

Form PTO-1594
(Rev. 03/01)
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RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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):

Comerica Bank - California

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

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

3. Nature of conveyance:

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

Execution Date: 09/12/2003

2. Name and address of receiving party(ies)

Name: IndustryCloseouts.com, Inc.

Internal Address: _____

Street Address: 1820 Oak Street

City: Torrance State: CA Zip: 90501

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

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

| | | |
|---------|---------|---------|
| 2356703 | 2376376 | 2376378 |
| 2365728 | 2376377 | 2420454 |

Additional number(s) attached Yes No

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

Name: Altman & Martin

Internal Address: INDUI00101

Street Address: 6 Beacon Street, Suite 600

City: Boston State: MA Zip: 02108

6. Total number of applications and registrations involved: _____

6

7. Total fee (37 CFR 3.41).....\$ 165

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

13-4630

(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.

Steven K. Martin

Name of Person Signing

Signature

09/24/2003

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

CH \$165.00 134630 2356703

SALE AND ASSIGNMENT AGREEMENT

This Sale and Assignment Agreement (the "Agreement") is between Comerica Bank (the "Assignor") and Industry Closeouts.Com, Inc., (the "Assignee") and is made with reference to the following facts:

RECITALS

- A. Assignor was the former secured creditor to Checkpoint, LLC. Assignor foreclosed its security interest in all of the personal property collateral of Checkpoint, LLC, as more specifically set forth in the Judgment dated June 4, 2003, entered by the Los Angeles Superior Court in Case Number YC046016 (the "Judgment"). Assignor also recovered a money judgment against Checkpoint, LLC and James Webb ("Webb").
- B. Assignee hereby acknowledges receiving a copy of the Judgment, of Assignor's UCC-1 financing statements, and the personal property lien Assignor filed in connection with the Judgment.
- C. Assignee has independently researched and discovered that Checkpoint, LLC and Webb may have held certain trademarks, patents and trademark registrations as more specifically set forth in attached Exhibit "1" (the "Rights").
- D. Checkpoint, LLC has filed for protection under Chapter 7 of the United States Bankruptcy Code - - Case Number LA03-29379-BR. Webb also filed for protection under Chapter 7 of the Bankruptcy Code - - Case Number LA03 30786BR. Assignee hereby acknowledges that it has met with the legal representatives of the Chapter 7 Trustees in those cases prior to entering into this Agreement.
- E. Assignor wishes to sell and assign to Assignee, and Assignee wishes to purchase from Assignor, all of Assignor's right, title, and interest in and to, the Rights, whatever Assignor's interest may be in those Rights, if any.
- F. Assignee acknowledges that it has had an opportunity to independently investigate the foregoing and the Rights and that no representations or warranties have been made to it by Assignor except as expressly set forth in this Agreement.

AGREEMENT

Based upon the foregoing Recitals which are incorporated by this reference, Assignor and Assignee agree as follows:

Section 1. Sale and Assignment. Assignor hereby sells and assigns to Assignee, and Assignee hereby purchases from Assignor, all of Assignor's right, title, and interest in and to the Rights identified in attached Exhibit "1" for the price of [REDACTED] receipt of which is hereby acknowledged by Assignor.

Section 2. Representations and Warranties of Assignor. Assignor: (i) represents and warrants that it is legally authorized to enter into and perform under this Agreement; (ii) represents and warrants that it has not heretofore sold, assigned, transferred, or otherwise encumbered any or all of its right, title, and interest in the Rights being sold. The Rights are being sold "As Is" without warranty, representation or covenant by Assignor as to Assignor's ownership or lack of ownership of the Rights, their description, validity, enforceability or transferability. This sale is expressly made without warranty, express or implied, with respect to any matter whatsoever.

Section 3. Representations and Warranties of Assignee. Assignee: (i) represents and warrants that it is legally authorized to enter into and perform under this Agreement; (ii) confirms that it has received a copy of the Judgment and such other documents referenced above and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Agreement; and (iii) agrees that it has performed its own independent investigation concerning any competing liens or claims on the Rights by third parties including the Chapter 7 Trustees.

Section 4. Effective Date. This Agreement shall be effective as of September 12, 2003, or on such other date to which Assignor and Assignee agree (the "Effective Date").

Section 5. Payment. In consideration of the sale and assignment provided herein, Assignee shall pay to Assignor the sum of [REDACTED] in the form of a cashier's check receipt of which is hereby acknowledged.

Section 6. Transfer Documents. Assignor agrees promptly to use its best efforts to execute and deliver all such other additional instruments, notices, and documents and to do all other and further acts and things as may be reasonably necessary or as may be reasonably requested by Assignee to more fully and effectively grant, convey, and assign to Assignee the Rights.

Section 7. Limitation of Warranties; Indemnification.

Limitation on Warranties and Representations; No Recourse. THE SALE PROVIDED FOR IN SECTION 1 OF THIS AGREEMENT IS EXPRESSLY MADE WITHOUT RECOURSE, AND OTHER THAN AS SET FORTH IN SECTION 2 OF THIS AGREEMENT, ASSIGNOR

MAKES NO WARRANTY OR REPRESENTATION OF ANY KIND, EXPRESS OR IMPLIED, TO ASSIGNEE. ASSIGNEE HAS MADE SUCH INDEPENDENT INVESTIGATIONS AS IT DEEMS TO BE NECESSARY OR APPROPRIATE AS TO THE NATURE, VALIDITY, ENFORCEABILITY, COLLECTABILITY, VALUE, AND OTHERWISE WITH RESPECT TO THE RIGHTS AND ALL OTHER FACTS IT DEEMS MATERIAL TO THE PURCHASE HEREUNDER, AND IS ENTERING INTO THE TRANSACTION HEREIN PROVIDED FOR SOLELY ON THE BASIS OF THAT INVESTIGATION AND ASSIGNEE'S OWN JUDGMENT AND ASSIGNEE IS NOT ACTING IN RELIANCE ON ANY REPRESENTATION OF, OR INFORMATION FURNISHED BY ASSIGNOR.

Section 8. Execution in Counterparts; Facsimile Execution. This Agreement may be executed in any number of counterparts each of which, when so executed and delivered, shall be deemed an original, and all of which together shall constitute but one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile shall be equally as effective as delivery of a manually executed counterpart. Any party hereto delivering an executed counterpart of this Agreement by facsimile shall also deliver a manually executed counterpart, but the failure to so deliver a manually executed counterpart shall not effect the validity, enforceability or binding effect hereof.

Section 9. Entire Agreement; Amendment. This Agreement is the final expression of, and contains the entire agreement between, the Parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented, or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein.

Section 10. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

Section 11. Construction of Agreement. Headings at the beginning of each section and subsection are solely for ease of reference and are not a part of this Agreement or to be referred to in construing this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. The words "include" and "including" are not used in this Agreement in a limiting sense and shall not be construed to limit the generality of any provision of this Agreement. This Agreement shall not be construed as if it had been

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prepared by one of the parties, but rather as if all parties had prepared the same. Unless otherwise indicated, all references to sections and subsections are to sections and subsections in this Agreement. All exhibits and schedules referred to in this Agreement are incorporated in this Agreement by the reference to each such exhibit and schedule. In the event the date on which any party is required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

Section 12. Survival. Each covenant, representation, and warranty contained in this Agreement shall survive the execution and delivery of this Agreement and the recording, filing, or delivery of any assignment or other instrument by which the Loan Documents or any related documents are assigned to Assignee. Nothing in this Section 13 shall be construed as a waiver of any applicable statute of limitations.

Section 13. California Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.

"ASSIGNOR"

Comerica Bank

Dated: September 12, 2003

By: Gary Slack
Name: Gary Slack
Title: Vice President - Special Assets

"ASSIGNEE"

Industry Closeouts.Com, Inc.

Dated: September 12, 2003

By: Mark Silverberg
Name: Mark Silverberg
Title: President