

09-01-2006

Form PTO-1594 (Rev. 07/05)
OMB Collection 0651-0027 (exp.

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



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AUG 25 2006

8-25-06

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies):

Good Health natural Foods, Inc.

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

Citizenship (see guidelines)

Additional names of conveying parties attached? Yes No

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Wells Fargo Bank, National Association

Internal

Address:

Street Address: 119 W 40th Street

City: New York

State: New York

Country: Zip: 10018

- Association Citizenship
- General Partnership Citizenship
- Limited Partnership Citizenship
- Corporation Citizenship
- Other Bank Citizenship

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)

3. Nature of conveyance /Execution Date(s) :

Execution Date(s) August 16, 2006

- Assignment
- Merger
- Security Agreement
- Change of Name
- Other

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)
78828026, 78111219, 78893449,
78893846

B. Trademark Registration No.(s)
2252045, 3086256

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

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

Name: Wells Fargo Bank, National Assoc.

Internal Address: Baraka Stewart

Street Address: 119 W 40th Street

City: New York

State: NY Zip: 10018

Phone Number: (646) 728-3200

Fax Number:

Email Address:

6. Total number of applications and registrations involved:

6

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 165.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number _____
Authorized User Name _____

9. Signature:

Sandra McGrath
Signature

Date

Sandra McGrath
Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 11

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

08/31/2006 DBYRNE 00000011 78828026

01 FC:0521 40.00 DP
02 FC:0522 125.00 DP

TRADEMARK
REEL: 003389 FRAME: 0669

SUPPLEMENTAL PATENT AND TRADEMARK SECURITY AGREEMENT

THIS AGREEMENT, dated as of August 16, 2006, is made by and between Good Health Natural Foods, Inc. f/k/a Good Health Operating Corporation, having a business location at the address set forth below next to its signature (the "Debtor"), and Wells Fargo Bank, National Association (the "Secured Party"), acting through its Wells Fargo Business Credit operating division, having a business location at the address set forth below next to its signature. This agreement is in addition to, and not a replacement or substitute for, that certain Patent and Trademark Security Agreement dated as of December 30, 2005.

Recitals

The Debtor and the Secured Party are parties to a Credit and Security Agreement of even date herewith (as the same may hereafter be amended, supplemented or restated from time to time, the "Credit Agreement") setting forth the terms on which the Secured Party may now or hereafter extend credit to or for the account of the Debtor.

As a condition to extending credit to or for the account of the Debtor, the Secured Party has required the execution and delivery of this Agreement by the Debtor.

ACCORDINGLY, in consideration of the mutual covenants contained in the Loan Documents and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Credit Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

"Obligations" means each and every debt, liability and obligation of every type and description arising under or in connection with any Loan Document (as defined in the Credit Agreement) which the Debtor may now or at any time hereafter owe to the Secured Party, whether such debt, liability or obligation now exists or is hereafter created or incurred and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several or joint and several, and including specifically, but not limited to, the Obligations (as defined in the Credit Agreement).

"Patents" means all of the Debtor's right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on Exhibit A.

"Security Interest" has the meaning given in Section 2.

"Trademarks" means all of the Debtor's right, title and interest in and to: (i) trademarks, service marks, collective membership marks, registrations and applications for registration for each, and the respective goodwill associated with each,

(ii) licenses, fees or royalties with respect to each, (iii) the right to sue for past, present and future infringement, dilution and damages therefor, (iv) and licenses thereunder, all as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on Exhibit B.

2. Security Interest. The Debtor hereby irrevocably pledges and assigns to, and grants the Secured Party a security interest (the "Security Interest"), with power of sale to the extent permitted by law, in the Patents and in the Trademarks to secure payment of the Obligations. As set forth in the Credit Agreement, the Security Interest is coupled with a security interest in substantially all of the personal property of the Debtor. This Agreement grants only the Security Interest herein described, is not intended to and does not affect any present transfer of title of any trademark registration or application and makes no assignment and grants no right to assign or perform any other action with respect to any intent to use trademark application, unless such action is permitted under 15 U.S.C. § 1060.

3. Representations, Warranties and Agreements. The Debtor represents, warrants and agrees as follows:

(a) **Existence; Authority.** The Debtor is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and this Agreement has been duly and validly authorized by all necessary corporate action on the part of the Debtor.

(b) **Patents.** Exhibit A accurately lists all Patents owned or controlled by the Debtor as of the date hereof, or to which the Debtor has a right as of the date hereof to have assigned to it, and accurately reflects the existence and status of applications and letters patent pertaining to the Patents as of the date hereof. If after the date hereof, the Debtor owns, controls or has a right to have assigned to it any Patents not listed on Exhibit A, or if Exhibit A ceases to accurately reflect the existence and status of applications and letters patent pertaining to the Patents, then the Debtor shall within 60 days provide written notice to the Secured Party with a replacement Exhibit A, which except as otherwise provided for or prohibited in this Agreement or the Credit Agreement, such replacement Exhibit A shall become part of this Agreement to the extent such changes are permitted hereunder or thereunder and do not otherwise require the Lender's consent.

(c) **Trademarks.** Exhibit B accurately lists all Trademarks owned or controlled by the Debtor as of the date hereof and accurately reflects the existence and status of Trademarks and all applications and registrations pertaining thereto as of the date hereof; provided, however, that Exhibit B need not list common law marks (i.e., Trademarks for which there are no applications or registrations) which are not material to the Debtor's, Parent's, or any Subsidiary's business(es). If after the date hereof, the Debtor owns or controls any Trademarks not listed on Exhibit B (other than common law marks which are not material to the Debtor's, Parent's, or any Subsidiary's business(es)), or if Exhibit B ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then the Debtor shall promptly provide written notice to the Secured Party with a replacement Exhibit B which, except as otherwise

provided for hereunder or thereunder or prohibited in this Agreement or the Credit Agreement, such replacement Exhibit B shall become part of this Agreement to the extent such changes are permitted and do not otherwise require the Lender's consent.

(d) **Parent and Subsidiary.** As of the date hereof, neither Parent nor any Subsidiary owns, controls, or has a right to have assigned to it any items that would, if such item were owned by the Debtor, constitute Patents or Trademarks. If after the date hereof Parent or any Subsidiary owns, controls, or has a right to have assigned to it any such items, then the Debtor shall promptly either: (i) cause Parent or any Subsidiary to assign all of its rights in such item(s) to the Debtor; or (ii) notify the Secured Party of such item(s) and cause Parent or any Subsidiary, as applicable, to execute and deliver to the Secured Party a patent and trademark security agreement substantially in the form of this Agreement.

(e) **Title.** The Debtor has title to each Patent and each Trademark listed on Exhibits A and B, free and clear of all Liens except Permitted Liens. The Debtor (i) will have, at the time the Debtor acquires any rights in Patents or Trademarks hereafter arising, title to each such Patent or Trademark free and clear of all Liens except Permitted Liens, and (ii) will keep all Patents and Trademarks free and clear of all Liens except Permitted Liens.

(f) **No Sale.** Except as permitted in the Credit Agreement, the Debtor will not assign, transfer, encumber or otherwise dispose of the Patents or Trademarks, or any interest therein, without the Secured Party's prior written consent.

(g) **Defense.** The Debtor will at its own expense and using commercially reasonable efforts, protect and defend the Patents and Trademarks against all claims or demands of all Persons other than those holding Permitted Liens.

(h) **Maintenance.** The Debtor will at its own expense maintain the Patents and the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain letters patent or trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. The Debtor covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent or Trademark, nor fail to file any required affidavit or renewal in support thereof which is used or useful in its business, without first providing the Secured Party: (i) sufficient written notice, of at least 30 days, to allow the Secured Party to timely pay any such maintenance fees or annuities which may become due on any Patents or Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(i) **Secured Party's Right to Take Action.** If the Debtor fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after the Secured Party gives the Debtor written notice thereof (or, in the case of the agreements contained in subsection (h),

immediately upon the occurrence of such failure, without notice or lapse of time), or if the Debtor notifies the Secured Party that it intends to abandon a Patent or Trademark which is used or useful in its business, the Secured Party may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of the Debtor (or, at the Secured Party's option, in the Secured Party's own name) and may (but need not) take any and all other actions which the Secured Party may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(j) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, the Debtor shall pay the Secured Party on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and disbursements) incurred by the Secured Party in connection with or as a result of the Secured Party's taking action under subsection (i) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by the Secured Party at the Default Rate.

(k) **Power of Attorney.** To facilitate the Secured Party's taking action under subsection (i) and exercising its rights under Section 6, the Debtor hereby irrevocably appoints (which appointment is coupled with an interest) the Secured Party, or its delegate, as the attorney-in-fact of the Debtor with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of the Debtor, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by the Debtor under this Section 3, or, necessary for the Secured Party, after an Event of Default which is not cured within any applicable cure period, if any, or waived in writing by the Lender, to enforce or use the Patents or Trademarks or to grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents or Trademarks to any third party. The Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Credit Agreement as provided therein and the payment and performance of all Obligations.

4. **Debtor's Use of the Patents and Trademarks.** The Debtor shall be permitted to control and manage the Patents and Trademarks, including the right to exclude others from making, using or selling items covered by the Patents and Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Event of Default occurs and remains uncured within any applicable cure period or is not waived in writing by the Lender.

5. **Events of Default.** Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (a) an Event of Default, as defined in the Credit Agreement, shall occur; or (b) the Debtor shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the

representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. Remedies. Upon the occurrence of an Event of Default and at any time thereafter, the Secured Party may, at its option, take any or all of the following actions:

(a) The Secured Party may exercise any or all remedies available under the Credit Agreement.

(b) The Secured Party may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks.

(c) The Secured Party may enforce the Patents and Trademarks and any licenses thereunder, and if Secured Party shall commence any suit for such enforcement, the Debtor shall, at the request of Secured Party, do any and all lawful acts and execute any and all proper documents required by Secured Party in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by the Secured Party. A waiver signed by the Secured Party shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of the Secured Party's rights or remedies. All rights and remedies of the Secured Party shall be cumulative and may be exercised singularly or concurrently, at the Secured Party's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Debtor under this Agreement shall be given in the manner and with the effect provided in the Credit Agreement. The Secured Party shall not be obligated to preserve any rights the Debtor may have against prior parties, to realize on the Patents and Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Patents and Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of the Debtor and the Secured Party and their respective participants, successors and assigns and shall take effect when signed by the Debtor and delivered to the Secured Party, and the Debtor waives notice of the Secured Party's acceptance hereof. The Secured Party may execute this Agreement if appropriate for the purpose of filing, but the failure of the Secured Party to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by the Debtor shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of New York without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date written above.

Good Health Natural Foods, Inc. f/k/a Good Health Operating Corporation
81 Scudder Avenue
Northport, NY 11768

GOOD HEALTH NATURAL FOODS, INC.
f/k/a Good Health Operating Corporation

By: _____
Terry C. Hunt, Chief Executive Officer

Wells Fargo Bank, National Association,
acting through its Wells Fargo Business Credit
operating division
119 West 40th Street
New York, NY 10018

WELLS FARGO BANK, NATIONAL
ASSOCIATION, acting through its Wells
Fargo Business Credit operating division

By: Baraka Stewart
Baraka Stewart, Vice President

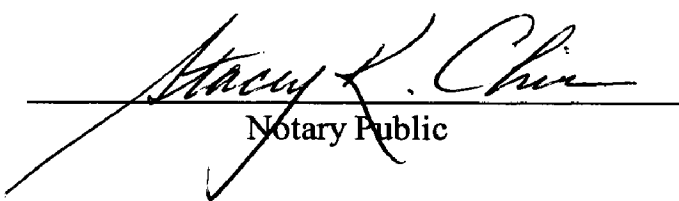
STATE OF _____)
) ss.:
COUNTY OF _____)

On the _____ day of August, in the year 2006, before me personally came Terry C. Hunt, to me known, who, being by me duly sworn, did depose and say that he resides in San Francisco, California, that he is the Chief Executive Officer of Good Health Natural Foods, Inc. f/k/a Good Health Operating Corporation, the corporation described in and which executed the above instrument; and that he signed his name thereto by authority of the board of directors of said corporation.

Notary Public

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 7th day of August, in the year 2006, before me personally came Baraka Stewart, to me known, who, being by me duly sworn, did depose and say that he resides in NEW YORK; that he is a Vice President of WELLS FARGO BUSINESS CREDIT, ~~INC.~~, the corporation described in and which executed the above instrument; and that he signed his name thereto by authority of the board of directors of said corporation.



Notary Public

STACEY K. CHIU
Notary Public, State of New York
No. 01CH5069717
Qualified in New York County
Commission Expires ~~Dec~~ MARCH 23, 2007

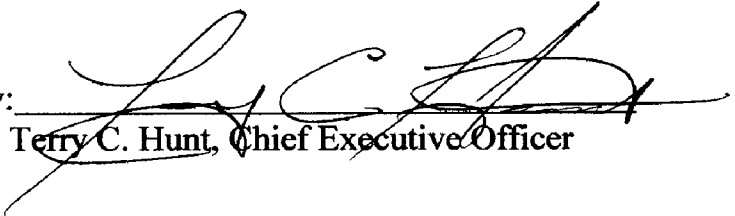
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THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date written above.

Good Health Natural Foods, Inc. f/k/a Good Health Operating Corporation
81 Scudder Avenue
Northport, NY 11768

GOOD HEALTH NATURAL FOODS, INC.
f/k/a Good Health Operating Corporation

By: 
Terry C. Hunt, Chief Executive Officer

Wells Fargo Bank, National Association,
acting through its Wells Fargo Business Credit
operating division
119 West 40th Street
New York, NY 10018

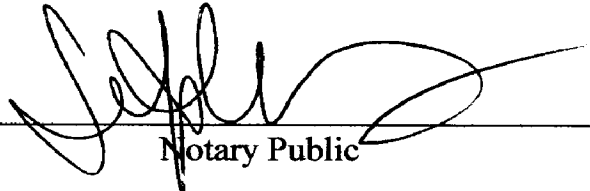
WELLS FARGO BANK, NATIONAL
ASSOCIATION, acting through its Wells
Fargo Business Credit operating division

By: _____
Baraka Stewart, Vice President

STATE OF California)
) ss.:
COUNTY OF San Francisco

On the 4 day of August, in the year 2006, before me personally came Terry C. Hunt, to me known, who, being by me duly sworn, did depose and say that he resides in San Francisco, California, that he is the Chief Executive Officer of Good Health Natural Foods, Inc. f/k/a Good Health Operating Corporation, the corporation described in and which executed the above instrument; and that he signed his name thereto by authority of the board of directors of said corporation.





Notary Public

STATE OF _____)
) ss.:
COUNTY OF _____)

On the _____ day of August, in the year 2006, before me personally came Baraka Stewart, to me known, who, being by me duly sworn, did depose and say that he resides in _____; that he is a Vice President of WELLS FARGO BUSINESS CREDIT, INC., the corporation described in and which executed the above instrument; and that he signed his name thereto by authority of the board of directors of said corporation.

Notary Public

EXHIBIT A

UNITED STATES ISSUED PATENTS

None

UNITED STATES ISSUED APPLICATIONS

None

FOREIGN ISSUED PATENTS

None

UNITED STATES ISSUED PATENT APPLICATIONS

None

EXHIBIT BUNITED STATES ISSUED TRADEMARKS, SERVICE MARKS
AND COLLECTIVE MEMBERSHIP MARKSU.S. Trademark Applications

<u>Trademark</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Jurisdiction</u>
ENERGYWELL	78828026	March 2, 2006	United States
**VEGSTIX	78111219	February 26, 2002	United States
WHY SETTLE FOR THE ORDINARY WHEN YOU CAN EXPERIENCE THE EXTRAORDINARY?	78-893449	May 25, 2006	United States
WHY SETTLE FOR THE ORDINARY WHEN YOU CAN EXPERIENCE THE EXTRAORDINARY?	78-893846	May 26, 2006	United States

U.S. Registered Trademarks

<u>Trademark</u>	<u>Registration No.</u>	<u>Registration Date</u>
SOUTH OF FRANCE	2252045	June 8, 1999
VEGGIE PARTY	3086256	April 25, 2006

**To Be Abandoned