

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM573329

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	AMENDED AND RESTATED SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
EMPYR INCORPORATED		04/22/2020	Corporation: DELAWARE
RECEIVING PARTY DATA			
Name:	TRINITY FUNDING 1, LLC		
Street Address:	3075 West Ray Road Suite 525		
City:	Chandler		
State/Country:	ARIZONA		
Postal Code:	85226		
Entity Type:	Limited Liability Company: DELAWARE		
PROPERTY NUMBERS Total: 5			
Property Type	Number	Word Mark	
Serial Number:	87209592	CPR	
Serial Number:	87209576	CPIR	
Serial Number:	86733289	EMPYR	
Registration Number:	4138699	MEAL FOR A MEAL	
Registration Number:	4114978	MOGL	
CORRESPONDENCE DATA			
Fax Number:	6028525499		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	6028525500		
Email:	uspto@hoolcourylaw.com		
Correspondent Name:	Michael D. Hool		
Address Line 1:	2398 E Camelback Road, Hool Coury Law		
Address Line 4:	Phoenix, ARIZONA 85016		
NAME OF SUBMITTER:	Michael D. Hool		
SIGNATURE:	/Michael D. Hool/		
DATE SIGNED:	04/23/2020		
Total Attachments: 10			
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**AMENDED AND RESTATED INTELLECTUAL
PROPERTY SECURITY AGREEMENT**

THIS AMENDED AND RESTATED INTELLECTUAL PROPERTY SECURITY AGREEMENT (“Agreement”) dated as of April 22, 2020, is made by EMPYR INCORPORATED, a Delaware corporation (“Empyr”); CLO HOLDING COMPANY, LLC, a Delaware limited liability company (“Holding”); and FIGG, INC., a Delaware corporation (“Figg”) (collectively, the “Grantor”), in favor of TRINITY FUNDING 1, LLC, a Delaware limited liability company (“Lender”).

RECITALS

A. Empyr and Trinity Capital Fund III, L.P. (“TCF III”) are parties to a Master Loan and Security Agreement dated as of March 31, 2018 (as amended, restated or modified from time to time, the “Loan and Security Agreement”).

B. TCF III assigned its interest in the Loan and Security Agreement and all related Loan Documents to Trinity Funding III, LLC (“TFIII”) on January 13, 2020; and TFIII merged into Lender, with Lender as the surviving entity, on January 16, 2020.

C. Empyr is party to certain documents associated with the Contribution Agreement by and among Holding, Figg and certain other parties dated as of April 22, 2020 (the “Contribution Agreement”) pursuant to which Empyr intends to assign substantially all of its assets to Holding (the “Sale Transaction”).

D. In connection with the Sale Transaction and pursuant to the Contribution Agreement, Empyr intends to assign its interest in the Loan and Security Agreement and related Loan Documents to Holding, Figg and Holding intends to assume and become bound to the obligations under the Loan and Security Agreement and related Loan Documents, pursuant to the Loan Assignment, Assumption dated April 22, 2020 (the “Loan Assignment”).

E. Lender and Grantor desire to amend, replace and restate the Intellectual Property Security Agreement entered into on March 31, 2018 between TCF III and Empyr with this Agreement. All capitalized terms used but not defined herein shall have the respective meanings given to them in the Loan and Security Agreement.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Loan and Security Agreement, Grantor hereby represents, warrants, covenants and agrees as follows:

AGREEMENT

1. Grant of Security Interest. To secure its obligations under the Loan and Security Agreement, Grantor grants and pledges to Lender for its benefit a security interest in all of Grantor’s right, title and interest in, to and under its intellectual property (all of which shall collectively be called the “Intellectual Property Collateral”), including, without limitation, the following:

(a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing,

created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the “Copyrights”);

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights that may be available to Grantor now or hereafter existing, created, acquired or held;

(d) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions, re-examination certificates, utility models, and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the “Patents”);

(e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the “Trademarks”);

(f) All mask works or similar rights available for the protection of semiconductor chips, now owned or hereafter acquired, including, without limitation those set forth on Exhibit D attached hereto (collectively, the “Mask Works”);

(g) Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(h) All licenses or other rights to use any of the Copyrights, Patents, Trademarks, or Mask Works and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(i) All amendments, renewals and extensions of any of the Copyrights, Trademarks, Patents, or Mask Works; and

(j) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

2. Recordation. Grantor authorizes the Commissioner for Patents, the Commissioner for Trademarks and the Register of Copyrights and any other government officials to record and register this Agreement upon request by Lender.

Grantor hereby authorizes Lender to (a) modify this Agreement unilaterally by amending the exhibits to this Agreement to include any Intellectual Property Collateral which Grantor obtains subsequent to the date of this Agreement and (b) file a duplicate original of this Agreement containing amended exhibits reflecting such new Intellectual Property Collateral.

3. Loan Documents. This Agreement has been entered into pursuant to and in conjunction with the Loan and Security Agreement, which is hereby incorporated by reference. The provisions of the Loan and Security Agreement shall supersede and control over any conflicting or inconsistent provision herein. The rights and remedies of Lender with respect to the Intellectual Property Collateral are as provided by the Loan and Security Agreement and related documents, and nothing in this Agreement shall be deemed to limit such rights and remedies.

4. Execution in Counterparts. This Agreement and any amendments, waivers, consents

or supplements hereto may be executed in any number of counterparts, and by different parties hereto in separate counterparts, each of which when so delivered shall be deemed an original, but all of which counterparts shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile, portable document format (.pdf) or other electronic transmission will be as effective as delivery of a manually executed counterpart hereof.

5. Successors and Assigns. The provisions of this Agreement shall inure to the benefit of the parties hereto and their respective successors and assigns. Grantor shall not assign its obligations under this Agreement without Lender's express prior written consent, and any such attempted assignment shall be void and of no effect. Lender may assign, transfer, or endorse its rights hereunder pursuant to the terms of the Loan and Security Agreement without prior notice to Grantor, and all of such rights shall inure to the benefit of Lender's successors and assigns.

6. Governing Law. This Agreement has been negotiated and delivered to Lender in the State of California, and shall have been accepted by Lender in the State of California. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California, excluding conflict of laws principles that would cause the application of laws of any other jurisdiction.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Amended and Restated Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

LENDER:

TRINITY FUNDING 1, LLC,
a Delaware limited liability company

By: TRINITY CAPITAL INC.
a Maryland corporation
Its: Managing Member

Susan Echard

By: _____
Name: Susan Echard
Its: Chief Financial Officer

GRANTOR:

EMPYR INCORPORATED, a Delaware corporation

Signed: _____
By: _____
Its: _____

CLO HOLDING COMPANY, LLC, a Delaware limited liability company

Signed: _____
David A. Kristal, Executive Chairman

FIGG, INC., a Delaware corporation

Signed: _____
David A. Kristal, Executive Chairman

[SIGNATURE PAGE TO AMENDED AND RESTATED INTELLECTUAL PROPERTY SECURITY AGREEMENT]

IN WITNESS WHEREOF, the parties have caused this Amended and Restated Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

LENDER:

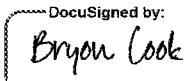
TRINITY FUNDING 1, LLC,
a Delaware limited liability company

By: TRINITY CAPITAL INC.
a Maryland corporation
Its: Managing Member

By: _____
Name: Susan Echard
Its: Chief Financial Officer

GRANTOR:

EMPYR INCORPORATED, a Delaware corporation

Signed:  _____
By: Bryon Cook
Its: Chief Executive Officer

CLO HOLDING COMPANY, LLC, a Delaware limited liability company

Signed: _____
David A. Kristal, Executive Chairman

FIGG, INC., a Delaware corporation

Signed: _____
David A. Kristal, Executive Chairman

[SIGNATURE PAGE TO AMENDED AND RESTATED INTELLECTUAL PROPERTY SECURITY AGREEMENT]

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LENDER:

TRINITY FUNDING 1, LLC,
a Delaware limited liability company

By: TRINITY CAPITAL INC.
a Maryland corporation
Its: Managing Member

By: _____
Name: Susan Echard
Its: Chief Financial Officer

GRANTOR:

EMPYR INCORPORATED, a Delaware corporation

Signed: _____
By: William Ruh
Its: Executive Chairman

CLO HOLDING COMPANY, LLC, a Delaware limited liability company

Signed: _____
David A. Kristal, Executive Chairman

FIGG, INC., a Delaware corporation

Signed: _____
David A. Kristal, Executive Chairman

[SIGNATURE PAGE TO AMENDED AND RESTATED INTELLECTUAL PROPERTY SECURITY AGREEMENT]

EXHIBIT A
COPYRIGHTS

None.

EXHIBIT B

PATENTS

<u>Description</u>	<u>Patent / Application Number</u>	<u>Issue / Application Date</u>
Consumer rewards platform featuring variable cash back rewards based on time of day	14/606,998	01/27/2015
Methods for Providing Digital Incentives Including a Digital Incentives Switch for Matching Transactions and Incentives	8,799,065	08/04/2014
Card linked Offer Trafficking	14/511,599	10/10/2014
Card-Linked Offer Based on Deal Construct	14/290,617	05/29/2014

EXHIBIT C

TRADEMARKS

Description	Registration/ Serial Number	Registration/ Application Date
CPR	87/209,592	10/20/2016
CPIR	87/209,576	10/20/2016
EMPYR	86/733,289	08/21/2015
MEAL FOR A MEAL	4,138,699	05/08/2012
MOGL	4,114,978	03/20/2012
MYPREWARDS	4,043,006	10/18/2011
PREWARDS	3,493,667	08/26/2008
EDO	3,825,655	07/27/2010

EXHIBIT D

MASK WORKS

None.