

03-09-2001



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UNITED STATES PATENT AND TRADEMARK OFFICE

RECORDATION FORM COVER SHEET

TRADEMARKS ONLY

39001

To the Honorable Commissioner of Patents and Trademarks:

Please record the attached original document or copy thereof.

1. Name and address of conveying party:

Bain & Company, Inc.
2 Copley Place
Boston, MA 02116

A Massachusetts corporation

2. Name and address of receiving party:

Citibank, N.A.
153 E. 53rd Street
New York, NY 10022

A national banking association

3. Nature of conveyance: Trademark Collateral Security and Pledge Agreement, dated as of February 15, 2001.

Execution date: February 15, 2001

4. Application numbers and registration numbers:

A. Trademark registration numbers:

| Registration No: | Registration Date: | Trademark: |
|------------------|------------------------------------|----------------|
| 76070191 | Application filed June 14, 2000 | Bainlab |
| 2079086 | July 15, 1997 | Bain & Company |

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ASSIGNMENT SERVICES
DIVISION

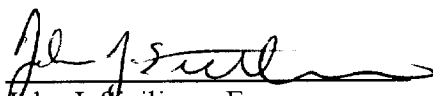
5. Name and address of party to whom correspondence concerning document should be mailed:

40.00 OP
25.00 OP
00000208 76070191
03/09/2001 6TON11
01 FC:481
02 TC:482

John J. Sicialiano, Esq.
Bingham, Dana & Gould LLP
150 Federal Street
Boston, Massachusetts 02110

6. Total number of applications and registrations involved: 2
7. Total fee enclosed: \$65.00
8. Deposit account number: Not applicable
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.



John J. Sicialiano, Esq.
3/07/01

Date

Total number of pages submitted (including cover sheet and any attached Schedules, and conveyance document and any attached Schedules): 5

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

Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

**TRADEMARK COLLATERAL
SECURITY AND PLEDGE AGREEMENT**

TRADEMARK COLLATERAL SECURITY AND PLEDGE AGREEMENT
dated as of February 23, 2001, between Bain & Company Inc., a Massachusetts corporation having its principal place of business at Two Copley Place , Boston, MA 02116, (the "Assignor"), and Citibank, N.A., a national banking association, having an office at 153 E. 53rd Street, New York, New York, 10022, as collateral agent for the benefit of the Lenders and the Agents (hereinafter, in such capacity, the "Collateral Agent").

WHEREAS, the Assignor and the Collateral Agent are parties to that certain Revolving Credit Agreement, dated as of February 23, 2001 (as amended and in effect from time to time, the "Credit Agreement") among the Assignor, certain subsidiaries of the Assignor (together with the Assignor, the "Borrowers"), the financial institutions listed on Schedule 1.1 thereto (the "Lenders"), the Collateral Agent, Citibank, N.A. as foreign agent for the Lenders (in such capacity, the "Foreign Agent") and Fleet National Bank as administrative agent for the Lenders (in such capacity, the "Administrative Agent") and documentation agent for the Lenders (in such capacity, the "Documentation Agent" and together with the Collateral Agent, the Foreign Agent and the Administrative Agent, the "Agents");

WHEREAS, it is a condition precedent to the Lenders making any loans or otherwise extending credit to the Borrowers under the Credit Agreement that the Assignor execute and deliver to the Collateral Agent, for the benefit of the Lenders and the Agents, a trademark agreement in substantially the form hereof;

WHEREAS, the Assignor has executed and delivered to the Collateral Agent, for the benefit of the Lenders and the Agents, the Security Agreement (as defined in the Credit Agreement), pursuant to which the Assignor has granted to the Collateral Agent, for the benefit of the Lenders and the Agents, a security interest in certain of the Assignor's personal property and fixture assets, including without limitation the trademarks, service marks, trademark and service mark registrations, and trademark and service mark registration applications listed on Schedules A and B attached hereto, all to secure the payment and performance of the Obligations (as defined in the Credit Agreement); and

WHEREAS, this Trademark Agreement is supplemental to the provisions contained in the Security Agreement;

NOW, THEREFORE, in consideration of the promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. DEFINITIONS.

Capitalized terms used herein and not otherwise defined herein shall have the respective meanings provided therefor in the Credit Agreement and the Security Agreement. In addition, the following terms shall have the meanings set forth in this §1 or elsewhere in this Trademark Agreement referred to below:

Assignment of Marks. See §2.1.

Associated Goodwill. All goodwill of the Assignor and its business, products and services appurtenant to, associated with or symbolized by the Trademarks and the use thereof.

Pledged Trademarks. All of the Assignor's right, title and interest in and to all of the Trademarks, the Trademark Registrations, the Trademark License Rights, the Trademark Rights, the Associated Goodwill, the Related Assets, and all accessions to, substitutions for, replacements of, and all products and proceeds of any and all of the foregoing.

PTO. The United States Patent and Trademark Office.

Related Assets. All assets, rights and interests of the Assignor that uniquely reflect or embody the Associated Goodwill, including the following:

(a) all patents, inventions, copyrights, trade secrets, confidential information, formulae, methods or processes, compounds, recipes, know-how, methods and operating systems, drawings, descriptions, formulations, manufacturing and production and delivery procedures, quality control procedures, product and service specifications, catalogs, price lists, and advertising materials, relating to the manufacture, production, delivery, provision and sale of goods or services under or in association with any of the Trademarks; and

(b) the following documents and things in the possession or under the control of the Assignor, or subject to its demand for possession or control, related to the production, delivery, provision and sale by the Assignor, or any affiliate, franchisee, licensee or contractor, of products or services sold by or under the authority of the Assignor in connection with the Trademarks or Trademark Rights, whether prior to, on or subsequent to the date hereof:

(i) all lists, contracts, ancillary documents and other information that identify, describe or provide information with respect to any customers, dealers or distributors of the Assignor, its affiliates or franchisees or licensees or contractors, for products or services sold under or in connection with the Trademarks or Trademark Rights, including all lists and documents containing information regarding each customer's, dealer's or distributor's name and address, credit, payment, discount,

delivery and other sale terms, and history, pattern and total of purchases by brand, product, style, size and quantity;

(ii) all agreements (including franchise agreements), product and service specification documents and operating, production and quality control manuals relating to or used in the design, manufacture, production, delivery, provision and sale of products or services under or in connection with the Trademarks or Trademark Rights;

(iii) all documents and agreements relating to the identity and locations of all sources of supply, all terms of purchase and delivery, for all materials, components, raw materials and other supplies and services used in the manufacture, production, provision, delivery and sale of products or services under or in connection with the Trademarks or Trademark Rights; and

(iv) all agreements and documents constituting or concerning the present or future, current or proposed advertising and promotion by the Assignor (or any of its affiliates, franchisees, licensees or contractors) of products or services sold under or in connection with the Trademarks or Trademark Rights.

Trademark Agreement. This Trademark Collateral Security and Pledge Agreement, as amended and in effect from time to time.

Trademark License Rights. Any and all past, present or future rights and interests of the Assignor pursuant to any and all past, present and future franchising or licensing agreements in favor of the Assignor, or to which the Assignor is a party, pertaining to any Trademarks, Trademark Registrations, or Trademark Rights owned or used by third parties in the past, present or future, including the right (but not the obligation) in the name of the Assignor or the Collateral Agent to enforce, and sue and recover for, any breach or violation of any such agreement to which the Assignor is a party, in each case, to the extent assignable.

Trademark Registrations. All past, present or future federal, state, local and foreign registrations of the Trademarks, all past, present and future applications for any such registrations (and any such registrations thereof upon approval of such applications), together with the right (but not the obligation) to apply for such registrations (and prosecute such applications) in the name of the Assignor or the Collateral Agent, and to take any and all actions necessary or appropriate to maintain such registrations in effect and renew and extend such registrations.

Trademark Rights. Any and all past, present or future rights in, to and associated with the Trademarks throughout the world, whether arising under federal law, state law, common law, foreign law or otherwise, including the following: all such rights arising out of or associated with the Trademark Registrations; the right (but not the obligation) to register claims under any state, federal or foreign trademark law or

regulation; the right (but not the obligation) to sue or bring opposition or cancellation proceedings in the name of the Assignor or the Collateral Agent for any and all past, present and future infringements or dilution of or any other damages or injury to the Trademarks, the Trademark Rights, or the Associated Goodwill, and the rights to damages or profits due or accrued arising out of or in connection with any such past, present or future infringement, dilution, damage or injury; and the Trademark License Rights.

Trademarks. All of the trademarks, service marks, designs, logos, indicia, trade names, corporate names, company names, business names, fictitious business names, trade styles, elements of package or trade dress, and other source and product or service identifiers, used or associated with or appurtenant to the products, services and businesses of the Assignor, that (i) are set forth on Schedules A and B hereto, or (ii) have been adopted, acquired, owned, held or used by the Assignor or are now owned, held or used by the Assignor, in the Assignor's business, or with the Assignor's products and services, or in which the Assignor has any right, title or interest, or (iii) are in the future adopted, acquired, owned, held and used by the Assignor in the Assignor's business or with the Assignor's products and services, or in which the Assignor in the future acquires any right, title or interest.

use. With respect to any Trademark, all uses of such Trademark by, for or in connection with the Assignor or its business or for the direct or indirect benefit of the Assignor or its business, including all such uses by the Assignor itself, by any of the affiliates of the Assignor, or by any franchisee, licensee or contractor of the Assignor.

Unless otherwise provided herein, the rules of interpretation set forth in §1.2 of the Credit Agreement shall be applicable to this Trademark Agreement.

2. GRANT OF SECURITY INTEREST.

2.1. Security Interest; Assignment of Marks. As collateral security for the payment and performance in full of all of the Obligations, the Assignor hereby unconditionally grants to the Collateral Agent, for the benefit of the Lenders and the Agents, a continuing security interest in and first priority lien on the Pledged Trademarks, and pledges and mortgages (but does not transfer title to) the Pledged Trademarks to the Collateral Agent for the benefit of the Lenders and the Agents. In addition, the Assignor has executed in blank and delivered to the Collateral Agent an assignment of federally registered trademarks in substantially the form of Exhibit 1 hereto (the "Assignment of Marks"). The Assignor hereby authorizes the Collateral Agent to complete as assignee and record with the PTO the Assignment of Marks upon the occurrence and during the continuance of an Event of Default and the proper exercise of the Collateral Agent's remedies under this Trademark Agreement and the Security Agreement.

2.2. Conditional Assignment. In addition to, and not by way of limitation of, the grant of security interest in, pledge and mortgage of the Pledged Trademarks provided in §2.1, the Assignor grants, assigns, transfers, conveys and sets over to the

Collateral Agent, for the benefit of the Lenders and the Agents, the Assignor's entire right, title and interest in and to the Pledged Trademarks; provided that such grant, assignment, transfer and conveyance shall be and become of force and effect only (i) upon the occurrence and during the continuance of an Event of Default and (ii) either (A) upon the written demand of the Collateral Agent at any time during such continuance or (B) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the Loans is automatic under the Credit Agreement or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law (including the transfer or other disposition of the Collateral by the Assignor to the Collateral Agent or its nominee in lieu of foreclosure).

2.3. Supplemental to Security Agreement. Pursuant to the Security Agreement the Assignor has granted to the Collateral Agent, for the benefit of the Lenders and the Agents, a continuing security interest in and lien on the Collateral (including the Pledged Trademarks). The Security Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the Pledged Trademarks) thereunder, are hereby ratified and confirmed in all respects. In no event shall this Trademark Agreement, the grant, assignment, transfer and conveyance of the Pledged Trademarks hereunder, or the recordation of this Trademark Agreement (or any document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Pledged Trademarks) pursuant to the Security Agreement and this Trademark Agreement, the attachment and perfection of such security interest under the Uniform Commercial Code (including the security interest in the Pledged Trademarks), or any present or future rights and interests of the Collateral Agent in and to the Collateral under or in connection with the Security Agreement, this Trademark Agreement or the Uniform Commercial Code. Any and all rights and interests of the Collateral Agent in and to the Pledged Trademarks (and any and all obligations of the Assignor with respect to the Pledged Trademarks) provided herein, or arising hereunder or in connection herewith, shall only supplement and be cumulative and in addition to the rights and interests of the Collateral Agent (and the obligations of the Assignor) in, to or with respect to the Collateral (including the Pledged Trademarks) provided in or arising under or in connection with the Security Agreement and shall not be in derogation thereof.

3. REPRESENTATIONS, WARRANTIES AND COVENANTS.

The Assignor represents, warrants and covenants that: (i) Schedules A sets forth a true and complete list of all United States federally registered Trademarks and Trademark Registrations now owned, licensed, controlled or used by the Assignor and Schedule B sets forth a true and complete list of all foreign registered Trademarks and Trademark Registrations filed outside the United States now owned, licensed, controlled or used by the Assignor; (ii) the Trademarks and Trademark Registrations are subsisting and have not been adjudged invalid or unenforceable, in whole or in part, and the Assignor has no knowledge of any litigation or proceeding pending concerning the validity or enforceability of the Trademarks or Trademark Registrations; (iii) to the best

of the Assignor's knowledge, each of the Trademarks and Trademark Registrations is valid and enforceable; (iv) to the best of the Assignor's knowledge, there is no infringement by others of the Trademarks, Trademark Registrations or Trademark Rights; (v) to the best of Assignor's knowledge no claim has been made that the use of any of the Trademarks does or may violate the rights of any third person, and to the best of the Assignor's knowledge, there is no infringement by the Assignor of the trademark rights of others; (vi) the Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks (other than ownership and other rights reserved by third party owners with respect to Trademarks that the Assignor is licensed to use), free and clear of any liens, charges, encumbrances and adverse claims, including pledges, assignments, licenses, registered user agreements and covenants by the Assignor not to sue third persons, other than the security interest and assignment created by the Security Agreement and this Trademark Agreement and other than rights of other parties, the exercise of which is not expected to have a Material Adverse Effect; (vii) the Assignor has the unqualified right to enter into this Trademark Agreement and to perform its terms and as necessary has entered and will enter into written agreements with each of its present and future employees, agents, consultants, licensors and licensees that will enable them to comply with the covenants herein contained; (viii) the Assignor has used, and will continue to use, proper statutory and other appropriate proprietary notices in connection with its use of the Trademarks; (ix) this Trademark Agreement, together with the Security Agreement, will create in favor of the Collateral Agent a valid and perfected first priority security interest in the Pledged Trademarks upon making the filings referred to in clause (x) of this §3; and (x) except for the filing of financing statements with the Secretary of State of the Commonwealth of Massachusetts under the Uniform Commercial Code and the recording of this Trademark Agreement with the PTO, no authorization, approval or other action by, and no notice to or filing with, any governmental or regulatory authority, agency or office is required either (A) for the grant by the Assignor or the effectiveness of the security interest and assignment granted hereby or for the execution, delivery and performance of this Trademark Agreement by the Assignor, or (B) for the perfection of or the exercise by the Collateral Agent of any of its rights and remedies hereunder.

4. NO TRANSFER OR INCONSISTENT AGREEMENTS.

Without the Collateral Agent's prior written consent which will not be unreasonably withheld, the Assignor will not (i) mortgage, pledge, assign, encumber, grant a security interest in, transfer, license or alienate any of the Pledged Trademarks, other than licenses in the ordinary course of business in a manner consistent with past practices or (ii) enter into any agreement (for example, a license agreement) that is inconsistent with the Assignor's obligations under this Trademark Agreement or the Security Agreement.

5. AFTER-ACQUIRED TRADEMARKS, ETC.

5.1. After-acquired Trademarks. If, before the Obligations shall have been finally paid and satisfied in full, the Assignor shall obtain any right, title or interest in or

to any other or new Trademarks, Trademark Registrations or Trademark Rights, the provisions of this Trademark Agreement shall automatically apply thereto and the Assignor shall promptly provide to the Collateral Agent notice thereof in writing and execute and deliver to the Collateral Agent such documents or instruments as the Collateral Agent may reasonably request further to implement, preserve or evidence the Collateral Agent's interest therein.

5.2. Amendment to Schedule. The Assignor authorizes the Collateral Agent to modify this Trademark Agreement and the Assignment of Marks, without the necessity of the Assignor's further approval or signature, by amending Schedules A and B hereto and the Annexes to the Assignment of Marks to include any future or other Trademarks, Trademark Registrations or Trademark Rights attached as Exhibit 1. The Collateral Agent shall give timely notice of such amendment; provided however, the Collateral Agent's failure to provide such notice shall not in any way impair the Collateral Agent's rights under this Agreement.

6. TRADEMARK PROSECUTION.

6.1. Assignor Responsible. The Assignor shall assume full and complete responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with the Pledged Trademarks, and shall hold each of the Agents and the Lenders harmless from any and all costs, damages, liabilities and expenses that may be incurred by the Collateral Agent or any Lender in connection with the Collateral Agent's interest in the Pledged Trademarks or any other action or failure to act in connection with this Trademark Agreement or the transactions contemplated hereby other than in the case of gross negligence or willful misconduct on the part of the Collateral Agent or any Lender. In respect of such responsibility, the Assignor shall retain trademark counsel reasonably acceptable to the Collateral Agent.

6.2. Assignor's Duties, etc. The Assignor shall have the right and the duty, through trademark counsel reasonably acceptable to the Collateral Agent, to prosecute diligently any trademark registration applications of the Trademarks pending as of the date of this Trademark Agreement or thereafter, to preserve and maintain all rights in the Trademarks and Trademark Registrations, including the filing of appropriate renewal applications and other instruments to maintain in effect the Trademark Registrations and the payment when due of all registration renewal fees and other fees, taxes and other expenses that shall be incurred or that shall accrue with respect to any of the Trademarks or Trademark Registrations. Any expenses incurred in connection with such applications and actions shall be borne by the Assignor. The Assignor shall not abandon any filed trademark registration application, or any Trademark Registration or Trademark, without the consent of the Collateral Agent, which consent shall not be unreasonably withheld.

6.3. Assignor's Enforcement Rights. The Assignor shall have the right to bring suit or other action in the Assignor's own name to maintain and enforce the Trademarks, the Trademark Registrations and the Trademark Rights. The Assignor may request the Collateral Agent to join in such suit or action as necessary to assure the Assignor's ability

to bring and maintain any such suit or action in any proper forum if (but only if) the Collateral Agent is completely satisfied in its sole and absolute discretion that such joinder will not subject the Collateral Agent or any Agent or any Lender to any risk of liability. The Assignor shall promptly, upon demand, reimburse and indemnify the Collateral Agent for all damages, and all reasonable costs and expenses, including legal fees, incurred by the Collateral Agent pursuant to this §6.3.

6.4. Protection of Trademarks, etc. In general, the Assignor shall take any and all such actions (including institution and maintenance of suits, proceedings or actions) as may be necessary or appropriate to properly maintain, protect, preserve, care for and enforce the Pledged Trademarks. The Assignor shall not take or fail to take any action, nor permit any action to be taken or not taken by others under its control, that would adversely affect the validity, grant or enforcement of the Pledged Trademarks, without the consent of the Collateral Agent not to be unreasonably withheld.

6.5. Notification by Assignor. Promptly upon obtaining knowledge thereof, the Assignor will notify the Collateral Agent in writing of the institution of, or any final adverse determination in, any proceeding in the PTO or any similar office or agency of the United States or any foreign country, or any court, regarding the validity of any of the Trademarks or Trademark Registrations or the Assignor's rights, title or interests in and to the Pledged Trademarks, and of any event that does or reasonably could materially adversely affect the value of any of the Pledged Trademarks, the ability of the Assignor or the Collateral Agent to dispose of any of the Pledged Trademarks or the rights and remedies of the Collateral Agent in relation thereto (including but not limited to the levy of any legal process against any of the Pledged Trademarks).

7. REMEDIES.

Upon the occurrence and during the continuance of an Event of Default, the Collateral Agent shall have, in addition to all other rights and remedies given it by this Trademark Agreement (including, without limitation, those set forth in §2.2, the Credit Agreement, the Security Agreement and the other Loan Documents), those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the Commonwealth of Massachusetts, and, without limiting the generality of the foregoing, the Collateral Agent may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to the Assignor, all of which are hereby expressly waived, sell or license at public or private sale or otherwise realize upon the whole or from time to time any part of the Pledged Trademarks, or any interest that the Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Pledged Trademarks all expenses incurred by the Collateral Agent in attempting to enforce this Trademark Agreement (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations as set forth in or by reference in the Security Agreement. Notice of any sale, license or other disposition of the Pledged Trademarks shall be given to the Assignor at least ten (10) days before the time that any intended public sale or other public disposition of the Pledged Trademarks is to be made or after which any private sale or other private

disposition of the Pledged Trademarks may be made, which the Assignor hereby agrees shall be reasonable notice of such public or private sale or other disposition. At any such sale or other disposition, the Collateral Agent may, to the extent permitted under applicable law, purchase or license the whole or any part of the Pledged Trademarks or interests therein sold, licensed or otherwise disposed of.

8. COLLATERAL PROTECTION.

If the Assignor shall fail to do any act that it has covenanted to do hereunder, or if any representation or warranty of the Assignor shall be breached, the Collateral Agent, in its own name or that of the Assignor (in the sole discretion of the Collateral Agent), may (but shall not be obligated to) do such act or remedy such breach (or cause such act to be done or such breach to be remedied), and the Assignor agrees promptly to reimburse the Agent for any cost or expense incurred by the Collateral Agent in so doing.

9. POWER OF ATTORNEY.

If any Event of Default shall have occurred and be continuing, the Assignor does hereby make, constitute and appoint the Collateral Agent (and any officer or agent of the Collateral Agent as the Collateral Agent may select in its exclusive discretion) as the Assignor's true and lawful attorney-in-fact, with full power of substitution and with the power to endorse the Assignor's name on all applications, documents, papers and instruments necessary for the Collateral Agent to use the Pledged Trademarks, or to grant or issue any exclusive or nonexclusive license of any of the Pledged Trademarks to any third person, or to take any and all actions necessary for the Collateral Agent to assign, pledge, convey or otherwise transfer title in or dispose of any of the Pledged Trademarks or any interest of the Assignor therein to any third person, and, in general, to execute and deliver any instruments or documents and do all other acts that the Assignor is obligated to execute and do hereunder. The Collateral Agent's authority as Assignor's attorney-in-fact shall automatically terminate upon the termination of all outstanding Events of Default (but shall not negate any action taken by the Collateral Agent prior to such termination) and the Collateral Agent shall thereafter take no action in such capacity provided that if at any time thereafter an Event of Default shall have occurred and is continuing, the Collateral Agent shall have authority as Assignor's attorney-in-fact as set forth in this §9. The Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof and releases each of the Agents and the Lenders from any claims, liabilities, causes of action or demands arising out of or in connection with any action taken or omitted to be taken by the Collateral Agent under this power of attorney (except for the Collateral Agent's gross negligence or willful misconduct). This power of attorney is coupled with an interest and shall be irrevocable for the duration of this Trademark Agreement.

10. FURTHER ASSURANCES.

The Assignor shall, at any time and from time to time, and at its expense, make, execute, acknowledge and deliver, and file and record as necessary or appropriate with

governmental or regulatory authorities, agencies or offices, such agreements, assignments, documents and instruments, and do such other and further acts and things (including, without limitation, obtaining consents of third parties), as the Collateral Agent may reasonably request or as may reasonably be necessary or appropriate in order to implement and effect fully the intentions, purposes and provisions of this Trademark Agreement, or to assure and confirm to the Collateral Agent the grant, perfection and priority of the Collateral Agent's security interest in the Pledged Trademarks.

11. TERMINATION.

At such time as all of the Obligations have been finally paid and satisfied in full in cash and all Commitments of the Lenders (including all outstanding Letters of Credit) shall have been terminated (or in the case of Letters of Credit, shall have been cash collateralized or otherwise secured or supported in a manner reasonably acceptable to the Agents), this Trademark Agreement shall terminate and the Collateral Agent shall promptly, upon the written request and at the expense of the Assignor, execute and deliver to the Assignor all deeds, assignments and other instruments as may be necessary or proper to reassign and reconvey to and re-vest in the Assignor the entire right, title and interest to the Pledged Trademarks previously granted, assigned, transferred and conveyed to the Collateral Agent by the Assignor pursuant to this Trademark Agreement, as fully as if this Trademark Agreement had not been made, subject to any disposition of all or any part thereof that may have been made by the Collateral Agent pursuant hereto or the Security Agreement.

12. COURSE OF DEALING.

No course of dealing between the Assignor and the Collateral Agent, nor any failure to exercise, nor any delay in exercising, on the part of the Collateral Agent, any right, power or privilege hereunder or under the Security Agreement or any other agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

13. EXPENSES.

Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and expenses incurred by the Collateral Agent or any Agent in connection with the preparation of this Trademark Agreement and all other documents relating hereto, the consummation of the transactions contemplated hereby or the enforcement hereof, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance or renewal fees, encumbrances, or otherwise protecting, maintaining or preserving the Pledged Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Pledged Trademarks, shall be borne and paid by the Assignor.

14. OVERDUE AMOUNTS.

Until paid, all amounts due and payable by the Assignor hereunder shall be a debt secured by the Pledged Trademarks and other Collateral and shall bear, whether before or after judgment, interest at the rate of interest for overdue principal set forth in the Credit Agreement, provided that if such interest exceeds the maximum amount permitted to be paid under applicable law, then such interest shall be reduced to such maximum permitted amount.

15. NO ASSUMPTION OF LIABILITY; INDEMNIFICATION.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, EXCEPT IN THE EVENT OF THEIR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT NEITHER THE COLLATERAL AGENT NOR ANY LENDER ASSUMES ANY LIABILITIES OF THE ASSIGNOR WITH RESPECT TO ANY CLAIM OR CLAIMS REGARDING THE ASSIGNOR'S OWNERSHIP OR PURPORTED OWNERSHIP OF, OR RIGHTS OR PURPORTED RIGHTS ARISING FROM, ANY OF THE PLEDGED TRADEMARKS OR ANY USE, LICENSE OR SUBLICENSE THEREOF, WHETHER ARISING OUT OF ANY PAST, CURRENT OR FUTURE EVENT, CIRCUMSTANCE, ACT OR OMISSION OR OTHERWISE. ALL OF SUCH LIABILITIES SHALL BE EXCLUSIVELY THE RESPONSIBILITY OF THE ASSIGNOR, AND THE ASSIGNOR SHALL INDEMNIFY THE COLLATERAL AGENT AND THE LENDERS FOR ANY AND ALL COSTS, EXPENSES, DAMAGES AND CLAIMS, INCLUDING REASONABLE LEGAL FEES, INCURRED BY THE COLLATERAL AGENT OR ANY LENDER WITH RESPECT TO SUCH LIABILITIES; PROVIDED, HOWEVER, THAT THE COLLATERAL AGENT, TO THE EXTENT ANY CLAIM OR CLAIMS ARISE FROM THE COLLATERAL AGENT'S POSSESSION OF THE EXECUTED IN BLANK ASSIGNMENT OF MARKS OR USE OF THE ASSIGNMENT OF MARKS EXCEPT IN THE MANNER PERMITTED UNDER THIS TRADEMARK AGREEMENT OR ITS FAILURE TO DELIVER OR CAUSE THE SAME TO BE DELIVERED TO THE ASSIGNOR FOR CANCELLATION UPON TERMINATION OF THIS TRADEMARK AGREEMENT PURSUANT TO §11 HEREOF, THE COLLATERAL AGENT AND THE LENDERS SHALL INDEMNIFY THE ASSIGNOR FROM ANY AND ALL COSTS, EXPENSES, DAMAGES AND CLAIMS, INCLUDING REASONABLE LEGAL FEES, INCURRED BY THE ASSIGNOR WITH RESPECT TO SUCH CLAIMS OTHER THAN ANY COSTS, EXPENSES, DAMAGES, OR CLAIMS ARISING THROUGH OR AS A RESULT OF OR THROUGH THE ASSIGNOR'S, ITS AGENTS OR AFFILIATES OWN GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

16. NOTICES.

All notices and other communications made or required to be given pursuant to this Trademark Agreement shall be in writing and shall be delivered in hand, mailed by United States registered or certified first-class mail, postage prepaid, or sent by telegraph, telecopy or telex and confirmed by delivery via courier or postal service, addressed as follows:

(a) if to the Assignor, at Bain & Company, Inc., 2 Copley Place, Boston, MA 02116, Attention: Assistant Treasurer, or at such other address for notice as the Assignor shall last have furnished in writing to the person giving the notice, with copies to Ropes & Gray, One International Place, Boston, MA 02110 Attention: Ann L. Milner, Esq.; and

(b) if to the Collateral Agent, at Citibank, N.A., 153 E. 53rd St. New York, New York 10022 Attention: Mitch Palminteri, PBG-US-Northeast Investment Finance or at such other address for notice as the Collateral Agent shall last have furnished in writing to the person giving the notice.

Any such notice or demand shall be deemed to have been duly given or made and to have become effective (i) if delivered by hand to a responsible officer of the party to which it is directed, at the time of the receipt thereof by such officer, (ii) if sent by registered or certified first-class mail, postage prepaid, two (2) Business Days after the posting thereof, and (iii) if sent by telegraph, telecopy, or telex, at the time of the dispatch thereof, if in normal business hours in the country of receipt, or otherwise at the opening of business on the following Business Day.

17. AMENDMENT AND WAIVER.

This Trademark Agreement is subject to modification only by a writing signed by the Collateral Agent (with the consent of the Majority Lenders) and the Assignor, except as provided in §5.2. The Collateral Agent shall not be deemed to have waived any right hereunder unless such waiver shall be in writing and signed by the Collateral Agent and the Required Lenders. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

18. GOVERNING LAW; CONSENT TO JURISDICTION.

THIS TRADEMARK AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS. The Assignor and the Collateral Agent agree that any suit for the enforcement of this Trademark Agreement may be brought in the courts of the Commonwealth of Massachusetts or any federal court sitting therein and consent to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon the Assignor by mail at the address specified in §16. The Assignor and the Collateral Agent each hereby waive any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

19. WAIVER OF JURY TRIAL.

EACH OF THE ASSIGNOR AND THE COLLATERAL AGENT WAIVE THEIR RESPECTIVE RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS

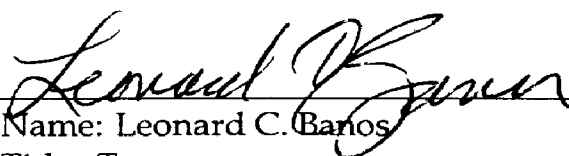
TRADEMARK AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, the Assignor and the Collateral Agent waive any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. Each party (i) certifies that none of the other parties and in the case of the Assignor, neither the Collateral Agent or any Lender, nor any representative, agent or attorney of such other party or of the Collateral Agent or any Lender, has represented, expressly or otherwise, that such other party or the Collateral Agent or any Agent or any Lender would not, in the event of litigation, seek to enforce the foregoing waivers, and (ii) acknowledges that, in entering into the Credit Agreement and the other Loan Documents to which it is a party, the other parties are relying upon, among other things, the waivers and certifications contained in this §19.

20. MISCELLANEOUS.

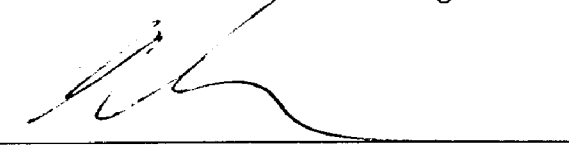
The headings of each section of this Trademark Agreement are for convenience only and shall not define or limit the provisions thereof. This Trademark Agreement and all rights and obligations hereunder shall be binding upon the Assignor and its respective successors and assigns, and shall inure to the benefit of the Agents, the Lenders and their respective successors and assigns. In the event of any irreconcilable conflict between the provisions of this Trademark Agreement and the Credit Agreement, or between this Trademark Agreement and the Security Agreement, the provisions of the Credit Agreement or the Security Agreement, as the case may be, shall control. If any term of this Trademark Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Trademark Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Assignor acknowledges receipt of a copy of this Trademark Agreement.

IN WITNESS WHEREOF, this Trademark Agreement has been executed as of the day and year first above written.

BAIN & COMPANY, INC.

By: 
Name: Leonard C. Banos
Title: Treasurer

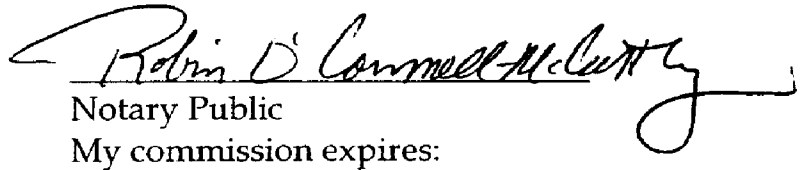
CITIBANK, N.A., as Collateral Agent

By: 
Name: Vijay Chandran
Title: Vice President

CERTIFICATE OF ACKNOWLEDGMENT

COMMONWEALTH ~~OR STATE~~ OF MASSachusetts)
) ss.
COUNTY OF Suffolk)

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 15th day of February, 2001, personally appeared Leonard C. Banos to me known personally, and who, being by me duly sworn, deposes and says that he is the Treasurer of Bain & Company, Inc., and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and said Treasurer acknowledged said instrument to be the free act and deed of said corporation.


Notary Public
My commission expires:

ROBIN O'CONNELL-MCCARTHY
NOTARY PUBLIC
My Commission Expires August 10, 2001

SCHEDULE A

Trademarks and Trademark Registrations

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| <u>Trademark</u> or <u>Service Mark</u> | <u>Registrations --</u> United States Patent and Trademark Office <u>Registration No.</u> | <u>Registration Date</u> |
|---|---|------------------------------------|
| Bain & Company | 2079086 | July 15, 1997 |
| Bainlab | Serial #76/070191 <i>registration pending</i> | Application filed June 14, 2000 |

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SCHEDULE B

| Registrant | Country | Mark | Registration Number | Registration Date |
|----------------------|--------------------|---|----------------------------|--------------------------|
| Bain & Company, Inc. | Australia | Bain International Inc. | 739266 | 7/15/1997 |
| Bain & Company, Inc. | Canada | Bain & Company | 506331 | 1/11/1999 |
| Bain & Company, Inc. | China | Bain & Company | 1121765 | 10/21/1997 |
| Bain & Company, Inc. | China | Bain & Company | 1121968 | 10/21/1997 |
| Bain & Company, Inc. | China | Bainlab | 2000102936 * | 7/13/2000* |
| Bain & Company, Inc. | China | Bainlab | 2000102935* | 7/13/2000* |
| Bain & Company, Inc. | Community Trade | Bain & Company | 153031 | 5/19/1998 |
| Bain & Company, Inc. | Community Trade | Bainlab | n/a | 7/14/2000* |
| Bain & Company, Inc. | Hong Kong | Bain & Company | 4687/1998 | 10/2/1996 |
| Bain & Company, Inc. | Hong Kong | Bain & Company | 1818/1998 | 10/2/1996 |
| Bain & Company, Inc. | Hong Kong | Bainlab | 15724/2000 | 7/15/2000 |
| Bain & Company, Inc. | Hong Kong | Bainlab | 15725/2000 | 7/15/2000 |
| Bain & Company, Inc. | Japan | Bain & Company (in English and Katakana) | 4246814 | 3/5/1999 |
| Bain & Company, Inc. | Japan | Bain & Company (in English and Katakana) | 4300489 | 7/30/1999 |
| Bain & Company, Inc. | Mexico | Bain & Company | 539156 | 12/6/1996 |
| Bain & Company, Inc. | Mexico | Bain & Company | 539137 | 12/6/1996 |
| Bain & Company, Inc. | Norway | Bain & Company | 164424 | 9/1/1994 |
| Bain & Company, Inc. | Philippines | Bain & Company | 119632 | 4/11/1997 |
| Bain & Company, Inc. | Philippines | Bain & Company | 119631 | 4/11/1997 |
| Bain & Company, Inc. | Poland | Bain & Company | Z164576 | 9/25/1996 |
| Bain & Company, Inc. | Russian Federation | Bain & Company | 162764 | 3/31/1998 |
| Bain & Company, Inc. | Singapore | Bain & Company | 10404/96 | 9/27/1996 |
| Bain & Company, Inc. | Singapore | Bain & Company | 10403/96* | 9/27/1996* |
| Bain & Company, Inc. | Singapore | Bain & Company | T96/06577D | 6/28/1996 |
| Bain & Company, Inc. | Singapore | Bainlab | T00/12156B* | 7/13/2000* |
| Bain & Company, Inc. | South Africa | Bain & Company | 96/13529 | 9/25/1996 |
| Bain & Company, Inc. | South Africa | Bain & Company | 96/13530 | 9/25/1996 |
| Bain & Company, Inc. | South Korea | Bain & Company | 96/11673* | 9/18/1996* |
| Bain & Company, Inc. | Switzerland | Bain & Company | 438944 | 4/4/1997 |

* App. No. and/or Filing Date

EXHIBIT 1

ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS (U.S.)

WHEREAS, BAIN & COMPANY, INC., a corporation organized and existing under the laws of the Commonwealth of Massachusetts, having a place of business at 2 Copley Place, Boston, MA 02116 (the "Assignor"), has adopted and used and is using the trademarks and service marks (the "Marks") identified on the Annex hereto, and is the owner of the registrations of and pending registration applications for such Marks in the United States Patent and Trademark Office identified on such Annex; and

WHEREAS, _____, a corporation organized and existing under the laws of the State of _____, having a place of business at _____ (the "Assignee"), is desirous of acquiring the Marks and the registrations thereof and registration applications therefor;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Assignor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Marks, together with (i) the registrations of and registration applications for the Marks, (ii) the goodwill of the business symbolized by and associated with the Marks and the registrations thereof, and (iii) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Marks or the registrations thereof or such associated goodwill.

This Assignment of Trademarks and Service Marks (U.S.) is intended to and shall take effect as a sealed instrument at such time as the Assignee shall complete this instrument by inserting its name in the second paragraph above and signing its acceptance of this Assignment of Trademarks and Service Marks (U.S.) below.

ANNEX

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Trademark
or
Service Mark

Registrations -
United States Patent and Trademark Office
Registration No. Registration Date

Bain & Company, Inc.

2079086

July 15, 1997

Bainlab

Serial #76/070191
registration pending

Application filed
June 14, 2000

ANNEX A1

| Registrant | Country | Mark | Registration Number | Registration Date |
|----------------------|--------------------|---|---------------------|-------------------|
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| Bain & Company, Inc. | China | Bain & Company | 1121968 | 10/21/1997 |
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| Bain & Company, Inc. | Hong Kong | Bainlab | 15724/2000* | 7/15/2000* |
| Bain & Company, Inc. | Hong Kong | Bainlab | 15725/2000* | 7/15/2000* |
| Bain & Company, Inc. | Japan | Bain & Company (in English and Katakana) | 4246814 | 3/5/1999 |
| Bain & Company, Inc. | Japan | Bain & Company (in English and Katakana) | 4300489 | 7/30/1999 |
| Bain & Company, Inc. | Mexico | Bain & Company | 539156 | 12/6/1996 |
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| Bain & Company, Inc. | Norway | Bain & Company | 164424 | 9/1/1994 |
| Bain & Company, Inc. | Philippines | Bain & Company | 119632* | 4/11/1997* |
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| Bain & Company, Inc. | Singapore | Bainlab | T00/12156B* | 7/13/2000* |
| Bain & Company, Inc. | South Africa | Bain & Company | 96/13529 | 9/25/1996 |
| Bain & Company, Inc. | South Africa | Bain & Company | 96/13530 | 9/25/1996 |
| Bain & Company, Inc. | South Korea | Bain & Company | 96/11673* | 9/18/1996* |
| Bain & Company, Inc. | Switzerland | Bain & Company | 438944 | 4/4/1997 |

* Application. No. and/or Filing Date

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WHEREAS, _____, a corporation organized and existing under the laws of the State of _____, having a place of business at _____ (the "Assignee"), is desirous of acquiring the Marks and the registrations thereof and registration applications therefor;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Assignor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Marks, together with (i) the registrations of and registration applications for the Marks, (ii) the goodwill of the business symbolized by and associated with the Marks and the registrations thereof, and (iii) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Marks or the registrations thereof or such associated goodwill.

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