

07-25-2002

Form PTO-1594

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

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

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

1. Name of conveying party(ies):

Saratoga Spring Water Company

- ☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☒ Corporation-State Delaware
☐ Other _____

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

3. Nature of conveyance:

- ☐ Assignment ☐ Merger
☒ Security Agreement ☐ Change of Name
☐ Other December 28, 2001

Execution Date: _____

2. Name and address of receiving party(ies)

Name: KeyBank National Association

Internal

Address: _____

Street Address: 66 South Pearl Street

City: Albany State: NY Zip: 12207

- ☐ Individual(s) citizenship _____
☐ Association _____
☐ General Partnership _____
☐ Limited Partnership _____
☐ Corporation-State _____
☒ Other National Banking Association

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) See Attached

B. Trademark Registration No.(s) See Attached

Additional number(s) attached ☒ Yes ☐ No

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

Name: Robert A. Lippman, Esq.

Internal Address: Lemery Greisler LLC

Street Address: 10 Railroad Place

Saratoga
City: Springs State: NY Zip: 12866

6. Total number of applications and registrations involved: 14

7. Total fee (37 CFR 3.41).....\$365.00

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number:

FINANCE SECTION

JUL 23 AM 9 48

RECORDS

9. Signature.

07/24/2002 DBYRNE 00000192 129867

01 FC:48
02 FC:48Robert A. Lippman
Name of Person Signing40.00 DP
325.00 DP

Signature

July 18, 2002

Date

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

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

TRADEMARK
 REEL: 002549 FRAME: 0556

Additional name of conveying party:

SSW Acquisition Corp., a New York Corporation

Trademark Registrations subject to security agreement 12/28/02

MARK	REG. NUMBER
SARATOGA VICHY	129,867
SARATOGA & RACETRACK DESIGN	1,580,394
SARATOGA	1,256,330
RACETRACK DESIGN	1,580,393
SARATOGA SPRING WATER	2,129,959
SARATOGA VICHY WATER SV	822,963
SV DESIGN	372,822
SARATOGA SPLASH	2,131,922
EVERYTHING ELSE IS JUST WATER	2,233,022
S (stylized)	1,198,188
MAN DESIGN	2,022,888

Trademark Applications subject to security agreement 12/28/02

MARK	SERIAL NUMBER
SARATOGA SODA	75/662,774
SARATOGA SMOOTHIES	75/669,883
SARATOGA CLASSICS	75/662,463

CONTINGENT PATENT, TRADEMARK, AND LICENSE ASSIGNMENT

THIS CONTINGENT PATENT, TRADEMARK, AND LICENSE ASSIGNMENT ("*Assignment*") is made by **SARATOGA SPRING WATER COMPANY**, a Delaware corporation having its principal office and place of business at 11 Geyser Road, Saratoga Springs, New York 12866 (herein, together with its successors and assigns, "**Saratoga**") and **SSW ACQUISITION CORP.**, a New York corporation, having its principal office and place of business at 11 Geyser Road, Saratoga Springs, New York 12866 (herein, together with its successors and assigns, "**SSW**" with Saratoga and SSW collectively referred to herein as "*Assignors*"), in favor of **KEYBANK NATIONAL ASSOCIATION**, a national banking association having its principal office and place of business at 66 South Pearl Street, Albany, New York 12207 ("*Assignee*");

WITNESSETH:

WHEREAS, Assignors and Assignee are parties to a certain Credit Agreement of even date herewith (as the same may hereafter be amended, supplemented, amended and restated, renewed or otherwise modified from time to time, the "*Credit Agreement*"), which Credit Agreement provides (i) for the Assignee to extend credit to, or for the account of, Assignors and (ii) for the grant by Assignors to Assignee of a security interest in certain of Assignors' assets, including, without limitation, their patents, patent applications, service marks, service mark applications, service names, trademarks, trademark applications, trade names, goodwill 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, Assignors agree as follows:

1. Assignment of Patents. To secure the complete and timely satisfaction of all of the liabilities and obligations of every kind or nature of Assignors to Assignee under or related to the Credit Agreement and all notes, agreements, and documents delivered in connection therewith, including as extended, modified, or replaced from time to time (the "*Obligations*"), Assignors hereby grant, assigns and conveys to Assignee all of the Assignors' right, title and interest in and to all of their now owned or existing and filed and hereafter acquired or arising and filed patents and patent applications, and the inventions and improvements described and claimed therein, including those listed on Schedule 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 patents and applications, together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "*Patents*").

2. Security Interest in Trademark, Goodwill, and Licenses. To secure the complete and timely satisfaction of all of the Obligations, Assignors hereby grant and convey to Assignee a lien and security interest in all of the Assignors' right, title and interest in and to all of their now owned or existing and filed and hereafter acquired or arising and filed:

(i) trademarks, trademark registrations, trade names and trademark applications, service marks, service mark registrations, service names and service mark applications, including, without limitation, the trademarks, trademark registrations, trade names and trademark applications, service marks, service mark registrations, service names and service mark applications listed on Schedule B, attached hereto and made a part thereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payment 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 which foregoing trademarks, service marks, trademark and service mark registrations, trade names, service names and applications, together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "*Trademarks*");

(ii) the goodwill of Assignors' business including but not by way of limitation such goodwill connected with and symbolized by the Trademarks (the "*Goodwill*"); and

(iii) license agreements with any other party relating to intellectual property or proprietary rights of any kind or nature, whether Assignors are licensors or licensees under any such license agreement, including, without limitation, the licenses listed on Schedule C attached hereto (the "*Licenses*").

3. Restrictions on Future Assignments. Assignors agree that until the Obligations shall have been satisfied in full and the Credit Agreement shall have been terminated, Assignors will not, without Assignee's prior written consent, enter into any agreement relating to the Patents, Trademarks, Goodwill, or Licenses which would limit or restrict the rights of Assignee hereunder and Assignors further agree that they will not take any action, or permit any action to be taken by others subject to their control, including licensees, or fail to take any action which would affect the validity or enforcement of the rights transferred to Assignee under this Assignment; provided, however, that Assignors may abandon or withdraw U.S. trademark application numbers 75/669,883 and 75/662,463 so long as Assignee does not use or have an intention to use the Trademarks SARATOGA SMOOTHIES or SARATOGA CLASSICS for any purpose.

4. New Patents and Trademarks. Assignors represent and warrant that the Patents, Trademarks, and Licenses listed on Schedules A, B, and C, respectively, constitute all of the patents, service marks, trademarks, applications and licenses now owned by Assignors. If, before the Obligations shall have been satisfied in full, Assignors shall (i) obtain rights to any new patentable inventions, trademarks, trademark registrations, trade names, service marks, service mark registrations, service names, or licenses, or (ii) become entitled to the benefit of any patent, service mark or trademark application, service mark, service mark registration, trademark, trademark registration, 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 this Assignment shall automatically apply thereto and Assignors shall give to Assignee prompt written notice thereof. Assignors hereby authorize Assignee as attorney-in-fact to modify this Assignment by amending Schedules A, B, and C, as applicable, to include any future patents, patent applications, service marks, service mark registrations, service mark applications, service names, trademarks, trademark registrations, trademark applications, trade names and licenses which are Patents, Trademarks or Licenses, as applicable, under Sections 1 and 2 above or under this Section 4, and to file or refile this Assignment with the United States Patent and Trademark Office.

5. Representations and Warranties. Assignors represent and warrant to and agree with Assignee that:

(i) the Patents (to the extent issued), Trademarks, and Licenses are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;

(ii) to the best knowledge of Assignors, each of the Patents, Trademarks, and Licenses is valid and enforceable;

(iii) Assignors are the owner of the Patents, Trademarks, and to the extent indicated therein, Licenses, and have the power and authority to make, and will continue to have authority to perform, this Assignment according to its terms;

(iv) to the best knowledge of Assignors, this Assignment does not violate and is not in contravention of any other agreement to which Assignors are a party or any judgment or decree by which Assignors are bound and does not require any consent under any other agreement to which Assignors are a party or by which Assignors are bound;

(v) there has been no prior sale, pledge, encumbrance, assignment or other transfer or disposition of any of the Patents, Trademarks, or Licenses or any part thereof, and the same are free from all liens, charges and encumbrances of any kind, including but not limited to licenses, shop rights and covenants not to sue third persons, other than liens permitted by the Credit Agreement; and

(vi) the failure of either Assignor to use the trademarks SARATOGA SMOOTHIES and SARATOGA CLASSICS and to prosecute U.S. trademark application serial numbers 75/669,883 and 75/662,463 will not have a Material Adverse Effect (as that term is defined in the Credit Agreement) on the business of either Assignor.

6. Royalties/Term. Assignors hereby agree that the use by Assignee of all Patents, Trademarks and Licenses, if any, as described above shall be worldwide and without any liability for royalties or other related charges from Assignee to the Assignors. The term of the assignments granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Trademarks and Licenses assigned hereunder, or (ii) the Obligations have been paid in full and the Credit Agreement has been terminated.

7. Grant of License to Assignors. Unless and until an "Event of Default" (as defined in the Credit Agreement) shall have occurred, Assignee hereby grants to Assignors a nontransferable right and license to use the Trademarks and Licenses, if any, and to make, have made, use and sell the inventions disclosed and claimed in the Patents for Assignors' own benefit and account and for none other. Assignors agree not to sell or assign their interest in, or grant any sublicense under, the license granted to Assignors in this Section 7 without the prior written consent of Assignee. From and after the occurrence of an Event of Default, Assignors' license with respect to Patents, Trademarks, and Licenses, if any, as set forth in this Section 7 shall terminate forthwith, and Assignee shall have, in addition to all other rights and remedies given it by this Assignment, those 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, and Licenses may be located, including, but not by way of limitation, the location of Assignee's headquarters.

8. Reassignment to Assignors. Upon payment in full of the obligations and termination of the Credit Agreement, Assignee shall execute and deliver to Assignors all assignments and other instruments as may be necessary or proper to re-vest in Assignors full title to the Patents and Trademarks, subject to any disposition thereof which may have been made by Assignee pursuant hereto or pursuant to the Credit Agreement.

9. Duties of Assignors. Assignors shall have the duty to (i) prosecute diligently any patent application of the Patents made by them and any trademark or service mark application of the Trademarks made by them pending as of the date hereof or thereafter until the Obligations shall have been paid in full, (ii) make application on unpatented but patentable inventions and on trademarks and service marks, as appropriate, and (iii) preserve and maintain all of their rights in patent applications and patents of the Patents and in trademark applications, trademarks, trademark registrations, service mark applications, service marks, and service mark registrations of the Trademarks. Any expenses incurred in connection with such applications shall be borne by Assignors. Assignors shall not abandon any right to file a Patent application or Trademark application, or any pending Patent application, Trademark application, Patent, nor Trademark without the consent of Assignee which will not be unreasonably withheld.

10. Financing Statements/Documents. Assignors authorize the Assignee to execute and file, and at the request of Assignee, Assignors will join with Assignee in executing one or more financing statements pursuant to the New York version of the Uniform Commercial Code in form satisfactory to Assignee, and will pay the costs of filing and/or recording this Assignment and all financing, continuation and termination statements in all public offices where filing or recording is deemed necessary or desirable by Assignee. Assignors will execute and deliver to Assignee from time to time such supplemental assignments or other instruments, including, but not by way of limitation, additional assignments to be filed with the United States Patent and Trademark office, as Assignee may require for the purpose of confirming Assignee's interest in the Patents, Trademarks and Licenses. Assignors hereby authorize the Commissioner of Patents and Trademarks to issue any and all Patents on such inventions and any and all certificates of registration on all Trademarks to Assignee as assignee of Assignors' entire interest.

11. Assignee's Right to Sue. Assignee shall have the same rights, if any, as Assignors have, but shall in no way be obligated, to bring suit in their own name to enforce the Patents, Trademarks, and Licenses, and, if Assignee shall commence any such suit, Assignors shall, at the request of Assignee, do any and all lawful acts and execute any and all proper documents required by Assignee in aid of such enforcement and Assignors shall promptly, upon demand and as a part of the obligations, reimburse and indemnify Assignee for all costs and expenses incurred by Assignee in the exercise of its rights under this Section 11. After first giving Assignee a reasonable opportunity to bring suit in its own name to enforce the Patents, Trademarks, and Licenses, Assignors may bring such suit in their own name.

12. Waivers. No course of dealing between Assignors and Assignee nor any failure to exercise nor any delay in exercising, on the part of Assignee, any right, power or privilege hereunder or under the Credit 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.

13. Severability. The provisions of this Assignment are severable, and if any clause or provision shall be held 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.

14. 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.

15. Cumulative Remedies/Effect on Credit Agreement. All of Assignee's rights and remedies with respect to the Patents and Trademarks, whether established hereby or by the Credit Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Assignors acknowledge and agree that this Assignment is not intended to limit or restrict in any way the rights and remedies of Assignee under the Credit Agreement but rather is intended to facilitate the exercise of such rights and remedies.

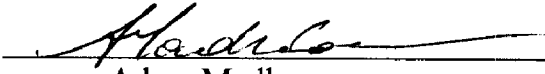
16. Binding Effect/Benefits. This Assignment shall be binding upon the Assignors and their respective successors and assigns, and shall inure to the benefit of Assignee, its successors and assigns.

17. Governing Law. This Assignment has been delivered and accepted in, and shall be governed by and construed in accordance with the laws of, the State of New York without giving effect to principles of conflicts of laws.

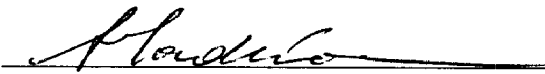
[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Assignors, by their duly authorized officers, have executed this Assignment as of December 28, 2001.

SARATOGA SPRING WATER COMPANY

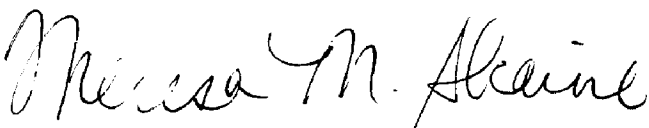
By: 
Adam Madkour
President & CEO

SSW ACQUISITION CORP.

By: 
Adam Madkour, President

STATE OF NEW YORK)
)SS.:
COUNTY OF ALBANY)

On the 29th day of December in the year 2001 before me, the undersigned, a notary public in and for said state, personally appeared Adam Madkour, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

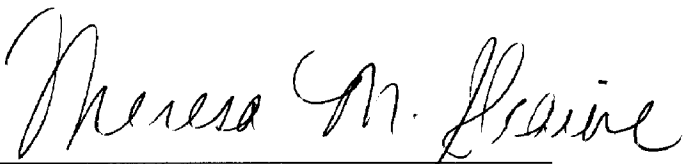


Notary Public

STATE OF NEW YORK)
)SS.:
COUNTY OF ALBANY)

TERESA M. SKANE
Notary Public, State of New York
Saratoga County #02SK5027889
Commission Expires May 23, 2002

On the 29th day of December in the year 2001 before me, the undersigned, a notary public in and for said state, personally appeared Adam Madkour, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

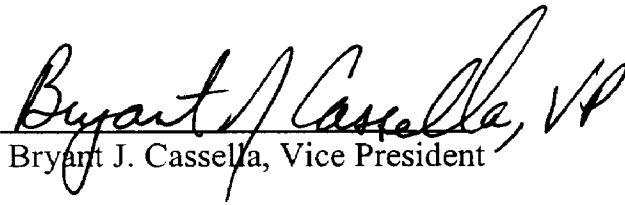


Notary Public

TERESA M. SKANE
Notary Public, State of New York
Saratoga County #02SK5027889
Commission Expires May 23, 2002

Accepted at Albany, New York
as of December 27, 2001.

KEYBANK NATIONAL ASSOCIATION

By:  VP
Bryant J. Cassella, Vice President

**SCHEDULE A
(Patents)**

NONE.

**SCHEDULE B
(Trademarks)**

MARK	SER. #	REG. #
SARATOGA VICHY	71/117283	129867
SARATOGA and RACETRACK DESIGN	73/762803	1,580,394
SARATOGA (word only)	73,200471	1,256,330
RACETRACK DESIGN	73,762,700	1,580,393
SARATOGA SPRING WATER	75/139784	2,129,959
SARATOGA VICHY WATER SV	72/231703	822963
SV DESIGN	71/421101	372822
SARATOGA SPLASH	75/141211	2,131,922
EVERYTHING ELSE IS JUST WATER	75/381176	2,233,022
S (stylized)	73/246469	1,198,188
MAN DESIGN	74/614904	2,022,888
SARATOGA SODA	75/662774	Pending
SARATOGA SPRING WATER SV & design	0353272 - Canada	TMA193343
SV and design	0353271 - Canada	189923
EAU MINERALE SARATOGA SV and design	0395773 - Canada	TMA228175
SARATOGA SMOOTHIES	75/669,883	Pending
SARATOGA CLASSICS	75/662,463	Pending

**SCHEDULE C
(Licenses)**

NONE.