

Tab settings



To the Honorable Commissioner of Patents

101510477

Attached original documents or copy thereof.

1. Name of conveying party(ies):

10-19-00

E&B Giftware LLC

Additional name(s) of conveying party(ies) attached?  Yes  No

2. Name and address of receiving party(ies):

Name: Union Bank of California, N.A., as  
Administrative Agent

Internal Address: Attn: E&B Giftware Account  
Officer

Street Address: 445 S. Figueroa St., 15th Floor

City: Los Angeles State: CA ZIP: 90071

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

3. Nature of conveyance:

- Assignment  Merger
- Security Agreement  Change of Name
- Other \_\_\_\_\_

Execution Date: June 26, 2000

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

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

A. Patent Application No.(s)

see Schedule 1 attached

B. Patent No.(s)

see Schedule 1 attached

Additional numbers attached?  Yes  No

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

Name: Sheppard, Mullin, Richter & Hampton  
LLP

Internal Address: Attn: J. Cravitz

Street Address: 333 S. Hope St., 48th Floor

City: Los Angeles State: CA ZIP: 90071

6. Total number of applications and patents involved: 42

7. Total fee (37 CFR 3.41):..... \$ 1,680.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

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1680.00 DP

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.

MARK SPITZER, Esq.  
Name of Person Signing

[Signature]  
Signature

10-17-00  
Date

Total number of pages comprising cover sheet: 22

PATENT

SCHEDULE 1

Existing and Pending Patents

<i><b>Patent</b></i>	<i><b>Registration #</b></i>
Key Safe & Thermometer	D372,875
Digital Golf Scorer	D394,406
Rotating Belt Organizer	D404,577
Tech Vac	D360,502
Auto Escape Hammer	D417,130
Wine Bottle Foil Cutter	D422,861 & Foreign
Wine Bottle Vac Sealer	D422,912 & Foreign
Hanging Jewelry Organizer	D332,697
Pop Up Light & Magnifier	D417,021
Lotto Matic	D375,764
4 in 1 Ruler	D372,876
Expandable Drink Holder	D399,395
Golf Bag Drink Holder	D352,827
Tie Tracker	D422,795
Car Coin Dispenser	D324,600
Telescoping Tie Rack	D288,035
Wine Bottle Coaster	D421,697
Deluxe Wine Bottle Stopper	D422,214
Easy Out Cork Puller	D421,701 & Foreign
Wine Bottle Multi Tool	D421,559 & Foreign
Classic Corkscrew	D421,373

SCHEDULE 1 (cont'd)

<i>Description</i>	<i>Patent #</i>
Wine Bottle Stopper Set	D421,570 & Foreign
Golf Swing-Speed Trainer	D421,084
Square Dumbbell	D418,881
Handgrip Exerciser	D418,561
Ankle or Wrist Weight	D418,559
Jump Rope	D418,557
Dumbbell with Bumper Guards	D415,803
Cooler for Automobile Seat Mounting	D412,311
Eyeglass Holder	D379,871
Squeegee	D342,355
Wine Bottle Stopper Pourer	D418,417
Personal Care & Sewing Organizer	D326,748
Golfball Washer	D392,485
Carryall	4,967,986
The Nose Holder for Eyeglasses	D 305,340
Solar Device for Cooling	5,676,128
Drink Holder	5,570,863
Bee Fly Swatter	D365,868
Fly Swatter	D358,446
Floor Mat	D356,710
Luggage Strap-Sure Closure	D362741

## PATENT SECURITY AGREEMENT

This PATENT SECURITY AGREEMENT (this "Agreement") is made and entered into as of June 26, 2000 by each of the Persons listed on the signature pages hereto, together with each other Person who may become a party hereto pursuant to Section 15 of this Agreement (each a "Grantor" and collectively "Grantors"), jointly and severally in favor of UNION BANK OF CALIFORNIA, N.A., a national banking association, as Administrative Agent for the benefit of the Lenders that are or become party to the Loan Agreement referred to below (collectively, "Secured Party"), with reference to the following facts:

### RECITALS

A. Pursuant to the Revolving/Term Loan Agreement dated as of June 26, 2000 among E&B Giftware Holdings LLC, a Delaware limited liability company ("Holdings"), E&B Giftware LLC, a Delaware limited liability company ("E&BLLC" and, together with Holdings, the "Borrowers"), the Lenders therein named and Union Bank of California, N.A., a national banking association, as Administrative Agent for the Lenders (as such agreement may from time to time be amended, extended, renewed, supplemented or otherwise modified, the "Loan Agreement"), the Lenders have agreed to extend certain credit facilities to Borrowers.

B. The Loan Agreement provides, as a condition of the availability of such credit facilities, that Grantors shall enter into this Agreement and shall grant security interests to Secured Party as herein provided.

C. Each Grantor expects to realize direct and indirect benefits as a result of the availability of the aforementioned credit facilities.

### AGREEMENT

NOW, THEREFORE, in order to induce the Lenders to extend the aforementioned credit facilities to Borrowers, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Grantors hereby jointly and severally represent, warrant, covenant and agree as follows:

1. Definitions. This Agreement is the Patent Security Agreement referred to in the Loan Agreement. Terms defined in the Loan Agreement and not otherwise defined in this Agreement shall have the respective meanings defined for those terms in the Loan Agreement.

As used in this Agreement, the following terms shall have the meanings respectively set forth after each:

"Agreement" means this Patent Security Agreement, and any extensions, modifications, renewals, restatements, supplements or amendments hereof, including, without limitation, any documents or agreements by which additional Grantors become party hereto.

"Collateral" means and includes all of the following: all of Grantors' right, title and interest in and to all of (a) Grantors' 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 ("USPTO") or in any similar office or agency of the United States of America, any state thereof, any political subdivision thereof or in any other countries, and all reissues, extensions and renewals thereof, including, without limitation, those patents, applications, registrations and recordings described in Schedule 1 hereto (the "Patents"), and (b) any and all proceeds of any of the foregoing, including any claims by Grantors against third parties for past, present and future infringement of the Patents or any licenses with respect thereto.

"Secured Obligations" means any and all present and future Obligations of any type or nature of Borrower or any other Obligor to Secured Party, arising under or relating to the Loan Documents or any one or more of them, whether due or to become due, matured or unmatured, liquidated or unliquidated, or contingent or noncontingent, including Obligations of performance as well as Obligations of payment, and including interest that accrues after the commencement of any bankruptcy or insolvency proceeding by or against Borrower or any other Person.

"Secured Party" means the Administrative Agent (acting as the Administrative Agent and/or on behalf of the Lenders), and the Lenders, and each of them, and any one or more of them. Subject to the terms of the Loan Agreement, any right, remedy, privilege or power of Secured Party may be exercised by the Administrative Agent, or by the Requisite Lenders, or by any Lender acting with the consent of the Requisite Lenders.

2. Incorporation of Representations, Warranties, Covenants and Other Provisions of Loan Documents. This Agreement is one of the "Loan Documents" referred to in the Loan Agreement. All representations, warranties, affirmative and negative covenants and other provisions contained in any Loan Document that are applicable to Loan Documents generally are fully applicable to this Agreement and are incorporated herein by this reference as though fully set forth in full.

3. Security Interest. For valuable consideration, Grantors and each of them hereby jointly and severally grant, assign, and convey to Secured Party, a security interest to secure the prompt and indefeasible payment and performance of the Secured Obligations, and each of them, in and to all of the presently existing and hereafter acquired Collateral. This Agreement is a continuing and irrevocable agreement and all the rights, powers, privileges and

remedies hereunder shall apply to any and all Secured Obligations, including those arising under successive transactions which shall either continue the Secured Obligations, increase or decrease them and notwithstanding the bankruptcy of any Grantor or any other Person or any other event or proceeding affecting any Person.

4. Representations, Warranties and Covenants. Grantors, and each of them, represent, warrant and agree that:

(a) All of the existing Collateral is valid and subsisting in full force and effect, and each Grantor owns the sole, full, and clear title to its respective portion of the existing Collateral, and the right and power to grant the security interests granted hereunder. Grantors will, at their expense, perform all acts and execute all documents necessary to maintain the existence of the Collateral as valid, subsisting, and registered patents, including, without limitation, the filing of any renewal affidavits and applications. The Collateral is not subject to any Liens, claims, mortgages, assignments or licenses of any nature whatsoever, whether recorded or unrecorded, except as permitted by the Loan Agreement.

(b) As of the date hereof, none of Grantors or their Subsidiaries has any Patents registered with the USPTO, or any similar office or agency in the United States of America, or any other country other than those described in Schedule 1.

(c) Grantors shall not assign, sell, mortgage, lease, transfer, pledge, hypothecate, grant a security interest in or Lien upon, encumber, grant an exclusive or nonexclusive license or sublicense relating thereto, except as permitted herein or in the Loan Agreement, or otherwise dispose of any of the Collateral without the prior written consent of Administrative Agent. Nothing in this Agreement shall be deemed a consent by Administrative Agent or any Lender to any such action, except as such action is expressly permitted hereunder.

(d) Each Grantor authorizes Administrative Agent to modify this Agreement by amending Schedule 1 to include any new patent, and any patent renewal of any Grantor applied for and obtained hereafter; and each Grantor shall, upon request of Secured Party from time to time execute and deliver to Administrative Agent any and all assignments, agreements, instruments, documents and such other papers as may be requested by Secured Party to evidence the assignment of a security interest in each such Patent.

(e) No Grantor nor any Subsidiary of any Grantor has abandoned any of the Patents, and no Grantor nor any Subsidiary of any Grantor will do any act, or omit to do any act, whereby any material Patent may become abandoned, canceled, invalidated, unenforceable, avoided, or avoidable. Each Grantor shall notify Administrative Agent promptly if it knows, or has reason to know, of any reason why

any registration, or recording may become abandoned, canceled, invalidated, or unenforceable.

(f) Grantors will render any assistance, as Secured Party may reasonably determine is necessary, to Secured Party in any proceeding before the USPTO, any federal or state court, or any similar office or agency in the United States of America, or any State therein, or any other country, to maintain and protect Secured Party's security interest in the Patents.

(g) Grantors retain all responsibility and liability arising from the use of the Patents, and each Grantor hereby indemnifies and holds the Administrative Agent and each of the Lenders harmless from and against any claim, suit, loss, damage, or expense (including reasonable attorneys' fees) arising out of any alleged defect in any product manufactured, promoted, or sold by any Grantor (or any Affiliate or Subsidiary thereof) in connection with any Patent or out of the manufacture, promotion, labeling, sale, or advertisement of any such product by any Grantor or any Affiliate or Subsidiary thereof, provided that Secured Party shall not be entitled to indemnification for any loss caused by its own gross negligence or willful misconduct or for any loss arising out of any alleged defect in any product manufactured by Secured Party in connection with any Patent.

(h) The execution, delivery and performance of this Agreement is within the power of Grantors and have been duly authorized by all necessary corporate or company action and to the best of each Grantor's knowledge do not contravene any Law, rule, regulation or any judgment, decree or order of any tribunal or of any agreement to which any Grantor is a party or by which any of its property is bound.

(i) Each Grantor shall, at its sole expense, do, make, execute and deliver all such additional and further acts, things, deeds, assurances, and instruments, in each case in form and substance satisfactory to Secured Party, relating to the creation, validity, or perfection of the security interests provided for in this Agreement under 35 U.S.C. Section 261, 15 U.S.C. Section 1051 et seq., the Uniform Commercial Code or other Law of the United States of America, the State of California, or of any countries or other States as Secured Party may from time to time reasonably request, and shall take all such other action as the Secured Party may reasonably require to more completely vest in and assure to Secured Party its rights hereunder or its security interest in any of the Collateral, and each Grantor hereby irrevocably authorizes Administrative Agent (and the Lenders, during such times as there shall be no Administrative Agent) or its designee, at such Grantor's expense, upon such Grantor's failure to do so upon request therefor by Secured Party if no Default or Event of Default has occurred and is continuing, and at all times if a Default or Event of Default has occurred and is continuing, to execute such documents, and file such financing statements with respect thereto with or without such Grantor's signature, as Administrative Agent (or the Lenders, as applicable) may reasonably deem appropriate.

In the event that any recording or refiling (or the filing of any statement of continuation or assignment of any financing statement) or any other action, is required at any time to protect and preserve such security interest, Grantors shall, at their sole cost and expense, cause the same to be done or taken at such time and in such manner as may be necessary and as may be reasonably requested by Secured Party. Each Grantor further authorizes Secured Party to have this or any other security agreement recorded or filed with the USPTO or other appropriate federal, state or government office.

(j) Administrative Agent (and the Lenders, during such time as there shall be no Administrative Agent) is hereby irrevocably appointed by each Grantor as its lawful attorney and agent, with full power of substitution to execute and deliver on behalf of and in the name of any or all Grantors, such financing statements, collateral assignments, pledges and other documents and agreements, and to take such other action as Secured Party may deem necessary for the purpose of perfecting, protecting or effecting the security interests granted herein and effected hereby, and any mortgages or Liens necessary or desirable to implement or effectuate the same, under any applicable Law, and Administrative Agent (and the Lenders, as applicable) are hereby authorized to file on behalf of and in the name of any or all Grantors, at Grantors' sole expense, such financing statements, assignments, pledges and other documents in any appropriate governmental office; provided, however, that (i) if no Default or Event of Default has occurred and is continuing, Administrative Agent (and the Lenders, as applicable) shall only be entitled to exercise the rights set forth in this section as to each Grantor upon such Grantor's failure to perform the applicable action following request therefor by Administrative Agent (or the Lenders, as applicable) and (ii) Administrative Agent (and the Lenders, as applicable) shall be entitled to exercise the rights set forth in this section as to each Grantor, without notice to, or request being made upon, such Grantor, at all times if a Default or Event of Default has occurred and is continuing.

(k) Secured Party, without duplication, may, in its sole discretion, pay any amount, or do any act which Grantors fail to pay or do as reasonably required hereunder or as requested by Secured Party to preserve, defend, protect, maintain, record, amend, or enforce the Secured Obligations, the Collateral, or the security interest granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, and reasonable attorneys' fees. Grantors will be liable to such Secured Party for any such payment, which payment shall be deemed an advance by Lenders to Grantors, shall be payable on demand, together with interest at the rate(s) set forth in the Loan Agreement, and shall be part of the Secured Obligations.

5. Inspection. Each Grantor hereby grants to Secured Party and its representatives the right to inspect such Grantor's properties wherein the Patents are used and the products and records relating thereto; provided, however, that Secured Party shall, unless an Event of Default has occurred and remains in effect or if Secured Party reasonably believes



that a Default or Event of Default then exists, only be entitled to so inspect any Grantor's properties on no more than two occasions within each calendar year during the period from the Closing Date through the Termination Date.

6. Rights and Remedies. Upon the occurrence and during the continuance of any Event of Default under the Loan Agreement, in addition to all other rights and remedies of Secured Party, whether provided under Law, the Loan Agreement or otherwise, Secured Party shall have the following rights and remedies which may be exercised without notice to, or consent by, any Grantor, except as such notice or consent is expressly provided for hereunder.

(a) Secured Party may use any of the Patents for the sale of goods, completion of work in process, or rendering of services in connection with enforcing any security interest granted to Secured Party by Grantors or any Subsidiary of any Grantor.

(b) Secured Party may enforce its security interest in the Collateral, or any part thereof, either with or without special conditions or stipulations and take all actions permitted by law in connection with such enforcement, except that Secured Party agrees to provide Grantors with seven (7) days' prior written notice of any proposed disposition of the Collateral. The requirement of sending notice conclusively shall be met if such notice is mailed, first class mail, postage prepaid, to E&BLLC, on behalf of all Grantors. Each Grantor hereby irrevocably appoints E&BLLC as its agent for the purpose of receiving notice of sale hereunder, and agrees that such Grantor conclusively shall be deemed to have received notice of sale when notice of sale has been given to E&BLLC. Each Grantor expressly waives any right to receive notice of any public or private sale of any Collateral or other security for the Secured Obligations except as expressly provided in this Section 6(b). Secured Party shall have the power to buy the Collateral, or any part thereof, in accordance with applicable Law, 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 in connection with the Collateral. In any such event, Grantors shall be liable for any deficiency in accordance with applicable Law.

(c) In addition to the foregoing, in order to implement the assignment, sale or other disposition of any of the Collateral pursuant to Section 6(b) hereof, Administrative Agent (and the Lenders, during such time as there shall be no Administrative Agent) may, at any time, execute and deliver, on behalf of Grantors, and each of them, pursuant to the authority granted in powers of attorney, one or more instruments of assignment of the Patents (or any application, registration, or recording relating thereto), in form suitable for filing, recording, or registration. Grantors agree 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.

(d) Secured Party may apply the proceeds actually received from any such use, assignment, sale, or other disposition of Collateral first to the reasonable costs and expenses thereof, including, without limitation, reasonable attorneys' fees and all reasonable legal, travel, and other expenses which may be incurred by Secured Party. Thereafter, Secured Party may apply any remaining proceeds to such of the Secured Obligations as provided in the Loan Agreement. Grantors shall remain liable to Secured Party for any expenses or Secured Obligations remaining unpaid after the application of such proceeds, and Grantors will pay Secured Party, on demand, any such unpaid amount, together with interest at the rate(s) set forth in the Loan Agreement.

(e) In connection with any use, assignment, sale, or other disposition of the Collateral, Grantors shall supply to Secured Party, or Secured Party's designee, Grantors' knowledge and expertise relating to the manufacture and sale of the products and services relating to the Patents and records relating to the 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 Loan Agreement, this Agreement, or otherwise shall be cumulative, and none is exclusive of any right or remedy otherwise provided herein or in any of the other Loan Documents, at law or in equity. Such rights and remedies may be enforced alternatively, successively, or concurrently.

7. Waivers and Consents. Each Grantor acknowledges that the Liens created or granted herein will or may secure Obligations of Persons other than such Grantor and, in full recognition of that fact, each Grantor consents and agrees that Secured Party may, at any time and from time to time, without notice or demand, and without affecting the enforceability or security hereof: (a) supplement, modify, amend, extend, renew, accelerate or otherwise change the time for payment or the terms of the Secured Obligations or any part thereof, including any increase or decrease of the rate(s) of interest thereon, in each case in accordance with the terms of the applicable Loan Documents; (b) supplement, modify, amend or waive, or enter into or give any agreement, approval or consent with respect to, the Secured Obligations or any part thereof, or any of the Loan Documents or any additional security or guaranties, or any condition, covenant, default, remedy, right, representation or term thereof or thereunder; (c) accept new or additional instruments, documents or agreements in exchange for or relative to any of the Loan Documents or the Secured Obligations or any part thereof; (d) accept partial payments on the Secured Obligations; (e) receive and hold additional security or guaranties for the Secured Obligations or any part thereof; (f) release, reconvey, terminate, waive, abandon, fail to perfect, subordinate, exchange, substitute, transfer and/or enforce any security or guaranties, and apply any security and direct the order or manner of sale thereof as Secured Party in its sole and absolute discretion may determine; (g) release any Person from any personal liability with respect to the Secured Obligations or any part thereof; (h) settle, release on terms satisfactory to Secured Party or by operation of applicable Laws or otherwise

liquidate or enforce any Secured Obligations and any security or guaranty in any manner, consent to the transfer of any security and bid and purchase at any sale; and/or (i) consent to the merger, change or any other restructuring or termination of the corporate or other existence of any Grantor or any other Person, and correspondingly restructure the Secured Obligations, and any such merger, change, restructuring or termination shall not affect the liability of any Grantor or the continuing existence of any Lien hereunder, under any other Loan Document to which any Grantor is a party or the enforceability hereof or thereof with respect to all or any part of the Secured Obligations.

Upon the occurrence and during the continuance of any Event of Default, Secured Party may enforce this Agreement independently as to each Grantor and independently of any other remedy or security Secured Party at any time may have or hold in connection with the Secured Obligations secured hereby, and it shall not be necessary for Secured Party to marshal assets in favor of any Grantor or any other Person or to proceed upon or against and/or exhaust any other security or remedy before proceeding to enforce this Agreement. Each Grantor expressly waives any right to require Secured Party to marshal assets in favor of any Grantor or any other Person or to proceed against any other Grantor or any Collateral provided by any other Grantor, and agrees that Secured Party may proceed against Grantors and/or the Collateral in such order as it shall determine in its sole and absolute discretion. Secured Party may file a separate action or actions against any Grantor, whether action is brought or prosecuted with respect to any other security or against any other Person, or whether any other Person is joined in any such action or actions. Each Grantor agrees that Secured Party and Borrowers and any other Obligors and any Affiliate of Borrowers and any other Obligors may deal with each other in connection with the Secured Obligations or otherwise, or alter any contracts or agreements now or hereafter existing between any of them, in any manner whatsoever, all without in any way altering or affecting the security of this Agreement. Secured Party's rights hereunder shall be reinstated and revived, and the enforceability of this Agreement shall continue, with respect to any amount at any time paid on account of the Secured Obligations which thereafter shall be required to be restored or returned by Secured Party upon the bankruptcy, insolvency or reorganization of any Borrower or any other Person or otherwise, all as though such amount had not been paid. Each Grantor agrees that the Liens created or granted herein and the enforceability of this Agreement at all times shall remain effective as to such Grantor to secure the full amount of all the Secured Obligations even though the Secured Obligations, including any part thereof or any other security or guaranty therefor, may be or hereafter may become invalid or otherwise unenforceable as against any other Obligor and whether or not any other Obligor shall have any personal liability with respect thereto. Each Grantor expressly waives any and all defenses now or hereafter arising or asserted by reason of (a) any disability or other defense of any Borrower or any other Obligor with respect to the Secured Obligations, (b) the unenforceability or invalidity of any security or guaranty for the Secured Obligations or the lack of perfection or continuing perfection or failure of priority of any security for the Secured Obligations (other than any security or guaranty given by such Grantor), (c) the cessation for any cause whatsoever of the liability of any Borrower or any other Obligor (other than by reason of the full payment and performance of all Secured Obligations), (d) any failure of

Secured Party to marshal assets in favor of any Grantor or any other Person, (e) except as otherwise provided in this Agreement or any other Loan Document, any failure of Secured Party to give notice of sale or other disposition of Collateral to any Grantor or any other Person or any defect in any notice that may be given in connection with any sale or disposition of Collateral, (f) any act or omission of Secured Party or others that directly or indirectly results in or aids the discharge or release of any Borrower or any other Obligor or the Secured Obligations or any other security or guaranty therefor by operation of Law or otherwise, other than through the gross negligence or willful misconduct of Secured Party, (g) any Law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation, (h) any failure of Secured Party to file or enforce a claim in any bankruptcy or other proceeding with respect to any Person other than such Grantor, (i) the election by Secured Party, in any bankruptcy proceeding of any Person other than such Grantor, of the application or non-application of Section 1111(b)(2) of the United States Bankruptcy Code, (j) any extension of credit or the grant of any Lien under Section 364 of the United States Bankruptcy Code, (k) any use of cash collateral under Section 363 of the United States Bankruptcy Code, (l) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any Person other than such Grantor, (m) the avoidance of any Lien in favor of Secured Party for any reason (other than, as to each Grantor, the avoidance of the Lien granted by such Grantor pursuant to this Agreement), (n) any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, liquidation or dissolution proceeding commenced by or against any Person other than such Grantor, including any discharge of, or bar or stay against collecting, all or any of the Secured Obligations (or any interest thereon) in or as a result of any such proceeding, (o) to the extent permitted, the benefits of any form of one-action rule under any applicable Law, or (p) any action taken by Secured Party that is authorized by this Section 7 or any other provision of any Loan Document and otherwise enforceable under applicable Law. Except as provided herein, each Grantor expressly waives all setoffs and counterclaims and all presentments, demands for payment or performance, notices of nonpayment or nonperformance, protests, notices of protest, notices of dishonor and all other notices or demands of any kind or nature whatsoever with respect to the Secured Obligations, and all notices of acceptance of this Agreement or of the existence, creation or incurring of new or additional Secured Obligations.

8. Condition of Borrowers and Their Subsidiaries. Each Grantor represents and warrants to Secured Party that such Grantor has established adequate means of obtaining from each Borrower and its Subsidiaries, on a continuing basis, financial and other information pertaining to the businesses, operations and condition (financial and otherwise) of each Borrower and its Subsidiaries and their Properties, and each Grantor now is and hereafter will be completely familiar with the businesses, operations and condition (financial and otherwise) of each Borrower and its Subsidiaries and their Properties. Each Grantor hereby expressly waives and relinquishes any duty on the part of Secured Party (should any such duty exist) to disclose to such Grantor any matter, fact or thing related to the businesses, operations or condition (financial or otherwise) of any Borrower or its Subsidiaries or their Properties,

whether now known or hereafter known by Secured Party during the life of this Agreement. With respect to any of the Secured Obligations, Secured Party need not inquire into the powers of any Borrower or any Subsidiaries thereof or the officers or employees acting or purporting to act on their behalf, and all Secured Obligations made or created in good faith reliance upon the professed exercise of such powers shall be secured hereby.

9. Waiver of Rights of Subrogation. Until no part of any Commitment remains outstanding and all of the Secured Obligations have been paid and performed in full, notwithstanding anything to the contrary elsewhere contained herein or in any other Loan Document to which any Grantor is a party, Grantors hereby waive with respect to each Borrower and its successors and assigns (including any surety) and any other Person, any and all rights at Law or in equity to subrogation, to reimbursement, to exoneration, to indemnity, to contribution, to setoff or to any other rights that could accrue to a surety against a principal, to a guarantor against a maker or obligor, to an accommodation party against the party accommodated, or to a holder or transferee against a maker and which Grantors may have or hereafter acquire against any Borrower or any other Party in connection with or as a result of Grantors' execution, delivery and/or performance of this Agreement or any other Loan Document to which any Grantor is a party. Until no part of any Commitment remains outstanding and all of the Secured Obligations have been paid and performed in full, each of the Grantors agrees that it shall not have or assert any such rights against any other Grantor or any such Grantor's successors and assigns or any other Person (including any surety), either directly or as an attempted setoff to any action commenced against such Grantor by the other such Grantor (as borrower or in any other capacity) or any other Person. Grantors hereby acknowledge and agree that this waiver is intended to benefit Secured Party and shall not limit or otherwise affect Grantors' liability hereunder, under any other Loan Document to which any Grantor is a party, or the enforceability hereof or thereof. Until such time, if any, as all of the Secured Obligations have been paid and performed in full and no portion of any Commitment remains in effect, each Grantor expressly waives any right to enforce any remedy that Secured Party now has or hereafter may have against any other Person and waives the benefit of, or any right to participate in, any Collateral now or hereafter held by Secured Party.

10. Waiver of Discharge. Without limiting the generality of the foregoing, each Grantor hereby waives discharge, to the fullest extent permitted under applicable Law, by waiving all defenses based on suretyship or impairment of collateral.

11. Understanding with Respect to Waivers and Consents. Grantors and each of them warrant and agree that each of the waivers and consents set forth herein are made after consultation with legal counsel and with full knowledge of their significance and consequences, with the understanding that events giving rise to any defense or right waived may diminish, destroy or otherwise adversely affect rights which Grantors otherwise may have against Borrowers, Secured Party or others, or against Collateral, and that, under the circumstances, the waivers and consents herein given are reasonable. If any of the waivers or consents herein are determined to be contrary to any applicable Law or public policy, such waivers and consents shall be effective to the maximum extent permitted by Law.

12. Costs and Expenses.

(a) Grantors will pay, subject to the applicable provisions of the Loan Agreement, any and all charges, costs and taxes incurred by Administrative Agent in implementing or subsequently amending this Agreement, including, without limitation, recording and filing fees, appraisal fees, stamp taxes, and reasonable fees and disbursements of counsel and the allocated cost of in-house counsel to Administrative Agent, in connection with this Agreement, and all such charges, costs and taxes (including fees and disbursements of counsel and in-house counsel) incurred by Administrative Agent and the Lenders in the enforcement of this Agreement and in the enforcement or foreclosure of any Liens, security interests or other rights of the Secured Party under this Agreement, or under any other documentation heretofore, now, or hereafter given to Secured Party in furtherance of the transactions contemplated hereby.

(b) Grantors agree to reimburse Secured Party for and indemnify it against, any and all losses, expenses and liabilities (including liabilities for penalties) of whatever kind or nature sustained and reasonably incurred in connection with any claim, demand, suit or legal or arbitration proceeding relating to this Agreement, or the exercise of any rights or powers hereunder, including reasonable attorneys' fees and disbursements, and the allocated cost of in-house counsel to the Secured Party, except losses, expenses and liabilities arising out of Secured Party's own gross negligence or willful misconduct.

13. Miscellaneous.

(a) Grantors and Secured Party may from time to time agree in writing to the release of certain of the Collateral from the security interest created hereby.

(b) **This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the Laws of the United States of America, and, to the extent that the Laws of the United States of America are not applicable, by the Laws of the State of California applicable to contracts executed and performed in the State of California.**

(c) Any notice, request, demand or other communication required or permitted under this Agreement shall be in writing and shall be deemed to be properly given if done in accordance with Section 11.6 of the Loan Agreement.

(d) Except as otherwise set forth in the Loan Agreement, the provisions of this Agreement may not be modified, amended, restated or supplemented,

whether or not the modification, amendment, restatement or supplement is supported by new consideration, except by a written instrument duly executed and delivered by Administrative Agent (or the Lenders during such time as there shall be no Administrative Agent) and Grantors.

(e) Except as otherwise set forth in the Loan Agreement or this Agreement, any waiver of the terms and conditions of this Agreement, or any Event of Default and its consequences hereunder or thereunder, and any consent or approval required or permitted by this Agreement to be given, may be made or given with, but only with, the written consent of Secured Party on such terms and conditions as specified in the written instrument granting such waiver, consent or approval.

(f) Any failure or delay by Secured Party to require strict performance by Grantors 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 default shall not waive or affect any other 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 Grantors, specifying such waiver.

(g) If any term or provision of this Agreement conflicts with any term or provision of the Loan Agreement, the term or provision of the Loan Agreement shall control.

(h) If any provision hereof shall be deemed to be invalid by any court, such invalidity shall not affect the remainder of this Agreement.

(i) This Agreement shall be binding upon, and for the benefit of, the parties hereto and their respective legal representatives, successors, and assigns.

(j) This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same agreement.

14. Continuing Effect. This Agreement shall remain in full force and effect and continue to be effective should any petition be filed by or against any Obligor for liquidation or reorganization, should any Obligor become insolvent or make an assignment for the benefit of creditors or should a receiver or trustee be appointed for all or any significant part of any Obligor's assets.

15. Additional Grantors. From time to time following the date hereof, Subsidiaries of Borrowers may become parties hereto, as additional Grantors, by executing and delivering to Administrative Agent a Joinder Agreement substantially in the form of Exhibit A attached hereto, accompanied by such documentation as Administrative Agent may require in connection therewith, wherein such additional Grantors agree to become a party hereto and to be bound hereby. Upon delivery of such Joinder Agreement to and acceptance thereof by Administrative Agent, notice of which acceptance is hereby waived by Grantors, each such additional Grantor shall be as fully a party hereto, effective as of such delivery, but in all other respects, as if such Grantor were an original signatory hereof. Each Grantor expressly agrees that its Secured Obligations and the Liens upon its Property granted herein shall not be affected or diminished by the addition or release of additional Grantors hereunder, nor by any election of Secured Party not to cause any Subsidiary of Borrowers to become an additional Grantor hereunder. This Agreement shall be fully effective as to any Grantor who is or becomes a party hereto regardless of whether any other Person becomes or fails to become or ceases to be a Grantor hereunder.

16. Release of Grantors. This Agreement and all Secured Obligations of Grantors hereunder shall be released when all Secured Obligations have been paid in full in cash or otherwise performed in full and when no portion of any Commitment remains outstanding. Upon such release of Grantors' Secured Obligations hereunder, Secured Party shall return any Collateral to Grantors, or to the Person or Persons legally entitled thereto, and shall endorse, execute, deliver, record and file all instruments and documents, and do all other acts and things, reasonably required for the return of the Collateral to Grantors, or to the Person or Persons legally entitled thereto, and to evidence or document the release of Secured Party's interests arising under this Agreement, all as reasonably requested by, and at the sole expense of, Grantors.

17. Additional Powers and Authorization. The Administrative Agent has been appointed as the Administrative Agent hereunder pursuant to the Loan Agreement and shall be entitled to the benefits of the Loan Agreement and the other Loan Documents. Notwithstanding anything contained herein to the contrary, the Administrative Agent may employ agents, trustees, or attorneys-in-fact and may vest any of them with any Property (including, without limitation, any Collateral assigned hereunder), title, right or power deemed necessary for the purposes of such appointment.

18. WAIVER OF JURY TRIAL. EACH GRANTOR AND SECURED PARTY EXPRESSLY WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED OR INCIDENTAL TO THIS AGREEMENT, THE LOAN AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR PARTIES, WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER WITH RESPECT TO CONTRACT CLAIMS,




TORT CLAIMS, OR OTHERWISE. EACH GRANTOR AND SECURED PARTY AGREE THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY ARE WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT, THE LOAN AGREEMENT OR THE OTHER LOAN DOCUMENTS OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT, THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

IN WITNESS WHEREOF, each Grantor has executed this Agreement by its duly authorized officer as of the date first written above.

"Grantors"

E&B GIFTWARE HOLDINGS LLC,  
a Delaware limited liability company

By: 

Robert G. Levine, CEO  
[Printed Name and Title]

E&B GIFTWARE LLC,  
a Delaware limited liability company

By: 

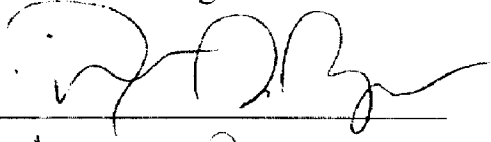
EDWARD S. SACKS, CEO  
[Printed Name and Title]

ACCEPTED AND AGREED  
AS OF THE DATE FIRST  
ABOVE WRITTEN:

"Secured Party"

UNION BANK OF CALIFORNIA, N.A.,  
as Administrative Agent for the Lenders

By: \_\_\_\_\_



VP

\_\_\_\_\_  
[Printed name and title]

EXHIBIT A

INSTRUMENT OF JOINDER

THIS INSTRUMENT OF JOINDER ("Joinder") is executed as of

\_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_, a \_\_\_\_\_ ("Joining Party"), and delivered to Union Bank of California, N.A., a national banking association, as Administrative Agent, pursuant to the Patent Security Agreement dated as of June 26, 2000 made by E&B Giftware Holdings LLC, a Delaware limited liability company ("Holdings"), E&B Giftware LLC, a Delaware limited liability company ("E&BLLC" and, together with Holdings, "Borrowers"), as initial Grantors, and the other Grantors party thereto, in favor of the Administrative Agent and the Lenders referred to in the Loan Agreement referred to below (as amended, extended, renewed, supplemented or otherwise modified, the "Patent Security Agreement"). Terms used but not defined in this Joinder shall have the meanings defined for those terms in the Patent Security Agreement.

RECITALS

a. The Patent Security Agreement was made by the Grantors in favor of the Administrative Agent for the benefit of the Lenders that are parties to that certain Revolving/Term Loan Agreement dated as of June 26, 2000 among Borrowers, the Lenders that are parties thereto and Union Bank of California, N.A., a national banking association, as Administrative Agent for the Lenders (as amended, extended, renewed, supplemented or otherwise modified, the "Loan Agreement").

b. Joining Party has become a Subsidiary of \_\_\_\_\_, and as such is required pursuant to Section 5.11 of the Loan Agreement to become a party to the Patent Security Agreement.

c. Joining Party expects to realize direct and indirect benefits as a result of the availability to Borrowers of the credit facilities under the Loan Agreement.

NOW, THEREFORE, Joining Party agrees as follows:

AGREEMENT

1. By this Joinder, Joining Party becomes a party to the Patent Security Agreement as an additional joint and several "Grantor." Joining Party agrees that, upon its execution hereof, it will become a Grantor under the Patent Security Agreement with respect to all Secured Obligations, and will be bound by all terms, conditions, and duties applicable to a Grantor under the Patent Security Agreement.

2. The effective date of this Joinder is \_\_\_\_\_.

"Joining Party"

\_\_\_\_\_  
a \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
[Printed name and title]

ACKNOWLEDGED:

UNION BANK OF CALIFORNIA, N.A.,  
as Administrative Agent

By: \_\_\_\_\_

\_\_\_\_\_  
[Printed name and title]

SCHEDULE 1

Existing and Pending Patents

<i>Patent</i>	<i>Registration #</i>
Key Safe & Thermometer	D372,875
Digital Golf Scorer	D394,406
Rotating Belt Organizer	D404,577
Tech Vac	D360,502
Auto Escape Hammer	D417,130
Wine Bottle Foil Cutter	D422,861 & Foreign
Wine Bottle Vac Sealer	D422,912 & Foreign
Hanging Jewelry Organizer	D332,697
Pop Up Light & Magnifier	D417,021
Lotto Matic	D375,764
4 in 1 Ruler	D372,876
Expandable Drink Holder	D399,395
Golf Bag Drink Holder	D352,827
Tie Tracker	D422,795
Car Coin Dispenser	D324,600
Telescoping Tie Rack	D288,035
Wine Bottle Coaster	D421,697
Deluxe Wine Bottle Stopper	D422,214
Easy Out Cork Puller	D421,701 & Foreign
Wine Bottle Multi Tool	D421,559 & Foreign
Classic Corkscrew	D421,373

SCHEDULE 1 (cont'd)

<i>Description</i>	<i>Patent #</i>
Wine Bottle Stopper Set	D421,570 & Foreign
Golf Swing-Speed Trainer	D421,084
Square Dumbbell	D418,881
Handgrip Exerciser	D418,561
Ankle or Wrist Weight	D418,559
Jump Rope	D418,557
Dumbbell with Bumper Guards	D415,803
Cooler for Automobile Seat Mounting	D412,311
Eyeglass Holder	D379,871
Squeegee	D342,355
Wine Bottle Stopper Pourer	D418,417
Personal Care & Sewing Organizer	D326,748
Golfball Washer	D392,485
Carryall	4,967,986
The Nose Holder for Eyeglasses	305,340
Solar Device for Cooling	5,676,128
Drink Holder	5,570,863
Bee Fly Swatter	D365,868
Fly Swatter	D358,446
Floor Mat	D356,710
Luggage Strap-Sure Closure	D362741