

03-02-2001

FORM PTO-1618A  
Expires 06/30/99  
OMB 0651-0027



U.S. Department of Commerce  
Patent and Trademark Office  
**TRADEMARK**

101624672

2.9.01

### RECORDATION FORM COVER SHEET 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  Nunc Pro Tunc Assignment
  - Merger
  - Change of Name
  - Other \_\_\_\_\_
- Effective Date  
Month Day Year  
01262001

#### Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year  
01312001

Name Top Star Distribution Group Inc.

Formerly \_\_\_\_\_

- Individual  General Partnership  Limited Partnership  Corporation  Association
- Other \_\_\_\_\_
- Citizenship/State of Incorporation/Organization Ontario Canada

#### Receiving Party

Mark if additional names of receiving parties attached

Name Kusha Inc.

DBA/AKA/TA \_\_\_\_\_

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

Address (line 1) 17352 Murphy Ave

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

Address (line 3) Irvine

California USA

92614 3 PM

- Individual  General Partnership  Limited Partnership  Association
- 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 California

03/01/2001 6T0N11 00000144 75585255

FOR OFFICE USE ONLY

01 FC:481 40.00 OP  
02 FC:482 100.00 OP

RECEIVED  
2001 FEB -9 PM 3  
ASSIGNMENT SECTION  
DIVISION

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: 002242 FRAME: 0755

**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 Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

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

#

**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)

<input type="text" value="75585255"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="2342491"/>	<input type="text" value="2315825"/>	<input type="text"/>
<input type="text" value="2344643"/>	<input type="text"/>	<input type="text"/>
<input type="text" value="2156123"/>	<input type="text"/>	<input type="text"/>

**Number of Properties**

Enter the total number of properties involved.

#

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$

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.

Lorrie Turner-Proulx, Esq.

Name of Person Signing

Signature

February 8, 2001

Date Signed

*Filed: U.S.D.C., W.D.N.Y., Buffalo  
January 31, 2001 at 5:30 p.m.  
John P. Elfi, S.U.S.J.*

KUSHA, INC.

Plaintiff,

v.

Civil No. 98-CV-0747E(Sc)

REX INTERNATIONAL LTD., ARASH M.  
MISSAGHI, TOP STAR DISTRIBUTION  
GROUP INC., HOSSEIN MISSAGHI,  
IMPERIAL RICE LTD., CATA BRANDS INC.  
AND ROBERT BISHARA

Defendants.

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**ORDER & TRADEMARK ASSIGNMENT**

This matter came before this Court on the motion of plaintiff, Kusha, Inc. ("Kusha"), filed October 11, 2001, requesting that this Court issue an Order: (1) placing a lien against four United States Trademark Registrations and one United States Application that were and continue to be owned by the defendant Top Star Distribution Group Inc. ("Top Star"); (2) placing a monetary value on those marks; and (3) assigning the four Trademark Registrations and the one Trademark Application to Kusha in partial satisfaction of the Judgment entered by this Court on January 31, 2000 against Top Star and in favor of Kusha in the amount of \$1,000,000.

In a January 27, 2000 Order, this Court found all of the defendants, including, Rex International Ltd., Top Star, Hossein Missaghi, and Arash Missaghi liable for trademark infringement, trademark counterfeiting, and fraud. The January 27, 2000 Order imposed a

constructive trust on the defendants' assets, ordered the defendants to pay Kusha \$1,000,000 in damages, plus costs and attorneys' fees, and ruled that the defendants shall be liable on the award jointly and severally. That Order was entered as a Judgment on January 31, 2000.

Now, based upon: (1) the Declaration of Lorrie Turner-Proulx, the Declaration of Sivoush Nayyeri, and Kusha's Memorandum of Law, all submitted on October 11, 2001 in support of Kusha's Motion to Obtain a Lien Against and Assignment of Top Star's U.S. Trademarks; (2) all the files, pleadings and records in this action; (3) the arguments of Kusha's counsel, Hodgson Russ LLP (Paul I. Perlman, Esq. and Lorrie Turner-Proulx, Esq.) appearing before this Court on October 27, 2000, January 19, 2001 and January 26, 2001 in support of Kusha's motion; (4) the arguments of Joseph Welter of Kavinoky and Cook, LLP, who appeared on behalf of Top Star, Arash Missaghi and Hossein Missaghi on October 27, 2000; (5) Top Star's failure to submit papers opposing Kusha's motion and its failure to appear on January 19 and January 26 to oppose Kusha's motion; and (6) non-party Rex Inc.'s failure to intervene; and having found that all the defendants were properly served with the January 27, 2000 Order and the January 31, 2000 Judgment and found that Top Star is the owner of U.S. Trademark Registrations Numbered 2,342,491, 2,344,643, 2,156,123, and 2,315,825, for the marks TOP TEA, MAHRAM, 1 & 1, and TRUST BASMATI RICE PRODUCT OF INDIA, respectively, and is the owner of U.S. Trademark Application Serial Number 75/585,255 for the mark 1 &1, and that Kusha is entitled to the relief it seeks, it is hereby

**ORDERED** that as of January 26, 2001, Kusha obtained a lien against Top Star's United States Trademark Registrations Numbered 2,342,491, 2,344,643, 2,156,123, and 2,315,825 for the marks TOP TEA, MAHRAM, 1 & 1, and TRUST BASMATI RICE PRODUCE OF INDIA, respectively, and a lien against Top Star's United States Trademark Application Serial Number 75/585,255 for the mark 1&1, and Kusha obtained priority against other creditors as to those marks, and such priority attached and became effective as of January 26, 2001; and it is hereby further

**ORDERED**, that in partial satisfaction of the Judgment entered by this Court in favor of Kusha, and against Top Star, a corporation incorporated in the Province of Ontario, in Canada, with addresses at 348 Rexdale Boulevard, Etobioke, Ontario, M9W 1R6, and 19 Killarney Street, Richmond Hill, Ontario L4B 3G4, all rights, title and interest in and to Top Star's United States interest in the marks TOP TEA, MAHRAM, 1 & 1, and TRUST BASMATI RICE PRODUCE OF INDIAN, including all rights, title and interest in and to United States Trademark Registrations Numbered 2,342,491, 2,344,643, 2,156,123, and 2,315,825 for the marks TOP TEA, MAHRAM, 1 & 1, and TRUST BASMATI RICE PRODUCE OF INDIA, respectively, and Top Star's United States Trademark Application Serial Number 75/585,255 for the mark 1&1, (hereinafter, the "Marks"), along with the goodwill associated with and symbolized by each of those marks, is hereby assigned to Kusha, free and clear of any encumbrances; and it is hereby further

**ORDERED**, that the Commissioner of United States Patents and Trademarks record this Order in the official records of the United States Patent and Trademark Office in accordance with the provisions of 15 U.S.C. § 1060 thereby officially assigning the Marks to Kusha even though prior assignments may be on record with the Office, and even though no assignment instruments have been executed by Top Star; and it is hereby further

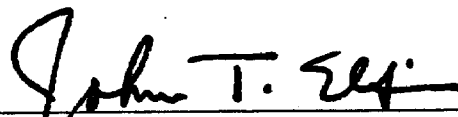
**ORDERED**, that for the purposes of the assignments of the Top Star Marks to Kusha as set forth in this Order, the total value of the Top Star Marks is \$10,000, with the mark TOP TEA and its associated goodwill valued at \$5,000, the mark MAHRAM and its associated goodwill valued at \$1,000, the mark 1&1 and its associated goodwill valued at \$3,000, and the mark TRUST BASMATI RICE PRODUCE OF INDIA and its associated goodwill valued at \$1,000; and it is hereby further

**ORDERED**, that upon the filing of this Order, Kusha's Judgment against Top Star will be partially satisfied in the amount of \$10,000; and it is hereby further

**ORDERED**, that Kusha shall serve this Order by no later than February 7, 2001 by Federal Express upon Top Star at 348 Rexdale Boulevard, Etobioke, Ontario, M9W 1R6, and at 19 Killarney Street, Richmond Hill, Ontario L4B 3G4, and that such service shall be deemed sufficient; and it is hereby further

**ORDERED**, that as of the date of this Order, Top Star and all of agents, officers, and directors of Top Star, shall discontinue using, selling and shipping in the United States, either directly or indirectly through Top Star or any other Missaghi family company, products set forth in the United States Trademark Registrations Numbered 2,342,491, 2,344,643, 2,156,123, 2,315,825 and in United States Application Serial Number 75/585,255, bearing the marks TOP TEA, MAHRAM, 1&1, and/or TRUST BASMATI RICE PRODUCE OF INDIA or any confusingly similar marks.

Dated: January 31, 2001  
Buffalo, New York



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Hon John T. Elfvin, S.U.S.D.J.

BFLODOCS:430327\_2 (981J01)

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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Kusha, Inc.

Plaintiff(s)

v.

1:98-cv-00747

Top Star

Defendant(s)

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PLEASE take notice of the entry of an ORDER filed on  
1/31/01, of which the within is a copy, and entered 2/6/01  
upon the official docket in this case. (Document No. 88 .)

Dated: Buffalo, New York  
February 6, 2001

RODNEY C. EARLY, Clerk  
U.S. District Court  
Western District of New York  
304 U.S. Courthouse  
68 Court Street  
Buffalo, New York 14202

Enclosure

TO:

Paul I. Perlman, Esq.  
Rex International  
Lorrie K. Turner-Proulx, Esq.