

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	NUNC PRO TUNC ASSIGNMENT
EFFECTIVE DATE:	05/14/2004

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
NBTY, Inc.		01/26/2005	CORPORATION: DELAWARE

RECEIVING PARTY DATA

Name:	Met-Rx Substrate Technology, Inc.
Street Address:	90 Orville Drive
City:	Bohemia
State/Country:	NEW YORK
Postal Code:	11716
Entity Type:	CORPORATION: CALIFORNIA

PROPERTY NUMBERS Total: 5

Property Type	Number	Word Mark
Registration Number:	2058523	MET-RX
Registration Number:	2169788	MET-RX
Registration Number:	2470368	MET-RX NATURAL KRUNCH
Registration Number:	2556583	MET-RX PROTEIN PLUS
Registration Number:	2664282	MET-RX MASS

CORRESPONDENCE DATA

Fax Number: (888)325-1659
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
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 Email: colson@edwardsangell.com
 Correspondent Name: Carrie Webb Olson
 Address Line 1: 301 Tresser Blvd
 Address Line 2: Edwards & Angell, LLP
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CH \$140.00 2058523

NAME OF SUBMITTER:	Carrie Webb Olson
Signature:	/carrie webb olson/
Date:	01/27/2005
Total Attachments: 3 source=nunc pro tunc tm assignment#page1.tif source=nunc pro tunc tm assignment#page2.tif source=nunc pro tunc tm assignment#page3.tif	

NUNC PRO TUNC TRADEMARK ASSIGNMENT

This NUNC PRO TUNC TRADEMARK ASSIGNMENT ("Assignment"), effective the 14th day of May, 2004, is made and entered into by and between NBTY, Inc., a Delaware Corporation, having an office and principle place of business at 90 Orville Drive, Bohemia, New York 11716 (hereinafter referred to as "Assignor"), and Met-Rx Substrate Technology, Inc., a California corporation, having an office and principal place of business at 90 Orville Drive, Bohemia, New York 11716 (hereinafter "Assignee").

WHEREAS, on July 24, 2003 Assignor acquired all right, title and interest in and to the trademarks set forth on Schedule A hereto (the "Trademarks"), including the right to sue and recover damages for past infringement; and


WHEREAS, on May 14, 2004 Assignor duly transferred to Assignee all right, title and interest in and to the Trademarks, including the goodwill of the business symbolized thereby;

WHEREAS, Assignor now seeks to clarify that all right, title and interest in and to the Trademarks, which were duly transferred to Assignee on May 14, 2004, included the right of Assignee to sue and collect damages for past infringement; and

WHEREAS, Assignee at all times desired to acquire all right, title, and interest in and to the Trademarks, including the right of Assignee to sue and collect damages for past infringement.



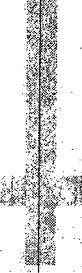
NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby sells, assigns and transfers, *nunc pro tunc*, to Assignee, its successors and assigns, the right to sue and collect damages for past infringement of the Trademarks in the United States and throughout the world.

NBTY, INC.

By: 
Name: Harvey Kamil
Title: President

Dated: January 26, 2005

SCHEDULE A

<u>Mark</u>	<u>Goods/Services</u>	<u>U.S. App. No.</u>	<u>U.S. Reg. No.</u>	<u>Reg. Date</u>
MET-RX and Design 	"Nutritional supplements, namely powdered and solid food supplements consisting of proteins, carbohydrates, vitamins and minerals," in Class 5	76/519,221	N/A	N/A
MET-RX 	"Nutritional supplements, namely powdered and solid food supplements consisting of proteins, carbohydrates, vitamins and minerals," in Class 5; and "Food consisting of proteins, carbohydrates, vitamins and minerals, namely bakery goods, fudge brownie and vanilla protein food bars, ice cream, ice milk, pizza, and turkey burger sandwiches," in Class 30	74/431,171	2,058,523	May 6, 1997
MET-RX	"Clothing, namely, shirts, T-shirts, tank tops, sweatshirts, pants, sweat pants, leggings, shorts, sweaters, jackets, socks, hats and caps," in Class 25	74/512,409	2,169,788	June 30, 1998
MET-RX NATURAL KRUNCH	"Nutritional food bars containing grain, processed fruits, proteins, vitamins, and minerals," in Class 30	75/722,506	2,470,368	July 17, 2001
MET-RX PROTEIN PLUS	"Cereal based food bars and ready to eat food bars, all containing protein," in Class 30	75/703,896	2,556,583	April 2, 2002
MET-RX MASS 	"Dietary and nutritional supplements," in Class 5; and "Nutritionally fortified protein based snacks and ready to eat food bars derived from cereal," in Class 30; and "Powder sport drink mixes," in Class 32	76/201,664	2,664,282	December 17, 2002

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