

10-15-1999

FORM PTO-1594

RECORDATION
TRADE



DEPARTMENT OF COMMERCE

Patent and Trademark Office

(Rev. 6-93)

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

10-08-99

101168849

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):
Dalen Products, Inc.
11110 Gilbert Drive
Knoxville, Tennessee 37932



10-08-1999

U.S. Patent & TMO/TM Mail Rcpt Dt. #26

- Individual(s)
- General Partnership
- Corporation-State — Tennessee
- Other _____

- Association
- Limited Partnership

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

Name and address of receiving party(ies):
Name: Hugh O. Maclellan, Jr., as Collateral Agent

Internal Address: _____

Street Address: 501 Provident Building

City: Chattanooga State: TN ZIP: 37402

- Individual(s) citizenship USA
- 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

3. Nature of conveyance:

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

Execution Date: September 30, 1999

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

A. Trademark Application No.(s)

73-452254

B. Trademark Registration No.(s)

1,677,655	1,815,909	1,393,241	1,495,838
1,040,596	2,157,931	1,452,217	1,522,647
1,666,768	2,163,190	1,456,559	661,045
1,669,472	2,201,238	1,472,334	
1,708,180	1,377,246	1,485,299	

Additional numbers attached Yes No

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

Name: J. Patrick Murphy

Internal Address: Chambliss, Bahner & Stophel, P.C.

Street Address: 1000 Tallan Building

Two Union Square

City: Chattanooga State: Tennessee ZIP: 37402

6. Total number of applications and registrations involved:

19

7. Total fee (37 CFR 3.41) \$ 490⁰⁰

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number

20-0052

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

DO NOT USE THIS SPACE

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.

J. Patrick Murphy
Name of Person Signing

J. Patrick Murphy
Signature

10/5/99
Date

Total number of pages including cover sheet, attachments, and document: 19

Christopher E. Wilson

Christopher S. Wilson

10/14/1999 DWBUYEN 00000312 200052

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

Commissioner of Patents & Trademarks, Box Assignments

Washington, D.C. 20231

01 FC:481 40.00 CH
02 FC:482 450.00 CH

{04228_01/9801/00312196.DOC.}

TRADEMARK
REEL: 001974 FRAME: 0906

INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT ("Security Agreement"), is made as of September 30, 1999, by DALEN PRODUCTS, INC., a Tennessee corporation (the "Grantor"), in favor of HUGH O. MACLELLAN, JR., a Tennessee resident ("Lender"), for himself and as collateral agent for VICTOR H. RUMORE ("Co-Lender") pursuant to the Loan Agreement (as hereinafter defined).

RECITALS:

WHEREAS, Lender and Co-Lender are making loans (collectively, the "Loan") in the aggregate amount of \$2,000,000 to Grantor, pursuant to that certain Loan Agreement of even date herewith by and between Grantor, Lender and Co-Lender, as it may be amended, modified or extended from time to time (the "Loan Agreement");

WHEREAS, Grantor owns certain Intellectual Property listed on Schedule A hereto;

WHEREAS, Grantor desires to mortgage, pledge and grant to Lender, for the benefit of Lender for himself and as agent for Co-Lender, a security interest in all of its right, title and interest in, to and under the Collateral, including without limitation, the property listed on the attached Schedule A, together with any renewal or extension thereof, and all Proceeds (as hereinafter defined) thereof, to secure the payment of the Obligations (as hereinafter defined); and

WHEREAS, it is a condition precedent to the obligation of the Lender and Co-Lender to make the Loan to Grantor under the Loan Agreement, that Grantor execute this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and to induce Lender and Co-Lender to enter into the Loan Agreement and to induce Lender and Co-Lender to make the Loan to Grantor under the Loan Agreement, Grantor hereby agrees with Lender for himself and as agent for Co-Lender, as follows:

1. **Defined Terms.** Unless otherwise defined herein, terms which are defined in the Loan Agreement and used herein are so used as so defined, and the following terms shall have the following meanings:

"Collateral" has the meaning assigned to it in Section 2 of this Security Agreement.

"Copyrights" means all types of protective rights granted (or applications therefor) for any work that constitutes copyrightable subject matter, including without limitation, literary works, musical works, dramatic works, pictorial, graphic and sculptural works, motion pictures

and other audiovisual works, sound recordings, architectural works, in any country of the world and including, without limitation, any works referred to in Schedule A hereto.

"Copyright License" means any agreement material to the operation of Grantor's businesses, whether written or oral, providing for the grant by or to Grantor of any right to reproduce a copyrighted work, to prepare derivative works based on a copyrighted work, to distribute copies of a copyrighted work, to perform a copyrighted work or to display a copyrighted work, or to engage in any other legally protected activity with respect to a copyrighted work including, without limitation, any thereof referred to in Schedule A hereto.

"Intellectual Property" means all Patent Applications, Patents, Patent Licenses, Trademark Applications, Trademarks, Trademark Licenses, Copyrights, Copyright Licenses, Trade Secrets, Inventions, Know-how and other proprietary property or technology, and agreements relating thereto, including, without limitation, any and all improvements and future developments material to the operation of Grantor's businesses, as defined herein and/or referred to in Schedule A hereto.

"Invention" means any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof that is material to the operation of Grantor's businesses and developed by Grantor, its employees or agents, whether or not the subject of Patent(s) or Patent Application(s).

"Know-how" means any knowledge or information that is material to Grantor's business and that enables Grantor to operate its business with the accuracy, efficiency or precision necessary for commercial success, including, without limitation, any such knowledge or information referred to in Schedule B hereto.

"Obligations" means (a) loans to be made concurrently or in connection with this Agreement or the Loan Agreement as evidenced by one or more promissory notes payable to the order of Lender and/or Co-Lender that shall be due and payable as set forth in such promissory notes, and any renewals or extensions thereof, (b) the full and prompt payment and performance of any and all other indebtedness and other obligations of Grantor to Lender and/or Co-Lender, direct or contingent (including but not limited to obligations incurred as endorser, guarantor or surety), however evidenced or denominated, and however and whenever incurred, including but not limited to indebtedness incurred pursuant to any present or future commitment of Lender and/or Co-Lender to Grantor and (c) all future advances made by Lender and/or Co-Lender for taxes, levies, insurance and preservation of the Collateral and all attorney's fees, court costs and expenses of whatever kind incident to the collection of any of said indebtedness or other obligations and the enforcement and protection of the security interest created under this Security Agreement.

"Other Proprietary Property" means all types of protectable intangible property rights other than Patents, Trademarks and Copyrights, including without limitation, Trade Secrets, Know-how, computer software and the like, including, without limitation, all such rights referred to in Schedule B hereto.

"Patents" means all types of exclusionary or protective rights granted (or applications therefor) for inventions in any country of the world (including, without limitation, letters patent, plant patents, utility models, breeders' right certificates, inventor's certificates and the like), and all reissues and extensions thereof and all provisionals, divisions, continuations and continuations-in-part thereof, including, without limitation, all such rights referred to in Schedule A hereto.

"Patent License" means any agreement material to the operation of Grantor's business, whether written or oral, providing for the grant by or to Grantor of any right to manufacture, use or sell any Invention covered by a Patent, including, without limitation, any thereof referred to in Schedule A hereto.

"Proceeds" means "proceeds," as such term is defined in Section 9-306(1) of the UCC and, to the extent not included in such definition, shall include, without limitation, (a) any and all proceeds of any insurance, indemnity, warranty, guaranty or letter of credit payable to Grantor, from time to time with respect to any of the Collateral, (b) all payments (in any form whatsoever) paid or payable to Grantor from time to time in connection with any taking of all or any part of the Collateral by any governmental authority or any Person acting under color of governmental authority), (c) all judgments in favor of Grantor in respect of the Collateral and (d) all other amounts from time to time paid or payable or received or receivable under or in connection with any of the Collateral.

"Security Agreement" means this Intellectual Property Security Agreement, as amended, supplemented or otherwise modified from time to time.

"Trade Secret" means any scientific or technical information, design, process, pattern, procedure, formula or improvement which is secret and of value including, without limitation, any such information referred to in Schedule B hereto.

"Trademarks" means (a) all trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other sources of business identifiers used in any country in the world, whether registered or unregistered, and the goodwill associated therewith, now existing and material to the businesses of Grantor or hereafter acquired, and (b) all registrations, recordings and renewals thereof, and all applications in connection therewith, issued by or filed in a national, state or local governmental authority of any country, including, without limitation, all such rights referred to in Schedule A hereto.

"Trademark License" means any agreement, material to the businesses of Grantor, written or oral, providing for the grant by or to Grantor of any right to use any Trademark, including, without limitation, any thereof referred to in Schedule A hereto.

"UCC" means the Uniform Commercial Code as from time to time in effect in the State of Tennessee.

2. **Grant of Security Interest.** As collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of the Obligations, Grantor hereby assigns and grants to Lender for himself and as

agent for Co-Lender for the benefit of Lender and Co-Lender a security interest in all of Grantor's right, title and interest in and to the Intellectual Property now owned or at any time hereafter acquired by Grantor or in which Grantor now has or at any time in the future may acquire any right, title or interest (collectively, the "Collateral"), that are material to the business of Grantor, including all Proceeds and products of any and all of the Intellectual Property, whether or not included in Schedule A or Schedule B.

3. Representations and Warranties Concerning the Intellectual Property.

Grantor represents and warrants that:

(a) Schedule A and Schedule B hereto include all Intellectual Property and Other Proprietary Property owned by Grantor in its own name or as to which Grantor has any colorable claim of ownership that are material to the business of Grantor as of the date hereof.

(b) Grantor is the sole legal and beneficial owner of the entire right, title and interest in and to the Intellectual Property and the Other Proprietary Property, and/or has the unrestricted right to use all such Intellectual Property and Other Proprietary Property pursuant to a valid license or other agreement.

(c) Grantor's rights in and to the Intellectual Property are valid, subsisting, unexpired, enforceable and have not been abandoned.

(d) All licenses, franchise agreements and other agreements conveying rights in and to the Intellectual Property and Other Proprietary Property are identified on Schedule A and Schedule B hereto and are in full force and effect. To the best knowledge of Grantor, Grantor is not in default under any such agreement, and no event has occurred which might constitute a default by Grantor under any such agreement.

(e) Except as set forth in Schedule A, all of the Intellectual Property is free and clear of any and all liens, security interests, options, licenses, pledges, assignments, encumbrances and/or agreements of any kind, and Grantor has not granted any release, covenant not to sue, or non-assertion assurance to any third party with respect to any of the Intellectual Property.

(f) All prior transfers and assignments of the interests of any and all predecessors in the Intellectual Property of Grantor were duly and validly authorized, executed, delivered, recorded and filed as required to vest Grantor with complete, unrestricted ownership rights therein.

(g) Except for the security interest and liens in favor of Fleet Capital Corporation, Grantor has not, within the three (3) months prior to the date of execution of this Agreement, executed and/or delivered any assignment, transfer or conveyance of any of the Intellectual Property, recorded or unrecorded.

(h) Except as described in the Loan Agreement, no proceedings have been instituted or are pending or, to Grantor's knowledge, threatened that challenge Grantor's rights to use the Intellectual Property or Other Proprietary Property, or to register or

maintain the registration of the Intellectual Property. No holding, decision or judgment has been rendered by any governmental authority which would limit, cancel or question the validity of any of the Intellectual Property. No action or proceeding is pending (i) seeking to limit, cancel or question the validity of any of the Intellectual Property or Grantor's ownership thereof or (ii) which, if adversely determined, would reasonably be likely to have a material adverse effect on the value of any of the Intellectual Property.

(i) To the best of Grantor's knowledge, the current conduct of Grantor's business and Grantor's rights in and to all of the Intellectual Property and Other Proprietary Property do not conflict with or infringe any proprietary right of any third party in any way which adversely affects the business, financial condition or business prospects of Grantor. Further, except as set forth in Schedule A and Schedule B, Grantor is not aware of any claim by any third party that such conduct or such rights conflict with or infringe any valid proprietary right of any third party in any way which affects the business, financial condition or business prospects of Grantor. Grantor is not making and has not made use of any confidential information of any third party except pursuant to express agreement of such third party.

(j) Grantor is unaware of any infringement by any other party upon its Intellectual Property rights. Grantor has heretofore exerted, continues and affirmatively covenants that it will hereafter continue to exert commercially reasonable efforts to prevent any infringement by third parties of Grantor's Intellectual Property rights or any theft of Grantor's Other Proprietary Property at Grantor's sole cost.

(k) All past and present employees of Grantor and/or parties with whom Grantor (including any predecessor-in-interest of Grantor) had any contractual relationship ("contractors"), whose employment (or contractual) functions included or affected research and development or other material aspects of Intellectual Property have executed agreements requiring them to disclose to Grantor any and all inventions created or developed during and within the scope of their employment by or contractual relationship with Grantor and obligating them to assign all of their respective right, title and interest in and to all such inventions to Grantor.

4. Covenants. Grantor covenants and agrees with Lender that, from and after the date of this Security Agreement until the Obligations are paid in full:

(a) From time to time, upon the written request of Lender and/or Co-Lender, and at the sole expense of Grantor, Grantor will promptly and duly execute and deliver such further instruments and documents and take such further action as Lender and/or Co-Lender may reasonably request for the purpose of obtaining or preserving the full benefits of this Security Agreement and of the rights and powers herein granted, including, without limitation, the filing of any financing or continuation statements under the UCC in effect in any jurisdiction with respect to the liens created hereby. Grantor also hereby authorizes Lender to file any such financing or continuation statement without the signature of Grantor to the extent permitted by applicable law. A carbon, photographic or other reproduction of this Security Agreement shall be sufficient as a financing statement for filing in any jurisdiction.

(b) Grantor will not create, incur or permit to exist, will take all commercially reasonable actions to defend the Collateral against, and will take such other commercially reasonable action as is necessary to remove, any lien or claim on or to the Collateral, other than the liens created hereby, and other than as permitted pursuant to the Loan Agreement, and will take all commercially reasonable actions to defend the right, title and interest of Lender in and to any of the Collateral against the claims and demands of all persons whomsoever.

(c) Grantor will not sell, transfer, license or sub-license or otherwise dispose of any of the Collateral, or attempt, offer or contract to so do.

(d) Grantor will advise Lender promptly, in reasonable detail, at its address set forth in the Loan Agreement, (i) of any lien (other than liens created hereby or permitted under the Loan Agreement) on, or claim asserted against, Collateral and (ii) of the occurrence of any other event which could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the liens created hereunder.

(e) (i) Grantor (either itself or through licensees) will, except with respect to any Trademark that Grantor shall reasonably determine is of immaterial economic value to it or otherwise reasonably determines not to so do, (A) continue to use each Trademark on each and every trademark class of goods applicable to its current line as reflected in its current catalogs, brochures and price lists in order to maintain such Trademark in full force free from any claim of abandonment for non-use, (B) maintain as in the past the quality of products and services offered under such Trademark, (C) use reasonable efforts to employ such Trademark with the appropriate notice of registration, (D) not adopt or use any mark which is confusingly similar or a colorable imitation of such Trademark unless within thirty (30) days after such use or adoption Lender, for its and Co-Lender's benefit, shall obtain a perfected security interest in such mark pursuant to this Security Agreement, and (E) not (and not permit any licensee or sublicensee thereof to) do any act or knowingly omit to do any act whereby any Trademark may become invalidated.

(ii) Grantor will not, except with respect to any Patent that Grantor shall reasonably determine is of immaterial economic value to it or otherwise reasonably determine so to do, do any act, or omit to do any act, whereby any Patent may become abandoned or dedicated. Without the prior written consent of Lender and Co-Lender, Grantor shall not abandon any right to file a patent application, or abandon any pending patent application or patent if such abandonment would have a material adverse effect on the business of Grantor.

(iii) Grantor will promptly notify Lender if it knows, or has reason to know, that any application relating to any Patent, Trademark or Copyright may become abandoned or dedicated, or of any adverse determination or material development (including, without limitation, the institution of, or any such determination or development in, any proceeding in the United States Patent and Trademark office or any court or tribunal in any country) regarding Grantor's

ownership of any Patent, Trademark or Copyright, or its right to register the same or to keep and maintain the same.

(iv) Whenever Grantor, either by itself or through any agent, employee, licensee or designee, shall file an application for any Patent or for the registration of any Trademark or Copyright with the United States Patent and Trademark Office, the United States Copyright Office, or any similar office or agency in any other country or any political subdivision thereof, Grantor shall report such filing to Lender within five (5) business days after the last day of the fiscal quarter in which such filing occurs. Upon request of Lender or Co-Lender, Grantor shall execute and deliver any and all reasonably necessary agreements, instruments, documents, and papers as Lender or Co-Lender may request to evidence Lender's security interest in any newly filed Patent, Copyright or Trademark and the goodwill and general intangibles of Grantor relating thereto or represented thereby, and Grantor hereby constitutes Lender its attorney-in-fact to execute and file all such writings for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; such power being coupled with an interest is irrevocable until the Obligations are paid in full.

(v) Grantor, except with respect to any Patent, Trademark or Copyright Grantor shall reasonably determine is of immaterial economic value to it or it otherwise reasonably determines not to so do, will take all reasonable and necessary steps, including, without limitation, in any proceedings before any tribunal, office or agency in any other country or any political subdivision thereof, to maintain and pursue each application (and to obtain the relevant registration or Patent) and to maintain each Patent and each registration of Trademarks and Copyrights, including, without limitation, filing of applications, applications for reissue, renewal or extensions, the payment of maintenance fees, participation in reexamination, opposition and infringement proceedings, and the filing of renewal applications, affidavits of use and affidavits of incontestability, when appropriate. Any expenses incurred in connection with such activities shall be paid by Grantor.

(vi) In the event Grantor knows or has reason to know that any Patent, Trademark or Copyright included in the Collateral is infringed, misappropriated or diluted by a third party, Grantor shall promptly notify Lender and Co-Lender after it learns thereof and shall, unless Grantor shall reasonably determine that such Patent, Trademark or Copyright is of immaterial economic value to Grantor which determination Grantor shall promptly report to Lender and Co-Lender, promptly sue for infringement, misappropriation or dilution, or take such other actions as Grantor shall reasonably deem appropriate under the circumstances to protect such Patent, Trademark or Copyright.

(vii) Grantor will furnish to Lender and Co-Lender each year, on the anniversary date of the execution of this Agreement, statements, schedules and an inventory identifying and describing the Collateral, including without limitation, all material Intellectual Property acquired subsequent to the date of this agreement and not identified on Schedule A and Schedule B, all transfers, assignments,

licenses or sub-licenses of the Collateral by Grantor, and such other information in connection with the Collateral as Lender or Co-Lender may reasonably request, all in reasonable detail. Any such Intellectual Property shall automatically become part of the Collateral.

5. Lender's Appointment as Attorney-in-Fact.

(a) Grantor hereby irrevocably constitutes and appoints Lender and any officer or agent thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Grantor and in the name of Grantor or in its own name, from time to time after the occurrence, and during the continuation of, an Event of Default in Lender's discretion, for the purpose of carrying out the terms of this Security Agreement, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of this Security Agreement, and, without limiting the generality of the foregoing, Grantor hereby grants Lender the power and right, on behalf of Grantor without notice to or assent by Grantor, to do the following:

(i) at any time when any Event of Default shall have occurred and is continuing in the name of Grantor or its own name, or otherwise, to take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due under, or with respect to, any Collateral and to file any claim or to take any other action or proceeding in any court of law or equity or otherwise deemed appropriate by Lender for the purpose of collecting any and all such moneys due with respect to such Collateral whenever payable;

(ii) to pay or discharge taxes and liens levied or placed on or threatened against the Collateral, to effect any repairs or any insurance called for by the terms of this Security Agreement and to pay all or part of the premiums therefor and the costs thereof; and

(iii) (A) to direct any party liable for any payment under any of the Collateral to make payment of any and all moneys due or to become due thereunder directly to Lender or as Lender shall direct, (B) to ask or demand for, collect, receive payment of and receipt for, any and all moneys, claims and other amounts due or to become due at any time in respect of or arising out of any Collateral, (C) to sign and endorse any invoices, freight or express bills, bills of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications, notices and other documents in connection with any of the Collateral, (D) to commence and prosecute any suits, actions or proceedings at law or in equity in any court of competent jurisdiction to collect the Collateral or any portion thereof and to enforce any other right in respect of any Collateral, (E) to defend any suit, action or proceeding brought against Grantor with respect to any Collateral, (F) to settle, compromise or adjust any suit, action or proceeding described in the preceding clause and, in connection therewith, to give such discharges or releases as Lender may deem appropriate, (G) to assign any

Trademark or Copyright (along with goodwill of the business to which such Trademark or Copyright pertains), throughout the world for such term or terms, on such conditions, and in such manner, as Lender shall in its sole discretion determine, and (H) generally, to sell, transfer, pledge and make any agreement with respect to or otherwise deal with any of the Collateral as fully and completely as though Lender were the absolute owner thereof for all purposes, and to do, at Lender's option and Grantor's expense, at any time, or from time to time, all acts and things which Lender deems necessary to protect, preserve or realize upon the Collateral and the liens of Lender thereon and to effect the intent of this Security Agreement, all as fully and effectively as Grantor might do. Grantor hereby ratifies all that said attorneys shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

(b) Grantor also authorizes Lender, at any time and from time to time, to execute, in connection with the sale provided for in Section 8 hereof, any endorsements, assignments or other instruments of conveyance or transfer with respect to the Collateral.

(c) The powers conferred on Lender hereunder are solely to protect the interests of Lender in the Collateral and shall not impose any duty upon Lender to exercise any such powers. Lender shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither it nor any of its partners, officers, directors, employees or agents shall be responsible to Grantor for any act or failure to act hereunder, except for their own gross negligence or willful misconduct or failure to comply with mandatory provisions of applicable law.

6. **Performance by Lender of Grantor's Obligations.** If Grantor fails to perform or comply with any of its agreements contained herein and Lender, as provided for by the terms of this Security Agreement, shall itself perform or comply, or otherwise cause performance or compliance, with such agreement, then the expenses of Lender incurred in connection with such performance or compliance, together with interest thereon at the highest default rate provided in the Note, shall be payable by Grantor to Lender on demand and shall constitute Obligations secured hereby.

7. **Proceeds.** It is agreed that if an Event of Default shall occur and be continuing, then (a) all Proceeds received by Grantor consisting of cash, checks and other cash equivalents shall be held by Grantor in trust for Lender, segregated from other funds of Grantor, and shall, forthwith upon receipt by Grantor, be turned over to Lender in the exact form received by Grantor (duly endorsed by Grantor to Lender, if required), and (b) any and all such Proceeds received by Lender (whether from Grantor or otherwise) shall promptly be applied by Lender against, the Obligations (whether matured or unmatured), such application to be in such order as set forth in the Loan Agreement.

8. **Remedies Upon Default.** Upon an Event of Default under and as defined in the Loan Agreement, Lender may pursue any or all of the following remedies, without any notice to Grantor except as required below:

(a) Lender may give written notice of default to Grantor, following which Grantor shall not dispose of, conceal, transfer, sell or encumber any of the Collateral (including, but not limited to, cash proceeds) without Lender's prior written consent, even if such disposition is otherwise permitted hereunder in the ordinary course of business. Any such disposition, concealment, transfer or sale after the giving of such notice shall constitute a wrongful conversion of the Collateral. Lender may obtain a temporary restraining order or other equitable relief to enforce Grantor's obligation to refrain from so impairing Lender's Collateral.

(b) Lender may take possession of any or all of the Collateral. Grantor hereby consents to Lender's entry into any of Grantor's premises to repossess Collateral, and specifically consents to Lender's forcible entry thereto as long as Lender causes no significant damage to the premises in the process of entry (drilling of locks, cutting of chains and the like do not in themselves cause "significant" damage for the purposes hereof) and provided that Lender accomplishes such entry without a breach of the peace.

(c) Lender may dispose of the Collateral at private or public sale. Any required notice of sale shall be deemed commercially reasonable if given at least five (5) days prior to sale. Lender may adjourn any public or private sale to a different time or place without notice or publication of such adjournment, and may adjourn any sale either before or after offers are received. The Collateral may be sold in such lots as Lender may elect, in its sole discretion. Lender may take such action as it may deem necessary to repair, protect, or maintain the Collateral pending its disposition.

(d) Lender may exercise its lien upon and right of setoff against any monies, items, credits, deposits or instruments that Lender may have in its possession and that belong to Grantor or to any other person or entity liable for the payment of any or all of the Obligations.

(e) Lender may exercise any right that it may have under any other document evidencing or securing the Obligations or otherwise available to Lender at law or equity.

9. Limitation on Duties Regarding Preservation of Collateral. Lender's sole duty with respect to the custody, safekeeping and physical preservation of the Collateral in its possession, under Section 9-207 of the UCC or otherwise, shall be to deal with it in the same manner as Lender would deal with similar property for its own account. Neither Lender nor any of its partners, directors, officers, employees or agents shall be liable for failure to demand, collect or realize upon all or any part of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of Grantor or otherwise.

10. Powers Coupled with an Interest. All authorizations and agencies herein contained with respect to the Collateral are irrevocable and powers coupled with an interest.

11. Severability. Any provision of this Security Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any

such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

12. **Section Headings.** The section headings used in this Security Agreement are for convenience of reference only and are not to affect the construction hereof or be taken into consideration in the interpretation hereof.

13. **No Waiver: Cumulative Remedies.** Lender shall not by any act (except by a written instrument pursuant to Section 14 hereof), delay, indulgence, omission or otherwise be deemed to have waived any right or remedy hereunder or to have acquiesced in any default or Event of Default or in any breach of any of the terms and conditions hereof. No 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. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by Lender of any right or remedy hereunder on any occasion shall not be construed as a bar to any right or remedy which Lender would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are not exclusive of any rights or remedies provided by law.

14. **Waivers and Amendments; Successors and Assigns.** None of the terms or provisions of this Security Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by Grantor and Lender, provided that any provision of this Security Agreement may be waived by Lender in a written letter or agreement executed by Lender or by facsimile transmission from Lender. This Security Agreement shall be binding upon the successors and assigns of Grantor and shall inure to the benefit of Lender and its successors and assigns.

15. **Notices.** Any and all notices, elections or demands permitted or required to be made under this Security Agreement shall be in writing, signed by the party giving such notice, election or demand and shall be delivered personally, telecopied, or sent by certified mail or overnight via nationally recognized courier service (such as Federal Express), to the other party at the address set forth below, or at such other address as may be supplied in writing and of which receipt has been acknowledged in writing. The date of personal delivery or telecopy or two (2) business days after the date of mailing (or the next business day after delivery to such courier service), as the case may be, shall be the date of such notice, election or demand. For the purposes of this Security Agreement:

The Address of Lender is:

Hugh O. Maclellan, Jr.
501 Provident Building
Chattanooga, Tennessee 37402
Telecopy No.: 423/756-1640

with a copy to:

Chambliss, Bahner & Stophel, P.C.
1000 Tallan Building
Two Union Square
Chattanooga, Tennessee 37402
Attention: J. Patrick Murphy, Esq.
Telecopy No.: 423/265-9574

The Address of Grantor is:

Dalen Products, Inc.
11110 Gilbert Drive
Knoxville, Tennessee 37932
Attention: E. Neal Caldwell
Telecopy No.: 423/966-6404

with a copy to:

Bass, Berry & Sims PLC
1700 Riverview Tower
900 South Gay Street
Knoxville, Tennessee 37902
Attention: G. Mark Mamantov, Esq.
Telecopy No.: 423/521-6234

16. **Governing Law.** This Security Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Tennessee applicable to contracts to be wholly performed in such State, or to the extent required, by federal law.

17. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties to this Agreement in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.


18. **Consent to Jurisdiction; Exclusive Venue.** Grantor hereby irrevocably consents to the Jurisdiction of the United States District Court for the Eastern District of Tennessee and of all Tennessee state courts sitting in Hamilton County, Tennessee, for the purpose of any litigation to which Lender may be a party and which concerns this Security Agreement or the Obligations. It is further agreed that venue for any such action shall lie exclusively with courts sitting in Hamilton County, Tennessee, unless Lender agrees to the contrary in writing.

19. **Waiver of Trial by Jury.** LENDER AND GRANTOR HEREBY KNOWINGLY AND VOLUNTARILY WITH THE BENEFIT OF COUNSEL WAIVE TRIAL BY JURY IN ANY ACTIONS, PROCEEDINGS, CLAIMS OR COUNTER-CLAIMS, WHETHER IN CONTRACT OR TORT OR OTHERWISE, AT LAW OR IN EQUITY, ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT OR THE LOAN DOCUMENTS.


IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be duly executed and delivered as of the date first above written.

GRANTOR:

DALEN PRODUCTS, INC., a
Tennessee corporation

By: 
Title: President

LENDER:


Hugh O. Maclellan, Jr., individually and in his
capacity as collateral agent for himself and
Victor H. Rumore

SCHEDULE A

[See Attached]

.

US PATENTS

Asset #	Number	Date	Serial No.	Description	Term	Until	Fees Due
	3,896,586	07/29/75		System for Promoting Plant Growth (Automator)	17 yrs	07/29/92	
	3,948,777	04/13/76		Valve Construction and System Utilizing the Same	17 yrs	04/13/93	
	3,979,129	09/07/76		Valve Construction and Improved Parts For the Same or the Like	17 yrs	09/07/93	
	3,973,619	08/10/76		Heat Exchange System and Method and Control Device Therefor Having Motion Feedback Means	17 yrs	08/10/93	
	4,007,775	02/15/77		Heat Exchange System and Method and Control Device Therefor Having Motion Feedback Means	17 yrs	02/15/94	
	4,007,778	02/15/77		Heat Exchange System and Method and Control Device Therefor Having Motion Feedback Means	17 yrs	02/15/94	
	4,007,779	02/15/77		Heat Exchange System and Method and Control Device Therefor Having Motion Feedback Means	17 yrs	02/15/94	
	4,007,780	02/15/77		Heat Exchange System and Method and Control Device Therefor	17 yrs	02/15/94	
	4,005,547	02/01/77		Thermally Responsive Ventilated Cold Frame	17 yrs	02/15/94	
	4,155,504	05/22/79		Thermostatic Ventilator Actuator	17 yrs	05/22/96	
	4,557,069	12/10/85		Insect Trap Arrangement, Kit Therefor and Method of Making the Same (Beetle Buster)	expired	06/10/89	
	4,319,531	03/16/82	94,163	Shell Mounting System, Parts Therefor and Method of Making the Same	17 yrs	03/16/99	
	4,441,433	04/10/84	301,736	Shell Mounting System, Parts Therefor and Method of Making the Same	expired	10/10/91	
550/552	4,809,582	03/07/89	103,602	Shell Mounting System, Parts Therefor and Method of Making the Same	expired	03/07/93	
549	application	06/21/88	209,542	Ventilating Construction and Method of Making the Same	abandoned	10/18/89	
572/792	application	08/13/96	60/023,887	Oil Drain Pan and Methods of Making and Using the Same			
573	application	07/07/87	08/888,250	Cross-Merchandiser			
578/933	application	07/31/97	08/903,929	Cross-Merchandising Display Stand Owl With Movable Head			
553/555/582	4,910,052	03/20/80	231,723	Mulch Material and Method of Making the Same (Miracle Mulch)	17 yrs	03/20/07	3 1/2 yr fee 7 1/2 yr fee 11 1/2 yr fee 09/20/93 09/20/97 09/20/01
561/571/576	5,047,099	08/10/91	400,463	Mulch Material and Method of Making the Same	17 yrs	09/10/08	03/10/95 03/10/99 03/10/03
564/565/580	5,199,214	04/06/93	07/924,143	Tree Staking System, Parts Therefor and Methods of Making the Same	17 yrs	04/06/10	10/06/96 10/06/00 10/06/04
579	5,673,194	02/23/89	08/730,228	Perforated Embossed Landscaping Film	17 yrs	02/23/16	08/23/02 08/23/06 08/23/10

Asset #	Number	Date	Description	Term	Until
BRITISH PATENTS					
566	2,239,776	7/31/89	Mulch Material and Method of Making the Same (US Pat Application Ser. No. 231,723 8/12/88)	20 yrs	7/31/09
COPYRIGHTS					
	VA 567-366	5/12/93	Cet Sculpture Vol 2834 Pg 418		
	VA 572-994	3/19/93	Great Horned Owl I Sculpture Vol 2805 Pg 506		
	VA 572-944	3/26/93	Great Horned Owl II Sculpture Vol 2805 Pg 507		
	VA 899-143	2/18/98	Rotating Head Owl Sculpture Vol 3411 Pg 429		2052
CANADIAN TRADEMARKS					
	796/840 TMA506,169	01/07/99	GARDENEER (WORD) - Serial No. 860,422 Canada	15 yrs	1/7/14
	797 application	11/04/97	GARDENEER (LOGO) - Serial No. 860,421 Canada		

TRADEMARKS

Asset # Number Date Serial No. Description Term Util Affidavit of Use Renewal 9-10 Yrs Renewal 19-20 Yrs

	1,677,655	03/03/92	145,827	TERROR-EYES	assigned	04/29/92			
	1,586,322	03/06/90	73/714,918	GARD'N PEG	expired	03/06/96			
	1,680,845	03/24/92	74/135,483	WEED-CONTROLI	expired	03/24/98			
	application	08/04/87	676,546	TOMATO TRELIS	rejected				
	application	07/11/97	75/322,721	WEED-SHIELD	abandoned				
	1,363,450	10/01/85	532,719	FENCE-IT	sold	10/17/89			
	application	11/10/83	452,254	BIRD-X					
554	application	06/30/87		SMV-O-MATIC					
556	application	08/21/91		EZ TURN					
563	application	08/13/92		BIRDS -AWAY					
569	application	08/30/94	74/567,759	STOP SIGN					
583	application	07/11/97	75/323,005	YEAR (LOGO)					
570/574/932	application	08/11/97	75/338,516	GARDENEER (LOGO)					
839	application	10/13/88	75/566,908	STOP WEEDS BEFORE THEY START					
790/876	application	06/30/98		NO TRIM EDGING					
	1,040,596	08/27/96	73/046,202	AUTOMATOR - Registered 6/01/78	10 yrs	06/01/06			
	1,666,788	12/03/91	74/136,726	GUARD'N CAT	10 yrs	12/03/01	Dec-96	Dec-00	Dec-00
556/795	1,669,472	12/24/91	74/107,117	DEER-X	10 yrs	12/24/01	Dec-96	Dec-00	Dec-00
557/793	1,708,180	08/18/92	74/196,792	WEED-X	10 yrs	08/18/02	Aug-97	Aug-01	Aug-01
568	1,815,908	01/12/94	74/381,315	WEED-PROOF	10 yrs	01/12/04	Jan-98	Jan-03	Jan-03
562/567	2,157,931	05/19/98	74/382,019	WEED-SHIELD	10 yrs	05/19/08	May-03	May-07	May-07
581/784									
577/791	2,163,190	06/09/98	75/111,622	NATURAL ENEMY SCARECROW	10 yrs	06/09/08	Jun-03	Jun-07	Jun-07
575	2,201,238	11/03/88	75/337,460	KEEPS WEEDS OUT/LETS WATER IN (LOGO)	10 yrs	11/03/08	Nov-03	Nov-07	Nov-07
560	1,377,246	01/07/86	532,717	TRELIS PLUS	20 yrs	01/07/06	Jan-91	Jan-95	Jan-95
559	1,393,241	05/13/86	532,718	MIRACLE MULCH	20 yrs	05/13/06	May-91	May-95	May-95
	1,452,217	08/11/87	626,959	ECONO-MULCH	20 yrs	08/11/07	Aug-92	Aug-96	Aug-96
	1,456,559	09/08/87	561,283	BEEBLE BUSTER	20 yrs	09/08/07	Sep-92	Sep-96	Sep-96
551	1,472,334	01/12/88	627,131	MULCH MAT	20 yrs	01/12/08	Jan-93	Jan-97	Jan-97
	1,485,299	04/19/88	661,712	HARVEST-GUARD	20 yrs	04/19/08	Apr-93	Apr-97	Apr-97
	1,495,838	07/12/88	696,155	GRASS-FASTI	20 yrs	07/12/08	Jul-93	Jul-97	Jul-97
	1,522,647	01/31/89	682,681	NATURAL ENEMY SCARECROW	20 yrs	01/31/09	Jan-94	Jan-98	Jan-98
	661,045	07/20/82	25,517	DO-IT-YOUR-SHELF	assignment				

SCHEDULE B

None