

RE

02-20-2001



SHEET

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Tab settings 9.22.00

101593877

EL486352379US

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

## 1. Name of conveying party(ies):

The Hygenic Corporation

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

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No3. Nature of conveyance: NRD 9.22.00

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

Execution Date: April 30, 2000

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

Name: Hygenic Acquisition, Inc.  
c/o Key Mezzanine Capital, L.L.  
 Internal Address: 28th Floor

Street Address: 127 Public SquareCity: Cleveland State: Ohio ZIP: 44114

- ☐ 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 patent number(s):

## A. Trademark Application No.(s)

75/463,681  
75/578,579  
75/712,381

1,063,239 1,380,599 1,927,943 2,262,494  
 1,173,854 1,542,392 1,966,739 2,295,811  
 1,932,938

## B. Trademark Registration No.(s)

1,238,548 1,541,408 2,144,933  
 1,241,177 1,011,451 2,120,982  
 1,269,061 1,890,535 2,037,964  
 1,379,345 1,895,004 2,037,966

Additional numbers attached? ☐ Yes ☒ No

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

Name: Meredith M. Wilkes

Internal Address: Jones, Day, Reavis & Pogue  
North Point

Street Address: 901 Lakeside AvenueCity: Cleveland State: Ohio ZIP: 441146. Total number of applications and registrations involved: 257. Total fee (37 CFR 3.41).....\$ 640☒ Enclosed☐ Authorized to be charged to deposit account

## 8. Deposit account number:

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

DO NOT USE THIS SPACE

10/13/2000 MTHAIL 00000052 75463681

40.00/DP  
600.00/DP

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.

Kathie J. Kopczyk  
 Name of Person Signing

Kathie J. Kopczyk  
 Signature

14

Date

Total number of pages including cover sheet, attachments, and document:

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

TRADEMARK  
 REEL: 2194 FRAME: 0291

SCHEDULE A

United States  
Trademark Registrations

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
THERA-BAND Resistive exerciser (Class 10- Rubber sheeting used for medical purposes)	1,063,239	09/13/1976
HYGENIC & Design (Class 5, 10 - Dental supplies & accessories)	1,173,854	10/06/1978
H & HYGENIC logo (Class 27 - Floor Mats)	1,238,548	10/06/1978
H & HYGENIC logo (Class 17 - Rubber and Plastic in the form of sheets and tubing for industrial use)	1,241,177	10/06/1978
H & HYGENIC logo (Class 10 - Rubber and Plastic in the form of sheets and tubing for medical applications)	1,269,061	10/06/1978
DYNA- BAND-Resistive exerciser (Class 28 - exercise equipment; namely, resistive exercisers)	1,379,345	05/31/1985
H & HYGENIC logo (Class 28 - Exercise equipment)	1,380,599	05/31/1985
THERA - BAND & Design (Class 10- Rubber sheeting for medical purposes)	1,542,392	09/29/1988
Color Band Design (Class 10 - Rubber sheeting for medical purposes)	1,541,408	09/29/1988

PARABATH- Unit, Paraffin Bath, Paraffin Refills, Accessories (Class 10)	1,011,451	06/13/1973
HYSYNAL (Class 17- Sunthetic Polyisoprene Rubber Tubing for medical and industrial use)	1,890,535	08/24/1994
THERA-BAND - Resistive exercisers (Class 10 - for elastic tensioning exerciser for rehab physical therapy)	1,895,004	09/13/1976
THERA- BAND PRESCRIPTION PACK Resistive Exercise System (Class 10) ( <b>NO LONGER USING PRODUCT</b> )	1,927,943	08/23/1994
MARK H HYGENIC & DESIGN (Class 28 - G.P. Points, & 10 - Dental Products)	1,966,739	10/06/1978
HYTONE (Class 24- latex rubber sheeting sold in rolls used in the manufacture of evening wear)	2,144,993	07/10/1997
H HYGENIC & DESIGN (Class 17 Rubber and Plastic in the Form of sheets and tubing for General Industrial Use)	2,120,982	10/06/1978
COLOR PINK (Dyna-Band) (Class 28)	2,037,964	05/31/1985
✓ COLOR GREEN (Dyna-Band) (Class 28)	2,037,965 ✓	05/31/1985
COLOR PURPLE (Dyna-Band) (Class 28)	2,037,966	05/31/1985

H & HYGENIC LOGO (Class 10 - Rubber and plastic in the form of sheets and tubing for medical applications)	2,262,494	10/06/1978
THERA - BAND (Class 28 - product for exercise or recreational use- bands, tubing, balls, kits, mats, aquatic devices)	2,295,811	09/18/1998
THERAEROBICS (Class 12- Exercise physical therapy services)	1,932,938	

SCHEDULE B

United States  
Trademark Applications

<u>Mark</u>	<u>Serial No.</u>	<u>Filing Date</u>
HYSYNAL (Synthetic rubber tubing for medical and industrial use Class 10; synthetic rubber tubing and tourniquets for medical and industrial use Class 17)	75/463,681	Pending—replaces US0050
THERAEROBICS (Class 28, 41-exercise kits comprising resistive bands and tubing)	75/578,579	
AQUAFINS (Class 10,28 - products for physical therapy use; namely, vests, belts, bands, floatation devices, swim fins)	75/712,381	05/24/1998

**DECLARATION CONCERNING ASSIGNMENT PURSUANT TO 15 U.S.C. § 1060**

I, Stewart Lorenzen, do hereby declare as follows:

1. I am currently the President of the Hygenic Corporation, a corporation organized and existing under the laws of the state of Delaware with its principal place of business located at 1245 Home Avenue, Akron, Ohio.

2. Until April 30, 2000, I served as the President of the Hygenic Corporation, a corporation organized and existing under the laws of the state of Ohio with its principal place of business located at 1245 Home Avenue, Akron, Ohio.

3. On April 30, 2000, the Hygenic Corporation assigned all right, title, interest and goodwill to certain United States Trademark Applications and Registrations to Hygenic Acquisition, Inc., a corporation organized and existing under the laws of the state of Delaware. A true and correct copy of the instrument assigning these Applications and Registrations is attached hereto as Exhibit A and by this reference incorporated herein. Mr. Joseph Di Rocco executed Exhibit A in his capacity as Vice President of Finance of the Hygenic Corporation and the signature on Exhibit A is Mr. Di Rocco's.

4. On May 2, 2000, Hygenic Acquisition, Inc. changed its name to the Hygenic Corporation. True and correct certified copies of the documents evidencing the name change from Hygenic Acquisition, Inc. to the Hygenic Corporation are attached hereto as Exhibit B and by this reference incorporated herein.

Under the penalty of perjury of laws of the United States, I do hereby declare that the foregoing is true and correct.

Dated this 18 day of September, 2000.



Stewart Lorenzen  
President  
The Hygenic Corporation

# Apostille

(Convention de La Haye du 5 Octobre 1961)

1. Country: United States of America

This public document:

2. has been signed by Edward J. Freel

3. acting in the capacity of Secretary of State of Delaware

4. bears the seal/stamp of Office of Secretary of State

## Certified

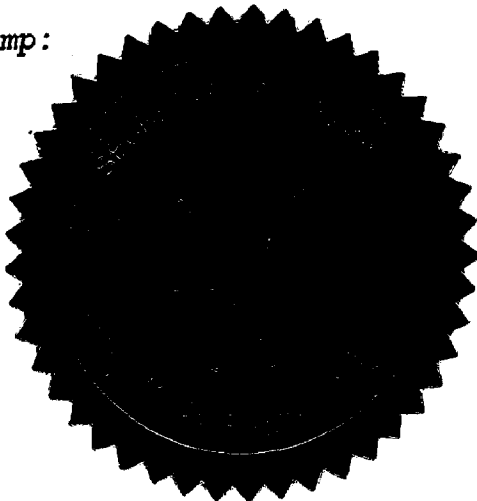
5. at Dover, Delaware

6. the nineteenth day of September, A.D. 2000

7. by Secretary of State, Delaware Department of State

8. No. 0137306

9. Seal/Stamp:



10. Signature:

*Edward J. Freel*

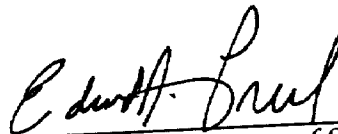
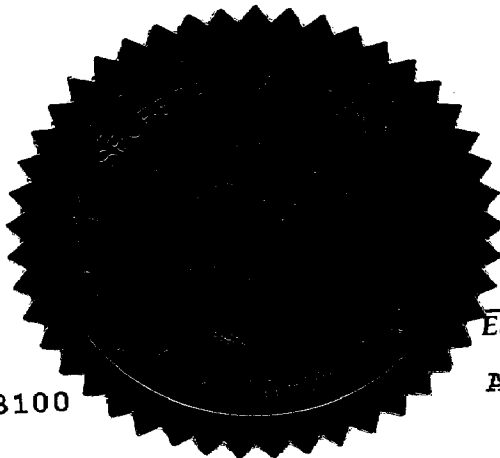
Secretary of State

*State of Delaware*  
*Office of the Secretary of State*

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PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "HYGENIC ACQUISITION, INC.", CHANGING ITS NAME FROM "HYGENIC ACQUISITION, INC." TO "THE HYGENIC CORPORATION", FILED IN THIS OFFICE ON THE SECOND DAY OF MAY, A.D. 2000, AT 9 O'CLOCK A.M.



Edward J. Freel, Secretary of State

3199255 8100

001472636

AUTHENTICATION: 0684261

DATE: 09-19-00

TRADEMARK  
REEL: 2194 FRAME: 0298



**CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION  
HYGENIC ACQUISITION, INC.**

Hygenic Acquisition, Inc., a corporation organized and existing under and by  
virtue of the General Corporation Law of the State of Delaware,

**DOES HEREBY CERTIFY:**

**FIRST:** That the Board of Directors of said corporation, by the unanimous  
written consent of its members, filed with the minutes of the Board, adopted a resolution  
proposing and declaring advisable the following amendment to the Certificate of Incorporation of  
said corporation:

**RESOLVED**, that the Certificate of Incorporation of Hygenic Acquisition, Inc. be  
amended by changing the First Article thereof so that, as amended, said Article  
shall be and read as follows:

**"FIRST:** The name of the corporation is "The Hygenic  
Corporation."

**SECOND:** That in lieu of a meeting and vote of stockholders, the stockholders  
have given unanimous written consent to said amendment in accordance with the provisions of  
Section 228 of the General Corporation Law of the State of Delaware.

**THIRD:** That the aforesaid amendment was duly adopted in accordance with the  
applicable provisions of Sections 242 and 228 of the General Corporation Law of the State of  
Delaware.

IN WITNESS WHEREOF, said Hygenic Acquisition, Inc. has caused this

certificate to be signed by Sean P. Ward, its Vice President and Secretary, this 28th day of April,

2000.

**HYGENIC ACQUISITION, INC.**

By:

Sean P. Ward

Name: Sean P. Ward

Title: Vice President and Secretary

**HYGENIC TRADEMARK, TRADE NAME AND DOMAIN NAME ASSIGNMENT**

THIS TRADEMARK, TRADE NAME AND DOMAIN NAME ASSIGNMENT (the "Assignment") is made and entered into as of this 30th day of April, 2000, ("Effective Date"), by and between The Hygenic Corporation, an Ohio corporation, with its principal place of business located at 1245 Home Avenue, Akron, Ohio 44310-2575 ("Assignor"), and Hygenic Acquisition, Inc., a Delaware corporation, with its principal place of business located at c/o Key Mezzanine Capital, L.L.C., 127 Public Square, 28th Floor, Cleveland, Ohio 44114-1306 ("Assignee").

WHEREAS, Assignor and Assignee are parties to that certain Asset Purchase Agreement dated as of April 30, 2000, (the "Purchase Agreement"), pursuant to which Assignor has agreed to sell and Assignee has agreed to purchase substantially all of the assets, properties, rights and interests pertaining to the Business as defined in the Purchase Agreement;

WHEREAS, Assignor owns the entire right, title and interest in, to and under the United States trademark registrations identified and set forth on Schedule A, and the trademarks, service marks and applications for registration identified and set forth on Schedule B, and the foreign trademark registrations and applications for registrations identified and set forth on Schedule C (collectively, the "Marks"), and various trade names and domain names, identified and set forth on Schedules D and E, respectively, including variations thereof (collectively, the "Trade/Domain Names"), and the goodwill of the business associated therewith;

WHEREAS, Assignee wishes to acquire and Assignor wishes to assign all right, title and interest in and to the Marks and the Trade/Domain Names together with the goodwill of the business in connection with which the Marks and the Trade/Domain Names are used;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby sell, assign, transfer and set over to Assignee the entire right, title and interest in and to the Marks and the Trade/Domain Names and all registrations for such Marks and Trade/Domain Names together with the goodwill of the business in connection with which the Marks and the Trade/Domain Names are used; together with all income, royalties or payments due or payable as of the Effective Date or thereafter, including, without limitation, all claims for damages by reason of past, present or future infringement or other unauthorized use of the Marks and the Trade/Domain Names, all causes of action (in law or equity) and the right to sue for, and collect the same for Assignee's own use and enjoyment and for the use and enjoyment of its successors, assigns or other legal representatives.

Assignor hereby represents and warrants that its right, title and interest in and to the Marks and the Trade/Domain Names set forth in Schedules A, B, C, D and E are free and clear of any liens and encumbrances, that it has full right to assign all of its interests therein, and that it has not executed and will not execute any agreement or other instrument in conflict herewith.

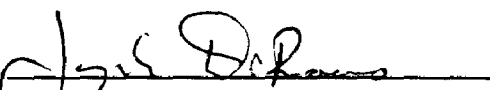
Assignor shall provide to Assignee, its successors, assigns or other legal representatives, cooperation and assistance at Assignee's request and expense (including, without limitation, the execution and delivery of any and all affidavits, declarations, oaths, samples, exhibits, specimens and other documentation as may be reasonably required): (1) in the preparation and prosecution of any application for registration or any application for renewal of a registration covering any of the Marks or the Trade/Domain Names; (2) in the prosecution or defense of any interference, opposition, infringement or other proceedings that may arise in connection with any of the Marks or the Trade/Domain Names, including, without limitation, testifying as to any facts

relating to the Marks and Trade/Domain Names assigned herein and this Assignment; (3) in obtaining any additional trademark protection for the Marks or any of the Trade/Domain Names that Assignee reasonably may deem appropriate that may be secured under the laws now or hereafter in effect in the United States or for all foreign countries; and (4) in the implementation or perfection of this Assignment.

This Assignment may be executed in counterparts, any one of which need not contain the signatures of more than one party, but all of which, taken together, constitute one and the same agreement.

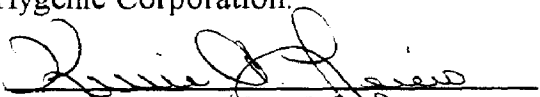
IN WITNESS WHEREOF, the undersigned have executed this instrument as of April 30, 2000.

THE HYGENIC CORPORATION

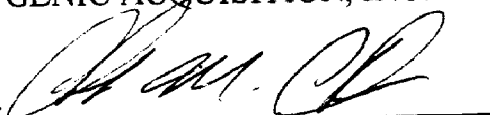
By:   
Name: Joseph DiRocco  
Title: Vice President of Finance

STATE OF OHIO )  
SS:  
COUNTY OF CUYAHOGA )

On this 30th day of April, 2000 personally appeared before me Joseph DiRocco, known to me to be Vice President of The Hygenic Corporation, who acknowledged that he/she signed this instrument as a free act on behalf of The Hygenic Corporation.


  
Notary Public: KERRIE A. LEWIS  
My commission expires: 9-18-03

HYGENIC ACQUISITION, INC.

By:   
Name: Charles M. Chaikin  
Title: Treasurer and Assistant Secretary

STATE OF OHIO )  
SS:  
COUNTY OF CUYAHOGA )

On this 30th day of April, 2000 personally appeared before me Charles M. Chaikin, known to me to be Treasurer and Assistant Secretary of Hygenic Acquisition, Inc., who acknowledged that he/she signed this instrument as a free act on behalf of Hygenic Acquisition, Inc.

  
Notary Public: KERRIE A. LEWIS  
My commission expires: 9-18-03

SCHEDULE CForeign Trademarks

<u>Mark</u>	<u>Country</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
DYNA-BAND (Class 10 & 28)	Austria	134,133	
H HYGENIC LOGO (Class 5 chemical products and artificial resins for dental purposes & 10 - Medical and dental instruments and apparatus; all remaining categories are dental)	Austria	160,822	
THERA-BAND (Class 10)	Austria	160,168	
THERA-BAND (Class 10)	Australia	A501926	
DYNA-BAND (Class 10)	Australia	A501925	
THERAROBICS (Classes 28, 41)	Australia	763150	
AQUAFINS (Classes 10, 28)	Australia	770960	
THERA-BAND (Class 28)	Australia	772043	
THERA-BAND (Class 10)	Brazil	816.666.180	
THERA-BAND (Class 5, 10)	Benelux	450,458	

H & HYGENIC logo (Class 5, 10 & 28 - dental and medical)	Benelux	501,502
DYNA-BAND (Class 10 & 28)	Benelux	483,254
DYNAROBICS (Class 16, 28, 41)	Benelux	563,537
HYGENIC H & DESIGN (Canada has no class system)	Canada	360,478
THERA-BAND (Canada has no class system)	Canada	461,454
THERA-BAND & DESIGN (Canada has no class system)	Canada	450,636
THERA-BAND (Class 10)	Switzerland	356,844
DYNA-BAND (Class 10 & 28)	Switzerland	384,212
H HYGENIC LOGO (Class 10)	Switzerland	430,090
THERAROBICS (Class 28,41)	Switzerland	455.894
THERA-BAND (Class 10)	Chile	390,492
THERA-BAND (Class 10)	Columbia	144,549
AQUAFINS (Class 10)	Columbia	216,809



AQUAFINS (Class 28)	Columbia	216,810
THERA-BAND (Class 28)	Columbia	217,536
THERA-BAND (Class 10)	Germany	1,178,481
H & HYGENIC logo (Class 5, 10 & 28 - dental and medical)	Germany	2,006,219
DYNA-BAND (Class 10 & 28)	Germany	1,178,451
H & HYGENIC logo (Class 5, 10 & 28- dental and medical)	Denmark	08/362-92
THERA-BAND (Class 10)	Denmark	08.919-93
DYNA-BAND (Class 10 & 28)	Denmark	00998-94
THERA-BAND (Class 10)	Spain	1,786,082
THE HYGENIC CORPORATION & DESIGN (Class 10- dental and rubber and plastic in the form of sheets and tubing for medical applications)	Spain	1,920,092
DYAN-BAND (Class 10)	Spain	1,585,250
DYNA-BAND (Class 28)	Spain	2,124,363

THERAROBICS (Classes 9, 28, 41)	CTM	000846071
AQUAFINS (Classes 9, 10,28)	CTM	0009128816
THERA-BAND (Classes 9, 10, 16, 28)	CTM	000920892
DYNA-BAND (Class 10 & 28)	Finland	119181
HYGENIC LOGO (Class 10- dental only)	Finland	200442
THERA-BAND (Class 10)	Finland	201034
THERA-BAND (Class 5)	France	1,467,991
H & HYGENIC logo (Class 10, 5, & 28 - dental and medical)	France	1,651,880
DYNA-BAND (Class 10 & 28)	France	1,610,223
THERA-BAND (Class 10)	U.K.	1,319,651
H & HYGENIC logo (Class 10- dental and rubber and plastic in the form of sheets and tubing for medical applications)	U.K.	1,453,018
DYNA-BAND (Class 9)	U.K.	1,454,823
DYNA-BAND (Class 10)	U.K.	1,419,170

DYNA-BAND (Class 28)	U.K.	1,419,171
H & HYGENIC logo (Class 5, 10 & 28- dental and rubber and plastic in the form of sheets and tubing for medical application)	Greece	103,904
THERA-BAND (Class 10)	Greece	116,382
DYNA-BAND (Class 10 & 28)	Greece	100,292
H & HYGENIC logo(Class 10 - dental and medical)	Ireland	143,241
THERA-BAND (Class 10)	Ireland	157,724
DYNA-BAND (Class 10 & 28)	Ireland	141,486
H & HYGENIC logo (Class 5,10 & 28-dental and medical)	Italy	00623157
THERA-BAND (Class 10)	Italy	00677912
DYNA-BAND (Class 10 &28)	Italy	587,979
THERA-BAND (Class 1)	Japan	2717467
DYNA-BAND (Class 28)	Japan	4113423

HYGENIC H & DESIGN (Class 5-dental)	Japan	4143278
HYGENIC H & DESIGN (Class 10-dental and medical)	Japan	4362388
HYGENIC H & DESIGN (Class 17-dental and medical)	Japan	4159679
THERA-BAND (Class 28)	Japan	4086677
THERA-BAND (Class 11) (Korean)	Korea	259028
AQUAFINS (Classes 10 & 28)	Korea	463,276
DYNA-BAND (Class 10 & 28)	Monoco	90.13441
DYNA-BAND (Class 10)	Malta	19,926
DYNA-BAND (Class 28)	Malta	19,927
THERA-BAND (Class 10)	Mexico	416,337
THERA-BAND (Class 28)	Mexico	593,559
DYNA-BAND (Class 10 & 28)	Norway	152,399
THERAROBICS (Classes 28,41)	Norway	193,241
AQUAFINS (Classes 10,28)	Norway	198,726

THERAROBICS (Class 28)	New Zealand	292,904
THERAROBICS (Class 41)	New Zealand	292,905
AQUAFINS (Class 10)	New Zealand	297,100
AQUAFINS (Class 28)	New Zealand	297,101
AQUAFINS (Class 10)	Peru	052773
AQUAFINS (Class 28)	Peru	052960
THERA-BAND (Class 44-based on old U.S. classification)	Puerto Rico	30,976
H & HYGENIC logo (Class 5- dental and rubber and plastic in the form of sheets and tubing for medical applications)	Portugal	273,052
H & HYGENIC logo (Class 10- dental only)	Portugal	273,053
THERA-BAND (Class 10)	Portugal	295,414
DYNA-BAND (Class 10)	Portugal	266,675
DYNA-BAND (Class 28)	Portugal	266,676
THERA-BAND (Class 10)	Saudi-Arabia	273/63

THERA-BAND (Class 28)	Saudi-Arabia	473/93
THERA-BAND (Class 10)	Sweden	227,877
DYNA-BAND (Class 10 & 28)	Sweden	231,723
HYGENIC & DESIGN (Class 10- rubber in the form of sheets and tubing for use in the medical, dental, industrial and exercise fields)	Singapore	4624/95
THERA-BAND (Class 10)	Thailand	TM256339
THERA-BAND (Class 28)	Thailand	374383

Foreign Trademark Applications

<u>Mark</u>	<u>Country</u>	<u>Serial No.</u>	<u>File Date</u>
AQUAFINS (Class 10)	Bolivia	85320-21	
AQUAFINS (Class 28)	Bolivia		
HYGENIC	Bolivia	817726250	
THERA-BAND (Class 5 - Products used specifically in dental treatment)	Brazil	815746806	
AQUAFINS (Class 12)	Brazil	821209787	11/13/98
AQUAFINS (Class 25)	Brazil	821209795	11/13/98
AQUAFINS (Class 28)	Brazil	821209809	11/13/98
THERA-BAND (Class 25)	Brazil	821221183	11/17/98
THERA-BAND (Class 28)	Brazil	821221191	11/17/98
THERAROBICS (Canada has no class system)	Canada	893,133	10/13/98
AQUAFINS (Canada has no class system)	Canada	1,015,327	5/11/99
AQUAFINS (Classes 10,28)	Switzerland	07650/1998	9/17/98
THERA-BAND (Class 10)	Switzerland	07649/1998	9/17/98

THERA-BAND (Class 28)	Chile	542,326	10/27/98
AQUAFINS (Class 10)	Ecuador	90611	9/2/98
AQUAFINS (Class 28)	Ecuador	90612	9/2/98
THERAROBICS (Classes 28,41)	Japan	10(1998) 48820	
THERA-BAND (Class 28)	Korea	99-227	
HYGENIC & DESIGN (Class 10- International rubber goods, dental and exercise fields)	Malaysia	95/04467	
AQUAFINS (Classes 10,28)	Philippines		
HYGENIC LOGO (Class 10- dental only)	Sweden	95-8257	
THERA-BAND (Class 10)	Venezuela	S/N 5.857-92	
AQUAFINS (Class 10)	Venezuela	023802	
AQUAFINS (Class 28)	Venezuela	023803	



SCHEDULE D

Trade Names

<u>Name</u>	<u>State</u>	<u>Reg. Number</u>
J&B Foam Fabrications	Ohio	RN240720

SCHEDULE E

Domain Names

HYTONEFASHION.COM

HYTONEFASHION.NET

HYSYNAL.COM

HYSYNAL.NET

THERA-BAND.COM

AQUAFINS.COM

HYGENIC.COM