

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

4,650,059

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

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

REEL: 9711 FRAME: 0275

PATENT COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT

AGREEMENT made this 30th day of December, 1998 by and between **THE NATIONAL LATEX PRODUCTS COMPANY**, an Ohio corporation ("**Debtor**"), with its chief executive office at 246 East Fourth Street, Ashland, Ohio 44805 and **GENERAL ELECTRIC CAPITAL CORPORATION**, a New York corporation ("**Secured Party**"), having an office at 40 Old Ridgebury Road, Danbury, Connecticut 06810.

W I T N E S S E T H:

WHEREAS, Debtor has adopted, used and is using, and is the owner of the entire right, title, and interest in and to the patents and applications therefor described in Exhibit A annexed hereto and made a part hereof; and

WHEREAS, Secured Party and Debtor are contemporaneously herewith entering into financing arrangements pursuant to which Secured Party may make loans and advances and provide other financial accommodations to Debtor as set forth in the Loan and Security Agreement, dated of even date herewith, by and between Secured Party and Debtor (the "**Loan Agreement**"), together with various other agreements, documents and instruments referred to therein or at any time executed and/or delivered in connection therewith or related thereto, including, but not limited to, this Agreement (all of the foregoing, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "**Financing Agreements**"); and

WHEREAS, in order to induce Secured Party to enter into the Financing Agreements and make loans and advances and provide other financial accommodations to Debtor pursuant thereto, Debtor has agreed to grant to Secured Party certain collateral security as set forth herein;

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Debtor hereby agrees as follows:

1. GRANT OF SECURITY INTEREST

As collateral security for the prompt performance, observance and indefeasible payment in full of all of the Obligations (as hereinafter defined), Debtor hereby grants to Secured Party a continuing security interest in and a general lien upon, and hereby assigns and transfers to Secured Party: (a) all of Debtor's now existing or hereafter acquired right, title and interest in and to: all of Debtor's interest in any patents; all applications, registrations and recordings relating to such patents in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other countries, and all reissues, extensions and renewals thereof including, without limitation, those

patents, applications, registrations and recordings described in Exhibit A hereto (the "**Patents**"), and (b) any and all proceeds of any of the foregoing, including, without limitation, any claims by Debtor against third parties for infringement of the Patents or any licenses with respect thereto (all of the foregoing are collectively referred to herein as the "**Collateral**").

2. OBLIGATIONS SECURED

The security interest, lien and other interests granted to Secured Party pursuant to this Agreement shall secure the prompt performance, observance and payment in full of all now existing and hereafter arising obligations, liabilities and indebtedness of Debtor to Secured Party of every kind and description, however evidenced, whether direct or indirect, absolute or contingent, joint or several, secured or unsecured, due or not due, primary or secondary, liquidated or unliquidated, whether arising before, during or after the initial or any renewal term hereof, or after the commencement of any case with respect to Debtor under the Bankruptcy Code or any similar statute, whether arising under this Agreement, the other Financing Agreements or by operation of law and whether incurred by Debtor as principal, surety, endorser, guarantor or otherwise (all hereinafter referred to as "**Obligations**").

3. REPRESENTATIONS, WARRANTIES AND COVENANTS

Debtor hereby represents, warrants and covenants with and to Secured Party that (all of such representations, warranties and covenants being continuing so long as any of the Obligations are outstanding):

(a) Debtor will pay and perform all of the Obligations according to their terms.

(b) All of the existing Collateral is valid and subsisting in full force and effect, and Debtor owns the sole, full, and clear title thereto, and the right and power to grant the security interests granted hereunder. Debtor will, at Debtor's expense, perform all acts and execute all documents necessary to maintain the existence of the Collateral as valid, subsisting and registered patents including, without limitation, the filing of any renewal affidavits and applications. The Collateral is not subject to any liens, claims, mortgages, assignments, licenses, security interests, or encumbrances of any nature whatsoever, except the licenses permitted under Section 3(e) below.

(c) Debtor will not assign, sell, mortgage, lease, transfer, pledge, hypothecate, grant a security interest in or lien upon, encumber, grant an exclusive or non-exclusive license relating to the Collateral, except as permitted herein or in the Loan Agreement, or otherwise dispose of any of the Collateral without the prior written consent of Secured Party. Nothing in this Agreement shall be deemed a consent by Secured Party to any such action, except as such action is expressly permitted hereunder.

(d) Debtor will, at Debtor's expense, perform all acts and execute all documents reasonably requested at any time by Secured Party to evidence, perfect, maintain, record, or enforce the security interest in the Collateral granted hereunder or to otherwise further the provisions of this Agreement. Debtor hereby authorizes Secured Party to execute and file one or more financing statements (or similar documents) with respect to the Collateral signed only by Secured Party or as otherwise determined by Secured Party. Debtor further authorizes Secured Party to have this or any other similar security agreement filed with the Commissioner of Patents and Trademarks or other appropriate federal, state or government office with respect to the Collateral.

(e) As of the date hereof, Debtor does not have any Patents registered, or subject to pending applications, in the United States Patent and Trademark Office or any similar office or agency in the United States other than those described in Exhibit A annexed hereto and has not granted any licenses with respect thereto other than as set forth in Exhibit B hereto.

(f) Debtor will, concurrently with the execution and delivery of this Agreement, execute and deliver to Secured Party five (5) originals of a Special Power of Attorney in the form of Exhibit C annexed hereto for the implementation of the assignment, sale or other disposition of the Collateral pursuant to Secured Party's exercise of the rights and remedies granted to Secured Party hereunder.

(g) Secured Party may, in its discretion, pay any reasonable amount or do any act which Debtor fails to pay or do as required hereunder or as reasonably requested by Secured Party to preserve, defend, protect, maintain, record or enforce the Obligations, the Collateral, or the security interest granted hereunder including but not limited to all filing or recording fees, court costs, collection charges, reasonable attorneys' fees and legal expenses. Debtor will be liable to Secured Party for any such payment, which payment shall be deemed an advance by Secured Party to Debtor, shall be payable on demand together with interest at the then applicable rate set forth in the Financing Agreements and shall be part of the Obligations secured hereby.

(h) Debtor shall not file any application for the registration of a Patent with the United States Patent and Trademark Office or any similar office or agency in the United States, any state therein, or any other country, unless Debtor has by thirty (30) days prior written notice informed Secured Party of such action. Upon request of Secured Party, Debtor shall execute and deliver to Secured Party any and all assignments, agreements, instruments, documents, and such other papers as may be requested by Secured Party to evidence the security interests of Secured Party in such Patent.

(i) Debtor has not abandoned any of the Patents and Debtor will not do any act, nor omit to do any act, whereby the Patents may become abandoned, invalidated, unenforceable, avoided, or avoidable. Debtor shall notify Secured Party immediately if it knows

or has reason to know of any reason why any application, registration, or recording may become abandoned, canceled, invalidated, avoided, or avoidable.

(j) Debtor will render any assistance, as Secured Party shall reasonably determine is necessary, to Secured Party in any proceeding before the United States Patent and Trademark Office, any federal or state court, or any similar office or agency in the United States or any state therein or any other country to maintain such application and registration of the Patents as Debtor's exclusive property and to protect Secured Party's interest therein, including, without limitation, filing of renewals, affidavits of use, affidavits of incontestability and opposition, interference, and cancellation proceedings.

(k) Debtor will promptly notify Secured Party if Debtor (or any affiliate or subsidiary thereof) learns of any use by any person of any other process or product which infringes upon any Patent. If requested by Secured Party, Debtor, at Debtor's expense, shall join with Secured Party in such action as Secured Party, in Secured Party's discretion, may deem advisable for the protection of Secured Party's interest in and to the Patents.

(l) Debtor assumes all responsibility and liability arising from the use of the Patents and Debtor hereby indemnifies and holds Secured Party harmless from and against any claim, suit, loss, damage, or expense (including reasonable attorneys' fees) arising out of any alleged defect in any product manufactured, promoted, or sold by Debtor (or any affiliate or subsidiary thereof) in connection with any Patent or out of the manufacture, promotion, labelling, sale or advertisement of any such product by Debtor (or any affiliate or subsidiary thereof).

(m) Debtor will promptly pay Secured Party for any and all reasonable expenditures made by Secured Party pursuant to the provisions of this Agreement or for the defense, protection, or enforcement of the Obligations, the Collateral, or the security interests granted hereunder, including, but not limited to, all filing or recording fees, court costs, collection charges, travel expenses, and attorneys' fees and legal expenses. Such expenditures shall be payable on demand, together with interest at the then applicable rate set forth in the Financing Agreements and shall be part of the Obligations secured hereby.

4. EVENTS OF DEFAULT

All Obligations shall become immediately due and payable, without notice or demand, at the option of Secured Party, upon the occurrence a default or event of default under the Financing Agreements (each an "**Event of Default**" hereunder).

5. RIGHTS AND REMEDIES

Upon the occurrence of any such Event of Default and at any time thereafter, in addition to all other rights and remedies of Secured Party, whether provided under law, the Financing Agreements or otherwise, Secured Party shall have the following rights and remedies which may be exercised without notice to, or consent by, Debtor except as such notice or consent is expressly provided for hereunder:

(a) Secured Party may require that neither Debtor nor any affiliate or subsidiary of Debtor make any use of the Patents for any purpose whatsoever. Secured Party may make use of any Patents for the sale of goods, completion of work-in-process or rendering of services or otherwise in connection with enforcing any other security interest granted to Secured Party by Debtor or any subsidiary or affiliate of Debtor.

(b) Secured Party may grant such license or licenses relating to the Collateral for such term or terms, on such conditions, and in such manner, as Secured Party shall in its discretion deem appropriate. Such license or licenses may be general, special, or otherwise, and may be granted on an exclusive or non-exclusive basis throughout all or any part of the United States of America, its territories and possessions, and all foreign countries.

(c) Secured Party may assign, sell, or otherwise dispose of the Collateral or any part thereof, either with or without special conditions or stipulations except that if notice to Debtor of intended disposition of Collateral is required by law, the giving of five (5) days prior written notice to Debtor of any proposed disposition shall be deemed reasonable notice thereof and Debtor waives any other notice with respect thereto. Secured Party shall have the power to buy the Collateral or any part thereof, and Secured Party shall also have the power to execute assurances and perform all other acts which Secured Party may, in its discretion, deem appropriate or proper to complete such assignment, sale, or disposition. In any such event, Debtor shall be liable for any deficiency.

(d) In addition to the foregoing, in order to implement the assignment, sale, or other disposition of any of the Collateral pursuant to Subparagraph 5(c) hereof, Secured Party may at any time execute and deliver on behalf of Debtor, pursuant to the authority granted in the Powers of Attorney described in Subparagraph 3(f) hereof, one or more instruments of assignment of the Patents (or any application, registration, or recording relating thereto), in form suitable for filing, recording, or registration. Debtor agrees to pay Secured Party on demand all costs incurred in any such transfer of the Collateral, including, but not limited to, any taxes, fees, and reasonable attorneys' fees and legal expenses.

(e) Secured Party may first apply the proceeds actually received from any such license, assignment, sale, or other disposition of Collateral to the costs and expenses thereof,

including, without limitation, reasonable attorneys' fees and all legal, travel, and other expenses which may be incurred by Secured Party. Thereafter, Secured Party may apply any remaining proceeds to such of the Obligations as Secured Party may in its discretion determine. Debtor shall remain liable to Secured Party for any expenses or obligations remaining unpaid after the application of such proceeds, and Debtor will pay Secured Party on demand any such unpaid amount, together with interest at a rate equal to the highest rate then payable on the Obligations.

(f) Debtor shall supply to Secured Party or to Secured Party's designee, Debtor's knowledge and expertise relating to the manufacture and sale of the products and services to which the Patents relate and Debtor's customer lists and other records relating to the Patents and the distribution thereof.

(g) Nothing contained herein shall be construed as requiring Secured Party to take any such action at any time. All of Secured Party's rights and remedies, whether provided under law, this Agreement, the other Financing Agreements or otherwise, shall be cumulative and none is exclusive. Such rights and remedies may be enforced alternatively, successively, or concurrently.

6. MISCELLANEOUS

(a) Any failure or delay by Secured Party to require strict performance by Debtor of any of the provisions, warranties, terms, and conditions contained herein or in any other agreement, document, or instrument, shall not affect Secured Party's right to demand strict compliance and performance therewith, and any waiver of any default shall not waive or affect any other default, whether prior or subsequent thereto, and whether of the same or of a different type. None of the warranties, conditions, provisions, and terms contained herein or in any other agreement, document, or instrument shall be deemed to have been waived by any act or knowledge of Secured Party, its agents, officers, or employees, but only by an instrument in writing, signed by an officer of Secured Party and directed to Debtor, specifying such waiver.

(b) All notices, requests and demands to or upon the respective parties hereto shall be deemed to have been given or made: if by hand, telex, telegram or facsimile immediately upon sending; if by Federal Express, Express Mail or any other overnight delivery service, one (1) day after dispatch; and if mailed by certified mail, return receipt requested, five (5) days after mailing. All notices, requests and demands are to be given to the respective parties at the following addresses (or to such other addresses as either party may designate by notice in accordance with the provisions of this paragraph) set forth herein:

If to Debtor: **THE NATIONAL LATEX PRODUCTS COMPANY**
246 East Fourth Street
Ashland, Ohio 44805
Attention: Mr. Harry Ross Gill, III,
Chief Executive Officer

If to Secured Party: **GENERAL ELECTRIC CAPITAL CORPORATION**
40 Old Ridgebury Road
Danbury, Connecticut 06810
Attention: Mr. James Persico

(c) In the event that any provision hereof shall be deemed to be invalid by any court, such invalidity shall not affect the remainder of this Agreement.

(d) All references to Debtor and Secured Party herein shall include their respective successors and assigns. All references to the term "person" herein shall mean an individual, a partnership, a corporation (including a business trust), a joint stock company, a trust, an unincorporated association, a joint venture or other entity or a government or any agency, instrumentality or political subdivision thereof.

(e) This Agreement shall be binding upon and for the benefit of the parties hereto and their respective successors and assigns. No provision hereof shall be modified, altered or limited except by a written instrument expressly referring to this Agreement signed by the party to be charged thereby.

(f) The validity, interpretation, and effect of this Agreement shall be governed by the laws of the State of New York. Debtor hereby waives all rights of setoff and rights to interpose permissive counterclaims in the event of any litigation with respect to any matter connected with this Agreement, the other Financing Agreements, the Obligations or the Collateral and irrevocably submits and consents to the non-exclusive jurisdiction of the Supreme Court of the State of New York in New York County and the United States District Court for the Southern District of New York and the courts of any State in which any of the Collateral is located and of any Federal Court located in such States and Debtor waives all rights to a trial by jury in any action in connection with this Agreement, the Obligations or the Collateral. In any such litigation, Debtor waives personal service of any summons, complaint or other process and agrees that the service thereof may be made by certified or registered mail, return receipt requested, directed to it at its chief executive office set forth herein, or designated in writing pursuant to this Agreement, or in any other manner permitted by the rules of said Courts. Within thirty (30) days after service, Debtor shall appear in answer to such process or notice of motion or other application to said Courts, failing which Debtor shall be deemed in default and judgment

may be entered by Secured Party against Debtor for the amount of the claim and other relief requested therein.

IN WITNESS WHEREOF, Debtor and Secured Party have executed this Agreement as of the day and year first above written.

THE NATIONAL LATEX PRODUCTS COMPANY

By: 

Title: Pres

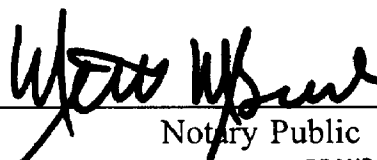
GENERAL ELECTRIC CAPITAL CORPORATION

By: 

Title: Duly Authorized Signatory

STATE OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

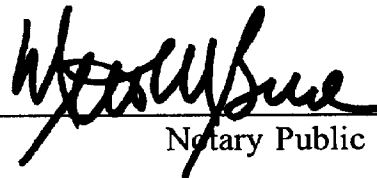
As of this 30th day of December, 1998, before me personally came H. Ross
Gill, to me known, who being duly sworn, did depose and say, that he is a
President of THE NATIONAL LATEX PRODUCTS COMPANY, the corporation
 described in and which executed the foregoing instrument; and that he signed his name thereto
 by order of the Board of Directors of said corporation.



Notary Public
 MITCHELL M. BRAND
 NOTARY PUBLIC, State of New York
 No. 4832584
 Qualified in New York County
 Commission Expires March 30, 1999

STATE OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

As of this 30th day of December, 1998, before me personally came JAMES
DeSantis, to me known, who, being duly sworn, did depose and say, that he is a
Director & Signatory of GENERAL ELECTRIC CAPITAL CORPORATION, the corporation
 described in and which executed the foregoing instrument; and that he is authorized to sign on
 behalf of said corporation.



MITCHELL M. BRAND
 NOTARY PUBLIC, State of New York
 No. 4832584
 Qualified in New York County
 Commission Expires March 30, 1999

EXHIBIT A

LIST OF PATENTS AND APPLICATIONS

<u>Patent Description</u>	<u>Patent Number</u>	<u>Date of Patent</u>
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SEE ATTACHED

PATENTS

O&O File No.: 6072-F	Applicant Michael Briggs et al.
Patent No.: 5,439,199	Issued: 08/08/95
Title: WATER BALLOON FILLING VALVE	
Description: A valve that selectively dispenses noncompressible fluid from a pressurized source into a receptacle.	
Assignee: The National Latex Products Co.	Status: Issued; 3½ yr. Maintenance Fee due 02/08/99

O&O File No.: 6072-K	Applicant Timothy J. Fries
Patent No.: 4,650,059	Issued: 03/17/87
Title: ORIENTING BALLOONS	
Description: A method and apparatus is disclosed for arranging balloons or the like in a nozzle-up orientation.	
Assignee: The National Latex Products Co.	Status: Issued; 11th yr. Maintenance Fee due 09/17/98

PATENT COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT

EXHIBIT B - LICENSES

SPECIAL POWER OF ATTORNEY
(Patent)

STATE OF NEW YORK)
) ss.:
 COUNTY OF NEW YORK)

KNOW ALL MEN BY THESE PRESENTS, that **THE NATIONAL LATEX PRODUCTS COMPANY ("Debtor")**, having an office at 246 East Fourth Street, Ashland, Ohio 44805, hereby appoints and constitutes, severally, **GENERAL ELECTRIC CAPITAL CORPORATION ("Secured Party")**, and each of its officers, its true and lawful attorney, with full power of substitution and with full power and authority to perform the following acts on behalf of Debtor:

1. Execution and delivery of any and all agreements, documents, instrument of assignment, or other papers which Secured Party, in its discretion, deems necessary or advisable for the purpose of assigning, selling, or otherwise disposing of all right, title, and interest of Debtor in and to any patents and all registrations, recordings, reissues, extensions, and renewals thereof, or for the purpose of recording, registering and filing of, or accomplishing any other formality with respect to the foregoing.

2. Execution and delivery of any and all documents, statements, certificates or other papers which Secured Party, in its discretion, deems necessary or advisable to further the purposes described in Subparagraph 1 hereof.

This Power of Attorney, being a power coupled with an interest, is made pursuant to a Patent Collateral Assignment and Security Agreement between Debtor and Secured Party, of even date herewith (the "**Security Agreement**") and may not be revoked until payment in full of all Debtor's "Obligations", as such term is defined in the Security Agreement and is subject to the terms and provisions thereof.

December __, 1998

THE NATIONAL LATEX PRODUCTS COMPANY

By: _____

Title: _____

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

As of this ____ day of December, 1998, before me personally came _____
_____, to me known, who being duly sworn, did depose and say, that he is a
_____ of THE NATIONAL LATEX PRODUCTS COMPANY, the corporation
described in and which executed the foregoing instrument; and that he is authorized to sign on
behalf of said corporation.

Notary Public