

TRADEMARK ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:

NEW ASSIGNMENT

NATURE OF CONVEYANCE:

SECURITY INTEREST

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
Ross-Simons of Warwick, Inc.		03/04/2005	CORPORATION: RHODE ISLAND

RECEIVING PARTY DATA

Name:	GMAC Commerical Finance LLC, as Agent
Street Address:	1290 Avenue of Americas
City:	New York
State/Country:	NEW YORK
Postal Code:	10104
Entity Type:	Limited Liability Company: DELAWARE

PROPERTY NUMBERS Total: 8

Property Type	Number	Word Mark
Registration Number:	1496315	ANTICIPATIONS
Registration Number:	1773890	GOLD RUSH
Registration Number:	2829346	MEREDITH DANIELS
Registration Number:	1317429	ROSS-SIMONS
Serial Number:	76586058	ROSS-SIMONS
Serial Number:	76586059	ROSS-SIMONS.COM
Serial Number:	76562361	ST. JAMES
Serial Number:	76569387	WILLIAM ROBERTS

CORRESPONDENCE DATA

Fax Number: (617)574-4112

Correspondence will be sent via US Mail when the fax attempt is unsuccessful.

Phone: 6175742285

Email: maura.swan@goulstonstorrs.com

Correspondent Name: Maura H. Swan, Esq.

TRADEMARK

REEL: 003039 FRAME: 0194

900020737

OP \$215.00 1496315

Address Line 1: 400 Atlantic Avenue
Address Line 2: Goulston & Storrs
Address Line 4: Boston, MASSACHUSETTS 02110

NAME OF SUBMITTER:	Andrew Nash
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Signature:	/Andrew Nash/
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Date:	03/04/2005
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Total Attachments: 22

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INTELLECTUAL PROPERTY SECURITY AGREEMENT

INTELLECTUAL PROPERTY SECURITY AGREEMENT (this "Agreement") dated as of March 4, 2005 by and among (a) the Borrower under the Loan Agreement (the Borrower is hereinafter referred to as the "Grantor"), (c) GMAC Commercial Finance LLC, as collateral agent and administrative agent (in such capacity, the "Agent") for the Lenders in consideration of the mutual covenants contained herein and benefits to be derived herefrom.

WITNESSETH:

Reference is made to: (a) the Loan and Security Agreement dated as of March 4, 2005 (as such may be amended, modified, supplemented or restated hereafter, the "Loan Agreement") by and among (i) the Borrower, (ii) the Lenders named therein, and (iii) the Agent (the Lenders and the Agent being referred to herein as the "Secured Parties"), Capitalized terms used herein and not defined herein shall have the meanings assigned to such terms in the Loan Agreement. The Lenders have agreed to make Advances and provide other financial accommodations to the Borrower pursuant to, and upon the terms and subject to the conditions specified in, the Loan Agreement. The obligations of the Lenders to make such Advances and financial accommodations are each conditioned upon, among other things, the execution and delivery by the Borrower of the Loan Agreement and an agreement in the form hereof to secure the Obligations. Accordingly, the Grantor and the Agent, on behalf of themselves and each other Secured Party (and each of their respective successors or assigns), hereby agree as follows:

1. Definitions: As used herein, the following terms shall have the following meanings:

"Copyrights" shall mean all copyrights and like protections in each work of authorship or derivative work thereof, whether registered or unregistered and whether published or unpublished, including, without limitation, the copyrights listed on **EXHIBIT A** annexed hereto and made a part hereof, together with all registrations and recordings thereof, all applications in connection therewith, and any goodwill of the business connected with, and symbolized by, any of the foregoing.

"Copyright Licenses" shall mean all agreements, whether written or oral, providing for the grant by or to Grantor of any right to use any Copyright, including, without limitation, the agreements listed on **EXHIBIT A** annexed hereto and made a part hereof.

"Copyright Office" shall mean the United States Copyright Office or any other federal governmental agency which may hereafter perform its functions.

"Intellectual Property" shall have the meaning assigned to such term in Section 3

hereof.

“IP Collateral” shall have the meaning assigned to such term in Section 2 hereof.

“Licenses” shall mean, collectively, the Copyright Licenses, Patent Licenses and Trademark Licenses.

“Patents” shall mean all patents, patent applications, letters patent and applications for letters patent, and the inventions and improvements therein disclosed, and any and all divisions, reissues, extensions, continuations and continuations-in-part of said letters patent including, without limitation, the patents listed on **EXHIBIT B** annexed hereto and made a part hereof.

“Patent Licenses” shall mean all agreements, whether written or oral, providing for the grant by or to Grantor of any right to manufacture, use or sell any invention covered by a Patent, including, without limitation, the agreements listed on **EXHIBIT B** annexed hereto and made a part hereof.

“PTO” shall mean the United States Patent and Trademark Office or any other federal governmental agency which may hereafter perform its functions.

“Trademarks” shall mean all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade dress, trade styles, service marks, designs, logos and other source or business identifiers, prints and labels on which any of the foregoing may appear, whether registered or unregistered, including, without limitation, the trademarks listed on **EXHIBIT C** annexed hereto and made a part hereof, together with all registrations and recordings thereof, all applications in connection therewith, and any goodwill of the business connected with, and symbolized by, any of the foregoing.

“Trademark Licenses” shall mean all agreements, whether written or oral, providing for the grant by or to Grantor of any right to use any Trademark, including, without limitation, the agreements listed on **EXHIBIT C** annexed hereto and made a part hereof.

2. Grant Of Security Interest: In furtherance and as confirmation of the Security Interest granted by the Grantor to the Agent (for the ratable benefit of the Secured Parties) under the Loan Agreement, and as further security for the payment or performance in full of the Obligations, Grantor hereby ratifies such Security Interest and grants to the Agent (for the ratable benefit of the Secured Parties) a continuing security interest, with power of sale (which power of sale shall be exercisable only following the occurrence of an Event of Default), in all of the present and future right, title and interest of the Grantor in and to the following property, and each item thereof, whether now owned or existing or hereafter acquired or arising, together with all products, proceeds, substitutions, and accessions of or to any of the following property (collectively, the “IP Collateral”):

- (a) All Copyrights and Copyright Licenses.
- (b) All Patents and Patent Licenses.
- (c) All Trademarks and Trademark Licenses.
- (d) All renewals of any of the foregoing.
- (e) All General Intangibles connected with the use of, or related to, any and all Intellectual Property (including, without limitation, all goodwill of the Grantor and its business, products and services appurtenant to, associated with, or symbolized by, any and all Intellectual Property and the use thereof).
- (f) All income, royalties, damages and payments now and hereafter due and/or payable under and with respect to any of the foregoing, including, without limitation, payments under all Licenses entered into in connection therewith and damages and payments for past or future infringements or dilutions thereof.
- (g) The right to sue for past, present and future infringements and dilutions of any of the foregoing.
- (h) All of the Grantor's rights corresponding to any of the foregoing throughout the world.
- (i) All Proceeds of any of the foregoing.

In addition, with respect to the Trademarks, the Grantor has executed in blank and delivered to the Agent an assignment of federally registered trademarks in substantially the form of ANNEX 1 hereto (the "Assignment of Marks"). The Grantor hereby authorizes the Agent to complete as assignee and record with the U.S. Patent and Trademark Office either or both of the Assignment of Marks and the Assignment of Patents upon the occurrence and during the continuance of an Event of Default which has not been expressly waived by Agent in writing and the proper exercise of the Agent's remedies under this Agreement and under the Loan Agreement. In addition to, and not by way of limitation of, the foregoing grant of the IP Collateral, the Grantor grants, assigns, transfers, conveys and sets over to the Agent, for the ratable benefit of the Agent and the Lenders, Grantor's entire right, title and interest in and to the Copyrights, the Copyright Licenses, Trademarks, Trademark Licenses, the Patents, and Patent Licenses; *provided* that such grant, assignment, transfer and conveyance shall be and become of force and effect only (a) upon or after the occurrence of an Event of Default which has not been expressly waived by Agent in writing and (b) either (i) upon the written demand of the Agent at any time during such continuance or (ii) immediately and automatically (without notice or action of any kind by the Agent) upon an Event of Default for which acceleration of the Advances is automatic under the Loan Agreement or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Loan Agreement and applicable law (including the transfer or other disposition of the Collateral by the Grantor to the Agent or its nominee in lieu of foreclosure).

3. Protection Of Intellectual Property By Grantor: Except as set forth below in this Section 3, the Grantor shall undertake the following with respect to each of the items respectively described in Sections 2(a), (b), (c), (d) and (e) (collectively, the

“Intellectual Property”), to the extent commercially reasonable:

- (a) Pay all renewal fees and other fees and costs associated with maintaining the Intellectual Property and with the processing of the Intellectual Property and take all other reasonable and necessary steps to maintain each registration of the Intellectual Property.
- (b) Take all actions reasonably necessary to prevent any of the Intellectual Property from becoming forfeited, abandoned, dedicated to the public, invalidated or impaired in any way. The Grantor shall not abandon any filed patent application or trademark registration, or abandon any pending patent application or patent or any trademark registration without the consent of the Agent, which consent shall not be unreasonably withheld, except to the extent, in Grantor’s reasonable discretion, exercised in good faith, the abandonment of such is reasonable, prudent or beneficial to Grantor or its operations.
- (c) At the Grantor’s sole cost, expense, and risk, pursue the prompt, diligent processing of each application for registration which is the subject of the security interest created herein and not abandon or delay any such efforts. The Grantor shall, at Grantor’s sole expense, promptly apply for and obtain all renewals or extensions of the Intellectual Property to the full extent permitted by law except to the extent, in Grantor’s reasonable discretion, exercised in good faith, such renewal or extension is not reasonable, prudent or beneficial to Grantor or its operations.
- (d) At the Grantor’s sole cost, expense, and risk, take any and all action, which the Grantor reasonably require to protect the Intellectual Property from infringement, misappropriation or dilution, including, without limitation, the prosecution and defense of infringement actions. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, and no material adverse effect would result therefrom, Grantor shall have no obligation to use or to maintain any Intellectual Property (i) that relates solely to any product, that has been discontinued, abandoned or terminated or (ii) that has been replaced with Intellectual Property substantially similar to the Intellectual Property that may be abandoned or otherwise become invalid, so long as the failure to use or maintain such Intellectual Property does not materially adversely affect the validity of such replacement Intellectual Property and so long as such replacement Intellectual Property is subject to the lien created by this Agreement.

4. Grantor’s Representations And Warranties: The Grantor represents and warrants that:

- (a) **EXHIBIT A** is a true, correct and complete list of all registered

Copyrights and Copyright Licenses owned by the Grantor as of the date hereof, all of which are subsisting, valid and enforceable. All Copyright Licenses which are material to the operation of Grantor's business are indicated with an asterisk on **EXHIBIT A** and have been delivered to the Agent.

- (b) **EXHIBIT B** is a true, correct and complete list of all Patents and Patent Licenses owned by the Grantor as of the date hereof, all of which are subsisting, valid and enforceable. All Patent Licenses which are material to the operation of Grantor's business are indicated with an asterisk on **EXHIBIT B** and have been delivered to the Agent.
- (c) **EXHIBIT C** is a true, correct and complete list of all registered and pending Trademarks and Trademark Licenses owned by the Grantor as of the date hereof, all of which are subsisting, valid and enforceable. All Trademark Licenses which are material to the operation of Grantor's business are indicated with an asterisk on **EXHIBIT C** and have been delivered to the Agent.
- (d) Except as set forth in **EXHIBITS A, B and C**, none of the Intellectual Property is the subject of any licensing or franchise agreement pursuant to which Grantor is the licensor or franchisor.
- (e) All IP Collateral is, and shall remain, free and clear of all liens, Encumbrances, or security interests in favor of any Person, other than Permitted Liens and Liens in favor of the Agent.
- (f) The Grantor owns, or is licensed to use, all Intellectual Property necessary for the conduct of Grantor's business as currently conducted, except as otherwise set forth in the Loan Agreement. No material claim has been asserted and is pending by any Person challenging or questioning the use by Grantor of any of its Intellectual Property or the validity or effectiveness of any of its Intellectual Property, nor does Grantor know of any valid basis for any such claim, except as otherwise set forth in the Loan Agreement. The Grantor shall have the duty to promptly notify the Secured Party of any such claim or infringement and the details thereof. The Grantor considers that the use by the Grantor of the Intellectual Property does not infringe the rights of any Person in any material respect, except as otherwise set forth in the Loan Agreement. No holding, decision or judgment has been rendered by any governmental authority which would limit, cancel or question the validity of, or Grantor's rights in, any Intellectual Property in any respect that could reasonably be expected to have a material adverse effect on the business or the property of Grantor.
- (g) The Grantor shall give the Agent written notice (with reasonable detail)

within ten (10) days following the occurrence of any of the following:

- (i) The Grantor's obtaining rights to, and filing applications for registration of, any new Intellectual Property, or otherwise acquiring ownership of any newly registered Intellectual Property.
 - (ii) The Grantor's becoming entitled to the benefit of any registered Intellectual Property whether as licensee or licensor.
 - (iii) The Grantor's entering into any new material Licenses.
 - (iv) The Grantor's knowing or having reason to know, that any application or registration relating to any material Intellectual Property may become forfeited, abandoned or dedicated to the public, or of any adverse determination or development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the PTO, the Copyright Office or any court or tribunal) regarding the Grantor's ownership of, or the validity of, any material Intellectual Property or the Grantor's right to register the same or to own and maintain the same.
- (h) The execution, delivery and performance of this Agreement are within the power of the Grantor and have been duly authorized by all necessary corporate or other action and do not contravene any law, rule, regulation or any judgment, decree or order of any tribunal or of any agreement to which Grantor is a party or by which any of its property is bound.

5. Agreement Applies To Future Intellectual Property:

- (a) The provisions of this Agreement shall automatically apply to any such additional property or rights described in Section 4(g), above, all of which shall be deemed to be and treated as "Intellectual Property" within the meaning of this Agreement.
- (b) Upon the request of the Agent, the Grantor shall execute and deliver, and have recorded, any and all agreements, instruments, documents and papers as the Agent may request to evidence the Agent's security interest in any Copyright, Patent, Trademark, License and the goodwill and General Intangibles of the Grantor relating thereto or represented thereby (including, without limitation, filings with the PTO, the Copyright Office or any similar office), and the Grantor hereby constitutes the Agent as its attorney-in-fact to execute and file all such writings for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; *provided, however*, the Agent's taking of such action shall not be a condition to the creation or perfection of the security interest created hereby. Notwithstanding the foregoing, the Grantor authorizes the Agent to modify this Agreement, without the necessity of Grantor's further approval or signature, by amending **EXHIBITS A, B or C** to include any such additional property or rights described in Section 4(g), above.

6. Grantor's Rights To Enforce Intellectual Property: Prior to the occurrence of an Event of Default, the Grantor shall have the exclusive right to sue for past, present and future infringement of the Intellectual Property including the right to seek injunctions and/or money damages, in an effort by the Grantor to protect the Intellectual Property against encroachment by third parties, *provided, however*:

- (a) The Grantor first provide the Agent with written notice of the Grantor's intention to so sue for enforcement of any Intellectual Property.
- (b) Any money damages awarded or received by the Grantor on account of such suit (or the threat of such suit) shall constitute IP Collateral.

7. Agent's Actions To Protect Intellectual Property: In the event of (a) the Grantor's failure to cure any failure by the Grantor to perform any of the Grantor's obligations hereunder; and/or (b) the occurrence of any Event of Default which has not been expressly waived by Agent in writing, the Agent, acting in its own name or in that of the Grantor, may (but shall not be required to) act in the Grantor's place and stead and/or in the Agent's own right in connection therewith. In the event of any material infringement by a third party of any of the Patents, Trademarks or Copyrights, the Grantor shall promptly notify the Agent of such infringement and shall take all reasonably necessary actions to obtain the cessation of such infringement and recover all damages resulting therefrom, including, after and during the continuance of an Event of Default which has not been expressly waived by Agent in writing, such action as the Agent deems reasonably necessary. If Grantor shall fail to take such action within fourteen (14) days after such notice is given to the Agent, the Agent may upon notice to Grantor, but shall not be required to, itself take such action in the name of Grantor, and Grantor hereby appoints the Agent the true and lawful attorney of Grantor, for it and in its name, place and stead, on behalf of Grantor, solely to commence judicial proceedings in any court or before any other tribunal to enjoin and recover damages for such infringement, any such damages due to Grantor, net of costs and attorneys' fees reasonably incurred, to be applied to the Obligations.

8. Rights Upon Default: Upon the occurrence of any Event of Default, which has not been waived in writing by Agent, the Agent may exercise all rights and remedies of a secured party upon default under the Uniform Commercial Code as adopted in the State of New York, with respect to the Intellectual Property, in addition to which the Agent may sell, license, assign, transfer, or otherwise dispose of the Intellectual Property. Any person may conclusively rely upon an affidavit of an officer of the Agent that an Event of Default has occurred and that the Agent is authorized to exercise such rights and remedies. The Agent shall give to the Grantor at least ten (10) days' prior written notice (which the Grantor agrees is "reasonable notification" under the Uniform Commercial Code) of the time and place of any public sale of the Intellectual Property or of the time after which any private sale or any other intended disposition is to be made.

If any Event of Default shall have occurred and shall have been expressly waived by Agent in writing, the Grantor hereby grants to the Agent the right and exclusive license to make, have made, use and sell the inventions and marks disclosed and claimed in the Patents and the Trademarks for the ratable benefit and account of the Lenders and the Agent.

To the extent permitted by applicable law, the Grantor hereby waives any and all rights that it may have to judicial hearing in advance of the enforcement of any of the Agent's rights hereunder, including, without limitation, its rights following any Event of Default to take immediate possession of the Intellectual Property and exercise its rights with respect thereto.

The Agent shall not be required to marshal any present or future security for (including, but not limited to, this Agreement and the Intellectual Property subject to a security interest hereunder), or guaranties of, the Obligations or any of them, or to resort to such security or guaranties in any particular order; and all of the rights hereunder and in respect of such security and guaranties shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, the Grantor hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of the Agent's or any Lender's rights under this Agreement or any other instrument evidencing any of the Obligations or by which any of the Obligations is secured or guaranteed, and to the extent that it lawfully may, the Grantor hereby irrevocably waives the benefits of all such laws.

9. Agent As Attorney In Fact:

- (a) The Grantor hereby irrevocably constitute and designate the Agent as Grantor's attorney in fact:
 - (i) To exercise any of the rights and powers referenced herein.
 - (ii) To execute all such instruments, documents, and papers as the Agent determines to be appropriate in connection with the exercise of such rights and remedies and to cause the sale, license, assignment, transfer, or other disposition of the IP Collateral.
- (b) The within grant of a power of attorney, being coupled with an interest, shall be irrevocable until this Agreement is terminated by a duly authorized officer of the Agent.
- (c) The Agent shall not be obligated to do any of the acts or to exercise any of the powers authorized by Section 9(a), but if the Agent elects to do any such act or to exercise any of such powers, it shall not be accountable for more than it actually receives as a result of such exercise of power, and shall not be responsible to Grantor for any act or omission to act except for any act or omission to act as to which there is a final determination made in a judicial proceeding (in which proceeding the Agent has had an

opportunity to be heard) which determination includes a specific finding that the subject act or omission to act had been grossly negligent or in actual bad faith.

10. Agent's Rights: Any use by the Agent of the Intellectual Property, as authorized hereunder in connection with the exercise of the Agent's rights and remedies under this Agreement and under the Loan Agreement, shall be coextensive with the Grantor's rights thereunder and with respect thereto and without any liability for royalties or other related charges.

11. Further Assurances: The Grantor shall, at Grantor's sole expense, do, make, execute and deliver all such additional and further acts, things, deeds, assurances, and instruments, in each case in form and substance reasonably satisfactory to the Agent, relating to the creation, validity, or perfection of the security interests and assignments provided for in this Agreement under 35 U.S.C. Section 261, 15 U.S.C. Section 1051 et seq., the Uniform Commercial Code or other laws of the United States or the State of New York or of any other countries or states as the Agent may from time to time reasonably request, and shall take all such other action as the Agent may reasonably require to more completely vest in and assure to the Agent and the Lenders their respective rights hereunder or in any of the Patents or Trademarks, and the Grantor hereby irrevocably authorizes the Agent or its designee, at Grantor's expense, to execute such documents, and file such financing statements with respect thereto with or without Grantor's signature, as the Agent may deem appropriate. In the event that any rerecording or refileing (or the filing of any statement of continuation or assignment of any financing statement) or any repledge or reassignment, or any other action, is required at any time to protect and preserve such security interest and assignments, the Grantor shall, at its sole cost and expense, cause the same to be done or taken at such time and in such manner as may be reasonably necessary and as may be reasonably requested by the Agent.

The Agent is hereby irrevocably appointed by the Grantor as Grantor's lawful attorney and agent, with full power of substitution, to execute, deliver, record and file on behalf of and in the name of Grantor such financing statements, assignments, pledges and other documents and agreements, and to take such other action as the Agent may deem necessary for the purpose of perfecting, protecting or effecting the security interests and assignments granted herein and effected hereby, and any liens necessary or desirable to implement or effectuate the same, under any applicable law, and the Agent is hereby authorized to file on behalf of and in the name of the Grantor at Grantor's sole expense, such financing statements, assignments, pledges, documents, and agreements in any appropriate governmental office. The Agent may include reference to Grantor, the Patents and the Trademarks (and may utilize any logo or other distinctive symbol associated with Grantor) in connection with any advertising, promotion, marketing or sale undertaken by the Agent.

In fulfilling its responsibility for the prosecution, defense, enforcement or any other necessary or desirable actions in connection with the Patents and Trademarks, the

Grantor shall hold each of the Agent and the Lenders harmless from any and all costs, damages, Obligations and expenses that may be incurred by the Agent or any Lender (other than as a result of gross negligence or willful misconduct of the Agent or any of the Lenders) in connection with the Agent's interest in the Intellectual Property or any other action or failure to act in connection with this Agreement or the transactions contemplated hereby. In respect of such responsibility, the Grantor shall retain patent or trademark counsel, as the case may be, acceptable to the Agent.

12. Waivers: Except for notices specifically provided for herein, the Grantor hereby expressly waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect both to the Obligations and any collateral therefor, the Grantor assents to any extension or postponement of the time of payment or any other indulgence, to any substitution of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as the Agent or the Lenders may deem advisable. Neither the Agent nor any Lender shall have any duty as to the protection of the Patents or Trademarks or any income thereon, nor as to the preservation or rights against prior parties, nor as to the preservation of any rights pertaining thereto. The Agent and the Lenders may exercise their rights with respect to the Intellectual Property without resorting or regard to other collateral or sources of reimbursement for liability. The Agent and the Lenders shall not be deemed to have waived any of their rights upon or under the Obligations or the Intellectual Property unless such waiver be in writing and signed by the Agent and the Lenders in accordance with the terms of the Loan Agreement. No delay or omission on the part of the Agent or the Lenders in exercising any right shall operate as a waiver of any right on any future occasion. All rights and remedies of the Agent or the Lenders with respect to the Obligations or the Patents or Trademarks, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly or concurrently.

13. Releases: The Grantor and the Agent may from time to time agree in writing to the release of certain of the Intellectual Property from the security interest created hereby, and, in the case of Patents or Trademarks any of the Grantor proposes to abandon, the Agent agrees that, prior to an Event of Default, it will release its security interest in any Patent or Trademark Grantor proposes to abandon so long as such Patent or Trademark is no longer used by Grantor and is not material to the operations of Grantor, *provided* that after the occurrence and during the continuance of an Event of Default which has not been expressly waived by Agent in writing, the Agent's consent will be required prior to any such release and abandonment.

14. Intent: This Agreement is being executed and delivered by the Grantor for the purpose of registering and confirming the grant of the security interest of the Agent in the IP Collateral with the PTO and the Copyright Office. It is intended that the security interest granted pursuant to this Agreement is granted as a supplement to, and not in limitation of, the Collateral Interest granted to the Agent, for the ratable benefit of the

Secured Parties, under the Loan Agreement. All provisions of the Loan Agreement shall apply to the IP Collateral. The Agent shall have the same rights, remedies, powers, privileges and discretions with respect to the security interests created in the IP Collateral as in all other Collateral. In the event of a conflict between this Agreement and the Loan Agreement, the terms of this Agreement shall control with respect to the IP Collateral and the Loan Agreement with respect to all other Collateral.

15. Miscellaneous:

(a) The Grantor shall hold the Agent and the Lenders harmless from any and all costs, damages and expenses which may be incurred by the Agent, the Lenders or Grantor in connection with any action or failure to act by the Agent or any Lender in connection with this Agreement, except those arising from the gross negligence or willful misconduct of the Agent or such Lender.

(b) Any and all rights and interests of the Agent and the Lenders in and to the Intellectual Property (and any and all obligations of the Grantor with respect to the same) 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 Agent (and the obligations of the Grantor) in, to or with respect to the Collateral provided in or arising under or in connection with the Loan Agreement and shall not be in derogation thereof.

(c) THIS AGREEMENT AND ALL RIGHTS AND OBLIGATIONS HEREUNDER, INCLUDING MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE UNITED STATES, AND, TO THE EXTENT THAT THE LAWS OF THE UNITED STATES ARE NOT APPLICABLE, BY AND WITH THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS). THIS AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT. The Grantor agrees that any suit for the enforcement of this Agreement may be brought in the courts of the State of New York or the United States of America for the District of New York, and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon Grantor by mail at the address specified in the Loan Agreement. The Grantor 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.

(d) All notices hereunder shall be in writing and shall be given as provided in the Loan Agreement.

(e) Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated except by a written instrument expressly referring to this Agreement and to the provisions so modified or limited, and executed by all the parties hereto.

(f) This Agreement and all obligations of the Grantor shall be binding upon the successors and assigns of the Grantor, and shall, together with the rights and remedies of the Agent hereunder, inure to the benefit of the Agent, the Lenders and their respective successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall be in no way affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Grantor acknowledges receipt of a copy of this Agreement. Terms used herein without definition which are defined in the Uniform Commercial Code of Massachusetts have such defined meanings herein, unless the context otherwise indicates or requires.

(h) THE GRANTOR AND THE AGENT MUTUALLY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER DOCUMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY. THIS WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR THE SECURED PARTY TO ENTER INTO THIS AGREEMENT AND MAKE THE ADVANCES. Except as prohibited by law, the Grantor waives any right which it may have to claim or recover in any litigation referred to in the first sentence of this Section 15 any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. The Grantor (i) certifies that neither the Agent, nor any Lender nor any representative, Agent or attorney of the Agent or any Lender has represented, expressly or otherwise, that the Agent or any Lender would not, in the event of litigation, seek to enforce the foregoing waivers and (ii) acknowledges that, in entering into the Loan Agreement and the other Loan Documents to which the Agent is a party, the Agent and the Lenders are relying upon, among other things, the waivers and certifications in this Section 15.

(i) This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement. Delivery of an executed counterpart of this Agreement by telefacsimile shall be equally as effective as delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile also shall deliver an original executed counterpart of this Agreement but the failure to deliver an original executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Grantor and the Agent respectively have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

BORROWER:

ROSS-SIMONS OF WARWICK, INC.

By: 
Name: Darrell S. Ross
Title: President and CEO

AGENT:

GMAC COMMERCIAL FINANCE LLC

By: _____
Name: Robert J. Shusterman
Title: Managing Director

IN WITNESS WHEREOF, the Grantor and the Agent respectively have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

BORROWER:

ROSS-SIMONS OF WARWICK, INC.

By: _____

Name: Darrell S. Ross

Title: President and CEO

AGENT:

GMAC COMMERCIAL FINANCE LLC

By:  _____

Name: Robert J. Shusterman

Title: Managing Director

EXHIBIT A

Copyrights

Copyrights:

Ross-Simons Christmas 1984/winter 1985, #TX 1-454-510, registered 11/2/84

Uncle Sam Nutcracker, #VAu 285-438, registered 01/03/94

Valentine Nutcracker, #VA 621376, registered 02/01/94

EXHIBIT B

Patents

NONE.

EXHIBIT C

Trademarks:

Registered or pending

Country	Mark	App. No. (Filing Date)	Reg. No. (Reg. Date)
USA	ANTICIPATIONS	73/694808 (11/10/87)	1,496,315 (7/12/88)
	GOLD RUSH	74/270693 (4/29/92)	1,773,890 (5/25/93)
	MEREDITH DANIELS	76/455954 (10/7/02)	2829346 (4/6/04)
	ROSS-SIMONS	73/482509 (5/29/84)	1317429 (1/29/85)
	ROSS-SIMONS	76/586058 (4/7/04)	
	ROSS- SIMONS.COM	76/586059 (4/7/04)	
	ST. JAMES	76/562361 (12/1/03)	
	WILLIAM ROBERTS	76/569387 (1/2/04)	
Canada	ROSS-SIMONS	1212469 (4/6/04)	
Mexico	ROSS-SIMONS	651238 (4/7/04)	838623 (6/18/04)
	ROSS-SIMONS	651239 (4/7/04)	838624 (6/18/04)
European Union	ROSS-SIMONS	3737103 (4/6/04)	
Japan	ROSS-SIMONS	H07-051959 (5/25/95)	4053482 (9/5/97)
	ROSS-SIMONS	H07-051960 (5/25/95)	4073864 (10/24/97)

Trademarks (cont.)

Unregistered:

ROSS-SIMONS OUTLET STORE

LIFE'S LUXURIES FOR A LOT LESS

RS Logo

RS-DIAMONDS

Trademark Licenses

None.

ANNEX 1

ASSIGNMENT OF TRADEMARKS AND SERVICE MARKS (U.S.)

WHEREAS, Ross-Simons of Warwick, Inc., a Rhode Island corporation organized and existing under the laws of the State of Rhode Island, having a principal place of business and its chief executive offices at 9 Ross-Simons Drive, Cranston, RI 02920 (the "Assignor"), 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, GMAC Commercial Credit, organized and existing under the laws of the State of Michigan having a place of business at 1290 Avenue of the Americas, New York, NY 10104 (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 Assignor 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 (U.S.) 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 (U.S.) below.

IN WITNESS WHEREOF, the Assignor, by its duly authorized officer, has executed this assignment, as an instrument under seal, on this ____ day of _____, _____.

ROSS-SIMONS OF WARWICK, INC.

By: _____
Name: Darrell S. Ross
Title: President and Chief Executive Officer

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

By: _____
Name:
Title:

ANNEX

Trademarks:

Registered or pending

Country	Mark	App. No. (Filing Date)	Reg. No. (Reg. Date)
USA	ANTICIPATIONS	73/694808 (11/10/87)	1,496,315 (7/12/88)
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	ROSS- SIMONS.COM	76/586059 (4/7/04)	
	ST. JAMES	76/562361 (12/1/03)	
	WILLIAM ROBERTS	76/569387 (1/2/04)	
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	ROSS-SIMONS	651239 (4/7/04)	838624 (6/18/04)
European Union	ROSS-SIMONS	3737103 (4/6/04)	
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	ROSS-SIMONS	H07-051960 (5/25/95)	4073864 (10/24/97)

Trademarks (cont.)

Unregistered:

ROSS-SIMONS OUTLET STORE

LIFE'S LUXURIES FOR A LOT LESS

RS Logo

RS-DIAMONDS

Trademark Licenses

None.