No. 7200035

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Waller Flowerseed Company

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED NOVEL VARIETY OF SEXUALLY REPRODUCED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF seventeen YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT (84 STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

NASTRUTIUM

'Whirlybird Scarlet'

In Testimony Whereof, *I have hereunto set my hand and caused the seal of the* Plant Variety Protection Office *to be affixed at the City of* Washington *this* ninth *day of* January *in the year of our Lord one thousand nine hundred and* seventy-five

Attest:

S. Rollin

Commissioner
Plant Variety Protection Office
Grain Division
Agricultural Marketing Service

Earl L Butz

Secretary of Agriculture

Transfer of Plant Variety Protection Act Rights

I, Andrew Blodgett am the President of Waller Flowerseed Company, which has its principal place of business at 4th and Obispo Streets, Guadalupe, California 93434 (hereinafter referred to as "Waller"). Waller is the owner of the Plant Variety Protection applications (pending, issued and abandoned) listed on Exhibit A attached hereto (hereinafter referred to as the "Applications").

For good and valuable consideration the receipt of which is hereby acknowledged, Waller hereby transfers all of its right, title and interest in and to the Applications and all rights relating thereto under the Plant Variety Protection Act to PanAmerican Seed Company, a division of Ball Horticultural Company (which is an Illinois corporation), whose principal place of business is at 622 Town Road, West Chicago, Illinois.

Dated: July 19, 2001

Andrew Blodgett
President
Waller Flowerseed Company

FORM GR-470
(12-15-72)

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782

FORM APPROVED
OMB NO. 40-R3712

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE

INSTRUCTIONS: *See Reverse.*

1. VARIETY NAME OR TEMPORARY DESIGNATION Whirlybird Scarlet	2. KIND NAME Nasturtium	FOR OFFICIAL USE ONLY PV NUMBER 72035
3. GENUS AND SPECIES NAME Tropaeolum Majus	4. FAMILY NAME *(Botanical)* Tropaeolacea	FILING DATE 10·1·71 / TIME 1:00 P.M.
	5. DATE OF DETERMINATION July 1960	FEE RECEIVED $ 250 / $ 250 / $ 250 / BALANCE DUE $ — / $ — / $ —
6. NAME OF APPLICANT(S) Waller Flowerseed Co.	7. ADDRESS *(Street and No. or R.F.D. No., City, State, and ZIP Code)* Guadalupe, California 93434 P.O. Box 935	8. TELEPHONE AREA CODE AND NUMBER A.C. 805 Guadalupe 2371

9. IF THE NAMED APPLICANT IS NOT A PERSON, FORM OF ORGANIZATION: *(Corporation, partnership, association, etc.)*	10. STATE OF INCORPORATION	11. DATE OF INCORPORATION
Corporation	California	6-4-31

12. Name and mailing address of applicant representative(s), if any, to serve in this application and receive all papers:

John Waller
c/o Waller Flowerseed Co.
P.O. Box 935
Guadalupe, California 93434

13. CHECK BOX BELOW FOR EACH ATTACHMENT SUBMITTED:

- [X] 13A. Exhibit A, Origin and Breeding History of the Variety *(See Section 52 of the Plant Variety Protection Act.)*
- [X] 13B. Exhibit B, Botanical Description of the Variety
- [X] 13C. Exhibit C, Objective Description of the Variety
- [X] 13D. Exhibit D, Data Indicative of Novelty
- [X] 13E. Exhibit E, Statement of the Basis of Applicant's Ownership

14A. Does the applicant(s) specify that seed of this variety be sold by variety name only as a class of certified seed? *(See Section 83(a). (If "Yes," answer 14B and 14C below.)* [ ] YES [X] NO

14B. Does the applicant(s) specify that this variety be limited as to number of generations? [ ] YES [ ] NO

14C. If "Yes," to 14B, how many generations of production beyond breeder seed? [ ] FOUNDATION [ ] REGISTERED [ ] CERTIFIED

The applicant declares that a viable sample of basic seed of this variety will be deposited upon request before issuance of a certificate and will be replenished periodically in accordance with such regulations as may be applicable.

The undersigned applicant(s) of this sexually-reproduced novel plant variety believes that the variety is distinct, uniform, and stable as required in Section 41 and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act.

Applicant is informed that false representation herein can jeopardize protection and result in penalties.

November 25, 1974
(DATE)

John Waller
(SIGNATURE OF APPLICANT)

John Waller, President
Waller Flowerseed Co.

(DATE)

(SIGNATURE OF APPLICANT)

INSTRUCTIONS

GENERAL: Send an original copy of the application, exhibits and $250.00 fee to U.S. Dept. of Agriculture, Agricultural Marketing Service, Grain Division, 6525 Belcrest Road, Hyattsville, Maryland 20782. (See Section 180.175 of the regulations and rules of practice.) Retain one copy for your files. All items on the face of the form are self-explanatory unless noted below.

ITEM

5 Insert the date the applicant determined that he had a new variety based on the definition in Section 41 (a) of the Act and decision is made to increase the seed.

13a First, give the genealogy, including public and commercial varieties, lines, or clones used, and the breeding method. Second, give the details of subsequent stages of selection and multiplication. Third, indicate the type and frequency of variants during reproduction and multiplication and state how these variants may be identified. Fourth, provide evidence on stability.

13b First, give any special characteristics of the seed and of the plant as it passes through the seedling stage, flowering stage and the fruiting stage. Second, describe the mature plant and compare it with a similar commercial variety grown under the same conditions, and indicate the differences.

13c A supplemental form will be furnished by the PVPO to describe in detail a variety for each kind of seed.

13d Provide complete data indicative of novelty. Seed and plant specimens or photographs of seed and plant comparisons clearly indicating novelty may be submitted. Seeds submitted may be sterile.

13e Indicate whether applicant is the actual breeder, the employer of the breeder, the owner through purchase or inheritance, etc.

13A. Exhibit A

(1) A mutant plant found in Nasturtium Globe Orange, being spurless (no nectary).
(2) Intercrossed with all existing colors in Nasturtium, using varieties Gem, Gleam, and Globe. Grew segregating populations and selected for the spurless factor in a complete range of colors.
(3) Unless exposed to chance crossing with the spurred varieties, there is no essential variation in the various color lines, except possible a slight variation in earliness of the various colors.

13B. Exhibit B

(1) No difference until flowering stage when flowers have no nectary. Having no nectary the flower is located upright on the flowering stem and which contributed to the flowers being carried above the foliage.
(2) Is in all respects like an early Globe or Gem variety except for the spurlessness which causes blooms to face upward rather than downward.

13D. Exhibit D

'Whirlybird Scarlet' most closely resembles 'Scarlet Globe' but differs by bearing upward facing, spurless flowers.

13E. Exhibit E

Developed by the Plant Breeding staff of the Waller Flowerseed Company (owner).

FORM APPROVED. OMB NO. 40-R3712

FORM GR-470-27
(5-15-73)

EXHIBIT C
(Nasturtium)

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
GRAIN DIVISION
HYATTSVILLE, MARYLAND 20782

OBJECTIVE DESCRIPTION OF VARIETY

NASTURTIUM *(TROPAEOLUM SPP.)*

NAME OF APPLICANT(S)
Waller Flowerseed Co.

ADDRESS *(Street and No. or R.F.D. No., City, State, and ZIP Code)*
P.O. Box 935
Guadalupe, California 93434

FOR OFFICIAL USE ONLY

PVPO NUMBER

VARIETY NAME OR TEMPORARY DESIGNATION
Whirlybird Scarlet

Place the appropriate number that describes the varietal character of this variety in the boxes below.
Place a zero in first box (e.g. [0][8][9] or [0][9]) when number is either 99 or less or 9 or less.

1. SPECIES:

[1] 1 = MAJUS 2 = PELTOPHORUM (Lobbianum) 3 = PEREGRINUM 4 = MINUS
5 = OTHER (Specify)_____

[1] 1 = DIPLOID 2 = TETRAPLOID 3 = OTHER (Specify)_____

2. PLANT:

[2] 1 = TALL/CLIMBING > 60 CM. 2 = BUSH < 60 CM.

[0][3][0] CM. HIGH

[3][5] DAYS FROM EMERGENCE TO ANTHESIS Bloom

3. STEM (Mature):

[1] 1 = SUCCULENT, THICK 2 = NOT SUCCULENT, RIGID 3 = WOODY

4. LEAF:

[3] Shape: 1 = SCALLOPED 2 = DIVIDED OR LOBED 3 = ENTIRE

[1][0] CM. ACROSS (Leaf size)

[1][2] CM. PETIOLE LENGTH Leaf Stem

[2] Surface: 1 = NOT GLAUCOUS 2 = GLAUCOUS

[2] Odor when crushed: 1 = MILD 2 = PUNGENT

[1] Color: 1 = LIGHT GREEN (Whirlybird) 2 = MEDIUM GREEN 3 = DARK GREEN (Glorius Gleam) 4 = VARIEGATED

5. FLOWER:

[1] Type: 1 = SINGLE (< 5 petals) 2 = SEMIDOUBLE (8 – 15 PETALS) 3 = DOUBLE (> 15 petals) 4 = VARIOUS TYPES ON SAME PLANT

[0][7] CM. ACROSS (Flower size)

[1][0] CM. PEDUNCLE LENGTH Flower Stalk

[3] Petal Shape: 1 = POINTED 2 = NOTCHED 3 = ENTIRE, Rounded

[2] Petal Margin: 1 = STRAIGHT 2 = WAVY

[1] Spur: 1 = ABSENT 2 = PRESENT

[0] Spur: 1 = STRAIGHT 2 = CURVED

[2] Pistil: 1 = ABSENT 2 = PRESENT

[2] Pollen: 1 = ABSENT 2 = PRESENT

5. **FLOWER (Continued) :**

[1] Flower Color: 1 = UNIFORM 2 = VARIABLE ON SAME PLANT

[6] 1 = WHITE 2 = YELLOW 3 = ORANGE 4 = RED-ORANGE 5 = RED 6 = SCARLET
7 = MAROON 8 = VARICOLORED (Describe) _____

[1] Dark Spot: 1 = ABSENT 2 = PRESENT

6. **DISEASE RESISTANT: (0 = Not Tested; 1 = Susceptible; 2 = Resistant)**

[0] LEAF SPOT [0] SPOTTED WILT [0] MOSAIC

[0] OTHER (Specify) _____

7. **INSECT RESISTANT: (0 = Not Tested; 1 = Susceptible; 2 = Resistant)**

[0] APHIDS [ ] OTHER (Specify) _____

8. **INDICATE A VARIETY THAT MOST CLOSELY RESEMBLES THAT SUBMITTED:** Scarlet Globe

CHARACTER	VARIETY		CHARACTER	VARIETY	
Plant type	Scarlet Globe		Flower type	Scarlet Globe	
Plant size	"	"	Flower size	"	"
Leaf shape	"	"	Petal shape	"	"
Leaf size	"	"	Petal color	"	"
Petiole length	"	"	Spur shape/length	"	"

REFERENCES

Bailey, L. H. 1949. Manual of Cultivated Plants. MacMillan, New York, N.Y.

USDA Year Book Separate, 1937. Improvement of Flowers by Breeding.

COMMENTS:

United States Department of Agriculture
Agricultural Research Service
Northern Plains Area National Seed Storage Laboratory
1111 South Mason Street
Fort Collins, CO 80521-4500
Telephone: 303 495-3200
Fax: 303 221-1427

February 2, 1994

Ann Zempolich
Plant Variety Protection Office
NAL Building, Room 500
10301 Baltimore Blvd.
Beltsville, MD 20705-2351

Subject: Expiration of PVP applications and transfer of seed samples

Dear Ann:

In accordance with the Plant Variety Protection Office Official Journal dated April-June 1992, we have transferred the control of the following expired PVP samples to NSSL. We have made all necessary changes to our records.

PVP NUMBER	NSSL SERIAL	Genus	Species
7300065			
73065	89333.01	Glycine	max
7100009	89375.02	Verbena	multiflora
7100025	89315.01	Phaseolus	vulgaris
7100088	89374.01	Verbena	species
7200034	89366.01	Triticum	aestivum
7200045	89321.01	Gossypium	hirsutim
7200055	90082.01	Phaseolus	lunatus
7200102	86605.01	Triticum	aestivum
7300045	90081.01	Phaseolus	lunatus
7400010	90080.01	Lactuca	sativa
7400032	93983.01	Eschschoizia	californica
7400038	89373.01	Glycine	max
7400048	89371.01	Tagetes	erecta
7400049	89370.01	Tagetes	erecta
7400050	89372.01	Tagetes	erecta
7400085	90087.01	Pisum	sativum
7400087	89325.01	Triticum	aestivum
7400096	86676.01	Gossypium	hirsutim
7400105	90089.01	Glycine	max
7400106	90088.01	Glycine	max

Sincerely,

Eugene D. KEYS
Computer Assistant
Data Management & System Support