

07-16-2002



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

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): Emerald Innovations, L.L.C. 7-15-02
Individual(s) Association General Partnership Limited Partnership Corporation-State Other limited liability company
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies) Name: The Provident Bank Internal Address: James Hojnacki, Second Floor Street Address: 1111 Superior Avenue City: Cleveland State: OH Zip: 44114
Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Ohio 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
Execution Date:

4. Application number(s) or registration number(s): A. Trademark Application No.(s) B. Trademark Registration No.(s) 1,986,108; 1,545,408; 2,242,420
Additional number(s) attached Yes No

6. Total number of applications and registrations involved: 3

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Paul J. Singerman, Esq. Internal Address: Suite 200 Street Address: 30000 Chagrin Boulevard City: Pepper Pike State: OH Zip: 44124

7. Total fee (37 CFR 3.41) \$ 90.00 Enclosed Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature. Paul J. Singerman, Esq. Name of Person Signing

Signature

Date 7-9-02

12

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

07/16/2002 DBYRME 00000006 1986108 01 FC:481 40.00 OP 02 FC:482 50.00 OP

OFFICE OF FINANCIAL RECORDS JUL 15 PM 2:29 FINANCE SECTION

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

TRADEMARK REEL: 002544 FRAME: 0042

PATENT AND TRADEMARK SECURITY AGREEMENT

THIS PATENT AND TRADEMARK SECURITY AGREEMENT (the "Security Agreement") is made and entered into as of this 28th day of February, 2002, by and between EMERALD INNOVATIONS, L.L.C., an Ohio limited liability company, having its chief executive office at 11310 Juniper Road, Cleveland, Ohio 44106 (the "Borrower"), and THE PROVIDENT BANK, an Ohio banking corporation, having an office at 1111 Superior Avenue, Cleveland, Ohio 44114 (the "Secured Party").

RECITALS:

A. Pursuant to the terms of a certain Loan and Security Agreement of even date herewith (hereinafter, as it may from time to time be modified, amended, supplemented, or restated, the "Loan Agreement") by and among the Borrower and the Secured Party, the Secured Party has agreed to loan to the Borrower up to, in the aggregate, Four Million Dollars (\$4,000,000) as a revolving credit facility (the "Loans").

B. It is a condition precedent to the Secured Party's obligation to make the Loans to the Borrower that the Borrower provide security for all of the Borrower's obligations, indebtedness and liabilities under the Loan Agreement, and the Borrower is willing to do so.

C. All capitalized terms not otherwise defined in this Security Agreement shall have the meanings assigned to them in the Loan Agreement.

AGREEMENTS

In consideration of the foregoing Recitals, and of the promises made herein, and of the Loans made or to be made by the Secured Party to the Borrower, the proceeds of which will be used to the material economic benefit of the Borrower, the Borrower and the Secured Party agree as follows:

1. INCORPORATION OF LOAN AGREEMENT. The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference.

2. SECURITY INTEREST IN PATENTS, TRADEMARKS, ETC. The Borrower hereby grants to the Secured Party a security interest in, as and by way of a first mortgage and

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security interest having priority over all other security interests, with power of sale to the extent permitted by applicable law, all of Borrower's now owned or existing and filed and hereafter acquired or arising and filed, patents, trademarks, trade names, service marks, patent applications, trademark applications, trade name applications and service mark applications and the inventions and improvements described and claimed in the patents and patent applications (together with the items described in Clauses (a) through (d) below, the "Collateral") including, without limitation, the Collateral listed on Exhibit A attached hereto and made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations in part thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world.

3. OBLIGATIONS SECURED. The security interests of the Secured Party under this Security Agreement secure (a) the full and prompt performance and observance of all of the terms, conditions and agreements contained in the Loan Agreement to be performed or observed by the Borrower, (b) the punctual full payment of the principal of and interest on the Notes in accordance with the terms and provisions of the Notes (including interest accruing under the Notes after the commencement of any case or proceeding under any state or federal bankruptcy, insolvency or similar law [a "Proceeding"] to the extent that a claim for such interest is allowable in such a Proceeding ["Post-Petition Interest"]), (c) the performance and observance of the terms, conditions and agreements hereinafter contained, (d) the full performance and observance of all of the other terms, conditions and agreements contained in any other documents or instruments executed by the Borrower evidencing or securing the Loans (the "Loan Documents"), and (e) any and all other indebtedness of the Borrower to the Secured Party, including Post-Petition Interest (all of which are referred to herein collectively as the "Secured Obligations").

4. NEW PATENTS, TRADEMARKS, ETC. If, prior to the termination of this Agreement, the Borrower shall (a) obtain rights to any new patentable inventions, (b) become entitled to the benefit of any patent, trademark, trade name, service mark, patent application, trademark application, service mark application, license or any reissue, division, continuation, renewal, extension or continuation in part of any of the same or any improvement on any of the same, the provisions of Paragraph 2, above, shall automatically apply thereto and such patents, trademarks, trade names, service marks, patent applications, trademark applications, service mark applications, licenses, etc. shall automatically become Collateral hereunder and shall be subject to the security interests described herein. The Borrower shall give to the Secured Party written notice of the events described in clauses (a) and (b) of the preceding sentence on a quarterly basis. The Borrower hereby authorizes the Secured Party to modify this Agreement by amending Exhibit A to include any future patents, trademarks, trade names, service marks, patent applications, trademark applications, service mark applications and the Borrower agrees to execute any agreements, documents or instruments reasonably requested by the Secured Party to effectuate such amendment.

5. ROYALTIES; TERM. The Borrower hereby agrees that the use by the Secured Party of the Collateral as authorized hereunder shall be co-extensive with the Borrower's rights thereunder and in respect thereof and without any liability for royalties or other related charges from the Secured Party to the Borrower. The term of the security interest granted herein shall extend until the earlier of (a) the expiration or termination of each item of Collateral assigned hereunder, or (b) the date on which all "Collateral" (as defined in the Loan Agreement) has been released pursuant to the terms of the Loan Agreement.

6. TERMINATION OF SECURITY INTEREST. This Security Agreement is made for collateral security purposes only. Upon release of all of the "Collateral" (as defined in the Loan Agreement) pursuant to the provisions of the Loan Agreement, this Agreement shall terminate, and the Secured Party shall promptly execute and deliver to the Borrower, at the Borrower's expense, all termination statements and other instruments as may be necessary or proper to terminate the Secured

Party's security interest in the Collateral subject to any disposition thereof which may have been made by the Secured Party pursuant to this Agreement or the Loan Agreement.

7. DUTIES OF THE BORROWER. The Borrower shall have the duty, to the extent desirable in the normal conduct of the Borrower's business and consistent with Borrower's current business practices, (a) to prosecute diligently any patent application, trademark application and service mark applications that are part of the patents, trademarks or service marks pending as of the date hereof and thereafter until the termination of this Agreement, (b) to make application on unpatented but patentable inventions, as the Borrower deems appropriate, and (c) to take reasonable steps to preserve and maintain all of the Borrower's rights in the Collateral. Any expense incurred in connection with the foregoing shall be borne by the Borrower. The Borrower shall not abandon any material pending patent application, trademark application, service mark application or patent, trademark, trade name or service mark which is or shall be necessary or economically desirable in the operation of the Borrower's business.

8. INFRINGEMENT. The Borrower represents and warrants to the Secured Party that the Borrower owns and possesses, and will own or possess continuously throughout the term of this Agreement, the valid right to use the Collateral, without any known conflict with the rights of others, and no litigation or proceeding is pending, or, to the best knowledge of the Borrower, threatened against the Borrower, which might, if successful, adversely affect a Borrower's interest in the Collateral.

9. WAIVERS. No course of dealing between the Borrower and the Secured Party, and no failure to exercise or delay in exercising on the part of the Secured Party any right, power or privilege hereunder, under the Loan Agreement or any of the Loan Documents, shall operate as a waiver of any of the Secured Party's rights, powers or privileges. No single or partial exercise of any right, power or privilege hereunder, under the Loan Agreement, the Notes or under any other Loan Document shall preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.

10. SECURED PARTY'S EXERCISE OF RIGHTS AND REMEDIES UPON AN EVENT OF DEFAULT.

(a) An "Event of Default" under this Security Agreement shall be deemed to exist if there shall exist and be continuing any event, condition or thing which constitutes an Event of Default under the Loan Agreement, including, without limitation, the Borrower's default in the timely performance of all of its obligations and covenants hereunder.

(b) After the occurrence of any Event of Default and during the continuation of such Event of Default, the Secured Party may (to the extent permitted by law) exercise any and all rights and remedies provided in this Agreement, the Loan Agreement, the Notes and the other Loan Documents. In connection therewith, the Secured Party shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the patents, trademarks or service marks secured hereby and, if the Secured Party shall commence any such suit, the Borrower shall, at the request of the Secured Party, do any and all lawful acts and execute any and all proper documents required by the Secured Party in aid of such enforcement. The Borrower shall, upon demand, promptly reimburse the Secured Party for all costs and expenses incurred by the Secured Party in the exercise of its rights under this paragraph.

11. SEVERABILITY. The provisions of this Security 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 hereof, 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 Security Agreement in any jurisdiction.

12. MODIFICATION. This Security Agreement cannot be altered, amended or modified in any way, except as specifically provided in paragraph 4 hereof or by a writing signed by the parties hereto.

13. CUMULATIVE REMEDIES; POWER OF ATTORNEY. All of the Secured Party's rights and remedies in respect of the Collateral whether established hereby, by the Loan Agreement,

by the Notes, by any of the other Loan Documents or by law, shall be cumulative and may be exercised singularly or concurrently. Upon and during the continuance of an Event of Default, the Borrower hereby constitutes and appoints the Secured Party its true and lawful attorney, with full power of substitution, with power to (a) endorse the Borrower's name on all applications, documents, papers and instruments necessary or desirable for the Secured Party in the use of the Collateral, (b) take any other actions in respect of the Collateral as the Secured Party deems in the best interest of the Secured Party, (c) grant or issue any exclusive or non-exclusive license under the Collateral to anyone, or (d) assign, pledge, convey or otherwise transfer title in or dispose of the Collateral to anyone. The 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 until all of the "Collateral" (as such term is defined in the Loan Agreement) shall have been released pursuant to the terms of the Loan Agreement. The Borrower hereby acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of the Secured Party under the Loan Agreement, the Notes or any of the other Loan Documents, but rather is intended to facilitate the exercise of such rights and remedies. The Secured Party shall have, in addition to all other rights and remedies given to it by the terms of this Agreement, all rights and remedies allowed by law and all rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Collateral may be located or deemed located.

14. BINDING EFFECT; BENEFITS. This Agreement shall be binding upon the Borrower and its successors and assigns, and shall inure to the benefit of the Secured Party and its nominees, successors and assigns. The Borrower's successors and assigns shall include, without limitation, a receiver, trustee or debtor-in-possession of or for the Borrower.

15. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

16. NOTICES. All notices or other communications hereunder shall be given in the manner and to the addresses set forth in the Loan Agreement.

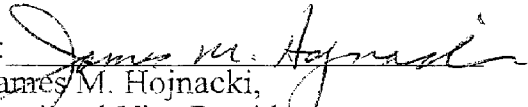
17. SECURED PARTY'S DUTY. The Secured Party shall have no duty in respect of the Collateral. Without limiting the generality of the foregoing, the Secured Party shall be under no obligation to take any steps necessary to preserve rights in the Collateral against any other parties, but may do so at its option, and all expenses incurred in connection therewith shall be for the sole account of the Borrower and added to the Secured Obligations secured hereby.

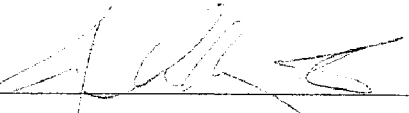
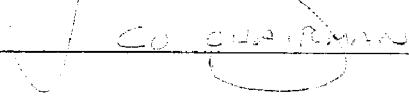
18. SECTION HEADINGS. The section headings herein are for convenience of reference only, and shall not affect in any way the interpretation of any of the provisions hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

THE PROVIDENT BANK

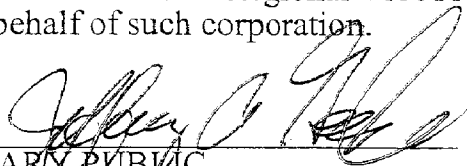
EMERALD INNOVATIONS, L.L.C.

By: 
James M. Hojnacki,
Regional Vice President

By: 
Its:  CO CHAIRMAN

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

The foregoing Security Agreement was executed and acknowledged before me this 28th day of February, 2002, by James M. Hojnacki, personally known to me to be a Regional Vice President of The Provident Bank, an Ohio banking corporation, on behalf of such corporation.

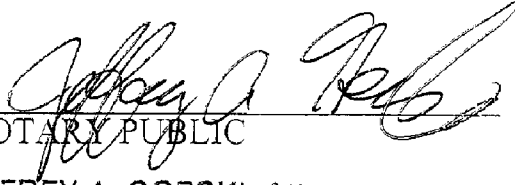

NOTARY PUBLIC

JEFFREY A. GORSKI, Attorney
Notary Public - State of Ohio
My Commission Has No Expiration Date
SECTION 147-03 R.C.

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STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

The foregoing Security Agreement was executed and acknowledged before me this 28th day of February, 2002, by John R. Nottingham personally known to me to be the Co-Chairman of Emerald Innovations, L.L.C., an Ohio limited liability company, on behalf of such company.


NOTARY PUBLIC

JEFFREY A. GORSKI, Attorney
Notary Public - State of Ohio
My Commission Has No Expiration Date
SECTION 147-03 R.C.

Emerald Innovations' "Key" Patents

United States Design Patents

Patent No.	Title	Issue Date	Expires
360,116	Tree Reservoir	July 11, 1995	July 11, 2009
365,169	Light Support Stake	Dec. 12, 1995	Dec. 12, 2009
368,674	Molded Tree Stand	April 9, 1996	April 9, 2010
376,973	Gutter Clip	Dec. 31, 1996	Dec. 31, 2010
377,844	Light Support Stake	Feb. 4, 1997	Feb. 4, 2011
378,439	Light Support Stake	Mar. 11, 1997	Mar. 11, 2011
408,319	Decorative Light Tree	April 20, 1999	April 20, 2013
414,291	Combination Clip For Decorative Lights	Sept. 21, 1999	Sept. 21, 2013
417,612	Mini Light Support Clip	Dec. 14, 1999	Dec. 14, 2013
429,660	Reconfigurable Decorative Sculpture	Aug. 22, 2000	Aug. 22, 2014
435,684	Tube Light Surface Clip	Dec. 26, 2000	Dec. 26, 2014
436,218	Tube Light Stake	Jan. 9, 2001	Jan. 9, 2015
442,850	Window Wreath Hanger	May 29, 2001	May 29, 2015
444,730	Reconfigurable Decorative Sculpture	July 10, 2001	July 10, 2015
451,007	Tube Light Siding Hook	Nov. 27, 2001	Nov. 27, 2015

United States Utility Patents

Patent No.	Title	Description	Issue Date	Expires
5,110,078	Decorative Light Support Assembly	Adapted to releasably support a decorative bulb and socket assembly on windows and other planar surfaces	May 5, 1992	May 28, 2011
6,094,859	Tree Stand	Comprises a receptacle and two-piece base. Receptacle is placed over trunk of tree and then inserted into top portion of base. Top portion is moveable with respect to bottom portion	Aug. 1, 2000	May 28, 2013
6,132,063	Apparatus For Arranging Decorative Lights	Spiral shaped frame with a plurality of openings for holding lights. Frame provides means for concealing wires.	Oct. 17, 2000	Nov. 10, 2018
6,139,168	Decorative Tree-Like Illuminated Display System	Frame comprised of spiral strips that are coplanar in unassembled position and form a conical Christmas tree shape in assembled position	Oct. 31, 2000	Jan. 22, 2019
6,203,166	Reconfigurable Decorative Star Apparatus	Apparatus assumes star shape in display position, and collapses via hinges to a rectangular storage position	Mar. 20, 2001	Oct. 19, 2019
6,227,365	Molded Product Display System	System provides for an array of interconnected, tearably releasable plastic parts facilitating ease and effectiveness of display	May 8, 2001	Mar. 21, 2020
6,286,804	Molded Pentagonal Tree Stand		Sept. 11, 2001	May 16, 2020
6,325,344	Window Wreath Hanger	Triangular molded plastic hanger with suction cups on two corners to allow the device to be attached to smooth support surfaces like windows	Dec. 4, 2001	Feb. 8, 2020

Emerald Innovations “Key” Trademarks

<u>Trademark</u>	<u>Registration Number</u>
Swivel Straight	1,986,108
Lites Up GPG	1,545,408
EZ Up and Design	2,242,420