

11-03-1998

HEET

Docket No.:

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To the Honorable Commissioner of

100866130

he attached original documents or copy thereof.

1. Name of conveying party(ies):

New Balance Athletic Shoe, Inc.

10-26-98

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

Additional names(s) of conveying party(ies) Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other Termination of Assignment
- Merger
- Change of Name

Execution Date: October 13, 1998

2. Name and address of receiving party(ies):

Name: Fleet Capital Corporation, as successor in interest to Barclays Internal Address: Business Credit, Inc.

Street Address: 200 Glastonbury Boulevard

City: Glastonbury State: CT ZIP: 06033

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

If assignee is not domiciled in the United States, a domestic designation is N/A Yes No
(Designations must be a separate document from Additional name(s) & address(es) N/A Yes No

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

See Attached Schedule A

11/02/1998 SBURNS 00000171 1053241

01 FC:481 40.00 OP
02 FC:482 150.00 OP

Additional numbers

Yes No

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

Name: Christopher Andrews

Internal Address: Brown Rudnick Freed & Gesmer

Street Address: One Financial Center

City: Boston State: MA ZIP: 02111

6. Total number of applications and registrations involved:.....

7

7. Total fee (37 CFR 3.41):.....\$ 190.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

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.

Christopher W. Andrews

Name of Person Signing

Christopher W. Andrews

Signature

Oct 19, 1998

Date

Total number of pages including cover sheet, attachments, and

3

TRADEMARK

REEL: 1807 FRAME: 0068

TRADEMARKS - SCHEDULE A

<u>U.S. Trademark</u>	<u>U.S. Registration Number</u>	<u>Registration Date</u>
New Balance	1,053,241	11/23/76
NB	1,065,726	03/17/77
N	1,097,551	07/25/78
New Balance	1,260,938	12/13/83
NB	1,260,939	12/13/83
N	1,308,133	12/04/84
N	1,344,589	06/25/85

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TRADEMARK OFFICE

TRADEMARK

REEL 1807

TERMINATION OF
TRADEMARKS COLLATERAL ASSIGNMENT

FOR VALUABLE CONSIDERATION, the receipt of which is acknowledged, Fleet Capital Corporation, as successor in interest to Barclays Business Credit, Inc., hereby terminates and releases that certain Trademarks Collateral Assignment dated August 6, 1992, given by New Balance Athletic Shoe, Inc., recorded with the U.S. Department of Commerce Patent and Trademark Office, at Reel 1135, Frames 261-267, and further terminates and releases any interest in the trademarks and trademark applications referred to therein.

IN WITNESS WHEREOF, executed this 4th day of October, 1998 in Glastonbury, Connecticut.

FLEET CAPITAL CORPORATION, as successor
in interest to Barclays Business Credit, Inc.

By: TJ Broderick
Name: TIMOTHY J. BRODERICK
Title: SR. V.P.

The foregoing instrument was acknowledged before me this 4th day of October, 1998 by TIMOTHY J. BRODERICK of Fleet Capital Corporation, a Rhode Island corporation, on behalf of the corporation.

[Signature]
_____, notary public
My Commission Expires LISA A. CAMPALO
NOTARY PUBLIC
MY COMMISSION EXPIRES FEB. 28, 2000

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TRADEMARK
REEL: 1807 FRAME: 0070

TRADEMARKS COLLATERAL ASSIGNMENT

THIS ASSIGNMENT is made as of August 6, 1992, between **NEW BALANCE ATHLETIC SHOE, INC.**, a Massachusetts corporation having an office at 38 Everett Street, Boston, Massachusetts (hereinafter referred to as "Assignor"), and **BARCLAYS BUSINESS CREDIT, INC.**, a Connecticut corporation having an office at 200 Glastonbury Boulevard, Glastonbury, Connecticut hereinafter referred to as "Lender").

BACKGROUND

Assignor is the owner of the Trademarks hereinafter mentioned. Assignor and Lender have entered into a Loan and Security Agreement dated August 6, 1992 with Lender (as amended from time to time, hereinafter called the "Loan Agreement"). In order to induce Lender to make the loans contemplated by the Loan Agreement, Assignor has agreed to assign to Lender certain trademark rights.

NOW, THEREFORE, in consideration of the premises, Assignor hereby agrees with Lender as follows:

1. To secure the complete and timely satisfaction of all Obligations (as defined in the Loan Agreement), Assignor hereby grants, assigns and conveys to Lender: Assignor's entire right, title and interest in and to the trademark applications and the trademarks listed on Schedule A hereto, together with the goodwill of the business symbolized thereby, including, without limitation, all proceeds thereof (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 reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof (collectively called the "Trademarks"). Pursuant to the Loan Agreement, Assignor has granted to Lender a security interest in those assets of Assignor which are necessary to produce the products for which the Trademarks are used.

2. Assignor covenants and warrants that:

(a) To the best of Assignor's knowledge, 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 licenses, shop rights and covenants by Assignor not to sue third persons, except as otherwise expressly permitted pursuant to the Loan Agreement and except for those licenses and sublicenses which are existing as of the date

hereof and those licenses and sublicenses which are granted hereafter in the ordinary course of Assignor's business;

(d) Assignor has the unqualified right to enter into this Agreement and perform its terms.

(e) This Agreement has been duly executed and delivered to Lender by Assignor and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms; and

(f) The execution, delivery and/or performance by Assignor of this Agreement shall not, by the lapse of time, the giving of notice or otherwise, constitute a violation of any applicable law or breach of any provision contained in its Articles of Organization or By-Laws, or contained in any agreement, instrument or document to which it is now a party or by which it is bound, and no consent, approval, license or authorization of any governmental bureau or agency or of any other person is required to be obtained in connection therewith.

3. If, before the Obligations shall have been satisfied in full, Assignor shall become entitled to the benefit of any trademark application or trademark for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Trademark, the same shall automatically be deemed subject to this Assignment and included within the terms Trademarks, and Assignor shall give to Lender prompt notice thereof in writing.

4. Assignor authorizes Lender to modify this Agreement by amending Schedule A to include any future trademarks or trademark applications which are Trademarks under Paragraph 1 or Paragraph 4 hereof.

5. Unless and until Lender shall accelerate the maturity of the Obligations pursuant to the terms of the Loan Agreement, Lender hereby grants to Assignor the exclusive, nontransferable right and license to use the Trademarks. Assignor agrees not to sell or assign its interest in, but shall have the right to grant sublicenses under, the license granted to Assignor in this Paragraph 6, without the prior written consent of Lender. Assignor shall provide to Lender, from time to time as Lender may request, certifications by a responsible officer of Assignor concerning maintenance or product quality.

6. If Lender shall accelerate the maturity of the Obligations pursuant to the Loan Agreement, Assignor's license under the Trademarks as set forth in Paragraph 5 shall terminate forthwith, and Lender shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts, and, without limiting the generality of the foregoing, Lender may in accordance with the terms of the Loan Agreement, sell at public or private sale or otherwise

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FRAME 0072

realize upon, in Massachusetts or elsewhere, the whole or from time to time any part of the Trademarks, or any interest which the Assignor may have therein. After deducting from the proceeds of sale or other disposition of the Trademarks all reasonable expenses (including all reasonable expenses for brokers' fees and legal services), the Lender shall apply the residue of such proceeds toward the payment of the Obligations, and, after payment in full of the Obligations shall pay over to the Assignor any remainder of the proceeds, subject to such other applications of the proceeds as may be required by other agreements to which Lender and Assignor are parties or by which they are bound. Notice of any sale or other disposition of the Trademarks shall be given to Assignor at least twenty (20) days before the time of any intended public or private sale or other disposition of the Trademarks is to be made, which Assignor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, Lender 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.

7. At such time as Assignor shall completely satisfy all of the Obligations, Lender shall execute and deliver to Assignor all deeds, assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Trademarks, together with the goodwill associated therewith, subject to any disposition thereof which may have been made by Lender pursuant thereto.

8. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by Lender in connection with the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees or encumbrances, or in otherwise protecting, maintaining or preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks, shall be borne and paid by Assignor on demand by Lender and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the rate prescribed in the Loan Agreement.

9. Assignor shall have the duty, by itself or through counsel acceptable to Lender, to prosecute diligently any trademark application of the Trademarks pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full, to preserve and maintain all rights in the Trademarks, the registration of the Trademarks and any trademark applications of the Trademarks. Any expenses incurred in connection with the foregoing shall be borne by Assignor. Assignor shall not abandon any right to file a trademark application, or any pending trademark application without the consent of the Lender, which consent shall not be unreasonably withheld.

10. Each of Lender and Assignor shall have the right but shall in no way be obligated to bring suit in its own name to enforce the Trademarks and any license thereunder, in which event Assignor or Lender as the case may be shall at the request of the other do any and all lawful acts and execute any and all proper documents required by

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Lender in aid of such enforcement, and Assignor shall promptly, upon demand, reimburse and indemnify Lender for all costs and expenses incurred by Lender in the exercise of its rights or obligations under this Paragraph 10.

11. No course of dealing between Assignor and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder or under the Loan Agreement 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.

12. All of Lender's rights and remedies with respect to the Trademarks, whether established hereby or by the Loan Agreement, or by any other agreement or by law shall be cumulative and may be exercise singularly or concurrently.

13. The provisions of this Agreement are severable, and if any clause or provision 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 Agreement in any jurisdiction.

14. This Agreement is subject to modification only by a writing signed by the parties, except as provided in Paragraph 5.

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

16. Notwithstanding anything to the contrary contained in this Agreement, Assignor shall have the right to abandon such Trademarks as Assignor may deem immaterial to its business.

17. The validity and interpretation of this Agreement and the rights and Obligations of the parties shall be governed by the laws of the Commonwealth of Massachusetts.

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STATE OF CONNECTICUT

) ss.

COUNTY OF HARTFORD

On this the 7th day of April, 1994, before me, Deborah D. Schultz, the undersigned officer, personally appeared Timothy J. Brodenick who acknowledged himself to be the Group Vice Pres of Barclays Business Credit, Inc., a corporation, and that he, as such Group Vice Pres., being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Group Vice President.

In witness whereof I hereunto set my hand.

Deborah D Schultz
 Notary Public

My Commission Expires:

DEBORAH D. SCHULTZ
 NOTARY PUBLIC, State Of CT
 Commission Expires March 31, 1999

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TRADEMARK
 REEL 1807 FRAME 0076

TRADEMARKS - SCHEDULE A

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TRADEMARK

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