FORM **PTO-1594**
(Rev. 3/01)
OMB No. 0651-0027
(exp. 5/31/2002)

RE 07-01-2003 **SHEET**

102486110

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): Citizenship Entity

Diamond Action, Inc. **Massachusetts** **Corporation**

6 to 4 to 3, LLC **New Hampshire** **LLC**

6·27·03

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

2. Name and address of receiving party(ies)

Name: **Webster Bank**

Street Address: **185 Asylum Street**

City: **Hartford** State: **CT** ZIP: **06103-3494**

☐ Individual(s)
☐ Association
☐ General Partnership
☐ Limited Partnership
☐ Corporation
☒ Other: Savings Association, Federal

If assignee is not domiciled in the United States, a domestic representative designation is attached: ☐ Yes ☐ No
(Designation 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: **Trademark Collateral Security and Pledge Agreement**

Execution Date: **May 30, 2003**

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2,067,198 **2,093,676** **2,502,644**
2,214,404 **2,694,297** **2,694,296**
2,079,128

Additional numbers attached? ☐ Yes ☒ No

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

Name: **E. Page Wilkins**

Internal Address: **Choate, Hall & Stewart**

Street Address: **Exchange Place**
53 State Street

City: **Boston** State: **MA** ZIP: **02109**

6. Total number of applications and registrations involved:

7. Total fee (37 CFR 3.41)..... $190.00

☒ Enclosed

☒ Authorized to be charged to deposit account (if underpayment)

8. Deposit account number: **03-1721**

(Attach duplicate copy of this page if paying by deposit account)

OFFICE OF PUBLIC RECORDS
2003 JUN 27 PM 3:54
FINANCE SECTION

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.

E. Page Wilkins
Name of person signing

E Page
Signature

6/24/03
Date

Total number of pages including cover sheet, attachments, and document: **23**

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

06/30/2003 ECOOPER 00000031 2067198
01 FC:8521 40.00 OP
02 FC:8522 150.00 OP

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TRADEMARK COLLATERAL SECURITY AND PLEDGE AGREEMENT

THIS TRADEMARK COLLATERAL SECURITY AND PLEDGE AGREEMENT (this "Trademark Agreement") dated as of May 30, 2003, is made by and among Diamond Action, Inc., a Massachusetts corporation ("DAI") and 6 to 4 to 3, LLC, a New Hampshire limited liability company ("643"; DAI and 643 being collectively referred to as the "Grantors" and each individually a "Grantor"), in favor of WEBSTER BANK, as administrative agent (together with its successor(s) thereto in such capacity, the "Administrative Agent") for the Lender described in the Credit Agreement referred to below. Capitalized terms used herein but not defined shall have the meanings ascribed to them in the Credit Agreement referred to below.

WHEREAS, on the date hereof, the Grantors have entered into a Credit Agreement (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement") with Andrew Weber, individually ("DW"), the Administrative Agent and the Lender;

WHEREAS, the Grantors have executed and delivered to the Administrative Agent the Security Agreement dated as of the date hereof (as amended, supplemented or otherwise modified from time to time, the "Security Agreement") by and among the Grantors and the Administrative Agent, pursuant to which each Grantor has granted to the Administrative Agent, for the benefit of the Lender referred to therein, a security interest in the Collateral (as defined therein), including without limitation the trademarks, service marks, trademark and service mark registrations, and trademark and service mark registration applications listed on Schedule A attached hereto, all to secure the payment and performance in full of all of the Secured Obligations (as defined in the Security Agreement); and

WHEREAS, this Trademark Agreement is supplemental to the provisions contained in the Security Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce the Lender to make loans to the Grantors and to provide other extensions of credit under the Credit Agreement, the parties hereto hereby agree as follows:

1. Definitions.

As used herein, the following terms shall have the meanings set forth below:

"Assignment of Marks" shall have the meaning specified in Section 2.1.

"Associated Goodwill" shall mean, with respect to any Grantor, all goodwill of such Grantor and its business, products and services appurtenant to, associated with or symbolized by the Trademarks of such Grantor and the use thereof.

"Pledged Trademarks" shall mean, with respect to any Grantor, all of such Grantor's right, title and interest in and to all of the Trademarks, Trademark Registrations, Trademark License Rights, Trademark Rights, Associated Goodwill and Related Assets of such Grantor, whether now existing or hereafter acquired, and all accessions to, substitutions for, replacements of, and all products and proceeds of any and all of the foregoing.

"PTO" shall mean the United States Patent and Trademark Office.

"Related Assets" shall mean, with respect to any Grantor, all assets, rights and interests of such Grantor that uniquely reflect or embody the Associated Goodwill of such Grantor.

"Trademark Agreement" shall mean this Trademark Collateral Security and Pledge Agreement, as amended, supplemented or otherwise modified from time to time.

"Trademark License Rights" shall mean, with respect to any Grantor, any and all past, present or future rights and interests of such Grantor pursuant to any and all past, present and future franchising or licensing agreements in favor of such Grantor, or to which such Grantor is a party, pertaining to any Trademarks, Trademark Registrations, or Trademark Rights owned or used by third parties in the past, present or future, including the right (but not the obligation) in the name of such Grantor or the Administrative Agent to enforce, and sue and recover for, any breach or violation of any such agreement to which such Grantor is a party.

"Trademark Registrations" shall mean, with respect to any Grantor, all federal, state, local and foreign registrations of the Trademarks of such Grantor, all past, present and future applications for any such registrations (and any such registrations thereof upon approval of such applications), together with the right (but not the obligation) to apply for such registrations (and prosecute such applications) in the name of such Grantor, and to take any and all actions necessary or appropriate to maintain such registrations in effect and renew and extend such registrations.

"Trademark Rights" shall mean, with respect to any Grantor, any and all rights in, to and associated with the Trademarks of such Grantor throughout the world, whether arising under federal law, state law, common law, foreign law or otherwise, including the following: all such rights arising out of or associated with the Trademark Registrations of such Grantor; the right (but not the obligation) to register claims under any state, federal or foreign trademark law or regulation; the right (but not the obligation) to sue or bring opposition or cancellation proceedings in the name of such Grantor for any and all past, present and future infringements or dilution of or any other damages or injury to the Trademarks, Trademark Rights, or Associated Goodwill of such Grantor, and the rights to damages or profits due or accrued arising out of or in connection with any such past, present or future infringement, dilution, damage or injury; and the Trademark License Rights of such Grantor.

"Trademarks" shall mean, with respect to any Grantor, all of the trademarks, service marks, designs, logos, indicia, trade names, corporate names, company names, business names, fictitious business names, trade styles, elements of package or trade dress, and other source and product or service identifiers, used or associated with or appurtenant to the products, services and businesses of such Grantor, that (i) are set forth on Schedule A hereto, or (ii) have been adopted,

acquired, owned, held or used by such Grantor or are now owned, held or used by such Grantor, in such Grantor's business, or with such Grantor's products and services, and in which such Grantor has any right, title or interest, or (iii) are in the future adopted, acquired, owned, held and used by such Grantor in such Grantor's business or with such Grantor's products and services, or in which such Grantor in the future acquires any right, title or interest.

"Use" shall mean, with respect to any Trademark, all uses of such Trademark by, for or in connection with the applicable Grantor or its business or for the direct or indirect benefit of such Grantor or its business, including all such uses by such Grantor itself, by any of the affiliates of such Grantor, or by any franchisee, licensee or contractor of such Grantor.

Unless otherwise provided herein, the rules of interpretation set forth in Section 1.2 of the Credit Agreement shall be applicable to this Trademark Agreement.

2. Grant of Security Interest.

2.1. Security Interest. As collateral security for the payment and performance in full of all of the Secured Obligations and subject to the Major League Rules and the National Association Agreement, each Grantor hereby unconditionally grants to the Administrative Agent a continuing security interest in and first priority lien on the Pledged Trademarks, and pledges and mortgages (but does not transfer title to) the Pledged Trademarks to the Administrative Agent. In addition, each Grantor has executed in blank and delivered to the Administrative Agent a conditional assignment of federally registered trademarks in substantially the form of Exhibit 1 hereto (the "Assignment of Marks"). Each Grantor hereby authorizes the Administrative Agent, subject to the Major League Rules and the National Association Agreement, to complete as assignee and record with the PTO the Assignment of Marks upon the effectiveness of the assignment described in subsection 2.2 below and the proper exercise of the Administrative Agent's remedies under this Trademark Agreement and the Security Agreement.

2.2. Conditional Assignment. In addition to, and not by way of limitation of, the grant, pledge and mortgage of the Pledged Trademarks provided in Section 2.1 and subject to all present and future conditions and restrictions imposed by or under the Major League Rules and the National Association Agreement and otherwise in connection with the use or transfer of the Collateral, each Grantor grants, assigns, transfers, conveys and sets over to the Administrative Agent, for the benefit of the Lender, such Grantor's entire right, title and interest in and to the Pledged Trademarks; provided that such grant, assignment, transfer and conveyance shall be and become of force and effect only (i) upon or after the occurrence and during the continuance of an Event of Default and (ii) either (A) upon the written demand of the Administrative Agent at any time during such continuance or (B) immediately and automatically (without notice or action of any kind by the Administrative Agent) upon an Event of Default for which acceleration of the Loans is automatic under the Credit Agreement or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law (including the transfer or other disposition of the Collateral by such Grantor to the Administrative Agent or its nominee in lieu of

foreclosure) and shall only be exercised in accordance with the Major League Rules and the National Association Agreement.

2.3. Supplemental to Security Agreement. Pursuant to the Security Agreement, each Grantor has granted to the Administrative Agent, for the benefit of the Lender, a continuing security interest in and lien on the Collateral (including the Pledged Trademarks). The Security Agreement, and all rights and interests of the Administrative Agent in and to the Collateral (including the Pledged Trademarks) thereunder, are hereby ratified and confirmed by each Grantor in all respects. In no event shall this Trademark Agreement, the grant, assignment, transfer and conveyance of the Pledged Trademarks hereunder, or the recordation of this Trademark Agreement (or any document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Administrative Agent or the Lender in the Collateral (including the Pledged Trademarks) pursuant to the Security Agreement and this Trademark Agreement, the attachment and perfection of such security interest under the Uniform Commercial Code (including the security interest in the Pledged Marks), or any present or future rights and interests of the Administrative Agent or the Lender in and to the Collateral under or in connection with the Security Agreement, this Trademark Agreement or the Uniform Commercial Code; provided, that the foregoing are subject to the Major League Rules and the National Association Agreement. Any and all rights and interests of the Administrative Agent or the Lender in and to the Pledged Trademarks (and any and all obligations of the Grantors with respect to the Pledged Trademarks) provided herein, or arising hereunder or in connection herewith, shall only supplement and be cumulative and in addition to the rights and interests of the Administrative Agent and the Lender (and the obligations of the Grantors) in, to or with respect to the Collateral (including the Pledged Trademarks) provided in or arising under or in connection with the Security Agreement, subject to the Major League Rules and the National Association Agreement, and shall not be in derogation thereof.

3. Representations, Warranties and Covenants. Each Grantor represents, warrants and covenants, except with respect to Schedule A hereto, as it may be modified by the Administrative Agent pursuant to Section 6.2 hereof without such Grantor's approval, that:

(a) Schedule A hereto sets forth a true and complete list of all Trademark Registrations registered in the PTO in the name of such Grantor;

(b) the Trademark Registrations listed on Schedule A hereto are subsisting and have not been adjudged invalid or unenforceable, in whole or in part, and there is no litigation or proceeding pending concerning the validity or enforceability of such Trademark Registrations;

(c) to the best of such Grantor's knowledge, each of the Trademark Registrations listed on Schedule A hereto is valid and enforceable;

(d) to the best of such Grantor's knowledge, there is no infringement by others of the Trademarks, Trademark Registrations or Trademark Rights that are material to the Grantors or their business;

(e) no claim has been made that the use of any of the Trademarks that are material to the Grantors or their business violates or may violate the rights of any third person, and to the best of such Grantor's knowledge, there is no infringement by such Grantor of the trademark rights of others;

(f) a Grantor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks that are material to the Grantors or their business (other than ownership and other rights reserved by third party owners with respect to Trademarks that a Grantor is licensed to use), free and clear of any liens, charges, encumbrances and adverse claims, including pledges, assignments, licenses, registered user agreements and covenants by a Grantor not to sue third persons, other than (i) licenses granted by such Grantor in the ordinary course of business and (ii) the security interest and assignment created by the Security Agreement and this Trademark Agreement;

(g) such Grantor has the unqualified right to enter into this Trademark Agreement and to perform its terms and, to the extent necessary, has entered and will enter into written agreements with each of its present and future employees, agents, consultants, licensors and licensees that will enable them to comply with the covenants herein contained;

(h) the Grantors have used, and will continue to use, all legally required notices in connection with its use of the Trademarks;

(i) the Grantors have used, and will continue to use for the duration of this Trademark Agreement, consistent standards of quality in its provision of products and services sold or provided under the Trademarks;

(j) this Trademark Agreement, together with the Security Agreement, will create in favor of the Administrative Agent a valid and perfected first priority security interest in the Pledged Trademarks upon making the filings referred to in clause (k) of this Section 3; and

(k) except for the filing of financing statements with the [Secretary of State for the States of Delaware, Connecticut, Massachusetts and New Hampshire], under the Uniform Commercial Code and the recording of this Trademark Agreement with the PTO, no authorization, approval or other action by, and no notice to or filing with, any governmental or regulatory authority, agency or office is required either (A) for the grant by such Grantor or the effectiveness of the security interest and assignment granted hereby or for the execution, delivery and performance of this Trademark Agreement by such Grantor, or (B) for the perfection of or the exercise by the Administrative Agent (for the benefit of the Lender) of any of its rights and remedies hereunder.

4. Inspection Rights. Each Grantor hereby grants to the Administrative Agent and its employees and agents the right to visit such Grantor's plants and facilities, if any, that manufacture, inspect or store products sold under any of the Trademarks, and to inspect the

products and quality control records relating thereto upon reasonable advance notice at reasonable times during regular business hours.

5. No Transfer or Inconsistent Agreements. Without the Administrative Agent's prior written consent and except for licenses of the Pledged Trademarks in the ordinary course of the Grantors' business, the Grantors will not (a) mortgage, pledge, assign, encumber, grant a security interest in, transfer, license or alienate any of the Pledged Trademarks, or (b) enter into any agreement (for example, a license agreement) that is inconsistent with the Grantors' obligations under this Trademark Agreement or the Security Agreement.

6. After-Acquired Trademarks, etc.

6.1. After-acquired Trademarks. If, before the Secured Obligations shall have been fully satisfied, any Grantor shall obtain any right, title or interest in or to any other or new Trademarks, Trademark Registrations or Trademark Rights, the provisions of this Trademark Agreement shall automatically apply thereto. Upon the request of the Administrative Agent, each Grantor shall promptly provide to the Administrative Agent notice thereof in writing and execute and deliver to the Administrative Agent such documents or instruments as the Administrative Agent may reasonably request further to implement, preserve or evidence the interest of the Administrative Agent, for the benefit of the Lender, therein.

6.2. Amendment to Schedule. Each Grantor authorizes the Administrative Agent to modify this Trademark Agreement and the Assignment of Marks, without the necessity of such Grantor's further approval or signature, by amending Schedule A hereto and the Annex to the Assignment of Marks to include any future or other Trademarks, Trademark Registrations or Trademark Rights under Section 2 or Section 6 or to reflect the addition of a Grantor hereunder.

7. Trademark Prosecutions.

7.1. Grantors Responsible. Each Grantor shall assume full and complete responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with the Pledged Trademarks, and the Grantors shall hold the Administrative Agent and the Lender harmless from any and all costs, damages, liabilities and expenses that may be incurred by the Administrative Agent or the Lender in connection with the interests of the Administrative Agent and the Lender in the Pledged Trademarks or any other action or failure to act in connection with this Trademark Agreement or the transactions contemplated hereby. In respect of such responsibility, the Grantors shall retain trademark counsel acceptable to the Administrative Agent.

7.2. Grantors' Duties, etc. Each Grantor shall have the right and the duty, through trademark counsel acceptable to the Administrative Agent, to prosecute diligently any trademark registration applications of the Trademarks pending as of the date of this Trademark Agreement or thereafter, to preserve and maintain all rights in the Trademarks and Trademark Registrations, including the filing of appropriate renewal

applications and other instruments to maintain in effect such Trademark Registrations and the payment when due of all registration renewal fees and other fees, taxes and other expenses that shall be incurred or that shall accrue with respect to any of the Trademarks or Trademark Registrations. Any expenses incurred in connection with such applications and actions shall be borne by the Grantors. No Grantor shall abandon any filed trademark registration application, or any Trademark Registration or Trademark, without the consent of the Administrative Agent, which consent shall not be unreasonably withheld.

7.3. Grantors' Enforcement Rights. Each Grantor shall have the right and the duty to bring suit or other action in its own name to maintain and enforce the Trademarks, the Trademark Registrations and the Trademark Rights. Each Grantor may require the Administrative Agent to join in such suit or action as necessary to assure such Grantor's ability to bring and maintain any such suit or action in any proper forum if (but only if) the Administrative Agent is completely satisfied that such joinder will not subject the Administrative Agent to any risk of liability. The Grantors shall promptly, upon demand, reimburse and indemnify the Administrative Agent for all damages, costs and expenses, including legal fees, incurred by the Administrative Agent pursuant to this Section 7.3.

7.4. Protection of Trademarks, etc. In general, the Grantors shall take any and all such actions (including institution and maintenance of suits, proceedings or actions) as may be necessary or appropriate to maintain, protect, preserve, care for and enforce the Pledged Trademarks. The Grantors shall not take or fail to take any action, nor permit any action to be taken or not taken by others under its control, that would adversely affect the validity, grant or enforcement of the Pledged Trademarks.

7.5. Notification by Grantors. Promptly upon obtaining knowledge thereof, the Grantors will notify the Administrative Agent in writing of the institution of, or any final adverse determination in, any proceeding in the PTO or any similar office or agency of the United States or any foreign country, or any court, regarding the validity of any of the Trademarks or Trademark Registrations or the Grantors' rights, title or interests in and to the Pledged Trademarks, and of any event that does or reasonably could materially adversely affect the value of any of the Pledged Trademarks, the ability of the Grantors or the Administrative Agent to dispose of any of the Pledged Trademarks or the rights and remedies of the Administrative Agent in relation thereto (including but not limited to the levy of any legal process against any of the Pledged Trademarks).

8. Remedies. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent shall have, subject to the restrictions contained in the Major League Rules and the National Association Agreement, in addition to all other rights and remedies given it by this Trademark Agreement (including, without limitation, those set forth in Section 2.2), the Credit Agreement, the Security Agreement, the other Security Documents and the other Loan Documents, those remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code, and, without limiting the generality of the foregoing, the Administrative Agent may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to the Grantors, all

of which are hereby expressly waived, sell or license at public or private sale or otherwise realize upon the whole or from time to time any part of the Pledged Trademarks, or any interest that the Grantors may have therein, and after deducting from the proceeds of sale or other disposition of the Pledged Trademarks all expenses incurred by the Administrative Agent in attempting to enforce this Trademark Agreement (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds toward the payment of the Secured Obligations as set forth in Section 19 of the Security Agreement. Notice of any sale, license or other disposition of the Pledged Trademarks shall be given to the Grantors at least ten (10) days before the time that any intended public sale or other public disposition of the Pledged Trademarks is to be made or after which any private sale or other private disposition of the Pledged Trademarks may be made, which the Grantors hereby agree shall be reasonable notice of such public or private sale or other disposition. At any such sale or other disposition, the Administrative Agent may, to the extent permitted under applicable law, purchase or license the whole or any part of the Pledged Trademarks or interests therein sold, licensed or otherwise disposed of.

9. Collateral Protection. If any Grantor shall fail to do any act that it has covenanted to do hereunder, or if any representation or warranty of any Grantor shall be breached, the Administrative Agent (for the benefit of the Lender), in its own name or that of any Grantor (in the sole discretion of the Administrative Agent), may (but shall not be obligated to) do such act or remedy such breach (or cause such act to be done or such breach to be remedied), and the Grantors agree promptly to reimburse the Administrative Agent for any cost or expense incurred by the Administrative Agent in so doing.

10. Power of Attorney. If any Event of Default shall have occurred and be continuing, each Grantor does hereby make, constitute and appoint the Administrative Agent (and any officer or agent of the Administrative Agent as the Administrative Agent may select in its exclusive discretion) as such Grantor's true and lawful attorney-in-fact, with full power of substitution and with the power to endorse such Grantor's name on all applications, documents, papers and instruments necessary for the Administrative Agent to use the Pledged Trademarks, or to grant or issue any exclusive or nonexclusive license of any of the Pledged Trademarks to any third person, or to take any and all actions necessary for the Administrative Agent to assign, pledge, convey or otherwise transfer title in or dispose of any of the Pledged Trademarks or any interest of such Grantor therein to any third person, and, in general, to execute and deliver any instruments or documents and do all other acts that such Grantor is obligated to execute and do hereunder, subject to the terms and conditions of the Major League Rules and the National Association Agreement. Each Grantor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof and releases the Administrative Agent from any claims, liabilities, causes of action or demands arising out of or in connection with any action taken or omitted to be taken by the Administrative Agent under this power of attorney (except for the Administrative Agent's gross negligence or willful misconduct). This power of attorney is coupled with an interest and shall be irrevocable for the duration of this Trademark Agreement.

11. Further Assurances. The Grantors shall, at any time and from time to time, and at their own expense, make, execute, acknowledge and deliver, and file and record as necessary or appropriate with governmental or regulatory authorities, agencies or offices, such agreements, assignments, documents and instruments, and do such other and further acts and things

(including, without limitation, obtaining consents of third parties), as the Administrative Agent may request or as may be necessary or appropriate in order to implement and effect fully the intentions, purposes and provisions of this Trademark Agreement, or to assure and confirm to the Administrative Agent the grant, perfection and priority of the security interest of the Administrative Agent, for the benefit of the Lender, in the Pledged Trademarks.

12. Termination; Reinstatement.

(a) At such time as all of the Secured Obligations have been finally paid and satisfied in full, this Trademark Agreement shall terminate, and the Administrative Agent shall, upon the written request and at the expense of the Grantors, execute and deliver to the Grantors all deeds, assignments and other instruments as may be necessary or proper to reassign and reconvey to and re-vest in the Grantors the entire right, title and interest to the Pledged Trademarks previously granted, assigned, transferred and conveyed to the Administrative Agent, for the benefit of the Lender, by the Grantors pursuant to this Trademark Agreement, as fully as if this Trademark Agreement had not been made, subject to any disposition of all or any part thereof that may have been made by the Administrative Agent pursuant hereto or the Security Agreement.

(b) Notwithstanding the provisions of subsection (a) above, this Agreement shall continue to be effective or be reinstated, as the case may be, and any rights theretofore reverted to or revested in the Grantors pursuant to subsection (a) shall become vested in the Administrative Agent, if at any time any amount received by any Lender in respect of the Secured Obligations is rescinded or must otherwise be restored or returned by such Lender upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of any Grantor or upon the appointment of any intervenor or conservator of, or trustee or similar official for, any Grantor or any substantial part of their respective properties, or otherwise, all as though such payments had not been made.

13. Course of Dealing. No course of dealing between the Grantors and the Administrative Agent, nor any failure to exercise, nor any delay in exercising, on the part of the Administrative Agent, any right, power or privilege hereunder or under the Security Agreement or any other agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

14. Expenses. Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and expenses incurred by the Administrative Agent in connection with the preparation of this Trademark Agreement and all other documents relating hereto, the consummation of the transactions contemplated hereby or the enforcement hereof, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance or renewal fees, encumbrances, or otherwise protecting, maintaining or preserving the Pledged Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Pledged Trademarks, shall be borne and paid by the Grantors.

15. Overdue Amounts. Until paid, all amounts due and payable by the Grantors hereunder shall be a debt secured by the Pledged Trademarks and other Collateral and shall bear, whether before or after judgment, interest at the rate set forth in Section 2.5(d) of the Credit Agreement.

16. No Assumption of Liability; Indemnification. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, NEITHER THE ADMINISTRATIVE AGENT NOR THE LENDER ASSUMES ANY LIABILITIES WITH RESPECT TO ANY CLAIM OR CLAIMS REGARDING THE GRANTORS' OWNERSHIP OR PURPORTED OWNERSHIP OF, OR RIGHTS OR PURPORTED RIGHTS ARISING FROM, ANY OF THE PLEDGED TRADEMARKS OR ANY USE, LICENSE OR SUBLICENSE THEREOF, WHETHER ARISING OUT OF ANY PAST, CURRENT OR FUTURE EVENT, CIRCUMSTANCE, ACT OR OMISSION OR OTHERWISE. ALL OF SUCH LIABILITIES SHALL BE EXCLUSIVELY THE RESPONSIBILITY OF THE GRANTORS, AND THE GRANTORS SHALL INDEMNIFY THE ADMINISTRATIVE AGENT AND THE LENDER FOR ANY AND ALL COSTS, EXPENSES, DAMAGES AND CLAIMS, INCLUDING LEGAL FEES, INCURRED BY THE ADMINISTRATIVE AGENT WITH RESPECT TO SUCH LIABILITIES.

17. Notices. All notices and other communications made or required to be given pursuant to this Trademark Agreement shall be in writing and shall be delivered in the manner and at the respective addresses specified in Section 18 of the Credit Agreement or on the signature pages of any supplement hereto.

18. Amendment and Waiver. This Trademark Agreement is subject to modification only by a writing signed by the Administrative Agent and the Grantors, except as provided in Section 6.2 hereof and except for any supplement entered into pursuant to Section 22 hereof. The Administrative Agent shall not be deemed to have waived any right hereunder unless such waiver shall be in writing and signed by the Administrative Agent. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion.

19. Governing Law; Consent to Jurisdiction. THIS TRADEMARK AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CONNECTICUT. Each party hereto agrees that any suit for the enforcement of this Trademark Agreement may be brought in the courts of the State of Connecticut or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon such party by mail at the address specified in Section 17 hereof. Each party hereto hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

20. Waiver of Jury Trial. EACH PARTY HERETO WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS TRADEMARK AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, each Grantor waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary,

punitive or consequential damages or any damages other than, or in addition to, actual damages. Each Grantor (a) certifies that neither the Administrative Agent nor any representative, agent or attorney of the Administrative Agent has represented, expressly or otherwise, that the Administrative Agent would not, in the event of litigation, seek to enforce the foregoing waivers, and (b) acknowledges that, in entering into the Credit Agreement and the other Loan Documents to which the Administrative Agent is a party, the Administrative Agent and the Lender are relying upon, among other things, the waivers and certifications contained in this Section 20.

21. Miscellaneous. The headings of each section of this Trademark Agreement are for convenience only and shall not define or limit the provisions thereof. This Trademark Agreement and all rights and obligations hereunder shall be binding upon the Grantors and their respective successors and assigns, and shall inure to the benefit of the Administrative Agent, the Lender and their respective successors and assigns. In the event of any irreconcilable conflict between the provisions of this Trademark Agreement and the Security Agreement, the provisions of the Security Agreement shall control. If any term of this Trademark Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Trademark Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. Each Grantor acknowledges receipt of a copy of this Trademark Agreement.

22. Additional Grantors. Each Person becoming a Grantor hereunder shall execute and deliver to the Administrative Agent a Trademark Security Agreement Supplement in substantially the form of Exhibit 2 hereto.

[Signature page follows]

IN WITNESS WHEREOF, this Trademark Agreement has been executed as an instrument under seal as of the date first above written.

DIAMOND ACTION, INC.

By: _____ President
Name:
Title:

6 TO 4 TO 3, LLC

By: _____ Manager
Name:
Title:

WEBSTER BANK,
as Administrative Agent

By: _____
Stephen J. Corcoran
Vice President

3533108v4

IN WITNESS WHEREOF, this Trademark Agreement has been executed as an instrument under seal as of the date first above written.

DIAMOND ACTION, INC.

By:_____
Name:
Title:

6 TO 4 TO 3, LLC

By:_____
Name:
Title:

WEBSTER BANK,
as Administrative Agent

By:_____
Stephen J. Corcoran
Vice President

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for the county, on this 30 day of May, 2003, personally appeared Andrew Weber to me known personally, and who, being by me duly sworn, deposes and says that he is the President of Diamond Action, Inc., and that this instrument was signed and sealed on behalf of Diamond Action, Inc. and Andrew Weber acknowledged this instrument to be the free act and deed of Diamond Action, Inc.

Notary Public
My commission expires:

NICOLE L. WOLFE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 30, 2007

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for the county, on this 30 day of May, 2003, personally appeared Andrew Weber to me known personally, and who, being by me duly sworn, deposes and says that he is the Manager of 6 to 4 to 3, LLC, and that this instrument was signed and sealed on behalf of 6 to 4 to 3, LLC and Andrew Weber acknowledged this instrument to be the free act and deed of 6 to 4 to 3, LLC.

Notary Public
My commission expires:

NICOLE L. WOLFE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
August 30, 2007

3533108v4

SCHEDULE A

Trademarks and Trademark Registrations

Trademark	Registration No.	Registration Date
Diamond Action, Inc.		
Primary Logo: WORD SPINNERS STYLIZED WITH THREAD SPOOL ON BAT FOR LETTER I	2067198	6/3/1997
Block Letters WORD SPINNERS IN BLOCK LETTERS	2093676	9/2/1997
Cap Designation HUMANIZED BASEBALL SWINGING BAT AND WEARING CAP WITH WORD LOWELL	2502644	10/3/2001
Baseball the Way it Used to Be	2214404	12/29/1998
Canaligator	2694297	3/11/2003
Canaligator	2694296	3/11/2003
S and design	2079128	7/15/1997

6 to 4 to 3, LLC

None.

3533108v4

EXHIBIT 1

[FORM OF] ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS

WHEREAS, [_____], a [_____] (the "Grantor"), has adopted and used and is using the trademarks and service marks (the "Marks") identified on the Annex hereto, and is the owner of the registrations of and pending registration applications for such Marks in the United States Patent and Trademark Office identified on such Annex; and

WHEREAS, _____, a _____ organized and existing under the laws of the State of _____ (the "Assignee"), is desirous of acquiring the Marks and the registrations thereof and registration applications therefor;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the Grantor does hereby assign, sell and transfer unto the Assignee all right, title and interest in and to the Marks, together with (a) the registrations of and registration applications for the Marks, (b) the goodwill of the business symbolized by and associated with the Marks and the registrations thereof, and (c) the right to sue and recover for, and the right to profits or damages due or accrued arising out of or in connection with, any and all past, present or future infringements or dilution of or damage or injury to the Marks or the registrations thereof or such associated goodwill.

This Assignment of Trademarks and Service Marks is intended to and shall take effect as a sealed instrument at such time as the Assignee shall complete this instrument by inserting its name in the second paragraph above and signing its acceptance of this Assignment of Trademarks and Service Marks below.

Notwithstanding any contrary provisions contained herein, the rights granted to the Assignee pursuant to this Assignment shall in all respects be subordinate to the Major League Rules and the National Association Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the Grantor has executed this assignment, as an instrument under seal, on this _____ day of _____.

[GRANTOR]

By:_____
Name:
Title:

The foregoing assignment of the Marks and the registrations thereof and registration applications therefor by the Grantor to the Assignee is hereby accepted as of the _____ day of ___ _____.

[ASSIGNEE]

By:_____
Title:

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for the county, on this _____ day of _____, 200_, personally appeared _____ to me known personally, and who, being by me duly sworn, deposes and says that he is the _____ of _____., and that this instrument was signed and sealed on behalf of _____ and _____ acknowledged this instrument to be the free act and deed of _____.

_____
Notary Public
My commission expires:

3533108v4

EXHIBIT 2

[FORM OF] TRADEMARK SECURITY AGREEMENT SUPPLEMENT

SUPPLEMENT, dated as of _____ __, _____, to the Trademark Collateral Security and Pledge Agreement, dated as of May 30, 2003 (the "Trademark Security Agreement"), among DIAMOND ACTION, INC., a Massachusetts corporation ("DAI") and 6 TO 4 TO 3, LLC, a New Hampshire limited liability company ("643"; DAI and 643 being collectively referred to as the "Grantors" and each individually a "Grantor"), in favor of WEBSTER BANK, as Administrative Agent (the "Administrative Agent").

A. Reference is made to the Credit Agreement, dated as of May 30, 2003 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), among the Grantors, Andrew Weber, individually ("DW"), the Administrative Agent, and the Lender from time to time party hereto.

B. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Credit Agreement.

C. The Grantors have entered into the Trademark Security Agreement in order to induce the Lender to make Loans under the Credit Agreement. Pursuant to the Loan Documents, the undersigned is required to become party to the Trademark Security Agreement by execution and delivery of an instrument in the form of this Supplement. The undersigned (the "New Grantor") is executing this Supplement in accordance with the requirements of the Loan Documents to become a Grantor under the Trademark Security Agreement in order to induce the Lender to make additional Loans and as consideration for Loans previously made.

Accordingly, the Administrative Agent and the New Grantor agree as follows:

1. In accordance with Section 22 of the Trademark Security Agreement, the New Grantor by its signature below becomes a Grantor under the Security Agreement with the same force and effect as if originally named therein as a Grantor, and the New Grantor hereby (a) agrees to all the terms and provision of the Trademark Security Agreement applicable to it as a Grantor thereunder and (b) represents and warrants that the representations and warranties made by it as a Grantor thereunder are true and correct on and as of the date hereof. If furtherance of the foregoing, the New Grantor, as security for the payment and performance in full of the Secured Obligations, does hereby create and grant to the Administrative Agent, its successors and assigns, for the benefit of the Lender, their successors and assigns, a security interest in and lien on all of the New Grantor's right, title and interest in and to the Pledged Trademarks (as defined in the Trademark Security Agreement), and grants, assigns, conveys and sets over to the Administrative Agent, for the benefit of the Lender, the New Grantor's entire right, title and interest in and to the Pledged Trademarks, subject to the proviso set for in Section 2.3 of the Trademark Security Agreement. Each reference to a "Grantor" in the Trademark Security Agreement shall be deemed to include the New Grantor. The Trademark Security Agreement is hereby incorporated herein by reference.

2. The New Grantor represents and warrants to the Administrative Agent and the Lender that this Supplement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as the enforceability hereof may be limited by bankruptcy, insolvency, moratorium and other similar laws affecting the enforcement of creditors' rights generally.

3. This Supplement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which taken together shall constitute a single contract. This Supplement shall become effective when the Administrative Agent shall have received counterparts of this Supplement that, when taken together, bear the signatures of the New Grantor and the Administrative Agent.

4. Schedule A to the Trademark and Security Agreement is hereby supplemented by adding to such schedule the Trademarks and Trademark Registrations described on the Annex hereto.

5. Except as expressly supplemented hereby, the Trademark Security Agreement shall remain in full force and effect.

6. THIS SUPPLEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CONNECTICUT.

7. In case any one or more of the provisions contained in this Supplement should be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and in the Trademark Security Agreement shall not in any way be affected or impaired thereby.

8. All communications and notices hereunder shall be in writing and given as provided in the Trademark Security Agreement. All communications and notices hereunder to the New Grantor shall be given to it at the address set forth under its signature below.

9. The New Grantor agrees to reimburse the Administrative Agent for its reasonable out-of-pocket expenses in connection with this Supplement, including the reasonable fees, other charges and disbursements of counsel for the Administrative Agent.

IN WITNESS WHEREOF, the New Grantor and the Administrative Agent have duly executed this Supplement as of the day and year first above written.

[NAME OF NEW GRANTOR]

By:_____
Name:
Title:
Address:

WEBSTER BANK,
as Administrative Agent

By:_____
Name:
Title:

3533108v4

STATE OF _____)
) ss.
COUNTY OF _____)

Before me, the undersigned, a Notary Public in and for the county, on this _____ day of _____, 200_, personally appeared _____ to me known personally, and who, being by me duly sworn, deposes and says that he is the _____ of _____, and that this instrument was signed and sealed on behalf of _____ and _____ acknowledged this instrument to be the free act and deed of _____.

_____
Notary Public
My commission expires:

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ANNEX

Trademark or Service Mark	Registrations -- Patent and Trademark Office Registration No.	Registration Date

[List chronologically in ascending numerical order]

Trademark or Service Mark	Pending Applications -- Patent and Trademark Office Serial No.	Filing Date

[List chronologically in ascending numerical order]

3533108v4