

10-03-2002



Form PTO-1594

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

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 102240243  
 COVER SHEET  
**TRADEMARKS ONLY**

 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):

ResiCal, Inc.

7-16-02

☐ Individual(s)☐ Association☐ General Partnership☐ Limited Partnership☒ Corporation-State☐ OtherAdditional name(s) of conveying party(ies) attached? ☐ Yes ☐ No

## 3. Nature of conveyance:

☐ Assignment☐ Merger☒ Security Agreement☐ Change of Name☐ Other

Execution Date: \_\_\_\_\_

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

Name: HSBC Bank USA

Internal

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

Street Address: One HSBC Center

City: Buffalo State: NY Zip: 14203

☐ Individual(s) citizenship☐ Association☐ General Partnership☐ Limited Partnership☒ Corporation-State NY☐ OtherIf 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)

B. Trademark Registration No.(s) 820,221 and 75,258

Additional number(s) attached ☐ Yes ☒ No

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

Name: Roseanne J. Shaw

Internal Address: Magavern, Magavern &amp; Grimm

1100 Rand Building

Street Address: 14 Lafayette Square

City: Buffalo State: NY Zip: 14203

## 6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 65.00

☒ 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.

Roseanne J. Shaw

Name of Person Signing

Signature

9/26/02

Date

Total number of pages including cover sheet, attachments, and document: 9

07/22/2002 GTOW11 00000156 820221

01 FC:481  
02 FC:48240.00 DP  
25.00 DP
 Mail documents to be recorded with required cover sheet information to:  
 Commissioner of Patent & Trademarks, Box Assignments  
 Washington, D.C. 20231

 TRADEMARK  
 REEL: 002592 FRAME: 0717

 OFFICE OF PUBLIC RECORDS  
 2002 JUL 16 AM 11:05  
 FINANCE SECTION

## COLLATERAL ASSIGNMENT OF TRADEMARKS

THIS AGREEMENT, made on the 27<sup>th</sup> day of June, 2002 is between ResiCal, Inc., a New York corporation having its principal office and place of business at 36 Cherry Tree Lane, Orchard Park, New York ("Debtor") and HSBC BANK USA, a banking corporation having its principal office and place of business at One HSBC Center, Buffalo, New York 14203 ("Bank").

WHEREAS, Debtor has requested that Bank extend or continue to extend certain credit to it;  
and

WHEREAS, Bank is willing to do so only if, among other things, Debtor grants to Bank a security interest in the collateral described in the General Security Agreement dated of even date herewith, which includes but is not limited to, the trademarks described on Schedule A attached hereto and made a part hereof and the goodwill of the business to which the trademarks relate (individually a "Trademark" and collectively the "Trademarks") as collateral for all indebtedness, liabilities and obligations of Debtor to Bank;

NOW, THEREFORE, in consideration of the premises and covenants herein contained,  
Debtor and Bank hereby agree as follows:

1. Collateral Assignment. Debtor hereby grants, mortgages, pledges, assigns and conveys to Bank a security interest in and to each Trademark, all foreign Trademark rights corresponding to each Trademark throughout the world, all re-issues, divisions, continuations, renewals, extensions and continuations-in-part of each Trademark and all products and proceeds of the foregoing and the goodwill of the business to which the trademarks relate, (including, without limitation, license royalties, proceeds or infringement suits and the right to sue for past, present and future infringements) (collectively the "Collateral") as continuing and collateral security for the payment of all indebtedness, liabilities and obligations for the payment of money regardless of kind and whether for the payment of principal or of interest or otherwise, now existing or hereafter arising, created directly or by any assignment or other transfer, direct or indirect, absolute or contingent, due or not due, contractual or tortious, liquidated or unliquidated or arising by operation of law or otherwise, that are now or hereafter owing by Debtor to Bank in any capacity, whether or not allowed as a claim against Debtor in any case or other proceeding pursuant to any bankruptcy law

(collectively the "Indebtedness"). The security interest created pursuant to this Agreement is a continuing security interest, independent of and in addition to any other security or guaranty held by Bank for the Indebtedness or any part thereof.

2. Warranties. Debtor warrants and represents to Bank that:

- (a) Each Trademark is subsisting and has not been adjudged or declared invalid or unenforceable, in whole or in part, by any court or by any government agency;
- (b) Each Trademark is valid and enforceable, except Debtor does not warrant that any Trademark might not be declared invalid by a court of competent jurisdiction if challenged;
- (c) There is no litigation or administrative proceeding pending and, to the best of Debtor's knowledge, there is no litigation or administrative proceeding threatened which questions the validity or enforceability of any Trademark;
- (d) Debtor is the sole and exclusive Owner of the entire and unencumbered right, title and interest in and to each Trademark, free and clear of any security interests, liens, claims and encumbrances whatsoever (including, without limitation, shop rights and covenants by Debtor not to sue third persons), other than the security interest of Bank granted by this Agreement.
- (e) Debtor has the unqualified right to enter into this Agreement and perform its terms and have entered and will enter into written agreements with each of its present and future employees, agents and consultants which will enable it to comply with the covenants herein contained;
- (f) Debtor is duly organized and existing under the laws of the State of New York; and
- (g) The execution, delivery and performance of this Agreement are within Debtor's corporate powers, have been duly authorized and are not in contravention of any applicable law or the provisions of Debtor's certificate of incorporation or by-laws, or of any indenture or undertaking to which Debtor is a party or by which it is bound and there are no provisions in the certificates of incorporation of Debtor requiring any vote or consent of shareholders to any mortgage or pledge of, or to the creation of a security interest in, any property of Debtor (including, without limitation, any Trademark).

3. Covenants. Debtor agrees that:

(a) Debtor shall not mortgage, pledge, grant a security interest in, otherwise encumber, or suffer a security interest or other encumbrance to exist in the Collateral, excepting only a security interest in favor of Bank.

(b) If Debtor shall obtain rights to any new Trademarks, or become entitled to the benefit of any Trademark application or to any reissue, division, continuation, renewal, extension or continuation-in-part of any Trademark (collectively "Additional Collateral"), all of the provisions of this Agreement shall automatically apply thereto, Debtor shall give to Bank notice of the existence thereof in writing and such Additional Collateral shall be included in the term Collateral as used in this Agreement.

4. Perfection. Debtor shall execute and deliver to Bank all documents (including, without limitation, financing statements) which Bank may deem necessary or desirable in order to perfect its interest in the Collateral. Debtor hereby authorizes Bank to file any financing statements as Bank may deem necessary or desirable under the Uniform Commercial Code or any other applicable law. In addition, Debtor hereby authorizes Bank to file a copy of this Agreement with the United States Patent and Trademark Office and to take any other actions or to make any other filings which Bank may deem necessary or desirable in order to perfect its interest in the Collateral.

5. Remedies. If an Event of Default (as defined in any security agreement between Debtor or Bank) shall have occurred and be continuing, the Bank shall have, in addition to all other rights and remedies given to it pursuant to this Agreement and pursuant to applicable law, the rights and remedies of a secured party under the Uniform Commercial Code as enacted in the State of New York. Without limiting the generality of the immediately preceding sentence, Bank may immediately, without the demand of performance and without any other notice (except as set forth below) or demand whatsoever to Debtor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the whole or any part of the Collateral, or any interest which Debtor may have therein. All costs and expenses of collection, notification and enforcement (including, without limitation, the fees and disbursement of a broker and legal counsel) shall be borne solely by a Debtor, whether the same shall be incurred by Debtor or Bank. All proceeds received by Bank pursuant to the exercise of its rights under this paragraph shall be applied to the payment of such costs and expenses, with the balance, if any, to be applied

to such of the Indebtedness and in such order of application as Bank may in its sole discretion elect, whether or not then due. Any proceeds remaining after payment in full of the Indebtedness shall be paid over to Debtor. Notice of any sale or other disposition of any of the Collateral shall be given to Debtor at least five (5) days before the time of any intended public or private sale or other disposition of any of the Collateral is to be made, which Debtor hereby agrees shall be reasonable notice of such sale or other disposition.

6. Payment. At such time as Debtor shall completely pay all of the Indebtedness, Bank shall, upon the written request of Debtor, execute and deliver to Debtor all assignments, documents and other instruments as may be necessary to reconvey to Debtor full title to the Collateral, subject to any disposition thereof which may have been made by Bank pursuant to the provisions of this Agreement; provided, however, that any such assignment, document or instrument shall be in form and substance reasonably acceptable to Bank.

7. Expenses. All costs and expenses of whatever kind or nature (including, without limitation, fees and disbursements of legal counsel) incurred by Bank in connection with the preparation of this Agreement and all other documents relating hereto and 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, or in defending or prosecuting any actions or proceedings arising out of or related to the Collateral, shall be borne and paid by Debtor on demand by Bank and until so paid shall be part of the Indebtedness.

8. Protection of the Collateral. Debtor shall have the duty, through legal counsel of Debtor's choice and reasonably acceptable to Bank, to prosecute diligently any Trademark application of the Collateral pending as of the date of this Agreement or thereafter until the Indebtedness shall have been paid in full, to make application on Trademarks and to preserve and maintain all right in Trademark applications and Trademarks used in connection with the Collateral. Any expenses incurred in connection with such an application shall be borne by Debtor. Debtor shall not abandon any right to file a Trademark application or any pending Trademark application (except where a continuation or continuation-in-part application is being filed as a replacement for the application being abandoned) or Trademark without the consent of Bank, which

consent shall not be unreasonably withheld. Except as provided hereinafter, Debtor shall have the sole right to bring suit to enforce any Trademark and any license thereunder. In the event of Default (as such term is defined in any security agreement between Debtor and Bank) which shall have occurred and be continuing for a period of not less than thirty (30) days, Bank shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce any Trademark and any license thereunder, in which event Debtor shall at the request of Bank do any and all lawful acts and execute any and all proper documents required by Bank in aid of such enforcement, and all costs and expenses incurred by Bank in the exercise of its rights under this paragraph shall be recoverable from the proceeds of any judgment or settlement of such suit. Debtor shall not be liable for any excess of such costs and expenses of such suit over such proceeds of any judgment or settlement of such suit.

9. Notice. Debtor shall immediately notify Bank in writing of any suit for infringement brought against Debtor or other proceeding which questions the validity or enforceability of any Trademark and Debtor shall promptly deliver to Bank copies of all documents relating to such suit or other proceeding.

10. Failure, Delay or Waiver. No failure of Bank to require, and no delay by Bank in requiring, Debtor to comply with any requirement of this Agreement shall constitute a waiver of the right to require such compliance or compliance with any other requirement of this Agreement. No failure of Bank to exercise, and no delay by Bank in exercising, any right or remedy, whether under this Agreement or otherwise, shall constitute a waiver of such right, such remedy or any other right or remedy, whether under this Agreement or otherwise. No waiver by Bank of any right or remedy, whether under this Agreement or otherwise, shall be effective unless made in writing. Any waiver by Bank of any right or remedy, whether under this Agreement or otherwise, shall be limited to the specific instance and shall not constitute a waiver of such right or remedy in the future or of any other right or remedy, whether under this Agreement or otherwise.

11. Cumulative Rights. All of Bank's rights and remedies under this Agreement are cumulative and not exclusive of any other rights or remedies which Bank may otherwise have, and all such rights and remedies may be exercised and pursued singularly or concurrently.

12. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under any applicable law or regulation. If, however, any provision of this Agreement shall be prohibited by or invalid under any such law or regulation, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder thereof or any of the remaining provisions of this Agreement.

13. Binding. This Agreement shall be binding upon and inure to the benefit of Debtor and Bank and each of their legal representatives, successors and assignees.

14. Applicable Law. This Agreement shall be governed by and interpreted, construed and enforced in accordance with the internal laws of the State of New York, without regard to principles of conflict of law.

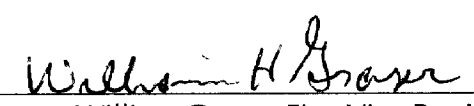
15. Entire Agreement. This Agreement constitutes the entire agreement between Debtor and Bank with respect to the matters dealt with in this Agreement, and supercedes all oral and written proposals, representations, understandings and agreements previously made or existing with respect to any such matter, other than the Security Agreement. The headings of the paragraphs of this Agreement have been added for convenience only and shall not be substantive part of this Agreement.

IN WITNESS WHEREOF, Debtor and Bank have executed this Agreement on the day and year first above written.

ResiCal, Inc.

By   
David B. Cole, President

HSBC BANK USA

By   
William Graser, First Vice President

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ERIE )

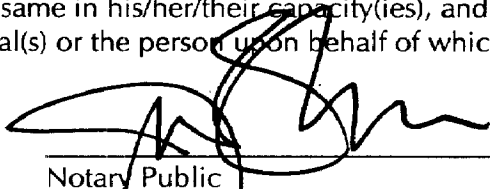
On the \_\_\_\_ day of June in the year 2002, before me, the undersigned, a notary public in and for said state, personally appeared David B. Cole, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

**ROSEANNE J. SHAW**  
Notary Public, State of New York  
Qualified in Erie County  
My Commission Expires 04/02/06

  
\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ERIE )

On the 27 day of June in the year 2002, before me, the undersigned, a notary public in and for said state, personally appeared WILLIAM GRASER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

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**JAMES P. BRACKEN**  
NOTARY PUBLIC, State of New York  
Qualified in Erie County  
My Commission Expires 2/16/03



# SCHEDULE A

TRADEMARK	COUNTRY	REG. NO.	REGISTRANT
Calmol 4	United States	820,221	U.S. Dermatologics, Inc.
Resinol	Canada	NFLD0303	U.S. Dermatologics, Inc.
Resinol	Canada	214,007	U.S. Dermatologics, Inc.
Resinol	Ireland	B32,934	U.S. Dermatologics, Inc.
Resinol	Ireland	B32,935	U.S. Dermatologics, Inc.
Resinol	Ireland	B32,990	U.S. Dermatologics, Inc.
Resinol	Paraguay	2,358	U.S. Dermatologics, Inc.
Resinol	United States	75,258	U.S. Dermatologics, Inc.