

01-09-2003



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Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005)

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

Tab settings

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

1. Name of conveying party(ies): Distribution America, Inc. 1-7-03
Individual(s) Association
General Partnership Limited Partnership
Corporation-State Delaware
Other
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)
Name: Watkins Pet Supplies, Inc.
Internal Address:
Street Address: P.O. Box 427
City: Oxford State: MI Zip: 48371
Individual(s) citizenship
Association
General Partnership
Limited Partnership
Corporation-State Michigan
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 Merger
Security Agreement Change of Name
Other
Execution Date: 11/20/2002

4. Application number(s) or registration number(s):
A. Trademark Application No.(s)
B. Trademark Registration No.(s) 2211236
Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Ronald R. Kilponen, Esq.
Internal Address:
Street Address: P.O. Box 1132
City: Novi State: MI Zip: 48376

6. Total number of applications and registrations involved: 5
7. Total fee (37 CFR 3.41): \$ 40.00
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

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.
Ronald R. Kilponen
Name of Person Signing Signature Date 1/02/03

Total number of pages including cover sheet, attachments, and document: 7

01/08/2003 BYRNE 00000222 2211236

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

TRADEMARK REEL: 2644 FRAME: 0878

2. Name and address of receiving party(ies): **(continued)**

Name: KPS Distributors Inc.

Street Address: 13919 Adamson Road

City: Huntley

State: IL. Zip: 60142

Corporation State of Illinois

**Certification Under 37 CFR 1.8**

I hereby certify that this correspondence and any correspondence referred to herein is 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, Washington, D.C. 20231 on this date 1/02/03.

  
Signature

Ronald R. Kilpönen  
Printed Full Name

## Trademark Purchase Agreement

**THIS AGREEMENT**, made and effective this 20 day of Nov. 2002 by and between Watkins Pet Supplies, Inc. Stanley A. Watkins, President having a principal place of business at 815 N. Lapeer Road, P.O. Box 427 Oxford, MI. 48371 and KPS Distributors Inc., DBA Kearns Pet Supplies, James A. Kearns, President having a principal place of business at 13919 Adamson Road, Huntley, IL. 60142 as joint owners ("Buyer"), and Distribution America, Inc. DBA Distribution America Pet Group, Inc. a Delaware Corporation, William Axline, president having a principal place of business at 2700 River Road, Suite 310, Des Plaines, IL. 60018 ("Seller").

**WHEREAS**, Seller adopted, owns and has used the Mark "PET EXCELLENCE" in special form in connection with the marketing and sale of the goods and/or services set forth in Appendix A attached hereto ("the Mark");

**WHEREAS**, Buyer wishes to acquire Seller's rights to the Mark and the goodwill of Seller's business symbolized thereby and associated therewith; and

**WHEREAS**, Seller is willing to assign to Buyer its rights in and to the Mark, along with the goodwill of Seller's business symbolized thereby and associated therewith on the terms and conditions hereinafter provided;

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

(1) Upon or promptly after execution of this Agreement by both parties, Seller shall deliver to Buyer:

(a) an executed Trademark Assignment, in the form attached hereto as Appendix B, assigning to Buyer Seller's entire right, title, and interest in and to the Mark along with the goodwill of the business symbolized by the Mark, along with any application for or registration of the Mark.

(2) Upon execution of this Agreement by both parties, Buyer shall deliver to Seller the sum US\$1.00 in full payment and consideration for this assignment and Seller's other deliveries and undertakings as herein provided.

(3) Seller hereby warrants as follows:

(a) Seller is the owner of the Mark as applied to the goods and services listed in Appendix A and has the right to enter into this Agreement and the attached assignment; Seller does not know of any prior use of the Mark or any third party claim of any prior use of the Mark or any confusingly similar mark on or in connection with the same or similar goods or services; and there are no challenges to Seller's ownership of the Mark or its right to assign the Mark and the associated goodwill to Buyer;

(b) Seller has not abandoned use of the Mark, and, directly or through its predecessor in interest or licensee(s), Seller has continuously used the Mark since its adoption in connection with the goods and services listed in Appendix A in interstate and/or commerce from a foreign country or, as indicated in Appendix A, in intrastate commerce;

(c) Mark the applicable statement(s):

Seller has not applied for and owns no registration of the Mark;

Seller has applied for registration of the Mark on the Principal Register in the United States Patent and Trademark Office for the goods and/or services substantially as set forth in Appendix A, Application Serial No. \_\_\_\_\_, filed on \_\_\_\_\_.

Seller owns a Registration for the Mark on the

Principal

Supplemental

Register in the United States Patent and Trademark Office for the goods and/or services substantially as set forth in Appendix A, Registration No. **2211236**.

(d) Seller has not registered and has no pending application for registration of the Mark in any other country or state.

(4) Buyer and Seller agree to the following:

Seller will cease all use of the Mark within 21 days of the execution of this Agreement;

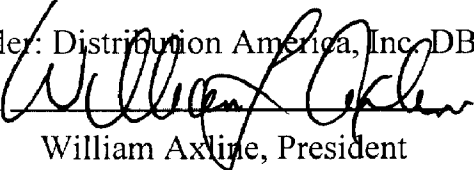
Buyer agrees to grant to Seller a license permitting Seller to use the Mark on or in connection with the goods and/or services identified in such license in the manner and for the time therein specified in the form attached hereto as Appendix C.

(5) Except with the prior written authorization of Buyer, Seller shall not adopt or use any mark or name which is the same or confusingly similar to the Mark, or which tends to dilute the Marks distinctiveness.

(6) This Agreement represents the entire agreement of the parties, shall be governed by the laws of the state of Michigan, and shall be binding upon the parties, their successors and assigns.

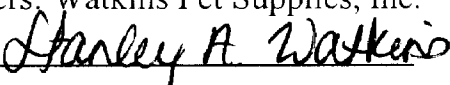
**IN WITNESS WHEREOF**, the parties hereto have caused this instrument to be executed, in duplicate counterparts, by their duly authorized representatives as of the day and year first above written.

Seller: Distribution America, Inc. DBA Distribution America Pet Group, Inc.

By:   
William Axline, President

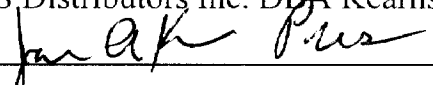
Date: 11-20-2002

Buyers: Watkins Pet Supplies, Inc. and

By:   
Stanley A. Watkins, President

Date: 12-16-02

KPS Distributors Inc. DBA Kearns Pet Supplies

By:   
James A. Kearns, President

Date: 11-26-02

## **Appendix A**

### **Goods and/or Services Offered and Sold Under the Mark**

Description of Services: Business consulting services to independent pet supply retailers concerning effective advertising and product marketing.

International Class: 035

Registration No.: 2211236

**Appendix B**  
**Trademark Assignment**

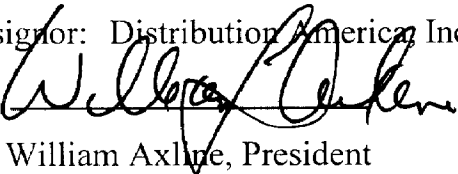
Whereas Distribution America, Inc. DBA Distribution America Pet Group, Inc. a Delaware Corporation (Assignor) of 2700 River Road, Suite 310, Des Plaines, IL. 60018, has adopted , used and is using a mark which is registered in the United States Patent and Trademark Office, Registration No. 2211236 issued December 15, 1998; and

Whereas, Watkins Pet Supplies Inc., Stanley Watkins, President having a principal place of business at 815 N. Lapeer Road, P.O. Box 427 Oxford, MI. 48371 and KPS Distributors Inc., DBA Kearns Pet Supplies, James A. Kearns, President having a principal place of business at 13919 Adamson Road, Huntley, IL. 60142 as joint owners (Assignee), are desirous of acquiring said mark and the registration thereof;

Now, therefore, for good and valuable consideration, receipt of which is hereby acknowledged, said Assignor does hereby assign unto the said Assignee all right, title and interest in and to the said mark, together with the good will of the business symbolized by the mark, and the above identified registration thereof

The assignor acknowledges that the assignee is the exclusive owner of the mark and the goodwill it represents and agrees to refrain from using any confusingly similar mark on similar services in the future.

Assignor: ~~Distribution America, Inc. DBA Distribution America Pet Group, Inc.~~

By:   
William Axline, President

Date: 11-20-2002

State of: \_\_\_\_\_  
County of: \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_ 2002, before me appeared (assignor) \_\_\_\_\_, the person who signed this instrument, who acknowledged that he/she signed it as a free act on his/her own behalf.

Signed: \_\_\_\_\_  
My commission expires: