

03-12-1999

HEET

3-4-99



To the Honorable Commissioner of Patents

100983507

documents or copy thereof.

1. Name of conveying party(ies):

Newco, Inc.

- Individual Association
- General Partnership Limited Partnership

Corporation - State: Wisconsin

Other: _____

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

3. Nature of conveyance:

- Assignment Merger
- Security Agreement Change of Name

Other: _____

Execution Date: February 16, 1999

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

Name: Fleet National Bank

Internal Address: _____

Street Address: One Federal Street

City: Boston State: MA Zip: 02110

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

Other: National Association

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 registration number(s)

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

SEE EXHIBIT A

SEE EXHIBIT A

Additional numbers attached? yes no

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

Name: Catherine R. Howell, Paralegal

Internal Address: Ropes & Gray

Street Address: 1301 K St., N. W. Suite 800 East

City: Washington, D.C. State: Zip: 20005

6. Total number of applications and registration involved:

..... [21]

7. Total Fee (37 CFR 3.41) \$ 540

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

18-1945

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.

Catherine R. Howell
Name of Person Signing

Catherine R. Howell
Signature

March 4, 1999
Date

Total number of pages including cover sheet, attachments and document: [15]

7069803.01

03/11/1999 JMWTKINS 00000137 181945 75440515
40.00 CH
500.00 CH
01 FC:401
02 FC:402

Exhibit A

<u>Federal Trademarks:</u>	<u>Date Filed</u>	<u>Appl#</u>	<u>REGDT</u>	<u>Reg#</u>	<u>Status</u>
Anchor It	2/25/98	75/440.515			Pending
Astro Speeder	2/25/98	75/440.199	12/15/98	2,211,281	Registered
Discovery Mountain	2/25/98	75/440,200	12/8/98	2,209,296	Registered
Swing Station	2/25/98	75/440,201			Pending
GameTime			7/25/97	107049	Registered
MegaRock	7/28/97	331,160			Published
Peek-A-Boo	7/28/97	331,161			Published
Cameron	9/24/97	362,168			Published
Earleville	9/24/97	362,123			Published
Gulfport	9/24/97	362,122			Published
Arlington	9/24/97	362,121			Published
Old Forge	9/24/97	362,120			Published
Sedona	9/24/97	362,119			Published
Prescott	9/24/97	362,118			Published
Streetscape	9/24/97	362,171			Pending
Bristol	9/24/97	362,170			Pending
Escalante	9/24/97	362,169			Published
Play Palettes	4/29/98	470,794			Pending
Extreme Play	4/9/98	465,023			Published
Playrobics	9/21/98	555,953			Pending
Treescape	11/20/98	592,507			Pending

TRADEMARK AND SERVICE MARK SECURITY AGREEMENT

This Agreement between Newco, Inc., a Wisconsin corporation (the "Borrower"), located at 1212 Barberry Drive, Janesville, Wisconsin 53545 and Fleet National Bank, as agent (the "Agent"), located at One Federal Street, Boston, Massachusetts 02110, acting for itself and certain other lenders under the Credit Agreement dated as of March 13, 1997, as from time to time in effect (the "Credit Agreement"), among the Borrower, its parent, certain of its subsidiaries, certain lenders party thereto and the Agent. In accordance with the Guarantee and Security Agreement dated as of March 13, 1997 (the "Guarantee and Security Agreement") among the Borrower, certain of its subsidiaries and the Agent, the Borrower agrees to secure the payment and performance of the loans, letters of credit, interest rate protection agreements, fees, expenses, indemnities and other obligations under the Credit Agreement (collectively, the "Credit Obligations") to the Agent and the other Lenders. Terms defined in the Credit Agreement and the Guarantee and Security Agreement and not otherwise defined herein are used herein with the meanings so defined.

1. Grant of Security Interest. The Borrower hereby grants to the Agent and its successors and assigns a security interest in the items referred to below, whether now owned or hereafter acquired and all proceeds thereof (collectively, the "Collateral"):

1.1. All of the right, title and interest of the Borrower in and to all trademarks and service marks (collectively, the "Marks"), registrations for the Marks (collectively, the "Registrations") and all trademark and service mark applications for the Marks (collectively, the "Applications"). Such Registrations and Applications shall include without limitation all existing United States registrations and applications of the Borrower described in Exhibit A hereto.

1.2. The goodwill of the business of the Borrower symbolized by each of the Marks.

1.3. All right, title and interest of the Borrower in and to any cause of action that has heretofore arisen or that may arise with respect to unconsented use or infringement of the Marks, the Registrations or the Applications.

2. Further Assurances. The Borrower shall execute, or use its best efforts at its expense to cause to be executed, such further documents as may be reasonably requested by the Agent in order to effectuate fully the grant of security interest set forth in Section 1 hereof.

3. Agreement to Assign Collateral. The Borrower shall execute and deliver to the Agent on the date of this Agreement a written Assignment of Trademarks and Service Marks to the

Agent in substantially the form attached hereto as Exhibit B (the "Assignment"). The Agent shall hold the Assignment in escrow, and the Assignment shall have no legal effect and shall not be binding on the Borrower, until the occurrence and continuance of an Event of Default, at which time the Agent may file the Assignment with the U.S. Patent and Trademark Office and, upon such filing, the Assignment shall take effect as a legal document binding upon the Borrower.

4. Foreclosure. Upon the occurrence and during the continuance of an Event of Default, in addition to all other rights and remedies granted by this Agreement and the Assignment, the Agent may exercise the rights and remedies of a secured party enacted in any of the jurisdictions in which the Collateral may be located. Without limiting the generality of the foregoing, upon the occurrence and during the continuance of an Event of Default, without demand or notice (except as set forth next below), all of which are waived, and without advertisement, the Agent may sell at public or private sale or otherwise realize upon, in The Commonwealth of Massachusetts or elsewhere, all or from time to time any of the Collateral, or any interest which the Borrower may have therein. Notice of any sale or other disposition of the Collateral shall be given to the Borrower at least 15 days before the time of any intended public or private sale or other disposition of the Collateral is to be made, which the Borrower agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, any holder of any Credit Obligation or the Agent may, to the extent permissible under applicable law, purchase the whole or any part of the Collateral (including associated goodwill), free from any right of redemption on the part of the Borrower, which right is waived and released. After deducting from the proceeds of sale or other disposition of the Collateral and associated goodwill all expenses (including reasonable expenses for brokers' fees and legal services), the balance of such proceeds shall be applied toward the payment of the Credit Obligations. Any remainder of the proceeds after payment in full of the Credit Obligations shall be paid over to the Borrower.

5. Defeasance. Upon payment in full of the Credit Obligations and termination of the commitments therefor, the Agent shall, at the Borrower's expense, release the security interest in the Collateral granted under this Agreement and execute and deliver such instruments and other documents and take such further actions as may be necessary to carry out such release, including cancellation of this Agreement by written notice to the U.S. Patent and Trademark Office and delivery back to the Borrower of the Assignment upon request of the Borrower.

6. Covenants. The Borrower covenants and agrees as follows:

6.1. The Borrower shall not abandon any Marks, Registrations or Applications included in the Collateral except such Marks, Registrations or Applications that the Borrower reasonably determines are not material to its business.

6.2. The Borrower shall maintain all rights held by the Borrower relating to the Marks, Registrations and Applications except such Marks, Registrations or Applications that the Borrower reasonably determines are not material to its business.

6.3. Until all of the Credit Obligations shall have been paid in full and termination of the commitments therefor, the Borrower shall not enter into any agreement (including a license agreement) which conflicts with the Borrower's obligations under this Agreement other than agreements that do not materially adversely affect the value of the Collateral, without the Agent's prior written consent.

6.4. If the Borrower shall obtain rights to any new registrable trademarks or service marks, the provisions of Section 1 shall automatically apply thereto and at least annually the Borrower shall give to the Agent written notice thereof, shall execute an amendment to Exhibit A including such registrations and applications and shall take any other action reasonably necessary to record the Agent's interest in such trademarks and service marks with the U.S. Patent and Trademark Office.

6.5. The Borrower has used, and will continue to use, proper statutory notice in connection with its use of the Collateral to the extent commercially practicable and customary within the relevant industry.

6.6. The Borrower has used, and will continue to use, reasonably consistent standards of quality in its manufacture of products sold, and services provided, under the Marks.

6.7. The Agent and its employees and agents, upon reasonable written request may visit the Borrower's plants and facilities which manufacture, inspect or store products sold under any of the Collateral inspect the products and quality control records relating thereto and monitor the services and inspect the quality control records relating to the services provided under the Collateral at reasonable times during business hours.

7. Representations and Warranties of Title. The Borrower represents and warrants that:

7.1. Exhibit A sets forth as of the date hereof all United States Registrations and Applications owned by the Borrower.

7.2. As of the date hereof, the Collateral set forth on Exhibit A is subsisting and has not been adjudged invalid or unenforceable.

7.3. As of the date hereof, no claim has been made that the use of any of the Collateral violates the rights of any third person and the Borrower is not aware of any basis for any such claim to be asserted.

7.4. The Borrower is the sole and exclusive owner of the entire right, title and interest in and to the Collateral, free and clear of any Liens, including without limitation, pledges, assignments, licenses, registered user agreements and covenants by the Borrower not to sue third persons (other than any of the foregoing entered into in the ordinary course of business or other Liens permitted under Section 6.8 of the Credit Agreement).

7.5. The Borrower has the full power and authority to enter into this Agreement and perform its terms.

8. General.

8.1. No course of dealing between the Borrower and the Agent, nor any failure to exercise, nor any delay in exercising on the part of the Agent, any right, power or privilege hereunder or under the Credit 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 right, power or privilege.

8.2. All of the Agent's rights and remedies with respect to the Collateral, whether established hereby or by the Credit Agreement, or by any other agreement or by law shall be cumulative and may be exercised singularly or concurrently.

8.3. If any clause or provision of this Agreement 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.

8.4. This Agreement is subject to modification only by a writing signed by the parties, except as otherwise provided in Sections 3 and 6.4 hereof.

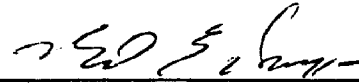
8.5. The benefits and obligations of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

8.6. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws (other than the conflict of laws rules) of The Commonwealth of Massachusetts.

8.7. This Agreement is a Credit Document (as defined in the Credit Agreement) and may be executed in any number of counterparts, which together shall constitute one instrument.

Each of the undersigned has caused this Agreement to be signed by its duly authorized officer this 13th day of March, 1997.

NEWCO, INC.

By 
Title: V.P. SWANSON

FLEET NATIONAL BANK,
as Agent under the Credit Agreement

By 
Title: _____

SUPPLEMENT TO EXHIBIT A
TO THE
TRADEMARK AND SERVICE MARK SECURITY AGREEMENT

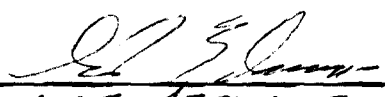
Pursuant to Sections 6.4 and 8.4 of the Trademark and Service Mark Security Agreement dated as of March 13, 1997 (the "Trademark Security Agreement") between PlayCore Wisconsin, Inc., a Wisconsin corporation formerly known as "Newco, Inc." (the "Borrower"), located at 1212 Barberry Drive, Janesville, Wisconsin 53545 and Fleet National Bank, as agent (the "Agent"), located at One Federal Street, Boston, Massachusetts 02110, acting for itself and certain other lenders under the Credit Agreement dated as of March 13, 1997, as Amended and Restated on February 16, 1999 and as thereafter from time to time in effect, among the Borrower, its parent, certain of its subsidiaries, certain lenders party thereto and the Agent, the Borrower hereby supplements Exhibit A to the Trademark Security Agreement to include the new registerable trademarks or service marks (the "New Trademarks and Service Marks") described in Exhibit A1 attached hereto.

Pursuant to Section 3 of the Trademark Security Agreement, with respect to the New Trademarks and Service Marks, the Borrower will execute on the date of this Supplement to Exhibit A a written Assignment of the Trademarks and Service Marks to the Agent in substantially the form as Exhibit B to the Trademark Security Agreement.

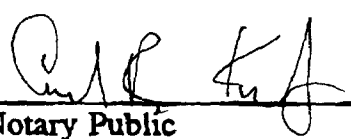
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The undersigned has caused this Supplement to Exhibit A to be signed by its duly authorized officer this 16th day of February, 1999.

PLAYCORE WISCONSIN, INC.

By: 
Title: VICE PRESIDENT

Subscribed and sworn to before me as of this 16 day of February, 1999.


Notary Public

My commission expires: 13 permanent

The foregoing is acknowledged by:

FLEET NATIONAL BANK

as Agent under the Credit Agreement

By 
Title: _____

ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS

This Assignment of Trademarks and Service Marks (the "Assignment") is between PlayCore Wisconsin, Inc., a Wisconsin corporation formerly known as "Newco, Inc." (the "Company"), located at 1212 Barberry Drive, Janesville, Wisconsin 53545 and Fleet National Bank, as agent (the "Agent") located at One Federal Street, Boston, Massachusetts 02110, acting for itself and certain other lenders under the Amended and Restated Credit Agreement dated as of February 16, 1999, as from time to time in effect (the "Credit Agreement"), among the Company, its parent, certain of its subsidiaries, certain lenders party thereto and the Agent. In accordance with the Guarantee and Security Agreement dated as of March 13, 1997 among the Company, certain of its subsidiaries and the Agent, the Company agrees to secure the payment and performance of the loans, letters of credit, interest rate protection agreements, interest, fees, expenses, indemnities and other obligations under the Credit Agreement (collectively, the "Credit Obligations") to the Agent and the other Lenders. This Assignment is made pursuant to that certain Trademark and Service Mark Security Agreement dated as of March 13, 1997 (the "Security Agreement") between the Company and the Agent. Terms defined in the Credit Agreement and not otherwise defined herein are used herein with the meanings so defined.

BACKGROUND

Section 3 of the Security Agreement provides that the Company shall execute a written assignment of the items listed in Exhibit A thereto (collectively, the "Collateral"), as amended (attached hereto as Exhibit 1A), and that the Agent may file such Assignment upon the occurrence and during the continuance of an Event of Default (as defined in the Credit Agreement).

ASSIGNMENT

1. Assignment. Subject to the occurrence and continuance of an Event of Default, the Company hereby assigns to the Agent and its successors and assigns, the items referred to below (collectively, the "Assigned Material"):
 - 1.1. All of the right, title and interest of the Company in and to all trademarks and service marks (collectively, the "Marks"), the registrations relating to the Marks (collectively, the "Registrations") and all trademark and service mark applications relating to the Marks (collectively, the "Applications"), now owned or hereafter acquired by the Company. Such Registrations and Applications shall include without limitation all existing United States registrations and applications of the Company described in Exhibit 1A.

- 1.2. The goodwill of the business of the Company symbolized by each of the Marks.
- 1.3. All right, title and interest of the Company in and to any cause of action that has heretofore arisen or that may arise with respect to unconsented use or infringement of the Marks, the Registrations or the Applications.
2. Further Assurances. The Company shall execute, or use its best efforts at its expense to have carefully executed, any further documents as may be reasonably requested by the Agent in order to fully effectuate this Assignment.
3. Indemnification. The Company shall indemnify and hold harmless the Agent against any claim, loss or liability with respect to a third party incurred by the Agent as assignee of the Assigned Material resulting from any use by the Company, or any of its sublicensees, of goods or services, products or processes, as the case may be, covered by the Assigned Material.
4. General. The provisions of this Assignment shall be read cumulatively with the provisions of Sections 4, 5, 6, 7 and 8 of the Security Agreement. This Assignment amends the Security Agreement by deleting Sections 1, 2, and 3 of the Security Agreement, which Sections 1, 2 and 3 shall be of no further force or effect in respect of the Assigned Material. This Assignment is a Credit Document (as defined in the Credit Agreement).

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Each of the undersigned has caused this Assignment to be signed by its duly authorized officer this 16 day of February, 1999.

PLAYCORE WISCONSIN, INC.

By [Signature]
Title: VICE PRESIDENT

FLEET NATIONAL BANK,
as Agent under the Credit Agreement

By _____
Title:

STATE OF WISCONSIN)
) SS
COUNTY OF MILWAUKEE)

Sworn to and subscribed before me
this 16 day of February, 1999.

[Signature]
Notary Public
My Commission Expires: 05 permanent

Each of the undersigned has caused this Assignment to be signed by its duly authorized officer this 16th day of February, 1999.

PLAYCORE WISCONSIN, INC.

By _____
Title:

Subscribed and sworn to before me as
of this _____ day of February, 1999.

Notary Public
My commission expires:

FLEET NATIONAL BANK,
as Agent under the Credit Agreement

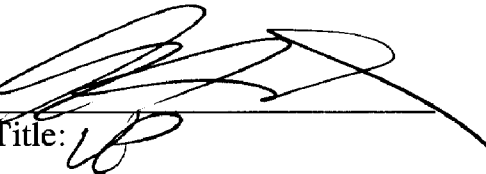

By 
Title: 

Exhibit 1A

<u>Federal Trademarks:</u>	<u>Date Filed</u>	<u>Appl#</u>	<u>REGDT</u>	<u>Reg#</u>	<u>Status</u>
Anchor It	2/25/98	75/440.515			Pending
Astro Speeder	2/25/98	75/440.199	12/15/98	2,211,281	Registered
Discovery Mountain	2/25/98	75/440,200	12/8/98	2,209,296	Registered
Swing Station	2/25/98	75/440,201			Pending
GameTime			7/25/97	107049	Registered
MegaRock	7/28/97	331,160			Published
Peek-A-Boo	7/28/97	331,161			Published
Cameron	9/24/97	362,168			Published
Earleville	9/24/97	362,123			Published
Gulfport	9/24/97	362,122			Published
Arlington	9/24/97	362,121			Published
Old Forge	9/24/97	362,120			Published
Sedona	9/24/97	362,119			Published
Prescott	9/24/97	362,118			Published
Streetscape	9/24/97	362,171			Pending
Bristol	9/24/97	362,170			Pending
Escalante	9/24/97	362,169			Published
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Extreme Play	4/9/98	465,023			Published
Playrobics	9/21/98	555,953			Pending
Treescape	11/20/98	592,507			Pending

ROPES & GRAY
ONE FRANKLIN SQUARE
1301 K STREET, N.W.
SUITE 800 EAST
WASHINGTON, DC 20005-3333
(202) 626-3900
FAX: (202) 626-3961

ONE INTERNATIONAL PLACE
BOSTON, MA 02110-2624
(617) 951-7000
FAX: (617) 951-7050

30 KENNEDY PLAZA
PROVIDENCE, RI 02903-2328
(401) 455-4400
FAX: (401) 455-4401

WRITER'S DIRECT DIAL NUMBER: (202) 626-3946

March 4, 1999

VIA HAND DELIVERY

Commissioner of Patents and Trademarks
Assignment Branch
Crystal Gateway #4
1213 Jefferson Davis Highway, Room 300
Arlington, VA 22202

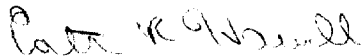
Re: Filing of Trademark Security Agreement

Dear Madam or Sir:

Please find enclosed a Trademark Security Agreement and corresponding cover sheet reflecting a transaction between Newco, Inc. and Fleet National Bank. The fee may be deducted from the Ropes & Gray deposit account, as detailed on the form.

Please stamp the additional copy of this letter and return to the awaiting messenger to confirm receipt. If you have any questions, I can be reached at (202) 626-3946. Thank you.

Sincerely,



Catherine R. Howell
Trademark Paralegal

CRH: 7069807.01

Enclosures

cc: Zhen Xing

RECORDED: 03/04/1999

TRADEMARK
REEL: 1866 FRAME: 0030