

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

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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): Veryfine Products, Inc. [ ] Individual(s) [ ] Association [ ] General Partnership [ ] Limited Partnership [x] Corporation-State MA [ ] Other Additional name(s) of conveying party(ies) attached? [ ] Yes [x] No

2. Name and address of receiving party(ies) Name: Citizens Bank of Massachusetts Internal Address: Street Address: 53 State Street City: Boston State: MA Zip: 02109 [ ] Individual(s) citizenship [ ] Association [ ] General Partnership [ ] Limited Partnership [ ] Corporation-State [x] Other Massachusetts State Chartered Bank 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 [x] No

3. Nature of conveyance: [ ] Assignment [ ] Merger [x] Security Agreement [ ] Change of Name [ ] Other Execution Date: 5/31/02

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

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Christopher E. Kondracki Internal Address: Street Address: 2001 Jefferson Davis, Hwy. Suite 505 City: Arlington State: VA Zip: 22202

6. Total number of applications and registrations involved: 25 7. Total fee (37 CFR 3.41) \$ 640.00 [ ] Enclosed [x] Authorized to be charged to deposit account 8. Deposit account number: 19-3545

DO NOT USE THIS SPACE

9. Signature. Christopher E. Kondracki Name of Person Signing [Signature] Signature 10/11/02 Date [11] Total number of pages including cover sheet, attachments, and document:

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

**Trademark Applications  
Continuation of Item 4A**

<b>Mark</b>	<b>Applications</b>
VFXI	76/307,467
VFXx	76/307,468
Girl Power	76/355,623
Girls Rule	76/363,188

**Trademark Registrations  
Continuation of Item 4B**

<b>Mark</b>	<b>Registrations</b>
Veryfine (With Open Apple Device)	2,152,253
Veryfine (Stylized)	1,654,456
Bev Pro	1,791,847
Veryfine (Stylized)	849,088
Apple Device	1,490,427
Apple Device	1,503,764
New Apple Device	1,964,065
Veryfine (Stylized)	1,503,763
Veryfine Johnny Appleseed (With Device)	916,388
Glacial Grape	1,988,386
DoorPro	1,998,340
Veryfine Apple Quenchers	1,856,392
Juice Ups	2,004,999
Bottle Design	2,127,913
Loud Mouth Can	2,269,662
Loud Mouth Lid	2,267,657
Veryfine Chillers	1,892,514
Diet Veryfine (Stylized)	2,228,829
Diet Veryfine (With Open Apple Device)	2,228,833
Premium Harvest	2,358,620
FRUIT20	2,419,817

**TRADEMARK AND TRADEMARK  
APPLICATIONS SECURITY AGREEMENT**

May 31, 2002

THIS AGREEMENT is made between

**CITIZENS BANK OF MASSACHUSETTS** (hereinafter, the "**Bank**"), a  
Massachusetts state chartered bank with offices at 53 State Street, Boston, Massachusetts  
02109

and

**VERYFINE PRODUCTS, INC.** (hereinafter, the "**Borrower**"), a Massachusetts  
corporation with its principal place of business at 20 Harvard Road, Littleton,  
Massachusetts

in consideration of the mutual covenants contained herein and benefits to be derived herefrom,

**WITNESSETH:**

1. **BACKGROUND:** The Bank and the Borrower have entered in a certain Loan  
and Security Agreement of even date (as such agreement may be modified, supplemented,  
amended or restated from time to time, hereinafter, the "**Loan Agreement**") pursuant to which a  
credit facility has been established in favor of the Borrower. (Terms used herein which are  
defined in the Loan Agreement are used as so defined).

2. **GRANT OF SECURITY INTEREST:** To secure the Obligations, the Borrower  
hereby creates a security interest in favor of the Bank, with power of sale (which power of sale  
shall be exercisable only if an Event of Default has occurred and is continuing) in and to the  
following and all proceeds thereof (collectively, the "**TM Collateral**"):

(a) All of the Borrower's now owned or existing or hereafter acquired or  
arising trademarks, trademark applications, service marks, registered service marks and service  
mark applications including, without limitation, those listed on **EXHIBIT A** annexed hereto and  
made a part hereof, together with any goodwill connected with and symbolized by any such  
trademarks, trademark applications, service marks, registered service marks, and service mark  
applications.

(b) All renewals of any of the foregoing.

(c) All income, royalties, damages and payments now and hereafter due  
and/or payable under and with respect to any of the foregoing, including, without limitation,  
payments under all licenses entered into in connection therewith and damages and payments for  
past or future infringements or dilutions thereof.

(d) The right to sue for past, present and future infringements and dilutions of

any of the foregoing.

(e) All of Borrower's rights corresponding to any of the foregoing throughout the world.

**3. PROTECTION OF MARKS BY BORROWER:** The Borrower shall undertake the following with respect to each items respectively described in Sections 2(a) and 2(b) (collectively, the "Marks"), except for Marks that are no longer useful or valuable in the conduct of the Borrower's business:

(a) Pay all renewal fees and other fees and costs associated with maintaining the Marks and with the processing of the Marks.

(b) At the Borrower's sole cost, expense, and risk, pursue the prompt, diligent, processing of each Application for Registration which is the subject of the security interest created herein and not abandon or delay any such efforts except where it determines, in its reasonable business discretion, to do so.

(c) At the Borrower's sole cost, expense, and risk, take any and all action which Borrower deems desirable to protect the Marks, including, without limitation, but subject to Borrower's discretion, the prosecution and defense of infringement actions.

**4. BORROWER'S REPRESENTATIONS AND WARRANTIES:** The Borrower represents and warrants that:

(a) **EXHIBIT A** includes all of the Federal registered trademarks, Federal trademark applications, Federal registered service marks and Federal service mark applications now owned by the Borrower.

(b) All TM Collateral is and shall remain, free and clear of all liens, Encumbrances, or security interests to any Person other than to the Bank.

(c) The Borrower shall give the Bank written notice (with reasonable detail) within Ten (10) days following the occurrence of any of the following:

(i) The Borrower's obtaining rights to, and filing applications for registration of, any new trademarks, or service marks, or otherwise acquires ownership of any newly registered trademarks, registered service marks, trademark applications, or service mark applications, (other than the Borrower's right to sell products containing the trademarks of others in the ordinary course of Borrower's business).

(ii) The Borrower's becoming entitled to the benefit of any registered trademarks, trademark applications, trademark licenses, trademark license renewals, registered service marks, service mark applications, service mark licenses or service mark license renewals whether as licensee or licensor (other than Borrower's right to sell products containing the trademarks of others in the ordinary course of Borrower's business).

(iii) The Borrower's entering into any new trademark license agreement or service mark license agreement.

**5 AGREEMENT APPLIES TO FUTURE MARKS:**

(a) The provisions of this Security Agreement shall automatically apply to any such additional property or rights described in 4(c), above, all of which shall be deemed to be and treated as "Marks" within the meaning of this TM Security Agreement.

(b) The Borrower hereby authorizes the Bank to take all such action to protect the Bank's interest in and concerning any future registered trademarks, trademark applications, registered service marks and service mark applications, written notice of which is so given, *provided, however*, the Bank's taking of such action shall not be a condition to the creation or perfection of the security interest created hereby.

**6. BORROWER'S RIGHTS TO ENFORCE MARKS:** Prior to the Bank's giving of notice to the Borrower following the occurrence of an Event of Default, the Borrower shall have the exclusive right to sue for past, present and future infringement of the Marks including the right to seek injunctions and/or money damages, in an effort by Borrower to protect the Marks against encroachment by third parties, *provided, however*:

(a) Any money damages awarded or received by the Borrower on account of such suit (or the threat of such suit) shall constitute TM Collateral.

(b) If an Event of Default has occurred and is continuing, the Bank, by notice to the Borrower may terminate or limit the Borrower's rights under this Section 6.

**7. BANK'S ACTIONS TO PROTECT MARKS:** If

(a) the Borrower fails, within Ten (10) days of written notice from the Bank, to cure any failure by the Borrower to perform any of the Borrower's obligations set forth in Section 3; and/or

(b) an Event of Default occurs and is continuing, the Bank, acting in its own name or in that of the Borrower, may (but shall not be required to) act in the Borrower's place and stead and/or in the Banks' own right in connection therewith.

**8. RIGHTS UPON DEFAULT:** If an Event of Default occurs and is continuing, the Bank may exercise all rights and remedies of a secured party upon default under the Uniform Commercial Code as adopted in Massachusetts (Massachusetts General Laws, Chapter 106), with respect to the Marks, in addition to which the Bank may sell, license, assign, transfer, or otherwise dispose of the Marks. Any person may conclusively rely upon an affidavit of an officer of the Bank that an Event of Default has occurred and is continuing and that the Bank is authorized to exercise such rights and remedies.

**9. BANK AS ATTORNEY IN FACT:**

(a) The Borrower hereby irrevocably constitutes and designates the Bank as and for the Borrower's attorney in fact, effective if an Event of Default has occurred and is continuing:

(i) To exercise any of the rights and powers referenced in Sections 3 and 5(b).

(ii) To execute all such instruments, documents, and papers as the Bank determines to be appropriate in connection with the exercise of such rights and remedies and to cause the sale, license, assignment, transfer, or other disposition of the Marks.

(b) The within grant of a power of attorney, being coupled with an interest, shall be irrevocable until this Agreement is terminated by a duly authorized officer of the Bank.

(c) The Bank shall not be obligated to do any of the acts or to exercise any of

the powers authorized by Section 9(a) herein, but if the Bank elects to do any such act or to exercise any of such powers, it shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be responsible to the Borrower for any act or omission to act except for any act or omission to act as to which there is a final determination made in a judicial proceeding (in which proceeding the Bank has had an opportunity to be heard) which determination includes a specific finding that the subject act or omission to act had been grossly negligent or in actual bad faith.

10. BANK'S RIGHTS:

(a) Any use by the Bank of the Marks, as authorized hereunder in connection with the exercise of the Bank' rights and remedies under this Agreement and under the Loan Agreement shall be coextensive with the Borrower's rights thereunder and with respect thereto and without any liability for royalties or other related charges.

(b) None of this Agreement, the Loan Agreement, or any act, omission, or circumstance taken or arising hereunder may be construed as directly or indirectly conveying to the Bank any rights in and to the Marks, which rights are effective only following the occurrence of any Event of Default.

11. CHOICE OF LAWS: It is intended that this Agreement take effect as a sealed instrument and that all rights and obligations hereunder, including matters of construction, validity, and performance, shall be governed by the laws of The Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the Borrower and the Bank respectively have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

VERYFINE PRODUCTS, INC.  
(The "Borrower")

CITIZENS BANK OF MASSACHUSETTS  
(The "Bank")

By *[Signature]*

By *Paul R. Crimusk*

Name *Francis X. Gufanello*

Name *PAUL R. CRIMUSK*

Title *Chief Operating Officer*

Title *VICE PRESIDENT*

THE COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF SUFFOLK, SS

*FRANCIS X. ORFANELLO*

Then personally appeared before me \_\_\_\_\_ who acknowledged that such person is the duly authorized <sup>CHIEF OPERATING</sup> ~~OFFICER~~ of Veryfine Products, Inc. and that such person had executed the foregoing instrument on its behalf.

Witness my hand and seal this 31<sup>st</sup> day of May, 2002.

*June V. Fredrick*  
\_\_\_\_\_  
JUNE V. FREDRICK, Notary Public

My Commission Expires: 11/25/2008

THE COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF SUFFOLK

Then personally appeared before me *PAUL R. CRIMM* who acknowledged that such person is the duly authorized VICE PRESIDENT of Citizens Bank of Massachusetts and that such person executed the foregoing instrument on its behalf.

Witness my hand and seal this 31 day of May, 2002.

*June V. Fredrick*  
\_\_\_\_\_  
JUNE V. FREDRICK, Notary Public

My Commission Expires: 11/25/2008

715828.1



EXHIBIT A

Borrower's now owned or existing or hereafter acquired or arising Federal registered service marks and Federal service mark applications, Federal registered trademarks, and Federal trade mark applications:

**Trademark/Service Mark Registrations**

TRADEMARK                      REGISTRATION NUMBER                      REGISTRATION DATE

**Trademark Applications**

MARK                      SERIAL NUMBER                      FILING DATE

715828.2

