

09-05-2002



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

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

102212121

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

1. Name of conveying party(ies):

Watters Designs, Inc.

09-03-02

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

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

2. Name and address of receiving party(ies)

Name: Wells Fargo Business Credit, Inc.

Internal Address: _____

Street Address: 40 N.E. Loop 410, Suite 340

City: San Antonio State: Texas Zip: 78216

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

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

3. Nature of conveyance:

- Assignment
- Merger
- Security Agreement
- Change of Name
- Other _____

Execution Date: August 5, 2002

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: S. Roxanne Edwards

Internal Address: _____

Street Address: 1201 Main Street, P.O. Box 50784

City: Dallas State: Texas Zip: 75250

6. Total number of applications and registrations involved: 7

7. Total fee (37 CFR 3.41).....\$ 190.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

Winstead: 23-2426

(Attach duplicate copy of this page if paying by deposit account)

09/04/2002
01 FC:481
02 FC:482

TDIAZ1

00000154 2405070

40.00 OP
150.00 OP

City: Dallas

State: Texas

Zip: 75250

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.

S. Roxanne Edwards

Name of Person Signing

Signature

August 29, 2002

Date

Total number of pages including cover sheet, attachments, and document: 10

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

DALLAS_3698079\1
08/26/02
23182-38

TRADEMARK
REEL: 002575 FRAME: 0279

UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS
AND COLLECTIVE MEMBERSHIP MARKS

REGISTRATIONS

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
WTOO LOGO	2,405,070	11/21/2000
WATTERS AND WATTERS DESIGN	2,208,522	12/8/1998
DESIGN	2,202,732	11/10/1998
DESIGN	2,208,521	12/8/1998
WATTERS AND WATTERS (AND DESIGN)	2,245,475	5/18/1999

APPLICATIONS

<u>Mark</u>	<u>Serial No.</u>	<u>Filing Date</u>
WTOO (Stylized)	Serial No. 76/114,848	Date: 8/21/2000
WEDDING JITTERS	Serial No. 76/231,343	Date: 3/27/2001

DALLAS_1\3698188\1
23182-38 08/26/2002

TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement ("Agreement"), dated as of August 5, 2002, is made by and between Watters Designs, Inc., a Texas corporation having a business location at the address set forth below next to its signature (the "Debtor"), and Wells Fargo Business Credit, Inc., a Minnesota corporation having a business location at the address set forth below next to its signature (the "Secured Party").

Recitals

The Debtor and the Secured Party are parties to a Credit and Security Agreement of even date herewith (as the same may hereafter be amended, supplemented or restated from time to time, the "Credit Agreement") setting forth the terms on which the Secured Party may now or hereafter extend credit to or for the account of the Debtor.

As a condition to extending credit to or for the account of the Debtor, the Secured Party has required the execution and delivery of this Agreement by the Debtor.

ACCORDINGLY, in consideration of the mutual covenants contained in the Loan Documents and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Credit Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

"Obligations" means each and every debt, liability and obligation of every type and description arising under or in connection with any Loan Document (as defined in the Credit Agreement) which the Debtor may now or at any time hereafter owe to the Secured Party, whether such debt, liability or obligation now exists or is hereafter created or incurred and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several or joint and several, and including specifically, but not limited to, the Obligations (as defined in the Credit Agreement).

"Security Interest" has the meaning given in Section 2.

"Trademarks" means all of the Debtor's right, title and interest in and to:
(i) trademarks, service marks, collective membership marks, registrations and applications for registration for each, and the respective goodwill associated with each,
(ii) licenses, fees or royalties with respect to each, (iii) the right to sue for past, present and future infringement, dilution and damages therefor, (iv) and licenses thereunder, all as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on Exhibit A.

2. Security Interest. The Debtor hereby irrevocably pledges and assigns to, and grants the Secured Party a security interest (the "Security Interest"), with a power of sale to the extent permitted by law, in the Trademarks to secure payment of the Obligations. As set forth in

the Credit Agreement, the Security Interest is coupled with a security interest in substantially all of the personal property of the Debtor.

3. Representations, Warranties and Agreements. The Debtor represents, warrants and agrees as follows:

(a) **Existence; Authority.** The Debtor is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and this Agreement has been duly and validly authorized by all necessary corporate action on the part of the Debtor.

(b) **Trademarks.** Exhibit A accurately lists all Trademarks owned or controlled by the Debtor as of the date hereof and accurately reflects the existence and status of Trademarks and all applications and registrations pertaining thereto as of the date hereof; provided, however, that Exhibit A need not list common law marks (i.e., Trademarks for which there are no applications or registrations) which are not material to the Debtor's or any Affiliate's business(es). If after the date hereof, the Debtor owns or controls any Trademarks not listed on Exhibit A (other than common law marks which are not material to the Debtor's or any Affiliate's business(es)), or if Exhibit A ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then the Debtor shall promptly provide written notice to the Secured Party with a replacement Exhibit A, which upon acceptance by the Secured Party shall become part of this Agreement.

(c) **Affiliates.** As of the date hereof, no Affiliate owns, controls, or has a right to have assigned to it any items that would, if such item were owned by the Debtor, constitute Trademarks. If after the date hereof any Affiliate owns, controls, or has a right to have assigned to it any such items, then the Debtor shall promptly either: (i) cause such Affiliate to assign all of its rights in such item(s) to the Debtor; or (ii) notify the Secured Party of such item(s) and cause such Affiliate to execute and deliver to the Secured Party a patent and trademark security agreement substantially in the form of this Agreement.

(d) **Title.** The Debtor has absolute title to each Trademark listed on Exhibit A, free and clear of all Liens except Permitted Liens. The Debtor (i) will have, at the time the Debtor acquires any rights in Trademarks hereafter arising, absolute title to each such Trademark free and clear of all Liens except Permitted Liens, and (ii) will keep all Trademarks free and clear of all Liens except Permitted Liens.

(e) **No Sale.** Except as permitted in the Credit Agreement, the Debtor will not assign, transfer, encumber or otherwise dispose of the Trademarks, or any interest therein, without the Secured Party's prior written consent.

(f) **Defense.** The Debtor will at its own expense and using commercially reasonable efforts, protect and defend the Trademarks against all claims or demands of all Persons other than those holding Permitted Liens.

(g) **Maintenance.** The Debtor will at its own expense maintain the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to trademark registrations and applications therefor. The Debtor covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Trademark, nor fail to file any required affidavit or renewal in support thereof, without first providing the Secured Party: (i) sufficient written notice, of at least 30 days, to allow the Secured Party to timely pay any such maintenance fees or annuities which may become due on any Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(h) **Secured Party's Right to Take Action.** If the Debtor fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after the Secured Party gives the Debtor written notice thereof (or, in the case of the agreements contained in subsection (g), immediately upon the occurrence of such failure, without notice or lapse of time), or if the Debtor notifies the Secured Party that it intends to abandon a Trademark, the Secured Party may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of the Debtor (or, at the Secured Party's option, in the Secured Party's own name) and may (but need not) take any and all other actions which the Secured Party may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(i) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, the Debtor shall pay the Secured Party on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and disbursements) incurred by the Secured Party in connection with or as a result of the Secured Party's taking action under subsection (h) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by the Secured Party at the Default Rate.

(j) **Power of Attorney.** To facilitate the Secured Party's taking action under subsection (h) and exercising its rights under Section 6, the Debtor hereby irrevocably appoints (which appointment is coupled with an interest) the Secured Party, or its delegate, as the attorney-in-fact of the Debtor with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of the Debtor, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by the Debtor under this Section 3, or, necessary for the Secured Party, after an Event of Default, to enforce or use the Trademarks or to grant or issue any exclusive or non-exclusive license under the Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Trademarks to any third party. The Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein

shall terminate upon the termination of the Credit Agreement as provided therein and the payment and performance of all Obligations.

4. Debtor's Use of the Trademarks. The Debtor shall be permitted to control and manage the Trademarks, including the right to exclude others from making, using or selling items covered by the Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Event of Default occurs and remains uncured.

5. Events of Default. Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (a) an Event of Default, as defined in the Credit Agreement, shall occur; or (b) the Debtor shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. Remedies. Upon the occurrence of an Event of Default and at any time thereafter, the Secured Party may, at its option, take any or all of the following actions:

(a) The Secured Party may exercise any or all remedies available under the Credit Agreement.

(b) The Secured Party may sell, assign, transfer, pledge, encumber or otherwise dispose of the Trademarks.

(c) The Secured Party may enforce the Trademarks and any licenses thereunder, and if Secured Party shall commence any suit for such enforcement, the Debtor shall, at the request of Secured Party, do any and all lawful acts and execute any and all proper documents required by Secured Party in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by the Secured Party. A waiver signed by the Secured Party shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of the Secured Party's rights or remedies. All rights and remedies of the Secured Party shall be cumulative and may be exercised singularly or concurrently, at the Secured Party's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Debtor under this Agreement shall be given in the manner and with the effect provided in the Credit Agreement. The Secured Party shall not be obligated to preserve any rights the Debtor may have against prior parties, to realize on the Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of the Debtor and the Secured Party and their respective participants, successors and assigns and shall take effect when signed by the Debtor and delivered to the Secured Party, and the Debtor waives notice of the Secured Party's acceptance hereof. The Secured Party may execute this Agreement if appropriate for the purpose of filing, but the failure of the Secured Party to execute this

Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by the Debtor shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of Texas without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.

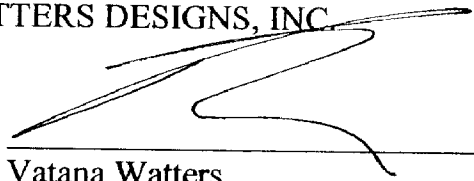
8. Entire Agreement. **THIS AGREEMENT, TOGETHER WITH THE OTHER LOAN DOCUMENTS, REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES REGARDING THE SUBJECT MATTER HEREIN AND THEREIN AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES HERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

[Remainder of Page Intentionally Left Blank. Signature Page Follows.]

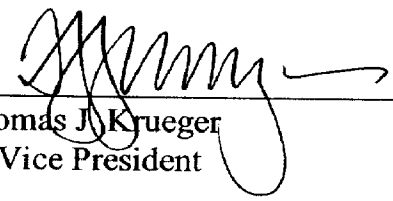
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

Watters Designs, Inc.
4801 Spring Valley Road, Suite 108
Dallas, Texas 75244
Telephone: (972) 991-6994
Telecopier: (972) 386-7463
Attention: _____
e-mail: _____

WATTERS DESIGNS, INC
By 

Vatana Watters
President

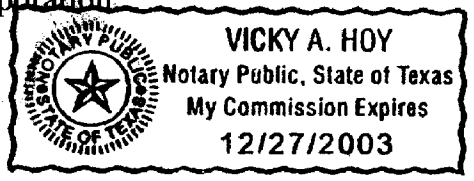
Wells Fargo Business Credit, Inc.
40 N.E. Loop 410, Suite 340
San Antonio, TX 78216
Telephone: (210) 856-6026
Telecopier: (210) 856-8989
Attention: Mark L. Odle

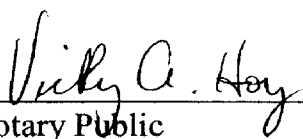
WELLS FARGO BUSINESS CREDIT, INC.
By 

Thomas J. Krueger
Its Vice President

STATE OF TEXAS)
)
COUNTY OF DALLAS)

The foregoing instrument was acknowledged before me this 5th day of August, 2002, by Vatana Watters, the President of Watters Designs, Inc., a Texas corporation, on behalf of the corporation.

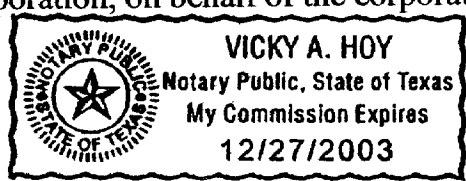




Notary Public

STATE OF TEXAS)
)
COUNTY OF DALLAS)

The foregoing instrument was acknowledged before me this 5th day of August, 2002, by Thomas J. Krueger, a Vice President of Wells Fargo Business Credit, Inc., a Minnesota corporation, on behalf of the corporation.





Notary Public

EXHIBIT A

A. UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS
AND COLLECTIVE MEMBERSHIP MARKS

REGISTRATIONS

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
WTOO LOGO	2,405,070	11/21/2000
WATTERS AND WATTERS DESIGN	2,208,522	12/8/1998
DESIGN	2,202,732	11/10/1998
DESIGN	2,208,521	12/8/1998
WATTERS AND WATTERS (AND DESIGN)	2,245,475	5/18/1999

APPLICATIONS

<u>Mark</u>	<u>Serial No.</u>	<u>Filing Date</u>
WTOO (Stylized)	Serial No. 76/114,848	Date: 8/21/2000
WEDDING JITTERS	Serial No. 76/231,343	Date: 3/27/2001

COLLECTIVE MEMBERSHIP MARKS

None.

UNREGISTERED MARKS

None.

B. STATE ISSUED TRADEMARKS AND SERVICE MARKS

<u>Mark</u>	<u>Jurisdiction</u>	<u>Registration No.</u>	<u>Date</u>
Design	Texas Secretary of State	57016	8/12/1997
Watters and Watters	Texas Secretary of State	57013	8/12/1997
Watters and Watters (and Design)	Texas Secretary of State	57014	8/12/1997
Design	Texas Secretary of State	57015	8/12/1997

C. FOREIGN TRADEMARKS

<u>Mark</u>	<u>Country</u>	<u>Application No./ Registration No.</u>	<u>Application/ Registration Date</u>
Watters and Watters	Canada	855,497/ TMA 506,142	9/9/97 1/6/99
Woman (Design)	Canada	855,495/ TMA 506,140	9/9/97 1/6/99
Woman (Design) with Waters and Watters	Canada	855,496/ TMA 506,141	9/9/97 1/6/99
Five Women (design)	Canada	855,498/ TMA506,143	9/9/97 1/6/99
Logo only	Australia	741475	8/13/97
Watters and Watters	Australia	741476	8/13/97
Watters and Watters (design)	Australia	741478	8/13/97
Dress Design	Australia	744007	9/15/97
Word mark	Japan	178831/97	
		4281857	6/11/99
5 Dresses	Japan	178832/97	
		4271392	6/11/99
Words and Design	Japan	178833/97	
		4286032	6/25/99
Oval	Japan	178834/97	
		4306204	8/22/99
Watters and Watters (figurative)	European Community	001692136	8/26/97 8/13/2001
Woman design	European Community	001692219	8/26/1997 8/28/2001
Watters and Watters	European Community	001692326	8/26/97 7/30/2001
5 Dresses	European Community	001692268	8/21/2001
Watters and Watters	Mexico	308,465	9/24/97
Oval/Woman Design	Mexico	308,467	9/24/97
Woman Design and Words	Mexico	308,466	9/24/97
Woman Design and Words	Mexico	308,468	9/24/97
5 Dresses	Mexico	621,132	10/30/97 8/31/99

D. OTHER INTELLECTUAL PROPERTY

Watters.com