



**TURN ON PRODUCTS, INC.**  
**Live USA Trademarks**

Mark	Class	Serial #	Reg. #	Status	Status Descrip.	Renewal/Action Due
ALMOST FAMOUS	25	76159678	2602466	LIVE	Registered on 07/30/2002	8 & 9 Affidavits due between 7/30/2011 and 7/30/2012.
YOUNIQUE	25	76199385	2589824	LIVE	Registered: 07/2/2002	8 & 15 Affidavits filed 11.02.07 8 & 9 Affidavits due between 7/2/2011 and 7/2/2012
YNO	25	77215996	3384939	LIVE	Certificate of Registration issued 02.19.08	Section 8 & 15 due 02.19.14 Section 8 & 9 due 02.19.18
DON'T YOU DARE	25	77256827		Live	Notice of Allowance issued 05.06.08	SOU or SOU 2nd ext due 05.06.09

**TRADEMARK COLLATERAL ASSIGNMENT  
AND SECURITY AGREEMENT**

AGREEMENT made this 28<sup>th</sup> day of August, 2008 (this "Agreement") by and between **TURN ON PRODUCTS, INC.** a New York corporation ("Client") with its offices at 263 West 38<sup>th</sup> Street, New York, NY 10018 and **WELLS FARGO TRADE CAPITAL SERVICES, INC.**, a New York corporation ("Secured Party"), having an office at 119 West 40<sup>th</sup> Street, New York, New York 10018-2500.

**WITNESSETH:**

**WHEREAS**, Client has adopted, used and is using, and is the owner of the entire right, title, and interest in and to the trademarks and application therefor described in Schedule A annexed hereto and made a part hereof; and

**WHEREAS**, Secured Party and Client have entered into a Factoring Agreement, dated as of the date hereof pursuant to which Secured Party may make loans and advances and provide other financial accommodations to Client as set forth therein (as heretofore or hereafter amended, supplemented, restated, renewed, replaced, extended or otherwise modified, the "**Factoring Agreement**");

**WHEREAS**, Secured Party may hereafter make loans and advances and provide other financial accommodations to Client under the Factoring Agreement (the Factoring Agreement, collectively with the various other agreements, documents and instruments referred to therein or at any time executed and/or delivered in connection therewith or related thereto, including, but not limited to, this Agreement, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "**Factoring Documents**"); and

**WHEREAS**, in order to induce Secured Party to make loans and advances and provide other financial accommodations to Client pursuant to the Factoring Agreement, Client has agreed to grant to Secured Party certain collateral security as set forth herein.

**NOW, THEREFORE**, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Client hereby agrees as follows:

1. **GRANT OF SECURITY INTEREST**

As collateral security for the prompt performance, observance and indefeasible payment in full of all of the Obligations (as defined herein), Client hereby grants to Secured Party a continuing security interest in and a general lien upon, and hereby conditionally assigns and transfers to Secured Party: (a) all of Client's now existing or hereafter acquired right, title, and interest in and to: trademarks, trade names, tradestyles and service marks; all prints and labels on which said trademarks, trade names, tradestyles and service marks appear, have appeared or will appear, and all designs and general intangibles of a like nature; all applications, registrations and recordings relating to the foregoing in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other countries, and all reissues, extensions and renewals thereof including the trademarks and trademark application described in Schedule A hereto (the "**Trademarks**"); (b) the goodwill of the business symbolized by each of the Trademarks, including, without limitation, all customer lists and other records relating to the distribution of products or services bearing the Trademarks; (c) all income, fees, royalties and other payments at any time due or payable to Client with

respect to any Trademarks, including, without limitation, payments under all Licenses, as defined below, heretofore or at any time hereafter entered into by Client in connection therewith; (d) Client's right to sue for the past and present and future infringements thereof and all future infringements thereof; (e) all rights of Client corresponding thereto throughout the world; and (f) any and all other proceeds of any of the foregoing, including, without limitation, all damages and payments or claims by Client against third parties for past or future infringement of the Trademarks (all of the foregoing are collectively referred to herein as the "**Collateral**"). For purposes of this Agreement, the term "**License**" means any written agreement, in which Client now holds or hereafter acquires any trademark or interest in or to a trademark or the use thereof, which agreement grants any license right in and to any Trademark or the use thereof (whether Client is the licensee or the licensor thereunder), a sublicense to use a trademark, and the right to prepare for sale, sell or advertise for sale, all of the inventory now or hereafter owned by Client that is now or hereafter covered by such license agreements.

## 2. OBLIGATIONS SECURED

The security interest, lien and other interests granted to Secured Party pursuant to this Agreement shall secure the prompt performance, observance and payment in full of all Obligations, as defined in the Factoring Agreement, and all other amounts arising under this or any other Agreement or by operation of law, now or hereafter owing by Client to Secured Party or to any parent, subsidiary or affiliate of Secured Party. Without limiting the foregoing, such amounts shall include all advances, loans, interest, commissions, customer late payment charges, cost, fees, expenses, taxes and all receivables charged or chargeable to Client's account under the Factoring Agreement, whether arising under this Agreement, the other Factoring Documents or by operation of law and whether incurred by Client as principal, surety, endorser, guarantor or otherwise (all hereinafter referred to as "**Obligations**").

## 3. REPRESENTATIONS, WARRANTIES AND COVENANTS

Client hereby represents, warrants and covenants to Secured Party the following (which shall survive the execution and delivery of this Agreement), the truth and accuracy of which, or compliance with, being a continuing condition of the making of loans or other financial accommodations by Secured Party to Client under the Factoring Documents:

(a) Client will pay and perform all of the Obligations according to their terms.

(b) All of the existing Collateral is valid and subsisting in full force and effect, and Client owns the sole, full, and clear title thereto, and the right and power to grant the security interests granted hereunder. Client will, at Client's expense, perform all acts and execute all documents necessary to maintain the existence of the Collateral as valid, subsisting and registered trademarks, including, without limitation, the filing of any renewal affidavits and applications. The Collateral is not subject to any liens, claims, mortgages, assignments, licenses, security interests, or encumbrances of any nature whatsoever, except the security interests granted hereunder and the licenses set forth on Schedule B hereto.

(c) Client will not assign, sell, mortgage, lease, transfer, pledge, hypothecate, grant a security interest in or lien upon, encumber, grant an exclusive or non-exclusive license relating thereto, except as permitted herein, or otherwise dispose of any of the Collateral without the prior written consent of Secured Party. Nothing in this Agreement shall be deemed a consent by Secured Party to any such action, except as such action is expressly permitted hereunder.

(d) Client will, at Client's expense, perform all acts and execute all documents requested at any time by Secured Party to evidence, perfect, maintain, record, or enforce the security interest in the

Collateral granted hereunder or to otherwise further the provisions of this Agreement. Client hereby authorizes Secured Party to execute and file one or more financing statements (or similar documents) with respect to the Collateral, signed only by Secured Party or as otherwise determined by Secured Party. Client further authorizes Secured Party to have this or any other similar security agreement filed with the Commissioner of Patents and Trademarks or other appropriate federal, state or government office.

(e) As of the date hereof, Client does not have any Trademarks registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States or any foreign country other than those described in Schedule A annexed hereto and has not granted any licenses with respect thereto other than as set forth in Schedule B hereto.

(f) Client will, concurrently with the execution and delivery of this Agreement, execute and deliver to Secured Party five (5) originals of a Power of Attorney in the form of Exhibit 1 annexed hereto for the implementation of the assignment, sale or other disposition of the Collateral pursuant to Secured Party's exercise of the rights and remedies granted to Secured Party hereunder.

(g) Secured Party may, in its discretion, pay any amount or do any act which Client fails to pay or do as required hereunder or as requested by Secured Party to preserve, defend, protect, maintain, record, amend or enforce the Obligations, the Collateral, or the security interest granted hereunder including but not limited to all filing or recording fees, court costs, collection charges and reasonable attorneys' fees. Client will be liable to Secured Party for any such payment, which payment shall be deemed an advance by Secured Party to Client, shall be payable on demand together with interest at the prime rate announced or published by Citibank N.A. from time to time and shall be part of the Obligations secured hereby.

(h) Client shall not file any application for the registration of a Trademark with the United States Patent and Trademark Office or any similar office or agency in the United States, any state therein, or any other country, unless Client has by thirty (30) days prior written notice informed Secured Party of such action. Upon request of Secured Party, Client shall execute and deliver to Secured Party any and all assignments, agreements, instruments, documents and such other papers as may be requested by Secured Party to evidence the security interests of Secured Party in such Trademark.

(i) Client has not abandoned any of the Trademarks and Client will not do any act, nor omit to do any act, whereby the Trademarks may become abandoned, invalidated, unenforceable, avoided or avoidable. Client shall notify Secured Party immediately if it knows or has reason to know of any reason why any application, registration, or recording may become abandoned, canceled, invalidated, avoided, or avoidable.

(j) Client will render any assistance necessary to Secured Party in any proceeding before the United States Patent and Trademark Office, any federal or state court, or any similar office or agency in the United States or any state therein or any other country to maintain such application and registration of the Trademarks as Client's exclusive property and to protect Secured Party's interest therein, including, without limitation, filing of renewals, affidavits of use, affidavits of incontestability and opposition, interference, and cancellation proceedings.

(k) Client will promptly notify Secured Party if Client (or any affiliate or subsidiary thereof) learns of any use by any person of any term or design likely to cause confusion with any Trademark. If requested by Secured Party, Client, at Client's expense, shall join with Secured Party in such action as Secured Party, in its discretion, may deem advisable for the protection of Secured Party's interest in and to the Trademarks.

(l) Client assumes all responsibility and liability arising from the use of the Trademarks and Client hereby indemnifies and holds Secured Party harmless from and against any claim, suit, loss, damage, or expense (including attorneys' fees) arising out of any alleged defect in any product manufactured, promoted, or sold by Client (or any affiliate or subsidiary thereof) in connection with any Trademark or out of the manufacture, promotion, labeling, sale or advertisement of any such product by Client (or any affiliate or subsidiary thereof).

(m) Client will promptly pay Secured Party for any and all reasonable expenditures made by Secured Party pursuant to the provisions of this Agreement or for the defense, protection, or enforcement of the Obligations, the Collateral, or the security interests granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, travel expenses, and attorneys' fees and legal expenses. Such expenditures shall be payable on demand, together with interest at the then applicable rate set forth in the Loan Agreements and shall be part of the Obligations secured hereby.

#### 4. EVENTS OF DEFAULT

The occurrence of any Event of Default under the Factoring Agreement shall be and shall constitute an Event of Default hereunder (each, an "Event of Default" hereunder).

#### 5. RIGHTS AND REMEDIES

Upon the occurrence of any such Event of Default and at any time thereafter, in addition to all other rights and remedies of Secured Party, whether provided under law, the Factoring Documents or otherwise, Secured Party shall have the following rights and remedies which may be exercised without notice to, or consent by, Client except as such notice or consent is expressly provided for hereunder:

(a) Secured Party may require that neither Client nor any affiliate or subsidiary of Client make any use of the Trademarks or any marks similar thereto for any purpose whatsoever. Secured Party may make use of any Trademarks for the sale of goods, completion of work in process or rendering of services in connection with the enforcement of any security interest granted to Secured Party by Client or any subsidiary of Client.

(b) Secured Party may grant such license or licenses relating to the Collateral for such term or terms, on such conditions, and in such manner, as Secured Party shall in its discretion deem appropriate. Such license or licenses may be general, special, or otherwise, and may be granted on an exclusive or non-exclusive basis throughout all or any part of the United States of America, its territories and possessions, and all foreign countries.

(c) Secured Party may assign, sell or otherwise dispose of the Collateral or any part thereof, either with or without special conditions or stipulations except that if notice to Client of intended disposition of Collateral is required by law, the giving of five (5) days notice in the manner set forth in subparagraph 6(b) hereof shall be deemed reasonable notice thereof and Client waives any other notice with respect thereto. Secured Party shall have the power to buy the Collateral or any part thereof, and Secured Party shall also have the power to execute assurances and perform all other acts which Secured Party may, in its discretion, deem appropriate or proper to complete such assignment, sale, or disposition.

(d) In addition to the foregoing, in order to implement the assignment, sale, or other disposition of any of the Collateral pursuant to Subparagraph 5(c) hereof, Secured Party may at any time execute and deliver on behalf of Client, pursuant to the authority granted in the Powers of Attorney described in subparagraph 3(f) hereof, one or more instruments of assignment of the Trademarks (or any application, registration, or recording relating thereto), in form suitable for filing, recording, or

registration. Client agrees to pay Secured Party on demand all reasonable costs incurred in any such transfer of the Collateral, including, but not limited to, any taxes, fees, legal expenses and reasonable attorneys' fees and legal expenses.

(e) Secured Party may first apply the proceeds actually received from any such license, assignment, sale, or other disposition of Collateral to the reasonable costs and expenses thereof, including, without limitation, attorneys' fees and all legal, travel and other expenses which may be incurred by Secured Party. Thereafter, Secured Party may apply any remaining proceeds to such of the Obligations as Secured Party may in its discretion determine. Client shall remain liable to Secured Party for any expenses or obligations remaining unpaid after the application of such proceeds, and Client will pay Secured Party on demand any such unpaid amount, together with interest at a rate equal to the highest rate then payable on the Obligations.

(f) Client shall supply to Secured Party or its designee, Client's knowledge and expertise relating to the manufacture and sale of the products and services bearing the Trademarks and Client's customer lists and other records relating to the Trademarks and the distribution thereof.

(g) Nothing contained herein shall be construed as requiring Secured Party to take any such action at any time. All of Secured Party's rights and remedies, whether provided under law, the Factoring Documents, this Agreement, or otherwise, shall be cumulative and none is exclusive. Such rights and remedies may be enforced alternatively, successively, or concurrently. Nothing herein shall require Secured Party to pursue any rights or remedies against any other party, including without limitation, Turn on Products, Inc., or against any property or asset of Turn on Products, Inc. or any other party in which Secured Party has a security interest, as a precondition to pursuing its rights and remedies hereunder.

## 6. MISCELLANEOUS

(a) Any failure or delay by Secured Party to require strict performance by Client of any of the provisions, warranties, terms, and conditions contained herein or in any other agreement, document, or instrument, shall not affect Secured Party or Secured Party's right to demand strict compliance and performance therewith, and any waiver of any default shall not waive or affect any other default, whether prior or subsequent thereto, and whether of the same or of a different type. None of the warranties, conditions, provisions, and terms contained herein or in any other agreement, document, or instrument shall be deemed to have been waived by any act or knowledge of Secured Party, its agents, officers, or employees, but only by an instrument in writing, signed by an officer of Secured Party and directed to Client, specifying such waiver.

(b) All notices, requests and demands to or upon the respective parties hereto shall be deemed to have been given or made: if by hand, telex, telegram or facsimile immediately upon sending; if by Federal Express, Express Mail or any other overnight delivery service, one (1) day after dispatch; and if mailed by certified mail, return receipt requested, five (5) days after mailing. All notices, requests and demands are to be given to the respective parties at the following addresses (or to such other addresses as either party may designate by notice in accordance with the provisions of this paragraph) set forth herein:

If to Client:                      TURN ON PRODUCTS, INC.  
   263 West 38<sup>th</sup> Street  
   New York, NY 10018  
   Attention: Peter Kossoy

If to Secured Party:

**WELLS FARGO TRADE CAPITAL SERVICES, INC.**

119 West 40<sup>th</sup> Street

New York, NY 10018

Attention: \_\_\_\_\_

(c) In the event that any provision hereof shall be deemed to be invalid by any court, such invalidity shall not affect the remainder of this Agreement.

(d) All references to Client and Secured Party herein shall include their respective successors and assigns. All references to the term "person" or "Person" herein shall mean any individual, sole proprietorship, limited partnership, general partnership, corporation (including a business trust), unincorporated association, joint stock corporation, trust, joint venture, association, organization or other entity or government or any agency or instrumentality or political subdivision thereof.

(e) This Agreement shall be binding upon and for the benefit of the parties hereto and their respective successors and assigns. No provision hereof shall be modified, altered or limited except by a written instrument expressly referring to this Agreement signed by the party to be charged thereby.

(f) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAWS OF THE STATE OF NEW YORK. ALL TERMS USED HEREIN, UNLESS OTHERWISE DEFINED HEREIN, SHALL HAVE THE MEANINGS GIVEN IN THE NEW YORK UNIFORM COMMERCIAL CODE.

(g) CLIENT AGREES THAT ALL ACTIONS AND PROCEEDINGS RELATING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT OR ANY OF THE OTHER FACTORING DOCUMENTS OR ANY OBLIGATIONS SHALL BE LITIGATED IN THE FEDERAL DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK OR, AT SECURED PARTY'S OPTION, IN ANY OTHER COURTS LOCATED IN NEW YORK STATE OR ELSEWHERE AS SECURED PARTY MAY SELECT AND THAT SUCH COURTS ARE CONVENIENT FORUMS AND CLIENT SUBMITS TO THE PERSONAL JURISDICTION OF SUCH COURTS. CLIENT HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS, COMPLAINT OR OTHER PROCESS OR PAPERS TO BE ISSUED THEREIN AND HEREBY AGREE THAT SERVICE OF SUCH SUMMONS, COMPLAINT, PROCESS OR PAPERS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO CLIENT AT THE ADDRESS APPEARING HEREIN.

(h) TO THE EXTENT LEGALLY PERMISSIBLE, BOTH CLIENT AND SECURED PARTY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY LITIGATION RELATING TO TRANSACTIONS UNDER THIS AGREEMENT, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE.

IN WITNESS WHEREOF, Client and Secured Party have executed this Agreement as of the day and year first above written.

TURN ON PRODUCTS, INC.

By: \_\_\_\_\_

Title: PRESIDENT



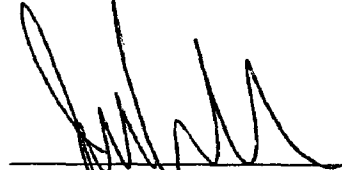
**WELLS FARGO TRADE CAPITAL SERVICES, INC.**

By: *Richard A. ...*

Title: SVP

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

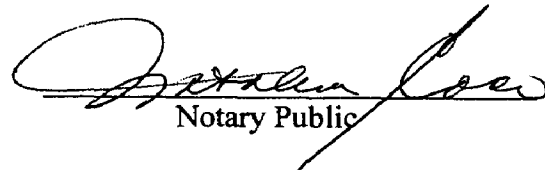
As of this 28 day of AUGUST, 2008, before me personally came PETER KOSSOY, to me known, who being duly sworn, did depose and say, that he is a PRESIDENT of TURN ON PRODUCTS, INC., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto with the authorization of the members of said corporation.

  
\_\_\_\_\_  
Notary Public

**JOSEPH C. WALSH**  
**NOTARY PUBLIC STATE OF NEW YORK**  
No. 01WA614077  
**QUALIFIED IN NEW YORK COUNTY**  
COMMISSION EXPIRES FEBRUARY 13, 2011

STATE OF NEW YORK )  
 ) ss.: J.C.  
COUNTY OF NEW YORK )

As of this 28 day of AUGUST, 2008, before me personally came Peter Austin, to me known, who, being duly sworn, did depose and say, that he is a OFFICER of WELLS FARGO CAPITAL SERVICES, INC., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto with the authorization of the members of said corporation.

  
\_\_\_\_\_  
Notary Public

**NATALINA COCO**  
**Notary Public, State of New York**  
No. 01CO8093279  
**Qualified in Kings County**  
Commission Expires June 2 2011

SPECIAL POWER OF ATTORNEY

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF NEW YORK                )

KNOW ALL MEN BY THESE PRESENTS, that TURN ON PRODUCTS, INC. ("Client"), having an office at 263 West 38<sup>th</sup> Street, New York, NY 10018 hereby appoints and constitutes, severally, **WELLS FARGO TRADE CAPITAL SERVICES, INC. ("Secured Party")**, and each of its officers, its true and lawful attorney, with full power of substitution and with full power and authority to perform the following acts on behalf of Client:

1. Execution and delivery of any and all agreements, documents, instrument of assignment, or other papers which Secured Party, in its discretion, deems necessary or advisable for the purpose of assigning, selling, or otherwise disposing of all right, title, and interest of Client in and to any trademarks and all registrations, recordings, reissues, extensions, and renewals thereof, or for the purpose of recording, registering and filing of, or accomplishing any other formality with respect to the foregoing.

2. Execution and delivery of any and all documents, statements, certificates or other papers which Secured Party, in its discretion, deems necessary or advisable to further the purposes described in Paragraph 1 hereof.

This Power of Attorney, being a power coupled with an interest, is made pursuant to a Trademark Collateral Assignment and Security Agreement between Client and Secured Party, of even date herewith (the "Security Agreement") and may not be revoked until indefeasible payment in full of all Client's "Obligations", as such term is defined in the Factoring Agreement and is subject to the terms and provisions thereof.

August \_\_, 2008

TURN ON PRODUCTS, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

As of this \_\_\_\_ day of \_\_\_\_\_, 2008, before me personally came \_\_\_\_\_, to me known, who being duly sworn, did depose and say, that he is a \_\_\_\_\_ of Turn on Products, Inc., the corporation described herein and which executed the foregoing instrument; and that he signed his name thereto with the authorization of the members of said corporation.

\_\_\_\_\_  
Notary Public

**SCHEDULE A**

**LIST OF TRADEMARKS AND APPLICATIONS**

**TURN ON PRODUCTS, INC.**

**Live USA Trademarks**

<u>Mark</u>	<u>Class</u>	<u>Serial #</u>	<u>Reg. #</u>	<u>Status</u>	<u>Status Descrip.</u>	<u>Renewal/Action Due</u>
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**SCHEDULE B**

**LICENSES**

None