

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:	Chapter 11
Polaroid Corporation <u>et al.</u> ,	08-46617 (GFK)
Debtors.	Jointly Administered

**NOTICE OF EXPEDITED HEARING AND MOTION, TO THE EXTENT NECESSARY,
FOR LEAVE TO FILE OBJECTION TO DEBTORS' MOTION AUTHORIZING SALE
OF ASSETS BY EYEWEAR BRAND LIMITED, STYLEMARK, INC., STYLEMARK
AB, STYLEMARK B.V., STYLEMARK, S.P.A., AND STYLEMARK, A.G.**

TO: The entities specified in Local Rule 9013-3

1. Eyewear Brand Limited ("Eyewear"), StyleMark, Inc, StyleMark AB, StyleMark B.V., StyleMark S.p.A, and Stylemark, A.G. (collectively, "StyleMark" and collectively with Eyewear, the "Objecting Parties") hereby file this Motion, to the extent necessary, for leave to file a Limited Objection (the "Objection") to the Debtors' Motion for Order Pursuant to 11 U.S.C. §§105(a), 363, and 365 (1) Approving Auction and Bidding Procedures; (2) Approving Break-Up Fee, Expense Reimbursement and Other Protections; (3) Approving Notice; (4) Authorizing Sale of Assets Free and Clear of Liens, Claims and Encumbrances, Subject to Higher or Better Offers; (5) Approving Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (6) Granting Related Relief (the "Sale Motion") filed by Polaroid Corporation ("Polaroid") and the other debtors herein (collectively, the "Debtors") to, among other things, approve a sale (the "Sale") of various assets of the Debtors.

2. The Court will hold a hearing on this Motion on Thursday, April 16, 2009, at 9:30 a.m. before the Honorable Gregory F. Kishel, in Courtroom No. 2A, at the United States Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101.

3. Based upon the expedited nature of this Motion, any response to this motion may be filed and delivered not later than the date and time of the hearing. UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.

4. This Court has jurisdiction of this Motion pursuant to 28 U.S.C. §§ 157 and 1334, and Federal Rule of Bankruptcy Procedure 5005 and Local Rule 1070-1. This is a core proceeding. The Debtors filed its petition for relief under Chapter 11 of Title 11 of the United States Code on December 18, 2008. The case is now pending in this Court.

5. This Motion arises under 11 U.S.C. §§ 363 and 365; and Federal Rules of Bankruptcy Procedures 6004, 6006 and 9014; and Local Rules 9006-1(e) and 9013.

6. Contemporaneously herewith, Objecting Parties have filed their Objection. A true and correct copy of the Objection is attached hereto as Exhibit A. The facts and circumstances that support this Motion are summarized in the Objection, which is incorporated herein by reference.

7. On March 13, 2009, the Debtors filed their Initial Notice of Assumption and Assignment of and Amounts Necessary to Cure Defaults Under Contracts and Leases to be Assumed and Assigned to Successful Purchaser (the "Assumption Notice"). As described below and in the Objection, the Objection is timely under the terms of the Assumption Notice.

8. Nonetheless, out of an abundance of caution, Objecting Parties move, to the extent necessary and without admission, for leave to file the Objection after a stated objection deadline of March 26, 2009 set forth in this Court's prior order, and that the Court consider this Objection and deem it timely under the circumstance.

9. In substance, Objecting Parties object to any effort to sell certain trademarks of Polaroid free and clear of licenses granted to Objecting Parties by Polaroid through various license agreements and consents. Until April 9, 2009, the pleadings filed of record regarding the sale -- including the Assumption Notice and the proposed forms of purchase agreements -- identified these agreements and consents given by Polaroid as “Acquired” contracts that would be acquired and assumed. These agreements and consents were not designated as “Excluded” contracts. Upon information and belief, the first time this designation changed (from Acquired contracts to Excluded contracts) of record was in connection with Lithograph’s Revised Bid filed of record on April 9, 2009. This effected a drastic change in the circumstances regarding the Sale. As a matter of fairness and equity, this drastic change more than supports permitting the Objection. The Objecting Parties should have an opportunity to present their objection to this Court, have this Objection heard on the merits, and protect their rights.

10. As noted, leave may not be necessary and/or is supported by the notice given by the Debtors. The Debtors’ Assumption Notice allows an objection to the Sale Motion due to the change in circumstances:

PLEASE TAKE FURTHER NOTICE that any responsive documents, including any written objection to Polaroid’s proposed cure amount, or the proposed assumption and assignment of any Acquired Contracts, or both, shall be filed and served by delivery not later than Thursday, March 26, 2009 ... **except that (a) objections to the Motion based upon events following such deadline, or (b) objections based upon changes concerning assumption and assignment of Acquired Contracts where the objecting party received less than five (5) days notice of the change, may be served so as to be received and filed not later than the time set forth hearing).**

Assumption Notice, pp. 3-4 (emphasis added). Subparagraphs (a) and (b) make clear that, given the change in circumstances, an objection may be filed by StyleMark and Eyewear.

11. Objecting Parties have acted in good faith and have not delayed since learning of the change in status. The continued auction is set for April 16, 2009, and has not concluded. The hearing on the merits of the Sale Motion is set for April 16, 2009 (and this Objection is filed three business days prior to the hearing). This Court should allow the parties to adjudicate matters on the merits, and not based on a forfeiture of rights, especially in this case, in which the substantive terms, at least as to Objecting Parties, of the proposed Sale changed. The submission of an objection at this time by Objecting Parties is both understandable and excusable. As a matter of equity and fairness, the Objection should be deemed timely filed and valid.

WHEREFORE, StyleMark and Eyewear respectfully request that the Court grant this Motion and, to the extent necessary, grant them leave to file the Objection and deem such Objection timely, and grant them such other relief as is proper.

Dated: April 13, 2009

OPPENHEIMER WOLFF & DONNELLY LLP

By: /s/ Steven w. Meyer

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AND STYLEMARK, A.G.

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:	Chapter 11
Polaroid Corporation <u>et al.</u> ,	08-46617 (GFK)
Debtors.	Jointly Administered

**LIMITED OBJECTION TO DEBTORS' MOTION AUTHORIZING SALE OF ASSETS
AND PROPOSED SALE OF ASSETS OF EYEWEAR BRAND LIMITED,
STYLEMARK, INC., STYLEMARK AB, STYLEMARK B.V., STYLEMARK S.P.A.,
AND STYLEMARK, A.G.; REQUEST THAT SUCH OBJECTION BE CONSIDERED
AND REQUEST FOR PROTECTION**

Eyewear Brand Limited ("Eyewear"), StyleMark, Inc, StyleMark AB, StyleMark B.V., StyleMark S.p.A and StyleMark, A.G. (collectively, "StyleMark" and collectively with Eyewear, the "Objecting Parties") hereby file this Objection (the "Objection") to the Debtors' Motion for Order Pursuant to 11 U.S.C. §§105(a), 363, and 365 (1) Approving Auction and Bidding Procedures; (2) Approving Break-Up Fee, Expense Reimbursement and Other Protections; (3) Approving Notice; (4) Authorizing Sale of Assets Free and Clear of Liens, Claims and Encumbrances, Subject to Higher or Better Offers; (5) Approving Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (6) Granting Related Relief (the "Sale Motion") filed by Polaroid Corporation ("Polaroid") and the other debtors herein (collectively, the "Debtors") to, among other things, approve a sale (the "Sale") of various assets of the Debtors.

In support of the Objection, the Objecting Parties respectfully state as follows:

**I.
BACKGROUND**

A. Relationship Between Eyewear, StyleMark and the Debtors.

1. Eyewear is a Bermuda company. StyleMark Bermuda Limited owns 50 percent of Eyewear. The remaining interest is owned by Polaroid.

2. Just two years ago, StyleMark, Inc. and Polaroid entered into an Asset and Stock Purchase Agreement dated March 5, 2007 (the “Purchase Agreement”) for the purchase of assets and stock from Polaroid and subsidiaries (the “Debtors”) related to the “eyewear business” of Polaroid (the “Eyewear Business”) for a purchase price of \$40 million dollars.

3. As part of the purchase, as described below, StyleMark obtained the right to use Polaroid marks (i.e., the Polaroid name) in order to operate the Eyewear Business. The Eyewear Business depends, in part, on the use of the Polaroid marks. This right was an integral part of the sale.

4. Specifically, in conjunction with the execution of the Purchase Agreement, Polaroid and Eyewear entered into a License Agreement dated March 5, 2007, which License Agreement was amended and restated pursuant to an Amended and Restated License Agreement dated as of September 1, 2008, between Polaroid and Eyewear (collectively, the “License Agreement”).¹

5. Pursuant to the License Agreement, Polaroid granted to Eyewear a royalty- free license to, in part, sublicense to StyleMark the Polaroid marks and licensed domain names (collectively, the “Marks”) for the purpose of, among other things, allowing StyleMark to manufacture, distribute, promote, market and sell the licensed articles bearing any of the Marks, and to have such articles manufactured. The Territory covered by the License Agreement is essentially worldwide.

¹ The License Agreement and Sublicense Agreement (defined below) contain confidentiality provisions, and the Objecting Parties are filing a motion for a protective order and authority to file these agreements under seal. Copies of the agreements are being delivered separately to the Debtor who is a party to the License Agreement and Sublicense Agreement.

6. The license is perpetual, unless terminated in accordance with the License Agreement, such as upon certain defaults. The license is also exclusive and Polaroid agrees to not grant any other licenses to use the Marks.

7. Pursuant to the License Agreement, Polaroid agrees that upon any assignment of the Marks, the assignee takes subject to the License Agreement.

8. In conjunction with the Purchase Agreement and pursuant to a Sublicense Agreement dated March 5, 2007, which was amended and restated pursuant to an Amended and Restated Sublicense Agreement dated September 1, 2008 (the "Sublicense Agreement"), Eyewear granted a sublicense to StyleMark to use the Marks, with the consent of Polaroid.

9. Generally, StyleMark manufactures, promotes and distributes the eyewear product using the Marks, including through sublicenses granted to third parties by StyleMark (or granted before StyleMark, Inc. purchased the Eyewear Business) with the prior consent of Polaroid.

10. StyleMark pays royalties to Eyewear pursuant to the Sublicense Agreement. In turn, a portion of the revenue of Eyewear is distributed to Polaroid.

11. In conjunction with the Purchase Agreement, Polaroid executed a Patent Assignment dated March 7, 2007 (the "Patent Assignment"). A true and correct copy of the Patent Assignment is attached hereto as Exhibit A.

B. Debtors' Sale Motion and the Drastic Change in the Status of the License Agreement.

12. According to the pleadings filed of record, the Debtors entered into an agreement with PHC Acquisitions, LLC ("PHC") to acquire substantially all of the assets of the Debtors (the "PHC Purchase Agreement"). On January 28, 2009, the Debtors filed the Sale Motion to, among other things, approve a sale to PHC or such higher bidder.

13. On February 18, 2009, the Court entered an order approving the auction and bidding procedures, approving certain stalking-horse protections and granting related relief.

14. On March 13, 2009, the Debtors filed their Initial Notice of Assumption and Assignment of and Amounts Necessary to Cure Defaults Under Contracts and Leases to be Assumed and Assigned to Successful Purchaser (the “Assumption Notice”). Both the PHC Purchase Agreement and the Assumption Notice list the License Agreement, the Sublicense Agreement and the various consents provided by Polaroid to sublicenses as “Acquired” contracts to be assumed and assigned to any successful bidder.

15. The auction commenced. Nonetheless, until April 9, 2009, the License Agreement, the Sublicense Agreement and the various consents provided by Polaroid continued to be listed as “Acquired” contracts in the forms of proposed purchase agreements, including the form for PLR Holdings, at one time apparently designated as a winning bid by the Debtors. See Docket Nos. 71, 271, 273 and 274.

16. On April 9, 2009, Lithograph filed its Objection to Proposed Sale of Debtors’ Assets and Submission of Revised Bid For Purchase of Debtors’ Assets (the “Lithograph Objection”). The Lithograph Objection, among others things, references a revised bid (the “Lithograph Bid”) for the Debtors’ assets.

17. As part of the Lithograph Bid, Lithograph included an Annex listing Additional “Excluded” contracts, including the License Agreement, the Sublicense Agreement and the various consents. Presumably, this means these items will not be assumed or acquired by Lithograph as part of its bid. Upon information and belief, this is the first time the License Agreement, the Sublicense Agreement and the various consents were designated of record as “Excluded” contracts. The Objecting Parties were not aware of this change until April 9, 2009.

II. **OBJECTION**

18. If the right to use the Marks is terminated through a sale process, the Eyewear Business purchased from Polaroid just two years ago could be devastated and a business generating approximately \$60,000,000 per year in revenue, together with its approximately 160 employees worldwide, put at risk.

19. StyleMark and Eyewear object to (and do not consent to) the Sale Motion and to any sale of the Debtors' assets (including the Marks) to any purchaser to the extent the sale, the proposed purchase agreement or a proposed sale order: (i) authorize a sale free and clear of (or impairs in any manner) the License Agreement, Sublicense Agreement or consents given by Polaroid, or the rights and interests of Eyewear and StyleMark thereunder, including any right to use, or with respect to, the Marks, (ii) result in a breach of the License Agreement by Polaroid, (iii) authorize a sale of the Marks to any purchaser, other than subject to License Agreement, Sublicense Agreement and consents given by Polaroid. StyleMark and Eyewear request that this Objection be considered and that their respective interests be protected. Further, in the alternative, StyleMark and Eyewear request equitable relief to prevent the sudden termination of the Eyewear Business without time to wind down the business and mitigate at least a small portion of the resulting damage.

20. Objecting Parties request, to the extent necessary, that the Court consider this Objection and deem it timely under the circumstances. As discussed, until April 9, 2009, the pleadings filed of record regarding the sale—including the Assumption Notice and the proposed forms of purchase agreements—identified the License Agreement, Sublicense Agreement and consents given by Polaroid as “Acquired” contracts that would be acquired and assumed. These agreements and consents were not designated as “Excluded” contracts. Upon information and

belief, the first time this designation changed of record was in connection with Lithograph's Revised Bid filed of record on April 9, 2009. This effected a drastic change in the circumstances regarding the Sale. As a matter of fairness and equity, this drastic change more than supports permitting this Objection. The Objecting Parties should have an opportunity to present their objection to this Court, have this Objection heard on the merits, and protect their rights.

21. In any case, the Debtors' Assumption Notice appropriately allows an objection to the Sale Motion due to the change in circumstances:

PLEASE TAKE FURTHER NOTICE that any responsive documents, including any written objection to Polaroid's proposed cure amount, or the proposed assumption and assignment of any Acquired Contracts, or both, shall be filed and served by delivery not later than Thursday, March 26, 2009 ... **except that (a) objections to the Motion based upon events following such deadline, or (b) objections based upon changes concerning assumption and assignment of Acquired Contracts where the objecting party received less than five (5) days notice of the change, may be served so as to be received and filed not later than the time set forth hearing).**

Assumption Notice, pp. 3-4 (emphasis added). Subparagraphs (a) and (b) make clear that, given the change in circumstances, an objection may be filed by StyleMark and Eyewear.

22. Finally, Objecting Parties have acted in good faith and have not delayed since learning of the change in status. The continued auction is set for April 16, 2009, and has not concluded. The hearing on the merits of the Sale Motion is set for April 16, 2009 (and this Objection is filed three business days prior to the hearing). This Court should allow the parties to adjudicate the matters raised herein on the merits, and not based on a forfeiture of rights, especially in this case, in which the substantive terms, at least as to Objecting Parties, of the proposed Sale changed. The submission of an objection at this time by Objecting Parties is both understandable and excusable. In summary, this Objection should be deemed timely filed and valid.

A. The Debtors Are Not Permitted Under Section 363(f) To Sell Their Assets Free and Clear of Objecting Parties' Interest in the Marks.

23. Section 363(f) of the Bankruptcy Code does not permit the Marks to be sold free and clear of the License Agreement, Sublicense Agreement or consents given by Polaroid or the rights and interests of Eyewear and Stylemark thereunder, including any right to use, or with respect to, the Marks. None of the five conditions set forth in Section 363(f) are satisfied.

24. First, neither federal trademark law nor common law pertaining to trademark licenses would permit the Debtors to sell the Marks under section 363(f)(1) free and clear of the License Agreement, Sublicense Agreement or consents given by Polaroid, or the rights and interests of Eyewear and StyleMark thereunder. Rather, it is well-recognized that a trademark owner cannot sell or assign its interest in the trademark free and clear of existing contractual limitations, such as rights granted to licensees. See, e.g., Icee Distributors, Inc. v. J&J Snack Foods Corp., 325 F.3d 586 (5th Cir. 2003); California Packing Corp. v. Sun-Maid Raisin Growers of California, 81 F.2d 674, 676 (9th Cir. 1936) (holding that purchaser of trademark in a bankruptcy sale takes the mark subject to preexisting contractual limitations); Johanna Farms, Inc. v. Tropicana Products, Inc., 468 F.Supp. 866, 874-75 (E.D.N.Y. 1978) (noting that a purchaser “becomes transfixed to the position of his predecessor, enjoying the latter’s rights in the mark dating from its initial use and suffering the burdens on and limitations of its use that were incumbent on his predecessor.”).

25. Further, Stylemark and Eyewear do not consent to the Sale, Sale Motion or any sale free and clear of, or that impairs, the License Agreement, Sublicense Agreement or consents given by Polaroid, or their rights thereunder, including any right to use, or with respect to, the Marks. There is no bona fide dispute concerning the License Agreement, Sublicense Agreement or consents given by Polaroid. These agreements do not grant or otherwise result in liens.

26. Accordingly, there is no basis under section 363(f) to sell the Marks free and clear of the License Agreement, Sublicense Agreement and consents given by Polaroid, or the rights of the Objecting Parties thereunder, including any right to use, or with respect to, the Marks.

27. Indeed, any sale of the Marks by Polaroid would, at a minimum, breach the License Agreement and give rise to significant claims against the estate, including potential post-petition claims for the breach of an existing agreement in effect at this time. The Objecting Parties reserve their respective rights to assert pre-petition claims and administrative expense claims against Polaroid and its estate. The existence of such claims should be considered by the Court in determining the highest and best bid for the assets of Polaroid, since such claims could affect creditors' recoveries.

28. Further, as part of the Purchase Agreement, StyleMark acquired four European subsidiaries, Polaroid Eyewear (Sweden) AB, Polaroid Eyewear Nederland B.V., Polaroid Eyewear AG (a Swiss corporation) and Polaroid Eyewear (Italia) S.p.A., that were engaged in the business of distributing and selling eyewear using the Polaroid Eyewear brand. Under applicable foreign law, these subsidiaries may have rights to use the brand independently of the License Agreement or Sublicense Agreement. Upon information and belief, these corporations were formed for the purpose of utilizing the Polaroid Eyewear brand by implicit grant of rights from Polaroid and/or by continued use in those jurisdictions where such rights are established thereby.

29. While the License Agreement was needed for StyleMark to establish unquestioned worldwide exclusivity and to afford Polaroid with the economic benefit of a royalty, the License Agreement cannot be viewed in isolation. Any and all pre-existing rights of the Polaroid Eyewear corporations acquired by StyleMark on March 5, 2007 should continue to

exist independently of the License Agreement. While this issue is not before the Court, nonetheless, Polaroid cannot sell property it does not own. Out of an abundance of caution, Objecting Parties object to the Sale Motion and the Sale to the extent they in any manner purport to convey, sell or impair these rights.

B. Any Attempted Rejection of the License Agreement Will Not Deprive Objecting Parties of Their Rights to Continue Using the Marks.

30. Objecting Parties acknowledge that certain courts have permitted a debtor in certain circumstances to reject executory license agreements related to trademarks. Assuming *arguendo* that the License Agreement is an executory contract, Polaroid has not filed such a motion to reject the License Agreement. If necessary, the Objecting Parties will address any such motion if filed in the future. Without waiver of any their rights to fully respond to such a rejection motion, in summary, Objecting Parties note that a rejection motion should be denied, and in any event rejection of the License Agreement would not impair Objecting Parties' rights under the License Agreement. The cases that have allowed rejection to impair the rights of a trademark licensee have failed to consider the difference between rejection and termination of a contract.

31. First, while ordinarily the decision to assume or reject an executory contract is left to a debtor's business judgment, a court must still make a determination that a rejection meets this standard. This test requires a debtor to demonstrate that rejection of the contract is likely to benefit its estate. In this case, the Debtors would have to make the necessary showing that rejection of the License Agreement would benefit the estates, taking into account that Objecting Parties will assert substantial claims against the Debtors. 11 U.S.C. Section 502(g)(1); see also In re Sun City Investments, Inc., 89 B.R. 245 (Bankr. M.D. Fla. 1988) (denying debtor's motion to reject executory contract where "rejection serves merely to create a new burden to the estate to

the detriment of other creditors”); In re Matusalem, 158 B.R. 514, 522 (Bankr. S.D. Fla. 1993) (denying debtor’s motion to reject trademark license where rejection would lead to the filing “of a large damage claim ... and a new round of litigation over the amount of the claim.”).

32. Moreover, bankruptcy courts have refused requests to reject licenses that will needlessly inflict great damages on a licensee. See, e.g., In re Petur U.S.A. Instrument Co., Inc., 35 B.R. 561 (Bankr. W.D. Wash. 1983) (denying debtor’s request to reject license because evidence demonstrated that rejection would destroy licensee’s business); In re Centura Software Corp., 281 B.R. 660, 671-72 (Bankr. N.D. Cal. 2002) (noting that licensees must assert their rights prior to rejection in order to “persuade the bankruptcy court to weigh the equities and not to reject the [trademark license] agreement because its trademarks are integrally linked to other intellectual property.” (citing Norton, 6A Norton Bankr. L. & Prac. 2d § 150:18)).

33. Here, as previously stated, in conjunction with the purchase of the Eyewear Business and the execution of the Purchase Agreement in 2007, StyleMark and Eyewear acquired assets and patents to be used in conjunction with the Marks to successfully operate the Eyewear Business. Eyewear’s right to sublicense the Marks to StyleMark pursuant to the License Agreement was part of an overall package of property and interests which collectively provided Stylemark with the means to develop, manufacture, market and sell the various eyewear products that make up the Eyewear Business. Denying Objecting Parties the use of the Marks --a critical and indispensable component of the Eyewear Business--after they purchased from the Debtors the Eyewear Business, other intellectual property and other assets would work an extraordinary injustice upon Eyewear and StyleMark and should not be permitted by this Court. As patents and know-how were acquired by StyleMark from Polaroid, which intellectual property would have little value without the Polaroid brand, the interplay among these rights

(including any and all intellectual property rights owned independently by the European corporations acquired from Polaroid by StyleMark) make the License Agreement inappropriate for rejection in bankruptcy. Further, to prevent such an injustice, in part, this Court should permit Eyewear and StyleMark the option of retaining their rights in a manner akin to Section 365(n).

34. Second, the courts that have treated rejection of a license as equivalent to termination and thereby allow the rights of a licensee to be impaired ignore the distinction between rejection and termination. In re Gucci, 126 F.3d 380, 389 (2d Cir. 1997) (stating that litigant has “reasonably strong argument that rejection of its licensing contract does not eliminate the transfer of property right created under it”); In re Bergt, 241 B. R. 17 (Bankr. Alaska 1999) (rejection of an agreement is not the same as avoidance of the rights under the agreement); In re Matusalem, 158 B.R. at 522 (stating that even if rejection were permitted, rejection would not automatically terminate licensee’s rights under license agreement); Hoffinger Industries, Inc. v. Rinehart (In re Hoffinger Industries, Inc.), 308 B.R. 362 (Bankr. E.D. Ark. 2004); Eastover Bank for Savings v. Sowashee Venture (In re Austin Dev. Co.), 19 F.3d 1077 (5th Cir. 1994) (finding effect of rejection to be breach of lease rather than termination). These courts recognize that the deemed pre-petition breach of the subject agreement does not terminate all rights under the agreement.

35. Here, Polaroid has no basis to terminate the License Agreement. Eyewear and StyleMark continue to have the right to use the Marks even after any rejection of the License Agreement by the Debtors.

C. Objecting Parties Are Entitled to Protection.

36. Eyewear and StyleMark request protection of their rights and interests under the License Agreement, Sublicense Agreement and consents given by Polaroid, including any right to use, or with respect to, the Marks.

37. Further, without limiting the foregoing, as a matter of equity, if the Court should determine that the Debtors may sell the Marks free and clear of the rights of the Objecting Parties (which Objecting Parties deny), the Objecting Parties are entitled to protection, which should include permission to use the Marks for a sell-off or wind-down period for the Eyewear Business of not less than one year. This right is recognized in the License Agreement and Sublicense Agreement. Moreover, in circumstances in which courts have denied licensees the right to continue using a trademark, such courts have granted the licensee a transition period to continue using the marks “to mitigate any potential damage and business disruption” the licensee may suffer as a result of losing a mark. In re Exide Technology, 340 B.R. 222, 250 (Bankr. D. Del. 2006) (granting a transition period to continue using the marks).

III. **NOTICE**

38. The Objecting Parties hereby give notice that they may offer into evidence the documents referenced herein, the License Agreement, the Sublicense Agreement, the Patent Assignment, the Purchase Agreement and any exhibits used for rebuttal or impeachment. The Objecting Parties may call as witnesses Andy Suszko and Duke Landorf, and any witnesses called for rebuttal or impeachment. These witness may testify concerning, among other things, the Purchase Agreement, License Agreement, Sublicense Agreement, Patent Assignment, Eyewear Business, and the harm and damage to the Objecting Parties resulting from loss of their right to use the Marks.

WHEREFORE, StyleMark and Eyewear respectfully request that the Court sustain this Objection, deny the Debtors' request to approve a sale of the Debtors' assets as provided above, and grant them such other relief as is proper.

Dated: April 13, 2009

OPPENHEIMER WOLFF & DONNELLY LLP

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AND STYLEMARK, A.G.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Polaroid Corporation, et al.,

Debtors.

Case No. 08-46617 (GFK)

Chapter 11

(Jointly Administered)

VERIFICATION OF EYEWEAR BRAND LIMITED, STYLEMARK, INC. AND
STYLEMARK, A.G.'S LIMITED OBJECTION

I, C. DUKE LANDOFF, the EXECUTIVE VP/CEO of the objecting party, StyleMark, Inc., declare under penalty of perjury that I have read the foregoing Limited Objection, know the contents thereof, and that the foregoing Limited Objection is true and correct according to the best of my knowledge, information and belief.

Dated: April 13, 2009

C. Duke Landoff

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Polaroid Corporation, et al.,

Debtors.

Case No. 08-46617 (GFK)

Chapter 11

(Jointly Administered)

**VERIFICATION OF EYEWEAR BRAND LIMITED, STYLEMARK, INC. AND
STYLEMARK, A.G.'S LIMITED OBJECTION**

I, Mark A. Ascik, the President of the objecting party, Eyewear Brand Limited, declare under penalty of perjury that I have read the foregoing Limited Objection, know the contents thereof, and that the foregoing Limited Objection is true and correct according to the best of my knowledge, information and belief.

Dated: April 13, 2009



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:	Case No. 08-46617 (GFK)
Polaroid Corporation, et al.,	Chapter 11
	(Jointly Administered)
Debtors.	

CERTIFICATE OF SERVICE

I hereby certify that on April 13, 2009, I caused the following documents:

Limited Objection to Debtors' Motion Authorizing Sale of Assets and Proposed Sale of Assets of Eyewear Brand Limited, StyleMark, Inc., StyleMark AB, StyleMark B.V., StyleMark, S.p.A., and StyleMark, A.G.; Request that Such Objection be Considered and Request for Protection

to be filed electronically with the Clerk of Court through ECF and that ECF will send an e-notice of the electronic filing to the following:

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I also certify that I caused a copy of the foregoing documents and Notice of Electronic Filing to be served to the following via facsimile:

Stephen J. Spencer
Houlihan Lokey Howard & Zukin Capital, Inc.
225 South Sixth Street, Suite 4950
Minneapolis, Minnesota 55402
Facsimile: 612-338-2938

Eric Lux and Bertrand Manhe
Genii Capital S.A. IKOGEST Offices
Atrium Business Park
23 ZA Bourmicht
L 8070 Bertrange, Luxembourg
Facsimile: 011-35-22-639-6523

Dated: April 13, 2009

/s/ Rebecca G. Sluss

EXHIBIT A

PATENT ASSIGNMENT

This Patent Assignment (the "Assignment") is effective as of the 5th day of March 2007, by Polaroid Corporation, a Delaware corporation with a place of business at 1265 Main Street, Waltham, Massachusetts 02451 ("Polaroid"), to StyleMark, Inc., a Florida corporation with a place of business at 2 Sunshine Boulevard, Ormond Beach, Florida 32174 ("Assignee").

WHEREAS, Polaroid and Assignee have entered into an Asset and Stock Purchase Agreement, dated of even date herewith, whereby Assignee acquired the eyewear business of Polaroid and certain of its subsidiaries, including certain real estate assets located in the Vale of Leven, Scotland;

WHEREAS, Polaroid is the owner of all right, title and interest in the patent applications and issued registrations listed on Schedule A attached hereto (collectively, the "Patents"); and

WHEREAS, Assignee is desirous of acquiring all right, title and interest in and to said Patents.

NOW, THEREFORE, in consideration of the foregoing, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Polaroid hereby transfers and assigns to Assignee, and Assignee hereby accepts (i) the transfer and assignment of all right, title, and interest in, to and under the Patents throughout the United States of America, its territories and all foreign countries, including the right to claim priority under United States law, any applicable foreign country's law, or international convention, and including any and all inventions described therein, and all reissues, reexaminations, renewals, substitutes and extensions of any of the foregoing, and (ii) all rights to sue for infringement of any Patents, whether arising prior to or subsequent to the date of this Assignment, the same to be held and enjoyed by the said Assignee, its successors and assigns, from and after the date herein above written, as fully and entirely as the same would have been held and enjoyed by Polaroid had this Assignment not been made.

Polaroid further agrees to execute any additional documents as may be reasonably necessary or desirable to confirm the assignment of the Patents to Assignee, provided, however, that all additional costs of preparing and recording such additional documents shall be borne exclusively by Assignee. Nothing in this Assignment is or shall be construed as: (i) a warranty, acknowledgment, representation or admission by Polaroid as to the validity, enforceability or scope of any Patents; (ii) a warranty or representation by Polaroid that anything made, used, sold or otherwise disposed of by Assignee, its affiliates or licensees, which is within at least one claim of the Patents is or will be free from infringement of patents, copyrights, and other rights of third parties; (iii) granting by implication, estoppel, or otherwise any licenses or rights under patents or other rights of Polaroid or other persons, regardless of whether such patents or other rights are dominant or subordinate to any of the Patents; or (iv) an obligation on the part of Polaroid to furnish any technology or technological information or to file any patent application or to secure any patent or maintain any patent in force.

IN WITNESS WHEREOF, Polaroid and Assignee have executed this Assignment as follows, effective as of the date first above written.

POLAROID CORPORATION

STYLEMARK, INC.

By: _____

By: *Duke Landorf*

Title: _____

Title: *Duke Landorf*
Executive Vice President

Date: _____

Date: *March 5, 2007*

IN WITNESS WHEREOF, Polaroid and Assignee have executed this Assignment as follows, effective as of the date first above written.

POLAROID CORPORATION

STYLEMARK, INC.

By: 

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

SCHEDULE A

Country	Title	Application Number	Filing Date	Patent Number	Issue Date
US	<i>Shaped plastic light-polarizing lens and method of making same</i>	08/122,231	9/14/1993	5,434,707	7/18/1995
US	<i>Optical lens blank with polarizer aligned between plastic birefringent sheets</i>	08/628,781	4/5/1996	5,805,336	9/8/1998
US	<i>Shaped plastic lenses and method for making the same</i>	09/966,179	9/28/2001	6,746,631	6/8/2004
US	<i>Shaped plastic lenses and method for making the same</i>	10/805,759	3/22/2004	7,042,641	5/9/2006
JP	<i>Shaped plastic lenses and method for making the same</i>	2003-532279	9/26/2002	-	-
EP	<i>Shaped plastic lenses and method for making the same</i>	02778367.9	9/26/2002	1,429,913	3/7/2007