

03-16-2001



Attached original documents or copy hereof.

To the Honorable Commissioner of Pa

101637481

1. Name of conveying party(ies).

Boxer Holdings, Inc.

- Individual(s) Association
General Partnership Limited Partnership
[X] Corporation-State California
Other 3-6-01

Additional name(s) of conveying party(ies) attached Yes [X] No

3. Nature of conveyance:

- Assignment Merger
[X] Security Agreement Change of Name
Other

Execution Date: March 5, 2001

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

Name: Joe Boxer Company, LLC
Address: c/o Allegiance Apparel Group, Inc.
1599 Post Road East
Westport, Connecticut 06880

- Individual(s) citizenship
Association
General Partnership
Limited Partnership
Corporation-State
[X] Other Delaware limited liability company

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes [X] No
(Designations must be a separate document from Assignment)
Additional name(s) & addresses attached? Yes [X] No

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s).
1,777,238 and 40 others

Additional Numbers attached? [X] Yes [ ] No

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

Name: Patrick Boisson
Internal Address: Fross Zelnick Lehrman & Zissu, P.C.
Street Address: 866 United Nations Plaza
City: New York State: NY Zip: 10017

6. Total number of applications and registration involved:.....41

7. Total fee (37 CFR 3.41) ..... \$ 1,040

- [X] Enclosed
[X] Authorized to be charged to deposit account
(Only if total fee is not sufficient)

8. Deposit account number:

23-0825-0576900

1040E

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

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Lawrence E. Apolzon
Name of Person Signing

Signature

3/6/01
Date

Total number of pages comprising cover sheet:

# Schedule for Recordal of Security Agreement from Boxer Holdings, Inc. to Joe Boxer Company, LLC

Mark	App. No. Filing Date	Reg. No. Reg. Date
ALMOST BASIC	74/095699 09/10/1990	1777238 06/15/1993
CHANGE DAILY	75/621951 01/15/1999	
CLEAN FRESH UNDER WEAR	75/235062 02/03/1997	
FAMILY DINER	74/583032 10/06/1994	2016193 11/12/1996
GIRLFRIEND BY JOE BOXER	75/444815 03/05/1998	
HYSTERICAL FABRICS FOR FABULOUS PEOPLE	74/220581 11/12/1991	1703362 07/28/1992

<b>Mark</b>	<b>App. No. Filing Date</b>	<b>Reg. No. Reg. Date</b>
JOE BOXER	75/504741 06/18/1998	2419648 01/09/2001
JOE BOXER	75/673408 04/01/1999	
JOE BOXER	75/868196 12/08/1999	
JOE BOXER	74/553989 07/26/1994	1984619 07/02/1996
JOE BOXER	75/188888 10/28/1996	2151915 04/21/1998
JOE BOXER	74/219186 11/05/1991	1801580 10/26/1993
JOE BOXER	75/673039 04/01/1999	2418337 01/02/2001

Mark	App. No. Filing Date	Reg. No. Reg. Date
JOE BOXER	73/562051 10/07/1985	1399568 07/01/1986
JOE BOXER	76/053420 05/23/2000	
JOE BOXER	75/696137 05/03/1999	
JOE BOXER	74/652798 03/29/1995	2060335 05/13/1997
JOE BOXER & Bread Wrapper Design	75/742660 06/30/1999	
JOE BOXER & Design	73/815854 07/31/1989	1585824 03/06/1990
JOE BOXER and Licky Logo Design	75/023678 11/22/1995	2038467 02/18/1997

Mark	App. No. Filing Date	Reg. No. Reg. Date
JOE BOXER BOY	74/214623 10/21/1991	1839984 06/14/1994
JOE BOXER GIRLFRIEND	75/804318 09/21/1999	
JOE BOXER GIRLFRIEND	75/225963 01/15/1997	2170389 06/30/1998
JOE BOXER GIRLFRIEND	74/168636 05/21/1991	1798747 10/12/1993
JOE TO GO	75/696136 05/03/1999	
JUST GO TO SLEEP!	74/129887 01/14/1991	1705098 08/04/1992
Licky Logo	75/504735 06/18/1998	

Mark	App. No. Filing Date	Reg. No. Reg. Date
Licky Logo	75/683874 04/15/1999	
Licky Logo	75/868195 12/08/1999	
Licky Logo	75/021762 11/17/1995	2028591 01/07/1997
Licky Logo	75/021719 11/17/1995	2041783 03/04/1997
MADE IN THE U.S.EH?	74/129895 01/14/1991	1765944 04/20/1993
REPUBLIC OF JOE	75/696138 05/03/1999	
S6X	75/251009 03/01/1997	2206494 12/01/1998

Mark	App. No. Filing Date	Reg. No. Reg. Date
Slurp Icon	75/618267 01/08/1999	2335182 03/28/2000
THE BRAND IS THE AMUSEMENT PARK. THE PRODUCT IS THE SOUVENIR.	75/355919 09/10/1997	2322802 02/29/2000
UN	74/636032 02/17/1995	1988147 07/23/1996
UNDER (EXPOSED)	74/460350 11/10/1993	1929053 10/24/1995
VERBAL LINGERIE	74/225975 11/27/1991	1775928 06/08/1993
WILD ELEPHANT	74/186772 07/19/1991	1786183 08/03/1993
WITH UNDERWEAR LIKE THIS WHO NEEDS PANTS	74/419384 07/27/1993	1869686 12/27/1994

## SECURITY AGREEMENT

This **SECURITY AGREEMENT** ("Agreement"), dated as of March 5, 2001, is entered into between **BOXER HOLDINGS, INC.**, a California corporation ("Debtor"), and **JOE BOXER COMPANY, LLC**, a Delaware limited liability company ("Lender"), in light of the following:

- A. Lender has agreed to make a loan (the "Loan") in the principal amount of up to \$2,000,000 to Joe Boxer Corporation, a California corporation ("Borrower"), which shall be evidenced by a Purchase Money Promissory Note of Borrower dated as of the date hereof;
- B. Debtor is concurrently executing and delivering to Lender the Guaranty;
- C. Debtor is the owner of certain intellectual property and other assets, identified below, in which Debtor is granting a security interest to Lender; and
- D. it is a condition precedent to the making of the Loan by the Lender to Borrower that this Agreement be entered into by the Debtor.

NOW THEREFORE, in consideration of the mutual promises, covenants, conditions, representations, and warranties hereinafter set forth and for other good and valuable consideration, the parties hereto mutually agree as follows:

### 1. DEFINITIONS AND CONSTRUCTION.

**1.1 Definitions.** The following terms, as used in this Agreement, have the following meanings:

"Guaranty" means that certain guaranty, of even date herewith, in which Debtor has guaranteed the Obligations of Borrower to Lender.

"Code" means the California Uniform Commercial Code, as amended and supplemented from time to time, and any successor statute.

"Collateral" means:

- (i) Each of the trademarks and rights and interest which are capable of being protected as trademarks (including trademarks, service marks, designs, logos, indicia, tradenames, corporate names, company names, business names, fictitious business names, trade styles, and other source or business identifiers, and applications pertaining thereto), which are presently, or in the future may be, owned, created, acquired, or used (whether pursuant to a license or otherwise) by Debtor, in whole or in part, and all trademark rights with respect thereto throughout the world, including all proceeds thereof (including license royalties and proceeds of infringement suits), and rights to renew and extend such trademarks and trademark rights;



(ii) Each of the patents and patent applications which are presently, or in the future may be, owned, issued, acquired, or used (whether pursuant to a license or otherwise) by Debtor, in whole or in part, and all patent rights with respect thereto throughout the world, including all proceeds thereof (including license royalties and proceeds of infringement suits), foreign filing rights, and rights to extend such patents and patent rights;

(iii) All of Debtor's right to the trademarks and trademark registrations listed on Schedule A, attached hereto, as the same may be updated hereafter from time to time;

(iv) All of Debtor's right, title, and interest, in and to the copyrights and copyright applications listed on Schedule B, attached hereto, as the same may be updated hereafter from time to time;

(v) All of Debtor's right, title and interest to register trademark claims under any state or federal trademark law or regulation of any foreign country and to apply for, renew, and extend the trademark registrations and trademark rights, the right (without obligation) to sue or bring opposition or cancellation proceedings in the name of Debtor or in the name of Lender for past, present, and future infringements of the trademarks, registrations, or trademark rights and all rights (but not obligations) corresponding thereto in the United States and any foreign country, and the associated goodwill;

(vi) All of Debtor's right, title, and interest in all patentable inventions, and to file applications for patent under federal patent law or regulation of any foreign country, and to request reexamination and/or reissue of the patents, the right (without obligation) to sue or bring interference proceedings in the name of Debtor or in the name of Lender for past, present, and future infringements of the patents, and all rights (but not obligations) corresponding thereto in the United States and any foreign country;

(vii) All general intangibles relating to the foregoing; and

(viii) All proceeds of any and all of the foregoing (including, without limitation, license royalties and proceeds of infringement suits) and, to the extent not otherwise included, all payments under insurance, or any indemnity, warranty, or guaranty payable by reason of loss or damage to or otherwise with respect to the Collateral.

"Obligations" means all obligations, liabilities, and indebtedness of Debtor to Lender, whether direct, indirect, liquidated, or contingent, and whether arising under this Agreement, and the Guaranty, or otherwise, including all costs and expenses described in Section 11.8 hereof.

**1.2 Construction.** Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, and the term "including" is not limiting. The words "hereof," "herein," "hereby," "hereunder," and other similar terms refer to this Agreement as a whole and not to any particular provision of this Agreement. Any reference herein to any documents, includes any and all alterations, amendments, extensions, modifications, renewals, or supplements thereto or thereof, as applicable. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against Lender or Debtor, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by Debtor, Lender, and their respective counsel, and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of Lender and Debtor.

## **2. GRANT OF SECURITY INTEREST.**

Debtor hereby grants to Lender a perfected security interest in all of Debtor's right, title, and interest in and to the Collateral to secure all present and future obligations under the Guaranty and this Agreement.

## **3. REPRESENTATIONS, WARRANTIES AND COVENANTS.**

Debtor hereby represents, warrants, and covenants that:

**3.1 Requisite Power.** Debtor has all requisite corporate power and authority to execute and deliver this Agreement and consummate the transactions contemplated by this Agreement.

**3.2 Authorization.** All actions on the part of Debtor, its directors and stockholders necessary for the authorization, execution, delivery and performance of this Agreement by Debtor have been taken.

### **3.3 Trademarks; Service Marks; Patents.**

(i) A true and complete schedule setting forth all federal, state and international trademark and service mark registrations owned or controlled by Debtor or licensed to Debtor is set forth on Schedule A; and

(ii) A true and complete schedule setting forth all copyrights and copyright applications owned or controlled by Debtor or licensed to Debtor is set forth on Schedule B.

**3.4 Validity; Enforceability.** Each of the patents, service marks and trademarks is valid and enforceable, and Debtor is not presently aware of any past, present, or prospective claim by any third party that any of the patents, service marks or trademarks are invalid or unenforceable, or that the use of any patents, service marks or trademarks violates the rights of any third person, or of any basis for any such claims, except as otherwise set forth on Schedule A or Schedule B to this Agreement.

**3.5 Title.** Debtor is the sole and exclusive owner of the entire and unencumbered right, title, and interest in and to each of the patents, patent applications, service marks, service mark registrations, trademarks, and trademark registrations, free and clear of any liens, charges, and encumbrances, including pledges, assignments, licenses, shop rights, and covenants by Debtor not to sue third persons, except (i) as otherwise set forth on Schedule A or Schedule B to this Agreement; (ii) for licenses that have been granted, copies of which have been furnished to the Lender; and (iii) for the liens held by BNP Paribas and The CIT Group/Commercial Services, Inc.

**3.6 Notice.** Debtor has used and will continue to use proper statutory notice in connection with its use of each of the patents, service marks and trademarks;

**3.7 Quality.** Debtor has used and will continue to use consistent standards of high quality (which may be consistent with Debtor's past practices) in the manufacture, sale, and delivery of products and services sold or delivered under or in connection with the service marks and trademarks, including, to the extent applicable, in the operation and maintenance of its merchandising operations, and will continue to maintain the validity of the service marks and trademarks;

**3.8 Perfection of Security Interest.** Except for the filing of a financing statement with the Secretary of State of California and filings with the United States Patent and Trademark Office necessary to perfect the security interests created hereunder, no authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either for the grant by Debtor of the security interest hereunder or for the execution, delivery, or performance of this Agreement by Debtor or for the perfection of or the exercise by Lender of its rights hereunder to the Collateral in the United States.

**3.9 Disposition or Encumbrance of Collateral.** Debtor shall neither sell, transfer or otherwise dispose of the Collateral nor pledge, provide a security interest in or permit the encumbrance of any of the Collateral, without the prior written consent of Lender.

#### **4. AFTER-ACQUIRED PATENT, SERVICE MARK OR TRADEMARK RIGHTS.**

If Debtor shall obtain rights to any new service marks, trademarks, any new patentable inventions or become entitled to the benefit of any patent application or patent for any reissue, division, or continuation, of any patent, the provisions of this Agreement shall automatically apply thereto. Debtor shall give prompt notice in writing to Lender with respect to any such new service marks, trademarks or patents, or renewal or extension of any service mark or trademark registration. Debtor shall bear any expenses incurred in connection with future patent applications or service mark or trademark registrations.

#### **5. LITIGATION AND PROCEEDINGS.**

Debtor shall commence and diligently prosecute in its own name, as the real party in interest, for its own benefit, and its own expense, such suits, administrative proceedings,

or other action for infringement or other damages as are in its reasonable business judgment necessary to protect the Collateral. Debtor shall provide to Lender any information with respect thereto requested by Lender. Lender shall provide at Debtor's expense all necessary cooperation in connection with any such suits, proceedings, or action, including, without limitation, joining as a necessary party. Following Debtor's becoming aware thereof, Debtor shall notify Lender of the institution of, or any adverse determination in, any proceeding in the United States Patent and Trademark Office, or any United States, state, or foreign court regarding Debtor's claim of ownership in any of the patents, service marks or trademarks, its right to apply for the same, or its right to keep and maintain such patent, service mark or trademark rights.

## **6. POWER OF ATTORNEY.**

Debtor grants Lender power of attorney, having the full authority, and in the place of Debtor and in the name of Debtor, from time to time following an Event of Default in Lender's discretion, to take any action and to execute any instrument which Lender may deem necessary or advisable to accomplish the purposes of this Agreement, including, without limitation, as may be subject to the provisions of this Agreement: to endorse Debtor's name on all applications, documents, papers, and instruments necessary for Lender to use or maintain the Collateral; to ask, demand, collect, sue for, recover, impound, receive, and give acquittance and receipts for money due or to become due under or in respect of any of the Collateral; to file any claims or take any action or institute any proceedings that Lender may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce Lender's rights with respect to any of the Collateral and to assign, pledge, convey, or otherwise transfer title in or dispose of the Collateral to any person.

## **7. RIGHT TO INSPECT; INFORMATION RIGHTS.**

Debtor grants to Lender and its employees, representatives and agents the right to visit Debtor's plants, warehouses and other facilities that store, maintain, possess or ship any of the Collateral, and to inspect the Collateral and all books and records relating thereto at reasonable times during regular business hours. Debtor shall promptly (but in no event later than two business days) provide Lender with all information relating to the Collateral that is requested by Lender in writing.

## **8. EVENTS OF DEFAULT.**

Any of the following events shall be an Event of Default:

**8.1 Guaranty.** An event of default shall occur under the Guaranty;

**8.2 Misrepresentation.** Any representation or warranty made in this Agreement by Debtor or in any document furnished to Lender by Debtor under this Agreement is incorrect in any material respect when made or when reaffirmed; and

**8.3 Breach.** Debtor fails to observe or perform any covenant, condition, or agreement to be observed or performed pursuant to the terms of this Agreement.

## **9. SPECIFIC REMEDIES.**

Upon the occurrence of any Event of Default, Lender shall have, in addition to, other rights given by law or in this Agreement, the Guaranty, or in any other document, all of the rights and remedies with respect to the Collateral of a secured party under the Code, including without limitation, the following:

**9.1 Notification.** Lender may notify licensees to make royalty payments on license agreements directly to Lender;

**9.2 Sale.** Lender may sell or assign the Collateral and associated goodwill at public or private sale for such amounts, and at such time or times as Lender deems advisable. Any requirement of reasonable notice of any disposition of the Collateral shall be satisfied if such notice is sent to Debtor five days prior to such disposition. Debtor shall be credited with the net proceeds of such sale only when they are actually received by Lender, and Debtor shall continue to be liable for any deficiency remaining after the Collateral is sold or collected. If the sale is to be a public sale, Lender shall also give notice of the time and place by publishing a notice one time at least five days before the date of the sale in a newspaper of general circulation in the county in which the sale is to be held. To the maximum extent permitted by applicable law, Lender may be the purchaser of any or all of the Collateral and associated goodwill at any public sale and shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any public sale, to use and apply all or any part of the Obligations as a credit on account of the purchase price of any collateral payable by Lender at such sale.

## **10. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER.**

**THE VALIDITY OF THIS AGREEMENT, ITS CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT, AND THE RIGHTS OF THE PARTIES HERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR RELATED HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ITS CONFLICT OF LAWS PRINCIPLES. THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE SOUTHERN DISTRICT OF THE STATE OF NEW YORK OR, AT THE SOLE OPTION OF LENDER, IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. EACH OF DEBTOR AND LENDER WAIVES, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY**

**PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 10. DEBTOR AND LENDER HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. DEBTOR AND LENDER REPRESENT THAT EACH HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.**

## **11. GENERAL PROVISIONS.**

**11.1 Effectiveness.** This Agreement shall be binding and deemed effective when executed by Debtor and Lender.

**11.2 Successors and Assigns.** This Agreement shall bind and inure to the benefit of the respective successors and assigns of each of the parties; provided, however, that Debtor may not assign this Agreement or any rights or duties hereunder without Lender's prior written consent and any prohibited assignment shall be absolutely void. Lender may assign this Agreement and its rights and duties hereunder and no consent or approval by Debtor is required in connection with any such assignment.

**11.3 Section Headings.** Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each section applies equally to this entire Agreement.

**11.4 Interpretation.** Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against Lender or Debtor, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties hereto.

**11.5 Severability of Provisions.** Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

**11.6 Amendments in Writing.** This Agreement can only be amended by a writing signed by both Lender and Debtor.

**11.7 Counterparts; Telefacsimile Execution.** This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile shall be equally as effective as delivery of a

1599 Post Road East  
Westport, Connecticut 06880  
Fax: 203-319-3610  
Attn: William Sweedler

Lender and Debtor may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other party. All notices or demands sent in accordance with this Section 11.9 shall be deemed received on the earlier of the date of actual receipt or three business days after the deposit thereof in the mail. Debtor acknowledges and agrees that notices sent by Lender in connection with the exercise of enforcement rights against Collateral under the provisions of the Code shall be deemed sent when deposited in the mail or personally delivered, or, where permitted by law transmitted by telefacsimile or any other method set forth above.

**11.10 Termination By Lender.** After termination of the Guaranty, and when Lender has received payment and performance, in full, of all of the Obligations, Lender shall execute and deliver to Debtor a termination of all of the security interests granted by Debtor hereunder.

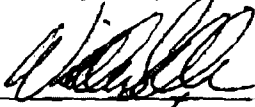
**11.11 Integration.** This Agreement, together with the other loan documents, reflect the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the date hereof.

FROM DUVAL & STACHENFELD

(SUN) 3. 4' 01 22:47/ST. 22:45/NO. 4860201638 P 7

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

**JOE BOXER COMPANY, LLC**, a Delaware limited liability company

By:   
Title: CEO/HR

**BOXER HOLDINGS, INC.**, a California corporation

By: \_\_\_\_\_  
Title: \_\_\_\_\_

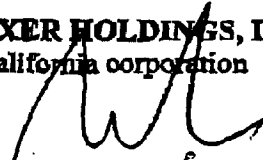


IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

**JOE BOXER COMPANY, LLC**, a Delaware limited liability company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**BOXER HOLDINGS, INC.**,  
a California corporation

By:  \_\_\_\_\_  
Title: *Chairman* \_\_\_\_\_