

FORM PTO-1594 (Rev. 6-93)

REC

01-08-2001

HEET

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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



Tab settings

101574465

To the Honorable Commissioner of Patents

Documents are attached original documents or copy thereof.

1. Name of conveying party(ies):

CAS Medical Systems, Inc.

- Individual(s), Association, General Partnership, Limited Partnership, Corporation-State Delaware, Other

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

2. Name and address of receiving party(ies)

Name: New Haven Savings Bank

Internal Address:

Street Address: 195 Church Street

City: New Haven State: CT ZIP: 06510

- Individual(s) citizenship, Association, General Partnership, Limited Partnership, Corporation-State Connecticut, 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 assignments)

Additional name(s) & address(es) attached? Yes No

3. Nature of conveyance:

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

EXPRESS MAIL MAILING I hereby certify that this paper or fee is being deposited with the United States Postal Service under 37 CFR 1.10 on the date indicated above and

Execution Date:

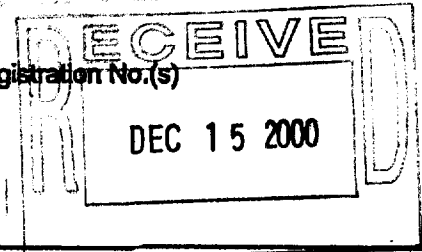
4. Application number(s) or patent number(s)

A. Trademark Application No.(s) Karen Gill (Typed or Printed Name of Person Mailing paper or fee.)

(Signature of Person Mailing paper or fee) attached? Yes No

B. Trademark Registration No.(s)

1838394, 1600609, 2122287



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

Name: Judy K. Weinstein, Esq.

Internal Address:

Street Address: Neubert, Pepe & Monteith PC 195 Church Street, 13th Floor

City: New Haven State: CT ZIP: 06510

6. Total number of applications and registrations involved:

3

7. Total fee (37 CFR 3.41) \$ 90.00

- Enclosed, Authorized to be charged to deposit account

8. Deposit account number:

23-1665

(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.

CAS Medical Systems, Inc.

By: Name of Person Signing

Louis P. Scheps

Signature

Date 11/29/00

Total number of pages including cover sheet, attachments, and document: 9

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

TRADEMARK REEL: 002207 FRAME: 0679

## TRADEMARKS AND LETTERS PATENT SECURITY AGREEMENT

This Trademarks and Letters Patent Security Agreement ("**Agreement**") made this 29th day of November, 2000, by and between **CAS MEDICAL SYSTEMS, INC.**, a Delaware corporation with its chief executive office at 44 East Industrial Road, Branford, CT 06405 ("**Grantor**" or "**Borrower**") and **NEW HAVEN SAVINGS BANK**, with a place of business at 195 Church Street, New Haven, CT 06510 ("**Grantee**" or "**Lender**").

WHEREAS, Lender is making a loan (the "**Loan**") to Borrower evidenced by promissory note from Borrower to Lender dated of even date herewith in the principal amount of \$1,900,000.00 (as the same may be amended and/or restated from time to time herein called the "**Note**").

WHEREAS, Lender has a security interest in substantially all assets of Borrower pursuant to inter alia an Amended and Restated Security Agreement between Borrower and Lender of even date herewith (the "**Security Agreement**").

WHEREAS, Borrower is also obligated to Lender pursuant to a Commercial Line of Credit Note and Loan Agreement dated August 29, 2000 from Borrower to Lender (as the same may be amended from time to time herein called the "**Line of Credit**").

WHEREAS, Borrower is the record owner of: (i) the trademarks and letters patent of the United States listed on **Schedule A** annexed hereto (the "**Trademarks**" and the "**Letters Patent**" respectively), which Trademarks and Letters Patent are registered in the United States Patent and Trademark Office, and (ii) the inventions described and claimed in the Letters Patent; and

WHEREAS, Borrower is hereby granting Lender a security interest in the Trademarks and the Letters Patent on the terms set forth herein.

NOW, THEREFORE, in consideration of the loan evidenced by the Note, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree as follows:

1. To secure the complete and timely satisfaction of all of the obligations (the "**Obligations**") of Borrower to Lender under the Note, Line of Credit and all present and future agreements which now or hereafter secure, relate to, or evidence the Note, Line of Credit and/or the loans evidenced thereby (collectively, including the Note and Line of Credit herein called the "**Loan Documents**"), Borrower does hereby mortgage and pledge to Lender and its successors and assigns and grant a security interest to Lender, its successors and assigns in, its entire right title and interest in and to the Trademarks and the Letters Patent, together with and including, without

limitation, the good will of the business to which each of the Trademarks relates, all proceeds of the Trademarks and the Letters Patent (such as, by way of example, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof (collectively, including the Trademarks and Letters Patent, herein called the "Collateral").

2. Borrower covenants and warrants that, except as set forth on Schedule B attached hereto and incorporated herein:

a. The Trademarks and the Letters Patent are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;

b. Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to the Collateral, free and clear of any liens, charges and encumbrances, including, without limitation, pledges, assignments, registered user agreements, licenses, shop rights and covenants by Borrower not to sue third persons;

c. Borrower has the unqualified right to enter into this Agreement and perform its terms;

d. To the best of Borrower's knowledge, no claim has been made that the use of any of the Trademarks does or may violate the rights of any third person;

e. Borrower will continue to use for the duration of this Agreement proper statutory notice in connection with its use of the Trademarks; and

f. Borrower will continue to use for the duration of this Agreement consistent standards of quality in its manufacture of products sold under the Trademarks.

3. Borrower hereby grants to Lender and its employees and agents the right to visit Borrower's plants and facilities which manufacture, inspect or store products sold under any of the Trademarks, and to inspect the products and quality control records relating thereto at reasonable times during regular business hours and at Lender's sole expense. Borrower shall do any and all acts reasonably required by Lender to ensure Borrower's compliance with **Paragraph 2.G.** above.

4. Borrower agrees that until all of the Obligations shall have been satisfied in full, it will not, except as set forth on **Schedule B**, sell, transfer, encumber, assign or grant licenses or sublicenses with respect to the Collateral, without Lender's prior written consent.

5. If, before the Obligations shall have been satisfied in full, Borrower shall obtain rights to any new trademarks or patentable inventions, or become entitled to the benefit of any patent application or patent for any reissue, division, continuation, renewal, extension or continuation-in-part of any Patent or any improvement on any Patent, the provisions of **Paragraph 1** hereof shall automatically apply thereto and Borrower shall give to Lender prompt notice thereof in writing hereof.

6. Borrower authorizes Lender to modify this Agreement by amending **Schedule A** to include any future patents and patent applications which are Letters Patent under **Paragraphs 1** or **5** hereof or to include any future trademarks which are Trademarks under **Paragraphs 1** or **5** hereof.

7. If a default or an Event of Default (as defined in any of the Loan Documents) shall have occurred, Lender shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Collateral may be located and, without limiting the generality of the foregoing, the Borrower may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Borrower, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in Connecticut or elsewhere, the whole or from time to time any part of the Collateral, or any interest which Borrower may have therein, and after deducting from the proceeds of sale or other disposition of the Collateral all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to Borrower. Notice of any sale or other disposition of the Collateral shall be given to Borrower at least five (5) days before the time of any intended public or private sale or other disposition of the Collateral, which Borrower hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, Lender or any holder of any note may, to the extent permissible under applicable 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. Without limiting the foregoing, upon or after the occurrence of a default or an Event of Default (as defined in any of the Loan Documents), Borrower hereby grants to Lender the exclusive, royalty-free, nontransferable right and license to make, have made, use and sell the goods covered by the Trademarks and the inventions disclosed and claimed in the Letters Patent and to use the Trademarks on and in connection with goods of the Borrower.

8. Borrower assumes all responsibility and liability arising from the use of the Trademarks and the Letters Patent and Borrower hereby indemnifies, defends and holds Lender harmless from and against any claim, suit, loss, damage or expense (including reasonable attorneys fees) arising out of (i) any alleged defect in any product manufactured, promoted or sold by Borrower under any of the Letters Patent or bearing any of the Trademarks, or (ii) the manufacture, promotion, labeling, sale or advertisement of any such product by Borrower.

9. Any and all out-of-pocket fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by Lender in connection with (i) the preparation of this Agreement and all other documents relating hereto and to the consummation of this transaction, (ii) the filing or recording of any documents (including all taxes in connection therewith) in public offices, (iii) the payment or discharge of any taxes, counsel fees, maintenance fees or encumbrances, (iv) defending or prosecuting any actions or proceedings arising out of or related to the Collateral, or (v) otherwise protecting, maintaining or preserving the Collateral, shall be borne and paid by Borrower on demand by Lender and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the higher of the Default Rate as

defined under the Note or the Default Rate as defined under the Line of Credit.

10. Borrower shall have the duty to do all acts necessary or desirable to preserve and maintain all rights in the Trademarks, the Letters Patent and any patent or trademark applications. Any expenses incurred in connection with such applications shall be borne by Borrower.

11. Upon the failure or inability of Borrower to take actions required under **Paragraph 10** above, Lender shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce or protect either the Trademarks or the Letters Patent and any license thereunder, in which event Borrower shall at the request of Lender do any and all lawful acts and execute any and all proper documents required by Lender in aid of such enforcement and Borrower shall promptly, upon demand, reimburse and indemnify Lender for all costs and expenses incurred by Lender in the exercise of its rights hereunder.

12. Borrower hereby appoints Lender (and authorizes and empowers Lender to make, constitute and appoint any officer or agent of Lender as Lender may select, in its exclusive discretion) as Borrower's true and lawful attorney-in-fact, with the power to endorse Borrower's name on all applications, documents, papers and instruments necessary for Lender to use the Trademarks and the Letters Patent in accordance with the terms set forth herein, or if a default or an Event of Default (as defined in any of the Loan Documents) shall have occurred, to grant or issue any exclusive or nonexclusive license under the Trademarks or the Letters Patent to anyone else, or necessary for Lender 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 is coupled with an interest and shall be irrevocable for the life of this Agreement.

13. 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 Documents 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.

14. In the event of a conflict between the terms hereof and of the Security Agreement the terms of the Security Agreement shall govern; provided however that all of Lender's rights and remedies with respect to the Trademarks and the Letters Patent, whether established hereby or by the Loan Documents, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

15. The provisions of this Agreement are severable, and if any clause or provision hereof 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.

16. This Agreement is subject to modification only by a writing signed by the parties, except as provided in **Paragraph 6** hereof. This Agreement may be executed in multiple

counterparts.

17. The Borrower hereby represents, covenants and agrees that the transaction of which this Agreement forms a part is a "commercial transaction" as defined by the Statutes of the State of Connecticut.

**THE BORROWER HEREBY WAIVES ALL OF ITS RIGHTS TO NOTICE AND PRIOR COURT HEARING OR COURT ORDER UNDER CONNECTICUT GENERAL STATUTES SECTION 52-278a ET SEQ., AS AMENDED, OR UNDER ANY OTHER STATE OR FEDERAL LAW IN CONNECTION WITH ANY AND ALL PREJUDGMENT REMEDIES WHICH THE LENDER MAY EMPLOY TO ENFORCE ITS RIGHTS AND REMEDIES HEREUNDER OR UNDER ANY OF THE LOAN DOCUMENTS, AS WELL AS ITS RIGHT TO REQUEST THAT LENDER POST A BOND IN CONNECTION WITH ANY SUCH PREJUDGMENT REMEDY. MORE SPECIFICALLY, THE BORROWER ACKNOWLEDGES THAT LENDER'S ATTORNEY MAY, PURSUANT TO CONNECTICUT GENERAL STATUTES, SECTION 52-278f, AS AMENDED, ISSUE A WRIT FOR A PREJUDGMENT REMEDY WITHOUT SECURING A COURT ORDER. THE BORROWER ACKNOWLEDGES AND RESERVES ITS RIGHT TO NOTICE AND A HEARING SUBSEQUENT TO THE ISSUANCE OF A WRIT FOR PREJUDGMENT REMEDY BY LENDER'S ATTORNEY. LENDER ACKNOWLEDGES BORROWER'S RIGHT TO SAID HEARING SUBSEQUENT TO THE ISSUANCE OF SAID WRIT.**

**THE BORROWER HEREBY WAIVES THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND OR NATURE IN ANY COURT IN WHICH AN ACTION MAY BE COMMENCED ARISING OUT OF THIS AGREEMENT OR ANY AGREEMENT THEREOF OR OUT OF THE LOAN DOCUMENTS OR BY REASON OF ANY OTHER CAUSE OR DISPUTE BETWEEN THE BORROWER AND THE LENDER.**

**THE BORROWER HEREBY FURTHER AGREES THAT THE FOLLOWING COURTS:**

**STATE COURT - ANY STATE OR LOCAL COURT OF THE STATE OF CONNECTICUT.**

**FEDERAL COURT - UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT.**

**OR AT THE OPTION OF THE LENDER, ANY COURT IN WHICH THE LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY, SHALL HAVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN THE BORROWER AND THE LENDER PERTAINING DIRECTLY OR INDIRECTLY TO THIS AGREEMENT OR TO ANY MATTER ARISING IN CONNECTION WITH THIS AGREEMENT. THE BORROWER**

EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED IN SUCH COURTS, HEREBY WAIVING PERSONAL SERVICE OF THE SUMMONS AND COMPLAINT, OR OTHER PROCESS OR PAPERS ISSUED THEREIN, AND AGREEING THAT SERVICE OF SUCH SUMMONS AND COMPLAINT, OR OTHER PROCESS OR PAPERS, MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO THE BORROWER AT THE ADDRESS SET FORTH HEREIN. THE EXCLUSIVE CHOICE OF FORUM SET FORTH HEREIN SHALL NOT BE DEEMED TO PRECLUDE THE ENFORCEMENT OF ANY JUDGMENT OBTAINED IN SUCH FORUM OR THE TAKING OF ANY ACTION UNDER THIS NOTE TO ENFORCE THE SAME IN ANY APPROPRIATE JURISDICTION.

18. 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. 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 Connecticut.

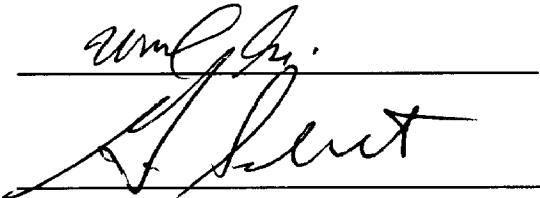
20. This Agreement is made in order to grant Lender a security interest in the property set forth on **Schedule A** annexed hereto, and upon final nonvoidable payment in full and satisfaction of the Obligations secured hereby, this Agreement shall be void and of no further effect.

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


WITNESS:

Borrower:

CAS MEDICAL SYSTEMS, INC.

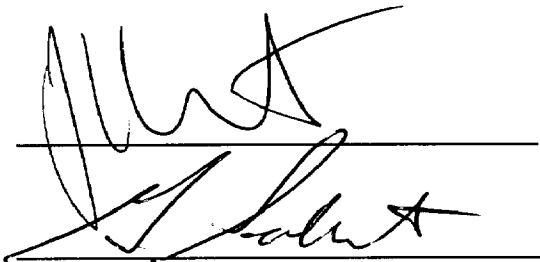
  
\_\_\_\_\_

By:

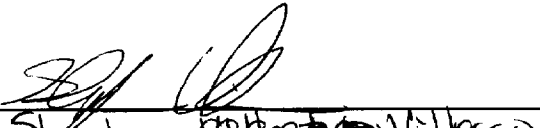
  
\_\_\_\_\_  
Louis P. Scheep  
Its President & Chief Executive Officer  
Duly Authorized

Lender:

NEW HAVEN SAVINGS BANK

  
\_\_\_\_\_

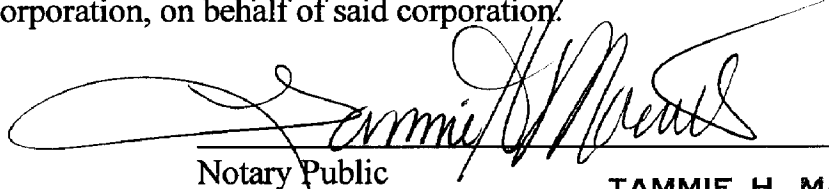
By:

  
\_\_\_\_\_  
Stephen J. Villecco  
Its Vice President  
Duly Authorized

STATE OF CONNECTICUT )

COUNTY OF New Haven ) ss.:

The foregoing instrument was acknowledged before me this 29 day of November, 2000, by Louis P. Schreps, the President & Chief Executive Officer of CAS MEDICAL SYSTEMS, INC., a Delaware corporation, on behalf of said corporation.



Notary Public

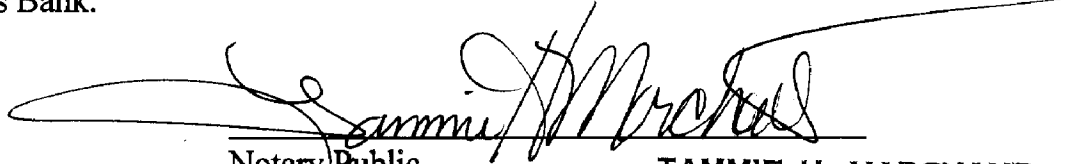
My commission expires: \_\_\_\_\_

**TAMMIE H. MARCHANT**  
**NOTARY PUBLIC**  
MY COMMISSION EXPIRES NOV. 30, 2000

STATE OF CONNECTICUT )

COUNTY OF NEW HAVEN ) ss.: New Haven

The foregoing instrument was acknowledged before me this 29 day of November, 2000, by Stephen Vilecco, the Vice President of New Haven Savings Bank, on behalf of New Haven Savings Bank.



Notary Public

My commission expires: \_\_\_\_\_

**TAMMIE H. MARCHANT**  
**NOTARY PUBLIC**  
MY COMMISSION EXPIRES NOV. 30, 2000



**SCHEDULE A**  
**TO TRADEMARKS AND LETTERS PATENT COLLATERAL SECURITY AGREEMENT**

**List of Trademarks and Letters Patent**

<u>Trademark</u>	<u>U.S. Reg. No.</u>	<u>Date of Reg.</u>	<u>Goods</u>
Assurance	1838394	May 31, 1994	Apnea Monitors and accessories therefor
Edentrend	1600609	June 12, 1990	Add-on data storage units for use with Apnea Monitors and computer software for processing such data
Ami	2122287	December 16, 1997	Apnea Monitors for infants

<u>Patents</u>	<u>U.S. Reg. No.</u>	<u>Issue Date</u>	<u>Expiration Date</u>
Alarm System	5,652,566	July 29, 1997	December 15, 2015
Medical Monitor	4,803,997	February 14, 1989	July 14, 2006

<u>Patent Application</u>	<u>PCT Number</u>
Apnea detector with artifact rejection	PCT\US99\13747

Schedule B to Trademarks and Letters Patent Security Agreement

- 2.a. As indicated on Schedule A PCT\US99\13747 is merely an application and has not issued.
- 2.b. The Letters Patent have been licensed back to Nellcor Puritan Bennett Inc. and Mallinckrodt Inc. (the "Sellers") for use in connection with, inter alia, existing products of Sellers not sold to the Borrower and products outside the field of sleep apnea monitors.
- 2.c. No exceptions.
- 2.d. No exceptions.
- 2.e. No exceptions.
- 2.f. No exceptions.