

**TRADEMARK ASSIGNMENT**

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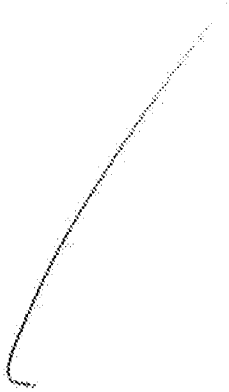
SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Rail Europe, Inc.		06/11/2010	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	New World Travel, Inc.		
<b>Street Address:</b>	1040 Avenue of the Americas		
<b>City:</b>	New York		
<b>State/Country:</b>	NEW YORK		
<b>Postal Code:</b>	10018		
<b>Entity Type:</b>	CORPORATION: NEW YORK		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
Registration Number:	3191401	DER DESTINATION EUROPE RESOURCES	
<b>CORRESPONDENCE DATA</b>			
Fax Number:	(248)566-8453		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	248-566-8452		
Email:	tmdocketing@honigman.com		
Correspondent Name:	Jennifer M. Hetu		
Address Line 1:	38500 Woodward Avenue		
Address Line 2:	Suite 100		
Address Line 4:	Bloomfield Hills, MICHIGAN 48304		
ATTORNEY DOCKET NUMBER:	230101-303156		
NAME OF SUBMITTER:	Jennifer M. Hetu		
Signature:	/jmh/		
Date:	10/25/2010		

CH \$40.00 3191401

**Total Attachments: 14**

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**AGREEMENT**  
**For the Sale and Purchase of Rights**  
**in the "DER" Trademarks**



THIS AGREEMENT is made the 11 day of June 2010 (the "Effective Date")

**BETWEEN:**

- (1) **RAIL EUROPE, INC.**, a Delaware corporation with a place of business at 44 South Broadway, White Plains, New York 10601 (the "**Seller**"); and
- (2) **NEW WORLD TRAVEL, INC.**, a New York corporation with a place of business at 1040 Avenue of the Americas, New York, New York 10018 (the "**Buyer**");

**WHEREAS**

- (A) The Seller is the owner of the Trademarks in the Territory in connection with travel-related services, and is the owner of the Domain Names.
- (B) The Buyer belongs to a group of companies who own numerous DER and DER-formative marks for travel related goods and services outside the Territory (the "**Buyer's Group**").
- (C) The Buyer's Group originally owned all rights in DER and DER-formative marks for travel-related goods and services worldwide; and this Agreement is intended to transfer rights that were assigned (through a series of assignments and transfers) to Seller back to Buyer.

**NOW THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION THE RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, IT IS AGREED** as follows:

**1 Definitions and Interpretation**

1.1 In this Agreement unless the context otherwise requires:

1.1.1 the words and expressions set out below shall have the following meaning;

"**Assets**" means all the assets identified and agreed to be sold pursuant to clause 2.1;

"**Business Day**" means a day (except a Saturday or a Sunday) on which the U.S. Federal Government is open for the transaction of normal government business;

"**Buyer's Group**" means any subsidiary, affiliate, licensee, parent, or sister company of Buyer;

"**Domain Names**" mean the internet domain names as listed in Part B of Schedule 1;

"**Excluded Business**" means any and all travel agency services pertaining explicitly to rail travel, travel information services pertaining explicitly to rail travel, or other products or services relating or pertaining explicitly to rail travel.

"**Effective Date**" means the date specified at the beginning of this Agreement;

"**Memorandum of Understanding**" means the understanding relating to the Trademarks and Domain Names dated February 5, 2010 between the Seller and Buyer;

"**Parties**" means Buyer and Seller;

"**Pre-contractual Statement**" means any agreement, undertaking, representation, warranty, promise, assurance or arrangement of any nature (which is express or implied and whether or not in written or draft form) made or given by any person prior to the execution of this Agreement in connection with any matters dealt with in this Agreement, including without limitation the Memorandum of Understanding;

"Purchase Price" means US \$850,000;

"RAIL EUROPE Name" means all business names, brand names, trade names, trademarks, service marks, domain names, web addresses and social media identifications that include the word or phrase "Rail Europe" and any and all derivatives thereof, and the Rail Europe logo

**RAILEUROPE**

"Tax" means all forms of taxation, deductions, withholdings, duties, imposts, levies, fees, charges and rates and any interest, additional taxation, penalty, surcharge or fine in connection therewith.

"Territory" means the North American continent.

"Trademarks" means all rights the Seller has in and to (i) the registered Trademarks and applications therefore listed in Part A of Schedule 1 and (ii) such other Trademarks, service marks, brand names, business names, logos or symbols (whether registered or not) as are owned by the Seller including the marks listed in Part A of Schedule 1 and any combination or formative of any of these marks (but excluding any components of such combination or formative elements that include the RAIL EUROPE Name or any other mark, name or brand of the Seller) including all associated goodwill, common law and business/trade name rights, and all other rights in connection therewith having similar or equivalent effect anywhere in the Territory, any and all rights to the translation or transliteration of the same and such rights as the Seller may have to sue for and obtain relief in respect of acts of infringement occurring prior to the date of this Agreement; and

"Trademark and Domain Name Assignment" means the Trademark and Domain Name assignment in the form set out in Schedule 2;

- 1.1.2 references to a clause or Schedule are to a clause of, or a schedule to, this Agreement, references to this Agreement include its Schedules and references to a part or paragraph are to a part or paragraph of a Schedule to this Agreement;
- 1.1.3 references to a party or parties shall be to a party or parties to this Agreement;
- 1.1.4 references to any U.S. legal term for any action, remedy, method of judicial proceeding, legal document, legal status, court, official or any legal concept or thing shall in respect of any jurisdiction other than the United States be deemed to include what most nearly approximates in that jurisdiction to the U.S. legal term;
- 1.1.5 words importing the singular include the plural and *vice versa*, words importing a gender include every gender and references to persons include corporations, partnerships and other unincorporated associations or bodies of persons;
- 1.1.6 the contents table and the headings to clauses, Schedules, parts and paragraphs are inserted for convenience only and shall be ignored in interpreting this Agreement; and
- 1.2 The Schedules form part of this Agreement.

## **2 Sale and Purchase**

- 2.1 Subject to the terms and conditions hereof, the Seller hereby agrees to sell to the Buyer, for the consideration set forth in clause 3, and the Buyer hereby agrees to purchase from the Seller in the Territory the following assets with effect from the Effective Date:
  - 2.1.1 the Trademarks; and
  - 2.1.2 the Domain Names.

- 2.2 With effect from the Effective Date, the Seller hereby agrees to assign to the Buyer the Trademarks by executing the Trademark and Domain Name Assignment effective as of the Effective Date. All costs associated with registering the Buyer as the new proprietor of the Trademarks and the Domain Names shall be borne by the Buyer.

### **3 Consideration**

- 3.1 The sum payable by the Buyer for the Assets shall be the Purchase Price.
- 3.2 The Buyer shall be responsible for any Tax, including any applicable sales Tax. The Purchase Price shall be paid in accordance with the provisions of clause 5.1 of this Agreement.

### **4 [NOT USED]**

### **5 Completion**

- 5.1 Upon the Effective Date the Seller shall deliver to the Buyer or to its designated counsel the Trademark and Domain Name Assignment, duly executed by the Seller, as well as copies of the records and documents in its possession, custody or control relating to the Trademarks and Domain Names in exchange for the Purchase Price, which shall be paid within five (5) business days by the Buyer to the Seller by wire transfer of immediately available funds, to the following account:

Rail Europe, Inc.'s Account details: Citibank N.A. BR #173; 220 Westchester Avenue, White Plains, New York 10601; ABA # 021000089; Account # 95913573; SWIFT Code: CITI US 33

### **6 Warranties and Limitation of Liability**

- 6.1 The Seller warrants to the Buyer that, save as fairly disclosed, each of the statements in clause 6.4 below is true and accurate in all respects as at the Effective Date (the "Warranties").
- 6.2 In each Warranty where any statement is qualified as being made "so far as the Seller is aware" or any similar expression such statements shall be deemed to be referred to the actual knowledge or awareness of any executive officer of the Seller.
- 6.3 Each of the Warranties:
- 6.3.1 shall be construed as a separate and independent warranty; and
- 6.3.2 unless expressly provided in this Agreement shall not be limited by reference to any other paragraph of the Warranties or by any other provision of this Agreement and the Buyer or the Seller (as the case may be) shall have a separate claim and point of action in respect of every breach of Warranty.
- 6.4 The Seller warrants as follows to the Buyer:
- 6.4.1 the Seller has been duly incorporated and validly exists and, so far as the Seller is aware (i) no order has been made or petition presented or resolution passed for the dissolution or reorganization in respect of the Seller; and (ii) no distress, execution or other process has been levied on any of its assets. No receiver or receiver and manager has been appointed by any person of the Seller's business or assets or any part thereof
- 6.4.2 the Seller has all the requisite corporate power to execute, deliver and perform this Agreement and the Trademark and Domain Name Assignment and has taken all necessary corporate or other action to authorise the execution, delivery and performance hereof. This Agreement and the Trademark and Domain Name Assignment will, when executed, constitute a legal, valid and binding obligation of the Seller in accordance with its terms;

- 6.4.3 the Seller is the sole legal and beneficial owner of the Trademarks listed in Part A of Schedule 1 and of the Domain Names listed in Part B of Schedule 1.
- 6.4.4 so far as the Seller is aware details of the Trademarks and the Domain Names set out in Part A and Part B of Schedule 1 respectively are correct and complete in all material respects;
- 6.4.5 none of the Trademarks listed as registered in Part A of Schedule 1 or the Domain Names listed in Part B of Schedule 1 has lapsed, or has been transferred, licensed, assigned, encumbered, revoked, cancelled, or otherwise disposed of;
- 6.4.6 all renewal fees regarding the Trademarks listed as Registered in Part A of Schedule 1 and the Domain Names listed in Part B of Schedule 1 due on or before the Effective Date have been paid before the Effective Date including, but without limitation to, such fees payable to the relevant Trademark registration offices and Trademark agencies;
- 6.4.7 so far as the Seller is aware, there are no threatened or active challenges, claims or proceedings (including, without limitation, for opposition, cancellation, revocation or rectification) relating to the validity or the subsistence of the Trademarks and the Domain Names or the Seller's right, title and interest in them;
- 6.4.8 so far as the Seller is aware the Trademarks and the Domain Names are not currently being infringed by any third party, and the Seller has received no written notice that any third party is currently threatening to engage in any such infringement;
- 6.4.9 the Seller is not aware that the Trademarks or the Domain Names are infringing any third party rights;
- 6.4.10 the Trademarks and the Domain Names are not subject to any existing charge, lien or security interest;
- 6.4.11 the Seller has granted no rights to third parties in respect of the Trademarks or the Domain Names;
- 6.4.12 so far as the Seller is aware, the Seller has not registered any domain names in respect of the Trademarks other than the domain name registrations listed in Part B of Schedule 1.
- 6.5 The Seller shall not be liable in respect of a claim for breach of a Warranty under this Agreement to the extent that the matter giving rise to the claim:
  - 6.5.1 would not have arisen or occurred but for an act, omission or transaction on the part of the Buyer or any of its directors or employees;
  - 6.5.2 occurs as a result of or is otherwise attributable to any legislation not in force at the date of the Effective Date or any change of law or administrative practice having retrospective effect which comes into force after the Effective Date.
- 6.6 The Buyer warrants to the Seller as follows:
  - 6.6.1 the Buyer has been duly incorporated and is validly existing and, so far as the Buyer is aware (i) no order has been made or petition presented or resolution passed for the dissolution or reorganization in respect of the Buyer; and (ii) no distress, execution or other process has been levied over any of its assets. No receiver or receiver and manager has been appointed by any person of the Buyer's business or assets or any part thereof;
  - 6.7 the Buyer has all the requisite corporate power to execute, deliver and perform this Agreement and has taken all necessary corporate or other action to authorise the execution, delivery and performance hereof. This Agreement constitutes (and each Ancillary Agreement will, when executed, constitute) a legal, valid and binding obligation of the Buyer in accordance with its terms.



- 6.8 The Seller shall have no liability under or otherwise in connection with this Agreement or the transactions contemplated hereby in excess of the Purchase Price as defined under Clause 1.1.1 (\$850,000) plus an additional one hundred thousand dollars (\$100,000) in the aggregate.
- 6.9 In no event shall either party have any liability under this Agreement, or otherwise in connection with the transactions contemplated hereby for special, speculative, incidental, punitive, indirect or consequential damages or for lost profits.

## **7 Further Undertakings**

- 7.1 The Seller acknowledges that although the parties intend that the ownership of the Trademarks and the Domain Names together with all rights title and interest therein will transfer to the Buyer after the Effective Date, to the extent that the Seller retains any such right, title or interest it will take additional steps to transfer such rights to the Buyer without further payment.
- 7.2 Within 30 days after the Effective Date, the Seller shall remove or delete or shall procure the removal or deletion of the Trademarks from all websites, things, materials and documents which are in possession of or in control of the Seller, or if such removal or deletion is impossible, the Seller shall destroy or procure the destruction of such things, materials and documents or shall inactivate the website(s).
- 7.3 The Seller shall not:
- 7.3.1 except with the prior written consent of the Buyer, use or permit others to use, the Trademarks, Domain Names, or variations thereof after the Effective Date, including but not limited to references for purposes of drawing a historical connection between the parties;
- 7.3.2 attempt to register or register or attempt to obtain or obtain any Trademarks comprising or containing the word DER the use of which is likely to cause confusion on the public in any area or country after the Effective Date;
- 7.3.3 attempt to register or register any domain names comprising the word "Der" after the Effective Date; and
- 7.4 The Seller undertakes that it will, at the request of the Buyer and at the Buyer's expense, execute all such documents as may be reasonably necessary to secure the vesting in the Buyer of any registered Trademarks or Domain Names, and to assist in the execution of any further documents that may be reasonably required to effectuate the intent of this Agreement.
- 7.5 The Parties agree to reasonably cooperate with each other by taking any other actions that may be reasonably required to effectuate the intent of this Agreement.
- 7.6 The Buyer and its parent, subsidiaries and affiliates, and any and all successors, assigns and licensees of same, agree not to utilize any of the Assets in connection with the Excluded Business in the Territory for a period of (10) ten years beginning on the Effective Date ("Exclusion Period"). The Buyer shall be obligated to contractually include this clause 7.6 restriction prominently in any transfer or assignment document relating to any of the Assets, any license of any of the Assets, and in connection with the transaction documents related to any change of control of the Buyer, and any such assignee, transferee or licensee must agree in writing to the restriction relating to the Exclusion Period as a condition for such assignment, transfer, license or change of control. Any assignment, transfer, license or change of control relating to or involving the Assets that does not include in its provisions the restriction set forth in this clause 7.6 shall be null and void. Nothing in this clause shall prevent the Buyer from engaging in the Excluded Business upon request of customers or as part of a package of travel products or services, provided that Buyer is not promoting, marketing, offering or otherwise distributing rail travel products or services using the Trademarks or the Domain Names in the Territory. Nothing in this clause shall prevent Buyer from the Excluded Business outside of the

Territory, including via Domain Names that may be incidentally accessible to (but not targeted to) customer in the Territory.

- 7.7 The Buyer acknowledges that (i) all names and marks (other than the Assets) used or owned by Seller, including without limitation the RAIL EUROPE Name, are and shall remain the property of The Seller, (ii) nothing in this Agreement shall transfer or shall operate as an agreement to transfer any right, title or interest in and to any such other names or marks used or owned by the Seller, including without limitation the RAIL EUROPE Name, to The Buyer and (iii) the Seller is not granting to the Buyer a license to use, and the Buyer shall not have any right, title or interest in or to any other such names or marks used or owned by the Seller, including without limitation the RAIL EUROPE Name. To the extent Seller owns any rights in a combination of the RAIL EUROPE Name with any of the Assets, Seller agrees to abandon the rights in the combination so that no rights in or to the Assets are incidentally granted under this Paragraph.

## 8 General

8.1 Each party agrees that:

8.1.1 this Agreement supersedes any prior discussions, understandings and agreements between the parties concerning their subject matter including, without limitation, the Memorandum of Understanding, and, together with the Schedules, constitutes the entire and only agreement between the parties concerning such subject matter;

8.1.2 this Agreement has not been entered into in reliance on any Pre-contractual Statement which is not expressly set out in this Agreement and each party hereby unconditionally and irrevocably waives any claims, rights or remedies arising by virtue of any Pre-contractual Statement not set out in this Agreement; and

8.2 The only rights or remedies available to either party in connection with this Agreement are damages for breach of contract and, except as otherwise provided in this Agreement, no party may terminate or rescind this Agreement for breach of contract or for negligent or innocent misrepresentation or otherwise, provided always that nothing in this Agreement shall exclude or limit any liability or right which arises as a result of any fraudulent or dishonest act, omission or statement. No neglect, delay or indulgence on the part of either party in enforcing any term of this Agreement will be construed as a waiver of any such term and no single or partial exercise of any rights or remedy under this Agreement will preclude or restrict the further exercise or enforcement of any such right or remedy.

8.3 No purported alteration of this Agreement shall be effective unless it is in writing, refers to this Agreement and is duly executed by each party.

8.4 Seller may not assign its obligations or rights under this Agreement. Buyer may assign the rights and obligations under this Agreement, provided that the assignee agrees in writing to be bound by the terms of this Agreement, including, but not limited to, the provisions in clause 7.6.

8.5 This Agreement may be entered into in any number of counterparts and by the parties to it on separate counterparts, each of which when executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument which shall not be effective until each party has executed at least one counterpart.

8.6 Each provision of this Agreement is severable and distinct from the others. The parties intend that every such provision shall be and remain valid and enforceable to the fullest extent permitted by law. If any such provision is or at any time becomes to any extent or in any circumstances invalid, illegal or unenforceable for any reason, that provision shall to that extent be deemed not to form part of this Agreement but (except to that extent in the case of that provision) it and all other provisions of this Agreement shall continue in full force and effect and their validity, legality and enforceability shall not be thereby affected or impaired provided that the operation on this clause 8.6 would not negate the commercial intent and purpose of the parties under this Agreement. The parties shall use all reasonable endeavours to replace the invalid, illegal or

unenforceable provision by a provision which has as close an effect as is possible to the provision which no longer forms a part of this Agreement.

- 8.7 Buyer shall be responsible for its respective legal and other costs incurred in relation to the negotiation, preparation and completion of this Agreement and all ancillary documents. Buyer shall also be responsible for reimbursing Seller's reasonable legal costs, up to a maximum of \$10,000. Such costs shall be paid within sixty (60) days after Seller provides Buyer with itemized invoices detailing the services provided and the cost associated with such services.

**9 Notices**

- 9.1 A notice or other communication given under or in connection with this Agreement (a "Notice") shall be:
- 9.1.1 in writing;
- 9.1.2 in the English language; and
- 9.1.3 sent by the Permitted Method to the Notified Address (as defined in clause 9.2).
- 9.2 The Permitted Method means any of the methods set out in the first column below, the second column setting out the date on which a Notice given by such Permitted Method shall be deemed to be given provided the Notice is properly addressed and sent in full to the Notified Address:

(1) Permitted Method	(2) Date on which Notice deemed given
Personal delivery	When delivered at the Notified Address if delivered before 6.00 p.m. on any Business Day and in any other case at 9.00 a.m. on the Business Day following delivery
First class pre-paid post or commercial courier (e.g. Federal Express or DHL)	Two Business Days after posting
Pre-paid air-mail	Six Business Days after posting
Facsimile transmission	On completion of transmission if between the hours of 9.00 a.m. and 6.00 p.m. (being the time at the place of receipt), on the relevant Business Day, at 9.00 a.m. (being the time at the place of receipt) if sent on a Business Day but prior to 9.00 a.m. (being the time at the place of receipt) on such Business Day, or otherwise at 9.00 a.m. (being the time at the place of receipt) on the next succeeding Business Day
Electronic Mail transmission	Two Business Days after posting

9.3 The notified addresses (each a "Notified Address") of each of the parties is as set out below:

Name of Party	Address	Facsimile number	Marked for the attention of:
RAIL EUROPE, INC.	44 South Broadway, White Plains, New York 10601	1-914-681-7297	Ms. Angie Haritos cc: Mr. Frederic Langlois
NEW WORLD TRAVEL, INC.	1040 Avenue of the Americas, New York, New York 10018	1-212-888-2375	Mr. Peter Dorner

or such other Notified Address as any of the parties may, by written notice to the other parties, substitutes for their Notified Address set out above.

9.4 In providing service (without prejudice to any other means) it shall only be necessary to prove:

9.4.1 by post that the notice was contained in an envelope properly addressed and posted as provided in this clause 9;

9.4.2 by facsimile transmission that the notice or document was duly received by production of a copy facsimile bearing the addressee's answerback code or automatic record or correct transmission.

## 10 Governing law and jurisdiction

10.1 The terms of this Agreement shall apply to the Territory and this Agreement shall be governed by and construed in accordance with the laws of the state of New York and U.S. federal laws applicable therein.

10.2 The courts of New York shall have exclusive jurisdiction over any dispute arising out of or in connection with this Agreement.

IN WITNESS WHEREOF this Agreement has been signed on behalf of the parties below.

RAIL EUROPE, INC.

NEW WORLD TRAVEL, INC.

By: Frederic Langlois  
 Name: Frederic Langlois  
 Title: President and CEO  
 Date: June 11<sup>th</sup> 2010

By: Peter Dorner  
 Name: Peter Dorner  
 Title: President & CEO  
 Date: June 11, 2010

**Schedule 1**  
**Trademarks and Domain Names**

Part A – Trademarks

DER  
DER & Design *[show design element]*  
DER DESTINATION EUROPE RESOURCES & Design *[show design element]*  
DER SELECT  
DER TRAVEL SERVICES  
DER TRAVEL SERVICES & Design *[show design element]*  
DERRESOLUTION  
DER, U.S. Reg. No. 2,268,776  
DER DESTINATION EUROPE RESOURCES & Design, U.S. Reg. No. 3,191,401

Part B – Domain Names

DER.COM  
DERTRAVEL.COM  
DERTRAVELGROUP.COM  
DERTRAVELTEAM.COM  
DERAIRANDCAR.COM  
DERAIRANDCARS.COM  
DERAIR.COM



F. 1



**ASSIGNMENT OF TRADEMARKS**

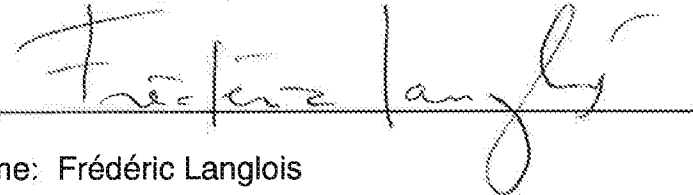
WHEREAS, Rail Europe, Inc. ("Assignor"), with a place of business at 44 South Broadway, White Plains, New York 10601, and its predecessors-in-interest have used the trademark DER in the North American travel field since at least 1990 and is the owner of the U.S. Trademark Registration Nos. shown in the attached Exhibit A, and associated common law rights;

WHEREAS, New World Travel, Inc. ("Assignee"), with a place of business at 1040 Avenue of the Americas, New York, New York 10018, is desirous of acquiring all of Assignor's rights to the DER trademark and the goodwill symbolized by the trademark;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, said Assignor does hereby assign unto the said Assignee all right, title and interest in and to the said trademarks, together with the goodwill of the business symbolized by the trademarks, and the above-identified applications and registrations thereof.

RAIL EUROPE, INC.

Dated: June 11, 2010

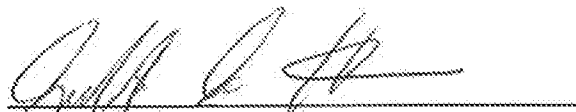
By: 

Name: Frédéric Langlois

Title: President & CEO

STATE OF New York                    )  
  ) ss.  
COUNTY OF New York                )

On this 11<sup>th</sup> day of June, 2010, personally appeared before me Frédéric Langlois, the person who signed this instrument, and who acknowledged that he is authorized to sign on behalf of the Assignor, and he signed it on behalf of Assignor for the uses and purposes therein mentioned.

  
Notary Public

ANGELIKA A. HARITOS  
Notary Public, State of New York  
No.: 4786667  
Qualified in Westchester County  
Commission Expires: July 31, 2013

**EXHIBIT A TO TRADEMARK ASSIGNMENT**

DER, U.S. Reg. No. 2,268,776

DER DESTINATION EUROPE RESOURCES & Design, U.S. Reg. No. 3,191,401

DER

DER & Design

DER DESTINATION EUROPE RESOURCES & Design

DER SELECT

DER TRAVEL SERVICES

DER TRAVEL SERVICES & Design

DERRESOLUTION

1

F.1