

08-31-2000

WENMM 1618A (12-99)

FORM PTO-1618A
OMB 0651-0027



7.24.00

RECORD

101447488

TRADEMARKS ONLY

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
- Merger
- Nunc Pro Tunc
Assignment
- Effective Date
Month Day Year
- Change of Name
- Other

Conveying Party(ies)

Name Richard A. Deer



Names of conveying parties attached

Formerly

07-24-2000

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #54

Execution Date
Month Day Year
06 21 00

- Individual
- Corporation
- Other _____
- General Partnership
- Association
- Limited Partnership

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 is attached. (Designation must be a separate document from Assignment.)

Citizenship/State of Incorporation/Organization: U.S.A.

Receiving Party

Mark if additional names of receiving party attached

Name: Body Dynamics, Inc.

DBA/AKA/TA:

Composed of:

Address (line 1) 9700 North Michigan Road

Address (line 2) P.O. Box 78610

Address (line 3)	Indianapolis	Indiana	46278-0610
	City	State/Country	Zip Code

- Individual
- Corporation
- Other _____
- General Partnership
- Association
- Limited Partnership

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 is attached. (Designation must be a separate document from Assignment.)

Citizenship/State of Incorporation/Organization: Indiana

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40.00 OP

FOR OFFICE USE ONLY

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: 002127 FRAME: 0724

FORM PTO-1618B
OMB 0651-0027

Page 2

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and AddressArea Code and Telephone Number
(317) 634-3456

Name

Christopher A. Brown, Esq.

Address (line 1)

Woodard, Emhardt, Naughton, Moriarty & McNett

Address (line 2)

111 Monument Circle, Suite 3700

Address (line 3)

Bank One Center/Tower

Address (line 4)

Indianapolis, Indiana 46204-5137**Pages**

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

4

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)**

75/825,830

Number of properties

Enter the total number of properties involved

1

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 40.00

Method of Payment:

Deposit Account

Enclosed

Deposit Account

Deposit Account

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

Deposit Account Number: 20-3030

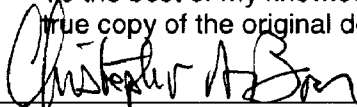
Authorization to charge additional fees:

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.



CHRISTOPHER A BROWN

7/21/00

Name of Person Signing

Signature

Date

LICENSE AGREEMENT

This Agreement, effective as of the 3RD day of November, 1999, by and between Richard A. Deer (hereinafter called "OWNER"), an individual having an address of 9700 North Michigan Road, P.O. Box 78610, Indianapolis, Indiana 46278-0610, and Body Dynamics, Inc. (hereinafter called "USER"), a corporation, organized and existing under the laws of Indiana, and having a post office address of 9700 N. Michigan Road, P.O. Box 78610, Indianapolis, Indiana 46278-0610.

WHEREAS, OWNER is the owner of the trademark ULTIMATE ENERGIZER (hereinafter called "MARK"); and

WHEREAS, USER is desirous of using the MARK in connection with its business;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter set forth, the parties agree as follows:

OWNER grants to USER an exclusive License to use the MARK as appropriate to market over-the-counter pharmaceuticals.

USER acknowledges the ownership of the MARK in OWNER, agrees that it will do nothing inconsistent with such ownership and that all use of the MARK by USER shall inure to the benefit of and be on behalf of OWNER, and agrees to assist OWNER in recording this Agreement with appropriate government authorities. USER agrees that nothing in this License shall give USER any right, title or interest in the MARK other than the right to use the MARK in accordance with this License and USER agrees that it will not attack the title of OWNER to the MARK or attach the validity of this License.

USER agrees that the nature and quality of the services rendered and goods sold by USER in connection with the MARK shall conform to the standards set by and under the

control of OWNER. In general said nature and qualities shall conform to the nature and quality pursuant to past practices.

USER agrees to cooperate with OWNER in facilitating OWNER's control of such nature and quality, to permit reasonable inspection of USER's operation, and to supply OWNER with specimens of use of the MARK upon request. USER shall comply with all applicable laws and regulations and obtain all appropriate government approvals pertaining to the sale, distribution and advertising of goods and services covered by this License.

USER agrees to use the MARK only in the form and manner and with appropriate legends as prescribed from time to time by OWNER, and not to use any other trademark or service mark in combination with the MARK without prior approval of OWNER.

USER agrees to notify OWNER of any unauthorized use of the MARK by others promptly as it comes to USER's attention. OWNER shall have the sole right and discretion to determine whether or not any action shall be taken on account of such unauthorized uses.

USER shall not institute any suit nor take any action on account of such uses without obtaining the consent of OWNER to do so. OWNER shall have the right and discretion to commence and prosecute any claims or suits in OWNER's own name or in the name of USER or join USER as a party thereto. No settlement of any suit so brought may be made without the consent of OWNER. USER agrees to assist OWNER to the extent necessary to protect any of OWNER's rights to the MARK. ~~USER~~ agrees that ~~OWNER~~ shall be entitled to claim and receive as his damages in such cases all losses incurred by USER due to said claims or suits.

OWNER at his sole discretion shall have the right to terminate this Agreement:

immediately in the event of any bankruptcy of USER, any filing of bankruptcy for USER, any filing for protection from creditors for USER, any insolvency by USER or upon the appointment of any receiver or trustee to take possession of the properties of user or upon the winding up, sale, consolidation, merger or any sequestration by government authority of USER;

immediately upon breach of any of the provisions hereof by USER; or
without any cause upon sixty (60) days written notice.

Upon termination of this Agreement USER agrees to:

immediately discontinue all use of the MARK and any term or terms similar thereto or a colorable imitation thereof;

thereafter not use the MARK and any term or terms similar thereto or a colorable imitation thereof;

to delete the name from its corporate or business name;

to cooperate with OWNER or its appointed agent to apply to the appropriate authorities to cancel recording of this Agreement from all government records;

to destroy all printed materials bearing any of the MARK;

that all rights in the MARK and goodwill connected therewith shall remain the property of OWNER; and

that if USER uses the MARK or a term or terms that are a colorable imitation thereof that OWNER shall be entitled to injunctive relief to prevent such use.

USER shall maintain full and accurate books and records showing sales of all goods bearing the MARK and shall furnish reports with respect thereto in a form that may be reasonably specified from time to time by owner.

It is agreed that this Agreement may be interpreted according to the laws of the State of Indiana and the United States of America.

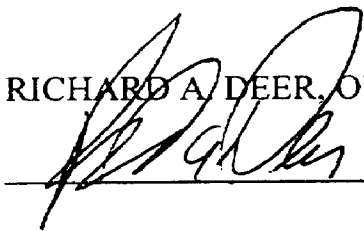
This Agreement constitutes the entire agreement between the parties and supersedes any previous written or oral agreements.

This Agreement inures to the benefit and is binding upon the successors in interest of the parties.

USER agrees to pay OWNER's reasonable attorney fees, costs and expenses incurred by owner in enforcing this agreement in the event that USER is found to be in breach of any of the terms of this Agreement or in violation of OWNER's rights in the MARK.

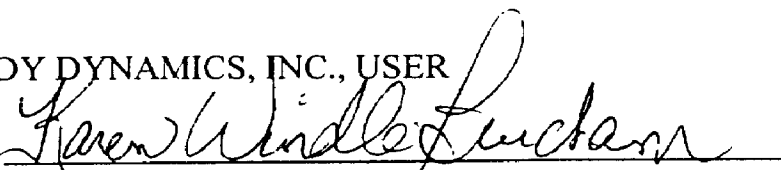
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day of the year first above written.

RICHARD A. DEER, OWNER



BODY DYNAMICS, INC., USER

By:


Karen Windle-Burcham
President