


08-20-2003

Form PTO-1595 (Adapted) (Exp. 6/30/2003)
(Rev. 10/02) Patent & Trademark102530260
PATENTS ONLYU.S. DEPARTMENT OF COMMERCE
RECORDATION FORM COVER SHEET

8/18/03

1. Name of conveying party: Omega Protein, Inc. Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	2. Name and address of receiving party(ies): Name: Bank of America, N.A. Address: 600 Peachtree Street 5 th Floor City: Atlanta State/Zip: GA 30308 Country: USA Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Nature of conveyance: <input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input checked="" type="checkbox"/> Other <u>Conditional Assignment and Patent Security Agreement</u> Execution Date: May 19, 2003	
4(a). Patent Application No.(s):	4(b). Patent No.(s): 6,190,715
If this document is being filed together with a new application, the execution date of the application is: Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
5. Name and address of party to whom correspondence concerning document should be mailed: Name: Michael S. Kerns, Esq. Address: TROUTMAN SANDERS LLP 600 Peachtree Street, NE Suite 5200 Atlanta, GA 30308	6. Total number of applications and patents involved: 1 7. Total fee (37 CFR 3.41): \$40 <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to Deposit Account 8. Deposit Account No.: 20-1507 (Attach duplicate copy of this page if paying by deposit account)
DO NOT USE THIS SPACE	
9. Statement and signature. <i>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.</i>  _____ Michael S. Kerns Date: <u>August 14, 2003</u> Attorney Docket No.: <u>10644.111497</u> Total number of pages including cover sheet: <u>11</u>	

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Mail documents with required coversheet information to:

08/19/2003 EC00PER 00000102 5190715

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PATENT
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CONDITIONAL ASSIGNMENT AND PATENT SECURITY AGREEMENT

THIS CONDITIONAL ASSIGNMENT AND PATENT SECURITY AGREEMENT
(this "Agreement") is made as of May 19, 2003, by the Borrower referred to below in favor of the Lender (as such terms are defined below).

WITNESSETH:

WHEREAS, pursuant to that certain Loan and Security Agreement dated as of December 20, 2000 (including all annexes, exhibits and schedules thereto, as from time to time amended, restated, supplemented or otherwise modified, the "Loan Agreement") by and among **Omega Protein Corporation, Omega Protein, Inc.** (the "Borrower") and **Bank of America, N.A.** (the "Lender"), the Lender has agreed to make Revolving Loans and cause the issuance of Letters of Credit on behalf of the Borrower; and

WHEREAS, capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement; and

WHEREAS, the Borrower will derive substantial benefits, both directly and indirectly, from the Revolving Loans; and

WHEREAS, to secure the Secured Obligations, the Borrower has agreed to conditionally assign certain patent rights as described herein.

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 hereby agrees with the Lender as follows:

1. Grant of Security Interest.

To secure the complete and timely payment and performance of all Secured Obligations, the Borrower hereby grants, assigns and conveys to the Lender, a security interest in the Borrower's entire right, title and interest in and to the United States of America ("U.S.") patents and patent applications listed in **Schedule A** attached hereto and by reference made a part hereof and in any further United States patents or patent applications which may issue or be filed during the duration hereof, together with any and all licenses now or hereafter relating thereto and all royalty payments or rights to royalty payments now or hereafter arising therefrom (collectively, the "Patents").

2. Conditional Grant of Security Interest in Additional Patents.

If, before the Secured Obligations shall have been satisfied in full and the Lender's obligations under the Loan Agreement to make Revolving Loans and to issue Letters of Credit shall have been terminated, the Borrower shall have or obtain ownership of any patent or patent application, the provisions of Section 1 shall automatically apply thereto. This Section 2 shall not apply to Patents which are owned by others and licensed to the Borrower. The Borrower shall perform all acts and execute all documents reasonably requested by the Lender at any time and from time to time to evidence, perfect, maintain, record, and enforce the Lender's security interest in the Patents, including, without limitations, any patents falling under this Section 2.

3. Modification of Agreement.

The Borrower authorizes the Lender to modify this Agreement by amending Schedule A to include any additional patent or patent application which are Patents pursuant to Sections 1 and 2 hereof, together with any then-existing limitations or licenses or claims to rights therein that have been made known to the Lender, and to have this Agreement, as amended, or any other document evidencing the security interest granted therein, recorded in the U.S. Patent and Trademark Office at the expense of the Borrower.

4. Remedies Upon Default; Power of Attorney

(a) In addition to the grant of the security interest contained in Sections 1 and 2 hereof, if any Default shall have occurred and be continuing, upon the election of the Lender, all right, title and interest in and to the Patents shall be automatically granted, assigned, conveyed and delivered to the Lender or its designee. The Borrower hereby irrevocably constitutes and appoints the Lender and any officer, agent or employee thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Borrower and in the name of the Borrower or the Lender's own name or the name of the Lender's designee, all acts of said attorney being hereby ratified and confirmed, upon the occurrence and continuance of a Default: (i) to complete, date, execute and file, or cause to be filed, the Assignment attached hereto as Exhibit A and by reference made a part hereof (the "Assignment") in the U.S. Patent and Trademark Office and in all other applicable offices, and to execute and deliver any and all documents and instruments which may be necessary or desirable to accomplish the purpose of the Assignment, including, without limitation, the right (but not the obligation) to prosecute applications in the name of the Borrower or the Lender, and to take any other actions deemed necessary by the Lender to maintain such registration in effect; (ii) to collect all proceeds from the Patents (including, without limitation, license royalties and proceeds of infringement suits); (iii) to convey, in any transaction authorized by the Loan Agreement or any related loan document, any goods covered by the Patents to any purchaser thereof; and (iv) to make payment or to discharge taxes or liens levied or placed upon or threatened against any goods covered by the Patents, the legality or validity

thereof and the amounts necessary to discharge the same to be determined by the Lender in its sole discretion, and such payments made by the Lender to become the obligations of the Borrower to the Lender, due and payable immediately without demand. Such power, being coupled with an interest, is irrevocable.

(b) The Lender shall have, in addition to all other rights and remedies given it by this Agreement, those 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 enforceable, and, without limiting the generality of the foregoing, the Lender may, if any Default shall have occurred and be continuing, immediately, without demand or performance and without other notice (except as set forth below) or demand whatsoever to the Borrower, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the Patents, and after deducting from the proceeds of sale or other disposition of the Patents all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds in accordance with the terms of the Loan Agreement. Notice of any sale or other disposition of the Patents shall be given to the Borrower, at least ten (10) days before the time of any intended public or private sale or other disposition of the Patents is to be made, which the Borrower hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, the Lender may, to the extent permissible under applicable law, purchase the whole or any part of the Patents sold, free from any right of redemption on the part of the Borrower, which right is hereby waived and released. The Borrower hereby agrees to execute any documents reasonably requested by the Lender in connection with any disposition hereunder.

(c) Upon the occurrence of the conditional assignment provided for herein, the Borrower will have no right, title, or interest in or to any of the Patents, and the Borrower shall cease and desist in the use of the Patents, and shall, upon written demand of the Lender, or pursuant to the terms of the Loan Agreement, deliver to the Lender all goods covered by the Patents.

5. Termination of Agreement.

At such time as the Borrower shall completely satisfy all of the Secured Obligations and the Lender's obligations under the Loan Agreement to make Revolving Loans and to issue Letters of Credit shall have been terminated, the Lender shall execute and deliver to the Borrower all deeds, assignments and other instruments as may be necessary or proper to re-vest in the Borrower title to the Patents, subject to any disposition thereof which may have been made by the Lender pursuant hereto.

6. Limitation of Liability and Indemnification.

The Borrower hereby releases the Lender from, and agrees to hold the Lender free and harmless from and against, any claims arising out of any action taken or omitted to be taken with respect to the Patents (except to the extent of the Lender's gross negligence or willful

misconduct), and the Borrower agrees to indemnify the Lender from and against any and all claims, demands, suits, losses, damages or other expenses (including reasonable attorneys' fees) arising from or in any way related to the Patents.

7. Waiver and Amendment.

(a) No course of dealing between the Borrower and the Lender, nor any failure to exercise, nor any delay in exercising, on the part of the Lender, any right, power or privilege hereunder or thereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) This Agreement is subject to modification only by a writing signed by the parties hereto.

8. Cumulative Rights.

All of the Lender's rights and remedies with respect to the Patents, whether established hereby or under the Loan Agreement or any related loan document, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

9. 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.

10. Survival.

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 hereto.

11. Counterparts.

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.

14. Choice of Law.

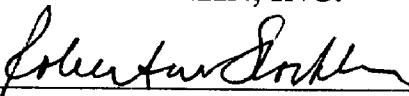
The validity, construction and enforcement of this Agreement, and the determination of the rights and duties of the parties hereto, shall be governed by the laws of the State of Georgia

regardless of any choice of law or other provision that would result in the application of the laws of any other jurisdiction.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

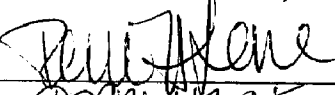
BORROWER:

OMEGA PROTEIN, INC.

By: 
Name: Robert W. Stockton
Title: Vice President

LENDER:

BANK OF AMERICA, N.A.

By: 
Name: TERRI HAE
Title: ASSISTANT VICE PRESIDENT

SCHEDULE A

U.S. Patent Registrations

Patent Title

Process for Producing Edible Quality
Refined Fish Oil from Menhaden and
Other similar fish containing Omega-3
Long Chain Fatty Acids

Patent No.

6,190,715

EXHIBIT A

Assignment of Patents

THIS ASSIGNMENT dated the ____ day of _____, 20__, from **Omega Protein, Inc.**, a Virginia corporation (the "Assignor"), to **Bank of America, N.A.**, as Lender (the "Assignee"), recites and provides:

WHEREAS, the Assignor is owner of all right, title and interest in and to certain patents and patent applications identified in **Schedule A** appended hereto (the "Patents"); and

WHEREAS, the Assignee desires to obtain all of the Assignor's right, title and interest in all such Patents.

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignor does hereby sell, assign and transfer to the Assignee, its successors and assigns, the entire right, title and interest of the Assignor in and to the Patents and any and all licenses now or hereafter relating thereto and all royalty payments or rights to royalty payments now or hereafter arising therefrom.

The Assignor further agrees to execute such further instruments and documents and perform such further acts as the Assignee may deem necessary to secure to the Assignee the rights herein conveyed.

The Assignor warrants and represents that it is the sole owner of the interest conveyed hereunder and that such interest is not the subject of any prior transfer, assignment, lien, mortgage or other transaction which would affect the Assignor's ability to transfer such interest.

The Assignor further agrees to indemnify the Assignee for any breach of the above warranty.

(Signature On Next Page)

IN WITNESS WHEREOF, the Assignor has executed this Assignment as of the day and year first above written.

Omega Protein, Inc.

By: _____

Name: _____

Title: _____

SCHEDULE A

U.S. Patent Registrations

Patent Title

Patent No.

1151229_1.DOC
Conditional Assignment and
Patent Security Agreement

RECORDED: 08/18/2003

PATENT
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