

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>		NEW ASSIGNMENT	
<b>NATURE OF CONVEYANCE:</b>		Collateral Assignment of Intellectual Property	
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
The Whitney Group, Inc.		12/29/2004	CORPORATION: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Merrill Lynch Business Financial Services Inc.		
<b>Street Address:</b>	222 North LaSalle Street		
<b>City:</b>	Chicago		
<b>State/Country:</b>	ILLINOIS		
<b>Postal Code:</b>	60601		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Serial Number:</b>	76451978	NATURE AT ITS BEST	
<b>Registration Number:</b>	2736526	AVVIO	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(212)704-6288		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	2127046000		
<b>Email:</b>	kzielaznicki@jenkens.com		
<b>Correspondent Name:</b>	Karl M. Zielaznicki		
<b>Address Line 1:</b>	405 Lexington Avenue		
<b>Address Line 2:</b>	The Chrysler Building		
<b>Address Line 4:</b>	New York, NEW YORK 10174		
<b>NAME OF SUBMITTER:</b>	Karl M. Zielaznicki		
<b>Signature:</b>	/karl m. zielaznicki/		
<b>Date:</b>	01/06/2005		

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**Total Attachments: 13**

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**COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY**

THIS COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY ("Assignment") made as of the 30<sup>th</sup> day of December 2004 by THE WHITNEY GROUP, INC. ("Assignor"), a Delaware corporation, to MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC. ("Assignee").

## WITNESSETH:

WHEREAS, Assignor has executed and delivered in favor of Assignee certain Unlimited Guarantees and a Security Agreement (the "Security Agreement"), each dated the date hereof (together with any and all other and further amendments, revisions, modifications, supplements and restatements thereof and therefor, with the terms used but not otherwise defined herein being used with the same meanings as defined in the Security Agreement);

WHEREAS, the Assignee has agreed to make certain loans and other extensions of credit (the "Loans") to or for the benefit of Royal Wine Corporation and Manhattan Chocolates and Nuts, Inc., on the terms and conditions set forth in the Loan Agreements and other Loan Documents; and

WHEREAS, pursuant to the Security Agreement, the Assignor has agreed to grant to Assignee a lien on and a security interest in all of Assignor's personal property assets and this Assignment, including, without limitation, Assignor's patents, patent applications, trademarks, trademark applications, trade names, goodwill, copyrights, and licenses, to secure repayment of the Obligations.

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

1. Intellectual Property Assignment of Intellectual Property. To secure the full, complete and timely payment and satisfaction of all of the Obligations, Assignor hereby collaterally assigns, transfers, sets over and delivers to the Assignee and grants to Assignee (with power of sale, to the extent permitted by law, upon the occurrence of an Event of Default) a first priority lien and security interest on and in all of Assignor's right, title and interest in and to all of its now owned or existing and hereafter acquired or arising (whether registered, filed or recorded):

(a) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents and patent applications listed on Schedule A, attached hereto and made a part hereof, and (i) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (ii) 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, (iii) the right to sue for past, present and future infringements thereof;

(b) trademarks, trademark registrations, trade names and trademark applications, including, without limitation, the trademarks and tradenames and applications and registrations therefor listed on Schedule B.

attached hereto and made a part hereof, and (i) continuations, extensions and renewals thereof, (ii) 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, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing under this subsection (b) hereinafter collectively referred to as the "Trademarks");

(c) the goodwill of Assignor's business connected with and symbolized by the Trademarks;

(d) license agreements, with any other party, whether Assignor is a licensor or licensee under any such license agreement, including, without limitation, the licenses listed on Schedule C attached hereto and made a part hereof, and the right to prepare for sale, sell and advertise for sale, all Inventory (as defined in the Loan Agreements) now or hereafter owned by Assignor and now or hereafter covered by such licenses (all of the foregoing under this subparagraph (d) hereinafter referred to collectively as the "Licenses"); and

(e) copyrights, copyright registrations and copyright applications including, without limitation, the copyrights and registrations and applications therefor listed on Schedule D attached hereto and made a part thereof, (ii) 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, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing under this subsection (e) hereinafter collectively referred to as the "Copyrights").

All of the foregoing Patents, Trademarks, Licenses, Copyrights, goodwill and other intellectual property and proprietary rights of the Assignor set forth above in this Section 1 are collectively hereinafter referred to as the "Intellectual Property."

2. New Patents, Trademarks, and Licenses. Assignor represents and warrants that the Patents, Trademarks, Licenses and Copyrights listed on Schedules A, B, C, and D, respectively, constitute all of the Patents, Trademarks, Licenses and Copyrights now owned by Assignor. If, before the Obligations shall have been satisfied in full, Assignor shall obtain rights to or become entitled to the benefit of any new patentable invention, patent or trademark application, tradename, trademark registration, license, license renewal, copyrights or application or registration therefor, or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the foregoing shall be subject to the collateral assignment set forth in paragraph 1 hereof. Upon obtaining rights to the foregoing, the Assignor shall give to Assignee prompt written notice thereof, together with amended Schedules A, B, C and/or D, as applicable, to include the foregoing and shall execute and record any and all other and further documents and shall execute and record any and all other further documents, agreements or instruments necessary, in the Assignee's discretion, to give the Assignee a valid and first priority mortgage, lien and security interest on and in the foregoing.

3. Restrictions on Future Agreements and Action. Assignor agrees that until the Obligations shall have been fully and completely paid and satisfied Assignor will not enter into any agreement, take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any action, which would affect the validity or enforcement of the rights transferred to Assignee under this Assignment.

4. Agreements and Duties of Assignor. Assignor agrees (a) not to sell or assign its interest in, or grant any license under, its Intellectual Property, without the prior written consent of Assignee; (b) to maintain the quality of any and all products in connection with which the Patents and/or Trademarks are used, consistent with the quality of said products as of the date hereof; (c) not to change the quality of said products without Assignee's express written consent; and (iv) to provide Assignee, as often as reasonably requested thereby, with a certificate of an officer of Assignor certifying Assignor's compliance with the foregoing. Assignor shall have the duty (i) to prosecute diligently any patent application of the Patents, any trademark application of the Trademarks and any copyright application of the Copyrights, pending as of the date hereof or thereafter until the termination of this Assignment pursuant to Paragraph 11 hereof, (ii) to make application on unpatented but patentable inventions and on trademarks and copyrights, as appropriate, and (iii) to preserve and maintain all rights in patent applications and patents of the Patents and in trademark applications, trademarks, and trademark registrations of the Trademarks and in copyright applications and registrations of the Copyrights. Any expenses incurred in connection with such applications shall be borne by Assignor. Unless the benefits to be derived from the following are negligible, immaterial or the following are otherwise of little or no value, Assignor shall not abandon (x) any right to file a patent, trademark or copyright application, or (y) any pending patent, trademark or copyright application (z) or any patent, trademark or copyright (whether pending or otherwise) without the consent of Assignee, which consent shall not be unreasonably withheld.

5. Rights and Remedies. At any time an Event of Default has occurred, in addition to all other rights and remedies of Assignee, whether provided under this Assignment, the Loan Documents, applicable law or otherwise, Assignee shall have the following rights and remedies which may be exercised without notice to, or consent by, Assignor except as such notice or consent is expressly provided for hereunder: (a) Assignee may, or may require that Assignor, make any use of the Patents for any purpose whatsoever, including for the sale of goods, completion of work-in-process or rendering of services or otherwise in connection with enforcing any other security interest granted to Assignee by Assignor or for such other reason as Assignee may determine; (b) Assignee may grant such license or licenses relating to the Intellectual Property for such term or terms, on such conditions, and in such manner, as Assignee shall in its discretion deem appropriate, and 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) Assignee may assign, sell or otherwise dispose of the Intellectual Property, or any part thereof, either with or without special conditions or stipulations except that if notice to Assignor of intended disposition of Intellectual Property is required by law, the giving of five (5) days prior written notice to Assignor of any proposed disposition shall be deemed reasonable notice thereof and Assignor waives any other notice with respect thereto, and Assignee shall have the power to buy the intellectual Property or any part thereof, and Assignee shall also have the power to execute assurances and perform all other acts which Assignee may, in its discretion, deem appropriate or proper to complete such assignment, sale, or disposition (in any such event, Assignor shall be liable for any deficiency); and (d) in addition to the foregoing, in order to implement the assignment, sale or other disposition of any of the Intellectual Property pursuant to the terms hereof, Assignee may at any time execute and deliver on behalf of Assignor, pursuant to the authority granted in the Power of Attorney described in paragraph 7 below, one or more instruments of assignment of the Intellectual Property (or any application, registration, or recording relating thereto), in form suitable for filing, recording, or registration. Assignor agrees to pay Assignee on demand all costs incurred in any such transfer of the Intellectual Property, including, but not limited to, any taxes, fees, and attorneys' fees and legal expenses. Assignor agrees that Assignee has no obligation to preserve rights to the Intellectual Property against any other parties.

6. Assignee's Right to Sue. From and after the occurrence of an Event of Default and the provision by Assignee of written notice to Assignor of Assignee's intention to enforce its rights and claims against any of the

Intellectual Property, Assignee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Intellectual Property and any licenses thereunder, and, if Assignee shall commence any such suit, Assignor shall, at the request of Assignee, do any and all lawful acts and execute any and all proper documents required by Assignee in aid of such enforcement and Assignor shall promptly, upon demand, reimburse and indemnify Assignee for all costs and expenses incurred by Assignee in the exercise of its rights under this paragraph 6.

7. Power of Attorney. To facilitate Assignor's exercise of its rights and remedies under the Loan Documents, this Assignment, applicable law, or otherwise, Assignee hereby constitutes and appoints the Assignor, with full power of substitution, as the attorney-in-fact of the Assignor with the right, but not the duty, from time to time to create, prepare, complete, execute, deliver, endorse, and/or file and any all instruments, documents, applications, financing statements, and other agreements necessary or desirable, in the sole discretion of Assignor, to exercise any and all of such rights and remedies. Assignor hereby ratifies and approves all that such attorney-in-fact may lawfully do or cause to be done by virtue thereof. This power of attorney is coupled with an interest and shall be irrevocable until the Obligations shall have been fully and completely paid and satisfied.

8. Assignee's Other Rights and Remedies. Assignee shall have the right, at any time and from time to time, to inspect Assignor's premises and to examine Assignor's books, records and operations, including, without limitation, Assignor's quality control processes. From and after the occurrence of an Event of Default, Assignor agrees that Assignee, or a conservator appointed by Assignee, shall have the right to establish such additional product quality controls as Assignee, or said conservator, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold by Assignor under the Trademarks. Assignors acknowledges and agrees that this Assignment is not intended to limit or restrict in any way the rights and remedies of Assignee under the Loan Documents but rather is intended to facilitate the exercise of such rights and remedies. All of Assignee's rights and remedies with respect to the Intellectual Property, whether established hereby or by the Loan Documents, or by any other assignment or by law shall be cumulative and may be exercised singularly or concurrently.

9. Royalties. Assignor hereby agrees that the use by Assignee of all Intellectual Property as described above shall be worldwide and without any liability for royalties or other related charges from Assignee to the Assignor.

10. Waivers. No course of dealing between Assignor and Assignee, nor any failure to exercise, nor any delay in exercising, on the part of Assignee, any right, power or privilege hereunder or under the Loan Documents, any right, power or privilege hereunder or under the Loan Documents 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.

11. Termination. This Assignment is made for collateral purposes only and upon full and complete payment and satisfaction of the Obligations this Assignment shall terminate and Assignee shall execute and deliver to Assignor all agreements, assignments or instruments as may be necessary or proper to terminate Assignee's collateral assignment and security interest in the Intellectual Property, subject to any disposition thereof which may have been made by Assignee pursuant hereto or pursuant to the Loan Documents.

12. Severability. The provisions of this Assignment 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 Assignment in any jurisdiction.

13. Modification. This Assignment cannot be altered, amended or modified in any way, except by a writing signed by the parties hereto.

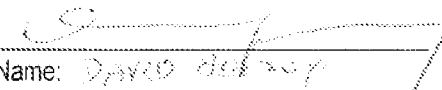
14. Binding Effect. This Assignment shall be binding upon the Assignor and its respective successors and assigns, and shall inure to the benefit of Assignee, its nominees and assigns.

15. Governing Law. This Assignment shall be deemed made and accepted in and shall be governed by and construed in accordance with the laws of the State of Illinois.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment as of December 29, 2004.

THE WHITNEY GROUP, INC.

By:   
Print Name: DAVID DEBRAJ  
Print Title: CEO

MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.

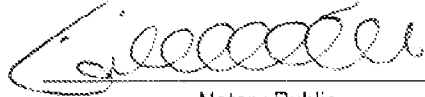
By: \_\_\_\_\_  
Print Name:  
Print Title:



STATE OF NY )  
COUNTY OF NY ) ss.:  
29th

DAVID HERZOG

On this 29th day of December 2004, before me personally came DAVID HERZOG, to me known, who being duly sworn, did depose and say, that he is the PRES of The Whitney Group, Inc., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.



Notary Public

RICHARD A. BRAUNSTEIN  
Notary Public, State of New York  
No. 31-4837111  
Qualified in New York County  
Commission Expires June 20, 2006

STATE OF )  
COUNTY OF ) ss.:

On this \_\_\_\_ day of December 2004, before me personally came \_\_\_\_\_, to me known, who, being duly sworn, did depose and say, that he is the \_\_\_\_\_ of Merrill Lynch Business Financial Services Inc., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, the parties hereto have duly executed this Assignment as of December 21, 2004.

THE WHITNEY GROUP, INC.

By: \_\_\_\_\_  
Print Name:  
Print Title:

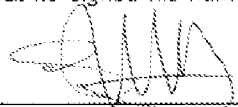
MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.

By: Jennifer Ng  
Print Name: Jennifer Ng  
Print Title: VP

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STATE OF NY )  
 ) ss.:  
COUNTY OF Hudson )

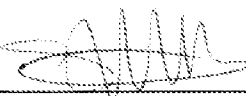
On this 28 day of December 2004, before me personally came \_\_\_\_\_ to me known, who being duly sworn, did depose and say, that he is the \_\_\_\_\_ of The Whitney Group, Inc., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

  
\_\_\_\_\_  
Notary Public

SHIVANAND MARAJ  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES JULY 31, 2008

STATE OF NEW JERSEY )  
 ) ss.:  
COUNTY OF Hudson )

On this 29 day of December 2004, before me personally came Scamler Hoffman, to me known, who, being duly sworn, did depose and say, that he is the V.P. of Merrill Lynch Business Financial Services Inc., the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

  
\_\_\_\_\_  
Notary Public

SHIVANAND MARAJ  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES JULY 31, 2008

SCHEDULE A  
TO  
COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY

None

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**TRADEMARK**  
**REEL: 003004 FRAME: 0052**

SCHEDULE B  
TO  
COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY

<u><i>US Trademark Applications</i></u>		
<u>Mark</u>	<u>Filing Date</u>	<u>Application No.</u>
NATURE AT ITS BEST	09/23/2002	76/451,978
<u><i>US Trademark Registrations</i></u>		
<u>Mark</u>	<u>Registration Date</u>	<u>Registration No.</u>
AVVIO	07/15/2003	2,736,526

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SCHEDULE C  
TO  
COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY

None

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**TRADEMARK**  
**REEL: 003004 FRAME: 0054**

SCHEDULE D  
TO  
COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY

None

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