

04-04-2003



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

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

102409526

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

1. Name of conveying party(ies): NUTRACEUTICAL CORPORATION

4-1-03

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

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: 03/21/2003

2. Name and address of receiving party(ies)

Name: FUNFRESH FOODS, INC.

Internal Address:

Address:

Street Address: 1500 KEARNS BLVD, STE B-200

City: PARK CITY State: UT Zip: 84060

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

OFFICE OF PUBLIC RECORDS 2003 APR -1 PM 2:38 FINANCE SECTION

4. Application number(s) or registration number(s):

A. Trademark Application No.(s) 78/124,693

B. Trademark Registration No.(s)

Additional number(s) attached Yes No

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

Name: STANLEY E. SOPER

Internal Address:

Street Address: 1500 KEARNS BLVD, SUITE B-200

City: PARK CITY State: UT Zip: 84060

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

ALISON PITT

Name of Person Signing

Signature

03/31/2003

Date

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

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

04/04/2003 6TON1 00000075 78124693

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40.00 DP

TRADEMARK REEL: 002705 FRAME: 0424

TRADEMARK ASSIGNMENT

THIS TRADEMARK ASSIGNMENT (the "Assignment") is made and entered into as of this 21ST day of March, 2003 (the "Effective Date"), by and between NUTRACEUTICAL CORPORATION, a Delaware corporation, with its principal office located at 1400 Kearns Boulevard, 2nd Floor, Park City, Utah 84060 ("Assignor"), and FUNFRESH FOODS, INC., a Delaware corporation, with its principal place of business located at 1500 Kearns Boulevard, B-200, Park City, Utah 84060 ("Assignee").

Assignor is the sole and exclusive owner of the entire right, title and interest in, to and under the United States trademark registration listed on Schedule "A" (the "Mark").

Assignee wishes to acquire and Assignor wishes to assign all right, title and interest in and to the Mark.

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 Mark, and all registrations in the United States, including any renewals and extensions of the registrations that are now or may be secured under the laws of the United States, now or hereafter in effect, for Assignee's own use and enjoyment, and for the use and enjoyment of Assignee's successors, assigns or other legal representatives, as fully and entirely as the same would have been held and enjoyed by the Assignor if this Assignment had not been made; together with all income, royalties or payments due or payable as of the Effective Date of thereafter, including, without limitation, all claims for damages by reason of past, present or future, infringement or other unauthorized use of the Mark, with 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 requests the Commissioner of Patents and Trademarks to record Assignee as the assignee and owner thereof.

Assignor's right, title and interest is transferred subject to any liens and encumbrances of record. Assignor represents and warrants 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.

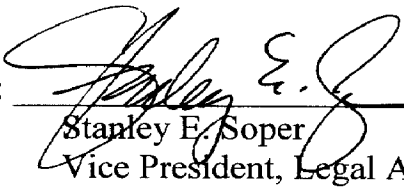
Assignor shall provide to assignee, its successors, assigns or other legal representatives, cooperation and assistance at Assignee's request (including the execution and delivery of any and all affidavits, declarations, oaths, samples, exhibits, specimens and other documentation as may be reasonably required): (I) in the preparation and prosecution of application for registration or any application for renewal of a registration covering the Mark; (II) in the prosecution or defense of any interference, opposition, infringement, or other proceedings that may arise in connection with the Mark, including, but not limited to, testifying as to any facts relating to the Mark assigned herein and this

Assignment; (III) in obtaining any additional trademark protection for the Mark 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 (IV) in the implementation or perfection of this Assignment.

IN TESTIMONY WHEREOF, the Assignor and Assignee have caused this Assignment to be signed and executed by the undersigned officers thereunto duly authorized this 21st day of March, 2003.

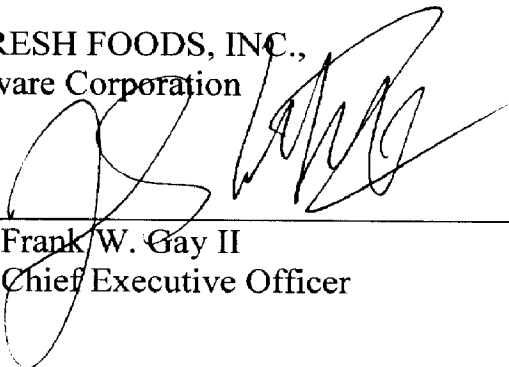
ASSIGNOR:

NUTRACEUTICAL CORPORATION,
a Delaware corporation

By: 
Stanley E. Soper
Vice President, Legal Affairs

ASSIGNEE:

FUNFRESH FOODS, INC.,
a Delaware Corporation

By: 
Frank W. Gay II
Chief Executive Officer

STATE OF UTAH)
 :
COUNTY OF SALT LAKE)

SS.

On the 21st day of March, 2003, before me, the undersigned Notary, personally appeared STANLEY E. SOPER, who proved to me his identity through documentary evidence to be the person whose name is signed on the foregoing document, and who being by me duly sworn, did say that he is the Vice President, Legal Affairs of NUTRACEUTICAL CORPORATION, a Delaware corporation, and that said instrument was signed on behalf of said corporation by authority of its bylaws, and said STANLEY E. SOPER acknowledged to me that said corporation executed the same voluntarily for its stated purpose.



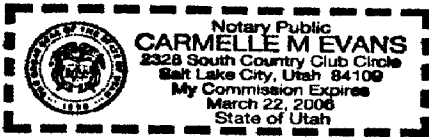

NOTARY PUBLIC
Residing at Salt Lake County, Utah

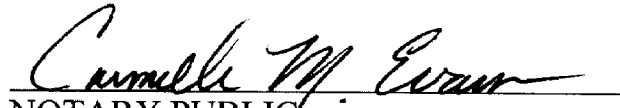
My Commission Expires:

STATE OF UTAH)
 :
COUNTY OF SALT LAKE)

SS.

On the 21st day of March, 2003, before me, the undersigned Notary, personally appeared FRANK W. GAY II, who proved to me his identity through documentary evidence to be the person whose name is signed on the foregoing document, and who being by me duly sworn, did say that he is the Chief Executive Officer of FUNFRESH FOODS, INC., a Delaware corporation, and that said instrument was signed on behalf of said corporation by authority of its bylaws, and said FRANK W. GAY II acknowledged to me that said corporation executed the same voluntarily for its stated purpose.




NOTARY PUBLIC
Residing at Salt Lake County, Utah

My Commission Expires:

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2003-03-21 11:56:33 ET

Serial Number: 78124693

Registration Number: (NOT AVAILABLE)

Mark (words only): FUNFRESH FOODS

Current Status: A non-final action has been mailed. This is a letter from the examining attorney requesting additional information and/or making an initial refusal. However, no final determination as to the registrability of the mark has been made.

Date of Status: 2002-09-05

Filing Date: 2002-04-29

Registration Date: (DATE NOT AVAILABLE)

Law Office Assigned: TMO Law Office 110

Attorney Assigned:
HARDY LUDLOW TARAH KIM Employee Location

Current Location: M10 -TMO Law Office 110

Date In Location: 2003-01-10

CURRENT APPLICANT(S)/OWNER(S)

1. Nutraceutical Corporation

Address:

Nutraceutical Corporation
1400 Kearns Boulevard, 2nd Floor
Park City, UT 84060
United States

State or Country of Incorporation: Delaware

Legal Entity Type: Corporation

GOODS AND/OR SERVICES

nutritional supplements; herbal supplements; mineral supplements; vitamins; vitamin supplements; nutritional drink mix for use as a meal supplement; nutritional food bars; nutritional meal powders; dietary foods supplements; baby food.

International Class: 005

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

Basis: 1(b)

veggie burgers; packaged bulk foods; bulk dried fruit; bulk nuts; marinated vegetables; freeze dried vegetables; dried fruit and vegetable chips; olive oil; milk; eggs; applesauce; butter; canned vegetables; potato chips; cream cheese; vegetable spreads; fruit preserves; tuna fish; marmalade; processed fruit; dried fruit; preserved fruit; cooked fruit; dried vegetables; cooked vegetables; preserved vegetables; prunes; raisins; roasted nuts; raw nuts; corn sticks; rice snacks; sesame sticks; potato sticks; spinach sticks; onion sticks; vegetable sticks; trail mix; dates; soy beans; soy products; soy drinks; dried soy drink mixes; dried soybeans; soy chips; soy nuts; rice-based food beverages and products; yogurt; frozen boxed dinners consisting primarily of meat, fish, poultry or vegetables; frozen fruit; frozen vegetables; soy based milk beverage used as a milk substitute; cheese; peanut butter; processed olives; soups; frozen French friend potatoes; cooking spray; fruit based spreads; canned fruits; processed beans; processed dates; currents; lentils; muesli; processed kelp; figs; powdered milk; vegetable protein; processed edible seeds; hummus; cut fresh vegetables; butter; canned tomatoes; canned tomato pasted; tomato sauce; processed edible beans and seeds; millet; barley; quinoa; amaranth; arrowroot powder; wheat berries; rye berries; alfalfa seed; flax seed; poppy seed; edamame; baba ghannouj; meat; fish; poultry; meat extracts; jellies; jams; fruit sauces; edible oils and fats.

International Class: 029**First Use Date: (DATE NOT AVAILABLE)****First Use in Commerce Date: (DATE NOT AVAILABLE)****Basis: 1(b)**

organic foods; processed cereals; processed grains; cereal-based food bar and snack foods; rice-based food bars and snack foods; wheat-based food bars and snack foods; grain-based food bars and snack foods; granola-based food bars and snack foods; pasta sauce; salsa; tortilla chips; pizzas; bulk candy; pretzels; mayonnaise; coffee beans; cookies; waffles; maple syrup; ketchup; corn and flour tortillas; pasta; bread; focaccia bread; chocolate; pies; iced tea; popcorn; corn snacks; buns; mustard; coffee; tea; cocoa; barbecue sauce; pesto sauce; macaroni; fructose; wheat germ; crackers; spices; granola; sugar; rice; breadcrumbs; flour; mixes for making bakery goods; processed herbs for cooking; frozen pasta; cookie dough; frozen yogurt; ice cream; frozen boxed dinners consisting primarily of pasta or rice; honey; vinegar; salt.

International Class: 030**First Use Date: (DATE NOT AVAILABLE)****First Use in Commerce Date: (DATE NOT AVAILABLE)****Basis: 1(b)**

fresh fruits and vegetables; unprocessed cereals; unprocessed herbs; unprocessed beans; unprocessed rice; unprocessed grains for eating; pet food.

International Class: 031**First Use Date: (DATE NOT AVAILABLE)****First Use in Commerce Date: (DATE NOT AVAILABLE)****Basis: 1(b)**

mineral and aerated water; drinking water; fruit juice; vegetable juice; fruit drinks; vegetable drinks; apple juice; orange juice; cranberry juice; grapefruit juice; fruit juice concentrates; vegetable juice concentrates; carbonated soft drinks; non-carbonated soft drinks; fruit flavored soft drinks; sport drinks; preparations for making beverages.

International Class: 032

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

Basis: 1(b)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2003-02-27 - TEAS Response to Office Action Received

2002-09-05 - Non-final action mailed

2002-09-03 - Case file assigned to examining attorney

CONTACT INFORMATION

Correspondent (Owner)

Stanley E. Soper (Attorney of record)

STANLEY E. SOPER
NUTRACEUTICAL CORPORATION
1400 KEARNS BOULEVARD,
2ND FLOOR
PARK CITY UT 84060
United States

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark : FUNFRESH FOODS
Serial No. : 78/124,693
Classes : 05, 29, 30, 31, and 32
Applicant : FUNFRESH FOODS, INC.
a Delaware corporation
Address : 1500 Kearns Blvd., Suite B-200
Park City, UT 84060

CERTIFICATE OF MAILING BY EXPRESS MAIL

Commissioner for Trademarks
Box Assignments
Washington, D.C. 20231


Dear Sir or Madam:

Enclosed please find the following:

1. Recordation Form Cover Sheet for above application,
2. Trademark Assignment dated March 21, 2003 with attachments,
3. Check #76953 in the amount of \$40.00, and
4. Return card. Please date stamp and return.

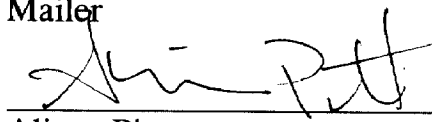
The undersigned hereby certifies that the attached Recordation Form Cover Sheet, Trademark Assignment with attachments, check in the amount of \$40.00, and return card, relating to the above application, were deposited as "Express Mail", Mailing Label No. EU189410205US, with the United States Postal Service, addressed to Commissioner for Trademarks, Box Assignments, Washington, D.C. 20231 on March 31, 2003.

Date: March 31, 2003



Mailer

Date: March 31, 2003



Alison Pitt
Assistant Vice President, Legal Affairs