

08-26-2002

Form PTO-1594
(Rev. 03/01)
OMB No. 0651-0027 (exp. 5/31/2002)



U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

102201104

Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Wilbert, Inc.

8-21-02

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

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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: August 15, 2002

2. Name and address of receiving party(ies)

Name: Bank of America, N.A.

Internal

Address:

Street Address: 231 South LaSalle Street

City: Chicago State: IL Zip: 60667

- 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 No

OFFICE OF PUBLIC RECORDS
2002 AUG 21 PM 3:01
FINANCE SECTION

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

A. Trademark Application No.(s) _____
See continuation sheet

B. Trademark Registration No.(s) _____
See continuation sheet

Additional number(s) attached Yes No

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

Name: Nicole M. Walker

Internal Address: Neal, Gerber & Eisenberg

Street Address: Two North LaSalle Street

City: Chicago State: IL Zip: 60602-3801

6. Total number of applications and registrations involved: _____

17

7. Total fee (37 CFR 3.41).....\$ 440.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: _____

DO NOT USE THIS SPACE

9. Signature.

Nicole M. Walker
Name of Person Signing

August 20, 2002
Date

Total number of pages including cover sheet, attachments, and document: **13**

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

08/23/2002 TDIAZ1 00000062 78046123

01 FC:481 40.00 DP
02 FC:482 400.00 DP

TRADEMARK
REEL: 002568 FRAME: 0956

CONTINUATION SHEET (OF ITEM 4 A & B)

TRADEMARK NO.:
Applications:
78046123
Registrations:
1433917
1954902
2029260
2034169
2048764
2100074
1775242
2301636
1327045
1327046
1317025
2021276
1932297
1964552
1926678
1967292

TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT ("Agreement") made as of August 15, 2002, by and between **WILBERT, INC.**, an Illinois corporation (the "Borrower"), and **BANK OF AMERICA, N.A.** (the "Bank").

W I T N E S S E T H:

WHEREAS, Borrower and the Bank are parties to that certain Credit Agreement dated of even date herewith (as amended, modified, restated and supplemented from time to time, the "Credit Agreement"), pursuant to which the Bank has agreed to make loans and other extensions of credit to the Borrower;

WHEREAS, Borrower and the Bank are parties to that certain Security Agreement dated of even date herewith (as amended, modified, restated and supplemented from time to time, the "Security Agreement"), pursuant to which the Borrower has secured certain liabilities and obligations;

WHEREAS, Borrower has agreed to execute and deliver this Agreement (i) in order to secure the prompt and complete payment, observance and performance of all of the "Secured Liabilities" (as defined in the Security Agreement) and (ii) as a condition precedent to the Bank entering into the Credit Agreement;

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, Borrower agrees as follows:

1. Defined Terms.

(a) Unless otherwise defined herein, each capitalized term used herein that is defined in the Credit Agreement or the Security Agreement shall have the meaning specified for such term in the Credit Agreement or the Security Agreement.

(b) The words "hereof," "herein" and "hereunder" and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section references are to this Agreement unless otherwise specified.

(c) All terms defined in this Agreement in the singular shall have comparable meanings when used in the plural, and vice versa, unless otherwise specified.

2. Incorporation of Premises. The premises set forth above are incorporated into this Agreement by this reference hereto and are made a part hereof.

3. Incorporation of the Credit Agreement and the Security Agreement. The Credit Agreement and the Security Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto.

4. Security Interest in Trademarks. To secure the complete and timely payment, performance and satisfaction of all of the Secured Liabilities, Borrower hereby grants to Bank a security interest in, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale to the extent permitted by applicable law, all of Borrower's:

(a) now owned or existing and hereafter acquired or arising trademarks, registered trademarks, trademark applications, service marks, registered service marks and service mark applications, including, without limitation, the trademarks, registered trademarks, trademark applications, service marks, registered service marks and service mark applications listed on Schedule A attached hereto and made a part hereof, together with any good will connected with and symbolized by any such trademarks, trademark applications, service marks, registered service marks, service mark applications, and (i) all renewals thereof, (ii) 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, (iii) the right to sue for past, present and future infringements and dilutions thereof, and (iv) all of Borrower's rights corresponding thereto throughout the world (all of the foregoing trademarks, registered trademarks and trademark applications, and service marks, registered service marks and service mark applications, together with the items described in clauses (i)-(iv) in this paragraph 4(a), are sometimes hereinafter individually and/or collectively referred to as the "Trademarks"); and

(b) rights under or interest in any trademark license agreements or service mark license agreements with any other party to the extent permitted by and subject to such other agreements, whether Borrower is a licensee or licensor under any such license agreement, together with any goodwill connected with and symbolized by any such trademark license agreements or service mark license agreements, including, without limitation, those trademark license agreements and service mark license agreements listed on Schedule B attached hereto and made a part hereof, and the right to prepare for sale and sell any and all Inventory now or hereafter owned by Borrower and now or hereafter covered by such licenses (all of the foregoing are hereinafter referred to collectively as the "Licenses").

5. Restrictions on Future Agreements. Borrower will not, without Bank's prior written consent, take any action, and will use its commercially reasonable efforts not to permit any action to be taken by others, including, without limitation, licensees, or fail to take any action, which would in any respect affect the validity or enforcement of the Bank's security interest in the Trademarks and Licenses.

6. New Trademarks and Licenses. Borrower represents and warrants that (a) the Trademarks listed on Schedule A include all of the trademarks, registered trademarks, trademark applications, service marks, registered service marks and service mark applications now owned by Borrower, (b) the Licenses listed on Schedule B include all of the trademark license agreements and service mark license agreements pursuant to which Borrower is the licensee or

licensor thereunder and (c) no other liens, claims or security interests have been granted by Borrower to any other Person in such Trademarks and Licenses. If, prior to the termination of this Agreement, Borrower shall (i) obtain rights to any new trademarks, registered trademarks, trademark applications, service marks, registered service marks or service mark applications, (ii) become entitled to the benefit of any trademarks, registered trademarks, trademark applications, trademark licenses, trademark license renewals, service marks, registered service marks, service mark applications, service mark licenses or service mark license renewals whether as licensee or licensor, or (iii) enter into any new trademark license agreement or service mark license agreement, the provisions of paragraph 4 above shall automatically apply thereto. Borrower shall give to Bank written notice of events described in clauses (i), (ii) and (iii) of the preceding sentence on a quarterly basis. Borrower hereby authorizes Bank to modify this Agreement by amending Schedule A to include any future trademarks, registered trademarks, trademark applications, service marks, registered service marks and service mark applications and by amending Schedule B to include any future trademark license agreements and service mark license agreements, which are Trademarks or Licenses under paragraph 4 above or under this paragraph 6.

7. Royalties. Borrower hereby agrees that the use by Bank of the Trademarks and the Licenses as authorized hereunder in connection with the exercise of its remedies under paragraph 16 shall be coextensive with Borrower's rights thereunder and with respect thereto and without any liability for royalties or other related charges from Bank to Borrower.

8. Right to Inspect; Further Assignments and Security Interests. The Bank may at all reasonable times upon reasonable prior notice to Borrower (and at any time when an Event of Default or Unmatured Event of Default exists) have access to, examine, audit, make copies (at Borrower's expense) and extracts from and inspect Borrower's premises and examine Borrower's books, records and operations relating to the Trademarks and the Licenses, including, without limitation, Borrower's quality control processes; provided that, in conducting such inspections and examinations, Bank shall use reasonable efforts not to unnecessarily disturb the conduct of Borrower's ordinary business operations. From and after the occurrence of an Event of Default, Borrower agrees that Bank, or a conservator appointed by Bank, shall have the right to establish such reasonable additional product and service quality controls as Bank or such conservator, in its commercially reasonable judgment, may deem necessary to assure maintenance of the quality of products and services sold by Borrower under the Trademarks and the Licenses. Borrower agrees (a) not to sell or assign its interest in the Trademarks or the Licenses without the prior and express written consent of Bank which consent will not be unreasonably withheld, (b) to maintain the quality of said products and services as of the date hereof, and (c) not to change the quality of such products or services in any material respect without Bank's prior and express written consent which consent will not be unreasonably withheld.

9. Termination of Bank's Security Interest. This Agreement is made for collateral security purposes only. Upon payment in full of all of the Secured Liabilities, this Agreement shall terminate and Bank shall promptly execute and deliver to the Borrower, at Borrower's expense, all termination statements and other instruments as may be necessary or proper to terminate Bank's security interest in the Trademarks and the Licenses (including, without

limitation, a Release in the Form attached hereto as Exhibit A), subject to any disposition thereof which may have been made by Bank pursuant to this Agreement or the Credit Agreement.

10. Duties of Borrower. Borrower shall have the duty, to the extent desirable in the normal conduct of Borrower's business and at the Borrower's commercially reasonable discretion, to: (a) prosecute diligently any trademark application or service mark application that is part of the Trademarks pending as of the date hereof or thereafter until the termination of this Agreement, and (b) make application for trademarks or service marks. Borrower further agrees (i) not to abandon any Trademark or License necessary in the operation of the Borrower's business without the prior written consent of Bank and (ii) to use its best efforts to maintain in full force and effect the Trademarks and Licenses, that are or shall be necessary or economically desirable in the operation of Borrower's business. Any expenses incurred in connection with the foregoing shall be borne by Borrower. Borrower has no obligation to register marks not currently registered or in pending application for registration.

11. Bank's Right to Sue. From and after the occurrence of an Event of Default, Bank shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Trademarks and Licenses and, if Bank shall commence any such suit, Borrower shall, at the request of Bank, do any and all lawful acts and execute any and all proper documents required by Bank in aid of such enforcement. Borrower shall, upon demand, promptly reimburse Bank for all costs and expenses incurred by Bank in the exercise of its rights under this paragraph 11 (including, without limitation, reasonable fees and expenses of attorneys and paralegals for Bank).

12. Waivers. Bank's failure, at any time or times hereafter, to require strict performance by Borrower of any provision of this Agreement shall not waive, affect or diminish any right of Bank thereafter to demand strict compliance and performance therewith nor shall any course of dealing between Borrower and Bank have such effect. No single or partial exercise of any right hereunder shall preclude any other or further exercise thereof or the exercise of any other right. None of the undertakings, agreements, warranties, covenants and representations of Borrower contained in this Agreement shall be deemed to have been suspended or waived by Bank unless such suspension or waiver is in writing signed by an officer of Bank and directed to Borrower specifying such suspension or waiver.

13. Bank's Exercise of Rights and Remedies upon an Event of Default. Notwithstanding anything set forth herein to the contrary, it is hereby expressly agreed that upon the occurrence of an Event of Default, Bank may exercise any of the rights and remedies provided in this Agreement, the Credit Agreement, the Security Agreement and any other Loan Documents.

14. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but 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 hereof, 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.

15. Modification. This Agreement (including the Schedules) cannot be altered, amended or modified in any way, except as specifically provided in paragraphs 4 and 6 hereof or by a writing signed by the parties hereto.

16. Cumulative Remedies; Power of Attorney. All of Bank's rights and remedies with respect to the Trademarks and the Licenses, whether established hereby, by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently. From and after the occurrence of an uncured Event of Default and the giving of written notice by Bank to Borrower of Bank's intention to enforce its rights and claims against Borrower, Borrower hereby irrevocably designates, constitutes and appoints Bank as Borrower's true and lawful attorney-in- fact, and authorizes Bank and any of Bank's designees, in Borrower's or Bank's name, from and after the occurrence of an Event of Default, to (a) endorse Borrower's name on all applications, documents, papers and instruments necessary or desirable for Bank in the use of the Trademarks or the Licenses, (b) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks or the Licenses to anyone on commercially reasonable terms, (c) grant or issue any exclusive or nonexclusive license under the Trademarks or, to the extent permitted, under the Licenses, to anyone on commercially reasonable terms, and (d) take any other actions with respect to the Trademarks or the Licenses as Bank deems in its best interest. Bank shall take no action pursuant to subparagraphs (a), (b), (c) or (d) of this paragraph 16 without taking like action with respect to the entire goodwill of Borrower's business connected with the use of, and symbolized by, such Trademarks or Licenses. Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable until all of the Secured Liabilities shall have been paid in full. Borrower acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of Bank under the Credit Agreement, but rather is intended to facilitate the exercise of such rights and remedies. Bank 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 Trademarks or the Licenses may be located or deemed located.

17. Successors and Assigns. This Agreement shall be binding upon Borrower and its successors and assigns, and shall inure to the benefit of Bank and its successors and assigns. Borrower's successors and assigns shall include, without limitation, a receiver, trustee or debtor-in-possession to the extent that any of the foregoing are considered to be a successor or assign of or for the Borrower; provided, however, that Borrower shall not voluntarily assign or transfer its rights or obligations hereunder without Bank's prior written consent.

18. Governing Law. This Agreement shall be construed and enforced and the rights and duties of the parties shall be governed by in all respects in accordance with the internal laws (as opposed to conflicts of law provisions) of the State of Illinois.

19. Notices. All notices or other communications hereunder shall be given in the manner and to the addresses set forth in the Credit Agreement.

20. Bank's Duty. Bank shall not have any duty with respect to the Trademarks or the Licenses. Without limiting the generality of the foregoing, Bank shall not be under any


obligation to take any steps necessary to preserve rights in the Trademarks or the Licenses against any other parties, but may do so at its option, and all expenses incurred in connection therewith shall be for the sole account of Borrower and added to the Obligations secured hereby.

21. Section Titles. The section titles herein are for convenience of reference only, and shall not affect in any way the interpretation of any of the provisions hereof.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date set forth above.

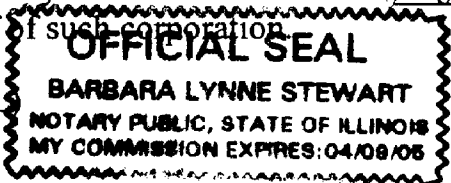
WILBERT, INC., an Illinois corporation

By: 
Title: Special Vice President
Chief Financial Officer
and Secretary
BANK OF AMERICA, N.A.

By: 
Title: Vice President

STATE OF Illinois)
) SS
COUNTY OF Cook)

The foregoing Trademark Security Agreement was executed and acknowledged before me this 13th day of August, 2002, by Raymond P. Kilaboy, personally known to me to be the Secretary of WILBERT, INC., on behalf of such corporation.

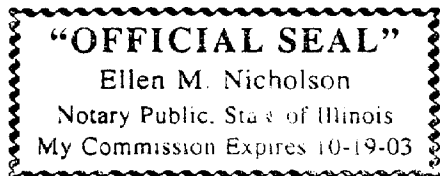


(SEAL) Barbara Lynne Stewart
Notary Public Barbara Lynne Stewart
County, Cook
My commission expires: 4/9/05

STATE OF Illinois)
) SS
COUNTY OF COOK)

The foregoing Trademark Security Agreement was executed and acknowledged before me this 15th day of August, 2002, by Edward R. Sleeper, personally known to me to be the VPce President of BANK OF AMERICA, N.A., on behalf of such corporation.

(SEAL)



Ellen M. Nicholson
Notary Public Ellen M. Nicholson
County, COOK
My commission expires: 10-19-03

Schedule A
to
Trademark Security Agreement

Dated as of August 15, 2002

Trademarks

COUNTRYID	APPNO	REGNO	TMARK	FILE	REG
BX	661,935	396,355	BIG PAK	11/29/1983	07/06/1984
CA	512,001	314070	BIG PAK	11/08/1983	05/09/1986
CN		1452956	BIG PAK		10/06/2000
CO	230,986	121686	BIG PAK	04/03/1984	06/08/1988
EG	63614	83,397	BIG PAK	06/06/1992	05/18/1996
ID	N/A	211,173	BIG PAK	11/19/1986	11/19/1986
IT	35650	458,504	BIG PAK	11/18/1983	12/09/1986
JP	119,461/83	1,887,660	BIG PAK	12/20/1983	09/29/1986
JP	68,617	2,009,747	BIG PAK	12/20/1983	12/18/1987
KR	15,640/1983	105481	BIG PAK	11/12/1983	09/29/1984
MX	229,010	306,351	BIG PAK	01/31/1984	04/01/1985
MY	85/04485		BIG PAK	10/16/1985	
PH	107476	4-1996-109139	BIG PAK	04/17/1996	02/21/2000
TH	300683	Kor41968	BIG PAK	01/14/1986	01/14/1986
TW	84047605	745371	BIG PAK		01/16/1997
US	570,611	1,433,917	BIG PAK	11/27/1985	03/24/1987
ZA	83/8262	83/8262	BIG PAK	11/14/1983	11/14/1983
US	74/647,651	1,954,902	DC	03/16/1995	02/06/1996
US	74/662,846	2,029,260	EVER-LOK	04/19/1995	01/07/1997
US	74/565,457	2,034,169	MANY HAPPY	08/25/1994	01/28/1997
US	75/005,785	2,048,764	OUT-N-BACK PAK	10/16/1995	04/01/1997
US	75/016,877	2,100,074	RAKABL-PAK	11/08/1995	09/23/1997
US	74/285,768	1,775,242	RE-CY	06/16/1992	06/08/1993
US	75/482,985	2,301,636	THE PLASTICS	05/11/1998	12/21/1999
US	492,052	1,327,045	WATER BOY	07/27/1984	03/26/1985
US	492,116	1,327,046	WATERBOY and	07/27/1984	03/26/1985
US	478,469	1,317,025	WEIGHTLIFTER	05/02/1984	01/29/1985
US	74/595,459	2,021,276	WOLF-PAK	11/04/1994	12/03/1996
US	74/498,632	1,932,297	TRIENDA and	03/04/1994	10/31/1995
US	74/498,738	1,964,552	TRIENDA and	03/04/1994	03/26/1996
EU	635086	635086	TRIENDA	09/08/1997	05/18/1999
US	74/497,140	1,926,678	TRIENDA	03/04/1994	10/10/1995
US	74/498,733	1,967,292	TRIENDA	03/04/1994	04/09/1996
BR	811862623	811862623	BIG PAK BY	01/15/1985	03/25/1986
CH	6718	331,256	BIG PAK BY	05/24/1984	05/24/1984
DE	B79229/20	1098371	BIG PAK BY	04/12/1986	10/29/1986
GB	1235394	1,235,394	BIG PAK BY	02/08/1985	02/08/1985
GT	M-6313-6	093618	BIG PAK BY	08/16/1996	04/06/1999
HK	B2811/1989	B2811/1989	BIG PAK BY	02/24/1988	02/24/1988
SE	85-4335	204,365	BIG PAK BY	06/14/1985	02/13/1987
VE	5979-85	128,877	BIG PAK BY	05/29/1985	03/25/1987
US	78/046,123		FREE-RIDE	02/01/2001	

**Schedule B
to
Trademark Security Agreement**

Dated as of August 15, 2002

Licenses

None.