

U.S. DEPARTMENT OF COMMERCE

RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

Patent and Trademark Office  
Docket No. 00753/2442

To the Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

<p>1. Name of conveying party(ies): <b>ARETÉ ASSOCIATES</b></p> <p><input type="checkbox"/> Individual(s)      <input type="checkbox"/> Association  <input type="checkbox"/> General Partnership      <input type="checkbox"/> Limited Partnership  <input checked="" type="checkbox"/> Corporation-State:      <input type="checkbox"/> Other:</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: <b>BANK OF THE WEST</b>  Internal Address:  Street Address: <b>300 SOUTH GRAND AVENUE</b>  City: <b>LOS ANGELES</b> State: <b>CA</b> ZIP: <b>90071</b></p> <p><input type="checkbox"/> Individual(s) citizenship: _____  <input type="checkbox"/> Association: _____  <input type="checkbox"/> General Partnership: _____  <input type="checkbox"/> Limited Partnership: _____  <input checked="" type="checkbox"/> Corporation-State: <u>California</u>  <input type="checkbox"/> Other:</p> <p>Additional name(s) &amp; address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment      <input type="checkbox"/> Merger  <input checked="" type="checkbox"/> Security Agreement      <input type="checkbox"/> Change of Name  <input type="checkbox"/> Other:</p> <p>Execution Date: <b>DECEMBER 12, 2003</b></p>	

<p>4.A. Trademark Application No.(s)</p> <p style="text-align: center;"><b>2,641,672</b></p> <p>Additional numbers attached? *<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>B. Registration No.(s)</p>
---	-------------------------------

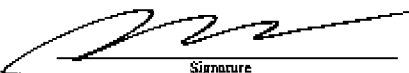
<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p><b>Pauline M. Stevens</b>  <b>Morrison &amp; Foerster, LLP</b>  <b>555 West Fifth Street, 35th Floor</b>  <b>Los Angeles, CA 90013</b></p>	<p>6. Total number of applications and trademark registrations involved:</p> <p>7. Total fee (37 C.F.R. § 3.41): <b>\$340</b></p> <p><input type="checkbox"/> Enclosed  <input checked="" type="checkbox"/> Authorized to be charged to deposit account, referencing Attorney Docket <u>07427/705</u></p> <p>8. Deposit account number: <u>03-1952</u></p>
--	--

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.21 which may be required by this paper, or to credit any overpayment to Deposit Account No. 03-1952.

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.

Name: **PAULINE M. STEVENS**  3/21/04  
Signature DMc

Total number of pages comprising cover sheet, attachments and document: **19**

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

CH \$40.00 031952 2641672

SECURITY AGREEMENT  
(Trademarks)

THIS SECURITY AGREEMENT (Trademarks) (the "Trademark Security Agreement") is made and dated as of the 12th day of December, 2003 by and between ARETÉ ASSOCIATES, a California corporation (the "Borrower"), and BANK OF THE WEST, a California banking corporation (the "Lender").

RECITALS

A. Pursuant to that certain Credit Agreement dated as of December 12, 2003 between Lender and Borrower (as amended, modified or waived, the "Credit Agreement"), Lender extended or agreed to extend credit to or for the benefit of Borrower on the terms and conditions and subject to the conditions set forth therein.

B. In connection therewith, Borrower agreed, among other things, to execute and deliver in favor of Lender (i) that certain Security Agreement dated as of December 12, 2003 (as amended, modified or waived, the "Security Agreement") between Borrower and Lender, and (ii) certain supplemental documents, including, without limitation, this Trademark Security Agreement.

NOW, THEREFORE, in consideration of the above Recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT

1. Grant of Security Interest. As collateral security for the Obligation (as defined in the Security Agreement), Borrower hereby mortgages, assigns, grants and conveys to the Lender, a security interest, pledge, assignment and mortgage in all of Borrower's right, title and interest in the following (the "Trademark Collateral"):

(a) All now existing or hereafter created or acquired, trademarks, service marks, unregistered marks, logos, indicia, tradenames, tradestyles, other business identifiers and rights and works protectable by trademark whether now owned or hereafter, and, except to the extent prohibited by the terms thereof or by law, all agreements in respect of Trademarks owned by third parties, including, without limitation, the Trademarks specifically described on Schedule I attached hereto, as the same may be amended or replaced from time to time;

(b) All now existing and hereafter arising registrations and applications for registration relating to any of the foregoing, all renewals and extensions thereof throughout the world in perpetuity, and all rights to make such applications and to renew and extend the same;

(c) All now existing and hereafter arising rights and licenses to make, have made, use and/or sell the inventions disclosed and claimed by any of the foregoing;

(d) All now existing and hereafter arising right (but not the obligation) to register claims under any state, federal or foreign trademark law or regulation;

(e) All now existing and hereafter arising rights, claims and interests under licensing or other contracts pertaining to any of the foregoing;

(f) All now existing and hereafter arising goodwill symbolized by or associated with any of the foregoing;

(g) All now existing and hereafter arising right (but not the obligation) to sue or bring opposition or cancellation proceedings in the name of Lender for past, present and future infringements of any of the foregoing; and

(h) All products and proceeds of any of the foregoing.

2. Additional Representation and Warranty and Covenant. In addition to all representations and warranties, covenants and agreements set forth in the Credit Agreement, the Security Agreement, and any other documents, Borrower hereby:

(a) Represents and warrants that Schedule I attached hereto sets forth an accurate and complete list of all trademarks owned by Borrower which are registered with the United States Patent and Trademark Office (any and all trademarks so registered being the "Trademarks"); and

(b) Agrees promptly to notify Lender in writing of any additional Trademarks of which Borrower becomes the owner, and to deliver to Lender an amended Schedule I reflecting such additional Trademarks. Lender is hereby authorized to cause such amended Schedule I to be filed and recorded in an amendment of this Trademark Security Agreement.

3. No Present Assignment. Neither the Credit Agreement, this Trademark Security Agreement, the Security Agreement nor any other document, instrument or agreement creates or is intended to create a present assignment of the Trademark Collateral. Subject to the rights of Lender, it is the intention of the parties hereto that Borrower continue to own the Trademark Collateral.

4. Relationship to Other Documents. The Trademark Collateral shall constitute Collateral for all purposes of the Credit Agreement, the Security Agreement and the other documents executed in connection therewith and Lender shall have all rights, powers and remedies with respect to the Trademark Collateral to the same extent as it has with respect to other Collateral pursuant to the Security Agreement.

5. Miscellaneous.

(a) All covenants and other agreements contained in this Trademark Security Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns.

(b) Any provision of this Trademark Security Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

(c) Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any person, or which such person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such person.

(d) This Trademark Security Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

(e) This Trademark Security Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of California excluding choice-of-law principles of the law of such State that would require the application of the laws of a jurisdiction other than such State.

IN WITNESS WHEREOF, the parties hereto have caused this Trademark Security Agreement to be executed on and as of the day and year first above written.

BORROWER:

ARETÉ ASSOCIATES

By: 

John W. McLean, Ph. D., President and Chief Executive Officer

LENDER:

BANK OF THE WEST

By: 

Jason Horstman, Vice President

SCHEDULE I  
TO TRADEMARK SECURITY AGREEMENT  
(Description of Trademark Collateral)

I

No. 2,641,672	Registered: 10/29/2002	Areté-Arizona service mark was registered with the USPTO	
------------------	---------------------------	---	--

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Los Angeles )

On Dec. 12, 2003, before me, the undersigned notary public in and for said County and State, personally appeared John W. McLean, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that, by his/her/their signature(s) on the instrument, the person(s) or the entity(ies) upon behalf of which the person(s) acted executed the instrument.

WITNESS my hand and official seal.



Leslie Flinders  
My commission expires on 10/19/04

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- INDIVIDUAL
- CORPORATE OFFICER  
Title(s) \_\_\_\_\_
- PARTNER(S)  
\_\_\_ Limited \_\_\_ General
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER:

\_\_\_\_\_ Title or Type of Document

\_\_\_\_\_ Signer(s) Other Than Named Above

Date of Document: \_\_\_\_\_

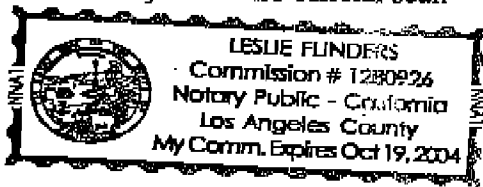
Number of Pages: \_\_\_\_\_

**SIGNER IS REPRESENTING:**  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Los Angeles )

On Dec. 12, 2003, before me, the undersigned notary public in and for said County and State, personally appeared Jason Horstman, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that, by his/her/their signature(s) on the instrument, the person(s) or the entity(ies) upon behalf of which the person(s) acted executed the instrument.

WITNESS my hand and official seal.



Leslie Flinders  
My commission expires on 10/19/04

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- INDIVIDUAL
- CORPORATE OFFICER  
Title(s) \_\_\_\_\_
- PARTNER(S)  
    \_\_\_ Limited \_\_\_ General
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER:

\_\_\_\_\_ Title or Type of Document

\_\_\_\_\_ Signer(s) Other Than Named Above

Date of Document: \_\_\_\_\_

Number of Pages: \_\_\_\_\_

SIGNER IS REPRESENTING:  
\_\_\_\_\_  
\_\_\_\_\_



# MORRISON & FOERSTER LLP

Attorneys at Law  
555 West Fifth Street, Suite 3500  
Los Angeles, California 90013-1024  
Telephone: (213) 892-5200  
Facsimile: (213) 892-5454

To: **United States Patent and Trademark Office**      Facsimile: **(703) 306-5995**

From: Pauline M. Stevens

Date: March 23, 2004

We are transmitting a total of 9 pages (including this page).  
Original or hard copy to follow if this box is checked .


**If you do not receive all pages, please call (213) 892-5615 as soon as possible.**

Preparer of this slip has confirmed that facsimile number given is correct: 174/pms1/7427/705 CC

This facsimile contains confidential information which may also be privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not copy, use, or distribute it. If you have received it in error, please advise Morrison & Foerster LLP immediately by telephone or facsimile and return it promptly by mail.

## CERTIFICATE OF FACSIMILE TRANSMITTAL

I hereby certify that this correspondence is being transmitted via facsimile to the United States Patent and Trademark Office in Washington, D.C. under 37 C.F.R. § 1.8 on March 23, 2004, to the facsimile number appearing above.

  
\_\_\_\_\_  
Pauline M. Stevens