

MIRP 3128/00

09-20-2000

Docket No.: 09703685-0124

FORM PTO-1595 (Modified)
(Rev. 6-93)
OMB No. 0651-0011 (exp. 4/94)
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P08/REV02

RECORD

PA

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office



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

1. Name of conveying party(ies):

Pace International, LLC

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

Name: Citicorp USA, Inc.

Internal Address:

Additional names(s) of conveying party(ies)

☐ Yes ☒ No

3. Nature of conveyance:

☐ Assignment

☐ Merger

☒ Security Agreement

☐ Change of Name

☐ Other

Street Address: 155 East 53rd Street

City: New York

State: NY

ZIP: 10043

Execution Date: May 9, 2000

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

4. Application number(s) or registration numbers(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)

4,961,929

Additional numbers attached? ☐ Yes ☒ No

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

Name: Lori Dunham

Internal Address: SONNENSCHN NATH &

ROSENTHAL

Street Address: 8000 Sears Tower

233 South Wacker Drive

City: Chicago

State: IL

ZIP: 60606

6. Total number of applications and patents involved:

1

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

☒ Enclosed - Any excess or insufficiency should be credited or debited to deposit account

☐ Authorized to be charged to deposit account

8. Deposit account number:

19-3140

09/18/2000 DNGUYEN 00000688 4961929

DO NOT USE THIS SPACE

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40.00 DP

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.

Lori Dunham

Name of Person Signing

Signature

Date

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

10

PATENT

REEL: 011072 FRAME: 0364

PATENT SECURITY AGREEMENT

THIS PATENT SECURITY AGREEMENT ("Agreement") made as of the 10th day of May, 2000, by and between PACE INTERNATIONAL, LLC, a Washington limited liability company, with an office at 700 Fifth Avenue, Suite 6100, Seattle, WA 98104 (the "Borrower"), and CITICORP USA, INC., with its principal office located at 153 East 53rd Street, New York, New York 10043 ("Lender").

WITNESSETH:

WHEREAS, Borrower and Lender are parties to that certain Loan and Security Agreement dated May 9, 2000 (as amended, modified, restated and supplemented from time to time, the "Loan Agreement"); and

WHEREAS, as a condition precedent, among other things, to the Lender entering into the Loan Agreement and in order to secure the prompt and complete payment, observance and performance of all of the Borrower's obligations thereunder; the Lender has required the Borrower to execute and deliver this Agreement.

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

1. Defined Terms.

(a) Unless otherwise defined herein, each capitalized term used herein that is defined in the Loan Agreement shall have the meaning specified for such term in the Loan Agreement.

(b) The words "hereof," "herein" and "hereunder" and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section references are to this Agreement unless otherwise specified.

(c) All terms defined in this Agreement in the singular shall have comparable meanings when used in the plural, and vice versa, unless otherwise specified.

2. Incorporation of Premises. The premises set forth above are incorporated into this Agreement by this reference hereto and are made a part hereof.

3. Incorporation of the Loan Agreement. The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto.

4. Security Interest in Patents. To secure the complete and timely payment, performance and satisfaction of all of the Obligations, the Borrower hereby grants to Lender, a

security interest in, as and by way of a first mortgage and security interest having priority over all other security interests, other than Liens permitted by the Loan Agreement, with power of sale to the extent permitted by applicable law, all of the Borrower's:

(a) now owned or existing and hereafter acquired or arising patents and patent applications, and the inventions and improvements described and claimed therein, including, without limitation, those patents listed on Schedule A attached hereto and made a part hereof, and (i) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (ii) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all of the Borrower's rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in clauses (i)-(iv) in this paragraph 4(a) are sometimes hereinafter individually and/or collectively referred to as the "Patents"); and

(b) rights under or interest in any patent license agreements with any other party, whether the Borrower is a licensee or licensor under any such license agreement, including, without limitation, those patent license agreements listed on Schedule B attached hereto and made a part hereof, and the right to prepare for sale and sell any and all Inventory now or hereafter owned by the Borrower and now or hereafter covered by such licenses (all of the foregoing are hereinafter referred to collectively as the "Licenses").

5. Restrictions on Future Agreements. The Borrower will not, without Lender's prior written consent, enter into any agreement, including, without limitation, any license agreement, which is inconsistent with this Agreement, and the Borrower further agrees that it will not take any action, and will use its best efforts not to permit any action to be taken by others, including, without limitation, licensees, or fail to take any action, which would in any material respect affect the validity or enforcement of the rights transferred to Lender under this Agreement or the rights associated with those Patents or Licenses.

6. New Patents and Licenses. The Borrower represents and warrants as of the date hereof that (a) the Patents listed on Schedule A include all of the patents and patent applications now owned by the Borrower, (b) the Licenses listed on Schedule B include all of the patent license agreements now owned by the Borrower and (c) no other liens, claims or security interests have been granted by the Borrower to any other Person in such Patents and Licenses. If, prior to the termination of this Agreement, the Borrower shall (i) obtain rights to any new patentable inventions, (ii) become entitled to the benefit of any patent, patent application, license or any reissue, division, continuation, renewal, extension or continuation-in-part of any Patent or any improvement on any Patent or License, or (iii) enter into any new patent license agreement, the provisions of paragraph 4 above shall automatically apply thereto. The Borrower shall give to Lender written notice of events described in clauses (i), (ii) and (iii) of the preceding sentence on a quarterly basis. The Borrower hereby authorizes Lender to modify this Agreement by amending Schedule A to include any future patents and patent applications, and by amending Schedule B to include any future patent license agreements, which are Patents or Licenses under paragraph 4 above or under this paragraph 6.

7. Royalties. The Borrower hereby agrees that the use by Lender of the Patents and the Licenses as authorized hereunder in connection with the exercise of its remedies under paragraph 16 shall be coextensive with the Borrower's rights thereunder and with respect thereto and without any liability for royalties or other related charges from Lender to the Borrower.

8. Right to Inspect; Further Assignments and Security Interests. The Lender may at all reasonable times (and at any time when an Event of Default exists) have access to, examine, audit, make copies (at the Borrower's expense) and extracts from and inspect the Borrower's premises and examine the Borrower's books, records and operations relating to the Patents and the Licenses, including, without limitation, the Borrower's quality control processes; provided, that in conducting such inspections and examinations, Lender shall use reasonable efforts not to disturb the conduct of the Borrower's ordinary business operations. From and after the occurrence of an Event of Default, the Borrower agrees that Lender, or a conservator appointed by Lender, shall have the right to establish such reasonable additional product quality controls as Lender or such conservator, in its sole and absolute judgment, may deem reasonably necessary to assure maintenance of the quality of products sold by the Borrower under the Patents and the Licenses. The Borrower agrees (a) not to sell or assign its interest in, or grant any license under, the Patents or the Licenses without the prior and express written consent of Lender which consent will not be unreasonably withheld, (b) to maintain the quality of said products in all material respects as of the date hereof, and (c) not to change the quality of such products in any material respect without Lender's prior and express written consent which consent will not be unreasonably withheld.

9. Termination of Lender's Security Interest. This Agreement is made for collateral security purposes only. Upon payment in full of all of the Obligations and termination of the Loan Agreement, this Agreement shall terminate and Lender shall promptly execute and deliver to the Borrower, at the Borrower's expense, all termination statements and other instruments as may be necessary or proper to terminate Lender's security interest in the Patents and the Licenses, subject to any disposition thereof which may have been made by Lender pursuant to this Agreement or the Loan Agreement.

10. Duties of the Borrower. The Borrower shall have the duty, to the extent desirable in the normal conduct of the Borrower's business, to: (a) prosecute diligently any patent application that is part of the Patents pending as of the date hereof or thereafter until the termination of this Agreement, and (b) make application on unpatented but patentable inventions. The Borrower further agrees (i) not to abandon any Patent or License without the prior written consent of Lender and (ii) to use its best efforts to maintain in full force and effect the Patents and the Licenses that are or shall be necessary in the operation of the Borrower's business. Any expenses incurred in connection with the foregoing shall be borne by the Borrower.

11. Lender's Right to Sue. From and after the occurrence of an Event of Default, Lender shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Patents and the Licenses and, if Lender shall commence any such suit, the Borrower shall, at the request of Lender, do any and all lawful acts and execute any and all proper documents required by Lender in aid of such enforcement. The Borrower shall, upon demand, promptly reimburse Lender for all costs and expenses incurred by Lender in the

exercise of its rights under this paragraph 11 (including, without limitation, reasonable fees and expenses of attorneys and paralegals for Lender).

12. Waivers. Lender's failure, at any time or times hereafter, to require strict performance by the Borrower of any provision of this Agreement shall not waive, affect or diminish any right of Lender thereafter to demand strict compliance and performance therewith nor shall any course of dealing between the Borrower and Lender have such effect. No single or partial exercise of any right hereunder shall preclude any other or further exercise thereof or the exercise of any other right. None of the undertakings, agreements, warranties, covenants and representations of the Borrower contained in this Agreement shall be deemed to have been suspended or waived by Lender unless such suspension or waiver is in writing signed by an officer of Lender and directed to the Borrower specifying such suspension or waiver.

13. Lender's Exercise of Rights and Remedies Upon an Event of Default. Notwithstanding anything set forth herein to the contrary, it is hereby expressly agreed that upon the occurrence of an Event of Default, Lender may exercise any of the rights and remedies provided in this Agreement, the Loan Agreement and any Loan Document.

14. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but 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, then such invalidity or unenforceability shall affect only such clause or provision, or part hereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

15. Modification. This Agreement cannot be altered, amended or modified in any way, except as specifically provided in paragraphs 4 and 6 hereof or by a writing signed by the parties hereto.

16. Cumulative Remedies; Power of Attorney. All of Lender's rights and remedies with respect to the Patents and the Licenses, whether established hereby, by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently. The Borrower hereby irrevocably designates, constitutes and appoints Lender (and all Persons designated by Lender in its sole and absolute discretion) as the Borrower's true and lawful attorney-in-fact, and authorizes Lender and any of Lender's designees, in the Borrower's or Lender's name, from and after the occurrence of an Event of Default, to (a) endorse the Borrower's name on all applications, documents, papers and instruments necessary or desirable for Lender in the use of the Patents or the Licenses, (b) assign, pledge, convey or otherwise transfer title in or dispose of the Patents or the Licenses to anyone on commercially reasonable terms, (c) grant or issue any exclusive or nonexclusive license under the Patents or, to the extent permitted, under the Licenses, to anyone on commercially reasonable terms, and (d) take any other actions with respect to the Patents or the Licenses as Lender deems in its best interest. The Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable until all of the Obligations shall have been paid in full and the Loan Agreement shall have been terminated. The Borrower acknowledges and agrees that this Agreement is not intended to limit or restrict in

any way the rights and remedies of Lender under the Loan Agreement, but rather is intended to facilitate the exercise of such rights and remedies. Lender shall have, in addition to all other rights and remedies given it by the terms of this Agreement, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents or the Licenses may be located or deemed located.

17. Successors and Assigns. This Agreement shall be binding upon the Borrower and its successors and assigns, and shall inure to the benefit of Lender and its successors and assigns. The Borrower's successors and assigns shall include, without limitation, a receiver, trustee or debtor-in-possession to the extent that any of the foregoing are considered to be a successor or assign of or for the Borrower; provided, however, that the Borrower shall not voluntarily assign or transfer its rights or obligations hereunder without Lender's prior written consent.

18. Governing Law. This Agreement shall be construed and enforced and the rights and duties of the parties shall be governed by in all respects in accordance with the internal laws (as opposed to conflicts of law provisions) and decisions of the State of New York.

19. Notices. All notices or other communications hereunder shall be given in the manner and to the addresses set forth in the Loan Agreement.

20. Lender's Duty. Lender shall not have any duty with respect to the Patents or the Licenses. Without limiting the generality of the foregoing, Lender shall not be under any obligation to take any steps necessary to preserve rights in the Patents or the Licenses against any other parties, but may do so at its option, and all expenses incurred in connection therewith shall be for the sole account of the Borrower and added to the Obligations secured hereby.

21. Section Titles. The section titles herein are for convenience of reference only, and shall not affect in any way the interpretation of any of the provisions hereof.

as of the 9th day of May, 2000, IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement

PACE INTERNATIONAL, LLC, a Washington
limited liability company

By: 

Name: George Liberson

Title: Manager

Accepted and agreed to as of the
9th day of May, 2000, by:

CITICORP USA, INC.

By: 

Name: THOMAS SULLIVAN

Title: VICE President

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

The foregoing Patent Security Agreement was executed and acknowledged before me this 9th day of May, 2000, by George Lobisser, personally known to me to be the Manager of PACE INTERNATIONAL, LLC, on behalf of such limited liability company.

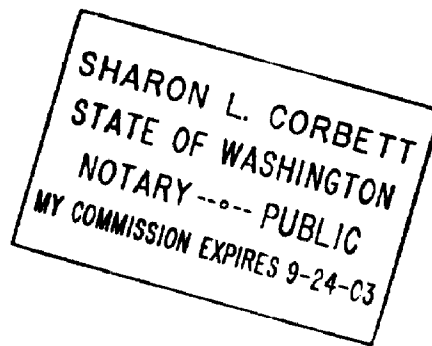
(SEAL)

Sharon L. Corbett

Notary Public Sharon Corbett

County, King

My commission expires: 9-24-03



Schedule A
to
Patent Security Agreement

Dated as of May 10, 2000

Patents

<u>Patent Title</u>	<u>Patent Numbers</u>	<u>Patent Issue Date</u>
Process of repelling dogs and dog repellent material.	4,961,929	October 9, 1990

Schedule B
to
Patent Security Agreement

Dated as of May 10, 2000

Licenses

None.