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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):

ASHLEY NETTYE INC.

- ☐ 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/COMMERCIAL SERVICES, INC.

Internal Address:

Street Address: 1211 AVE. of the AMERICAS

City: N.Y. State: N.Y. Zip: 10036

- ☐ 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: MAY 19, 2003

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

~~2,433,856~~
1,979,147

Additional number(s) attached ☐ Yes ☐ No

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

Name: JAMES HEED

Internal Address: THE CIT GROUP/ COMMERCIAL SERVICES, INC.

Street Address: 1211 AVE. of the AMERICAS

City: N.Y. State: N.Y. Zip: 10036

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41)..... $ 65.00

- ☐ 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.

JOYCE CHU	Joyce Chu	5/20/03
Name of Person Signing	Signature	Date

Total number of pages including cover sheet, attachments, and document: 9

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

05/27/2003 GTON11 00000016 2433856

01 FC:8521 40.00 OP
02 FC:8522 25.00 OP

GRANT OF SECURITY INTEREST IN TRADEMARKS

THIS GRANT OF SECURITY INTEREST IN TRADEMARKS (herein the "Agreement") made as of this May 19, 2003, by **ASHLEY NETTYE INC.**, a Delaware corporation, with its principal place of business at 1 Orchard Farm Road, Port Washington, New York 11050 (herein the "Company"), and **THE CIT GROUP/COMMERCIAL SERVICES, INC.**, a New York corporation, with offices at 1211 Avenue of the Americas, New York, New York 10036 (herein "CIT").

W I T N E S E T H:

WHEREAS, BERNARDO FASHIONS LLC (herein "Bernardo Fashions") and CIT are parties to a certain factoring and/or financing arrangement, pursuant to which CIT may make certain loan and advances to Bernardo Fashions, all as further set forth in the loan and security documents executed in connection herewith, and as the same may be amended from time to time (herein collectively, the "Agreement");

WHEREAS, the Company has executed and delivered to CIT its limited Non-Recourse Guaranty of the obligations of Bernardo Fashions under the Agreement (herein the "Guaranty") and wishes to secure such Guaranty by executing and delivering this Grant of Security Interest in the Trademarks specified on Schedule A hereto;

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 Agreement and/or the Guaranty 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 Agreement and the Guaranty), the Company hereby grants to CIT a security interest, effective immediately, in all of the Company's right, title and interest in and to all of the following described property (collectively herein the "Intellectual Property Collateral"):

(i) The trademarks, trademark registrations, recordings and/or applications listed on Schedule A attached hereto and made a part hereof (the "Trademarks"), 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").

(ii) The goodwill of the Company's business connected with and symbolized by the Trademark Collateral; and

(iii) All cash and non-cash proceeds of the foregoing.

Notwithstanding any provision to the contrary contained herein, (x) the lien upon and security interest in the Intellectual Property Collateral granted hereunder shall be limited to $1,000,000.00 in the aggregate (including but not limited to all income, royalties, damages and payments payable in connection with the Trademarks) and any proceeds received in excess of

$1,000,000.00 by CIT as a result of its foreclosure of the lien upon or security interest granted hereunder in the Intellectual Property Collateral or any other realization thereon (including but not limited to all income, royalties, damages and payments payable in connection with the Trademarks) by CIT shall be paid to the Company and (y) prior to the occurrence of an Event of Default hereunder, the Company shall be entitled to receive and retain all income, royalties, damages and payments now or hereafter due and/or payable in connection with the Trademark Collateral including, without limitation, damages and payments for past or future infringements thereof.

3. **CIT's Rights.** Upon the occurrence of any Event of Default hereunder, subject to the Company's Option to Purchase, as set forth below, CIT shall have all the rights and remedies of a secured party under the Uniform Commercial Code and any other applicable state or federal laws. CIT 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 at least ten (10) days before the date of such sale or disposition. Any such sale or disposition of the Intellectual Property Collateral shall be commercially reasonable as required by applicable law. Subject to the Company's Option to Purchase, as set forth below, in addition to the foregoing and all other rights and remedies of CIT upon the occurrence of any Event of Default hereunder, CIT shall thereupon have the immediate right to transfer to itself or to sell, assign and transfer to any other person not affiliated with CIT by common ownership all right, title and interest in and to all or any part of the Intellectual Property Collateral, provided that prior to transferring the Intellectual Property Collateral to itself, CIT shall conduct a public auction of the Intellectual Property Collateral in accordance with the provisions of applicable law and on such terms as shall be satisfactory to CIT. Subject to the Company's Option to Purchase, as set forth below, a formal irrevocable power of attorney (in the form annexed hereto) is being executed and delivered by the Company to CIT concurrently with this agreement to enable such rights to be carried out. The Company agrees that, in the event CIT exercises its rights hereunder and/or pursuant to said power of attorney in accordance with its terms, after written notification of such exercise from CIT 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 CIT 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 CIT 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 CIT any duty or responsibility to maintain the Intellectual Property Collateral except, (x) to act in a commercially reasonable manner with respect to the Intellectual Property Collateral after the occurrence of an Event of Default hereunder and (y) upon any transfer of the Intellectual Property Collateral to CIT, to care for such Intellectual Property Collateral with the same degree of care CIT exercises with its own business property. Notwithstanding the foregoing or any provision to the contrary contained herein, for a period of five (5) business days after notice from CIT of a proposed offer to purchase the Intellectual Property Collateral, or in the absence of any such offer, CIT's intention to transfer the Intellectual Property Collateral to itself (herein the "Option Period"), the Company shall have the right of first refusal and option to purchase such

Intellectual Property Collateral for the lowest of (i) the same price offered by any such potential buyer, (ii) $1,000,000 or (iii) the aggregate outstanding and unpaid balance of the Obligations, all on the same terms and conditions as any such proposed offer (herein the "Option to Purchase"). Such Option to Purchase shall be exercised by the Company paying such purchase price to CIT in immediately available funds prior to the expiration of the Option Period. Upon receipt of such funds CIT shall assign to the Company (without recourse and with any representations or warranties whatsoever) all of CIT's right, title and interest in and to such Intellectual Property Collateral.

4. **Fees.** The Company will pay all filing fees with respect to the security interest created hereby which CIT 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, 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 except as set forth on Schedule B hereto. The Company agrees not to take any action inconsistent with the terms and intent hereof, provided that the Company may enter into licensing agreements in the ordinary course of its business on fair and reasonable terms, provided further that no Event of Default (as defined herein below) has occurred and that any such agreement does not adversely effect CIT' rights and interests hereunder.

6. **Application of Proceeds.** The proceeds of any sale, transfer or disposition of or realization upon the Intellectual Property Collateral (including but not limited to all income, royalties, damages and payments in connection with the Trademarks) not to exceed $1,000,000 in the aggregate shall be applied in the following order: (i) to all reasonable costs and expenses, including, but not limited to, reasonable attorneys' fees and expenses and court costs, incurred by CIT in connection with such sale and the exercise of CIT' rights and remedies hereunder and under the Agreement; (ii) the remaining balance of such proceeds not to exceed $1,000,000 in the aggregate including amounts applied under clause (i) above, shall be applied to the payment, in whole or in part, of the Obligations due CIT in such order as CIT may elect; and (iii) the balance, if any, remaining after application of such proceeds pursuant to clauses (i) and (ii) above 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 CIT therein. The Company agrees to reimburse CIT for all costs and expenses incurred by CIT in defending any such action, claim or proceeding.

8. **Rights Cumulative.** This Agreement shall be in addition to the Agreement and shall not be deemed to affect, modify or limit the Agreement or any rights that CIT has under the Agreement. The Company agrees to execute and deliver to CIT (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.

9. **Construction and Invalidity.** Any provisions hereof contrary to, prohibited by or invalid under any laws or regulations shall be inapplicable and deemed omitted here from, 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 LAWS OF THE STATE OF NEW YORK. THIS AGREEMENT TOGETHER WITH THE AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT OF THE COMPANY AND CIT WITH RESPECT TO THE INTELLECTUAL PROPERTY COLLATERAL, CAN ONLY BE CHANGED OR MODIFIED IN WRITING AND SHALL BIND AND BENEFIT THE COMPANY, CIT AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. THE COMPANY AND CIT 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;

(ii) Any warranty or representation made by Company, in this agreement shall be or becomes false or misleading in any material respect; or

(iii) Any bankruptcy, insolvency, arrangement, reorganization, receivership or similar proceeding is commenced by or against the Company under any state or federal law; or

(iv) The occurrence of any Event of Default under the Agreement which is not waived in writing by CIT.

12. **Notices.** The Company covenants and agrees that, with respect to the Intellectual Property Collateral, it will give CIT written notice in the manner provided in the 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; and

(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 CIT may reasonably require to further confirm or protect CIT' rights under this agreement in the Intellectual Property Collateral. In furtherance thereof, the Company hereby grants to CIT 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 perfect, and maintain the perfection of, CIT's lien upon and security interest in the Intellectual Property Collateral hereunder.

14. **Termination.** This agreement shall terminate upon the earlier of (i) termination of the Agreement and full, final and indefeasible payment in cash of all Obligations of Bernardo Fashions thereunder or (ii) full, final and indefeasible payment in cash of the Company's Obligations under the Guaranty. Upon satisfaction of either of the foregoing conditions (x) CIT will, promptly upon the Company's request, execute and deliver a termination of its filing with the U.S. Trademark Office in Washington, D.C. covering the Intellectual Property Collateral and (y) the Company shall be authorized to file a UCC termination statement with respect to CIT's UCC filing covering the Intellectual Property Collateral.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the May 19, 2003.

ASHLEY NETTYE INC.

By: _____
Name: DIANE Pollack
Title: PRESIDENT

Agreed and Accepted this 19th of May, 2003

THE CIT GROUP/COMMERCIAL SERVICES, INC.

By: _____
Name: George Edmonds
Title: Vice President

IRREVOCABLE POWER OF ATTORNEY

ASHLEY NETTYE INC., a Delaware corporation, with offices at 1 Orchard Farm Road, Port Washington, New York 11050, (hereinafter referred to as the "Company"), hereby grants to **THE CIT GROUP/COMMERCIAL SERVICES, INC.**, a New York corporation, with offices at 1211 Avenue of the Americas, New York, New York 10036 (hereinafter referred to as "CIT"), the exclusive Irrevocable Power of Attorney to transfer to CIT or to any designee of CIT all Intellectual Property Collateral listed on Schedule A attached to the Grant of Security Interest in Trademarks (the "Agreement"), dated as of the date hereof, between the Company and CIT including all trademarks, trademark applications and/or registrations, listed therein 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 last for as long as any now existing or hereafter arising indebtedness, liabilities or obligations of the Company to CIT are outstanding under the Agreement, dated on or about the date hereof, between the Company and CIT.

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 only be exercisable by CIT after the occurrence of an Event of Default under the Agreement between CIT and the Company and is subject to the Company's Option to Purchase under Paragraph 3 of the Agreement; and

4. CIT shall give the Company ten (10) days prior written notice of the exercise of this power, and the waiver by CIT 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 CIT. 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.

IN WITNESS WHEREOF, the Company has caused this Power of Attorney to be executed as of the MAY 19, 2003.

ASHLEY NETTYE INC.

By: _____

Name: DIANE POLLACK

Title: PRESIDENT