

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

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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

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

1. Name of conveying party(ies):

Optim Nutrition, Inc.

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

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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other Nunc Pro Tunc effective 01/24/2000
- Merger
- Change of Name

Execution Date: 01/24/2000

2. Name and address of receiving party(ies)

Name: ICN Pharmaceuticals, Inc.

Internal Address: Legal Dept.

Street Address: 3300 Hyland Ave.

City: Costa Mesa State: CA Zip: 92626

- 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 registration number(s):

A. Trademark Application No.(s) _____

B. Trademark Registration No.(s) 2059098

Additional number(s) attached Yes No

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

Name: Matt Marshall

Internal Address: Legal Dept.

Street Address: 3300 Hyland Ave.

City: Costa Mesa State: CA Zip: 92626

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 3.41).....\$ _____

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:


If necessary please charge #0900015

DO NOT USE THIS SPACE

9. Signature.

Matthew Marshall

Name of Person Signing



Signature

11/6/2003

Date

9

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

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

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

11/05/2003
900002877

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	NUNC PRO TUNC ASSIGNMENT

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Optim Nutrition, Inc.		01/24/2000	CORPORATION:

RECEIVING PARTY DATA

Name:	ICN Pharmaceuticals, Inc.
Street Address:	3300 Hyland Ave.
Internal Address:	Legal Dept.
City:	Costa Mesa
State/Country:	CALIFORNIA
Postal Code:	92626
Entity Type:	CORPORATION:

PROPERTY NUMBERS Total: 1

Property Type	Number	Word Mark
Registration Number:	2059098	NITEBITE

CORRESPONDENCE DATA

Fax Number: (714)641-7274
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
Phone: 714-545-0100 ex 3187
Email: mhmarshall@icnpharm.com
Correspondent Name: Matt Marshall
Address Line 1: 3300 Hyland Ave.
Address Line 4: Costa Mesa, CALIFORNIA 92626

ATTORNEY DOCKET NUMBER:	2428US
NAME OF SUBMITTER:	Matt Marshall

Total Attachments: 8
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ASSET PURCHASE AGREEMENT

THIS AGREEMENT, (the Asset Purchase Agreement, together with all exhibits, schedules and other documents attached hereto, hereinafter referred to as the "Agreement") is made by and between Optim Nutrition, Inc., a Utah Corporation (the "Seller") and ICN Pharmaceuticals, Inc., a Delaware corporation (the "Purchaser"), on this 24th day of January, 2000.

WITNESSETH

WHEREAS, Seller desires to sell to the Purchaser, and the Purchaser desires to purchase from the Seller, certain of the assets, properties and rights associated with Seller's product sold under the trademark "NiteBite" (the "Product"), including Seller's licenses and rights to the "Timed-release Glucose Bar" trademark.

NOW THEREFORE, for and in consideration of the premises, mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, and intending to be legally bound, the parties agree as follows:

ARTICLE 1

Assets, Liabilities and Purchase Price

1.01 Purchase and Sale of Assets. Subject to the terms and conditions of this Agreement, the Seller hereby sells, transfers, conveys, assigns and delivers ("Transfer") to the Purchaser, and the Purchaser hereby purchases, acquires and accepts from the Seller, all of the Seller's rights, titles, interests, properties, assets, and contracts of every kind, character and description, whether tangible or intangible, and wherever located, owned by the Seller and necessary for the manufacture and commercial sale of the Product (hereinafter collectively referred to as the "Transferred Assets") free and clear of all Liens (as defined in Section 3.07) including without limitation:

- (a) all inventories of the Product, including, without limitation, all work in process and finished goods (collectively, the "Inventories"), a summary of which is set forth on Schedule 1.01(a);
- (b) all packaging materials, shipping materials, supplies and printed materials relating to the Product;
- (c) all of the following which shall be specifically set forth on Schedule 1.01(c): (1) United States and foreign patents relating to the Product and all applications therefor, (including without limitation U.S. Pat. No. 5,866,555); (2) United States and foreign

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copyright rights and registrations and applications therefor, for copyright works created prior to today's date by employees of the Seller that are used in the commercial sale of the Product and which works and copyright rights are in the possession of and/or owned or licensed by the Seller as of today's date; (3) United States and foreign trademarks, registered or unregistered, adopted for use in the commercial sale of the Product which are owned or licensed by the Seller as of today's date, and any trademark registrations therefor (or applications for trademark registrations), together with the goodwill associated therewith; (4) all un-patented inventions, trade secrets, confidential and proprietary information and know-how relating to the Product, and which are immediately prior to today's date, in possession of, used in the Product or owned by the Seller; and (5) all rights to sue third parties for infringement with respect to the foregoing;

- (d) all rights in, to and under the contracts and agreements relating to the Product, all of which are set forth on Schedule 1.01(d);
- (e) all marketing and sales materials, advertising materials, catalogues and sales brochures relating to the Product;
- (f) all permits, licenses, license applications, approvals, certifications, product registrations and product and or service clearances that are used in the commercial sale of the Product including those that are set forth on Schedule 1.01(f) (to the extent the same are transferable); and
- (g) all books, records, manuals, files and other documentation, whether written, electronic or otherwise, relating to the Product, including without limitation, customer records, supplier lists, distributor lists, purchase and sale records, price lists, correspondence, quality control records, research and development files, drawings, designs and accounting records.

1.02 Liabilities. Any liabilities arising from the commercial sale of the Product prior to today's date shall be the responsibility of the Seller and shall not be transferred under this Agreement. The Purchaser shall assume and agree to pay when due, all obligations and liabilities arising from the commercial sale of the Product from and after today's date. With respect to returns of expired or damaged Product, that is returned to the Purchaser by the purchaser of the Product within twelve (12) months following the Closing and sold by Seller prior to the Closing, Seller shall reimburse Purchaser for the amount refunded such purchasers up to an aggregate amount not to exceed [REDACTED] provided however, that such returns are made in accordance with Purchaser's then current returned goods policy. Such funds shall be deducted by Purchaser from the Purchase Price Deferral (as defined below). Nothing contained in this paragraph shall be construed as a limitation of Seller's liability to Purchaser for product liability claims.

1.03 Purchase Price. Subject to the Purchase Price Deferral the parties have agreed on a Purchase Price equal to [REDACTED]

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- (b) suffered any damage, destruction or loss materially adversely affecting its business, operations, assets or condition;
- (c) except in the ordinary course of business, canceled or compromised any material debts, or waived any material claims or rights, or sold, assigned or transferred any of its properties or assets material to the Product;
- (d) offered any irregular inducement to gain sales of the Product;
- (e) made any change in any method of accounting or accounting practice;
- (f) entered into any agreement to take any action referred to in this Section 3.06.

3.07 Title to Properties; Encumbrances. The Seller has good and marketable title to all of its properties and assets constituting the Transferred Assets. None of the Transferred Assets are subject to any Lien. When used in this Agreement, "Lien" shall mean any mortgage, pledge, security interest, conditional sale or other title retention agreement, encumbrance, lien, easement, claim, right, covenant, restriction, right of way, warrant, option or charge of any kind.

3.08 Patents, Trademarks, Trade Names. Schedule 3.08 contains a true and complete list of (a) all present patents, trademark registrations and copyright registrations material to the Product, all applications for registration thereof and all intellectual property license agreements relating thereto and (b) all material agreements in existence on today's date relating to technology, know-how or processes that are necessary for the manufacture or commercial sale of the Product. No licenses, sub-licenses or agreements with third parties exist as of today's date that were entered into by the Seller granting rights in such patents, trademarks or copyrights included in the Transferred Assets, except as described in Schedule 3.08. The Seller has the right to use all information and know-how that are used in the manufacture and commercial sale of the Product as currently conducted. Except as set forth in Schedule 3.08, all items listed on Schedule 3.08 are transferred free and clear of all Liens. To the Seller's knowledge, its operations do not infringe any third-party patents.

3.09 Litigation. There are no actions, claims, proceedings or investigations (collectively "Actions") pending, or threatened, against the Seller or any of its assets, properties or rights before any court, arbitrator, mediator or administrative or governmental body, that would have a material adverse effect upon the Transferred Assets or Seller's ability to consummate the transactions set forth in this Agreement. There is no action pending or threatened, against the Seller or any of its assets, properties or rights before any court, arbitrator, mediator, or administrative or governmental body that questions or challenges the validity of this Agreement or any actions taken or proposed to be taken by the Seller pursuant to this Agreement.

3.10 Insurance. Schedule 3.10 sets forth a true and complete list of all policies of product liability insurance owned or held by the Seller which provide coverage or have provided coverage for the Product. The Seller has not received any notice of cancellation with respect thereto. All such policies are valid and binding and in full force and effect as of the date hereof, and Seller warrants

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All notices that are addressed as provided in this Section 8.05 (1) if delivered personally against proper receipt or by fax with copy by certified mail shall be effective upon delivery and (2) if delivered by certified by registered mail with postage prepaid or by Federal Express or similar Courier service with courier fees paid by the sender shall be effective upon receipt.

8.07 Assignment. This Agreement and all of the provisions hereof shall be binding and inure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by the parties hereto without the prior written consent of the other party. Any assignment that is in violation of this Section 8.07 shall be void ab initio.

8.08 Entire Agreement. This Agreement constitutes the entire understanding of the parties with respect to its subject matter.


8.09 Legal Proceedings. The parties agree: (i) this Agreement shall be construed in accordance with the internal laws of the State of Utah; (ii) if any dispute arises concerning this Agreement, such action shall be brought in a state or federal court in the state in which the defendant's principal offices are located (i.e., Utah court if the Seller is the defendant and California court if the Purchaser is the defendant), and such court shall have exclusive jurisdiction over any dispute concerning this Agreement and each party hereby consents to the personal jurisdiction of such court.

8.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which shall deemed to be one and the same agreement.

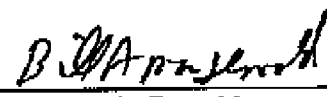
IN WITNESS WHEREOF, the parties have executed this agreement, effective as of the date first set forth above.

OPTIM NUTRITION, INC.

ICN PHARMACEUTICALS, INC.

By: 
Randy Olshen
President



By: 
Bill A. MacDonald
Executive Vice President
Strategic Planning

List of Schedules

- 1.01 (a) Product Inventory
- 1.01 (b) Packaging Inventory
- 1.01 (c) US and foreign patents, trademarks, and registrations relating to the product
- 1.01 (d) Contracts and Agreements
- 1.01 (e) Marketing and sales materials
- 1.01 (f) Permits, approvals, and certifications
- 1.01 (g) Product records
- 1.03 Seller's Bank Account
- 3.08 Patents, trademarks, and trade names
- 3.10 Insurance Binder
- 3.11 Contracts and Agreements
- 3.12 Customer List
- 3.14 Environmental matters
- 3.16 Permits
- 3.20 See 1.01 (a)
- 6.01 Corporate guarantee

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**Schedule 1.01 (c)
US and Foreign patents, trademarks, and registrations**

Patents

- A. US Patent No. 5,866,555
- B. CIP US Application # 09/241,004
- C. Foreign patent and patent application filings including: PCT application, EPO, China, Brazil, Israel, and Japan

Trademarks

- D. NiteBite® United States Registered Trademark
- E. Any and all foreign trademark rights with respect to NiteBite (including registrations in Chile, Argentina and Brazil)
- F. Timed-release Glucose Bar™ rights pursuant to License Agreement with Amerifit Nutrition, Inc.

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Schedule 3.08
Patents, Trademarks, and Trade Names

See Schedule 1.01 (c)

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