

03-21-2001

FORM PTO-1594
(Rev 5-93)

R SHEET

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

To the Honorable (

101643930

1 the attached original documents or copy thereof.

1. Name of conveying party(ies):

YARDCONNECT.COM, INC.

Individual(s) citizenship:

Association:

General Partnership:

Limited Partnership:

Corporation - State: DELAWARE

Other:

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: May 25, 2000

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

Name: IMPERIAL BANK

Address: 5330 CARILLON POINT

City: KIRKLAND JOSE State: WA Zip: 98033

Individual(s) citizenship:

Association:

General Partnership:

Limited Partnership:

Corporation - State:

Other: a California chartered bank

If assignee is not domiciled in the United States, a domestic representative designation is attached: [] Yes [] No

(Designations must be a separate document from assignment)

Additional name(s) & address(es) attached? [] Yes [x] No

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

A. Trademark Application No.(s)

76/021,817

76/021,818

76/142,243

B. Trademark Registration No.(s)

Additional numbers attached? [] Yes [X] No

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

Name: Erin O'Brien

Internal Address: GRAY CARY WARE & FREIDENRICH
400 Hamilton Avenue
Palo Alto, California 94301

6 Total number of applications and registrations involved: 3

7. Total fee (37 CFR 3.41) \$90.00

[x] Enclosed

[] Authorized to be charged to deposit account

8. Deposit account number: _____

(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.

Erin O'Brien

March 20, 2001

Name of Person Signing

Signature

Date

Total number of pages comprising cover sheet: [12]

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

U.S. Patent and Trademark Office, Office of Public Records

1213 Jefferson Davis Highway, 3rd Floor

Arlington, VA 22202

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement is entered into as of May 25, 2000 by and between IMPERIAL BANK ("Bank") and PHYSICAL MARKET, INC., a Delaware corporation ("Grantor").

RECITALS

A. Bank has agreed to make certain advances of money and to extend certain financial accommodation to Grantor (the "Loans") in the amounts and manner set forth in that certain Loan and Security Agreement by and between Bank and Grantor dated of even date herewith (as the same may be amended, modified or supplemented from time to time, the "Loan Agreement"; capitalized terms used herein are used as defined in the Loan Agreement). Bank is willing to make the Loans to Grantor, but only upon the condition, among others, that Grantor shall grant to Bank a security interest in certain Copyrights, Trademarks and Patents to secure the obligations of Grantor under the Loan Agreement.

B. Pursuant to the terms of the Loan Agreement, Grantor has granted to Bank a security interest in all of Grantor's right, title and interest, whether presently existing or hereafter acquired, in, to and under all of the Collateral.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Loan Agreement, Grantor hereby represents, warrants, covenants and agrees as follows:

AGREEMENT

To secure its obligations under the Loan Agreement and under all other agreements now existing or hereafter arising between Grantor and Bank, Grantor grants and pledges to Bank a security interest in all of Grantor's right, title and interest in, to and under its Intellectual Property Collateral (including without limitation those Copyrights, Patents and Trademarks listed on Schedules A, B and C hereto), and including without limitation all proceeds thereof (such as, by way of example but not by way of limitation, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all re-issues, divisions continuations, renewals, extensions and continuations-in-part thereof.

This security interest is granted in conjunction with the security interest granted to Bank under the Loan Agreement. The rights and remedies of Bank with respect to the security interest granted hereby are in addition to those set forth in the Loan Agreement and the other Loan Documents, and those which are now or hereafter available to Bank as a matter of law or equity. Each right, power and remedy of Bank provided for herein or in the Loan Agreement or any of the Loan Documents, or now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be in addition to every right, power or remedy provided for herein and the exercise by Bank of any one or more of the rights, powers or remedies provided for in this Intellectual Property Security Agreement, the Loan Agreement or any of the other Loan Documents, or now or hereafter existing at law or in equity, shall not preclude the simultaneous or later exercise by any person, including Bank, of any or all other rights, powers or remedies.

Grantor represents and warrants that Exhibits A, B, and C attached hereto set forth any and all intellectual property rights in connection to which Grantor has registered or filed an application with either the United States Patent and Trademark Office or the United States Copyright Office, as applicable.

IN WITNESS WHEREOF, the parties have cause this Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GRANTOR:

Address of Grantor:

100 West Harrison, South Tower, Suite 330
Seattle, WA 98119

Attn: Wesley D. Sand

PHYSICAL MARKET, INC.

By: Wesley D. Sand

Title: COO & CFO

BANK:

IMPERIAL BANK

Address of Bank:

5330 Carillon Point
Kirkland, WA 98033

Attn: JP Michael / Rory James

By: JP Michael

Title: FVP

EXHIBIT A

Copyrights

Description

Registration/
Application
Number

Registration/
Application
Date

EXHIBIT B

Patents

Description

Registration/
Application
Number

Registration/
Application
Date

EXHIBIT C

Trademarks

<u>Description</u>	Registration/ Application <u>Number</u>	Registration/ Application <u>Date</u>
Physical Market	76/021,817	04/07/00
Yardconnect.com	76/021,818	04/07/00
Yardconnect	76/142,243	10/06/00

FIRST AMENDMENT
TO
LOAN DOCUMENTS

This First Amendment to Loan Documents is entered into as of March 8, 2001 (the "Amendment"), by and between IMPERIAL BANK ("Bank") and YARDCONNECT.COM, INC., a Delaware corporation ("Borrower").

RECITALS

Borrower and Bank are parties to that certain Loan and Security Agreement dated as of May 25, 2000, as amended (the "Loan Agreement"). In connection with the Loan Agreement, Borrower executed an Intellectual Property Security Agreement dated as of May 25, 2000 and a Warrant to Purchase Stock dated as of May 25, 2000 (collectively with the Loan Agreement, the "Loan Documents"). Each of the Loan Documents refers to Borrower as "PHYSICAL MARKET, INC." Borrower has changed its name as reflected in Exhibit D attached hereto, and this Amendment corrects the name of Borrower in each of the Loan Documents. Additionally, the parties desire to amend the Loan Agreement in accordance with the terms of this Amendment.

NOW, THEREFORE, the parties agree as follows:

1. All references in the Loan Documents to "PHYSICAL MARKET, INC." shall mean and refer to "YARDCONNECT.COM, INC."

2. Certain defined terms in Section 1.1 of the Loan Agreement are hereby added or amended to read as follows:

"Current Liabilities" means, as of any applicable date, all amounts that should, in accordance with GAAP, be included as current liabilities on the consolidated balance sheet of Borrower and its Subsidiaries, as at such date, plus, to the extent not already included therein, all outstanding Credit Extensions made under this Agreement, including all Indebtedness that is payable upon demand or within one year from the date of determination thereof unless such Indebtedness is renewable or extendible at the option of Borrower or any Subsidiary to a date more than one year from the date of determination.

"Quick Assets" means, at any date as of which the amount thereof shall be determined, the unrestricted cash and cash-equivalents, and accounts receivable, of Borrower determined in accordance with GAAP.

"Revolving Maturity Date" means the earlier of (i) thirty (30) days after the date on which Borrower receives cash proceeds in the amount of at least \$1,000,000 from the sale and issuance of its equity securities to its investors after March 8, 2001 and (ii) April 30, 2001.

3. Subsection (c) of the definition of "Permitted Indebtedness" in Section 1.1 of the Loan Agreement is hereby amended in its entirety to read as follows:

(c) [Intentionally Omitted.]

4. Subsection (c) of the definition of "Permitted Liens" in Section 1.1 of the Loan Agreement is hereby amended in its entirety to read as follows:

(c) [Intentionally Omitted.]

5. The first sentence of Section 2.1(a)(i) of the Loan Agreement is hereby amended in its entirety to read as follows: "Subject to and upon the terms and conditions of this Agreement, Borrower may request and Bank shall lend to Borrower Advances in an aggregate outstanding amount not to exceed the Committed Revolving Line."

6. Section 2.1(b) of the Loan Agreement is hereby amended in its entirety to read as follows:

(b) Corporate Credit Cards. Subject to the terms and conditions of this Agreement, Borrower may request corporate credit cards with an aggregate limit not in excess of Seventy-Five Thousand Dollars (\$75,000). The terms and conditions (including repayment and fees) of such credit cards shall be subject to the terms and conditions of the Bank's standard forms of credit card application and agreement, which Borrower hereby agrees to execute. No corporate credit cards shall remain outstanding after March 7, 2002.

7. Section 2.1(c) of the Loan Agreement is hereby amended in its entirety to read as follows:

(c) [Intentionally Omitted.]

8. Section 2.2(a) of the Loan Agreement is hereby amended in its entirety to read as follows:

(a) Interest Rates. Except as set forth in Section 2.2(b), the Advances shall bear interest, on the outstanding daily balance thereof, at a rate equal to two percent (2.0%) above the Prime Rate.

9. The reference to "One Hundred Thousand Dollars (\$100,000)" in Section 6.3(d) of the Loan Agreement is hereby amended to read "Fifty Thousand Dollars (\$50,000)".

10. The following new paragraph is hereby added to the end of Section 6.3 of the Loan Agreement:

At least sixty (60) days before the end of Borrower's fiscal year, Borrower shall deliver to Bank operating budgets, annual budgets, and forecasts.

11. Section 6.8 of the Loan Agreement is hereby amended in its entirety to read as follows:

6.8 Adjusted Quick Ratio. Borrower shall maintain, as of the last day of each calendar month, a ratio of (i) Quick Assets to (ii) Current Liabilities plus, to the extent not already included therein, all Indebtedness (including Contingent Obligations) owing from Borrower to Bank less deferred revenue of at least 1.50 to 1.00.

12. A new Section 6.11 is hereby added to the Loan Agreement to read as follows:

6.11 New Equity. After February 13, 2001 and on or before March 8, 2001, Borrower shall deliver to Bank accepted term sheets, in form and substance satisfactory to Bank, signed by Borrower and investors satisfactory to Bank, indicating a commitment on the part of such investors to purchase at least \$7,000,000 of Borrower's equity securities. After February 13, 2001 and on or before March 31, 2001, Borrower shall receive cash proceeds from the sale and issuance of its equity securities to investors satisfactory to Bank in an amount of at least \$7,000,000.

13. Exhibit D to the Loan Agreement is hereby replaced in its entirety by Exhibit C attached hereto.

14. Unless otherwise defined, all initially capitalized terms in this Amendment shall be as defined in the Loan Agreement. The Loan Agreement and other Loan Documents, as amended hereby, shall be and remain in full force and effect in accordance with its respective terms and hereby is ratified and confirmed in all respects. Except as expressly set forth herein, the execution, delivery, and performance of this Amendment shall not operate as a waiver of, or as an amendment of, any right, power, or remedy of Bank under the Loan Agreement or any other Loan Document, as in effect prior to the date hereof. Borrower ratifies and reaffirms the continuing effectiveness of all promissory notes, guaranties, security agreements, mortgages, deeds of trust, environmental agreements, and all other instruments, documents and agreements entered into in connection with the Loan Agreement and the other Loan Documents.

15. Borrower represents and warrants that the Representations and Warranties contained in the Loan Agreement are true and correct as of the date of this Amendment, and that no Event of Default has occurred and is continuing.

16. This Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument.

17. As a condition to the effectiveness of this Amendment, Bank shall have received, in form and substance satisfactory to Bank, the following:

- (a) this Amendment, duly executed by Borrower;
- (b) a warrant to purchase stock;
- (c) a securities account control agreement;
- (d) an Agreement to Provide Insurance, auto-debit authorization, and disbursement

instructions;

(e) a nonrefundable loan fee equal to \$2,000 plus an amount equal to all Bank Expenses incurred through the date of this Amendment; and

(f) such other documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate.

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the first date above written.

YARDCONNECT.COM, INC.

By: 

Title: CFO

IMPERIAL BANK

By: 

Title: Asst. Vice President

EXHIBIT C
COMPLIANCE CERTIFICATE

TO: IMPERIAL BANK

FROM: YARDCONNECT.COM, INC.

The undersigned authorized officer of YARDCONNECT.COM, INC. hereby certifies that in accordance with the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "Agreement"), (i) Borrower is in complete compliance for the period ending _____ with all required covenants except as noted below and (ii) all representations and warranties of Borrower stated in the Agreement are true and correct in all material respects as of the date hereof. Attached herewith are the required documents supporting the above certification. The Officer further certifies that these are prepared in accordance with Generally Accepted Accounting Principles (GAAP) and are consistently applied from one period to the next except as explained in an accompanying letter or footnotes.

Please indicate compliance status by circling Yes/No under "Complies" column.

<u>Reporting Covenant</u>	<u>Required</u>	<u>Complies</u>	
Monthly financial statements	Monthly within 30 days	Yes	No
Annual (CPA Audited)	FYE within 120 days	Yes	No
10K and 10Q	within 5 days of standard filing date (as applicable)	Yes	No
IP Report	Quarterly within 30 days	Yes	No
Budgets & Forecasts	FYE within 60 days	Yes	No
<u>Financial Covenant</u>	<u>Required</u>	<u>Actual</u>	<u>Complies</u>
Maintain on a Monthly Basis: Minimum Adjusted Quick Ratio	1.50:1.00	_____:1.00	Yes No

Comments Regarding Exceptions: See Attached.

Sincerely,

SIGNATURE

TITLE

DATE

BANK USE ONLY

Received by: _____
AUTHORIZED SIGNER

Date: _____

Verified: _____
AUTHORIZED SIGNER

Date: _____

Compliance Status Yes No

Exhibit D

Amendment to Certificate of Incorporation

CERTIFICATE OF AMENDMENT OF
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION OF
PHYSICAL MARKET, INC.

The undersigned hereby certifies that:

1. He is the duly elected and acting President of Physical Market, Inc., a Delaware corporation.
2. The Certificate of Incorporation of this corporation was originally filed with the Secretary of State of Delaware on January 7, 2000 and the Amended and Restated Certificate of Incorporation was filed on February 11, 2000.
3. Pursuant to Section 242 of the General Corporation Law of the State of Delaware, this Certificate of Amendment of Certificate of Incorporation amends Article I of this corporation's Certificate of Incorporation to read in its entirety as follows:

"ARTICLE I

The name of this corporation is YardConnect.com, Inc. (the "Corporation")."

4. The foregoing Certificate of Amendment has been duly adopted by this corporation's Board of Directors and stockholders in accordance with the applicable provisions of Sections 228 and 242 of the General Corporation Law of the State of Delaware.

Executed at Seattle, Washington, 24 May, 2000.


Stephen Brown, President