

09-04-2001

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To the Commissioner of Patents and Trademarks, original documents or copy thereof.

Submission Type <input type="checkbox"/> New <input checked="" type="checkbox"/> Resubmission (Non-Recordation) Document ID # <u>101766904</u> <input type="checkbox"/> Correction of PTO Error Reel # _____ Frame # _____ <input type="checkbox"/> Corrective Document Reel # _____ Frame # _____	Conveyance Type <input type="checkbox"/> Assignment <input type="checkbox"/> License <input checked="" type="checkbox"/> Security Agreement <input type="checkbox"/> Nunc Pro Tunc Assignment <input type="checkbox"/> Merger Effective Date _____ <input type="checkbox"/> Change of Name <input type="checkbox"/> Other
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S. 17
28.01

Conveying Party Execution Date June 8, 2000
Name Kleinert's, Inc. of Delaware, 120 W. Germantown Pike, Plymouth Meeting, PA 19462
 Individual General Partnership Limited Partnership Corporation Association
 Other
 Citizenship/State of Incorporation/Organization a Delaware corporation

Receiving Party
Name First Union National Bank, 123 S. Broad Street, 17th Floor, PA 1246, Philadelphia, PA 19109
 Individual General Partnership Limited Partnership Corporation Association
 Other
 Citizenship/State of Incorporation/Organization _____

Total number of pages including cover sheet, attachments, and document: 14

TRADEMARK APPLICATION NUMBER(S)	TRADEMARK REGISTRATION NUMBER(S)
75/526,374	48,993 140,859 1,253,822
	831,262 832,945
	386,836 706,794
	565,969 565,966
	1,545,432 1,290,120
	632,093 1,020,192

Name and address of party to whom correspondence concerning document should be mailed: Louis M. Heidelberger, Esq. Reed Smith LLP 2500 One Liberty Place 1650 Market Street Philadelphia, PA 19103 Attorney Docket No. <u>845566-60008</u>	Total number of applications and registration involved: <u>14</u>
	Total fee (37 CFR 3.41) <u>\$0.00</u>
	<input type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Previously charged deposit account on June 1, 2001 8. Deposit Account Number: <u>18-0586</u>

9. 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.

THOMAS J. MCWILLIAMS
Name of Person Signing

Signature

August 28, 2001
Date

Do not detach this portion
Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

06-01-2001



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101766904

To the Commissioner of Patents and Trademarks

and original documents or copy thereof.

Submission Type

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

5-29-01

Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
- Merger Effective Date _____
- Change of Name
- Other

Conveying Party

Name **Kleinert's, Inc. of Delaware**

Execution Date June 8, 2000

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

Receiving Party

Name **First Union National Bank**

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

Total number of pages including cover sheet, attachments, and document: 12

TRADEMARK APPLICATION NUMBER(S)

75/526,374

TRADEMARK REGISTRATION NUMBER(S)

48,993	140,859	1,253,822
831,262	832,945	
386,836	706,794	
565,969	565,966	
1,545,432	1,290,120	
632,093	1,020,192	

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

Louis M. Heidelberger, Esq.
Reed Smith LLP
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103 Attorney Docket No. 845566-60008

Total number of applications and registration involved: 14

Total fee (37 CFR 3.41) \$365.00

- Enclosed
- authorized to be charged to deposit account

8. Deposit Account Number: 18-0586

9. 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.

THOMAS J. MCWILLIAMS
Name of Person Signing

Signature

May 23, 2001
Date

Do not detach this portion

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

TRADEMARK
REEL: 002360 FRAME: 0215

**COLLATERAL ASSIGNMENT OF PATENTS,
TRADEMARKS, LICENSES AND COPYRIGHTS**

THIS COLLATERAL ASSIGNMENT OF PATENTS, TRADEMARKS, LICENSES AND COPYRIGHTS is made effective as of June 8, 2000, by **KLEINERT'S, INC. OF DELAWARE**, a Delaware corporation ("Assignor"), in favor of **FIRST UNION NATIONAL BANK**, as agent ("Agent") for itself and the lenders from time to time a party to the Loan Agreement as hereinafter defined (individually, a "Lender" and collectively the "Lenders"). Lenders and Agent may hereinafter be collectively referred to as the "**Lender Group**."

BACKGROUND

A. Pursuant to that certain Loan Agreement dated of even date herewith, by and among Assignor and certain affiliates of Assignor (collectively, the "**Borrowers**"), Guarantor (as defined therein) and the Lenders (as it may be amended, modified or supplemented, the "**Loan Agreement**"), Lenders have agreed to extend to Borrowers certain credit facilities.

B. The Loan Agreement provides, *inter alia*, that Assignor will grant to Agent a security interest in all of Assignor's assets, including, without limitation, its patents, patent rights, patent applications, servicemarks, trademarks, service trademark applications, service trade names, goodwill, copyrights and licenses.

NOW THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees as follows:

1. **Incorporation of Loan Agreement.** The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

2. **Collateral Assignment.** To secure the complete and timely payment and satisfaction of all Obligations, Assignor hereby collaterally assigns, mortgages, pledges, grants a security interest in, and transfers to Agent (for the benefit of the Lenders) as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale, to the extent permitted by law, all of Assignor's right, title and interest in and to all of its intellectual property now owned or existing or filed and hereafter acquired or arising or filed, including:

2.1 inventions, improvements, patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents listed on **Exhibit "A"**, attached hereto and made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (b) all income, royalties,

damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing, together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "**Patents**");

2.2 servicemarks, trademarks, servicemark and trademark registrations, trade names and trademark applications, including, without limitation, the servicemarks and trademarks and registrations and applications listed on **Exhibit "B"**, attached hereto and made a part hereof, and (a) all renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world except as to those to which an unaffiliated third party has a reversionary interest (all of the foregoing servicemarks, trademarks, servicemark and trademark registrations, servicemark and trade names and applications together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "**Trademarks**");

2.3 copyrights, copyright registrations, copyright applications and all copyrightable works, including computer programs, operating systems, application systems, hardware or software of any nature whatsoever owned by Assignor, whether operational, under development or inactive, including all object codes, source codes, modules, technical manuals, user manuals, operating instructions and procedures, in-put and out-put formats, program listings, narrative descriptions, program flow charts, file layouts, report layouts, screen layouts and other documentation therefor (including internal notes, memoranda, status evaluations, marketing information and write-ups), and all improvements, modifications, enhancements, new releases and revisions thereof, whether in machine-readable form, programming language or any other language or symbols, and whether stored, encoded, recorded or written on disk, tape, film, memory device, paper or other media of any nature; together with all tangible media upon which any of the foregoing are recorded or encoded, including, without limitation, all chips, disks, tapes, film and paper; including, without limitation, the copyrights, copyrights registrations and copyrights applications listed on **Exhibit "C"** attached hereto and made a part hereof, and (a) all renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, and (c) the right to sue for past, present and future infringements thereof (all of the foregoing items are sometimes referred to herein collectively as the "**Copyrights**");

2.4 license agreements with any other party, whether Assignor is a licensor or licensee under any such license agreement, including, without limitation, the licenses listed on **Exhibit "D"** attached hereto and made a part hereof, and the right to prepare for sale, sell and advertise for sale all inventory now or hereafter owned by Assignor and now or hereafter covered by such licenses, but in each case as to which Assignor is a licensee, as such grant may be restricted

by and in all cases subject to the license agreement from the licensor or sublicensor (all of the foregoing is hereinafter referred to collectively as the "Licenses"); and

2.5 the goodwill of Assignor's business connected with and symbolized by the Trademarks.

3. **Restrictions on Future Agreements.** Assignor agrees that until all Obligations shall have been satisfied in full and the Loan Agreement shall have been terminated, Assignor will not, without Agent's prior written consent, enter into any agreement (including, without limitation, any license or royalty agreement) which is inconsistent with Assignor's obligations under this Assignment or which is prohibited under the terms of the Loan Agreement, and Assignor further agrees that it will not take any action, or knowingly permit any action to be taken by others, subject to its control, including licensees, or knowingly fail to take any action, which would affect the validity or enforcement of the rights of the Agent under this Assignment.

4. **New Patents, Trademarks, Copyrights and Licenses.** Assignor represents and warrants that the Patents, Trademarks, Copyrights and Licenses listed on **Exhibits "A", "B", "C" and "D"**, respectively, constitute all of the patents, trademarks, applications, copyrightable works, copyrights and licenses now owned by Assignor. If, before all Obligations shall have been satisfied in full and the Loan Agreement shall have been terminated, Assignor shall (i) obtain rights to any new patentable inventions, technology, trademarks, trademark registrations, trade names, copyrightable works, copyrights or licenses, or (ii) become entitled to the benefit of any patent or trademark application, trademark, trademark registration, copyrightable works, copyright or license renewal, or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of **Section 2** above shall automatically apply thereto and Assignor shall give to Agent prompt written notice thereof. Assignor hereby authorizes Agent to modify this Assignment by amending **Exhibit "A", "B", "C" and/or "D"**, as applicable, to include any future patents, patent applications, technology, trademarks, trademark registrations, trademark applications, trade names, copyrightable works, copyrights and licenses which are Patents, Trademarks, Copyrights or Licenses, as applicable, under **Section 2** above or under this **Section 4**.

5. **Royalties; Term.** Assignor hereby agrees that the use by Agent of all Patents, Trademarks, Copyrights and Licenses as described above following an Event of Default under the Loan Agreement shall be worldwide and without any liability to Assignor for royalties or other related charges from Agent or any Lender. The term of the collateral assignment granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Trademarks, Copyrights and Licenses assigned hereunder, or (ii) the date on which all Obligations has been paid in full and the Loan Agreement is terminated.

6. **Agent's Right to Inspect.** Agent shall have the right, at any time and from time to time, to inspect Assignor's premises and to examine Assignor's books, records and operations, including, without limitation, Assignor's quality control processes. Assignor agrees (i)

not to sell or assign its interest in, or grant any license under, the Patents, Trademarks, Copyrights or Licenses, without the prior written consent of Agent, except in the ordinary course of business; (ii) to maintain the quality of any and all products in connection with which the Trademarks and/or the Copyrights are used, consistent with quality of said products as of the date hereof; (iii) not to materially adversely change the quality of said products without Agent's express written consent; and (iv) to provide Agent, upon request, with a certificate of an officer of Assignor certifying Assignor's compliance with the foregoing.

7. **Reassignment.** This Assignment is made for collateral purposes only and Agent's rights hereunder as assignee shall arise only upon the occurrence and continuation of an Event of Default. Upon payment in full of all Obligations and termination of the Loan Agreement, Agent shall execute and deliver to Assignor all deeds, assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Patents, Trademarks, Copyrights and Licenses, subject to any disposition thereof which may have been made by Agent pursuant hereto or pursuant to the Loan Agreement.

8. **Duties of Assignor.** Assignor shall have the duty (i) to prosecute diligently any patent, trademark and copyright application pending as of the date hereof or thereafter until all Obligations shall have been paid in full and the Loan Agreement is terminated, (ii) to make application on unpatented but patentable inventions and on trademarks and copyrightable works, as appropriate, and (iii) to preserve and maintain all rights in patent applications and patents of the Patents, in trademark applications, trademarks and trademark registrations of the Trademarks and in copyright applications and copyrights of the Copyrights. Any expenses incurred in connection with such applications shall be borne by Assignor. Assignor shall not abandon any right to file a patent, trademark or copyright application, or any pending patent, trademark or copyright application, or any Patent, Trademark or Copyright, without the consent of Agent.

9. **Agent's Right to Sue.** Agent shall have the right following not less than fifteen (15) business days' prior notice to Assignor, but shall in no way be obligated, to bring suit in its own name to enforce the Licenses, Patents, Copyrights and/or Trademarks, and any licenses thereunder, and, if Agent shall commence any such suit, Assignor shall, at the request of Agent, do any and all lawful acts and execute any and all proper documents required by Agent in aid of such enforcement and Assignor shall promptly, upon demand, reimburse and indemnify Agent for all costs and expenses incurred by Agent in the exercise of its rights under this **Section 9.**

10. **Waivers.** No course of dealing between Assignor and Agent, nor any failure to exercise, nor any delay in exercising, on the part of Agent, any right, power or privilege hereunder or under the Loan 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.

11. **Severability.** The provisions of this Assignment are severable, and if any clause or provision shall be invalid and unenforceable in whole or in part in any jurisdiction, then

such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Assignment in any jurisdiction.

12. Modification. This Assignment cannot be altered, amended or modified in any way, except as specifically provided in **Section 4** hereof or by a writing signed by the parties hereto.

13. Cumulative Remedies; Power of Attorney; Effect on Loan Agreement. All of Agent's rights and remedies with respect to the Patents, Trademarks, Copyrights and Licenses, whether established hereby or by the Loan Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Assignor hereby authorizes Agent to make, constitute and appoint any officer or agent of Agent as Agent may select, in its sole discretion, as Assignor's true and lawful attorney-in-fact, with power to (i) following an Event of Default, endorse Assignor's name on all applications, documents, papers and instruments necessary or reasonably desirable for the use by Agent or its successors or assigns of the Patents, Trademarks, Copyrights and/or Licenses, or (ii) take any other actions with respect to the Patents, Trademarks, Copyrights and/or Licenses as the Agent reasonably deems in the best interest of the Lenders, (iii) following an Event of Default, grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to anyone, or (iv) following an Event of Default, assign, pledge, convey or otherwise transfer title in or dispose of the Patents, Trademarks, Copyrights and/or Licenses to anyone, including Agent. Agent may act under such power of attorney to take the actions referenced in **Section 13** hereof. Agent hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until all Obligations shall have been paid in full and the Loan Agreement shall have been terminated. Assignor acknowledges and agrees that this Assignment is not intended to limit or restrict in any way the rights and remedies of Agent or Lenders under the Loan Agreement but rather is intended to facilitate the exercise of such rights and remedies given it by the terms of this Assignment, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents, Trademarks, Copyrights or Licenses may be located.

14. Binding Effect; Benefits. This Assignment shall be binding upon the Assignor and its successors and assigns, and shall inure to the benefit of the Agent, its nominees, successors and assigns.

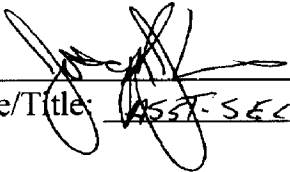
15. Governing Law. This Assignment shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to any rules or principles regarding conflicts of laws or any rule or canon of construction which interprets agreements against the draftsman.

16. Release. Notwithstanding anything to the contrary contained herein, Agent agrees to execute and deliver to Sellers such release, satisfaction or other evidence necessary to evidence the release of Agent's second priority lien on or security interest in the Collateral in the

event that such Collateral reverts to Sellers in accordance with the terms of that certain Asset Purchase Agreement among Kleinert's, Inc., BB&T Management Corp., Buster Brown Apparel, Inc. and Buster Brown Retail, Inc. dated June 25, 1999 (the "**Buster Brown Agreement**"). Capitalized terms used in this **Section 16** shall have such meaning as provided in the Buster Brown Agreement.

IN WITNESS WHEREOF, the Assignor has duly executed this Assignment effective as of the day and year first above written.

KLEINERT'S, INC. OF DELAWARE

By: 
Name/Title: ASST. SECRETARY C.O.O.

(CORPORATE SEAL)

EXHIBIT "A"

TO

**ASSIGNMENT OF PATENT, TRADEMARK,
COPYRIGHT AND LICENSES AGREEMENT**

Patents

None

EXHIBIT "B"

TO

**ASSIGNMENT OF PATENT, TRADEMARK,
COPYRIGHT AND LICENSES AGREEMENT**

Trademarks

See Attached

KLEINERT'S TRADEMARK DOCKET

February 21, 2000

MATTER NO.	TRADEMARK	COUNTRY	REGISTRATION/ APPLICATION STATUS	RENEWAL/ EXPIRATION DATE	FOREIGN ASSOCIATE
	PIXIE KLEINERT'S	UNITED STATES	75/526,374	client wishes to abandon	
	KLEINERT'S	UNITED STATES	48,993	11/18/06	
	UNDER-SHIELD	UNITED STATES	831,262	06/27/07	
0002	SOLITE	UNITED STATES	386,836	04/22/01	
0003	SLIP-ON	UNITED STATES	565,969	10/28/02	
0004	SCREAMERS	UNITED STATES	1,545,432	06/27/09	
0006	KLEINERT'S	UNITED STATES	623,093	03/13/06	
0007	KLEINERT'S	UNITED STATES	140,859	03/29/01	
0009	DURALITE	UNITED STATES	832,945	08/01/07	
0010	DRL-KLEEN	UNITED STATES	706,794	11/01/00	
0011	BOLERO	UNITED STATES	565,966	10/28/02	
0012	BABYGRO	UNITED STATES	1,290,120	08/14/04	
0013	BABYGRO and Design	UNITED STATES	1,020,192	09/09/05	
0015	BABYGRO	UNITED STATES	1,253,822	10/11/03	

EXHIBIT "C"

TO

**ASSIGNMENT OF PATENT, TRADEMARK,
COPYRIGHT AND LICENSES AGREEMENT**

Copyrights

None

EXHIBIT "D"

TO

**ASSIGNMENT OF PATENT, TRADEMARK,
COPYRIGHT AND LICENSES AGREEMENT**

Licenses

None

Exhibit "D" - Page 1

KRLSPH11: 109300.1

RECORDED: 05/29/2001

**TRADEMARK
REEL: 002360 FRAME: 0226**