

RECORDER
6-11-98

06-17-1998



100741486

Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

VIGORO CANADA ACQUISITION CORP.
22 CLARKE STREET EAST
TILLSONBURG, ONTARIO N4G 1C8
CANADA

Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)

Name: CONGRESS FINANCIAL CORPORATION (CANADA)

Internal Address: SUITE 1500

Street Address: 141 ADELAIDE STREET WEST

City: TORONTO State: ONTARIO ZIP: M5H 3L9

Country: CANADA

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

3. Nature of conveyance:

- Assignment Merger
- Security Agreement Change of Name
- Other _____

Execution Date: May 29, 1998

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)

B. Patent No.(s)

(SEE EXHIBIT "A" ANNEXED HERETO)

Additional numbers attached? Yes No

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

Name: OTTERBOURG, STEINDLER, HOUSTON & ROSEN, P.C.

Internal Address: DAVID W. MORSE, ESQ.

29TH FLOOR

Street Address: 230 PARK AVENUE

City: NEW YORK State: NY ZIP: 10169

6. Total number of applications and patents involved:

1

7. Total fee (37 CFR 3.41).....\$ 40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

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

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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.

HELEN M. LINEHAN
Name of Person Signing

Helen M. Linehan
Signature

6/9/98
Date

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

Mail documents to be recorded with required cover sheet information to:
Commissioner of Patents & Trademarks, Box Assignments
Washington, D.C. 20231

PATENT
REEL: 9235 FRAME: 0186

EXHIBIT A

PATENTS

Registration No.	Issue Date	Title
U.S. Patent No. 5,237,936	August 24, 1993	Pallet and Display Assembly

PATENT SECURITY AGREEMENT

THIS PATENT SECURITY AGREEMENT (this "**Agreement**") is made this 29th day of May, 1998 between **CONGRESS FINANCIAL CORPORATION (CANADA)**, an Ontario corporation having an office at 141 Adelaide Street West, Suite 1500, Toronto, Ontario (together with its successors and assigns, the "**Lender**") and **VIGORO CANADA ACQUISITION CORP.**, a federal Canadian corporation with an office at 22 Clarke Street East, Tillsonburg, Ontario N4G 1C8 (the "**Company**").

RECITALS:

- A. The Company desires to obtain loans from the Lender under a loan agreement dated the date hereof, by and among the Company and the Lender (as from time to time amended, modified, supplemented, extended, renewed, restated or replaced, the "**Loan Agreement**").
- B. The Lender is willing to make loans to the Company from time to time, pursuant to the terms of the Loan Agreement, provided the Company executes this Agreement.
- C. The Company has, contemporaneously herewith, pursuant to the Loan Agreement, granted to the Lender a lien upon and security interests in all or substantially all of the Company's assets, including, without limitation, all of the Company's Patents (as defined herein).

NOW, THEREFORE, for Ten Dollars (\$10.00) and other valuable consideration, and in consideration of the premises, the Company hereby agrees with the Lender as follows:

1. All capitalized terms used herein, including those used in the Recitals hereto, unless otherwise defined shall have the meanings ascribed to them in the Loan Agreement.
2. As general and continuing security for the due prompt payment and performance of the Obligations, the Company hereby grants, assigns and pledges to the Lender, a continuing security interest (the "**Security Interest**") in and lien upon all of the following property of the Company, whether now existing or hereafter acquired (the "**Collateral**"), the entire right, title and interest of the Company in and to the patent applications and patents listed in Exhibit A attached hereto, including, without limitation, all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), the right to the extent permitted by applicable law to sue for past, present and future infringements, all rights corresponding thereto throughout the world, all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof and all common law rights therein (all of the foregoing being herein collectively referred to as the "**Patents**").

3. The Company covenants with and warrants to the Lender that:
 - (a) The Patents are, to the best of its knowledge, subsisting and have not been adjudged invalid or unenforceable, in whole or in part;
 - (b) Except as disclosed in Exhibit A, the Company is now and shall continue to be the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Patents, free and clear of any liens, charges, claims, rights and encumbrances other than those set out in Section 9.8 of the Loan Agreement ("**Permitted Liens**").
 - (c) The Company has the unqualified right to enter into this Agreement and perform its terms and, to the extent it deems reasonably necessary, has entered and will enter into written agreements with each of its present and future employees, agents and consultants which will enable it to comply with the covenants herein contained.
4. Until all of the Obligations have been satisfied in full and the Loan Agreement has been terminated, the Company shall not enter into any license agreement relating to any of the Patents with any Person having any interest in any of the Patents except non-exclusive licenses to customers of the Company in the regular and ordinary course of the Company's business as presently conducted and for reasonable and customary compensation, and shall not become a party to any agreement with any Person that is inconsistent with the Company's obligations under this Agreement.
5. The last day of the term of any licence granted to the Company shall be excepted from the Security Interest and shall not form part of the Collateral. The Company shall stand possessed of that day in trust to assign and dispose of it as the Lender directs.
6. If, before the Obligations shall have been satisfied in full, the Company shall obtain rights to 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 paragraph 2 shall automatically apply thereto and the Company shall give to the Lender prompt notice thereof in writing. The Company shall, and shall instruct its solicitor or the Lender, to take all steps to perfect the Lender's security in new patents.
7. The Company authorizes the Lender to modify this Agreement by amending Exhibit A to include any future patents and patent applications which are Patents under paragraph 2 or paragraph 5 hereof.

8. The Company hereby grants to the Lender and its respective employees and agents the right upon prior notice to the Company, and subject only to any obligations of confidentiality to which the Company, its employees and agents are then subject with respect thereto, to visit the Company's plants and facilities which manufacture, inspect or store products sold under any of the Patents and to inspect the products and quality control records relating thereto at reasonable times during regular business hours.

9. If an Event of Default shall have occurred and be continuing, the Lender may appoint or reappoint by instrument in writing, any person or persons, whether an officer or officers or an employee or employees of the Lender or not, to be a receiver or receivers (hereinafter called a "**Receiver**", which term when used herein shall include a receiver and manager) of Collateral (including any Proceeds as defined in the *Personal Property Security Act* (Ontario) ("**PPSA**")) and may remove any Receiver so appointed and appoint another in his stead. Any such Receiver shall, so far as concerns responsibility for his acts, be deemed the agent of the Company and not of the Lender, and the Lender shall not be in any way responsible for any misconduct, negligence, or non-feasance on the part of any such Receiver, his servants, agents or employees. Subject to the provisions of the instrument appointing him, any such Receiver shall have power to take possession of Collateral, to preserve Collateral or its value and to sell, license or otherwise dispose of or concur in selling, licensing or otherwise disposing of Collateral. To facilitate the foregoing powers, any such Receiver may, to the exclusion of all others, including the Company, enter upon, use and occupy all premises owned or occupied by the Company wherein Collateral may be situate, maintain Collateral upon such premises, borrow money on a secured or unsecured basis and use Collateral as security for loans or advances, as such Receiver shall, in its discretion, determine. Except as may be otherwise directed by the Lender, all money received from time to time by such Receiver in carrying out his appointment shall be received in trust for and paid over to the Lender. Every such Receiver may, in the discretion of the Lender, be vested with all or any of the rights and powers of the Lender.

10. If an Event of Default shall have occurred and be continuing, the Lender may, either directly or through its agents or nominees, exercise any or all of the powers and rights given to a Receiver by virtue of Section 9.

11. If an Event of Default shall have occurred and be continuing, the Lender may take possession of, collect, demand, sue on, enforce, recover and receive Collateral and give valid and binding receipts and discharges therefor and in respect thereof and, upon default, the Lender may sell, license or otherwise dispose of Collateral in such manner, at such time or times and place or places, for such consideration and upon such terms and conditions as to the Lender may seem reasonable.

12. In addition to those rights granted herein and in any other agreement now or hereafter in effect between the Company and the Lender and in addition to any other rights the Lender may have at law or in equity, the Lender shall have, both before and after default, all rights and remedies of a secured party under the PPSA or the relevant Uniform Commercial Code, as applicable. Provided always, that the Lender shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, license or otherwise dispose of Collateral or to institute any proceedings for such purposes. Furthermore, the Lender shall have no obligation to take any steps to preserve rights against prior parties to any Instrument or Chattel Paper whether (as such terms are defined in the PPSA) Collateral or Proceeds and whether or not in the Lender's possession and shall not be liable or accountable for failure to do so.
13. The Company acknowledges that upon the occurrence and during the continuance of an Event of Default, the Lender or any Receiver appointed by it may take possession of Collateral wherever it may be located and by any method permitted by law and the Company agrees upon request from the Lender or any such Receiver to assemble and deliver possession of Collateral at such place or places as directed.
14. The Lender will give the Company such notice, if any, of the date, time and place of any public sale or of the date after which any private disposition of Collateral is to be made, as may be required by the PPSA.
15. Upon receiving written demand from the Lender after an Event of Default has occurred and is continuing, the Company shall assign or license the Collateral to whomever the Lender directs, including to the Lender.
16. The Company hereby makes, constitutes and appoints the Lender and any officer or agent of the Lender as the Lender may select as the Company's true and lawful attorney in accordance with the *Powers of Attorney Act* (Ontario), with full power to do any or all of the following if an Event of Default shall occur and be continuing: to endorse the Company's name on all applications, documents, papers and instruments necessary for the Lender to continue the registration of or to use the Patents, or to grant or issue any exclusive or nonexclusive license under the Patents to any other Person, or to assign, pledge, convey or otherwise transfer title in or dispose of the Patents to any other Person. The Company hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney, which is coupled with an interest, shall be irrevocable until all of the Obligations shall have been satisfied in full, the Security Interest shall have been released or discharged and the Loan Agreement shall have been terminated.

17. At such time as all of the Obligations shall have been satisfied finally and in full and the Loan Agreement shall have been terminated, the Lender shall execute and deliver to the Company, without representation, warranty or recourse and at the Company's expense, all releases and other instruments necessary to terminate the Lender's security interest in the Patents, subject to any disposition thereof which may have been made by the Lender pursuant to the terms of this Agreement, the Loan Agreement, or any other document.
18. Any and all fees, costs and expenses, of whatever kind or nature (including, without limitation, reasonable solicitors' fees and legal expenses) incurred by the Lender in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including, without limitation, all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees or encumbrances, or otherwise, in protecting, maintaining and preserving the Patents or in defending or prosecuting any actions or proceedings arising out of or related to the Patents, shall be borne and paid by the Company (it being the intent of the Company and the Lender that the Company shall be responsible for the payment of all sums, fees, costs and expenses, including, without limitation, all maintenance fees payable with respect to the Patents) or, if paid by the Lender in its sole discretion, shall be paid by the Company to the Lender **on demand** by the Lender and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the rate per annum in effect from time to time under the Loan Agreement.
19. The Company shall have the duty, consistent with the Company's past practice, through counsel reasonably acceptable to the Lender, to prosecute diligently any patent application of the Patents pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full and the Loan Agreement terminated, to make application on unpatented but patentable inventions and to preserve and maintain all rights in patent applications of the Patents. Any expenses incurred in connection with such an application shall be borne by the Company. The Company shall not abandon any pending patent application or patent, without the prior written consent of the Lender.
 - (a) the Lender shall have the right, to the extent permitted by applicable law, but shall in no way be obligated, to bring suit in its own name to enforce the Patents and any license hereunder, in which event the Company shall at the request of the Lender do any and all lawful acts and execute any and all proper documents required by the Lender in aid of such enforcement and the Company shall promptly, upon demand, reimburse and indemnify the Lender for all costs and expenses incurred by the Lender in the exercise of its rights under this Paragraph 13(a); and
 - (b) the Lender shall have the right, to the extent permitted by applicable law, but shall in no way be obligated, to defend any suit or counterclaim in its own name in

order to defend the Patents and any license hereunder, in which event the Company shall, at the request of the Lender, do any and all lawful acts and execute any and all proper documents required by the Lender in aid of such defense and the Company shall promptly, upon demand, reimburse and indemnify the Lender for all costs and expenses incurred by the Lender in the exercise of its rights under this Paragraph 13(b).

20. No course of dealing between the Company and the Lender, nor any failure to exercise, nor any delay in exercising, on the part of the Lender, any right, power or privilege hereunder or under the Loan Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or future exercise thereof or the exercise of any other right, power or privilege.
21. All of the Lender's rights and remedies with respect to the Patents, whether established hereby or by the Loan Agreement, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.
22. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable, in whole or in part, in any jurisdiction, the same shall be deemed severed herefrom and shall not in any manner affect such clause or provisions in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.
23. This Agreement is subject to the terms and conditions of all licenses for the Patents existing as of the effective date of this Agreement and set forth on Exhibit B attached hereto.
24. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph 5.
25. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and the permitted assigns of the parties. The Company shall not assign its rights or delegate its rights or assign its duties hereunder without the prior written consent of the Lender.
26. The Company waives protest of any Instrument (as defined in the PPSA) constituting Collateral at any time held by the Lender on which the Company is in any way liable and, subject to the PPSA requirements relating to public sales and private dispositions, notice of any other action taken by the Lender.

27. The Security Interest created hereby is intended to attach when this Agreement is signed by the Company and delivered to the Lender.
28. The Company acknowledges and agrees that in the event it amalgamates with any other company or companies it is the intention of the parties hereto that the term "Company" when used herein shall apply to each of the amalgamating companies and to the amalgamated company, such that the Security Interest granted hereby:
 - (a) shall extend to Collateral owned by each of the amalgamating companies and the amalgamated company at the time of amalgamation and to any "Collateral" thereafter owned or acquired by the amalgamated company, and
 - (b) shall secure the Obligations of each of the amalgamating companies and the amalgamated company to the Lender at the time of amalgamation and any Obligations of the amalgamated company to the Lender thereafter arising. The Security Interest shall attach to Collateral owned by each company amalgamating with the Company, and by the amalgamated company, at the time of the amalgamation, and shall attach to any Collateral thereafter owned or acquired by the amalgamated company when such becomes owned or is acquired.
29. The Company hereby acknowledges receipt of a copy of this Agreement.
30. The Company hereby authorizes the Lender to file such financing statements and other documents and do such acts, matters and things (including completing and adding schedules hereto identifying Collateral) as the Lender may deem appropriate to perfect and continue its security interest in and to protect and preserve Collateral and, following the occurrence of and during the continuance of a default, to realize upon such security interest.
31. The Company hereby acknowledges that the Lender may register a copy of this Agreement and in such event it will be available to the public for inspection. The Company shall cooperate with and assist the Lender, as requested by the Lender, with respect to any registrations of or relating to this Agreement which the Lender deems appropriate.
32. The Company waives notice of the Lender's acceptance hereof.
33. **THIS AGREEMENT HAS BEEN NEGOTIATED, EXECUTED AND DELIVERED AT AND SHALL BE DEEMED TO HAVE BEEN MADE IN TORONTO, ONTARIO. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE PROVINCE OF ONTARIO AND THE LAWS OF CANADA APPLICABLE THEREIN.**

34. THE COMPANY AND COLLATERAL AGENT EACH WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE COLLATERAL.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

**VIGORO CANADA ACQUISITION
CORP.**

By:


Name: Donald J. Gayford

Title: President

**CONGRESS FINANCIAL
CORPORATION (CANADA)**

By:


Name: Wayne R. Egoetz

Title: Sr. Vice President &
Managing Director

PROVINCE OF ONTARIO)
)
MUNICIPALITY OF)
)
METROPOLITAN TORONTO)

BEFORE ME, the undersigned authority, on this day personally appeared Donald J. Gayford, President and Sole Director of Vigoro Canada Acquisition Corp., to me known to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 29th day of May, 1998.

Edelle Richmond

Notary Public

My Commission Expires: No Expiry

[NOTARIAL SEAL]

PROVINCE OF ONTARIO)
)
MUNICIPALITY OF)
)
METROPOLITAN TORONTO)

BEFORE ME, the undersigned authority, on this day personally appeared Wayne R. Engetz of Congress Financial Corporation (Canada) known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 29th day of May, 1998.

Edelle Richmond

Notary Public

My Commission Expires: No Expiry

[NOTARIAL SEAL]

EXHIBIT A
PATENTS

Registration No.	Issue Date	Title
U.S. Patent No. 5,237,936	August 24, 1993	Pallet and Display Assembly
Canadian Patent No. 2,041,751	December 30, 1997	Pallet and Display Assembly

PATENT APPLICATIONS

Serial No.	Filing Date	Description
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EXHIBIT B
PATENT LICENCES

Licensor	Patent No.	Issue Date	Title
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