

04-07-2000



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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office
Box Assignments

101309684

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

1. Name of conveying party(ies):

Sun Optics, Inc.

- ☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☒ Corporation - State Utah
☐ 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 14, 2000

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

Name: National Bank of Canada

Internal Address: _____

Street Address: 1225 17th Street, Suite 1750

City: Denver State: CO ZIP: 80202

- ☐ 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) & addresses attached? ☐ Yes ☐ No

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

Trademark Application No.(s)

B. Trademark Registration No.(s)

2,204,456; 2,209,663; 2,227,151; 2,235,002

Additional numbers attached? ☐ Yes ☒ No

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

Name: Dana Hartje Cardwell, Esq.

Internal Address: SHERIDAN ROSS P.C.

Suite 1200

Street Address: 1560 Broadway

City: Denver State: CO ZIP: 80202-5141

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: 19-1970

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

04/07/2000 JSN:RAZZ 00000062 2204456

01 FC:401 40.00 DP
02 FC:402 75.00 DP

DO NOT USE THIS SPACE

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.

Dana Hartje Cardwell
Name of person signing

[Signature]
Signature

Feb. 23, 2000
Date

Total number of pages including cover sheet, attachments and document: 9

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
Box Assignments
Washington, DC 20231

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO COMMISSIONER FOR PATENTS AND TRADEMARKS, BOX ASSIGNMENTS, WASHINGTON, DC 20231 ON 2/23/2000

SHERIDAN ROSS P.C.

BY: Bonnie B. Ludlow

TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement ("Agreement") dated February 14, 2000, is by and between Sun Optics ("Borrower"), whose address is 3679 South 900 East, Salt Lake City, Utah 84106 and National Bank of Canada ("Lender"), whose address is 1225 17th Street, Suite 1750, Denver, Colorado 80202.

RECITALS

In order to induce Lender to enter into one or more agreements with and extend loans and other financial accommodations to Borrower and in consideration of any credit, advances or financial accommodations now or hereafter granted to or on behalf of Borrower by Lender, Borrower and Lender hereby agree to the terms and conditions set forth below.

AGREEMENTS

1. **Grant of Security Interest.** Borrower does hereby grant to Lender a security interest in the following personal property ("Collateral"):

(a) All present and future trademarks, tradenames and service marks and federal, state and foreign trademark, tradename and service mark registrations and applications belonging to Borrower, including, but not limited to, the personal property described on **Exhibit A** attached hereto and incorporated herein by this reference;

(b) All present and future elements of package or trade dress goods belonging to the undersigned;

(c) All present and future goodwill belonging to the undersigned and connected with or symbolized by the foregoing trademarks, tradenames, service marks, trademark registrations, tradename registrations, service mark registrations, trademark applications, tradename applications, service mark applications, package and trade dress;

(d) All present and future licenses belonging to the undersigned and pertaining to trademarks, tradenames, service marks, trademark registrations, tradename registrations, service mark registrations, trademark applications, tradename applications, service mark applications, package and trade dress; and

(e) All proceeds and products of and books and records pertaining to the foregoing personal property.

Notwithstanding the foregoing, the Collateral shall not include Borrower's rights under or pursuant to license agreements regarding Yahoo, AOL and Oleg Cassini.

2. **Obligations Secured by Collateral.** The Collateral shall secure the following (collectively "Obligations"):

(a) the payment and performance of all of Borrower's indebtedness, liabilities and obligations to Lender under the following loan documents (collectively "Loan Documents"):

(i) that certain Loan and Security Agreement dated of even date herewith, executed by Borrower and Lender (the "Loan Agreement").

(ii) this Agreement;

(iii) all other present and future agreements between Borrower and Lender of any kind; and

(iv) all amendments, modifications, replacements, and substitutions to any of the foregoing; and

(b) the payment and performance of all other present and future indebtedness, liabilities and obligations (primary and secondary, direct and contingent, joint and/or several) of Borrower to Lender of any kind.

3. **Representations and Warranties.** Borrower hereby represents and warrants that:

(a) Borrower is the owner of the Collateral free and clear of all liens, charges, encumbrances, setoffs, defenses and counterclaims of whatsoever kind or nature (except for the security interests constituting Permitted Liens under the Loan Agreement and the security interests granted to Lender);

(b) Except for the foregoing security interests, Borrower has not made and shall not make any assignment, license, pledge, mortgage, hypothecation or transfer of the Collateral or the proceeds thereof without the prior written consent of Lender;

(c) this Agreement does not contravene any statute, ordinance, administrative rule, contract, or other agreement binding on Borrower including, but not limited to, any license agreement pertaining to the Collateral; and

(d) there are no legal actions or administrative proceedings pending or threatened before any court or administrative agency involving the Collateral that, if determined adversely to Borrower, would result in a material obligation or liability of Borrower.

4. **Use and Ownership Prior to Default.** Borrower shall use the Collateral only in the ordinary course of its business. Borrower shall defend its title to the Collateral free and clear of all liens, charges, encumbrances, setoffs, defenses and counterclaims of every kind or nature (except for the security interests constituting Permitted Liens under the Loan Agreement and the security interests granted to Lender) against all present and future contradictory claims. Borrower shall not assign, sell, transfer or otherwise encumber the Collateral without the prior written consent of Lender. Borrower shall not license the Collateral except in good faith and in the ordinary course of business and so long as such license is capable of being assigned to Lender without any adverse effect of any kind. Borrower shall take any action needed to maintain the full value of the Collateral in a timely manner. Lender is hereby appointed as Borrower's agent to take any action necessary to maintain the full value of the Collateral upon the occurrence and during the continuance of an event of default described in this Agreement, including, but not limited to, filing affidavits of continued use and renewing the trademarks and service marks contained in the Collateral. Borrower shall reimburse Lender for all sums expended to maintain the Collateral

together with interest thereon at the lesser of (a) the highest rate described in the Loan Documents or (b) the highest rate permitted by law. Notwithstanding the foregoing, Lender shall not be required to maintain the Collateral and does not assume any other obligation or liability pertaining to the Collateral.

5. **Events of Default.** Borrower shall be in default of the obligations described in this Agreement in the event that: (a) Borrower defaults on the payment or performance of one or more Obligations to Lender under this Agreement; or (b) an event of default occurs under the Loan Agreement, any other Loan Document or any other present or future document, instrument or agreement between Borrower and Lender.

6. **Remedies on Default.** If there is a default under this Agreement, Lender shall be entitled to exercise one or more of the following remedies without presentment, dishonor, notice or demand of any kind (all of which are hereby waived by Borrower):

- (a) to declare the Obligations immediately due and payable in full;
- (b) to collect the outstanding Obligations with or without resorting to judicial process;
- (c) to enter Borrower or any third party's premises and take possession of any Collateral;
- (d) to require Borrower to deliver and make available to Lender any Collateral at a place reasonably convenient to Borrower and Lender;
- (e) to sell, lease or otherwise dispose of any Collateral and collect any deficiency balance with or without resorting to legal process;
- (f) to set-off the Obligations against any amounts due to from Lender to Borrower including, but not limited to, monies and instruments maintained with Lender;
- (g) to assign all Collateral to Lender, which assignments shall be recordable by Lender against the Collateral; and
- (h) to exercise all other rights available to Lender under any other present or future document, instrument or agreement between Borrower and Lender or applicable law.

Lender's rights are cumulative and may be exercised together, separately, and in any order.

Without limiting any of Borrower's obligations or Lender's rights under this Agreement or any of the other Loan Documents, Borrower shall provide Lender upon Lender's request from time to time with updated versions of this Agreement which describe all of the Collateral applied for and registered with the U.S. Patent and Trademark Office. In addition, Borrower shall provide Lender upon Lender's request from time to time with absolute assignments of the Collateral. Such assignments shall be in form and substance reasonably acceptable to Lender in its discretion acting in good faith. Borrower hereby appoints Lender as its attorney-in-fact to insert the name and address of the assignee and any other information required by the U.S. Patent and Trademark Office and file the assignments with that governmental authority but only upon the occurrence of an Event of Default under this Agreement and the foreclosure of Lender's security

interest in the Collateral under applicable law. This power of attorney is coupled with an interest and irrevocable in nature.

7. **Indemnity.** Lender shall not assume or be responsible for the performance of any of Borrower's obligations with respect to the Collateral under any circumstances. Borrower shall immediately provide Lender with written notice of and indemnify and hold Lender harmless from all claims, damages, liabilities (including attorneys' fees and legal expenses), causes of action, actions, suits and other legal proceedings (collectively "Claims") pertaining to its business operations or the Collateral.

8. **Further Assurances.** Borrower shall take all actions and execute and file all documents necessary or reasonably requested by Lender to carry out the intent and purposes of this Agreement. Without limiting the foregoing, Borrower shall execute and file such financing statements and other documents in any location that Lender, acting in good faith, may deem necessary or appropriate to perfect and preserve Lender's security interest in the Collateral and appoints Lender as Borrower's attorney-in-fact to execute and file the aforementioned documents. This power of attorney is coupled with an interest and irrevocable in nature.

9. **Termination.** This Agreement and Lender's security interest in the Collateral shall terminate upon the elimination of Lender's obligations to lend any additional monies to Borrower and the irrevocable payment and performance in full of the Obligations secured by this Agreement.

10. **Modification and Waiver.** No provision of this Agreement may be waived or modified except in a writing signed by the parties hereto. Lender may perform any of Borrower's obligations or delay or fail to exercise any of its rights under this Agreement without causing a waiver of those obligations or rights. A waiver on one occasion shall not constitute a waiver on any other occasion. Company's obligations under this Agreement shall not be affected if Lender amends, compromises, exchanges, fails to exercise, impairs or releases any of the obligations belonging to any Borrower or third party or any of its rights against any Borrower, third party or collateral.

11. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors, assigns, trustees and receivers.

12. **Attorney's Fees and Other Costs.** Lender shall be entitled to recover from Borrower its reasonable attorneys' fees and its other expenses and costs incurred in connection with the attachment, perfection, defense, maintenance, continuance, protection, or enforcement of any of its security interests or other rights and remedies described herein or otherwise pertaining to this Agreement or the Collateral including, but not limited to, Lender's reasonable attorneys' fees and its other expenses and costs incurred in connection with any litigation pertaining to any of the foregoing.

13. **Construction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, without regard to principles of conflict of laws.

14. **Headings.** The several captions to different sections of this Agreement are inserted for convenience only and shall be ignored in interpreting the provisions hereof.

15. **Singular, Plural and Gender References; Grammatical Corrections.** Singular references shall include plural references, plural references shall include singular references, references

to one gender shall include references to other genders, and all other necessary grammatical modifications shall be deemed to have been made to the extent necessary to conform this Agreement to the intent of the parties.

16. **Confirmation of Accuracy.** Borrower declares under the penalties of perjury that it has examined the statements contained in this Agreement and, to the best of Borrower's knowledge and belief, such statements are true, correct and complete in all respects.

17. **Jurisdiction and Venue.** Borrower consents to the jurisdiction and venue of any federal or state court located in the City and County of Denver, State of Colorado, with respect to any litigation pertaining to the negotiation, execution, interpretation, or enforcement of any right or obligation under this Agreement.

18. **WAIVER OF JURY TRIAL. IT IS MUTUALLY AGREED BY AND BETWEEN BORROWER AND LENDER THAT THE RESPECTIVE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, ANY OF THE OTHER LOAN DOCUMENTS, OR THE TRANSACTIONS RELATED THERETO.**

BORROWER: SUN OPTICS

[Seal]

By: 
Title: President

LENDER:

NATIONAL BANK OF CANADA

By: 
Title: Vice President

STATE OF Utah)
) ss:
COUNTY OF Salt Lake)

The foregoing instrument was acknowledged before me this 10th day of February __, 2000 Bruce M. Raile as the President of Sun Optics, an Utah corporation, on behalf of such corporation.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: 10/15/2003

C. Fisher
Notary Public

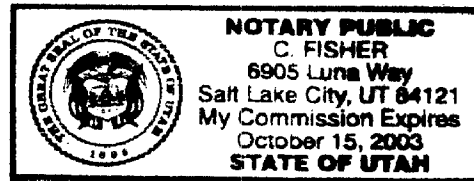


EXHIBIT A

Trademark or Tradename No.	Trademark or Tradename	Date Registered
2,204,456	Precision Reading Eyewear	November 17, 1998
2,209,663	I, Line	December 8, 1998
2,227,151	Insight	March 2, 1999
2,235,002	I,	March 23, 1999