

9/23/03

09-29-2003



IN THE UNITED STATES

102561118

TRADemark OFFICE

Director, United States Patent and Trademark Office  
2900 Crystal Drive  
Box Assignments  
Washington, D.C. 20231

OFFICE OF PUBLIC RECORDS  
2003 SEP 23 AM 10:26  
FINANCE SECTION

**Cover Sheet - Recordation of Exclusive License of Trademarks**

- 1. Name and entity type of the conveying party: Etienne Aigner, Inc., a State of Delaware corporation, USA
- 2. Name, address and entity type of the receiving party: Bennett Footwear Group LLC, a State of Delaware limited liability company, USA  
145 Wells Avenue, Newton, Massachusetts 02459
- 3.

Interest conveyed:	Registration No. (if registered)	Application Serial No.:	Number of Properties
Exclusive License of Trademark	2662490		1
Exclusive License of Trademark		76107486	1
Exclusive License of Trademark		76152305	1
Exclusive License of Trademark	1874708		1
Exclusive License of Trademark		78251654	1
Exclusive License of Trademark	2241849		1
Exclusive License of Trademark	1508253		1
Exclusive License of Trademark	1477866		1
Exclusive License of Trademark	2625625		1
Exclusive License of Trademark	1262129		1
Exclusive License of Trademark	2219430		1
<b>TOTAL</b>			11

- 4. Correspondent name and address: Joseph V. Myers III, Esq.  
Seyfarth Shaw LLP  
1545 Peachtree Street NE, Suite 700  
Atlanta, GA 30309
- 5. Total fee enclosed: \$290.00
- 6. Execution date of attached documents: September 23, 2003
- 7. Pages submitted: 10

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.

09/26/2003 LMUELLER 00000234 2662490

01 FC:8521  
02 FC:8522

40.00 OF  
250.00 OF

Joseph V. Myers III  
Execution Date: September 23, 2003

**THE FOLLOWING IS AN EXTRACT, PREPARED AND SUBMITTED PURSUANT TO 37 C.F.R. §3.25(a)(3) AND T.M.E.P. §503.03(b)(3), OF AN EXCLUSIVE LICENSE AGREEMENT BETWEEN ETIENNE AIGNER, INC. AND BENNETT FOOTWEAR GROUP LLC DATED AS OF SEPTEMBER 15, 2003.**

**“THIS AGREEMENT** is made on September 15, 2003 between the following parties:

1. Etienne Aigner, Inc., a corporation incorporated under the laws of the State of Delaware, whose registered principal place of business is at 47 Brunswick Avenue, Edison, New Jersey 08818 (“the Licensor”); and
2. Bennett Footwear Group LLC, a limited liability company incorporated under laws of the State of Delaware whose principal place of business is at 145 Wells Avenue, Newton, Massachusetts 02459 (“the Licensee”).

**RECITALS:**

- A. The Licensor is the owner of certain registered and pending Trademarks in the Territory, as defined in this Agreement, and
- B. The parties wish to enter into a license agreement on the terms of this Agreement.

**IT IS AGREED**, as follows:

1. **Definitions and Interpretation**

...

**“Effective Date”** means September 15, 2003.

...

**“Products”** means all footwear products (including, without limitation, all categories of women’s, children’s, men’s and athletic footwear as set forth on Schedule 1) bearing the Trademarks.

...

**“Territory”** means the country or countries listed in Schedule 2.

...

**“Trademarks”** means the Trademarks which are registered (or the subject of pending applications for registration) in the Territory listed in Schedule 4.

...

2. **Commencement**

This Agreement shall commence and be deemed effective as of the Effective Date, notwithstanding that it may be executed after that date.

3. **Grant**

3.1 Subject to all of the terms of this Agreement, the Licensor grants to the Licensee the exclusive right to:

- a. use the Trademarks on the Products and as otherwise provided herein, in the Territory and
- b. use all designs and style names of the Licensor to manufacture or have manufactured the Products, and to sell the Products in the Territory.

...

3.4 Licensee is granted the additional right to grant sublicenses, . . . .

...

4. **Term**

This Agreement shall commence on the Effective Date and continue until December 31, 2010 (subject to earlier termination as provided under this Agreement). If, as to the period from January 1, 2004 to December 31, 2010, the Licensee shall have paid a sum equal to or in excess of . . . , the period of this Agreement shall automatically be extended for a further period of seven (7) years to expire on December 31, 2017 (“Additional Period”) (subject to earlier termination as provided under this Agreement).

...

11.3 The Licensor at its sole cost and expense shall take all such action as is reasonably necessary to (a) maintain the effective registration of all of the registered Trademarks in the Territory during the term of this Agreement, (b) diligently pursue the registration of any pending Trademark applications which are denoted with an asterisk on Schedule 4 hereto using Licensor’s reasonable best efforts, although Licensor retains the reasonable discretion to exercise its reasonable judgment concerning the amendment or abandonment of those registrations, or to settle any potential oppositions to the registration of the Trademarks pending registration, and (c) pursue the registration of all other pending Trademark applications, although Licensor retains the sole discretion to exercise its judgment concerning the amendment or abandonment of those registrations, or to settle any potential oppositions to the registration of such Trademarks pending registration. Notwithstanding the foregoing, Licensor shall not settle any potential oppositions to the registration of the Trademarks pending registration without the prior written consent of Licensee unless such settlement shall have no material adverse affect on Licensee’s rights hereunder. In the event that Licensor decides not to maintain a

registration in any jurisdiction or not to pursue a new registration in a jurisdiction, then (i) Licensor agrees to give Licensee reasonable advance written notice (but in no event less than sixty (60) days) of its decision, and (ii) Licensee shall have the option to undertake the maintenance or registration process, as the case may be, at Licensee's sole cost and expense (except for Licensee's right of offset as provided below), but solely in the name of, and for the benefit of Licensor as the Trademark owner, as nothing in this provision constitutes an abandonment of Licensor's rights or any transfer of ownership to Licensee.

...

13.2 (a) So long as Licensee remains the exclusive licensee of the Trademarks in the Territory, Licensee to the extent permitted by law, shall have the right, under its own control and at its own expense, to prosecute any third party infringement, unauthorized usage or unfair competition of the Trademarks in the Territory, but shall do so in a manner which will duly protect the Trademarks. If required by law, Licensor shall permit any action under this section to be brought in its name, including being joined as a party-plaintiff, provided that Licensee shall hold Licensor harmless from, and indemnify Licensor against, any costs, expenses or liability that Licensor incurs in connection with such action, as set forth in Section 7. . . . .

...

13.3 In the event that a declaratory judgment action is brought against Licensor or Licensee by a third party alleging invalidity or unenforceability of the Trademarks, the Licensor shall defend the action at Licensor's sole cost and expense. If Licensor fails to defend such action, Licensee shall have the right at its sole discretion to defend such action at Licensor's sole cost and expense, . . . .

...

13.5 So long as the Licensee remains the exclusive Licensee of the Trademarks in the Territory, it shall have the sole right to sub-license any alleged infringer in the Territory for future use of the Trademarks.

...

**15. Sales by the Licensor in the Territory**

15.1 So far as permitted by law and except as may be expressly provided under this Agreement or the Supply Agreement, the Licensor will not sell or cause or authorize to be sold any Products in the Territory.

...

16.10 (a) The parties hereto acknowledge and agree that: (a) Licensee is entering into this Agreement, . . . in anticipation of continued use of the Trademarks during the term of this Agreement and that Licensee is making a substantial investment which will take time to recoup; (b) that Licensee is entitled to protect its investment; (c) if the Licensor becomes

the subject of a bankruptcy case and rejects this Agreement, then the deemed breach pursuant to 11 U.S.C. Section 365(g) shall not be construed as a termination of this Agreement, and the Licensee, at its option, shall be entitled to continue to use the Trademarks and have all of the benefits of this Agreement for the remainder of the term of this Agreement (including the Additional Period) subject to the Licensee's compliance with the terms hereof, notwithstanding the Licensor's release from any further performance obligations.

**<THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.>**

**EXECUTED** by the parties as an agreement as of the day and year first above written.

**SIGNED on behalf of the Licensee**

By its authorized representative in the presence  
of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

**BENNETT FOOTWEAR GROUP LLC**

By: \_\_\_\_\_ /Gregg Ribatt/

Gregg Ribatt  
Chief Operating Officer

**SIGNED on behalf of the Licensor**

By its authorized representative in the presence  
of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

**ETIENNE AIGNER, INC.**

By: \_\_\_\_\_ /Michael P. Cangemi/

Michael P. Cangemi  
President and Chief Executive Officer

...

## Schedule 1

### Description of Products

For the purposes of this Agreement, footwear products shall be defined as described below. Should the Licensee be interested in adding other footwear classifications/products, such additions will need to be approved by Licensor prior to production.

#### **Women's Footwear:**

Dress shoes  
Casual shoes  
Sandals  
Boots  
Evening shoes  
Athletic footwear  
Slippers

#### **Men's Footwear:**

Dress shoes  
Casual shoes  
Sandals  
Boots  
Evening shoes  
Athletic footwear  
Slippers

#### **Children's Footwear:**

Dress shoes  
Casual shoes  
Sandals  
Boots  
Evening shoes  
Rainwear  
Athletic footwear  
Slippers

## Schedule 2

### **Territory**

North America, Central America and South America, including the Islands of the Caribbean, Bermuda, and Hawaii, excluding duty free shops located in, and international flights of airlines having headquarters in, the aforementioned countries or jurisdictions.

...



**Schedule 4**

**Trademarks**

<b><u>COUNTRY</u></b>	<b><u>MARK</u></b>	<b><u>REGISTRATION</u></b>	<b><u>APPLICATION</u></b>
US	AIGNER	2662490	
US	E/A by Etienne Aigner (box)		76/107486
US	E/A by Etienne Aigner(no box)		76/152305
US	Etienne Aigner & Horseshoe	1874708	
US	Easentials		78/251654
US	Easentials by Etienne Aigner	2241849	
US	Etienne Aigner	1508253	
US	Horseshoe	1477866	
US	Modern A	2625625	
US	Etienne Aigner in script	1262129	
US	Signature Etienne Aigner and Horseshoe Device	2219430	

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