



05-27-2003



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OMB No. 0651-0027 (exp. 6/30/2005)
Tab settings

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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):

Dunham's Athleisure Corporation, a Delaware corporation

5-21-03

- 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 1st Amendment to Trademark Agreement
- Merger
- Change of Name

Execution Date: July 26, 2002

2. Name and address of receiving party(ies)

Name: Fleet Capital Corporation

Internal Address: Attention: Ed Bartowski

Street Address: 20800 Swenson

City: Waukesha State: WI Zip: 53187

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Rhode Island
- 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) 1,577887

1,496,249

Additional number(s) attached Yes No

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

Name: Lisa Robison

Internal Address: Husch & Eppenberger, LLC

Street Address: 1200 Main Street, Suite 1700

City: Kansas City State: MO Zip: 64105

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:

DO NOT USE THIS SPACE

9. Signature.

Lisa Robison

Name of Person Signing

Signature

May 19, 2003

Date

Total number of pages including cover sheet, attachments, and document: 4

05/27/2003 ECUOPER 00000009 1577887

01 FC:8521
02 FC:8522

40.00 OP
25.00 OP

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

TRADEMARK
REEL: 002739 FRAME: 0615

FIRST AMENDMENT TO TRADEMARK AGREEMENT

THIS FIRST AMENDMENT TO TRADEMARK AGREEMENT, (the "Amendment") is entered into as of the 26 day of July, 2002 between DUNHAM'S ATHLEISURE CORPORATION ("Assignor"), a Delaware corporation, and FLEET CAPITAL CORPORATION, ("Fleet"), a Rhode Island corporation.

RECITALS

A. Assignor entered into that certain Loan and Security Agreement dated as of March 16, 1993, as amended from time to time (the "Prior Loan Agreement") with Barclay's Business Credit, Inc. ("Barclays").

B. In connection with and as security for the Prior Loan Agreement, Assignor entered into that certain Trademark Collateral Assignment and Security Agreement (the "Trademark Agreement") dated March 16, 1993 with Barclays.

C. Fleet is the successor in interest to Barclay's under the Prior Loan Agreement.

D. As of the date hereof, Assignor and Fleet have entered into that certain First Amended and Restated Loan and Security Agreement as of the date hereof (such First Amended and Restated Loan and Security Agreement as it may be amended, modified or otherwise restated from time to time shall be hereinafter defined as the "Amended and Restated Loan Agreement") which amend and restate the Prior Loan Agreement.

E. In connection with the Amended and Restated Loan Agreement, the parties now desire to amend the Trademark Agreement as set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby agrees with Fleet as follows:

AGREEMENT

1. The PRELIMINARY STATEMENT of the Trademark Security Agreement shall be deleted and the following inserted therefore:

"PRELIMINARY STATEMENT. Assignor has executed and delivered to Fleet that certain First Amended and Restated Loan and Security Agreement, dated as of July 26, 2002, (as amended, modified or restated from time to time, the "Loan Agreement") which provides that Fleet shall, subject to the terms and conditions thereof, extend credit to or for the benefit of Assignor in the amounts set forth therein. In order to induce Fleet to execute and deliver the Loan Agreement, Assignor has agreed to grant to Fleet a security interest in, and collaterally assigns to Fleet, certain trademark rights."

2. All references in the Trademark Agreement to "Barclays" shall hereinafter mean "Fleet Capital Corporation" or "Fleet".

3. No Claims; Liens Unimpaired. Assignor acknowledges that, as of the date hereof, it has no knowledge of any existing claims, defenses (personal or otherwise) or rights of set off or recoupment whatsoever with respect to the Trademark Agreement. Assignor agrees that this Amendment in no way acts as a release or relinquishment of any liens in favor of Fleet securing payment under the Amended and Restated Loan Agreement.

3. No Other Amendments. Except as expressly set forth herein, there are no other agreements or understandings, written or oral, between Assignor and Lender relating to the Trademark Agreement that are not fully and completely set forth or described herein. Except to the extent specifically amended hereby, all terms and provisions of the Trademark Agreement shall remain in full force and effect in accordance with the terms set forth therein.


4. Further Assurances. Assignor agrees to execute such other and further documents and instruments as Lender may request to implement the provisions of this Amendment.

5. Amendments. No provision of this Amendment may be amended, modified or waived, except by an instrument in writing signed by the parties.

6. Counterparts; Faxed Signatures. This Amendment may be executed in one or more counterparts and by different parties on different counterparts, each of which shall be deemed an original instrument and all of which taken together shall constitute one and the same agreement. A signature of a party delivered by telecopy or other electronic communication shall constitute an original signature of such party.

IN WITNESS WHEREOF, this Amendment has been executed and delivered by the duly authorized representatives of the parties as of the date first above written.

DUNHAM'S ATHLEISURE CORPORATION

By: 
Name: John H. Palmer
Title: SA, VP Secy

FLEET CAPITAL CORPORATION

By: _____
Edward M. Bartkowski
Senior Vice President

3. No Other Amendments. Except as expressly set forth herein, there are no other agreements or understandings, written or oral, between Assignor and Lender relating to the Trademark Agreement that are not fully and completely set forth or described herein. Except to the extent specifically amended hereby, all terms and provisions of the Trademark Agreement shall remain in full force and effect in accordance with the terms set forth therein.

4. Further Assurances. Assignor agrees to execute such other and further documents and instruments as Lender may request to implement the provisions of this Amendment.

5. Amendments. No provision of this Amendment may be amended, modified or waived, except by an instrument in writing signed by the parties.


6. Counterparts; Faxed Signatures. This Amendment may be executed in one or more counterparts and by different parties on different counterparts, each of which shall be deemed an original instrument and all of which taken together shall constitute one and the same agreement. A signature of a party delivered by telecopy or other electronic communication shall constitute an original signature of such party.

IN WITNESS WHEREOF, this Amendment has been executed and delivered by the duly authorized representatives of the parties as of the date first above written.

DUNHAM'S ATHLEISURE CORPORATION

By: _____
Name:
Title:

FLEET CAPITAL CORPORATION

By: 
Edward M. Bartkowski
Senior Vice President