

02-28-2003



Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings

REEL 102377456 TRADEMARKS ONLY

U.S. 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): The Works at Wyomissing, LLC 2-2603
Individual(s) Association
General Partnership Limited Partnership
Corporation-State
Other
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies)
Name: Wachovia Bank, National Association
Internal
Address:
Street Address: 600 Penn St.; P.O. Box 1102
City: Reading State: PA Zip: 19603
Individual(s) citizenship
Association a banking association
General Partnership
Limited Partnership
Corporation-State
Other
If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No
(Designations must be a separate document from assignment)
Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:
Assignment Merger
Security Agreement Change of Name
Other
Execution Date: 1/30/2003

4. Application number(s) or registration number(s):
A. Trademark Application No.(s) 76/469,016; 76/469,020
B. Trademark Registration No.(s)
Additional number(s) attached Yes No

6. Total number of applications and registrations involved: 2

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Scott F. Landis, Esquire
Internal Address: Barley, Snyder, Senft & Cohen, LLC
Street Address: 126 East King Street
City: Lancaster State: PA Zip: 17602-2893

7. Total fee (37 CFR 3.41) \$ 65.00
Enclosed
Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.
Scott F. Landis
Name of Person Signing

Signature
Date: 2/12/03

11

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

19/27/0005 SELLER 00000375 74469016 50.00 00 25.00 00

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

TRADEMARK REEL: 002680 FRAME: 0529

TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT

THIS TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY

AGREEMENT (the "Agreement") is made this 30th day of January, 2003 by and between THE WORKS AT WYOMISSING, LLC a Pennsylvania Limited Liability Company having a mailing address of 500 Walnut Road, Birdsboro, Pennsylvania 19508 ("Assignor"), and WACHOVIA BANK, NATIONAL ASSOCIATION, a national banking association, having a mailing address of 600 Penn Street, P.O. Box 1102, Reading, Pennsylvania 19603 ("Lender").

BACKGROUND

Assignor has executed and delivered a certain Guaranty and Suretyship Agreement (the "Guaranty") to the Lender pursuant to a certain Construction Loan Agreement dated January 30, 2003 by and between Assignor; Chip and Gary Real Estate Holdings, LLC (the "Borrower"); William F. White, Joann M. White, Gary L. Romig, Jr., and Robin B. Romig (collectively, the "Individual Sureties"); and the Lender (as amended thereafter from time to time, the "Loan Agreement").

In addition, pursuant to the Loan Agreement, the Borrower has executed and delivered to Lender certain notes, security agreements, financing statements and other documentation in connection with the Loan Agreement (all such agreements and documentation, hereinafter individually and collectively, as amended from time to time, the "Related Documentation").

In order to induce the Lender to execute and deliver the Loan Agreement and Related Documentation and provide credit to the Borrower, Assignor has agreed to assign to Lender certain trademark or service mark rights, as is hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises contained herein, Assignor hereby agrees with Lender as follows:

1. To secure the complete and timely satisfaction of all indebtedness and obligations of the Assignor to Lender (the "Liabilities"), including, but not limited to, all sums owing to Lender pursuant to the Note and the Guaranty, Assignor hereby grants, assigns and conveys to Lender the entire right, title and interest in and to the trademark and/or service mark applications, trademarks and/or service marks listed in Schedule A hereto (as the same may be amended pursuant hereto from time to time), including without limitation all renewals thereof, all proceeds thereof (such as, by way of example, license agreements, license royalties and proceeds of infringement suits), all physical manifestations of the foregoing, the right to sue for past, present and future infringements and all accounts, contract rights and other rights corresponding thereto throughout the world (all of the foregoing are collectively called the "Marks"), and the good will of the business to which each of the Marks relates. This Agreement shall constitute a security agreement and the grant of a security interest in the Marks under the terms of the Pennsylvania Uniform Commercial Code.

2. Assignor covenants and warrants that:

- (a) To the best of Assignor's knowledge, the Marks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;
- (b) To the best of Assignor's knowledge, each of the Marks is valid and enforceable;
- (c) To the best of Assignor's knowledge, no claim has been made that the use of any of the Marks does or may violate the rights of any third person;

(d) To the best of Assignor's knowledge, Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Marks, free and clear of any liens, charges and encumbrances, including without limitation pledges, assignments, licenses, registered user agreements and covenants by Assignor not to sue third persons;

(e) Assignor has the unqualified right to enter into this Agreement and perform its terms;

(f) Assignor has used, and will continue to use for the duration of this Agreement, proper statutory notice in connection with its use of the Marks; and

(g) Assignor has used, and will continue to use for the duration of this Agreement, consistent standards of quality in its manufacture of products and/or provision of services sold under the Marks.

3. Assignor hereby grants to Lender and its employees and agents the right to visit Assignor's plant, offices and facilities which manufacture, inspect and/or store products sold under any of the Marks, and/or provide services pursuant to the Mark, and to inspect any products or services and quality control records relating thereto at reasonable times during regular business hours after the giving of reasonable prior notice to Assignor. 4. Assignor agrees that, until all of the Liabilities shall have been satisfied in full, it will not enter into any agreement (for example, a license agreement) which is inconsistent with Assignor's obligations under this Agreement, without Lender's prior written consent.

5. If, before the Liabilities shall have been satisfied in full, Assignor shall obtain rights to any new trademarks or service marks, the provisions of Paragraph 1 above shall automatically apply thereto and Assignor shall give Lender prompt written notice thereof.

6. Assignor authorizes Lender to modify this Agreement by amending Schedule A to include any future trademarks, service marks and trademark applications covered by Paragraphs 1 and 5 hereof.

7. Unless and until there shall have occurred and be continuing an Event of Default (as defined in the Loan Agreement and/or Related Documentation), Lender hereby grants to Assignor the exclusive, nontransferable right and license to use the Marks on and in connection with products and/or services sold by Assignor, for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Assignor in this Paragraph 7, without the prior written consent of Lender, which shall not be unreasonably withheld.

8. If any Event of Default (as defined in the Loan Agreement and/or Related Documentation) shall have occurred and be continuing, Assignor's license under the Marks, as set forth in Paragraph 7 above, shall terminate forthwith, and 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 the Commonwealth of Pennsylvania. Any remainder of the proceeds after payment in full of the Liabilities shall be paid over to the Assignor. Notice of any sale or other disposition of the Marks shall be given to Assignor at least five (5) days before the time of any intended public or private sale or other disposition of the Marks is to be made, which Assignor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, any holder of any of the Loan Agreement and/or Related Documentation or Lender may, to the extent permissible under applicable law, purchase the whole or any part of the Marks sold, free from any right of redemption on the part of Assignor, which right is hereby waived and released.

9. At such time as Assignor shall completely satisfy all of the Liabilities, this Agreement shall terminate and Lender shall execute and deliver to Assignor all deeds, assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Marks, subject to any disposition thereof which may have been made by Lender pursuant hereto.

10. Any and all fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses incurred by Lender in connection with the enforcement of any of the provisions of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, reasonable counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Marks, or in defending or prosecuting any actions or proceedings arising out of or related to the Marks, shall be borne and paid by Assignor on demand by Lender and until so paid shall be added to the principal amount of the Liabilities and shall bear interest at the highest rate prescribed in the Loan Agreement.

11. Assignor may, through counsel acceptable to Lender, prosecute diligently any trademark applications of the Marks pending as of the date of this Agreement or thereafter until the Liabilities shall have been paid in full, make federal application on registerable but unregistered Marks, file and prosecute opposition and cancellation proceedings, and do any and all acts which are necessary or desirable to preserve and maintain all rights in the Marks. Any expenses incurred in connection with the Marks shall be borne by Assignor. The Assignor shall not abandon any of the Marks without the consent of the Lender. For purposes of this paragraph,

Jonathan R. Wachs, Esquire, shall be deemed to be counsel acceptable to Lender to prosecute all trademark applications on behalf of Assignor.

12. Assignor shall have the right, with the prior written consent of Lender, to bring or defend any opposition proceedings, cancellation proceedings or lawsuit in its own name to enforce or protect the Marks, in which event Lender may, if necessary, be joined as a nominal party to such suit if Lender shall have been satisfied that it is not thereby incurring any risk of liability because of such joinder. Assignor shall promptly, upon demand, reimburse and indemnify Lender for all damages, costs and expenses, including reasonable attorneys' fees, incurred by Lender in the fulfillment of the provisions of this Paragraph 12.

13. In the event of the occurrence of an Event of Default under the Loan Agreement and/or Related Documentation, Assignor hereby authorizes and empowers Lender to make, constitute and appoint any officer or agent of Lender as Lender may select, in its exclusive discretion, as Assignor's true and lawful attorney-in-fact, with the power to endorse Assignor's name on all applications, documents, papers and instruments necessary for Lender to use the Marks, or to maintain any registrations thereof, or to grant or issue any exclusive or non-exclusive license under the Marks to anyone else, or necessary for Lender to assign, pledge, convey or otherwise transfer title in or dispose of the Marks to anyone else. Assignor hereby ratifies all that such attorney-in-fact shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Agreement.

14. If Assignor fails to comply with any of its obligations hereunder, Lender may do so in Assignor's name or in Lender's name, but at Assignor's expense, and Assignor hereby agrees to reimburse Lender in full for all expenses, including reasonable attorneys' fees, incurred by Lender in protecting, defending and maintaining the Marks.

15. No course of dealing between Assignor and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder or under the Loan Agreement and/or Related Documentation shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

16. All of Lender's rights and remedies with respect to the Marks, whether established hereby or by the Loan Agreement and/or Related Documentation, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

17. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid or 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. The Background provisions set forth hereinabove are incorporated herein.

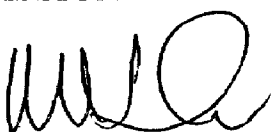
18. This Agreement is subject to modification only by a writing signed by the parties, except as provided in Paragraph 6 above.

19. 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.

20. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws of the Commonwealth of Pennsylvania.

WITNESS the execution hereof, under seal, as of the day and year first above written.

ASSIGNOR:

By: 

Name: *William White*

Title: *President*

Attest: 

Name: *Gay L. Romo, Jr.*

Title: *Secretary*

LENDER:

WACHOVIA BANK, NATIONAL
ASSOCIATION

By: 

Name: *DAVID ROBINSON*

Title: *VP*

SCHEDULE "A" TO A TRADEMARK COLLATERAL ASSIGNMENT

| <u>Service Mark</u> | <u>Application Date</u> | <u>Application Serial Number</u> |
|---------------------------|-------------------------|----------------------------------|
| "The Works at Wyomissing" | November 21, 2002 | 76/469016 |
| "Geared For Fun" | November 21, 2002 | 76/469020 |

Before me, the undersigned, a Notary Public in and for the County aforesaid, on this
30th day of January, 2003, personally appeared William F. White + Gary L. Romig, Jr. to me
known personally, and who, being by me duly sworn, deposes and says that ^{they are} ~~he is~~ the President + Secretary
of The Works at Wyomissing, LLC, that ^{they} ~~he~~ executed the aforesaid instrument on behalf of The
Works of Wyomissing, LLC, that ^{they were} ~~he was~~ fully authorized to do so.

Mary E. Scholz
Notary Public

My Commission Expires:

