

05-01-2003



102435872

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
1000 Pecan Grove Drive
Albany, GA 31701

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

3. Nature of Conveyance:

- ☐ Assignment ☐ Merger
☒ Security Agreement ☐ Change of Name
☐ Other: Termination of Security Interest in Patents

Execution Date: July 1, 2002

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

Name : Foothill Capital Corporation

Internal Address:

Street Address: 1000 Abernathy Road, Suite 1450

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)

29/169,048

B. Patent No.(s):

D465,251

D468,788

Additional numbers attached? ☐ Yes ☒ No

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

Name: Melanie Cass
Internal Address:
Mailing Address: Cooley Godward LLP
One Maritime Plaza, 20th Floor

City: San Francisco State: CA Zip: 94111

6. Total number of applications and patents involved: 3

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

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number: 03-3115.

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

DO NOT USE THIS SPACE

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.

Melanie Cass

April 24, 2003

Date

Total number of pages including cover sheet, attachments, and documents: 8

04/30/2003 ED00PER 00000203 29169048

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120.00 DP

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

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.

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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: 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

Application Number	Filed	Patent Number	Issued	Title	Status
29/147,368	8/29/01	D465,251	11/5/02	Golf Club Head (Wood)	Issued
29/147,369	8/29/01	D468,788	1/14/03	Golf Club Head (Cavity Back Iron)	Issued
29/169,048	10/15/02			Golf Club Head	Pending