

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
------------------	----------------

NATURE OF CONVEYANCE:	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL
-----------------------	--

CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Ames True Temper Properties, Inc.		09/24/2004	CORPORATION: MICHIGAN

RECEIVING PARTY DATA	
Name:	Sears Brands, LLC
Street Address:	3333 Beverly Road
Internal Address:	B6-235A
City:	Hoffman Estates
State/Country:	ILLINOIS
Postal Code:	60179
Entity Type:	Limited Liability Company: ILLINOIS

PROPERTY NUMBERS Total: 1		
Property Type	Number	Word Mark
Serial Number:	78245656	BACKYARD PRO

CORRESPONDENCE DATA	
Fax Number:	(847)286-3379
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	(847) 286-2500
Email:	trademrk@sears.com
Correspondent Name:	Sears Intellectual Property Mgmnt. Co.
Address Line 1:	3333 Beverly Road
Address Line 2:	B6-235A
Address Line 4:	Hoffman Estates, ILLINOIS 60179

ATTORNEY DOCKET NUMBER:	04-005469
-------------------------	-----------

NAME OF SUBMITTER:	Lynn Eichelberger
--------------------	-------------------

Total Attachments: 3  
 source=Backyard Pro Assignment Page 1#page1.tif  
 source=Backyard Pro Assignment Page 2#page1.tif

CH \$40.00 78245656



## TRADEMARK ASSIGNMENT

This assignment of trademark rights (the "Assignment"), effective this 24<sup>th</sup> day of September, 2004, is made by and between Ames True Temper Properties, Inc., a Michigan corporation, with a principal place of business at 300 Delaware Avenue, Suite 1704, Wilmington, Delaware 19801 ("Ames") and Sears Brands, LLC, an Illinois limited liability company, with a principal place of business at 3333 Beverly Road, Hoffman Estates, Illinois 60179 ("Sears Brands") (collectively referred to as the "Parties").

### RECITALS

On May 5, 2003, Ames filed a federal Intent-to-Use trademark application for BACKYARD PRO ("Mark"), Serial No. 78/245,656, ~~for~~ <sup>for</sup>

Since at least as early as January 2, 2004, Ames has made continuous use of the Mark in connection with hand operated pruning tools, namely, pruners; loppers; hedge shears; and grass shears; and, bow saws, folding saws, standard double edged saws, and pole tree trimmers (the "Goods").

Since at least as early as December 7, 1998, Sears Brands, through its licensees, predecessors, assigns, or affiliated companies, has made continuous use of BACKYARD PRO in connection with garden hand tools, and is the owner of all common law trademark rights and goodwill associated therewith.

Ames and Sears Brands have entered into a settlement agreement (the "Agreement"), whereby Ames is to assign and Sears Brands is to receive all rights, title and interest in and to the Mark, and all goodwill associated with it.

IN CONSIDERATION of the foregoing, which is hereby incorporated into this Assignment by this reference, and for other good and valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Ames assigns to Sears Brands all of its rights, title and interest in and to the Mark together with all of the goodwill in the Mark.
2. Ames represents and warrants that it owns the Mark for the Goods; and has the right to assign all rights, title and interest in and to the same to Sears Brands under this Assignment.
3. Ames further represents and warrants that it has made continuous use of the Mark for the Goods from January 2, 2004 to the present.
4. Ames further represents and warrants that it has, at no time, sold, transferred, licensed, sublicensed, assigned, encumbered, pledged, agreed to limit, or leased any rights, title or interest in or to the Mark to any third party.

5. Ames further represents and warrants that they are aware of no third party that has rights that are adverse to its claim of ownership of the Mark and have never encountered or been made aware of any confusion or alleged confusion as to the origin, sponsorship, or endorsement of its Goods, or of the goods and services of any third party, resulting from its use of the Mark.

6. Ames further represents and warrants that it has never received an inquiry or objection from a third party to its use of the Mark for the Goods; and that they are aware of no threatened claim, pending claim or proceeding involving its claim of ownership in the Mark, and of no ruling or final decision adverse to its claim of ownership of the Mark.

7. Ames shall cooperate with Sears Brands by executing any and all papers, providing affidavits relating to the nature and timing of its use of the Mark, giving testimony, and doing any and all acts which Sears Brands may determine necessary, in its reasonable discretion, to carry out the intent of this Assignment and to enforce Sears Brands' trademark rights against third parties.

8. This Assignment shall be exclusively governed by the laws of the State of Illinois without regard to its principles on the conflicts of law.

9. If any provision of this Assignment is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Assignment shall remain enforceable.

10. Sears Brands shall have the right to assign its rights, in whole or in part, under this Assignment. Ames may not assign its rights or delegate its duties, in whole or in part, under this Assignment or the Agreement and any attempt to do so shall be null and void.

11. This Assignment shall be binding upon Ames, Sears Brands, Sears Brands' successors and assigns, and upon all others acting by, through, with or under Ames' direction or control, and all those in privity with Ames.

12. This Assignment, along with the Parties' Agreement, constitute the complete and exclusive statement of all mutual understandings between the Parties with respect to the Mark, superseding all prior or contemporaneous proposals, communications and understandings, oral or written.

13. This Assignment may be executed in counterparts and each taken together shall constitute one and the same document. Likewise, this Assignment may be executed by facsimile signatures, each of which shall constitute an original signature.

14. The persons signing below represent and warrant that it has the authority to execute this Assignment on behalf of the respective entities, corporations, partnerships, or for themselves individually. Further, each party has full legal power and authority to enter into and perform this Assignment in accordance with its terms.

AMES TRUE TEMPER  
PROPERTIES, INC.

Date: 9-24-04

By: [Signature]  
Name: RICHARD C. DELL  
Title: CEO, SECRETARY

STATE OF Pennsylvania )  
COUNTY OF Cumberland ) ss.

The foregoing Assignment was subscribed and sworn to before me this 24<sup>th</sup> day of September, by Richard C. Dell, as CEO, Secretary of Ames True Temper Properties, Inc.

Witness my hand and official seal.

My commission expires: MARCH 17, 2007

Notary Public Tina M. McCarthy

Accepted and Agreed To:

SEARS BRANDS, LLC

By: [Signature]  
Name: Rebecca B. Lederhouse  
Title: Assistant Secretary

Notarial Seal  
Tina M. McCarthy, Notary Public  
Camp Hill Boro, Cumberland County  
My Commission Expires Mar. 17, 2007  
Member, Pennsylvania Association Of Notaries

