

MRO 5-12-00 MRO 5.12.00

05-30-2000



FORM PTO-1594 (Rev 5-93)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

101368800

To the Honorable Commissioner of

Patent and Trademark Office, please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

SPC ACQUISITION CORP.

Individual(s) citizenship:

Association:

General Partnership:

Limited Partnership:

Corporation - State: DELAWARE

Other:

Additional name(s) of conveying party(ies) attached? [] Yes [X] No

3. Nature of Conveyance:

- [] Assignment [] Merger
[X] Security Agreement [] Change of Name
[] Other

Execution Date: April 4, 2000

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

Name: GREATER BAY CORPORATE FINANCE, a division of Cupertino National Bank
Address: 1255 TREAT BOULEVARD, SUITE 160
City: WALNUT CREEK State: CA Zip: 94596

Individual(s) citizenship:

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 [x] No

4. Application number(s) or trademark number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2,295,065

Additional numbers attached? [] Yes [x] No

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

Name: Erin O'Brien
Internal Address: GRAY CARY WARE & FREIDENRICH
400 Hamilton Avenue
Palo Alto, California 94301

6 Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41) \$ 40.00

[x] Enclosed

[] Authorized to be charged to deposit account

8. Deposit account number: _____

(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.

Erin O'Brien
Name of Person Signing

[Signature]
Signature

May 11, 2000
Date

Total number of pages comprising cover sheet: [10]

Mail Documents to be recorded with required cover sheet information to:
U.S. Patent and Trademark Office, Office of Public Records
1213 Jefferson Davis Highway, 3rd Floor
Arlington, VA 22202

05/26/2000 JSHADAZZ 00000101 2295065

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INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (the "Agreement") is made as of April 4, 2000, by and between SPC ACQUISITION CORP., a Delaware corporation ("Grantor"), and GREATER BAY CORPORATE FINANCE, a division of Cupertino National Bank ("Secured Party").

RECITALS

A. Secured Party has agreed to make certain advances of money and to extend certain financial accommodations to Grantor (the "Loans") in the amounts and manner set forth in those certain Secured Promissory Notes, dated as of April 4, 2000, and that certain Revolving Facility Note, dated April 4, 2000 (collectively the "Notes") and that certain Loan and Security Agreement, dated as of April 4, 2000 (the "Security Agreement") (the Notes and the Security Agreement, collectively the "Loan Documents;" all capitalized terms used herein without definition shall have the meanings ascribed to them in the Loan Documents).

B. Secured Party is willing to make the Loans to Grantor, but only upon the condition, among others, that Grantor shall grant to Secured Party a security interest in all of Grantor's right, title, and interest in, to and under all of the Intellectual Property Collateral (as hereinafter defined) whether presently existing or hereafter acquired.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Grant of Security Interest. As collateral security for the prompt and complete payment and performance of all of Grantor's present or future indebtedness, obligations and liabilities to Secured Party under the Loan Documents, Grantor hereby grants a security interest and mortgage to Secured Party, as security, in and to Grantor's entire right, title and interest in, to and under the following (all of which shall collectively be called the "Intellectual Property Collateral"):

(a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the "Copyrights");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights which may be owned by Grantor now or hereafter existing, created, acquired or held;

(d) All patents, patent applications and like protections including without limitation improvements, divisions, continuations, renewals, reissues, extensions and

continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "Patents");

(e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "Trademarks");

(f) Any and all claims for damages by way of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above ;

(g) All licenses or other rights to use any of the Copyrights, Patents or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(h) All amendments, renewals and extensions of any of the Copyrights, Trademarks or Patents; and

(i) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

2. Authorization and Request. Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this security agreement.

3. Covenants and Warranties. Grantor represents, warrants, covenants and agrees as follows:

(a) Grantor is now the sole owner of the Intellectual Property Collateral, except for licenses granted by Grantor to its customers in the ordinary course of business;

(b) Performance of this Agreement does not conflict with or result in a breach of any agreement to which Grantor is party or by which Grantor is bound;

(c) During the term of this Agreement, Grantor will not transfer or otherwise encumber any interest in the Intellectual Property Collateral, except for licenses granted by Grantor in the ordinary course of business or as set forth in this Agreement;

(d) To its knowledge, each of the Patents is valid and enforceable, and no part of the Intellectual Property Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual Property Collateral violates the rights of any third party;

(e) Grantor shall deliver to Secured Party within forty-five (45) days of the last day of each Fiscal Year, a report signed by Grantor, in form reasonably acceptable to Secured Party, listing any applications or registrations that Grantor has made or filed in respect

of any patents, copyrights or trademarks and the status of any outstanding applications or registrations;

(f) Grantor shall (i) protect, defend and maintain the validity and enforceability of the Trademarks, Patents and Copyrights, subject to Grantor's reasonable business judgments as to the value of the Trademarks, Patents or Copyrights and the cost of such defense and (ii) use its commercially reasonable efforts to detect infringements of the Trademarks, Patents and Copyrights and promptly advise Secured Party in writing of material infringements detected if the failure to do so will result in a Material Adverse Effect;

(g) Grantor shall, from time to time, execute and file such other instruments, and take such further actions as Secured Party may reasonably request from time to time to perfect or continue the perfection of Secured Party's interest in the Intellectual Property Collateral;

(h) This Agreement creates, to the extent not contrary to law and in the case of after acquired Intellectual Property Collateral, this Agreement will create at the time Grantor first has rights in such after acquired Intellectual Property Collateral, in favor of Secured Party a valid and perfected first priority security interest in the Intellectual Property Collateral in the United States securing the payment and performance of the obligations evidenced by the Loan Documents upon making the filings referred to in clause (j) below;

(i) All information heretofore, herein or hereafter supplied to Secured Party by or on behalf of Grantor with respect to the Intellectual Property Collateral is accurate and complete in all material respects; and

(j) Upon any executive officer of Grantor obtaining actual knowledge thereof, Grantor will promptly notify Secured Party in writing of any event that materially adversely affects the value of any Intellectual Property Collateral, the ability of Grantor to dispose of any Intellectual Property Collateral or the rights and remedies of Secured Party in relation thereto, including the levy of any legal process against any of the Intellectual Property Collateral.

4. Secured Party's Rights. Secured Party shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor is required under this Agreement to take but which Grantor fails to take, after fifteen (15) days' notice to Grantor. Grantor shall reimburse and indemnify Secured Party for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this section 4.

5. Further Assurances; Attorney in Fact.

(a) On a continuing basis, Grantor will, subject to any prior or prospective licenses, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Secured Party, to perfect Secured Party's security interest in all Copyrights, Patents and Trademarks and otherwise to carry out the intent

and purposes of this Agreement, or for assuring and confirming to Secured Party the grant or perfection of a security interest in all Intellectual Property Collateral.

(b) Grantor hereby irrevocably appoints Secured Party as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, from time to time in Secured Party's discretion, upon the occurrence of an Event of Default and upon Grantor's failure or inability to do so, to take any action and to execute any instrument which Secured Party may reasonably deem necessary or advisable to accomplish the purposes of this Agreement, including (i) to modify, in its reasonable discretion, this Agreement without first obtaining Grantor's approval of or signature to such modification by amending Exhibit A, Exhibit B and Exhibit C, thereof, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents or Trademarks acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents or Trademarks in which Grantor no longer has or claims any right, title or interest, (ii) to file, in its reasonable discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Intellectual Property Collateral without the signature of Grantor where permitted by law and (iii) to transfer the Intellectual Property Collateral into the name of Bank or a third party to the extent permitted under the California Uniform Commercial Code.

6. Release. At such time as Grantor shall satisfy all of its indebtedness and obligations to Secured Party, Secured Party shall execute and deliver to Grantor all releases and other instruments as may be reasonably necessary or proper to terminate Secured Party's security interest in the Intellectual Property Collateral

7. Confidentiality. In handling any confidential information of Grantor, Secured Party shall exercise at least the same degree of care that it exercises with respect to its own confidential information of the same types to maintain the confidentiality of any non-public information thereby received or received pursuant to this Agreement, except that the disclosure of information may be made (a) to prospective transferees or purchasers of an interest in the obligations secured hereby, provided that they have entered into a comparable confidentiality agreement in favor of Grantor and have delivered a copy to Grantor, (b) as required by law, regulation, rule, subpoena, judicial order or similar order, (c) as may be required in connection with the examination, audit or similar investigation of Secured Party, and (d) as Secured Party may determine in connection with the enforcement of any remedies hereunder. Confidential information hereunder shall not include information that either: (a) is in the public domain or in the knowledge or possession of Secured Party when disclosed to Secured Party, or becomes part of the public domain after disclosure to Secured Party through no fault of Secured Party; or (b) is disclosed to Secured Party by a third party, provided Secured Party does not have actual knowledge that such third party is prohibited from disclosing such information.

8. Course of Dealing. No course of dealing, nor any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

9. Attorneys' Fees. If any action relating to this Agreement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements.

10. Amendments. This Agreement may be amended only by a written instrument signed by both parties hereto.

11. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

12. California Law and Jurisdiction; Jury Waiver. This Agreement shall be governed by the laws of the State of California, without regard for choice of law provisions. Grantor and Secured Party consent to the exclusive jurisdiction of any state or federal court located in Santa Clara County, California. GRANTOR AND SECURED PARTY EACH WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THE LOAN DOCUMENTS, THIS AGREEMENT, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS.

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

GRANTOR:

Address of Grantor:

8910 University Center Lane, Ste. 660
San Diego, CA 92122

Attn: Treasurer

SPC ACQUISITION CORP,
a Delaware corporation

By: 

Name: Roberto J. Cavazos Jr
Print

Title: Treasurer

SECURED PARTY

Address of Secured Party:

1255 Treat Boulevard, Ste. 160
Walnut Creek, CA 94596

Attn: Account Officer

GREATER BAY CORPORATE FINANCE,
a division of Cupertino National Bank

By: Mark McElwain

Name: Mark McElwain

Title: Vice President, Relationship Manager

EXHIBIT A

Copyrights

Description

Registration Number

Registration Date

None.

EXHIBIT B

Patents

<u>Description</u>	<u>Registration/Serial Number</u>	<u>Registration/Application Date</u>
Panel Mount Speaker Support System	Registration #5,400,412	March 21, 1995
Flush Mount Duplex-pivot Speaker Unit	Registration #D419,561	
Flush Mount Duplex Pivoting Speaker Unit design	Serial #29/098,850	January 7, 1999
Flush Mount Pivoting Speaker	Serial #09/226,970	January 7, 1999

EXHIBIT C

Trademarks

<u>Description</u>	<u>Registration/Application Number</u>	<u>Registration/Application Date</u>
SPEAKERCRAFT	Registration #2295065	November 30, 1999
WavePlane	Unregistered	
AcoustaCell	Unregistered	
WeatherCraft	Unregistered	
InstaLock	Unregistered	
SmartPath	Unregistered	
Hook Upz	Unregistered	
BassX	Unregistered	
Big Bang	Unregistered	
Whole House Audio	Unregistered	
AIM	Unregistered	