

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
Sport-Elle, Inc.		11/03/2008	CORPORATION: NEW YORK

RECEIVING PARTY DATA	
Name:	FCC, LLC d/b/a First Capital
Street Address:	3520 NW 58th Street
City:	Oklahoma City
State/Country:	OKLAHOMA
Postal Code:	73112
Entity Type:	LIMITED LIABILITY COMPANY:

PROPERTY NUMBERS Total: 10

Property Type	Number	Word Mark
Registration Number:	2746804	SPORTELLE
Registration Number:	3013594	YARNS & STITCHES
Registration Number:	3159933	KNIT CHIC
Registration Number:	3229755	KNIT DE KNIT
Registration Number:	3018498	LA VIE BOHEME
Registration Number:	2767663	M.T.W.T. 9.5
Registration Number:	2897884	MODERN CURVES
Registration Number:	2998708	PRIMA BELLA
Registration Number:	3021436	UPDATE
Serial Number:	77494089	ONQUE

CORRESPONDENCE DATA	
Fax Number:	(212)527-7701
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	212.527.7700

CH \$265.00 2746804

Email: tmdocket@darbylaw.com
Correspondent Name: Paul Fields/Darby & Darby P.C.
Address Line 1: P.O. Box 770, Church Street Station
Address Line 4: New York, NEW YORK 10008-0770

ATTORNEY DOCKET NUMBER:	20790/8203975-000
NAME OF SUBMITTER:	Paul Fields
Signature:	/Paul Fields/
Date:	01/06/2009

Total Attachments: 9

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PATENT AND TRADEMARK SECURITY AGREEMENT

This Patent and Trademark Security Agreement (this "Agreement"), dated as of NOV 3, 2008, is made by and among Sport-Elle, Inc., a New York corporation (the "Client") and FCC, LLC d/b/a First Capital (the "Factor").

Recitals

Client and Factor are parties to a Factoring and Inventory Advances and Security Agreement of even date herewith (as the same may hereafter be amended, supplemented or restated from time to time, the "Factoring Agreement") setting forth the terms on which Factor may now or hereafter extend credit to or for the account of Client. Uri Israel, Kishu Idnani, Simon Abikhzer and Susan Abikhzer have guaranteed all obligations of Client to Factor.

As a condition to extending credit to or for the account of Client, Factor has required the execution and delivery of this Agreement by Client.

ACCORDINGLY, in consideration of the mutual covenants contained in the Factoring Agreement and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Factoring Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

"Obligations" means each and every debt, liability and obligation of every type and description arising under or in connection with any Factoring Document (as defined in the Factoring Agreement) which Client may now or at any time hereafter owe to Factor, whether such debt, liability or obligation now exists or is hereafter created or incurred and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several or joint and several, and including specifically, but not limited to, the Obligations (as defined in the Factoring Agreement).

"Patents" means all of Client's right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on **Exhibit A**.

"Security Interest" has the meaning given in Section 2.

"Trademarks" means all of Client's right, title and interest in and to: (i) trademarks, service marks, collective membership marks, registrations and applications for registration for each, and the respective goodwill associated with each, (ii) licenses, fees or royalties with respect to each, (iii) the right to sue for past, present and future infringement, dilution and damages therefor, (iv) and licenses thereunder, all

as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on **Exhibit B**.

2. Security Interest. Client hereby irrevocably pledges and assigns to, and grants Factor a security interest (the "Security Interest") with power of sale to the extent permitted by law, in the Patents and in the Trademarks to secure payment of the Obligations. As set forth in the Factoring Agreement, the Security Interest is coupled with a security interest in substantially all of the personal property of Client. This Agreement grants only the Security Interest herein described, is not intended to and does not affect any present transfer of title of any trademark registration or application and makes no assignment and grants no right to assign or perform any other action with respect to any intent to use trademark application, unless such action is permitted under 15 U.S.C. § 1060.

3. Representations, Warranties and Agreements. Client represents, warrants and agrees as follows:

(a) **Patents**. **Exhibit A** accurately lists all Patents owned or controlled by the Client as of the date hereof, or to which the Client has a right as of the date hereof to have assigned to it, and accurately reflects the existence and status of applications and letters patent pertaining to the Patents as of the date hereof. If after the date hereof, Client owns, controls or has a right to have assigned to it any Patents not listed on **Exhibit A**, or if **Exhibit A** ceases to accurately reflect the existence and status of applications and letters patent pertaining to the Patents, then Client shall within 30 days provide written notice to Factor with a replacement **Exhibit A**, which upon acceptance by Factor shall become part of this Agreement.

(b) **Trademarks**. **Exhibit B** accurately lists all Trademarks owned or controlled by the Client as of the date hereof and accurately reflects the existence and status of Trademarks and all applications and registrations pertaining thereto as of the date hereof; provided, however, that **Exhibit B** need not list common law marks (i.e., Trademarks for which there are no applications or registrations) which are not material to the Client's or any Affiliate's business(es). If after the date hereof, Client owns or controls any Trademarks not listed on **Exhibit B** (other than common law marks which are not material to the Client's or any Affiliate's business(es)), or if **Exhibit B** ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then Client shall promptly provide written notice to Factor with a replacement **Exhibit B**, which upon acceptance by Factor shall become part of this Agreement.

(c) **Affiliates**. As of the date hereof, no Affiliate of the Client owns, controls, or has a right to have assigned to it any items that would, if such item were owned by the Client, constitute Patents or Trademarks. If after the date hereof any Affiliate of the Client owns, controls, or has a right to have assigned to it any such items, then Client shall promptly either: (i) cause such Affiliate to assign all of its rights in such item(s) to the Client; or (ii) notify Factor of such item(s) and cause such Affiliate to execute and

deliver to Factor a patent and trademark security agreement substantially in the form of this Agreement.

(e) **Title.** Client identified as the owner of each Patent and Trademark on Exhibits A and B has absolute title to each Patent and each Trademark listed thereon, free and clear of all Liens except Permitted Liens. The Client (i) will have, at the time such Client acquires any rights in Patents or Trademarks hereafter arising, absolute title to each such Patent or Trademark free and clear of all Liens except Permitted Liens, and (ii) will keep all Patents and Trademarks free and clear of all Liens except Permitted Liens.

(f) **No Sale.** Client will not assign, transfer, encumber or otherwise dispose of the Patents or Trademarks, or any interest therein, without Factor's prior written consent.

(g) **Defense.** Client will, at its own expense and using commercially reasonable efforts, protect and defend the Patents and Trademarks against all claims or demands of all Persons other than those holding Permitted Liens.

(h) **Maintenance.** Client will at its own expense maintain the Patents and the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain letters patent or trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. Client covenant that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent or Trademark, nor fail to file any required affidavit or renewal in support thereof, without first providing Factor: (i) sufficient written notice, of at least 30 days, to allow Factor to timely pay any such maintenance fees or annuities which may become due on any Patents or Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(i) **Factor's Right to Take Action.** If Client fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after Factor gives Client written notice thereof (or, in the case of the agreements contained in subsection (h), immediately upon the occurrence of such failure, without notice or lapse of time), or if Client notifies Factor that they intend to abandon a Patent or Trademark, Factor may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of the Client (or, at Factor's option, in Factor's own name) and may (but need not) take any and all other actions which Factor may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(j) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under

any applicable law, Client shall pay Factor on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and disbursements) incurred by Factor in connection with or as a result of Factor's taking action under subsection (i) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by Factor at the default rate of interest provided for in the Factoring Agreement.

(k) **Power of Attorney.** To facilitate Factor's taking action under subsection (i) and exercising its rights under Section 6, each Client hereby irrevocably appoints (which appointment is coupled with an interest) Factor, or its delegate, as the attorney-in-fact of such Client with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of such Client, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by such Client under this Section 3, or, necessary for Factor, after a Default, to enforce or use the Patents or Trademarks or to grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents or Trademarks to any third party. Client hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Factoring Agreement as provided therein and the payment and performance of all Obligations.

4. **Client's Use of the Patents and Trademarks.** Client shall be permitted to control and manage the Patents and Trademarks, including the right to exclude others from making, using or selling items covered by the Patents and Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Default exists.

5. **Defaults.** Each of the following occurrences shall constitute an event of default under this Agreement (herein called a "Default"): (a) a Default, as defined in the Factoring Agreement, shall occur; or (b) Client shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. **Remedies.** While a Default exists and following the expiration of any cure period, Factor may, at its option, take any or all of the following actions:

(a) Factor may exercise any or all remedies available under the Factoring Agreement.

(b) Factor may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks.

(c) Factor may enforce the Patents and Trademarks and any licenses thereunder, and if Factor shall commence any suit for such enforcement, Client shall, at

the request of Factor, do any and all lawful acts and execute any and all proper documents required by Factor in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by Factor. A waiver signed by Factor shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of Factor's rights or remedies. All rights and remedies of Factor shall be cumulative and may be exercised singularly or concurrently, at Factor's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Client under this Agreement shall be given in the manner and with the effect provided in the Factoring Agreement. Factor shall not be obligated to preserve any rights the Client may have against prior parties, to realize on the Patents and Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Patents and Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of Client and Factor and their respective participants, successors and assigns and shall take effect when signed by Client and delivered to Factor, and each Client waives notice of Factor's acceptance hereof. Factor may execute this Agreement if appropriate for the purpose of filing, but the failure of Factor to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement authorized by the Client shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of California without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date first written above.

SPORT-ELLE, INC.

By: 

Uri Israel, President

FCC, LLC, d/b/a FIRST CAPITAL

By: 

Ric Mazza, Executive Vice President

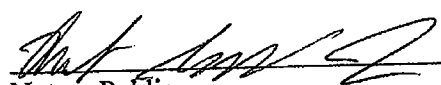
STATE OF NY

COUNTY OF Nassau

Before me, the undersigned authority, on this date personally appeared Uri Israel, President of Sport-Elle, Inc., a New York corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation, having first been so authorized to do so.

Given under my hand and seal this 3 day of November, 2008.

ROBERT GERBOTH JR
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GE6187091
Qualified in Nassau County
My Commission Expires May 12, 2012


Notary Public

(SEAL)

My Commission Expires:

5/12/12

EXHIBIT A

UNITED STATES ISSUED PATENTS

None

UNITED STATES PATENT APPLICATIONS

None

FOREIGN ISSUED PATENTS

None

UNITED STATES PATENT APPLICATIONS

None

EXHIBIT B

UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS

AND COLLECTIVE MEMBERSHIP MARKS

REGISTRATIONS

<u>Mark</u>	<u>Registration Number</u>	<u>Registration Date</u>
SPORTELLE	2,746,804	08/05/2003
YARNS & STITCHES	3,013,594	11/08/2005
KNIT CHICK	3,159,933	10/17/2006
KNIT DE KNIT	3,229,755	04/17/2007
LA VIE BEHEME	3,018,498	11/22/2005
M.T.W.T. 9.5 and Design	2,767,663	09/23/2003
MODERN CURVES	2,897,884	10/26/2004
PRIMA BELLA	2,998,708	09/20/2005
UPDATE	3,021,436	11/29/2005

PENDING APPLICATIONS

<u>Mark</u>	<u>Serial Number</u>	<u>Date</u>
<u>ONQUE</u>	77/494,089	06/09/2008

COLLECTIVE MEMBERSHIP MARKS

None

UNREGISTERED MARKS

None

FOREIGN ISSUED TRADEMARKS, SERVICE MARKS
AND COLLECTIVE MEMBERSHIP MARKS

None

REGISTRATIONS

None

PENDING APPLICATIONS

None

COLLECTIVE MEMBERSHIP MARKS

None

UNREGISTERED MARKS

None