

5/21/02

05-22-2002



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

RECORD, TRADEMARK

102098599

DEPARTMENT OF COMMERCE 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): Frank's Nursery & Crafts, Inc.

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

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

2. Name and address of receiving party(ies)

Name: Congress Financial Corporation

(Central), as Agent

Street Address: 150 S. Wacker Dr., Ste. 2200

City: Chicago State: IL Zip: 60606

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

3. Nature of conveyance:

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

Execution Date: May 20, 2002

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 2267666

Additional number(s) attached Yes No

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

Name: Maisha Gibson, Paralegal

Internal Address:

Street Address: Goldberg, Kohn, et al.

55 E. Monroe St., 37th Floor

City: Chicago State: IL Zip: 60603

6. Total number of applications and registrations involved: 42

7. Total fee (37 CFR 3.41) \$ 1065.00

- Enclosed, Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Maisha Gibson

Handwritten signature of Maisha Gibson

May 21, 2002

Name of Person Signing

Signature

Date

05/22/2002 DBYRHE 00000230 2267666

Total number of pages including cover sheet, attachments, and document: 11

01 FC:441 02 FC:442

40.00 1025.00

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

TRADEMARK REEL: 002511 FRAME: 0398

CONTINUATION OF ITEM 4

<u>Trademark</u>	<u>Registration Number</u>	<u>Registration Date</u>	<u>Original Expiration Date</u>
5 Seasons	2,267,666	08/03/99	08/03/09
All Season's	1,518,190	12/27/98	12/27/08
Christmas by Frank's	1,789,794	08/24/93	08/24/03
Christmas Time and Design	1,785,420	08/03/93	08/03/03
Creative Crafts & Designs	1,675,215	02/11/92	02/11/02
Flower Design (SERVICE)	1,192,348	03/16/92	03/16/02
Flower Design (CANADA)	293,576		08/03/14
Flower Logo	1,245,155	10/18/93	10/18/03
			10/02/13
Frank's	1,227,910	02/15/90	02/15/00
Frank's (STYLIZED)	1,769,008	05/04/90	05/04/00
Frank's and design	2,278,376	09/14/99	09/14/09
Frank's Five Seasons & Design	2,302,562	12/21/99	12/21/09
Frank's Holiday Lights	2,209,720	12/08/98	12/08/08
FRANK'S KIDS CORNER	2,044,961	3/11/97	3/11/07
FRANK'S NURSERY & CRAFTS	1,251,941	09/27/90	09/27/00
FRANK'S NURSERY & CRAFTS (SERVICE MARK)	1,672,922	01/22/92	01/22/02
FRANK'S SOLUTIONS FOR YOUR HOME GARDEN	2,163,816	06/09/98	06/09/08
FRANK'S SUPERCRAFTS	1,898,328	06/06/95	06/06/05
Fresh Starts	2,122,435	12/06/97	12/06/07
General Host	1,952,175	01/13/96	01/13/06
ONGLIFE	1,624,308	11/27/90	11/27/00
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PRE-EM (STYLIZED)	1,280,329	06/15/94	06/15/04
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Where Beautiful Ideas Begin	2,046,377	03/18/97	03/18/07
Where Christmas Begins	1,943,926	12/26/95	12/26/05

<u>Trademark Application</u>	<u>Application/Serial Number</u>	<u>Status</u>
5 Seasons By Frank's	S.N. 75/340,592	Statement of Use Filed on 4/13/99

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Classic Expressions	74/545,322	Abandoned 1/5/96
FRANK'S AND DESIGN	75/340,581	Statement of Use Filed on 3/30/99
Frank's Christmas Collection	75/184,274; 2,390,293	Registered
Frank's Holiday Classic	75/461,067	Suspended
Frank's Premium Silks (U.S.)	75/542,199	Sent attorney information to complete the Statement of Use. He would complete and file by 5/16/00.
In the Garden by Frank's	75/659,107	7/17/96 Statement of use filed.
North Pole Traditions	75/740,660	Notice of Allowance 1/12/00
Valance	75/461,066	Statement of Use filed on 12/22/99

TRADEMARK MORTGAGE

THIS TRADEMARK MORTGAGE (the "Mortgage") made as of this 20th day of May, 2002, by Frank's Nursery & Crafts, Inc., a Delaware corporation, with its principal business and chief executive office at 1175 West Long Lake Road, Troy, Michigan 48098 ("Mortgagor") in favor of Congress Financial Corporation (Central), as agent for itself and certain other lenders, with an office at 150 South Wacker Drive, Suite 2200, Chicago, Illinois 60606 ("Mortgagee"):

W I T N E S S E T H

WHEREAS, Mortgagor and Mortgagee are parties to a certain Loan and Security Agreement of even date herewith, as amended and supplemented (the "Loan Agreement") and other related loan documents of even date herewith (collectively, with the Loan Agreement, the "Financing Agreements"), which Financing Agreements provide (i) for Mortgagee to, from time to time, extend credit to or for the account of Mortgagor and (ii) for the grant by Mortgagor to Mortgagee of a security interest in certain of Mortgagor's assets, including, without limitation, its trademarks, trademark applications, trade names, service marks, service mark applications, goodwill and licenses;

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, Mortgagor agrees as follows:

1. Incorporation of Financing Agreements. The Financing Agreements 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 Financing Agreements.

2. Mortgage of Trademarks. To secure the complete and timely satisfaction of all of Mortgagor's Obligations, Mortgagor hereby grants, bargains, assigns, mortgages, pledges, sells, creates a security interest in, transfers and conveys to Mortgagee, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale upon the occurrence of an Event of Default, to the extent permitted by law, in all of Mortgagor's right, title and interest in and to all of its now existing and hereafter created or acquired:

(i) trademarks, trademark registrations, trademark applications, trade names and tradestyles, service marks, service mark registrations, service mark applications and brand names, including, without limitation, the trademarks, trade names, service marks and applications and registrations thereof listed on Exhibit A attached hereto and hereby made a part hereof, and (a) renewals or extensions, thereof, (b) all income, damages and payments now and hereafter due or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and

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(d) all rights corresponding thereto throughout the world (all of the foregoing trademarks, trade names, service marks and applications and registrations thereof, together with the items described in clauses (a) - (d) of this subsection 2(i), are sometimes hereinafter referred individually as a "Trademark" and, collectively, as the "Trademarks"); and

(ii) the goodwill of Mortgagor's business connected with and symbolized by the Trademarks.

3. New Trademarks. Mortgagor represents and warrants that the Trademarks listed on Exhibit A constitute all of the Trademarks now owned by Mortgagor. If, before Mortgagor's Obligations shall have been satisfied in full or before the Financing Agreements have been terminated, Mortgagor shall (i) become aware of any existing Trademarks of which Mortgagor has not previously informed Mortgagee, (ii) obtain rights to any new patentable inventions, patents, Trademarks or licenses, or (iii) become entitled to the benefit of any patents, Trademarks or licenses which benefit is not in existence on the date hereof, the provisions of this Mortgage above shall automatically apply thereto. Mortgagor hereby authorizes Mortgagee to modify this Mortgage by amending Exhibit A to include any such Trademarks.

4. Royalties; Terms. The term of the mortgages granted herein shall extend until the earlier of (i) the expiration of each of the respective Trademarks assigned hereunder, and (ii) the payment in full of Mortgagor's Obligations and the termination of the Financing Agreements. Mortgagor agrees that upon the occurrence of an Event of Default, the use by Mortgagee of all Trademarks shall be worldwide, except as limited by their terms, and without any liability for royalties or other related charges from Mortgagee to Mortgagor.

5. Release of Mortgage. This Mortgage is made for collateral purposes only. Upon payment in full of Mortgagor's Obligations and termination of the Financing Agreements, Mortgagee shall execute and deliver to Mortgagor all deeds, assignments and other instruments, and shall take such other actions, as may be necessary or proper to re-vest in Mortgagor full title to the Trademarks, subject to any disposition thereof which may have been made by Mortgagee pursuant to the Financing Agreements.

6. Expenses. All expenses incurred in connection with the performance of any of the agreements set forth herein shall be borne by Mortgagor. All fees, costs and expenses, of whatever kind or nature, including attorneys' fees and legal expenses, incurred by Mortgagee in connection with 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 in protecting, maintaining or preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks and Licenses, shall be borne by and paid by Mortgagor and shall be charged against the Obligations.

7. Mortgagee's Right to Sue. After an Event of Default, Mortgagee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the

Trademarks, and, if Mortgagee shall commence any such suit, Mortgagor shall, at the request of Mortgagee, do any and all lawful acts and execute any and all proper documents required by Mortgagee in aid of such enforcement and Mortgagor shall promptly, upon demand, reimburse and indemnify Mortgagee for all costs and expenses incurred by Mortgagee in the exercise of its rights under this Section 11.

8. Waivers. No course of dealing between Mortgagor and Mortgagee, nor any failure to exercise, nor any delay in exercising, on the part of Mortgagee, any right, power or privilege hereunder or under the Financing Agreements 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.

9. Severability. The provisions of this Mortgage 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 Mortgage in any jurisdiction.

10. Modification. This Mortgage cannot be altered, amended or modified in any way, except as specifically provided in Section 5 hereof or by a writing signed by the parties hereto.

11. Cumulative Remedies; Power of Attorney; Effect on Financing Agreements. All of Mortgagee's rights and remedies with respect to the Trademarks, whether established hereby or by the Financing Agreements, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Mortgagor hereby authorizes Mortgagee upon the occurrence of an Event of Default, to make, constitute and appoint any officer or agent of Mortgagee as Mortgagee may select, in its sole discretion, as Mortgagor's true and lawful attorney-in-fact, with power to (i) endorse Mortgagor's name on all applications, documents, papers and instruments necessary or desirable for Mortgagee in the use of the Trademarks, or (ii) take any other actions with respect to the Trademarks as Mortgagee deems to be in the best interest of Mortgagee, 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. Mortgagor 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 Mortgagor's Obligations shall have been paid in full and the Financing Agreements, have been terminated. Mortgagor acknowledges and agrees that this Mortgage is not intended to limit or restrict in any way the rights and remedies of Mortgagee under the Financing Agreements but rather is intended to facilitate the exercise of such rights and remedies. Mortgagee shall have, in addition to all other rights and remedies given it by the terms of this Mortgage and the Financing Agreements, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in Illinois.

12. Binding Effect; Benefits. This Mortgage shall be binding upon Mortgagor and its respective successors and assigns, and shall inure to the benefit of Mortgagee, its successors, nominees and assigns.

13. Governing Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

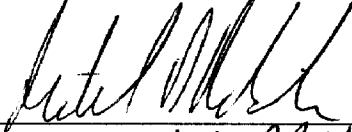
14. Headings. Paragraph headings used herein are for convenience only and shall not modify the provisions which they precede.

15. Further Assurances. Mortgagor agrees to execute and deliver such further agreements, instruments and documents, and to perform such further acts, as Mortgagee shall reasonably request from time to time in order to carry out the purpose of this Mortgage and agreements set forth herein.

16. Survival of Representations. All representations and warranties of Mortgagor contained in this Mortgage shall survive the execution and delivery of this Mortgage and shall be remade on the date of each borrowing under the Financing Agreements.

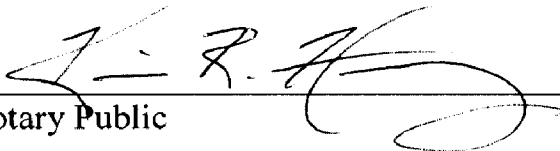
IN WITNESS WHEREOF, Mortgagor has duly executed this Mortgage in favor of Congress Financial Corporation (Central), as agent for certain other Lenders, as of the date first written above.

FRANK'S NURSERY & CRAFTS, INC.

By 
Its MICHAEL D MCBRIDE
VP legal

STATE OF New York)
)SS.
COUNTY OF New York)

The foregoing Trademark Mortgage was executed and acknowledged before me this 20th day of May, 2002, by Michael D Mc Bride personally known to me to be the Jr Legal of Frank's Nursery & Crafts, Inc., a Delaware corporation, on behalf of such corporation.



Notary Public

My Commission Expires:

KEVIN R. HENNESSY
Notary Public, State Of New York
No. 01HE6057664
Qualified In New York County
Commission Expires April 23, 2003

THIS INSTRUMENT PREPARED BY
AND AFTER FILING RETURN TO:

Garry Zussman, Esq.
Goldberg, Kohn, Bell, Black,
Rosenbloom & Moritz, Ltd.
55 East Monroe Street
Suite 3700
Chicago, Illinois 60603
(312) 201-4000

EXHIBIT A

TRADEMARKS

<u>Trademark</u>	<u>Registration Number</u>	<u>Registration Date</u>	<u>Original Expiration Date</u>
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Frank's	1,227,910	02/15/90	02/15/00
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