

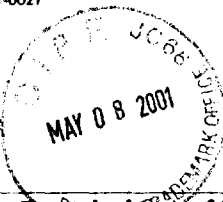
05-14-2001

FORM PTO-1618A
Expires 08/30/99
OMB 0651-0027



101715843

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



RECORDATION FORM COVER SHEET TRADEMARKS ONLY

5801

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

Submission Type

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

Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
- Merger Effective Date
Month Day Year
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Name Execution Date
Month Day Year
4 2 01

Formerly

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

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AK/A/T/A

Composed of

Address (line 1)

Address (line 2)

Address (line 3)
City State/Country Zip Code

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

5/11/2001 GTON11 00000266 75919458
01 FC:481 40.00 OP
02 FC:482 50.00 OP

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REEL: 002294 FRAME: 0237

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

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

#

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

Mark if additional numbers attached

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

Trademark Application Number(s)

Registration Number(s)

<input type="text" value="75/919,458"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="1,171,694"/>	<input type="text"/>	<input type="text"/>
<input type="text" value="1,034,385"/>	<input type="text"/>	<input type="text"/>
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Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

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

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Christopher E. Kondracki

May 8, 2001

Name of Person Signing

Signature

Date Signed



1
2
3
4 **TRADEMARK AND TRADEMARK**
5 **APPLICATIONS SECURITY AGREEMENT**

Fleet Retail Finance Inc.
AGENT

6
7
8
9 February 3, 2001

10
11
12 THIS AGREEMENT is made between

13
14 Fleet Retail Finance Inc. (in such capacity, the "**Agent**"), a Delaware corporation
15 with offices at 40 Broad Street, Boston, Massachusetts 02109, as agent for a syndicate of
16 revolving credit lenders and a term lender (the "**Lenders**")

17
18 and

19
20 J. Baker, Inc. (hereinafter, the "**Borrower**"), a Massachusetts corporation with its
21 principal executive offices at 555 Turnpike Street, Canton, Massachusetts 02021

22
23 in consideration of the mutual covenants contained herein and benefits to be derived herefrom,

24
25 *WITNESSETH:*

26
27 1. **BACKGROUND:** The Agent and the Borrower have entered in a certain Loan and
28 Security Agreement dated as of August 30, 1999, as amended and restated by a certain Loan and Security
29 Agreement of even date herewith (as such agreement may be modified, supplemented, amended or restated from
30 time to time, hereinafter, the "**Loan Agreement**") pursuant to which certain credit facilities have been established
31 in favor of the Borrower and under which the Borrower's Liabilities are to be secured by certain of the Borrower's
32 assets, including all Marks (as defined herein). Terms used herein which are defined in the Loan Agreement are
33 used as so defined.

34
35 2. **GRANT OF SECURITY INTEREST:** To secure the Liabilities, the Borrower hereby creates
36 a security interest in favor of the Agent (for the ratable benefit of the Agent and the Lenders), with power of sale
37 (which power of sale shall be exercisable only following the occurrence of an Event of Default) in and to the
38 following and all proceeds thereof (collectively, the "**TM Collateral**");

39 (a) All of the Borrower's now owned or existing or hereafter acquired or arising trademarks,
40 trademark applications, service marks, registered service marks and service mark applications including, without
41 limitation, those listed on **EXHIBIT A** annexed hereto and made a part hereof, together with any goodwill
42 connected with and symbolized by any such trademarks, trademark applications, service marks, registered service

1 marks, and service mark applications.

2 (b) All renewals of any of the foregoing.

3 (c) All income, royalties, damages and payments now and hereafter due and/or payable
4 under and with respect to any of the foregoing, including, without limitation, payments under all licenses entered
5 into in connection therewith and damages and payments for past or future infringements or dilutions thereof.

6 (d) The right to sue for past, present and future infringements and dilutions of any of the
7 foregoing.

8 (e) All of Borrower's rights corresponding to any of the foregoing throughout the world.

9
10 3. **PROTECTION OF MARKS BY BORROWER:** The Borrower shall undertake the
11 following with respect to each items respectively described in Sections 2(a) and 2(b), which the Borrower in good
12 faith believes have more than de minimus value to it or the operation of its business (collectively, the "Marks"):

13 (a) Pay all renewal fees and other fees and costs associated with maintaining the Marks and
14 with the processing of the Marks.

15 (b) At the Borrower's sole cost, expense, and risk, pursue the prompt, diligent, processing of
16 each Application for Registration which is the subject of the security interest created herein and not abandon or
17 delay any such efforts.

18 (c) At the Borrower's sole cost, expense, and risk, take any and all action which Borrower
19 deems desirable to protect the Marks, including, without limitation, but subject to Borrower's discretion, the
20 prosecution and defense of infringement actions.

21
22 Notwithstanding any other provision herein, the Borrower shall retain the right to abandon any Mark in its
23 reasonable business judgment.

24
25 4. **BORROWER'S REPRESENTATIONS AND WARRANTIES:** The Borrower represents
26 and warrants that:

27 (a) **EXHIBIT A** includes all of the registered trademarks, Federal trademark applications,
28 registered service marks and Federal service mark applications now owned by the Borrower.

29 (b) All TM Collateral is and shall remain, free and clear of all liens, Encumbrances, or
30 security interests to any Person other than to the Agent.

31 (c) The Borrower shall give the Agent written notice (with reasonable detail) within Ten (10)
32 days following the occurrence of any of the following:

33 (i) The Borrower's obtaining rights to, and filing applications for registration of,
34 any new trademarks, or service marks, or otherwise acquires ownership of any newly registered
35 trademarks, registered service marks, trademark applications, or service mark applications, which are
36 material to the business of the Borrower (other than the Borrower's right to sell products containing the

1 trademarks of others in the ordinary course of Borrower's business).

2 (ii) The Borrower's becoming entitled to the benefit of any registered trademarks,
3 trademark applications, trademark licenses, trademark license renewals, registered service marks, service
4 mark applications, service mark licenses or service mark license renewals, which are material to the
5 business of the Borrower, whether as licensee or licensor (other than Borrower's right to sell products
6 containing the trademarks of others in the ordinary course of Borrower's business).

7 (iii) The Borrower's entering into any new trademark license agreement or service
8 mark license agreement, which are material to the business of the Borrower.

9
10 **5. AGREEMENT APPLIES TO FUTURE MARKS:**

11 (a) The provisions of this Security Agreement shall automatically apply to any such
12 additional property or rights described in 4(c), above, all of which shall be deemed to be and treated as "Marks"
13 within the meaning of this TM Security Agreement.

14 (b) Upon the occurrence of an Event of Default, the Borrower hereby authorizes the Agent to
15 take all such action to protect the Agent's interest in and concerning any future registered trademarks, trademark
16 applications, registered service marks and service mark applications, written notice of which is so given, *provided,*
17 *however,* the Agent's taking of such action shall not be a condition to the creation or perfection of the security
18 interest created hereby.

19
20 **6. BORROWER'S RIGHTS TO ENFORCE MARKS:** Prior to the Agent's giving of notice
21 to the Borrower following the occurrence of an Event of Default, the Borrower shall have the exclusive right to sue
22 for past, present and future infringement of the Marks including the right to seek injunctions and/or money
23 damages, in an effort by Borrower to protect the Marks against encroachment by third parties, *provided, however*
24 any money damages awarded or received by the Borrower on account of such suit (or the threat of such suit) shall
25 constitute TM Collateral. The Borrower shall provide the Agent with written notice of the Borrower's intention to so
26 sue for enforcement of any Mark. Following the occurrence of any Event of Default, the Agent, by written notice to
27 the Borrower may terminate or limit the Borrower's rights under this Section 6.

28
29 **7. AGENT'S ACTIONS TO PROTECT MARKS:** In the event of

30 (a) the Borrower's failure, within Thirty (30) days of written notice from the Agent, to cure
31 any failure by the Borrower to perform any of the Borrower's obligations set forth in Section 3; and/or

32 (b) the occurrence of any Event of Default,
33 the Agent, acting in its own name or in that of the Borrower, may (but shall not be required to) act in the Borrower's
34 place and stead and/or in the Agents' own right in connection therewith.
35

1 8. **RIGHTS UPON DEFAULT:** Upon the occurrence of any Event of Default, the Agent may
2 exercise all rights and remedies of a secured party upon default under the Uniform Commercial Code as adopted in
3 Massachusetts (Massachusetts General Laws, Chapter 106), with respect to the Marks, in addition to which the
4 Agent may, upon written notice to the Borrower, sell, license, assign, transfer, or otherwise dispose of the Marks.
5 Any person may conclusively rely upon an affidavit of an officer of the Agent that an Event of Default has occurred
6 and that the Agent is authorized to exercise such rights and remedies.
7

8 9. **AGENT AS ATTORNEY IN FACT:**

9 (a) The Borrower hereby irrevocably constitutes and designates the Agent as and for the
10 Borrower's attorney in fact, effective following the occurrence of any Event of Default:

11 (i) To exercise any of the rights and powers referenced in Sections 3 and 5(b).

12 (ii) To execute all such instruments, documents, and papers as the Agent determines
13 to be appropriate in connection with the exercise of such rights and remedies and to cause the sale, license,
14 assignment, transfer, or other disposition of the Marks.

15 (b) The within grant of a power of attorney, being coupled with an interest, shall be
16 irrevocable until the Loan Agreement is terminated.

17 (c) The Agent shall not be obligated to do any of the acts or to exercise any of the powers
18 authorized by Section 9(a) herein, but if the Agent elects to do any such act or to exercise any of such powers, it
19 shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be
20 responsible to the Borrower for any act or omission to act except for any act or omission to act as to which there is a
21 final determination made in a judicial proceeding (in which proceeding the Agent has had an opportunity to be
22 heard) which determination includes a specific finding that the subject act or omission to act had been grossly
23 negligent or in actual bad faith.
24

25 10. **AGENT'S RIGHTS:**

26 (a) Any use by the Agent of the Marks, as authorized hereunder in connection with the
27 exercise of the Lenders' rights and remedies under this Agreement and under the Loan Agreement shall be
28 coextensive with the Borrower's rights thereunder and with respect thereto and without any liability for royalties or
29 other related charges.

30 (b) None of this Agreement, the Loan Agreement, or any act, omission, or circumstance
31 taken or arising hereunder may be construed as directly or indirectly conveying to the Agent any rights in and to the
32 Marks, which rights are not effective except following the occurrence of any Event of Default.
33

34 11. **INTENT:** It is intended that this Agreement supplement the Loan Agreement. All
35 provisions of the Loan Agreement shall apply to the Marks. The Agent shall have the same rights, remedies,

1 powers, privileges and discretions, with respect to the security interests created in the TM Collateral as in all other
2 Collateral. In the event of a conflict between this Agreement and the Loan Agreement, the terms of this Agreement
3 shall control with respect to the TM Collateral and the Loan Agreement with respect to all other Collateral.
4

5 12. **CHOICE OF LAWS:** It is intended that this Agreement take effect as a sealed instrument and
6 that all rights and obligations hereunder, including matters of construction, validity, and performance, shall be
7 governed by the laws of The Commonwealth of Massachusetts.

1
2 IN WITNESS WHEREOF, the Borrower and the Agent respectively have caused this Agreement to be
3 executed by their respective duly authorized officers as of the date first above written.
4

5 J. BAKER, INC.
6 (The "Borrower")

FLEET RETAIL FINANCE INC.
(The "Agent")

7 By..... *Elizabeth C. White*.....

By..... *Sally A. Sheehan*.....

9 Name..... Elizabeth C. White.....

Name..... *Sally A. Sheehan*.....

11 Title..... Chief Financial Officer.....

Title..... *Director*.....

13
14 THE..COMMONWEALTH.. OF....MASSACHUSETTS.....
15 COUNTY OF NORFOLK....., SS

16 Elizabeth
17 Then personally appeared before me Elizabeth who acknowledged that such person
18 is the duly authorized CFO..... of J. Baker, Inc. and that such person had executed the
19 foregoing instrument on its behalf.

20 Witness my hand and seal this 2nd day of April, 2001

21
22 *[Signature]*
23 _____
24 Notary Public
25 MY COMMISSION EXPIRES
26 FEBRUARY 24, 2008
27 My Commission Expires:

28 THE Commonwealth OF Massachusetts
29 COUNTY OF Suffolk....., SS

30 Then personally appeared before me Sally A. Sheehan who acknowledged that such person
31 is the duly authorized Director..... of Fleet Retail Finance Inc. and that such person had executed
32 the foregoing instrument on its behalf.

33 Witness my hand and seal this 3rd day of April, 2001

34 *[Signature]*
35 _____
36 , Notary Public
37 My Commission Expires:
38

39 ~~4/2/01~~ *EMI*
40 10/15/2004

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Exhibit A

J. Baker, Inc.

REG. TRADEMARKS & APPLICATIONS	OWNER	CLASS	COUNTRY	SERIAL NUMBER	FILE DATE	REG. NUMBER	REG. DATE
Husky (work boots)	J. Baker, Inc.	25	US	75/919458	02/15/00		
High & Mighty (SM)	J. Baker, Inc.	42	US	73/104771	10/29/76	1171694	09/29/81
High and Mighty	J. Baker, Inc.	25	US	73/046301	03/10/75	1034385	02/24/76

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