

PATENT ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:

NEW ASSIGNMENT

NATURE OF CONVEYANCE:

SECURITY AGREEMENT

CONVEYING PARTY DATA

Name	Execution Date
The Encore Group, Inc.	12/23/2008

RECEIVING PARTY DATA

Name:	Wells Fargo Bank, National Association
Street Address:	300 Commercial Street
City:	Boston
State/Country:	MASSACHUSETTS
Postal Code:	02109

PROPERTY NUMBERS Total: 8

Property Type	Number
Patent Number:	5275080
Patent Number:	D405709
Patent Number:	5329836
Patent Number:	D404671
Patent Number:	D404672
Patent Number:	D362819
Patent Number:	D345828
Patent Number:	D341789

CORRESPONDENCE DATA

Fax Number: (973)295-1292

Correspondence will be sent via US Mail when the fax attempt is unsuccessful.

Phone: 973-443-3572

Email: agostinoj@gtlaw.com

Correspondent Name: Joseph Agostino- Greenberg Traurig, LLP

Address Line 1: 200 Park Avenue

Address Line 4: Florham Park, NEW JERSEY 07932

PATENT

500740976

REEL: 022024 FRAME: 0804

CH \$320.00 5275080

ATTORNEY DOCKET NUMBER:

050255.023400

NAME OF SUBMITTER:

Joseph Agostino

Total Attachments: 9

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PATENT SECURITY AGREEMENT

This Patent Security Agreement (the "Agreement"), dated as of December 23, 2008 is made by and between The Encore Group, Inc., a California corporation having a business location at the address set forth below next to its signature (the "Debtor"), and Wells Fargo Bank, National Association ("Wells Fargo"), and having a business location at the address set forth below next to its signature.

Recitals

A. Debtor and certain of its Affiliates as co-Borrowers (collectively and individually, "Companies") and Wells Fargo are parties to a Credit and Security Agreement (as amended, supplemented or restated from time to time, the "Credit Agreement") dated the same date as this Agreement, setting forth the terms on which Wells Fargo may now or hereafter extend credit to or for the account of Companies.

B. As a condition to extending credit to or for the account of Companies, Wells Fargo has required the execution and delivery of this Agreement by Debtor.

ACCORDINGLY, in consideration of the mutual covenants contained in the Loan Documents and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Credit Agreement that are not otherwise defined herein shall have the meanings given to them in the Credit Agreement. In addition, the following terms have the meanings set forth below:

"Patents" means all of Debtor's right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on Exhibit A.

"Security Interest" has the meaning given in Section 2.

2. Security Interest. Debtor hereby irrevocably pledges and assigns to, and grants Wells Fargo a security interest (the "Security Interest") with power of sale to the extent permitted by law, in the Patents to secure payment of the Indebtedness. As set forth in the Credit Agreement, the Security Interest is coupled with a security interest in substantially all of the personal property of Debtor.

3. Representations, Warranties and Agreements. Debtor represents, warrants and agrees as follows:

(a) **Existence; Authority.** Debtor is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and this

Agreement has been duly and validly authorized by all necessary corporate action on the part of Debtor.

(b) **Patents.** Exhibit A accurately lists all Patents owned or controlled by Debtor as of the date hereof, or to which Debtor has a right as of the date hereof to have assigned to it, and accurately reflects the existence and status of applications and letters patent pertaining to the Patents as of the date hereof. If after the date hereof, Debtor owns, controls or has a right to have assigned to it any Patents not listed on Exhibit A, or if Exhibit A ceases to accurately reflect the existence and status of applications and letters patent pertaining to the Patents, then Debtor shall within 60 days provide written notice to Wells Fargo with a replacement Exhibit A, which upon acceptance by Wells Fargo shall become part of this Agreement.

(c) **Affiliates.** As of the date hereof, no Affiliate owns, controls, or has a right to have assigned to it any items that would, if such item were owned by Debtor, constitute Patents. If after the date hereof any Affiliate owns, controls, or has a right to have assigned to it any such items, then Debtor shall promptly either: (i) cause such Affiliate to assign all of its rights in such item(s) to Debtor; or (ii) notify Wells Fargo of such item(s) and cause such Affiliate to execute and deliver to Wells Fargo a patent security agreement substantially in the form of this Agreement.

(d) **Title.** Debtor has absolute title to each Patent listed on Exhibits A, free and clear of all Liens except Permitted Liens. Debtor (i) will have, at the time Debtor acquires any rights in Patents hereafter arising, absolute title to each such Patent free and clear of all Liens except Permitted Liens, and (ii) will keep all Patents free and clear of all Liens except Permitted Liens.

(e) **No Sale.** Except as permitted in the Credit Agreement, Debtor will not assign, transfer, encumber or otherwise dispose of the Patents, or any interest therein, without Wells Fargo's prior written consent.

(f) **Defense.** Debtor will at its own expense and using commercially reasonable efforts, protect and defend the Patents against all claims or demands of all Persons other than those holding Permitted Liens.

(g) **Maintenance.** Debtor will at its own expense maintain the Patents to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain letters patent registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent registrations and applications therefor. Debtor covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent, nor fail to file any required affidavit or renewal in support thereof, without first providing Wells Fargo:

(i) sufficient written notice, of at least 30 days, to allow Wells Fargo to timely pay any such maintenance fees or annuities which may become due on any Patents, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of

attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(h) **Wells Fargo's Right to Take Action.** If Debtor fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after Wells Fargo gives Debtor written notice thereof (or, in the case of the agreements contained in subsection (g), immediately upon the occurrence of such failure, without notice or lapse of time), or if Debtor notifies Wells Fargo that it intends to abandon a Patent, Wells Fargo may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of Debtor (or, at Wells Fargo's option, in Wells Fargo's own name) and may (but need not) take any and all other actions which Wells Fargo may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(i) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, Debtor shall pay Wells Fargo on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and disbursements) incurred by Wells Fargo in connection with or as a result of Wells Fargo's taking action under subsection (h) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by Wells Fargo at the Default Rate.

(j) **Power of Attorney.** To facilitate Wells Fargo's taking action under subsection (h) and exercising its rights under Section 6, Debtor hereby irrevocably appoints (which appointment is coupled with an interest) Wells Fargo, or its delegate, as the attorney-in-fact of Debtor with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of Debtor, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by Debtor under this Section 3, or, necessary for Wells Fargo, after an Event of Default, to enforce or use the Patents or to grant or issue any exclusive or non-exclusive license under the Patents to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents to any third party. Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Credit Agreement as provided therein and the payment and performance of all Indebtedness.

4. **Debtor's Use of the Patents.** Debtor shall be permitted to control and manage the Patents, including the right to exclude others from making, using or selling items covered by the Patents and any licenses thereunder, in the same manner and with the same

effect as if this Agreement had not been entered into, so long as no Event of Default occurs and remains uncured.

5. Events of Default. Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (a) an Event of Default, as defined in the Credit Agreement, shall occur; or (b) Debtor shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. Remedies. Upon the occurrence of an Event of Default and at any time thereafter, Wells Fargo may, at its option, take any or all of the following actions:

(a) Wells Fargo may exercise any or all remedies available under the Credit Agreement.

(b) Wells Fargo may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents.

(c) Wells Fargo may enforce the Patents and any licenses thereunder, and if Wells Fargo shall commence any suit for such enforcement, Debtor shall, at the request of Wells Fargo, do any and all lawful acts and execute any and all proper documents required by Wells Fargo in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by Wells Fargo. A waiver signed by Wells Fargo shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of Wells Fargo's rights or remedies. All rights and remedies of Wells Fargo shall be cumulative and may be exercised singularly or concurrently, at Wells Fargo's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Debtor under this Agreement shall be given in the manner and with the effect provided in the Credit Agreement. Wells Fargo shall not be obligated to preserve any rights Debtor may have against prior parties, to realize on the Patents at all or in any particular manner or order, or to apply any cash proceeds of Patents in any particular order of application. This Agreement shall be binding upon and inure to the benefit of Debtor and Wells Fargo and their respective participants, successors and assigns and shall take effect when signed by Debtor and delivered to Wells Fargo, and Debtor waives notice of Wells Fargo's acceptance hereof. Wells Fargo may execute this Agreement if appropriate for the purpose of filing, but the failure of Wells Fargo to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by Debtor shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of New York without regard to conflicts of

law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Indebtedness.

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.


[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this Patent Security Agreement as of the date written above.

THE ENCORE GROUP, INC.

Telecopier: _____
Attention: _____

THE ENCORE GROUP, INC.

By 
Name: Richard D. Snow
Title: President and CEO

STATE OF New York)

COUNTY OF New York)

The foregoing instrument was acknowledged before me this 27 day of December, 2008, by Richard D. Snow, the President and CEO of THE ENCORE GROUP, INC. a California corporation, on behalf of the corporation.


Notary Public

BITA R. EARKACHY
Notary Public, State of New York
No. 4643943
Qualified in Rockland County
Commission Expires Oct. 17, 2010

Wells Fargo Bank, National Association
300 Commercial Street
Boston, Massachusetts 02109
Telecopier: (617) 263-6328
Attention: Relationship Manager for The Russ
Companies, Inc.

WELLS FARGO BANK, NATIONAL
ASSOCIATION

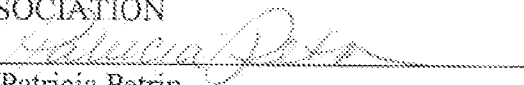
By 
Patricia Petrin
Vice President

EXHIBIT A

UNITED STATES ISSUED PATENTS

<u>Title</u>	<u>Patent Number</u>	<u>Issue Date</u>
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See Attached

UNITED STATES PATENT APPLICATIONS

<u>Title</u>	<u>Serial Number</u>	<u>Filing Date</u>
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None

FOREIGN ISSUED PATENTS

<u>Title</u>	<u>Country</u>	<u>Patent Number</u>	<u>Issue Date</u>
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None

UNITED STATES PATENT APPLICATIONS

<u>Title</u>	<u>Serial Number</u>	<u>Filing Date</u>
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None

EXHIBIT A

UNITED STATES ISSUED PATENTS

<u>Title</u>	<u>Patent Number</u>	<u>Issue Date</u>
WIND CHIMES HAVING PAIRED CHIME MEMBERS	5275080	01/04/1994
WINDCHIME	D405709	02/16/1999
CHIME DEVICE HAVING QUICKLY RELEASABLE CHIME MEMBERS	5329836	07/19/1994
WINDCHIME	D404671	01/26/1999
WINDCHIME	D404672	01/26/1999
GOLF BALL WINDCHIME	D362819	10/03/1995
COMBINED BIRDHOUSE AND CHIME	D345828	04/05/1994
WIND CHIME	D341789	11/30/1993