

08-12-2002

8-12-02

Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/20) Tab settings



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HEET -Y

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): MFRI, Inc.

8-12-02

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

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

2. Name and address of receiving party(ies)

Name: Fleet Capital Corporation

Internal Address:

Street Address: One South Wacker Drive, Suite 1400

City: Chicago State: IL Zip: 60606

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Rhode Island 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: July 11, 2002

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2,045,868

Additional number(s) attached Yes No

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

Name: Tammy S. Settle

Internal Address:

Vedder, Price, Kaufman & Kammholz

Street Address: 222 N. LaSalle St., 24th Floor

City: Chicago State: IL Zip: 60601

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

- Enclosed Authorized to be charged to deposit account (Charge any deficiencies or credit any overpayment to the acct)

8. Deposit account number:

22-0259

(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.

Tammy S. Settle

Name of Person Signing

Signature

Date Aug 9 2002

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

08/12/2002 TDIAZI 00000102 220259 M2045868 Documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

01 FD:481 40.00 CH

TRADEMARK REEL: 002559 FRAME: 0276

TRADEMARK AND LICENSE SECURITY AGREEMENT

TRADEMARK AND LICENSE SECURITY AGREEMENT ("Agreement") dated as of July 11, 2002, made by MFRI, Inc., a Delaware corporation, having an office at 7720 Lehigh Avenue, Niles, Illinois 60714 ("Borrower"), and FLEET CAPITAL CORPORATION, a Rhode Island corporation having an office at One South Wacker Drive, Suite 1400, Chicago, Illinois 60606, individually and as agent ("Agent") for itself and any other financial institution which is or becomes a party to the Loan Agreement (as hereinafter defined) (collectively, "Lenders").

W I T N E S S E T H:

WHEREAS, Agent, Lenders and Borrower and certain of Borrower's affiliates have entered into that certain Loan and Security Agreement of even date herewith (as the same may hereafter be amended or otherwise modified from time to time, the "Loan Agreement"), pursuant to which Lenders have, subject to certain conditions precedent, agreed to make loans, advances and other financial accommodations (collectively, the "Loans") to Borrower; and

WHEREAS, Agent, Lenders have required as a condition, among others, to the making of the Loans to Borrower and certain of its affiliates, in order to secure the prompt and complete payment, observance and performance of all of Borrower's obligations and liabilities hereunder, under the Loan Agreement, and under all of the other instruments, documents and agreements executed and delivered by Borrower to Agent and/or Lenders in connection with the Loan Agreement (all such obligations and liabilities being hereinafter referred to collectively as the "Obligations"), that Borrower execute and deliver this Agreement to Lenders;

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

1. Defined Terms.

(a) Unless otherwise defined herein, the capitalized terms used herein which are defined in the Loan Agreement shall have the meanings specified in the Loan Agreement.

(b) The words "hereof," "herein" and "hereunder" and words of like import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and section and schedule references are to this Agreement unless otherwise specified.

(c) All terms defined in this Agreement in the singular shall have comparable meanings when used in the plural, and vice versa, unless otherwise specified.

2. Security Interest in Trademarks. To secure the complete and timely payment, performance and satisfaction of all of the Obligations, Borrower hereby grants to Agent, for its benefit and the ratable benefit of Lenders, a first priority security interest in, having priority over all other security interests, with power of sale to the extent permitted by applicable law exercisable after and during the occurrence of an Event of Default, all of Borrower's now owned or existing and filed and hereafter acquired or arising and filed:

(i) trademarks, registered trademarks and trade mark applications, trade names, service marks, registered service marks and service mark applications including, without limitation, the registered trademarks, trademark applications, registered service marks and service mark applications listed on Schedule A, and (a) all renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements or dilutions thereof, (c) the right to sue for past, present and future infringements and dilutions thereof, and (d) all of Borrower's rights corresponding thereto throughout the world (all of the foregoing registered trademarks, trademark applications, registered service marks and service mark applications, together with the items described in clauses (a)-(d) in this paragraph 2(i), being sometimes hereinafter individually and/or collectively referred to as the "Trademarks");

(ii) the goodwill of Borrower's business connected with and symbolized by the Trademarks; and

(iii) license agreements with any other party in connection with any Trademarks or such other party's trademarks, registered trademarks and trademark applications, trade names, service marks, registered service marks and service mark applications, whether Borrower is a licensor or licensee under any such license agreement, including, but not limited to, the license agreements listed on Schedule B, and the right upon the occurrence and during the continuance of an Event of Default to use the foregoing in connection with the enforcement of Agent's rights under the Loan Agreement (all of the foregoing being hereinafter referred to collectively as the "Licenses"). Notwithstanding the foregoing provisions of this Section 2, the Licenses shall not include any license agreement which by its terms prohibits the grant of the security interest, use, transfer, or assignment contemplated by this Agreement.

3. Restrictions on Future Agreements. Borrower will not, without Agent's prior written consent (which will not be unreasonably withheld or delayed), enter into any agreement after the date hereof, including, without limitation, any license agreement, which is inconsistent with this Agreement, and Borrower further agrees that it will not take any action, and will use its best efforts not to permit any action to be taken by others subject to its control, including licensees, or fail to take any action, which would in any material respect adversely affect the validity or enforcement of the rights transferred to Agent under this Agreement or the rights associated with those Trademarks as are reasonably necessary to protect inventions material to the conduct of Borrower's business, and in those rule-of-law jurisdictions representing material markets or sources of manufacture of Borrower's products.

4. New Trademarks. Borrower represents and warrants that the Trademarks and Licenses listed on Schedules A and B, respectively, include all of the trademarks, trademark registrations, trademark applications, trade names, service marks, service mark registrations, service mark applications and license agreements in connection with trademarks, registered trademarks, trademark applications, trade names, service marks, registered service marks and service mark applications now owned or held by Borrower. If, prior to the termination of this Agreement, Borrower shall (i) obtain rights to any new trademarks, trademark registrations,

trademark applications, trade names, service marks, service mark registrations, service mark applications or license agreements in connection with trademarks, registered trademarks, trademark applications, trade names, service marks, registered service marks or service mark applications or (ii) become entitled to the benefit of any trademark, trademark registration, trademark application, trade name, service mark, service mark registration or service mark application, the provisions of Section 2 shall automatically apply thereto and Borrower shall give to Agent prompt written notice thereof. Borrower hereby authorizes Agent to modify this Agreement by (i) amending Schedules A or B, as the case may be, to include any future trademarks, trademark registrations, trademark applications, trade names, service marks, service mark applications and license agreements in connection with trademarks, registered trademarks, trademark applications, service marks, service mark registrations, service mark applications and trade names that are Trademarks or Licenses under Section 2, or under this Section 4, and (ii) filing, in addition to and not in substitution for, this Agreement, a duplicate original of this Agreement containing on Schedules A or B thereto, as the case may be, such future trade marks, trademark applications, trade names, service marks, service mark applications and license agreements in connection with trademarks, registered trademarks, trademark applications, service marks, registered service marks, service mark applications and trade names which are Trademarks or Licenses under Section 2 or this Section 4.

5. Royalties. Borrower hereby agrees that the use by Agent of the Trademarks and Licenses as authorized hereunder shall be co-extensive with Borrower's rights thereunder and with respect thereto and without any liability for royalties or other related charges from Lenders to Borrower.

6. Nature and Continuation of Lenders' Security Interest. This Agreement is made for collateral security purposes only. This Agreement shall create a continuing security interest in the Trademarks and Licenses and shall remain in full force and effect until the Obligations have been paid in full and the Loan Agreement terminated.

7. Right to Inspect; Further Assignments and Security Interests. Agent shall have the right, at any reasonable time and from time to time, to inspect Borrower's premises and to examine Borrower's books, records, and operations relating to the Trademarks (the "Inspection"), including, without limitation, Borrower's quality control processes; provided, that in conducting such inspections and examinations, Agent shall use best its efforts not to disturb unnecessarily the conduct of Borrower's ordinary business operations. Agent agrees to safeguard any and all Confidential Information (as defined hereinafter) disclosed to Agent during an Inspection as provided in and subject to the limitations of Section 12.14 of the Loan Agreement. "Confidential Information" shall mean all information of a private, secret or proprietary or confidential nature concerning Borrower's business relationships, products or services, or financial affairs whether or not marked "confidential." From and during the occurrence of an Event of Default, and subject to the terms of the Loan Agreement, Borrower agrees that Agent or a conservator appointed by Agent, shall have the right to establish such reasonable additional product quality controls as Agent or such conservator, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold by Borrower under the Trademarks. Borrower agrees (i) except as permitted by the Loan Agreement, not to sell or assign its respective interests in, or grant any license under, the Trademarks without the prior written consent of Agent (which consent will not be unreasonably withheld or delayed), (ii) to

substantially maintain the quality of any and all products in connection with which the Trademarks are used, consistent substantially with the quality of said products as of the date hereof, and (iii) not to adversely change the quality of such products in any material respect without the prior written consent of Agent (which consent will not be unreasonably withheld or delayed).

8. Duties of Borrower. Borrower shall have the duty, to the extent desirable in the normal conduct of Borrower's business and consistent with Borrower's current business practices (i) to prosecute diligently any of its trademark applications or service mark applications that are part of the Trademarks pending as of the date hereof or thereafter until the termination of this Agreement, (ii) to make applications for trademarks and service marks as Borrower deems appropriate and material, and (iii) to take reasonable steps to preserve and maintain all of Borrower's rights in the trademark applications, service mark applications and trademark and service mark registrations that are part of the Trademarks. Subject to the limitations of Section 3, any expenses incurred in connection with the foregoing shall be borne by Borrower. Borrower shall not abandon any material trademark or service mark which is the subject of a registered trademark, service mark or application therefor and which is or shall be necessary or economically important in the operation of the Borrower's business. Borrower agrees to retain an experienced trademark attorney reasonably acceptable to Agent for the filing and prosecution of all such applications and other proceedings. Agent shall not have any duty with respect to the Trademarks. Without limiting the generality of the foregoing, Agent shall not be under any obligation to take any steps necessary to preserve rights in the Trademarks and Licenses against any other parties, but may do so at its option during the continuance of an Event of Default, and all reasonable expenses incurred in connection therewith shall be for the sole account of Borrower and added to the Obligations secured hereby. In the event that Agent releases its security interest in the Trademarks and, if applicable, Licenses, Agent shall promptly record the appropriate documentation for such release in the relevant jurisdiction in which such security interest was originally recorded.

9. Agent's Right to Sue. From and during the continuance of an Event of Default, and subject to the terms of the Loan Agreement, Agent shall have the right, but shall not be obligated, to bring suit to enforce the Trademarks and the Licenses and, if Agent shall commence any such suit, Borrower shall, at the request of Agent, do any and all lawful acts and execute any and all proper documents required by Agent in aid of such enforcement. Borrower shall, upon demand, promptly reimburse and indemnify Agent for all costs and reasonable expenses incurred by Agent in the exercise of its rights under this Section 9 (including, without limitation, all reasonable attorneys' and paralegals' fees). If, for any reason whatsoever, Agent is not reimbursed with respect to the costs and expenses referred to in the preceding sentence, such costs and expenses shall be added to the Obligations secured hereby.

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

11. Agent's Exercise of Rights and Remedies Upon Default. Notwithstanding anything set forth herein to the contrary, it is hereby expressly agreed that upon the occurrence and during the continuance of an Event of Default, Agent may exercise any of the rights and remedies provided in this Agreement, the Loan Agreement, or any other agreement executed in connection therewith. Without limiting the generality of the foregoing, Borrower acknowledges and agrees that (i) the Trademarks and Licenses comprise a portion of the Collateral and Agent shall have the right to exercise its rights under the Loan Agreement with respect to the Trademarks and Licenses to the same extent as with respect to all other items of Collateral described therein, and (ii) from and during the continuance of an Event of Default, Agent or its nominee may use the Trademarks and Licenses to complete the manufacture of, assemble, package, distribute, prepare for sale and sell the Inventory, or otherwise in connection with the conduct of Borrower's business.

12. Severability. 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.

13. Modification. This Agreement cannot be altered, amended or modified in any way, except as specifically provided in Sections 2 and 4 hereof or by a writing signed by the parties hereto.

14. Cumulative Remedies; Power of Attorney. All of Agent's rights and remedies with respect to the Trademarks and the Licenses, whether established hereby, by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently. Borrower hereby irrevocably appoints Agent as Borrower's attorney-in-fact, with full authority in the place and stead of Borrower and in the name of Borrower or otherwise exercisable during an Event of Default to carry out the acts described below. Subject to the terms of the Loan Agreement, upon the occurrence and during the continuance of an Event of Default and the giving by Agent of written notice to Borrower of Agent's intention to enforce its rights and claims against Borrower, Borrower hereby authorizes Agent to, in its sole discretion (i) endorse Borrower's name on all applications, documents, papers and instruments necessary or desirable for Agent in the use of the Trademarks and the Licenses, (ii) take any other actions with respect to the Trademarks and the Licenses as Agent deems is in its best interest, (iii) grant or issue any exclusive or nonexclusive license under the Trademarks to anyone on commercially reasonable terms, and (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone on commercially reasonable terms. Agent shall take no action pursuant to subsection (i), (ii), (iii) or (iv) of this Section 14 without taking like action with respect to the entire goodwill of Borrower's business connected with the use of, and symbolized by, such Trademarks. Borrower hereby ratifies all that such attorney-in-fact 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 this Agreement shall have been terminated pursuant to Section 6. Borrower acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of Agent under the Loan Agreement, but rather is intended to facilitate the exercise of such rights and remedies. Agent shall have, in addition to all other rights and remedies given it by the terms of this Agreement, all rights and remedies allowed by law and the

rights and remedies of a secured party under the Uniform Commercial Code as enacted in any applicable jurisdiction.

15. Binding Effect; Benefits. This Agreement shall be binding upon Borrower and its successors and assigns, and shall inure to the benefit of Agent and its nominees, successors and assigns. Borrower's successors and assigns shall include, without limitation, a receiver, trustee or debtor-in-possession of or for Borrower; provided, however that Borrower shall not voluntarily assign its obligations hereunder without the prior written consent of Agent.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws and decisions of the State of Illinois, excluding choice of law provisions, principles, and decisions that would require the application of the laws of a jurisdiction other than the State of Illinois.

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

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.

19. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

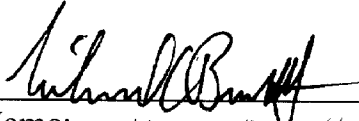
20. Right of Recordal of Security Interest. Agent shall have the right, but not the obligation, at the expense of Borrower, to record this Agreement in the United States Trademark Office and with such other recording authorities deemed reasonable and proper by Agent, and Agent shall advise Borrower of such recordals. Upon satisfaction in full of the Obligations and termination of the Loan Agreement, Borrower shall have the right to effect recordal of such satisfaction or termination at the expense of Borrower in the United States Trademark Office and with such other recording authorities deemed reasonable and proper by Borrower. Agent and Borrower shall cooperate to effect all such recordals hereunder.

[SIGNATURE PAGE FOLLOWS]

(Signature Page to Trademark and License Security Agreement)

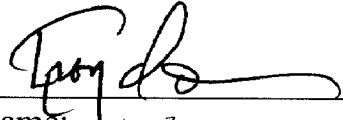
IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement on the day and year first above written.

MFRI, INC., a Delaware corporation

By: 
Name: Michael Bennett
Its: Vice President

Accepted and agreed to as of this 11th day
of July, 2002

FLEET CAPITAL CORPORATION, a
Rhode Island corporation

By: 
Name: Tony
Its: Vice President

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The foregoing Trademark and License Security Agreement was executed and acknowledged before me this 11th day of July, 2002, by Michael D. Bennett, personally known to me to be the Vice President of MFRI, Inc., a Delaware corporation, on behalf of such corporation.

(SEAL)



Brenda L. Hatfield
Notary Public

My commission expires: 7/29/05

SCHEDULE A
to Trademark and License Security Agreement

TRADEMARKS

<u>MARK</u>	<u>COUNTRY</u>	<u>APP. NO.</u> <u>FILING DATE</u>	<u>REG. NO.</u> <u>REG. DATE</u>	<u>GOODS</u>
Thermal Care	USA	75,080,365 3/28/96	2,045,868 3/18/97	Industrial Cooling Equipment, Namely, Water-Colled Chillers; Air-Cooled Chillers; Inner Fin Chillers; Fluid Filters; Cooling Towers; Air-Cooled and Water Cooled Chiller and pump Combinations; Insulated Flow Lines; Condensers; and Housing and Swivel Casters for Chillers

SCHEDULE B
to Trademark and License Security Agreement

LICENSES

NONE

VEDDER PRICE

VEDDER, PRICE, KAUFMAN & KAMMHOLZ

222 NORTH LASALLE STREET

CHICAGO, ILLINOIS 60601

312-609-7500

FACSIMILE: 312-609-5005

A PARTNERSHIP INCLUDING VEDDER, PRICE, KAUFMAN & KAMMHOLZ, P.C.

WITH OFFICES IN CHICAGO, NEW YORK CITY, AND LIVINGSTON, NEW JERSEY

August 9, 2002

VIA FEDERAL EXPRESS

Assistant Commissioner of Patents & Trademarks
Office of Public Records
1213 Jefferson Davis Highway, Third Floor
Arlington, Virginia 22202
Attn: Customer Service Counter

Re: Trademark and License Security Agreement
Reference No. 02795.00.0132

Dear Sir:

Attached please find the Trademark and License Security Agreement between MFRI, Inc. and Fleet Capital Corporation for recordation in the Assignment Branch of the United States Patent and Trademark Office.

Please charge the filing fee of \$40.00 and any additional fees to our Deposit Account No. 22-0259.

Please direct all correspondence regarding this matter to:

Tammy S. Settle
Vedder, Price, Kaufman & Kammholz
North LaSalle Street
Chicago, Illinois 60601
(312) 609-7838

Respectfully submitted,



Tammy S. Settle
Legal Assistant

Enclosures

cc: Catherine Ho(enc.)