

## PATENT ASSIGNMENT

Electronic Version v1.1  
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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
M.&D. Balloons, Inc.	08/31/1995
RECEIVING PARTY DATA	
Name:	Balloon Zone Wholesale, Inc.
Street Address:	1209 Orange Street
City:	Wilmington
State/Country:	DELAWARE
Postal Code:	19801
PROPERTY NUMBERS Total: 8	
Property Type	Number
Patent Number:	4721491
Patent Number:	4586910
Patent Number:	5248275
Patent Number:	5378186
Patent Number:	5378299
Application Number:	08179308
Application Number:	08333600
Application Number:	08475422
CORRESPONDENCE DATA	
Fax Number:	2123108007
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	2123108000
Email:	mei.dan@weil.com, brian.lee@weil.com
Correspondent Name:	Mei Dan
Address Line 1:	Weil, Gotshal & Manges LLP
Address Line 2:	767 Fifth Avenue

CH \$320.00 4721491

Address Line 4: New York, NEW YORK 10153

ATTORNEY DOCKET NUMBER:	77356.0143/MEI DAN
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NAME OF SUBMITTER:	Mei Dan
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**Total Attachments: 16**

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ASSET PURCHASE AGREEMENT

among

BALLOON ZONE WHOLESALE, INC.

and

M. & D. BALLOONS, INC.  
(d/b/a M&D Industries International, Inc.),

BALLOON SUPPLY COMPANY,

M&D INTERNATIONAL

August 31, 1995

## TABLE OF SCHEDULES AND EXHIBITS

Schedule 2.1	Assets
Schedule 2.2	Excluded Assets
Schedule 2.3	Assumption of Liabilities
Schedule 2.4	Purchase Price Allocation
Schedule 2.6	Purchase Price Adjustment for Capacities
Schedule 3.3	Capitalization
Schedule 3.4	Title
Schedule 3.5	Litigation
Schedule 3.7	Compliance with Law; Governmental and Industrial Approvals
Schedule 3.8	Environmental Matters
Schedule 3.9	Financial Statements
Schedule 3.10	Absence of Certain Changes
Schedule 3.11	Labor Matters
Schedule 3.12	Liabilities
Schedule 3.13	Employee Benefits
Schedule 3.14	Insurance
Schedule 3.15	Intellectual Property
Schedule 3.16	Processes and Customer Lists
Schedule 3.17	Contracts
Schedule 3.18	Sales Representatives
Schedule 3.19	Condition of Machinery and Equipment
Schedule 3.20	Warranty and Other Claims
Schedule 3.22	Backlog
Schedule 3.23	Transactions with Interested Persons

TABLE OF SCHEDULES AND EXHIBITS (continued)

Schedule 3.24	Accounts Receivable
Schedule 3.25	Real Property
Schedule 4.2	Authority; No Violation
Exhibit A	Opinion of Sellers' Counsel
Exhibit B	Assumption Agreement
Exhibit C	Escrow Agreement

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT ("Agreement") is entered into on August 31, 1995, by and among BALLOON ZONE WHOLESALE, INC. ("Buyer"), and M. & D. BALLOONS, INC. (d/b/a M&D Industries International, Inc.), BALLOON SUPPLY COMPANY and M&D INTERNATIONAL (collectively, "M&D"), (each, a "Seller" and collectively, "Sellers").

WHEREAS, Sellers own certain assets, more fully described herein, that are used in connection with the manufacture and sale of metallic/plastic balloons and related products (referred to hereafter as "Balloons"); and

WHEREAS, Sellers wish to sell such assets to Buyer and Buyer wishes to purchase such assets from Sellers; and

WHEREAS, pursuant to a certain Loan Agreement, dated August 31, 1995 (the "Loan Agreement"), Buyer agreed to loan certain amounts set forth in the Loan Agreement to Sellers upon the terms and conditions set forth in the Loan Agreement:

NOW, THEREFORE, in consideration of the parties' mutual promises set forth herein and in the Loan Agreement, the parties hereto agree as follows:

### ARTICLE I

#### DEFINITIONS

SECTION 1.1 Definitions. Unless otherwise defined elsewhere in this Agreement or in the Loan Agreement, the following definitions shall apply:

"AG" means American Greetings Corporation.

"Agreement" means this Asset Purchase Agreement.

"Agreements and Contracts" means any agreements, contracts, arrangements, or understandings, whether written or oral, related to the Business.

"Artwork" means the designs, images, original art, and layouts created by Sellers and Sellers' employees in connection with the Business.

"Assets" means those assets described in Section 2.1 of this Agreement, to be sold by Sellers and purchased by Buyer under the Agreement and excludes those assets described in Section 2.2 of this Agreement.

"Assumption Agreement" means the Assumption Agreement to be dated as of the Closing Date between Buyer and Sellers, substantially in the form of Exhibit B.

"Business" means the design, development, manufacture, assembly, packaging, sale, and distribution of Balloons carried on by Sellers prior to the Closing Date and by Buyer after the Closing Date.

"Business Day" means a day other than Saturday, Sunday, or a national holiday.

"Closing" means the completion of the sale of Assets contemplated by this Agreement, as more fully described in Section 2.7 of the Agreement.

"Closing Date" means the date upon which the Closing occurs.

"Closing Documents" means those documents listed on Schedule 7.5 hereto to be delivered in connection with the Closing.

"Customer Lists" means those customer lists of Sellers forming a portion of the Assets, and attached hereto as Schedule 3.16.

"Escrow" means the escrow arrangement provided for in Section 2.5(g) hereof.

"Existing IDRB Debt" means those obligations of Sellers set forth on Schedule 2.3 hereof.

"Financial Statements" means those audited and unaudited financial statements, balance sheets, operating statements, working papers, and summaries relating to the Business as referred to in Section 3.9 hereof and attached to this Agreement as Schedule 3.9, as updated to reflect the period from the Signing Date until the Closing Date.

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"Intellectual Property" means all trademarks, tradenames, service marks, copyrights, patents, designs, names, trade

secrets and other intellectual property and property rights  
used in connection with the Business, whether registered or  
not, as set forth on Schedule 3.15 hereof.

*Redacted*



## ARTICLE II

### SALE OF ASSETS

SECTION 2.1 Assets. As of the Closing Date, Sellers will sell to Buyer and Buyer will purchase from Sellers all of Sellers' assets (or Sellers' rights in such assets) listed on Schedule 2.1 and used in connection with the Business, free and clear of recorded and unrecorded liens, security interests and other encumbrances, import duties, other taxes and surcharges of any nature, except as otherwise provided for hereinafter, as follows:

- (a) Inventory;
- (b) Intellectual Property;
- (c) Real Property;
- (d) Raw Materials and Work-in-Progress;
- (e) Machinery and Equipment;
- (f) Customer Lists;
- (g) Artwork;
- (h) Receivables and prepaid expenses;
- (i) Agreements and Contracts, Licenses and Permits that are assignable and that are entered into by Sellers from and after the Signing Date in accordance with Section 8 of the Loan Agreement or that are specifically set forth on Schedule 2.3; and

IN WITNESS WHEREOF, the parties have executed this Agreement  
to be effective as of the date first above written.

BALLOON ZONE WHOLESALE, INC.

By: TR Malarkey  
Title: \_\_\_\_\_

M&D INDUSTRIES, INC.  
(d/b/a M&D Industries  
International, Inc.)

By: [Signature]  
Title: \_\_\_\_\_

BALLOON SUPPLY COMPANY

By: [Signature]  
Title: \_\_\_\_\_

M&D INTERNATIONAL

By: [Signature]  
Title: \_\_\_\_\_

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS, that M. & D. BALLOONS, INC., BALLOON SUPPLY COMPANY and M&D INTERNATIONAL (herein referred to as the "Sellers"), for and in consideration of amounts received or to be received under that certain Asset Purchase Agreement between Sellers and Balloon Zone Wholesale, Inc., dated August 31, 1995, (the "Asset Purchase Agreement"),

DOES HEREBY sell, transfer, set over and assign unto BALLOON ZONE WHOLESALE, INC., an Ohio corporation having its principal office at One American Road, Cleveland, Ohio 44144-2398 (herein referred to as "Buyer"), all Assets (as defined in the Asset Purchase Agreement) to have and to hold the same unto the Buyer forever.

SELLERS COVENANT AND AGREE to and with Buyer to warrant and defend the sale of said Assets hereby sold unto Buyer against all and every person and persons whomsoever.

The warranties and covenants contained in the Asset Purchase Agreement shall survive this Bill of Sale and become a part hereof and shall continue in full force and effect as though herein set forth fully and at length.

The terms, covenants and agreements, herein contained shall bind and inure to the benefit of the respective parties hereto, and their respective legal representatives, successors and assigns.

IN WITNESS WHEREOF, the Seller has signed and sealed these presents this 31st day of August, 1995.

M. & D. BALLOONS, INC.  
BALLOON SUPPLY COMPANY  
M & D INTERNATIONAL

By 

STATE OF ILLINOIS )

COUNTY OF )

) SS  
)

On the 31st day of August, 1995, before me came Scott Hadden who, being duly sworn, did depose and say that he resides at Barrington, Illinois 60015; that he is the President of M. & D. BALLOONS, INC., BALLOON SUPPLY COMPANY and M & D INTERNATIONAL, the corporations described in, and which executed, the foregoing instrument; and that he executed the foregoing instrument by order of the board of directors of said corporations.

Shelley McHugh  
NOTARY PUBLIC

My Commission Expires: January 30, 1999

SHELLEY McHUGH  
Notary Public for the State of Ohio  
My Commission Expires Jan. 30, 1999

## **BILL OF SALE, ASSIGNMENT AND CONVEYANCE**

This Bill of Sale, Assignment and Conveyance ("Bill of Sale") is delivered as of this 11th day of April, 2000 by M&D Balloons, Inc., Balloon Supply Company, M&D International (collectively, "M&D") to Balloon Zone Wholesale, Inc. ("BZW").

WHEREAS, pursuant to that certain Asset Purchase Agreement dated as of August 31, 1995, as amended July 1, 1997 ("Agreement") by and between M&D and BZW, BZW agreed to purchase substantially all of the assets of M&D. All capitalized terms not defined herein have the meanings ascribed to them in the Agreement.

WHEREAS, pursuant to the terms of the Agreement, M&D is selling, transferring, conveying, assigning and delivering to BZW the assets set forth in Section 2.1 of the Agreement, as specifically set forth on Schedule 2.3 to the Agreement (the "Acquired Assets") subject to certain liabilities.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, M&D does hereby sell, transfer, convey, assign and deliver to BZW all of M&D's right, title and interest in and to the Acquired Assets.

Notwithstanding anything to the contrary implied by the generality of the foregoing, M&D will not transfer, and BZW will not purchase, any Excluded Assets, as set forth in Section 2.2 of the Agreement and more fully described in Schedule 2.2 thereto.

M&D hereby irrevocably makes, constitutes and appoints BZW the true and lawful attorney of M&D, with full power of substitution, for and in the name and stead of M&D but on behalf and for the benefit of BZW, to demand and receive from time to time any and all property, tangible and intangible, real, personal and mixed, constituting any of the Acquired Assets and to give receipts and releases for and in respect of the same and any part thereof.

M&D hereby agrees to take or cause to be taken all such other actions as may be necessary or appropriate to give effect to the sale, transfer, conveyance and assignment of the Acquired Assets to BZW as contemplated by this Bill of Sale.

The provisions of this Bill of Sale will be binding upon and inure to the benefit of the parties hereto and their respective successors and any permitted assigns; provided, however, that no party may assign, delegate or otherwise transfer any of its rights or obligations under this Bill of Sale without the prior written consent of the other party hereto.

This Bill of Sale shall be construed in accordance with the laws of Ohio.

IN WITNESS WHEREOF, M&D has caused this instrument to be duly executed and delivered as of the date set forth above.

**M&D BALLOONS, INC.**

By: 

Title: PRESIDENT

**BALLOON SUPPLY COMPANY**

By: 

Title: DIRECTOR

**M&D INTERNATIONAL**

By: 

Title: DIRECTOR

**AGREED AND ACCEPTED:**

**BALLOON ZONE WHOLESALE, INC.**

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

Title: \_\_\_\_\_

IN WITNESS WHEREOF, M&D has caused this instrument to be duly executed and delivered as of the date set forth above.

**M&D BALLOONS, INC.**

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

Title: \_\_\_\_\_

**BALLOON SUPPLY COMPANY**

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

Title: \_\_\_\_\_

**M&D INTERNATIONAL**

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

Title: \_\_\_\_\_

**AGREED AND ACCEPTED:**

**BALLOON ZONE WHOLESALE, INC.**

By: *E. J. [Signature]*

Title: \_\_\_\_\_

SCHEDULES AND EXHIBITS

<u>Title</u>	<u>Asset Purchase Agreement</u>	<u>Loan Agreement</u>	<u>Tab</u>
Assets	2.1	1(a)	A
Excluded Assets	2.2	1(b)	B
Assumption of Liabilities	2.3	n/a	C
Purchase Price Allocation	2.4	n/a	D
Purchase Price Adjustment for Capacities	2.6	n/a	E
Capitalization	3.3	12(c)	F
Title; Security Interests	3.4	12(d)	G
Litigation	3.5	12(e)	H
Compliance with Law; Governmental and Industrial Approvals	3.7	12(g)	I
Environmental Matters	3.8	12(h)	J
Financial Statements	3.9	12(i)	K
Absence of Certain Changes	3.10	12(j)	L
Labor Matters	3.11	12(k)	M
Liabilities	3.12	12(l)	N
Employee Benefits	3.13	12(m)	O
Insurance	3.14	n/a	P
Intellectual Property	3.15	12(o)	Q
Processes and Customer Lists	3.16	12(p)	R
Contracts	3.17	12(q)	S
Sales Representatives	3.18	12(r)	T
Machinery and Equipment	3.19	12(s)	U



[Schedule 12(o) Intellectual Property]\*

LICENSES:

Patent License:

US Patents 5,248,275 and 5,378,299 (royalty-free)

Redacted

ISSUED PATENTS (all assignable)

<u>Title</u>	<u>Reg. No.</u>
-- Balloon Inflation Valve	US 4,721,491
-- Inflation Valve For Balloons And The Like	US 4,586,910
-- Balloon with Flat Film Valve and Method of Manufacture	US 5,248,275
-- Balloon Assembly Connected By Tab And Encircling Collar (a/k/a Tap Dancer Assembly)	US 5,378,186
-- Method of Making a Balloon With Flat Film Valve (a/k/a Bay Valve)	US 5,378,299

PENDING PATENT APPLICATIONS

<u>Serial No.</u>	<u>Title</u>	<u>Filing Date</u>
08/179,308	Improved Balloon and Balloon Valve	1-10-94
08/333,600	Toy Balloon Package	11-2/94
08/475,422	Improved Balloon and Balloon Valve	6-7-95
08/370,678	Toy Balloon Package	1-10-95