

05-14-2002



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RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

U.S. Department of Commerce  
Patent and Trademark Office

TRADEMARK

OFFICE OF PUBLIC RECORDS

MAY -3 AM 7:04

FINANCE SECTION

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

Submission Type



New

5-3-02



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



Change of Name



Other

Effective Date  
Month Day Year

4 9 02

Conveying Party



Mark if additional names of conveying parties attached

Name Factory Card Outlet of America Ltd.

Execution Date  
Month Day Year

Formerly



Individual



General Partnership



Limited Partnership



Corporation



Association



Other



Citizenship/State of Incorporation/Organization

Illinois

Receiving Party



Mark if additional names of receiving parties attached

Name Wells Fargo Retail Finance, LLC, as Agent

DBA/AKA/TA

Composed of

Address (line 1)

One Boston Place

Address (line 2)

18th Floor

Address (line 3)

Boston

MA

State/Country

02108

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 Limited Liability Company



Citizenship/State of Incorporation/Organization

Delaware

05/14/2002 LNUELLER 00000035 76380142

FOR OFFICE USE ONLY

01 FD:481  
02 FD:482

40.00 OP  
100.00 OP

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

P.2 NO.242

APR.24.2002 9:31AM CHORTE HALL & STEWART

TRADEMARK

RECEIVED 4/14/02 10:00AM J. HELENE A SCHILLER ESQ: #29; PAGE 2 REEL: 2504 FRAME: 0523

## 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 (617) 248-2127

Name

Heidi A. Schiller, Esq.

Address (line 1)

Choate, Hall &amp; Stewart

Address (line 2)

Exchange Place, 53 State Street

Address (line 3)

Boston, MA 02109

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)

76380142

1834212

76380143

1834213

2093234

## Number of Properties

Enter the total number of properties involved.

#

5

## Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

140.00

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:

#

03-1721

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.

Heidi A. Schiller

Name of Person Signing

Signature

Date Signed

## INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (as amended, supplemented or otherwise modified from time to time, the "Intellectual Property Security Agreement") is made and effective as of April 9, 2002, by Factory Card Outlet of America Ltd., an Illinois corporation (including any successors or permitted assignees thereof, collectively, the "Grantor"), in favor of Wells Fargo Retail Finance, LLC, as Agent for each of the Lenders from time to time party to the Loan Agreement referred to below (the "Agent"). Capitalized terms used in this Intellectual Property Security Agreement and not otherwise defined shall have the respective meanings ascribed to such terms in the Loan Agreement (as hereinafter defined).

### RECITALS

**WHEREAS**, pursuant to the Loan and Security Agreement (as amended, supplemented or otherwise modified from time to time, the "Loan Agreement") dated as of the date hereof by and among the Grantor, the Agent and the Lenders from time to time party thereto (the "Lenders"), the Lenders have agreed, subject to the terms and conditions set forth therein, to make certain advances and provide other financial accommodations to the Grantor (collectively, the "Advances"); and

**WHEREAS**, it is a condition precedent to the obligation of the Agent and the Lenders to execute and perform under the Loan Agreement that Grantor shall have executed and delivered this Intellectual Property Security Agreement to the Agent, for the ratable benefit of each of the Lenders.

**NOW, THEREFORE**, in consideration of the willingness of the Agent and the Lenders to enter into the Loan Agreement and to agree, subject to the terms and conditions set forth therein, to make the Advances to the Grantor pursuant thereto, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. Grant of Security Interest. To secure the Grantor's prompt, punctual and faithful performance of all and each of the Obligations, the Grantor hereby grants to Agent, for its benefit and the ratable benefit of each of the Lenders, a continuing first priority security interest in all of the right, title and interest of the Grantor in and to the following property, whether now owned or hereafter acquired (the "Intellectual Property Collateral"):

(a) the U.S and foreign copyrights, associated copyright registrations and applications for copyright registration, and copyright licenses set forth on Schedule A attached hereto (collectively, the "Copyrights");

(b) the U.S. and foreign patents and patent applications, and patent licenses set forth on Schedule B attached hereto, including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same (collectively, the "Patents");

(c) the U.S., state and foreign trademark and service mark registrations, trademark and service mark applications, and trademark and service mark licenses set forth on Schedule C attached hereto and all goodwill associated with the foregoing (collectively, the “Trademarks”);

(d) the domain names and registrations set forth on Schedule D attached hereto and all goodwill associated with the foregoing (collectively, the “Domain Names”);

(e) any and all claims and causes of action for past, present or future infringement of any of the Intellectual Property Collateral, with the right, but not the obligation, to sue for and collect damages for infringement of the Intellectual Property Collateral;

(f) any and all licenses or rights granted under any of the Intellectual Property Collateral, and all license fees and royalties arising from such licenses or rights, to the extent permitted by such licenses or rights;

(g) any and all amendments, renewals, extensions, reissuances and replacements of any of the Intellectual Property Collateral; and

(h) any and all products and proceeds of any of the foregoing.

2. Requested Recordation. The Grantor authorizes and requests that the Registrar of Copyrights and the Commissioner of Patents and Trademarks (and any state, foreign or other authorities to which this Intellectual Property Security Agreement is submitted) file and record this Intellectual Property Security Agreement (and any corresponding or separate application forms of such jurisdiction) in order to reflect publicly the interests of the Agent and the Lenders in the Intellectual Property Collateral.

3. Assignment. Upon the occurrence of and during continuation of an Event of Default, the Grantor shall execute and deliver to Agent an absolute assignment transferring its entire right, title, and interest in and to the Intellectual Property Collateral to the Agent, for its benefit and the ratable benefit of the Lenders.

4. Power of Attorney. The Grantor hereby irrevocably grants the Agent for its benefit and for the ratable benefit of the Lenders a power of attorney, to act as the Grantor’s attorney-in-fact, with full authority in the name, place and stead of the Grantor, from time to time in the Agent’s discretion, to take any action and to execute any instrument which the Agent may deem reasonably necessary or advisable to accomplish the purposes of this Intellectual Property Security Agreement. This authority includes, without limitation, the following:

(a) to modify or amend (in sole discretion of the Agent and the Lenders and without first obtaining the Grantor’s approval of or signature thereto) Schedule A, Schedule B, Schedule C, and/or Schedule D hereof, as appropriate, to include references to any registered intellectual property (or application or license therefor) acquired by the Grantor after the execution hereof or to delete any reference to any Intellectual Property Collateral in which the Grantor no longer have or claim any right, title or interest;

(b) to execute, file and pursue (in sole discretion of the Agent and the Lenders and without first obtaining the Grantor's approval of or signature thereto, unless otherwise prohibited by applicable law) any application, form or other document in order to perfect, maintain, continue or otherwise protect the Agent's interest or the Grantor's rights in the Intellectual Property Collateral, including, without limitation, executing and filing (i) any financing statement, any continuation statement or any amendment thereto, and (ii) any document in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or the relevant office of any state or foreign jurisdiction (including, without limitation, the filing of applications for renewal, affidavits of use, affidavits of incontestability and opposition, interference and cancellation proceedings) and to pay any fees and taxes in connection therewith or otherwise; and

(c) to execute any document required to acknowledge, register or perfect the interest of the Agent and the Lenders in any part of the Intellectual Property Collateral without the signature of the Grantor unless prohibited by applicable law.

The foregoing power of attorney is coupled with an interest and is irrevocable.

5. Release. Unless otherwise agreed in writing by the parties, the security interests granted herein will terminate (and all rights to the Intellectual Property Collateral will revert to the Grantor) upon satisfaction of the following conditions: (a) payment and performance in full of all the Obligations secured hereby (unconditionally and indefeasibly) and (b) the termination of the Loan Agreement. Upon any such termination, the Agent (at the Grantor's request and sole expense) will promptly execute and deliver to the Grantor (without any representation, warranty or recourse of any kind whatsoever) such documents as the Grantor may reasonably request and provide to the Agent to evidence such termination.

6. Miscellaneous.

(a) This Intellectual Property Security Agreement has been entered into in conjunction with the provisions of and the security interest granted to the Agent, for its benefit and the ratable benefit of the Lenders, under the Loan Agreement. The rights and remedies of the Grantor and the Agent with respect to the security interests granted herein are in addition and without prejudice to those set forth in the Loan Agreement, all terms and provisions of which are hereby incorporated herein by reference. In the event that any provisions of this Intellectual Property Security Agreement are deemed to conflict with the Loan Agreement or the other Loan Documents, the provisions of the Loan Agreement or such other Loan Documents shall govern.

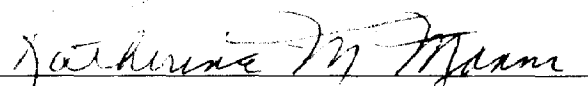
(b) This Intellectual Property Security Agreement may be executed in any number of counterparts with the same effect as if all the signatures on such counterparts appeared on one document; each such counterpart will be deemed to be an original but all counterparts together will constitute one and the same instrument.

[Signatures appear on following pages.]

# ACKNOWLEDGMENT

STATE OF The Commonwealth of Massachusetts  
~~STATE OF~~  
: SS  
COUNTY OF Suffolk :

Before me, the undersigned, a Notary Public, on this 9<sup>th</sup> day of April, 2002,  
personally appeared James Constantine to me known personally, who, being by me duly  
sworn, did say that he/she is the Executive V.P. of FACTORY CARD OUTLET OF  
AMERICA LTD., and that said Intellectual Property Security Agreement was signed on behalf  
of said FACTORY CARD OUTLET OF AMERICA LTD., by authority of its board of directors,  
and the said James Constantine acknowledged said instrument to be his/her free act and deed.


  
\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

KATHERINE MANN  
NOTARY PUBLIC  
My Commission Expires May 29, 2006

**IN WITNESS WHEREOF**, the parties hereto have executed this Intellectual Property Security Agreement, as an instrument under seal, through their duly authorized officers, as of the date first written above.

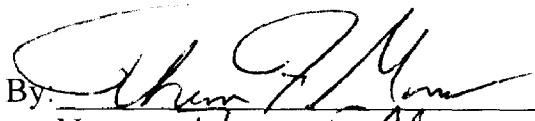
**GRANTOR:**

FACTORY CARD OUTLET OF AMERICA LTD.

By:   
Name: JAMES CONSTANTINE  
Title: Executive Vice President &  
Chief Executive Officer

**AGENT:**

WELLS FARGO RETAIL FINANCE, LLC,  
as Agent

By:   
Name: Thomas J. McRae  
Title: Vice President

**SCHEDULE A**

**COPYRIGHT COLLATERAL**

Registered Copyrights

None.

Pending Copyright Applications

None.



**SCHEDULE B**

**PATENT COLLATERAL**

Registered Patents

None.

Pending Patent Applications

None.

## SCHEDULE C

### TRADEMARK COLLATERAL

#### Registered Trademarks

<u>Jurisdiction</u>	<u>Title</u>	<u>Registration No.</u>	<u>Registration Date</u>
U.S.	PARTY MANIA! (STYLIZED)	1,834,212	May 3, 1994
U.S.	PARTY MANIA	1,834,213	May 3, 1994
U.S.	FACTORY CARD OUTLET	2,093,234	September 2, 1997

#### Trademark Applications

<u>Jurisdiction</u>	<u>Title</u>	<u>Application No.</u>	<u>Filing Date</u>
U.S.	FACTORY CARD & PARTY OUTLET	76/380,142	March 8, 2002
U.S.	FACTORY CARD & PARTY OUTLET (AND DESIGN)	76/380,143	March 8, 2002

#### Trademark Licenses

None.

## **SCHEDULE D**

### **DOMAIN NAMES**

None.