

FORM PTO-1618A
Expires 06/30/99
OMB 0651-0027

03-30-1999

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK



100997889

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)
Document ID # _____
- Correction of PTO Error
Reel # _____ Frame # _____
- Corrective Document
Reel # _____ Frame # _____

Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
Effective Date
Month Day Year

- Merger
- Change of Name
- Other _____

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name Kress Corporation

3 3 99

Formerly _____

- Individual General Partnership Limited Partnership Corporation Association
- Other _____
- Citizenship/State of Incorporation/Organization Illinois

Receiving Party

Mark if additional names of receiving parties attached

Name Merrill Lynch Business Financial Services Inc.

DBA/AKA/TA _____

Composed of _____

Address (line 1) 33 W. Monroe St

Address (line 2) 22nd Fl

Address (line 3) Chicago IL 60603

- Individual General Partnership Limited Partnership If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)
- Corporation Association
- Other _____

Citizenship/State of Incorporation/Organization Delaware

03/26/1999 NGUYEN 00000111 972215

FOR OFFICE USE ONLY

01 FC:481
02 FC:482

40.00 DP
75.00 DP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

TRADEMARK
REEL: 1875 FRAME: 0200

FORM PTO-1618B
Expires 06/30/99
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Page 2

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name Federal Research Corp

Address (line 1) Suite 101

Address (line 2) 400 Seventh St NW

Address (line 3) Washington DC 20004

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

12

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>
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Number of Properties

Enter the total number of properties involved.

4

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 115.00

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

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. Charges to deposit account are authorized, as indicated herein.

Beth A. Jensen

Beth A. Jensen
Asst. V.P.

3/19/99

Name of Person Signing

Signature

Date Signed

RECORDATION FORM COVER SHEET CONTINUATION TRADEMARKS ONLY

FORM PTO-1618C
Expires 05/30/99
OMB 0831-0027

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

Conveying Party

Enter Additional Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship State of Incorporation/Organization

Receiving Party

Enter Additional Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

Individual General Partnership Limited Partnership

Corporation Association

Other

Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached (Designation must be a separate document from the Assignment.)

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

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972215	<input type="text"/>	<input type="text"/>
1579963	<input type="text"/>	<input type="text"/>
969413	<input type="text"/>	<input type="text"/>
1569543	<input type="text"/>	<input type="text"/>
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**PREPARED BY AND WHEN
RECORDED MAIL TO:**

Lisa F. Rauch, Esq.
Merrill Lynch Business Financial
Services Inc.
33 West Monroe Street
22nd Floor
Chicago, Illinois 60603

**PATENT, TRADEMARK AND LICENSE MORTGAGE -
Kress Corporation**

THIS PATENT, TRADEMARK AND LICENSE MORTGAGE (the "Mortgage") made as of March 3, 1999, by **KRESS CORPORATION**, an Illinois corporation, with offices at 227 Illinois Street, Brimfield, Illinois 61517 ("Mortgagor"), in favor of **MERRILL LYNCH BUSINESS FINANCIAL SERVICES INC.**, with offices at 33 West Monroe Street, Chicago, Illinois 60603 ("Mortgagee"):

WITNESSETH:

WHEREAS, Mortgagor and Mortgagee are parties to certain financing agreements, including but not limited to that certain **WCMA Note and Loan Agreement No. 618-07867** and that certain **WCMA Reducing Revolver Loan and Security Agreement No. 618-07871** (said financing agreements, as amended and as may be further amended, modified and/or restated from time to time shall hereinafter be collectively referred to as the "Loan Agreements"), which Loan Agreements provide: (i) for Mortgagee to extend credit to or for the account of Mortgagor; and (ii) for the grant by Mortgagor to Mortgagee of a security interest in all of Mortgagor's assets, including, without limitation, its patents, patent applications, trademarks, trademark applications, trade names, service marks, service mark applications, goodwill and licenses;

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, Mortgagor agrees as follows:

1. Incorporation of Loan Agreements. The Loan Agreements and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto.
2. Mortgage of Patents, Trademarks and Licenses. To secure the complete and timely satisfaction of all of the "Obligations" (as defined in the Loan Agreements), Mortgagor hereby grants, bargains, assigns, mortgages, pledges, sells, creates a security interest in, transfers and conveys to Mortgagee, 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 law and upon the occurrence of an "Event of Default" (as defined in the Loan Agreements), all of Mortgagor's right, title and interest in and to all of its now existing and hereafter created or acquired:

- (i) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents listed on Exhibit A attached hereto and hereby made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (b) all income, damages and payments now and hereafter due or payable under or with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in clauses (a)-(d) of this subsection 2(i), are sometimes hereinafter referred to individually as a "Patent" and, collectively, as the "Patents");
- (ii) trademarks, trademark registrations, trademark applications, trade names, service marks, service mark registrations and service mark applications, including, without limitation, the trademarks, trade names, service marks and applications and registrations thereof listed on Exhibit B attached hereto and hereby made a part hereof, and (a) renewals or extensions, thereof, (b) all income, damages and payments now and hereafter due or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing trademarks, trade names, service marks and applications and registrations thereof, together with the items described in clauses (a) - (d) of this subsection 2(ii), are sometimes hereinafter referred to individually as a "Trademark" and, collectively, as the "Trademarks");
- (iii) to the extent assignable without breach thereof, all license agreements with respect to any of the Patents or the Trademarks or any other patent, trademark, service mark or any application or registration thereof or any other trade name between Mortgagor and any other party, whether Mortgagor is a licensor or licensee under any such license agreement (all of the foregoing license agreements and Mortgagor's rights thereunder are hereinafter referred to collectively as the "Licenses"); and
- (iv) the goodwill of Mortgagor's business connected with, and symbolized by, the Trademarks.

3. Warranties and Representations. Mortgagor warrants and represents to

Mortgagee that:

- (i) The Patents, Trademarks and Licenses have not been adjudged invalid or unenforceable and have not been canceled, in whole or in part, and are presently subsisting;
- (ii) Each of the Patents, Trademarks and Licenses is valid and enforceable;
- (iii) Mortgagor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Patents, Trademarks and Licenses, free and clear of any liens, charges and encumbrances, including, without limitation, licenses, shop rights and covenants by Mortgagor not to sue third persons;
- (iv) Mortgagor has adopted, used and is currently using all of the Trademarks;
- (v) Except for *Kress v. Liftking*, Case No. T-755-94, pending in Canadian Federal Court, Mortgagor has not received, nor does it have knowledge of any suits or actions commenced or threatened with reference to the Patents, Trademarks or Licenses; and
- (vi) Mortgagor has the unqualified right to execute and deliver this Mortgage and perform its terms and has entered or 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 contained herein.

4. Restrictions on Future Agreements. Mortgagor agrees that until the Obligations shall have been satisfied in full, Mortgagor shall not sell or assign its interest in, or grant any license under, the Patents, Trademarks or Licenses, or enter into any other agreement with respect to the Patents, Trademarks or Licenses which is inconsistent with Mortgagor's obligations under this Mortgage, without the prior written consent of Mortgagee, and Mortgagor further agrees that it shall not take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any action, which would affect the validity or enforcement of the rights transferred to Mortgagee under this Mortgage; provided, however, that nothing in this Section 4 shall be deemed to limit Mortgagor's ability to grant or obtain rights under license agreements pertaining to the Patents, Trademarks or Licenses entered into by Mortgagor after the date hereof in the ordinary course of Mortgagor's business, which license agreements and Mortgagor's rights thereunder shall constitute Licenses and be subject to the terms of this Mortgage. Mortgagor and Mortgagee mutually acknowledge that Mortgagor may wish to license the use of some or all of the Patents in foreign countries. Mortgagee hereby consents to such licenses in foreign countries done in the ordinary course of business.

5. New Patents, Trademarks and Licenses. Mortgagor represents and warrants that, to the best of Mortgagor's knowledge, the Patents and Trademarks listed on Exhibits A and B, respectively, constitute all of the Patents and Trademarks now owned by Mortgagor. If, before Mortgagor's Obligations shall have been satisfied in full, Mortgagor shall (i) become aware of any existing Patents, Trademarks or Licenses of which Mortgagor has not previously informed Mortgagee, (ii) obtain rights to any new patentable inventions, Patents, Trademarks or Licenses, or (iii) become entitled to the benefit of any Patents, Trademarks, or Licenses or any improvement on any Patent, the provisions of this Mortgage shall automatically apply thereto and Mortgagor shall give to Mortgagee prompt written notice thereof. Mortgagor hereby authorizes Mortgagee to modify this Mortgage by amending Exhibits A and B, as applicable, to include any such Patents and Trademarks.

6. Royalties; Terms. The term of the mortgages granted herein shall extend until the earlier of: (i) the expiration of each of the respective Patents, Trademarks and Licenses assigned hereunder; or (ii) the Obligations have been paid in full. Upon the occurrence of an Event of Default (as defined in the Loan Agreements), Mortgagor agrees that the use by Mortgagee of all Patents, Trademarks and Licenses shall be worldwide and without any liability for royalties or other related charges from Mortgagee to the Mortgagor.

7. Mortgagee's Right to Inspect. Mortgagee shall have the right, at any time and from time to time during normal business hours and prior to payment in full of the Obligations, to inspect Mortgagor's premises and to examine Mortgagor's books, records and operations, including, without limitation, Mortgagor's quality control processes. Mortgagor agrees (i) to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with the quality of said products as of the date hereof, and (ii) to provide Mortgagee, upon Mortgagee's request from time to time, with a certificate of an officer of Mortgagor certifying Mortgagor's compliance with the foregoing. Upon the occurrence of an Event of Default, Mortgagor agrees that Mortgagee, or an agent appointed by Mortgagee, shall have the right to establish such additional product quality controls as Mortgagee, or said agent, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold, leased or licensed by Mortgagor under the Trademarks. Mortgagee's rights under this paragraph are specifically subject to Mortgagee executing a confidentiality agreement which may be reasonably required by Mortgagor and reasonably acceptable to Mortgagee.

8. Release of Mortgage. This Mortgage is made for collateral purposes only. Upon payment in full of the Obligations, Mortgagee shall execute and deliver to Mortgagor all deeds, assignments and other instruments, and shall take such other actions, as may be necessary or proper to revert in Mortgagor full title to the Patents, Trademarks and Licenses, subject to any disposition thereof which may have been made by Mortgagee pursuant hereto or pursuant to the Loan Agreements.

9. Expenses. All expenses reasonably incurred in connection with the performance of any of the agreements set forth herein shall be borne by Mortgagor. All fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and costs, incurred by Mortgagee in connection with 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 in protecting, maintaining or preserving the Patents, Trademarks and Licenses, or in defending or prosecuting any actions or proceedings arising out of or related to the Patents, Trademarks and Licenses, shall be borne by and paid by Mortgagor on demand by Mortgagee and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the rate prescribed in the Loan Agreements.

10. Duties of Mortgagor. Mortgagor shall have the duty (i) to prosecute diligently any patent, trademark or service mark applications pending as of the date hereof or thereafter until the Obligations shall have been paid in full, (ii) to make application on unpatented but patentable inventions and on trademarks and service marks, as appropriate, and to the extent commercially reasonable and consistent with the corporation's prior practices and (iii) to preserve and maintain all rights in the Patents, Trademarks and Licenses. Any expenses incurred in connection with Mortgagor's obligations under this Section 10 shall be borne by Mortgagor. Mortgagor shall not abandon any right to file a patent, trademark or service mark application, or abandon any pending patent application, or any other Patent, Trademark or License without the consent of Mortgagee.

11. Mortgagee's Right to Sue. Mortgagee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Patents, Trademarks and Licenses, and, if Mortgagee shall commence any such suit, Mortgagor shall, at the request of Mortgagee, do any and all lawful acts and execute any and all proper documents required by Mortgagee in aid of such enforcement

and Mortgagor shall promptly, upon demand, reimburse and indemnify Mortgagee for all reasonable costs and expenses incurred by Mortgagee in the exercise of its rights under this Section 11.

12. Waivers. No course of dealing between Mortgagor and Mortgagee, nor any failure to exercise, nor any delay in exercising, on the part of Mortgagee, any right, power or privilege hereunder or under the Loan Agreements 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.

13. Severability. The provisions of this Mortgage 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 Mortgage in any jurisdiction.

14. Modification. This Mortgage cannot be altered, amended or modified in any way, except as specifically provided in Section 5 hereof or by a writing signed by the parties hereto.

15. Cumulative Remedies; Power of Attorney; Effect on Financing Agreement. All of Mortgagee's rights and remedies with respect to the Patents, Trademarks and Licenses, whether established hereby or by the Loan Agreements, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Upon the occurrence of an Event of Default, Mortgagor hereby authorizes Mortgagee to make, constitute and appoint any officer or agent of Mortgagee as Mortgagee may select, in its sole discretion, as Mortgagor's true and lawful attorney-in-fact, with power to: (i) endorse Mortgagor's name on all applications, documents, papers and instruments necessary or desirable for Mortgagee in the use of the Patents, Trademarks and Licenses; (ii) take any other actions with respect to the Patents, Trademarks and Licenses as Mortgagee deems to be in the best interest of Mortgagee; (iii) grant or issue any exclusive or non-exclusive license under the Patents, Trademarks or Licenses to anyone; or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Patents, Trademarks or Licenses to anyone. Mortgagor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until the Obligations shall have been paid in full and have been terminated. Mortgagor acknowledges and agrees that this Mortgage is not intended to limit or restrict in any way the rights and remedies of Mortgagee under the Loan Agreements but rather is intended to facilitate the exercise of such rights and remedies. Mortgagee shall have, in addition to all other rights and remedies given it by the terms of this Mortgage and the Loan Agreements, 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 Patents, Trademarks or Licenses may be located.

16. Binding Effect; Benefits. This Mortgage shall be binding upon the Mortgagor and its respective successors and assigns, and shall inure to the benefit of Mortgagee, its successors, nominees and assigns.

17. Governing Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

18. Headings. Section headings used herein are for convenience only and shall not modify the provisions which they precede.

19. Further Assurances. Mortgagor agrees to execute and deliver such further agreements, instruments and documents, and to perform such further acts, as Mortgagee shall reasonably request from time to time in order to carry out the purpose of this Mortgage and agreements set forth herein.

EXHIBIT A TO PATENT, TRADEMARK AND LICENSE MORTGAGE**Patents**

<u>Patent #</u>	<u>Inventor</u>	<u>Application #</u>	<u>File Date</u>	<u>Issue Date</u>
4170434	Edward S. Kress	05/861537	12/19/77	10/9/79
4122961	Edward S. Kress	05/846813	10/31/77	10/31/78
4286915	William Laberdia	06/080283	10/1/79	09/1/81
4269560	Dennis Thomas	06/080537	10/1/79	5/26/81
4285772	Edward Kress	06/110351	1/23/80	8/25/81
4488848	Edward Kress	06/428751	9/30/82	12/18/84
4601630	Edward Kress	06/645910	8/29/84	7/22/86
4624618	Edward Kress	06/704614	2/22/85	11/25/86
4618307	Edward Kress	06/704382	2/22/85	10/21/86
4886580	Gene Carpenter	07/185089	4/22/88	12/12/89
4997527	Gene Carpenter	07/331519	3/30/89	3/5/91
5190617	Gene Carpenter	07/664555	3/4/91	3/2/93
5192398	Gene Carpenter	07/664330	3/4/91	3/9/93
4872702	Jackson Medley	07/235109	8/23/88	10/10/89
5040849	William Birkey	07/389316	8/3/89	8/20/91
4968097	William Laberdia	07/389708	8/4/89	11/6/90
5098251	Edward Kress	07/599634	10/18/90	3/24/92
5437531	Edward Kress	08/078607	6/16/93	8/1/95
5368434	Edward Kress	08/055815	4/30/93	11/29/94
5496146	Paul Kane	08/325799	10/19/94	3/5/96
	Dennis Thomas	60/055278	8/13/97	pending
	Edward Kress	60/076721	3/4/98	pending
	Dennis Thomas	60/084570	5/7/98	pending

EXHIBIT B TO PATENT, TRADEMARK AND LICENSE MORTGAGE

Trademarks, Trade Names and Services Marks

See Attached

EXHIBIT B TO PATENT, TRADEMARK AND LICENSE MORTGAGE

Trademarks, Trade Names and Services Marks

Trademark	Application Number	Filing Date	Registration Number	Registration Date
KC LOGO Owner: Kress Corporation	72/395240	18-Jun-1971	972215	06-Nov-1973
KIDC (S.M.) Owner: Kress Corporation	73/791729	07-Apr-1989	1579963	30-Jan-1990
KRESS Owner: Kress Corporation	72/378281	09-Dec-1970	969413	25-Sep-1973
KRESS Owner: Kress Corporation	73/777437	30-Jan-1989	1569543	05-Dec-1989

Document Number: 2752