

## 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
G.I. JOE'S INC.		02/01/2007	CORPORATION: OREGON

## RECEIVING PARTY DATA

Name:	Wells Fargo Retail Finance, LLC
Street Address:	One Boston Place, 18th Floor
City:	Boston
State/Country:	MASSACHUSETTS
Postal Code:	02108
Entity Type:	LIMITED LIABILITY COMPANY: DELAWARE

## PROPERTY NUMBERS Total: 13

Property Type	Number	Word Mark
Serial Number:	78896147	GEAR FOR YOUR FAVORITE SEASON
Registration Number:	1126617	G.I. JOE'S
Serial Number:	78896070	G.I. JOE'S SPORTS, OUTDOOR & MORE
Registration Number:	2962544	G.I. JOE'S THE SPORTS & AUTO STORE
Registration Number:	2962355	JOE'S ON-DECK SERIES
Registration Number:	2962356	JOE'S OUTDOORS
Registration Number:	2962354	JOE'S SPORTS GEAR
Serial Number:	77071791	JOE'S SPORTS, OUTDOOR & MORE
Registration Number:	3017741	NORTH X NORTHWEST
Registration Number:	3134435	NTG
Serial Number:	78389783	NTG
Registration Number:	2962357	SEIZE THE WEEKEND
Registration Number:	2962358	SEIZE THE WEEKEND

## CORRESPONDENCE DATA

900068693

TRADEMARK  
REEL: 003475 FRAME: 0948

CH \$340.00 78896147

Fax Number: (617)856-8201

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

Phone: 617-856-8145

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Correspondent Name: Mark S. Leonardo

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Address Line 2: Brown Rudnick Berlack Israels LLP

Address Line 4: Boston, MASSACHUSETTS 02111

ATTORNEY DOCKET NUMBER:	23595/5
NAME OF SUBMITTER:	Mark S. Leonardo
Signature:	/s/Mark S. Leonardo/
Date:	02/06/2007

**Total Attachments: 10**

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## **FIRST AMENDED AND RESTATED INTELLECTUAL PROPERTY SECURITY AGREEMENT**

This First Amended and Restated Intellectual Property Security Agreement (the "IP Security Agreement") is made as of the 1<sup>st</sup> day of February, 2007, between G.I. Joe's, Inc., an Oregon corporation with its principal executive office at 9805 Boeckman Road, Wilsonville, OR 97070 ("Borrower") and Wells Fargo Retail Finance, LLC, with offices at One Boston Place, 18<sup>th</sup> Floor, Boston, MA 02108, as Collateral Agent (the "Agent").

### **RECITALS**

WHEREAS, Borrower and Wells Fargo Retail Finance, LLC ("WFRF"), as Lender, are parties to that certain Loan and Security Agreement dated as of March 10, 1998 (as amended through the date hereof, the "Existing Loan Agreement");

WHEREAS, Borrower and WFRF, as Lender, are parties to that certain Intellectual Property Security Agreement dated as of March 10, 1998 ( the "Existing IP Security Agreement");

WHEREAS, Borrower and WFRF, as Lender, desire to amend and restate the Existing Loan Agreement;

WHEREAS, in furtherance of the foregoing, Borrower and WFRF, as Agent and a Revolving Credit Lender (as hereinafter defined), are entering into that certain First Amended and Restated Loan and Security Agreement of even date herewith (as the same may be amended, restated, supplemented and/or modified from time to time, the "Loan Agreement") by and among the Borrower, the Revolving Credit Lenders named therein (the "Revolving Credit Lenders") and Agent;

WHEREAS, pursuant to Loan Agreement, the Agent and Revolving Credit Lenders have agreed to make Loans and Advances and provide certain other financial accommodations to the Borrower; and

WHEREAS, as a condition precedent to Agent and Revolving Credit Lenders entering into the Loan Agreement and making Loans and Advances and providing certain other financial accommodations to the Borrower, Borrower is required to enter into this IP Security Agreement to secure the payment and performance of the Borrower's obligations, liabilities and indebtedness arising under the Loan Documents.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Borrower and the Agent and Revolving Credit Lenders agree as follows:

1. Capitalized terms used herein but not otherwise defined herein shall have the meanings given such terms in the Loan Agreement.

2. To secure the Obligations, Borrower hereby grants a security interest in favor of, and agrees to assign to the Agent (such assignment being exercisable by the Agent only following the occurrence and continuation of an Event of Default), for the benefit of itself and the Revolving Credit Lenders, in and to the following and all proceeds thereof:

- a. All of Borrower's now owned or existing or hereafter acquired or arising trademarks, registered trademarks, trademark applications, service marks, registered service marks and service mark applications including, without limitation, those listed on EXHIBIT A annexed hereto and made a part hereof, except for any application for trademark registration filed on an "intent-to-use" basis unless and until the Mark, which forms the basis of the "intent-to-use" application, is being used, together with any goodwill connected with and symbolized by any such trademarks, registered trademarks, trademark applications, service marks, registered service marks, and service mark applications.
- b. All renewals of any of the foregoing.
- c. 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.
- d. The right to sue for past, present and future infringements and dilutions of any of the foregoing.
- e. All of the Borrower's rights corresponding to any of the foregoing throughout the world.

All of the foregoing trademarks, registered trademarks, trademark applications, service marks, registered service marks and service mark applications described in Subsection 2(a), together with the items respectively described in Subsections 2(b) through and including 2(e) are hereinafter individually and/or collectively referred to as the "Marks".

3. Until this IP Security Agreement is terminated in writing by a duly authorized officer of the Agent, the Borrower shall undertake the following with respect to each Mark that is in use at the relevant time:

- a. Pay all renewal fees and other fees and costs associated with maintaining the Marks and with the processing of the Marks.
- b. At Borrower's sole cost, expense, and risk, pursue the prompt, diligent, processing of each trademark application for registration which is the subject of the security interest created herein and not abandon or delay any such efforts, unless the respective service mark or trademark is abandoned (provided, however,

that the Borrower shall notify the Agent and Revolving Credit Lenders of any intent to abandon any service mark or trademark).

- c. At Borrower's sole cost, expense, and risk, take any and all action that the Borrower reasonably deems necessary or desirable to protect the Marks, including, without limitation, the prosecution and defense of infringement actions.
4. In the event of the occurrence and continuation of any Event of Default, the Agent acting in its own name or in the Borrower's name may (but shall not be required to) act in the Borrower's place and stead and/or in the Agent's own right in connection therewith.
5. The Borrower represents and warrants that:
  - a. EXHIBIT A includes all of the registered trademarks, Federal trademark applications, registered service marks and Federal service mark applications now owned by the Borrower, except for any application for trademark registration filed on an "intent-to-use" basis.
  - b. No liens, claims or security interests have been granted in any Mark by the Borrower to any Person other than to the Agent (except for Permitted Liens).
  - c. Each of the service marks and trademarks is valid and enforceable, and Debtor is not presently aware of (i) any past, present or prospective claim by any third party that any of the service marks and trademarks are invalid or unenforceable, or (ii) that, except as set forth on EXHIBIT B, the use of any service marks or trademarks violates the rights of any third person, or any basis for any such claim;
  - d. It has used and will continue to use proper statutory notice in connection with its use of each of the service marks and trademarks.
  - e. It has used and will continue to use consistent standards of high quality (which may be consistent with Borrower's past practices) in the manufacture, sale and delivery of the products and services sold or delivered under or in connection with the service marks and trademarks, including, to the extent applicable, in the operation and maintenance of its merchandising operations, and will continue to maintain the validity of the service marks and trademarks.
6. In order to further secure the Obligations:
  - a. The Borrower shall give the Agent and Revolving Credit Lenders written notice (with reasonable detail) within ten (10) days after the end of each fiscal quarter following the occurrence of any of the following:
    - i. Borrower obtains rights to, and files applications for registration of, any new trademarks, or service marks, or otherwise acquires ownership of any

newly registered trademarks, registered service marks, trademark applications, or service mark applications, (other than Borrower's right to sell products containing the trademarks of others in the ordinary course of Borrower's business).

- ii. Borrower becomes entitled to the benefit of any registered trademarks, trademark applications, trademark licenses, trademark license renewals, registered service marks, service mark applications, service mark licenses or service mark license renewals whether as licensee or licensor (other than Borrower's right to sell products containing the trademarks of others in the ordinary course of Borrower's business).
  - iii. Borrower enters into any new trademark license agreement or service mark license agreement which has a value in excess of \$250,000, whether as licensor or licensee, except such license agreements entered into in the ordinary course of business.
- b. The provisions of this IP Security Agreement shall automatically apply to any such additional property or rights described in 6(a), above, all of which shall be deemed to be and treated as "Marks" within the meaning of this IP Security Agreement.
- c. The Borrower hereby authorizes the Agent and Revolving Credit Lenders to modify this agreement by amending EXHIBIT A to include any future registered trademarks, trademark applications, registered service marks and service mark applications, written notice of which is so given, *provided, however*, the modification of said EXHIBIT A shall not be a condition to the creation or perfection of the security interest created hereby.

7. Upon the occurrence and continuation of any Event of Default, the Agent may exercise all rights and remedies of a secured party upon default under the Uniform Commercial Code as adopted and amended from time to time in the Commonwealth of Massachusetts with respect to the Marks, in addition to which the Agent, subject to the terms of the Loan Agreement, may sell, license, assign, transfer, or otherwise dispose of the Marks. Any person may conclusively rely upon an affidavit of an officer of the Agent that an Event of Default has occurred and is continuing and that the Agent is authorized to exercise such rights and remedies.

8. The Borrower hereby irrevocably constitutes and designates the Agent as and for the Borrower's attorney-in-fact, effective with and upon the Agent's first exercise (the "First Exercise") of such powers following the occurrence and continuation of any Event of Default:

- a. To exercise any of the rights and powers referenced in Section 3.
- b. To execute all and singular 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 Marks.

The within grant of a power of attorney, being coupled with an interest, shall be irrevocable until the within IP Security Agreement is terminated by a duly authorized officer of the Agent, but shall be exercisable only following the occurrence and continuation of an Event of Default.

9. Any use by the Agent and/or Revolving Credit Lenders of the Marks as authorized hereunder in connection with the exercise of the Agent's rights and remedies under the within IP Security Agreement and the Loan Agreement shall be coextensive with the Borrower's rights thereunder and with respect thereto and without any liability for royalties or other related charges from the Agent and Revolving Credit Lenders to the Borrower. Such use by the Agent and Revolving Credit Lenders shall be permitted only with and upon the First Exercise following the occurrence and continuation of an Event of Default.

10. Agent and Revolving Credit Lenders hereby acknowledge that the Borrower shall continue to have the exclusive right, prior to notice from the Agent and Revolving Credit Lenders following the occurrence and continuation of an Event of Default, to sue for past, present and future infringement of the Marks including the right to seek injunctions and/or money damages, in an effort by the Borrower to protect the Marks against infringement or encroachment by third parties; provided, however, that the Borrower first notify Agent and Revolving Credit Lenders in writing of its intention to sue for enforcement of the Marks against a particular party. All costs arising in connection with any infringement shall be borne by the Borrower.

11. Following the satisfaction and indefeasible payment in full in cash of all Obligations and termination of the Loan Agreement, this IP Security Agreement shall terminate and the Agent shall execute and deliver to the Borrower all such instruments as the Borrower reasonably may request to release any encumbrance in favor of the Agent created hereby or pursuant hereto, subject, however, to any disposition thereof which may have been made by Agent pursuant hereto or pursuant to the Loan Agreement.

12. The Borrower shall, at the request of the Agent, do any and all acts and execute any and all documents reasonably required by the Agent in connection with the protection, preservation, and enforcement of the Agent's and Revolving Credit Lenders' rights hereunder.

13. The Borrower shall, upon demand, reimburse the Agent and Revolving Credit Lenders for all costs and expenses incurred by the Agent and Revolving Credit Lenders in the exercise of any rights hereunder (including, without limitation, reasonable fees and expenses of counsel).

14. Neither anything contained in the within IP Security Agreement or in the Loan Agreement nor any act, omission, or circumstance may be construed as (a) directly or indirectly conveying to the Agent and Revolving Credit Lenders any rights or title in and to the Marks (other than the security interest granted herein), or (b) conveying to the Agent and Revolving Credit Lenders any right of prior approval of, or right to prevent the granting of, or right to

rescind any non-exclusive license of any of the Marks granted by the Borrower, except as may be conveyed in (a) or (b) above following the occurrence and continuation of any Event of Default (and in such circumstances, only with and upon the First Exercise).

15. This IP Security Agreement is intended to be supplemental to the Loan Agreement. All provisions of the Loan Agreement shall apply to the Marks and the Agent and Revolving Credit Lenders shall have the same rights with respect to any and all security interests in the Marks granted the Agent and Revolving Credit Lenders to secure the Obligations hereunder as thereunder.

16. **THIS IP SECURITY AGREEMENT SHALL BE GOVERNED, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS.**

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IN WITNESS WHEREOF, the Borrower and the Agent respectively have caused this IP Security Agreement to be executed by officers duly authorized so to do on the date first above written.

WELLS FARGO RETAIL FINANCE, LLC  
("Agent")

By: JLB

Print Name: Jennifer Blanchette

Title: Vice President

G.I. JOE'S, INC.  
(the "Borrower")

By: 

Print Name: Norm Daniels

Title: President and Chief Executive Officer

[Signature page to Amended and Restated IP Security Agreement]

TRADEMARK

REEL: 003475 FRAME: 0957

### EXHIBIT A

Borrower's now owned or existing or hereafter acquired or arising registered service marks and Federal service mark applications, registered trademarks, and Federal trade mark applications:

Mark	Serial No.	Reg. No.
GEAR FOR YOUR FAVORITE SEASON	78896147	
G.I. JOE'S	73153358	1126617
G.I. JOE'S SPORTS, OUTDOOR & MORE	78896070	
G.I. JOE'S THE SPORTS & AUTO STORE	78389777	2962544
JOE'S ON-DECK SERIES	78359021	2962355
JOE'S OUTDOORS	78359055	2962356
JOE'S SPORTS GEAR	78358960	2962354
JOE'S SPORTS, OUTDOOR & MORE	77071791	
NORTH X NORTHWEST	78480926	3017741
NTG	78977129	3134435
NTG	78389783	
SEIZE THE WEEKEND	78359356	2962357
SEIZE THE WEEKEND	78359388	2962358

## EXHIBIT B

*Dfunct LLC, dba Tyler Speed v. G.I. Joe's, Inc.*, United States District Court, Northern District of California, San Francisco Division, Case No. C 04 1904, Complaint for Trademark Infringement; False Advertising; and Unfair Competition, and Settlement Agreement and Release.

*Acushnet Company v. G.I. Joe's, Inc., et al.*, US District Court, District of Oregon, Case No: 05-764-HU. The Complaint in this matter was filed on May 27, 2005. The Complaint alleged the purchase and resale by the Borrower of product represented to be Titleist Pro VI Golf Balls, which was alleged to constitute trademark infringement. The Borrower purchased the product from Cam Golf, Inc. and was unaware the product was not manufactured by the Plaintiff. The Borrower settled the case prior to trial for \$25,000. The Borrower is currently pursuing an indemnity action against Cam Golf, Inc.