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ET U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

08-20-1998

U.S. Patent & TMO/TM Mail Rpt Dt. #58



To the Honorable Commissioner of Patents & Trademarks

100828903

original documents or copy thereof.

1. Name of conveying party(ies):

WHAM-O, INC.

- ☐ Individual(s)
☐ General Partnership
☒ Corporation-State Delaware
☐ Other
- ☐ Association
☐ Limited Partnership

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No

3. Nature of conveyance:

MRD 8-20-98

- ☐ Assignment
☒ Security Agreement
☐ Other
- ☐ Merger
☐ Change of Name

Execution Date: March 19, 1998

2. Name and address of receiving party(ies)

Name: BankBoston, N.A.

Internal Address:

Street Address: 100 Federal Street

City: Boston State: MA ZIP: 02110

- ☐ Individual(s) citizenship
☒ Association National
☐ General Partnership
☐ Limited Partnership
☐ Corporation-State
☐ Other

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 ☒ No

4. Application number(s) or patent number(s):

A. Trademark Application No.(s)

75/332,409

B. Trademark Registration No.(s)

1,582,755

Additional numbers attached? ☒ Yes ☐ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Murphy Sheneman Julian & Rogers

Internal Address: 39th Floor

Attn: D. Elaine Howard
Legal Assistant

Street Address: 101 California

City: San Francisco State: CA ZIP: 94111

6. Total number of applications and registrations involved:

17

7. Total fee (37 CFR 3.41):

\$ 440⁰⁰☒ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

01 FC:481
02 FC:48240.00 DP
400.00 DP

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.

D. Elaine Howard
Name of Person Signing
Signature

08/13/98

Date

Total number of pages including cover sheet, attachments, and documents: 17

Mail documents to be recorded with required cover sheet information
Commissioner of Patents & Trademarks, Box Assignments

TRADEMARK

REEL: 1788 FRAME: 0119

U.S.Registrations

<u>Mark</u>	<u>Reg. No.</u>	<u>Date</u>
BALZAC BALLOON BALL	1,582,755	February 13,1990
Balzac Logo	1,650,855	July 16, 1991
Brat Logo	1,693,303	June 9, 1992
BEASTIE	1,696,239	June 23, 1992
EAR BUSTERS	2,003,492	September 24, 1996
GLOP	1,785,678	August 3, 1993
FLY BABIES	2,111,368	November 4, 1997
HEAD BALLS	2,129,450	January 13,1998
ZACTAIL	2,037,943	February 11, 1997
SPITHEADS	2,012,871	October 29, 1996
BALLBANK	1,693,308	June 9, 1992
SPORTSMAGIC	1,693,307	June 9, 1992

U.S. Pending Applications

<u>Mark</u>	<u>Serial No.</u>	<u>Filing Date</u>
FLY BUDDIES	75/332,409	July 29, 1997
DINO JOCKS	75/336,646	August 6, 1997
NEON PLANET	75/337,795	October 23, 1997
DARK PLANET	75/377,758	October 23, 1997
BLOW UPS	75/285,549	May 2, 1997

FIRST AMENDMENT TO INTELLECTUAL PROPERTY SECURITY AGREEMENT

This FIRST AMENDMENT TO INTELLECTUAL PROPERTY SECURITY AGREEMENT (this "Amendment"), dated as of March 19, 1998, is entered into between WHAM-O, INC., a Delaware corporation ("Borrower") and BANKBOSTON, N.A. ("Lender").

RECITALS

A. Borrower and Lender are parties to that certain Credit Agreement, dated as of November 24, 1997 (the "Credit Agreement"), pursuant to which Lender agreed to make certain financial accommodations to or for the benefit of Borrower upon the terms and conditions contained therein. Unless otherwise defined in this Amendment, capitalized terms used herein shall have the meanings given to them in the Credit Agreement, as amended.

B. Borrower has requested that Lender (i) provide Borrower with a written consent to the purchase of certain assets by Borrower, (ii) provide additional financial accommodations to Borrower, and (iii) amend the terms of the Credit Agreement and certain of the other Loan Documents with respect thereto.

C. Lender has agreed to grant the requests described in the foregoing paragraph on the condition that Borrower, among other things, execute this Amendment.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Amendments to Intellectual Property Security Agreement.

1.1 Part A to Schedule I to the Intellectual Property Security Agreement is supplemented to add the Patents and Patent Licenses identified on Appendix A hereto.

1.2 Part B to Schedule I to the Intellectual Property Security Agreement is supplemented to add the Trademarks and Trademark Licenses identified on Appendix B hereto.

1.3 Part C to Schedule I to the Intellectual Property Security Agreement is supplemented to add the Copyrights and Copyright Licenses identified on Appendix C hereto.

2. Conditions of Effectiveness. This Amendment shall become effective upon Lender's receipt of an original of this Amendment that, when counterparts are taken together, bears the signatures of Borrower and Lender.

3. Representations and Warranties. Borrower hereby represents and warrants to Lender as follows: (i) the representations and warranties contained in the Intellectual Property Security Agreement were true and correct in all material respects when made and, after giving effect to this Amendment, shall remain true and correct in all material respects as of the date hereof; and (ii) this Amendment, the Credit Agreement, the Intellectual Property Security Agreement as amended hereby, the Revolving Note, the Term Note, and the other Loan Documents constitute the legal, valid and binding obligations of Borrower, enforceable against Borrower in accordance with their respective terms.

4. Ratification. Except as specifically modified by this Amendment, the parties hereto acknowledge that the Credit Agreement and the Intellectual Property Security Agreement shall remain binding upon Borrower and Lender, and all provisions of the Credit Agreement and the Intellectual Property Security Agreement shall remain in full force and effect. Borrower expressly ratifies and affirms its obligations to Lender under the Credit Agreement, the Intellectual Property Security Agreement and the other Loan Documents.

5. Miscellaneous.

5.1 Complete Agreement. The Intellectual Property Security Agreement, as modified and amended by this Amendment, together with the Credit Agreement and the other Loan Documents, constitute the complete agreement between the parties, and supersede any prior written or oral agreements, writings, communications or understandings of the parties, with respect to the subject matter hereof or thereof.

5.2 Recitals. The recitals to this Amendment shall constitute a part of the agreement of the parties hereto.

5.3 Headings. Section headings used herein are for convenience of reference only, are not part of this Amendment, and are not to be taken into consideration in interpreting this Amendment.

5.4 Counterparts. This Amendment may be executed in identical counterpart copies, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Amendment by facsimile transmission shall be effective as delivery of a manually executed counterpart of this Amendment.

5.5 Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REFERENCE TO THE CONFLICTS OR CHOICE OF LAW PRINCIPLES THEREOF.

5.6 No Novation. Except as specifically set forth in this Amendment, the execution, delivery and effectiveness of this Amendment shall not (a) limit, impair, constitute a waiver by, or otherwise affect any right, power or remedy of Lender under the Credit Agreement, the Intellectual Property Security Agreement or any other Loan Document, (b) constitute a waiver of any provision in the Credit Agreement, the Intellectual Property Security Agreement or in any of the other Loan Documents, or (c) alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or the Intellectual Property Security Agreement, all of which are ratified and affirmed in all respects and shall continue in full force and effect.

5.7 Conflict of Terms. In the event of any inconsistency between the provisions of this Amendment and any provision of the Intellectual Property Security Agreement, the terms and provisions of this Amendment shall govern and control.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to Intellectual Property Security Agreement to be duly executed and delivered as of the date and year first written above.

WHAM-O, INC.

By: 

Mojde Esfandiari
Chief Financial Officer

BANKBOSTON, N.A.

By: _____

Neal C. Hesler
Vice President

5.5 Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA, WITHOUT REFERENCE TO THE CONFLICTS OR CHOICE OF LAW PRINCIPLES THEREOF.

5.6 No Novation. Except as specifically set forth in this Amendment, the execution, delivery and effectiveness of this Amendment shall not (a) limit, impair, constitute a waiver by, or otherwise affect any right, power or remedy of Lender under the Credit Agreement, the Intellectual Property Security Agreement or any other Loan Document, (b) constitute a waiver of any provision in the Credit Agreement, the Intellectual Property Security Agreement or in any of the other Loan Documents, or (c) alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or the Intellectual Property Security Agreement, all of which are ratified and affirmed in all respects and shall continue in full force and effect.

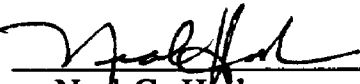
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WHAM-O, INC.

By: _____
Mojde Esfandiari
Chief Financial Officer

BANKBOSTON, N.A.

By:  _____
Neal C. Hesler
Vice President

APPENDIX A

Additional Patents and Patent Licenses

(See attached.)

LICENSED PATENTS AND PATENT APPLICATIONS

4,834,382	Inflatable Play Ball - Basic Balzac
4,917,381	Variable Weight Play Ball - Balzac CIP
5,138,721	Pneumatic Bolster - Balzac CIP
5,035,426	Pneumatic Play Ball - Balzac CIP
5,135,222	Multi-Mode Playball - Balzac CIP
5,287,561	Convertible Package Hat and Package Therefor - Balzac CIP
5,597,339	Stuffed Toy Figure & Offspring Assembly
5,288,261	Figurative Toy Missile - Fly Babies
5,577,732	Toy Missile - ZacTails
EPO Patent # 0347160	Inflatable Play Ball
Australia Patent # 619558	Inflatable Play Ball
Mexican Patent # 183330	Balloon Ball Toy
Canadian Patent # 1316558	Inflatable Play Ball
5,490,806	Flexible Ring
5,071,123	Toy Implements for Storing & Striking Balls - Sports Magic line
5,335,907	Variable Weight Play Ball - Foam Ball
5,380,002	Variable Weight Play Pieces - Foam Ball
5,462,273	Variable Weight Playball - Foam Ball

LICENSED PATENTS AND PATENT APPLICATIONS**Continued**

EPO Application SN 94305737.2	Variable Weight Playball
Australia Patent #674968	Variable Weight Playball
Canadian Application SN 2129713	Variable Weight Playball
Argentina Application SN 329.011	Variable Weight Playball
Brazil Application SN PI9403205-0	Variable Weight Playball
Mexican Application SN 946034	Variable Weight Playball
5,564,961	Water-Pistol and Puppet Assembly-SpitHeads
5,605,485	Water-Pistol and Animal Figure Assembly-SpitHeads
5,667,419	Water-Pistol and Animal Figure Assembly-SpitHeads CIP
EPO Patent Application SN 96 303 073.9	Water Pistol and Puppet Assembly
Canadian Application SN 2175413	Water Pistol and Puppet Assembly
Argentina Application SN 336,736	Water Pistol and Puppet Assembly
Mexican Application SN 961,607	Water Pistol and Puppet Assembly
Australian Application SN 51976/96	Water Pistol and Puppet Assembly
Brazilian Application SN PI9602122-5	Water Pistol and Puppet Assembly

LICENSED PATENTS AND PATENT APPLICATIONS
Continued

PATENTS PENDING

SN 08/840,655	Collapsible Stuffed Toy Figure - Blow Ups
Unofficial SN 08/874,520	Animal-Like Ride-On Toy Vehicle - Ride Ons
SN 08/746469	Craft Kit for Producing Toy Figures

APPENDIX B

Additional Trademarks and Trademark Licenses

(See attached.)

U.S.Registrations

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BALZAC BALLOON BALL	1,582,755	February 13,1990
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DARK PLANET	75/377,758	October 23, 1997
BLOW UPS	75/285,549	May 2, 1997

LICENSED PRODUCT LINES

Balzac Balloon Balls

HatBalls

Super*Star

ZacTail

Fly Babies/Fly Buddies

Ride Ons

Blow Ups (including Plush, Decorations, Figures, Pool Toys)

Sports Magic line

SpitHeads

Flexible Ring

Foam Balls

Inflatable Body Board

Water Tag

APPENDIX C

Additional Copyrights and Copyright Licenses

(No Additional Copyrights or Copyright Licenses)