execute, when requested, such additional assignments, instruments and documents as may be necessary or desirable to effectuate this agreement and assignment.

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IN WITNESS WHEREOF, the undersign authorized officer of The Scotts Company has hereunto set his hand and the Seal of the Corporation on this 21 day of October 1998.

THE SCOTTS COMPANY

By: C. J. Lucas  
Title: Vice President and Secretary  
General Counsel

Subscribed to and sworn before me this 21 day of October 1998.

Kathy L. Uttley  
Notary Public



KATHY L. UTTLEY  
NOTARY PUBLIC, STATE OF OHIO  
MY COMMISSION EXPIRES JUNE 29, 2000

## SCHEDULE A

<u>Registration Number</u>	<u>Mark</u>	<u>Date of Registration</u>
361,932	Auragreen	11/8/38
500,130	Calo-Clor	4/27/48
500,195	Auragreen	5/11/48
761,533	Thiramad	12/17/63
789,285	Calo-Clor & Design	5/11/65
818,123	Calo-Gran	11/8/66
871,230	Spray-Hawk	6/17/69
878,980	Vitalon	10/21/69
896,713	Koban	8/18/70
910,827	Truban	4/6/71
917,006	Banrot	7/27/71
919,655	Zyban	9/7/71
959,164	Trex-San & Design	5/22/73
962,399	Fungo	7/3/73
1,036,054	Duosan	3/23/76
1,082,114	Esmigran	1/17/78
1,224,823	Milban	1/25/83
1,225,655	Dycarb	2/1/83
1,255,770	Ornalin	11/1/83
1,527,615	Hydraflo and Flag Design	3/7/89
1,576,008	Vorlan & Design	1/9/90
1,756,388	Penstar	3/9/93
1,774,886	Rout (Stylized)	6/8/93
1,803,613	Gliogard	11/9/93
1,824,069	Algaen-X & Design	3/1/94
1,932,487	Benefit & Design	11/7/95