

FORM 2015  
Expires 06/30/99  
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U.S. Department of Commerce  
Patent and Trademark Office

TRADEMARK

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RECORDATION FORM COVER SHEET  
TRADEMARKS ONLY

1/10/00

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
- Change of Name
- Other

Effective Date  
Month Day Year  
12 31 1999

Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date  
Month Day Year  
12 31 1999

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

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FOR OFFICE USE ONLY

01 FC:481  
02 FC:482  
40.00 DP  
50.00 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: 002015 FRAME: 0943

**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

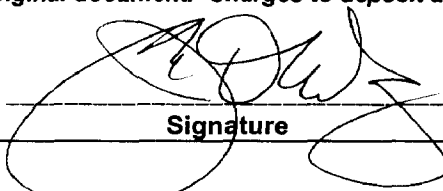
No

**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.

Joseph D. Wargo, Esq.

Name of Person Signing



Signature

1/4/00

Date Signed

## TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (this "Agreement") is made as of December 31, 1999, between **MDSA, LLC** ("Borrower"), a Georgia limited liability company having an office at 650 Engineering Drive, Norcross, Georgia 30092, and **SOUTHTRUST BANK, N.A.** ("Lender"), a national banking association having an office at One Georgia Center, 600 West Peachtree Street, Suite 2700, Atlanta, Georgia 30308

### W I T N E S S E T H

WHEREAS, Borrower has entered into a certain loan agreement (together with all amendments thereto, the "Loan Agreement") with Lender on or about the date hereof; and

WHEREAS, Lender is willing to make loans to Borrower from time to time, subject to the terms and conditions set forth in the Loan Agreement, provided that Borrower executes this Agreement;

WHEREAS, Borrower has contemporaneously herewith pursuant to the Loan Agreement granted, and does hereby grant, to Lender a lien upon and security interest in Borrower's now existing or hereafter acquired machinery, equipment, equipment formulations, manufacturing procedures, quality control procedures and product specifications relating to products sold under the Trademarks (as hereinafter defined);

NOW, THEREFORE, for Ten Dollars (\$10.00) and other valuable consideration, and in consideration of the premises, Borrower hereby agrees with Lender as follows:

1. **Recitals; Definitions.** The foregoing recitals are hereby incorporated by this reference as an integral part of this Agreement. Unless otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed to them in the Loan Agreement.

2. **Security Interest Collateral.** To secure the payment and performance of the Obligations at any time outstanding under the Loan Agreement, Borrower hereby pledges, assigns and grants to Lender a continuing security interest in and lien upon all of the following property of Borrower, whether now owned or existing or hereafter acquired (collectively, the "Collateral"):

(a) the trademarks shown on Annex X attached hereto and made a part hereof (as the same may be amended from time to time), and (i) all renewals thereof, (ii) all income, royalties, damages and payments now and hereafter due or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (such trademarks, together with the items described in clauses (i) - (iv), are hereinafter collectively referred to as the "Trademarks");

(b) the goodwill of Borrower's business connected with and symbolized by the Trademarks; and

(c) all proceeds of the foregoing.

3. **Representations and Warranties.** Borrower hereby represents and warrants to Lender that:

(a) The Trademarks described on Annex X are valid and enforceable;

(b) Upon filing of this Agreement in the United States Patent and Trademarks Office, this Agreement will create a legal and valid perfected lien upon and security interest in the Collateral, enforceable against Borrower and all third Persons in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, liquidation, reorganization, moratorium, receivership or other similar laws relating to or affecting creditors rights generally or a such enforcement may be subject to general principles of equity;

(c) Borrower is the sole owner of the Collateral and has the unqualified right to enter into this Agreement and perform its terms; and

(d) No claim has been made that the use of the Trademarks does or may violate the rights of any third Person.

4. **Covenants.** Borrower covenants and agrees with Lender that, with respect to all of the Collateral:

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

(b) Borrower is and shall continue to be the sole and exclusive owner of the entire right, title and interest in and to the Trademarks, free and clear of any liens, charges and encumbrances (including, without limitation, pledges, agreements, licenses, registered user agreements and covenants by Borrower not to sue third Persons) other than liens in favor of Lender hereunder;

(c) Borrower will maintain and renew the Trademarks and will defend the Collateral against the Claims of all Persons unless Lender consents in writing that such defense would be unreasonable or impractical which consent shall not be unreasonably withheld;

(d) Borrower will not permit the expiration of any registration of or termination of the Trademarks or any application for the Trademarks without the prior written consent of Lender;

(e) Borrower will maintain the quality of the products associated with the Trademarks, at a level consistent with the quality at the time of this Agreement, and will provide Lender, upon Lender's written request, with a certificate to that effect in the form attached hereto as Exhibit 1 executed by an authorized officer of Borrower; and

(f) Borrower has used and will continue to use for the duration of this Agreement, proper statutory notice in connection with its use of the Trademarks, including, without limitation, filing an affidavit of use with the United States Patent and Trademark Office during the sixth year of registration for the Trademarks,

5. **Visits and Inspections.** Borrower hereby grants to Lender and its respective employees and agents the right to visit during normal business hours Borrower's plants and facilities which manufacture, inspect or store products sold under the Trademarks and to inspect the products and quality control records relating thereto at reasonable times during regular business hours and at reasonable intervals. Borrower shall do any and all acts reasonably required by Lender to ensure Borrower's compliance with paragraph 4(f) of this Agreement

6. **Transfer or Encumbrance.** Borrower agrees that, until all of the Obligations have been indefeasibly satisfied in full, it will not sell, pledge, transfer, assign or encumber any of the Collateral or any interest therein and will not enter into any agreement (including, without limitation, any license agreement) which is inconsistent with Borrower's duties under this Agreement.

7. **Remedies.** At any time an Event of Default exists, Lender shall have, in addition to all other rights and remedies given it by this Agreement, all rights and remedies under Applicable Law and all rights and remedies of a secured party under the Uniform Commercial Code as adopted and then in force in the State of Georgia. Without limiting

the generality of the foregoing, Lender may immediately, without notice (except as set forth below) or demand, each of which Borrower hereby waives, collect directly any payments due Borrower in respect of the Collateral, or license or lease any or all of the Collateral, or sell at public or private sale or otherwise realize upon all or from time to time, any of the Collateral. Borrower hereby agrees that ten (10) days written notice to Borrower of any public or private sale or other disposition of any of the Collateral shall be reasonable notice; provided, however, that no notice shall be required hereunder if not otherwise required by Applicable Law. At any such sale or disposition, Lender may, to the extent permitted by law, purchase the whole or any part of the Collateral sold, free from any right of redemption on the part of Borrower, which right is hereby waived and released. Borrower hereby agrees to execute and deliver any and all documents which Lender deems, in its sole and absolute discretion, necessary to transfer and record title to the Collateral in any transferee or transferees upon any such disposition of the Collateral as provided herein. After deducting from the proceeds of such sale or other disposition of the Collateral all costs and expenses incurred by Lender in enforcing their respective rights hereunder (including, without limitation, all attorneys' fees), Lender shall apply the remainder of such proceeds first to interest due upon any of the Obligations and then to principal of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to Borrower. If any deficiency shall arise, Borrower shall and each guarantor of the Obligations shall remain jointly and severally liable to Lender therefor.

8. **Power of Attorney.** Borrower hereby makes, constitutes and appoints Lender and any officer or agent of Lender as Lender may select as Borrower's true and lawful attorney-in-fact, with power of substitution and with full power to do any or all of the following if an Event of Default exists: to endorse Borrower's name on all applications, documents, papers and instruments necessary for Lender to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to anyone else, or to assign, pledge, convey or otherwise transfer title in or dispose of the Collateral to anyone else. Borrower 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 all of the Obligations shall have been indefeasibly satisfied in full and the Loan Agreement shall have been terminated.

9. **Further Assurances.** At such time as all of the Obligations shall have been satisfied finally and in full and the Loan Agreement shall have been terminated, Lender shall execute and deliver to Borrower all such releases and other instruments necessary to terminate Lender's security interest in the Collateral.

10. **Fees and Expenses.** Any and all fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by Lender in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Collateral, or in defending or prosecuting any actions or proceedings arising out of or related to the Collateral, shall be borne and paid by Borrower promptly to Lender and shall bear interest at the rate prescribed in the Loan Agreement.

11. **Preservation of Trademarks.** Borrower shall use commercially reasonable efforts to detect any infringers of the Trademarks and shall notify Lender in writing of infringements detected. Borrower shall have the duty, through counsel acceptable to Lender, to file and prosecute opposition and cancellation proceedings relating to the Trademarks, to file and prosecute lawsuits to enforce the Trademarks and any licenses thereof and to do any and all acts which are deemed reasonably necessary by Lender to preserve or maintain all rights in the Trademarks and licenses thereof. Any expenses incurred in connection with such proceedings shall be borne by Borrower.

12. **Institution of Suits.** Notwithstanding anything to the contrary contained in paragraph 11 hereof, Lender shall have the right, but shall in no way be obligated, to bring suit instead in its own name to enforce the Trademarks and any license thereof, in which event Borrower shall at the request of Lender do any and all lawful acts (including bringing suit) and execute any and all proper documents reasonably required by Lender to aid such enforcement, and Borrower shall promptly, after demand, reimburse and indemnify Lender for all costs and expenses incurred in the exercise of Lender's rights under this paragraph 12. Nothing herein shall be deemed to prohibit Borrower from bringing any such suit in its own name at any time that an Event of Default does not exist, if Lender declines to institute such suit.

13. **Acts on behalf of Borrower.** If Borrower fails to comply with any of its obligations hereunder, to the extent permitted by Applicable Law, Lender may do so in Borrower's name or in Lender's name, but at Borrower's expense, and Borrower agrees to reimburse Lender in full for all expenses, including reasonable attorneys' fees, incurred by Lender in prosecuting, defending or maintaining the Trademarks or Lender's interest therein pursuant to this Agreement.

14. **No Waiver.** No course of dealing between Borrower and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, 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.

15. **Cumulative Remedies.** All of Lender's rights and remedies with respect to the Collateral, whether established hereby or by the Loan Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

16. **Severability** The provisions of this Agreement 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 enforceability 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 Agreement in any jurisdiction.

17. **Modifications.** This Agreement is subject to modification only by a writing signed by the parties.

18. **Successors and Assigns.** The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

19. **Effectiveness Governing Law.** This Agreement shall be deemed effective upon Lender's acceptance thereof in Atlanta, Georgia, notice of which acceptance is hereby waived by Borrower. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Georgia.

20. **Jury Waiver.** BORROWER AND LENDER EACH WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE COLLATERAL.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed, sealed and delivered as of the day and year first above written.

MDSA, LLC, a Georgia limited liability company  
(SEAL)

By: [Signature]

Manager

Printed Name: PELHAM WILDER

SOUTHTRUST BANK, N.A.

By: [Signature]

Ronald Fontenot,  
Vice President

STATE OF GEORGIA       §  
                                  §  
COUNTY OF FULTON   §

BEFORE ME, the undersigned authority, on this day personally appeared Pelham Wilder  
Vice President of MDSA, LLC, a Georgia limited liability company, to me known to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said limited liability company.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 14th day of December, 1999.

[Signature]  
Notary Public  
My Commission Expires: May 22, 2001

[NOTARIAL SEAL]

STATE OF GEORGIA       §  
                                  §  
COUNTY C F FULTON   §

BEFORE ME, the undersigned authority, an this day personally appeared Ronald Fontenot of SOUTHTRUST BANK, N.A., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said bank.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 16<sup>th</sup> day of December, 1999.

Lynne G. O'Brien  
Notary Public  
My Commission Expires: 1/28/01

[NOTARIAL SEAL]

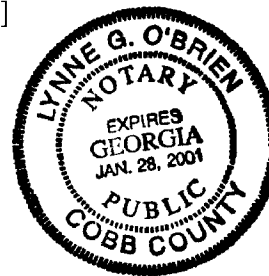




Exhibit 1

CERTIFICATE

The undersigned officer of MDSA, LLC (the "Company"), does hereby certify to SOUTHTRUST BANK, N.A. ("Lender") that the quality of the products associated with the Trademarks listed on Annex X of the Trademark Security Agreement dated as of December 31, 1999 from the Company in favor of Lender has been maintained at a level consistent with the quality of such products at the time of the execution of the Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Certificate this 31<sup>st</sup> day of December 1999.

MDSA, LLC

By: 

Manager

Printed Name: DELANA WILSON, JR.

ANNEX X

<u>Trademark</u>	<u>Trademark Number</u>	<u>Registration Date</u>
"MIGHTY" (in stylized form for Spark Plugs, Ignition Apparatus, Ignition Wire, Alternators, Starters, Oil Filters, Air Filters, Disc Brake Pads, Hose Clamps and Windshield Wiper Blades)	1,572,864	December 26, 1989
ENGINE GUARD (Oil Filters)	1,648,077	June 18, 1991
MIGHTY XL 2000 (Automotive Brake Systems)	1,853,034	September 6, 1994