6·5·00

07-17-2000

101405449

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

To the Honorable Commissioner of Patents: ...nal document or copy thereof.

1. Name of conveying party(ies):

Irwin Naturals/4Health, Inc.

☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☒ Corporation-State- **Utah**
☐ Other

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

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

Name: **First Source Financial LLP**
Internal Address:

Street Address: **2850 West Golf Road**
Fifth Floor
City: **Rolling Meadows**
State: **Illinois** Zip: **60608**

☐ Individual(s) citizenship
☐ Association
☐ General Partnership
☒ Limited Partnership **Illinois**
☐ Corporation-State
☐ 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

3. Nature of conveyance:

☒ Assignment ☐ Change of Name
☐ Security Agreement ☐ Merger
☐ Other

Execution Date: **June 10, 1999**

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,968,617

Additional numbers attached?

Additional numbers attached

06-05-2000
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #54

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

Name: **Thomas W. Cook**
Internal Address:

Street Address: **P.O. Box 1989**
3030 Bridgeway, Suite 425
City: **Sausalito**
State: **California** Zip: **94965**

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

7. Total fee (37 CFR 3.41):..... $ **40.00**
☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number:

(Attache 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.

Thomas W. Cook — Name of Person Signing

Signature

June 1, 2000 — Date

Total number of pages comprising cover sheet: 1

Do not detach this portion

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

Commissioner of Patents and Trademarks
Box Assignments
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-~~10000, Washington~~, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

07/14/2000 ASCOTT 00000167 1968617
01 FC:481 40.00 OP

06-05-2000
U.S. Patent & TMOfc/TM Mail Rcpt Dt. #54

COLLATERAL PATENT, TRADEMARK, COPYRIGHT AND LICENSE ASSIGNMENT

THIS COLLATERAL PATENT, TRADEMARK, COPYRIGHT AND LICENSE ASSIGNMENT ("Assignment") made as of June 10, 1999 by IRWIN NATURALS/4HEALTH, INC., a Utah corporation (the "Assignor"), with a mailing address at 10549 West Jefferson Boulevard, Culver City, California 90232, to First Source Financial LLP, as Agent for certain financial institutions ("Assignee") with a mailing address at 2850 West Golf Road, Fifth Floor, Rolling Meadows, Illinois 60608.

W I T N E S S E T H:

WHEREAS, Assignor has entered into that certain Secured Credit Agreement dated as of June 10, 1999 (as amended, modified or supplemented from time to time, the "Credit Agreement") with certain financial institutions (the "Lenders") and Assignee, as Agent for the Lenders; and

WHEREAS, it is a condition to the effectiveness of the Credit Agreement and any extensions of credit to or for the benefit of the Assignor thereunder that, among other things, Assignor execute and deliver to Assignee this Assignment;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees as follows:

1. **Incorporation of Credit Agreement.** The Credit Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. Terms used herein which are not defined herein but are defined in the Credit Agreement shall have the meanings ascribed to them therein.

2. **Collateral Assignment of Patents, Trademarks, Copyrights and Licenses.** To secure the complete and timely satisfaction of all of the Liabilities, the Assignor hereby grants, conveys and assigns to Assignee, for the benefit of Lenders, the entire right, title and interest of Assignor's right, title and interest in and to all of the following, whether now existing or hereafter arising:

(i) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents and patent applications listed on Schedule A attached hereto and made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout

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the world (all of the foregoing patents and applications, together with the items described in clauses (a) through (d), inclusive, in which Assignor now or hereafter has any right, title or interest are sometimes hereinafter individually and/or collectively referred to as the "Patents");

(ii) all service marks, trademarks, trademark or service mark registrations, trademark or service mark applications, trade names, copyrights, copyright registrations and copyright applications including, without limitation, the trademarks, service marks, copyrights and applications listed on Schedule B attached hereto and made a part hereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing service marks, trademarks, registrations, applications and trade names, together with the items described in clauses (a) through (d), inclusive, with respect thereto in which Assignor now or hereafter has any right, title or interest are sometimes hereinafter individually and/or collectively referred to as the "Marks" and all of the foregoing copyrights, copyright registrations and copyright applications, together with the items described in clauses (a) through (d), inclusive, in which Assignor now or hereafter has any right, title or interest are sometimes hereinafter individually and/or collectively referred to as the "Copyrights");

(iii) all Assignor's rights and obligations pursuant to its license agreements with any other Person or Persons with respect to any Patents, Marks and Copyrights, whether Assignor is a licensor or licensee under any such license agreements, including, without limitation, the licenses listed on Schedule C attached hereto and made a part hereof, and, subject to the terms of such licenses, the right to prepare for sale, sell and advertise for sale, all Inventory now or hereafter owned by the Assignor and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to collectively as the "Licenses"); and

(iv) the goodwill of Assignor's business connected with and symbolized by the Marks;

provided, however, that there shall be excluded from the foregoing assignment and grant of interest any of the existing Licenses to which Assignor is a licensee (and any Patents, Marks and Copyrights currently licensed by others to Assignor pursuant to such Licenses) in each case to the extent (but only to the extent) that the applicable License lawfully prohibits such assignment or grant; provided further, however, that, upon Assignee's request, Assignor will use its best efforts to obtain any consent needed to subject any such property to this assignment and grant of a security interest.

3. **Restrictions on Future Agreements**. Assignor agrees and covenants that until the Liabilities shall have been satisfied in full and the Credit Agreement shall have been terminated, Assignor will not, without Assignee's prior written consent, take any action or enter into any agreement, including, without limitation entering into any license agreement, which is inconsistent with Assignor's obligations under this Assignment, and Assignor further agrees and covenants that without Assignee's prior written consent it will not take any action, or permit any action to be taken by others subject to its control, including its licensees, or fail to take any action which would affect

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the validity or enforcement or nature of the rights transferred to Assignee under this Assignment. Assignor agrees and covenants not to sell or assign its interest in, or grant any license under, the Patents, Marks, Copyrights or Licenses, without receiving the prior written consent of Assignee thereto.

4. **Certain Covenants, Representations and Warranties of Assignor.** Assignor covenants, represents and warrants (to the best of Assignor's knowledge with respect to any Patents, Marks and Copyrights which are licensed by third parties to Assignor) that: (i) the Patents, Marks, Copyrights and Licenses are subsisting, have not been adjudged invalid or unenforceable in whole or in part, and are not currently being challenged in any way; (ii) none of the Patents, Marks, Copyrights and Licenses have lapsed or expired or have been abandoned, whether due to any failure to pay any maintenance or other fees or make any filing or otherwise; (iii) each of the Patents, Marks, Copyrights and Licenses is valid and enforceable and Assignor is unaware of any invalidating prior art (including public uses and sales) relative to the Patents, and is unaware of any impairments to the Patents, Marks, Copyrights or Licenses which would have a material adverse effect on the validity and/or enforceability of the Patents, Marks, Copyrights or Licenses; (iv) to the best of Assignor's knowledge, no claim has been made that the use of any of the Patents, Marks, Copyrights or Licenses constitutes an infringement; (v) Assignor owns the entire right, title and interest in and to each of the Patents, Marks and Copyrights (other than those being licensed to Assignor pursuant to the Licenses) free and clear of any Liens and encumbrances of every kind and nature, and the Licenses are valid and subsisting licenses with respect to the Patents, Marks, Copyrights described therein, free and clear of any Liens and encumbrances of every kind and nature arising by, through or under Assignor, in each case except for (A) rights granted by Assignor pursuant to the applicable licenses listed on Schedule C, and (B) Liens and encumbrances in favor of Assignee pursuant to this Agreement or the other Related Documents; (vi) the Patents, Marks and Copyrights and Licenses listed on Schedules A, B and C, respectively, constitute all such items in which Assignor has any right, title or interest; (vii) Assignor has the unqualified right to enter into this Agreement and perform its terms; (viii) Assignor will continue to use proper statutory notice in connection with its use of the Patents, Marks and Copyrights; and (ix) Assignor will use standards of quality in its manufacture of products sold under the Marks consistent with those currently employed by it.

5. **New Patents, Marks, Copyrights and Licenses.** If, before the Liabilities shall have been satisfied in full and the Credit Agreement shall have been terminated, Assignor shall (i) obtain rights to any new patentable inventions, trademarks, service marks, trademark or service mark registrations, copyrights, copyright registrations, trade names or licenses, or (ii) become entitled to the benefit of any patent, trademark or service mark application, trademark, service mark, trademark or service mark registration, copyrights, copyright registrations, license or license renewal, or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of Section 2 above shall automatically apply thereto and Assignor shall give to Assignee prompt written notice thereof. Assignor hereby authorizes Assignee to modify this Assignment by noting any future acquired Patents, Marks, Copyrights on Schedule A or B and any Licenses and licensed Patents, Marks or Copyrights on Schedule C, as

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applicable; provided, however, that the failure of Assignee to make any such notation shall not limit or affect the obligations of Assignor or rights of Assignee hereunder.

6. **Royalties; Terms.** Assignor hereby agrees that the use by Assignee of all Patents, Marks, Copyrights and Licenses as described above shall be worldwide (or in the case of the Patents, Marks and Copyrights licensed to Assignor such smaller geographic location if any is specified for Assignor's use in the applicable License) and, without any liability for royalties or other related charges from Assignee to Assignor. The term of the assignments granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Marks, Copyrights and Licenses assigned hereunder, or (ii) satisfaction in full of the Liabilities and termination of the Credit Agreement.

7. **Grant of License to the Assignor**. Unless and until an Event of Default shall have occurred and notice given as provided in the following sentence, Assignee hereby grants to Assignor (but only to the extent the same was lawfully granted to Assignee by Assignor pursuant to this Agreement) the royalty-free, exclusive, nontransferable right and license for Assignor's own benefit and account and no other to use the Marks, to reproduce, adopt, distribute, perform and display all works and all materials covered by the Copyrights, to exercise Assignee's rights under the Licenses, and to make, have made, use and sell products conforming to the inventions, or made by a process, disclosed and claimed in the Patents for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Assignor in this Section 7 without the prior written consent of Assignee. From and after the occurrence and during the continuance of an Event of Default and notice to such effect from the Assignee to the Assignor, Assignor's license with respect to the Patents, Marks, Copyrights and Licenses as set forth in this Section 7 shall terminate forthwith.

8. **Assignee's Right to Inspect.** Assignee shall have the right, at any time and from time to time to inspect Assignor's premises and to examine Assignor's books, records and operations, including, without limitation, Assignor's quality control processes. From and after the occurrence of an Event of Default and notice by Assignee to Assignor of Assignee's intention to enforce its rights and claims against any of the Patents, Marks, Copyrights and Licenses, Assignor agrees that Assignee, or a conservator appointed by Assignee, shall have the right to establish such additional product quality controls as Assignee or said conservator, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold by Assignor under the Marks consistent with the quality of products now manufactured by Assignor.

9. **Termination of the Assignor's Interest.** This Assignment is made for collateral purposes only. Upon satisfaction in full of the Liabilities and termination of the Credit Agreement, subject to any disposition thereof which may have been made by Assignee or any Lender pursuant hereto or pursuant to any of the other Related Documents, title to the Patents, Marks, Copyrights and Licenses shall automatically revert to Assignor. Assignee shall, at Assignor's expense, execute and deliver to Assignor, all termination statements and other instruments as may be necessary or proper to terminate Assignee's interest in, and to revest in Assignor all right, title and interest in and to, the

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Patents, Marks, Copyrights, and Licenses transferred to Assignee pursuant to this Assignment, subject to any disposition thereof which may have been made by Assignee pursuant hereto or pursuant to any of the other Related Documents. Any such termination statements and instruments shall be without recourse upon or warranty by Assignee or any Lender.

10. **Duties of the Assignor**. Assignor shall have the duty (i) to prosecute diligently any patent application of the Patents, any application respecting the Marks, and any copyright application of the Copyrights pending as of the date hereof or thereafter, (ii) to make application on unpatented but patentable inventions and on registerable but unregistered trademarks, service marks and copyrights, and (iii) to preserve, maintain and enforce against infringement all rights in patent applications and patents constituting the Patents, in trademark or service mark applications, trademarks, service marks, and trademark or service mark registrations constituting the Marks, and in copyright applications, copyrights and copyright registrations constituting the Copyrights. Any expenses incurred in connection with the foregoing shall be borne by Assignor. Assignor shall not abandon any pending patent application, trademark application, copyright application, service mark application, patent, trademark, service mark or copyright without the written consent of Assignee.

11. **Assignee's Right to Sue**. From and after the occurrence of an Event of Default, Assignee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Patents, the Marks, the Copyrights and the Licenses, and any licenses thereunder, and, if Assignee shall commence any such suit, Assignor shall, at the request of Assignee, do any and all lawful acts and execute any and all proper documents reasonably required by Assignee in aid of such enforcement, and Assignor shall promptly, upon demand, reimburse and indemnify Assignee for all reasonable costs and expenses incurred by Assignee in the exercise of its rights under this Section 11.

12. **Waivers**. No course of dealing between Assignor and Assignee and Lenders, nor any failure to exercise, nor any delay in exercising, on the part of Assignee or any Lender, any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

13. **Severability**. The provisions of this Assignment are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Assignment in any jurisdiction.

14. **Modification**. This Assignment cannot be altered, amended or modified in any way, except as specifically provided in Section 5 hereof or by a writing signed by the parties hereto.

15. **Further Assurances.** Assignor shall execute and deliver to Assignee, at any time or times hereafter at the request of Assignee, all papers (including, without limitation, any as may be deemed desirable by Assignee for filing or recording with any Patent and Trademark Office, and any

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successor thereto) and take all such actions (including, without limitation, paying the cost of filing or recording any of the foregoing in all public offices reasonably deemed desirable by Assignee), as Assignee may request, to evidence Assignee's interest in the Patents, Marks, Copyrights and Licenses and the goodwill associated therewith and enforce Assignee's rights under this Assignment.

16. **Cumulative Remedies; Power of Attorney; Effect on Loan Documents**. All of Assignee's rights and remedies with respect to the Patents, Marks, Copyrights and Licenses, whether established hereby, by any of the Related Documents or otherwise, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Assignor hereby constitutes and appoints Assignee as Assignor's true and lawful attorney-in-fact, with full power of substitution in the premises, with power at any time after the occurrence of an Event of Default, to (i) endorse Assignor's name on all applications, documents, papers and instruments determined by Assignee in its sole discretion as necessary or desirable for Assignee in the use of the Patents, Marks, Copyrights and Licenses, (ii) take any other actions with respect to the Patents, Marks, Copyrights and Licenses as Assignee deems in good faith to be in the best interest of Assignee and Lenders, (iii) grant or issue any exclusive or non-exclusive license under the Patents, Marks or Copyrights to any Person, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Patents, Marks, Copyrights or Licenses to any Person. Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until the Liabilities shall have been satisfied in full and the Credit Agreement shall have been terminated. Assignor acknowledges and agrees that this Assignment is not intended to limit or restrict in any way the rights and remedies of Assignee and Lenders under the Credit Agreement or any of the Related Documents but rather is intended to facilitate the exercise of such rights and remedies. Assignee shall have, in addition to all other rights and remedies given it by the terms of this Assignment, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents, Marks, Copyrights or Licenses may be enforced. Assignor hereby releases the Assignee and Lenders from any and all claims, causes of action and demands at any time arising out of or with respect to any actions taken or omitted to be taken by the Assignee under the powers of attorney granted herein.

17. **Binding Effect; Benefits**. This Assignment shall be binding upon the Assignor and its respective successors and assigns and shall inure to the benefit of Assignee and Lenders and their respective successors, assigns and nominees.

18. **Governing Law**. This Assignment shall be deemed to have been executed and delivered in Chicago, Illinois, and shall be governed by and construed in accordance with the internal laws (as opposed to conflicts of law provisions) of Illinois.

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WITNESS the due execution hereof as of the date first above written.

IRWIN NATURALS/4HEALTH, INC.

By: _____

Title: President

(SEAL)

Attest:

By: _____

Title: Assistant Secretary

Jun. 18. 2003 2:25PM SCHIFF, HARDIN & WAITE No. 9787 P. 16/25

ACCEPTANCE

The undersigned, First Source Financial LLP accepts the foregoing Collateral Patent, Trademark, Copyright and License Assignment as of the 10th day of June, 1999 in Chicago, Illinois.

FIRST SOURCE FINANCIAL LLP, as Agent
By: First Source Financial, Inc.
Its: Manager

By: _____
Name Printed: John P. Thacker
Its: Senior Vice President

2850 West Golf Road - Fifth Floor
Rolling Meadows, Illinois 60008
Attention: Contract Administration
Telecopy: (847) 734-7910, 7911
Telephone: (847) 734-2000

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TRADEMARK
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said State and County do hereby certify that Louis Mancini, personally known to me to be the President of Irwin Naturals/4Health, Inc., a Utah corporation, and personally known to me to be the same person whose name is subscribed to the foregoing Collateral Patent, Trademark, Copyright and License Assignment, appeared before me this day and acknowledged that he signed and delivered said assignment as such officer of said corporation and caused the seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as his free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal as of the 10th day of June, 1999.

(NOTARIAL SEAL)

Notary Public

My Commission Expires: 06/22/01

Jun. 18. 1999 SCHIFF, HARDIN & WAITE No. 9787 P. 18/25

Schedule B
to
COLLATERAL PATENT, TRADEMARK, COPYRIGHT AND LICENSE ASSIGNMENT

Application and Registration Numbers
Assignment of Trademarks
Irwin Naturals/4Health, Inc. to First Source Financial LLP

Applications:	**Registrations**
75-386,089	1,791,241
75-453,110	1,792,241
75-455,431	1,846,469
75-522,452	1,847,555
75-522,802	1,847,556
75-527,181	1,848,486
75-602,757	1,848,487
75-602,774	1,901,441
	1,902,335
	1,915,940
	1,968,617
	1,970,032
	1,982,374
	1,983,826
	2,023,228
	2,042,397
	2,047,619
	2,047,620
	2,048,647
	2,086,800
	2,101,234
	2,101,669
	2,102,262
	2,109,948
	2,119,344
	2,119,345
	2,120,594
	2,120,614
	2,134,401
	2,135,818
	2,136,011
	2,156,503
	2,164,284
	2,164,743
	2,173,896
	2,187,472
	2,210,948
	2,233,592

Mark: **MORNING MULTI**
Reg. No.: 1,968,617

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)

I hereby certify that the attached RECORDATION FORM COVER SHEET being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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

on June 2, 2000.

Beth Fowler