

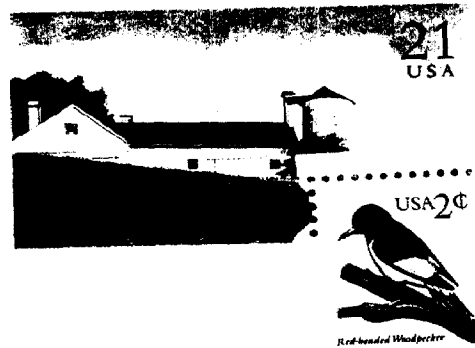
THE FOLLOWING WAS RECEIVED IN THE U.S. PATENT AND
TRADEMARK OFFICE ON THE DATE SHOWN BELOW:

APPLICANT : WOODROW C. MONTE
ASSIGNED TO : DOYLE W. BOATWRIGHT
NOS. : 5,948,452
FOR : PROCESS FOR PRODUCING...

MAIL CERTIFICATION FORM (1 pg)
CERTIFICATE & ASSIGNMENT : [(FROM: MONTE TO BOATWRIGHT (5pgs)
RECORDATION FORM] (1 pgs)
Assignment Check No. 1532 for \$40.00

602-P-36 TRN:dss 08/20/02
CERTIFIED MAIL NO. 7002 0510 0002 1154 0271 RETURN RECEIPT REQUESTED

Attn Assignments
COMMISSIONER OF PATENTS
AND TRADEMARKS
P.O. Box 2327
Arlington, VA 22202



OFFICE OF PUBLIC RECORDS
2002 AUG 26 AM 11:16
FINANCE SECTION

TOD R. NISSLE, P.C.
P.O. BOX 55630
Phoenix, Arizona 85078

ACCOUNT NO. [REDACTED] /OR FEE
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : WOODROW C. MONTE
Registration No. : 5,948,452
Issued : September 7, 1999
For: : PROCESS FOR PRODUCING LOW PH...
Attorney Docket No. : 602-P-36

8.26.02

Attn. Assignments
Assistant Commissioner
of Patents
P.O. Box 2327
Arlington, VA. 22202

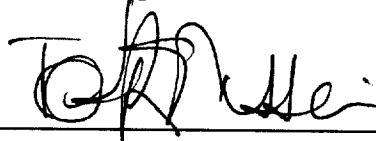
OFFICE OF THE CLERK OF RECORDS
2002 AUG 26 AM 11:16
FINANCE SECTION

CERTIFIED Mail No. 7002 0510 0002 1154 0271

Date of Deposit: 08/20/02

I hereby certify that the attached

Recordation Form; Assignment Check No. 1532; Certificate and Assignment; and return postcard are being deposited with the United States Postal Service as CERTIFIED Mail on the date indicated above and is addressed to: Attn. Assignments, Assistant Commissioner for Patents, P.O. Box 2327, Arlington, VA. 22202.



TOD R. NISSELE, Reg. No. 29,241

08/20/02

Date

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement ("Agreement") is made as dated below, between Doyle W. Boatwright ("Boatwright"), Woodrow Monte ("Monte"), and National Distribution and Contracting, Inc., a Delaware corporation ("NDC") (collectively the "Parties"). This Agreement is effective as of the date of the last signature below.

RECITALS

A. Boatwright and Monte entered into a Letter of Intent on January 16, 1988 regarding the development of liquid foods with antimicrobial properties. On or about January 19, 1989, Boatwright and Monte entered into Joint Owner's agreements with respect to certain patents that were referred to in the Letter of Intent. Boatwright, on November 29, 1996, purchased all of Monte's rights to and interest in certain intellectual property for the sum of \$100,000.00.

B. Thereafter, on or about July 6, 1998, Boatwright and Monte communicated regarding an application for an additional patent, which has since matured into U.S. Patent No. 5,948,452 (the "Cheese patent").

C. Monte and Boatwright dispute whether the communications referenced in Section B amounted to a contract whereby Boatwright owned, or would own, the Cheese patent.

D. Monte entered into an exclusive licensing arrangement with NDC, whereby NDC was licensed under the Cheese Patent.

E. Boatwright commenced an action against Monte in the Superior Court, Maricopa County, State of Arizona, Civil Action No. CV2001-002843 ("the Lawsuit") seeking damages from Monte for breach of contract, unjust enrichment, conversion, fraud/misrepresentation, misappropriation of trade secrets, all allegedly arising out of Monte's conduct with respect to the Cheese patent. Boatwright alleged, *inter alia*, that Monte improperly entered into an agreement with NDC to license to NDC Monte's purported rights to and interest in the Cheese patent. Monte denies any wrongdoing or that he is in any way liable to Boatwright, or that Boatwright had any rights to the Cheese patent as a result of the communications described in Section B, or as a result of any prior or subsequent communications.

F. The Parties now wish to resolve any and all disputes they have with respect to each other, and desire to settle and resolve all claims arising out of, relating to, or which could have been brought in the Lawsuit.

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Payment Obligations.** Upon execution of this Agreement, NDC shall pay to Boatwright the total amount of Twenty-Five Thousand Dollars (\$25,000.00) in certified or other readily available funds.

2. **Mutual Release: Boatwright and Monte.** Boatwright and Monte hereby forever mutually release and discharge the other and their related entities, predecessors, successors, affiliates, attorneys, accountants, and past and present officers, directors, employees, shareholders, and trustees from any and all past payments, damages, costs, fees, claims, demands, actions, causes of action, claims of appeal, obligations, penalties and losses, known or unknown, contingent or accrued, which relate in any way to the Lawsuit or that arise in any way out of the course of dealing between Monte and Boatwright through the date of this Agreement..

3. **Mutual Release: Boatwright and NDC.** Boatwright and NDC hereby forever mutually release and discharge the other and their related entities, predecessors, successors, affiliates, attorneys, accountants, and past and present officers, directors, employees, shareholders, and trustees from any and all past payments, damages, costs, fees, claims, demands, actions, causes of action, claims of appeal, obligations, penalties and losses, known or unknown, contingent or accrued, which relate in any way to the Lawsuit or that arise in any way out of the course of dealing between NDC and Boatwright through the date of this Agreement.

4. **Assignment: Monte to Boatwright.** In consideration of the mutual releases contained herein, and other valuable consideration, of which Monte acknowledges receipt, Monte hereby assigns to Boatwright, his successors and assigns, the entire right, title, and interest in and to the Cheese patent, United States Letters Patent No. 5,948,452, titled "PROCESS FOR PRODUCING LOW PH BYPRODUCTS FROM WASTE PRODUCTS OF CHEESE PRODUCTION", issued September 7, 1999, including all divisions, reissues, continuations, and reexaminations thereof, all foreign applications claiming priority therefrom, and all rights of priority resulting from the filing of the United States application of same, and authorizes and requests any official whose duty it is to issue patents, to issue any patent as described above to Boatwright, or his successors or assigns. Monte covenants with Boatwright, his successors and assigns, that, to the best of his knowledge, the rights and property hereby conveyed are free and clear of any encumbrance, other than a license granted to NDC, and that, to the best of his knowledge, Monte has full right to convey the same as herein expressed.

5. **Assignment: NDC to Boatwright.** In consideration of the mutual releases contained herein, and other valuable consideration, of which NDC acknowledges receipt, NDC hereby assigns to Boatwright, his successors and assigns, whatever right, title, and interest NDC in and to any and all licenses granted by Monte to NDC regarding and/or related to the Cheese patent, United States Letters Patent No. 5,948,452, titled "PROCESS FOR PRODUCING LOW PH BYPRODUCTS FROM WASTE PRODUCTS OF CHEESE PRODUCTION", issued September 7, 1999, including all divisions, reissues, continuations, and reexaminations thereof, all foreign applications claiming priority therefrom, and all rights of priority resulting from the filing of the United States application of same, and authorizes and requests any official whose duty it is to issue patents, to issue any patent as described above to Boatwright, or his successors or assigns.

6. **Entire Agreement.** This Agreement represents the entire understanding and agreement among the Parties with respect to the resolution of the Lawsuit and cannot be amended, supplemented, or changed in any respect, except by a written instrument signed by all of the Parties. This Agreement supersedes all prior negotiations, understandings, agreements, or representations, written or verbal, by the Parties with respect to the resolution of the Lawsuit.

The Parties further agree, having freely negotiated this provision, that there can be no claim of fraudulent inducement based on past actions with respect to this provision.

7. **Dismissal of Lawsuit.** Upon execution of this Agreement and payment to Boatwright as specified in Paragraph 1 above, Boatwright and Monte shall execute and cause to be filed a stipulated dismissal of the Lawsuit with prejudice and without costs (including attorneys' fees) to either party.

8. **Successors.** All the terms and conditions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective officers, directors, employees, agents, and successors.

9. **Execution in Counterparts.** This Agreement may be executed in counterparts and such counterparts taken together shall constitute but one agreement.

10. **Severability.** If any portion of this Agreement shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision contained in this Agreement, and instead, this Agreement shall be construed as if such invalid or unenforceable provision had never been contained therein.

11. **Governing Law; Forum.** The Parties agree that this Agreement shall be governed by and construed in accordance with the laws of the State of Arizona, and that all actions concerning any dispute arising hereunder or related hereto shall be filed and maintained in the Superior Court, Maricopa County, State of Arizona or United States District Court for the District of Arizona only.

12. **Advice of Counsel.** Each Party acknowledges that it has had the advice of counsel of the Party's choosing in reviewing this Agreement and further acknowledges that the Party enters into this Agreement of the Party's own free and voluntary act and is under no duress or undue influence. The Parties also agree that all of the Parties and their counsel have participated in the negotiation and drafting of this Agreement. The terms of the Agreement shall not be construed against any Party solely and shall be considered to have been drafted by all of the Parties to this Agreement.

13. **Confidentiality.** The terms and conditions of this Agreement are confidential. The Parties agree that such confidential information shall not hereafter be used, shown, disseminated, copied, or in any way communicated to anyone for any purpose whatsoever, except to the attorneys, accountants, and other representatives of the Parties that need to know the terms of the Agreement for legitimate business reasons and except for those disclosures which are required for tax purposes and/or compelled by court order. In the event a Party is required by court order to disclose this confidential information, that Party shall provide fourteen (14) days notice of the court order to the other Party to allow the other Party time in which to challenge or take other action with regard to that court order.

14. **Authority.** The Parties intend and agree that the undersigned representative of NDC has the authority to execute this Agreement and to bind NDC and all predecessors and successors to the obligations contained herein.

WHEREAS, the Parties hereby have executed this Agreement on the last date set forth below.


Doyle Bentwright

Date May 7, 2002

Woodrow Monte

Date _____

NDC

By: _____

Its: _____

Date _____

Consented to:

Nyer Medical Group, Inc.

By: _____

Its: _____

Date _____

WHEREAS, the Parties hereby have executed this Agreement on the last date set forth below.

Doyle Boatwright

Date



Woodrow Monte

May 10, 2002

Date

NDC

By: _____

Its: _____

Date

Consented to:

Nyer Medical Group, Inc.

By: _____

Its: _____

Date

RECEIVED

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MAY 21 2002

Boatwright/Monte
WILENCHIK & BARTNESS P.C.
ATTORNEYS