

03-04-1999

PATENT



100977582

Tab settings - - - 3.2

To the Honorable Commissioner of Patents and Trademarks:

its or copy thereof.

1. Name of conveying party(ies):

Daedalus I, LLC

CONFIRMANCE

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

3. Nature of conveyance:

☐ Assignment

☐ Merger

☒ Security Agreement

☐ Change of Name

☐ Other

Execution Date: July 1, 1997

2. Name and Address of receiving party(ies):

Name: Deborah C. Grossman

Internal Address:

Street Address:

#1 West Walinca

City: Clayton

State: MO

ZIP: 63105

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

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

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

A. Patent Application No.(s)

08/891,354

PCT/US 97/11895

60/074,254

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

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

Name: Polly D. Heseman, Esq.

Internal Address:

Bryan Cave LLP

Street Address:

211 North Broadway

Suite 3600

City: St. Louis

State: MO ZIP: 63102-2750

6. Total number of applications and patents involved: 3

7. Total fee (37 CFR 3.41):\$ 120.00

☒ Enclosed; or if check missing or otherwise insufficient please charge our deposit account.

☐ Authorized to be charge to deposit account.

Deposit account number:

02-4467

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

DO NOT USE THIS SPACE

9. State 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.

Polly D. Heseman

Name of Person Signing

Signature

2/26/99

Date

Total number of pages including cover sheet, attachments, and document: 9

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks, Box Assignments

PATENT
REEL: 9788 FRAME: 0853

SECURITY AGREEMENT

DAEDALUS I, LLC, a Missouri limited liability company (the "Debtor"), in consideration of and as collateral security for certain indebtedness of Debtor to DEBORAH C. GROSSMAN, whose current address is #1 West Walinca, Clayton, Missouri 63105 (the "Secured Party"), evidenced by a Revolving Credit Note executed by Debtor as of July 1, 1997 (the "Note"), and any extensions or renewals thereof or exchanges or replacements therefor (which indebtedness, obligations and liabilities are hereinafter collectively referred to as the "Obligations"), hereby grants the Secured Party an absolute, present, unconditional, continuing security interest, second in priority to the security interest held by Alex K. Mills, in all of Debtor's tangible and intangible properties, assets and rights, wherever located, whether now owned or hereafter acquired or arising (the "Collateral"), including without limiting the generality of the foregoing:

(a) all inventory and equipment including, by way of example and not by way of limitation, (i) all inventory, goods and other property held for sale, lease, rental or resale, or furnished or to be furnished under contracts of service and (ii) all furniture, furnishings, trade fixtures, business fixtures, other fixtures, machinery, and equipment, used or usable in the business of Debtor, together with all additions and accessions thereto and replacements or substitutions therefor;

(b) all accounts, including all present and future evidences of or rights to payments due or to become due to Debtor on account of goods and other property sold, leased or rented (whether at wholesale or retail and whether from inventory or otherwise) or services rendered, together with all contract rights, chattel paper, instruments, general intangibles and other obligations of any kind now existing or hereafter acquired or arising (whether arising from or related to the disposition of inventory, equipment or otherwise), and all rights now or hereafter existing in and to all security agreements, leases, documents of title, securities, letters of credit and other contracts, documents and instruments securing or otherwise relating to any such accounts, contract rights, chattel paper, instruments, general intangibles or obligations;

(c) all of Debtor's right, title and interest in and to all goods and other property, whether or not delivered, (i) the sale, lease or rental of which gives, or purports to give, rise to any receivable, including, without limitation, all goods and other property returned or rejected by or repossessed from customers, or (ii) securing payment of any receivable, including, without limitation, all of the Debtor's rights as an unpaid vendor or lienor, including rights of stoppage in transit, replevin and reclamation with respect to such goods and other properties;

(d) all U.S., state and foreign copyrights, associated copyright registrations and applications for copyright registration, tangible works of expression, and copyright licenses, including, but not limited to, these set forth on Schedule A attached hereto (collectively, the "Copyrights");

(e) all U.S., state and foreign patents and patent applications, inventions, ideas, improvements, trade secrets, and patent licenses, including, but not limited to, these set forth on Schedule B attached hereto, including, without limitation, foreign counterparts, PCTs, improvements, divisions, continuations, renewals, reissues, reexamination patents, extensions and continuations-in-part of the same (collectively, the "Patents");

(f) all U.S., state, foreign and common law trademarks, service marks, tradenames, logos, designs, and application and registration thereof, registrations, and trademark and service mark licenses, including, but not limited to, these set forth on Schedule C attached hereto (including any and all goodwill associated therewith, collectively, the "Trademarks");

(g) any and all claims and causes of action for past, present or future infringement of any of the Collateral, with the right, but not the obligation, to sue for and collect damages for infringement of the Collateral;

(h) any and all licenses or rights granted under any of the Collateral, and all license fees and royalties arising from such licenses or rights, to the extent permitted by such licenses or rights;

(i) any and all amendments, renewals, extensions, reissuances and replacements of any of the Collateral; and

(j) all proceeds, products, rents and profits of any and all of the foregoing Collateral and, to the extent not otherwise included therein, all payments under insurance (whether or not Secured Party is the loss payee thereof), or any indemnity, warranty or guaranty, payable by reason of loss or damage to or otherwise with respect to any of the foregoing Collateral.

The Debtor agrees with the Secured Party as follows:

1. The Collateral (and all records pertaining thereto) will at all times be kept at the Debtor's principal place of business and the Debtor will not remove any of the Collateral (or any records pertaining thereto) from any such location, or establish any new office location, except upon not less than thirty (30) days prior notice to the Secured Party.

2. Except as set forth below, the Debtor is, or as to Collateral acquired after the date hereof will be, the owner of the Collateral free from any lien, security interest or encumbrance prior in lien position to the security interest of Secured Party hereunder, and the Debtor shall defend the same against all claims and demands of all persons at any time claiming the same or any interest therein adverse to the Secured Party. The Debtor shall not pledge, mortgage, or create or suffer to exist any security interests in or liens upon the Collateral in favor of any persons other than (i) the Secured Party, (ii) the holders of subordinate security interests in the Collateral or (iii) the holders of purchase money security interests in equipment Collateral which is acquired after the date of this Agreement, and no financing statements (other than any filed on behalf of such parties) covering any of the Collateral are now or will be on file in any public office while any of the Obligations are outstanding. Except for doing business as "Daedalus Technologies Company" or as disclosed by Debtor to Secured Party, the Debtor utilizes no trade names in the conduct of its business. Except as separately disclosed by Debtor to Secured Party, since the date of its organization the Debtor has not changed its name, been the surviving entity in a merger or acquired any business.

3. The Debtor will not sell or offer to sell or otherwise transfer or dispose of the Collateral or any interest therein, except for sales of inventory in the ordinary course of business and sales of equipment which is no longer used or useful by the Debtor in its business except upon written consent of the Secured Party.

4. The Debtor will immediately notify the Secured Party of any event comprising a substantial loss or decrease in the value of all Collateral which is equipment. The Debtor will pay promptly when due (and will, at the request of the Secured Party, promptly furnish to the Secured Party receipted bills therefor) all taxes, assessments, and other governmental charges levied upon the Collateral or for its use or operation or upon this Agreement or upon any note or other negotiable instrument evidencing the Obligations; provided that this covenant shall not apply to any tax, assessment or charge which is being in good faith contested by the Debtor and with respect to which, prior to foreclosure, restraint, sale or other similar proceedings being commenced, adequate reserves have been established and are being maintained in accordance with generally accepted accounting principles. The Secured Party may inspect the Collateral at any reasonable time, wherever located. The Debtor shall at all reasonable times and from time to time allow the Secured Party, by or through any of its officers, agents, attorneys, or accountants, to examine, inspect or make extracts from the Debtor's books and records, and those of any related company.

5. Upon the occurrence of an Event of Default (as defined in paragraph 9 hereof) and at any time thereafter, the Debtor shall, at the request of the Secured Party, notify all account debtors and parties to contracts with the Debtor (i) of the security interest of the Secured Party in any account or contract and (ii) that payment thereof is to be made directly to the Secured Party, and the Secured Party may at any time, without notice to or demand upon the Debtor, give such notice itself. The Secured Party shall credit the proceeds of collection of accounts or contract rights of the Debtor received by the Secured Party to the Obligations, such credits to be conditional upon final payment in cash or solvent credits of the items giving rise to them. Until the Secured Party requests that debtors on accounts receivable or parties to the contracts with the Debtor be notified of the Secured Party's security interest, the Debtor shall continue to collect amounts due with respect thereto.

6. In its discretion, the Secured Party may discharge taxes and other encumbrances at any time levied or placed on the Collateral, make necessary repairs thereto and pay any necessary filing fees. The

Debtor agrees to reimburse the Secured Party on demand for any and all expenditures so made, and until paid the amount thereof shall be a debt secured by the Collateral. The Secured Party shall have no obligation to the Debtor to make any such expenditures nor shall the making thereof relieve the Debtor of any default.

7. In its discretion, the Secured Party may, at any time following the occurrence of an Event of Default (as defined in paragraph 9 hereof), cause the Debtor to immediately transfer to the Secured Party or its nominee any property constituting Collateral, and the Secured Party shall receive any income thereon and hold such income as additional Collateral or apply it on the Obligations, and may demand, sue for, collect, or make any settlement or compromise it deems desirable with respect to the Collateral. The Debtor hereby constitutes and appoints the Secured Party its true and lawful attorney and agent, with full power of substitution, in the place and stead of the Debtor and either in its own name or in the name of the Debtor, to ask for, demand, sue for, collect, receive, receipt and give acquittance for any and all monies due or to become due under and by virtue of any of the Collateral, to endorse checks, drafts, orders and other instruments for the payment of money payable to the Debtor on account thereof; and to settle, compromise, prosecute or defend any action, claim or proceeding with respect thereto; and to endorse, sell or otherwise deal with the Collateral; in each case subject to the provisions of this Agreement. Nothing herein contained shall be construed as requiring or obligating the Secured Party to make any demand, or to make any inquiry as to the nature or sufficiency of any payment received by it, or to present or file any claim or notice or take any action with respect to any Collateral or the monies due or to become due thereunder. Regardless of the adequacy of Collateral or any other security for the Obligations, any sums at any time credited by or due from the Secured Party to the Debtor may at any time be applied to or set off against any of the Obligations.

8. The Debtor shall do, make, execute and deliver all such additional and further acts, things, deeds, assurances and instruments, in each case in form and substance satisfactory to the Secured Party, relating to the creation, validity, or perfection of the security interests provided for in this Agreement under the Uniform Commercial Code, the Patent Act, the Lanham Act or other laws of the United States or the State of Missouri or of any other state or states as the Secured Party may from time to time reasonably request, and shall take all such other action as the Secured Party may reasonably require more completely to vest in and assure to the Secured Party its rights hereunder or in any of the Collateral, including, without limitation, the execution, delivery, filing and/or recordation of such security interests and/or financing statements and amendments as the Secured Party deems appropriate to perfect and continue the perfection of the security interests hereby granted; and the Debtor hereby irrevocably authorizes the Secured Party, or its designee, to execute and file such security interests and/or financing statements and amendments, with or without the Debtor's signature, as the Secured Party may deem appropriate. In connection with the filing and/or recordation of any such security interests and/or financing statements or amendments, the Debtor agrees to reimburse the Secured Party in the full amount of all fees and taxes (including, without limitation, all privilege, license and/or document taxes) which are payable as a condition to such filings and/or recordations. In the event that any re-recording or refileing (or the filing of any statement of continuation of any security interest or financing statement) or any repledge, or any other action, is required at any time to protect and preserve such financing statements or security interests, the Debtor shall, at its sole expense, cause the same to be done or taken at such time and in such manner as may be necessary and as may be reasonably requested by the Secured Party.

9. All Obligations shall, at the option of the Secured Party and notwithstanding any time or credit allowed for payment thereof pursuant to any previous understanding or agreement between the parties, become immediately due and payable without presentment, demand for payment, protest or other notice of any kind (all of which are expressly waived) upon the occurrence of an Event of Default as defined in the Note or upon any security interest in the Collateral ceasing to be perfected ("Events of Default").

10. Upon the occurrence of an Event of Default, and at any time thereafter, the Secured Party shall have in any jurisdiction in which enforcement hereof is sought all rights and remedies of a secured party under the Uniform Commercial Code. Unless the Collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, the Secured Party shall give to the Debtor at least ten (10) days' prior written notice (which Debtor agrees is "reasonable notification" within the meaning of Section 9-504(3) of the Uniform Commercial Code of the State of Missouri) of the time and place of any public sale of Collateral or of the time after which any private sale or any other intended disposition of the Collateral is to be made.

The Secured Party shall not be required to marshal any present or future security for (including but not limited to this Agreement and the Collateral subject to a security interest hereunder), or guaranties of, the Obligations or any of them, or to resort to such security or guaranties in any particular order; and all of the rights hereunder and in respect of such security and guaranties shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, the Debtor hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of the Secured Party's rights under this Agreement or under any other instrument evidencing any of the Obligations or under which any of the Obligations is outstanding or by which any of the Obligations is secured or guaranteed, and to the extent that it lawfully may, the Debtor hereby irrevocably waives the benefits of all such laws.

11. Except as otherwise expressly provided herein, the Debtor hereby waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect both to the Obligations and the Collateral, the Debtor assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, exchange or release of Collateral, to the addition or release of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as the Secured Party may deem advisable. The Secured Party may exercise its rights with respect to the Collateral without resorting or regard to other collateral or sources of reimbursement. The Secured Party shall not be deemed to have waived any of its rights upon or under the Obligations or the Collateral unless such waiver be in writing and signed by the Secured Party. No delay or omission on the part of the Secured Party in exercising any right under this Agreement shall operate as a waiver of such right or any other right. A waiver on any one occasion shall not be construed as a bar to or waiver of any right on any future occasion. All rights and remedies of the Secured Party on the Obligations or the Collateral, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised separately or concurrently.

12. The Secured Party shall not be deemed to assume any responsibility for or obligation or duty with respect to, any part or all of the Collateral, of any nature or kind, or any matter or proceeding arising out of or relating thereto, including without limitation, any obligation or duty to take any action to collect, preserve or protect its or the Debtor's rights in the Collateral or against any prior parties thereto, but the same shall be at the Debtor's sole risk at all times. Subject to the last clause of this sentence, the Debtor hereby releases the Secured Party from any claims, causes of action and demands at any time arising out of or with respect to this Agreement, the Obligations, the use of the Collateral and/or any actions taken or omitted to be taken by it with respect thereto, and the Debtor hereby agrees to hold the Secured Party harmless from and with respect to any and all such claims, causes of action and demands at any time arising out of or with respect to this Agreement, the Obligations, the use of the Collateral and/or any actions taken or omitted to be taken by the Secured Party with respect thereto, so long as the Secured Party acts in good faith and without gross negligence.

13. This Agreement shall inure to the benefit of and may be enforced by the Secured Party, its successors and assigns, and any party to whom all or any part of an Obligation may be transferred.

14. All notices, requests and other communications hereunder shall be in writing and shall be delivered by hand or mailed by certified mail, return receipt requested, addressed as follows:

- (a) If to the Debtor,
Daedalus I, LLC
7536 Forsyth Blvd, Suite 322
St. Louis, Missouri 63105
- (b) If to the Secured Party,
Deborah C. Grossman
#1 West Walinca
Clayton, Missouri 63105

or to such other address as the party to receive any such communication or notice may have designated by written notice to the other party. All periods of notice shall be measured from the date of delivery thereof, if delivered by

hand, or from the date of mailing thereof, if mailed. Except as otherwise expressly provided herein, no notice to or demand upon the Debtor in any circumstance shall entitle the Debtor to any other or further notice or demand in similar or other circumstances.

15. All expenses incurred or paid by the Secured Party in connection with enforcement of the Obligations or the exercise by Secured Party of any of its rights or remedies hereunder, including, without limitation, the reasonable fees and expenses of any attorney to whom this matter is referred for collection (whether or not litigation is commenced) or for representation in proceedings under any bankruptcy or insolvency law, shall be repaid by the Debtor to the Secured Party upon demand, with interest at the Default Rate set forth in the Note. In the event said expenses are not paid by the Debtor to the Secured Party, they shall become part of the Obligations and shall be secured hereby.

16. This Agreement embodies the entire agreement of the parties respecting the Collateral. No representations, inducements or understandings respecting the Collateral shall be of any force or effect unless set forth in this Agreement. Neither this Agreement nor any provision hereof, nor any liability of the Debtor hereunder, may be changed, waived, discharged or terminated except by a written instrument (expressly referring to this Agreement and to the provision or liability so affected) executed by the party to be charged or the party holding the liability to be discharged. Debtor represents that it is a duly organized and validly existing corporation in good standing under the laws of its state of incorporation and that the execution and delivery of this Agreement and the granting of a security interest in the Collateral are within the Debtor's powers, have been duly authorized by all necessary action and such execution and delivery and the granting of a security interest in the Collateral do not contravene any law or any rule or regulation thereunder or any provision of the charter documents or operative agreement of the Debtor or of any judgment, decree or order of any tribunal or of any agreement or instrument to which the Debtor is a party or by which it or any of its property is bound or constitute a default thereunder. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of all other terms hereof shall be in no way affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Debtor acknowledges receipt of a copy of this Agreement. Terms used herein without definition which are defined in the Uniform Commercial Code of the State of Missouri have such defined meanings herein, unless the context otherwise indicates or requires.

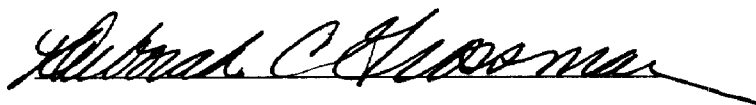
17. This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by and construed in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, the Debtor has caused this Agreement to be executed by its duly authorized officer as of February 1st, 1999.

"DEBTOR"
DAEDALUS I, LLC

By: 
Name: Alex K. Mills
Title: Manager

"SECURED PARTY"
DEBORAH C. GROSSMAN



SCHEDULE A

Copyrights

None

SCHEDULE B

Patents

1. Title: Device and Method for Nonevasive Continuous Determination of Blood Gases, pH, Hemoglobin Level and Oxygen Content
USSN: 08/891,354
Filing Date: July 10, 1997
2. Title: Device for Noninvasive Determination of Blood Parameters
USSN: PCT/US 97/11895
Filing Date: July 10, 1997
3. Title: Method and Apparatus for Determination of pH, PCO₂, Hemoglobin and Hemoglobin Oxygen Saturation
USSN: 60/074,254
Filing Date: February 10, 1998
4. Title: Method and Apparatus for Rapid Measurement of Hemoglobin, Hemoglobin Saturation and pH of Fetal Scalp Blood

SCHEDULE C

Trademarks

None