

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

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|---|--|----------------|-------------------------------------|
| SUBMISSION TYPE: | NEW ASSIGNMENT | | |
| NATURE OF CONVEYANCE: | ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL | | |
| CONVEYING PARTY DATA | | | |
| Name | Formerly | Execution Date | Entity Type |
| PNC Bank, National Association | | 03/18/2012 | National Association: UNITED STATES |
| RECEIVING PARTY DATA | | | |
| Name: | Empire Finco, LLC | | |
| Street Address: | 142 West 57th Street, 17th Floor | | |
| Internal Address: | c/o Monomoy Capital Partners | | |
| City: | New York | | |
| State/Country: | NEW YORK | | |
| Postal Code: | 10019 | | |
| Entity Type: | LIMITED LIABILITY COMPANY: DELAWARE | | |
| PROPERTY NUMBERS Total: 1 | | | |
| Property Type | Number | Word Mark | |
| Registration Number: | 4041974 | MISTIC | |
| CORRESPONDENCE DATA | | | |
| Fax Number: | (312)862-2200 | | |
| Phone: | 312-862-6371 | | |
| Email: | renee.prescan@kirkland.com | | |
| <i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i> | | | |
| Correspondent Name: | Renee Prescan | | |
| Address Line 1: | 300 North LaSalle Street | | |
| Address Line 2: | Kirkland & Ellis LLP | | |
| Address Line 4: | Chicago, ILLINOIS 60654 | | |
| ATTORNEY DOCKET NUMBER: | 41912-106 RMP | | |
| NAME OF SUBMITTER: | Renee Prescan | | |

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|---|-----------------|
| Signature: | /Renee Prescan/ |
| Date: | 03/21/2012 |
| Total Attachments: 6 source=Trademark Assignment - Barjan (PNC) Empire Finco (Mistic) (EXECUTED)_(22086717_1)#page1.tif source=Trademark Assignment - Barjan (PNC) Empire Finco (Mistic) (EXECUTED)_(22086717_1)#page2.tif source=Trademark Assignment - Barjan (PNC) Empire Finco (Mistic) (EXECUTED)_(22086717_1)#page3.tif source=Trademark Assignment - Barjan (PNC) Empire Finco (Mistic) (EXECUTED)_(22086717_1)#page4.tif source=Trademark Assignment - Barjan (PNC) Empire Finco (Mistic) (EXECUTED)_(22086717_1)#page5.tif source=Trademark Assignment - Barjan (PNC) Empire Finco (Mistic) (EXECUTED)_(22086717_1)#page6.tif | |

TRADEMARK ASSIGNMENT

THIS TRADEMARK ASSIGNMENT (the "Assignment") is made as of March 18, 2012 by PNC Bank, National Association ("Assignor") to Empire Finco, LLC, a Delaware limited liability company ("Assignee"), with its principal place of business at 14045 Ballantyne Corporate Place, Suite 100, Charlotte, North Carolina 28277.

RECITALS:

Whereas, Barjan LLC ("Barjan"), and various of its affiliates (collectively, the "Borrowers") are indebted to Assignor for payments due on various loans, guaranties, and other debts, liabilities and obligations (the "Debt");

Whereas, to secure the Debt, the Borrowers executed and delivered to Assignor security agreements granting, pledging and assigning a security interest in all of the Borrowers' assets (together with related instruments, financing statements and agreements, the "Security Documents");

Whereas, pursuant to the Security Documents, Assignor holds a perfected lien and security interest or title, as applicable, in and to all of Borrowers' assets as security for all obligations (collectively, the "Obligations") of the Borrowers evidenced by the Debt and additional sums due pursuant to the Security Documents;

Whereas, because of the Borrowers' default under the Security Documents (the "Borrowers' Default"), the entire unpaid principal balance and other Obligations evidenced or secured by the Security Documents, together with accrued and unpaid interest and all other sums owed thereunder are currently due and payable;

Whereas, Monomoy Capital Holdings III, Inc., ("Junior Secured Agent") and certain other lenders (individually referred to herein as a "Junior Secured Party" and collectively as the "Junior Secured Parties") have also made various loans to Barjan and Barjan has granted to the Junior Secured Parties certain security interests in the assets of Barjan, including the Transferred Collateral;

Whereas, Assignor wishes to dispose of and sell the Transferred Collateral to Assignee, pursuant to that certain Secured Party Asset Sale Agreement (the "APA"), dated on or about the date hereof, to avoid the necessity of litigation, and the delays associated therewith and to avoid the delays associated with Barjan's statutory redemption rights for the Transferred Collateral;

Whereas, the Junior Secured Parties hereby agree to the Bank exercising its rights under the UCC, and disposing and selling of the Transferred Collateral to the Buyer and waive any and all rights that the Junior Secured Parties have or may have in the Transferred Collateral and/or any further rights to notice of such sale and disposition of the Transferred Collateral;

Whereas, in connection with such disposition and sale of the Transferred Collateral to Assignee, Assignor desires to assign to Assignee, and Assignee desires to acquire from Assignor,

all of the right, title and interest in and to the Trademarks (as defined below) owned or controlled by Barjan and sold, assigned and transferred to the Assignee pursuant to the APA. Capitalized terms used herein but not defined herein shall have the meanings given to them in the APA; and

Whereas, the Trademarks include any trademarks, trade names, service marks, logos, brands, trade dress, and domain names associated with the brand name “Mistic” (the “Brands”), as well as any and all other trademarks, trade names, service marks, logos, brands, trade dresses, domain names, patents, product names and brand name rights owned by Barjan, prior to the Assignor exercising its rights as provided for in the APA, in the United States and all foreign countries used in connection with the Brands, as well as all rights of Barjan, prior to the Assignor exercising its rights under the UCC and as provided for in the APA, in and to the design/intellectual property used in connection with such Brands, including, without limitation, engineering drawings, manufacturing drawings, bills of materials and routings, together with the goodwill of the business symbolized thereby, specifically including, without limitation, those Trademarks set forth on Exhibit A hereto (collectively, the “Trademarks”).

NOW, THEREFORE, in consideration of the promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment. Assignor hereby grants, assigns and conveys to Assignee all of Barjan’s right, title and interest in and to the Trademarks, together with the goodwill of the Brands symbolized thereby. Assignee has purchased the Trademarks and such goodwill from Assignor pursuant to the APA, as of the date hereof.

2. Right to Sue for Past Infringement. Assignor also assigns to Assignee all claims for past damages by reason of past infringement or misappropriation of the Trademarks, with the right to sue for and collect same for its own use and behalf and for the use and on behalf of Assignee’s successors, assigns or other legal representatives.

3. Cooperation. As provided for in the APA, Assignor and Barjan agree to execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments and documents and to perform such further acts as may be reasonably requested by Assignee to effectuate more fully the transactions contemplated by this Assignment.

4. Warranties/Disclaimer. The representations and warranties of Assignor set forth in the APA and this Assignment are exclusive and in lieu of all other representations and warranties of Assignor of any kind whatsoever, whether written, oral, express or implied, and Assignor has not made and shall not be deemed to have made, and ASSIGNOR HEREBY DISCLAIMS, ANY REPRESENTATION OR WARRANTY (EXCEPT THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THE APA) AS TO THE TITLE, EXISTENCE, CONDITION, DESIGN, OR VALUE OF ANY TRADEMARK OR ANY LIEN, CLAIM OR ENCUMBRANCE, THE COMPLIANCE OF ANY OF THE TRADEMARKS WITH ANY APPLICABLE LAW OR REGULATIONS OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, WHETHER WRITTEN, ORAL, EXPRESS OR IMPLIED (EXCEPT THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THE APA), WITH RESPECT TO ANY OF THE TRADEMARKS, OR ANY

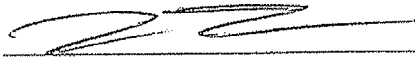
WARRANTY AGAINST INFRINGEMENT, IT BEING UNDERSTOOD THAT ALL SUCH DISCLAIMED RISKS, AS BETWEEN ASSIGNOR AND ASSIGNEE, ARE TO BE BORNE BY THE ASSIGNEE.

5. Binding Effect. The terms, covenants and provisions of this Assignment shall inure to the benefit of Assignee, its successors and other legal representatives, and shall be binding upon Assignor, its successors, assigns and other legal representatives.

6. Joinder. Barjan hereby joins in this Trademark Assignment to evidence that it does not oppose the Assignor's sale, granting, assignment and conveyance to Assignee of all right, title and interest in and to the Trademarks and goodwill.

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have executed this Trademark Agreement as of the date first written above.

PNC BANK, NATIONAL ASSOCIATION
(Assignor)



By: Lee LaBine
Title: Senior Vice President

EMPIRE FINCO, LLC
(Assignee)

By: J. Watson Boxley
Title: Chief Executive Officer and President

The undersigned is executing this Assignment to evidence that it does not oppose the assignment and conveyance of the Trademarks to the Assignee, as provided for herein.

Barjan LLC

By: _____

Name: _____

Title : _____

Trademark Agreement

TRADEMARK
REEL: 004740 FRAME: 0840

IN WITNESS WHEREOF, the undersigned, intending to be legally bound hereby, have executed this Trademark Agreement as of the date first written above.

PNC Bank, National Association (Assignor)

By: _____

Name: _____

Title: _____

Empire Finco, LLC (Assignee)

By: J. Watson Boxley

Name: J. Watson Boxley

Title: Chief Executive Officer and President

The undersigned is executing this Assignment to evidence that it does not oppose the assignment and conveyance of the Trademarks to the Assignee, as provided for herein.

Barjan LLC

By: Bary L. Kasoff

Name: Bary L. Kasoff

Title: Chief Restructuring Officer

EXHIBIT A

REGISTERED TRADEMARKS

| <u>MARK</u> | <u>REG. NO./DATE</u> | <u>SERIAL NO.</u> |
|--------------------|-----------------------------|--------------------------|
| MISTIC | 4,041,974 (10/18/2011) | 85/273,054 |

DOMAIN NAMES ASSIGNED

MISTAPPOINTMENTS.COM
MISTAPPOINTMENTS.MOBI
MISTARRIVALS.COM
MISTARRIVALS.MOBI
MISTDEADLINES.COM
MISTDEADLINES.MOBI
MISTICECIGS.COM
MISTICECIGS.MOBI
MISTICTODAY.COM
MISTOCCASIONS.COM
MISTOCCASIONS.MOBI
MYMISTIC.COM
MYSTCONNECTIONS.COM
MYSTICECIGS.COM
MYSTOPPORTUNITIES.COM
SAVORECIGS.COM
SAVORTHEOPPORTUNITIES.COM
SAVORTHEOPPORTUNITY.COM
SAVORYOURTIMETOGETHER.COM
WHATALLHAVEYOU MISSED.COM
WHATALLHAVEYOU MIST.COM
WHATALLHAVEYOU MIST.MOBI
WHATALLHAVEYOU MYST.COM
WIRESHelfADDITIONS.COM
XPERIENCEX.COM
BECOMEANXNOW.COM
BECOMEANXTODAY.COM
THEXSMOKER.COM