

08-20-2002

Form PTO-1594



HEET

U.S. DEPARTMENT OF COMMERCE

(Rev. 03/01)

Patent and Trademark Office

OMB No. 0651-0027 (exp. 5/31/2002)

61912-1022

To the Honorable Commissioner

102195968

attached original documents or copy thereof.

<p>1. Name of conveying party(ies):</p> <p>Beauty Supply San Francisco, Inc. <i>07-23-02</i></p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation - State of California <input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying parties attached? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>2. Name and address of receiving parties:</p> <p>Freeman Beauty Store Holdings LLC a California limited liability company 16030 Ventura Boulevard Suite 320 Encino, California 91436</p> <p>If Assignee is not domiciled in the United States, a domestic representative designation is attached <input type="checkbox"/> yes <input type="checkbox"/> no</p> <p>Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance:</p> <p><input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____</p> <p>Execution Date: <u>February 28, 1999</u></p>	
<p>4. Application number(s) or Registration number(s):</p> <p>A. Trademark Application No(s):</p>	<p>B. Trademark Registration No(s) <u>1,673,448</u></p> <p>Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Rod S. Berman, Esq. Jeffer, Mangels, Butler & Marmaro LLP Tenth Floor 2121 Avenue of the Stars Los Angeles, California 90067-5010</p>	<p>6. Total number of applications and registrations involved in this request for correction: <u>[1]</u></p> <p>7. Total fee (37 CFR 3.41) \$ <u>40.00</u></p> <p><input checked="" type="checkbox"/> Enclosed</p> <p>Any additional fees which may be required are authorized to be charged to Deposit Account No. <u>10-0440</u>.</p> <p>8. Deposit account number:</p> <p>(Attach a duplicate copy of this page if paying by deposit account)</p>

DO NOT USE THIS SPACE

08/19/2002 DRYNE 00000118 1673448
Statement and signature. 40.00 DP

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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.

Brett Saevitzon Member
Name of Person Signing

[Signature]
Signature

7.15.02
Date

Total number of pages including cover sheet, attachments, and document: [9]

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

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

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ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement (the "Agreement") is entered into as of February 28, 1999 by and between Freeman Beauty Store Holdings LLC, a California limited liability company ("Buyer"), on the one hand, and Elana Laub ("Laub"), John Dellar ("Dellar") and Beauty Supply-San Francisco, Inc., a California corporation ("BSSF"), on the other hand, with reference to the following facts:

RECITALS

- A. BSSF is the owner of seven beauty supply stores (collectively, the "Business") located at the addresses set forth on Schedule 1 (collectively the "Store Locations"). Laub and Dellar are the sole shareholders of BSSF.
- B. BSSF wants to sell, and Buyer wants to buy, all of the Assets (as defined below) of the Business other than the Excluded Assets (as defined below), together with the goodwill of the Business; on the terms and conditions set forth below.
- C. The parties hereto desire to set forth herein their entire agreement with respect thereto.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises set forth in this Agreement, and subject to the contingencies and conditions precedent set forth below, the parties hereby agree as follows:

1. AGREEMENT OF PURCHASE AND SALE:

1.1 Assets to Be Sold: On the terms and subject to the conditions set forth in this Agreement, on the Closing Date (defined below), BSSF shall convey, transfer, assign, sell,

quitclaim and deliver to Buyer, and Buyer shall acquire, accept and purchase all of the assets, properties and rights of the Business, wherever located, together with the goodwill of BSSF (collectively, the "Assets"), free and clear of any lien, mortgage, pledge, security interest, or other encumbrance of any kind or nature whatsoever ("Liens"), except to the extent set forth herein. The Assets include, but are not limited to, BSSF's interest, if any, in the following:

(a) all beauty supply products, Inventory (as defined below), licenses, business licenses, equipment, hairdressing equipment, beautician equipment, two (2) delivery trucks, cash registers, computers, computer hardware, computer servers, computer networks, computer software (including the "Retail Pro" software referred to below), credit card readers, bar code readers, signage, neon signs, security equipment, rights to web sites, urls, domain names, surveillance equipment, leasehold security deposits, utility deposits, other security deposits and rights to receive refunds, fixtures and the leases for the Store Locations (collectively, the "Store Leases") (including tenant improvements and remodeling work thereon);

(b) all inventories of product, drums, containers, packing materials, spare parts, and other similar items of the Business which exist as of the Closing Date (the "Inventory") and BSSF's rights to receive products ordered (but not yet delivered) as of the Closing Date;

(c) all claims and rights under purchase orders placed by BSSF with suppliers, purchase orders placed by customers with BSSF, if any, licenses and contracts to which BSSF is a party;

(d) the accounts receivable, if any, and notes receivable of BSSF outstanding as of the Closing Date, including the account receivable payable to BSSF by Nailware (the "Nailware Account Receivable") in the approximate amount of \$5,193 as of December 31, 1998 (collectively, the "Accounts Receivable");

(e) all designs, engineering and manufacturing drawings, bills of materials, manufacturing processes, vendor lists, and customer lists and files used by BSSF in its business;

(f) all copyrights, service marks, trademarks (including but not limited to the "Lips" trademark and service mark and all artwork in connection therewith, but subject to the repurchase right of Laub described in Section 3.4 hereof), trade names, trade secrets, know-how, discoveries, concepts, ideas, formulas, prototypes, technologies, trade dress, trade packaging rights, inventions, processes, and intellectual property and other proprietary rights of BSSF used in its Business; and

(g) all other property, rights and proprietary rights of any kind of BSSF used in the Business including but not limited to goodwill.

1.2 Excluded Assets: The Assets shall not include the assets identified on Schedule 1.2 (the "Excluded Assets"), all of which shall be retained by BSSF.

1.3 No Assumption of Liabilities: Buyer is not assuming, and shall not be deemed by anything contained in this Agreement to have assumed, any liability or obligation of BSSF or the Business whatsoever, other than as set forth in Section 2.1 or as expressly set forth herein. BSSF shall remain obligated to pay the liability, if any, with respect to periods prior to the Closing Date asserted by As You Sow, as described in the Disclosure Exception Letter (Schedule 5).

1.4 Computer Upgrades: BSSF has completed the installation of upgraded computer hardware purchased from Retail Pro and has contracted with Retail Pro for the purchase of its "Retail Pro" software, delivery of which is expected on or prior to June 30, 1999, and as to which Retail Pro has represented to BSSF will be "Year 2000 compliant". If the Retail Pro software upgrade is delivered to BSSF prior to the Closing Date, BSSF shall proceed with the installation thereof with reasonable diligence in the ordinary course of business. If the Retail Pro software upgrade is not delivered to BSSF prior to the Closing Date, Buyer shall be responsible for such installation. At Closing, BSSF shall assign to Buyer all of BSSF's warranty rights with respect to the hardware and software purchased from Retail Pro, to the extent provided in the contracts between BSSF and Retail Pro. At the Closing, Buyer shall assume and pay when due all amounts then payable to Retail Pro for these upgrades (the "Retail Pro Obligation"), and to the extent that BSSF has paid any portion thereof prior to the Closing, shall reimburse BSSF for such payments concurrently with the Closing as an addition to the Purchase Price (the "Retail Pro Reimbursement"). BSSF shall provide copies of invoices and purchase orders with respect to the computer hardware and software upgrades and evidence of any such prior payments to be reimbursed. All computer hardware and software upgrades shall be used for the purposes of the Business and located at Store Locations. As part of the purchase, Buyer shall receive both old and new computer hardware and software, to the extent prior hardware and/or software has been retained by BSSF in the ordinary course of business.

1.5 Obligations Related to the Remodel of the Stonestown Beauty Store: BSSF has advised Buyer that one of the Store Locations, the Stonestown Beauty Store, is in need of some remodeling work and tenant improvements. BSSF has advised Buyer that the BSSF's current

estimate of the cost to complete such remodeling work is estimated (but not guaranteed) to be approximately \$96,000. BSSF shall proceed, in the ordinary course of its business, to implement the remodeling work. There is no assurance that the remodeling work will be completed prior to the Closing Date. At the Closing, Buyer shall (i) assume and pay when due all obligations incurred or to be incurred by BSSF for such remodeling work (the "Remodeling Obligations") and (ii) shall reimburse BSSF for all amounts expended prior to the Closing Date in connection with such remodeling (the "Remodeling Reimbursement"). Schedule 1.5 sets forth a summary of costs incurred by BSSF to and including January 31, 1999 which shall constitute a portion of the Remodeling Reimbursement, with an updated summary of the Remodeling Reimbursement to be provided on the Closing Date. BSSF shall provide Buyer with the opportunity to inspect the remodeling work at the Stonestown Beauty Store, in accordance with the provisions of Section 7.1. Any claim with respect to the Stonestown remodeling or the quality thereof, or correction of any faulty construction work, shall be handled by Buyer and the respective contractors.

1.6 Closing Date: The Closing Date of the transaction contemplated by this Agreement shall, unless another date, time or place is agreed upon by the parties hereto in writing, take place at the offices of Freeland, Cooper, LeHocky & Hamburg, 150 Spear Street, Suite 1800, San Francisco, California 94105 at 10:00 a.m. on March 12, 1999, but in no event later than March 31, 1999. If on March 31, 1999 all other conditions precedent to the obligations of BSSF set forth in Section 4.2 shall have been satisfied or in BSSF's reasonable opinion are capable of being satisfied on such date, but (i) there shall not have been obtained all consents of the landlords as required by Sections 4.1.2 and 4.2.2 and (ii) no such landlord has refused to

consent to such assignment, then the Closing Date shall be extended for an additional period of up to sixty (60) days to allow the parties to obtain such consent(s). It is the express intent of the parties that if during such additional period any non-consenting landlord shall indicate to the parties that it refuses to consent to such assignment, then unless the parties shall otherwise agree in writing, the extension period for the Closing shall terminate two (2) business days thereafter; provided, further, that if the landlord of the Stonestown Store Lease shall seek to exercise the landlord's recapture right pursuant to Section 20(D) of such Store Lease, BSSF shall promptly notify Buyer thereof in writing upon receipt of Landlord's notice of recapture and within three (3) days after receipt of BSSF's notification, Buyer shall determine whether Buyer shall or shall not proceed with the purchase of the Assets (without inclusion of the Stonestown Store Lease) on the same terms and conditions set forth herein and shall notify BSSF in writing of its determination. If Buyer determines that it does not wish to proceed with such purchase, then neither party shall have any further obligation to the other hereunder, except pursuant to the Confidentiality Agreement.

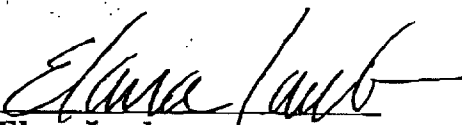
1.7 Further Assurances: From time to time after the Closing Date, BSSF shall execute and deliver to Buyer such instruments of sale, transfer, conveyance, assignment and delivery, consent and other instruments as may reasonably be requested by Buyer or by counsel for Buyer, in order to vest in Buyer all right, title and interest of BSSF in and to the Assets or otherwise in order to carry out the purpose and intent of this Agreement.

2. CONSIDERATION TO BE PAID BY THE BUYER:

2.1 Purchase Price for the Assets: The purchase price for the Assets (the "Purchase Price") shall be (i) Four Million Two Hundred Thousand Dollars (\$4,200,000), in cash, of which

9.15 Construction of Agreement: The parties acknowledge and agree that each has had the opportunity to review and make comments to this Agreement. In this respect, all parties have drafted the agreement and the provisions of Civil Code §1654 shall not be applied against either party.

Dated: as of February 28, 1999


Elana Laub

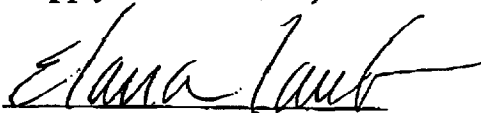
Dated: as of February 28, 1999


John Dellar

Dated: as of February 28, 1999

Beauty Supply-San Francisco, Inc.

By:



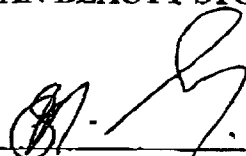
Its:



Dated: as of February 28, 1999

FREEMAN BEAUTY STORE HOLDINGS
LLC

By:


Brett Saevitzon,
Member