

02-01-2002



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Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

U.S. 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): 399 Venture Partners, Inc. [ ] Individual(s) [ ] Association [ ] General Partnership [ ] Limited Partnership [X] Corporation-State [ ] Other 1.18.02 Additional name(s) of conveying party(ies) attached? [ ] Yes [X] No

2. Name and address of receiving party(ies) Name: Pursell Industries, Inc. Internal Address: Street Address: 201 West Fourth Street City: Sylacauga State: AL Zip: 35150 [ ] Individual(s) citizenship [ ] Association [ ] General Partnership [ ] Limited Partnership [X] 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? [X] Yes [ ] No

3. Nature of conveyance: [ ] Assignment [ ] Merger [ ] Security Agreement [ ] Change of Name [X] Other Release of Security Interest Execution Date: November 30, 2001

4. Application number(s) or registration number(s): A. Trademark Application No.(s) B. Trademark Registration No.(s) see attachment Additional number(s) attached [X] Yes [ ] No

6. Total number of applications and registrations involved: 134

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Seth Traxler, Esq. Internal Address: Kirkland & Ellis Street Address: 200 East Randolph Drive Suite 5300 City: Chicago State: IL Zip: 60601

7. Total fee (37 CFR 3.41) \$ 3365.00 [X] Enclosed [ ] Authorized to be charged to deposit account 8. Deposit account number: 22-0440 (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. Seth Traxler Signature January 18, 2002 Date Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 22 Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

01/31/2002 6TON11 00000247 2263632 01 FC:481 02 FC:482 40.00 DP 3325.00 DP

TRADEMARK REEL: 002427 FRAME: 0801

BFC Acquisition Corporation  
201 West Fourth Street  
Sylacauga, AL 35150

Vigoro Acquisition Corp.  
201 West Fourth Street  
Sylacauga, AL 35150

EXHIBIT A

I. Marks Owned by Pursell Industries, Inc.

<u>Mark</u>	<u>Reg./ Filing Date</u>	<u>Reg./ Serial No.</u>
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200 PLUS	March 14, 2000	2,329,399
3 PLUS 3	May 25, 1999	2,248,315
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CAROLINA SPECIAL	September 24, 1996	2,003,574
COLOR BURST	October 26, 1998	75-576,960

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COLORBURST	June 26, 1998	75-511,996
COMPOSITE TIMED RELEASE	October 25, 2000	76-153,503
CRAB-EX	July 4, 2000	2,364,954
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IRONIZER	April 2, 1999	75-673,453
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PHERTILIZER	October 13, 1992	1,724,786
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POUR & FEED	July 13, 1999	75-749,610
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ROSE BOOSTER	December 17, 1998	75-607,247
SEED & SOD	March 13, 1979	1,114,763
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SMART SOIL PLUS	June 29, 1999	2,258,003

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STA-GREEN	September 12, 1967	834,914
STA-GREEN	April 26, 1966	807,450
STA-GREEN	October 6, 1959	686,131
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TRI-MIX	July 4, 2000	2,364,955
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UNIPEL	March 10, 1964	766,154
VERTAGREEN	May 23, 1950	525,504
WHITE HOUSE	July 15, 1997	2,079,948

(continued on next page)

**II. Marks Owned by BFC Acquisition Corp.**

<u>Mark</u>	<u>Reg./Filing Date</u>	<u>Reg./Serial No.</u>
BANDINI	February 17, 1959	674,054
DROUGHT BUSTER	December 17, 1999	75-874,692
DROUGHT BUSTER	November 10, 1992	1,731,971
GRO-RITE	December 17, 1999	75-874,508
MAXI-IRON	December 17, 1999	75-874,924
PRO CHOICE	October 22, 1999	75-829,261
SUPER BLADE	December 17, 1999	75-874,749
SUPER GREEN	December 17, 1999	75-874,920
SUPER PLUSH	December 22, 1999	75-878,384

(continued on next page)

### III. Marks Owned by Vigoro Acquisition Corporation

<u>Mark</u>	<u>Filing/ Reg. Date</u>	<u>Serial/ Reg. No.</u>
ALL AMERICAN	February 14, 1995	1,878,371
BED MIX	January 12, 1988	1,471,840
BLOOM MASTER	December 17, 1999	75-874,746
BLOOMASTER	September 27, 1960	704,808
BRIMM	October 26, 1954	597,254
DEEP GREEN	May 13, 1997	2,061,087
DEEP GREEN ‡	February 11, 1986	1,381,951
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Design Only	June 9, 1998	2,163,609
Design Only	January 7, 1992	1,670,932
Design Only	November 7, 1967	838,194
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ENVIRO C-A-R-E	December 21, 1993	1,812,664
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FUN	June 13, 1967	830,067
GREEN TURF	November 10, 1992	1,730,497
GRO-TONE	April 14, 1992	1,682,555



GRO-TONE	October 28, 1969	879,341
GRO-TONE	March 24, 1964	766,977
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NATURE'S BEST	November 10, 1992	1,730,493
NATURE'S BEST	February 5, 1974	977,977
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PRO-GRASS	November 4, 1997	2,110,922
SHORE	November 7, 1995	1,932,719
SOUTHLAND	January 5, 1965	782,658
SUBURBAN	September 12, 1967	834,949
TREASURE	January 4, 1966	801,170
V-COTE	June 3, 1997	2,067,899
VIGORO	March 9, 1999	2,230,960
VIGORO	July 1, 1924	186,125
VIGORO	January 17, 1967	822,216
VIGORO	August 3, 1999	2,266,583

VITOGRO	June 24, 1924	185,693
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‡ Mark subject to a security interest held by Harris Trust and Savings Bank. No release recorded.

† Registration show a security interest against Magla Products, Inc. held by Midlantic National Bank. Possible error in the recordation of the security interest.

**RELEASE OF SECURITY INTEREST**  
**(Trademarks)**

This RELEASE OF SECURITY INTEREST (Trademarks)(the "Release") is made and effective as of the date indicated below and is granted by **399 VENTURE PARTNERS, INC.**, a Delaware corporation ("Releasor"), in favor of **PURSELL INDUSTRIES, INC.**, a Delaware corporation; **BFC ACQUISITION CORPORATION**, a California corporation; and **VIGORO ACQUISITION CORP.**, a Delaware corporation (hereinafter collectively, "Releasees").

WHEREAS, pursuant to that certain Second Amended and Restated Credit Agreement dated as of November 30, 2000 (the "Credit Agreement") by and among Releasees; Wachovia Bank, N.A., as Administrative Agent; Fleet Capital Corporation, as Collateral Agent; and the Lenders described therein, Lenders agreed to make loans and other financial accommodations to Releasees;

WHEREAS, pursuant to that certain Limited Guarantee Agreement dated as of November 30, 2000 (the "Guarantee"), by Releasor in favor of Administrative Agent, Releasor agreed to guarantee certain obligations of Releasees under the Credit Agreement;

WHEREAS, pursuant to the terms of that certain Reimbursement Agreement dated as of November 30, 2000, among Releasees and Releasor, Releasor required, as a condition to extending its Guarantee to Administrative Agent, that Releasees grant to Releasor a security interest in and lien upon substantially all of each Releasees' assets relating to products sold under the Trademark Collateral (as defined herein);

WHEREAS, Releasees and Releasor entered into that certain Security Agreement dated as of November 30, 2000, as amended, replaced, superseded or otherwise modified from time to time (the "Security Agreement");

WHEREAS, pursuant to the Security Agreement, Releasees executed that certain Trademark Security Agreement dated as of November 30, 2000 (the "Trademark Security Agreement") in favor of Releasor, pursuant to which Releasees granted to Releasor a lien upon and security interest in, among other things, Releasees' respective right, title and interest in and to the following property of Releasees, whether then owned or thereafter acquired to secure the payment and performance of the Obligations (as defined in the Credit Agreement) (collectively, the "Trademark Collateral"):

- (a) all trademarks, trademark registrations and trade names and all trademark applications that have been filed based upon use or based upon intent to use, provided that a statement of use or amendment to allege use has been filed as of the date of any Event of Default, including, without limitation, each trademark and trademark application listed on Schedule A hereto ; and (i) all renewals thereof; (ii) all income, royalties, damages and payments then or thereafter due or payable with respect thereto, including without limitation, damages and payments for past or future infringements or dilution thereof or injury to the associated

goodwill; (iii) the right to sue for past, present and future infringements or dilution thereof or injury to the associated goodwill; and (iv) all rights corresponding thereto throughout the world;

(b) the goodwill of the Releasees' business connected with and symbolized by each trademark comprised in the Trademark Collateral; and

(c) all proceeds and products of the foregoing.

WHEREAS, the Trademark Security Agreement was recorded at the United States Patent and Trademark Office at Reel 2197/Frame 0001; Reel 2205/Frame 0664; and Reel 2201/Frame 0289 on December 7, 2000.

WHEREAS, Releasees have requested that Releasor release and discharge fully its security interest in and to the Trademark Collateral conveyed to Releasor pursuant to the Security Agreement, the Trademark Security Agreement and/or any other agreement (the "Security Interest"); and

WHEREAS, Releasor is willing to release and discharge fully the Security Interest.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Releasor, on behalf of itself, its successors, legal representatives and assigns, hereby releases and discharges fully the Security Interest in and to the Trademark Collateral, and all other right, title and interest in and to the Trademark Collateral conveyed to Releasor (if any) pursuant to the Security Agreement, the Trademark Security Agreement and/or any other agreement, and Releasor hereby reassigns any and all such right, title and interest that it may have in the Trademark Collateral (if any) to Releasees. Releasor further agrees to execute and deliver to Releasees any and all further documents or instruments and do any and all further acts which Releasees (or their agents or designees) reasonably request in order to confirm this Release and Releasees' right, title and interest in and to the Trademark Collateral.

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IN WITNESS WHEREOF, Releasor has caused this Release to be duly executed by its officer thereunto duly authorized as of the 30 day of NOVEMBER 2001.

399 VENTURE PARTNERS, INC.

By:

Name:

Title:

Charles E. Corpening  
Charles E. Corpening  
Vice President

### CERTIFICATE OF ACKNOWLEDGMENT

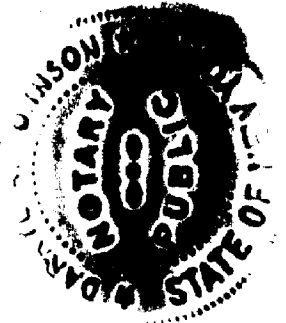
STATE OF NEW YORK  
COUNTY OF NEW YORK

ss.:

On this 30 day of NOVEMBER 2001, before me, the undersigned, personally appeared Charles E. Corpening, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Darryl A. Johnson  
[NOTARY SEAL]

DARRYL A. JOHNSON  
Notary Public, State Of New York  
No. 01JO6055702  
Qualified In Queens County  
Commission Expires March 5, 20 03



# **SCHEDULE A**

See attached.

EXHIBIT A

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