

04-10-2003

Form PTO-1594

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2001)

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4-7-03 RECORD, TRA



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DEPARTMENT OF COMMERCE  
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):  
W.N. Pharmaceuticals Ltd.

Individual(s)       Association  
 General Partnership       Limited Partnership  
 Corporation: Canada  
 Other \_\_\_\_\_

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

2. Name and address of receiving party(ies)  
Name: The Bank of Nova Scotia  
Internal  
Address: \_\_\_\_\_  
Street Address: 20555 - 56<sup>th</sup> Avenue  
Langley, British Columbia, Canada V3A 4R3

Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation: Canada  
 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: November 1, 2002

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

A. Trademark Application No. (s)  
78/129,038    78/129,041    78/113,632  
78/115,848

B. Trademark Registration No. (s)

Additional number(s) attached  Yes  No

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41) ..... \$115.00  
 Enclosed  
 Authorized to be charged to deposit amount

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

Name: Brent D. Sanders  
Internal Address: Perkins Coie LLP  
\_\_\_\_\_  
\_\_\_\_\_  
Street Address: 1201 Third Avenue, Suite 4800  
\_\_\_\_\_  
City: Seattle    State: WA    Zip: 98101-3099

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*

Brent D. Sanders      [Signature]      March 31, 2003  
Name of Person Signing      Signature      Date

Total number of pages including cover sheet, attachments, and documents: 6

04.09/2003 GTON11 00000103 78129038

01 FC:8521 40.00 DP  
02 FC:8522 75.00 DP

SL030800.204

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

TRADEMARK  
REEL: 002708 FRAME: 0522

**AGREEMENT  
(TRADEMARK)**

THIS AGREEMENT (TRADEMARK) (the "**Agreement**"), dated as of November 1, 2002, is between W. N. Pharmaceuticals Ltd. (the "**Grantor**"), and THE BANK OF NOVA SCOTIA (the "**Secured Party**").

**WITNESSETH**

WHEREAS, pursuant to a Credit Agreement dated June 18, 2002 (together with all amendments and other modifications, if any, from time to time thereafter made thereto and any replacements thereof, the "**Credit Agreement**"), between Natural Factors Nutritional Products Ltd. (the "**Borrower**") and the Secured Party, the Secured Party has committed to extend a credit facility to the Borrower;

WHEREAS, in connection with the Credit Agreement, the Grantor has executed and delivered to the Secured Party, *inter alia*, a guarantee and a general security agreement dated November 22, 1999 (collectively, together with all amendments and other modifications, if any, from time to time thereafter made thereto, the "**Security Agreement**");

WHEREAS, as a condition precedent to extending the credit under the Credit Agreement, the Grantor is required to execute and deliver this Agreement and to grant to the Secured Party a continuing security interest in all of the Trademark Collateral (as defined below) to secure all Secured Obligations; and

WHEREAS, the Grantor has duly authorized the execution, delivery and performance of this Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, and in order to induce the Secured Party to continue the extension of credit to the Borrower pursuant to the Credit Agreement, the Grantor agrees with the Secured Party as follows:

**1. Definitions**

Unless otherwise defined herein or the context otherwise requires, terms used in this Agreement, including its preamble and recitals, have the meanings provided in the Security Agreement.

**2. Grant of Security Interest**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, to secure all of the Obligations, the Grantor does hereby mortgage, pledge and hypothecate to the Secured Party, and grant to the Secured Party a security interest in all of the following property (the "**Trademark Collateral**"), whether now owned or hereafter acquired or existing:

(a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, certification marks, collective marks, logos, other source of business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of a like nature (all of the foregoing items in this clause (a) being collectively called a "Trademark"), now existing anywhere in the world or hereafter adopted or acquired, whether currently in use or not; and all common law rights thereto, all registrations and recordings thereof and all applications in connection therewith, whether pending or in preparation for filing, including registrations, recordings and applications in the Canadian Trademark Office, the United States Trademark Office, or in any office or agency of Canada or any foreign country, including those Trademarks referred to in Addendum I hereto;

(b) all Trademark licenses, including each Trademark license referred to in Addendum I hereto;

(c) all reissues, extensions or renewals of any of the items described in clauses (a) and (b);

(d) all of the goodwill of the business connected with the use of, and symbolized by the items described in, clauses (a), (b) and (c); and

(e) all proceeds of, and rights associated with, the foregoing, including any claim by the Grantor against third parties for past, present, or future infringement or dilution of any Trademark, Trademark registration or Trademark license, including any Trademark, Trademark registration or Trademark license referred to in Addendum I hereto, or for any injury to the goodwill associated with the use of any Trademark or for breach or enforcement of any Trademark license.

### **3. Representations and Warranties**

The Grantor hereby represents and warrants to the Secured Party that:

(a) The Grantor has all right, title and interest in all Trademarks reasonably necessary for the conduct of its business;

(b) The Grantor is not infringing on the intellectual property rights of any person;

(c) The Grantor is the owner or licensee, as the case may be, of the Trademark Collateral, and that all applications and registrations are valid and in good standing, and that all such trade-marks have been in continuous use in association with the wares and services in respect of which such trade-marks are registered;

(d) there has been no infringement, passing off or any other claims made against the Grantor or any of Trademark Collateral; and

(e) that the Grantor has in place and will maintain such confidentiality and other agreements as may be necessary from time to time to preserve Trademark Collateral, and

obtain from all employees (and appropriate third parties providing services to the Grantor), releases of any claims against Trademark Collateral.

#### **4. Covenants**

The Grantor hereby agrees with the Secured Party that:

(a) the grants, assignments, transfers, mortgages and charges created hereby with respect to the Trademark Collateral shall be security interests therein (including in any royalties or other like payments to which the Grantor may be entitled for any Trademark Collateral it licenses to others) and, to the extent that such security interests constitute assignments, shall not constitute an absolute (but only a conditional) assignment of the Grantor's interest in such Trademark Collateral; and

(b) it will maintain and preserve, and cause each of its subsidiaries (if any) to maintain and preserve, all of the Trademark Collateral (including without limitation, trademarks, trade-mark applications, design marks and design mark applications described in this Agreement) so as to permit the Grantor's business to be properly and advantageously conducted at all times.

#### **5. Security Agreement**

This Agreement has been executed and delivered by the Grantor for the purpose of registering the security interest of the Secured Party in the Trademark Collateral with the Canadian Trademark Office, the United States Trademark Office, and corresponding offices in other countries of the world. The security interest granted hereby has been granted as a supplement to, and not in limitation of, the security interest granted to the Secured Party under the Security Agreement. The Security Agreement (and all rights and remedies of the Secured Party) shall remain in full force and effect in accordance with its terms.

#### **6. Release of Security Interest**

Upon payment in full of all Obligations and the termination of all of the Secured Party's commitments under the Credit Agreement, the Secured Party shall, at the Grantor's expense, execute and deliver to the Grantor all instruments and other documents as may be necessary or proper to release the lien on and security interest in the Trademark Collateral which has been granted hereunder.

#### **7. Acknowledgment**

The Grantor does hereby further acknowledge and affirm that the rights and remedies of the Secured Party with respect to the security interest in the Trademark Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which (including the remedies provided for therein) are incorporated by reference herein as if fully set forth herein.

**8. Counterparts**

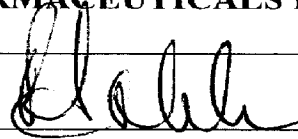
This Agreement may be executed by the parties hereto in several counterparts, each of which shall be deemed to be an original and all of which shall constitute together but one and the same agreement.

**9. References to Corporations, Secured Party**

Each reference in this Agreement to any body corporate (including the Grantor and the Secured Party) shall be construed so as to include such body corporate and its successors, both immediate and derivative, to the extent the context so admits. Each reference to the Secured Party shall include any assignee of or successor to the rights of the Secured Party. Each reference to the Secured Party shall also include any permitted assignees of all or any part of any Lender's Commitment under the Credit Agreement from time to time.


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the day and year first above written.

**GRANTOR:  
W. N. PHARMACEUTICALS LTD.**

By:   
Name: ROBIN HOBBS  
Title: PRESIDENT

Notice Address: \_\_\_\_\_  
Attention: \_\_\_\_\_  
Facsimile: \_\_\_\_\_

**SECURED PARTY:  
THE BANK OF NOVA SCOTIA**

By:   
Name: Larry Kean  
Title: Senior Relationship Manager

Notice Address: 2555 56th Ave. Langley BC V3A 4R3  
Attention: Kathy Henderson  
Facsimile: 604 532 6776

**ADDENDUM I**

**TRADEMARK NUMBERS  
AND PENDING TRADEMARK APPLICATION NUMBERS**

(Attach Copies of Relevant Application/Registration)

Trademark Number	Country	Trademark	Product/Service	Date Issued

Pending Trademark Country Application No.	Country	Trademark	Product/ Service	Filing Date
1132895	Canada	WN Pharma		
1133810	Canada	WN Pharmaceuticals		
78129038	United States	Webber		
78129041	United States	Webber Naturals		
78113632	United States	WN Pharma		
78115848	United States	WN Pharmaceuticals Ltd. (?)		

Trademarks that have been licenced to others by the Customer	Date of Agreement	Name of Licensee	Address of Licensee

Trademarks that have been licenced from others by the Customer	Date of Agreement	Name of Licensor	Address of Licensor