

03-29-2005



102865064

RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

2-14-05

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)  
Document ID # \_\_\_\_\_
- Correction of PTO Error  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_
- Corrective Document  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

Conveyance Type

- Assignment  License
- Security Agreement  Nunc Pro Tunc Assignment  
Effective Date  
Month Day Year \_\_\_\_\_
- Merger
- Change of Name
- Other Grant of Security Interest

Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

Name WIKORAL Incorporated

12-30-2004

Formerly \_\_\_\_\_

- Individual  General Partnership  Limited Partnership  Corporation  Association
- Other \_\_\_\_\_
- Citizenship/State of Incorporation/Organization CALIFORNIA

Receiving Party

Mark if additional names of receiving parties attached

Name The CIT GROUP/COMMERCIAL SERVICES CORP.

DBA/AKA/TA \_\_\_\_\_

Composed of \_\_\_\_\_

Address (line 1) 300 S. Grand Avenue

Address (line 2) \_\_\_\_\_

Address (line 3) LOS ANGELES CALIFORNIA 90071

City

State/Country

Zip Code

- Individual  General Partnership  Limited Partnership  If document to be recorded in an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)
- Corporation  Association
- Other \_\_\_\_\_
- Citizenship/State of Incorporation/Organization NEW YORK

FOR OFFICE USE ONLY

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20221 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practices. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name: \_\_\_\_\_

Address (line 1): \_\_\_\_\_

Address (line 2): \_\_\_\_\_

Address (line 3): \_\_\_\_\_

Address (line 4): \_\_\_\_\_

**Correspondent Name and Address** Area Code and Telephone Number

Name: Attn: Penelope J.A. Agodoa  
Federal Research Company, LLC

Address (line 1): 1030 15th Street, NW, Suite 920

Address (line 2): Washington, DC 20005

Address (line 3): 202.783.2700

Address (line 4): \_\_\_\_\_

**Pages** Enter the total number of pages of the attached conveyance document including any attachments.

# 22

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

78-331663	78-326489	78-326487			
78-331551	78-521449	78-337369			
78-47138-1	78-202785	78-272308			

**Number of Properties** Enter the total number of properties involved.

# 35

**Fee Amount** Fee Amount for Properties Listed (37 CFR 3.41):

\$ 990.00

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

# 50-3155

Authorization to charge additional fees:

Yes

No

**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. Charges to deposit account are authorized, as indicated herein.

*En Lopez*

*[Signature]*

2/1/05

Name of Person Signing

Signature

Date Signed

**APPLICATION NUMBER****78-202794****78-238552****78-428268****78-428263****78-412409****78-238548****76-521638****76-460327****76-343822****76-460326****76-341287****76-333011****76-332328****76-320287****76-330171****76-460329****76-460328****76-333111****75-983009****75-983008****75-983026****75-982867****75-982990****74-462357****75-588023****75-588003**

**GRANT OF SECURITY INTEREST IN  
PATENTS, TRADEMARKS AND LICENSES**

THIS GRANT OF SECURITY INTEREST IN PATENTS, TRADEMARKS AND LICENSES (herein the "Agreement") made as of this ~~30<sup>th</sup>~~ day of December, 2004, by L'KORAL INCORPORATED, a California corporation, with its principal place of business at 5175 South Soto Street, Vernon, CA 90058 (herein the "Company"), and The CIT Group/Commercial Services, Inc., a New York corporation, with offices at 300 South Grand Avenue, Los Angeles, CA 90071 (herein "CIT").

**W I T N E S E T H:**

WHEREAS, the Company and CIT are parties to a certain factoring and/or financing arrangements, pursuant to which CIT may make certain loan and advances to the Company, all as further set forth in the loan and security documents executed in connection herewith, dated of even date herewith and as the same may be amended from time to time (herein collectively, the "Agreement"), which Agreement provides (i) for CIT to purchase, at its discretion certain accounts receivable of the Company and/or make certain loans, advances and extensions of credit, all to or for the benefit and account of the Company, and (ii) for the grant by the Company to CIT, as collateral security therefor, a security interest in certain of the Company's assets, including, without limitation, its trademarks, trademark applications and/or registrations, tradenames, goodwill and licenses, and, if applicable, any patents, patent applications and/or registrations, all as more fully set forth herein and in the Agreement;

NOW THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, the Company agrees as follows:

1. **Definitions.** Capitalized terms used herein and defined in the Agreement shall have the meanings set forth therein unless otherwise specifically defined herein.
2. **Grant of Security Interest.** To secure the payment of the "Obligations" (as defined in the Agreement), the Company hereby grants to CIT a security interest, effective immediately, in all of the Company's right, title and interest in and to all of the following described property, whether now owned or hereafter acquired (collectively herein the "Intellectual Property Collateral"):
  - (i) Trademarks, trademark registrations, recordings and/or applications, tradenames, trade styles, service marks, prints and labels on which any of the foregoing have or may appear, designs, general intangibles pertaining to any of the foregoing, including, without limitation, the trademarks and applications, if any, listed on **Schedule B** attached hereto and made a part hereof, and any and all reissues and/or renewals thereof, and all income, royalties, damages and payments now and hereafter due and/or payable in connection therewith including, without limitation, damages and payments for past or future infringements thereof (all of the foregoing are sometimes hereinafter individually and/or collectively referred to as the "Trademark Collateral");

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- (ii) Patents and patent applications and/or registrations together with the inventions and improvements described and claimed therein including, without limitation, the patents and applications, if any, listed on **Schedule A**, attached hereto and made a part hereof, and any and all reissues and renewals thereof and all income, royalties, damages and payments now and hereafter due and/or payable in connection therewith including, without limitation, damages and payments for past or future infringements thereof (all of the foregoing are sometimes hereinafter individually and/or collectively referred to as the "Patent Collateral");
- (iii) Any license agreement in which the Company is or becomes licensed to use any patents and/or trademarks owned by a third party including, without limitation, the licenses, if any, listed on **Schedule C** attached hereto and made a part hereof (all of the foregoing are sometimes referred to herein individually and/or collectively as the "License Collateral");
- (iv) The goodwill of the Company's business connected with and symbolized by the Intellectual Property Collateral;
- (v) Any and all of the Company's rights and interests in any of the foregoing as they relate to the Company's Accounts, Inventory, Equipment and General Intangibles, or any Collateral bearing any of the foregoing, including without limitation the right to sell Inventory, goods and property bearing or covered by any of the foregoing Intellectual Property; and
- (vi) All cash and non-cash proceeds, royalties and income of the foregoing, including without limitation any amounts obtained pursuant to any infringement action.

3. **CIT's Rights.** Upon the occurrence and during the continuance of any Event of Default hereunder, CIT shall have all the rights and remedies of a secured party under the Uniform Commercial Code and any other applicable state or federal laws. CIT will give the Company reasonable notice of the time and place of any public sale of the Intellectual Property Collateral or the time after which any private sale of the Intellectual Property Collateral or any other intended disposition thereof is to be made. Unless otherwise provided by law, the requirement of reasonable notice shall be met if such notice is mailed, postage prepaid to the address of the Company set forth above at least ten (10) days before the date of such sale or disposition. In addition to the foregoing and all other rights and remedies of CIT upon the occurrence and during the continuance of any Event of Default hereunder, CIT shall thereupon have the immediate right to transfer to itself or to sell, assign and transfer to any other person all right, title and interest in and to all or any part of the Intellectual Property Collateral. A formal irrevocable power of attorney (in the form annexed hereto) is being executed and delivered by the Company to CIT concurrently with this agreement to enable such rights to be carried out. The Company agrees that, in the event CIT exercises its rights hereunder and/or pursuant to said power of attorney in accordance with its terms, after written notification of such exercise from CIT to the Company, the Company shall never thereafter, without the prior written authorization of the owner or owners of such Intellectual Property Collateral, use any of such Intellectual Property Collateral. The condition of the foregoing provision is such that unless and until there occurs an Event of Default under this agreement, the Company shall continue to own and use the Intellectual

Property Collateral in the normal course of its business and to enjoy the benefits, royalties and profits therefrom provided, however, that from and after the occurrence and during the continuance of an Event of Default such right will, upon the exercise by CIT of the rights provided by this agreement, be revoked and the right of the Company to enjoy the uses, benefits, royalties and profits of said Intellectual Property Collateral will wholly cease, whereupon CIT or its transferee(s) shall be entitled to all of the Company's right, title and interest in and to the Intellectual Property Collateral hereby so assigned. This agreement will not operate to place upon CIT any duty or responsibility to maintain the Intellectual Property Collateral.

4. **Fees.** The Company will pay all filing fees with respect to the security interest created hereby which CIT may deem necessary or advisable in order to perfect and maintain the perfection of its security interest in the Intellectual Property Collateral.
5. **Representations and Warranties.** The Company represents and warrants: that the Company lawfully possesses and owns the Intellectual Property Collateral and that except for the security interest granted hereby, the Intellectual Property Collateral will be kept free from all liens, security interests, claims and encumbrances whatsoever; that the Company has not made or given any prior assignment, transfer or security interest in the Intellectual Property Collateral or any of the proceeds thereof; that the Intellectual Property Collateral is and will continue to be, in all respects, in full force and effect; and that except as set forth in Schedule D attached hereto and incorporated by reference, there are no known infringements of the Intellectual Property Collateral. The Company agrees not to take any action inconsistent with the terms and intent hereof, provided that the Company may enter into licensing agreements in the ordinary course of its business on fair and reasonable terms, provided further that no Event of Default (as defined herein below) has occurred and is continuing and that any such agreement does not adversely effect CIT's rights and interests hereunder. The Company hereby further agrees to provide notice to CIT of any hereafter acquired Intellectual Property Collateral, provided that any such Collateral shall be automatically subject to the terms hereof and provided that the Company shall take any such additional action as CIT shall reasonably request with respect thereto.
6. **Application of Proceeds.** The proceeds of any sale, transfer or disposition of the Intellectual Property Collateral shall be applied first to all costs and expenses, including, but not limited to, reasonable attorneys' fees and expenses and court costs, incurred by CIT in connection with such sale and the exercise of CIT's rights and remedies hereunder and under the Agreement; next, such proceeds shall be applied to the payment, in whole or in part, of the Obligations due CIT in such order as CIT may elect; and the balance, if any, shall be paid to the Company or as a court of competent jurisdiction may direct.
7. **Defense of Claims.** The Company will defend at its own cost and expense any action, claim or proceeding affecting the Intellectual Property Collateral or the interest of CIT therein. The Company agrees to reimburse CIT for all costs and expenses incurred by CIT in defending any such action, claim or proceeding.
8. **Rights Cumulative.** This Agreement shall be in addition to the Agreement and shall not

be deemed to affect, modify or limit the Agreement or any rights that CIT has under the Agreement. The Company agrees to execute and deliver to CIT (at the Company's expense) any further documentation or papers necessary to carry out the intent or purpose of this agreement including, but not limited to, financing statements under the Uniform Commercial Code.

9. **Construction and Invalidity.** Any provisions hereof contrary to, prohibited by or invalid under any laws or regulations shall be inapplicable and deemed omitted here from, but shall not invalidate the remaining provisions hereof.
10. **CHOICE OF LAW. THE COMPANY AGREES THAT THE VALIDITY, INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT AND ALL RIGHTS HEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA. THIS AGREEMENT TOGETHER WITH THE AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT OF THE COMPANY AND CIT WITH RESPECT TO THE INTELLECTUAL PROPERTY COLLATERAL, CAN ONLY BE CHANGED OR MODIFIED IN WRITING AND SHALL BIND AND BENEFIT THE COMPANY, CIT AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS. THE COMPANY AND CIT EACH HEREBY EXPRESSLY WAIVES ANY RIGHT OF TRIAL BY JURY ON ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING HEREUNDER.**
11. **Events of Default.** Any of the following constitutes an Event of Default under this agreement:
- (i) The Company fails to perform or observe any agreement, covenant or condition required under this agreement;
  - (ii) Any warranty or representation made by Company, in this agreement shall be or becomes false or misleading in any material respect; or
  - (iii) The occurrence of any Event of Default under the Agreement which is not waived in writing by CIT.

Notwithstanding the foregoing, none of the following shall constitute an Event of Default under this agreement or any agreement relating hereto: (x) the grant of a security interest by you in any of its present or future assets to Avenue Special Situations Fund III, LP ("Avenue") or any lender that provides financing for the payment of a settlement, appeal bond or satisfaction of amounts arising from the matter of Jerome Dahan and Michael Glasser v. Peter Koral and L'Koral, Inc., case number BC286577 in the Superior Court of the State of California, County of Los Angeles (the "Litigation"), provided that Avenue or such lender enters into an intercreditor agreement satisfactory to CIT, (y) the taking of any action by the Company required under the provisions of such intercreditor agreement or (z) the failure by the Company to take any action, if such action would conflict with the provisions of such intercreditor agreement.

12. **Notices.** The Company covenants and agrees that, with respect to the Intellectual

Property Collateral, it will give CIT written notice in the manner provided in the Agreement of:

- (i) any claim by a third party that the Company has infringed on the rights of a third party;
- (ii) any suspected infringement by a third party on the rights of the Company; or
- (iii) any Intellectual Property Collateral created, arising or acquired by the Company after the date hereof.

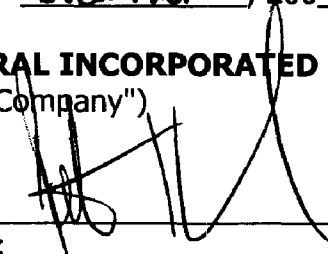
13. **Further Assurances.** The Company will take any such action as CIT may reasonably require to further confirm or protect CIT's rights under this agreement in the Intellectual Property Collateral. In furtherance thereof, the Company hereby grants to CIT a power of attorney coupled with an interest which shall be irrevocable during the term of this agreement to execute any documentation or take any action in the Company's behalf required to effectuate the terms, provisions and conditions of this agreement.

14. **Termination.** This agreement shall terminate upon termination of the Agreement and full, final and indefeasible payment in cash of all Obligations of the Company thereunder. Upon the Company's request, CIT shall within a reasonable time after any such termination execute and deliver to the Company (at the Company's expense) such documents and instruments as are reasonably necessary to evidence such termination and release of the security interest granted herein on any applicable public record.

15. **Intercreditor Agreement.** This agreement is subject to the Intercreditor Agreement (as amended from time to time, the "Intercreditor Agreement") dated of even date herewith among CIT, Avenue Special Situations Fund III, LP, as agent and Avenue Special Situations Fund III, LP, as the initial lender as described more fully therein. In the event of any conflict between the terms of the Intercreditor Agreement and this agreement, the terms of the Intercreditor Agreement shall govern and control. It is expressly understood that the Company shall have no right to or be entitled to assert any rights or benefits

**IN WITNESS WHEREOF**, the parties hereto have duly executed this Agreement as of the 30<sup>th</sup> day of December, 2007.

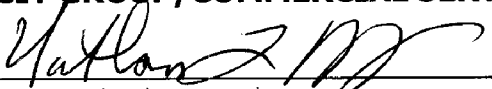
**L'KORAL INCORPORATED**  
(the "Company")

By:   
Name:  
Title:



Agreed and Accepted this  
30<sup>th</sup> day of December, 2004

**THE CIT GROUP/COMMERCIAL SERVICES, INC.**

By:   
Name: NATHAN L. FUGG  
Title: SENIOR Vice President

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**IRREVOCABLE POWER OF ATTORNEY**

L'Koral Incorporated, with offices at 5175 South Soto St, Vernon, CA 90058, (hereinafter referred to as the "Company"), hereby grants to The CIT Group/Commercial Services, Inc., a New York corporation, with offices at 300 S. Mundy, LA, CA 90071 (hereinafter referred to as "CIT"), the exclusive Irrevocable Power of Attorney to transfer to CIT or to any designee of CIT all Intellectual Property Collateral listed on the Schedules attached to the Grant of Security Interest in Patents, Trademarks and Licenses (the "Agreement"), dated as of the date hereof, between the Company and CIT including, without limitation, all patents, patent applications and/or registrations, trademarks, trademark applications and/or registrations, and licenses together with the goodwill of the business connected with or symbolized by such Intellectual Property Collateral and the Company's entire inventory of labels and decals bearing any trademarks not affixed to its products, and the right to operate and control, sell, assign, and transfer the business under those trademarks under the following terms and conditions:

1. The Power of Attorney granted hereunder shall be effective as of the date hereof and shall last for as long as any now existing or hereafter arising indebtedness, liabilities or obligations of the Company to CIT are outstanding under the Agreement, dated on or about the date hereof, between the Company and CIT.

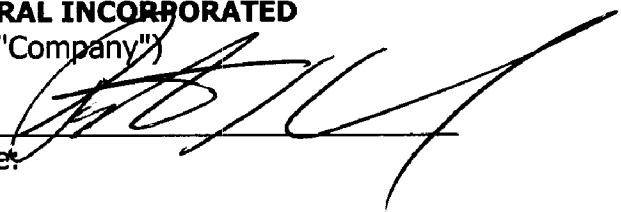
2. The Power of Attorney granted herein shall be irrevocable throughout the duration of its life as specified in Paragraph 1 hereinabove;

3. The Power of Attorney granted herein shall only be exercisable by CIT after the occurrence and during the continuance of an Event of Default under the Agreement between CIT and the Company; and

4. CIT shall give the Company ten (10) days prior written notice of the exercise of this power, and the waiver by CIT of any particular Event of Default as set forth in Paragraph 3 hereinabove shall have no force or effect unless in writing and signed by an authorized officer of CIT. Even then such waiver shall not constitute or be considered a waiver of any other Event of Default then existing or thereafter arising whether similar or not.

IN WITNESS WHEREOF, the Company has caused this Power of Attorney to be executed as of the 30<sup>th</sup> day of December, 2004.

**L'KORAL INCORPORATED**  
(the "Company")

By:   
Name:  
Title:

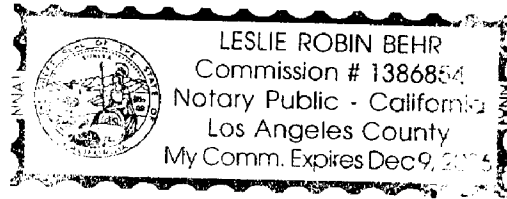
[Notary page for Irrevocable Power of Attorney follows]

STATE OF California,  
COUNTY OF Los Angeles;

On January 5, 2005, 200 before me, the undersigned, a notary public in  
and for said State, personally appeared Peter Endel known to me to be the  
CEO of, Penal Encrypted the corporation that executed the within  
instrument, and acknowledged to me that such corporation executed the within instrument  
pursuant to its by-laws and a resolution of its board of directors.

**WITNESS** my hand and official seal.

Leslie Robin Behr  
Notary Public



**SCHEDULE A TO GRANT OF SECURITY INTEREST IN PATENTS,  
TRADEMARKS AND LICENSES**

**between**

**L'KORAL INCORPORATED**

**and**

**THE CIT GROUP/COMMERCIAL SERVICES, INC.**

**U.S. PATENTS**

Title

Patent No.

Issue Date

**N/A**

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**SCHEDULE B TO GRANT OF SECURITY INTEREST IN PATENTS,  
TRADEMARKS AND LICENSES**

between

**L'KORAL INCORPORATED**

and

**THE CIT GROUP/COMMERCIAL SERVICES, INC.**

**U.S. TRADEMARKS**

<b><u>APPLICATION/REGISTRATION NUMBER</u></b>	<b><u>MARK</u></b>
<b>78-331563</b>	<b>TREASURES BY NEXT ERA</b>
<b>78-326485</b>	<b>HERITAGE BY NEXT ERA</b>
<b>78-326487</b>	<b>DO'S AND DON'TS</b>
<b>78-331551</b>	<b>UNDER MY SPELL</b>
<b>78-521445</b>	<b>TAB POCKET PLACEMENT DESIGN (DESIGN ONLY)</b>
<b>78-337365</b>	<b>I'D LOVE TO</b>
<b>78-471381</b>	<b>NEXT ERA</b>
<b>78-202785/2869238</b>	<b>PEACE ON EARTH BY NEXT ERA</b>
<b>78-272388</b>	<b>FOR ALL MANKIND</b>
<b>78-202794/2860073</b>	<b>FREEDOM BY NEXT ERA</b>
<b>78-238552</b>	<b>DESIGN ONLY "A" DESIGN</b>
<b>78-428268</b>	<b>7 FOR ALL MANKIND</b>
<b>78-428263</b>	<b>FOR ALL MANKIND</b>
<b>78-412409</b>	<b>LAROK</b>
<b>78-238548</b>	<b>DESIGN ONLY "X" DESIGN</b>
<b>76-521638</b>	<b>NEOTONE FOR THE BODY YOU OWN</b>
<b>76-460327/2872340</b>	<b>NEO TONE (AND DESIGN)</b>

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<b>76-343822/2851375</b>	<b>J JAYA (AND DESIGN)</b>
<b>76-460326/2848804</b>	<b>NEOTONE</b>
<b>76-341287/2840906</b>	<b>JAYA</b>
<b>76-333011</b>	<b>STITCH DESIGN ONLY</b>
<b>76-332328</b>	<b>FOR ALL MANKIND</b>
<b>76-320287</b>	<b>SEVEN FOR ALL MANKIND</b>
<b>76-330171</b>	<b>7 FOR ALL MANKIND</b>
<b>76-460329</b>	<b>NEOTONE</b>
<b>76-460328</b>	<b>NEO TONE (AND DESIGN)</b>
<b>76-333111</b>	<b>7 FOR ALL MANKIND (STYLIZED)</b>
<b>75-983009/2890645</b>	<b>7 FOR ALL MANKIND (STYLIZED)</b>
<b>75-983008/2890644</b>	<b>7 FOR ALL MANKIND</b>
<b>75-983026/2842072</b>	<b>SEVEN FOR ALL MANKIND</b>
<b>75-982867/2787838</b>	<b>STITCH DESIGN ONLY</b>
<b>75-982990/2726272</b>	<b>FOR ALL MANKIND</b>
<b>74-462357</b>	<b>MANKIND</b>
<b>75-588023/2318621</b>	<b>CARGO-T WD SPORTSWEAR</b>
<b>75-588003/2323609</b>	<b>WD SPORTSWEAR</b>

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**SCHEDULE C TO GRANT OF SECURITY INTEREST IN PATENTS,  
TRADEMARKS AND LICENSES**

**between**

**L'KORAL INCORPORATED**

**and**

**THE CIT GROUP/COMMERCIAL SERVICES, INC.**

**U.S. LICENSES**

Name

Registration No.

Registration Date

**N/A**

**SCHEDULE D TO GRANT OF SECURITY INTEREST IN PATENTS,  
TRADEMARKS AND LICENSES**

**between**

**L'KORAL INCORPORATED**

**and**

**THE CIT GROUP/COMMERCIAL SERVICES, INC.**

**Infringements of Intellectual Property Collateral**

**[SEE ATTACHED]**



## IP INFRINGEMENT SCHEDULE

### I. Counterfeit Actions

L’Koral, Inc. has recently discovered various instances of sales of counterfeit “7 For All Mankind” (“7FAM”) jeans domestically and in Europe. L’Koral has brought and will continue to bring legal action against counterfeiters as they are discovered. L’Koral has filed the following lawsuits seeking injunctive relief and damages relating to sales of counterfeit 7FAM jeans:

A. L’Koral, Inc. V. Chic Lady, Ltd., Albert Import-Expert, Ltd., US District Court, SDNY, Civ. Action No. 04CV9610 (DLC). Complaint and ex parte application for TRO and seizure order filed 12/07/04. TRO and seizure order granted 12/8/04. Our investigator and U.S. Customs seized 1393 pieces of counterfeit merchandise and books and records from Chic Lady; Seized 64 pieces of counterfeit merchandise and books and records from Albert’s. Complaint brought after Filene’s identified Chic Lady as the source of counterfeit jeans.

B. L’Koral, Inc. v. Bagrat Polunin dba Dziner Apparel Co., US District Court, District of Georgia, Atlanta Division, Civil Action NO. 1:04 CV 32654. Complaint filed and served 12/15/04. Defendant voluntarily provided source information.

C. L’Koral, Inc. v. Filene’s Basement, Retail Ventures, US District Court, District of Massachusetts, Civ Action No. 04-12583 PBS. Complaint filed 12/9/04 following purchase of counterfeit 7FAM jeans at Filene’s in Boston, Mass.

D. L’Koral, Inc. v. Loehmann’s Inc., US District Court, SDNY, Civ. Action No. 04 CV 10125. Complaint filed 12/22/04 after purchase of counterfeit 7FAM jeans from Loehmann’s in California and New York.

In addition to the above lawsuits, L’Koral is in contact with U.S. Customs which seized at least 2 shipments of counterfeit jeans in San Francisco and Los Angeles. L’Koral has applied for registration of 7FAM marks with U.S. Customs. Upon registration, U.S. Customs has indicated it will provide L’Koral with the identities of the shippers of the seized counterfeit 7FAM merchandise.

L’Koral has also identified at least 3 possible distributors of counterfeit 7FAM merchandise in California. L’Koral is investigating these sources and may bring civil and/or criminal seizure actions against them.

L’Koral’s attorneys in Germany and Belgium have recently brought legal actions against distributors of counterfeit goods in those countries. We understand over 200 pairs of counterfeit jeans were seized in those actions..

### II. Trademark/Trade Dress Infringement Actions

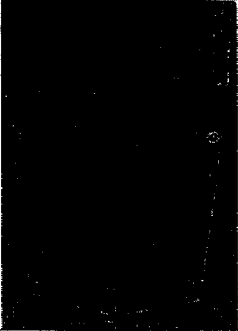
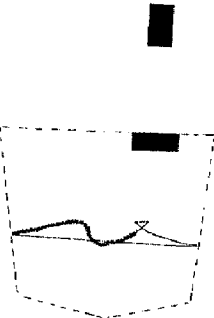
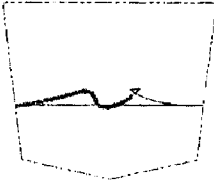
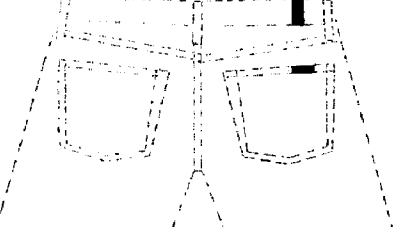
In the United States, L’Koral is aware that Lane Bryant has announced it will begin selling the “Seven7” line of womens’ jeans. (“Seven7” previously sold its women’s jeans to Express, which led to L’Koral suing Express for trade dress violations.) L’Koral is

monitoring Lane Bryant's sales of "Seven7" jeans and is considering legal action against Lane Bryant and Seven7.

In Europe, L'Koral is defending and prosecuting litigation against perceived infringers of the 7FAM marks in France and Belgium. The status of these actions is outlined in the attached summaries prepared by Belgian and French counsel. Exhibit A is from Thierry van Innis of Allen & Overy in Belgium. Exhibit B is from Antoine Sauvignac of Foucaud, Tchekhoff, Pochet Et Associes in Paris.

**1. BENELUX TRADEMARKS**

L'Koral enjoys Benelux trademark rights in the five signs depicted below:

Trade mark	Family of marks	Date of filing	Date of publication	Class of goods
	Figurative mark	12/07/2004	13/07/2004 750056	Class 25: Pants, skirts
	Figurative mark	12/07/2004	13/07/2004 750057	Class 25: Clothing
	Figurative mark	12/07/2004	13/07/2004 750058	Class 25: Clothing
	Figurative mark	15/09/2004	04/10/2004 754483	Class 25: pants
<p><b>7 FOR ALL MANKIND</b></p>	Word mark	02/12/2004	03/12/2004 757703	Class 25: Clothing

**EXHIBIT A**

## 2. TRADEMARK RELATED DISPUTES

### 2.1 Fashion Club 70 nv / Callaert nv – FFG Platinum sa - Seven Licensing Company sarl

1. On 9 February 2004 Fashion Club 70 nv ("Fashion Club"), the Belgian distributor of L'Koral, initiated unfair competition proceedings against Callaert nv ("Callaert"), the Belgian distributor of the "Seven7" jeans before the President of the Commercial Court of Antwerp.

2. Fashion Club requested the court to order Callaert to cease:

- the distribution of confusing and misleading advertising materials;
- the distribution of jeans which copy all characteristic elements of the "Seven for all mankind" jeans.

3. Callaert counterclaimed and requested the court to order Fashion Club to cease the distribution of disparaging advertising materials.

The image shows the word "Seven7" written in a stylized, handwritten cursive font. The "7" is slightly larger and more prominent than the other letters.

4.

Seven Licensing Company sarl ("Seven Licensing Company"), who enjoys trademark rights in the sign depicted above which is subject of an international trademark registration dated 29 December 1978 for knitwear (class 25) and for which, amongst others, the Benelux has been designated, intervened (together with its exclusive licensee for Europe, the Greek company FFG Platinum sa ("FFG Platinum")) in the proceedings and requested the court to order Fashion Club to stop using for the identification of clothes the following word and semi-figurative marks:

1) seven

2) 

The image shows a stylized, bold, black number "7" with a thick stroke and a slightly irregular, hand-drawn appearance.

3) seven for all mankind

4) 

The image shows the words "seven for all mankind" written in a cursive font, with a large, stylized "7" integrated into the word "mankind".

5. In a decision of 17 June 2004 the President of the Commercial Court of Antwerp:

- dismissed Fashion Club's claims, and

- ordered Fashion Club to:
  - cease distributing advertising materials in which is stated that the "Seven7" jeans are counterfeit;
  - to stop using for the identification of clothes the above depicted word and semi-figurative marks.

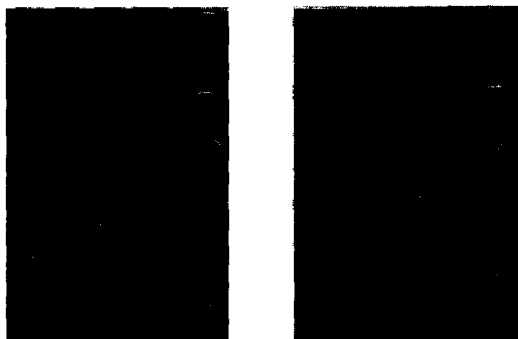
6. Fashion Club has appealed the judgment. The introductory court hearing in the appeal proceedings took place on 27 September 2004.

Callaert, Seven Licensing Company and FFG Platinum have filed a trial brief on 8 November 2004. Fashion Club will file a trial brief by 31 December 2005.

L'Koral will oppose the 17 June 2004 judgment by filing a trial brief before 8 January 2005 (*i.e.* three months after the judgment has been served on L'Koral).

## 2.2 L'Koral / Callaert – Belspeed nv - Seven Licensing Company – FFG Platinum

1. On 19 July 2004 L'Koral has introduced (in *ex parte* proceedings) before the judge of seizures within the Court of First Instance of Antwerp a petition of seizure description in which L'Koral advocated that the distribution of "seven7" jeans bearing the images depicted below infringed L'Koral's Benelux trademarks registered under numbers 750056 and 750057.



In the petition L'Koral requested the judge of seizures:

- to appoint an expert and to authorize him to enter (without advance warning) Callaert's and Belspeed nv's (the transport firm used by Seven Licensing Company) premises and to describe the alleged counterfeit as well as all documents related thereto, and
- to prohibit Callaert and Belspeed from further disposing of the jeans bearing the signs as depicted above.

2. In a decision of 20 July 2004 the Antwerp judge of seizures granted L'Koral's request.

3. On 23 July 2004, the seizure description was carried out. 15.000 "seven7" jeans bearing the above images were seized at Belspeed's premises.

4. On 4 and 5 August 2004 both Callaert and Seven Licensing have launched opposition proceedings against the order of 20 July 2004 of the judge of seizures and claimed that the order of the judge of seizures be annulled. Callaert and Seven Licensing also claimed that the order of 20 July 2004 of the judge of seizures should be provisionally suspended until a final decision on the opposition is made.

On the introductory hearing of 12 August 2004 pleadings took place but were limited to the issue whether the order should be provisionally suspended until a final decision on the opposition is made.

The court has issued a decision on 18 August 2004 on this limited issue in which it refused to provisionally suspend the order of 20 July 2004. This means that the "seven7" jeans remain seized at Belspeed's premises and that Callaert is not allowed to deliver to its clients "seven 7" jeans bearing the signs as depicted above.

5. No final decision on the opposition has been made yet. In the meantime, the seizure remains in place.

On 8 November 2004 Callaert has filed a trial brief with the court. On 22 November 2004 Seven Licensing has filed a trial brief. In due time L'Koral will file its final trial brief in this matter.

### **2.3 FFG Platinum / L'Koral**

1. In September FFG Platinum, Seven Licensing Company's exclusive licensee for Europe, served summons on L'Koral to appear before the Commercial Court of Brussels. FFG Platinum requests the Commercial Court to annul the L'Koral Benelux trademarks registered under numbers 750056, 750057 and 750058 for lack of distinctive character.

2. In its trial brief of 25 October 2004, L'Koral launched a counterclaim and requested the court to order

- FFG Platinum to cease using the signs depicted under 2.1.1 above, and
- to condemn FFG Platinum to pay damages for the trademark infringement.


3. FFG Platinum has filed a trial brief on 26 November 2004. L'Koral has filed its last trial brief on 31 December 2004. The court has not yet fixed a date for the pleadings in this matter.

### **2.4 L'Koral / Seven Licensing Company**

1. On 7 September 2004, L'Koral has served summons on Seven Licensing Company, to appear before the Commercial Court of Brussels. L'Koral requests the Commercial Court to declare that the L'Koral does not infringe Seven Licensing Company's above (under 2.1.4) depicted international trademark registration by using for the identification of clothes the following word and semi-figurative marks:

1) Seven for all Mankind

2) 7 for all Mankind

3) 

4) 

2. In its trial brief of 9 December 2004, Seven Licensing Company issued a counterclaim by which it requests the court to order L'Koral to stop using for the identification of clothes the word and semi-figurative marks depicted above as well as the word "seven" in its own.

3. L'Koral will file a trial brief by 20 January 2005. Seven Licensing Company has to file its last trial brief by 24 February 2005. The case will be pleaded on 12 April 2005.

## 2.5 Callaert / L'Koral – Fashion Club

1. In October Callaert served summons on L'Koral and Fashion Club to appear before the President of the Commercial Court of Dendermonde with respect to advertising materials published by L'Koral in the Journal du Textile and Textilia magazines. In these advertisements L'Koral informs the textile sector that it owns several intellectual property rights in the signs that are used on the backpocket of its jeans and that it will vigorously enforce those rights. To underline this statement, reference was made on a no-name basis to the 20 July 2004 decision of the Antwerp judge of seizures and the consequent seizure of 15.000 jeans. Even though nor Callaert, nor the "seven7" mark was mentioned, Callaert considers that these advertisements are disparaging as to it.

2. L'Koral filed a trial brief on 9 December 2004. Fashion Club filed its first trial brief by 23 December 2004. Callaert has to file its trial brief by 20 January 2005. L'Koral has to file its last trial brief by 10 February 2005. Fashion Club has to file its last trial brief by 24 February 2005. The case will be pleaded on 16 March 2005.

## 2.6 Seizure of counterfeit in the Netherlands

1. On 21 December the Judge of Seizures in the Court of First Instance of The Hague authorised L'Koral to seize counterfeit "7 for all mankind" jeans at two private homes in The Hague which belong or rented by a person who offered counterfeit "7 for all mankind" jeans via Dutch auction websites.

In the operation 231 jeans were seized.

Privileged & Confidential Memorandum  
Attorney Work Product  
September 16, 2004

*Status Trademarks France*

1. Mr Ohayon has been the owner of rights in the international "Seven 7" trademark, registered under class 25 (designating stitched clothing) since 1978 and renewed in 1998, such registration covering, amongst other territories, France.

For its part, the "Seven for All Mankind" trademark – exploited by L'Koral Inc – has not yet been registered in France/Europe: although the application is pending, it has been opposed (this opposition process is not being handled by our firm but we are advised by L'Koral Inc. that it is being dealt with by Pen Hosford of the firm of Marks & Clerk, London).

2. In 2002, Ohayon, together with his company, started legal action in France claiming damages and injunctive relief for alleged infringement of the "Seven 7" trademark, on account of exploitation of jeans bearing the "Seven For All Mankind" sign.

3. In its decision entered on September 12, 2003, the Paris Courts dismissed the claims at first instance by ruling that there was no risk of confusion between the two denominations and that, accordingly, "Seven For All Mankind" did not infringe "Seven 7" in France.

4. Ohayon filed an appeal against this decision on November 24, 2003, which is now pending before the Paris appellate jurisdiction.

L'Koral Inc. came to know on April 7, 2004 that Ohayon sold the "Seven 7" trademark and all rights therein to Gerard Guez on June 23, 2002.

With evidence supporting that Ohayon had assigned the trademark before appealing the decision of the Paris first instance Court, we filed reply submissions on August 9, 2004 before the Court of Appeal, seeking the dismissal of the appeal on account of Ohayon's lack of capacity to make any claims based on trademark rights that he no longer owned.



We have, specifically on this point, submitted that Ohayon's omission to disclose to the French Courts that he had in fact sold off the trademark in question was fraudulent, notwithstanding that Guez's company, "Seven Licensing Cy", has made a later voluntary intervention.

Additionally we have sought a confirmation of the reasoning adopted by the first instance Courts, i.e. that "Seven for All Mankind" does not infringe "Seven 7".

We should add that in practice, a majority of first instance decisions tend to be confirmed on appeal, all the more so in matters such as this where the claims are examined by specialized Courts at first instance.

Moreover, in the case at hand, we note that the first instance Courts have based their ruling on a thorough assessment of the trademark denominations in dispute.

Naturally, the outcome of this litigation will ultimately depend on the discretionary interpretation of the appellate jurisdiction.