

11-17-2004

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To the Director of the U. S. Patent and Tra.

... records the attached documents or the new address(es) below.

MRD 11-15-04

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

Nonstock, Inc.
5 w. 19th street
New York, NY 10011

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

Citizenship (see guidelines)

Execution Date(s)

Additional names of conveying parties attached? Yes No

3. Nature of conveyance:

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

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: PictureArts

Internal Address:

Street Address: 99 Pasadena Ave.

City: South Pasadena

State: CA

Country: USA Zip: 91030

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

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)

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)

2287871

Additional sheet(s) attached? Yes No

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

Nonstock

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

Name: LISA GUTIERREZ

Internal Address:

Street Address: 99 Pasadena Ave

City: South Pasadena

State: CA Zip: 91030

Phone Number: 323-257-4400 x147

Fax Number: 323-257-3144

Email Address: Lisa@picturearts.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 3954
Expiration Date 01/05

b. Deposit Account Number _____
Authorized User Name _____

9. Signature: Lisa M. Gutierrez
Signature

11/9/04
Date

Lisa Gutierrez
Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 8

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

ASSET PURCHASE AGREEMENT

As of April 12, 2004

This Asset Purchase Agreement is entered into by and among PictureArts Corporation ("Purchaser"), a corporation duly formed and operating under the laws of the State of California, on the one hand, and nonstock, inc. ("Seller"), a corporation duly formed and operating under the laws of the State of Delaware, and Jerry Tavin ("Tavin") (solely with respect to Sections 2.2 (ii), 3.2, 5.5 as it relates to both Sections 3.2 and 5.5, and Section 5.6), on the other hand, with respect to Seller's sale to Purchaser of all of Seller's "Purchased Assets" (other than the "Excluded Assets", as defined below).

Accordingly, in consideration of the premises and the representations, warranties, and agreements herein contained, the parties hereto agree as follows:

ARTICLE I **DEFINITIONS**

The following definitions shall apply for purposes of this Agreement (such definitions to be equally applicable to both the singular and plural forms of the terms defined):

1.1. "Affiliated Contracts" means Fifty-Nine (59) or more contracts relating to the conducting of "Business" and several pending contracts relating to same as to each of which Purchaser shall consent to accept the transfer/assignment of all rights and obligations to Purchaser or shall undertake the obligations to terminate without obligation or liability to Seller.

1.2. "Business" means Seller's business involving commissioning, purchase, and/or rights to exploit photographs and related artwork and the subsequent sale of such photographs and/or artwork as conducted prior to the Closing Date, other than as relates to the "Vintage Library".

1.3. "Closing Date" means April 12, 2004.

1.4. "Distributor Contracts" means Thirteen (13) contracts in place immediately prior to the Closing Date by and between Seller and any distributor as to each of which Purchaser shall consent to accept the transfer/assignment of all rights and obligations to Purchaser or shall undertake the obligations to terminate without obligation or liability to Seller.

1.5. "Intangible Property Rights" means all of Seller's rights to the trademarks, trade names, trade secrets, and other intangible property rights, including all registered

trademarks and goodwill associated therewith, and used in connection with the Business.

1.6. "Encumbrances" means, to the extent applicable, all claims, liens (including liens for taxes), mortgages, security interests, leases, options, rights of first refusal or first offer, easements or other similar encumbrances.

1.7. "Excluded Assets" means those assets belonging to or controlled by Seller as set forth in Section 2.1 (b) hereinbelow.

1.8. "Financial Statements" means (i) unaudited financial statements (balance sheets, statements of income and statements of cash flows) for the Business for the year ended December 31, 2003, prepared by Seller's regular independent accountants, and (ii) unaudited balance sheet as of March 31, 2004, and unaudited statement of income for the three months ended March 31, 2004.

1.9. The "Images" means the following: Approximately (i) Sixty Thousand (60,000) images in Seller's database; (ii) Thirty Thousand (30,000) scanned "nonstock" images on Seller's Website; (iii) Fifteen Thousand (15,000) scanned affiliate images on the Seller's Website; and (iv) Fifteen Thousand (15,000) unscanned images.

1.10. "Intellectual Property" means the copyright ownership or interest in each and every image owned or controlled by Seller, the name "nonstock", and all registered trademarks and goodwill associated therewith.

1.11. "Leased Premises" shall mean that portion of office space located at 5 West 19th Street, Sixth Floor, New York, New York 10011 utilized by the "Transferred Employees" immediately prior to the Closing Date, and Purchaser shall consent to accept the transfer/assignment of all rights and obligations to Purchaser or shall undertake the obligations to terminate without obligation or liability to Seller.

1.12. "Photographer Contracts" means the approximately Five Hundred Nine (509) contracts between Seller and certain photographers engaged to provide photographs for the Business as to each of which Purchaser shall consent to accept the transfer/assignment of all rights and obligations to Purchaser or shall undertake the obligations to terminate without obligation or liability to Seller.

1.13. "Purchased Assets" shall have the meaning set forth in Section 2.1 below.

1.14. "Royalty Rights" means all of Seller's right, title, and interest in and to any revenue derived from or arising out of the Business as defined in paragraph 2.2(iii), including royalties and similar payments, which are earned and payable after the Closing Date.

1.15. "Seller's Accounts Receivable" means the monetary amount agreed to by Seller and Purchaser of accounts relating to the Business generated by Seller from sales that were completed prior to the Closing Date. All of Seller's Accounts Receivable are deemed included as part of the "Purchased Assets", however, in determining the monetary value of Seller's Account Receivable, only those of Seller's Accounts Receivable which became due and payable to Seller within One Hundred Eighty (180) days prior to the Closing Date shall be used to set the actual value of Seller's Accounts Receivable (the "Value-Related Accounts Receivable"). All accounts relating to the Business which were generated by Seller and which became due and payable to Seller on a date prior to One Hundred Eighty (180) days before the Closing Date shall be referred to herein as the "Non-Value-Related Accounts Receivable". In the event Purchaser receives any monies in connection with the Non-Value-Related Accounts Receivable, Purchaser agrees to pay any artist royalties relating thereto and Seller shall receive the balance of such monies which Seller would have been due under each Non-Value-Related Account Receivable. Commencing upon the Closing Date and continuing for a period of Forty (40) days thereafter, Purchaser and Seller shall work together to contact all international "affiliates" of Seller to determine if there are any unreported accounts relating to the Business ("Unreported Accounts") and at the conclusion of such Forty (40) day period, the amount of such Unreported Accounts, if any, shall be included among the Value-Related Accounts Receivable and Purchaser shall promptly pay to Seller Seller's share of such amount.

1.16. "Seller's Website" means the website located on the Worldwide Web at <http://www.nonstock.com>.

1.17. "Transaction Documents" means, collectively, this Agreement, the Consulting Contract and the Sublease for the Premises, copies of which are attached hereto as Exhibits "B" and "C" respectively and incorporated herein by this reference.

1.18. "Transferred Employees" means all individuals currently employed by Seller on an exclusive basis. A complete list of such Transferred Employees is set forth in Exhibit "D", a copy of which is attached hereto and incorporated herein by this reference.

1.19. "Vintage Library" means all transparencies, prints, books, posters, and any and all materials leased by Seller from Arthur Bennett Brown known as the Brown Collection.

ARTICLE II

THE ASSET PURCHASE

2.1. The Asset Purchase.

(a) Upon the terms and subject to the conditions of this Agreement, Seller hereby sells, conveys, assigns, transfers, and delivers to Purchaser free and clear

of all Encumbrances (except as expressly provided herein), and Purchaser hereby purchases from Seller, all of the assets, properties, and rights relating to the Business owned or leased by Seller (subject, where required, to all necessary consents to the assignment/transfer having been obtained or Purchaser's obligation provided for elsewhere in this Agreement to obtain termination) (the "Purchased Assets"), including without limitation the following exclusive rights:

- (i) All of Seller's right, title, and interest in and to the name "nonstock", including the copyright therein, any related logos, trademarks, trade names or service marks incorporating such names and all rights to exploit same;
- (ii) All of Seller's right, title, and interest in and to the Photographer Contracts;
- (iii) All of Seller's right, title, and interest in and to the Affiliated Contracts;
- (iv) All of Seller's right, title, and interest in and to the Distributor Contracts;
- (v) A complete list of Seller's customers relating to the Business as of the Closing Date (collectively, the "Existing Customers" and the list of Existing Customers being referred to hereafter as the "Customer List") together with all existing lists of the gross revenues of Seller derived from the Business from the Existing Customers and booked on the accounts of Seller (in the aggregate and on a customer by customer basis);
- (vi) All existing sales data, brochures, catalogs (including, without limitation, all nonstock branded catalogs and/or third party catalogs), CD-Roms, mailing lists, art work, photographs, and advertising material that are used in or for the Business prior to the Closing Date, whether in electronic form or otherwise;
- (vii) Seller's entire existing client database with respect to the Business;
- (viii) All of Seller's right, title, and interest in and to the Seller's Website and computer code composed thereof;
- (ix) All of Seller's interest in governmental permits, licenses, registrations, certificates, consents, orders, and approvals necessary for the continued operation of the Business to the extent that such interest is assignable by Seller to Purchaser;

- (x) All existing trade secrets, Royalty Rights, work notes, market studies, consultant's reports and similar property, tangible or intangible, used in the Business prior to the Closing Date;
- (xi) Copies of all records of Seller which are material to the operation of the Business from and after the Closing Date, including property, and marketing records and copies of personnel records of Transferred Employees;
- (xii) All of Seller's right, title and interest in and to the goodwill incident to the Business;
- (xiii) All prepaid expenses of, or for the benefit of, the Business (the "Prepaid Expenses");
- (xiv) Subject to any license agreements regarding such software, all software resident on computers used in the Business (other than any software not useful in the operation of the Business, as determined by Purchaser); and
- (xv) All other assets material to the operation of the Business from and after the Closing Date (including without limitation all causes of action, contract rights and warranty and product liability claims arising on and after the Closing Date, whether or not in litigation on the date hereof).
- (xvi) All accounts receivable of Seller related to the Business that are recognized or recorded, delivered to, or received by Seller on or after the Closing Date.

(b) The following assets (collectively, the "Excluded Assets") shall be excluded from this Agreement, and shall not be assigned or transferred to Purchaser:

- (i) Any and all office furniture, fixtures, and/or equipment other than file cabinets holding Images being purchased by Purchaser, including phones and voice-mail system;
- (ii) Any and all personal computers (subject to the terms and conditions of the "Sublease" as defined below in Section 2.3 (C));
- (iii) Any and all "light boxes";
- (iv) Any and all images and rights that are part of the Vintage Library;
- (vii) Any and all CD burners;

- (viii) Any and all assets to the extent owned by Janou Pakter Inc.;
- (ix) The right to require the rendition of services from Janou Pakter or Janou Pakter, Inc.;
- (x) Any rights to, interest in, or equity or sponsorship relating to the website located on the Worldwide Web at <http://www.Idanda.net>;
- (xi) Any and all leases and contracts, other than those set forth in paragraph 2.1(a) above or otherwise specifically transferred pursuant to the terms hereof; and
- (xii) Except as otherwise provided herein, all of Seller's assets not associated with the Business.

2.2. **Purchase Price** In consideration of the transfer to Purchaser of the Purchased Assets (including the assignment of the Intellectual Property) Purchaser agrees to deliver to Seller or its designees, and Seller accepts, the following:

shall be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

6.7. **Severability.** If any term or other provision of this Agreement is deemed invalid, illegal, or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby are not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions be consummated as originally contemplated to the fullest extent possible.

6.8. **Enforcement of this Agreement.** The parties agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof in any court of the United States or any state having jurisdiction, this being in addition to any other remedy to which they are entitled at law or in equity.


6.9. **Consent to Jurisdiction; Legal Fees** In the event that any legal proceedings are commenced in any court with respect to any matter arising under this Agreement, the parties hereto specifically consent and agree that the courts of the State of California and/or the Federal Courts located in the State of California shall have jurisdiction over each of the parties hereto and over the subject matter of any such proceedings, and the venue of any such action shall be in the County of Los Angeles and/or the U.S. District Court for the Southern District of California. Furthermore, in all circumstances, the prevailing party in a litigation or arbitration related to this Agreement shall be entitled to reimbursement of its reasonable legal fees and expenses of such litigation/arbitration.


IN WITNESS WHEREOF, Purchaser and Seller have executed this Agreement as of the date first written above.

AGREED TO AND ACCEPTED:

NONSTOCK, INC.
("Seller")

PICTUREARTS CORPORATION
("Purchaser")

By: 
Its: Jim Gavin
President

By: 
Its: President & CEO

PictureArts Corporation/ nonstock, inc.
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