

10-09-1998

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09-22-1998

Patents and Trademarks: Please

100847875

1. Name of Mailing Agent:

U.S. Patent & TMO for TM Mail Ropt Dt. #54



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

Name: **Citizens Bank of Massachusetts**

Internal Address: _____

Street Address: 28 State Street

City: Boston State: Massachusetts ZIP: 02109

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

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State _____
- Other **Massachusetts Trust Company**

Additional name(s) of conveying party(ies) attached?

Yes No

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No

3. Nature of conveyance:

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

(Designations must be a separate document from Assignment)

Execution Date: September 10, 1998

Additional name(s) & address(es) attached? Yes No

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

A. Trademark Application No.(s)

B. Trademark registration No.(s)- see attached

Additional numbers attached? Yes No

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

Name: Thomas W. Brooke
Internal Address: GADSBY & HANNAH LLP

Street Address: 1747 Pennsylvania Avenue, NW

City: Washington State: DC ZIP: 20006

6. Total number of applications and registrations involved: _____

15

7. Total fee (37 CFR 3.41): _____ \$390.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: _____

(Attach duplicate copy of this page if paying by deposit account)

10/06/1998 DNGUYEN 00000161 1068987

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01 FC:481
02 FC:482

40.00 OP
350.00 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.

Mark Iskowitz
Name of Person Signing

Mark Iskowitz
Signature

9/21/98
Date

Total number of pages comprising cover sheet: _____

10

OMB No. 0651-0011 (exp. 4/94)

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Mail documents to be recorded with required cover sheet information to:

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Washington, D.C. 20231

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TRADEMARK
REEL: 1797 FRAME: 0387

ADDITIONAL ASSIGNEE

CITIZENS BANK OF RHODE ISLAND
(Rhode Island trust company)
One Citizens Plaza
Providence, Rhode Island 02903

TRADEMARKS

<u>Trademark Title</u>	<u>Registration No.</u>	<u>Issue Date</u>
MODUFORM	1,068,987	07/05/77
MODUFORUM	1,202,689	07/27/82
MODU FRAME	1,237,365	05/10/83
MODU FORMULA	1,260,724	12/13/83
MODU BLOCK	1,284,354	07/03/84
MODUCHROME	1,314,655	01/15/85
MODUSEAT	1,367,680	10/29/85
MODU TRACK	1,369,040	11/05/85
MODUGUARD	1,675,886	02/18/92
WET LOCK	1,642,832	04/30/91
MODUPEDIC	1,828,305	03/29/94
MODUPOLITAN	1,827,506	03/22/94
MODUROCKER	1,871,361	01/03/95
MODUCLASSIC	1,831,368	04/19/94
MODUESQUE	1,835,471	05/10/94

SCHEDULE A
to
TRADEMARK AGREEMENT

PATENTS

<u>Patent Title</u>	<u>Patent Number</u>	<u>Issue Date</u>
Reclining Patient Chair	Des. 358,789	05/30/95
Rotatable Seat	5,104,183	04/14/92
Modular Seclusion Room	4,843,788	07/04/89
Tamper Resistant Fastener and Tool for Operating Same	4,018,111	04/19/77
Neoprene Foam of Increased Continuous Volume	4,681,901	07/21/87
Weightable Table	5,634,410	06/03/97

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MODUESQUE	1,835,471	05/10/94

COLLATERAL ASSIGNMENT OF PATENTS AND TRADEMARKS

This **COLLATERAL ASSIGNMENT OF PATENTS AND TRADEMARKS** ("Assignment") dated as of the 10th day of September, 1998, by and between **Modu Form, Inc.**, a Massachusetts corporation having its principal place of business at 172 Industrial Road, Fitchburg, Massachusetts 01420-0400 ("Borrower"), and **Citizens Bank of Massachusetts**, a Massachusetts trust company having its principal place of business at 28 State Street, Boston, Massachusetts 02109 ("Lender") and **Citizens Bank of Rhode Island**, a Rhode Island trust company having an office at One Citizens Plaza, Providence, Rhode Island 02903 ("Letter of Credit Bank", and together with Lender, "Secured Party").

Capitalized terms used herein without definition shall have the respective meanings provided therefor in the Loan Agreement referred to below.

WHEREAS, Borrower and the Weissman Realty Trust (the "Trust") have requested Lender to enter into a certain Revolving Credit and Term Loan Agreement of even date herewith (the "Loan Agreement") pursuant to which the Lender will make loans to the Borrower and the Trust upon the terms and subject to conditions set forth therein; and

WHEREAS, pursuant to a certain Letter of Credit and Reimbursement Agreement of even date herewith between the Trust and the Letter of Credit Bank (the "Reimbursement Agreement"), the Letter of Credit Bank has issued the Letters of Credit (as defined in the Reimbursement Agreement) for the account of the Trust; and

WHEREAS, pursuant to a certain Guaranty of even date herewith, made by Borrower in favor of Lender, Borrower has guaranteed the obligations of the Trust under the Loan Agreement, the Reimbursement Agreement and the other Loan Documents; and

WHEREAS, Lender is unwilling to enter into the Loan Agreement and the Letter of Credit Bank is unwilling to enter into the Reimbursement Agreement or to make any loans or extend credit thereunder unless, inter alia, the Borrower shall execute and deliver this Assignment and grant the security interest herein provided.

NOW, THEREFORE, in order to induce the Lender to enter into the Loan Agreement and the Letter of Credit Bank to enter into the Reimbursement Agreement and to make or extend to the Borrower one or more loans, advances or other extensions of credit, and in consideration thereof, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. The Borrower hereby grants, assigns and conveys to the Secured Party a continuing security interest in all patents, trademarks and service marks and United States, state and foreign registrations thereof, and applications therefor, that are listed on Schedule A hereto, or that correspond with any patents, trademarks or service marks therein listed, together with the goodwill of the business with which the foregoing patents, trademarks and service marks are used, and the right to sue for past, present and future infringements of rights in such patents, trademarks and service marks and all renewals thereof, and all proceeds of the foregoing including, but not limited to, proceeds of licensing (collectively, the "Intellectual Properties"). The security interest granted, assigned and conveyed hereby is so granted, assigned and conveyed as security for the prompt and unconditional payment of the Obligations (as hereinafter defined). As used herein, "Obligations" means:

(a) Any and all indebtedness and obligations of the Borrower to the Secured Party under the Notes or under any agreement or instrument relating thereto, all as may be amended, restated, or amended and restated from time to time;

(b) Any and all other indebtedness and obligations of the Borrower to the Secured Party, whether direct or indirect, absolute or contingent, due or to become due or now existing or hereafter arising, and whether pursuant to any of the Loan Documents or otherwise; and

(c) all costs and expenses incurred or paid by Secured Party in respect of the foregoing, including without limitation, costs of collection, reasonable attorneys' or other professional fees and disbursements, and court costs and expenses, and all obligations and liabilities that Secured Party may incur or become liable for on account of or as a result of any transactions between Secured Party and any guarantor, or action brought or threatened against Secured Party by any guarantor or any endorser of the Obligations and/or by any third party on account of any and all damages, losses, liabilities, penalties, claims, litigation, demands, suits, proceedings, judgments, costs, expenses or fees thereto, including reasonable attorneys' fees, which may at any time be imposed upon, incurred or asserted or awarded against Secured Party arising therefrom.

2. The Borrower represents and warrants to the Secured Party as follows:

(a) The Borrower is the sole owner of the entire right, title and interest in and to each of the Intellectual Properties, free from any mortgage, pledge, lien, security interest, charge, adverse claim or other encumbrance including, without limitation, licenses, and covenants not to sue, except the security interest and conditional assignment herein granted, and except for any prior security interest granted to, and lien in favor of, the Secured Party.

(b) As of the date hereof, each of the Intellectual Properties (except for any application) listed on Schedule A is valid and enforceable, and they constitute all patents, trademarks and service marks now owned or used by the Borrower.

(c) The Intellectual Properties are subsisting and have not been adjudged invalid or unenforceable, in whole or in part.

(d) The execution, delivery and performance of this Assignment are within the power of the Borrower and have been duly authorized by all necessary corporate action and do not contravene any law, rule, regulation or any judgment, decree or order of any tribunal or of any agreement to which the Borrower is a party or by which any of its property is bound.

3. The Borrower shall defend in good faith the Intellectual Properties against all claims and demands of all persons at any time claiming any rights to or ownership thereof, or any interests therein, adverse to the Secured Party. Until the Obligations shall have been satisfied in full, the Borrower shall not pledge, mortgage or create or suffer to exist a security interest in, or enter into any license, sublicense or other agreement relating to the use of, the Intellectual Properties, without the Secured Party's prior consent.

4. The Borrower shall promptly apply for and obtain all federal renewals or extensions of the Intellectual Properties to the full extent permitted by law, and Secured Party will use its reasonable efforts to assist in any such renewals. If, before all Obligations have been

satisfied in full, the Borrower applies for or obtains any new patent, trademark or service mark, the Borrower shall give the Secured Party prompt written notice of all patents, trademarks or service marks or applications therefor, and the provisions of this Assignment shall apply thereto. The Borrower authorizes the Secured Party to modify this Assignment by amending Schedule A to include any new patent, trademark or service mark or applications therefor, and any patent, trademark or service mark renewal of the Borrower applied for and obtained hereafter. Borrower shall not abandon any of the Intellectual Properties or the prosecution of any application for any patents, trademarks or service marks without the prior written consent of the Secured Party, which consent will not be unreasonably withheld or delayed.

5. The Borrower shall promptly notify the Secured Party of the institution of, and any adverse determination in, any proceeding in the United States Patent and Trademark Office or any other foreign or domestic governmental agency, court or body, regarding the Borrower's claim of ownership in any of the Intellectual Properties. In the event of any material infringement of any of the Intellectual Properties by a third party, the Borrower shall promptly notify the Secured Party of such infringement and sue for and recover all damages for such infringement. If the Borrower shall fail to take such action within three (3) months after such notice is given to the Secured Party, the Secured Party may, but shall not be required to, itself take such action in the name of the Borrower, and the Borrower hereby appoints the Secured Party the true and lawful attorney of the Borrower, for it and in its name, place and stead, on behalf of the Borrower, to commence judicial proceedings in any court or before any other tribunal to enjoin and recover damages for such infringement, any such damages due to the Borrower, net of costs and attorneys' fees, to be applied to the Obligations.

6. (a) The Borrower shall, at its sole expense, do, make, execute and deliver all such reasonable additional and further acts, things, deeds, assurances, and instruments, in each case in form and substance reasonably satisfactory to the Secured Party, relating to the creation, validity, or perfection of the security interests and assignments provided for in this Assignment under 15 U.S.C. Section 1051 et seq., the Uniform Commercial Code or other laws of the United States or The Commonwealth of Massachusetts or of any other countries or states as the Secured Party may from time to time request, and as may be legally required to more completely vest in and assure to the Secured Party its rights hereunder or in any of the Intellectual Properties, and the Borrower hereby irrevocably authorizes the Secured Party or its designee, at the Borrower's expense, to execute such documents, and file such financing statements with respect thereto with or without the Borrower's signature, as may be so required. In the event that any rerecording or refile (or the filing of any statement of continuation or assignment of any financing statement) or any repledge or reassignment, or any other action, is required at any time to protect and preserve such security interest and assignments, the Borrower shall, at its sole cost and expense, cause the same to be done or taken at such time and in such manner as may be necessary and as may be requested by the Secured Party.

(b) The Secured Party is hereby irrevocably appointed by the Borrower as its lawful attorney and agent, with full power of substitution to execute and deliver on behalf of and in the name of the Borrower, such financing statements, assignments, pledges, amendments and other documents and agreements, and to take such other action as may be so required for the purpose of perfecting, protecting or effecting the security interests and assignments granted herein and effected hereby, and any mortgages or liens necessary or desirable to implement or effectuate the same, under any applicable law, and the Secured Party is hereby authorized to file on behalf of and in the name of the Borrower at the Borrower's sole expense, such financing statement, assignments, documents, and agreements in any appropriate governmental office.

7. (a) If any default or event of default under the Loan Agreement or any other Loan Document (an "Event of Default") shall have occurred and be continuing, the Secured Party may without notice or demand declare this Assignment to be in default and the Secured Party shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code, including the right to dispose of the Intellectual Properties at public or private sale. The Secured Party shall give to the Borrower at least ten (10) days' prior written notice (which the Borrower agrees is "reasonable notification" within the meaning of Section 9-504(3) of the Uniform Commercial Code) of the time and place of any public sale of the Intellectual Properties or of the time after which any private sale or any other intended disposition is to be made.

(b) To the extent permitted by applicable law, the Borrower hereby waives any and all rights that it may have to judicial hearing in advance of the enforcement of any of the Secured Party's rights hereunder, including its rights following any Event of Default to take immediate possession of the Intellectual Properties and exercise its rights with respect thereto.

(c) The Secured Party shall not be required to marshal any present or future security for (including, but not limited to, this Assignment and the Intellectual Properties subject to a security interest hereunder), or guaranties of, the Obligations or any of them, or to resort to such security or guaranties in any particular order; and all of the rights hereunder and in respect of such security and guaranties shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, the Borrower hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of the Secured Party's rights under this Assignment or any other instrument evidencing any of the Obligations or by which any of the Obligations is secured or guaranteed, and to the extent that it lawfully may the Borrower hereby irrevocably waives the benefits of all such laws.

8. Except for notices specifically provided for herein, the Borrower hereby expressly waives demand, notice, protest, notice of acceptance of this Assignment, notice of loans made, credit extended, collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect both to the Obligations and any collateral therefor, the Borrower assents to any extension or postponement of the time of payment or any other indulgence, to any substitution of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as the Secured Party may deem advisable. The Secured Party shall have no duty as to the protection of the Intellectual Properties or any income thereon, nor as to the preservation or rights against prior parties, nor as to the preservation of any rights pertaining thereto. The Secured Party may exercise its rights with respect to the Intellectual Properties without resorting, or regard, to other collateral or sources of reimbursement for liability. The Secured Party shall not be deemed to have waived any of its rights upon or under the Obligations or the Intellectual Properties unless such waiver be in writing and signed by the Secured Party. No delay or omission on the part of the Secured Party in exercising any right shall operate as a waiver of any right on any future occasion. All rights and remedies of the Secured Party on the Obligations or the Intellectual Properties, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly or concurrently.

9. (a) The Borrower will pay any and all reasonable (a) charges, costs and taxes incurred in implementing or subsequently amending this Assignment, including, without limitation, recording and filing fees, appraisal fees, stamp taxes, and fees and disbursements of the Secured Party's counsel incurred by the Secured Party, in connection with this Assignment, and (b) fees and disbursements incurred by the Secured Party in the preparation, execution and delivery of any waiver or consent by the Secured Party relating to this Assignment, and in the enforcement of this Assignment and in the enforcement or foreclosure of any liens, security interests or other rights of the Secured Party under this Assignment, or under any other documentation heretofore, now, or hereafter given to the Secured Party in furtherance of the transactions contemplated hereby.

(b) The Borrower agrees to reimburse the Secured Party for, and indemnify it against, any and all losses, expenses and liabilities (including liabilities for penalties) of whatever kind or nature sustained and reasonably incurred in connection with any claim, demand, suit or legal or arbitration proceeding relating to this Assignment, or the exercise of any rights or powers hereunder, including attorneys' fees and disbursements, except to the extent the foregoing are caused by the gross negligence or willful misconduct of the Secured Party.

10. The Borrower and the Secured Party may from time to time agree in writing to the release of certain of the Intellectual Properties from the security interest created hereby.

11. The Borrower shall hold the Secured Party harmless from any and all costs, damages and expenses which may be incurred by the Secured Party or the Borrower in connection with any action or failure to act by the Secured Party in connection with this Assignment, except to the extent that such is caused by the gross negligence or willful misconduct of the Secured Party.

12. This Assignment and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of the United States, and, to the extent that the laws of the United States are not applicable, by the laws of The Commonwealth of Massachusetts (without regard to principles of conflicts of laws). This Assignment is intended to take effect as a sealed instrument.

13. All notices hereunder shall be in writing and shall be given as provided in the Loan Agreement.

14. Upon payment and performance in full of the Obligations in accordance with their terms and the performance by the Borrower of all of its covenants and agreements with respect thereto and hereunder and under any other instrument securing any of the Obligations, this Assignment shall terminate, and the Secured Party shall execute any reassignments of the Intellectual Properties as may be reasonably necessary.

15. Neither this Assignment nor any term hereof may be changed, waived, discharged or terminated except by a written instrument expressly referring to this Assignment and to the provisions so modified or limited, and executed by all the parties hereto.

16. This Assignment and all obligations of the Borrower shall be binding upon the successors and assigns of the Borrower, and shall, together with the rights and remedies of the Secured Party hereunder, inure to the benefit of the Secured Party and its successors and assigns. If any term of this Assignment shall be held to be invalid, illegal or unenforceable, the validity of

all other terms hereof shall be in no way affected thereby, and this Assignment shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Borrower acknowledges receipt of a copy of this Assignment. Capitalized terms used herein without definition herein or in the Loan Agreement which are defined in the Uniform Commercial Code of Massachusetts have such defined meanings herein, unless the context otherwise indicates or requires.

17. Reference is made to the Security Agreement. In the event of a clear and direct conflict between the Security Agreement and this Assignment, the relevant provision of this Assignment shall be deemed to govern such direct conflict.

18 Unless the context of this Assignment otherwise clearly requires, references to the plural include the singular, references to the singular include the plural, the term "including" is not limiting and means "including without limitation", and the term "or" has the inclusive meaning represented by the phrase "and/or." The terms "hereof," "herein," "hereunder" and similar terms in this Assignment refer to this Assignment as a whole and not to any particular provision of this Assignment. Section, subsection, clause, exhibit and schedule references are to this Assignment unless otherwise specified. Any section and subsection headings used herein are included for convenience of reference only and shall not be applied in interpreting the meaning or intent of any text herein.

#

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Borrower has caused this Assignment to be executed by its duly authorized officer as of the date first above written.

MODUFORM, INC.

By: William L. Weissman
President

Accepted:

CITIZENS BANK OF MASSACHUSETTS

By: Bruce A. Bernier
Vice President

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Sept. 3, 1998

Then personally appeared the above-named, William L. Weissman, President, and acknowledged the foregoing instrument to be the free act and deed of Modu Form, Inc., before me.

Mary A. Maslowski
Notary Public
My commission expires: _____

MARY A. MASLOWSKI
Notary Public
My Commission Expires Sept. 13, 2002