

09-22-2004



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RECORDED  
TR

9-17-04

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

**1. Name of conveying party(ies)/Execution Date(s):**

American Promotional Events, Inc.  
d/b/a TNT Fireworks

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

Citizenship (see guidelines) Alabama

Execution Date(s) 3/1/2004

Additional names of conveying parties attached?  Yes  No

**3. Nature of conveyance:**

- Assignment
- Security Agreement
- Other Correction of Assignor name
- Merger
- Change of Name

**2. Name and address of receiving party(ies)**

Additional names, addresses, or citizenship attached?  Yes  No

Name: Celebration Fireworks, Inc. and Internal Celebration Fireworks II, Inc.  
Address: \_\_\_\_\_

Street Address: 5860 N. Michigan Road

City: Indianapolis

State: IN

Country: USA Zip: 462

- Association
- General Partnership
- Limited Partnership
- Corporation
- Other

Citizenship Indiana  
If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designations must be a separate document from assignment)

OFFICE OF PUBLIC RECORDS  
2004 SEP 17 PM 2:56  
FINANCE SECTION

**4. Application number(s) or registration number(s) and identification or description of the Trademark.**

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,468,220

Additional sheet(s) attached?  Yes  No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

Celebration

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

Name: Larry L. Coats

Internal Address: Coats & Bennett, PLLC

Street Address: 1400 Crescent Green  
Suite 300

City: Cary

State: NC Zip: 27511

Phone Number: 919-854-1844

Fax Number: \_\_\_\_\_

Email Address: lcoats@coatsandbennett.com

**6. Total number of applications and registrations involved:**

1

**7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 40.00**

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

**8. Payment Information:**

a. Credit Card Last 4 Numbers \_\_\_\_\_  
Expiration Date \_\_\_\_\_

b. Deposit Account Number \_\_\_\_\_  
Authorized User Name \_\_\_\_\_

9. Signature: Larry L. Coats / jrc  
Signature

9-15-04  
Date

Larry L. Coats  
Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 9

09/20/2004 BYRNE 0000016 1468220

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Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

## ASSIGNMENT AGREEMENT

THIS ASSIGNMENT AGREEMENT (hereinafter referred to as "Assignment") is made and entered into as of this 1<sup>st</sup> day of, March 2004 (hereinafter referred to as "Effective Date"), by and between American Promotional Events, Inc., doing business as TNT Fireworks, an Alabama corporation, whose principal office and place of business is located at 4511 Helton Drive, Florence, Alabama 35630 ("TNT"), as assignor, and Celebration Fireworks, Inc. ("CFI") and Celebration Fireworks II, Inc. ("CFII"), both Indiana corporations, whose principal offices and places of business are located at 5860 N. Michigan Road, Indianapolis, Indiana 46228 (collectively "CFs").

### PREAMBLE

- A. CFs and American Promotional Events, Inc. – East, doing business as TNT Fireworks, an Alabama corporation, with its principal office and place of business located at 4511 Helton Drive, Florence, Alabama 35630 ("TNT East"), are currently in the midst of litigation in the U.S. District Court, Southern District of Indiana, Indianapolis Division, Case No. 03-CV-00117 LJM-WTL, styled Celebration Fireworks II, Inc. v. American Promotional Events, Inc. – East d/b/a TNT Fireworks ("Federal Action") relating, in part, to TNT East's use of CELEBRATION as a trademark in conjunction with fireworks;
- B. TNT is the owner of the CELEBRATION trademark, for which the U.S. Patent and Trademark Office has issued Certificate of Registration No. 1,468,220 ("the Mark");
- C. The parties are desirous of settling their dispute regarding the Mark in the Territory.

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged the parties agree as follows:

1. TNT hereby sells, assigns and transfers, absolutely and free from any and all encumbrances, liens and security interests, to CFII, its successors and assigns forever, and CFII assumes all of TNT's right, title, and interest in and to (1) the Mark, and (2) any and all past and present statutory and common law rights and powers, the entire business and goodwill, and all rights of suit and action, both prior to, upon, and subsequent to the effective date of this Assignment, relating in any way to the aforesaid rights, title and interest in the Mark, and to retain any damages and other awards obtained as a result of any such action, unless otherwise agreed to by the parties. It is expressly agreed that CFs are not assuming any liabilities of TNT arising prior to the Effective Date and related to TNT's use of the Mark or TNT's sale of products bearing the Mark. TNT shall indemnify and hold harmless CFs from and against any and all such liabilities, including CFs' reasonable attorneys' fees.
2.
  - a. TNT represents and warrants that it agrees to immediately discontinue using the Mark on buildings, storefronts, stands and tents and discontinue all other use of the Mark anywhere else, including on products, on or before December 31, 2008.
  - b. TNT remises, releases and forever quit claims to CFII all right, title, and interest in and to (1) the Mark and (2) any and all past and present statutory and common law rights and powers, the entire business and goodwill, and all rights of suit and action, both prior to, upon, and subsequent to the effective date of this Assignment, relating in any way to the aforesaid rights, title and interest in the Mark, and to retain any damages and other awards obtained as a result of any such action, unless otherwise agreed to by the parties.
3. TNT hereby represents and warrants that it is a corporation duly incorporated and validly existing and in good standing under the laws of the State of Alabama with full power and authority to enter into this Assignment and to perform its obligations hereunder.
4. CFs hereby jointly and severally represent and warrant that they are corporations duly incorporated and validly existing and in good standing under the laws of the State of Indiana with full power and authority to enter into this Assignment and to perform its obligations hereunder.

5. TNT has taken all necessary corporate and personal actions, as appropriate, for the execution, delivery and performance of this Assignment. This Assignment has been duly executed and constitutes a legal, valid and binding obligation of TNT, enforceable according to its terms and does not violate any agreement, instrument or obligation to which TNT is a party or is directly or indirectly bound.
6. With the exception of the action identified in Paragraph A of this Agreement, TNT is not a party to any pending suit, dispute or claim and has received notice of any threatened suit, dispute or claim by any third party, regarding the registration, application or use of the Mark.
7. TNT shall indemnify and hold CF II harmless from and against all claims, damages, liabilities and costs including reasonable attorneys' fees arising out of in connection with (i) any breach of any representation or warranty made by any of the TNT herein or (ii) any and all use prior to the Effective Date by TNT or its licensees or affiliates of the Mark. It is expressly agreed that CFs are not assuming any liabilities of TNT arising prior to the Effective Date and related to TNT's use of the Mark or sale of products bearing the Mark. TNT shall indemnify and hold harmless CFs from and against any and all such liabilities, including CFs' reasonable attorneys' fees.
8. This Assignment and the rights obtained herein shall inure to the benefit of CF II and its respective successors and assigns as fully and entirely as the same would have been held by CFII had such sale, assignment, and transfer not been made.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

**CELEBRATION FIREWORKS, INC.,** an Indiana corporation

By: *Elizabeth Howard*  
Name: Elizabeth Howard  
Title: Agent

**AMERICAN PROMOTIONAL EVENTS, INC.,** an Alabama corporation, d/b/a TNT Fireworks

By: *Kathi Tondergrass*  
Name: Kathi Tondergrass  
Title: Vice President

**CELEBRATION FIREWORKS II, INC.,** an Indiana corporation

By: *Elizabeth Howard*  
Name: Elizabeth Howard  
Title: Agent

03-11-2004



To the Honorable Commissioner of

102690688

original documents or copy thereof.

1. Name of conveying party(ies):

Americal Promotional Events, Inc. d/b/a TNT  
Fireworks

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

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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: 3/1/2004

2. Name and address of receiving party(ies)

Name: Celebration Fireworks, Inc. and

Internal  
Address: Celebration Fireworks II, Inc.

Street Address: 5860 N. Michigan Road

City: Indianapolis State: IN Zip: 46228

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designations must be a separate document from assignment)  
Additional name(s) & address(es) attached?  Yes  No

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 1,468,220

Additional number(s) attached  Yes  No

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

Name: Larry L. Coats

Internal Address: Coats & Bennett, LLC

Street Address: 1400 Crescent Green, Ste. 300

City: Cary State: NC Zip: 27511

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41).....\$ 40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

18-1167 (to charge any extra fees)

DO NOT USE THIS SPACE

9. Signature.

Larry L. Coats

Name of Person Signing

Signature

3/5/04

Date

Total number of pages including cover sheet, attachments, and document: 3

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

03/10/2004 LMUELLER 00000107 1468220

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