

08-23-1999

COVER SHEET
ONLY

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

AUG 18

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101123792

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Filene's Basement, Inc.
40 Walnut Street
Wellesley, MA 02181

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

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

3. Nature of conveyance: **8-18-99**

- ☐ Assignment ☐ Merger
☒ Security Agreement ☐ Change of Name
☐ Other _____

Execution Date: July 26, 1999

2. Name and address of receiving party(ies)

Name: General Electric Capital Corporation, as Agent

Internal Address:

Street Address: 201 High Ridge Road

City: Stamford State: CT ZIP: 06927

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

If assignee is not domiciled in the United States, a domestic representative designation is attached:
(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)

75/570,516 75/_____, 7/14/99, Filene's Basement

B. Trademark Registration No.(s)

1,526,992	1,529,807	1,379,255	1,453,285
1,882,300	1,521,882	1,524,651	1,310,162
1,522,736	1,524,649	1,523,624	1,334,395
1,733,150			

Additional numbers attached? ☐ Yes ☒ No

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

Name: Garrett Elias

Internal Address:

Street Address: Paul, Hastings, Janofsky & Walker
1055 Washington Boulevard

City: Stamford State: CT ZIP: 06902

6. Total number of applications and registrations involved: 15 ☐

7. Total fee (37 CFR 3.41).....\$ 390.00

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number:

390E

(Attached 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.

Garrett Elias

Name of Person Signing

[Signature]
Signature

8/17/99
Date

Total number of pages including cover sheet, attachments, and document: 13 ☐

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents & Trademarks, Box Assignments

BORROWER INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS BORROWER INTELLECTUAL PROPERTY SECURITY AGREEMENT (together with all amendments, if any, from time to time hereto, this "Agreement"), dated as of July 26, 1999, is made by FILENE'S BASEMENT, INC., a Massachusetts corporation ("Grantor"), in favor of GENERAL ELECTRIC CAPITAL CORPORATION, a New York corporation, in its capacity as agent ("Agent") for itself, Paragon Capital LLC, as Oversight Agent (together with Agent, "Agents"), and Lenders.

W I T N E S S E T H:

WHEREAS, pursuant to that certain Credit Agreement dated as of the date hereof by and among Grantor, the other Persons named therein as Credit Parties, Agents, and the Persons signatory thereto from time to time as Lenders (including all annexes, exhibits or schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "Credit Agreement"), Lenders have agreed to make Loans to, and incur Letter of Credit Obligations for the benefit of, Grantor; and

WHEREAS, Lenders are willing to make the Loans and to incur Letter of Credit Obligations as provided for in the Credit Agreement, but only upon the condition, among others, that Grantor shall have executed and delivered to Agent this Agreement;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby agrees as follows:

1. DEFINED TERMS. All capitalized terms used but not otherwise defined herein have the meanings given to them in Annex A to the Credit Agreement.

2. GRANT OF SECURITY INTEREST IN INTELLECTUAL PROPERTY COLLATERAL. To secure the complete and timely payment of all the Obligations of Grantor now or hereafter existing from time to time, Grantor hereby pledges and grants to Agent, on behalf of Agents and Lenders, a continuing first priority security interest in all of Grantor's right, title and interest in, to and under the following, whether presently existing or hereafter created or acquired (collectively, the "Intellectual Property Collateral"):

(a) all of its Patents and Patent Licenses to which it is a party including those referred to on Schedule I hereto;

(b) all of its Trademarks and Trademark Licenses to which it is a party including those referred to on Schedule II hereto;

(c) all of its Copyrights and Copyright Licenses to which it is a party including those referred to on Schedule III hereto;

(d) all reissues, continuations or extensions of the foregoing;

(e) all goodwill of the business connected with the use of, and symbolized by, each Patent, each Patent License, each Trademark, each Trademark License, each Copyright and each Copyright License; and

(f) all products and proceeds of the foregoing, including, without limitation, any claim by Grantor against third parties for past, present or future (i) infringement or dilution of any Patent or Patent licensed under any Patent License, (ii) injury to the goodwill associated with any Patent or any Patent licensed under any Patent License, (iii) infringement or dilution of any Trademark or Trademark licensed under any Trademark License, (iv) injury to the goodwill associated with any Trademark or any Trademark licensed under any Trademark License, (v) infringement or dilution of any Copyright or Copyright licensed under any Copyright License, and (vi) injury to the goodwill associated with any Copyright or any Copyright licensed under any Copyright License.

Notwithstanding the foregoing, nothing hereunder constitutes or shall be deemed to constitute the grant of a security interest in favor of Agent with respect to any of Grantor's interest in any License (each such License being hereinafter referred to as "Excluded Property") if the granting of a security interest therein by Grantor to Agent would violate (1) any term or provision of the written agreement, document or instrument creating or evidencing such Excluded Property and the rights related thereto or (2) applicable law with respect thereto; provided, however, that (x) on and after the Closing Date (i) without the consent of Agents and Lenders (which consent shall not be unreasonably withheld), Grantor shall not enter into any additional agreements, documents or instruments which are, either individually or in the aggregate, material to the operation of Grantor's business ("Material Agreements") which Material Agreements contain any such prohibition and (ii) Grantor shall use its best efforts not to enter into any additional agreements, documents or instruments (which do not constitute Material Agreements) which contain any such prohibition, and (y) the foregoing exclusion shall in no way be construed so as to limit, impair or otherwise affect Agent's unconditional continuing security interests in and Liens upon any rights or interests of Grantor in or to moneys due or to become due under any such agreements, documents or instruments nor shall it apply with respect to any such Intellectual Property Collateral once any such applicable prohibition is no longer in effect.

3. REPRESENTATIONS AND WARRANTIES. Grantor represents and warrants that Grantor does not have any interest in, or title to, any Patent, Trademark or Copyright except as set forth in Schedule I, Schedule II and Schedule III, respectively, hereto. This Agreement is effective to create a valid and continuing Lien on and, upon the filing hereof with the United States Patent and Trademark Office and the United States Copyright Office, perfected security interests in favor of Agent in all of Grantor's Patents, Trademarks and Copyrights and such perfected security interests are enforceable as such as against any and all creditors of, and purchasers from, Grantor. Upon filing of this Agreement with the United States Patent and Trademark Office and the United States Copyright Office and the filing of appropriate financing statements listed on Schedule I to the Borrower Security Agreement, all action necessary or advisable, under applicable law, to protect and perfect Agent's Lien on Grantor's Patents, Trademarks and Copyrights shall have been duly taken.

4. COVENANTS. Grantor covenants and agrees with Agent, on behalf of Agents and Lenders, that from and after the date of this Agreement and until the Termination Date:

(a) Grantor shall notify Agent immediately if it knows or has reason to know that any application or registration relating to any Patent, Trademark or Copyright (now or hereafter existing) is reasonably likely to become abandoned or dedicated, or of any adverse determination or development (including the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court) regarding Grantor's ownership of any Patent, Trademark or Copyright, its right to register the same, or to keep and maintain the same; provided, however, that Grantor shall be permitted to abandon a Patent, Trademark or Copyright, or take any action or refuse or omit to take any action whereby such Patent, Trademark or Copyright may be abandoned if such abandonment would not reasonably be expected to result in a Material Adverse Effect and, in Grantor's reasonable business judgment, to do so is in the best business interests of Grantor's business (it being understood that nothing in this proviso shall permit Grantor from abandoning the following Trademarks: AISLE 3; FILENE'S BASEMENT; FILENE'S BASEMENT OF BOSTON; or FILENE'S BASEMENT, NEW HAMPSHIRE). Prior to the intentional abandonment of any such Patent, Trademark or Copyright by Grantor, Grantor agrees to notify Agent in writing.

(b) In no event shall Grantor, either directly or through any agent, employee, licensee or designee, file an application for the registration of any Patent, Trademark or Copyright with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency without giving Agent simultaneous written notice thereof, and, upon request of Agent, Grantor shall execute and deliver a supplement hereto (in form and substance reasonably satisfactory to Agent)

to evidence Agent's Lien on such Patent, Trademark or Copyright, and the General Intangibles of Grantor relating thereto or represented thereby.

(c) Grantor shall take all actions necessary or reasonably requested by Agent to maintain and pursue each application, to obtain the relevant registration and to maintain the registration of each of the Patents or Trademarks (now or hereafter existing), including the filing of applications for renewal, affidavits of use, affidavits of noncontestability and opposition and interference and cancellation proceedings.

(d) In the event that any of the Intellectual Property Collateral is infringed upon, or misappropriated or diluted by a third party, Grantor shall notify Agent promptly after Grantor learns thereof. Grantor shall, unless it shall reasonably determine that such Intellectual Property Collateral is in no way material to the conduct of its business or operations, promptly take all reasonable steps to cause cessation thereof, including without limitation, commencing suit infringement, misappropriation or dilution and to recover any and all damages for such infringement, misappropriation or dilution, or otherwise obtain appropriate equitable relief, and shall take such other actions as Agent shall deem reasonably appropriate under the circumstances to protect such Intellectual Property Collateral.

5. SECURITY AGREEMENT. The security interests granted pursuant to this Agreement are granted in conjunction with the security interests granted to Agent pursuant to the Borrower Security Agreement. Grantor hereby acknowledges and affirms that the rights and remedies of Agent with respect to the security interest in the Intellectual Property Collateral made and granted hereby are more fully set forth in the Borrower Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

6. REINSTATEMENT. This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against Grantor for liquidation or reorganization, should Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

7. NOTICES. Whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or


served upon any of the parties by any other party, or whenever any of the parties desires to give and serve upon any other party any communication with respect to this Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be given in the manner, and deemed received, as provided for in the Credit Agreement.

8. TERMINATION OF THIS SECURITY AGREEMENT. Subject to Section 6 hereof, this Agreement shall terminate upon the Termination Date and immediately thereafter Agent will act in accordance with the provisions of Section 11.2(e) of the Credit Agreement (including, without limitation, delivering to Pledgor releases for filing with the U.S. Patent and Trademark Office and/or U.S. Copyright Office to the extent set forth in the Credit Agreement).

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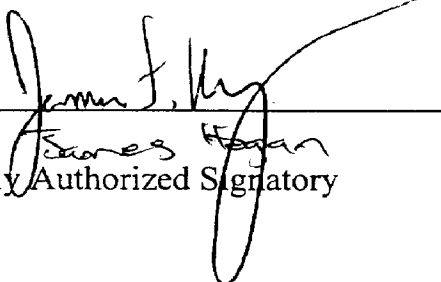
IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

FILENE'S BASEMENT, INC.

By: 
Name: STEVEN SIEGEL
Title: EVP & CFO

ACCEPTED and ACKNOWLEDGED by:

**GENERAL ELECTRIC CAPITAL
CORPORATION, as Agent**

By: 
Name: James Hagan
Its: Duly Authorized Signatory

Stamford\140758

ACKNOWLEDGMENT OF GRANTOR

STATE OF CONNECTICUT)

COUNTY OF FAIRFIELD) ss. Stamford

On this 23rd day of July, 1999 before me personally appeared

Steven Siegel, proved to me on the basis-of satisfactory evidence to be the person who executed the foregoing instrument on behalf of FILENE'S BASEMENT, INC., who being by me duly sworn did depose and say that he is an authorized officer of said corporation, that the said instrument was signed on behalf of said corporation as authorized by its Board of Directors and that he acknowledged said instrument to be the free act and deed of said corporation.

Melina Roper

Notary Public

{seal}

My Commission Exp. Apr. 30, 2002

Stamford\140758

SCHEDULE I
to
INTELLECTUAL PROPERTY SECURITY AGREEMENT

I. PATENT REGISTRATIONS – NONE

<u>Patent</u>	<u>Reg. No.</u>	<u>Date</u>
N/A		

II. PATENT APPLICATIONS – NONE

<u>Patent</u>	<u>Application No.</u>	<u>Date</u>
N/A		

III. PATENT LICENSES -- NONE

<u>Name of Agreement</u>	<u>Date of Agreement.</u>	<u>Date</u>
N/A		

SCHEDULE II
to
INTELLECTUAL PROPERTY SECURITY AGREEMENT

I. TRADEMARK REGISTRATIONS

<u>Mark</u>	<u>Registration No. and Jurisdiction</u>	<u>Date</u>
BASIC GEAR	1,526,992 (US)	28-Feb-1989
BASIC GEAR	1,529,807 (US)	14-Mar-1989
BOSTON CLIPPER ESTABLISHED 1983	1,379,255 (US)	21-Jan-1986
BOSTON CLIPPER QUALITY & TRADITION	1,453,285 (US)	18-Aug-1987
CURRIER & BRANCH	1,882,300 (US)	07-Mar-1995
GLOBAL VIEW	1,521,882 (US)	24-Jan-1989
GLOBAL VIEW	1,524,651 (US)	14-Feb-1989
KENNETH MOORE COLLECTION	1,310,162 (US)	18-Dec-1984
LAUREN ALLEN	1,522,736 (US)	31-Jan-1989
ML STUDIO	1,524,649 (US)	14-Feb-1989
RICHARDS & JONES	1,523,624 (US)	07-Feb-1989
ROBERT WOODS LTD.	1,334,395 (US)	07-May-1985
SADDLES	1,733,150 (US)	17-Nov-1992
AUTOMATIC BARGAIN BASEMENT	029,202(MA)	08-Oct-1998
AUTOMATIC MARKDOWN PLAN	029,203 (MA)	08-Oct-1998
AUTOMATIC MARKDOWN PLAN	2,019,931(NH)	03-Dec-1991

<u>Mark</u>	<u>Registration No. and Jurisdiction</u>	<u>Date</u>
WRAPPERS	19900053M	26-Sep-1989

II. TRADEMARK APPLICATIONS

<u>Mark</u>	<u>Application No. and Jurisdiction</u>	<u>Date</u>
AISLE 3	75/570,516 (US)	14-Oct-1998
FILENE'S BASEMENT	75/_____(US)*	14-July-1999 [transmittal to PTO]
ISPLURGE	Prefiling (US)	

III. TRADEMARK LICENSES

<u>Name of Agreement and Mark</u>	<u>Parties</u>
1. [License Agreement]; FILENE'S BASEMENT OF BOSTON	Licensor: [May Company**] Licensee: Filene's Basement, Inc.
2. [License Agreement]; FILENE'S BASEMENT OF BOSTON	Licensor: [May Company**] Licensee: Filene's Basement, Inc.
3. [License Agreement]; FILENE'S BASEMENT, NEW HAMPSHIRE	Licensor: [May Company**] Licensee: Filene's Basement, Inc.

*Application filed in the name of [May Company]

**Successor to [Federated Department Stores, Inc.] by Assignment dated
July 18, 1988

SCHEDULE III
to
INTELLECTUAL PROPERTY SECURITY AGREEMENT

I. COPYRIGHT REGISTRATIONS – NONE

<u>Copyright</u>	<u>Reg. No.</u>	<u>Date</u>
N/A		

II. COPYRIGHT APPLICATIONS – NONE

<u>Copyright</u>	<u>Reg. No.</u>	<u>Date</u>
N/A		

III. COPYRIGHT LICENSES – NONE

<u>Name of Agreement</u>	<u>Date of Agreement</u>	<u>Parties</u>
N/A		