

07-16-2002

Form PTO-1595

(Rev. 03/01)

RECORD A1

OMB No. 0651-0027 (exp. 5/31/2002)

Tab setting



102157657

DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

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

1. Name of conveying party(ies):

MacGregor Golf Company

7.10.02

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

3. Nature of conveyance:

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

Execution Date: 7/1/2002

2. Name and address of receiving party(ies)

Name: Foothill Capital Corporation

Internal Address: Northpark Town Center

Building 400, Suite 1450

Street Address: 1000 Abernathy Road, N.E.

City: Atlanta State: GA Zip: 30328

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

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) _____

See attached Exhibit A

B. Patent No.(s) _____

See attached Exhibit A

Additional numbers attached? ☒ Yes ☐ No

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

Name: Donna J. Hunter

Internal Address: Paul, Hastings, Janofsky

& Walker LLP

Street Address: 600 Peachtree Street, N.E.

Suite 2400

City: Atlanta State: GA Zip: 30308-2222

6. Total number of applications and patents involved: 12

7. Total fee (37 CFR 3.41).....\$ 480.00

☒ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number:

16-0752

DO NOT USE THIS SPACE

9. Signature.

Donna J. Hunter

Name of Person Signing

Signature

July 10, 2002

Date

Total number of pages including cover sheet, attachments, and documents: 12

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

07/15/2002 GT0111 00000172 29147369

01 FC:581

480.00 DP

PATENT
REEL: 013077 FRAME: 0244

Exhibit A
to
PATENT RECORDATION FORM

**FOOTHILL CAPITAL CORPORATION
MACGREGOR GOLF COMPANY**

4. A. PATENT APPLICATION NUMBERS		
29/147,369	29/147,368	09/940,856
29/147,804		

4. B. PATENT NUMBERS		
4,693,478	4,858,929	5,213,328
4,802,672	4,957,294	5,292,129
4,854,581	5,110,131	

PATENT SECURITY AGREEMENT

This PATENT SECURITY AGREEMENT (this "Agreement"), entered into as of the 1st day of July, 2002, by and between MACGREGOR GOLF COMPANY, a Delaware corporation (the "Parent"), and FOOTHILL CAPITAL CORPORATION, a California corporation, as lender ("Lender").

WITNESSETH:

WHEREAS, pursuant to that certain Loan and Security Agreement of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"), by and among Parent, MacGregor Golf (North America), Inc. (together with Parent, collectively, "Borrowers") and Lender, Lender has agreed to make certain loans and other financial accommodations to Borrowers from time to time pursuant to the terms and conditions thereof; and

WHEREAS, it is a condition precedent to the extension of credit under the Loan Agreement that Parent shall have granted the security interest contemplated by this Agreement;

NOW, THEREFORE, for and in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree that capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement, and further agree as follows:

1. The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. Capitalized terms not otherwise defined herein shall have the meanings ascribed those terms in the Loan Agreement.

2. To secure the complete and timely payment, performance and satisfaction of all of the Obligations, Parent hereby grants to Lender a security interest in all of Parent's now owned or existing and hereafter acquired or arising: patents, patent applications (including, without limitation, all patents and patent applications in preparation for filing), patent disclosures throughout the United States, and patent licenses, all of which are listed on Schedule 1 attached hereto and made a part hereof, and (a) all reissues, continuations or extensions thereof, (b) 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 or dilutions thereof, and (c) the right to sue for past, present and future infringements and dilutions thereof, and Parent's (all of the foregoing patents, applications, disclosures and licenses, together with the items described in clauses (a)-(d) in this paragraph 2, are sometimes hereinafter

individually and/or collectively referred to as the "Patents" and each individually a "Patent").

3. Parent agrees that it 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 Parent 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 subject to its control, 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 the Patents (other than in respect of the abandonment of Patents deemed not to be material to the business of Parent or its Subsidiaries as determined by Parent in the good faith exercise of its business judgment).

4. Parent authorizes Lender to modify this Agreement by amending Schedule 1 to include any future patents, applications, disclosures and licenses which are or may become Patents hereunder and to record such modifications (or notice thereof) in the United States Patent and Trademark Office or with any applicable state filing office for the filing of UCC financing statements at the expense of Parent as Lender shall determine in the exercise of its Permitted Discretion. Parent agrees to execute any and all instruments (including individual conditional assignments or security agreements) necessary to confirm such amendment or to enable such recording.

5. Parent agrees (i) not to abandon any Patent (other than Patents deemed not to be material to the business of Parent or its Subsidiaries, in the exercise of Parent's business judgment) without the prior written consent of Lender, and (ii) to take all action necessary to maintain in force any registration of the Patents, in the United States Patent and Trademark Office including (without limitation) any filing, to the extent permitted and authorized by law. Any expense with regard to the foregoing shall be borne and paid by Parent.

6. Lender shall have the right, but shall not be obligated, to bring suit in its own name to enforce the Patents (other than Patents deemed not to be material to the business of Parent or its subsidiaries, in the exercise of Parent's business judgment) and, if Lender shall commence any such suit, Parent shall, at the request of Lender in its Permitted Discretion, do any and all lawful acts and execute any and all proper documents required by Lender in its Permitted Discretion in aid of such enforcement. Parent shall, upon demand, promptly reimburse Lender for all costs and expenses incurred by Lender in the exercise of its rights under this paragraph 6 (including, without limitation, reasonable fees and expenses of attorneys and paralegals for Lender).

7. (a) Parent hereby irrevocably designates, constitutes and appoints Lender (and all officers and agents of Lender designated by Lender in its sole and absolute discretion) as Parent's true and lawful attorney-in-fact, and authorizes Lender and any of Lender's designees, in such Parent's or Lender's name, to take any action and execute any instrument necessary or advisable to accomplish the purposes of this Agreement, including, without limitation, to (i) endorse such Borrower's name on all

applications, documents, papers and instruments necessary or desirable for Lender in the use of the Patents, (ii) assign, pledge, convey or otherwise transfer title in or dispose of the Patents to anyone, (iii) grant or issue any exclusive or nonexclusive license under the Patents to anyone, and (iv) take any other actions with respect to the Patents as Lender deems in its best interest, provided that the foregoing appointment of Lender as Parent's attorney-in-fact and authorization shall only be effective upon the occurrence and during the continuation of an Event of Default. Parent hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof while such power of attorney is in effect. This power of attorney is coupled with an interest and shall be irrevocable until this Agreement is terminated. Each 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 or any other Loan Document, but rather is intended to facilitate the exercise of such rights and remedies.

(b) 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 may be located or deemed located. All of Lender's rights and remedies with respect to the Patents, whether established hereby, by the Loan Agreement or by any other agreements or by law, shall be cumulative and may be exercised separately or concurrently. Notwithstanding anything set forth herein to the contrary, it is hereby expressly agreed that Lender may exercise any of the rights and remedies provided in this Agreement, the Loan Agreement or any of the other Loan Documents. Parent agrees that any notification of intended disposition of any of the Patents required by law shall be deemed reasonably and properly given if given at least ten (10) days before such disposition.

8. Upon the satisfaction of the Obligations and the termination of the credit facility under the Loan Agreement, Lender shall execute and deliver to Borrowers all instruments as may be necessary or proper to remove and terminate the security interest, and to reassign to Borrowers any and all right, title and interest in the Patents and the goodwill of the business symbolized by the Patents, subject to any disposition thereof which may have been made by Lender pursuant hereto.

9. 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 thereof, 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.

10. This Agreement is subject to modification only by a writing signed by the parties.

11. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

12. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart. Delivery of an executed counterpart of this Agreement by telefacsimile shall be equally as effective as delivery of an original, executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile shall also deliver an original executed counterpart of this Agreement, but the failure to deliver an original, executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.

13. This Agreement shall be construed according to the internal laws of the State of Georgia, without regard to the conflict of laws principles thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Lender and Borrowers have caused this Patent Security Agreement to be duly executed as of the day and year first above written.

LENDER

FOOTHILL CAPITAL CORPORATION

By: *Jeffrey Hansen*
Title: *Vice President*

PARENT

MACGREGOR GOLF COMPANY

By: _____
Title: _____

IN WITNESS WHEREOF, Lender and Borrowers have caused this Patent Security Agreement to be duly executed as of the day and year first above written.

LENDER

FOOTHILL CAPITAL CORPORATION

By: _____

Title: _____

PARENT

MACGREGOR GOLF COMPANY

By:  _____

Title: Corporate Secretary

SCHEDULE 1

PATENTS

PRIVILEGED AND CONFIDENTIAL

Our Reference:

Client Reference:	Application #	Filed:	Patent #	Issued:	Client/Matter #	Title	Status
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MACG-001	US	06/840,250	17MR1986	4,693,478	15SEP1987	131074-2011	GOLF PUTTER HEAD	Issued
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MACG-002	US	07/066,077	24JEL987	4,802,672	07FEL989	131074-2010	SET OF GOLF IRONS	Lapsed
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MACG-002/01	US	07/193,925	13MY1988	4,854,581	08AUI989	131074-2009	GOLF IRON	Lapsed
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MACG-002/02	US	07/197,662	13MY1988	4,858,929	22AUI989	131074-2008	GOLF IRON	Lapsed
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MACG-002/03	US	07/205,682	13MY1988	4,957,294	18SEP1990	131074-2007	GOLF CLUB HEAD	Issued
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MACG-003	AR	57,542	25MR1991	57,542	25MR1991	131074-2005	GOLF CLUB HEAD	Lapsed
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MACG-003	AU	833/91	21MR1991	114358	18JEL992	131074-2004	GOLF CLUB HEAD	Issued
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MACG-003	BX	66410-00	22MR1991	21194-00	21AUI991	131074-2002	GOLF CLUB HEAD	Issued
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MACG-003	CA	2,203,917	22MR1991	69759	17DEL991	131074-2021	GOLF CLUB HEAD	Expired
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MACG-003	CL	246-91	22MR1991			131074-2020	GOLF CLUB HEAD	Abandoned
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PRIVILEGED AND CONFIDENTIAL

Our Reference:

Client Reference:	Application #	Filed:	Patent #	Issued:	Client/Matter #	Title	Status
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MACG-003	DE	M9102308.4	23MRI1991	M9102308.4	01AUI1991	131074-2022	GOLF CLUB HEAD	Issued
MACG-003	DK	282-91	21MRI1991	0347-1992	10API1992	131074-2019	GOLF CLUB HEAD	Lapsed
MACG-003	FI	259-91	22MRI1991	14864	31DEI1991	131074-2016	GOLF CLUB HEAD	Issued
MACG-003	FR	911,757	21MRI1991	911,757	29JUL1991	131074-2015	GOLF CLUB HEAD	Issued
MACG-003	GB	2013730	21MRI1991	2013730	12AUI1991	131074-2028	GOLF CLUB HEAD	Lapsed
MACG-003	HK					131074-2014	GOLF CLUB HEAD	Dropped
MACG-003	IE	D92/91	25MRI1991	D9282	10DEI1991	131074-2017	GOLF CLUB HEAD	Lapsed
MACG-003	MX	3860	22MRI1991	5064	06FEI1992	131074-2023	GOLF CLUB HEAD	Lapsed
MACG-003	NO	91-0239	22MRI1991			131074-2006	GOLF CLUB HEAD	Abandoned
MACG-003	NZ	23792	25MRI1991	23792	19DEI1991	131074-2025	A GOLF CLUB	Lapsed
MACG-003	SE	91-0645	20MRI1991	51,580	15API1992	131074-2026	GOLF CLUB HEAD	Issued
MACG-003	TW					131074-2027	GOLF CLUB HEAD	Inactive
MACG-003/01	AU	851/92	03API1992	115445	19OCT1992	131074-2003	GOLF CLUB HEAD	Lapsed
MACG-003/01	IE	D93/91	25MRI1991	D9283	10DEI1991	131074-2018	GOLF CLUB HEAD	Lapsed
MACG-004	US	07/646,161	25JAI1991	5,110,131	05MY1992	131074-2029	POSITIVE DRAFT GOLF IRON	Issued

PRIVILEGED AND CONFIDENTIAL

Our Reference:

26184 v4/KL
k7e041.DOC

Client Reference:	Application #	Filed:	Patent #	Issued:	Client/Matter #	Title	Status
MACG-005	AU	35936/93	25JA1993	658797	15AUI995	131074-2032 REINFORCED METAL GOLF CLUB HEAD	Issued
MACG-005	CA	2,128,690	25JA1993	2,128,690	13AP1999	131074-2012 REINFORCED METAL GOLF CLUB HEAD	Issued
MACG-005	EP	93904644.7	25JA1993	0624109	4AU1999	131074-2024 REINFORCED METAL GOLF CLUB HEAD	Issued
MACG-005	GB	93904644.7	25JA1993	0624109	25JA1993	131074-2024 REINFORCED METAL GOLF CLUB HEAD	Issued
MACG-005	US	07/824,359	23JA1992	5,213,328	25MY1993	131074-2030 REINFORCED METAL GOLF CLUB HEAD	Issued
MACG-005	WO	PCT/US93/00696	25JA1993			131074-2031 REINFORCED METAL GOLF CLUB HEAD	active
MACG-005/01	US	08/027,874	08MR1993	5,292,129	08MR1994	131074-2013 REINFORCED METAL GOLF CLUB HEAD	Lapsed
MACG-006	AU	541/2002	26FE2002			131074-2035 REINFORCED METAL GOLF CLUB HEAD	Pending
MACG-006	CA	98752	25FE2002			131074-2040 GOLF CLUB HEAD (CAVITY BACK IRON)	Pending
MACG-006	DE	40201895.8	28FE2002			131074-2054 GOLF CLUB HEAD (CAVITY BACK IRON AND WOOD)	Pending
MACG-006	FR	021432	28FE2002			131074-2052 GOLF CLUB HEAD (CAVITY BACK IRON)	Pending
MACG-006	GB	3001822	27FE2002			131074-2043 GOLF CLUB HEAD (CAVITY BACK IRON)	Pending
MACG-006	IE	97/02	26FE2002			131074-2056 GOLF CLUB HEAD (CAVITY BACK IRON)	Pending
MACG-006	US	29/147,369	29AU2001			131074-203 GOLF CLUB HEAD (CAVITY BACK IRON)	Pending

PRIVILEGED AND CONFIDENTIAL

Our Reference:

26184 v4/KL
K76041.DOC

Client Reference:	Application #	Filed:	Patent #	Issued:	Client/Matter #	Title	Status
MACG-007	AU	540/2002	26FEE2002		131074-203	GOLF CLUB HEAD (WOOD)	Pending
MACG-007	CA	98755			131074-2044	GOLF CLUB HEAD (WOOD)	Pending
MACG-007	FR	021431	28FEE2002		131074-2053	GOLF CLUB HEAD (WOOD)	Pending
MACG-007	GB	3001823	27FEE2002		131074-2047	GOLF CLUB HEAD (WOOD)	Pending
MACG-007	IE	98/02	26FEE2002		131074-2057	GOLF CLUB HEAD (WOOD)	Pending
MACG-007	US	29/147,368	29AU2001		131074-2034	GOLF CLUB HEAD (WOOD)	Pending
MACG-008	US	09/940,856	29AU2001		131074-2036	GOLF CLUB HEAD (WOOD)	Pending
MACG-009	AU	579/2002	01MR2002		131074-2060	GOLF CLUB HEAD (MUSCLE BACK IRON)	Pending
MACG-009	CA	021460	01MR2002		131074-2048	GOLF CLUB HEAD (MUSCLE BACK IRON)	Pending
MACG-009	DE	40202258	07MR2002		131074-2061	GOLF CLUB HEAD (MUSCLE BACK IRON)	Pending
MACG-009	FR	021460	01MR2002		131074-2062	GOLF CLUB HEAD (MUSCLE BACK IRON)	Pending
MACG-009	GB	3001966	05MR2002		131074-2050	GOLF CLUB HEAD (MUSCLE BACK IRON)	Pending
MACG-009	IE	98/02	01MR2002		131074-2049	GOLF CLUB HEAD (MUSCLE BACK IRON)	Pending
MACG-009	US	29/147,804	07SE2001		131074-2037	GOLF CLUB HEAD (MUSCLE BACK IRON)	Pending