

# TRADEMARK ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT																																
<b>NATURE OF CONVEYANCE:</b>	SECURITY INTEREST																																
<b>CONVEYING PARTY DATA</b>																																	
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Fax Number: (914)288-0023 <i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i> Phone: (914) 821-9078 Email: tmdocket@leasonellis.com Correspondent Name: Maren C. Perry/Leason Ellis LLP Address Line 1: One Barker Avenue, Fifth Floor Address Line 4: White Plains, NEW YORK 10601																																	

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**TRADEMARK**  
 REEL: 004613 FRAME: 0906

ATTORNEY DOCKET NUMBER:	03503/808000-000
NAME OF SUBMITTER:	Maren C. Perry
Signature:	/mcp/
Date:	08/30/2011
<p>Total Attachments: 12 source=00145379#page1.tif source=00145379#page2.tif source=00145379#page3.tif source=00145379#page4.tif source=00145379#page5.tif source=00145379#page6.tif source=00145379#page7.tif source=00145379#page8.tif source=00145379#page9.tif source=00145379#page10.tif source=00145379#page11.tif source=00145379#page12.tif</p>	

## TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement (this "Agreement"), dated as of August 9, 2011, is made by and among TWIRLS AND TWIGS, INC. (the "Client"), ANDREW LIGGETT, BEVERLY LIGGETT, the ANDREW AND BEVERLY LIGGETT FAMILY TRUST, BRETT DALTON, SHAWNA DALTON and the BRETT AND SHAWNA DALTON TRUST (collectively, the "Guarantor") and FCC, LLC, a Florida limited liability company doing business as First Capital Western Region, LLC ("FCC").

### Recitals

Client and FCC are parties to a Factoring and Security Agreement dated November 18, 2010 (as the same may have been and hereafter be amended, supplemented or restated from time to time, collectively the "Factoring Agreement").

As a condition to extending credit to or for the account of TWIRLS AND TWIGS, INC., FCC 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 Obligation (as defined in the Factoring Agreement) of Client of every type and description arising under or in connection with the Factoring Agreement which Client may now or at any time hereafter owe to FCC, whether such 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).

"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 A**.

2. Security Interest. Client hereby irrevocably pledges and assigns to, and grants FCC a security interest (the "Security Interest") with power of sale to the extent permitted

by law, in the Trademarks to secure payment of the Obligations. 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) **Trademarks.** **Exhibit A** 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 A** 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 A** (other than common law marks which are not material to the Client's or any Affiliate's business(es)), or if **Exhibit A** ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then Client shall promptly provide written notice to FCC with a replacement **Exhibit A**, which upon acceptance by FCC shall become part of this Agreement.

(b) **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 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 FCC of such item(s) and cause such Affiliate to execute and deliver to FCC a trademark security agreement substantially in the form of this Agreement.

(c) **Title.** Client identified as the owner of each Trademark on Exhibit A has absolute title to each Trademark listed thereon, free and clear of all liens. Client (i) will have, at the time the Client acquires any rights in Trademarks hereafter arising, absolute title to each such Trademark free and clear of all Liens and (ii) will keep all Trademarks free and clear of all Liens.

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

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

(f) **Maintenance.** Client will at its own expense maintain the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain letters Trademark registrations and all affidavits, maintenance fees,

annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. Client covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Trademark, nor fail to file any required affidavit or renewal in support thereof, without first providing FCC: (i) sufficient written notice, of at least 30 days, to allow FCC to timely pay any such maintenance fees or annuities which may become due on any 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.

(g) **FCC'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 FCC 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 FCC that they intend to abandon a Trademark, FCC 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 FCC's option, in FCC's own name) and may (but need not) take any and all other actions which FCC may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

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

(i) **Power of Attorney.** To facilitate FCC's taking action under subsection (i) and exercising its rights under Section 6, Client hereby irrevocably appoints (which appointment is coupled with an interest) FCC, or its delegate, as the attorney-in-fact of the 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 the Client, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by the Client under this Section 3, or, necessary for FCC, after a Default, to enforce or use the Trademarks or to grant or issue any exclusive or non-exclusive license under the Trademarks or to party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the 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 Trademarks. Client shall be permitted to control and manage the Trademarks, including the right to exclude others from making, using or selling items covered by the 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, FCC may, at its option, take any or all of the following actions:

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

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

(c) FCC may enforce the Trademarks and any licenses thereunder, and if FCC shall commence any suit for such enforcement, Client shall, at the request of FCC, do any and all lawful acts and execute any and all proper documents required by FCC 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 FCC. A waiver signed by FCC 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 FCC's rights or remedies. All rights and remedies of FCC shall be cumulative and may be exercised singularly or concurrently, at FCC'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. FCC shall not be obligated to preserve any rights the Client may have against prior parties, to realize on the Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of Client and FCC and their respective participants, successors and assigns and shall take effect when signed by Client and delivered to FCC, and Client waives notice of FCC's acceptance hereof. FCC may execute this Agreement if appropriate for the purpose of filing, but the failure of FCC 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 Agreement as of the date first written above.

TWIRLS AND TWIGS, INC.

By: 

Shawna Dalton, President

FCC, LLC, d/b/a FIRST CAPITAL WESTERN  
REGION, LLC

By: 

Name:

Kenneth P. Shoop

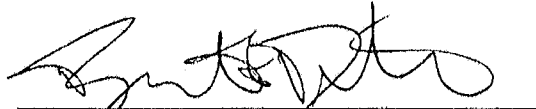
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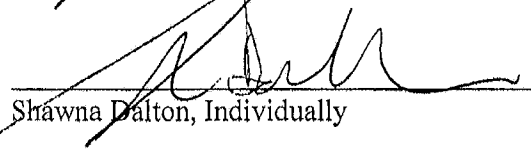


### ACKNOWLEDGMENT AND AGREEMENT

The undersigned Guarantors acknowledge the foregoing Trademark Security Agreement and agree that their Continuing Guaranty in favor of FCC dated November 18, 2010, remains in full force and effect, subject to no right of offset, claim or counterclaim.




Brett Dalton, Individually

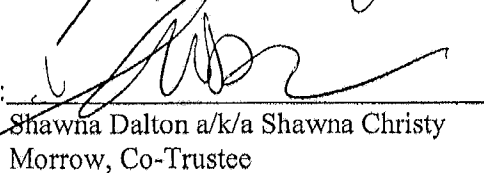


Shawna Dalton, Individually

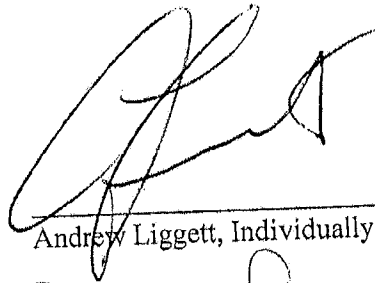
BRETT AND SHAWNA DALTON  
TRUST

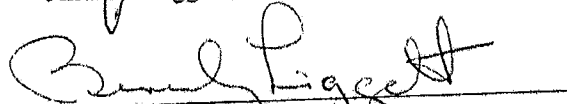
By: 

Brett Dalton, Co-Trustee

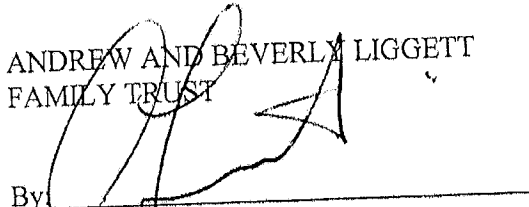
By: 


Shawna Dalton a/k/a Shawna Christy  
Morrow, Co-Trustee

  
\_\_\_\_\_  
Andrew Liggett, Individually

  
\_\_\_\_\_  
Beverly Liggett, Individually

ANDREW AND BEVERLY LIGGETT  
FAMILY TRUST

  
By \_\_\_\_\_  
Andrew Liggett, Co-Trustee

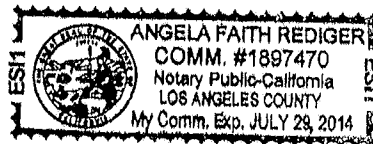
  
By \_\_\_\_\_  
Beverly Liggett, Co-Trustee

STATE OF CALIFORNIA                    )  
  ) SS:  
COUNTY OF Los Angeles            )

On 8/9, 2010, before me, Angela F. Rediger, Notary Public, personally appeared Shawna Dalton a/k/a Shawna Christy Morrow, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Angela F. Rediger (Signature of Notary)

(Seal of Notary)

EXHIBIT A

UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS

AND COLLECTIVE MEMBERSHIP MARKS

REGISTRATIONS

<u>Mark</u>	<u>Registration Number</u>	<u>Registration Date</u>
CRITTER BRIGADE	3,792,937	May 25, 2010

UNITED STATES  
PENDING APPLICATIONS

N/A

COLLECTIVE MEMBERSHIP MARKS

N/A

UNREGISTERED MARKS

N/A

FOREIGN ISSUED TRADEMARKS, SERVICE MARKS

AND COLLECTIVE MEMBERSHIP MARKS

REGISTRATIONS

N/A

PENDING APPLICATIONS

N/A

COLLECTIVE MEMBERSHIP MARKS

N/A

UNREGISTERED MARKS

N/A