

06-17-2003

6-4-03



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

RECORDAT. 102475257 TRADEMARKS ONLY

DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

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

1. Name of conveying party(ies):

Finova Mezzanine Capital Corporation

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

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

2. Name and address of receiving party(ies)

Name: Galaxy Nutritional Foods, Inc.

Internal

Address:

Street Address: 2441 Viscount Row

City: Orlando State: FL Zip: 32809

- 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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other General Release

Execution Date: 5/29/03

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

A. Trademark Application No.(s) 76/204595

B. Trademark Registration No.(s) 1272946, 2577980, 2560390, 2314619, 1299683, 2102820

Additional number(s) attached Yes No

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

Name: Jill S. Riola

Internal Address:

Street Address: 200 South Orange Avenue

Suite 2300

City: Orlando State: FL Zip: 32801

6. Total number of applications and registrations involved:

16

7. Total fee (37 CFR 3.41) \$ 415.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Cindy M. Holcomb

Name of Person Signing

Cindy M. Holcomb Signature

6/3/03

Date

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

06/16/2003 6TOM11 00000133 76204595

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

01 FC:8521 02 FC:8522

40.00 DP 375.00 DP

TRADEMARK REEL: 002756 FRAME: 0201

Item 4 (continued):

Additional Trademark Registration Numbers:

2106432

2343029

2189242

1745941

1788315

1744693

2074712

2068151

2314726

Additional Trademark Application Numbers:

(none)

**TERMINATION AGREEMENT AND MUTUAL GENERAL RELEASE**

THIS TERMINATION AGREEMENT AND MUTUAL GENERAL RELEASE (this "Release") is made and executed this 29th day of May 2003 by and among Galaxy Nutritional Foods, Inc. f/k/a Galaxy Foods Company, a Delaware corporation (the "Borrower"), FINOVA Capital Corporation ("FCC"), and FINOVA Mezzanine Capital, Inc. ("FMC").

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the parties agree to terminate, effective on the date hereof, the Security Agreement (Accounts Receivable, Inventory and Equipment) between Borrower and FCC dated November 1, 1996, the Loan Agreement between Borrower and FMC dated September 30, 1999, all amendments to the foregoing, and all documents, instruments and agreement relating to, arising out of or executed in connection with either of such documents or the loans evidenced, secured, or contemplated thereby (the "Loans"), including but not limited to the (i) UCC-1 Financing Statements as filed with the Secretary of State of Florida and each other office in which any UCC-1 Financing Statement or related document is filed, (ii) Security Agreement with Schedules dated September 30, 1999 by and between Galaxy and FMC, (iii) Intellectual Property Security Agreement dated September 30, 1999 between Galaxy and FMC as filed in the U.S. Patent and Trademark Office, and (iv) the Intellectual Property Security Agreement dated November 14, 2001 between Galaxy and FCC (collectively, the "Loan Agreements"), and all of the parties hereby mutually release and forever discharge one another, and their respective successors, representatives, assigns, officers, directors, agents, employees and attorneys and each of them, of and from any and all claims, demands, debts, liabilities, actions and causes of action of every kind and character based upon or arising out of the Loan Agreements, the transactions related thereto, and the termination thereof, except as hereinafter specifically set forth. Notwithstanding the foregoing, Galaxy does not release and shall not be deemed to have released FCC or FMC or their respective successors, representatives, assigns, officers, directors, agents, employees and attorneys and each of them, of or from any claims, demands, debts, liabilities, actions or causes directly or indirectly based upon or arising from the gross negligence or willful misconduct of any of such parties.

The release by FCC and FMC provided for herein is conditioned upon the final payment, in cash, of all of the Borrower's "Obligations" (as defined in the Loan Agreements) and Galaxy's release provided for herein is conditioned upon the effectiveness and continuing effectiveness of the releases by FCC and FMC provided for herein. Upon the final payment in full of all of the Borrower's Obligations, the security interests created by the Loan Agreements shall automatically terminate and FCC and FMC (at Borrower's expense) shall promptly execute and deliver to Borrower such documents and instruments prepared and reasonably requested by Borrower as shall be necessary to evidence termination of all such security interests given by Borrower to FCC and/or FMC thereunder, including but not limited to formal recordation of such termination in the U.S. Patent and Trademark Office and the Secretary of State of Florida.

Borrower agrees to repay FCC, on written demand, the amount of any such check or other instrument that may be returned for non-payment and any other Obligations which remain unpaid. Furthermore, due to the possibility of (i) FCC receiving billings for unpaid items, charges or miscellaneous expenses after the payment calculated under the Payout Letters dated May 28, 2003 (the "Payout Amount"), (ii) the occurrence of a manifest error in compiling the Payout Amount, including without limitation, mathematical errors or ministerial clerical errors, or (iii) the calculation of the Payout Amount being based on information which Borrower actually knew was incorrect, Borrower agrees to pay promptly upon written demand the amount of any such item, subject to delivery by FCC or FMC of such supporting documentation or evidence of any such item reasonably requested by Galaxy.

FCC and FMC agrees to repay Borrower the amount of any overpayment by or on behalf of Borrower in respect of the Loans, including as a result of an error in compiling the Payout Amount.

The parties hereby warrant and represent that they have not assigned or in any way conveyed, transferred or encumbered all or any portion of the claims or rights covered by this Release. The parties, and each of them, execute the Release voluntarily, after consultation with counsel, and with full knowledge of its significance.

This Release, the Loan Agreements and the other written documents and instruments between the parties set forth in full all of the representations and agreements of the parties, and this Release may not be modified or amended, nor may any rights hereunder be waived, except in a writing signed by the parties hereto.

**GALAXY NUTRITIONAL FOODS, INC.  
D/W/a GALAXY FOODS COMPANY**

By: Christopher J. Ness  
Christopher J. Ness, Chief Executive Officer

**FINOVA Capital Corporation**

By: Michael J. McCauley  
Name: Michael J. McCauley  
Vice President

**FINOVA Mezzanine Capital, Inc**

By: *Richard J. McCarley*  
Name: Richard J. McCarley  
Vice President

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