

12-21-1998



100924832

FORM PTO-1618A
Expires 06/30/99
OMB 0651-0027

12.15.98

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 Effective Date
Month Day Year
- ☐ Change of Name
- ☐ Other

Conveying Party

☐ Mark if additional names of conveying parties attachedExecution Date
Month Day YearName Simitar Entertainment, Inc.

11 98

Formerly N/A

- ☐ Individual ☐ General Partnership ☐ Limited Partnership ☒ Corporation ☐ Association
- ☐ Other
- ☒ Citizenship/State of Incorporation/Organization Minnesota

Receiving Party

☐ Mark if additional names of receiving parties attachedName Pickwick Communications, Inc.DBA/AKA/TA Composed of Address (line 1) 1370 Avenue of the AmericasAddress (line 2) Address (line 3) New York

City

 New York, USA

State/Country

 10019

Zip Code

- ☐ Individual ☐ General Partnership ☐ Limited Partnership ☐ 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.)
- ☒ Corporation ☐ Association
- ☐ Other

☒ Citizenship/State of Incorporation/Organization New York

12/16/1998 VBROWN 00000051 1113488

FOR OFFICE USE ONLY

01 FC:481
02 FC:48240.00 OP
50.00 OP

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

REEL: 1827 FRAME: 0419

FORM PTO-1618B
Expires 08/30/99
OMB 0651-0027

Page 2

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK**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 516 829-6900

Name

John M. Gaioni, Esq.

Address (line 1)

Ackerman, Levine & Cullen, LLP

Address (line 2)

175 Great Neck Road

Address (line 3)

Great Neck, NY 11021

Address (line 4)

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

12

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)

1,113,488		
1,067,598		
1,065,212		

Number of Properties

Enter the total number of properties involved.

3

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 90

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.

John M. Gaioni

Name of Person Signing

Signature

11/30/98

Date Signed

TRADEMARK
REEL: 1827 FRAME: 0420

SECURITY AGREEMENT

AGREEMENT, made as of the 1st day of January, 1998 by and among SIMITAR ENTERTAINMENT, INC. ("Debtor") and PICKWICK COMMUNICATIONS, INC. ("Secured Party").

WITNESSETH:

WHEREAS, Secured Party and Debtor have entered into an agreement of even date herewith (the "Purchase Agreement") under which Secured Party is selling to Debtor certain master recordings, trademarks and other assets described in the Purchase Agreement (the "Assets");

WHEREAS, Secured Party has required, as a condition precedent to its sale of the Assets, that Debtor grant to Secured Party a security interest in all of such Assets and all products and proceeds thereof;

NOW, THEREFORE, in consideration of the premises contained herein, and in order to induce Secured Party to consummate the sale of the Assets, Debtor and Secured Party hereby agree as follows:

1. Debtor hereby grants to Secured Party a security interest in the Assets as identified on Schedule A annexed hereto and made part hereof, and any and all proceeds thereof (collectively, the "Collateral").

The security interest granted hereunder to Secured Party secures the full and prompt performance and payment of all of the obligations of Debtor to Secured Party under the Purchase Agreement, all reasonable costs and expenses incurred in connection with the enforcement or collection of any such obligation, and any amounts expended by Secured Party hereunder for taxes, levies, insurance or maintenance of the Collateral (collectively, the "Obligations").

2. Debtor hereby represents, warrants and covenants as follows:

(a) The execution, delivery and performance of this Agreement by Debtor are within Debtor's corporate powers, have been duly authorized, and are not in contravention of law or the terms of Debtor's certificate of incorporation, by-laws, or other governing documents, or of any indenture, agreement or undertaking to which Debtor is a party or by which it is bound.

- (b) Debtor covenants that it will not sell, assign, lease, mortgage, create a security interest in or otherwise dispose of any of the Collateral, or any interests therein, except as provided herein to Secured Party or with prior written approval of Secured Party, and except for the security interest of Congress Financial Corporation (Central)("Congress"), which is subordinate to the security interest in favor of Secured Party as more fully described in an Intercreditor Agreement of even date herewith between Congress and Secured Party.
- (c) Debtor shall give Secured Party written notice of each location at which the Collateral is or will be kept. Except as such notices are given, all Collateral and all books and records relating thereto shall be kept at Debtor's principal place of business at 5555 Pioneer Creek Drive, Maple Plain, MN 55359.
- (d) Debtor shall maintain casualty insurance coverage on the Collateral in such amounts as may be sufficient to pay the balance of the purchase price owing under the Purchase Agreement. In the case of all insurance policies insuring the Collateral, all such policies shall name Secured Party as an additional insured, to the extent of its security interest in the Collateral and any other rights or interests that Secured Party may have therein. The proceeds of any such policy shall be paid to Secured Party and Debtor as their interests may appear. Copies of all such policies, or certificates of insurance pertaining thereto, have been and will continue to be furnished to Secured Party. Each such policy shall provide that no such insurance may be cancelled or materially changed without ten (10) days' prior written notice to Secured Party. If Debtor fails to obtain or maintain any policies of insurance required under this subparagraph, Secured Party may, but shall not be obligated to, obtain and maintain such insurance coverage, and all reasonable costs and expenses incurred by Secured Party in doing so shall be additional Obligations of Debtor to Secured Party, payable on demand.
- (e) Debtor shall permit Secured Party, through its authorized attorneys, accountants and representatives, to examine the Collateral and the books, accounts, records, ledgers and assets of every kind and

description, relating to the Collateral or the use or disposition thereof, at all reasonable times.

- (f) Debtor will promptly pay all taxes and other governmental charges and assessments levied or assessed against the Collateral on or after the date hereof and keep it free and clear of all Liens other than the security interest hereby granted and any Existing Liens.
- (g) Debtor will promptly notify Secured Party in writing of any loss of, or damage to, the Collateral.

3. If Debtor fails to observe or perform any material covenant or agreement contained in this Agreement, Secured Party may, at its option, in addition to any other remedy, take whatever action may reasonably be necessary to remedy such failure, and should any such action require the expenditure of monies to protect and preserve Secured Party's interest in the Collateral, including but not limited to payment of insurance premiums, repairs, storage, transportation, removal of liens or any similar costs, the amount of such expenditure shall become immediately due and payable by Debtor with interest at a rate per annum equal to the rate per annum that interest is then accruing on the principal amount of the Note plus three (3%) percent, or the maximum rate allowed by applicable laws or regulations, whichever is less; and if Secured Party takes any action authorized hereunder, it shall not be liable to Debtor for damages as a result of delays, temporary withdrawal of the Collateral from availability to Debtor or any other results, direct or indirect, of such action.

4. (a) Debtor hereby assigns to Secured Party any and all monies, including, without limitation, proceeds of insurance and return of unearned premiums (collectively, "Insurance Proceeds"), that may become due under any policy insuring the Collateral against any loss or damage, to the extent of any unpaid Obligations (and to the extent such Insurance Proceeds are attributable to any loss of or damage to any Collateral), and hereby covenants to take all steps necessary to direct the insurance company issuing such policy to make payment thereof directly to Secured Party. Secured Party may, at its option, apply such Insurance Proceeds to the cost of repairs of the Collateral and/or to payment of any of the Obligations, whether or not due, in any order Secured Party may determine. To the extent that any Insurance Proceeds received by Secured Party exceed the amount of all monies due Secured Party under any of the terms of this Agreement or the Purchase Agreement, Secured Party shall remit such surplus to Debtor.

(b) In connection with, but only in connection with, any loss or damage to the Collateral, Debtor appoints Secured Party as Debtor's attorney-in-fact, with full power of substitution to receive all Insurance Proceeds, to execute proofs of claim, to endorse drafts, checks and other instruments for the payment of money payable to Debtor in payment of such Insurance Proceeds, to adjust and compromise any claim, to execute releases, to cancel any insurance policy covering the Collateral when such policy is not required to protect Debtor's or Secured Party's interests, and to do all other acts and things that may be necessary or required to carry into effect the powers herein granted. Such appointment shall be deemed coupled with an interest and irrevocable.

(c) Debtor hereby (i) authorizes Secured Party to file any and all financing statements or amendments thereof, required under the Uniform Commercial Code as adopted by and in effect in the State of New York, to create and perfect and continue the security interest in the Collateral herein granted, and (ii) agrees that any financing statement filed by Secured Party in connection with the Collateral shall be fully effective when signed by Secured Party whether or not Debtor has also signed said financing statements.

5. The occurrence of one or more of the following events shall constitute an "Event of Default" hereunder:

- (a) occurrence of any material default (after the giving of any requisite notice and expiration of any applicable cure period provided therein) under the Purchase Agreement;
- (b) if any statement, representation, warranty, certificate, schedule or other information made herein or required to be furnished hereunder, or any supporting financial statement by or on behalf of Debtor shall be determined by Secured Party to be false or misleading in any material respect;
- (c) failure to observe or perform any other material covenant herein and continuance thereof for a period of ten (10) days after notice of default is given by Secured Party or its counsel; and
- (d) if any material portion of the Collateral is lost or substantially destroyed.

6. (a) At any time after an Event of Default shall have occurred hereunder, Secured Party shall have the following rights and remedies to the extent permitted by applicable law: (a) to treat all Obligations as immediately due and payable, without notice or demand; (b) to enter such place or places where any of the Collateral may be located and take and carry away the same and any documents evidencing or relating to the same, with legal process, to a location selected by Secured Party and disclosed to Debtor; (c) to sell the Collateral at public or private sale, whether or not the Collateral is present at such sale and whether or not the Collateral is in constructive possession of Secured Party or the person conducting the sale, in one or more sales, as an entirety or in parcels, upon such terms as may be commercially reasonable, at which sale Secured Party may be the purchaser; (d) to require Debtor to pay all reasonable costs and expenses arising out of or relating to the sale, or the obtaining, maintenance and storage of the Collateral, including, without limitation, reasonable attorneys' fees; (e) to apply the proceeds of such sale to all reasonable costs and expenses arising out of or relating to the taking, care, storage and sale of the Collateral, and any balance of such proceeds may be applied toward the payment of the Obligations in such order of application as Secured Party may from time to time elect; (f) to require that Debtor assemble, at Debtor's expense, the Collateral at a convenient place acceptable to both parties; and (g) to exercise any one or more rights or remedies of a secured party accorded by the Uniform Commercial Code as adopted by the State of New York.

If the proceeds of any such sale are insufficient to pay the expenses, as aforesaid, and the Obligations, Debtor agrees to pay any deficiency to Secured Party upon demand and if such proceeds are more than sufficient to pay such expenses and Obligations, Secured Party agrees to promptly pay the surplus to Debtor. Debtor agrees to pay all reasonable attorneys' fees arising in connection with the protection or enforcement of Secured Party's rights under this Agreement.

(b) Notwithstanding any provision of any other agreement between the parties to the contrary, Secured Party may in its sole discretion elect to enforce its rights under this Agreement without being obligated to first or concurrently enforce any other rights it may have with respect to any other collateral or other security securing any of the Obligations.

7. (a) If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as though such invalid, illegal or unenforceable provision or provisions had never been contained herein, unless the deletion of such provision or

provisions would result in such material change as to make unreasonable the further application of this Agreement. If and to the extent that applicable law confers any rights or imposes any duties inconsistent with or in addition to any of the provisions of this Agreement, the affected provisions shall be considered amended to conform thereto.

(b) Secured Party shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder. The waiver by Secured Party of any right or remedy hereunder on any one occasion shall not be construed to bar the exercise of such right or remedy by Secured Party upon any future occasion, nor shall Secured Party be liable for exercising or failing to exercise any such right or remedy. Secured Party may enforce the remedies hereunder successively or concurrently and the exercise of one shall not bar the other.

(c) Any notices and other communications required or provided for under this Agreement shall be in writing sent by (i) personal delivery, (ii) U.S. certified mail, return receipt requested, or (ii) nationally recognized overnight courier service, to the parties to be notified at their respective addresses set forth below (or at such other addresses as they may designate in writing):

If to Debtor:

Simitar Entertainment, Inc.
5555 Pioneer Creek Drive
Maple Plain, MN 55359
Attn.: Mr. Mickey Elfenbien, CEO

If to Secured Party:

Pickwick Entertainment, Inc.
1370 Avenue of the Americas
New York, NY 10019
Attn.: President

with a copy, for informational purposes only, to:

Ackerman, Levine & Cullen, LLP
175 Great Neck Road
Great Neck, New York 11021
Attention: Leslie J. Levine, Esq.

All such notices, requests, demands and other communications shall be deemed effective (i) three (3) days after the date on which deposited with a United States Postal Service office, postage prepaid for delivery by certified mail, (ii) twenty-four (24) hours after delivery to a nationally recognized overnight courier service, postage prepaid for overnight delivery, or (iii) when personally delivered, even if rejected, in each case addressed as aforesaid. Any notice, demand, request or other communication given by counsel to a party on behalf of such party shall be deemed to have been given by such party.

(d) This Agreement may not be amended, modified or discharged, nor may any of its terms be waived, except by an instrument in writing, signed by all parties hereto. This Agreement, together with all exhibits hereto, constitutes the entire agreement among the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings. This Agreement shall bind and inure to the benefit of Debtor and Secured Party and their respective successors, assigns, heirs and legal representatives.

(e) Secured Party is authorized to insert in this Agreement identifying numbers or marks of the Collateral, to correct any patent errors herein and in any counterparts hereof after execution and delivery to Secured Party.

(f) Each party shall, upon request by the other party hereto, execute and deliver any and all documents and instruments, and shall do all such other things as may be reasonably necessary or proper to carry out the provisions and intent of this Agreement. Without limiting the generality of the foregoing, upon full and indefeasible payment and discharge by Debtor of all of the Obligations, Secured Party shall execute and deliver to Debtor such termination statements on Form UCC-3 as Debtor may reasonably request terminating the security interest in the Collateral granted to Secured Party hereunder.

(g) All Schedules referred to in this Agreement are deemed incorporated herein and a part hereof.

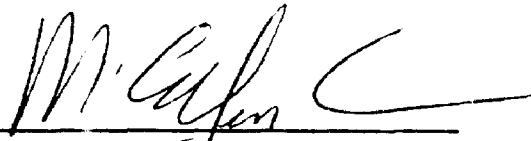
(h) Nothing expressed or mentioned in this Agreement is intended, or will be construed, to give any person, firm, corporation or other entity, other than the parties hereto and their respective successors and assigns, any legal or equitable right, remedy or claim under or in respect of this Agreement or any of its provisions.

(i) This Agreement shall be governed by and construed in accordance with the laws of the state of New York, without regard to any conflicts of law principles.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their respective duly authorized officers on the date first above written.

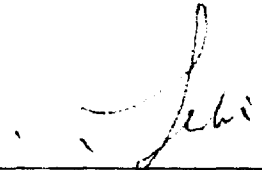
DEBTOR:

SIMITAR ENTERTAINMENT, INC.

By: 
Mickey Elfenbien, CEO

SECURED PARTY:

PICKWICK COMMUNICATIONS, INC.

By: 
~~President~~ Chairman

88755 (duped from 88312)

SCHEDULE A - PART I

TRADEMARKS INCLUDED IN COLLATERAL

GROOVE MERCHANT

INTL CLASS: 9 (Electrical & Scientific Apparatus)
US CLASS: 36 (Musical Instruments & Supplies)
STATUS: Registered; Section 8 & 15 - Accepted & Acknowledged
GOODS/SERVICES: PHONOGRAPH RECORDS AND MAGNETIC TAPE CASSETTES AND
CARTRIDGES
SERIAL NO.: 73-141,036
REG. NO.: 1,113,488
REGISTERED: February 20, 1979
FIRST USE: September 11, 1974 (Intl Class 9)
FIRST COMMERCE: September 11, 1974 (Intl Class 9)
FILED: September 12, 1977
PUBLISHED: November 28, 1978
AFFIDAVIT SEC.: 8-15; April 15, 1985
LAST LISTED OWNER: PICKWICK INTERNATIONAL, INC., WOODBURY, N.Y.
ASSIGNEE(S): MUSICLAND GROUP, INC., THE (Delaware Corporation)
Assignor(s): PICKWICK INTERNATIONAL, INC. (Delaware Corporation)
Reel/Frame: 0601/0404
Recorded: April 25, 1988
Brief: CHANGE OF NAME EFFECTIVE JUL. 31, 1986
ASSIGNEE(S): PICKWICK COMMUNICATIONS, INC. (New York Corporation), 175
GREAT NECK ROAD, C/O PEIREZ, ACKERMAN & LEVINE, GREAT NECK, NY (New
York), 11021, USA (United States of America)
Assignor(s): MUSICLAND GROUP, INC., THE (Delaware Corporation), 7500
EXCELSIOR BOULEVARD, MINNEAPOLIS, MN (Minnesota), 55426, USA (United
States of America)
Reel/Frame: 0649/0123
Recorded: April 27, 1989
Brief: ASSIGNS THE ENTIRE INTEREST AND GOODWILL AS OF DECEMBER 31, 1987.
CLAIMS: -9-APPLICANT DISCLAIMS THE WORD "GROOVE" APART FROM THE MARK SHOWN,
WITHOUT WAIVING ANY OF ITS COMMON LAWRIGHTS.*
DISCLAIMS: GROOVE

P Stylized Letters

INTL CLASS: 9 (Electrical & Scientific Apparatus)

US CLASS: 36 (Musical Instruments & Supplies)

STATUS: Registered; Section 8 & 15 - Accepted & Acknowledged

GOODS/SERVICES: PHONOGRAPH RECORDS AND MAGNETIC AUDIO TAPE CASSETTES AND/OR CARTRIDGES

SERIAL NO.: 73-074,413

REG. NO.: 1,067,598

REGISTERED: June 14, 1977

FIRST USE: November 10, 1975 (Intl Class 9)

FIRST COMMERCE: November 10, 1975 (Intl Class 9)

FILED: January 15, 1976

PUBLISHED: February 22, 1977

AFFIDAVIT SEC.: 8-15; January 11, 1983

LAST LISTED OWNER: PICKWICK INTERNATIONAL, INC., WOODBURY, N.Y.

ASSIGNEE(S): MUSICLAND GROUP, INC., THE (Delaware Corporation)

Assignor(s): PICKWICK INTERNATIONAL, INC. (Delaware Corporation)

Reel/Frame: 0601/0404

Recorded: April 25, 1988

Brief: CHANGE OF NAME EFFECTIVE JUL. 31, 1986

ASSIGNEE(S): PICKWICK COMMUNICATIONS, INC. (New York Corporation), 175

GREAT NECK ROAD, C/O PEIREZ, ACKERMAN & LEVINE, GREAT NECK, NY (New York), 11021, USA (United States of America)

Assignor(s): MUSICLAND GROUP, INC., THE (Delaware Corporation), 7500

EXCELSIOR BOULEVARD, MINNEAPOLIS, MN (Minnesota), 55426, USA (United States of America)

Reel/Frame: 0649/0123

Recorded: April 27, 1989

Brief: ASSIGNS THE ENTIRE INTEREST AND GOODWILL AS OF DECEMBER 31, 1987.

CLAIMS: -9-THE MARK IS IN THE FORM OF A PLURALITY OF THE LETTER "PM" OF VARIOUS SIZED IN A NESTED CONFIGURATION & OF THE ALTERNATE BANDS OF DIFFERENT COLORS. THE LINING ON THE MARK ON THE DRAWING -9-REPRESENTS VARIOUS SHADES OF PURLE, BROWN, YELLOW, GREEN, BLUE, RED & ORANGE.*



3 of 6 Complete record

03074404 -- TRADEMARKSCAN(r)-Federal

PICKWICK P stylized Letters

INTL CLASS: 9 (Electrical & Scientific Apparatus)

US CLASS: 36 (Musical Instruments & Supplies)

STATUS: Registered; Section 8 & 15 - Accepted & Acknowledged

GOODS/SERVICES: PHONOGRAPH RECORDS AND MAGNETIC AUDIO TAPE CASSETTES AND/OR
CARTRIDGES

SERIAL NO.: 73-074,404

REG. NO.: 1,065,212

REGISTERED: May 10, 1977

FIRST USE: July 15, 1974 (Intl Class 9)

FIRST COMMERCE: July 15, 1974 (Intl Class 9)

FILED: January 15, 1976

PUBLISHED: February 15, 1977

AFFIDAVIT SEC.: 8-15; November 9, 1982

LAST LISTED OWNER: PICKWICK INTERNATIONAL, INC., WOODBURY, N.Y.

ASSIGNEE(S): MUSICLAND GROUP, INC., THE (Delaware Corporation)

Assignor(s): PICKWICK INTERNATIONAL, INC. (Delaware Corporation)

Reel/Frame: 0601/0404

Recorded: April 25, 1988

Brief: CHANGE OF NAME EFFECTIVE JUL. 31, 1986

ASSIGNEE(S): PICKWICK COMMUNICATIONS, INC. (New York Corporation), 175
GREAT NECK ROAD, C/O PEIREZ, ACKERMAN & LEVINE, GREAT NECK, NY (New
York), 11021, USA (United States of America)

Assignor(s): MUSICLAND GROUP, INC., THE (Delaware Corporation), 7500
EXCELSIOR BOULEVARD, MINNEAPOLIS, MN (Minnesota), 55426, USA (United
States of America)

Reel/Frame: 0649/0123

Recorded: April 27, 1989

Brief: ASSIGNS THE ENTIRE INTEREST AND GOODWILL AS OF DECEMBER 31, 1987.

CLAIMS: -9-OWNER OF RN 825,761.*

OTHER U.S. REGISTRATIONS: 825,761



TRADEMARK

REEL: 1827 FRAME: 0432

RECORDED: 12/15/1998