

09-09-2002

9/9/02

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



102215801

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

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

1. Name of conveying party(ies):
Chester A. Asher, Inc.

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

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

3. Nature of conveyance:

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

Execution Date: 8/22/02

2. Name and address of receiving party(ies)

Name: Commerce Bank Pennsylvania, NA
Internal
Address: 100 East DeKalb Pike

Street Address: 2nd Floor
City: King of Prussia State: PA Zip: 19403

- 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)

B. Trademark Registration No.(s)
2391260 and 2385193

Additional number(s) attached Yes No

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

Name: Carol A. Rader, Paralegal

Internal Address: Wolf, Block, Schorr and Solis-Cohen, LLP
24th Floor

Street Address: 1650 Arch Street

City: Phila State: PA Zip: 19103

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: _____

(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.

Rebecca Green, Esquire
Name of Person Signing

Rebecca Green
Signature

9/6/02
Date

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

09/09/2002 DBTRM 00000155-2391260

01 FC:481
02 FC:482

40.00 OP
25.00 OP

TRADEMARK
REEL: 002577 FRAME: 0842

Attachment to Recordation Form Cover Sheet

Chester A. Asher, Inc.

Additional Receiving Party:

Commerce Bank, N.A.
9000 Atrium Way, Building 1
Cherry Hill, NJ 08034

INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT (the "Security Agreement") is made effective as of the 22nd day of August, 2002 among CHESTER A. ASHER, INC. ("CAA") and COMMERCE BANK PENNSYLVANIA, NA and COMMERCE BANK, N.A. (collectively, the "Banks" and each a "Bank").

BACKGROUND

A. Pursuant to that certain Loan and Security Agreement dated of even date herewith among CAA, JDJ Properties, L.P., Asher's Chocolates/Lewistown, Inc. t/a Goss Candies (collectively, the "Borrower") and Banks (such Loan and Security Agreement, as heretofore or hereafter amended, modified or restated, being referred to herein as the "Loan Agreement"), the Banks agreed to extend to Borrower the credit facilities described therein.

B. The Loan Agreement provides, *inter alia*, that CAA will grant to Banks a security interest in all of CAA's assets, including, without limitation, its patents, patent rights, patent applications, servicemarks, trademarks, service trademark applications, service tradenames, goodwill, copyrights 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, CAA agrees as follows:

1. Incorporation of Loan Agreement. The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. All capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

2. Security Interest.

(a) Security Interest in Patents, Copyrights and Licenses. To secure the complete and timely payment and satisfaction of all Obligations, CAA hereby collaterally assigns, mortgages, pledges and grants to Banks a security interest in, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale, to the extent permitted by law, all of CAA's right, title and interest in and to all of the following, whether now owned or existing and filed or hereafter acquired or arising and filed (collectively with items named in Section 2(b), below, the "Collateral"):

(i) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents listed on Exhibit "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**");

(ii) copyrights, copyright registrations, copyright applications and all computer programs, operating systems, application systems, hardware or software of any nature whatsoever owned by Borrower, whether operational, under development or inactive, including all object codes, source codes, modules, technical manuals, user manuals, operating instructions and procedures, in-pup and out-pup formats, program listings, narrative descriptions, program flow charts, file layouts, report layouts, screen layouts and other documentation therefor (including internal notes, memoranda, status evaluations, marketing information and write-ups), and all improvements, modifications, enhancements, new releases and revisions thereof, whether in machine-readable form, programming language or any other language or symbols, and whether stored, encoded, recorded or written on disk, tape, film, memory device, paper or other media of any nature; together with all tangible media upon which any of the foregoing are recorded or encoded, including, without limitation, all chips, disks, tapes, film and paper; including, without limitation, the copyrights, copyrights registrations and copyrights applications listed on **Exhibit "B"** attached hereto and made a part hereof, and (a) all renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, and (c) the right to sue for past, present and future infringements thereof (all of the foregoing items are sometimes referred to herein collectively as the "**Copyrights**"); and

(iii) license agreements with any other party, whether CAA is a licensor or licensee under any such license agreement, including, without limitation, the licenses listed on **Exhibit "C"** attached hereto and made a part hereof, and the right to prepare for sale, sell and advertise for sale all inventory now or hereafter owned by Borrower and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to collectively as the "**Licenses**").

(b) **Security Interest in Trademarks.** To secure the complete and timely payment and satisfaction of all Obligations, Assignor hereby mortgages and pledges to Banks and grants to Banks a security interest in, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale, to the extent permitted by law, all of Assignor's right, title and interest in and to all of the following, whether now owned or existing and filed or hereafter acquired or arising and filed: servicemarks, trademarks, servicemark and trademark registrations, tradenames, trademark applications, and all goodwill attendant thereto, including, without limitation, the servicemarks, trademarks and applications listed on **Exhibit "D"**, attached hereto and made a part hereof, and (a) all renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable 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 servicemarks, trademarks, servicemark and trademark registrations, servicemark and tradenames and applications together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "**Trademarks**").

3. **Restrictions on Future Agreements.** CAA agrees that until all Obligations shall have been satisfied in full and the Loan Agreement shall have been terminated, CAA will not, without Banks' prior written consent, enter into any agreement (including, without limitation, any license or royalty agreement) which is inconsistent with CAA's obligations under this Security Agreement or which is prohibited under the terms of the Loan Agreement, and CAA further agrees that it will not take any action, or permit any action to be taken by others, including licensees, or fail to take any action, which would affect the validity or enforcement of the rights of Banks under this Security Agreement.

4. **New Patents, Trademarks, Copyrights and Licenses.** CAA represents and warrants that the Patents, Copyrights, Licenses and Trademarks listed on **Exhibits "A", "B", "C" and "D"**, respectively, constitute all of the patents, trademarks, copyrights, applications, and licenses now owned by CAA. If, before all Obligations shall have been satisfied in full and the Loan Agreement shall have been terminated, CAA shall (i) obtain rights to any new patents, patentable inventions, trademarks, trademark registrations, tradenames, copyrights or licenses, or (ii) become entitled to the benefit of any patent or trademark or copyright application, trademark, trademark registration, copyright 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 **Section 2** above shall automatically apply thereto and CAA shall give to Banks prompt written notice thereof. CAA hereby authorizes Banks to modify this Security Agreement by amending **Exhibit "A", "B", "C" and/or "D"**, as applicable, to include any future patents, patent applications, trademarks, trademark registrations, trademark applications, tradenames, copyrights and licenses which are Patents, Trademarks, Copyrights or Licenses, as applicable, under **Section 2** above or under this **Section 4**. CAA hereby agrees to provide to Banks such other assignment or other documentation as either Bank may reasonably request to record such Bank's lien on such future Patents, Trademarks, Copyrights or Licenses.

5. **Royalties; Term.** CAA hereby agrees that the use by either Bank of all Patents, Trademarks, Copyrights and Licenses as described herein shall be worldwide and without any liability for royalties or other related charges from either Bank to CAA. The term of the security interest granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Trademarks, Copyrights and Licenses assigned hereunder, or (ii) the date on which all Obligations have been paid in full and the Loan Agreement is terminated.

6. **Reassignment.** This Security Agreement is made for collateral purposes only. Upon payment in full of all Obligations and termination of the Loan Agreement, Banks shall execute and deliver to CAA a termination of Banks' security interest granted herein and all deeds, assignments and other instruments as may be necessary or proper to re-vest in CAA full title to the Patents, Trademarks, Copyrights and Licenses, subject to any disposition thereof which may have been made by either Bank pursuant hereto or pursuant to the Loan Agreement.

7. **Duties of Borrower.** CAA shall have the duty (i) to prosecute diligently any patent, trademark and copyright application pending as of the date hereof or thereafter until all Obligations shall have been paid in full and the Loan Agreement is terminated, (ii) to make application on unpatented but patentable inventions and on trademarks and copyrights, as appropriate, and (iii) to preserve and maintain all rights in patent applications and patents of the Patents, in trademark applications, trademarks and trademark registrations of the Trademarks and in copyright applications

and copyrights of the Copyrights. Any expenses incurred in connection with such applications shall be borne by CAA. CAA shall not abandon any right to file a patent, trademark or copyright application, or any pending patent, trademark or copyright application, or any Patent, Trademark, Copyright or License, without the prior consent of Banks, such consent not to be unreasonably withheld.

8. **Event of Default.** Upon the occurrence of an Event of Default, as defined in the Loan Agreement, either Bank may, without further notice to or consent of CAA, and in addition to all other rights and remedies available to Banks, immediately record all assignments previously executed and delivered to either Bank by CAA and/or execute and record with all applicable offices (including, without limitation, the Patent and Trademark Office) an absolute assignment to Banks by CAA of all rights, title and interest of CAA in and to the Collateral. CAA hereby authorizes and agrees that either Bank may, through the power of attorney granted in **Section 13** hereof, irrevocably execute and deliver in CAA's name any and all such assignments and agreements and to take any and all other actions in CAA's name as either Bank shall deem reasonable or appropriate to transfer and convey all right, title and interest of CAA in and to the Collateral to either Bank or any other person or entity selected by Bank.

9. **Banks' Right to Sue.** Either Bank shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Licenses, Patents, Copyrights and/or Trademarks if either Bank shall commence any such suit, CAA shall, at the request of either Bank, do any and all lawful acts and execute any and all proper documents required by either Bank in aid of such enforcement and CAA shall promptly, upon demand, reimburse and indemnify Bank for all costs and expenses incurred by Bank in the exercise of its rights under this **Section 9**.

10. **Waivers.** No course of dealing between Borrower and either Bank, nor any failure to exercise, nor any delay in exercising, on the part of either Bank, any right, power or privilege hereunder or under the Loan 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.

11. **Severability.** The provisions of this Security Agreement are severable, and if any clause or provision shall be 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 Security Agreement in any jurisdiction.

12. **Modification.** This Security Agreement 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.

13. **Cumulative Remedies; Power of Attorney; Effect on Loan Agreement.** All of each Bank's rights and remedies with respect to the Patents, Trademarks, Copyrights and Licenses, whether established hereby or by the Loan Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. CAA hereby authorizes each Bank to make, constitute and appoint any officer or agent of such Bank as Bank may select, in its sole discretion, as Borrower's true and lawful attorney-in-fact, with limited power to, (i) endorse CAA's name on all applications, documents, papers and instruments necessary or reasonably desirable for

the Bank to protect, evidence, perfect or enforce its security interest in the Patents, Trademarks, Copyrights and/or Licenses, (ii) take any other actions with respect to the Patents, Trademarks, Copyrights and/or Licenses as the Bank reasonably deems in the best interest of the Bank, (iii) grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to anyone, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Patents, Trademarks, Copyrights and/or Licenses to anyone, including Bank. Either Bank may act under such power of attorney to take the actions referenced in **Section 4** hereof. Each Bank hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until all Obligations shall have been paid in full and the Loan Agreement shall have been terminated. CAA acknowledges and agrees that this Security Agreement is not intended to limit or restrict in any way the rights and remedies of either Bank under the Loan Agreement but rather is intended to facilitate the exercise of such rights and remedies given it by the terms of this Security Agreement, all rights and remedies 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, Copyrights or Licenses may be located.

14. **Binding Effect; Benefits.** This Security Agreement shall be binding upon CAA and its successors and assigns, and shall inure to the benefit of Banks, their nominees, successors and assigns.

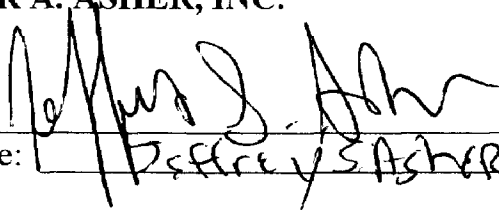
15. **Governing Law.** This Security Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF, the parties hereto have duly executed this Intellectual Property Security Agreement t as of the day and year first above written.

CHESTER A. ASHER, INC.

By: _____

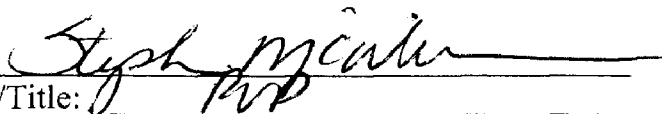
Name/Title: _____


Jeffrey S. Asher VP

COMMERCE BANK PENNSYLVANIA, NA

By: _____

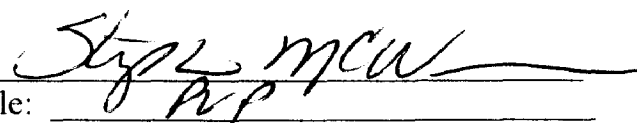
Name/Title: _____


Stephen McWilliams

COMMERCE BANK, NA

By: _____

Name/Title: _____


Stephen McWilliams

COMMONWEALTH OF PENNSYLVANIA

:

: SS

COUNTY OF PHILADELPHIA

:

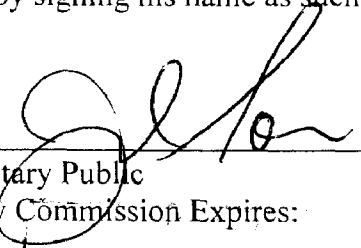
On this 22nd day of August, 2002, before me, a Notary Public, personally appeared *Chester A. Asher* who acknowledged himself to be a duly authorized officer of **Chester A. Asher, Inc.**, and that he as such officer, being duly authorized to do so, executed the foregoing document for the purposes therein contained by signing his name as such officer.

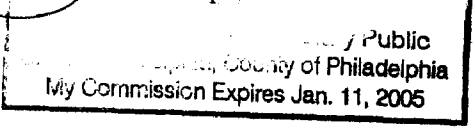
<p>NOTARIAL SEAL Joseph T. McGowan, Notary Public City of Philadelphia, County of Philadelphia My Commission Expires Jan. 11, 2005</p>	<p>Notary Public Commission Expires:</p>
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ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA :
: SS
COUNTY OF PHILADELPHIA :

On this 22nd day of August, 2002, before me, a Notary Public, personally appeared Stephen McWilliam who acknowledged himself to be a duly authorized officer of **Commerce Bank, NA**, and that he as such officer, being duly authorized to do so, executed the foregoing document for the purposes therein contained by signing his name as such officer.



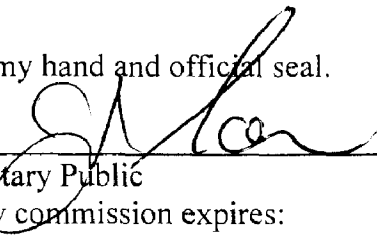
Notary Public
My Commission Expires:


ACKNOWLEDGMENT

COMMONWEALTH OF PENNSYLVANIA :
: SS.
COUNTY OF PHILADELPHIA :

On this, the 22nd day of August, 2002 before me, a Notary Public, personally appeared Stephen McWilliam who acknowledged himself to be an officer of **Commerce Bank Pennsylvania, NA**, and that he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of **Commerce Bank Pennsylvania, NA** by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



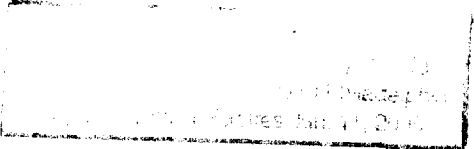
Notary Public
My commission expires:


EXHIBIT "A"
TO
INTELLECTUAL PROPERTY SECURITY AGREEMENT

Patents

None

EXHIBIT "B"
TO
INTELLECTUAL PROPERTY SECURITY AGREEMENT

Copyrights

None

EXHIBIT "C"
TO
INTELLECTUAL PROPERTY SECURITY AGREEMENT

Licenses

None

BLU:127215.2/COM212-157210

- 10 -

RECORDED: 09/09/2002

TRADEMARK
REEL: 002577 FRAME: 0853