11-07-2002

Form PTO-1594 (Rev. 03/01)
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Tab settings ⇨⇨⇨

102274129

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):

FASHION INSTITUTE OF DESIGN & MERCHANDISING

10-28-02

☐ Individual(s) ☐ Association

☐ General Partnership ☐ Limited Partnership

☒ Corporation-State
CALIFORNIA

Other

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

2. Name and address of receiving party(ies)

Name: **BANK OF THE WEST**

Internal Address:

Street Address: **601 SOUTH FIGUEROA STREET**

City: **LOS ANGELES** State: **CA** Zip: **90017**

☐ Individual(s) citizenship

☐ Association

☐ General Partnership

☐ Limited Partnership

☐ Corporation-State

☒ Other **CALIFORNIA BANKING CORPORATION**

OCT 28 2002

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: **OCTOBER 9, 2002**

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

A. Trademark Application No.(s) **SEE SCHEDULE**

B. Trademark Registration No.(s) **SEE SCHEDULE**

Additional number(s) attached ☒ Yes ☐ No

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

Name **WANSUN SONG, ESQ.**

Internal Address

PILLSBURY WINTHROP LLP

Street Address: **725 SOUTH FIGUEROA STREET**

City: **LOS ANGELES** State: **CA** Zip: **90017-5406**

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: **16-1805**

(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.

WANSUN SONG
Name of Person Signing

Wansun Song
Signature

10/28/02
Date

Total number of pages including cover sheet, attachments, and document: **11**

11/07/2002 LMUELLER 00000043 7430377
01 FC:8521 40.00 OP
02 FC:8522 150.00 OP

TRADEMARK
SCHEDULE

Trademark	Serial No. Registration No.	Filing Date Issue Date
FASHION INSTITUTE OF DESIGN & MERCHANDISING	74/388,377 1,851,735	5/7/93 8/30/94
FIDM	74/388,376 1,891,307	5/7/93 4/25/95
L.A. FASHION GALA	76/374,595	2/22/02
FIDM FASHION CLUB	76/374,594	2/22/02
FASHION CLUB	76/374,593	2/22/02
CAREER DREAMSCAPE	76/374,592	2/22/02
KOOL CONNECTIONS	76/374,258	2/21/02

TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (this "Agreement") is executed as of Oct. 9, 2002 by and between FASHION INSTITUTE OF DESIGN & MERCHANDISING, a California corporation (the "Borrower"), with an address at 919 South Grand Avenue, Los Angeles, California 90015, and BANK OF THE WEST successor in interest to UNITED CALIFORNIA BANK successor in interest to TOKAI BANK OF CALIFORNIA (the "Bank").

Recitals

A. Concurrently herewith, the Borrower and the Bank have entered into a Credit Agreement (Line of Credit) dated as of Oct 9, 2002 (said Agreement, as it may hereafter be amended, restated or otherwise modified from time to time, herein called the "Credit Agreement"). Terms defined in the Credit Agreement and not otherwise defined herein have the same respective meanings when used herein.

B. The Bank has extended, and may hereafter extend, credit to the Borrower, including pursuant to the Credit Agreement. To secure the Borrower's obligations to the Bank under the Credit Agreement and all other liabilities, loans, guarantees, covenants and duties owed by the Borrower to the Bank, whether or not evidenced by the Credit Agreement or by any other agreement, absolute or contingent, due or to become due, now existing or hereafter and howsoever created (collectively, the "Secured Obligations"), the Borrower has granted the Bank a security interest thereunder in, among other items, trademarks and general intangibles.

C. The Borrower and the Bank wish to further clarify their respective rights and obligations with regard to the Trademark Collateral (as defined below), and the Bank desires to have its security interest in the Trademark Collateral confirmed by a document identifying the same and in such form that it may be recorded in the United States Patent and Trademark Office.

D. It is a condition precedent to the effectiveness of the Credit Agreement that the Borrower execute and deliver this Agreement, and the Borrower and the Bank accordingly agree as set forth below.

1. Grant of Security Interest. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to secure the Borrower's obligations with respect to the Secured Obligations, the Borrower hereby assigns for security, and grants the Bank a lien and security interest in, all of the Borrower's right, title and interest in and to the following, whether now owned or hereafter acquired, whether now or hereafter existing, and wherever located (the "Trademark Collateral"): (a) all trademarks, servicemarks and tradenames owned by the Borrower (the "Trademarks"), including, without limitation, the trademarks, servicemarks and tradenames listed in Schedule A to the Trademark Assignment attached hereto as Exhibit A (the "Trademark Assignment"); (b) all applications for trademarks, servicemarks and tradenames (the "Applications"), including, without limitation, the applications listed in Schedule A to the Trademark Assignment; (c) all of the goodwill of the Borrower associated with and/or represented by the Trademarks and/or the Applications; (d) all registrations of the

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Trademarks; (e) all royalties and other amounts paid or payable to the Borrower in respect of the Trademarks (the Trademarks, the Applications, such royalties and other amounts, and the proceeds of the foregoing herein called the "Trademark Rights"); (f) all rights, interests, claims and demands that the Borrower has or may have for past or future infringements of the Trademark Rights and (g) all proceeds of any and all of the foregoing.

2. Maintenance of Trademark Collateral. The Borrower covenants and agrees to maintain the Trademark Collateral, other than Trademark Collateral that expires automatically upon completion of its term or as permitted by Section 8(a) hereof, in full force and effect until the Line of Credit has terminated and all of the Borrower's liabilities and obligations to the Bank with respect to the Secured Obligations have been satisfied in full.

3. Representations and Warranties. The Borrower represents, warrants and covenants to the Bank as follows: (a) the execution, delivery and performance by the Borrower of this Agreement and all other documents contemplated hereby have been duly and validly authorized and do not violate any law or any provision of, and are not grounds for acceleration under, any agreement or instrument which is binding upon the Borrower; (b) except for the Trademarks set forth on Schedule A to the Trademark Assignment, the Borrower does not own any Trademark as of the date hereof; (c) the Trademarks are subsisting and have not been adjudged invalid or unenforceable; (d) the Borrower has not received any notice that a suit or action has been commenced or threatened against it, or any notice of a claim asserted or threatened against it, with reference to any of the Trademark Rights or the security interest granted herein, including, without limitation, any claim, suit or action alleging or asserting that a Trademark Right is not valid or enforceable; (e) the Borrower has no knowledge of any factual basis for such a claim, suit or action; (f) the Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademark Rights, and each of the Trademark Rights is free and clear of any lien, charge, claim, option, license (except for nonexclusive licenses granted in the ordinary course of business) and encumbrance, including, without limitation, any pledge, assignment or covenant by the Borrower not to sue third persons; (g) the Borrower has full corporate power and authority to execute and deliver this Agreement and perform its terms; (h) the Borrower has used, and shall continue to use for the duration of this Agreement, proper notice, as permitted by 15 U.S.C. §1051-1127 in connection with its use of the Trademark Rights; (i) the Borrower has used, and will continue to use for the duration of this Agreement, consistent standards of quality in products leased or sold under the Trademark Rights and hereby grants to the Bank and its employees and agents the right to visit the Borrower's locations that lease, sell or store products under any of the Trademark Rights and to inspect the products and quality-control records relating thereto at reasonable times during regular business hours to ensure the Borrower's compliance with this Section 3(i); and (j) the Borrower has adopted, has used and is using, and has registered or has filed applications for the registration of, the Trademarks listed in Schedule A to the Trademark Assignment.

4. Covenants. The Borrower covenants for the benefit of the Bank as follows: (a) until the Line of Credit has terminated and all of the Borrower's obligations with respect to the Secured Obligations have been satisfied in full, the Borrower shall not (i) enter into any agreement which is inconsistent with the Borrower's obligations under this Agreement or (ii) pledge, license (other than licensing on a nonexclusive basis in the ordinary course of the Borrower's business), grant a security interest in or otherwise encumber any of the Trademark

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Collateral, except in favor of the Bank; and (b) if the Borrower adopts, uses or files an application for the registration of any new Trademark Collateral, the provisions of this Agreement shall automatically apply thereto, and the Borrower shall give the Bank prompt written notice thereof along with an amended Schedule A to the Trademark Assignment.

5. Exclusive Use of Trademark Collateral. So long as this Agreement is in effect and so long as the Borrower has not received notice from the Bank that an Event of Default has occurred and that the Bank has elected to exercise its rights to assignment hereunder, the Borrower shall continue to own the Trademark Collateral and to have the right, to the exclusion of the Bank, to use the Trademark Collateral and to grant nonexclusive licenses with respect thereto in the ordinary course of business, and the Bank shall have no right to use the Trademark Collateral or issue any exclusive or nonexclusive license with respect thereto or to assign, pledge or otherwise transfer title to any of the Trademark Collateral to anyone else. For purposes of this Agreement, an Event of Default shall mean an "Event of Default" under the Credit Agreement, and a default under any other agreement, document or instrument made by the Borrower in connection with the Secured Obligations.

6. Remedies Upon Default.

(a) Notwithstanding anything in this Agreement to the contrary, the Borrower agrees that, if an Event of Default occurs and is continuing, the Bank as the holder of a security interest under the Uniform Commercial Code, as now or hereafter in effect in the State of California, may take such action permitted under the Credit Agreement, or under any other document executed in connection with the Secured Obligations, or permitted by law, in its exclusive discretion, to foreclose upon the Trademark Collateral covered hereby.

(b) For such purposes, if an Event of Default occurs and is continuing, the Borrower hereby authorizes and empowers the Bank to make, constitute and appoint any officer or agent of the Bank as the Bank may select, in its exclusive discretion, as the Borrower's true and lawful attorney-in-fact, with the power to endorse the Borrower's name on all applications, documents, papers and instruments necessary for the Bank to use the Trademark Collateral or to grant or issue any exclusive or nonexclusive license under the Trademark Collateral to anyone else, or necessary for the Bank to assign, pledge, convey or otherwise transfer title to, or dispose of, the Trademark Collateral. The Borrower hereby ratifies all that such attorney lawfully does or causes to be done by virtue hereof, except for the gross negligence or willful misconduct of such attorney. This power of attorney shall be irrevocable for the life of this Agreement and the other Secured Obligations and until the Line of Credit terminates and all of the Borrower's obligations with respect to the Secured Obligations are satisfied in full.

(c) The Borrower expressly acknowledges that the Bank shall record this Agreement with the United States Patent and Trademark Office in Washington, D.C. Contemporaneously herewith, the Borrower shall also execute and deliver to the Bank the conditional Trademark Assignment in the form attached hereto as Exhibit A, which assignment shall have no force or effect and shall be held by the Bank, in escrow, until the occurrence of an Event of Default. After such occurrence, the Trademark Assignment shall take effect immediately upon certification of such fact by an authorized officer of the Bank in the form

reflected on the face of the Trademark Assignment, and the Bank may, at its sole option, record the Trademark Assignment with the United States Patent and Trademark Office.

7. Termination of Agreement. Upon termination of the Line of Credit and payment and performance of all of the Borrower's obligations with respect to the Secured Obligations, the Bank shall immediately execute and deliver to the Borrower all documents necessary to terminate the Bank's security interest in the Trademark Collateral and shall deliver to the Borrower the original and all copies of the previously executed Trademark Assignment.

8. Prosecution of Trademark Applications.

(a) Subject to the terms of the Credit Agreement, the Borrower shall have the duty to (i) prosecute diligently any application with respect to the Trademark Collateral that is pending as of the date of this Agreement or thereafter, until the Line of Credit terminates and the Borrower's obligations with respect to the Secured Obligations are satisfied in full, (ii) preserve and maintain all rights in the Trademark Collateral and (iii) upon the reasonable request of the Bank, file federal applications with respect to registrable but unregistered Trademarks belonging to the Borrower. Any expenses incurred in connection with such applications shall be borne by the Borrower. The Borrower shall not abandon any Trademark registration or application without the prior written consent of the Bank, except, prior to the occurrence of an Event of Default, with regard to any Trademark Collateral that the Borrower reasonably determines is of negligible economic value to it.

(b) The Borrower shall have the right to bring suit in its own name to enforce the Trademark Collateral, in which event the Bank may, if the Borrower deems it necessary or upon the occurrence and during the continuation of an Event of Default, be joined as a nominal party to such suit if the Bank is satisfied that it is not thereby incurring any risk of liability by such joinder. The Borrower shall promptly, upon demand, reimburse, indemnify, defend and hold harmless the Bank for all damages, reasonable costs and reasonable expenses, including, without limitation, attorneys' fees, incurred by the Bank in the fulfillment of the provisions of this Section 8(b).

9. Additional Remedies. Upon the occurrence and during the continuation of an Event of Default, the Bank may, without any obligation to do so, complete any obligation of the Borrower hereunder, in the Borrower's name or in the Bank's name, but at the Borrower's expense, and the Borrower hereby agrees to reimburse the Bank in full for all reasonable expenses, including, without limitation, reasonable attorneys' fees, incurred by the Bank in protecting, defending and maintaining the Trademark Collateral.

10. Relation to Credit Agreement. This Agreement is a supplement to the Credit Agreement, and the Bank's rights and remedies, and the Borrower's obligations and waivers, under the Credit Agreement, and the interpretive principles stated in the Credit Agreement, shall be applicable hereunder; provided, however, that this Agreement and the Credit Agreement shall be construed together so as to grant the Bank the greatest rights and remedies with regard to the Trademark Collateral; further provided, however, that the Bank's rights and remedies hereunder may be expressly modified by amendments to the Credit Agreement from time to time.

11. Governing Law. THIS AGREEMENT SHALL BE INTERPRETED, AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO SHALL BE DETERMINED, IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA, EXCLUDING ITS CONFLICT-OF-LAW RULES, EXCEPT THAT THE FEDERAL LAWS OF THE UNITED STATES OF AMERICA SHALL GOVERN TO THE EXTENT APPLICABLE.

FASHION INSTITUTE OF DESIGN & MERCHANDISING

By:

Name:

Title ANNIE JOHNSON

VP CFO

THIS DOCUMENT SHALL BE HELD BY BANK OF THE WEST (THE "BANK") IN ESCROW PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF THE TRADEMARK SECURITY AGREEMENT DATED AS OF _____, 2002 BETWEEN THE BORROWER AND THE BANK (THE "SECURITY AGREEMENT"). BY SIGNING IN THE SPACE PROVIDED BELOW, THE UNDERSIGNED OFFICER OF THE BANK CERTIFIES THAT AN EVENT OF DEFAULT (AS DEFINED IN THE AGREEMENT) HAS OCCURRED AND THAT THE BANK, AS GRANTEE HEREUNDER, HAS ELECTED TO TAKE POSSESSION OF THE TRADEMARKS (AS DEFINED BELOW) AND TO RECORD THIS DOCUMENT WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE. UPON RECORDING OF THIS DOCUMENT WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE, THIS LEGEND SHALL CEASE TO HAVE ANY FORCE OR EFFECT.

BANK OF THE WEST

By: _____
Name: _____
Title: _____
Date: _____

TRADEMARK ASSIGNMENT

A. FASHION INSTITUTE OF DESIGN & MERCHANDISING, a California corporation (the "Borrower"), is the owner of the entire right, title and interest in and to the United States trademarks, servicemarks and tradenames listed on Schedule A attached hereto (the "Trademarks") and made part hereof, which are registered in the United States Patent and Trademark Office or which are the subject of pending applications in the United States Patent and Trademark Office.

B. BANK OF THE WEST (the "Bank"), wishes to acquire the Trademarks.

C. The Bank has a security interest in the assets of the Borrower, adequate to carry on the business of the Borrower.

D. The Security Agreement provides that this Assignment shall become effective upon the occurrence of an Event of Default.

Accordingly, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Borrower, for itself and its successors and assigns, subject to the limitations stated in the paragraph immediately

following, hereby transfers, assigns and sets over to the Bank and its successors, transferees and assigns all of the Borrower's current and future right, title and interest in and to the Trademarks, all proceeds thereof and all goodwill and other rights associated therewith.

This Trademark Assignment shall be effective only upon the certification by an authorized officer of the Bank, as provided above, that (1) an Event of Default has occurred and (2) the Bank has elected to take possession of the Trademarks.

The undersigned has caused this Trademark Assignment to be executed by its duly authorized officer as of Oct 9, 2002.

FASHION INSTITUTE OF DESIGN & MERCHANDISING

By:

Name: ANNE L. JOHNSON

Title VP CFO

THE FASHION INSTITUTE OF DESIGN & MERCHANDISING
919 S. GRAND AVENUE
LOS ANGELES, CALFORNIA 90015

TRADEMARK SUMMARY

FEDERAL TRADEMARKS:

		FEDERAL RENEWED	REG. NO.	EXPIRES
FASHION INSTITUTE OF DESIGN & MERCHANDISING		AUGUST 13, 1994	1851735	AUGUST 13, 2004
FIDM		APRIL 25, 1995	1891307	APRIL 25, 2005
L.A. FASHION GALA	Filed on	FEBRUARY 22, 2002	76/374,595	Pending application
FIDM FASHION CLUB	Filed on	FEBRUARY 22, 2002	76/374,594	Pending application
FASHION CLUB	Filed on	FEBRUARY 22, 2002	76/374,593	Pending application
CAREER DREAMSCAPE	Filed on	FEBRUARY 22, 2002	76/374,592	Pending application
KOOL CONNECTIONS	Filed on	FEBRUARY 21, 2002	76/374,258	Pending application

CALIFORNIA SERVICE MARKS:

	DATE OF REGISTRATION		EXPIRES
FASHION FORUM	JUNE 9, 1993	17949	AUGUST 23, 2003
FASHION INSTITUTE	JUNE 9, 1993	17202	AUGUST 5, 2003
FASHION INSTITUTE OF CALIFORNIA	JUNE 30, 1993	17444	SEPTEMBER 6, 2003
FASHION INSTITUE OF DESIGN & MERCHANDISING	JUNE 9, 193		AUGUST 5, 2003
THE FASHION INSTITUTE	JUNE 9, 1993	17199	AUGUST 5, 2003
THE FASHION INSTITUTE OF DESIGN & MERCHANDISING	JUNE 6, 1993	17200	AUGUST 5, 2003
THE FASHION INSTITUTE OF LOS ANGELES	JUNE 6, 1993	17445	SEPTEMBER 6, 2003
THE FASHION INSTITUTE OF ORANGE COUNTY	JUNE 6, 1993	17448	SEPTEMBER 6, 2003
THE FASHION INSTITUTE OF SAN DIEGO	JULY 5, 1995	25171	DECEMBER 4, 2005
THE FASHION INSTITUTE OF SAN FRANCISCO	JUNE 6, 1993	17447	SEPTEMBER 6, 2003
FIDM	JUNE 9, 1993	17197	AUGUST 5, 2003
FIDM ALUMNI FOUNDATION	NOV 23, 1993	18032	NOVEMBER 9, 2003
FIDM PRODUCTIONS	JUNE 6, 1993	17201	AUGUST 5, 2003
FIDM MUSEUM & LIBRARY	JUNE 14, 1993	17196	AUGUST 5, 2003
FIDM SCHOLARSHIP FOUNDATION	MAY 3, 1993	17198	AUGUST 5, 2003
FASHION DESIGNER OF TOMORROW	JUNE 5, 1991		JUNE 5, 2011
INTERIOR DESIGNER OF TOMORROW	JUNE 5, 1991	38607	JUNE 5, 2011
VISUAL DESIGNER OF TOMORROW	JUNE 6, 1991	38619	JUNE 6, 2011

THE FASHION EXECUTIVE OF TOMORROW		JUNE 6, 1993		17204	AUGUST 5, 2003
THE DESIGNER OF TOMORROW		JUNE 6, 1993			AUGUST 18, 2003
THE FASHION GAME		JUNE 6, 1993		17307	AUGUST 18, 2003

TAIWAN TRADEMARKS

		RENEWED	DATE APPPLICATION FOR RENEWAL MUST BE FILED (6 MONTHS PRIOR)	EXPIRES
FIDM	(International Class 18) (#829101)	DECEMBER 1, 1998	JUNE 1, 2008	NOVEMBER 30, 2008
FIDM	(International Class 41) (#109427)	MAY 1, 1999	APRIL 1, 2008	SEPTEMBER 30, 2008
FIDM	(International Class 41) (#103241)	OCTOBER 1, 1998	MARCH 1, 2008	SEPTEMBER 30, 2008
FIDM	(International Class 42) (#98941)	MARCH 1, 1998	AUGUST 29, 2007	FEBRUARY 29, 2008

RECORDED: 10/28/2002

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