

06-11-2003

Form PTO-1594

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

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6-9-03

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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):

SmartBargains.com, LP

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

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

3. Nature of conveyance:

- ☐ Assignment ☐ Merger
☒ Security Agreement ☐ Change of Name
☐ Other _____

Execution Date: 06/01/2003

2. Name and address of receiving party(ies)

Name: Comerica Bank - California

Internal

Address: _____

Street Address: 333 W. Santa Clara Street

City: San Jose State: CA Zip: 95113

- ☐ 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) 76339791

B. Trademark Registration No.(s) 2606658

2672735

Additional number(s) attached ☐ Yes ☒ No

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

Name: Lisa Perusse Billone

Internal Address: Goulston & Storrs, P.C.

Street Address: 400 Atlantic Avenue

City: Boston State: MA Zip: 02110

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: _____

DO NOT USE THIS SPACE

9. Signature.

Lisa Perusse Billone

Name of Person Signing

 Signature

06/02/2003

Date

Total number of pages including cover sheet, attachments, and document: 7

06/11/2003 ECDOPER 00000027 76339791

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patent & Trademarks, Box Assignments
Washington, D.C. 2023101 FC:0521
02 FC:052240.00 OP
50.00 OPTRADEMARK
REEL: 002749 FRAME: 0748

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement is entered into as of June 1, 2003 by and between COMERICA BANK-CALIFORNIA ("Bank") and SMARTBARGAINS.com, LP, a Delaware limited partnership ("Grantor").

RECITALS

A. Bank entered into a Loan and Security Agreement with SmartBargains, Inc. ("Borrower") dated as of December 20, 2002, as amended by that certain Amendment dated as of January 31, 2003 (as further amended from time to time and in effect, the "Loan Agreement"), pursuant to which Bank, among other things, agreed to make certain advances of money to Borrower and to issue letters of credit on Borrower's behalf from time to time.

B. Borrower has requested Bank's consent to the transfer of certain collateral under the Loan Agreement that consists of Assets (as defined in the letter agreement between Bank, Borrower and Grantor dated the date hereof that amends the Loan Agreement and contains Bank's consent to the foregoing (the "Consent")) to Grantor, which actions would otherwise not be permitted under the terms of the Loan Agreement.

C. Grantor believes that its formation and the above-referenced transfer of the Assets will cause it and Borrower to enjoy, among other benefits, significant savings in state sales taxes, which benefit will inure to both Borrower and Grantor.

D. Bank is willing to execute the Consent and permit the transfer of the Assets, but only upon the condition, among others, that Grantor shall grant to Bank a security interest in all of Grantor's Copyrights, Trademarks and Patents to secure the obligations of Grantor under that certain Unlimited Guaranty of Grantor of even date herewith (the "Guaranty"), which Guaranty guarantees the obligations of the Borrower under the Loan Agreement.

E. Capitalized terms used herein and not otherwise defined herein shall have the meanings as set forth in the Loan Agreement.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Guaranty, Grantor hereby represents, warrants, covenants and agrees as follows:

AGREEMENT

To secure its obligations under the Guaranty, Grantor grants and pledges to Bank a security interest in all of Grantor's right, title and interest in, to and under its Intellectual Property Collateral (including without limitation those Copyrights, Patents and Trademarks listed on Exhibits A, B and C hereto), and including without limitation all proceeds thereof (such as, by way of example but not by way of limitation, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof.

This security interest is granted in conjunction with the security interest granted to Bank under the Loan Agreement. The rights and remedies of Bank with respect to the security interest granted hereby are in addition to those set forth in the Loan Agreement and the other Loan Documents, and those which are now or hereafter available to Bank as a matter of law or equity. Each right, power and remedy of Bank provided for herein or in the Loan Agreement or any of the other Loan Documents, or now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be in addition to every right, power or remedy provided for herein and the exercise by Bank of any one or more of the rights, powers or remedies provided for in this Intellectual Property Security Agreement, the Loan Agreement or any of the other Loan Documents, or now or hereafter existing at law

or in equity, shall not preclude the simultaneous or later exercise by any person, including Bank, of any or all other rights, powers or remedies.

Grantor represents and warrants that Exhibits A, B, and C attached hereto set forth any and all intellectual property rights in connection to which Grantor has registered or filed an application with either the United States Patent and Trademark Office or the United States Copyright Office, as applicable.

IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

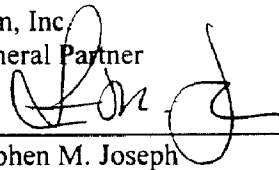
GRANTOR:

Address of Grantor:

SMARTBARGAINS.COM, LP

SmartBargains.com, LP
C/o SB.com, Inc.
10 Milk Street, 10th Floor
Boston, Massachusetts 02108

By: SB.com, Inc.
Its General Partner

By: 
Name: Stephen M. Joseph
Title: Treasurer

Attn: Stephen M. Joseph

BANK:

COMERICA BANK-CALIFORNIA

Address of Bank:

Comerica Bank-California
100 Federal Street, 28th Floor
Boston, Massachusetts 02110

By: _____

Title: _____

Attn: C. Brooks Hoffman and/or Kelly Goodwin

or in equity, shall not preclude the simultaneous or later exercise by any person, including Bank, of any or all other rights, powers or remedies.

Grantor represents and warrants that Exhibits A, B, and C attached hereto set forth any and all intellectual property rights in connection to which Grantor has registered or filed an application with either the United States Patent and Trademark Office or the United States Copyright Office, as applicable.

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GRANTOR:

Address of Grantor:

SMARTBARGAINS.COM, LP

SmartBargains.com, LP
C/o SB.com, Inc.
10 Milk Street, 10th Floor
Boston, Massachusetts 02108

By: SB.com, Inc.
Its General Partner

Attn: Stephen M. Joseph

By: _____
Name: Stephen M. Joseph
Title: Treasurer

BANK:

COMERICA BANK-CALIFORNIA

Address of Bank:

Comerica Bank-California
100 Federal Street, 28th Floor
Boston, Massachusetts 02110

By: C. Brooks Hoffman
Title: Vice President

Attn: C. Brooks Hoffman and/or Kelly Goodwin

EXHIBIT A

Copyrights

Registration
Number

Registration
Date

Description

None

EXHIBIT B

Patents

Description
None

Registration/
Application
Number

Registration/
Application
Date

EXHIBIT C

Trademarks

Description

SMARTBARGAINS.COM for "on-line retail services," in International Class 42

Registration/
Application
Number
U.S. Registration No.
2,606,658

Registration/
Application
Date
Regn. Date
8/13/02

SMARTBARGAINS for "retail store services, available through the Internet, featuring off-price, close-out liquidation, and marked-down clothing and accessories, jewelry, sporting goods and equipment, home furnishings and décor, electronic goods and toys," in International class 42

U.S. Registration No.
2,672,735

Regn. Date
1/7/03

Service mark application with the U.S. Patent and Trademark Office, THE BARGAIN ALERT for "advertising communications transmitted via e-mail," in International Class 35

U.S. Application
Serial No.
76/339,791
(abandoned)

Abd. 4/3/03

2. The Guarantor owns the following domain names and has registered the URLs for such domain names with Network Solutions, Inc.:

www.smartbargains.com
www.smartbargans.com
www.smartbargins.com
www.smartbargains.org
www.smartbargains.net
www.smart-bargains.com