

REC

06-01-1998

HEET

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office



To the Honorable Commissioner

100722810

d the attached original documents or copy thereof.

1. Name of conveying party(ies):

Olympia Industrial, Inc.

Additional name(s) & address(es) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☐ Assignment

☐ Merger

☒ Security Agreement

☐ Change of Name

☐ Other

Execution Date: January 16, 1998

2. Name and address of receiving party(ies)

Name: Mellon Bank, N.A.

Internal Address:

City: State: ZIP:

Street Address: 1735 Market Street, 6th Floor

City: Philadelphia State: PA ZIP: 19101

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

29/058,153

B. Patent No.(s)

D345237, D358933, 4993551

Additional numbers attached? ☐ Yes ☒ No

5. Name and address of party to whom correspondence concerning documents should be mailed:

Name: DANIELLE V. GARCIA

Internal Address:

City: State: ZIP:

Street Address: KELLEY DRYE & WARREN LLP

777 SOUTH FIGUEROA STREET, SUITE 2700

City: LOS ANGELES State: CA ZIP: 90071

6. Total number of applications and patents involved: 4

7. Total fee (37 CFR 3.41) \$ 160.00

☒ Enclosed

☐ Authorized to be charged to deposit account

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

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

Name of Person Signing

Danielle Garcia

Signature

May 27, 1998

Date

Total number of pages including cover sheet, attachments, and document: 6

Mail documents to be recorded with required cover sheet information to:
U.S. Patent and Trademark Office, Office of Public Records, Attn: Customer Services Counter
1213 Jefferson David Highway, 3rd Floor, Arlington, Virginia 22202

PATENT

REEL: 9187 FRAME: 0718

COLLATERAL ASSIGNMENT OF PATENTS
(SECURITY AGREEMENT)

COLLATERAL ASSIGNMENT OF PATENTS (SECURITY AGREEMENT) dated January 16, 1998, between OLYMPIA INDUSTRIAL, INC. a California corporation, with offices located at 505 South Seventh Avenue, City of Industry, California 91746 ("Assignor"), and MELLON BANK, N.A., with offices located at 1735 Market Street, 6th Floor, Philadelphia, Pennsylvania 19101-7899 ("Assignee").

W I T N E S S E T H

WHEREAS, Assignee and Assignor has entered into a Loan and Security Agreement of even date herewith (together with all supplements thereto and other agreements entered into in connection therewith, the "Financing Agreements"), pursuant to which Assignee has agreed to extend certain loans and financial accommodations to Assignor, subject to the terms and provisions of the Financing Agreements;

WHEREAS, Assignor owns all right, title, and interest in and to, among other things, all the United States and foreign patents, registrations and applications for the protection of inventions or designs set forth on Exhibit A hereto (the "Patents"); and

WHEREAS, in order to secure Assignor's Obligations (as defined in the Financing Agreements) to Assignee, Assignor has granted to Assignee a security interest in the Patents and certain other patents, inventions and assets with respect to the Patents as further set forth herein and in the Financing Agreements, and Assignee has requested Assignor to enter into this Security Agreement to evidence further such security interest.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that for valuable consideration received and to be received, as security of the full payment and performance of the Obligations, and to induce Assignee to extend loans and financial accommodations to Assignor, Assignor hereby assigns, sells, transfers, and conveys to Assignee and grants to Assignee a security interest in:

- a. the Patents;
- b. all patents, registrations and applications for the protection of inventions and designs hereafter acquired by, granted to, or filed by Assignor, whether based upon, derived from or variations of any invention or designs disclosed in the Patents or otherwise (the "Future Patents");
- c. all extensions, renewals, and continuations, re-issues, divisions, and continuations-in-part of the Patents and Future Patents;

d. all rights to sue for past, present and future infringements of the Patents and Future Patents;

e. all proceeds, including without limitation, license royalties and proceeds of infringement suits, based on the Patents and Future Patents;

f. all licenses and other agreements and all fees, rents, royalties, proceeds or monies thereunder, relating to the Patents and Future Patents and the use thereof; and

g. all trademarks, trademark registrations, trademark registration applications, formulae, processes, compounds, methods, know-how, and trade secrets relating to the manufacture of Assignor's products under, utilizing, or in connection with the Patents and Future Patents and all goodwill connected with, symbolized by or related to the foregoing.

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

AND Assignor hereby covenants with Assignee as follows:

1. Assignor's Obligations. Assignor agrees that, notwithstanding this Security Agreement, they will perform and discharge and remain liable for all their covenants, duties, and obligations arising in connection with the Collateral and any licenses and agreements related thereto. Assignee 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 Assignee relating to the Collateral nor shall Assignee be required to perform any covenant, duty or obligation of Assignor 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. Assignor represents and warrants to Assignee that: Assignor is the registered owners of, and no adverse claims have been made with respect to its title to, each of the Patents; such title is indefeasible for the duration of each such Patent; the Patents are subsisting and no part thereof has been adjudicated invalid or unenforceable, in whole or in part; each Patent is, to its best knowledge, valid and, if granted and registered, enforceable; the Patents are the only patents in which Assignor has any or all right, title and interest; none of the Collateral is subject to any mortgage, pledge, lien, security interest, lease, charge, license (by Assignor as licensor) or encumbrance, except Assignee's security interest; and, when this Security Agreement is filed in the United States Patent and Trademark Office and Assignee has taken the other actions contemplated by the Financing Agreements, this Security Agreement will create a legal and valid perfected and continuing lien on and security interest in the Collateral, enforceable against Assignor and all third parties, subject to no other mortgage, lien, charge, encumbrance, or security or other interest.

3. Covenants. Assignor will maintain and renew all items of Collateral, and will defend the Collateral against the claims of all persons; provided, however, that Assignor will not be required to maintain any Collateral which no longer has any economic value. Without limiting the generality of the foregoing, so long as any Patent or Future Patent has any economic value, Assignor shall not permit the expiration of any registration of or termination of any application for any such Patent and Future Patent without the written consent of Assignee. If before the Obligations have been satisfied in full, Assignor shall obtain rights to or be licensed to use any new patentable inventions, or become entitled to the benefit of any patent application or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent, or any improvement on any Patent, the provisions of Section 1 hereof shall automatically apply thereto and Assignor shall give Assignee prompt notice thereof in writing.

4. Use Prior to Default. Effective until Assignee's exercise of its rights and remedies upon an Event of Default under and as defined in the Financing Agreements (an "Event of Default"), Assignee hereby grants to Assignor the exclusive non-transferable right and license to use the Collateral and make, use and sell the inventions disclosed and claimed in the Patents and Future Patents 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 have occurred and be continuing, Assignor's rights pursuant to Section 4 hereof shall, at Assignee's option, terminate and be null and void, and Assignee 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. Assignee in such event may collect directly any payments due to Assignor 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. Assignor agrees that, in the event of any disposition of the Collateral upon 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 Patents and Future Patents. In the event Assignor fails or refuses to execute and deliver such documents, Assignor hereby irrevocably appoints Assignee as their attorney-in-fact, with power of substitution, to execute, deliver, and record any such documents on Assignor's behalf. Notwithstanding any provision hereof to the contrary, during the continuation of an Event of Default, Assignor may sell merchandise incorporating or utilizing the Patents and Future Patents in the ordinary course of their business and in a manner consistent with their past practices until it receives written notice from Assignee of an intended sale or other disposition of the Collateral. The preceding sentence shall not limit any right or remedy granted to Assignee with respect to Assignor's inventory under the Financing Agreements or any other agreement now or hereafter in effect.

6. Cumulative Remedies. The rights and remedies provided herein are cumulative and not exclusive of any other rights or remedies provided by the 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.

7. Amendments and Waivers. This Security Agreement may not be modified, supplemented or amended, or any of its provisions waived at the request of Assignor, without the prior written consent of Assignee. Assignor hereby authorizes Assignee to modify this Security Agreement by amending Exhibit A hereof to include any Future Patents or additional licenses.

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 or remedies of such party or any other party and no single or partial exercise of any rights or remedies hereunder shall operate as a waiver or preclude the exercise of any other rights or remedies of such party or any other party. No waiver by Assignee of any breach or default by Assignor 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 Assignor without the prior written consent of Assignee; and provided, further, that the Assignee may assign the rights and benefits hereof to any party acquiring any interest in the Obligations or any part thereof.

10. Further Acts. Assignor shall have the duty to prosecute diligently any applications for the Patents and Future Patents pending as of the date of this Security Agreement or thereafter, until the Obligations shall have been paid in full, to make applications on material unpatented or unregistered but patentable or registrable inventions, in any location where Assignor does business, and to preserve and maintain all rights in the Patents. Any expenses incurred in connection with such applications shall be borne by Assignor. Assignor shall not abandon any right to file a patent application or registration for any invention, nor abandon any such pending patent application or registration, without the consent of the Assignee, except to the extent that the invention covered thereby has no economic value.

11. Enforcement. Upon Assignor's failure to do so after Assignee's demand, or upon an Event of Default, Assignee shall have the right but shall in no way be obligated to bring suit in its own name to enforce the Patents and Future Patents and any license thereunder, in which event Assignor shall at the request of Assignee do any and all lawful acts and execute any and all proper documents required by Assignee in aid of such enforcement and Assignor shall promptly, upon demand, reimburse and indemnify Assignee for all costs and expenses incurred by Assignee in the exercise of their rights under this Section 11.

12. Re-Assignment. At such time as Assignor shall completely satisfy all of the Obligations, and the Financing Agreements have been terminated, other than upon enforcement of Assignee's remedies under the Financing Agreements after an Event of Default, Assignee will execute and deliver to Assignor all deeds, assignments and other instruments as may be necessary or proper to re-vest Assignor with full title to the Patents

and Future Patents, subject to dispositions thereof which may have been made by Assignee pursuant hereto.

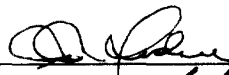
13. Severability. If any clause or provision of this Security Agreement shall be held invalid or unenforceable, in whole or in part, in any jurisdiction, such invalidity or unenforceability shall attach only to such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect any other clause or provision in any jurisdiction.

14. Notices. All notices, requests and demands to or upon Assignor or Assignee 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 patents 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. ASSIGNOR AND ASSIGNEE EACH WAIVES THE RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION ARISING UNDER THIS ASSIGNMENT, 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.

IN WITNESS WHEREOF, the parties have entered into this Assignment as of the date first above written.

OLYMPIA INDUSTRIAL, INC.,
a California corporation,
Assignor

By: 
Name: R. L. Tedice
Title: VP & CFO

MELLON BANK, N.A.,
Assignee

By: _____
Name: _____
Title: _____

and Future Patents, subject to dispositions thereof which may have been made by Assignee 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 any other clause or provision in any jurisdiction.

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IN WITNESS WHEREOF, the parties have entered into this Assignment as of the date first above written.

OLYMPIA INDUSTRIAL, INC.,
a California corporation,
Assignor

By: _____
Name: _____
Title: _____

MELLON BANK, N.A.,
Assignee

By: Marc S. Feigenbaum
Name: MARC S. FEIGENBAUM
Title: Vice President

PATENT

REEL: 91857 FRAME: 0724

EXHIBIT A

OLYMPIA INDUSTRIAL, INC.
PATENTS

A. Issued Patents

	<u>TITLE</u>	<u>ISSUE NO.</u>
(1)	Tool Pouch for Bucket	D345237
(2)	Tool Tray Organizer	D358933
(3)	Tool Holder for Bucket	4993551

B. Pending Design Patent Application

<u>TITLE</u>	<u>FILE DATE</u>	<u>APPLICATION NO.</u>
Lid/Seat for a Bucket	08/08/96	29/058,153

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

STATE OF ~~CALIFORNIA~~ Pennsylvania)
COUNTY OF ~~LOS ANGELES~~ Philadelphia)

On January 16, 1998, before me, ELEANOR PRIMIANO, Notary Public, personally appeared Marc S. Feigenbaum.

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.

Eleanor Primiano

SIGNATURE OF NOTARY

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 CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER(S)

Collateral Assignment of Patents
(Security Agreement)

TITLE(S)

TITLE OR TYPE OF DOCUMENT

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

- ☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER:

6

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

PATENT

REEL: 9187 FRAME: 0726

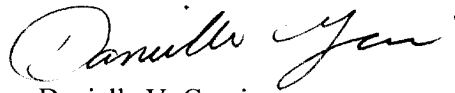
KELLEY DRYE & WARREN LLP

U.S. Patent and Trademark Office
May 27, 1998
Page Two

- c. A Kelley Drye & Warren LLP check in the amount of \$160.00 to cover the cost of recordation.

Please record the Assignment of Patents (item 1) **first**, and then record the Collateral Assignment of Patents (item 2) **second**. Should you have any questions, please call me at the number listed above.

Respectfully submitted,



Danielle V. Garcia
Documentation Assistant

DVG:dvg

Enclosures

cc: Laurie Kim, Esq.
Stephen M. Lans, Esq.