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

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

## 1. Name of conveying party(ies):

ALESIS DISTRIBUTION, INC.

- ☐ Individual(s) ☐ Association  
☐ General Partnership ☐ Limited Partnership  
☒ Corporation-State **Delaware**  
☐ Other \_\_\_\_\_

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

## 3. Nature of conveyance:

- ☐ Assignment ☐ Merger  
☒ Security Agreement ☐ Change of Name  
☐ Other \_\_\_\_\_

Execution Date: **June 15, 2001**

## 2. Name and address of receiving party(ies)

Name: **BANK OF AMERICA N.A.**

Internal

Address: \_\_\_\_\_

Street Address: **55 North Lake Avenue**  
**Suite 900**City: **Pasadena** State: **CA** Zip: **91101**

- ☐ Individual(s) citizenship \_\_\_\_\_  
☒ Association **National 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

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

A. Trademark Application No.(s)

**75/577336; 75/783084**

B. Trademark Registration No.(s)

**1810524; 1447267; 2373489; 2369194;  
1466239; 1928633**Additional number(s) attached ☐ Yes ☒ No

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

Name: **Shervin I. Gabayan, Esq.**Internal Address: **c/o Latham & Watkins**Street Address: **633 West Fifth Street****Suite 4000**City: **Los Angeles** State: **CA** Zip: **90071**6. Total number of applications and registrations involved: 87. Total fee (37 CFR 3.41).....\$ **215.00**

- ☒ Enclosed  
☐ Authorized to be charged to deposit account

## 8. Deposit account number:

(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. Luis Farias**

Name of Person Signing

Signature

**JUNE 26, 2001**

Date

20

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

07/09/2001 DBYRNE

00000187 75577336

01 FC:481  
02 FC:48240.00 OP  
175.00 OP

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

**TRADEMARK**  
**REEL: 002325 FRAME: 0430**

# PATENT AND TRADEMARK SECURITY AGREEMENT

This **PATENT AND TRADEMARK SECURITY AGREEMENT** (this "*Agreement*") is dated as of June 15, 2001, and entered into by and between **ALESIS DISTRIBUTION, INC.**, a Delaware corporation (the "*Grantor*"), and **BANK OF AMERICA, N.A.** in its capacity as Agent for Lenders.

## Recitals

Grantor and Agent have entered into that certain Credit Agreement ("Credit Agreement") along with that certain Security Agreement ("Security Agreement"), both of which are dated as of the date hereof, which are by this reference incorporated into this Agreement as if fully set forth at length herein (as they may be amended (including any amendment and restatement thereof), supplemented or otherwise modified from time to time and together referred to as the "Credit and Security Agreements").

Pursuant to the Security Agreement, the Grantor has granted to Agent security interests in certain property described in the Security Agreement, including the Patent and Trademark Collateral hereinafter described, as security for the payment of its debts, liabilities and obligations described in the Credit Agreement as the "Obligations."

The Grantor and Agent are executing and delivering this Agreement for the purpose of creating and perfecting Agent's security interests in such Patent and Trademark Collateral as more particularly set forth herein.

*Accordingly*, in consideration of the foregoing and for other good and valuation consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor and Agent hereby agree as follows:

## ARTICLE I. DEFINITIONS

### Section 1.1 Terms Defined in the Credit Agreement or Security Agreement.

Except as otherwise specifically provided herein, capitalized terms that are used in this Agreement, not otherwise defined herein have the meanings set forth in the Credit Agreement and if not defined in the Credit Agreement have the meanings set forth in the Security Agreement.

**Section 1.2 Certain Defined Terms.** As used in this Agreement, the following terms shall have the following meanings:

**"Goodwill"** means all present and future goodwill, trade secrets, proprietary or confidential information, technical information, procedures, formulae, quality control standards, designs, operating and training manuals, customer lists, distribution agreements and General Intangibles owned by the Grantor and arising out of the Patent and Trademark Collateral.

***“Patent and Trademark Collateral”*** is defined in Section 2.1.

***“Secured Obligations”*** means each and all of the Grantor's debts, liabilities and obligations that are described as “Obligations” in the Credit Agreement.

***“U.S. Patent Applications”*** means, as to the Grantor, all applications in connection with U.S. Patents, including applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state or territory thereof, or any political subdivision thereof, including the patent applications listed in Schedule I(a).

***“U.S. Patent Licenses”*** means all rights of the Grantor under any present or future written agreement, or other present or future license of any right or interest acquired by it, granting any right with respect to any of the U.S. Patents and U.S. Patent Applications.

***“U.S. Patents”*** means all of the following:

(a) All present and future patents, including all reissues, divisions, continuations, renewals, extensions and continuations-in-part and all claims (including infringement claims) relating thereto, including, without limitation, all registrations and recordings thereof including those listed in Schedule I(a) attached hereto; and

(b) all proceeds of the foregoing, including 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 reissues, extensions and renewals thereof.

***“U.S. Trademark Applications”*** means all applications by the Grantor in connection with U.S. Trademarks, including applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any state or territory thereof, or any political subdivision thereof, including the trademark applications listed in Schedule II(a).

***“U.S. Trademark Licenses”*** means all rights of the Grantor under any present or future written agreement granting any right with respect to any of the U.S. Trademarks and U.S. Trademark Applications.

***“U.S. Trademarks”*** means all of the following:

(a) All present and future trademarks, trade names, corporate names, business names, trade styles, service marks, logos, mastheads, other source or business identifiers, proprietary product names or descriptions, prints and labels on which any of the foregoing may appear, designs and General Intangibles of like nature, including (i) all registrations and recordings thereof including those listed in Schedule II(a) attached hereto and (ii) all of the foregoing not duly registered with the United States Patent and Trademark Office or in any similar office or agency of the United States, any state or

territory thereof, or any political subdivision thereof, including those provided in Schedule II(b) attached hereto; and

(b) all proceeds of the foregoing, including 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 reissues, extensions and renewals thereof.

**Section 1.3 Terms Generally.** The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in any Loan Document), (b) any reference herein to any Person shall be construed to include such Person's successors, transferees and assigns, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Sections, Exhibits and Schedules shall be construed to refer to Sections of, and Exhibits and Schedules to, this Agreement, and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, whether real, personal or mixed and of every type and description.

## ARTICLE II. SECURITY INTEREST AND COLLATERAL

**Section 2.1 Grant of Security Interest.** As security for the payment and performance of all of its Obligations, the Grantor hereby transfers and assigns to Agent as security with power of sale, and grants to Agent a continuing security interest in, all right, title and interest of the Grantor in, to, under or derived from the following property (collectively, the "*Patent and Trademark Collateral*"), in each case whether now owned or hereafter acquired or arising and wherever located:

- (a) all U.S. Patents;
- (b) all U.S. Patent Applications;
- (c) all U.S. Patent Licenses;
- (d) all Goodwill associated with (i) any U.S. Patent, (ii) any U.S. Patent Application or (iii) any U.S. Patent or U.S. Patent Application licensed under any U.S. Patent License;

(e) all proceeds of the foregoing, including all claims of the Grantor against third parties for any (i) past, present or future infringement of any U.S. Patent or U.S. Patent Application and (ii) injury to the Goodwill associated with the foregoing.

(f) all U.S. Trademarks;

(g) all U.S. Trademark Applications;

(h) all U.S. Trademark Licenses;

(i) all Goodwill associated with (i) any U.S. Trademark, (ii) any U.S. Trademark Application or (iii) any U.S. Trademark or U.S. Trademark Application licensed under any U.S. Trademark License; and

(j) all proceeds of the foregoing, including all claims of the Grantor against third parties for any (i) past, present or future infringement or dilution of any U.S. Trademark or U.S. Trademark Application and (ii) injury to the Goodwill associated with the foregoing.

### **ARTICLE III. REPRESENTATIONS AND WARRANTIES**

**Section 3.1 Representations and Warranties.** The Grantor hereby represents and warrants that:

(a) Schedule I(a), Schedule II(a) and Schedule II(b) set forth a complete and accurate listing of all U.S. Patents, U.S. Patent Applications, U.S. Trademarks and U.S. Trademark Applications in which the Grantor has an interest.

(b) It has not granted any license, rights or privileges in or to the Patent and Trademark Collateral which is material to the conduct of its business to any party, except to Agent and except in the ordinary course of its business.

(c) The Grantor is acquiring its interest in the Collateral from the Original Borrower contemporaneously with the closing of the loans. The Borrower shall make all filings with the United States Patent and Trademark Office or other appropriate filing office or agency in which registration is necessary to protect its rights in the Patent and Trademark Collateral listed in Schedule I(a) and Schedule II(a), except where such failure would not have a Material Adverse Effect, and the Grantor has no knowledge of any prior art or prior use with respect thereto that would serve to invalidate or narrow its rights therein. The Grantor has neither taken nor failed to take any action with respect to any Patent and Trademark Collateral that could reasonably be expected to have a Material Adverse Effect. None of the Patent and Trademark Collateral has been assigned to any other Person.

(d) It owns all right, title, and interest in, to and under all Patent and Trademark Collateral listed as to it in Schedule I(a), Schedule II(a) and Schedule II(b), except for licenses granted in the ordinary course of its business.

(e) None of the Patent and Trademark Collateral listed in Schedule I(a), or Schedule II(a) have been adjudged invalid or unenforceable, in whole or in part.

(f) Except as otherwise disclosed in the schedules to the Credit and Security Agreements, it has not received any written threats of action, which if successful could reasonably be expected to have a Material Adverse Effect, and it has not commenced and is not about to commence any suit or action against others in connection with the violation or enforcement of its rights in any of the Patent and Trademark Collateral.

(g) It at all times is (or, as to any item of Patent and Trademark Collateral acquired after the date hereof, will be) the sole legal and beneficial owner of the Patent and Trademark Collateral and has exclusive possession and control thereof, free and clear of any Liens except those created by this Agreement or Permitted Liens.

(h) It has the right and power to enter into this Agreement and perform its terms.

#### **ARTICLE IV. COVENANTS**

**Section 4.1 Covenants.** The Grantor covenants and agrees as follows:

(a) The Grantor will not, either by itself or through any agent, employee, licensee or designee, file an application for the registration of any Patent and Trademark Collateral with the United States Patent and Trademark Office unless, within 30 days thereafter, it files with any such office or agency, (i) an amendment to this Agreement adding a description of such Patent and Trademark Collateral to Schedule I(a) or Schedule II(a) and (ii) any other agreements, instruments, documents and papers as Agent may reasonably request to evidence Agent's security interest in such Patent and Trademark Collateral.

(b) Subject to subsection 4.1(a) and except to the extent that (i) Agent may otherwise agree or (ii) the Grantor reasonably determines that certain of the Patent and Trademark Collateral is no longer of material value to the Grantor's business, the Grantor shall take all necessary actions to maintain and pursue each application, to obtain the relevant registration, and to maintain the registration of all of the Patent and Trademark Collateral with the United States Patent and Trademark Office or other appropriate filing office or agency in which registration is necessary to protect its rights therein, including the filing of applications for renewal, affidavits of use, affidavits of incontestability and opposition and cancellation proceedings.

(c) In the event that the Grantor's rights under any Patent and Trademark Collateral that is material to the conduct of its business are infringed, misappropriated or diluted by a third party, the Grantor (i) shall notify Agent promptly after it learns thereof if such infringement, misappropriation or dilution could have a Material Adverse Effect and (ii) shall take such actions as the Grantor shall reasonably deem appropriate under the circumstances to protect such Patent and Trademark Collateral.

(d) The Grantor shall, promptly after becoming aware thereof, notify Agent, in writing, of any suit, action or proceeding brought against it relating to, concerned with or affecting the Patent and Trademark Collateral which could reasonably be expected to have a Material Adverse Effect. The Grantor shall promptly, upon request by Agent, deliver to Agent a copy of all pleadings, papers, orders or decrees theretofore or thereafter filed in any such suit, action or proceeding, and upon request by Agent shall promptly keep Agent fully advised and informed of the progress of any such suit, action or proceeding.

(e) The Grantor shall promptly notify Agent if it knows (i) that any application or registration relating to any Patent and Trademark Collateral that is material to the conduct of its business may become abandoned or dedicated, (ii) that there has been or likely may be an adverse determination or development (including the institution or any adverse determination or development in, any proceeding in the United States Patent and Trademark Office or any court) regarding (A) its ownership of any Patent and Trademark Collateral that is material to the conduct of its business, (B) its right to register such Patent and Trademark Collateral that is material to the conduct of its business or (C) its right to keep and maintain such Patent and Trademark Collateral that is material to the conduct of its business or (iii) of the occurrence of any other event that materially adversely affects the value of any Patent and Trademark Collateral that is material to the conduct of its business.

(f) Subject to subsection 4.1(b), upon the written request of Agent, the Grantor shall promptly and duly execute and deliver any and all additional documents, including UCC-1 financing statements or amendments thereto, and take such further action as Agent may deem necessary to obtain the full benefit of this Agreement, all at the sole expense of the Grantor.

(g) Without Agent's prior written consent, the Grantor shall neither (i) enter into any agreement that would materially impair or conflict with the Grantor's obligations hereunder nor (ii) permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in the Grantor's rights and interests in any property included within the definition of Patent and Trademark Collateral that is material to the conduct of its business acquired under such contracts.

(h) The Grantor shall maintain the security interests created in favor of the Agent in the Patent and Trademark Collateral pursuant to this Agreement as valid and duly perfected first priority security interests and shall defend such security interests against claims and demands of all Persons whomever. At any time and from time to time, upon the written request of the Agent, and at the sole expense of the Grantor, the Grantor shall promptly and duly execute and deliver such further instruments and documents and take such further actions as the Agent may request for the purposes of obtaining or preserving all of the benefits, rights and powers granted to the Agent pursuant to this Agreement.

## **ARTICLE V. POWER OF ATTORNEY**

**Section 5.1 Power of Attorney.** The Grantor hereby irrevocably constitutes and appoints Agent and any officer, agent or nominee of Agent, with full power of substitution, as its true and lawful attorney-in-fact with full power and authority, in the name of the Grantor or in its own name, to take any and all actions and to execute and deliver any and all agreements, documents, notices, instruments and writings that Agent may determine to be necessary or desirable for Agent, without notice to or assent by the Grantor, to do any or all of the following if and whenever there is an Event of Default under the Credit Agreement: (a) to use the Patent and Trademark Collateral, (b) to grant or issue to any third party a license or, to the extent permitted by an applicable U.S. Patent License or U.S. Trademark License, a sublicense, whether general, specific or otherwise and whether on an exclusive or non-exclusive basis, of any Patent and Trademark Collateral throughout the world on such terms and conditions and in such manner as Agent shall, in its sole discretion, determine, or (c) to assign, pledge, convey or otherwise transfer title in or dispose of the Patent and Trademark Collateral to any third person. The Grantor hereby ratifies all that such attorney-in-fact shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until the indefeasible payment in full of the Obligations.

## **ARTICLE VI. PATENT AND TRADEMARK COLLATERAL**

**Section 6.1 Grant of License to Use Intellectual Property Collateral.** The Grantor hereby grants to Agent an irrevocable, non-exclusive license (exercisable without payment of royalty or other compensation to the Grantor), to do any or all of the following if and whenever an Event of Default has occurred and is continuing under the Credit Agreement: (a) to use, license or sublicense any of the Patent and Trademark Collateral now owned or hereafter acquired by the Grantor and wherever the same may be located and (b) to have access to all media in which any of the licensed items may be recorded or stored and all computer and automatic machinery software and programs used for the compilation or printout thereof. The Grantor hereby agrees that the permitted use by the Agent of the Patent and Trademark Collateral shall be worldwide without any liability for royalties or other related charges from the Agent.



## **Section 6.2 Use and Protection of Patent and Trademark Collateral.**

Notwithstanding anything to the contrary contained herein, unless an Event of Default has occurred and is continuing, the Grantor may continue to use, exploit, license, enjoy and protect the Patent and Trademark Collateral in the ordinary course of business, and Agent shall from time to time, execute and deliver, upon the reasonable written request of the Grantor, any and all instruments, certificates or other documents, in the form so requested, that in the reasonable judgment of the Grantor are necessary or appropriate to permit the Grantor to continue to do so.

## **ARTICLE VII. MISCELLANEOUS PROVISIONS**

**Section 7.1 Notices.** All notices, approvals, consents or other communications required or desired to be given hereunder shall be in the form and manner, and delivered to each of the parties hereto at their respective addresses, set forth in the Credit Agreement.

**Section 7.2 Headings.** The headings in this Agreement are for purposes of reference only and shall not affect the meaning or construction of any provision of this Pledge Agreement.

**Section 7.3 Severability.** The provisions of this Agreement are severable, and if any clause or provision shall be held invalid, illegal or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect in that jurisdiction only such clause or provision, or part thereof, 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.

**Section 7.4 Amendments, Waivers and Consents.** Any amendment or waiver of any provision of this Agreement and any consent to any departure by the Grantor from any provision of this Agreement shall not be effective unless the same shall be in writing and signed by the Agent and then such amendment or waiver shall be effective only in the specific instance and for the specific purposes for which given.

**Section 7.5 Interpretation of Agreement.** Time is of the essence in each provision of this Agreement of which time is an element. All terms not defined herein or in the Credit and Security Agreements shall have the meaning set forth in the UCC, except where the context otherwise requires. To the extent a term or provision of this Agreement conflicts with the Credit and Security Agreements and is not dealt with herein with more specificity, first, the Credit Agreement shall control with respect to the subject matter of such term or provision and second, the Security Agreement shall control with respect to the subject matter of such term or provision. Acceptance of or acquiescence in a course of performance rendered under this Agreement shall not be relevant in determining the meaning of this Agreement even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection.

**Section 7.6 Continuing Security Interest; Transfer of Notes and Secured Obligations.** This Agreement shall create a continuing security interest in the Patent and Trademark Collateral and shall (i) remain in full force and effect until full and final payment and performance (including after the Termination Date) of the Secured Obligations and termination of any commitments to extend further credit to the Grantor, (ii) be binding upon the Grantor, its

successors, transferees and assigns, and (iii) inure, together with the rights and remedies of the Agent hereunder, to the benefit of the Agent's successors, transferees and assigns (the Grantor's and the Agent's rights to assign and/or transfer this Agreement shall be consistent with the rights granted to such parties pursuant to the Credit and Security Agreements). Without limiting the generality of clause (iii), above, the Agent may assign or otherwise transfer any Term Loan Note or Secured Obligation held by it to any other Person (as permitted under the Credit and Security Agreements), and such other Person shall thereupon become vested with all the benefits in respect thereof granted to the Agent herein.

**Section 7.7 Reinstatement.** To the maximum extent permitted by law, this Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by the Agent in respect of the Secured Obligations is rescinded or must otherwise be restored or returned by the Agent upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Grantor or any other Person or upon the appointment of any receiver, intervenor, conservator, trustee or similar official for the Grantor or any other Person or any substantial part of its assets, or otherwise, all as though such payments had not been made.

**Section 7.8 Survival of Provisions.** All representations, warranties and covenants of the Grantor contained herein shall survive the execution and delivery of this Agreement, and shall terminate only upon the full and final payment and performance by the Grantor of the Secured Obligations.

**Section 7.9 Setoff.** The Agent shall have the rights of setoff set forth in the Credit and Security Agreements.

**Section 7.10 Authority of the Agent.** The Agent shall have and be entitled to exercise all powers hereunder which are specifically granted to the Agent by the terms hereof, together with such powers as are reasonably incident thereto. The Agent may perform any of its duties hereunder or in connection with the Patent and Trademark Collateral by or through agents or employees and shall be entitled to retain counsel and to act in reliance upon the advice of counsel concerning all such matters. The Agent and its directors, officers, employees, attorneys and agents shall be entitled to rely on any communication, instrument or document reasonably believed by it or them to be genuine and correct and to have been signed or sent by the proper person or persons.

**Section 7.11 Release; Termination of Agreement.** Subject to the provisions of Sections 7.7 and 7.8 hereof, this Agreement shall terminate upon full and final payment and performance of all the Secured Obligations and termination of all commitments to extend further credit to the Grantor. At such time, the Agent shall, at the request and expense of the Grantor, reassign and redeliver to the Grantor all of the Patent and Trademark Collateral hereunder which has not been sold, disposed of, retained or applied by the Agent in accordance with the terms hereof. Such reassignment and redelivery shall be without warranty by or recourse to the Agent, except as to the absence of any prior assignments by the Agent of its interest in the Patent and Trademark Collateral.

**Section 7.12 Counterparts.** This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which, when so executed and delivered, shall be deemed an original but all of which shall together constitute one and the same agreement.

**Section 7.13 Governing Law; Choice of Forum; Service of Process; Jury Trial Waiver.**

(a) THIS AGREEMENT SHALL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE INTERNAL LAWS (AS OPPOSED TO THE CONFLICT OF LAWS PROVISIONS PROVIDED THAT PERFECTION ISSUES WITH RESPECT TO ARTICLE 9 OF THE UCC MAY GIVE EFFECT TO APPLICABLE CHOICE OR CONFLICT OF LAW RULES SET FORTH IN ARTICLE 9 OF THE UCC) OF THE STATE OF CALIFORNIA; PROVIDED THAT THE AGENT SHALL RETAIN ALL RIGHTS ARISING UNDER FEDERAL LAW.

(b) ANY LEGAL ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT MAY BE BROUGHT IN THE COURTS OF THE STATE OF CALIFORNIA OR OF THE UNITED STATES OF AMERICA FOR THE CENTRAL DISTRICT OF CALIFORNIA, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, EACH OF THE GRANTOR AND THE AGENT CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. EACH OF THE GRANTOR AND THE AGENT IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF THIS AGREEMENT OR ANY DOCUMENT RELATED HERETO. NOTWITHSTANDING THE FOREGOING: (1) THE AGENT SHALL HAVE THE RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST THE GRANTOR OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION THE AGENT DEEMS NECESSARY OR APPROPRIATE IN ORDER TO REALIZE ON THE COLLATERAL OR OTHER SECURITY FOR THE OBLIGATIONS AND (2) EACH OF THE PARTIES HERETO ACKNOWLEDGES THAT ANY APPEALS FROM THE COURTS DESCRIBED IN THE IMMEDIATELY PRECEDING SENTENCE MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE THOSE JURISDICTIONS.

(c) THE GRANTOR HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL (RETURN RECEIPT REQUESTED) DIRECTED TO THE GRANTOR AT ITS ADDRESS SET FORTH IN THE LOAN AGREEMENT AND SERVICE SO MADE SHALL BE DEEMED TO BE

COMPLETED FIVE (5) DAYS AFTER THE SAME SHALL HAVE BEEN SO DEPOSITED IN THE U.S. MAILS POSTAGE PREPAID. NOTHING CONTAINED HEREIN SHALL AFFECT THE RIGHT OF AGENT TO SERVE LEGAL PROCESS BY ANY OTHER MANNER PERMITTED BY LAW.

(d) NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, ANY CONTROVERSY OR CLAIM BETWEEN OR AMONG THE PARTIES, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT INCLUDING ANY CLAIM BASED ON OR ARISING FROM AN ALLEGED TORT, SHALL AT THE REQUEST OF EITHER PARTY HERETO BE DETERMINED BY BINDING ARBITRATION. The arbitration shall be conducted in accordance with the United States Arbitration Act (Title 9, U.S. Code), notwithstanding any choice of law provision in this Agreement, and under the Commercial Rules of the American Arbitration Association ("AAA"). The arbitrator(s) shall give effect to statutes of limitation in determining any claim. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrator(s). Judgment upon the arbitration award may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuant to a provisional or ancillary remedy shall not constitute a waiver of the right of either party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief.

(e) Notwithstanding the provisions of (d) above, no controversy or claim shall be submitted to arbitration without the consent of all parties if, at the time of the proposed submission, such controversy or claim arises from or related to an obligation to the Agent which is secured by real estate property collateral (exclusive of real estate space lease assignments). If all the parties do not consent to submission of such a controversy or claim to arbitration, the controversy or claim shall be determined as provided in Section 7.13(f).

(f) At the request of either party a controversy or claim which is not submitted to arbitration as provided and limited in Sections 7.13(d) and (e) shall be determined by judicial reference. If such an election is made, the parties shall designate to the court a referee or referees selected under the auspices of the AAA in the same manner as arbitrators are selected in AAA-sponsored proceedings. The presiding referee of the panel, or the referee if there is a single referee, shall be an active attorney or retired judge. Judgment upon the award rendered by such referee or referees shall be entered in the court in which such proceeding was commenced.

(g) No provision of Sections (d) through (g) shall limit the right of the Agent to exercise self-help remedies such as setoff, foreclosure against or sale of any real or personal property collateral or security, or obtaining provisional or ancillary remedies from a court of competent jurisdiction before, after, or during the pendency of any arbitration or other proceeding. The exercise of a remedy does not waive the right of either party to resort to arbitration or reference. At the Agent's option, foreclosure under

a deed of trust or mortgage may be accomplished either by exercise of power of sale under the deed of trust or mortgage or by judicial foreclosure.

**Section 7.14 WAIVER OF JURY TRIAL.** SUBJECT TO THE PROVISIONS OF SECTION 7.13(d), THE GRANTOR AND THE AGENT EACH IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS, OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, IN ANY ACTION, PROCEEDING OR OTHER LITIGATION OF ANY TYPE BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY OR ANY AGENT-RELATED PERSON, PARTICIPANT OR ASSIGNEE, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. THE GRANTOR AND THE AGENT EACH AGREE THAT ANY SUCH CLAIM OR CAUSE OF ACTION SHALL BE TRIED BY A COURT TRIAL WITHOUT A JURY. WITHOUT LIMITING THE FOREGOING, THE PARTIES FURTHER AGREE THAT THEIR RESPECTIVE RIGHT TO A TRIAL BY JURY IS WAIVED BY OPERATION OF THIS SECTION AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS OR ANY PROVISION HEREOF OR THEREOF. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS.


**Section 7.15 Limitation Of Liability.** No claim may be made by the Grantor against the Agent, or the affiliates, directors, officers, officers, employees, or agents of the Agent for any special, indirect, consequential or punitive damages in respect of any claim for breach of contract or any other theory of liability arising out of or related to the transactions contemplated by this Agreement or any other Loan Document, or any act, omission or event occurring in connection therewith, and the Grantor hereby waives, releases and agrees not to sue upon any claim for such damages, whether or not accrued and whether or not known or suspected to exist in its favor.

*[Remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the Grantor and Agent have executed this Patent and Trademark Security Agreement as of the day and year first above written.

**GRANTOR**

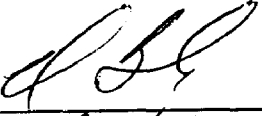
**ALESIS DISTRIBUTION, INC.,**  
a Delaware corporation

By:   
Name: *John F. O'Donnell*  
Title: *C.E.O.*

**AGENT**

Accepted and agreed as of  
the day and year first above written:

**BANK OF AMERICA, N.A.,**  
As Agent

By:   
Name: *RICHARD Buckle*  
Title: *SR VICE PRESIDENT*

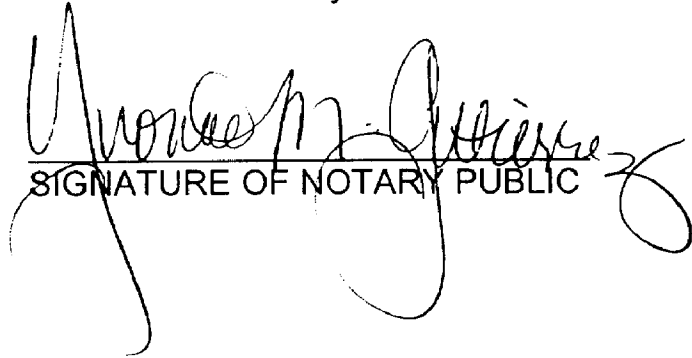
STATE OF CALIFORNIA

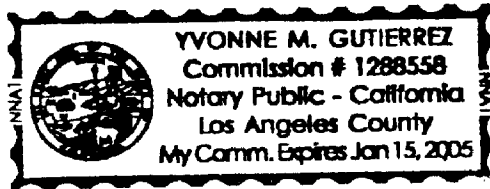
COUNTY OF LOS ANGELES

)  
) ss  
)

On June 15, 2001 before me, Yvonne M. Gutierrez, Notary Public, personally appeared John E. O'Donnell, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal

  
SIGNATURE OF NOTARY PUBLIC



**SCHEDULE I(a)**

**REGISTERED U.S. PATENTS AND PENDING PATENT APPLICATIONS**

See attached list.



## LIST OF PATENTS

### Granted:

#### Studio Electronics:

1. No. 5541781 Method for synchronizing digital audio tape recorders ✓
2. No. 5161200 Microphone ✓
3. No. 5297181 Method and apparatus for providing a digital audio interface protocol
4. No. 5321561 Format for recording digital audio onto magnetic tape

#### Semiconductor:

1. No. 6163197 Low noise method for interconnecting analog & digital I.C.s
2. No. 5969562 Low noise method for interconnecting analog & digital I.C.s
3. No. 6043708 Fully complimentary folded cascode amplifier

### Provisional Patents (not approved):

Docket # 464863000100 Keith Barr, John Hancock; Non-Contract Optical Sensing Method and Apparatus

Docket # 4648620000200 John Hancock, Alan Meyer, Alex Sruppa; Digital Media Format

**SCHEDULE II(a)**

**REGISTERED U.S. TRADEMARKS AND PENDING APPLICATIONS**

***MARK:***

***REG. NO./SER. NO.:***

ADAT	1,810,524
ALESIS	1,447,267
ALESIS SEMICONDUCTOR	2,373,489
ALESIS SEMICONDUCTOR & Design	2,369,194
GT& Design	75/577,336
GT ELECTRONICS	75/783,084
MICROVERB	1,466,239
QUADRASYNTH	1,928,633

**SCHEDULE II(b):**

**UNREGISTERED U.S. TRADEMARKS**

AIRFX  
AIRSYNTH  
M-EQ230  
NANOCOMPRESSOR  
NANOVERB  
QSR  
QCARDS  
DM PRO KIT  
DM PRO  
DM5  
SR-16  
AM51  
AM52  
AM61  
AM62  
AM11  
AM30  
AM40  
MONITOR ONE  
MASTERLINK  
M20  
ADAT/EDIT  
BRC  
CADI  
RMD  
STUDIO 12-R  
STUDIO 24  
DG8  
QS8.1  
QS7.1  
QS6.1  
AXYZ  
ADAT FST  
INEKO  
FINISHING TOOLS  
LRC  
ADAT CONNECT  
ALESIS STUDIO  
STUDIO 32  
A6 ANDROMEDA  
SOUND BRIDGE  
3630 COMPRESSOR

M1 ACTIVE  
MI ACTIVE MK2  
MONITOR ONE MK2  
ADAT HD24  
400 SERIES  
PEQ-450  
CLX-440  
AIR SYNTH  
PROLINEAR  
REFERENCE SERIES AMPLIFIERS  
CD24

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