

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	SECURITY INTEREST

CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
PENGUIN BRANDS, INC.		09/24/2010	CORPORATION: PENNSYLVANIA

RECEIVING PARTY DATA

Name:	PNC BANK, NATIONAL ASSOCIATION
Street Address:	1600 Market Street
City:	Philadelphia
State/Country:	PENNSYLVANIA
Postal Code:	19103
Entity Type:	BANK: UNITED STATES

PROPERTY NUMBERS Total: 13

Property Type	Number	Word Mark
Registration Number:	3843795	NATHAN
Registration Number:	3812369	PENGUIN
Registration Number:	3754789	PENGUIN
Registration Number:	3458074	HUMAN PROPULSION LABORATORIES
Registration Number:	3334827	HPL
Registration Number:	3312108	NATHAN
Registration Number:	3118692	PENGUIN
Registration Number:	2981774	FRESH TWIST
Registration Number:	2908707	IBAND
Registration Number:	2558893	PRO ARC ADAPTABLE REPLACEMENT CLEATS
Registration Number:	1386413	TECTRON
Registration Number:	1129566	WRIST RUNNER
Serial Number:	77780331	NATHAN

CORRESPONDENCE DATA

900172623

**TRADEMARK
 REEL: 004286 FRAME: 0151**

CH \$340.00 3843795

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Address Line 2: 1735 MARKET STREET, 51ST FLOOR
Address Line 4: PHILADELPHIA, PENNSYLVANIA 19103-7599

ATTORNEY DOCKET NUMBER:	115512
NAME OF SUBMITTER:	Sandra Wintner
Signature:	/Sandra Wintner/
Date:	09/29/2010

Total Attachments: 16
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TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement (“Agreement”) is made this 24th day of September, 2010 by **PENGUIN BRANDS, INC.**, a Pennsylvania corporation with a place of business at 2009 Elmwood Avenue, Sharon Hill, PA 19079 (“Borrower”) and delivered to **PNC BANK, NATIONAL ASSOCIATION**, with a place of business at 1600 Market Street, Philadelphia, PA 19103, as administrative agent 19103 (in such capacity “Agent”) for the ratable benefit of Lenders.

BACKGROUND

A. This Agreement is being executed contemporaneously with that certain Revolving Credit and Security Agreement of even date herewith among Borrower, the other persons from time to time joined thereto as borrowers, the financial institutions from time to party thereto and Agent (as it may be supplemented, restated, superseded, amended or replaced from time to time, the “Loan Agreement”), under which Borrower is granting Agent a lien on and security interest in certain assets of Borrower associated with or relating to services or products sold under Borrower’s trademarks and the goodwill associated therewith, and under which Agent is entitled to foreclose or otherwise deal with such assets under the terms and conditions set forth therein. Capitalized terms not defined herein shall have the meanings given to such terms in the Loan Agreement.

B. Borrower has adopted, used and is using (or has filed applications for the registration of) the trademarks, service marks and trade names listed on Schedule “A” attached hereto and made part hereof (all such marks or names hereinafter referred to as the “Trademarks”).

C. Pursuant to the Loan Agreement, Agent is acquiring a lien on, security interest in and a license to use the Trademarks and the registration thereof, together with all the goodwill of Borrower associated therewith and represented thereby, as security for all of the Obligations, and Agent desires to have its security interest in such Trademarks confirmed by a document identifying same and in such form that it may be recorded in the United States Patent and Trademark Office.

NOW THEREFORE, with the foregoing Background hereinafter deemed incorporated by reference and made a part hereof, and in consideration of the premises and mutual promises herein contained, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. In consideration of and pursuant to the terms of the Loan Agreement, and for other good, valuable and sufficient consideration, the receipt of which is hereby acknowledged, and to secure the Obligations, Borrower grants to Agent for its benefit and the ratable benefit of each Lender a lien on and security interest in all of Borrower’s present and future right, title and interest in and to the Trademarks, together with all the goodwill of Borrower associated with and represented by the Trademarks, and the registration thereof and the right (but not the obligation)

to sue for past, present and future infringements, and the proceeds thereof, including, without limitation, license royalties and proceeds of infringement suits.

2. Borrower hereby covenants and agrees to maintain the Trademarks in full force and effect until all of the Obligations are indefeasibly paid and satisfied in full.

3. Borrower represents, warrants and covenants to Agent that:

(a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable;

(b) All of the Trademarks (other than applications for the registration thereof which have been filed) are registered, valid and enforceable;

(c) Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, and each of the Trademarks is free and clear of any liens, charges and encumbrances, including without limitation, pledges, assignments, licenses (other than to Borrower and Agent hereunder) and covenants by Borrower not to sue third persons;

(d) Borrower has the unqualified right, power and authority to enter into this Agreement and perform its terms;

(e) Borrower has complied with, and will continue for the duration of this Agreement to comply with the requirements set forth in 15 U.S.C. §1051-1127 and any other applicable statutes, rules and regulations in connection with its use of the Trademarks except where failure to comply would not have a Material Adverse Effect on Borrower;

(f) Borrower has no notice of any suits or actions commenced or threatened against it, or notice of claims asserted or threatened against it, with reference to the Trademarks; and

(g) Borrower has used and will continue to use for the duration of this Agreement, consistent standards of quality in services or products leased or sold under the Trademarks and hereby grants to Agent and its employees and agents the right (with no obligation of any kind upon Agent to do so) to visit Borrower's affiliates, franchises or management locations and to inspect the use of the Trademarks and quality control records relating thereto at mutually agreeable times during regular business hours to ensure Borrower's compliance with this paragraph 3(g).

4. Borrower further covenants that:

(a) Until all the Obligations are indefeasibly paid and satisfied in full and the commitments to make Advances are terminated, Borrower will not enter into any agreement, including, without limitation, license agreements or options, which are inconsistent with Borrower's obligations under this Agreement or the Loan Agreement or which restrict or impair Agent's rights hereunder.

(b) If Borrower acquires rights to any new trademarks, service marks or trade names, the provisions of this Agreement shall automatically apply thereto and such trademarks shall be deemed part of the Trademarks. Borrower shall give Agent prompt written notice thereof along with an amended Schedule "A."

5. So long as this Agreement is in effect and so long as Borrower has not received notice from Agent that Agent has elected to exercise its rights hereunder after an Event of Default: (i) Borrower shall continue to have the exclusive right to use the Trademarks, to grant licenses to third parties with respect thereto, and to make, have made, distribute and sell goods under the Trademarks; and (ii) Agent shall have no right to use the Trademarks or issue any exclusive or non-exclusive license with respect thereto, or assign, pledge or otherwise transfer title in the Trademarks to anyone else.

6. Subject to paragraph 5 above, Borrower agrees not to sell, grant any option, assign or further encumber its rights and interest in the Trademarks to any entity or person other than Agent without the prior written consent of Agent.

7. Anything herein contained to the contrary notwithstanding, if and while an Event of Default exists under the Loan Agreement, Borrower hereby covenants and agrees that Agent, as the holder of a security interest under the Uniform Commercial Code, may take such action permitted hereunder, in its exclusive discretion, to foreclose upon the Trademarks covered hereby or otherwise enforce its rights hereunder or under applicable law. For such purposes, while an Event of Default exists, Borrower hereby authorizes and empowers Agent to make, constitute and appoint any officer or agent of Agent as Agent may select, in its exclusive discretion, as Borrower's true and lawful attorney-in-fact, with the power to endorse Borrower's name on all applications, documents, papers and instruments necessary for Agent to use (a) the Trademarks or to grant or issue any exclusive or non-exclusive license under the Trademarks to anyone else, (b) protect, preserve, defend or maintain the Trademarks or (c) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else including, without limitation, the power to execute a Trademark Assignment in the form attached hereto as Exhibit 1. All such actions shall be consistent with and subject to the terms of the Loan Agreement. Borrower hereby ratifies all that such attorney or agent shall lawfully do or cause to be done by virtue hereof, except for the gross negligence or willful misconduct of such attorney or agent. This power of attorney shall be coupled with an interest and irrevocable for the life of this Agreement, the Loan Agreement and Other Documents, and until all Obligations are indefeasibly paid and satisfied in full and the commitments to make Advances have terminated.

8. This Agreement shall be subject to the terms, provisions, and conditions set forth in the Loan Agreement and may not be modified without the written consent of the party against whom enforcement is being sought.

9. All rights and remedies herein granted to Agent shall be in addition to any rights and remedies granted to Agent under the Loan Documents. In the event of an inconsistency between this Agreement and Loan Agreement, the language of this Agreement shall control.

10. Upon Borrower's performance of all of the obligations under the Loan Agreement and the Other Documents and after all Obligations are indefeasibly paid and satisfied in full, and

all commitments to make Advances have terminated, Agent shall, at Borrower's expense, execute and deliver to Borrower all documents reasonably necessary to terminate Agent's security interest in the Trademarks.

11. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and legal expenses incurred by Agent in connection with: (a) the preparation and negotiation of this Agreement and all other documents relating hereto and the consummation of this transaction, and the filing or recording of any documents (including all taxes in connection therewith) in public offices relating to the security interest granted hereby, and (b) the filing or recording of any other documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, reasonable counsel fees, maintenance fees, encumbrances or costs otherwise incurred in protecting, maintaining, preserving the Trademarks, or in defending any actions or proceedings arising out of or related to the Trademarks, in each case in accordance with the terms of this Agreement, shall be borne and paid by Borrower on demand by Agent and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the otherwise applicable rate prescribed in the Loan Agreement; provided, however, that Agent shall only have the rights set forth in paragraph 11(b) if and while an Event of Default exists under the Loan Agreement. At all other times, such rights may only be exercised by Borrower.

12. Subject to the terms of the Loan Agreement, Borrower shall have the duty to prosecute diligently any application and/or registration with respect to the Trademarks pending as of the date of this Agreement or thereafter, until the Obligations are indefeasibly paid and satisfied in full and the commitments to make Advances have terminated, to preserve and maintain all rights in the Trademarks. Any reasonable expenses incurred in connection with such applications shall be borne exclusively by Borrower. Notwithstanding the foregoing, Borrower shall have the right, in the reasonable exercise of its business judgment, to abandon any Trademarks.

13. Borrower shall have the right to bring suit in its own name to enforce the Trademarks, in which event Agent may, if Borrower reasonably deems it necessary, be joined as a nominal party to such suit if Agent shall have been satisfied, in its sole discretion, that it is not thereby incurring any risk of liability because of such joinder. Borrower shall promptly, upon demand, reimburse and indemnify Agent for all damages, costs and expenses, including reasonable attorneys' fees and costs, incurred by Agent in the fulfillment of the provisions of this paragraph.

14. Upon the occurrence of an Event of Default under the Loan Agreement, Agent may, without any obligation to do so, complete any obligation of Borrower hereunder, in Borrower's name or in Agent's name, but at the expense of Borrower.

15. The obligations of Agent as holder of the security interest in the Trademarks, and with respect to the disposition thereof, and otherwise under this Agreement, the Loan Agreement and the Other Documents, are only those expressly set forth in this Agreement, the Loan Agreement and the Other Documents. Agent shall act hereunder at the direction, or with the consent, of the Lenders on the terms and conditions set forth in the Loan Agreement. The powers conferred on Agent hereunder are solely to protect its interest on behalf of Lenders in the

Trademarks, and shall not impose any duty upon it to exercise any such powers. Agent shall have no duty as to the Trademarks, or as to the taking of any necessary steps to preserve rights against prior parties, or any other rights pertaining to the Trademarks. Neither Agent nor any other Lender shall be liable to Borrower (i) for any loss or damage sustained by Borrower; or (ii) for any loss, damage, depreciation, or other diminution in the value of any Trademark that may occur as a result of, or in connection with, or that is in any way related to, exercise by Agent of any right or remedy under this Agreement, any failure to demand to act on the party of Agent, except to the extent that the same is caused solely by its own gross negligence or willful misconduct.

16. By its acceptance of the benefits of this Agreement, each Lender agrees that this Agreement may be enforced only by Agent, acting upon the instructions, or with the consent of, Lenders as provided for in the Loan Agreement, and that no Lender shall have any right, individually, to enforce, or seek to enforce, this Agreement, or to realize upon any Trademark or other security given to secure the payment and performance of the Obligations.

17. No course of dealing between Borrower and Agent, nor any failure to exercise, nor any delay in exercising, on the part of Agent, any right, power or privilege hereunder, shall operate as a waiver thereof, and all of Agent's rights and remedies with respect to the Trademarks, whether established hereby or by the Loan Agreement or Other Documents, or by any other future agreements between Borrower and Agent or by law, shall be cumulative and may be exercised singularly or concurrently.

18. The provisions of this Agreement are severable and the invalidity or unenforceability of any provision herein shall not affect the remaining provisions which shall continue unimpaired and in full force and effect.

19. This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

20. This Agreement, and all matters arising out of or related to this Agreement shall be governed by and construed in conformity with the laws of the jurisdiction set forth in Section 16.1 of the Loan Agreement, without regard to its otherwise applicable principles of conflicts of laws.

21. Borrower agrees to the jurisdiction of the state and federal courts of the jurisdiction and service of process, as set forth in Section 16.1 of the Loan Agreement. Borrower waives any objection to jurisdiction and venue of any action instituted hereunder and shall not assert any defense based on lack of jurisdiction or venue or based on forum non conveniens.

22. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT

EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE AND EACH PARTY HEREBY CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENTS OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Trademark Security Agreement, under seal, the day and year first above written.

Borrower:
PENGUIN BRANDS, INC.

By: David J. Patterson
Name: David J. Patterson
Title: V/A - Finance
(Corporate Seal)

Approved and Accepted:

PNC BANK, NATIONAL ASSOCIATION

By: _____

Name: _____

Title: _____

IN WITNESS WHEREOF, the parties hereto have executed this Trademark Security Agreement, under seal, the day and year first above written.

Borrower:
PENGUIN BRANDS, INC.

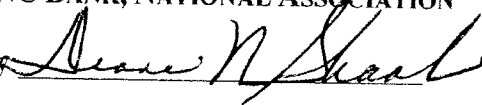
By: _____

Name: Jonathan D. Reichlin

Title: President
(Corporate Seal)

Approved and Accepted:

PNC BANK, NATIONAL ASSOCIATION

By: 

Name: Diane M. Shaak

Title: Senior Vice President

CORPORATE ACKNOWLEDGMENT

UNITED STATES OF AMERICA :
COMMONWEALTH OF PENNSYLVANIA :SS
COUNTY OF DE :

On this 27th day of Sept, 2010, before me personally appeared David Patterson, to me known and being duly sworn, deposes and says that he is the VP Finance of Penguin Brands, Inc., the corporation described in the foregoing Agreement; that he knows the seal of the corporation; that the seal so affixed to the Agreement is such corporate seal; that he signed the agreement and affixed the seal of the corporation thereto as such officer pursuant to the authority vested in him by law; that the within Agreement is the voluntary act of such corporation; and he desires the same to be recorded as such.

Tara Lyn Olson

Notary Public



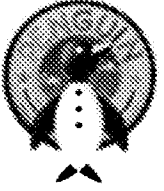
My Commission Expires: June 16, 2013



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Tara Lyn Olson, Notary Public
Sharon Hill Boro, Delaware County
My Commission Expires June 16, 2013
Member, Pennsylvania Association of Notaries

SCHEDULE A TO TRADEMARK SECURITY AGREEMENT


A. United States:

1. Trademark Registrations

Mark	Registration No.	Registration Date
"NATHAN" [and Design] 	3,843,795	09/07/2010
"PENGUIN"	3,812,369	07/06/2010
"PENGUIN"	3,754,789	03/02/2010
"HUMAN PROPULSION LABORATORIES"	3,458,074	07/01/2008
"HPL"	3,334,827	11/13/2007
"NATHAN" [and Oval Design] 	3,312,108	10/16/2007
"PENGUIN" [and Penguin Design] 	3,118,692	07/25/2006

Mark	Registration No.	Registration Date
"FRESH TWIST"	2,981,774	08/02/2005
"IBAND" [and Design] 	2,908,707	12/07/2004
"PRO ARC ADAPTABLE REPLACEMENT CLEATS" [and Oval Design] 	2,558,893	04/09/2002
"TECTRON"	1,386,413	03/18/1986
"WRIST RUNNER"	1,129,566	01/22/1980

2. Pending Trademark Applications

Mark	Application No.	Filing Date
"NATHAN" [and Design] 	77/780,331	07/14/2009

B. INTERNATIONAL

1. Trademark Registrations

Jurisdiction	Mark	Registration No.	Registration Date
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China	“NATHAN” [and Oval Design] 	1002667	12/17/2008
China	“NATHAN” [and Design] 	1032358	08/19/2009
China	“NATHAN” [and Design] 	1037399	08/19/2009
European Union	“PENGUIN”	005369641	09/10/2007
European Union	“PENGUIN”	000009290	10/20/1998
European Union	“NATHAN” [and Design] 	1037399	05/20/2010
European Union	“NATHAN” [and Design] 	1032358	04/01/2010
Madrid Protocol	“NATHAN” [and Oval Design]	1002667	12/17/2008




			
Madrid Protocol	“NATHAN” [and Design] 	1032358	08/19/2009
Madrid Protocol	“NATHAN” [and Design] 	1037399	08/19/2009
New Zealand	“PENGUIN”	757143	07/12/2007
South Korea	“PENGUIN”	680,667	10/04/2006

EXHIBIT 1 TO TRADEMARK SECURITY AGREEMENT

TRADEMARK ASSIGNMENT

WHEREAS, **PENGUIN BRANDS, INC.**, a Pennsylvania corporation ("Grantor"), is the registered owner of the United States trademarks, trade names and registrations listed on Schedule "A" attached hereto and made a part hereof (the "Trademarks"), which are registered in the United States Patent and Trademark Office; and

WHEREAS, _____ ("Grantee") having a place of business at _____, is desirous of acquiring the Trademarks;

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, Grantor, its successors and assigns, does hereby transfer, assign and set over unto Grantee, its successors, transferees and assigns, all of its present and future right, title and interest in and to the Trademarks and all proceeds thereof and all goodwill associated therewith.

IN WITNESS WHEREOF, the undersigned has caused this Trademark Assignment to be executed as of the ____ day of _____, 20__.

PENGUIN BRANDS, INC.

Witness: _____

By: _____
As Attorney-in-fact

SCHEDULE A TO TRADEMARK ASSIGNMENT

<u>TRADEMARK</u>	<u>APPLICATION/ REGISTRATION NO.</u>	<u>COUNTRY</u>	<u>REGISTRATION DATE</u>
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