

12-22-2000



101559768

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11.9.00

### RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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  Effective Date  
Month Day Year
- Change of Name
- Other

#### Conveying Party

Mark if additional names of conveying parties attached

Name  Execution Date   
Month Day Year

Formerly

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

#### 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  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

FOR OFFICE USE ONLY

11/28/2000 JJALLAH2 00000018 0812619

01 FC:481 40.00 OP  
02 FC:482 500.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

12/22/2000 JJALLAH2 00000054 0812619

01 FC:481 40.00 OP  
02 FC:482 500.00 OP

**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

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

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

**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)

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<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="0812619"/>	<input type="text" value="0397479"/>	<input type="text" value="0806412"/>
<input type="text" value="2037027"/>	<input type="text" value="0394740"/>	<input type="text" value="0638274"/>
<input type="text" value="0388113"/>	<input type="text" value="0386535"/>	<input type="text" value="0945693"/>

**Number of Properties**

Enter the total number of properties involved. #

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment: Enclosed  Deposit Account

Deposit Account

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

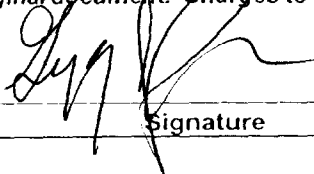
Deposit Account Number: #

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.

Gregg J. Lallier  
Name of Person Signing

  
Signature

10/20/00  
Date Signed

RECORDATION FORM COVER SHEET  
CONTINUATION  
TRADEMARKS ONLY

**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

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Other

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

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

Mark if additional numbers attached

Trademark Application Number(s)

Registration Number(s)

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2030277	<input type="text"/>	<input type="text"/>

**MORTGAGE, ASSIGNMENT AND SECURITY AGREEMENT  
(TRADEMARKS, SERVICEMARKS, TRADENAMES  
AND ASSOCIATED GOODWILL)**

**THIS MORTGAGE, ASSIGNMENT AND SECURITY AGREEMENT** (the "Mortgage") made this 28<sup>th</sup> day of September, 2000, between **BROWNELL & COMPANY, INCORPORATED**, a Connecticut corporation with its principal office at 429 East Haddam-Moodus Road, P.O. Box 362, East Haddam, Connecticut (the "Borrower"), and **CITIZENS BANK OF CONNECTICUT**, a Connecticut stock savings bank with an office and principal place of business located at 237 Main Street, Middletown, Connecticut 06457 (the "Secured Party").

**WHEREAS**, on June 24, 1997, Bank made to Borrower a term loan in the original principal amount of \$750,000.00 (the "Term Loan") and commercial revolving line of credit in the maximum principal amount of up to \$250,000.00 (the "Line of Credit"); and

**WHEREAS**, the Term Loan is evidenced by (a) a Loan and Security Agreement between Borrower and Lender dated June 24, 1997 (the "Loan Agreement") and (b) a Term Promissory Note from Borrower to Lender dated June 24, 1997 in the original principal amount of \$750,000.00 (the "Term Note"); and

**WHEREAS**, the Line of Credit is evidenced by (a) the Loan Agreement and (b) a Revolving Loan Note (Secured) from Borrower to Lender dated June 24, 1997 in the original maximum amount of up to \$250,000.00 (the "Line of Credit Note"). The Term Loan and the Original Line of Credit are guaranteed by Anthony A. Ferraz (the "Guarantor") pursuant to an Individual Continuing Guaranty Agreement dated June 24, 1997 (the "Guaranty"). (The Loan Agreement, the Term Note, the Line of Credit Note, the Guaranty and any and all other documents executed in connection with the Term Loan and the Line of Credit, shall hereinafter sometimes be collectively referred to, as modified by the Modifications (as defined below), as the "Original Loan Documents"); and

**WHEREAS**, by letter agreement the termination date of the Line of Credit was extended from July 1, 1998 to September 1, 1998 (the "Letter Agreement"). On or about September 10, 1998, the parties entered into a certain Loan and Mortgage Modification Agreement (the "First Modification"), whereby, among other things, certain repayment terms to the Line of Credit were amended and the amount thereof increased to the maximum amount of up to \$450,000.00 (the "Line of Credit"). On or about March 11, 1999, the parties entered into a certain Second Loan and Mortgage Modification Agreement (the "Second Modification"), whereby, among other things, the interest rates of both the Term Note and Line of Credit Note were reduced. Effective as of September 30, 1999, the parties entered into another modification, titled "Third Loan and Mortgage Modification Agreement" (the "Third Modification"), pursuant to which the termination and maturity date of Line of Credit was extended to September 1, 2000. On or about August 31, 2000, the parties entered into a certain Fourth Loan and Mortgage Modification Agreement (the "Fourth Modification") pursuant to which the termination and maturity date was yet again extended to November 29, 2000. On September 28, 2000, the parties entered into a certain Master Loans and Mortgage Modification Agreement (the "Master Modification") pursuant to which to the Line of Credit was amended and the amount thereof was increased to the maximum amount of up to \$1,500,000.00 (with a \$200,000.00 sub-limit for letters of credit). Additionally, the Fifth Modification extended the termination and maturity date of the Line of Credit to October 31, 2002. (The Letter Agreement, the First Modification, the Second Modification, the Third Modification, the Fourth Modification and the Master Modification are hereinafter collectively referred to as the "Modifications"); and

**WHEREAS**, on September 28, 2000 Bank extended a new commercial term loan to Borrower in the original principal amount of \$1,250,000 (the "New Term Loan"). The New Term Loan is evidenced by the Loan Agreement, as modified by the Fifth Modification and a Term Promissory Note from Borrower to Lender dated September 28, 2000 in the original principal amount of \$750,000.00 (the "New Term Note"). (The Term Loan, the Line of Credit Loan and the New Term Loan are hereinafter collectively referred to as the "Loans"). The New Term Loan is guaranteed by Guarantor pursuant to an Individual Continuing Guaranty Agreement dated September 28, 2000 (the "New Guaranty") (The New Term Note, the New Guaranty, any and all documents executed in connection with the New Term Loan, the Modifications and the Original Loan Documents are hereinafter collectively referred to as the "Loan Documents"); and

**WHEREAS**, the aggregate original principal balances of the Loans is THREE MILLION FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$3,500,000.00); and

**WHEREAS**, the Borrower is the sole and exclusive owner of the United States Trademarks and trademark applications and all other corresponding trademarks and trademark applications in any states or foreign countries as set forth on Schedule A-1 and Schedule A-2 annexed hereto and made a part hereof and the goodwill associated therewith (the "Trademark Rights"); and

**WHEREAS**, pursuant to the Loan Agreement, the Borrower has granted the Secured Party a security interest in, among other things, the Trademark Rights, on the terms and conditions set forth in the Loan Agreement; and

**WHEREAS**, it is a condition precedent to the obligation of the Secured Party to make the New Term Loan that the Borrower shall execute and deliver this Mortgage.

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions set forth in the Loan Agreement, the Borrower hereby agrees with the Secured Party as follows:

1. Subject only to the Mortgage, Assignment and Security Agreement (Trademarks) dated June 24, 1997 executed by Borrower in favor of the Secured Party (the "Prior Assignment of Trademarks"), the Borrower hereby assigns, conveys and transfers to the Secured Party, its successors and assigns, on the terms and conditions set forth in the Loan Agreement, and as security for the Loans and the obligations and liabilities of the Borrower to the Secured Party under the Loan Agreement, the Loan Documents and any and all other documents, instruments and agreements executed and delivered pursuant thereto and in connection therewith, whether now existing or hereafter arising, a first lien upon and security interest in all of the Borrower's right, title, and interest in, to and under the Trademark Rights, together with (i) all reissues or extensions thereof and (ii) all claims for damages by reason of past or future infringement of the Trademark Rights with the right to sue for and collect said damages and the right to collect all royalties under any license agreements with respect to any of the Trademark Rights, whether now or hereafter granted (hereinafter sometimes collectively referred to as the "Collateral").

2. The Borrower represents and warrants unto the Secured Party that the Borrower has not heretofore assigned, transferred or encumbered its right, title and interest in, to and under the Collateral other than the Prior Assignment of Trademarks.

3. The Borrower represents and warrants that it knows of no impediments to the validity and/or enforceability of any or all of the Trademark Rights.

4. The Borrower represents and warrants that the Trademark Rights are all the trademarks (domestic and foreign) used by the Borrower or in connection with its business.

5. The Borrower covenants and agrees with the Secured Party that, so long as this Mortgage shall remain in effect:

(a) The Borrower shall pay all fees necessary for the issuance, maintenance, renewal or reissuance of the Trademark Rights and shall do all such other acts and things necessary for maintaining the Trademark Rights.

(b) The Borrower shall endeavor to detect and prevent any infringement of the Trademark Rights, including, in the exercise of its reasonable legal and business judgment, the bringing of infringement suits to enforce the Trademark Rights. The Borrower shall inform the Secured Party of any actual or suspected infringement of the Trademark Rights of which it has knowledge and of any action contemplated or taken by the Borrower in response to such infringement. The Secured Party shall have the right, in consultation with the Borrower, to require the Borrower to take such action as the Secured Party may reasonably determine to be required to enforce such Trademark Rights.

(c) The Borrower shall, in the exercise of its reasonable legal and business judgment, undertake to defend any attack upon the Trademark Rights and upon the validity and enforceability thereof. The Secured Party shall have the right, in consultation with the Borrower, to require the Borrower to take such action as the Secured Party may reasonably determine to be required to defend the Trademark Rights.

(d) The Borrower shall not, without the written consent of the Secured Party, permit the Trademark Rights to lapse or otherwise abandon the Trademark Rights.

(e) At any time and from time to time, the Borrower shall, upon the request of the Secured Party, execute and deliver such further documents and do such other acts and things as the Secured Party reasonably may require in order to effect the purpose of this Mortgage and of the rights and powers herein granted, including, without limitation, all documents necessary or advisable to record title to the Collateral, including valid, recordable assignments of any or all of the Trademark Rights, and the Borrower does hereby irrevocably appoint the Secured Party, its successors and assigns, as its attorney-in-fact to execute any or all of such documents and to do such other things or acts on behalf of the Borrower, its successors and assigns, and the Borrower confirms all such acts said attorney-in-fact may do pursuant to this authority.

6. Borrower authorizes Secured Party to modify this Agreement by amending Schedule A to include any future trademarks and trademark applications which are Trademark Rights hereunder.

7. Until the occurrence of an Event of Default as defined in Section 11 of the Loan Agreement or as set out in any of the other Loan Documents and subject to the provisions of the Loan Agreement, the Secured Party hereby acknowledges the Borrower's exclusive right and license to use the Collateral for the Borrower's own benefit and account, to grant licenses and sublicenses on reasonable terms with respect to the Collateral and to generally deal in the ordinary course of business with the Collateral. The foregoing grant of authority shall not permit the Borrower to take any actions prohibited hereunder.

8. Notwithstanding anything to the contrary, nothing herein contained shall relieve the Borrower from the performance of any covenant, agreement or obligation on the Borrower's part to be performed under any license agreement now existing or hereafter executed by the Borrower licensing the use of the Collateral or any part thereof or from liability to any licensee thereunder or other party or impose any liability on the Secured Party for the acts or omissions of the Borrower in connection with any such license or license agreement.

9. This Mortgage shall terminate upon written notice by the Secured Party to the Borrower that all of the obligations secured hereby have been fully paid and performed and, upon such termination, all rights in the Collateral mortgaged and in which a security interest is granted hereunder shall be reconveyed by the Secured Party to the Borrower and the Secured Party shall promptly execute and deliver to the Borrower such documents or instruments as the Borrower may reasonable request of such termination.

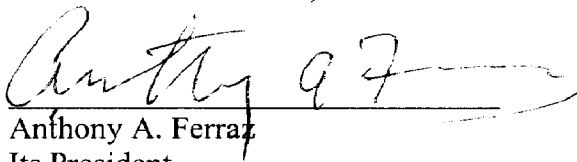
10. This Mortgage shall be binding upon the Borrower, its successors, and assigns and shall inure to the benefit of the Secured Party, its successors and assigns.

11. This Mortgage may not be amended or modified except with the written consent of the Secured Party.

**IN WITNESS WHEREOF**, the Borrower and the Secured Party have caused this Mortgage to be executed by their respective officers thereunto duly authorized on the day and year first above written.

**BROWNELL & COMPANY, INCORPORATED:**

By:



Anthony A. Ferraz  
Its President  
Duly Authorized

**CITIZENS BANK OF CONNECTICUT**, a Connecticut stock savings bank

By:



Kathleen Sullivan  
Its Vice President  
Duly Authorized


STATE OF CONNECTICUT

} Hartford  
} Wethersfield  
}

COUNTY OF HARTFORD

On this the 28<sup>th</sup> day of September, 2000, before me, the undersigned officer, personally appeared Anthony A. Ferraz, who acknowledged himself to be the President of **BROWNELL & COMPANY, INCORPORATED**, a Connecticut corporation, and that he, as such officer, being duly authorized so to do, executed the foregoing instrument for the purposes therein contained as his free act and deed and the free act and deed of the corporation, by signing the name of the corporation by himself as President.

In Witness Whereof I hereunto set my hand.

  
\_\_\_\_\_  
Notary Public/  
Commissioner of the Superior Court

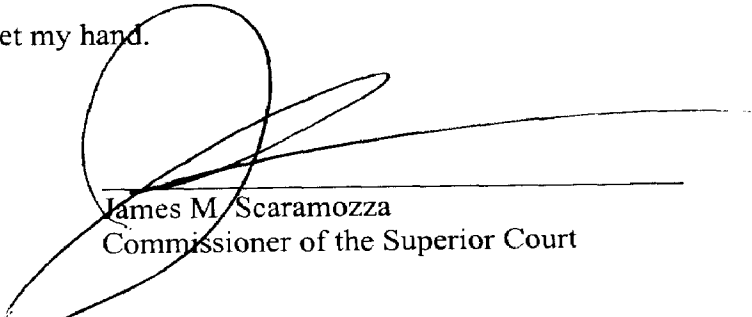
STATE OF CONNECTICUT

}  
} Wethersfield  
} Hartford

COUNTY OF HARTFORD

On this the 28<sup>th</sup> day of September, 2000, before me, the undersigned officer, personally appeared Kathleen Sullivan, who acknowledged herself to be the Vice President of **CITIZENS BANK OF CONNECTICUT**, a Connecticut stock savings bank, and that she, as such Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained as her free act and deed and the free act and deed of the bank, by signing the name of the bank by herself as Vice President.

In Witness Whereof I hereunto set my hand.

  
\_\_\_\_\_  
James M. Scaramozza  
Commissioner of the Superior Court



**SCHEDULE A -1**

<b><u>TRADEMARK</u></b>	<b><u>REGISTRATION NO.</u></b>	<b><u>REGISTRATION OF FILING DATE</u></b>
FAST FLIGHT S4	1,993,036	August 13, 1996
FAST FLIGHT	1,438,182	April 28, 1987
40DS	1,829,496	April 5, 1994
30DS	1,729,544	November 3, 1992
GREENSPUN	1,311,136	December 25, 1984
BROWNIE	164,854	February 27, 1983
NYWARP	741,485	December 4, 1982
FAST FLIGHT 2000	2,238,932	April 13, 1999
MATCHPLAY	2,182,421	August 18, 1998

**Schedule A-2**

<u>Trademark</u>	<u>Trademark Registration # (if applicable)</u>	<u>Product</u>
Blue Mountain Industries		Non-Threads
BMI (logo)		Twine, Thread & Yarn
Catch-All	812,619	Netting used exclusively for the fabrication of commercial fish nets
Challenger	2,037,027	Sports Nets – Tennis, Volleyball, Soccer
Champion (stylized)	388,113	Tennis nets and the cable receiving top bands or bindings of tennis nets
Chipper	N/A	Golf Practice Net
Collegiate	N/A	Soccer & Baseball Nets
Dreadnought	N/A	Tennis Net
Gold Medal	397,479	Nets & Netting used in fishing
Gold Medal	394,740	Nets used in the games of tennis, badminton, etc.
Golf Range	N/A	Golf Practice Net
Integrity	N/A	Golf Practice Net
Interscholastic	N/A	Soccer & Baseball Nets
Invincible (stylized)	386,535	Tennis, Volleyball & Badminton Nets
Lock-Tite	806,412	Netting used exclusively for the fabrication of commercial fish nets
L T Co (with design)	638,274	Twine, Sports Nets (etc.), fish netting
Masterpiece (stylized)	945,693	Tennis Nets
MIKE (with design)	571,048	Post twines, kite cords, household twines, ropes, etc.
MIKE (with design)	573,004	Sewing thread
Netset	657,001	Netting Conditioner
Net-true	1,242,195	Component of sports nets – namely side bracing for tennis & volleyball nets
No-Shag	716,073	Golf Practice Nets
Pitch Black	708,044	Recreational apparatus, comprising the combination baseball, backstop & ball return apparatus
Port-A-Cort (stylized)	N/A	Basketball gold standard
Port-A-Tank	N/A	Component portion of portable basketball goal
Privacy Plus (with design)	2,030,277	Privacy screening for fences
Steel Cor	N/A	Stainless steel reinforced barrier netting
Street Tough	N/A	Hockey Goal
Stroke-Shaver	2,032,155	Golf Practice Nets
Super Bird	978,517	Badminton Birdies
Superset	N/A	Fire Retardant
Sur-Grip	N/A	Volleyball Net Antenna
Team Mate	N/A	Baseball Practice System
Tournament	N/A	Tennis Net
Ty Ez	1,276,208	Plastic twine

Tylon	1,302,679
Tytite	1,032,342
Varsity	N/A
Warrior	N/A
Windstopper	N/A

Yarn for use in manufacturing carpet  
Twine & Cord  
Tennis Net in school colors  
Sports Netting  
Tennis Windscreen