

07-06-1999

Docket No.:

JEL/J/259

Tab settings



To the Honorable Commissioner of Patents and Trade

101083358

al documents or copy thereof.

1. Name of conveying party(ies):

**ILC Dover IP, Incorporated**  
One Moonwalker Road  
Frederica, Delaware 19946-2080

- Individual(s)
- General Partnership
- Corporation-State
- Other
- Association
- Limited Partnership

Additional names(s) of conveying party(ies)  Yes  No

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

Name: **The Chase Manhattan Bank**

Internal Address:

Street Address: **7600 Jericho Turnpike**

City: **Woodbury** State: **NY** ZIP: **11797**

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other

If assignee is not domiciled in the United States, a domestic designation is  Yes  N  
(Designations must be a separate document from Additional name(s) & address(es)  Yes  N

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other **Collateral Assignment & Security Agreement**
- Merger
- Change of Name

Execution Date: **December 27, 1996**

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)

75/042,004

B. Trademark Registration No.(s)

1,795,891      1,917,990  
1,900,700      1,945,082  
1,901,761

Additional numbers  Yes  No

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

Name: **STEVENS, DAVIS, MILLER & MOSHER, L.L.P.**

Internal Address: **Suite 850/JEL/J/259**

Street Address: **1615 L Street, NW**

City: **Washington** State: **DC** ZIP: **20036**

6. Total number of applications and registrations involved:.....

6

7. Total fee (37 CFR 3.41):.....\$ **165.00**

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

19-4375

07/02/1999 DMSUYEN 00000149 1795891

DO NOT USE THIS SPACE

01 FC:481      40.00 OP  
02 FC:482      125.00 OP

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.

**James E. Ledbetter**

Name of Person Signing

Signature

**July 1, 1999**

Date

Total number of pages including cover sheet, attachments, and

11

Item 2 (continued)

The Bank of New York  
1401 Franklin Avenue,  
Garden City, New York 11530

Wilmington Trust Company  
139 South State Street  
Dover, Delaware 19901

PATENT AND TRADEMARK COLLATERAL ASSIGNMENT  
AND SECURITY AGREEMENT

THIS AGREEMENT is entered into as of this 27th day of December, 1996, and entered into between ILC DOVER IP, INC. ("the Assignor"), a Delaware corporation having a mailing address at One Moonwalker Road, Frederica, Delaware 19946-2080, and The Chase Manhattan Bank, having a mailing address at 7600 Jericho Turnpike, Woodbury, New York 11797, a Delaware corporation, as agent for itself and for The Bank of New York and Wilmington Trust Company (in such capacity, the "Assignee");

WHEREAS, Assignor has executed and delivered to The Chase Manhattan Bank, The Bank of New York and Wilmington Trust Company (the "Banks") a Guarantee of even date herewith (the "Guarantee") pursuant to which the Assignor has guaranteed all of the obligations of certain of the Assignor's affiliates (the "Co-Borrowers") to the Banks under that certain Revolving Credit Agreement dated July 16, 1996 between the Co-Borrowers and the Banks (as it may be hereafter amended or otherwise modified from time to time, being the "Credit Agreement") pursuant to which the Banks may lend to the Co-Borrowers the aggregate principal amounts set forth therein, upon and subject to the terms and conditions thereof;

WHEREAS, in order to secure its obligations under the Guarantee and the other documents executed by it in connection therewith (such obligations, collectively, the "Obligations") the Assignor has executed a Security Agreement in favor of the Assignee, as agent for the Banks, dated the date hereof (the "Security Agreement"); and

WHEREAS, Assignor wishes to grant further security and assurance to the Banks in order to secure the performance by Assignor of the Obligations, and to that effect Assignor agrees to assign to Assignee certain patent and trademark rights.

NOW, THEREFORE, in consideration of the premises, Assignor hereby agrees with Assignee as follows:

1. To secure the complete and timely satisfaction of all Obligations, Assignor hereby grants, assigns and conveys to Assignee the entire right, title and interest in and to the patents, trademarks and patent and trademark applications listed in Schedules A and B hereto (as the same may be amended pursuant hereto from time to time), all proceeds thereof (including but not limited to license royalties and proceeds of infringement suits thereon), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world, all reissues, divisions, continuations, renewals, extensions and continuations in-part thereof, and all patents and all applications for patents and all trademarks and applications for trademarks of Assignor hereafter filed or acquired, together with

TRADEMARK

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all good will associated with any and all of the foregoing and all proceeds of any and all of the foregoing (collectively called the "Patents and Trademarks").

2. Assignor represents, warrants and covenants that:

(a) The Patents and Trademarks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;

(b) To the best of Assignor's knowledge and belief after due inquiry, each of the Patents and Trademarks is valid and enforceable and, to the best of Assignor's knowledge, no material infringement or unauthorized use is presently being made of any Patents and Trademarks;

(c) Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Patents and Trademarks, free and clear of any liens, charges and encumbrances, including without limitation pledges, assignments, licenses, shop rights and covenants by Assignor not to sue third persons; and

(d) Assignor has the unqualified right to enter into this Agreement and perform its terms and has entered and will enter into written agreements with each of its present and future employees, agents and consultants which will enable it to comply with the covenants herein contained.

(e) Assignor's chief executive office is located at One Moonwalker Road, Frederica, Delaware 19946-2080.

(f) Assignor has used, and will continue to use for the duration of this Agreement, consistent standards of quality in its manufacture of products sold under the Patents and Trademarks.

3. Assignor agrees that, until all of the Obligations shall have been satisfied in full, it will not enter into any agreement which is inconsistent with Assignor's obligations under this Agreement, without Assignee's prior written consent.

4. If, before the Obligations shall have been satisfied in full, Assignor shall obtain rights to any new patentable inventions, or become entitled to the benefit of any patent or trademark application or patent or trademark or any reissue, division, continuation, renewal, extension, or continuation-in-part of any patent or trademark or any improvement on any patent or trademark, the provisions of paragraph 1 shall automatically apply thereto and Assignor shall give to Assignee prompt notice thereof in writing.

5. Assignor authorizes Assignee to modify this Agreement by amending Schedule A and B to include any future patents and patent

applications and trademarks and trademark applications which are Patents and Trademarks under paragraph 1 or paragraph 4 hereof.

6. (a) Unless and until there shall have occurred and be continuing an Event of Default (as defined in the Credit Agreement), Assignee hereby grants to Assignor the exclusive, nontransferable right and license under the Patents and Trademarks to make, have made for it, use and sell the inventions disclosed and claimed in the Patents and Trademarks and to use all such marks 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 6, without the prior written consent of Assignee.

(b) Except with the written consent of the Assignee, the Assignor is prohibited from granting a sub-license under the Patents and Trademarks.

7. If any Event of Default (as defined in the Credit Agreement) shall have occurred and be continuing, Assignor's license and sub-license under the Patents and Trademarks as set forth in paragraph 6, shall terminate forthwith, and the Assignee shall have, in addition to all other rights and remedies given it by this Agreement or the Security 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 and Trademarks may be located and, without limiting the generality of the foregoing, the Assignee may immediately, without demand of performance and without other notice or demand whatsoever to Assignor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the whole or from time to time any part of the Patents and Trademarks, or any interest which the Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Patents and Trademarks all expenses (including all reasonable expenses for brokers, fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to the Assignor.

8. If any Event of Default (as defined in the Credit Agreement) shall have occurred and be continuing, Assignor hereby authorizes and empowers Assignee to make, constitute and appoint any officer or agent of Assignee, as Assignee 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 Assignee to use the Patents and Trademarks, or to grant or issue any exclusive or nonexclusive license under the Patents and Trademarks to any third person. Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life

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of this Agreement.

9. At such time as the Co-Borrowers shall completely satisfy all of their obligations under the Credit Agreement, this Agreement shall terminate and Assignee shall execute and deliver to Assignor (at Assignor's expense) all deeds, assignments and other instruments as may be necessary or proper to revest in Assignor full title to the Patents and Trademarks, subject to any disposition thereof which may have been made by Assignee pursuant hereto.

10. Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorney's fees and legal expenses incurred by Assignee in connection with the preparation 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, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Patents and Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Patents and Trademarks, shall be borne and paid by Assignor on demand by Assignee.

11. Assignor shall have the duty, through counsel acceptable to Assignee, to prosecute diligently any patent applications or trademark applications of the Patents and Trademarks pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full, to make application on unpatented but patentable inventions, to file and prosecute any and all continuations, continuations-in-part, application for reissue, applications for certificate of correction and like matters, and to preserve and maintain all rights in patent applications and patents and trademark applications and trademarks of the Patents and Trademarks, including without limitation the payment of all maintenance fees when due. Any expenses incurred in connection with such an application shall be borne by Assignor. The Assignor shall not abandon any right to file a patent or trademark application, or any pending patent or trademark application or patent or trademark without the consent of the Assignee.

12. Assignor shall use all reasonable efforts to detect any infringers of rights described herein and shall advise the Assignee in writing of any material infringements detected. Assignor shall have the right, with the consent of Assignee, which shall not be unreasonably withheld, to bring suit in its own name, and to join Assignee, if necessary, as a party to such suit so long as Assignee is satisfied that such joinder will not subject it to any risk of liability, to enforce the Patents and Trademarks and any licenses thereunder. Assignor shall promptly, upon demand, reimburse and indemnify Assignee for all damages, costs and expenses, including legal fees, incurred by Assignee pursuant to this paragraph 12.

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Notwithstanding the foregoing, the Assignee shall have no duties with respect to the Patents and Trademarks, other than the duties expressly set forth herein and, without limiting the generality of the foregoing, shall have no duty to prosecute any action for patent or trademark infringement against any person.

13. Assignor hereby grants to Assignee and its employees and agents the right to visit Assignor's plants and facilities which manufacture, inspect or store products sold under any of the patents or trademarks included in the Patents and Trademarks, and to inspect the products and quality control records relating thereto at reasonable times during regular business hours. Assignor shall do any and all acts required by Assignee to ensure Assignor's compliance with paragraph 2(f) hereof. The Assignee agrees to comply in all respect with applicable governmental security regulations in connection herewith.

14. No course of dealing between Assignor and Assignee, nor any failure to exercise, nor any delay in exercising, on the part of Assignee, any right, power or privilege hereunder or under the Security Agreement 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.

15. All of Assignee's rights and remedies with respect to the Patents and Trademarks, whether established hereby or by the Security Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

16. 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 such jurisdiction.

17. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph S.

18. 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.

19. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws of the State of New York applicable to agreements made and to be wholly performed in the State of New York.

20. The assignment provided for herein shall become effective on January 1, 1997.

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

ILC DOVER IP, INC.

By: *Andrew Z...*  
Title: *V.P. Finance*

THE CHASE MANHATTAN BANK as agent for itself and The Bank of New York and Wilmington Trust Company via Appointment of Agency pursuant to that certain Agreement dated as of December 27, 1996 to which each bank is signatory

By: *Roland Driscoll VP*  
Title: *Roland Driscoll, Vice President*



CERTIFICATE OF ACKNOWLEDGMENT

STATE OF DELAWARE) )  
 ) SS:  
COUNTY OF KENT )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Carl E. Zlock, the V.P. Finance of ILC DOVER IP, INC., known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said ILC DOVER IP, INC., a Delaware corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 31 day of December, 1996.

David B. Tashert  
Notary Public

My commission expires:

DAVID B. TASHERT  
NOTARY PUBLIC

My commission expires December 17, 1999

STATE OF NEW YORK) )  
 ) SS:  
COUNTY OF NASSAU )

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Roland Driscoll, the Vice President of THE CHASE MANHATTAN BANK, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said THE CHASE MANHATTAN BANK, a New York banking corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 27<sup>th</sup> day of December, 1996.

[Signature]  
Notary Public

My commission expires

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MICHAEL L. DORNBAUM  
Notary Public, State of New York  
No. 02D04859450  
Qualified in Nassau County 3  
Commission Expires April 21, 1998

SCHEDULE A

<b>Trademark Registrations</b>			
<b>Registration No.</b>	<b>Registration Date</b>	<b>Status</b>	<b>Mark</b>
1,795,891	9/28/93	Active	DRUMROLL
1,900,700	6/20/95	Active	KEGWRAP
1,901,761	6/27/95	Active	ZIPTANK
1,917,990	9/12/95	Active	STREAM SAVER
1,945,082	1/2/96	Active	XYGEL

<b>Trademark Application</b>			
<b>Application No.</b>	<b>Filing Date</b>	<b>Status</b>	<b>Mark</b>
75/042,004	1/11/96	Publication cleared on 12/9/96	VAPOR GUARD

**SCHEDULE B**

<b>Patents</b>			
<b>Patent No.</b>	<b>Issue Date</b>	<b>Maintenance Fee Status</b>	<b>Title</b>
4,242,769	1/6/81	None required; filed before 12/11/80	Anti-Exposure Inflatable Structure
5,118,558	6/2/92	Current	Laminate Material
5,140,980	8/25/92	Current	Hood Mask & Air Filter System
5,228,477	7/20/93	None due yet	Leak Preventing Device
5,368,395	11/29/94	None due yet	Flexible Storage Tank w/ Removable Liner
5,558,131	9/24/96	None due yet	Method & Apparatus for Blocking Fluid Through Conduit

<b>Patent Applications</b>			
<b>Serial Number</b>	<b>Filing Date</b>	<b>Status</b>	<b>Title</b>
08/459,670	6/2/95	Pending	
08/598,357	2/8/96	Pending; no action yet	