

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
DK Holding Company, LLC		12/20/2013	LIMITED LIABILITY COMPANY: DELAWARE
RECEIVING PARTY DATA			
Name:	Fifth Third Bank		
Street Address:	38 Fountain Square Plaza		
City:	Cincinnati		
State/Country:	OHIO		
Postal Code:	45263		
Entity Type:	Banking corporation: OHIO		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	3783528	GREEN EARTH MEMORIAL LINE	
Registration Number:	2459869	DEATON-KENNEDY COMPANY	
CORRESPONDENCE DATA			
Fax Number:	3122585600		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	312-258-5724		
Email:	cbollinger@schiffhardin.com		
Correspondent Name:	Chris L. Bollinger		
Address Line 1:	P.O. Box 06079		
Address Line 2:	Schiff Hardin LLP		
Address Line 4:	Chicago, ILLINOIS 60606-0079		
ATTORNEY DOCKET NUMBER:	27662-0056		
NAME OF SUBMITTER:	Chris L. Bollinger		

Signature:	/Chris L. Bollinger/
Date:	02/25/2014
Total Attachments: 14 source=2-21 - SecondLien#page1.tif source=2-21 - SecondLien#page2.tif source=2-21 - SecondLien#page3.tif source=2-21 - SecondLien#page4.tif source=2-21 - SecondLien#page5.tif source=2-21 - SecondLien#page6.tif source=2-21 - SecondLien#page7.tif source=2-21 - SecondLien#page8.tif source=2-21 - SecondLien#page9.tif source=2-21 - SecondLien#page10.tif source=2-21 - SecondLien#page11.tif source=2-21 - SecondLien#page12.tif source=2-21 - SecondLien#page13.tif source=2-21 - SecondLien#page14.tif	

EXECUTION COPY

PATENT, COPYRIGHT, LICENSE AND TRADEMARK SECURITY AGREEMENT
(Senior Subordinated Loan)

THIS PATENT, COPYRIGHT, LICENSE AND TRADEMARK SECURITY AGREEMENT ("Agreement") is made as of December 20, 2013 by **DK Holding Company, LLC**, a Delaware limited liability company ("DK Holding"), in favor of **Fifth Third Bank**, an Ohio banking corporation ("Bank").

WITNESSETH:

WHEREAS, DK Holding, Messenger Holding Corp., a Delaware corporation ("Holdings"), Messenger, LLC, a Delaware limited liability company ("Borrower" and, together with DK Holding and Holdings, collectively, the "Obligors" and, individually, an "Obligor"), and Bank are parties to that certain Senior Subordinated Loan and Security Agreement dated as of August 9, 2013 (as the same may be amended, modified or supplemented from time to time, the "Loan Agreement");

WHEREAS, Obligors desire to amend the Loan Agreement pursuant to that certain Amendment No. 1 to Senior Subordinated Loan and Security Agreement dated as of December 20, 2013 among Obligors and Bank (the "Amendment"); and

WHEREAS, it is a condition to the effectiveness of the Amendment and any extensions of credit to or for the benefit of the Borrower under the Loan Agreement that, among other things, DK Holding enter into this Agreement;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DK Holding agrees as follows:

1. **Incorporation of Loan Agreement.** The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. Terms used herein which are not defined herein but are defined in the Loan Agreement shall have the meanings ascribed to them therein.

2. **Grant of Security Interest, Etc.** To secure the complete and timely satisfaction of all of each Obligor's Liabilities DK Holding hereby grants to the Bank a security interest in and to all of DK Holding's right, title and interest in, to and under all of the following, whether now existing or hereafter arising:

(i) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those registrations and applications for registration of patents listed on Schedule A attached hereto and made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements

thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in clauses (a) through (d), inclusive, in which DK Holding now or hereafter has any right, title or interest are sometimes hereinafter individually and/or collectively referred to as the “Patents”);

(ii) all copyrights, copyright registrations and copyright applications including, without limitation, the registrations and applications for registration of copyrights listed on Schedule B attached hereto and made a part hereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing copyrights, copyright registrations and copyright applications, together with the items described in clauses (a) through (d), inclusive, in which DK Holding now or hereafter has any right, title or interest are sometimes hereinafter individually and/or collectively referred to as the “Copyrights”);

(iii) all DK Holding’s rights and obligations pursuant to its license agreements with any other Person or Persons with respect to any Patents and Copyrights, whether DK Holding is a licensor or licensee under any such license agreements and, subject to the terms of such licenses, the right to prepare for sale, sell and advertise for sale, all Inventory now or hereafter owned by DK Holding and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to collectively as the “Patent and Copyright Licenses”);

(iv) all service marks, trademarks, trademark or service mark registrations, trademark or service mark applications, domain names and trade names including, without limitation, the registrations and applications for registration of trademarks listed on Schedule C attached hereto and made a part hereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all the foregoing service marks, trademarks, registrations, applications and trade names, together with the items described in clauses (a) through (d), inclusive, with respect thereto in which DK Holding now or hereafter has any right, title or interest are sometimes hereinafter and/or collectively referred to as the “Marks”);

(v) all DK Holding’s rights and obligations pursuant to its license agreements with any other Person or Persons with respect to any Marks, whether DK Holding is a licensor or licensee under any such license agreements and, subject to the terms of such licenses, the right to prepare for sale, sell and advertise for sale, all Inventory now or hereafter owned by DK Holding and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to as “Trademark Licenses”; Patent and Copyright Licenses and Trademark Licenses are hereinafter referred to collectively as “Licenses”); and

(vi) the goodwill of DK Holding’s business connected with and symbolized by the Marks;

provided, however, that there shall be excluded from the foregoing grant of security interest any of the existing Licenses to which DK Holding is a licensee (and any Patents, Marks and Copyrights currently licensed by others to DK Holding pursuant to such Licenses) in each case to the extent (but only to the extent) that the applicable License constitutes Excluded Collateral; provided further, however, that, DK Holding shall use reasonable efforts to eliminate all Security Restrictions affecting any License constituting Excluded Collateral existing on the date hereof and, after the date hereof, prior to the occurrence thereof.

3. Restrictions on Future Agreements. DK Holding agrees and covenants that until the Liabilities (other than Contingent Indemnification Claims) shall have been satisfied in full, DK Holding will not, without Bank's prior written consent, take any action or enter into any agreement, including, without limitation entering into any license agreement, which is inconsistent with DK Holding's obligations under this Agreement, and DK Holding further agrees and covenants that without Bank's prior written consent it will not take any action, or permit any action to be taken by others subject to its control, including its licensees, or fail to take any action which would affect the validity or enforcement or nature of the rights transferred to Bank under this Agreement. Except to the extent expressly permitted by the Loan Agreement, DK Holding agrees and covenants not to sell or assign its interest in, or grant any license under, the Patents, Marks, Copyrights or Licenses, without receiving the prior written consent of Bank thereto.

4. Certain Covenants, Representations and Warranties of DK Holding. DK Holding covenants, represents and warrants (to the best of DK Holding's knowledge with respect to any Patents, Marks and Copyrights which are licensed by third parties to DK Holding) that: (i) the Patents, Marks, Copyrights and Licenses are subsisting, have not been adjudged invalid or unenforceable in whole or in part, and are not currently being challenged in any way that could reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect; (ii) except as otherwise expressly permitted under the Loan Agreement, none of the Patents, Marks, Copyrights and Licenses have lapsed or expired or have been abandoned, whether due to any failure to pay any maintenance or other fees or make any filing or otherwise; (iii) each of the Patents, Marks, Copyrights and Licenses is valid and enforceable (except to the extent the failure to be valid or enforceable could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect) and DK Holding is unaware of any invalidating prior art (including public uses and sales) relative to the Patents, and is unaware of any impairments to the Patents, Marks, Copyrights or Licenses which would have a material adverse effect on the validity and/or enforceability of the Patents, Marks, Copyrights or Licenses; (iv) to the best of DK Holding's knowledge, no claim has been made that the use of any of the Patents, Marks, Copyrights or Licenses constitutes an infringement; (v) DK Holding owns the entire right, title and interest in and to each of the Patents, Marks and Copyrights (other than those being licensed to DK Holding pursuant to the Licenses) free and clear of any Liens and encumbrances of every kind and nature, and the Licenses are valid and subsisting licenses with respect to the Patents, Marks, Copyrights described therein (except to the extent the failure to be valid or subsisting could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect), free and clear of any Liens and encumbrances of every kind and nature arising by, through or under DK Holding, in each case except for (A) rights granted by DK Holding pursuant to the applicable Licenses, and (B) Liens permitted by clauses (a), (c), (d), (h), (j) and

(m) of Section 6.1 of the Loan Agreement; (vi) the Patents, Marks and Copyrights listed on Schedules A, B and C constitute all registrations and applications for registration of Patents, Marks and Copyrights in which DK Holding has any right, title or interest; (vii) DK Holding has the unqualified right to enter into this Agreement and perform its terms; (viii) DK Holding will use proper statutory notice in connection with its use of the Patents, Marks and Copyrights (except as to any thereof which is no longer material to DK Holding's business); and (ix) DK Holding will use standards of quality in its manufacture of products sold under the Marks consistent with those currently employed by it.

5. New Patents, Marks, Copyrights and Licenses. If, before the Liabilities shall have been satisfied in full, DK Holding shall (i) obtain rights to any new patentable inventions, trademarks, service marks, trademark or service mark registrations, copyrights, copyright registrations, trade names or licenses, or (ii) become entitled to the benefit of any patent, trademark or service mark application, trademark, service mark, trademark or service mark registration, copyrights, copyright registrations, license or license renewal, or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of Section 2 above shall automatically apply thereto and DK Holding shall give to Bank written notice thereof at the time of the delivery of each Compliance Certificate. DK Holding hereby authorizes Bank to modify this Agreement by noting any future acquired Patents, Marks, Copyrights on Schedule A, B or C, as applicable; provided, however, that the failure of Bank to make any such notation shall not limit or affect the obligations of DK Holding or rights of Bank hereunder.

6. Royalties; Terms. DK Holding hereby agrees that the security interest of Bank in all Patents, Marks, Copyrights and Licenses as described above shall be worldwide (or in the case of the Patents, Marks and Copyrights licensed to DK Holding such smaller geographic location if any is specified for DK Holding's use in the applicable License) and, without any liability for royalties or other related charges from Bank to DK Holding. The term of the security interest granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Marks, Copyrights and Licenses assigned hereunder, or (ii) satisfaction in full of the Liabilities.

7. Inspection. From and after the occurrence and during the continuance of a Default and notice by Bank to DK Holding of Bank's intention to enforce its rights and claims against any of the Patents, Marks, Copyrights and Licenses, DK Holding agrees that Bank, or a conservator appointed by Bank, shall have the right to establish such additional product quality controls as Bank or said conservator, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold by DK Holding under the Marks consistent with the quality of products now manufactured by DK Holding.

8. Termination of DK Holding's Interest. This Agreement is made for collateral purposes only. Upon satisfaction in full of the Liabilities, subject to any disposition thereof which may have been made by Bank pursuant hereto or pursuant to any of the other Financing Agreements, the security interest granted hereunder shall automatically be extinguished. Bank shall, at the request of DK Holding and at DK Holding's reasonable expense, execute and deliver to DK Holding, all termination statements and other instruments as may be necessary or proper

to evidence the termination of Bank's security interest granted to Bank pursuant to this Agreement, subject to any disposition thereof which may have been made by Bank pursuant hereto or pursuant to any of the other Financing Agreements. Any such termination statements and instruments shall be without recourse upon or warranty by Bank.

9. Duties of DK Holding. Except to the extent the same is no longer material to DK Holding's business, DK Holding shall have the duty (i) to prosecute diligently any application with respect to Patents, Marks and Copyrights, in each case pending as of the date hereof or hereafter, (ii) to make application on unpatented but patentable inventions and on registerable but unregistered trademarks, service marks and copyrights, and (iii) to preserve, maintain and enforce against infringement all rights in patent applications and patents constituting the Patents, in trademark or service mark applications, trademarks, service marks, and trademark or service mark registrations constituting the Marks, and in copyright applications, copyrights and copyright registrations constituting the Copyrights. Any expenses incurred in connection with the foregoing (including, but not limited to, maintenance or renewal fees) shall be borne by DK Holding. Except to the extent the same is no longer material to DK Holding's business or except to the extent expressly permitted by the Loan Agreement, DK Holding shall not abandon any pending patent application, trademark application, copyright application, service mark application, patent, trademark, service mark or copyright without the written consent of Bank.

10. Bank's Right to Sue. From and after the occurrence and during the continuance of a Default, Bank shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Patents, the Marks, the Copyrights and the Licenses, and any licenses thereunder, and, if Bank shall commence any such suit, DK Holding shall, at the request of Bank, do any and all lawful acts and execute any and all proper documents reasonably required by Bank in aid of such enforcement, and DK Holding shall promptly, upon demand, reimburse and indemnify Bank for all reasonable costs and expenses incurred by Bank in the exercise of its rights under this Section 10.

11. Waivers. No course of dealing between DK Holding and Bank, nor any failure to exercise, nor any delay in exercising, on the part of Bank, any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

12. Severability. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

13. Modification. This Agreement cannot be altered, amended or modified in any way, except as specifically provided in Section 5 hereof or by a writing signed by the parties hereto.

14. Further Assurances. DK Holding shall execute and deliver to Bank, at any time or times hereafter at the reasonable request of Bank, all papers (including, without limitation, any as may be deemed desirable by Bank for filing or recording with any Patent and Trademark Office, and any successor thereto) and take all such actions (including, without limitation, paying the cost of filing or recording any of the foregoing in all public offices reasonably deemed desirable by Bank), as Bank may reasonably request, to evidence Bank's interest in the Patents, Marks, Copyrights and Licenses and the goodwill associated therewith and enforce Bank's rights under this Agreement.

15. Cumulative Remedies; Power of Attorney; Effect on Financing Agreements. All of Bank's rights and remedies with respect to the Patents, Marks, Copyrights and Licenses, whether established hereby, by any of the Financing Agreements or otherwise, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. DK Holding hereby constitutes and appoints Bank as DK Holding's true and lawful attorney-in-fact, with full power of substitution in the premises, with power at any time after the occurrence and during the continuance of a Default, to (i) endorse DK Holding's name on all applications, documents, papers and instruments determined by Bank as necessary or desirable for Bank in the use of the Patents, Marks, Copyrights and Licenses, (ii) take any other actions with respect to the Patents, Marks, Copyrights and Licenses as Bank deems in good faith to be in the best interest of Bank, (iii) grant or issue any exclusive or non-exclusive license under the Patents, Marks or Copyrights to any Person, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Patents, Marks, Copyrights or Licenses to any Person. DK Holding hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until the Liabilities shall have been satisfied in full. DK Holding acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of Bank under the Loan Agreement or any of the Financing Agreements but rather is intended to facilitate the exercise of such rights and remedies. Bank shall have, in addition to all other rights and remedies given it by the terms of this Agreement, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents, Marks, Copyrights or Licenses may be enforced. DK Holding hereby releases the Bank from any and all claims, causes of action and demands at any time arising out of or with respect to any actions taken or omitted to be taken by the Bank under the powers of attorney granted herein.

16. Binding Effect; Benefits. This Agreement shall be binding upon DK Holding and its respective successors and assigns and shall inure to the benefit of Bank and its successors and assigns.

17. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH, AND ANY DISPUTE BETWEEN THE PARTIES HERETO ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THIS AGREEMENT AND THE OTHER FINANCING AGREEMENTS, AND WHETHER ARISING IN CONTRACT, TORT, EQUITY, OR OTHERWISE, SHALL BE RESOLVED IN ACCORDANCE WITH, THE INTERNAL LAWS, AND NOT THE CONFLICTS OF LAW PROVISIONS, OF THE STATE OF ILLINOIS.

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The delivery of an executed counterpart of a signature page or acceptance to this Agreement by telecopier or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

19. Entire Agreement. This Agreement, together with the other Financing Agreements, contains all the terms and conditions of the agreement between Bank and Obligors relating to the subject matter hereof; provided that nothing herein or in any of the other Financing Agreements shall be construed to supersede, or to have merged into, any of the FTSFG Senior Debt Documents, all of which will remain in full force and effect.

20. Acknowledgement Regarding FTSFG Senior Lender. Notwithstanding anything to the contrary herein, so long as FTSFG Senior Lender is an affiliate of Bank, until the FTSFG Senior Debt has been paid in full and the FTSFG Senior Debt Loan Agreement has terminated:


(a) Any provision hereof that requires any Obligor to deliver any Collateral to Bank or provide Bank with control (within the meaning of the Uniform Commercial Code) over such Collateral may be satisfied by (1) the delivery of such Collateral by such Obligor to FTSFG Senior Lender under the FTSFG Senior Debt Documents and (2) providing that FTSFG Senior Lender be provided with such control with respect to such Collateral of such Obligor; and

(b) Any notice required to be delivered by any Obligor to Bank under this Agreement shall be deemed timely delivered if such notice is timely delivered by such Obligor to FTSFG Senior Lender under that certain Patent, Copyright, License and Trademark Security Agreement dated as of even date herewith among DK Holding and FTSFG Senior Lender.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have entered into this Patent, Copyright, License and Trademark Security Agreement as of the date first above written.

DK HOLDING COMPANY, LLC

By: 
Name: Nathan J. Good
Title: Vice President

The undersigned accepts and agrees to the foregoing Patent, Copyright, License and Trademark Security Agreement as of the date first written above in Chicago, Illinois.

FIFTH THIRD BANK

By: _____
Name: _____
Title: _____


IN WITNESS WHEREOF, the parties hereto have entered into this Patent, Copyright, License and Trademark Security Agreement as of the date first above written.

DK HOLDING COMPANY, LLC

By: _____
Name: _____
Title: _____

The undersigned accepts and agrees to the foregoing Patent, Copyright, License and Trademark Security Agreement as of the date first written above in Chicago, Illinois.

FIFTH THIRD BANK

By: 
Name: Harrison S. Muller
Title: V.P.

SCHEDULE A
PATENTS AND PATENT APPLICATIONS

None.

SCHEDULE B

COPYRIGHTS

<u>Copyrights</u>	<u>Registration Number</u>	<u>Registration Date</u>
Praying Hands	VA0001242319	12/18/2003
Stained Glass	VA0001242321	12/18/2003
Dove with Cross	VA0001242320	12/18/2003
Gazebo and Stream Oil Painting	VAu000978039	12/10/2008
Eternal Light	VAu000620191	12/24/2003
Gazebo	VAu000620192	12/24/2003
Deer Painting Oil on Canvas	VAu000652161	12/8/2004
Church and Bridge Oil Painting	VAU000976883	12/10/2008

SCHEDULE C

TRADEMARKS, SERVICE MARKS

<u>Marks</u>	<u>Registration Number</u>	<u>Registration Date</u>
Green Earth Memorial Live	3783528	5/4/2010
Deaton-Kennedy Company	2459869	3/20/2001

SPECIAL POWER OF ATTORNEY
(Patent, Trademark, Copyright and License)
(Senior Subordinated Note)

STATE OF)
) SS.
COUNTY OF)

KNOW ALL MEN BY THESE PRESENTS, that DK Holding Company, LLC, a Delaware limited liability company (“DK Holding”), pursuant to that certain Patent, Copyright, License and Trademark Security Agreement, dated December 20, 2013 (the “Collateral Agreement”; terms used herein which are not defined herein but are defined in the Collateral Agreement shall have the meanings ascribed to them therein) between DK Holding and Fifth Third Bank, an Ohio banking corporation (“Bank”), each hereby appoints and constitutes Bank its true and lawful attorney, with full power of substitution, and with full power and authority to perform the following acts on behalf of DK Holding at and during the time periods specified in the Collateral Agreement:

1. Assigning, selling or otherwise disposing of all right, title and interest of DK Holding in and to the patents, copyrights, licenses and trademarks listed on Schedules A, B and C of the Collateral Agreement, and including those patents copyrights and licenses which are added to the same subsequent hereto, and all registrations and recordings thereof, and all pending applications therefor, and for the purpose of the recording, registering and filing of, or accomplishing any other formality with respect to, the foregoing, and to execute and deliver any and all agreements, documents, instruments of assignment or other writings necessary or advisable to effect such purpose; and
2. To execute any and all documents, statements, certificates or other writings necessary or advisable in order to effect the purposes described above as Bank may in its sole discretion determine.

This power of attorney is made pursuant to that certain Senior Subordinated Loan and Security Agreement, dated as of August 9, 2013, among the Obligors and the Bank and may not be revoked until the payment in full of all liabilities and obligations of the Obligors under such Senior Subordinated Loan and Security Agreement.

DK HOLDING COMPANY, LLC



By: _____

Name: Nathan J. Good

Title: Vice President