

11-08-2000



101509869
RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

1074.00

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- ☒ New
- ☐ Resubmission (Non-Recordation)
Document ID #
- ☐ Correction of PTO Error
Reel # Frame #
- ☐ Corrective Document
Reel # Frame #

Conveyance Type

- ☐ Assignment ☐ License
- ☒ Security Agreement ☐ Nunc Pro Tunc Assignment
- ☐ Merger
- ☐ Change of Name
- ☐ Other
- Effective Date
Month Day Year
10 12 00

Conveying Party

☐ Mark if additional names of conveying parties attached

Name Cumberland Swan Holdings, Inc.

Execution Date
Month Day Year
10 12 00

Formerly

75703594

- ☐ Individual ☐ General Partnership ☐ Limited Partnership ☒ Corporation ☐ Association
- ☐ Other
- ☒ Citizenship/State of Incorporation/Organization Tennessee

Receiving Party

☐ Mark if additional names of receiving parties attached

Name Foothill Capital Corporation

DBA/AKATA

Composed of

Address (line 1) Northpark Town Center, Building 400

Address (line 2) 1000 Abernathy Road, N.E., Suite 1450

Address (line 3) Atlanta

Georgia/USA

30328

City

State/Country

Zip Code

- ☐ Individual ☐ General Partnership ☐ Limited Partnership ☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)
- ☒ Corporation ☐ Association
- ☐ Other
- ☒ Citizenship/State of Incorporation/Organization California

FOR OFFICE USE ONLY

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

(404) 815-2215

Name

Gretchen E. von Dwingelo, Esq.

Address (line 1)

Paul, Hastings, Janofsky & Walker, LLP

Address (line 2)

600 Peachtree Street, N.E., Suite 2400

Address (line 3)

Atlanta, Georgia 30308-2222

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

12

Trademark Application Number(s) or Registration Number(s)

☒

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

75/703599

315,513

1,341,877

1,476,475

76/069686

2,234,982

1,003,143

1,987,585

76/077640

1,260,342

1,295,460

1,660,469

Number of Properties

Enter the total number of properties involved.

39

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 990

Method of Payment:

Enclosed ☒

Deposit Account ☐

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

16-0752

Authorization to charge additional fees:

Yes

☒

No

☐

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. Charges to deposit account are authorized, as indicated herein.

Gretchen E. von Dwingelo

Name of Person Signing

Signature

Date Signed

RECORDATION FORM COVER SHEET
CONTINUATION
TRADEMARKS ONLY

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

Conveying Party
Enter Additional Conveying Party

☐ Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

☐ Individual ☐ General Partnership ☐ Limited Partnership ☐ Corporation ☐ Association

☐ Other

☐ Citizenship State of Incorporation/Organization

Receiving Party

Enter Additional Receiving Party

☐ Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

☐ Individual ☐ General Partnership ☐ Limited Partnership

☐ Corporation ☐ Association

☐ Other

☐ Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached (Designation must be a separate document from the Assignment.)

Trademark Application Number(s) or Registration Number(s)

☒ Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

1,431,675	1,321,715	1,291,689
807,631	1,168,862	1,154,398
807,616	718,346	1,154,397
2,051,100	2,191,250	1,370,788
1,730,572	340,284	1,254,230
1,387,965	2,166,341	502,178
1,857,428	1,400,056	1,207,749

RECORDATION FORM COVER SHEET
CONTINUATION
TRADEMARKS ONLY

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

Conveying Party

Enter Additional Conveying Party

☐ Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

☐ Individual ☐ General Partnership ☐ Limited Partnership ☐ Corporation ☐ Association

☐ Other

☐ Citizenship State of Incorporation/Organization

Receiving Party

Enter Additional Receiving Party

☐ Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

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Trademark Application Number(s) or Registration Number(s)

☐ Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

1,809,863		
896,120		
1,975,384		
1,912,142		
1,316,448		
1,307,601		

FIRST AMENDMENT TO INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS FIRST AMENDMENT TO INTELLECTUAL PROPERTY SECURITY AGREEMENT (the "Amendment") is executed and delivered as of the 12th day of October, 2000, between Cumberland Swan Holdings, Inc. a Tennessee corporation ("Assignor"), and Foothill Capital Corporation, a California corporation with an office in Atlanta, Georgia ("Assignee").

WITNESSETH:

WHEREAS, Assignor and Assignee are parties to that certain Loan and Security Agreement dated as of August 25, 1999, as amended by that certain First Amendment to Loan and Security Agreement dated as of June 30, 2000 (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), pursuant to which Foothill has agreed to extend credit to the Borrower from time to time pursuant to the terms and conditions thereof; and

WHEREAS, to secure the Obligations (as defined in the Loan Agreement) under the Loan Agreement, Assignor and Assignee have executed and delivered that certain Intellectual Property Security Agreement dated as of August 25, 1999 (the "Intellectual Property Agreement"), a copy of which is attached hereto as Exhibit A; and

WHEREAS, the parties desire to amend the Intellectual Property Agreement to amend and restate Schedules 1, 2 and 3 attached thereto to reflect changes therein which have occurred as a result of, among other things, Assignor's acquisition of additional Trademarks, Patents and Licenses (as defined in the Intellectual Property Agreement);

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree that capitalized terms used herein and not otherwise defined herein, shall have the meanings ascribed thereto in the Intellectual Property Agreement, and hereby further agree as follows:

1. Amendment to Schedule 1. Schedule 1 to the Intellectual Property Agreement is hereby supplemented by adding thereto the information set forth on the Schedule 1 attached hereto.

2. Amendment to Schedule 2. Schedule 2 to the Intellectual Property Agreement is hereby supplemented by adding thereto the information set forth on the Schedule 2 attached hereto.

3. Amendment to Schedule 3. Schedule 3 to the Intellectual Property Agreement is hereby supplemented by adding thereto the information set forth on the Schedule 3 attached hereto.

4. No Other Amendment or Waiver. Except as specifically modified and amended hereby, the text of the Intellectual Property Agreement and all other Loan Documents shall remain unchanged and in full force and effect.

5. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be deemed to be an original and all of such counterparts shall together constitute but one and the same instrument.

6. Binding Agreement. The provisions of this Amendment shall be construed and interpreted, and all rights and obligations of the parties hereto determined, in accordance with the internal laws of the State of Georgia, applicable to contracts made and to be performed in the State of Georgia.

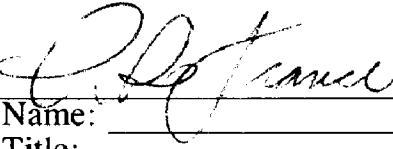
7. Loan Document. This Amendment shall be deemed to be a Loan Document for all purposes.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned have hereunto set their hands, by and through their duly authorized representatives, as of the day and year first written above.

ASSIGNOR:

CUMBERLAND SWAN HOLDINGS, INC.,
a Tennessee corporation

By: 
Name: _____
Title: _____

ASSIGNEE:

FOOTHILL CAPITAL CORPORATION

By: _____
Name: _____
Title: _____

STATE OF TENNESSEE)
) ss
COUNTY OF DAVIDSON)

On October 12, 2000, before me, James S. Tate, Jr., Notary Public, personally appeared Laurence DeFrance, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.


Signature
Commission Expires 11/29/03

[SEAL]

IN WITNESS WHEREOF, the undersigned have hereunto set their hands, by and through their duly authorized representatives, as of the day and year first written above.

ASSIGNOR:

CUMBERLAND SWAN HOLDINGS, INC.,
a Tennessee corporation

By: _____

Name: _____

Title: _____

ASSIGNEE:

FOOTHILL CAPITAL CORPORATION

By: *[Signature]* _____

Name: Drew Swain

Title: VP

STATE OF _____)
COUNTY OF _____) ss

On _____, before me, _____, Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

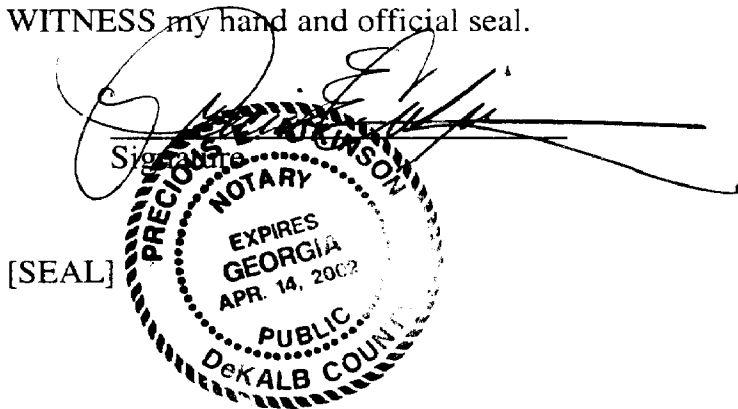
Signature

[SEAL]

STATE OF Georgia)
COUNTY OF Fulton) ss

On October 12, 2000, before me, Drew S. Lawin, Notary Public, personally appeared Drew S. Lawin, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Schedule 1

Trademarks

MARK	SERIAL NO.	FILED	REG. NO.	ISSUED	FILE
LI'L BEAR (for baby lotion, skin care preparation for treating skin irritation, and skin care preparation for treating diaper rash in class 3 & 5)	75/703,599	05/12/99			6437
FANTASY SCENTS (for bubble bath, bath and shower gel, body wash, hand and body lotion, scented spray, bath salts, body and facial soaps, and potpourri in Class 3)	76/069,686	06/13/00			6453
CHIC CHIX (for bubble bath, body wash, body lotion, shampoo, conditioner, body spray; personal care product combination sets comprising 1) bubble bath, body wash, body lotion, shampoo, conditioner, and/or body spray sold as a unit in combination with 2) paper notepads, bracelets, and/or hair clips in Class 3)	76/077,640	06/22/00			6446
AMETHYST (cosmetics and toilet preparations - namely, face powders, creams and lotions, rouges, skin and hair tonics, astringents, eyelash preparations, brilliantines, hair oils, shampoos, wave sets, talcum and body powders, deodorants, rubbing alcohol, nail polishes, nail polish removers, cuticle oils, hand creams, bay rum, witch hazel, after-shave lotion, toilet water, and perfume in Class 3)	71/348,794	03/19/34	R315,513	07/31/34	5957

BLOSSOMS & BERRIES COLLECTION (for bubble bath, foaming bath oil, bath oil crystals, skin soap, body lotion and after bath toner, in Class 3)	75/247,414	02/25/97	2,234,982	03/23/99	6416
BOTTLE DESIGN (for hair shampoo, hair conditioning rinses and foaming bath oils in Class 3)	73/371,712	06/25/82	R1,260,342	12/06/83	6342
CLEAR SAILING (for antiseptic skin cleanser in Class 3)	73/456,345	12/09/83	R1,341,877	06/18/85	6097
COUNTRY STORE (fragrance candles in Class 3)	72/452,843	03/29/73	R1,003,143	01/28/75	5953
COUNTRY STORE (for hair shampoo, hair conditioner, bubble bath, bath oil crystals and skin care lotion in Class 3)	73/440,979	08/25/83	R1,295,460	09/18/84	5953.2
COURTIME (for bubble bath in Class 3)	73/669,429	06/30/87	R1,476,475	02/16/88	6172
CREATURES OF THE DEEP (for bubble bath gel, bubble bath, toilet soap, liquid soap and shampoo, in Class 3)	74/559,171	08/10/94	1,987,585	07/16/96	6392
DUAL CARE (for shampoo and conditioner in Class 3)	74/036,950	03/12/90	R1,660,469	10/15/91	6260
FEMALE SILHOUETTE DESIGN (for skin lotion and creme in Class 3)	73/610,505	07/21/86	R1,431,675	03/10/87	6346
FRANCES HARRIET (toilet soap in Class 3)	72/208,801	12/24/64	R807,631	04/26/66	5942
FRANCES HARRIET (bubble bath, bath oil, cologne, after bath cologne, milk bath, and bath crystals in Class 3)	72/208,800	12/24/64	R807,616	04/26/66	5941

GOLDEN CREATIONS (for bubble bath, bath oil, bath gelee, bath crystals, toilet soap and body shampoo, in Class 3)	74/478,933	01/13/94	R2,051,100	04/08/97	6385
HOLIDAY HEARTH (for skin lotions, bubble bath and liquid skin soap in Class 3)	74/256,624	03/18/92	R1,730,572	11/10/92	6250
HONEYKINS (for bubble bath in Class 3)	73/555,283	08/26/85	R1,387,965	04/01/86	6129
KIDZ (for bubble bath in Class 3)	74/036,361	09/09/90	R1,857,428	10/11/94	6325
LI'L BEAR (for toiletries, namely, bubble bath, hair shampoo, hair conditioner and hair lotion in Class 3)	73/481,122	05/21/84	R1,321,715	02/26/85	6113
LIQUI SOAP (Stylized) (for toilet soap in Class 3)	73/260,820	05/05/80	R1,168,862	09/15/81	6341
MARY SHERMAN (Stylized) (for cosmetic preparation for perfuming and softening bath water in Class 3)	72/93,868	03/28/60	R718,346	07/11/61	6246
MEDI SKIN (Stylized) (for cosmetics, namely, body cleansing foams, sprays, and preparations, moisture barrier skin lotions and creams, skin and hands creams, skin barrier sprays and pastes, body wash and shampoo, body lotions, liquid soaps for use on hands, and foams and gels containing alcohol for use on hands in Class 3)	75/113,934	06/04/96	R2,191,250	09/22/98	
MEDISKIN (Stylized) (for cosmetics and toilet preparations-namely, lotions, talcum powder, face powder, deodorant, hair tonic, medicated skin cream, and after shaving lotion in Class 3 & 5)	71/378,544	05/18/36	R340,284	11/03/36	

MEDISKIN (for cosmetics, namely, body, cleansing foams, sprays, and preparations, moisture barrier skin lotions and creams, skin and hand creams, skin barrier sprays and pastes, body wash and shampoo, body lotions, liquid soaps for use on hands, and foams and gels containing alcohol for use on hands in Class 3)	75/113,709	06/04/96	R2,166,341	06/16/98	
MR. FUN'S (for bubble bath in Class 3)	73/573,444	12/16/85	R1,400,056	07/08/86	6135
NATURE'S CREATION (for body lotion, shampoo, hair conditioner and bubble bath in Class 3)	73/403,263	11/19/82	R1,291,689	08/28/84	6070
Canadian Registration NATURE'S CREATION (for shampoo, hair conditioners, body lotion, bubble bath, cologne, bath oil, antiperspirants and vitamins)	0504,278	05/27/83	TMA300,706	03/08/85	6070.1
OIL OF CHARM (for skin lotion in Class 3)	73/217,431	05/29/79	R1,154,398	05/19/81	5984
OIL OF NATURE & Design (for skin lotion in Class 3)	73/217,429	05/29/79	R1,154,397	05/19/81	5983
PARIS NIGHT (for hair conditioner, skin care lotion, bubble bath and baby shampoo in Class 3)	73/473,989	04/02/84	R1,370,788	11/19/85	5973.1
PARIS NIGHT (for bubble bath in Class 3)	73/342,959	12/22/81	R1,254,230	10/18/83	5973
PE-RU-NA (Stylized) (for tonic medicines in Class 5)	71/543,894	12/10/47	R502,178	09/14/48	6335
PEARL FRESH (for skin lotion and hair shampoo in Class 3)	73/270,003	05/17/80	R1,207,749	09/14/82	6020
ROYAL BOUQUET (for bubble bath, foaming bath oil and bath oil crystals in Class 3)	74/274,246	05/11/92	R1,809,863	12/07/93	6371
SCRUBBLES (for bubble bath in Class 3)	72/337,203	09/05/69	R896,120	08/04/70	6094

SWAMP GOO (for bubble bath in Class 3)	74/559,041	08/09/94	R1,975,384	05/21/96	6390
TROPICAL DELIGHT (bath oil and bath gelee, in Class 3)	74/478,574	01/12/94	R1,912,142	08/15/95	6386
TUBZA BUBBLES (for bubble bath in Class 3)	73/470,423	03/15/84	R1,316,448	01/29/85	6343
ULTRABATH (for bath and shower gel, in Class 3)	73/401,675	06/07/82	R1,307,601	12/04/84	6067

Schedule 2

Patents

None.

Schedule 3

Licenses

None.

2146437