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04-02-2003

Form PTO-1595

RE

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

(Rev. 10/02)

OMB No. 0651-0027 (exp. 6/30/2005)

102406904

Tab settings ⇌ ⇌ ⇌ ▼ ▼ ▼ ▼ ▼ ▼

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

1. Name of conveying party(ies):

Mid-States Plastics, Inc.
222 South Ninth Street, Suite 2880
Minneapolis, Minnesota 55402

2. Name and address of receiving party(ies)

Name: Fleet Capital Corporation, as Agent

Internal Address: _____

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

3. Nature of conveyance:

☐

Assignment

☐

Merger

☒

Security Agreement

☐

Change of Name

☐

Other _____

Street Address: _____

One South Wacker Drive, Suite 1400

City: Chicago

State: IL Zip: 60606

Execution Date: 03/14/2003

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) _____

None

B. Patent No.(s) _____

Please see attached Schedule A

Additional numbers attached? ☒ Yes ☐ No

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

Name: Catherine Ho

Internal Address: _____

Street Address: Vedder, Price

222 North LaSalle Street, Suite 2400

City: Chicago State: IL Zip: 60601

6. Total number of applications and patents involved: 2

7. Total fee (37 CFR 3.41).....\$ 80.00

☒

Enclosed

☐

Authorized to be charged to deposit account

8. Deposit account number: _____

04/02/2003 DBYRNE 00000155 6164131

DO NOT USE THIS SPACE

01 FC:802 9. Signature. 80.00 DP

Catherine Ho

Name of Person Signing

Signature

April 1, 2003

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. 20231PATENT
REEL: 013897 FRAME: 0181

SCHEDULE A TO PATENT AND LICENSE SECURITY AGREEMENT BETWEEN
MID-STATES PLASTICS, INC. AND FLEET CAPITAL CORPORATION, AS AGENT

PATENT REGISTRATIONS

<u>PATENTS</u>	<u>PATENT APPLICATION NO./ PATENT APPLICATION DATE</u>	<u>PATENT REGISTRATION NO./ PATENT REGISTRATION DATE</u>
IN-GROUND RECEPTACLE FOR FLUID METER AND VALVES	067563 04/28/1998	6,164,131 12/26/2000
IN-GROUND RECEPTACLE FOR FLUID METER AND VALVES	613872 03/11/1996	5,747,687 05/05/1998

PATENT AND LICENSE SECURITY AGREEMENT

PATENT AND LICENSE SECURITY AGREEMENT ("Agreement") dated as of March 14, 2003, made by MID-STATES PLASTICS, INC., a Kentucky corporation, having its chief executive office at 222 South Ninth Street, Suite 2880, Minneapolis, Minnesota 55402 ("Borrower") and FLEET CAPITAL CORPORATION, a Rhode Island corporation ("FCC"), as agent for the "Lenders" (as hereinafter defined) (FCC, in such capacity, "Agent").

W I T N E S S E T H:

WHEREAS, Borrower, Extrusion Technologies, Inc., the lender signatories thereto ("Lenders") and Agent have entered into that certain Loan and Security Agreement of even date herewith (as the same may hereafter be amended or otherwise modified from time to time, the "Loan Agreement"), pursuant to which Lenders have, subject to certain conditions precedent, agreed to make loans, advances and other financial accommodations (collectively, the "Loans") to Borrower and Mid-States Plastics, Inc.; and

WHEREAS, Agent and Lenders have required as a condition, among others, to the making of the Loans to Borrower and Mid-States Plastics, Inc., in order to secure the prompt and complete payment, observance and performance of all of Borrower's and Mid-States Plastics, Inc.'s obligations and liabilities hereunder, under the Loan Agreement, and under all of the other instruments, documents and agreements executed and delivered by Borrower or Mid-States Plastics, Inc. to Agent and Lenders in connection with the Loan Agreement (all such obligations and liabilities being hereinafter referred to collectively as the "Obligations"), that Borrower execute and deliver this Agreement to Agent, for its benefit and the ratable benefit of Lenders;

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, Borrower agrees as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, the capitalized terms used herein which are defined in the Loan Agreement shall have the meanings specified 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 and schedule 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.

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(1) obtain rights to any new patentable inventions or license agreements in connection with

- 2 -

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2. Security Interest in Patents. To secure the complete and timely payment, performance and satisfaction of all of the Obligations, Borrower hereby grants to Agent, for its benefit and the ratable benefit of Lenders, a first priority security interest, having priority over all other security interests (except for Permitted Liens), with power of sale to the extent permitted by applicable law, all of Borrower's now owned or existing and filed and hereafter acquired or arising and filed:

- (i) patents and patent applications, and the inventions and improvements described and claimed therein, including, without limitation, those patents and patent applications listed on Schedule A and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part 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 thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in the foregoing clauses (a)-(d), being sometimes hereinafter individually and/or collectively referred to as the "Patents"); and
- (ii) license agreements with any other party in connection with any Patents or such other party's patents or patent applications, whether Borrower is a licensor or licensee under any such license agreement, including, but not limited to, the license agreements listed on Schedule B, and the right upon the occurrence and during the continuance of an Event of Default to use the foregoing in connection with the enforcement of Agent's or Lenders' rights under the Loan Agreement (all of the foregoing being hereinafter referred to collectively as the "Licenses"). Notwithstanding the foregoing provisions of this Section 2, the Licenses shall not include any license agreement which by its terms prohibits the grant of the security interest contemplated by this Agreement.

3. Restrictions on Future Agreements. Borrower will not, without Agent's prior written consent, enter into any agreement, including, without limitation, any license agreement, which is inconsistent with this Agreement, and 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 subject to its control, including licensees, or fail to take any action, which would in any material respect affect the validity or enforcement of the rights transferred to Agent, for its benefit and the ratable benefit of Lenders, under this Agreement or the rights associated with those Patents which are material to the operation of Borrower's business.

4. New Patents. Borrower represents and warrants that the Patents and licenses listed on Schedules A and B, respectively, include all of the patents, patent applications and license agreements in connection with patents or patent applications that are material to the operation of Borrower's business. If prior to the termination of this Agreement, Borrower shall (i) obtain rights to any new patentable inventions or license agreements in connection with

patents or patent applications that are material to the operation of the Borrower's business, or (ii) become entitled to the benefit of any patent, patent application or patent for any reissue, division, continuation, renewal, extension or continuation-in-part of any Patent or any improvement on any Patent that are material to the operation of the Borrower's business, the provisions of Section 2 shall automatically apply thereto and Borrower shall give to Agent prompt written notice thereof. Borrower hereby authorizes Agent to modify this Agreement by (a) amending Schedules A or B, as the case may be, to include any future patents, patent applications and license agreements in connection with patents and patent applications that are Patents or Licenses under Section 2 or under this Section 4 and (b) filing, in addition to and not in substitution for, this Agreement, a duplicate original of this Agreement containing on Schedules A or B thereto, as the case may be, such future patents, patent applications and license agreements which are Patents or licenses, as the case may be, under Section 2 or this Section 4.

5. Royalties. Borrower hereby agrees that the use by Agent of the Patents and Licenses as authorized hereunder shall be coextensive with Borrower's rights thereunder and with respect thereto and without any liability for royalties or other related charges from Agent to Borrower.

6. Nature and Continuation of Agent's Security Interest. This Agreement is made for collateral security purposes only. This Agreement shall create a continuing security interest in the Patents and the Licenses and shall remain in full force and effect until the Obligations have been paid in full and the Loan Agreement terminated.

7. Right to Inspect: Further Assignments and Security Interests. Agent shall have the right, at any reasonable time and from time to time, to inspect Borrower's premises and to examine Borrower's books, records and operations relating to the Patents; provided, that in conducting such inspections and examinations, Agent shall use its best efforts not to disturb unnecessarily the conduct of Borrower's ordinary business operations, and provided, further, that if no Event of Default has occurred and is continuing, Agent shall give Borrower at least 24 hours prior written notice of any such inspection. Borrower agrees not to sell or assign its respective interests in, or grant any license under, the Patents without the prior written consent of Agent (which consent shall not be unreasonably withheld).

8. Duties of Borrower. Borrower shall have the duty to the extent desirable in the normal conduct of Borrower's business and consistent with Borrower's current business practices: (i) to 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, (ii) to make application on such unpatented but patentable inventions as Borrower deems appropriate, and (iii) to take reasonable steps to preserve and maintain all of Borrower's rights in the patent applications and patents that are part of the Patents. Any expenses incurred in connection with the foregoing shall be borne by Borrower. Borrower shall not abandon any right to file a patent application or any pending patent application or patent which is or, to Borrower's knowledge, shall be necessary or economically desirable, in any material respect, in the operation of Borrower's business. Borrower agrees to retain an experienced patent attorney reasonably acceptable to Agent (Fredrikson & Byron, P.A.) being acceptable to Agent) for the filing and prosecution of all such applications and other proceedings. Neither Agent nor any Lender shall have any duty with respect to the Patents and Licenses. Without limiting the generality of the foregoing, neither

Agent nor any Lender shall be under obligation to take any steps necessary to preserve rights in the Patents or Licenses against any other parties, but may do so at its option during the continuance of an Event of Default, and all expenses incurred in connection therewith shall be for the sole account of Borrower and added to the Obligations secured thereby.

9. Agent's Right to Sue. From and after the occurrence and during the continuance of an Event of Default, and subject to the terms of the Loan Agreement, Agent shall have the right, but shall not be obligated, to bring suit to enforce the Patents and the Licenses, and, if Agent shall commence any such suit, Borrower shall, at the request of Agent, do any and all lawful acts and execute any and all proper documents reasonably required by Agent in aid of such enforcement. Borrower shall, upon demand, promptly reimburse and indemnify Agent for all costs and reasonable expenses incurred by Agent in the exercise of its rights under this Section (including, without limitation, all reasonable attorneys' and paralegals' fees). If for any reason whatsoever, Agent is not reimbursed with respect to the reasonable costs and expenses referred to in the preceding sentence, then upon written notice to Borrower, such costs and expenses shall be added to the Obligations secured hereby.

10. Waivers. No course of dealing between Borrower and Agent, and no failure to exercise or delay in exercising on the part of Agent any right, power or privilege hereunder or under the Loan Agreement shall operate as a waiver or any of Agent's rights, powers or privileges. No single or partial exercise of any right, power or privilege hereunder or under the Loan Agreement shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

11. Agent's Exercise of Rights and Remedies Upon Default. Notwithstanding anything set forth herein to the contrary, it is hereby expressly agreed that upon the occurrence and during the continuance of an Event of Default, Agent may exercise any of the rights and remedies provided in this Agreement, the Loan Agreement, or any other agreement executed in connection therewith. Without limiting the generality of the foregoing, Borrower acknowledges and agrees that (i) the Patents and Licenses comprise a portion of the Collateral and Agent shall have the right to exercise its rights under the Loan Agreement with respect to the Patents and Licenses to the same extent as with respect to all other items of Collateral described therein, and (ii) from and after the occurrence of an Event of Default, Agent or its nominee may use the Patents and Licenses in connection with the conduct of Borrower's business.

12. Severability. 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.

13. Modification. This Agreement cannot be altered, amended or modified in any way, except as specifically provided in Sections 2 and 4 hereof or by a writing signed by the parties hereto.

14. Cumulative Remedies; Power of Attorney. All of Agent's rights and remedies with respect to the Patents and the Licenses, whether established hereby, by any other

agreement or by law, shall be cumulative and may be exercised singularly or concurrently. Borrower hereby irrevocably appoints Agent as Borrower's attorney-in-fact, with full authority in the place and stead of Borrower and in the name of Borrower or otherwise to carry out the acts described below. Subject to the terms of the Loan Agreement, upon the occurrence and during the continuance of an Event of Default, Borrower hereby authorizes Agent to, in its sole discretion, (i) endorse Borrower's name on all applications, documents, papers and instruments necessary or desirable for Agent in the use of the Patents and the Licenses, (ii) take any other actions with respect to the Patents and the Licenses as Agent deems is in its best interest, (iii) grant or issue any exclusive or non-exclusive license with respect to the Patents to anyone on commercially reasonable terms, and (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Patents and the Licenses to anyone on commercially reasonable terms. Borrower hereby ratifies all that such attorney-in-fact shall lawfully do or cause to be done in good faith by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable until this Agreement shall have been terminated pursuant to Section 6. Borrower acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of Agent under the Loan Agreement, but rather is intended to facilitate the exercise of such rights and remedies. Agent 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.

15. Binding Effect; Benefits. This Agreement shall be binding upon Borrower and its successors and assigns and shall inure to the benefit of Agent, Lenders and its and their nominees, successors and assigns. Borrower's successors and assigns shall include, without limitation, a receiver, trustee or debtor-in-possession of or for Borrower; provided, however, that Borrower shall not voluntarily assign its obligations hereunder without the prior written consent of Agent.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws (as distinguished from the conflicts of law provisions) and decisions of the State of Illinois.

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

18. Section Headings. The section headings herein are for convenience of reference only, and shall not affect in any way the interpretation of any of the provisions hereof.


19. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

(Signature Page Follows)

(Signature Page to Patent and License Security Agreement)

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year first above written.

MID-STATES PLASTICS, INC.

By: 
Name: DOBSON WEST
Title: SECRETARY

Accepted and agreed to as of this 14 day of March, 2003.

FLEET CAPITAL CORPORATION,
as Agent

By: _____
Name: _____
Title: _____

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year first above written.

MID-STATES PLASTICS, INC.

By: _____
Name: _____
Title: _____

Accepted and agreed to as of this ____ day of March, 2003.

FLEET CAPITAL CORPORATION,
as Agent

By: Brian Conole
Name: Brian Conole
Title: SVP

STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

The foregoing Patent and License Security Agreement was executed and acknowledged before me this 14th day of March, 2003, by Dobson West personally known to me to be the SECRETARY of MID-STATES PLASTICS, INC., a Kentucky corporation, on behalf of such corporation.

(SEAL)

Notary Public: Margaret Stanley

My commission expires: _____



SCHEDULE A
to Patent and License Security Agreement

PATENTS

<u>PATENTS</u>	<u>PATENT APPLICATION NO./ PATENT APPLICATION DATE</u>	<u>PATENT REGISTRATION NO./ PATENT REGISTRATION DATE</u>
IN GROUND RECEPTACLE FOR FLUID MI TER AND VALVES	067563 04/28/1998	6,164,131 12/26/2000
IN GROUND RECEPTACLE FOR FLUID MI TER AND VALVES	613872 03/11/1996	5,747,687 05/05/1998

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SCHEDULE B
to Patent and License Security Agreement

LICENSES

None

VEDDER PRICE

CATHERINE HO
LEGAL ASSISTANT
312-609-7817
cho@vedderprice.com

VEDDER, PRICE, KAUFMAN & KAMMHOLZ
222 NORTH LASALLE STREET
CHICAGO, ILLINOIS 60601
312-609-7500
FACSIMILE: 312-609-5005

A PARTNERSHIP INCLUDING VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.
WITH OFFICES IN CHICAGO, NEW YORK CITY, AND LIVINGSTON, NEW JERSEY

April 1, 2003

VIA FEDERAL EXPRESS

Assistant Commissioner of Patents & Trademarks
Office of Public Records
1213 Jefferson Davis Highway, Suite 300
Arlington, Virginia 22202

Re: Patent and License Security Agreement
Client/Matter No.02795.00.0141

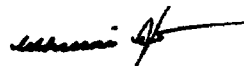
Dear Sir or Madam:

Enclosed please find an original Patent and License Security Agreement between Mid-States Plastics, Inc. and Fleet Capital Corporation, as Agent for recordation in the Assignment Branch of the United States Patent and Trademark Office together with a check in the amount of \$80.00 for the required filing fee.

Please direct all correspondence regarding this matter to:

Catherine Ho
Vedder, Price, Kaufman & Kammholz
222 North LaSalle Street, Suite 2400
Chicago, Illinois 60601
(312) 609-7817

Respectfully submitted,



Catherine Ho
Legal Assistant

Enclosures

cc: John T. McEnroe, Esq. (w/enclosures)

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RECORDED: 04/01/2003

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