

11-17-1998

COVER SHEET ONLY

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office



10-19-1998

100900751

U.S. Patent & TMO/TM Mail Rcpt Dt. #10

Commissioner of Patents and Trademarks

and the attached original documents or copy thereof.

1. Name of conveying party(ies):

WEDGESTONE AUTOMOTIVE CORP

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

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

3. Nature of conveyance:

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

Execution Date: SEPTEMBER 30, 1998

2. Name and address of receiving party(ies)

Name: FLEET CAPITAL CORPORATION

Internal Address:

Street Address: 200 GLASTONBURY BOULEVARD

City: GLASTONBURY State: CT ZIP: 06033

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

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

A. Trademark Application No.(s)

N/A

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: AMY L. BRADY

Internal Address: CSC

Street Address: 80 STATE STREET

City: ALBANY State: NY ZIP: 12207

6. Total number of applications and registrations involved: 5

7. Total fee (37 CFR 3.41) \$ 140.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

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

11/16/1998 JSMB/BAZZ 00000093 1085290

DO NOT USE THIS SPACE

FC:481 40.00 OP, FC:482 100.00 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.

TONYA CHAPPLE

Name of Person Signing

Tonya Chapple Signature

10/14/98

Date

Total number of pages including cover sheet, attachments, and document: 14

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

TRADEMARK REEL: 1814 FRAME: 0424

**SCHEDULE "A"**

**TRADEMARKS**

<b><u>Name</u></b>	<b><u>Registration Number</u></b>	<b><u>Date of Registration</u></b>
Tuff Bar	1,085,290	2/14/78 (renewed 2/14/98)
Diamondstep	1,9948,422	1/16/96
Contour	1,950,621	1/23/96
Surestep	1,950,620	1/23/96
Quad Tube	1,957,347	2/20/96

## TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement ("Agreement") is made as of the 30 day of September 1998, by WEDGESTONE AUTOMOTIVE CORP., a Delaware corporation ("Wedgestone"), having a mailing address at 5200 N. Irwindale Avenue, Suite 168 & 220, Irwindale, CA 91706, and delivered to FLEET CAPITAL CORPORATION ("Lender"), 200 Glastonbury Boulevard, Glastonbury, CT 06033.

### BACKGROUND

A. This Agreement is being executed contemporaneously with that certain Loan and Security Agreement of even date herewith among Wedgestone, Fey Automotive Products, Inc. ("Fey"), St. James Automotive Corp. ("St. James"), Sigma Plating Co., Inc. ("Sigma") and Monona Tube & Welding, Inc. ("Monona") (collectively, the "Borrowers") and Lender (collectively, as the Loan and Security Agreement may hereafter be supplemented, restated, amended, superseded or replaced from time to time, the "Loan Agreement"), under which Wedgestone is granting Lender a lien on and security interest in certain assets of Wedgestone associated with or relating to products leased or sold or services provided under Wedgestone's trademarks and the goodwill associated therewith, and under which Lender is entitled to foreclose or otherwise deal with such assets, trademarks, servicemarks and tradenames under the terms and conditions set forth therein. Capitalized terms not defined herein shall have the meanings given to such terms in the Loan Agreement.

B. Wedgestone has adopted, used and is using (or has filed applications for the registration of) the trademarks, servicemarks and tradenames listed on Schedule "A" attached hereto and made part hereof (all such marks or names hereinafter referred to as the "Trademarks").

C. Pursuant to the Loan Agreement, Lender is acquiring a lien on, and security interest in, the Trademarks, together with all the goodwill of Wedgestone associated therewith and represented thereby, as security for all of the Obligations, and desires to have its security interest in such Trademarks confirmed by a document identifying same and in such form that it may be recorded in the United States Patent and Trademark Office.

NOW THEREFORE, with the foregoing Background hereinafter deemed incorporated by reference and made a part hereof, and in consideration of the premises and mutual promises herein contained, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. In consideration of and pursuant to the terms of the Loan Documents, and for other good, valuable and sufficient consideration, the receipt of which is hereby acknowledged, and to

secure the Obligations, Wedgestone grants a lien and security interest to Lender in all of its present and future right, title and interest in and to the Trademarks, together with all the goodwill of Wedgestone associated with and represented by the Trademarks, and the registration thereof and the right (but not the obligation) to sue for past, present and future infringements, and the proceeds thereof, including, without limitation, license royalties and proceeds of infringement suits.

2. Wedgestone hereby covenants and agrees to maintain the Trademarks in full force and effect and otherwise perform all of its obligations and undertakings under this Agreement until all of the Obligations are indefeasibly paid and satisfied in full and the Revolving Credit Facility has been terminated.

3. Wedgestone represents, warrants and covenants that:

(a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable;

(b) Each of the Trademarks is valid and enforceable;

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

(d) Wedgestone has the unqualified right, power and authority to enter into this Agreement and perform its terms; and

(e) Wedgestone has complied with, and will continue for the duration of this Agreement to comply with, the requirements set forth in 15 U.S.C. §1051-1127 and any other applicable statutes, rules and regulations in connection with its use of the Trademarks.

4. Wedgestone further covenants that:

(a) Until all of the Obligations have been indefeasibly paid and satisfied in full and the Revolving Credit Facility has been terminated, Wedgestone will not enter into any agreement, including without limitation, license agreements or options, which are inconsistent with Wedgestone's obligations under this Agreement, except for agency, co-marketing and co-branding agreements.

(b) If Wedgestone acquires rights to any new trademarks, the provisions of this Agreement shall automatically apply thereto and such trademarks shall be deemed part of the Trademarks. Wedgestone shall give Lender written notice within twenty (20) days after the first use thereof along with an amended Schedule "A".

STATE OF :  
 : S.S.  
COUNTY OF :

On this      day of      ,      before me, a Notary Public for the said County and State,  
personally appeared

            known to me or satisfactorily proven to me to be attorney-in-fact on behalf of  
Wedgestone Automotive Corp. ("Grantor") and s/he acknowledged to me that s/he executed the  
foregoing Trademark Assignment on behalf of Grantor, and as the act and deed of Grantor for the  
purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

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Notary Public

My Commission Expires:

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5. So long as this Agreement is in effect and so long as Borrowers have not received notice from Lender that an Event of Default has occurred and is continuing under the Loan Agreement and that Lender has elected to exercise its rights hereunder, Wedgestone shall continue to have the exclusive right to use the Trademarks and Lender shall have no right to use the Trademarks or issue any exclusive or non-exclusive license with respect thereto, or assign, pledge or otherwise transfer title in the Trademarks to anyone else.

6. Wedgestone agrees not to sell, license, grant any option, assign or further encumber its rights and interest in the Trademarks without prior written consent of Lender.

7. Following acceleration of the Obligations under the Loan Agreement, Wedgestone hereby covenants and agrees that Lender, as the holder of a security interest under the Uniform Commercial Code, as now or hereafter in effect in New York, may take such action permitted under the Loan Documents or permitted by law, in its exclusive discretion, to foreclose upon the Trademarks covered hereby. For such purposes, following the acceleration by Lender of the Obligations under the Loan Agreement and only following such acceleration, Wedgestone authorizes and empowers Lender, its successors and assigns, and any officer or agent of Lender as Lender may select, in its exclusive discretion, as Wedgestone's true and lawful attorney-in-fact, with the power to endorse Wedgestone's name on all applications, assignments, documents, papers and instruments necessary for Lender to use the Trademarks or to grant or issue any exclusive or non-exclusive license under the Trademarks to anyone else, or necessary for Lender to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else including, without limitation, the power to execute on Wedgestone's behalf a trademark assignment in the form attached hereto as **Exhibit 1**. Wedgestone hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof and in accordance with the terms hereof, except for the gross negligence or wilful misconduct of such attorney. This power of attorney shall be irrevocable for the life of this Agreement, the Loan Documents, and until all the Obligations are indefeasibly paid and satisfied in full.

8. This Agreement shall be subject to the terms, provisions, and conditions set forth in the Loan Agreement and may not be modified without the written consent of the party against whom enforcement is being sought.

9. All rights and remedies herein granted to Lender shall be in addition to any rights and remedies granted under the Loan Documents. In the event of an inconsistency between this Agreement and the Loan Agreement, the language of the Loan Agreement shall control.

10. Upon Borrowers' performance of all of the obligations under the Loan Documents and full and unconditional satisfaction of all of the Obligations and termination of the Revolving Credit Facility, Lender shall execute and deliver to Wedgestone all documents reasonably necessary to terminate Lender's security interest in the Trademarks.

11. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and legal expenses incurred by Lender 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, reasonable counsel fees, maintenance fees, encumbrances or costs otherwise incurred in protecting, maintaining, preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks, or defending, protecting or enforcing Lender's rights hereunder, in each case in accordance with the terms of this Agreement, shall be borne and paid by Wedgestone on demand by Lender and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the contractual per annum rate prescribed in the Loan Agreement applicable to the Revolving Credit Loans.

12. Subject to any applicable terms of the Loan Agreement, Wedgestone shall have the duty to prosecute diligently any trademark application with respect to the Trademarks pending as of the date of this Agreement or thereafter to preserve and maintain all rights in the Trademarks, and upon reasonable request of Lender, Wedgestone shall make federal application on registrable but unregistered trademarks belonging to Wedgestone. Any reasonable expenses incurred in connection with such applications shall be borne by Wedgestone. Wedgestone shall not abandon any Trademark without the prior written consent of the Lender.

13. Wedgestone shall have the right to bring suit in its own name to enforce the Trademarks, in which event Lender may, if Wedgestone reasonably deems it necessary, be joined as a nominal party to such suit if Lender shall have been satisfied, in its sole discretion, that it is not thereby incurring any risk of liability because of such joinder. Wedgestone shall promptly, upon demand, reimburse and indemnify Lender for all damages, reasonable costs and expenses, including attorneys' fees, incurred by Lender in the fulfillment of the provisions of this paragraph.

14. If an Event of Default is outstanding under the Loan Agreement, Lender may, without any obligation to do so, complete any obligation of Wedgestone hereunder, in Wedgestone's name or in Lender's name, but at Wedgestone's expense, and Wedgestone hereby agrees to reimburse Lender in full for all reasonable costs and expenses, including attorneys' fees, incurred by Lender in protecting, defending and maintaining the Trademarks.

15. No course of dealing between Wedgestone and Lender nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder, shall operate as a waiver thereof, and all of Lender's rights and remedies with respect to the Trademarks, whether established hereby or by the Loan Documents, or by any other future agreements between Wedgestone and Lender or Borrowers and Lender or by law, shall be cumulative and may be exercised singularly or concurrently.

16. The provisions of this Agreement are severable and the invalidity or unenforceability of any provision herein shall not affect the remaining provisions which shall continue unimpaired and in full force and effect.

17. This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

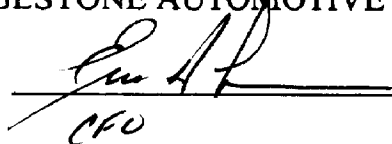
18. This Agreement shall be governed by and construed in conformity with the laws of the State of New York without regard to its otherwise applicable principles of conflicts of laws.

19. **Wedgestone and Lender each waive any and all rights it may have to a jury trial in connection with any litigation, proceeding or counterclaim arising with respect to rights and obligations of the parties under this Agreement.**

IN WITNESS WHEREOF, the parties hereto have executed this Trademark Security Agreement, under seal, the day and year first above written.

WEDGESTONE AUTOMOTIVE CORP.

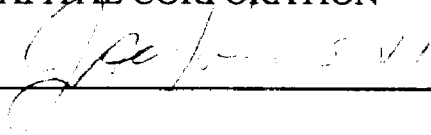
By: \_\_\_\_\_

  
CFO

Approved and Accepted:

FLEET CAPITAL CORPORATION

By: \_\_\_\_\_





CORPORATE ACKNOWLEDGMENT

UNITED STATES OF AMERICA :  
STATE OF WISCONSIN : SS  
COUNTY OF DANE :

On this 7<sup>th</sup> of Sept., 1998, before me personally appeared Eric H. Lee, to me known and being duly sworn, deposes and says that ~~he~~ is CEO of Wedgestone Automotive Corp., that ~~he~~ knows the seal of the corporation; that the seal so affixed to the Agreement is such corporate seal; that ~~he~~ signed the Agreement and affixed the seal of the corporation thereto as such officer pursuant to the authority vested in him by law; that the within Agreement is the voluntary act of such corporation; and ~~he~~ desires the same to be recorded as such.

Thomas E. Keil  
Notary Public

My Commission Expires: is permanent

CORPORATE ACKNOWLEDGMENT

UNITED STATES OF AMERICA :  
STATE OF WISCONSIN : SS  
COUNTY OF DANE :

On this 3<sup>rd</sup> day of Sept., 1998, before me personally appeared John O'Kane to me known and being duly sworn, deposes and says that ~~she~~ ~~is~~ is S.V.P. of Fleet Capital Corporation, the Lender described in the foregoing Agreement; that ~~she~~ signed the Agreement as such officer pursuant to the authority vested in ~~her~~/him by law; that the within Agreement is the voluntary act of such corporation; and ~~she~~ desires the same to be recorded as such.

Ther E. Kell  
Notary Public

My Commission ~~Expires:~~ is permanent

Exhibit 1

TRADEMARK ASSIGNMENT

WHEREAS, Wedgestone Automotive Corp., a Delaware corporation ("Grantor") is the registered owner of the United States trademarks, tradenames and registrations listed on Schedule "A" attached hereto and made a part hereof (the "Trademarks"), which are registered in the United States Patent and Trademark Office; and

WHEREAS, \_\_\_\_\_ ("Grantee"), having a place of business at \_\_\_\_\_, is desirous of acquiring said Trademarks;

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, Grantor, its successors and assigns, does hereby transfer, assign and set over unto Grantee, its successors, transferees and assigns, all of its present and future right, title and interest in and to the Trademarks and all proceeds thereof and all goodwill associated therewith issued under and pursuant to the Power of Attorney.

IN WITNESS WHEREOF, the undersigned has caused this Trademark Assignment to be executed as of the     day of     ,     .

WEDGESTONE AUTOMOTIVE CORP.

By: \_\_\_\_\_  
Attorney-in-fact

Witness:  
  
\_\_\_\_\_

**SCHEDULE "A"**

**TRADEMARKS**

<b><u>Name</u></b>	<b><u>Registration Number</u></b>	<b><u>Date of Registration</u></b>
Tuff Bar	1,085,290	2/14/78 (renewed 2/14/98)
Diamondstep	1,9948,422	1/16/96
Contour	1,950,621	1/23/96
Surestep	1,950,620	1/23/96
Quad Tube	1,957,347	2/20/96

CORPORATE ACKNOWLEDGMENT

UNITED STATES OF AMERICA :  
STATE OF WISCONSIN : SS  
COUNTY OF DANE :

On this 30th of September, 1998, before me personally appeared Eric H. Lee, to me known and being duly sworn, deposes and says that ~~s~~he is CFO of Wedgestone Automotive Corp., the Grantor corporation described in the foregoing Power of Attorney; that s/he knows the seal of the corporation; that the seal so affixed to the Power of Attorney is such corporate seal; that ~~s~~he signed the Power of Attorney and affixed the seal of the corporation thereto as such officer pursuant to the authority vested in ~~her~~him by law; that the within Power of Attorney is the voluntary act of such corporation; and ~~s~~he desires the same to be recorded as such.

Thomas E. Keil  
Notary Public

My Commission ~~Expires:~~ is permanent

**SCHEDULE "A"**

**TRADEMARKS**

<b><u>Name</u></b>	<b><u>Registration Number</u></b>	<b><u>Date of Registration</u></b>
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