

RECORDATION F TRADEMARK

07-12-1999



101088765

Tab settings

To the Honorable Commissioner of Patents and Trademarks, 101088765 documents or copy thereof.

1. Name of conveying party(ies):

David Sherman Corporation

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

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

3. Nature of conveyance:

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

Execution Date: As of April 27, 1999

2. Name and address of receiving party(ies)

Name: Southwest Bank of St. Louis, as Agent

Internal Address: _____

Street Address: 2301 S. Kingshighway

City: St. Louis State: MO ZIP: 63110

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

B. Trademark Registration No.(s)

828,315; 570,125; 1,970,590; 727,786; and 860,271

Additional numbers attached? Yes No

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

Name: David B. Jennings

Internal Address: Armstrong Teasdale LLP

Suite 2600

Street Address: One Metropolitan Square

City: St. Louis State: MO ZIP: 63102

6. Total number of applications and registrations involved: 5

7. Total fee (37 CFR 3.41).....\$ 140

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

01-2384

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

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.

David B. Jennings
Name of Person Signing

Signature

7-7-99
Date

07/09/1999 NTHA11 00000163 012384 828315

01 FC:481 40.00 CH
02 FC:482 100.00 CH

Total number of pages including cover sheet, attachments, and document: 11

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

TRADEMARK SECURITY AGREEMENT

This TRADEMARK SECURITY AGREEMENT, dated as of April 27, 1999, made by DAVID SHERMAN CORPORATION, a Missouri corporation (the "*Borrower*"), in favor of SOUTHWEST BANK OF ST. LOUIS ("*Southwest Bank*") as agent (in such capacity, the "*Agent*") for the Lenders (the "*Lenders*") which are parties to the Credit Agreement referred to below.

RECITALS

Pursuant to the Credit Agreement, dated as of April 27, 1999 (as amended, supplemented or otherwise modified from time to time, the "*Credit Agreement*"), among the Borrower, the Lenders, and the Agent, the Lenders have severally agreed to make loans to the Borrower upon the terms and subject to the conditions set forth therein, such loans to be evidenced by the Notes issued by the Borrower thereunder. It is a condition precedent to the obligation of the Lenders to make their respective loans to the Borrower under the Credit Agreement that the Borrower shall have executed and delivered this Agreement to the Agent for the ratable benefit of the Lenders.

NOW, THEREFORE, in consideration of the premises and to induce the Lenders and the Agent to enter into the Credit Agreement and to induce the Lenders to make their respective loans to the Borrower under the Credit Agreement, the Borrower hereby agrees with the Agent, for the ratable benefit of the Lenders as follows:

1. Defined Terms. Unless otherwise defined herein, capitalized terms which are defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

2. Grant of Security Interest; Collateral Assignment. To secure the complete and timely satisfaction of all Obligations, Borrower hereby grants to the Agent for the ratable benefit of the Lenders a continuing security interest in all of its right, title and interest in and to the trademark(s), trade name(s) and servicemark(s) listed on Schedule A hereto (as the same may be amended pursuant hereto from time to time) (collectively, the "*Trademarks*"), including, without limitation, all renewals thereof, 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 and all rights corresponding thereto throughout the world (all of the foregoing are collectively called the "*Trademark Rights*"), and the goodwill of the business to which the Trademark relates (the "*Associated Goodwill*") (the Trademarks, the Trademark Rights, and the Associated Goodwill are collectively called the "*Trademark Collateral*").

3. Representations, Warranties and Covenants of Borrower. Borrower represents, covenants and warrants to the Agent that:

(a) The United States registrations of the Trademarks are subsisting and have not been adjudged invalid or unenforceable;

(b) The Trademarks are valid and enforceable, except to the extent that such invalidity or unenforceability could not reasonably be expected to have a Material Adverse Effect;

(c) No current claim has been made by Borrower that the use of any United States or foreign Trademark does or may violate the rights of any third person;

(d) Except as set forth on Schedule B attached hereto, Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to the applications and registrations for the United States and foreign Trademarks (except to the extent certain filings may be required in foreign jurisdictions with respect to the Trademarks being acquired by Borrower from Diageo, Inc.), free and clear of any liens, charges and the encumbrances, including, without limitation, pledges, assignments, licenses, registered user agreements and covenants by Borrower not to sue third persons;

(e) Borrower has the unqualified right to enter into this Agreement and to perform its terms;

(f) Borrower shall use, for the duration of this Agreement, the proper statutory notice in connection with its use of the Trademarks; and

(g) Borrower shall use for the duration of this Agreement, consistent standards of quality in its manufacture and/or sale of products sold under the Trademarks.

4. Inspection Rights. Borrower hereby grants to Agent and its employees, agents and designees the right, upon reasonable advance written notice and during normal business hours (except following the occurrence and continuation of an Event of Default, in which case the above-stated restrictions shall not apply), to visit Borrower's plants and facilities which manufacture, distribute or store products sold under the Trademarks, and to inspect the products and quality control records relating thereto. Borrower shall do any and all acts reasonably required by Agent to ensure Borrower's compliance with paragraph 3(g) hereof.

5. Further Assurances. Borrower agrees that, until all of the Obligations shall have been satisfied in full and the Commitments have terminated, it will not enter into any agreement (for example, a license agreement) which is inconsistent with Borrower's obligations under this Agreement, without Agent's prior written consent. Borrower further agrees that at any time and from time to time, at the expense of Borrower, Borrower will promptly execute and deliver all further instruments and documents, and take all further action, that may be reasonably necessary, or that Agent may reasonably request, in order to perfect and protect the security interest and collateral assignment granted or purported to be granted hereby or to enable Agent to exercise its rights and remedies hereunder.

6. Additional Trademarks. If, before the Obligations shall have been satisfied in full, Borrower shall obtain rights to any registrations of any new trademark(s), trade name(s) or servicemark(s) or application(s) therefor, the provisions of paragraph 2 shall automatically apply thereto and Borrower shall give Agent prompt written notice thereof.

7. Modification by Agent. Borrower authorizes Agent to modify this Agreement by amending Schedule A to include any future registrations of any trademark(s), trade name(s) or servicemark(s), or future application(s) therefor, covered by paragraphs 1 and 6 hereof, without the signature of Borrower to the extent permitted by applicable law, subject to any factual limitation on Borrower's representations and warranties of which Borrower notifies Agent in writing.

8. Grant of License to Agent. Subject to Agent's maintaining standards of quality consistent with those of Borrower in connection with the Trademark Collateral, Borrower hereby presently grants to the Agent for the ratable benefit of the Lenders a license to use the Trademarks and the Associated Goodwill in connection with the Collateral upon and after the foreclosure upon, sale or other transfer of all or any part of the Collateral by or to Agent pursuant to any Loan Documents including this Agreement. The license granted in this paragraph 8 may be transferred by Agent, without Borrower's consent, to any successor of Agent, any assignee of Agent, and/or any purchaser or other transferee of any or all of the Collateral. This license may not be revoked until all of the Obligations have been paid or satisfied in full and the Commitments have terminated.

9. Rights of Borrower. Unless and until there shall have occurred an Event of Default, Borrower shall own the title to the Trademark Collateral and shall have the exclusive, nontransferable right to use the Trademark Collateral on and in connection with products sold, distributed or otherwise used by Borrower, for Borrower's own benefit and account and for none other. Without the prior written consent of the Agent, which consent shall not be unreasonably withheld, Borrower agrees not to sell or assign its interest in, or grant any license under the Trademarks or the other Trademark Collateral, other than to the Agent hereunder.

10. Default. If any Event of Default shall have occurred, the Agent shall have, in addition to all other rights and remedies given it by this Agreement, those provided in the Loan Documents and those allowed by law and the rights and remedies of a secured party under the Missouri Uniform Commercial Code. The notice and cure periods set forth in the Credit Agreement shall apply to Borrower's obligations hereunder.

11. Termination of Agreement. At such time as Borrower shall completely satisfy all of the Obligations and the Commitments have terminated, this Agreement shall terminate and the Agent shall execute and deliver to Borrower, at Borrower's expense, and without recourse, representation or warranty, all releases, assignments and other instruments as may be necessary or proper to re-vest in Borrower full right, title and interest in and to the Trademark Collateral, subject to any disposition thereof which may have been made by the Agent pursuant hereto.

12. Expenses. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including, without limitation, reasonable attorneys' fees and legal expenses, incurred by Agent in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including, without limitation, all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Trademark Collateral, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademark Collateral, shall, to the extent permitted by applicable law, be borne and paid by Borrower on demand by Agent and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the interest rate then applicable under the Credit Agreement.

13. Preservation of Trademark Rights. Borrower shall have the duty, through counsel reasonably acceptable to the Agent, to do any and all acts which are reasonably necessary or desirable to preserve and maintain all rights in the Trademark Collateral. Any expenses incurred in connection with the foregoing shall be borne by Borrower. Borrower shall not abandon any Trademark without the prior written consent of the Agent, which consent shall not be unreasonably withheld. Borrower shall have the right, upon advance written notice to the Agent, to bring any opposition proceedings, cancellation proceedings or lawsuit in its own name to enforce or protect the Trademarks, in which

event the Agent may, if necessary, be joined as a nominal party to such suit so long as the Agent is satisfied, in its sole determination, that such joinder will not subject it to any risk of liability. Borrower shall promptly, upon demand, reimburse and indemnify the Agent or all Lenders for all damages, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by the Agent or any Lender in the fulfillment of any provision of this paragraph 13.

14. Agent Appointed Attorney-In-Fact. Borrower hereby authorizes and empowers Agent, upon and during the continuation of an Event of Default, to make, constitute and appoint any officer or agent of Agent as the Agent may select, in its exclusive discretion, as Borrower's true and lawful attorney-in-fact, with the power to endorse Borrower's name on all applications, documents, papers and instruments necessary for the Agent to use the Trademarks or the other Trademark Collateral, or to grant or issue any exclusive or non-exclusive license under the Trademark Collateral to the Agent or anyone else, or necessary for the Agent to assign, pledge, convey or otherwise transfer title in or dispose of the Trademark Collateral to anyone else. Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Agreement.

15. Agent May Act. If Borrower fails to comply with any of its obligations hereunder, the Agent may do so in Borrower's name or in Agent's name to the extent permitted by applicable law, but at Borrower's expense, and Borrower hereby agrees to reimburse the Agent in full for all reasonable expenses, including, without limitation, reasonable attorneys fees, incurred by the Agent in protecting, defending or maintaining the Trademark Collateral or any part thereof.

16. No Waiver. No course of dealing between 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, under the Credit Agreement or under applicable law 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.

17. Rights Cumulative. All of the Agent's rights and remedies with respect to the Trademark Collateral, whether established hereby or by any of the other Loan Documents, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

18. Severability. 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.

19. Modification. This Agreement is subject to modification only by a writing signed by, the parties, except as provided in paragraph 7.

20. Inurement. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties; provided however, that the foregoing provision shall not invalidate or otherwise modify the restrictions imposed on Borrower hereunder with respect to transferring any part of or interest in the Trademark Collateral.

21. Governing Law. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed and construed in accordance with the internal laws of the State of Missouri.

22. Submission To Jurisdiction, Waivers. The Borrower hereby irrevocably and unconditionally:

(a) submits for itself and its property in any legal action or proceeding relating to this Trademark Security Agreement and the other Loan Documents to which it is a party, or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive general jurisdiction of the courts of the State of Missouri, the courts of the United States of America for the Eastern District of Missouri, and appellate courts from any thereof;

(b) consents that any such action or proceeding may be brought in such courts and waives any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(c) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid, to the Borrower at its address set forth in Section 12.2 of the Credit Agreement or at such other address of which the Agent shall have been notified pursuant thereto, and in the case of the Agent and each Lender at their respective addresses set for Schedule 1.0 of the Credit Agreement or at such other address of which the Borrower shall have been notified pursuant hereto;

(d) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law or shall limit the right to sue in any other jurisdiction; and

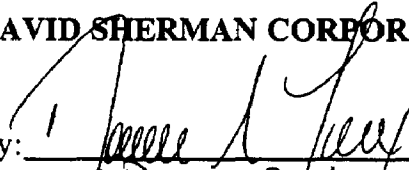
(e) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding referred to in this Section any special, exemplary, punitive or consequential damages.

23. WAIVERS OF JURY TRIAL. BORROWER, THE AGENT AND THE LENDERS HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVE TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO THIS SECURITY AGREEMENT OR ANY OTHER LOAN DOCUMENT AND FOR ANY COUNTERCLAIM THEREIN.

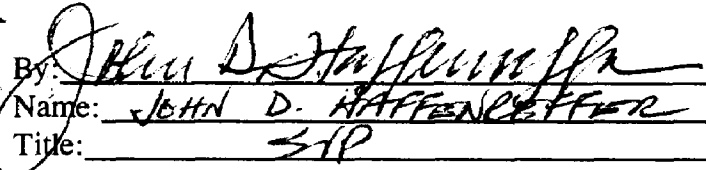
[Remainder of page intentionally left blank - signature page to follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

DAVID SHERMAN CORPORATION

By: 
Name: Donn S. Lux
Title: President

SOUTHWEST BANK OF ST. LOUIS, as Agent

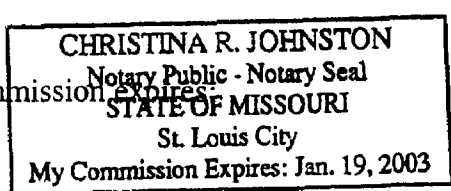
By: 
Name: JOHN D. HAFFNER
Title: STP

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Missouri)
City OF ST. LOUIS) SS
)

Before me, the undersigned, a Notary Public in and for the City and State aforesaid, on this 21st day of April, 1999, personally appeared Donn S. Lux, to me known personally, and who, being by me duly sworn, deposes and says that he is the President of David Sherman Corporation, a Missouri corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said individual acknowledged said instrument to be the free act and deed of said corporation.

[SEAL]

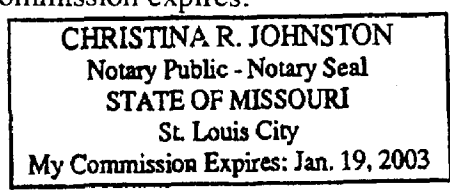


Christina R Johnston
Notary Public

STATE OF Missouri)
City OF ST. LOUIS) SS
)

Before me, the undersigned, a Notary Public in and for the City and State aforesaid, on this 22nd day of April, 1999, personally appeared John D. Haffenceffer, to me known personally, and who, being by me duly sworn, deposes and says that he is the SVP of Southwest Bank of St. Louis, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said individual acknowledged said instrument to be the free act and deed of said corporation.

[SEAL]



Christina R Johnston
Notary Public

My commission expires:

SCHEDULE A

TRADEMARKS

<u>Trademark</u>	<u>Serial No.</u>	<u>Registration No.</u>	<u>Jurisdiction</u>
ARROW		828,315	United States
ARROW (Stylized)		570,125	United States
ARROW	813588871	813588871	Brazil
ARROW FRUIT SPIRIT	814238467	814238467	Brazil
ARROW	321,143		Columbia
ARROW (Stylized)	72,363	75,488	Costa Rica
ARROW	2238	33,013	Dominican Republic
ARROW (Stylized)	2174-91		Guatemala
ARROW	7592A	7592A	Guyana
ARROW	613,603		India
ARROW	628,424		India
ARROW	137,207	101,390	Russia
ARROW	8317/90	156,177	Venezuela
ARROW		142,563	West Virginia
REBEL YELL		1,970,590	United States
REBEL YELL		727,786	United States
SOUTHERN SOUR MASH		860,271	United States
REBEL YELL	488,495	A488495	Australia
REBEL YELL	AM679/94	152612	Austria
REBEL YELL	70622	484322	Benelux
REBEL YELL	770,813	505326	Benelux

<u>Trademark</u>	<u>Serial No.</u>	<u>Registration No.</u>	<u>Jurisdiction</u>
REBEL YELL	815413408	815413408	Brazil
REBEL YELL	759568	TMA449622	Canada
REBEL YELL		88427	Costa Rica
REBEL YELL	Z921283A	Z921283	Croatia
REBEL YELL	71737	185005	Czech Republic
REBEL YELL	VA 075621990	VR06991	Denmark
REBEL YELL	93-0102	14262	Estonia
REBEL YELL	230,661	1607793	France
REBEL YELL		1702112	France
REBEL YELL	SCH 36486/33 WZ	2100994	Germany
REBEL YELL	DD-W 64 257/33 W2	654075	Germany
REBEL YELL	107505	107505	Greece
REBEL YELL	101107	101107	Greece
REBEL YELL	M9204602	137102	Hungary
REBEL YELL	676484		India
REBEL YELL	90/5711	141955	Ireland
REBEL YELL	49785-C/90	602918	Italy
REBEL YELL	061991/90	2701981	Japan
REBEL YELL	M-092-1744	M 30803	Latvia
REBEL YELL	ZP 2260	20779	Lithuania
REBEL YELL	184731	184731	New Zealand
REBEL YELL	01379	141243	Paraguay
REBEL YELL	Z-113693	79143	Poland
REBEL YELL	266278	266278	Portugal
REBEL YELL	166371	119745	Russian Federation
REBEL YELL	71737	179120	Slovakia

<u>Trademark</u>	<u>Serial No.</u>	<u>Registration No.</u>	<u>Jurisdiction</u>
REBEL YELL	Z-9270545	9270545	Slovenia
REBEL YELL	7253/90.5	384591	Switzerland
REBEL YELL		769556	Taiwan
REBEL YELL	1432308	1432308	UK
REBEL YELL	Z-1163/92	39538	Yugoslavia