

08-27-1999

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8.26.99



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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

Merger Effective Date
Month Day Year

Change of Name

Other

Conveying Party

Mark if additional names of conveying parties attached

Name Execution Date
Month Day Year

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization

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 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

FOR OFFICE USE ONLY

08/27/1999 MTHAI1 00000118 75329639

01 FC:481 40.00 OP

02 FC:482 125.00 OP

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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: 001949 FRAME: 0918

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

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

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

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)

Number of Properties

Enter the total number of properties involved. #

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$

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.

Julie Zamagni
Name of Person Signing

Julie Zamagni
Signature

8.25.99
Date Signed

PATENT AND TRADEMARK SECURITY AGREEMENT

This Agreement, dated as of June 25, 1999, is made by and between FORESIGHT PRODUCTS, LLC, f/k/a ASSET PURCHASE CO., LLC, a Colorado limited liability company, whose address and principal place of business is 6430 East 49th Avenue, Commerce City, Colorado 80020 (the "Debtor"), and WELLS FARGO CREDIT, INC., a Minnesota corporation formerly known as Norwest Credit, Inc. whose address and principal place of business is Norwest Center, Sixth Street and Marquette Avenue, Minneapolis, Minnesota 55479-0152 (the "Secured Party").

Recitals

The Debtor and the Secured Party have entered into a Credit and Security Agreement dated as of August 30, 1996 (as the same may hereafter be amended, supplemented or restated from time to time, the "Credit Agreement") setting forth the terms on which the Secured Party may now or hereafter make certain loans or other financial accommodations to or for the account of the Debtor.

As a further condition to making any loan or other financial accommodation under the Credit Agreement or otherwise, the Secured Party has required the execution and delivery of this Agreement by the Debtor.

ACCORDINGLY, in consideration of the mutual covenants contained in the Credit Agreement and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Credit Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

"Obligations" means each and every debt, liability and obligation of every type and description arising under or in connection with any Loan Document (as defined in the Credit Agreement) which the Debtor may now or at any time hereafter owe to the Secured Party, whether such debt, liability or obligation now exists or is hereafter created or incurred and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several or joint and several, and including specifically, but not limited to, the Obligations (as defined in the Credit Agreement).

"Patents" means all of the Debtor's right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on Exhibit A.

"Trademarks" means all of the Debtor's right, title and interest in and to trademarks, service marks, collective membership marks, the respective goodwill associated with each, and licenses thereunder, all as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on Exhibit B.

2. Security Interest. The Debtor hereby irrevocably pledges and assigns to, and grants the Secured Party a security interest, with power of sale to the extent permitted by law (the "Security Interest"), in the Patents and in the Trademarks to secure payment of the Obligations. The Debtor has granted, by means of a separate document, a similar security interest to Norwest Bank Minnesota, N.A. (the "Norwest Security Interest").

3. Representations, Warranties and Agreements. The Debtor hereby represents, warrants and agrees as follows:

(a) ***Existence; Authority.*** The Debtor is a corporation, having full power to and authority to make and deliver this Agreement. The execution, delivery and performance of this Agreement by the Debtor have been duly authorized by all necessary action of the Debtor's board of directors, and if necessary its stockholders, and do not and will not violate the provisions of, or constitute a default under, any presently applicable law or its articles of incorporation or bylaws or any agreement presently binding on it. This Agreement has been duly executed and delivered by the Debtor and constitutes the Debtor's lawful, binding and legally enforceable obligation. The correct name of the Debtor is Foresight Products, LLC. The authorization, execution, delivery and performance of this Agreement do not require notification to, registration with, or consent or approval by, any federal, state or local regulatory body or administrative agency.

(b) ***Patents.*** Exhibit A accurately lists all Patents owned or controlled by the Debtor as of the date hereof and accurately reflects the existence and status of registrations pertaining to the Patents as of the date hereof.

(c) ***Trademarks.*** Exhibit B accurately lists all Trademarks owned or controlled by the Debtor as of the date hereof and accurately reflects the existence and status of Trademarks and all registrations pertaining thereto as of the date hereof.

(d) ***Title.*** The Debtor has absolute title to each Patent and each Trademark listed on Exhibits A and B, free and clear of all security interests, liens and encumbrances, except the Security Interest and the Norwest Security Interest. The Debtor (i) will have, at the time the Debtor acquires any rights in Patents or Trademarks hereafter arising, absolute title to each such Patent or Trademark free and clear of all security interests, liens and encumbrances, except the Security Interest and the Norwest Security Interest, and (ii) will keep all Patents and Trademarks free and clear of all security interests, liens and encumbrances except the Security Interest and the Norwest Security Interest.

(e) **No Sale.** The Debtor will not sell or otherwise dispose of the Patents or Trademarks, or any interest therein, without the Secured Party's prior written consent.

(f) **Defense.** The Debtor will at its own expense, and using its best efforts, protect and defend the Patents and Trademarks against all claims or demands of all persons other than the Secured Party.

(g) **Maintenance.** The Debtor will at its own expense maintain the Patents and the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to register and all affidavits and renewals possible with respect to issued registrations. The Debtor covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent or Trademark, nor fail to file any required affidavit in support thereof, without first providing the Secured Party: (i) sufficient written notice, as provided in the Credit Agreement, to allow the Secured Party to timely pay any such maintenance fees or annuity which may become due on any of said Patents or Trademarks, or to file any affidavit with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit, should such be necessary or desirable.

(h) **Secured Party's Right to Take Action.** If the Debtor fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after the Secured Party gives the Debtor written notice thereof (or, in the case of the agreements contained in subsection (g), immediately upon the occurrence of such failure, without notice or lapse of time), or if the Debtor notifies the Secured Party that it intends to abandon a Patent or Trademark, the Secured Party may (but need not) perform or observe such covenant or agreement on behalf and in the name, place and stead of the Debtor (or, at the Secured Party's option, in the Secured Party's own name) and may (but need not) take any and all other actions which the Secured Party may reasonably deem necessary to cure or correct such failure.

(i) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, the Debtor shall pay the Secured Party on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees) incurred by the Secured Party in connection with or as a result of the Secured Party's taking action under subsection (h) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by the Secured Party at the highest rate then applicable to any of the Obligations.

(j) **Power of Attorney.** To facilitate the Secured Party's taking action under subsection (h) and exercising its rights under Section 6, the Debtor hereby irrevocably appoints (which appointment is coupled with an interest) the Secured Party, or its delegate, as the attorney-in-fact of the Debtor with the right (but not the duty) from time to time to

create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of the Debtor, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by the Debtor under this Section 3, or, necessary for the Secured Party, after an Event of Default, to enforce or use the Patents or Trademarks or to grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents or Trademarks to any third party. The Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Credit Agreement as provided therein and the payment and performance of all Obligations (as defined therein).

4. Debtor's Use of the Patents and Trademarks. The Debtor shall be permitted to control and manage the Patents and Trademarks, including the right to exclude others from making, using or selling items covered by the Patents and Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Event of Default occurs and remains uncured.

5. Events of Default. Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (a) an Event of Default, as defined in the Credit Agreement, shall occur; or (b) the Debtor shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. Remedies. Upon the occurrence of an Event of Default and at any time thereafter, the Secured Party may, at its option, take any or all of the following actions:

(a) The Secured Party may exercise any or all remedies available under the Credit Agreement.

(b) The Secured Party may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks.

(c) The Secured Party may enforce the Patents and Trademarks and any licenses thereunder, and if Secured Party shall commence any suit for such enforcement, the Debtor shall, at the request of Secured Party, do any and all lawful acts and execute any and all proper documents required by Secured Party in aid of such enforcement.

7. Miscellaneous. This Agreement has been duly and validly authorized by all necessary action, corporate or otherwise. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by the Secured Party. A waiver signed by the Secured Party shall be effective only in the specific

instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of the Secured Party's rights or remedies. All rights and remedies of the Secured Party shall be cumulative and may be exercised singularly or concurrently, at the Secured Party's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. The Secured Party shall not be obligated to preserve any rights the Debtor may have against prior parties, to realize on the Patents and Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Patents and Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of the Debtor and the Secured Party and their respective participants, successors and assigns and shall take effect when signed by the Debtor and delivered to the Secured Party, and the Debtor waives notice of the Secured Party's acceptance hereof. The Secured Party may execute this Agreement if appropriate for the purpose of filing, but the failure of the Secured Party to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by the Debtor shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of Colorado without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date written above.

WELLS FARGO CREDIT, INC.

FORESIGHT PRODUCTS, LLC

By *Kathy A. Stafford*
Its *Vice President*

By *Paul Charles*
Its *President*

STATE OF Colorado

COUNTY OF Adams

DAC 7/30/99

30th July

The foregoing instrument was acknowledged before me this ~~25th~~ ^{30th} day of ~~June~~ ^{July}, 1999, by David Chandler, the President of Foresight Products, LLC, a Colorado limited liability company, on behalf of the company.

Linda MacFarlane
Notary Public
My Commission Expires 10-9-99

STATE OF Colorado)

COUNTY OF Denver)

The foregoing instrument was acknowledged before me this ~~25th~~ ^{24th} day of ~~June~~ ^{August}, 1999, by ~~Candace Mauro~~ ^{Kathy Stafford}, a ~~Commercial Banking Officer~~ ^{Vice President} of Wells Fargo Credit, Inc., a Minnesota corporation, on behalf of the corporation.

Linda MacFarlane
Notary Public My Commission Expires May 19, 2003

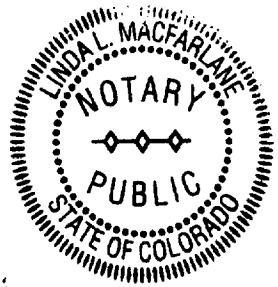


EXHIBIT A

UNITED STATES ISSUED PATENTS

<u>Title</u>	<u>Patent Number</u>	<u>Serial Number</u>	<u>Issue Date</u>	
Post Support Socket	4,320,608		03/23/82	TAPCO
Mailbox Supports	4,286,747		09/01/81	TAPCO
Downcrowing Boom	4,130,168		12/19/78	
Vaet Driver Tool	4,168,751		09/25/79	
Snow Fence System	4,339,114		07/13/82	
Duckbill Ground Earth Anchor	4,096,673		06/27/78	
Manta Ray Ground Earth Anchor	4,802,317		02/07/89	
Singer Drive Gad System	5,031,370		07/16/91	
Ground Rod Driver	5,010,710		04/30/91	
Ground Rod Driver	5,029,427		07/09/91	
Cable Ground Anchor Driving Implement	US 6549788		07/22/97	
Anchor For Securing Posts	US5749180		05/12/98	TAPCO
Manta Ray Ground Earth Anchor		08/585,450	12/16/96	
Manta Ray		08/586,960	12/16/96	
Anchor Driver (Vibratory)		08/302/992	09/14/94	

FOREIGN ISSUED PATENTS

<u>Description</u>	<u>Country</u>	<u>Patent No.</u>	<u>Serial No.</u>	<u>Date Issued</u>
Reusable Post Support (<i>dropped per Foresight Ind. instructions 05/19 81</i>)	AU	502,458		01/25/80
Post Support Socks	CA	1,150,033		07/19/83 TAPCO
Reusable Post Supports	DE	2711785		01/12/84 TAPCO
Post Anchors	GB	1,573,128		10/15/80 TAPCO
Yielding Support	JP	990,476		03/18/90 TAPCO
Post Driving Machine	CA	1,041,781		11/07/78
Post Driving Machine	CA	1,044,475		12/19/78
Downcrowing Boom	CA	1,075,225		04/08/80
Vaet Driver Tool	CA	1,075,225		05/13/80
Vaet Driver Tool	JP	1,129,283		12/24/82
Snow Fence System	CA	1,168,491		06/05/84
Duckbill Ground Earth Anchor (<i>dropped per Foresight Ind. instructions of 05/19/81</i>)	AU	503,913		03/11/80
Duckbill Ground Earth Anchor	AU	582,118		01/03/85
Duckbill Ground Earth Anchor	CA	1,045,331		01/02/79
Duckbill Ground Earth Anchor	DE	2711979		11/12/81
Duckbill Ground Earth Anchor	GB	1,555,580		01/16/80
Duckbill Ground Earth Anchor	JP	1,153,174		06/30/83
Manta Ray Ground Earth Anchor	AU	594,588		07/23/90
Manta Ray Ground Earth Anchor	CA	1,309,835		11/10/92

<u>Description</u>	<u>Country</u>	<u>Patent No.</u>	<u>Serial No.</u>	<u>Date Issued</u>
Matta Ray Ground Earth Anchor	EPO	0313936		04/24/91
Matta Ray Ground Earth Anchor	SG	124-1992		03/16/92
Ground Anchor for Transmitting Both Tensile & Comprehensive Leads	DE, ES, FR, GB, IT	EP 863261		09/09/98
Ground Anchor for Transmitting Both Tensile & Comprehensive Leads	DE, ES, FR, GB, IT	EP 863262		09/09/98
Matta Ray Ground Earth Anchor	Hong Kong		600 of 1995	04/20/95
Matta Ray Ground Earth Anchor	JP		272845/88	10/28/88
Matta Ray Ground Earth Anchor <i>(dropped per Dennis Gross's letter [patent counsel] of 03/07/96)</i>	TW		84111520	11/01/95

EXHIBIT B
UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS
AND COLLECTIVE MEMBERSHIP MARKS

REGISTRATIONS

<u>Mark</u>	<u>Registration No.</u>	<u>Serial No.</u>	<u>Issue Date</u>	
Foresight	1,291,813		08/28/84	
Logo	1,274,767		04/24/84	
Duckbill	1,076,808		11/08/77	
Manta Ray	1,465,144		11/17/87	
V-Log & Design	1,295,658		09/18/84	TAPCO
V-Log	1,291,805		08/28/84	TAPCO
Sidewinder	1,737,990		12/08/92	
Stingray		75,329,639	07/24/97	

FOREIGN ISSUED TRADEMARKS, SERVICE MARKS
AND COLLECTIVE MEMBERSHIP MARKS

<u>Description</u>	<u>Country</u>	<u>Registration No.</u>	<u>Serial No.</u>	<u>Issue Date</u>
Duckbill	AU	A394,995		08/02/83
Duckbill	AT	106,833		09/03/84
Duckbill	Benelux	400,561		01/07/85
Duckbill	CA	344,029		08/19/88
Duckbill	DK	549/1985		02/01/85
Duckbill	FI	94,922		02/05/85
Duckbill	FR	1,268,200		04/10/84
Duckbill	DE	1,072,865		01/23/85
Duckbill	IS	328/1984		09/15/84
Duckbill	IL	86625		07/30/95
Duckbill	IT	429,005		05/26/86

<u>Description</u>	<u>Country</u>	<u>Registration No.</u>	<u>Serial No.</u>	<u>Issue Date</u>
Duckbill	NZ	148,217		05/27/87
Duckbill	NO	120,751		04/25/85
Duckbill	ES	1,065,997		12/05/84
Duckbill	SE	199,291		01/10/86
Manta Ray	CA	348,476		12/02/88
Manta Ray	CN	706974		09/21/94
Manta Ray	FR	93477217		07/21/93
Manta Ray	DE	F-42-700/6WZ		07/25/94
Manta Ray	GB	1564875		03/10/95
Manta Ray	SE	263358		12/30/94
Manta Ray	IT	675118		04/12/96
Manta Ray	ZA	94/2940		06/07/96
Duckbill	ZA		942939	03/21/94
Manta Ray	IL		0120623	07/13/94
Manta Ray	ES		1774172	07/26/93
Sidewinder	CA		686,722	07/26/91