



To the Honorable Commissioner of Patents

100863704

attached original documents or copy thereof.

1. Name of conveying party(ies):
Parabolics Sports Systems Inc.

MRD
10-19-98

2. Name and address of receiving party(ies) 33
Name: 3482715 Canada Inc.
Internal Address:

Street Address: 5 Place Ville Marie, Suite 1234
Montreal H3B 2G2

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

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

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other:

Execution Date:

4. Application number(s) or patent number(s): 08/668,679

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)

10/30/1998 SBURNS 00000056 00668679

FC:581

40.00 DP

Additional numbers attached? Yes No

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

Name: Jody L. Factor
Internal Address: FACTOR AND SHAFTAL, LLC
Street Address: 100 West Monroe St., Suite 300
City: Chicago State: IL Zip: 60603

6. Total number of applications and patents involved. _____

7. Total fee (37 CFR 3.41) \$40.00
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number: 50-0545

(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.

Jody L. Factor
Name of Person Signing

Signature

Date

10/16/98

Total number of pages including cover sheet, attachments, and document: 11

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

SECURITY AGREEMENT

THIS AGREEMENT entered into this 31st day of August, 1998

BY: **PARABOLICS SPORTS SYSTEMS INC.**, a corporation duly incorporated according to law with an office at 800 Place Victoria, Suite 4120, P.O. Box 383, Montreal, Quebec, H4Z 1J2 and herein represented by Mr. Brian Levine, herein referred to as the "Debtor",

IN FAVOUR OF **3482715 CANADA INC.**, a corporation duly incorporated according to law with its office at 5 Place Ville Marie, Suite 1234, Montreal H3B 2G2 and herein referred to as the "Creditor",

WHEREAS the Creditor entered into a royalty agreement with the Debtor (the "Royalty Agreement");

WHEREAS to secure the observance, performance and satisfaction of the covenants, obligations and conditions on the part of the Debtor contained in the Royalty Agreement, including without limitation, the payment of all royalties owing by the Debtor to the Creditor, the Debtor has agreed to grant a moveable hypothec to the Creditor on all its Patent Rights;

NOW, THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE I **INTERPRETATION**

1.1 Defined Terms

In this security agreement:

- (a) "Collateral" means the Patent Rights now owned or hereafter acquired by or on behalf of the Debtor;
- (b) "Indebtedness" means the royalties and interest thereon now owing or which will be owed by the Debtor to the Creditor under the Royalty Agreement and includes, without limiting the generality of the foregoing, all costs, charges and expenses referred to in Section 5.2;
- (c) "Moveable Hypothec" means the general and continuing security in the Collateral granted pursuant to the terms hereof;

(d) "Patent Rights" means those patent applications and patents issuing thereon based upon the Invention filed in the United States under Patent Application number 08/668,679 or PCT application number PCT/CA 97/00438 filed throughout the world, including all original, division, continuation, or reissue applications and patents together with all renewals and extensions thereof.

Terms not defined herein bear the same meaning as those used in the Royalty Agreement.

1.2 **Gender and Number**

Words importing the singular number only shall include the plural and vice-versa, and words importing the masculine gender shall include the feminine gender and neuter gender, and words importing persons shall include a natural person, firm, trust, partnership, association, corporation, government or governmental board, agency or instrumentality.

1.3 **Headings**

The division of this agreement into articles and sections and the article and section headings are for convenience of reference only and shall not affect the interpretation or construction of this agreement.

1.4 **Calculations of Time Periods**

Unless otherwise specified herein, when calculating the period of time within which or following which any act is to be done or step taken pursuant to this agreement, the date which is the reference day in calculating such period shall be excluded. If the last day of such period is a non-business day, the period in question shall end on the next business day.

1.5 **Applicable Law**

This agreement shall be governed by the laws of the Province of Quebec and the laws of Canada applicable therein, and the parties hereto do hereby irrevocably attorn to the jurisdiction of the courts of the Province of Quebec.

1.6 **Severable**

If any provision of this agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this agreement shall not in any way be affected or impaired thereby.

1.7 **Entire Agreement**

This agreement constitutes the entire agreement between the parties and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, among the parties with respect thereto.

1.8 **Waiver**

No waiver by any party hereto of any breach of any of the provisions of this agreement by such party shall take effect or be binding upon the party unless in writing and signed by such party. Unless otherwise provided therein, such waiver shall not limit or affect the rights of such party with respect to any other breach.

1.9 **Time of Essence**

Time shall be of the essence of this agreement.

ARTICLE II
SECURITY AND USE OF COLLATERAL

2.1 **Moveable Hypothec**

As security for the full and timely payment of the Indebtedness by the Debtor to the Creditor and the performance and observance by the Debtor of all its other obligations contained in the Royalty Agreement and in this agreement, the Debtor hereby grants to the Creditor a moveable hypothec in the Collateral for an amount of One Million Five Hundred Thousand Dollars (\$1,500,000) together with interest at an interest rate per annum of Twelve percent (12%).

2.2 **Use of Collateral**

Until the occurrence of an event of default, as hereinafter provided, the Debtor may use the Collateral in any lawful manner not inconsistent with this agreement.

2.3 **Security**

The Moveable Hypothec granted hereunder is in addition to and not in substitution for any other security now or hereafter held by the Creditor.

2.4 **Additional Hypothec**

To further secure the full and timely payment of the Indebtedness by the Debtor to the Creditor and the performance and observance by the Debtor of all its other obligations contained in the Note and this agreement, the Debtor hereby hypothecates and charges the Collateral with a moveable hypothec without delivery in favour of the Creditor to the extent of a further amount equal to twenty percent (20%) of the amount mentioned in Section 2.1 hereof.

ARTICLE III
REPRESENTATIONS, WARRANTIES AND COVENANTS

3.1 The Debtor hereby represents, warrants or covenants to or with the Creditor, as the case may be, that:

- (a) it will maintain the Moveable Hypothec as a moveable hypothec against the Collateral ranking first;
- (b) it will care for, protect and preserve the Collateral and will not, with the exception of any license agreements entered into with OEM manufacturers as contemplated in section 2(b)(ii) of the Royalty Agreement, sell, transfer, assign, mortgage, charge, pledge, hypothecate or deliver or otherwise dispose of or encumber the Collateral or any interest therein and in particular it will pay all maintenance fees, search fees, issuance fees, renewal fees and other fees to keep the Patent Rights in force;
- (c) the execution and delivery of this agreement has been properly authorized and constitutes a legal, valid and binding obligation of the Debtor in accordance with its terms;
- (d) it will maintain its corporate existence and will carry on its business in the ordinary course;
- (e) it will defend the Collateral against the claims and demands of all other persons claiming the Collateral or any interest therein and will promptly notify the

of the details of any such claims and demands and of any loss of damage to the Collateral;

ARTICLE IV
DEFAULT AND REMEDIES

4.1 The Debtor shall be in default under this agreement upon the occurrence of any one of the following events:

- (a) it is in default of payment of the Indebtedness in accordance with the terms of the Royalty Agreement;
- (b) the Debtor shall fail to keep and perform any of the material provisions of the Royalty Agreement, subject to the period to remedy a breach, therein provided, which are on its part to be observed or performed;
- (c) the Debtor shall fail to keep and perform any of the material provisions of this agreement which are on its part to be observed or performed;
- (d) the Debtor shall become bankrupt or insolvent or shall take or attempt to take advantage of any statute for the relief of bankrupt or insolvent debtors, or if the Debtor commences or becomes subject to any process that might result in its bankruptcy or liquidation, or if it shall make any general assignment for the benefit of creditors;
- (e) a receiver and/or manager shall be appointed over the Debtor's assets or an application be made therefor;
- (f) a resolution of the Debtor is passed or a petition is filed or any order is made for the winding up of the Debtor;
- (g) the Debtor ceases to carry on business;
- (h) any of the representations and warranties contained herein are not true

In the event of any default, the Creditor may, at its option, declare that the whole or any part of the Indebtedness that is not so due to be immediately due and payable and may use the Power of Attorney herein.

4.2 Remedies Upon Default

In the event of any such event of default by the Debtor, the Creditor may, after serving the Debtor with any prior notice required by law and filing or publishing same where necessary, take any one or more of the hypothecary recourses permitted by law.

- 4.3 (a) the Creditor shall have the right to postpone indefinitely the sale of the Collateral or any part thereof and shall further have the right, pending any such sale, to lease the Collateral or any part thereof to any person for such period as the Creditor in its absolute discretion deems necessary in order to recover or to attempt to recover any Indebtedness.
- (b) all monies received or collected by the Creditor in respect of the Collateral may be applied on account of such part of the Indebtedness as the Creditor deems fit.
- (c) the Creditor will be required to give the Debtor only such notice, if any, of the date, time and place of any public sale or of the date after which any private disposition of the Collateral is to be made, as may be required by the Civil Code of Quebec.
- (d) at its option and upon notice to the Debtor in the manner provided by the Civil Code of Quebec, the Creditor may elect to retain all or any part of the Collateral in satisfaction of the Indebtedness.
- (e) all remedies of the Creditor at law and hereunder are cumulative and may be acted upon concurrently.
- (f) the Creditor shall not be liable or accountable for any failure to exercise its remedies, take possession of, collect, enforce, realize, sell, lease or otherwise dispose of Collateral or to institute any proceedings for such purposes.
- (g) the Creditor may use the Power of Attorney herein to transfer the Collateral to itself.

ARTICLE V
GENERAL

5.1 Power of Attorney

The Debtor shall from time to time forthwith upon the Creditor's request do, make and execute all such financing statements, requisitions or forms required for publication, further assignments, documents, acts, matters and things as may be reasonably required by the Creditor of or with respect to the Collateral or any part thereof or as may be reasonably required to give effect to these presents, and the Debtor hereby constitutes and appoints the Creditor its true, lawful and irrevocable attorney with full power of substitution to do, make and execute all such statements, assignments, documents, acts, matters or things in the event of the Creditor's default under the Royalty Agreement, including, without limiting the foregoing, the rights to fulfil all formalities required by the various statutes and authorities around the world with respect to the assignment or transfer of the Patent Rights in the event of such default.

5.2 Expenses and Performance of Obligations

The Debtor agrees to pay to the Creditor forthwith upon demand all costs, charges and expenses, including all legal fees, both judicial and extra-judicial, incurred by the Creditor in collecting the Indebtedness and/or in enforcing the security granted hereunder. Upon the Debtor's failure to perform any of its obligations under this agreement, the Creditor may at its option perform such obligations, and the costs, charges and expenses of the Creditor in so doing shall be payable by the Debtor to the Creditor upon demand. All costs, charges and expenses shall be added to the Indebtedness as of the date of such demand and shall bear interest at the same rate as the Indebtedness. Furthermore, the Debtor agrees to pay all legal fees incurred in connection with this agreement and all related documents.

5.3 Term

This agreement shall be a continuing agreement in every respect and it shall remain in full force and effect until the Indebtedness is paid in full.

5.4 Assignment

If the Creditor assigns this agreement, the Debtor hereby accepts such assignment, waives notice, proof and signification

thereof. If the Creditor assigns this agreement, the assignee thereof shall become the holder of the Moveable Hypothec created hereunder.

5.5 Notices

Any notice, approval, consent, waiver or other communications to be given hereunder shall be in writing and shall be deemed to be given if delivered personally or sent by facsimile, in which case such notice, approval, consent, waiver or other communication shall be deemed to be received on the date delivered or sent and shall be addressed to the relevant party as set forth below:

if to the Creditor at: 5 Place Ville Marie
Suite 1234
Montreal, Quebec
H3B 2G2

if to the Debtor at: 800 Place Victoria
Suite 4120
P.O. Box 383
Montreal, Quebec
H4Z 1J2

or such other address as may be given by any of them to the others, in writing, from time to time.

5.6 Further Assurances

The parties hereto agree to execute and deliver such further and other documents and perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this agreement and every part thereof.

5.7 Acknowledgement

The Debtor hereby acknowledges receipt of a copy of this agreement.

5.8 Acceptance

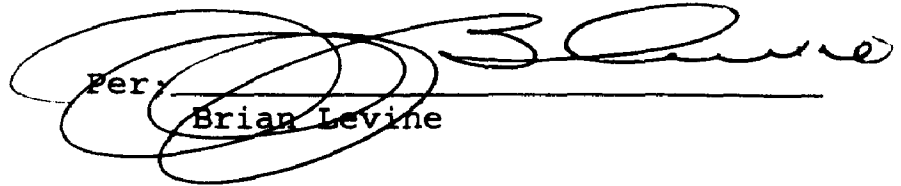
This agreement need not be signed for acceptance by the Creditor to be binding on the Debtor. Such acceptance by the Creditor shall be presumed and cannot be disputed by the Debtor.

5.9 Language

The parties hereto have requested that these presents and all judicial proceedings relating thereto be drafted in English. Les parties aux présentes ont demandé à ce que les présentes et toutes procédures judiciaires y afférentes soient rédigées en anglais.

IN WITNESS WHEREOF the parties hereto have hereunto caused this agreement to be executed on the date first above written.

PARABOLICS SPORTS SYSTEMS INC.

Per: 
Brian Levine

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RESOLUTIONS OF THE BOARD OF DIRECTORS OF
PARABOLICS SPORTS SYSTEMS INC.

"RESOLVED:

THAT the Corporation be and it is hereby authorized to hypothecate and charge, for and in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000) plus interest thereon at an annual rate of twelve percent (12%) by way of continuing and collateral security and to hypothecate and charge, for and in the amount of twenty percent (20%) of the said principal amount as an additional hypothec, in favour of 3482715 CANADA INC. (the "Creditor") for the repayment of indebtedness and the fulfilment of obligations due by the Corporation to the Creditor, the collateral (the "Collateral") more fully described in that certain document entitled "Security Agreement" (the "Security Agreement") and to subject and charge such Collateral to and with such charges, hypothecs, encumbrances and restrictions as set forth in the Security Agreement, a copy of which has been submitted to and examined by the board of directors of the Corporation and is hereby approved for all purposes; and

THAT any officer or director, acting alone, be and he is hereby authorized, for and on behalf of the Corporation, to execute such Security Agreement, together with such amendments, additions and/or deletions thereto and/or therefrom as he may, in his discretion, deem appropriate (to be conclusively proven by his signature thereto), as well as to do all other things and execute all other documents in order to give full and proper effect thereto".

EACH of the foregoing resolutions is consented to by all of the Directors of the Corporation entitled to vote thereon pursuant to the Canada Business Corporations Act as evidenced by the signature of the Secretary hereto, this 31st day of August, 1998.



Brian Levine

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