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TRADEMARKS ONLY

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

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

Dave Goldberg, Inc.

- Individual(s)
- General Partnership
- Corporation-State - New York
- 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: July 12, 2002

2. Name and address of receiving party(ies)

Name: Fortune Swimwear LLC

Internal Address:

Street Address: 4700 S. Boyle Avenue

City: Vernon State: CA Zip: 90058-3021

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State

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)

761916646

B. Trademark Registration No.(s)

1837952

Additional number(s) attached Yes No

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

Name: Anthony J. Wall

Internal Address: General Counsel
Fortune Swimwear LLC

Street Address: 121 Gray Avenue

City: Santa Barbara State: CA Zip: 93101

6. Total number of applications and registrations involved:

2

7. Total fee (37 CFR 3.41).....\$ 65.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Brandi Simpson
Name of Person Signing

Brandi Simpson
Signature

07-31-2002
Date

Total number of pages including cover sheet, attachments, and document: 9

08/08/2002 BTOM11 00000181 76196646

01 FC:481
02 FC:482

40.00 OR
25.00 OR

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

TRADEMARK
REEL: 002558 FRAME: 0833

July ~~12~~, 2002

Dave Goldberg, Inc.
48-77 35th Street
Long Island City, NY 11101

Re: Trademarks "Beach Scene" and "Monte Carlo Beach Club"

This shall set forth our agreement (the "Agreement") regarding the trademarks "Beach Scene" and "Monte Carlo Beach Club" (the "Trademarks"):

1. Dave Goldberg, Inc. ("Seller") hereby sells, assigns and transfers to Fortune Swimwear LLC ("Buyer"), all of Seller's right, title and interest in and to the Trademarks, including all service marks, trade dress, logos, trade names and corporate names incorporating the Trademarks that Seller now uses or has in the past used, together with all translations, adaptations, derivations and combinations thereof, all goodwill associated therewith, and all applications, registrations and renewals in connection therewith, throughout the world (collectively, the "Rights"). Seller agrees, upon request of Buyer, to execute and deliver to Buyer all such further documents reasonably requested by Buyer to effectuate or confirm the sale and assignment of the Rights to Buyer, including the Assignment attached hereto.
2. The purchase price for the Rights shall be \$50,000. Contemporaneously with the execution of this Agreement, Buyer shall pay \$30,000 of the purchase price to Seller. Payment of the balance of \$20,000 (the "Balance Amount") shall be contingent on the US Patent and Trademark Office ("USPTO") approving the pending application for the registration of MONTE CARLO BEACH CLUB that is being assigned hereunder to Buyer. Within 10 days of the MONTE CARLO BEACH CLUB trademark being registered pursuant to such application, Buyer shall pay the Balance Amount, without interest, to Seller. Seller will use it best efforts, within commercial reasonability, to obtain the registration of the MONTE CARLO BEACH CLUB mark. Seller shall be entitled to offset against the Balance Amount any outside legal fees incurred in the completion of the registration of such application and any amounts as to which Buyer is entitled to be indemnified under Paragraph 5 below. Exercise of such offset right shall not limit the other rights and remedies of Buyer under this Agreement and applicable law.
3. Seller represents and warrants to Buyer that the following are correct as of the date of this Agreement:
 - a) Seller has full power and authority to assign the Rights, and this assignment will not violate any (i) law or regulation, (ii) court or administrative order, (iii) corporate governance document or (ii) agreement by which Seller is bound or which is applicable to the Rights.

- b) Seller is the exclusive owner of the Trademarks in the United States of America and has good and marketable title thereto free and clear of all liens, security interests, licenses or restrictions and has not granted any rights therein or licenses thereto to any other party (provided that Buyer acknowledges that Seller's registration for MONTE CARLO BEACH CLUB and Design (reg. no. 1609150) has been cancelled, that Seller has filed an application for the registration of MONTE CARLO BEACH CLUB with the USPTO which is pending, that the USPTO has issued an Office Action in regard to and suspended such pending application, and that Seller makes no representation as to whether such pending application will be registered by the USPTO).
- c) Seller has not received any claim nor is it aware of any threatened claim that Seller's use of the Trademarks infringes upon any trademark or other intellectual property rights of any third party.
- d) To the knowledge of Seller, no third party has infringed or is infringing upon the Trademarks.
- e) Seller has not entered into any settlement, consent-to-use or similar agreement under which (i) a third party is allowed to use the Trademarks or any similar trademark, (ii) Seller is allowed to use the Trademark, or (iii) Seller's use of the Trademarks restricted.
- f) Schedule A identifies each registration and pending application for registration with respect to the Trademarks. Seller has delivered to the Buyer correct and complete copies of all registrations and applications for registration of the Trademarks and all correspondence between Seller (or its attorneys) and the USPTO in regard to such applications.

- 4. After the date of this Agreement, Seller and its shareholders, directors, officers and employees will not use the Trademarks, or any trademark that is, in the reasonable judgment of Seller, confusingly similar to the Trademarks, for the manufacture or sale of any goods or services. Notwithstanding the foregoing, Seller shall be entitled to sell off its existing inventory of swimwear bearing the Trademarks. Seller acknowledges and agrees that in the event it violated this Paragraph 4, Buyer's damages may be difficult to determine. Accordingly, Seller agrees that Buyer shall be entitled to an injunction to prevent breaches of and to enforce specifically this provision of this Agreement, in addition to any other remedy to which Buyer may be entitled, at law or in equity.
- 5. The parties acknowledge that Buyer is not assuming any liability or claim relating to the Rights or their use by Seller prior to the date of this Agreement. Seller hereby

indemnifies and agrees to hold harmless Buyer and the other Indemnified Parties (as defined below) and each of them from and against all costs and expenses of any claims, demands, causes of action and judgments arising out of (i) any claims against Buyer by any third party that the use of the Rights by Buyer for the manufacture and sale of women's swimwear) constitutes infringement of any trademark, copyright, or other intellectual property right of such third party, or (ii) a breach of a representation, warranty or covenant of Seller under this Agreement, or (iii) any defect in or any act or omission of Seller in connection with the manufacture or sale of products sold by Seller prior to the date hereof in association with Trademarks. As used in this paragraph, "Indemnified Parties" shall include Buyer and all members, managers, officers, directors, agents, employees, subsidiaries and affiliates of Buyer. The right of Buyer to be indemnified hereunder shall, in regard to a claim under clause (i) above, be limited to \$50,000 (and to the extent the Balance Amount has not been paid at that point, shall be limited to \$30,000 plus the offset right against the Balance Amount provided in Section 2 above) .

6. This Agreement contains the entire understanding between the parties, and there are no representations, warranties, covenants, or undertakings, other than those expressly set forth herein. A modification or waiver of any of the provisions of the Agreement shall be effective only if made in writing and executed by both parties. The failure of either party to insist upon strict performance of any of the provisions of this Agreement shall not be construed as a waiver of any subsequent default of the same or similar nature.
7. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signatures may be by facsimile.
8. This Agreement shall be binding upon and inure to the benefit of the parties and all who succeed to their rights and responsibilities, including their respective legal representatives, successors and assigns.
9. This Agreement shall be interpreted in accordance with the laws of the State of California applicable without regard to the principles of conflicts of law.
10. The representations and warranties herein shall survive the closing of this transaction.
11. Each of the persons signing below represents and warrants that s/he is duly authorized to enter into the Agreement on behalf of the entity s/he purports to represent and that

12. such entity is properly described and is in good standing in the state in which it is organized and doing business.

FORTUNE SWIMWEAR, LLC

By: Stuart Geller

Print Name: Stuart Geller

Print Title: PRESIDENT

Agreed to:

DAVE GOLDBERG, INC.

By: Allen Goldberg

Date: 7.25.02

Print Name: Allen Goldberg

Print Title: V. Pres.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles } ss.

Los Angeles

On July 12, 2002

July 12, 2002
Date

before me,

Rebecca A. Johns
Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

Stuart Geller
Name(s) of Signer(s)

Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(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~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Rebecca A. Johns
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Trademark Letter

Trademark Letter

Document Date: July 12, 2002

July 12, 2002

Number of Pages: 5

5

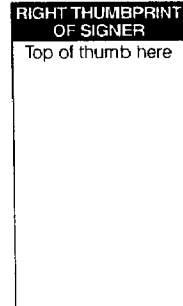
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: Dave Goldberg

Dave Goldberg

- Individual
- Corporate Officer — Title(s): President
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

**SCHEDULE A
REGISTRATIONS AND APPLICATIONS**

REGISTRATIONS:

BEACH SCENE in IC 25 for swimwear, Reg. No. 1837952

APPLICATIONS

MONTE CARLO BEACH CLUB in IC 25 for swimwear, Ser. No. 76196646

ASSIGNMENT OF TRADEMARK

THIS ASSIGNMENT is made as of July 25, 2002 by Dave Goldberg, Inc. ("Assignor"), a NEW YORK corporation with its principal place of business at 48-77 35th Street, Long Island City, New York 11101.

WHEREAS, Assignor is the owner of the trademarks "BEACH SCENE", for which it has obtained the registration set forth on Exhibit A, and "MONTE CARLO BEACH CLUB," for which it has filed an application for registration as set forth on Exhibit A (the "Trademarks").

WHEREAS, Assignor desires to assign the Trademarks to Fortune Swimwear LLC ("Assignee"), a California limited liability company with its principal place of business at 4700 South Boyle Avenue, Vernon, CA 90058-3021

NOW, THEREFORE, for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Assignor hereby sells, assigns transfers all of its right, title and interest in and to the Trademarks to Assignee, including all service marks, trade dress, logos, trade names and corporate names incorporating the Trademarks that Assignor now uses or has in the past used, together with all translations, adaptations, derivations and combinations thereof, all goodwill associated therewith, and all applications, registrations and renewals in connection therewith, throughout the world.

IN WITNESS WHEREOF, Assignor has executed and delivered this Assignment as of the date first written above.

DAVE GOLDBERG, INC.
"ASSIGNOR"

By: _____

Allen Goldberg, Vice President
(print name and title)

STATE OF New York)
) ss.
COUNTY OF New York)

On July 25, 2002, before me Carrie C. R. Koch, a Notary Public

in and for said state aforesaid, personally appeared Allen Goldberg, personally known to me or proved to me on the basis of satisfactory evidence, to be the person(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 authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

CARRIE C. R. KOCH
Notary Public, State of New York
No. 01KO6037107
Qualified in New York County
Commission Expires Feb. 14, 2002

WITNESS my hand and official seal.

Carrie C. R. Koch

Place Notary Seal Above

Signature of Notary Public