

10-31-2001



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002)

10-25-01

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S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): dELiA*s Group, Inc.

- Individual(s)
General Partnership
Corporation-State DE
Other
Association
Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
Security Agreement
Other
Merger
Change of Name

Execution Date: September 24, 2001

2. Name and address of receiving party(ies)

Name: Wells Fargo Retail Finance LLC
Internal
Address: One Boston Place
Street Address: 18th Floor
City: Boston State: MA Zip: 02108

- Individual(s) citizenship
Association
General Partnership
Limited Partnership
Corporation-State DE
Other Limited Liability Company

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 No

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

Additional number(s) attached Yes No

2084854

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

Name: Christopher E. Kondracki

Internal Address:

6. Total number of applications and registrations involved:

13

7. Total fee (37 CFR 3.41) \$ 340.00

- 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.

Christopher E. Kondracki

Name of Person Signing

Signature

10/24/01

Date

10

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

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

10/30/2001 TPIAZI 00000064 2084854
01 FC:401 40.00
02 FC:402 300.00

**Trademark Registration
Continuation of Item 4B**

Mark	Filing Date	Registrations
Daisy Design	12/29/95	2,084,854
Daisy Design	12/29/95	2,104,334
Delia's	3/10/95	2,204,160
Delia's	4/25/97	2,169,351
Delia's	3/10/95	2,011,083
Delia's	3/10/95	2,076,125
Delia's	3/10/95	2,162,324
Delia's	3/10/95	1,997,643
Delia's	3/10/95	1,943,039
Delia's	3/28/94	1,908,572
Delia's	2/12/96	2,171,631
Delia's	2/12/96	2,092,322
Discount Domain	6/18/98	2,356,625

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3 **TRADEMARK AND TRADEMARK**
4 **APPLICATIONS SECURITY AGREEMENT**

Wells Fargo Retail Finance LLC

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September..24., 2001

THIS AGREEMENT is made between

Wells Fargo Retail Finance LLC (the "Lender"), a Delaware limited liability company with offices at One Boston Place - 18th Floor Boston, Massachusetts 02108

and

dELiA*s Group, Inc. (hereinafter, the "Company"), a Delaware corporation with its principal executive offices at 435 Hudson Street, New York, New York 10014

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

WITNESSETH:

1. **BACKGROUND:**

(a) The Lender and the Company and others have entered in a certain Loan and Security Agreement of even date (as such agreement may be modified, supplemented, amended or restated from time to time, hereinafter, the "Loan Agreement") pursuant to which a credit facility has been established in favor of the Company and under which the Company's Liabilities are to be secured by certain of the Company's assets, including all Marks (as defined herein)..

(b) Terms used herein which are defined in the Loan Agreement are used as so defined.

2. **GRANT OF SECURITY INTEREST:** To secure the Liabilities, the Company hereby creates a collateral interest, with power of sale in favor of the Lender (which power of sale shall be exercisable only following the occurrence of an Event of Default and which interest and power of sale are referred to herein as the "Security Interest") in and to the following and all proceeds thereof (collectively, the "TM Collateral"):

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

1 applications.

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

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

9
10 (d) The right to sue for past, present and future infringements and dilutions of
11 any of the foregoing.

12
13 (e) All of Company's rights corresponding to any of the foregoing throughout
14 the world.

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17 3. **PROTECTION OF MARKS BY COMPANY:** The Company shall
18 undertake the following with respect to each item respectively described in Sections 2(a) and
19 2(b) (collectively, the "Marks"), but only to the extent that such Mark is not abandoned as
20 permitted by the Loan Agreement:

21
22 (a) Pay all renewal fees and other fees and costs associated with maintaining
23 the Marks and with the processing of the Marks.

24
25 (b) At the Company's sole cost, expense, and risk, pursue the prompt, diligent,
26 processing of each Application for Registration which is the subject of the security interest
27 created herein and not abandon or delay any such efforts.

28
29 (c) At the Company's sole cost, expense, and risk, take any and all action
30 which Company deems desirable to protect the Marks, including, without limitation, but subject
31 to Company's discretion, the prosecution and defense of infringement actions.

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34 4. **COMPANY'S REPRESENTATIONS AND WARRANTIES:** The Company
35 represents and warrants that:

36
37 (a) **EXHIBIT A** includes all of the registered trademarks, Federal trademark
38 applications, registered service marks and Federal service mark applications now owned by the
39 Company.

40
41 (b) All TM Collateral is and shall remain, free and clear of all liens,
42 Encumbrances, or security interests to any Person other than Permitted Encumbrances,

43
44 (c) The Company shall give the Lender written notice (with reasonable detail)
45 within thirty (30) days following the occurrence of any of the following:

1 (i) The Company's obtaining rights to, and filing applications for
2 registration of, any new trademarks, or service marks, or otherwise acquires ownership of
3 any newly registered trademarks, registered service marks, trademark applications, or
4 service mark applications, (other than the Company's right to sell products containing the
5 trademarks of others in the ordinary course of Company's business).

6
7 (ii) The Company's becoming entitled to the benefit of any registered
8 trademarks, trademark applications, trademark licenses, trademark license renewals,
9 registered service marks, service mark applications, service mark licenses or service mark
10 license renewals whether as licensee or licensor (other than Company's right to sell
11 products containing the trademarks of others in the ordinary course of Company's
12 business).

13
14 (iii) The Company's entering into any material new trademark license
15 agreement or service mark license agreement.

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18 **5 AGREEMENT APPLIES TO FUTURE MARKS:**

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

23
24 (b) The Company hereby authorizes the Lender to take all such action to
25 protect the Lender's Security Interest in and concerning any future registered trademarks,
26 trademark applications, registered service marks and service mark applications, written notice of
27 which is so given, *provided, however*, the Lender's taking of such action shall not be a condition
28 to the creation or perfection of the security interest created hereby.

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31 **6. COMPANY'S RIGHTS TO ENFORCE MARKS:** Prior the Lender's giving of notice to
32 the Company following the occurrence of an Event of Default, the Company shall have the
33 exclusive right to sue for past, present and future infringement of the Marks including the right to
34 seek injunctions and/or money damages, in an effort by Company to protect the Marks against
35 encroachment by third parties, *provided, however*:

36
37 (a) Any money damages awarded or received by the Company on account of
38 such suit (or the threat of such suit) shall constitute TM Collateral.

39
40 (b) Following the occurrence of any Event of Default, the Lender, by notice to
41 the Company may be terminate or limit the Company's rights under this Section 6.

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44 **7. LENDER'S ACTIONS TO PROTECT MARKS:** In the event of
45

1 (a) the Company's failure, within twenty (20) days of written notice from the
2 Lender, to cure any failure by the Company to perform any of the Company's obligations
3 set forth in Section 3; and/or
4

5 (b) the occurrence of any Event of Default,
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7 the Lender, acting in its own name or in that of the Company, may (but shall not be required to)
8 act in the Company's place and stead and/or in the Lenders' own right in connection therewith.
9

10
11 8. **RIGHTS UPON DEFAULT:** Upon the occurrence of any Event of Default, the
12 Lender may exercise all rights and remedies of a secured party upon default under the Uniform
13 Commercial Code as adopted in Massachusetts (Massachusetts General Laws, Chapter 106),
14 with respect to the Marks, in addition to which the Lender may sell, license, assign, transfer, or
15 otherwise dispose of the Marks. Any person may conclusively rely upon an affidavit of an
16 officer of the Lender that an Event of Default has occurred and that the Lender is authorized to
17 exercise such rights and remedies.
18

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20 9. **LENDER AS ATTORNEY IN FACT:**
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22 (a) The Company hereby irrevocably constitutes and designates the Lender as
23 and for the Company's attorney in fact, which designation the Lender may exercise only
24 following the occurrence of any Event of Default:
25

26 (i) To exercise any of the rights and powers referenced in Sections 3
27 and 5(b).
28

29 (ii) To execute all such instruments, documents, and papers as the
30 Lender reasonably determines to be appropriate in connection with the exercise of such
31 rights and remedies and to cause the sale, license, assignment, transfer, or other
32 disposition of the Marks.
33

34 (b) The within grant of a power of attorney, being coupled with an interest,
35 shall be irrevocable until this Agreement is terminated by a duly authorized officer of the Lender.
36

37 (c) The Lender shall not be obligated to do any of the acts or to exercise any
38 of the powers authorized by Section 9(a) herein, but if the Lender elects to do any such act or to
39 exercise any of such powers, it shall not be accountable for more than it actually receives as a
40 result of such exercise of power, and shall not be responsible to the Company for any act or
41 omission to act except for any act or omission to act as to which there is a final determination
42 made in a judicial proceeding (in which the Lender has been given an opportunity to be heard),
43 from which finding no further appeal is available, which determination includes a specific
44 finding that the Lender had acted in a grossly negligent manner, in actual bad faith or in wilful
45 misconduct,

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2 10. LENDER'S RIGHTS:
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4 (a) Any use by the Lender of the Marks, as authorized hereunder in
5 connection with the exercise of the Lender' rights and remedies under this Agreement and under
6 the Loan Agreement shall be coextensive with the Company's rights thereunder and with respect
7 thereto and without any liability for royalties or other related charges.
8

9 (b) None of this Agreement, the Loan Agreement, or any act, omission, or
10 circumstance taken or arising hereunder may be construed as directly or indirectly conveying to
11 the Lender any rights in and to the Marks, which rights are effective except following the
12 occurrence of any Event of Default.
13


14
15 11. INTENT: It is intended that this Agreement supplement the Loan Agreement.
16 All provisions of the Loan Agreement shall apply to the Marks. The Lender shall have the same
17 rights, remedies, powers, privileges and discretions, with respect to the security interests created
18 in the TM Collateral as in all other Collateral. In the event of a conflict between this Agreement
19 and the Loan Agreement, the terms of this Agreement shall control with respect to the TM
20 Collateral and the Loan Agreement with respect to all other Collateral.
21

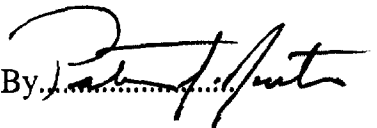
22
23 12. CHOICE OF LAWS: It is intended that this Agreement take effect as a sealed
24 instrument and that all rights and obligations hereunder, including matters of construction,
25 validity, and performance, shall be governed by the laws of The Commonwealth of
26 Massachusetts.
27

28
29 IN WITNESS WHEREOF, the Company and the Lender respectively have caused this
30 Agreement to be executed by their respective duly authorized officers as of the date first above
31 written.
32

33 DELIA*S GROUP, INC.
34 (The "Company")

WELLS FARGO RETAIL FINANCE LLC
(The "Lender")

35
36 By.....
37
38 Name.....THOMAS MURPHY
39
40 Title.....Sr. VP. Finance
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42

By.....
Name.....PATRICK J. NORTON
Title.....Vice President

Commonwealth

THE OF Massachusetts
COUNTY OF Suffolk

Then personally appeared before me Thomas Murray who acknowledged that such person is the duly authorized Solicitor of dELIA*s..... and that such person had executed the foregoing instrument on its behalf.

Witness my hand and seal this 27th day of September, 2001.

June V. Fredrick
June V. FREDRICK Notary Public

My Commission Expires: 11/2/2001

Commonwealth

THE OF Massachusetts
COUNTY OF Suffolk

Then personally appeared before me Patrick J. Neri who acknowledged that such person is the duly authorized President of Wells Fargo Retail Finance LLC and that such person executed the foregoing instrument on its behalf.

Witness my hand and seal this 27th day of September, 2001.

June V. Fredrick
June V. FREDRICK Notary Public

My Commission Expires: 11/2/2001

EXHIBIT A

Company's now owned or existing or hereafter acquired or arising registered service marks and Federal service mark applications, registered trademarks, and Federal trade mark applications:

Trademark/Service Mark Registrations

TRADEMARK REGISTRATION NUMBER REGISTRATION DATE

Trademark Applications

MARK SERIAL NUMBER FILING DATE

EXHIBIT A**dELIA*s Group Inc. (f/k/a dELiA*s Inc.)****Registrations and Pending Applications**

<u>COUNTRY</u>	<u>REFERENCE#</u>	<u>FILED</u>	<u>APPL#</u>	<u>REGDT</u>	<u>REG#</u>	<u>STATUS</u>	<u>CLASSES</u>
DAISY DESIGN							
UNITED STATES	24243016US	12/29/95	75/038,789	7/29/97	2,084,854	REGISTERED	25
UNITED STATES	24243042US	12/29/95	75/976,254	10/7/97	2,104,334	REGISTERED	3
DELIA'S (word mark)							
UNITED STATES	24243003US	3/10/95	75/644,794	11/17/98	2,204,160	REGISTERED	09
UNITED STATES	24243034US	4/25/97	75/277,416	6/30/98	2,169,351	REGISTERED	16
UNITED STATES	24243004US	3/10/95	74/644,795	10/22/96	2,011,083	REGISTERED	14
UNITED STATES	24243006US	3/10/95	74/644,799	7/1/97	2,076,125	REGISTERED	18
UNITED STATES	24243008US	3/10/95	74/644,798	6/2/98	2,162,324	REGISTERED	24
UNITED STATES	24243009US	3/10/95	74/644,797	8/27/96	1,997,643	REGISTERED	25
UNITED STATES	24243010US	3/10/95	74/644,800	12/19/95	1,943,039	REGISTERED	25
UNITED STATES	24243011US	3/28/94	74/505,280	8/1/95	1,908,572	REGISTERED	25,42
UNITED STATES	24243018US	2/12/96	75/056,360	7/7/98	2,171,631	REGISTERED	42
UNITED STATES	24243041US	2/12/96	75/976,281	8/26/97	2,092,322	REGISTERED	42
DISCOUNT DOMAIN							
UNITED STATES	24243063US	6/18/98	75/504,757	6/13/00	2,356,625	PUBLISHED	35