

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
FIFTH THIRD BANK (Chicago)		04/27/2009	Banking Corporation: MICHIGAN
RECEIVING PARTY DATA			
Name:	VISUAL MERCHANDISING, INC.		
Street Address:	2400 Industrial Lane		
City:	Broomfield		
State/Country:	COLORADO		
Postal Code:	80020		
Entity Type:	CORPORATION: DELAWARE		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	3203594	GOLDSMITH	
Registration Number:	3203595	G	
CORRESPONDENCE DATA			
Fax Number:	(214)661-4691		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	214.953.6618		
Email:	b.k.drinkwater@bakerbotts.com		
Correspondent Name:	B. K. Drinkwater, c/o Baker Botts L.L.P.		
Address Line 1:	2001 Ross Avenue, Suite 600		
Address Line 4:	Dallas, TEXAS 75201		
ATTORNEY DOCKET NUMBER:	079670.0102		
NAME OF SUBMITTER:	B. K. Drinkwater		
Signature:	/B. K. Drinkwater/		

CH \$65.00 3203594

Date:

04/30/2009

Total Attachments: 12

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TRANSFER AGREEMENT

THIS TRANSFER AGREEMENT (this "*Agreement*") is made and entered into as of April 27, 2009, by and between VISUAL MERCHANDISING, INC., a Delaware corporation ("*Buyer*"), and FIFTH THIRD BANK, a Michigan banking corporation ("*Secured Party*").

RECITALS

A. Goldsmith LLC, a New York limited liability company (the "*Borrower*"), Goldsmith Holdings LLC, a New York limited liability company, and Secured Party are parties to that certain Loan and Security Agreement dated as of August 23, 2001 (as amended from time to time, the "*Loan Agreement*"). All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Loan Agreement.

B. Certain Events of Default have occurred and are continuing under the Loan Agreement.

C. Pursuant to its rights as a secured party under the Uniform Commercial Code as in effect in the State of Illinois (the "*UCC*"), the Loan Agreement, any other applicable document, and any other applicable law, Secured Party has agreed to sell, and Buyer has agreed to purchase, all of the Borrower's existing right, title, and interest in and to the Collateral (as defined in the Transfer Statement in the form attached hereto as Exhibit A (the "*Transfer Statement*").

NOW, THEREFORE, with the foregoing recitals being incorporated by reference herein, the parties hereto hereby agree as follows:

1. In exchange for the Price (as defined below), Secured Party shall execute and deliver the Transfer Statement to Buyer on the date hereof.

2. The "Price" shall mean which Buyer shall pay Secured Party on the date hereof by wire transfer of immediately available funds to the account of Secured Party specified on Exhibit B hereto (or such other account designated by Secured Party by written notice to Buyer) (the "*Secured Party Account*"), and (b) a cash payment, which Buyer shall pay Secured Party One Hundred Eighty (180) days after the date hereof by wire transfer of immediately available funds to the Secured Party Account in an amount equal to fifty percent (50%) of the aggregate amount over

actually received by Buyer through such day from the collection of the Accounts; provided that "Accounts" shall consist solely of the accounts receivable existing as of the date hereof included in the Collateral and transferred pursuant to the Transfer Statement and shall not include future accounts receivable or other rights arising after the date hereof.

3. Buyer acknowledges and agrees by executing and accepting this Agreement that (a) Secured Party is not in the business of selling the Collateral, is neither a manufacturer, distributor, nor dealer of the Collateral, and is selling the Collateral solely as a secured creditor for the purposes of liquidating the Collateral; and (b) it is not in any way relying on any statements or representations made by Secured Party, or any of Secured Party's officers, employees, or agents, as to the existence, condition, or quality of the Collateral.

4. Secured Party represents and warrants that: (a) with respect to a security interest in any of the Collateral that can be perfected by filing a UCC financing statement in the filing office of the New York State Department of State, Secured Party holds a validly perfected security interest; (b) Borrower is indebted and liable to Secured Party under the Loan Agreement and all Liabilities of Borrower are immediately due and payable, enforceable against Borrower in accordance with the Loan Agreement and applicable law; (c) Events of Default have occurred and are continuing under Loan Agreement; (d) to the best of Secured Party's knowledge, Secured Party has complied with all notice requirements of the Loan Agreement and applicable law; (e) all grace and forbearance periods under the Loan Agreement and any forbearance agreement(s) have expired; (f) Secured Party has the right under the Loan Agreement and applicable law to dispose of the Collateral as contemplated hereby; and (g) to the best of Secured Party's knowledge, Secured Party has complied with the applicable requirements with regard to enforcement of Secured Party's rights after default and its disposition of the Collateral, including without limitation by sending an authenticated notification of disposition as required.

5. SECURED PARTY IS SELLING, ON A NON-RECOURSE BASIS, THE COLLATERAL TO BUYER "AS IS," "WHERE IS," "WITH ALL FAULTS," AND WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND OR WHATEVER NATURE, EXPRESS OR IMPLIED, WITH RESPECT TO THE EXISTENCE, CONDITION, QUALITY, COLLECTABILITY, OR USEFULNESS OF, OR TITLE OR POSSESSION TO, THE COLLATERAL INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE AND SECURED PARTY SPECIFICALLY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND OR WHATEVER NATURE, EXPRESS OR IMPLIED, WITH RESPECT TO THE EXISTENCE, CONDITION, QUALITY, COLLECTABILITY, OR USEFULNESS OF, OR TITLE OR POSSESSION TO, THE COLLATERAL INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE, AND BUYER, BY ACCEPTING THIS AGREEMENT, AGREES TO TAKE THE COLLATERAL ON THAT BASIS; PROVIDED, HOWEVER THAT THE "COLLATERAL" SHALL NOT INCLUDE ANY LIABILITIES OR OBLIGATIONS OF DEBTOR, INCLUDING WITHOUT LIMITATION ANY LIABILITIES OR OBLIGATIONS UNDER ANY CONTRACTS OR AGREEMENTS OF DEBTOR.

6. SECURED PARTY UNDERTAKES NO RESPONSIBILITY FOR THE QUALITY OR THE MERCHANTABILITY OF THE COLLATERAL AND SECURED PARTY ASSUMES NO RESPONSIBILITY THAT THE COLLATERAL WILL BE FIT FOR ANY PARTICULAR PURPOSE FOR WHICH BUYER MAY BE BUYING THE COLLATERAL.

7. THERE ARE NO REPRESENTATIONS OR WARRANTIES RELATING TO TITLE, POSSESSION, QUIET ENJOYMENT, OR THE LIKE IN THE SALE PURSUANT TO THIS AGREEMENT, THERE ARE NO REPRESENTATIONS OR WARRANTIES THAT THE USE OF THE COLLATERAL WILL NOT INFRINGE UPON THE RIGHTS OF ANY OTHER PERSON, AND BUYER ACKNOWLEDGES THAT THIS AGREEMENT COMPLIES WITH THE PROVISIONS OF SECTION 9-610(e) AND (f) OF THE UCC.

8. SECURED PARTY SHALL NOT BE LIABLE FOR ANY LOSS, LIABILITY, OR INJURY ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY BUYER'S ACTS OR OMISSIONS IN OWNING THE COLLATERAL. BUYER FURTHER AGREES THAT SECURED PARTY SHALL NOT BE LIABLE FOR DIRECT, INDIRECT, SPECIFIC, CONSEQUENTIAL, OR OTHER DAMAGES SUFFERED BY BUYER OR ANY OTHER PERSON RESULTING FROM THE OWNERSHIP, POSSESSION, OR USE OF ANY OF THE COLLATERAL.

9. At the reasonable request of Buyer, Secured Party shall execute and deliver such other instruments and do and perform such other acts and things as may be necessary or desirable for effecting the consummation of this Agreement and the Transfer Statement and the transactions contemplated hereby and thereby, including by exercising any rights granted to Secured Party under the Loan Agreement. Secured Party hereby agrees that from time to time it shall execute, deliver, acknowledge, file and record, or cause to be executed, delivered, acknowledged, filed and recorded, such further bills of sale, deeds, general conveyances, endorsements, assignments and other good and sufficient instruments of conveyance, transfer, assignment or contribution and such further consents, certifications, affidavits and assurances as Buyer may reasonably request in order to vest in Buyer all of Borrower's right, title and interest in and to the Collateral or otherwise to consummate and make effective the transactions contemplated by this Agreement and the Transfer Statement upon the terms and conditions set forth herein and therein.

10. In the event that a court of competent jurisdiction determines by a final, non-appealable order that Buyer is not a "good-faith transferee" pursuant to section 9-617(b) of the UCC, Secured Party shall refund any portion of the Price previously paid to Secured Party by Buyer upon demand of Buyer.

11. On the date hereof, Secured Party shall transfer to Buyer exclusive control and authority over all deposit accounts of Borrower maintained by Secured Party, including without limitation the Cash Collateral Account, the Demand Deposit Account, and the Lockbox Account.

12. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the parties hereto and their respective successors and assigns in accordance with the terms hereof.

13. All prior negotiations and agreements between the parties hereto are superseded by this Agreement and the Transfer Statement, and there are no representations, warranties, understandings, or agreements other than those expressly set forth herein or therein or in an Exhibit delivered pursuant hereto, except as modified in writing by both parties concurrently herewith or subsequent hereto. This Agreement shall be governed by and construed and interpreted according to the laws of the State of Illinois without regard to its conflict of law principles.

14. In the event that any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal, or unenforceable in any respect,

the validity, legality, or enforceability of the remaining provisions of this Agreement and any other application thereof shall not in any way be affected or impaired thereby.

15. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other person or entity other than the parties hereto and their respective successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party, nor shall any provision give any third parties any right of subrogation or action over or against any party. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

16. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all or which taken together shall constitute but one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile, .pdf file, or a similar form of electronic transmission shall be equally as legally effective and binding as delivery of a manually executed counterpart for all purposes.

[Remainder of page left blank, signature page follows]

IN WITNESS WHEREOF, Buyer and Secured Party have executed this Transfer Agreement as of the date first stated above.

BUYER:

VISUAL MERCHANDISING, INC., a Delaware corporation

By: James D. McBride, III

Name: James D. McBride, III

Its: Chief Executive Officer

SECURED PARTY:

FIFTH THIRD BANK, a Michigan banking corporation

By: _____

Name: _____

Its: _____

IN WITNESS WHEREOF, Buyer and Secured Party have executed this Transfer Agreement as of the date first stated above.

BUYER:

VISUAL MERCHANDISING, INC., a Delaware corporation


By: _____

Name: _____

Its: _____

SECURED PARTY:

FIFTH THIRD BANK, a Michigan banking corporation

By: 

Name: KC Berker

Its: Vice President

EXHIBIT A
(Form of Transfer Statement)

TRANSFER STATEMENT

Fifth Third Bank (the "*Secured Party*"), as secured party pursuant to that certain Loan and Security Agreement dated as of August 23, 2001 (as amended from time to time, the "*Loan Agreement*," capitalized terms used herein and not otherwise defined are shall have the meanings ascribed to them in the Loan Agreement) by and between Goldsmith LLC, a New York limited liability company (the "*Debtor*"), Goldsmith Holdings LLC, a New York limited liability company, and the Secured Party, hereby states, pursuant to Section 9-619 of the Uniform Commercial Code as adopted by the State of Illinois, that:

1. The Debtor has defaulted in connection with its obligations under the Loan Agreement, which obligations are secured by the Debtor's right, title, and interest in and to the following (collectively, the "*Collateral*"): (a) all of the assets and personal property of the Debtor, and all of Debtor's Accounts, contract rights, General Intangibles, tax refunds, chattel paper, instruments, notes, letters of credit, bills of lading, warehouse receipts, shipping documents, documents and documents of title, and all of the Debtor's Tangible Chattel Paper, Documents, Electronic Chattel Paper, Letter-of-Credit Rights, Software, Supporting Obligations, Payment Intangibles, and Goods (each as defined in the Code), and all of the "Assets" (as defined in the Acquisition Agreement) acquired by the Debtor; (b) all of the Debtor's Inventory, motor vehicles, and Equipment; (c) all of Debtor's Deposit Accounts and other deposit accounts (general or special) with, and credits and other claims against, the Secured Party, or any other financial institution with which the Debtor maintains deposits; (d) all of the Debtor's monies, and any and all other property and interests in property of the Debtor, including, without limitation, Investment Property, Instruments, Security Entitlements, Uncertificated Securities, Certificated Securities, Financial Assets, Chattel Paper and Documents (each as defined in the Code), now or hereafter coming into the actual possession, custody or control of the Secured Party or any agent or affiliate of the Secured Party in any way or for any purpose (whether for safekeeping, deposit, custody, pledge, transmission, collection or otherwise), and, independent of and in addition to the Secured Party's rights of setoff, the balance of any account or any amount that may be owing from time to time by the Secured Party to the Debtor; (e) all insurance proceeds of or relating to any of the foregoing property and interests in property, and all insurance proceeds relating to the Secured Party's Key Man Life Insurance Policy and any other key man life insurance policy covering the life of any officer or employee of Debtor (other than Prairie's Key-Man Life Insurance Policy and all proceeds issued pursuant to Prairie's Key-Man Life Insurance Policy); (f) all proceeds and profits derived from the operation of the Debtor's business; (g) all of the Debtor's books and records, computer printouts, manuals and correspondence relating to any of the foregoing and to the Debtor's business; and (h) all accessions, improvements and additions to, substitutions for, and replacements, products, profits and proceeds of any of the foregoing; *provided, however*, that the "Collateral" shall not include any liabilities or obligations of Debtor, including without limitation any liabilities or obligations under any contracts or agreements of Debtor.

As used herein, the following terms have the following meanings:

"Account Debtor" means the person or entity that is obligated on or under an Account.

“Accounts” means “accounts” as defined in the Code, including, without limitation, all present and future accounts receivable and other rights of the Debtor to payment for goods sold or leased or for services rendered, which are not evidenced by instruments or chattel paper, and whether or not they have been earned by performance.

“Deposit Accounts” means any deposit, securities, operating, lockbox or cash collateral account (including, without limitation, the Cash Collateral Account and the Lock Box Account), together with any funds, instruments or other items credited to any such account from time to time, and all interest earned thereon.

“Equipment” means “equipment” as defined in the Code, including, without limitation, any and all of the Debtor’s machinery, equipment, vehicles, fixtures, furniture, computers, appliances, tools, and other tangible personal property (other than Inventory), whether located on the Debtor’s premises or located elsewhere, together with any and all accessions, parts and appurtenances thereto, whether presently owned or hereafter acquired by the Debtor.

“General Intangibles” means any and all general intangibles, choses in action, causes of action, rights to the payment of money (other than Accounts), and all other intangible personal property of the Debtor of every kind and nature wherever located and whether currently owned or hereafter acquired by the Debtor (other than Accounts), including, without limitation, corporate or other business records, inventions, designs, patents, patent applications, service marks, service mark applications, trademark applications, brand names, tradenames, trademarks and all goodwill symbolized thereby and relating thereto, tradestyles, trade secrets, registrations, computer software, advertising materials, distributions on certificated and uncertificated securities, investment property, securities entitlements, goodwill, operational manuals, product formulas for industrial processes, blueprints, drawings, copyrights, copyright applications, rights and benefits under contracts, licenses, license agreements, permits, approvals, authorizations which are associated with the operation of the Debtor’s business and granted by any Person, franchises, customer lists, deposit accounts, tax refunds, tax refund claims, and any letters of credit, guarantee claims, security interests or other security held by or granted to the Debtor to secure payment by an Account Debtor of any of the Debtor’s Accounts, and, to the maximum extent permitted by applicable law, any recoveries or amounts received in connection with any litigation or settlement of any litigation.

“Inventory” means any and all inventory and goods of the Debtor, wheresoever located, whether now owned or hereafter acquired by the Debtor, which are held for sale or lease, furnished under any contract of service or held as raw materials, work-in-process or supplies, and all materials used or consumed in the Debtor’s business, and shall include such property the sale or other disposition of which has given rise to Accounts and which has been returned to or repossessed or stopped in transit by the Debtor.

2. The Secured Party has exercised certain of its post-default remedies with respect to the Collateral.

3. By reason of the Secured Party’s exercise of its rights with respect to the Collateral, Visual Merchandising, Inc. a Delaware corporation (“*Transferee*”), has acquired the rights of the Debtor in the Collateral, without the assumption by the Transferee of any liabilities or obligations of Debtor.

4. The names and mailing addresses of the parties are as follows:

Secured Party

Fifth Third Bank
222 S Riverside Plaza, Suite 3000
Chicago, IL 60606

Debtor

Goldsmith LLC
10-09 43rd Avenue
Long Island City, New York 11101

Transferee

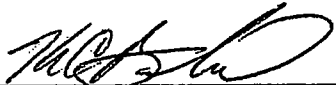
Visual Merchandising, Inc., a Delaware corporation
2400 Industrial Lane
Broomfield, CO 80020

5. This Transfer Statement is delivered in connection with the Transfer Agreement dated as of even date herewith by and between the Secured Party and Transferee.

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Executed this 27th day of April, 2009.

FIFTH THIRD BANK, a Michigan banking corporation

By: 
Name: KC Barker
Its: Vice President

Transfer Statement

TRADEMARK
REEL: 003980 FRAME: 0700

EXHIBIT B
(Secured Party Account)

Fifth Third Bank
ABA # 042000314
Acct.# 7230909686
Acct Name: Commercial Wire Acct.
REF.: Goldsmith