

## Rooibos Trademark Abandoned

In a satisfying conclusion to attempts by AHPA and others to challenge the legitimacy of a trademark for the name “rooibos,” AHPA was recently notified that the owner of the trademark has informed the US Patent and Trademark Office (USPTO) that it has “voluntarily surrender[ed]” the mark.

“This outcome represents an important precedent,” stated Michael McGuffin, AHPA’s president. “AHPA will continue to be vigilant in preventing any individual company from claiming the sole right to use an established common name for any plant in commerce.” Although rooibos is the standard common name for the South African plant *Aspalathus linearis*, a US trademark for the word “rooibos” was registered in 1994. The owner of the mark, Burke International, sought to protect the trademark by claiming that labels that correctly identified *Aspalathus linearis* as rooibos were infringing on their trade name.

Petitions to USPTO to force a cancellation of the trademark were undertaken by AHPA and by Rooibos, Ltd., a South African exporter of the herb. In addition, a lawsuit brought by The Republic of Tea against Burke was resolved in January 2005 with a US District Court decision that the trademark was invalid and should be cancelled. Burke’s notice of voluntary surrender was dated June 24, 2005, and was served on that date to AHPA’s counsel.