

msb
10-12-99

10-14-1999



ET

Docket No.:

.Y

101170359

Tab settings

To the Honorable Commissioner of Patents and Trademarks, please receive the attached original documents or copy thereof.

1. Name of conveying party(ies):

Profile Pursuit Incorporated

- Individual(s)
- General Partnership
- Corporation-State California
- Other

- Association
- Limited Partnership

Additional names(s) of conveying party(ies) Yes No

3. Nature of conveyance:

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

Execution Date: September 16, 1999

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

Name: Lloyds TSB Bank plc

Internal Address: 3rd Floor

Street Address: 54 Moorgate, London, EC2R 6DN

City: England State: _____ ZIP: _____

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other English plc

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from Additional name(s) & address(es) Yes N

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

75497234
75497236
75497235

Additional numbers

B. Trademark Registration No.(s)

2129095

Yes No

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

Name: Laura E. Goldbard

Internal Address: Stroock & Stroock & Lavan LLP

Street Address: 180 Maiden Lane

City: New York State: NY ZIP: 10038

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41):.....\$ \$115.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

19-4709

10/13/1999 MTHAY1 00000116 194709 75497234
01 FC:481 40.00 CH
02 FC:482 75.00 CH

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.

Laura E. Goldbard

Name of Person Signing

Signature

10-8-99

Date

Total number of pages including cover sheet, attachments, and

10

Client/Matter No. 364531/002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Registrant/Applicant : Lloyds TSB Bank PLC

Registration No. : 2,129,095

Application Nos. : 75/497,234

75/497,235

75/497,236

DESIGNATION OF DOMESTIC REPRESENTATIVE

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:


Registrant/Applicant designates STROOCK & STROOCK & LAVAN
LLP, 180 Maiden Lane, New York, New York 10038, as registrant's representative upon
whom notices or process in proceedings affecting the mark may be served.

LLOYDS TSB BANK PLC

By:

Name:

Title:



J. M. HERBERT
SENIOR MANAGER

TRADEMARK SECURITY AGREEMENT

This TRADEMARK SECURITY AGREEMENT, dated as of September 16, 1999 (this "Agreement"), is between Profile Pursuit Incorporated, a California corporation (the "Company"), and Lloyds TSB Bank Plc (the "Bank").

WITNESSETH:

WHEREAS, the Bank and Hortform Limited, a company incorporated in England and Wales (the "Borrower"), are entering into a Facility Agreement dated as of the date hereof (as at any time amended, modified or supplemented, the "Facility Agreement") to provided acquisition financing for the Borrower's acquisition of the Target Group (as defined in the Facility Agreement);

WHEREAS, the Company is a member of the Target Group;

WHEREAS, after the Acquisition (as defined in the Facility Agreement), the Company will be a subsidiary of the Borrower;

WHEREAS, the Company is entering into a Relevant Guarantee (as defined in the Facility Agreement) with the Bank;

WHEREAS, the Bank has required that the Company execute and deliver a Security Agreement as security for the Indebtedness (as amended, supplemented or otherwise modified from time to time, the "Security Agreement"); and

WHEREAS, pursuant to the Security Agreement, the Company has conveyed a security interest in, among other things, all right, title and interest of the Company in, to and under all of the Company's Marks and Trademark Licenses, whether presently existing or hereafter arising or acquired;

NOW, THEREFORE, in consideration of the premises and to induce the Bank to enter into, inter alia, the Facility Agreement, the Company hereby agrees with the Bank as follows:

1. Defined Terms.

(a) Definitions. Unless otherwise defined herein or the context otherwise requires, terms used in this Agreement, including its preamble and recitals, have the meanings provided in the Security Agreement.

(b) Other Definitional Provisions. (i) The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and paragraph references are to this Agreement unless otherwise specified.

(ii) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Grant of Security Interest. To secure the prompt and complete payment when due and satisfaction of the Obligations, the Company hereby grants, assigns and conveys to the Bank as collateral security the entire right, title and interest in and to the Marks and Trademark Licenses, and all proprietary rights in and to all products and all proceeds related thereto, now owned or existing or at any time hereafter acquired by the Company or in which the Company now has or any time in the future may acquire any right, title or interest, including, without limitation, each registration, application, and proprietary right identified on Schedules 1 and 2 attached hereto and made a part hereof, the right to sue for past, present and future infringements and all rights corresponding thereto and the entire goodwill of the Company's business connected with and symbolized by the Marks and Trademark Licenses (referred to collectively as the "Trademarks and Trademark Licenses Collateral").

3. Security Agreement. This Agreement has been executed and delivered by the Company for the purpose of recording the security agreement of the Bank in the Trademarks and Trademark Licenses Collateral with the United States Patent and Trademark Office. The security agreement granted hereby has been granted as a supplement to, and not in limitation of, the security interest granted to the Bank under the Security Agreement. The Security Agreement (and all rights and remedies of the Bank thereunder) shall remain in full force and effect in accordance with its terms.

4. Assignments of Marks and Goodwill. In addition to all other rights granted to the Bank under the Facility Agreement, the Security Agreement and this Agreement, effective only upon an Event of Default and an acceleration of the Obligations under the Facility Agreement, the Company hereby sells, assigns, transfers and sets over to the Bank, for collateral purposes only, the Company's entire right, title and interest in and to all Marks and the goodwill of the Company's business connected with and symbolized by the Marks.

5. Assignments of Trademark Licenses. In addition to all other rights granted to the Bank under the Facility Agreement, the Security Agreement and this Agreement, effective only upon an Event of Default and an acceleration of the Obligations under the Facility Agreement, the Company hereby sells, assigns, transfers and sets over to the Bank, for collateral purposes only, any and all assignable rights of the Company under any of the Trademark Licenses.

6. Representations and Warranties. The Company represents and warrants that:

(a) The Marks and Trademark Licenses are valid and subsisting and in good standing;

(b) The Company does not own any Mark that is registered with the United States Patent and Trademark Office, or any similar offices or agencies of the United States, any state or territory thereof, or any other country or political subdivision other than each of the Marks listed in Schedule 1;

(c) The Company is not a party to, or an assignee of a party to, any Trademark License other than each of the Trademark Licenses listed in Schedule 2;

(d) The Company is the sole and exclusive owner of the entire right, title and interest in, under and to, free and clear of any liens, charges and encumbrances, each of the Marks, and all United States Trademark registrations and applications therefor, identified on Schedule 1, and Trademark Licenses identified on Schedule 2;

(e) The Company has good and marketable title to, free and clear of all clear of any liens, charges and encumbrances, all Marks and all United States Trademark registrations and applications therefor, identified on Schedule 1, and Trademark Licenses identified on Schedule 2;

(f) Each of the Marks and all United States Trademark registrations therefor, identified on Schedule 1, and each of the Trademark Licenses identified on Schedule 2, is valid and enforceable, and to the knowledge of the Company, no claim has been made that the use of any of the Marks and/or Trademark Licenses does or may violate the rights of any third person;

(g) The Marks listed in Schedule 1, and Trademark Licenses listed in Schedule 2, have not been adjudged invalid or unenforceable, in whole or in part by any court of competent jurisdiction; nor has any holding, decision or judgment been rendered by any Governmental Authority which would limit, cancel or question the validity, registrability or enforceability of any of the Marks and/or Trademark Licenses throughout the world;

(h) No action or proceeding is pending (i) seeking to limit, cancel or question the validity of any of the Marks and/or Trademark Licenses throughout the world or (ii) which, if adversely determined, would be reasonably likely to have a material adverse effect on the value of any such Marks and/or Trademark Licenses throughout the world;

(i) The Company has not received any threats of action and has not commenced and does not currently intend to commence any suit or action against others in connection with the violation of enforcement of its rights in any of the Marks and/or Trademark Licenses;

(j) The Company has the unqualified right and power to enter into this Agreement and perform its terms and has entered and will enter into written agreements as necessary with each of its present and future employees, agents and consultants that will enable it to comply with the covenants herein contained;

(k) The registrations in connection with the Marks listed in Schedule 1 have been duly and properly issued;

(l) The Company is neither in default, in violation of (or would be in violation with notice or lapse of time, or both) nor has otherwise breached any of the Trademark Licenses including, without limitation, whether or not such default has been waived;

(m) There are no unresolved disputes under any of the Trademark Licenses;

(n) There are no unresolved disputes relating to or in connection with any of the Marks; and

(o) The Company has not granted any release, covenant not to sue, or non-assertion assurance to any Person with respect to any of the Marks and/or Trademark Licenses.

7. Covenants.

(a) The Company hereby agrees not to divest itself of any right with respect to the Marks and/or Trademark Licenses absent prior written approval of the Bank; and

(b) The Company agrees, promptly upon learning thereof, to notify the Bank in writing of the name and address of, and to furnish such pertinent information that may be available with respect to, any party who may be infringing or otherwise violating any of the Company's rights in, to and under any of the Marks and/or Trademark Licenses, or with respect to any party claiming that the Company's use of any of the Marks and/or Trademark Licenses violate any property right of that party. The Company further agrees, unless otherwise directed by the Bank, diligently to prosecute any Person infringing any of the Marks and/or Trademark Licenses.

8. Further Assurances.

(a) The Company shall execute and deliver to the Bank this Trademark Security Agreement, which shall be recorded in the appropriate government offices to perfect the security interests granted herein;

(b) The Company shall execute any and all additional documents reasonably required and/or requested by the Bank in connection with the Marks and Trademark Licenses to effectuate the security interests granted hereunder; and

(c) The Company hereby grants the Bank an absolute power of attorney to sign, upon the occurrence and during the continuance of an Event of Default, any document which may be required by the United States Patent and Trademark Office or secretary of state or equivalent governmental agency of any state of the United States or in any foreign jurisdiction in order to effect an absolute assignment of all right, title and interest in each Mark and Trademark License, and record the same.

9. Other Marks. Within 30 days of (i) acquisition of a Mark or Trademark License, or (ii) of filing of an application to register a Mark, the Company shall deliver to the Bank a copy of the document of transfer or license with respect to such Mark or a copy of the registration, application and/or of the receipt issued by the United States Patent and Trademark Office with respect thereto, with a grant of security as to such Mark or Trademark License, as the case may be,

confirming the grant thereof hereunder, the form of such confirmatory grant to be substantially the same as the form hereof.

10. Release of Collateral and Termination. This Agreement and all obligations of the Company and the Bank hereunder shall terminate on the date upon which the Obligations have been indefeasibly paid and satisfied in full without delivery of any instrument or performance of any act by any party. Upon termination of this Agreement, the Bank shall, at the sole expense of the Company, take such actions as reasonably may be necessary to release its security interest in the Trademarks and Trademark Licenses Collateral.

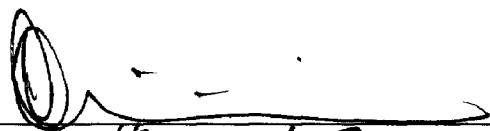
11. Acknowledgment. The Company does hereby further acknowledge and affirm that the rights and remedies of the Bank with respect to the security agreement in the Trademarks and Trademark Licenses Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which (including the remedies provided for therein) are incorporated by reference herein as if fully set forth herein. In the event of any inconsistency between the terms of this Agreement and the terms of the Security Agreement, the terms of the Security Agreement shall govern.

12. Binding Effect; Benefits. This Agreement shall be binding upon the Company and its respective successors and assigns, and shall inure to the benefit of the Bank and its successors and assigns.

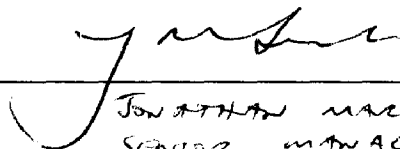
13. GOVERNING LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE CONSTRUED IN ACCORDANCE WITH AND BE GOVERNED BY THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAW.

IN WITNESS WHEREOF, the parties have caused this Trademark Security Agreement to be executed by its duly authorized representatives as of the date first above written.

PROFIT PURSUIT INCORPORATED

By: 
Name: Howard Shaw
Title: President

LLOYDS TSB BANK PLC

By: 
Name: JONATHAN MARK HERBERT
Title: SENIOR MANAGER

TRADEMARKS

<u>Mark</u>	<u>Application or Registration No.</u>	<u>Filing Date</u>	<u>Reg. Date</u>	<u>Status</u>
Pride '98	75/497234	6/5/98		Pending
Pride '99	75/497236	6/5/98		Pending
Pride 2000	75/497235	6/5/98		Pending
HR Director (Stylized)	75/255081	3/10/97		Abandoned
Dolce Vita (Stylized)	75/255082	3/10/97	1/13/98	Registered