

TRADEMARK RECORDATION COVER SHEET

15-2-11

U.S. Patent and Trademark Office
Office of Public Records
Attn: Customer Services Counter
1213 Jefferson Davis Highway, 3rd Floor
Arlington, Virginia 22202-3513

11-04-1998



100868181

11-2-98

Please record the attached original documents or copy thereof.

Handwritten initials

<p>1. Name of conveying party(ies): Wherehouse Subsidiary III Co., Inc.</p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-State <u>Delaware</u> <input type="checkbox"/> Other _____</p> <p>Additional name(s) conveying party(ies) attached: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies):</p> <p>Name: <u>Congress Financial Corporation (Western)</u> Street Address: <u>225 South Lake Avenue, Suite 1000</u> <hr/> City <u>Pasadena</u> State <u>CA</u> Zip <u>91101</u></p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-State <u>California</u> <input type="checkbox"/> Other _____</p> <p>If assignee is not domiciled in the United States, A domestic representative designation is attached: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>(Designation must be a separate document from Assignment)</p> <p>Additional name(s) and address(es) attached: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input checked="" type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____</p> <p>Execution Date: <u>October 26, 1998</u></p>	<p>4. Application number(s) or registration number(s)</p> <p>A. Trademark Application No(s): <u>11/03/1998 JSHABAZZ 00000035 1201591</u></p> <p>B. Trademark Registration No(s): <u>1,201,591</u> <u>1,023,400</u> <u>1,770,887</u></p>
<p>5. Name and address of party to whom correspondence concerning documents should be mailed:</p> <p>Name: <u>Danielle V. Garcia</u> Street Address: <u>Kelley Drye & Warren LLP</u> <u>777 South Figueroa Street, Suite 2700</u> City: <u>Los Angeles</u> State: <u>CA</u> Zip: <u>90017</u></p>	<p>6. Total number of applications and registrations involved: <u>3</u></p> <p>7. Total fee (37 CFR 3.41) <u>\$90.00</u></p> <p><input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to deposit account</p> <p>8. Deposit account number: _____ (Attach duplicate copy of this page if paying by deposit account)</p>

Handwritten initials

ASSIGNMENT
RECORDED

Handwritten initials

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.

Danielle V. Garcia *Danielle Garcia* 10/30/98
Name of Person Signing Signature Date

COLLATERAL ASSIGNMENT OF TRADEMARKS
(SECURITY AGREEMENT)

COLLATERAL ASSIGNMENT OF TRADEMARKS (SECURITY AGREEMENT) dated October 26, 1998, between WHEREHOUSE SUBSIDIARY III CO., INC., a Delaware corporation with its chief executive office at 1201 Elm Street, Dallas, Texas 75270 ("Pledgor") and CONGRESS FINANCIAL CORPORATION (WESTERN), a California corporation, with an office at 225 South Lake Avenue, Suite 1000, Pasadena, California 91101 ("Pledgee").

W I T N E S S E T H:

WHEREAS, Pledgee and Pledgor, among others, have entered into that certain Amended and Restated Loan and Security Agreement dated the date hereof (together with all agreements entered into in connection therewith, the "Financing Agreements"), pursuant to which Pledgee has made and may in the future, in its discretion, make certain loans and advances and extend credit to Pledgor, subject to the terms and provisions of the Financing Agreements;

WHEREAS, Pledgor owns all right, title, and interest in and to, among other things, all the trademarks, United States trademarks and trademark registrations, and the trademark applications and tradenames, set forth on Exhibit A hereto (the "Trademarks"); and

WHEREAS, in order to secure Pledgor's Obligations (as defined in the Financing Agreements) to Pledgee, Pledgor has agreed to grant to Pledgee a security interest in the Trademarks and the goodwill and certain other assets with respect to the Trademarks, as further set forth herein, and Pledgee has requested Pledgor to enter into this Security Agreement to evidence such security interest.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that for valuable consideration received and to be received, as security for the full payment and performance of Pledgor's Obligations, and to induce Pledgee to make loans and advances to Pledgor, Pledgor hereby grants to Pledgee a security interest in:

- a. the Trademarks;
- b. all registrations of the Trademarks in any State of the United States and any foreign countries and localities;
- c. all tradenames, trademarks and trademark registrations hereafter adopted or acquired and used, including, but not limited to, those which are based upon or derived from the Trademarks or any variations thereof (the "Future Trademarks");
- d. all extensions, renewals, and continuations of the Trademarks and Future Trademarks and the registrations referred to in clause (b) above;

- e. all rights to sue for past, present and future infringements of the Trademarks and Future Trademarks;
- f. all packaging, labeling, trade names, service marks, logos, and trade dress including or containing the Trademarks and Future Trademarks, or a representation thereof, or any variation thereof;
- g. all licenses and other agreements under which Pledgor is licensor, and all fees, rents, royalties, proceeds or monies thereunder, relating to the Trademarks and Future Trademarks and the use thereof; and
- h. all goodwill of Pledgor's business connected with, symbolized by or in any way related to the items set forth in clauses (a) through (g) above.

All of the foregoing items set forth in clauses a through h are hereinafter referred to collectively as the "Collateral."

AND Pledgor hereby covenants with Pledgee as follows:

1. Pledgor's Obligations. Pledgor agrees that, notwithstanding this Security Agreement, it will perform and discharge and remain liable for all its covenants, duties, and obligations arising in connection with the Collateral and any licenses and agreements related thereto. Pledgee shall have no obligation or liability in connection with the Collateral or any licenses or agreements relating thereto by reason of this Security Agreement or any payment received by Pledgee relating to the Collateral, nor shall Pledgee be required to perform any covenant, duty, or obligation of Pledgor arising in connection with the Collateral or any license or agreement related thereto or to take any other action regarding the Collateral or any such licenses or agreement.
2. Representations and Warranties. Pledgor represents and warrants to Pledgee that:
 - a. Pledgor is the owner of the Collateral, and no adverse claims have been made with respect to its title to or the validity of the Collateral;
 - b. the Trademarks are the only trademarks, trademark registrations, trademark applications and trade names in which Pledgor has any or all right, title and interest;

- c. none of the Collateral is subject to any mortgage, pledge, lien, security interest, lease, charge, encumbrance or license (by Pledgor as licensor), except for Pledgee's interests granted hereunder; and
 - d. when this Security Agreement is filed in the United States Patent and Trademark Office (the "Trademark Office") and the Pledgee has taken the other actions contemplated in this Security Agreement and by the Financing Agreements, this Security Agreement will create a legal and valid perfected and continuing lien on and security interest in the Collateral in favor of Pledgee, enforceable against Pledgor and all third parties, subject to no other mortgage, lien, charge, encumbrance, or security or other interest.
3. Covenants. Pledgor will maintain the Collateral, defend the Collateral against the claims of all persons, and will maintain and renew all registrations of the Collateral; provided, however, that Pledgor will not be required to maintain any Collateral which no longer has any economic value. Pledgor will maintain the same standards of quality (which Pledgee has reviewed) for the goods and services in connection with which the Trademarks are used as Pledgor maintained for such goods and services prior to entering into this Security Agreement. Pledgee shall have the right to enter upon Pledgor's premises at all reasonable times to monitor such quality standards. Without limiting the generality of the foregoing, and so long as any Trademark or Future Trademark has economic value, Pledgor shall not permit the expiration, termination or abandonment of such Trademark or Future Trademark without the prior written consent of Pledgee. If, before the Obligations have been satisfied in full and the Financing Agreements have been terminated, Pledgor shall obtain rights to or be licensed to use any new trademark, or become entitled to the benefit of any trademark application or trademark registration, the provisions of this Security Agreement shall automatically apply thereto and Pledgor shall give Pledgee prompt notice thereof in writing.
4. Use Prior to Default. Effective until Pledgee's exercise of its rights and remedies upon an Event of Default under and as defined in the Financing Agreements (an "Event of Default"), Pledgor shall be entitled to use the Collateral in the ordinary course of its business, subject to the terms and covenants of the Financing Agreements and this Security Agreement.
5. Remedies Upon Default. Whenever any Event of Default shall occur and be continuing, Pledgee shall have all the rights and remedies granted to it in such event by the Financing Agreements, which rights and remedies are specifically incorporated herein by reference and made a part hereof, and any and all rights and remedies of law available to Pledgee. Pledgee in such event may collect directly any payments due to Pledgor in respect of the Collateral and may sell, license, lease, assign, or otherwise dispose of

the Collateral in the manner set forth in the Financing Agreements. Pledgor agrees that, in the event of any disposition of the Collateral upon and during the continuance of any such Event of Default, it will duly execute, acknowledge, and deliver all documents necessary or advisable to record title to the Collateral in any transferee or transferees thereof, including, without limitation, valid, recordable assignments of the Trademarks or Future Trademarks. In the event Pledgor fails or refuses to execute and deliver such documents, Pledgor hereby irrevocably appoints Pledgee as its attorney-in-fact, with power of substitution, to execute, deliver, and record any such documents on Pledgor's behalf. Notwithstanding any provision hereof to the contrary, during the continuance of an Event of Default, Pledgor may sell any merchandise or services bearing the Trademarks and Future Trademarks in the ordinary course of its business and in a manner consistent with its past practices, until it receives written notice from Pledgee to the contrary. The preceding sentence shall not limit any right or remedy granted to Pledgee with respect to Pledgor's inventory under the Financing Agreements or any other agreement now or hereinafter in effect.

6. Cumulative Remedies. The rights and remedies provided herein are cumulative and not exclusive of any other rights or remedies provided by law. The rights and remedies provided herein are intended to be in addition to and not in substitution of the rights and remedies provided by the Financing Agreements or any other agreement or instrument delivered in connection therewith.
7. Amendments and Waivers. This Security Agreement may not be modified, supplemented, or amended, or any of its provisions waived except in a writing signed by Pledgor and Pledgee. Pledgor hereby authorizes Pledgee to modify this Security Agreement by amending Exhibit A hereto to include any Future Trademarks.
8. Waiver of Rights. No course of dealing between the parties to this Security Agreement or any failure or delay on the part of any such party in exercising any rights or remedies hereunder shall operate as a waiver of any rights and remedies of such party or any other party, and no single or partial exercise of any rights or remedies by one party hereunder shall operate as a waiver or preclude the exercise of any other rights and remedies of such party or any other party. No waiver by Pledgee of any breach or default by Pledgor shall be deemed a waiver of any other previous breach or default or of any breach or default occurring thereafter.
9. Assignment. The provisions of this Security Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto; provided, however, that no interest herein or in or to the Collateral may be assigned by Pledgor without the prior written consent of Pledgee; and, provided further, that Pledgee may assign the rights and

benefits hereof to any party acquiring any interest in the Obligations or any part thereof.

10. Future Acts. Until the Obligations shall have been paid in full, Pledgor shall have the duty to make applications on material unregistered but registrable as trademarks in any location where Pledgor does business, to prosecute such applications diligently, and to preserve and maintain all rights in the Trademarks and the other Collateral. Any expenses incurred in connection with such applications and other actions shall be borne by Pledgor. Pledgor shall not abandon any right to file a trademark application or registration for any trademark, or abandon any such pending trademark application or registration, without the consent of Pledgee, except to the extent that the trademark covered by such application or registration has no economic value.
11. Enforcement. Upon Pledgor's failure to do so after Pledgee's demand, or upon an Event of Default, Pledgee shall have the right but shall in no way be obligated to bring suit in its own name to enforce the Trademarks and Future Trademarks and any license thereunder, in which event Pledgor shall at the request of Pledgee do any and all lawful acts and execute any and all proper documents required by Pledgee in aid of such enforcement and Pledgor shall promptly, upon demand, reimburse and indemnify Pledgee or its agents for all costs and expenses incurred by Pledgee in the exercise of its rights under this Section 11.
12. Release. At such time as Pledgor shall completely satisfy all of the Obligations, and the Financing Agreements have been terminated, other than upon enforcement of Pledgee's remedies under the Financing Agreements after an Event of Default, Pledgee will execute and deliver to Pledgor a release or other instrument as may be necessary or proper to release Pledgor's lien in the Collateral, subject to any dispositions thereof which may have been made by Pledgee pursuant hereto.
13. Severability. If any clause or provision of this Security Agreement shall be held invalid or unenforceable, in whole or in part, in any jurisdiction, such invalidity or unenforceability shall attach only to such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such or any other clause or provision in any other jurisdiction.
14. Notices. All notices, requests and demands to or upon Pledgor or Pledgee under this Security Agreement shall be given in the manner prescribed by the Financing Agreements.
15. Governing Law. This Security Agreement shall be governed by and construed, applied, and enforced in accordance with the federal laws of the United States of America applicable to trademarks and the laws of the State of California, except that no doctrine of choice of law shall be used

to apply the laws of any other State or jurisdiction. The parties agree that all actions or proceedings arising in connection with this Security Agreement shall be tried and litigated only in the State and federal courts located in the County of Los Angeles, State of California. PLEDGOR AND PLEDGEE EACH WAIVES THE RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION ARISING UNDER THIS SECURITY AGREEMENT, WHETHER NOW EXISTING OR HEREAFTER ARISING, AND ANY RIGHT EITHER MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS, LACK OF PERSONAL JURISDICTION, OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 15.

16. Supplement. This Security Agreement is a supplement to, and is hereby incorporated into, the Financing Agreements and made a part thereof.

IN WITNESS WHEREOF, the parties have entered into this Security Agreement

as of the date first above written.

PLEDGOR:

WHEREHOUSE SUBSIDIARY III CO., INC.,
a Delaware corporation

By: R. S. Kelleher
Name: ROBERT S. KELLEHER
Title: Senior Vice President
Chief Financial Officer

PLEDGEE:

CONGRESS FINANCIAL CORPORATION (WESTERN),
a California corporation

By: Kenneth M. Sands
Name: Kenneth M. Sands
Title: Senior Vice President

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF NEW YORK

)

) ss.

COUNTY OF NEW YORK

)

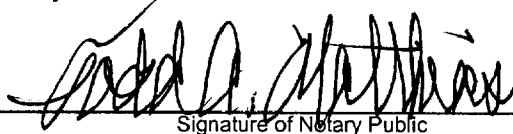
On October 24, 1998, before me, Todd A. Matthias, Notary Public,
Date Name and Title of Officer (e.g. "Jane Doe, Notary Public")

personally appeared Robert S. Kelleher,
Name of Signer(s)

personally known to me – OR – proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

TODD A. MATTHIAS
Notary Public, State of New York
No. 5006112
Qualified in Westchester County
Commission Expires December 28, 1998


Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY(IES) CLAIMED BY SIGNER(S)

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Collateral Assignment of Trademarks
(Security Agreement)

Title or Type of Document

Title(s)

- Partner(s) Limited
- Attorney-In-Fact General
- Trustee(s)
- Guardian/Conservator
- Other: _____

Number of Pages

Date of Document

Signer is Representing:
Name of Person(s) or Entity(ies)

Signer(s) Other Than Named Above

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF NEW YORK)

COUNTY OF NEW YORK)

) SS.
)
)

On 10/26/98, before me, Richard E. DONOVAN,
Date Name and Title of Officer (e.g. "Jane Doe, Notary Public")

personally appeared Kenneth Sands,
Name of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

RICHARD E. DONOVAN
Notary Public, State of New York
No. 4780831
Qualified in New York County
Commission Expires March 30, 1999

Richard E. Donovan

Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY(IES) CLAIMED BY SIGNER(S)

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Collateral Assignment of Trademarks

<input type="checkbox"/> Partner(s) <input type="checkbox"/> Attorney-In-Fact <input type="checkbox"/> Trustee(s) <input type="checkbox"/> Guardian/Conservator <input type="checkbox"/> Other: _____	<input type="checkbox"/> Limited <input type="checkbox"/> General Number of Pages _____ Date of Document _____
Title(s)	Title or Type of Document

Signer is Representing:
Name of Person(s) or Entity(ies)

Signer(s) Other Than Named Above

EXHIBIT A

List of Trademarks

	<u>MARK</u>	<u>REGISTRATION NO.</u>
(1)	Turtle's and Design	1,201,591
(2)	Record Bar	1,023,400
(3)	Just Music	1,770,887

[Collateral Assignment of Trademarks]
LA01/BRODT/125895.3

RECORDED: 11/02/1998

**TRADEMARK
REEL: 1807 FRAME: 0853**