



101596245

**RECORDATION FORM COVER SHEET
TRADEMARKS ONLY**

MRB
12-18-00

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
Effective Date: _____
- Merger
- Change of Name
- Other: _____

Conveying Party

Mark if additional names of conveying parties attached

Execution Date:

Name: Walnut Acres Organic Farms, LLC

October 24, 2000

Formerly: _____

- Individual General Partnership Limited Partnership Corporation Association
- Other: Limited Liability Company
- Citizenship / State of Incorporation / Organization: DE

Receiving Party

Mark if additional names of conveying parties attached

Name: Acirca, Inc.

DBA/AKA/TA: _____

Composed of: _____

Address (line 1): 4350 North Fairfax Drive

Address (line 2): Suite 350

Address (line 3): Arlington VA 22203
City State / Country Zip Code

- Individual General Partnership Limited Partnership If document is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached.
- Corporation Association
- Other: _____
- Citizenship / State of Incorporation / Organization: DE

FOR OFFICE USE ONLY

12/20/2000 DNGUYEN 00000050 012510 2238136

01 EC 481 40.00 CH
02 EC 482 75.00 CH

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

Domestic Representative (for the first Receiving Party Only)

Name: _____

Address (line 1): _____

Address (line 2): _____

Address (line 3): _____

Address (line 4): _____

Correspondent Name and Address (for the first Receiving Party Only)Name: Syreeta AndersonAddress (line 1): ARNOLD & PORTERAddress (line 2): 555 12th Street N.W.Address (line 3): Suite 1226.4Address (line 4): Washington, DC 20004-1206**Pages**Enter the total number of pages of the attached conveyance document including any attachments: 5**Trademark Application Number(s) or Registration Number(s)** Mark if additional numbers attachedEnter 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)**

2238136

1651143

0901110

0901418

Number of PropertiesEnter the total number of properties involved: 4**Fee Amount**Fee Amount for Properties Listed (37 C.F.R. 3.41) \$115.00Method of Payment Enclosed Deposit AccountDeposit Account Number: 01-2510Authorization 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.Sherrese Smith, Esq.

Name of Person Signing

Sherrese U. Smith

Signature

12-14-02

Date Signed

**ASSIGNMENT OF TRADEMARKS, COPYRIGHTS AND
OTHER INTELLECTUAL PROPERTY RIGHTS**

This Assignment of Trademarks, Copyrights and Other Intellectual Property Rights (this "**Assignment**") is made as of October 24, 2000 between Walnut Acres Organic Farms, LLC ("**Assignor**") and Acirca, Inc. ("**Assignee**").

RECITALS

A. Assignor and Assignee have entered into a Workout and Payment Agreement (the "**Workout Agreement**") with the Manufacturers and Traders Trust Company, d/b/a M&T Bank (the "**Bank**") and certain other parties thereto, dated as of October 24, 2000 pursuant to which, among other things, Assignee will assume the Bank Indebtedness (as defined in the Workout Agreement) owed by Assignor to the Bank.

B. The obligations of the Bank under the Workout Agreement are conditioned upon the Assignor's transfer of Intellectual Property Rights (as defined below) to Assignee pursuant to the terms hereof.

C. Assignor wishes to induce consummation of the transactions contemplated by the Workout Agreement. Assignor wishes to transfer and assign to Assignee on the terms hereof all right, title, or interest in or to the Marks or to any other of Assignor's Intellectual Property Rights.

NOW THEREFORE, in consideration of the mutual promises, representations, warranties, covenants and conditions set forth in this Assignment, the parties hereto further agree as follows:

AGREEMENTS

1. Assignment and Purchase.

1.1 Assignment. Assignor hereby irrevocably assigns, sells, grants and transfers to Assignee all right, title and interest in and to the Marks and in Assignor's Intellectual Property Rights. The foregoing is an outright assignment of all rights, and Assignor retains no interest whatsoever in the Marks or the Intellectual Property Rights.

1.2 Purchase Price. In consideration for the assignment of the Marks and Assignor's Intellectual Property Rights hereunder, at Closing, Assignee shall pay to Assignor the Purchase Price. "Purchase Price" means (i) Two Hundred and Fifty Thousand Dollars (\$250,000) by wire transfer of immediately available funds; (ii) Assignee's assumption of the Bank Indebtedness pursuant to the Workout Agreement; and (iii) forgiveness of any outstanding indebtedness owned by Assignor to Assignee as of the date hereof. "Closing" has the meaning attributed to such term under the Workout Agreement.

2. Definitions.

2.1 **Marks.** "Marks" means, collectively, (a) the name "Walnut Acres" (as a tradename, trade mark, service mark and otherwise), all variations thereof and all names, marks and logos that include such name, (b) all other marks listed on Schedule A attached hereto, (c) all other trademarks, tradenames, service marks, logos and other marks used to identify Assignor's products, services and business, (d) any other marks that are part of Assignor's Intellectual Property Rights, (e) all trademark applications and registrations with respect to any of the foregoing, and (f) all goodwill associated with or related to any of the foregoing.

2.2 **Intellectual Property Rights.** "Intellectual Property Rights" means, collectively, all of the following intangible legal rights, existing or applicable anywhere in the world, including those existing or acquired by ownership, license or other legal operation, whether or not filed, perfected, registered or recorded: (i) all patents, patent applications, patent disclosures and related patent rights, including any and all preliminary applications, continuations (in part or whole), divisions, reissues, reexaminations, renewals, substitutions or extensions thereof which have been filed by any person or entity of any nature ("Person") or are issued to any Person or are in preparation anywhere in the world (the "Patent Rights"); (ii) all copyrights, whether or not registered, including all registrations and applications therefor, and all creative works or other works of authorship, including computer programs (the "Copyright Rights"); (iii) all trademarks, trade names and service marks, whether or not registered, including all registrations and applications therefor (the "Trademark Rights"); (iv) all rights to inventions, trade secrets, confidential information, designs, drawings and know-how; (v) all rights to technology and other intellectual or industrial property and proprietary rights; (vi) all rights relating to the protection of the foregoing or premised upon any of the foregoing; and (vii) all rights to sue or make any claims for any past, present or future infringement, misappropriation or unauthorized use of any of the foregoing rights and the right to all income, damages and other payments that are now or may hereafter become due or payable with respect to any of the foregoing rights, including damages for past, present or future infringement, misappropriation or unauthorized use thereof.

2.3 **Assignor's Intellectual Property Rights.** "Assignor's Intellectual Property Rights" means, collectively, all Intellectual Property Rights owned, licensed or held by Assignor, which Assignor's Intellectual Property Rights are hereby represented to include all Intellectual Property Rights used in and material to Assignee's business.

3. **Representations.** Assignor hereby represents and warrants that the Marks and the Assignor's Intellectual Property Rights are owned by Assignor (and are hereby assigned and transferred to Assignee), in each case free and clear of any and all rights of any party (other than the Bank), including without limitation any claims for money, liens, claims and encumbrances (other than the Bank Indebtedness).

4. **Cooperation.** Assignor hereby agrees, for itself and for its successors and assigns, to cooperate and assist at Assignee's expense in the transfer of the Marks and Assignor's Intellectual Property Rights to Assignee and to execute without further consideration any further lawful

documents, including any further assurances or divisional, continuation, continuation-in-part, substitute, renewal, reissue or other applications or registrations for Patent Rights, Copyright Rights or Trademark Rights of any country that might be deemed necessary by Assignee fully to secure, establish, accrue, maintain, protect, register or defend Assignee's rights in and to the Marks and Assignor's Intellectual Property Rights, or any part thereof. Assignor shall cooperate in the transfer of the Marks and Assignor's Intellectual Property Rights to Assignee and shall assist Assignee in prosecuting any applications, claims or rights of any kind pertinent to the Marks and/or Assignor's Intellectual Property Rights as is necessary or advisable for Assignee to develop and maintain to the fullest extent possible its right and benefits flowing from its ownership of the Marks and Assignor's Intellectual Property Rights.

5. **Power of Attorney.** Assignor hereby constitutes and appoints Assignee the true and lawful attorney of the Assignor, with full Power of Substitution, to execute any assignments and applications or other documents required to fully assign of record the Marks and/or Assignor's Intellectual Property Rights to Assignee, to demand and receive from time to time any and all embodiments of the Marks and Assignor's Intellectual Property Rights and to give receipts and releases for and in respect of the same, and from time to time, to institute and prosecute in the name of Assignor or otherwise, but at the expense and for the benefit of Assignee, any and all proceedings at law, in equity or otherwise which Assignee may deem proper in order to collect, assert or enforce any claim, right or title of any kind in and to any of the Marks and/or Assignor's Intellectual Property Rights, and to defend or compromise any and all actions, suits or proceedings in respect to any of the Marks and/or Assignor's Intellectual Property Rights; and Assignor declares that the appointment made and the powers hereby granted are coupled with an interest and are and shall be irrevocable by Assignor for any reason.

6. **Use of Confusingly Similar Marks.** Assignor agrees not to adopt and use, without Assignee's written consent, which may be withheld in its sole discretion, any marks or names that are similar to the Marks.

7. **Governing Law, Forum.** This Agreement shall be governed in all respects, including as to validity, interpretation and effect, by the internal laws of the state of Delaware, without giving effect to the conflict of laws rules thereof. Each party hereto irrevocably submits to the jurisdiction of the courts of the state of Delaware located in Delaware and the Federal courts of the United States of America located in Delaware solely in respect of the interpretation and enforcement of the provisions of this Agreement, and hereby waives, and agrees not to assert, as a defense in any action, suit or proceeding for the interpretation or enforcement hereof, that such action, suit or proceeding may not be brought or is not maintainable in said courts or that the venue thereof may not be appropriate or that this Agreement may not be enforced in or by said courts, and the parties hereto irrevocably agree that all claims with respect to such action or proceeding shall be heard and determined in such a court, and that such courts shall be the exclusive forums for determining and resolving any claim or dispute concerning the interpretation and enforcement of the provisions of this Agreement.

8. Successors. This Assignment and the covenants and agreements herein contained shall inure to the benefit of Assignee and its successors and assigns, and shall be binding upon Assignor and its successors and assigns.

9. Counterparts. This Assignment may be executed in one or more counterparts, and by facsimile signatures.

10. Miscellaneous.

10.1 Amendments. No change, modification, amendment, addition to this Agreement or any part thereof shall be valid unless in writing and signed by or on behalf of the party to be charged therewith.

10.2 Entire Agreement. This Agreement and the relevant provisions of the Contribution Agreement constitute the entire agreement between the parties and supersedes all prior understandings and agreements regarding the subject matter hereof. Each of the parties acknowledges and agrees that the other parties have not made and are not making, and in executing this Agreement no party has relied upon, any representations, promises or inducements except to the extent that the same are expressly set forth in this Agreement.

10.3 Severability. If any clause, paragraph, section or part of this Agreement shall be held or declared to be void, invalid or illegal for any reason by any court of competent jurisdiction such provision shall be ineffective but shall not in any way invalidate or effect any other clause, paragraph, section or part of this Agreement.

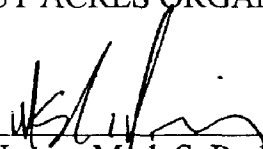
Signature Pages Follow

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the date and year first above written.

“ASSIGNOR”

WALNUT ACRES ORGANIC FARMS, LLC.

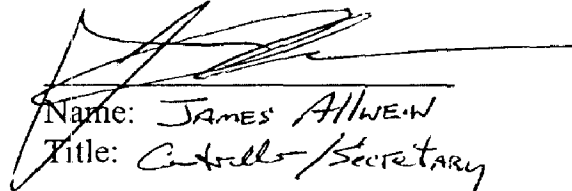
By:


Name: Mark S. Rodriguez
Title: Chief Executive Officer

“ASSIGNEE”

ACIRCA, INC.

By:


Name: JAMES ALWEIN
Title: Controller/Secretary