

08-24-1998



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COVER SHEET  
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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

8/19/98

To the Honorable Assistant Secretary,  
document(s) or copy(ies) thereof.


Remarks: Please record the attached original

<p>1. Name of conveying party(ies): EAST EUROPEAN IMPORTS, INC. <input type="checkbox"/> Individual(s)      <input type="checkbox"/> Association <input type="checkbox"/> General Partnership      <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-FLORIDA <input type="checkbox"/> Other Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes or <input type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies): Name: CAPITAL BUSINESS CREDIT Internal Address: Street Address: 2843 PACES FERRY ROAD City: ATLANTA      State: GA      ZIP: 30339 <input type="checkbox"/> Individual(s) citizenship <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-FLORIDA <input type="checkbox"/> Other If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes or <input type="checkbox"/> No? (Designations must be a separate document from Assignment) Additional name(s) &amp; address(es) attached? <input type="checkbox"/> Yes or <input type="checkbox"/> No?</p>
<p>3. Nature of conveyance: <input type="checkbox"/> Assignment      <input type="checkbox"/> Merger <input checked="" type="checkbox"/> Security Agreement      <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____ Execution Date: JULY 31, 1998</p>	

<p>4. Application number(s) or registration number(s): A. Trademark Application No.(s): 75/395822</p>	<p>B. Trademark Registration No.(s)</p>
<p>Additional numbers attached? <input type="checkbox"/> Yes or <input checked="" type="checkbox"/> No?</p>	

<p>5. Name and address of party to whom correspondence concerning document should be mailed:  Name: GARY M. KRASNA, P.A. Internal Address: Street Address: 1900 CORPORATE BLVD, SUITE 301W City: BOCA RATON      State: FL      ZIP: 33431</p>	<p>6. Total number of applications and registrations involved: one (1)  7. Total fee (37 C.F.R. § 3.41). . . . . \$40.00 <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized any deficiency to be charged to deposit account  8. Deposit account number: (Attach duplicate copy of this page if paying by deposit account)</p>
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DO NOT USE THIS SPACE

9. Statement and signature.  
*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*  
GARY M. KRASNA            AUGUST 7, 1998  
Name of Person Signing      Signature      Date  
**Total number of pages including cover sheet: 8**

OMB No. 0651-0011 (exp. 4/94)

Do not detach this portion

Mail documents to be recorded with required cover sheet information:  
**Commissioner and Assistant Secretary of Patents and Trademarks**  
**Box Assignments**  
**Washington, D.C. 20231**

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**40-00-02**  
The burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the date needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

**TRADEMARK COLLATERAL ASSIGNMENT**

THIS ASSIGNMENT of Trademarks ("**Assignment**") made this 3/4 day of July, 1998, by and between **EAST EUROPEAN IMPORTS, INC.**, a Florida corporation with its chief executive office at 3191 Coral Way, Suite 904, Miami, Florida 33145 ("**Assignor**") and **CAPITAL BUSINESS CREDIT, a division of CAPITAL FACTORS, INC.**, with a place of business at 2843 Paces Ferry Road, Atlanta, Georgia 30339 ("**Assignee**").

**W I T N E S S E T H:**

WHEREAS, Assignor and Assignee have entered into a certain Loan and Security Agreement dated as of July 2, 1998 whereby Assignee has agreed to lend funds to Assignor on the terms and conditions set forth in said Loan and Security Agreement (the Loan and Security Agreement and other financing documents are hereinafter collectively referred to as the "**Security Agreements**"); and

WHEREAS, Assignee has a security interest in substantially all other assets of Assignor pursuant to the Security Agreements such that it will be able to manufacture the goods and products covered by the Trademarks (as defined below) with the same standards of quality as Assignor; and

WHEREAS, Assignor is the record owner of the trademarks and the trademark applications hereto (the "**Trademarks**"), which Trademarks are registered in the U.S. Patent and Trademark Office; and

WHEREAS, Assignor hereby grants Assignee a security interest in the Trademarks on the terms set forth herein;

NOW, THEREFORE, for and in consideration of the terms and conditions set forth in the Security Agreements and set forth herein, the parties hereto hereby agree as follows:

1. To secure the complete and timely satisfaction of all of the obligations of Assignor to Assignee under the Security Agreements (the "**Obligations**"), Assignor hereby grants, assigns and conveys to Assignee, its successors and assigns, its entire right, title and interest in and to the Trademarks, including without limitation the good will of the business to which each of the Trademarks relates, all proceeds of the Trademarks (such as, by way of example, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof.

2. Assignor covenants and warrants that:

a. The Trademarks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part.

b. To the best of Assignor's knowledge, each of the Trademarks is valid and enforceable.

c. Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, free and clear of any liens, charges and encumbrances, including, without limitation, pledges, assignments, registered user agreements, licenses, shop rights and covenants by Assignor not to sue third persons.

d. Assignor has the unqualified right to enter into this Assignment and perform its terms and will enter into written agreements with each of its present and future employees, agents and consultants that will enable it to comply with the covenants herein contained.

e. No claim has been made that the use of any of the Trademarks does or may violate the rights of any third person.

f. Assignor has used and will continue to use for the duration of this Assignment proper statutory notice in connection with its use of the Trademarks.

g. Assignor has used and will continue to use for the duration of this Assignment consistent standards of quality in its manufacture of products sold under the Trademarks.

3. Assignor hereby grants to Assignee and its employees and agents the right to visit Assignor's plants and facilities which manufacture, inspect or store products sold under any of the Trademarks, and to inspect the products and quality control records relating thereto at reasonable times during regular business hours. Assignor shall do any and all acts required by Assignee to ensure Assignor's compliance with **paragraph "2g"** above.

4. Assignor agrees that, until all of the Obligations shall have been satisfied in full, it will not enter into any agreement (for example, a license agreement) which is inconsistent with Assignor's obligations under this Assignment, without Assignor's prior written consent.

5. If, before the Obligations shall have been satisfied in full, Assignor shall obtain rights to any new trademarks or if any trademark applications are granted, the provisions of **paragraph "1"** hereof shall automatically apply thereto and Assignor shall give to Assignee prompt notice thereof in writing hereof.

6. Assignor authorizes Assignee to modify this Assignment by amending **Schedule "A"** to include any future trademarks which are Trademarks under **paragraphs "1" or "5"** hereof.

7. Unless and until there shall have occurred and be continuing an event of default (as defined in the Security Agreements) or demand made upon Assignor for payment of its Obligations to Assignee, Assignee hereby grants to Assignor the exclusive, royalty-free, nontransferable right and license to make, have made, use and sell the goods covered by the Trademarks and to use the Trademarks on and in connection with products sold by Assignor, for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Assignor in this **paragraph "7"**, without the prior written consent of Assignee.

8. If demand has been made or an event of default shall have occurred and be continuing, as set forth in **paragraph "7"** above, Assignor's license as set forth in said **paragraph "7"** shall terminate forthwith, and Assignee shall have, in addition to all other rights and remedies given it by this Assignment, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be located and, without limiting the generality of the foregoing, the Assignor may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Assignor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in Florida or elsewhere, the whole or from time to time any part of the Trademarks, or any interest which Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to Assignor. Notice of any sale or other disposition of the Trademarks shall be given to Assignor at least five (5) days before the time of any intended public or private sale or other disposition of the Trademarks, which Assignor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, Assignee or any holder of any note may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of Assignor, which right is hereby waived and released.

9. Assignor assumes all responsibility and liability arising from the use of the Trademarks and Assignor hereby indemnifies, defends and holds Assignee harmless from and against any claim, suit, loss, damage or expense (including reasonable attorneys' fees) arising out of (i) any alleged defect in any product manufactured, promoted or sold by Assignor bearing any of the Trademarks, or (ii) the manufacture, promotion, labeling, sale or advertisement of any such product by Assignor.

10. Any and all fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by Assignee in connection with (i) the preparation of this Assignment and all other documents relating hereto and to the consummation of this transaction, (ii) the filing or recording of any documents (including all taxes in connection therewith) in public offices, (iii) the payment or discharge of any taxes, counsel fees, maintenance fees or encumbrances, (iv) defending or prosecuting any actions or proceedings arising out of or related to the Trademarks, or (v) otherwise protecting, maintaining or preserving the Trademarks shall be borne and paid by

Assignor on demand by Assignee and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the applicable rate prescribed in the Security Agreements.

11. Assignor shall have the duty, through counsel acceptable to Assignee, to prosecute diligently any trademark application for the Trademarks pending as of the date of this Assignment or thereafter until the Obligations shall have been paid in full, to make application on registrable but unregistered Trademarks, to file and prosecute opposition and cancellation proceedings, and to do all acts necessary or desirable to preserve and maintain all rights in the Trademarks and any trademark applications. Any expenses incurred in connection with such an applications shall be borne by Assignor.

12. Upon the failure or inability of Assignor to take actions required under **paragraph "11"** above, Assignee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce or protect the Trademarks and any license thereunder, in which event Assignor shall at the request of Assignee do any and all lawful acts and execute any and all proper documents required by Assignee in aid of such enforcement and Assignor shall promptly, upon demand, reimburse and indemnify Assignee for all costs and expenses incurred by Assignee in the exercise of its rights hereunder.

13. In the event of the occurrence of event of default under the Security Agreements, Assignor hereby authorizes and empowers Assignee to make, constitute and appoint any officer or agent of Assignee as Assignee may select, in its exclusive discretion, as Assignor's true and lawful attorney-in-fact, with the power to endorse Assignor's name on all applications, documents, papers and instruments necessary for Assignee to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to anyone else, or necessary for Assignee to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else. Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable for the life of this Assignment.

14. No course of dealing between Assignor and Assignee, nor any failure to exercise, nor any delay in exercising, on the part of Assignee, any right, power or privilege hereunder or under the Security Agreements shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

15. All of Assignee's rights and remedies with respect to the Trademarks, whether established hereby or by the Security Agreements, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

16. The provisions of this Assignment are severable, and if any clause or provision hereof shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction and shall not in any manner affect such clause or provision in any other jurisdiction or any other clause or provision of this Assignment in any jurisdiction.

17. This Assignment is subject to modification only by a writing signed by the parties, except as provided in **paragraph "6"** hereof.

18. The benefits and burdens of this Assignment shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

19. The validity and interpretation of this Assignment and the rights and obligations of the parties shall be governed by the laws of the State of Florida.

20. This Assignment is made in order to grant Assignee a security interest in the property set forth on **Schedule "A"** annexed hereto, and upon satisfaction of the Obligations secured hereby, this Assignment shall be void and of no further effect.

WITNESS the execution hereof under seal as of the day and year first above written.

WITNESS:

Assignor:

*Anthony Shedd*

**EAST EUROPEAN IMPORTS, INC.**

*Robert J. [Signature]*

By: *Karl Hansen*

*Karl Hansen*  
Its *Chief Financial Officer*  
Duly Authorized

Assignee:

**CAPITAL BUSINESS CREDIT, a division of  
CAPITAL FACTORS, INC.**

*Phyllis Scott*

By: *Donald G. Wisdom*

**DONALD G. WISDOM**  
Its *Senior Vice President*  
Duly Authorized

STATE OF Florida )  
 ) SS:  
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of July, 1998 by Karel Houska, as CEO of EAST EUROPEAN IMPORTS, INC., a Florida corporation, on behalf of the corporation. He [] is personally known to me or [ ] has produced \_\_\_\_\_, as identification.

[Signature]

My Commission Expires:  
Feb 20, 2000

Notary Public,  
Print Name: Oscar R Aguilar  
Commission Number: CC533257

[NOTARIAL SEAL]



STATE OF Georgia )  
 ) SS:  
COUNTY OF Cobb

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of August, 1998 by Donald G. Weston, as Senior Vice President of CAPITAL BUSINESS CREDIT, a division of CAPITAL FACTORS, INC., a Florida corporation, on behalf of the corporation. He [] is personally known to me or [ ] has produced \_\_\_\_\_, as identification.

[Signature]

My Commission Expires:  
Aug 10, 2001

Notary Public, State of Georgia  
Print Name: Michael Porroff  
Commission Number: \_\_\_\_\_

[NOTARIAL SEAL]

**SCHEDULE "A"  
TO TRADEMARK COLLATERAL ASSIGNMENT**

**LIST OF TRADEMARKS**

<b><u>Trademark</u></b>	<b><u>Application No.</u></b>	<b><u>Filing Date</u></b>	<b><u>GOODS</u></b>
GET DOWN TO EARTH	75/395822	November 25, 1997	Class 12