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U.S. Department of Commerce

Patent and Trademark Office



101912390

To the Honorable Commissioner of Patents and Trademarks

Documents or copy thereof.

1. Name of conveying party(ies):

Address of receiving party(ies):

Standard Tools and Equipment Co.

Oberlin Capital, L.P. and Gardiner Capital, L.P.
702 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

- Individual
- General Partnership
- Corporation-State: Delaware
- Other

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

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

3. Nature of conveyance:

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)

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

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

Execution Date: November 21, 2001

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

B. Trademark Registration No(s): 2,011,200; 2,041,542; 1,818,361; and 2,246,598

A. Trademark Application No(s):

Additional numbers attached? Yes No

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

6. Total number of applications and registrations involved: 4

W. Christopher Matton
Kilpatrick Stockton LLP
3737 Glenwood Avenue, Suite 400
Raleigh, North Carolina 27612

7. Total fee (37 CFR 3.41) \$ 115.00
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number:

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.

W. Christopher Matton
Name of Person Signing

[Signature]
Signature

November 21, 2001
Date

12/11/2001 6TON11 00000153 2011200

01 FC:481 40.00 OP
02 FC:482 75.00 OP

Total number of pages comprising cover sheet: 10

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks
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Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20231, and to the Office of Management and Budget, Paperwork Reduction Project (0651-0011), Washington, D.C. 20503.

TRADEMARK
REEL: 2405 FRAME: 0934

TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (this "Agreement") is made as of this 21st day of November, 2001, between STANDARD TOOLS AND EQUIPMENT CO., a Delaware corporation having its principal place of business at 4810 Clover Road, Greensboro, North Carolina 27405 (the "Company"), OBERLIN CAPITAL, L.P., a Delaware limited partnership with an office at 702 Oberlin Road, Suite 150, Raleigh, North Carolina, and GARDINER CAPITAL, L.P., a Delaware limited partnership with an office at 702 Oberlin Road, Suite 150, Raleigh, North Carolina (the "Lenders").

RECITALS:

The Company desires to obtain various loans and other financial accommodations from the Lenders pursuant to that certain Loan Agreement and Security Agreement, dated as of the date hereof, by and among the Company, certain subsidiaries of the Company and the Lenders (as at any time amended, the "Loan Agreement"). All current and future indebtedness and obligations of the Company to the Lenders, including, without limitation, those arising under the Loan Agreement, are hereinafter referred to as the "Obligations." All current and future documents evidencing, securing or otherwise relating to the Obligations, including without limitation the Loan Agreement and this Agreement, together with all modifications, amendments, renewals, extensions and refinancings of the same, are collectively and individually referred to as the "Loan Documents."

The Lenders are willing to make available loans and other financial accommodations to the Company pursuant to the terms of the Loan Agreement, provided that the Company executes this Agreement.

The Company, pursuant to the Loan Documents, has granted to the Lenders a lien upon and security interest in all or substantially all of the Company's now existing or hereafter acquired assets, including all of the Company's Trademarks (as hereinafter defined);

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

1. All capitalized terms used herein, including those used in the recitals hereto, unless otherwise defined herein, shall have the meanings ascribed to them in the Loan Agreement. Whenever the word "including" is used in this Agreement, it shall mean "including, without limitation."
2. To secure the payment and performance of the Obligations, the Company hereby pledges, assigns and grants to the Lenders a continuing security interest in and lien upon all of the following property of the Company, whether now owned or existing or hereafter acquired (the "Collateral"):

a. all trademarks, trademark registrations, trade names and trademark applications, including each trademark and application 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 damages and payments for past or future infringement or dilution thereof or injury to the associated goodwill, (iii) the right to sue for past, present and future infringement or dilution thereof or injury to the associated goodwill, and (iv) all rights corresponding thereto throughout the world (all of the foregoing trademarks, trademark registrations, trade names and applications, together with the items described in clauses (i)-(iv), are hereinafter collectively referred to as the "Trademarks");

b. the goodwill of the Company's business connected with and symbolized by each Trademark; and

c. all products and proceeds of the foregoing.

3. The Company represents and warrants that:

a. Each of the Trademarks 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 the Company and all third persons in accordance with its terms;

c. To the best of the Company'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;

d. The Company has the unqualified right to enter into this Agreement and perform its terms; and

e. The Company is the sole and exclusive owner of the entire right, title and interest in and to each of the Collateral, free and clear of any liens, security interests, charges and encumbrances, including pledges, assignments, licenses, registered user agreements and covenants by the Company not to sue third persons.

4. The Company covenants and agrees that:

a. The Company 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

b. The Company will continue to use, for the duration of this Agreement, proper statutory notice in connection with its use of the Trademarks and will make all appropriate filings with the United States Patent and Trademark Office to maintain the Trademark registrations in existence, including 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; provided that the Company may abandon a Trademark at any time after receiving the prior written consent of the Lenders, which consent shall not be unreasonably withheld.

c. The Company shall take such actions, execute such documents, and make such filings as are reasonably necessary for the Lenders to perfect, and maintain perfection and priority of, the Lenders' lien and security interest in the Collateral, now or hereafter existing. Without limiting the generality of the foregoing sentence, the Company shall take such actions, execute such documents, and make such filings as are reasonably necessary for the Lenders to perfect the Lenders' lien and security interest in the Trademarks described in Schedule A within thirty (30) days of execution of this Agreement, and the Company's failure to do so shall be a breach of this Agreement and therefore shall constitute a default under all of the other Loan Documents.

5. The Company hereby grants to the Lenders and its employees and agents the right upon prior notice to the Company to visit the Company'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. The Company shall do any and all acts required by the Lenders to ensure the Company's compliance with Sections 4(b) and 4(c) of this Agreement.
6. The Company agrees that, until all of the Obligations have been satisfied in full and the Loan Documents terminated, it will not enter into any agreement (including any license agreement) which is inconsistent with the Company's duties under this Agreement.
7. If, before the Obligations have been satisfied in full and the Loan Documents terminated, the Company 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 Section 2 hereof shall automatically apply thereto, and the Company shall give to the Lenders prompt notice thereof in writing.
8. The Company authorizes the Lenders to unilaterally modify this Agreement by amending Schedule A to include any future trademarks and trademark applications within the definition of Trademarks under Section 2 or Section 7 hereof. The Company ratifies and adopts all such modifications and agrees that all such modifications shall be deemed to be the acts of the Company for all purposes. The Lenders shall provide the Company with a copy of Schedule A as amended from time to time pursuant to this Section 8.

9. Upon and at any time after the occurrence of a default or event of default under any of the Loan Documents (a “Default” and “Event of Default”, respectively), the Lenders 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 North Carolina. Without limiting the generality of the foregoing, the Lenders may immediately, without notice (except as described in the next sentence, if required by applicable law, and except as otherwise required by applicable law) or demand, each of which the Company hereby waives, collect directly any payments due the Company 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 Company hereby agrees that ten (10) days written notice to the Company 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, the Lenders may, to the extent permitted by applicable law, purchase the whole or any part of the Collateral sold, free from any right of redemption on the part of the Company, which right the Company hereby waives and releases. After deducting from the proceeds of such sale or other disposition of the Collateral all costs and expenses incurred by the Lenders in enforcing its rights hereunder (including all attorneys’ fees and legal expenses), the Lenders shall apply the remainder of such proceeds to the payment of the Obligations in accordance with the terms of the Loan Documents. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to the Company. If any deficiency shall arise, the Company and each guarantor of the Obligations shall remain jointly and severally liable to the Lenders therefor.
10. The Company hereby makes, constitutes and appoints the Lenders and any officer or agent of the Lenders as the Lenders may select as the Company’s true and lawful attorney-in-fact, with full power to do any or all of the following if a Default or Event of Default shall occur and be continuing: to endorse the Company’s name on all applications, documents, papers and instruments necessary for the Lenders to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to any other person or entity, or to assign, pledge, convey or otherwise transfer title in or dispose of the Collateral to any other person or entity. The Company 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 Documents shall have been terminated.
11. At such time as all of the Obligations shall have been satisfied finally and in full and the Loan Documents shall have been terminated, the Lenders shall execute and deliver to the Company, without representation, warranty or recourse, at the Company’s expense, all releases and other instruments necessary to terminate the Lenders’ security interest in the Collateral, subject to any disposition thereof which may have been made by the Lenders pursuant to the terms of this Agreement, the Loan Agreement or any other Loan Document.

12. Any and all fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by the Lenders in connection with the preparation of this Agreement or any other Loan Document 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 shall be borne and paid by the Company (it being the intent of the Company and the Lenders that the Company shall be responsible for the payment of all sums, fees, costs and expenses, including all renewal fees with respect to the Trademarks) or, if paid by the Lenders, shall be paid by the Company on demand to the Lenders and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the rate prescribed in the Loan Agreement.
13. The Company shall use its reasonable efforts to detect any infringers of the Trademarks and shall notify the Lenders in writing of infringements detected. The Company shall have the duty, 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 as may be determined by the Company in the exercise of its commercially reasonable judgment, to file and prosecute opposition and cancellation proceedings, to file and prosecute lawsuits to enforce the Trademarks and to preserve and maintain all rights in the Trademarks. Any expenses incurred in connection with such applications or proceedings shall be borne by the Company. The Company shall not abandon any pending trademark application or Trademark without the prior written consent of the Lenders, which consent shall not be unreasonably withheld.
14. If the Company fails to comply with any of its obligations hereunder, to the extent permitted by applicable law, the Lenders may do so in the Company's name or in the Lenders' names, but at the Company's expense, and the Company agrees to reimburse the Lenders in full for all expenses, including attorneys' fees and legal expenses, incurred by the Lenders in prosecuting, defending or maintaining the Trademarks or the Lenders' interest therein pursuant to this Agreement.
15. No course of dealing between the Company and the Lenders, nor any failure to exercise, nor any delay in exercising, on the part of the Lenders, 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 the Lenders' rights and remedies with respect to the Collateral, whether established by this Agreement, by the Loan Agreement, by any other Loan Document or by applicable law shall be cumulative and may be exercised singularly or concurrently. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of any

other Loan Document, the terms of the Agreement shall prevail and govern with respect to the Collateral.

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 Section 8 hereof.
19. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Lenders and upon the successors of the Company. The Company shall not assign its rights or delegate its duties hereunder without the prior written consent of the Lenders.
20. Notice of acceptance hereof is hereby waived by the Company.
21. This Agreement shall be governed by and construed in accordance with the internal laws of the State of North Carolina.
22. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE COMPANY 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.
23. UPON DEMAND OF ANY PART HERETO, WHETHER MADE BEFORE OR AFTER INSTITUTION OF ANY JUDICIAL PROCEEDING, ANY CLAIM OR CONTROVERSY ARISING OUT OF, OR RELATING TO THE LOAN DOCUMENTS BETWEEN THE PARTIES HERETO (A "DISPUTE") SHALL BE RESOLVED BY BINDING ARBITRATION CONDUCTED UNDER AND GOVERNED BY THE COMMERCIAL FINANCIAL DISPUTES ARBITRATION RULES (THE "ARBITRATION RULES") OF THE AMERICAN ARBITRATION ASSOCIATION (THE "AAA") AND THE FEDERAL ARBITRATION ACT. DISPUTES MAY INCLUDE, WITHOUT LIMITATION, TORT CLAIMS, COUNTERCLAIMS, DISPUTES AS TO WHETHER A MATTER IS SUBJECT TO ARBITRATION, CLAIMS BROUGHT AS CLASS ACTIONS, OR CLAIMS ARISING FROM DOCUMENTS EXECUTED IN THE FUTURE. A JUDGMENT UPON THE AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. NOTWITHSTANDING THE FOREGOING, THIS ARBITRATION PROVISION DOES NOT APPLY TO DISPUTES UNDER OR RELATED TO SWAP AGREEMENTS.

SPECIAL RULES. ALL ARBITRATION HEARINGS SHALL BE CONDUCTED IN THE CITY IN WHICH THE OFFICE OF LENDER FIRST STATED ABOVE IS

LOCATED. A HEARING SHALL BEGIN WITHIN 90 DAYS OF DEMAND FOR ARBITRATION AND ALL HEARINGS SHALL BE CONCLUDED WITHIN 120 DAYS OF DEMAND FOR ARBITRATION. THESE TIME LIMITATIONS MAY NOT BE EXTENDED UNLESS A PARTY SHOWS CAUSE FOR EXTENSION AND THEN FOR NO MORE THAN A TOTAL OF 60 DAYS. THE EXPEDITED PROCEDURES SET FORTH IN RULE 51, *ET SEQ.* OF THE ARBITRATION RULES SHALL BE APPLICABLE TO CLAIMS OF LESS THAN \$1,000,000. ARBITRATORS SHALL BE LICENSED ATTORNEYS SELECTED FROM THE COMMERCIAL FINANCIAL DISPUTE ARBITRATION PANEL OF THE AAA. THE PARTIES DO NOT WAIVE APPLICABLE FEDERAL OR STATE SUBSTANTIVE LAW EXCEPT AS PROVIDED HEREIN.

24. PRESERVATION AND LIMITATION OF REMEDIES. NOTWITHSTANDING THE PRECEDING BINDING ARBITRATION PROVISIONS, THE PARTIES AGREE TO PRESERVE, WITHOUT DIMINUTION, CERTAIN REMEDIES THAT ANY PARTY MAY EXERCISE BEFORE OR AFTER AN ARBITRATION PROCEEDING IS BROUGHT. THE PARTIES SHALL HAVE THE RIGHT TO PROCEED IN ANY COURT OF PROPER JURISDICTION OR BY SELF-HELP TO EXERCISE OR PROSECUTE THE FOLLOWING REMEDIES, AS APPLICABLE: (I) ALL RIGHTS TO FORECLOSE AGAINST ANY REAL OR PERSONAL PROPERTY OR OTHER SECURITY BY EXERCISING A POWER OF SALE OR UNDER APPLICABLE LAW BY JUDICIAL FORECLOSURE INCLUDING A PROCEEDING TO CONFIRM THE SALE; (II) ALL RIGHTS OF SELF-HELP INCLUDING PEACEFUL OCCUPATION OF REAL PROPERTY AND A COLLECTION OF RENTS, SET-OFF, AND PEACEFUL POSSESSION OF PERSONAL PROPERTY; (III) OBTAINING PROVISIONAL OR ANCILLARY REMEDIES INCLUDING INJUNCTIVE RELIEF, SEQUESTRATION, GARNISHMENT, ATTACHMENT, APPOINTMENT OR RECEIVER AND FILING AN INVOLUNTARY BANKRUPTCY PROCEEDING; AND (IV) WHEN APPLICABLE, A JUDGMENT BY CONFESSION OF JUDGMENT. ANY CLAIM OR CONTROVERSY WITH REGARD TO ANY PARTY'S ENTITLEMENT TO SUCH REMEDIES IS A DISPUTE.
25. EACH PARTY AGREES THAT IT SHALL NOT HAVE A REMEDY OF PUNITIVE OR EXEMPLARY DAMAGES AGAINST THE OTHER IN ANY DISPUTE AND HEREBY WAIVE ANY RIGHT OR CLAIM TO PUNITIVE OR EXEMPLARY DAMAGES THEY HAVE NOW OR WHICH MAY ARISE IN THE FUTURE IN CONNECTION WITH ANY DISPUTE, WHETHER THE DISPUTE IS RESOLVED BY ARBITRATION OR JUDICIALLY.
26. WAIVER OF JURY TRIAL. THE PARTIES ACKNOWLEDGE THAT BY AGREEING TO BINDING ARBITRATION THEY HAVE TO THE MAXIMUM EXTENT PERMITTED BY LAW IRREVOCABLY WAIVED ANY RIGHT THEY MAY HAVE TO A JURY TRIAL WITH REGARD TO A DISPUTE.

This the 21st day of November, 2001.

STANDARD TOOLS AND EQUIPMENT CO.

By: William B. Turner Jr.
William B. Turner, President

OBERLIN CAPITAL, L.P.

By: Oberlin Capital Partners, LLC, General Partner

By: Robert G. Shepley, Jr.
Robert G. Shepley, Jr.,
President of the General Partner

GARDINER CAPITAL, L.P.

By: Gardiner Capital Partners, LLC, General Partner

By: Robert G. Shepley, Jr.
Robert G. Shepley, Jr.
President of General Partner

SCHEDULE A

Pending Applications
United States Patent and Trademark Office

<u>Trademark or Service Mark</u>	<u>Serial No./Registration No.</u>	<u>Filing Date</u>
TOOLS USA	74,384,362/2,011,200	04/26/1993
TOOLS USA (w/ stylized flag and star)	74,381,421/2,041,542	04/22/1993
STAR-RACK	74,340,432/1,818,361	12/16/1992
GALAXY STAR RACK 360	75,310,974/2,246,598	06/18/1997