

01-14-2002

SHEET

U.S. DEPARTMENT OF COMMERCE

Patent and Trademark Office



101944482

To the Honorable Commis

ned original documents or copy thereof.

1. Name of conveying party(ies):
VENEMAN FURNITURE, INC.,
A California Corporation

Additional name(s) of conveying parties attached? Yes No

1/7/02

2. Name and address of receiving parties:
CATALYST EQUITY FUND, L.P.
248 Main Street, Suite 100
Half Moon Bay, California 94019

A Delaware limited partnership

If Assignee is not domiciled in the United States, a domestic representative designation is attached yes no

Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance: **Security Interest**

Execution Date: November 7, 2001

4. Application number(s) or Registration number(s):

A. Trademark Application No(s):
75-616447

B. Trademark Registration No(s)

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Timothy R. Rupp, Esq.
 RIORDAN & MCKINZIE
 600 Anton Boulevard, Suite 1800
 Costa Mesa, California 92626

6. Total number of applications and registrations involved in this security agreement: [1]

7. Total fee (37 CFR 3.41) \$ **40.00**

Enclosed Check No. [92757]
 Any additional fees which may be required are authorized to be charged to deposit account No.

8. Deposit account number: N/A
 (Attach duplicate copy of this page if paying by deposit account)

01/14/2002 TDIAZ1 00000178 75616447
 01 FC:481 40.00 OP

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Timothy R. Rupp
Name of Person Signing

Signature

11/13/01
Date

Total number of pages including cover sheet, attachments, and documents: [17 including check & post card]

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
 Box Assignments
 Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the date needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C., 20503.

TRADEMARK AND PATENT SECURITY AGREEMENT

THIS TRADEMARK AND PATENT SECURITY AGREEMENT (this "Agreement"), dated as of November 7, 2001, is entered into by and between VENEMAN FURNITURE, INC., a California corporation ("Guarantor"), having an office 5 Marconi, Irvine, California 92618, and CATALYST EQUITY FUND, L.P., a Delaware corporation ("Secured Party"), having an office at 248 Main Street, Suite 100, Half Moon Bay, California 94019, with reference to the following facts:

RECITALS

A. Guarantor has adopted, used and is using, and is the owner of the entire right, title, and interest in and to the trademarks, trade names, terms, designs and applications therefor described in Schedule A annexed hereto, and the patents and applications therefor described in Schedule B annexed hereto and made a part hereof.

B. Secured Party has agreed to invest in Tropitone Furniture Co., Inc., a Florida corporation and the parent of Guarantor ("Parent") pursuant to a Securities Purchase Agreement of even date herewith (the "Purchase Agreement"). Except as otherwise provided herein, terms defined in the Purchase Agreement shall have the same meanings when used herein.

C. Guarantor has issued a Guarantee of even date herewith to Secured Party with respect to all of the Obligations of Parent under the Purchase Agreement.

D. All of the provisions of this Trademark and Patent Security Agreement are subject to the terms and conditions of that certain Subordination Agreement dated November 7, 2001, by and between Purchaser and the Bank.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Guarantor and Secured Party agree as follows:

1. Security Interest. Guarantor hereby grants to Secured Party a security interest in:

a. All of Guarantor's now existing or hereafter acquired right, title, and interest in and to: all of Guarantor's trademarks, trade names, trade styles and service marks; all prints and labels on which such trademarks, trade names, trade styles and service marks appear, have appeared or will appear, and all designs and general intangibles of a like nature; all applications, registrations and recordings relating to the foregoing in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other countries, and all reissues, extensions and renewals thereof including those trademarks, terms, design and applications described in Schedule A hereto (collectively, the "Trademarks");

b. The goodwill of the business symbolized by each of the Trademarks, including, without limitation, all customer lists and other records relating to the distribution of products or services bearing the Trademarks;

c. All of Guarantor's now existing or hereafter acquired right, title and interest in and to: all of Guarantor's interests in any patents, whether foreign or domestic; all applications, registrations and recordings relating to such patents in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state thereof, any political subdivision thereof and all reissues, extensions and renewals thereof, including, without limitation, those patents, applications, registrations and recordings described in Schedule B hereto (the "Patents"); and

d. Any and all proceeds of any of the foregoing, including, without limitation, any claims by Guarantor against third parties for infringement of the Trademarks, Patents or of any licenses with respect thereto (all of the foregoing are collectively referred to herein as the "Collateral").

2. Obligations Secured. The security interests granted to Secured Party in this Agreement shall secure the prompt and indefeasible payment and performance of the Obligations.

3. Warranties And Covenants. Guarantor hereby covenants, represents and warrants that (all of such covenants, representations and warranties being continuing in nature so long as any of the Obligations are outstanding):

a. All of the existing Collateral is valid and subsisting in full force and effect to Guarantor's knowledge, and Guarantor owns sole, full, and clear title thereto, and has (subject to potential third party prior rights in confusingly similar marks, of which the Company is currently not aware) the right and power to grant the security interests granted hereunder. Guarantor will, at Guarantor's expense, perform all acts and execute all documents reasonably necessary to maintain the existence of the Collateral as valid and subsisting and maintain the trademark registration and issued patents, including, without limitation, the filing of any renewal affidavits and applications. The Collateral is not subject to any Lien, except the security interest granted hereunder, the licenses, if any, which are specifically described in Schedule C hereto and Permitted Liens.

b. Guarantor will not assign, sell, mortgage, lease, transfer, pledge, hypothecate, grant a security interest in or Lien upon, encumber, grant an exclusive or non-exclusive license relating to any of the Collateral, except to Secured Party, or otherwise dispose of any of the Collateral without the prior written consent of Secured Party.

c. Guarantor will, at Guarantor's expense, perform all acts and execute all documents reasonably requested at any time by Secured Party to evidence, perfect, maintain, record, or enforce the security interest in the Collateral granted hereunder or to

otherwise further the provisions of this Agreement. Guarantor hereby authorizes Secured Party to execute and file one or more financing statements (or similar documents) with respect to the Collateral. Guarantor further authorizes Secured Party to have this Agreement or any other similar security agreement filed with the Commissioner of Patents and Trademarks or other appropriate federal, state or government office.

d. Guarantor will, concurrently with the execution and delivery of this Agreement, execute and deliver to Secured Party five (5) originals of a Power of Attorney in the form of Exhibit 1 annexed hereto for the implementation of the assignment, sale or other disposition of the Collateral pursuant to Secured Party's exercise of the rights and remedies granted to Secured Party hereunder. Secured Party agrees it will only exercise the Power of Attorney upon the occurrence and during the continuation of an Event of Default under the Purchase Agreement.

e. Secured Party may, in its sole discretion, pay any amount or do any act which Guarantor fails to pay or do as required hereunder or as reasonably requested by Secured Party to maintain and preserve the Collateral, defend, protect, record, amend or enforce the Obligations, the Collateral, or the security interest granted hereunder including but not limited to, the payment of all filing or recording fees, court costs, collection charges and reasonable attorneys' fees. Guarantor will be liable to Secured Party for any such payment, which payment shall be deemed a borrowing by Guarantor from the Lenders, and shall be payable on demand together with interest at the rate set forth in the Note and shall be part of the Obligations secured hereby.

f. As of the date hereof, Guarantor does not have any Trademarks or Patents registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States other than those described in Schedules A and B annexed hereto.

g. Guarantor shall notify Secured Party in writing of the filing of any application for the registration of a Trademark or Patent with the United States Patent and Trademark Office or any similar office or agency in the United States or any state therein within fifteen (15) days of such filing. Upon request of Secured Party, Guarantor shall execute and deliver to Secured Party any and all amendments to this Agreement as may be reasonably requested by Secured Party to evidence the security interests of Secured Party in such Trademark or Patent.

h. Guarantor has not abandoned any of the Trademarks or Patents material to the conduct of the business and Guarantor will not do any act, nor omit to do any act, whereby the Trademarks or Patents material to the conduct of the business may become abandoned, canceled, invalidated, unenforceable, avoided, or avoidable. Guarantor shall notify Secured Party immediately if Guarantor knows or has reason to know of any reason why any application, registration, or recording of a material Trademark or Patent may become abandoned, canceled, invalidated, unenforceable, avoided, or avoidable.

i. Guarantor will take such actions in any proceeding before the United States Patent and Trademark Office, any federal or state court, or any similar office or agency in the United States or any state therein or any other country as are reasonably necessary to maintain such application and registration of the material Trademarks or Patents as Guarantor's exclusive property and to protect Secured Party's interest therein, including, without limitation, filing of renewals, affidavits of use, affidavits of incontestability and opposition, interference, and cancellation proceedings.

j. Guarantor will promptly notify Secured Party if Guarantor (or any affiliate or subsidiary thereof) learns of any use by any person of any term or design likely to cause confusion with any material Trademark or of any use by any person of any other process or product which infringes upon any material Patent or Trademark. Guarantor, at Guarantor's expense, shall take such action as is necessary for the protection of Secured Party's interest in and to the Trademarks or Patents.

k. Guarantor will maintain the quality of the products associated with the Trademarks at a level consistent with the quality at the time of this Agreement. Guarantor hereby grants to Secured Party the right to visit Guarantor's plant and facilities which manufacture or store products sold under any of the Trademarks and to inspect the products and quality-control records relating thereto at such times as permitted in the Investment Documents.

4. Rights And Remedies. Upon the occurrence of a default or Event of Default under the Purchase Agreement and during the continuance thereof, in addition to all other rights and remedies of Secured Party, whether provided under applicable law, the Investment Documents or otherwise, and after expiration of any grace period, Secured Party shall have the following rights and remedies which may be exercised without notice to, or consent by, Guarantor, except as such notice or consent is expressly provided for hereunder.

a. Secured Party may make use of any Trademarks or Patents for the sale of goods or rendering of services in connection with enforcing any other security interest granted to Secured Party by Guarantor or any subsidiary of Guarantor.

b. Secured Party may grant such license or licenses relating to the Collateral for such term or terms, on such conditions, and in such manner as Secured Party shall deem reasonably appropriate, except that Secured Party agrees to provide Guarantor with ten (10) days prior written notice of any proposed license of the Collateral. Such license or licenses may be general, special, or otherwise and may be granted on an exclusive or non-exclusive basis throughout all or any part of the United States of America, its territories and possessions, and all foreign countries.

c. Secured Party may assign, sell, or otherwise dispose of the Collateral or any part thereof, either with or without special conditions or stipulations, except that Secured Party agrees to provide Guarantor with ten (10) days prior written notice of any proposed disposition of the Collateral. Secured Party shall have the power to buy the

Collateral or any part thereof, and Secured Party shall also have the power to execute assurances and perform all other acts which Secured Party may, in Secured Party's sole discretion, deem appropriate or proper to complete such assignment, sale or disposition. In any such event, Guarantor shall be liable for any deficiency.

d. In addition to the foregoing, in order to implement the assignment, sale, or other disposition of any of the Collateral pursuant to subparagraph 4C hereof, Secured Party may at any time execute and deliver on behalf of Guarantor, pursuant to the authority granted in the Powers of Attorney described in subparagraph 3E hereof, one or more instruments of assignment of the Trademarks or Patents (or any application, registration, or recording relating thereto), in form suitable for filing, recording or registration. Guarantor agrees to pay Secured Party on demand all costs incurred in any such transfer of the Collateral, including, but not limited to, any taxes, fees, and reasonable attorneys' fees.

e. Secured Party may apply the proceeds actually received from any such license, assignment, sale or other disposition of Collateral first to the reasonable costs and expenses thereof, including, without limitation, reasonable attorneys' fees and all legal, travel, and other expenses which may be incurred by Secured Party. Thereafter, Secured Party may apply any remaining proceeds to such of the Obligations as Secured Party may in its sole discretion determine. Guarantor shall remain liable to Secured Party for any expenses or obligations remaining unpaid after the application of such proceeds, and Guarantor will pay Secured Party on demand any such unpaid amount, together with interest at the default rate set forth in the Note.

f. In the event that any such license, assignment, sale or disposition of the Collateral (or any part thereof) is made after the occurrence and during the continuance of an Event of Default, Guarantor shall supply to Secured Party or Secured Party's designee Guarantor's knowledge and expertise relating to the manufacture and sale of the products and services bearing the Trademarks or to which the Patents relate and Guarantor's customer lists and other records relating to the Trademarks and Patents and the distribution thereof.

Nothing contained herein shall be construed as requiring Secured Party to take any such action at any time. All of Secured Party's rights and remedies, whether provided under law, the Agreements, this Agreement, or otherwise, shall be cumulative and none is exclusive. Such rights and remedies may be enforced alternatively, successively, or concurrently.

5. Miscellaneous.

a. Any failure or delay by Secured Party to require strict performance by Guarantor of any of the provisions, warranties, terms and conditions contained herein or in any other agreement, document, or instrument, shall not affect Secured Party's right to demand strict compliance and performance therewith, and any waiver of any Event of Default shall not waive or affect any other Event of Default, whether prior or subsequent

thereto, and whether of the same or of a different type. None of the warranties, conditions, provisions, and terms contained herein or in any other agreement, document, or instrument shall be deemed to have been waived by any act or knowledge of Secured Party, its agents, officers, or employees, but only by an instrument in writing, signed by an officer of Secured Party and directed to Guarantor, specifying such waiver.

b. All notices, requests and demands to or upon the respective parties hereto shall be deemed to have been duly given or made: if by hand, immediately upon delivery; if by facsimile (fax), telex or telegram, immediately upon sending; if by any overnight delivery service, one day after dispatch; and if mailed by first class or certified mail, three (3) days after mailing. All notices, requests and demands are to be given or made to the respective parties at the following addresses (or to such other addresses as either party may designate by notice in accordance with the provisions of this paragraph):

If to Guarantor: Veneman Furniture, Inc.
5 Marconi
Irvine, California 92618
Attn: Randy Danielson

With a copy to: Knobbe, Martens, Olson & Bear
620 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attn: Andrew Simpson

If to Secured Party: Catalyst Equity Fund, L.P.
248 Main Street, Suite 100
Half Moon Bay, California 94019
Attn: George N. Skegas

c. In the event any term or provision of this Agreement conflicts with any term or provision of the Purchase Agreement, the term or provision of the Purchase Agreement shall control.

d. In the event that any provision hereof shall be deemed to be invalid by any court, such invalidity shall not affect the remainder of this Agreement.

e. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. No provision hereof shall be modified, altered or limited except by a written instrument expressly referring to this Agreement signed by the party to be charged thereby.

f. The security interest granted to Secured Party shall terminate upon termination of the Purchase Agreement and indefeasible payment in full to the Lenders of all Obligations.

g. THE VALIDITY, INTERPRETATION AND EFFECT OF THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE UNITED STATES OF AMERICA AND THE LAWS OF THE STATE OF CALIFORNIA. GUARANTOR HEREBY IRREVOCABLY CONSENTS AND SUBMITS IN ADVANCE TO THE NON-EXCLUSIVE JURISDICTION OF THE STATE OR FEDERAL COURTS LOCATED WITHIN THE COUNTY OF LOS ANGELES IN THE STATE OF CALIFORNIA, TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES PERTAINING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT, THE OTHER AGREEMENTS OR TO ANY MATTER ARISING THEREFROM IN ANY SUCH ACTION OR PROCEEDING. GUARANTOR AGREES THAT SERVICE OF SUMMONS AND COMPLAINT OR OTHER PROCESS OR PAPERS MAY BE MADE OUTSIDE SUCH COUNTY IN SUCH MANNER AS MAY BE PERMISSIBLE UNDER THE RULES OF SUCH COURTS.

h. THE PARTIES TO THIS AGREEMENT ACKNOWLEDGE THAT JURY TRIALS OFTEN ENTAIL ADDITIONAL EXPENSES AND DELAYS NOT OCCASIONED BY NONJURY TRIALS. THE PARTIES TO THIS AGREEMENT AGREE AND STIPULATE THAT A FAIR TRIAL MAY BE HAD BEFORE A STATE OR FEDERAL JUDGE IN A COURT BY MEANS OF A BENCH TRIAL WITHOUT A JURY. IN VIEW OF THE FOREGOING, AND AS A SPECIFICALLY NEGOTIATED PROVISION OF THIS AGREEMENT, EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

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IN WITNESS WHEREOF, Guarantor and Secured Party have executed this Agreement as of the day and year first above written.

Secured Party:

Guarantor:

Catalyst Equity Fund, L.P.


Veneman Furniture, Inc.

By: Catalyst Equity Fund Partners, L.L.C.

By: _____

Name: _____

Title: _____

By: 
George N. Skegas
Managing Member

IN WITNESS WHEREOF, Guarantor and Secured Party have executed this Agreement as of the day and year first above written.

Secured Party:

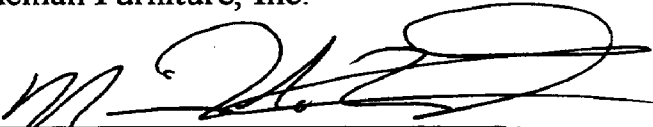
Catalyst Equity Fund, L.P.

By: Catalyst Equity Fund Partners, L.L.C.

By: _____
George N. Skegas
Managing Member

Guarantor:

Veneman Furniture, Inc.

By: 
Name: MICHAEL L. ECHOLD
Title: PRESIDENT

SCHEDULE A
to
TRADEMARK AND PATENT SECURITY AGREEMENT

Trademarks / Service Marks

Trademark/
Service Mark

VENEMAN

Registration No.

75-616,447
(application number)

Registration
Date

Pending

SCHEDULE B
to
TRADEMARK AND PATENT SECURITY AGREEMENT

Patents and Applications

<u>Title</u>	<u>Patent No./ Application No.</u>	<u>Filing Issue Date</u>
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None

SCHEDULE C
to
TRADEMARK AND PATENT SECURITY AGREEMENT

Permitted Licenses

The Guarantor has oral or written agreements with the 29 international distributors set forth on Exhibit 3.21 to the Disclosure Schedules to the Purchase Agreement pursuant to which the Guarantor has granted non-exclusive, limited licenses to such distributors to use the Trademarks for promotional purposes.