

02-19-2003

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings



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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): Sports Warehouse Inc. 2.14 03
Individual(s) Association
General Partnership Limited Partnership
Corporation-State
Other
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)
Name: The CIT Group/Business Credit, Inc.
Internal Address: 3rd Floor
Street Address: 300 South Grand Avenue
City: Los Angeles State: CA Zip: 90071
Individual(s) citizenship
Association
General Partnership
Limited Partnership
Corporation-State: New York
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: 12/27/2002

4. Application number(s) or registration number(s):
A. Trademark Application No.(s)
B. Trademark Registration No.(s)
2463959; 2461767; 2390988
Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Deborah E. Taylor
Internal Address: c/o Latham & Watkins
Street Address: 633 West 5th St., #4000
City: Los Angeles State: CA Zip: 90071

6. Total number of applications and registrations involved: 3
7. Total fee (37 CFR 3.41): \$ 90.00
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.
Deborah E. Taylor Signature Date: February 6, 2003
Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 13

02/18/2003 ECDOPER 00000041 2463959

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

01 FC:8521 40.00 DP
02 FC:8522 50.00 DP

TRADEMARK REEL: 002672 FRAME: 0911

**GRANT OF SECURITY INTEREST IN
PATENTS, TRADEMARKS AND LICENSES**

THIS GRANT OF SECURITY INTEREST IN PATENTS, TRADEMARKS AND LICENSES (herein the "Agreement") made as of this 27 day of December, 2002, by **SPORTS WAREHOUSE INC. (dba SPORTSMAN'S WAREHOUSE)**, a Utah corporation, with its principal place of business at 1009 West 3160 South, Salt Lake City, Utah 84119 (herein the "Company"), and **THE CIT GROUP/BUSINESS CREDIT, INC.**, a New York corporation, with offices at 300 South Grand Avenue, Suite 300, Los Angeles, California 90071, as agent (herein, the "Agent") for its benefit and the benefit of the lenders parties from time to time to the Financing Agreement referred to below (the "Lenders").

WITNESSETH:

WHEREAS, the Company, its affiliate Pacific Flyway Wholesale, Inc. ("PF"), the Lenders and the Agent are parties to a certain Financing Agreement of even date herewith, as the same may be amended from time to time (herein the "Financing Agreement"), which Financing Agreement provides (i) for the Lenders to make certain loans, advances and extensions of credit, all to or for the account of the Company and PF and (ii) for the grant by the Company and PF to the Agent of a security interest in certain of the Company's and PF's assets, including, without limitation, their patents, patent applications and/or registrations, trademarks, trademark applications and/or registrations, tradenames, goodwill and licenses, all as more fully set forth therein;

NOW THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Company agrees as follows:

1. Definitions. Capitalized terms used herein and defined in the Financing Agreement shall have the meanings set forth therein unless otherwise specifically defined herein.
2. Grant of Security Interest. To secure the payment of the "Obligations" (as defined in the Financing Agreement) of the Company, the Company hereby grants to the Agent, for its benefit and the benefit of the Lenders, a security interest, effective immediately, in all of the Company's right, title and interest in and to all of the following described property, whether now owned or hereafter acquired (collectively herein the "Intellectual Property Collateral"):
 - (i) Patents and patent applications and/or registrations together with the inventions and improvements described and claimed therein including, without limitation, the patents and applications, if any, listed on Schedule A, attached hereto and made a part hereof, and any and all reissues and renewals thereof and all income, royalties, damages and payments now and hereafter due and/or payable in connection therewith including,

without limitation, damages and payments for past or future infringements thereof (all of the foregoing are sometimes hereinafter individually and/or collectively referred to as the "Patent Collateral");

- (ii) Trademarks, service marks, trademark registrations and/or applications, service mark registrations and/or applications and tradenames including, without limitation, the trademarks, service marks and applications, if any, listed on Schedule B attached hereto and made a part hereof, and any and all reissues and/or renewals thereof, and all income, royalties, damages and payments now and hereafter due and/or payable in connection therewith including, without limitation, damages and payments for past or future infringements thereof (all of the foregoing are sometimes hereinafter individually and/or collectively referred to as the "Trademark Collateral");
- (iii) Any license agreement in which the Company is or becomes licensed to use any patents and/or trademarks owned by a third party including, without limitation, the licenses, if any, listed on Schedule C attached hereto and made a part hereof (all of the foregoing are sometimes referred to herein individually and/or collectively as the "License Collateral");
- (iv) The goodwill of the Company's business connected with and symbolized by the Intellectual Property Collateral; and
- (v) All cash and non-cash proceeds of the foregoing.

3. The Agent's Rights. Upon the occurrence of any Event of Default hereunder, the Agent shall have all the rights and remedies of a secured party under the Uniform Commercial Code and any other applicable state or federal laws. The Agent will give the Company reasonable notice of the time and place of any public sale of the Intellectual Property Collateral or the time after which any private sale of the Intellectual Property Collateral or any other intended disposition thereof is to be made. Unless otherwise provided by law, the requirement of reasonable notice shall be met if such notice is mailed, postage prepaid to the address of the Company set forth above (or such other address as the Company has given the Agent prior written notice in accordance with the Financing Agreement) at least ten (10) days before the date of such sale or disposition. In addition to the foregoing and all other rights and remedies of the Agent and the Lenders upon the occurrence of any Event of Default hereunder, the Agent shall thereupon have the immediate right to transfer to itself or to sell, assign and transfer to any other person all right, title and interest in and to all or any part of the Intellectual Property Collateral. A formal irrevocable power of attorney (in the form annexed hereto) is being executed and delivered by the Company to the Agent concurrently with this Agreement to enable such rights to be carried out. The Company agrees that, in the event the Agent exercises its rights hereunder and/or pursuant to said power of attorney in accordance with its terms, after

written notification of such exercise from the Agent to the Company, the Company shall never thereafter, without the prior written authorization of the owner or owners of such Intellectual Property Collateral, use any of such Intellectual Property Collateral. The condition of the foregoing provision is such that unless and until there occurs an Event of Default under this Agreement, the Company shall continue to own and use the Intellectual Property Collateral in the normal course of its business and to enjoy the benefits, royalties and profits therefrom provided, however, that from and after the occurrence of an Event of Default such right will, upon the exercise by the Agent of the rights provided by this Agreement, be revoked and the right of the Company to enjoy the uses, benefits, royalties and profits of said Intellectual Property Collateral will wholly cease, whereupon the Agent or its transferee(s) shall be entitled to all of the Company's right, title and interest in and to the Intellectual Property Collateral hereby so assigned. This Agreement will not operate to place upon the Agent any duty or responsibility to maintain the Intellectual Property Collateral.

4. Fees. The Company will pay all filing fees with respect to the security interest created hereby which the Agent may deem necessary or advisable in order to perfect and maintain the perfection of its security interest in the intellectual Property Collateral.
5. Representations and Warranties. The Company represents and warrants: that the Company lawfully possesses and owns the Intellectual Property Collateral and that except for the security interest granted hereby and Permitted Encumbrances (as defined in the Financing Agreement), the Intellectual Property Collateral will be kept free from all liens, security interests, claims and encumbrances whatsoever; that the Company has not made or given any prior assignment, transfer or security interest in the Intellectual Property Collateral or any of the proceeds thereof; that the Intellectual Property Collateral is and will continue to be, in all respects, in full force and effect; and that there are no known infringements of the Intellectual Property Collateral.
6. Application of Proceeds. The proceeds of any sale, transfer or disposition of the Intellectual Property Collateral shall be applied first to all costs and expenses, including, but not limited to, reasonable attorneys' fees and expenses and court costs, incurred by the Agent in connection with such sale and the exercise of the Agent's rights and remedies hereunder and under the Financing Agreement and the other Loan Documents; next, such proceeds shall be applied to the payment, in whole or in part, of the Obligations due the Agent and the Lenders in such order as the Agent may elect; and the balance, if any, shall be paid to the Company or as a court of competent jurisdiction may direct.
7. Defense of Claims. The Company will defend at its own cost and expense any action, claim or proceeding affecting the Intellectual Property Collateral or the interest of the Agent therein. The Company agrees to reimburse the Agent for all costs and expenses incurred by the Agent in defending any such action, claim or

proceeding.

8. Rights Cumulative. This Agreement shall be in addition to the Financing Agreement and shall not be deemed to affect, modify or limit the Financing Agreement or any other Loan Document or any rights that the Agent has under the Financing Agreement and the other Loan Documents. The Company agrees to execute and deliver to the Agent (at the Company's expense) any further documentation or papers necessary to carry out the intent or purpose of this Agreement including, but not limited to, financing statements under the Uniform Commercial Code, and amendments to this Agreement to evidence the grant of the security interest in Intellectual Property Collateral hereafter obtained by the Company.
9. Construction and Invalidity. Any provisions hereof contrary to, prohibited by or invalid under any laws or regulations shall be inapplicable and deemed omitted herefrom, but shall not invalidate the remaining provisions hereof.
10. **CHOICE OF LAW. THE COMPANY AGREES THAT THE VALIDITY, INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT AND ALL RIGHTS HEREUNDER SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE OF CALIFORNIA. THIS AGREEMENT TOGETHER WITH THE FINANCING AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT OF THE COMPANY AND THE AGENT WITH RESPECT TO THE INTELLECTUAL PROPERTY COLLATERAL, CAN ONLY BE CHANGED OR MODIFIED IN WRITING AND SHALL BIND AND BENEFIT THE COMPANY, THE AGENT, THE LENDERS AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. THE COMPANY AND THE AGENT EACH HEREBY EXPRESSLY WAIVES ANY RIGHT OF TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING HEREUNDER.**
11. Events of Default. Any of the following constitutes an Event of Default under this Agreement:
 - (i) The Company fails to perform or observe any agreement, covenant or condition required under this Agreement; or
 - (ii) Any warranty or representation made by Company in this Agreement shall be or becomes false or misleading in any material respect; or
 - (iii) The occurrence of any Event of Default under the Financing Agreement which is not waived in writing by the Agent or the Required Lenders.
12. Notices. The Company covenants and agrees that, with respect to the Intellectual Property Collateral, it will give the Agent written notice in the manner provided in the Financing Agreement of:

- (i) any claim by a third party that the Company has infringed on the rights of a third party;
- (ii) any suspected infringement by a third party on the rights of the Company;
or
- (iii) any Intellectual Property Collateral created, arising or acquired by the Company after the date hereof.

13. Further Assurances. The Company will take any such action as the Agent may reasonably require to further confirm or protect the Agent's rights under this Agreement in the Intellectual Property Collateral. In furtherance thereof, the Company hereby grants to the Agent a power of attorney coupled with an interest which shall be irrevocable during the term of this Agreement to execute any documentation or take any action in the Company's behalf required to effectuate the terms, provisions and conditions of this Agreement.

14. Termination. This Agreement shall terminate upon termination of the Financing Agreement and full, final and indefeasible payment of all Obligations of the Company and PF thereunder. Upon the Company's request, the Agent shall within a reasonable time after any such termination execute and deliver to the Company (at the Company's expense) such documents and instruments as are reasonably necessary to evidence such termination and release of the security interest granted herein on any applicable public record.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have duly executed this Grant of Security Interest in Patents, Trademarks and Licenses as of date set forth above.

**SPORTS WAREHOUSE INC. (DBA
SPORTSMAN'S WAREHOUSE) (the
"Company")**

By: Stuart B. Utgaard
Name: STUART B. UTGAARD
Title: CEO

Agreed and Accepted this
____ day December 2002

THE CIT GROUP/BUSINESS CREDIT, INC.

By: _____
Name:
Title:

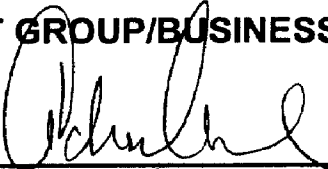
IN WITNESS WHEREOF, the parties hereto have duly executed this Grant of Security Interest in Patents, Trademarks and Licenses as of date set forth above.

**SPORTS WAREHOUSE INC. (DBA
SPORTSMAN'S WAREHOUSE) (the
"Company")**

By: _____
Name:
Title:

Agreed and Accepted this
~~27th~~ day December 2002

THE CIT GROUP/BUSINESS CREDIT, INC.

By:  _____
Name: *Adrian Avalos*
Title: *VP*

IRREVOCABLE POWER OF ATTORNEY

Sports Warehouse Inc. (dba Sportsman's Warehouse) with offices at 1009 West 3160 South, Salt Lake City, Utah 84119, (hereinafter referred to as the "Company"), hereby grants to **The CIT Group/Business Credit, Inc.**, a New York corporation, with offices at 300 South Grand Avenue, Suite 300, Los Angeles, California 90071 (hereinafter referred to as the "Agent"), the exclusive Irrevocable Power of Attorney to transfer to the Agent or to any designee of the Agent all Intellectual Property Collateral listed on the Schedules attached to the Grant of Security Interest in Patents, Trademarks and Licenses, dated as of the date hereof and as it may from time to time be amended, between the Company and the Agent (the "Agreement") including, without limitation, all patents, patent applications and/or registrations, trademarks, service marks trademark applications and/or registrations, service mark applications and/or registrations and licenses together with the goodwill of the business connected with or symbolized by such Intellectual Property Collateral and the Company's entire inventory of labels and decals bearing any trademarks not affixed to its products, and the right to operate and control, sell, assign, and transfer the business under those trademarks under the following terms and conditions:

1. The Power of Attorney granted hereunder shall be effective as of the date hereof and shall remain in force and effect for as long as any now existing or hereafter arising indebtedness, liabilities or obligations of the Company to the Lenders or the Agent are outstanding under the Financing Agreement, dated on or about the date hereof, between the Company, certain lenders (the "Lenders") and the Agent.

2. The Power of Attorney granted herein shall be irrevocable throughout the duration of its life as specified in Paragraph 1 hereinabove;

3. The Power of Attorney granted herein shall be exercisable by the Agent only after the occurrence of an Event of Default under the Agreement between the Agent and the Company; and

4. The Agent shall give the Company ten (10) days prior written notice of the exercise of this power, and the waiver by the Agent or the Required Lenders of any particular Event of Default as set forth in Paragraph 3 hereinabove shall have no force or effect unless in writing and signed by an authorized officer of the Agent and/or the Required Lenders. Even then such waiver shall not constitute or be considered a waiver of any other Event of Default then existing or thereafter arising whether similar or not.

[signatures on following page]

IN WITNESS WHEREOF, the Company has caused this Power of Attorney to be executed as of the _____ day of December, 2002

**SPORTS WAREHOUSE INC. (DBA
SPORTSMAN'S WAREHOUSE)**
(the "Company")

By: *Stuart B. Utgaard*
Name: **STUART B. UTGAARD**
Title: **CEO**

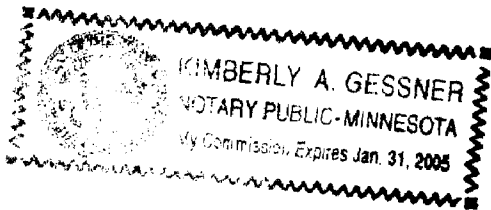
STATE OF *Minnesota*)
COUNTY OF *Hennepin*)

On *December 20*, 200*2*, before me, the undersigned, a notary public in and for said State, personally appeared *Stuart Utgaard* known to me to be the *CEO* of, SPORTS WAREHOUSE INC. the corporation that executed the within instrument, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws and a resolution of its board of directors.

WITNESS my hand and official seal.

Kimberly A. Gessner

Notary Public



**SCHEDULE A TO GRANT OF SECURITY INTEREST IN PATENTS,
TRADEMARKS AND LICENSES**

**between
SPORTS WAREHOUSE INC. (DBA SPORTSMAN'S WAREHOUSE)
and
THE CIT GROUP/BUSINESS CREDIT, INC.**

U.S. PATENTS

<u>Title</u>	<u>Patent No.</u>	<u>Issue Date</u>
NONE		

**SCHEDULE B TO GRANT OF SECURITY INTEREST IN PATENTS,
TRADEMARKS AND LICENSES**

between

SPORTS WAREHOUSE INC. (DBA SPORTSMAN'S WAREHOUSE)

and

THE CIT GROUP/BUSINESS CREDIT, INC.

U.S. TRADEMARKS

Trademark	Registration Number	Registration Date
IF ITS FOR CAMPING, HUNTING OR FISHING- SPORTSMAN'S WAREHOUSE IS THE PLACE TO SHOP	2463959 (U.S.)	June 26, 2001
IF ITS FOR CAMPING, HUNTING OR FISHING - SPORTSMAN'S WAREHOUSE IS THE PLACE TO SHOP (and design)	2461767 (U.S.)	June 19, 2001
SPORTSMAN'S WAREHOUSE HUNTING FISHING CAMPING RELOADING OUTERWEAR FOOTWEAR (and design)	2390988 (U.S.)	October 3, 2000
SHELL WESTERN E&P	2000004049184 (Wyoming)	May 25, 2000
SPORTSMAN'S WAREHOUSE (and design)	29960 (Washington)	July 16, 2001
SPORTSMAN'S WAREHOUSE (and design)	2524501 (Utah)	January 30, 1998
SPORTSMAN'S WAREHOUSE HUNTING FISHING CAMPING RELOADING OUTERWEAR FOOTWEAR	16237 (Idaho)	February 8, 1999
SPORTSMAN'S WAREHOUSE	16236 (Idaho)	February 8, 1999
SPORTSMAN'S WAREHOUSE HUNTING FISHING CAMPING RELOADING	19991032010 (Colorado)	February 19, 1999
SPORTS WAREHOUSE INC.	19991032013 (Colorado)	February 19, 1999

**SCHEDULE C TO GRANT OF SECURITY INTEREST IN PATENTS,
TRADEMARKS AND LICENSES**

between

SPORTS WAREHOUSE INC. (DBA SPORTSMAN'S WAREHOUSE)

and

THE CIT GROUP/BUSINESS CREDIT, INC.

U.S. LICENSES

Name

Registration No.

Registration Date

NONE