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Form PTO-1594

OMB No. 0651-0027 (exp. 5/31/2002)

(Rev. 03/01)

05-30-2001



U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

Tab settings ⇔⇔⇔ ▼ 10170	33556
To the Honorable Commissioner of Patents and Trademarks: H	nease record the accord original documents or copy thereof.
1. Name of conveying party(ies): EYP Mission Critical Facilities, Inc. S. 30.0 \ Individual(s) Association	2. Name and address of receiving party(ies) Name: Heller FInancial, Inc. as Agent Internal Address: 500 West Monroe St.
General Partnership Corporation-State New York Other	City: Chicago State: IL Zip: 60661 Individual(s) citizenship
Additional name(s) of conveying party(ies) attached? 🎴 Yes 🎑 No	Association General Partnership
3. Nature of conveyance: Assignment Merger Security Agreement Other Execution Date: May 11, 2001	Limited Partnership Corporation-State Delaware Other If assignee is not domiciled in the United States, a domestic representative designation is attached: (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes Mo
4. Application number(s) or registration number(s): A. Trademark Application No.(s) Additional number(s) att	B. Trademark Registration No.(s) 2430573 ached Yes X No
5. Name and address of party to whom correspondence concerning document should be mailed:	6. Total number of applications and registrations involved:
Name: Maisha Gibson, Paralegal Internal Address:	7. Total fee (37 CFR 3.41)\$\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\
Street Address: 55 E. Monroe, Suite 3700	8. Deposit account number:
City: Chicago State: 11. Zip: 60603	(Attach duplicate copy of this page if paying by deposit account)
9. Statement and signature. To the best of my knowledge and belief, the foregoing inform copy of the original document. Mai sha Gibson	nation is true and correct and any attached copy is a true
Name of Person Signing S Total number of pages including cov	gnature Date er sheet, attachments, and document:
Mail documents to be seconded with	required cover sheet information to:

cuments to be recorded with required cover sheet informat Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (the "Agreement") made as of this day of May, 2001 by EYP Mission Critical Facilities, Inc., a New York corporation ("Grantor") in favor of Heller Financial, Inc., a Delaware corporation, in its capacity as Agent for the Lenders party to the Credit Agreement (defined below) ("Grantee"):

WITNESSETH

WHEREAS, Grantor, the Lenders and Grantee are parties to a certain Credit Agreement of even date herewith (as the same may be amended or otherwise modified from time to time, the "Credit Agreement") providing for the extensions of credit to be made to Grantor by Lenders; and

WHEREAS, pursuant to the terms of the Security Agreement of even date herewith between Grantor and Grantee (as the same may be amended or otherwise modified from time to time, the "Security Agreement"), Grantor has granted to Grantee, for the benefit of Lenders, a security interest in substantially all of the assets of Grantor including all right, title and interest of Grantor in, to and under all now owned and hereafter acquired Trademarks (as defined in the Security Agreement), together with the goodwill of the business symbolized by Grantor's Trademarks, and all products and proceeds thereof, to secure the payment of all amounts owing by Grantor under the Credit Agreement;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Grantor agrees as follows:

- 1. <u>Incorporation of Credit Agreement and Security Agreement</u>. The Credit Agreement and Security Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. All terms capitalized but not otherwise defined herein shall have the same meanings herein as in the Security Agreement.
- 2. Grant and Reaffirmation of Grant of Security Interests. To secure the complete and timely payment and satisfaction of the Obligations, Grantor hereby grants to Grantee, and hereby reaffirms its prior grant pursuant to the Security Agreement of, a continuing security interest in Grantor's entire right, title and interest in and to the following (all of the following items or types of property being herein collectively referred to as the "Trademark Collateral"), whether now owned or existing or hereafter created or acquired:
 - (i) each Trademark listed on <u>Schedule 1</u> annexed hereto, together with any reissues, continuations or extensions thereof, and all of the goodwill of the business connected with the use of, and symbolized by, each Trademark; and

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- (ii) all products and proceeds of the forgoing, including without limitation, any claim by Grantor against third parties for past, present or future (a) infringement or dilution of any Trademark, or (b) injury to the goodwill associated with any Trademark.
- 3. <u>Warranties and Representations</u>. Grantor warrants and represents to Grantee that:
 - (i) Grantor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each registered Trademark, free and clear of any liens, charges and encumbrances, including without limitation licenses and covenants by Grantor not to sue third persons;
 - (ii) Grantor has no notice of any suits or actions commenced or threatened with reference to any registered Trademark; and
 - (iii) Grantor has the unqualified right to execute and deliver this Agreement and perform its terms.
- 4. Restrictions on Future Agreements. Grantor agrees that until Grantor's Obligations shall have been satisfied in full and the Credit Agreement shall have been terminated, Grantor shall not, without the prior written consent of Grantee, sell or assign its interest in, or grant any license under, any registered Trademark or enter into any other agreement with respect to any registered Trademark, and Grantor further agrees that it shall not take any action or permit any action to be taken by others subject to its control, including licensees, or fail to take any action which would affect the validity or enforcement of the rights transferred to Grantee under this Agreement.
- 5. Product Quality. Grantor agrees (i) to maintain the quality of any and all products in connection with which the registered Trademarks are used, consistent with commercially reasonable business practices, and (ii) to provide Grantee, upon Grantee's request from time to time, with a certificate of an officer of Grantor certifying Grantor's compliance with the foregoing. Upon the occurrence and during the continuance of an Event of Default, Grantor agrees that Grantee, or a conservator appointed by Grantee, shall have the right to establish such additional product quality controls as Grantee, or said conservator, in its reasonable judgment, may deem necessary to assure maintenance of the quality of products sold by Grantor under the registered Trademarks.
- 6. Grantee's Right to Sue. After an Event of Default, Grantee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Trademarks and, if Grantee shall commence any such suit, Grantor shall, at the request of Grantee, do any and all lawful acts and execute any and all proper documents required by Grantee in aid of such enforcement and Grantor shall promptly, upon demand, reimburse and indemnify Grantee for all costs and expenses incurred by Grantee in the exercise of its rights under this Section 6.

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Cumulative Remedies; Power of Attorney. 7. Grantee hereby acknowledges and affirms that the rights and remedies with respect to the Trademarks, whether established hereby or by the Security Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Grantor hereby authorizes Grantee upon the occurrence and during the continuance of an Event of Default, to make, constitute and appoint any officer or agent of Grantee as Grantee may select, in its sole discretion, as Grantor's true and lawful attorney-in-fact, with power to (i) endorse Grantor's name on all applications, documents, papers and instruments necessary or desirable for Grantee in the use of the Trademarks or (ii) take any other actions with respect to the Trademarks as Grantee deems to be in the best interest of Grantee, or (iii) grant or issue any exclusive or non-exclusive license under the Trademarks to anyone, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone. Grantor 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 Grantor's Obligations shall have been paid in full and the Credit Agreement has been terminated. Grantor hereby further acknowledges and agrees that the use by Grantee of the Trademarks shall be worldwide, except as limited by their terms, and without any liability for royalties or related charges from Grantee to Grantor.

IN WITNESS WHEREOF, Grantor has duly executed this Agreement as of the date first written above.

EYP MISSION CRITICAL FACILITIES, INC.

By
Its
President and Chairman

Agreed and Accepted
As of the Date First Written Above

HELLER FINANCIAL, INC., as Agent

IN WITNESS WHEREOF, Grantor has duly executed this Agreement as of the date first written above.

EYP MISSION CRITICAL FACILITIES, INC.

Ву	 	 	 	 	
Its			 		

Agreed and Accepted As of the Date First Written Above

HELLER FINANCIAL, INC., as Agent

By Markey
Its Keistart Vice President

SCHEDULE A

TRADEMARK REGISTRATIONS

Trademark Description

U.S. Registration No.

Date Registered

Mission Critical Facilities

2430573

December 27, 1999

TRADEMARK APPLICATIONS

Trademark Application

U.S. Application No.

Date Applied

Description

None

RECORDED: 05/22/2001

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