

02-19-2003



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

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

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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): 2-11-03 Madewell Manufacturing Co., Inc.

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

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

- Nature of conveyance: Assignment Merger Security Agreement Change of Name Other

Execution Date: January 31, 2003

2. Name and address of receiving party(ies) Name: David Mullen, LLC Internal Address:

Street Address: 427 7th Street

City: Oakmont State: PA Zip: 15139

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

Other Delaware 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)

B. Trademark Registration No.(s)

968,685

Additional number(s) attached Yes No

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

Name: Kim A. Walker

Internal Address: Willkie Farr & Gallagher

Street Address: 787 Seventh Avenue

City: New York State: NY Zip: 10019

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41): \$ 40

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

23-2405

(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.

Kim A. Walker Name of Person Signing

Signature

2/11/03 Date

Total number of pages including cover sheet, attachments, and document: 6

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

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TRADEMARK REEL: 002672 FRAME: 0682

TRADEMARK ASSIGNMENT

THIS TRADEMARK ASSIGNMENT ("Assignment"), is made as of this 31st day of January, 2003, by and between Madewell Manufacturing Co., Inc., with an address at 91 Rodney French Boulevard, New Bedford, Massachusetts 02744 ("Assignor"), and David Mullen, LLC, a Delaware limited liability company, with an address at 427 7th Street, Oakmont, Pennsylvania 15139 ("Assignee").

WHEREAS, Assignor is the owner of all right, title and interest in and to certain Trademarks (as defined below); and

WHEREAS, Assignee is desirous of acquiring the Trademarks.

NOW, THEREFORE, for the sum of \$125,000 in certified funds and other good and valuable consideration, the receipt and sufficiency of which Assignor acknowledges, Assignor hereby agrees as follows:

1. Assignment. Assignor hereby irrevocably sells, assigns, conveys, transfers and sets over unto Assignee, its successors, legal representatives and assigns, all of its right, title and interest in, to and under the Trademarks, the same to be held and enjoyed by Assignee for its own use and benefit, and for the use and benefit of its successors, assigns or other legal representatives, fully and entirely as if the same would have been held and enjoyed by Assignor if this Assignment had not been made. As used in this Assignment, "Trademarks" shall mean the trademark MADEWELL and all derivatives thereof, including without limitation (a) any United States, foreign and common law rights in and to the MADEWELL mark and all trademarks, service marks, trade names, trade dress, product names, assumed or fictitious names and logos associated therewith, all registrations and applications therefor, all rights to renew or extend the registrations (and registrations which shall issue from applications), all registrations and applications set forth in Schedule A attached hereto, and all legal or common law equivalents of any of the foregoing held by Assignor; (b) any domain name registrations incorporating "Madewell"; (c) any licenses and other agreements providing Assignor or a third party with the right to use any item referred to in clauses (a) and (b), including the right to sue for breach or enforcement of any such licenses or other agreements, subject, in each case, to the terms of such licenses and other agreements; (d) any proceeds of any item referred to in clauses (a) through (c), including license fees, royalty payments and the right to sue third parties for past, present or future infringements of same and to collect all proceeds of infringement suits and judgments in respect thereof for Assignee's own use or for the use of its successors, assigns or other legal representatives; and (e) the goodwill of Assignor's business appurtenant to the items set forth in clauses (a) through (c) or otherwise symbolized by and associated therewith.

2. Use By Assignor. Assignor and Assignee expressly acknowledge that this Assignment does not preclude non-trademark use of "Madewell Manufacturing Co., Inc." or "Madewell" (*i.e.*, use other than in connection with products or services bearing the MADEWELL mark) by Assignee. For clarification purposes, a telephone listing (non-advertisement) would not violate this provision.

3. Inventory. Assignor shall deliver or cause to be delivered to Assignee, within 30 days after execution of this Assignment, all labels, buttons, flashers, trims, marketing materials and like items in its possession or control bearing the Trademarks.

4. Recordation. If Assignee elects to record this Assignment with the United States Patent & Trademark Office (or any equivalent State agency) or any like office of any country or countries foreign to the United States, Assignee shall bear all costs and fees associated with such recording. Assignor hereby authorizes and requests the Commissioner of Patents and Trademarks of the United States, and any like official of any State or any country or countries foreign to the United States whose duty it is to register trademarks, to transfer all registrations and applications for a trademark or service mark included in the Trademarks to Assignee as owner of the entire right, title and interest therein or otherwise as Assignee may direct, and to issue to Assignee, its successors, legal representatives and assigns, all registrations which may issue with respect to any such applications, in accordance with the terms of this instrument.

5. Further Assurances. Assignor covenants and agrees that it will, upon the reasonable request of Assignee and at Assignee's cost and expense, take, or cause to be taken, all such other and further action as may reasonably be required in order to effect the assignment contemplated by this Assignment, including executing and delivering, or causing to be executed or delivered, any and all documents provided by Assignee that may be necessary or desirable to effect the sale, assignment, conveyance and transfer of the Trademarks hereunder; and communicating to Assignee any facts relating to the Trademarks known to Assignor, and testifying in any legal proceeding in the United States Patent and Trademark Office or in connection with any litigation involving the Trademarks or otherwise confirming Assignee's interests in the Trademarks.

6. Representations and Covenants. Assignor hereby represents that (a) Assignor owns the Trademarks free and clear of liens and encumbrances and Assignor has not executed any agreement or assignment in conflict herewith; (b) Assignor has the full right to convey the entire interest in the Trademarks herein assigned; (c) Assignor's rights in the Trademarks are valid and enforceable; (d) to Assignor's knowledge, the Trademarks do not violate or infringe, and have not violated or infringed, the intellectual property rights of any third party; (e) Assignor has received no material demand, claim, notice or inquiry which challenges or threatens to challenge or inquires as to whether there is any basis to challenge, the validity of, or Assignor's rights in, the Trademarks, and Assignor knows of no material basis for any such challenge; (f) to Assignor's knowledge, no third party is infringing the Trademarks; and (g) Assignor has not granted any license with respect to the Trademarks to any third party. Assignor hereby covenants and agrees that Assignor will not execute any agreement or assignment (nor promise to do so) in conflict with this Assignment.

7. Stock. If at any time prior to the fifth anniversary of the date hereof, the Assignee or any affiliate directly controlled by the Assignee issues equity securities in an initial public offering ("IPO") pursuant to a registration under the Securities Act of 1933, as amended, with aggregate proceeds equal to or greater than twenty-five million dollars (\$25,000,000), Assignor will have the option to purchase up to twenty-five thousand dollars (\$25,000) in shares of such equity securities at a discount price of 50% of the purchase price paid by the public in such IPO.

8. General Provisions.

a) This Assignment may not be supplemented, altered or modified in any manner except by a writing signed by both parties hereto.

b) The failure of either party to enforce any terms or provisions of this Assignment will not waive any rights under such terms and provisions.

c) This Assignment shall bind and shall inure to the benefit of the respective parties and their assigns, transferees and successors.

d) This Assignment may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. This Assignment may be executed by facsimile signature and such facsimile signature shall be deemed an original.

e) This Assignment shall be interpreted and enforced under the laws of the United States, if required, and the laws of the State of Massachusetts, without regard to any choice of laws or conflict of laws rule thereof, except to the extent federal substantive law is required.

f) Any dispute arising hereunder shall be litigated in Bristol County Superior Court in the State of Massachusetts, unless federal courts are required by the nature of the dispute, in which event the matter will be submitted to the Federal Court of the District of Massachusetts located in Boston.

SCHEDULE A
TRADEMARKS

MADEWELL, U.S. Registration Number 968,685, registered September 18, 1973 (renewal due September 18, 2003).