



11-12-1998



100875898

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

New

Resubmission (Non-Recordation)
Document ID #

Correction of PTO Error
Reel # Frame #

Corrective Document
Reel # Frame #

Conveyance Type

Assignment License

Security Agreement Nunc Pro Tunc Assignment

Merger

Change of Name

Other

Effective Date
Month Day Year
10 22 98

Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date
Month Day Year
10 22 98
10 8 98

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

11/12/1998 DNGUYEN 00000019 1607737

FOR OFFICE USE ONLY

01 FC:481 40.00 OP
02 FC:482 50.00 OP

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments. #

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="1,607,737"/>	<input type="text" value="1,387,810"/>	<input type="text" value="1,262,701"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties

Enter the total number of properties involved. #

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment: Enclosed Deposit Account

Deposit Account (Enter for payment by deposit account or if additional fees can be charged to the account.)
Deposit Account Number: #

Authorization to charge additional fees: Yes No

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. Charges to deposit account are authorized, as indicated herein.

Christopher E. Kondracki
Name of Person Signing


Signature

November 5, 1998
Date Signed

**TRADEMARK AND TRADEMARK
APPLICATIONS SECURITY AGREEMENT**

This Trademark and Trademark Applications Security Agreement (the "TM Security Agreement") is made as of the 22 day of October, 1998 by Midwest Beauty Limited Partnership, a Delaware limited partnership with its principal executive offices at 225 East 11th Street, Sioux Falls, South Dakota 57102 (the "Obligor"), and BankBoston, N.A. (the "Lender"), a national banking association with its principal place of business at 100 Federal Street, Boston, Massachusetts 02110.

RECITALS

WHEREAS, the Obligor has entered into a certain loan arrangement (the "Loan Arrangement") with the Lender dated as of December 31, 1997 evidenced by, among other documents, instruments and agreements, a certain Loan Agreement dated as of December 31, 1997 (as the same may hereafter be modified, amended, supplemented or restated, the "Loan Agreement");

WHEREAS, as security for the Obligor's Obligations pursuant to the Loan Arrangement, the Obligor has executed and delivered to the Lender, among other documents, instruments, and agreements, a certain Security Agreement dated as of December 31, 1997 (as the same may be amended from time to time, hereafter, the "Security Agreement"); and

WHEREAS, as a condition, among others, to the establishment of the credit facility contemplated by the Loan Agreement, and to further secure the Obligations, the Obligor has executed this TM Security Agreement.

NOW THEREFORE, For good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Obligor and the Lender agree as follows:

1. Terms used herein which are defined the Loan Agreement are used as so defined.
2. To secure the Obligations, the Obligor hereby creates in favor of the Lender, a security interest in and to, and assigns for security to the Lender, with power of sale (which power

of sale shall be exercisable only following the occurrence of an Event of Default (as defined in the Loan Agreement and used herein so defined), in and to the following and all proceeds thereof:

(a) All of the Obligor's now owned or existing or hereafter acquired or arising trademarks, trademark applications, service marks, registered service marks and service mark applications including, without limitation, those listed on **EXHIBIT A** annexed hereto and made a part hereof, together with any goodwill connected with and symbolized by any such trademarks, trademark applications, service marks, registered service marks, and service mark applications.

(b) All renewals of any of the foregoing.

(c) All income, royalties, damages and payments now and hereafter due and/or payable under and with respect to any of the foregoing, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements or dilutions thereof.

(d) The right to sue for past, present and future infringements and dilutions of any of the foregoing.

(e) All of Obligor's rights corresponding to any of the foregoing throughout the world.

All of the foregoing trademarks, registered trademarks and trademark applications, and service marks, registered service marks and service mark applications described in Subsection 2.(a), together with the items respectively described in Subsections 2.(b) through and including 2.(e) are hereinafter individually and/or collectively referred to as the "**Marks**".

3. Until this TM Security Agreement is terminated in writing by a duly authorized officer of the Lender, the Obligor shall undertake the following with respect to each Mark:

(a) Pay all renewal fees and other fees and costs associated with maintaining the Marks and with the processing of the Marks.

(b) At the Obligor's sole cost, expense, and risk, pursue the prompt, diligent, processing of each Application for Registration which is the subject of the security interest created herein and not to abandon or delay any such efforts.

(c) At the Obligor's sole cost, expense, and risk, take any and all action which Obligor deems desirable to protect the Marks, including, without limitation, but subject to Obligor's discretion, the prosecution and defense of infringement actions.

4. In the event of

(a) the Obligor's failure, within Five (5) days of written notice from the Lender, to cure any failure by the Obligor to perform any of the Obligor's obligations set forth in Section 3, above; and/or

(b) the occurrence of any Event of Default,

the Lender acting in its own name or in that of the Obligor may (but shall not be required to) act in the Obligor's place and stead and/or in the Lender's own right in connection therewith.

5. The Obligor represents and warrants that:

(a) **EXHIBIT A** includes all of the registered trademarks, Federal trademark applications, registered service marks and Federal service mark applications now owned by the Obligor.

(b) No liens, claims or security interests have been granted in any Mark by the Obligor to any Person other than to the Lender.

6. In order to further secure the Obligations:

(a) The Obligor shall give the Lender written notice (with reasonable detail) within Ten (10) days following the occurrence of any of the following:

(i) The Obligor obtains rights to, and files applications for registration of, any new trademarks, or service marks, or otherwise acquires ownership of any newly registered trademarks, registered service marks, trademark applications, or service mark applications, (other than Obligor's right to sell products containing the trademarks of others in the ordinary course of Obligor's business).

(ii) The Obligor becomes entitled to the benefit of any registered trademarks, trademark applications, trademark licenses, trademark license renewals, registered service marks, service mark applications, service mark licenses or service mark license renewals whether as licensee or licensor (other than Obligor's right to sell products containing the trademarks of others in the ordinary course of Obligor's business).

(iii) The Obligor enters into any new trademark license agreement or service mark license agreement.

(b) The provisions of this TM Security Agreement shall automatically apply to any such additional property or rights described in 6.(a), above, all of which shall be deemed to be and treated as "Marks" within the meaning of this TM Security Agreement.

(c) The Obligor hereby authorizes the Lender to modify this agreement by amending EXHIBIT A to include any future registered trademarks, trademark applications, registered service marks and service mark applications, written notice of which is so given, *provided, however*, the modification of said EXHIBIT shall not be a condition to the creation or perfection of the security interest created hereby.

7. Upon the occurrence of any Event of Default, the Lender may exercise all rights and remedies of a secured party upon default under the Uniform Commercial Code as adopted in Massachusetts (Massachusetts General Laws, Chapter 106), with respect to the Marks, in addition to which the Lender, subject to the terms of the Security Agreement, may sell, license, assign, transfer, or otherwise dispose of the Marks. Any person may conclusively rely upon an affidavit of an officer of the Lender that an Event of Default has occurred and that the Lender is authorized to exercise such rights and remedies.

8. The Obligor hereby irrevocably constitutes and designates the Lender as and for the Obligor's attorney in fact, effective with and upon the Lender's first exercise (the "First Exercise") of such powers following the occurrence of any Event of Default:

- (a) To exercise any of the rights and powers referenced in Section 7.
- (b) To execute all and singular such instruments, documents, and papers as the Lender determines to be appropriate in connection with the exercise of such rights and powers and to cause the sale, license, assignment, transfer, or other disposition of the Marks.

The within grant of a power of attorney, being coupled with an interest, shall be irrevocable until the within TM Security Agreement is terminated by a duly authorized officer of the Lender, but shall be exercisable only following the occurrence of an Event of Default.

9. Any use by the Lender of the Marks as authorized hereunder in connection with the exercise of the Lender's rights and remedies under the within TM Security Agreement and the Loan Documents shall be coextensive with Obligor's rights thereunder and with respect thereto and without any liability for royalties or other related charges from the Lender to the Obligor. Such use by the Lender shall be permitted only with and upon the First Exercise following the occurrence of an Event of Default.

10. Lender hereby acknowledges that the Obligor shall continue to have the exclusive right, prior to notice from the Lender following the occurrence of an Event of Default, to sue for past, present and future infringement of the Marks including the right to seek injunctions and/or money damages, in an effort by Obligor to protect the Marks against encroachment by third parties; *provided, however*, that Obligor first notifies Lender in writing of its intention to sue for enforcement of the trademarks against a particular party. All costs arising in connection with any infringement shall be borne by Obligor.

11. Following the payment and satisfaction of all Obligations, and the termination of any obligation of the Lender to provide loans or financial accommodations under the credit facility contemplated by the Loan Agreement, this TM Security Agreement shall terminate and the Lender shall execute and deliver to Obligor all such instruments as the Obligor reasonably may request to release any encumbrance in favor of the Lender created hereby or pursuant hereto, subject, however, to any disposition thereof which may have been made by Lender pursuant hereto or pursuant to the Security Agreement.

12. Neither anything contained in the within TM Security Agreement or in the other Loan Documents nor any act, omission, or circumstance may be construed as directly or indirectly conveying to the Lender any rights in and to the Marks which rights are effective except following the occurrence of any Event of Default (and in such circumstances, only with and upon the First Exercise).

13. This TM Security Agreement is intended to be supplemental of the Security Agreement and the other Loan Documents. All provisions of the Security Agreement shall apply to the Marks and the Lender shall have the same rights with respect to any and all security interests in the Marks granted the Lender to secure the Obligations hereunder as thereunder. In the event of a conflict between this TM Security Agreement and the Security Agreement, the terms of this TM Security Agreement shall control with respect to the Marks and the Security Agreement with respect to all other collateral.

14. This TM Security Agreement and all rights and obligations hereunder, including, matters of construction, validity, and performance, shall be governed by the laws of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the Obligor and the Lender respectively have caused this Loan Agreement to be executed by officers duly authorized so to do on the date first above written.

MIDWEST BEAUTY LIMITED PARTNERSHIP

BANKBOSTON, N.A.

(The "Obligor")
By its General Partner
S.I. Acquisition Corp.

(The "Lender")

By Randall P. Spackman

By Gretchen Troiano

Title: Gen. V.P.

Title: Vice President

THE STATE OF CALIFORNIA
COUNTY OF ORANGE, SS

Then personally appeared before me RANDALL P. SPACKMAN who acknowledged that such person is the duly authorized S.I. V.P. of S.I. Acquisition Corp., the General Partner of Midwest Beauty Limited Partnership and that such person had executed the foregoing instrument on its behalf.

Witness my hand and seal this 8th day of October, 1998



Betty Lee
Notary Public

My Commission Expires: 3/22/99

THE COMMONWEALTH OF MASSACHUSETTS
COUNTY OF SUFFOLK.

Then personally appeared before me Gretchen Troiano who acknowledged that such person is the duly authorized Vice President of BankBoston, N.A. and that such person executed the foregoing instrument on its behalf.

Witness my hand and seal this 22nd day of October, 1998

Kristine Millet
Notary Public

My Commission Expires: 4/17/03

EXHIBIT A

Obligor's now owned or existing or hereafter acquired or arising registered service marks and Federal service mark applications, registered trademarks, and Federal trade mark applications:

Trademark/Service Mark Registrations

TRADEMARK	REGISTRATION NUMBER	REGISTRATION DATE
Stewart	1607737	7/24/90
Hair Express	1387810	3/25/86
Hair by Stewarts and Design	1262701	12/27/93

Trademark Applications

MARK	SERIAL NUMBER	FILING DATE
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State Trademark Registrations

TRADEMARK	REGISTRATION NUMBER	REGISTRATION DATE
Hair Express (South Dakota)		11/21/83
Hair Express (Iowa)	4966	11/21/93
Hair By Stewarts (Nebraska)	1343260	11/2/94
Hair By Stewarts (Wisconsin)		11/2/94

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