

08-28-2000

Docket No.:

1824-6458



101444603

Tab settings

To the Honorable Commissioner of Patents and Trademarks. Please receive the attached original documents or copy thereof.

1. Name of conveying party(ies): 17-27-00
U.S. Kids Golf, LLC

- Individual(s)
- General Partnership
- Corporation-State
- Other limited liability company
- Association
- Limited Partnership

Additional names(s) of conveying party(ies) Yes No

3. Nature of conveyance:
- Assignment
 - Security Agreement
 - Other
 - Merger
 - Change of Name

Execution Date: November 19, 1999

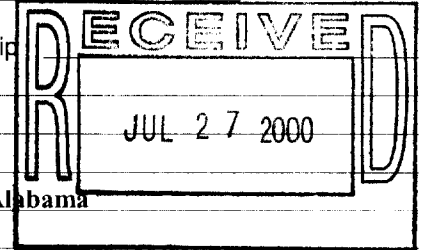
2. Name and address of receiving party(ies):
Name: SouthTrust Bank f/k/a SouthTrust Bank, N.A.

Internal Address: SouthTrust Tower

Street Address: 420 North 20th Street

City: Birmingham State: AL ZIP: 35203

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Alabama
- Other



If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from Additional name(s) & address(es) Yes N

4. Application number(s) or registration numbers(s):

A. Trademark Application No.(s)
75/810926 75/789436
75/810927
75/810928

B. Trademark Registration No.(s)
2092787 2322985
2257218
2228940

Additional numbers Yes No

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

Name: George Malcolm Taylor, III

Internal Address: Burr & Forman LLP

Suite 3100, SouthTrust Tower

Street Address: 420 North 20th Street

City: Birmingham State: AL ZIP: 35203

6. Total number of applications and registrations involved: 8

7. Total fee (37 CFR 3.41):.....\$ \$320.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

08/24/2000 DNGUYEN 00000219 75810926

DO NOT USE THIS SPACE

01 FC:481 40.00 OP
02 FC:482 175.00 OP

9. Statement and signature.
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

George M. Taylor, III
Name of Person Signing

Signature

7/27/00
Date

Total number of pages including cover sheet, attachments, and

9

00000715
08/24/2000
CHECK Refund Total: \$105.00

TRADEMARK

REEL: 002125 FRAME: 0803

TRADEMARK SECURITY AGREEMENT

THIS AGREEMENT is made this 19 day of November, 1999, between **U.S. KIDS GOLF, LLC**, a Georgia limited liability company (the "Assignor") having an address of 2870 North Berkeley Lake Road, Suite 3, Duluth, Gwinnett County, Georgia 30096, and **SOUTHTRUST BANK, NATIONAL ASSOCIATION**, a national banking association, with its principal office located at 420 North 20th Street, Birmingham, Alabama 35203 (the "Lender").

WITNESSETH:

WHEREAS, Assignor has requested that Lender make available certain credit facilities to it pursuant to a Loan and Security Agreement between Lender and Assignor bearing even date herewith (hereinafter referred to, together with all amendments thereto, as the "Loan Agreement"); and

WHEREAS, Lender is willing to make said credit facilities available to Assignor, provided the Assignor executes and delivers to Lender this Trademark Security Agreement as additional collateral for the Obligations (as defined in the Loan Agreement); and

WHEREAS, the Assignor desires to execute and deliver in favor of Lender this Trademark Security Agreement for the purposes and on the terms hereinafter stated;

NOW, THEREFORE, for Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and in consideration of the premises, Assignor hereby agrees with Lender as follows:

1. Unless otherwise defined herein, all capitalized terms used herein shall have the meanings ascribed to them in the Loan Agreement.

2. To secure the payment and performance of the Obligations and the Guaranty Agreement, the Assignor hereby pledges, assigns and grants to Lender a continuing security interest in and lien upon all of the following property of the Assignor, whether now owned or existing or hereafter acquired (the "Collateral"):

(a) all trademarks, trademark registrations, tradenames and trademark applications of Assignor, including, without limitation, the trademarks and applications listed on Schedule A 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 or 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 (all of the foregoing trademarks, trademark registrations, tradenames and applications, together with the items described in clauses (i)-(iv), are hereinafter collectively referred to as the "Trademarks");

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

(c) all proceeds of the foregoing.

3. The Assignor represents and warrants that:

(a) Each of the Trademarks ^{that have been issued} is subsisting and has not been adjudged invalid or unenforceable;

(b) Upon filing of this Agreement in the United States Patent and Trademark Office, this Agreement will create a legal and valid perfected lien upon and security interest in the Collateral (other than foreign trademarks), enforceable against Assignor and all third Persons in accordance with its terms;

(c) No claim has been made that the use of any of the Trademarks does or may violate the rights of any third person; and

(d) The Assignor has the unqualified right to enter into this Agreement and perform its terms.

4. The Assignor covenants and agrees that:

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

(b) The Assignor is the sole and exclusive owners of the entire right, title and interest in and to each of the Collateral, free and clear of any liens, charges and encumbrances, including, without limitation, pledges, assignments, licenses, registered user agreements and covenants by the Assignor not to sue third persons;

(c) The Assignor will maintain the quality of the products associated with the Trademarks, at a level consistent with the quality at the time of this Agreement;

~~(d) The Assignor will not change the quality of the products associated with the Trademarks without Lender's prior written consent; and~~

(e) The Assignor 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 each Trademark as required by law.

5. The Assignor agrees that, until all of the Obligations have been satisfied in full, it will not enter into any agreement (including, without limitation, any license agreement) which is inconsistent with the Assignor's duties under this Agreement.

6. If, before the Obligations have been satisfied in full, the Assignor shall obtain rights to any new trademarks, or become entitled to the benefit of any trademark application or trademark or any renewal of any Trademark, the provisions of paragraph 2 hereof shall automatically apply thereto, and the Assignor shall give to Lender prompt notice thereof in writing.

7. The Assignor authorizes Lender to modify this Agreement by amending Schedule A to include any future trademarks and trademark applications within the definition of Trademarks under paragraph 2 or paragraph 6 hereof.

8. Upon and at any time after the occurrence of an Event of Default (as defined in the Loan Agreement), 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 or demand, each of which Assignor hereby waives, collect directly any payments due the Assignor or Assignor in respect of the Collateral, or sell at public or private sale or otherwise realize upon all or from time to time, any of the Collateral. The Assignor hereby agrees that ten (10) days written notice to the Assignor 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 the Assignor, which right the Assignor hereby waives and releases. After deducting from the proceeds of such sale or other disposition of the Collateral all costs and expenses incurred by Lender in enforcing its rights hereunder (including, without limitation, all attorneys' fees), Lender shall apply the remainder of such proceeds to the payment of the Obligations in such order and manner as Lender in its sole discretion may determine. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to the Assignor. If any deficiency shall arise, the Assignor and each guarantor of the Obligations shall remain jointly and severally liable to Lender therefor.

9. The Assignor hereby makes, constitutes and appoints Lender and any officer or agent of Lender as Lender may select as the Assignor's true and lawful attorney-in-fact, with full power to do any or all of the following if an Event of Default shall occur and be continuing: to endorse the Assignor'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. The Assignor 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 satisfied in full and the Loan Agreement shall have been terminated.

10. 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 Assignor all releases and other instruments to terminate Lender's security interest in the Collateral.

11. 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 the Assignor on demand by Lender and shall bear interest at the Default Rate prescribed in the Loan Agreement.

12. The Assignor shall use its best efforts to detect any infringers of the Trademarks and shall notify Lender in writing of infringements detected. The Assignor shall have the duty, through counsel acceptable to Lender, to prosecute diligently any trademark application of the Trademarks pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full, to make federal application on registrable but unregistered Trademarks, to file and prosecute opposition and cancellation proceedings, to file and prosecute lawsuits to enforce the Trademarks and to do any and all acts which are deemed necessary or desirable by Lender to preserve and maintain all rights in the Trademarks. Any expenses incurred in connection with such applications or proceedings shall be borne by the Assignor. The Assignor shall not abandon any right to file a trademark application, or any pending trademark application or trademark without the consent of Lender.

13. Notwithstanding anything to the contrary contained in paragraph 12 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 thereunder, in which event the Assignor shall at the request of Lender do any and all lawful acts (including bringing suit) and execute any and all proper documents required by Lender to aid such enforcement, and the Assignor shall promptly, upon demand, reimburse and indemnify Lender for all costs and expenses incurred in the exercise of Lender's rights under this paragraph 13. Nothing herein shall be deemed to prohibit the Assignor 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.

14. If the Assignor fails to comply with any of its obligations hereunder, to the extent permitted by applicable law, Lender may do so in the Assignor's name or in Lender's name, but at the Lender's expense, and the Assignor agrees to reimburse Lender in full for all expenses, including attorneys' fees, incurred by Lender in prosecuting, defending or maintaining the Trademarks or Lender's interest therein pursuant to this Agreement.

15. No course of dealing between the Assignor 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 Agreement 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.

16. All of Lender's rights and remedies with respect to the Trademarks, 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.

17. 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 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 Agreement in any jurisdiction.

18. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph 7 hereof.

19. 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.

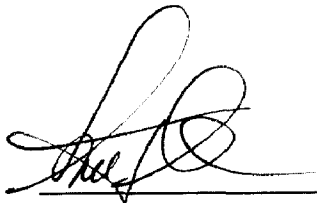
20. Notice of acceptance hereof is hereby waived by the Assignor.

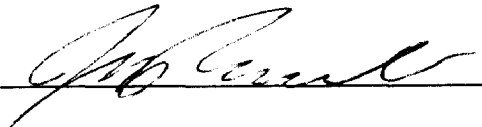
21. THIS AGREEMENT HAS BEEN NEGOTIATED, EXECUTED AND DELIVERED AT AND SHALL BE DEEMED TO HAVE BEEN MADE IN ATLANTA, GEORGIA. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF GEORGIA.

22. THE ASSIGNOR 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 TRADEMARKS.

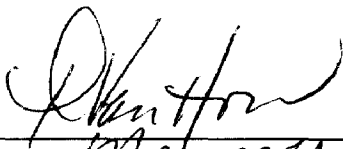
WITNESS the execution hereof under seal as of the day and year first above written.

WITNESSES:





U.S. KIDS GOLF, LLC
("Assignor")

By: 
Its: MANAGER

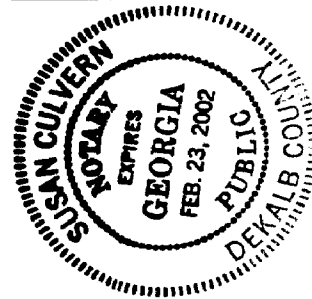
STATE OF Georgia)
)
COUNTY OF Fulton)

BEFORE ME, the undersigned authority, on this day personally appeared Larry Howe, Vice President of SouthTrust Bank, National Association, a national banking association, to me known to be the person whose name is subscribed to the foregoing instrument in said capacity and on behalf of said entity, 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 entity.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 19th day of November, 1999.

Susan Culvern

Notary Public
My Commission Expires: _____
[NOTARIAL SEAL]



SCHEDULE A

DESCRIPTION	REGISTRATION NO.	ISSUE DATES
U. S. Kids	2,092,787	9/2/97
U. S. Kids & Flag Design	2,257,218	6/29/99
Flag Design	2,228,940	3/2/99
Kidsklubs	2,322,985	2/29/00
I am the Future	Application pending	Application pending
Kidpower	75,810,926 (serial no.)	Application pending
Personal Tee	75,789,436 (serial no.)	Application pending
Swing-Right	75,810,928 (serial no.)	Application pending
Kidsflex	75,810,927 (serial no.)	Application pending

In addition, the following Assignor has applied for various patents which have been disclosed in writing to Bank. As of the date hereof, no patents have been issued in respect to such applications but upon the grant of any said patents, Assignor agrees to execute such documents, writings, and instruments as shall be necessary to confer upon Bank a first-priority, fully-perfected security interest in said patents. .