

10-30-2002

FORM PTO-1594 (Modified)
(Rev. 6-93)
OMB No. 0651-0011 (exp. 4/94)
Copyright 1994-97 LegalStar
TM05/REV03

Docket No.:

06497-805



102265189

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): **2002 OCT 21 AM 11: 58**
University Games Corporation
2030 Harrison Street
San Francisco, CA 94110

FINANCE SECTION
10-21-02

Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State **California**
 Other

Additional names(s) of conveying party(ies) Yes No

2. Name and address of receiving party(ies):
Name: **Comerica Bank-California**
Internal Address: _____
Street Address: **333 West Santa Clara Street**
City: **San Jose** State: **CA** ZIP: **95113**

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State **a California banking corp.**
 Other _____

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from
Additional name(s) & address(es) Yes N

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other

Execution Date: **October 7, 2002**

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)
76/332,192 76/201,704 76/327,687 76/354,974
75/500,731 76/204,667 76/354,949 76/359,371
75/874,638 76/204,668 76/354,973 76/201,707

Additional numbers Yes No

B. Trademark Registration No.(s)
SR1,503,469 1,740,006 2,585,276
1,780,434 SR2,294828 2,504,549
2,328,055 761,273 761,272

Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: **Charlotte C. Carberry**
Internal Address: _____
Street Address: **c/o Manatt, Phelps & Phillips, LLP**
1001 Page Mill Road, Building 2
City: **Palo Alto** State: **CA** ZIP: **94304**

6. Total number of applications and registrations involved: **21**

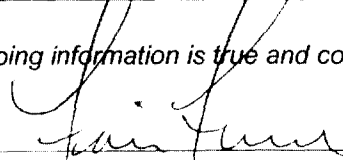
7. Total fee (37 CFR 3.41): \$ **540.00**
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number: _____

10/29/2002 DBYRNE 00000140 76332192
01 FC:0521 40.00 OP
02 FC:0522 500.00 OP

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.

Francis X. Ferrer, Esq.  **October 18, 2002**
Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and

TRADEMARK

REEL: 2607 FRAME: 0325

**SECOND SUPPLEMENT TO
COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND
SECURITY AGREEMENT**

This **SECOND SUPPLEMENT TO COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND SECURITY AGREEMENT** (this "*Supplement*") is made as of this 7th day of ~~September~~, 2002, by and between **UNIVERSITY GAMES CORPORATION**, a California corporation ("*Pledgor*") and **COMERICA BANK-CALIFORNIA** ("*Pledgee*"), a California banking corporation.

RECITALS

A. Pledgee and Pledgor are parties to that certain Amended and Restated Revolving Credit and Term Loan & Security Agreement (Accounts and Inventory) dated August 29, 2000 (the "*Loan Agreement*") pursuant to which Pledgor has agreed to make certain Advances (as defined in the Loan Agreement) to Pledgee.

B. Borrower's Obligations (as defined in the Loan Agreement) are secured pursuant to the terms of the Loan Agreement and that certain Collateral Assignment, Patent Mortgage and Security Agreement dated as of October 1, 1997 (as amended by that certain First Supplement to Collateral Assignment, Patent Mortgage and Security Agreement dated September 20, 2000 the "*Original Security Agreement*") (the Loan Agreement, the Original Security Agreement, and all other documents, agreements and instruments executed pursuant thereto are collectively referred to as the "*Loan Documents*").

C. The Original Security Agreement was recorded in the United States Copyright Office on May 6, 1998, at Volume 0003417, Page 267.

D. The Original Security Agreement was recorded in the United States Patent and Trademark Office, Trademark Division, on April 27, 1998 at Reel 1720, Frame 0154.

E. Pledgor and Pledgee have agreed and are agreeing herein that Pledgor will assign to Bank, as collateral, in addition to the collateral described in **Exhibits A, B and C** to the Original Security Agreement, the intellectual property described more completely in **Exhibits A, B and C** hereto.

F. A true and correct copy of the Original Security Agreement, together with **Exhibits A, B and C**, is attached as **Exhibit D** hereto.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as set forth below:

1. ***Incorporation by Reference.*** The foregoing Recitals, the Original Security Agreement, and the documents referred to therein, are incorporated herein by this reference. Any term not defined herein shall have the meaning given in the Loan Agreement.

2. ***Additional Collateral.*** In addition to the Collateral, as defined in the Original Security Agreement, as additional collateral security for the prompt and complete payment and performance of the Obligations, Pledgor hereby assigns, transfers, conveys and grants a mortgage to Pledgee, as security, Pledgor's entire right, title and interest in, to and under the following (all of which shall, together with the Collateral as defined in the Original Security Agreement, collectively be called the "*Collateral*");

2.1 Any and all copyright rights, copyright application, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the "*Copyrights*");

2.2 Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, or acquired or held;

2.3 Any and all design rights which may be available to Pledgor now or hereafter existing, created, acquired or held;

2.4 All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "*Patents*");

2.5 Any trademark and service mark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Pledgor connected with and symbolized by such

trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the “*Trademarks*”);

2.6 Any and all claims for damages by way of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

2.7 All licenses or other rights to use any of the Copyrights, Patents or Trademarks, and all license fees and royalties arising from such use; and

2.8 All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

THE INTEREST IN THE COLLATERAL BEING ASSIGNED HEREUNDER SHALL NOT BE CONSTRUED AS A CURRENT ASSIGNMENT, BUT AS A CONTINGENT ASSIGNMENT TO SECURE PLEDGOR’S OBLIGATIONS TO PLEDGEE UNDER THE LOAN DOCUMENTS.

3. *Authorization and Request.* Pledgor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this Supplement.

4. *Covenants and Warranties.* Pledgor represents, warrants, covenants and agrees as follows:

4.1 Pledgor is now the sole owner of the Collateral, except for non-exclusive licenses granted by Pledgor to its customers in the ordinary course of business and except for liens, encumbrances or security interests described in Exhibit E attached hereto;

4.2 Performance of this Supplement does not conflict with or result in a breach of any agreement to which Pledgor is a party or by which Pledgor is bound;

4.3 During the term of this Supplement, Pledgor will not transfer or otherwise encumber any interest in the Collateral, except for non-exclusive licenses granted by Pledgor;

4.4 Each of the Patents is valid and enforceable, and no part of the Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Collateral violates the rights of any third party;

4.5 Pledgor shall promptly advise Pledgee of any material change in the composition of the Collateral, including but not limited to any subsequent ownership right of the Pledgor in or to any Trademark, Patent or Copyright not specified in this Supplement;

4.6 Pledgor shall (a) protect, defend and maintain the validity and enforceability of the Trademarks, Patents and Copyrights; (b) use its best efforts to detect infringements of the Trademarks, Patents and Copyrights and promptly advise Pledgee in writing of material infringements detected; and (c) not allow any Trademarks, Patents or Copyrights to be abandoned, forfeited or dedicated to the public without the written consent of Pledgee, which consent shall not be unreasonably withheld;

4.7 At the request of Pledgee, Pledgor shall promptly (and in any event within thirty (30) days of the request of Pledgee) register the most recent version of any of Pledgor's copyrights, if not so already registered, and shall, from time to time upon the request of Pledgee and subject to the time requirements set forth in the first line of this clause (g), execute and file such other instruments, and take such further actions as Pledgee may request from time to time to perfect or continue the perfection of Pledgee's interest in the Collateral;

4.8 This Supplement creates, and in the case of after acquired Collateral, this Supplement will create at the time Pledgor first has rights in such after acquired Collateral, in favor of Pledgee a valid and perfected first priority security interest in the Collateral in the United States securing the payment and performance of the obligations evidenced by the Loan Documents upon making the filings referred to in clause (i) below, and a search to be ordered by Pledgee upon execution hereof shall so reflect. If for any reason such search reflects any liens or encumbrances other than that of Pledgee, Pledgor shall take all steps necessary to have such liens released or assigned to Pledgee, as Pledgee may direct;

4.9 Except for, and upon, the filing with the United States Patent and Trademark Office with respect to the Patents necessary to perfect the security interests and assignment for collateral purposes only created hereunder, and, except as has been already made or obtained, no authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the grant by Pledgor of the security interest granted hereby or for the execution, delivery or performance of this Supplement by Pledgor; or (ii) for the perfection in the United States or the exercise by Pledgee of its rights and remedies hereunder;

4.10 All information heretofore, herein or hereafter supplied to Pledgee by or on behalf of Pledgor with respect to the Collateral is accurate and complete in all material respects;

4.11 Pledgor shall not enter into any agreement that would materially impair or conflict with Pledgor's obligations hereunder without Pledgee's prior written consent. Pledgor shall not permit the inclusion in any contract to which it becomes a party of any provisions that could or might in any way impair or prevent the creation of a security interest in Pledgor's rights and interests in any property included within the definition of the Collateral acquired under such contracts; and

4.12 Upon any officer of Pledgor obtaining knowledge thereof, Pledgor will promptly notify Pledgee in writing of any event that materially adversely affects the value of any of the Collateral, the ability of Pledgor or Pledgee to dispose of any of the Collateral or the rights and remedies of Pledgee in relation thereto, including the levy of any legal process against any of the Collateral.

5. *Pledgee's Rights.* Pledgee shall have the right, but not the obligation, to take, at Pledgor's sole expense, any actions that Pledgor is required under this Supplement to take but which Pledgor fails to take, after five (5) days' telephonic or written notice to Pledgor. Pledgor shall reimburse and indemnify Pledgee for all costs and expenses (including, without limitation, attorneys' fees and costs) incurred in the reasonable exercise of its rights under this Section 4.

6. *Inspection Rights.* Pledgor hereby grants to Pledgee and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable notice to Pledgor, and any of Pledgor's and its subcontractors' plants and facilities that manufacture, install or store products (or that have done so during the prior six-month period) that are sold under any of the Collateral, and to inspect the products and quality control records relating thereto upon reasonable notice to Pledgor and as often as may be reasonably requested; provided, however, nothing herein shall entitle Pledgee to access to Pledgor's trade secrets and other proprietary information.

7. *Further Assurances; Attorney in Fact.*

7.1 On a continuing basis, Pledgor will, subject to any prior licenses, encumbrances and restrictions and prospective licenses, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including, appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Pledgee to carry out the intent and

purposes of this Supplement, or for assuring and confirming to Pledgee the grant or perfection of a security interest in all Patents.

7.2 Pledgor hereby irrevocably appoints Pledgee as Pledgor's attorney-in-fact, with full authority in the place and stead of Pledgor and in the name of Pledgor, Pledgee or otherwise, from time to time in Pledgee's discretion, to take any action and to execute any instrument which Pledgee may deem necessary or advisable to accomplish the purposes of this Supplement, including:

7.3 To modify in its sole discretion this Supplement without first obtaining Pledgor's approval of or signature to such modification by amending Exhibit A, Exhibit B and Exhibit C hereof, to include reference to any right, title or interest in any copyright, patents, or trademarks acquired by Pledgor after the execution hereof or to delete any reference to any right, title, interest in any copyrights, patents, or trademarks in which Pledgor no longer has or claims any right, title or interest; and

7.4 To file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral without the signature of Pledgor where permitted by law.

8. *Events of Default.* The occurrence of any of the following shall constitute an Event of Default under this Supplement:

8.1 An Event of Default occurs under the Loan Documents or any other agreement between Pledgee and Pledgor; or

8.2 Pledgor breaches any warranty or agreement made by Pledgor in this Supplement.

9. *Remedies.* Upon the occurrence of an Event of Default, Pledgee shall have the right to exercise all the remedies of a secured party under the California Uniform Commercial Code, including without limitation the right to require Pledgor to assemble the Collateral and to make it available to Pledgee at a place designated by Pledgee. Pledgor will pay any expenses (including attorneys' fees) incurred by Pledgee in connection with the exercise of any of Pledgee's rights hereunder, including without limitation any expense incurred in disposing of the Collateral. All of Pledgee's rights and remedies with respect to the Collateral shall be cumulative.

10. *Indemnity.* Pledgor agrees to defend, indemnify and hold harmless Pledgee and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Supplement, and (b) all losses or expenses in any

way suffered, incurred, or paid by Pledgee as a result of or in any way arising out of, following or consequential to transactions between Pledgee and Pledgor, whether under this Supplement or otherwise (including without limitation attorneys fees and expenses), except for losses arising from or out of Pledgee's gross negligence or willful misconduct.

11. Reassignment. At such time as Pledgor shall completely satisfy all of the obligations secured hereunder, Pledgee shall execute and deliver to Pledgor all deeds, assignments and other instruments as may be necessary or proper to revest in Pledgor full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Pledgee pursuant hereto.

12. Course of Dealing. No course of dealing, nor any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

13. Attorneys' Fees and Legal Costs. If any action relating to this Supplement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees, legal costs and disbursements.

14. Amendments. This Supplement may be amended only by a written instrument signed by both parties hereto.

15. Counterparts. This Supplement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

16. California Law and Jurisdiction. This Supplement shall be governed by the laws of the State of California, without regard for choice of law provisions. Pledgor and Pledgee consent to the non-exclusive jurisdiction of any state or federal court located in Santa Clara County, California.

[signature page follows]


IN WITNESS WHEREOF, the parties hereto have executed this Second Supplement to Collateral Assignment, Patent Mortgage and Security Agreement as of the day and year first above written.

Address of Pledgor:

PLEDGOR:

2030 Harrison Street
San Francisco, CA 94110
Fax: (415) 503-0085

UNIVERSITY GAMES CORPORATION

By: 
Its: Vice President

Address of Pledgee:

PLEDGEE:

333 West Santa Clara Street
Fifth Floor
San Jose, CA. 95113
Fax: (408) 556-5224

COMERICA BANK-CALIFORNIA


By: 
Its: Beau Barnes - Assistant
Vice President

Exhibit "A"

Additional Copyrights

Exhibit "B"

Additional Patents

Exhibit "C"

Additional Trademarks

Trademark	Registration No. Serial No.	Issue Date
MURDER MYSTERY PARTY	Serial No. 654,015 Reg. No. SR 1,503,469	9/6/1988
PHRACTURED PHRASES	Serial No. 331,081 Reg. No. 1,780,434	7/6/1993
NATIONAL YOUNG GAME INVENTOR'S CONTEST	Serial No. 76/332,192	
NOVA NUMBERS	Serial No.: 75-500,731	June 11, 1998
GREAT EXPLORATIONS & DESIGN	Reg. No. 2,328,055 Serial No. 506,820	3/14/2000
STICKS LIKE MAGIC	Reg. No. 1,740,006 Serial No. 262,551	12/15/1992
DESIGN MISC. (WAY TO GLOW TRADE DRESS)	Reg. No. SR2,294,828 Serial No. 521,154	11/23/1999
"C" & DESIGN (CLOWN FACE)	Reg. No. 761,273 Serial No. 72/146022	12/10/1963
COLORFORMS	Serial No. 75/874,638	
FUN POCKETS	Serial No. 76/316,490 Reg. No. 2,585,276	June 25, 2002
COLORFELTS	Serial No. 76/201,704	
BIG BANG	Serial No. 76/204,667	
GALACTIC ASTROS	Serial No. 76/204,668	
DOODLETOP	Serial No. 204,671 Reg. No. 2,504,549	11/6/2001

Trademark	Registration No. Serial No.	Issue Date
COLORFORMS & DESIGN	Reg. No. 761,272 Serial No. 146,021	12/10/1963
AMERICA'S SPIRIT	Serial No. 76/327,687	10/19/01
SILLY NOISES	Serial No. 76/354,949	1/2/02
STICKTRONICS	Serial No. 76/354,973	1/2/02
SNEAK-A-PEEK	Serial No. 76/354,974	1/2/02
EVEN MORE FUN TODAY THAN WHEN WE WERE KIDS!	Serial No. 76/359,371	
EVEN MORE FUN TODAY THAN WHEN WE WERE KIDS	Serial No. 76/201,707	

EXHIBIT D

See attached.