

06-27-2003

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

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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):

ADAMS LABORATORIES, INC

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: 5/19/03

2. Name and address of receiving party(ies)

Name: EGI-FUND (02-04) INVESTORS, L.L.C.

Internal Address: SUITE 600

Street Address: TWO NORTH RIVERSIDE PLAZA

City: CHICAGO State: IL Zip: 60606

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Other DELAWARE LIMITED LIABILITY COMPANY

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

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

A. Trademark Application No.(s) SEE ATTACHED

B. Trademark Registration No.(s) SEE ATTACHED

Additional number(s) attached Yes No

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

Name: TONYA CHAPPLE

Internal Address: C/O CSC

Street Address: 80 STATE STREET

City: ALBANY State: NY Zip: 12207

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41): \$ 115.00

- 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.

TONYA CHAPPLE

Name of Person Signing

Signature

5/21/03

Date

Total number of pages including cover sheet, attachments, and document: 15

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

06/26/2003 6TOM11 00000067 1600314

01 FC:8521 40.00 OP 02 FC:8522 75.00 OP

TRADEMARK REEL: 002765 FRAME: 0061

**SCHEDULE I**  
**TO TRADEMARK SECURITY AGREEMENT**

<b><u>Trademark</u></b>	<b><u>Registration No.</u></b>	<b><u>Registration Date</u></b>
ADAMS	1600314	June 12, 1990
AQUATAB	2317278	February 8, 2000
MUCINEX	2670161	December 31, 2002

<b><u>Trademark</u></b>	<b><u>Application No.</u></b>	<b><u>Filing Date</u></b>
SINEFEC	76-384658	March 20, 2002

## TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (this "**Agreement**") is dated as of May 19, 2003, by ADAMS LABORATORIES, INC., a Texas corporation, with its principal place of business located at 14801 Sovereign Road, Fort Worth, Texas 76155 (the "**Company**"), and is made in favor of EGI-FUND (02-04) INVESTORS, L.L.C., a Delaware limited liability company, with an office located at Two North Riverside Plaza, Suite 600, Chicago, Illinois 60606, in its capacity as the Collateral Agent for the Investors under the Notes (as defined below) (in such capacity, the "**Agent**").

### RECITALS:

The Company has issued and may issue from time to time those certain 8% Secured Convertible Promissory Notes due December 31, 2005 (as amended, restated or otherwise modified from time to time, the "**Notes**") to certain holders thereof (the "**Investors**"), which provide for the Investors to make certain loans to the Company. In order to secure the obligations and liabilities of the Company under the Notes, the Company has entered into that certain Collateral Agreement dated as of even date herewith (as amended, restated or otherwise modified from time to time, the "**Collateral Agreement**"), pursuant to the terms of which the Company has granted to the Agent, for the benefit of itself and the ratable benefit of the Investors, amongst other things, a lien on and security interest in, the Collateral (defined below).

NOW, THEREFORE, in consideration of the above premises and in order to induce the Investors to purchase the Notes from time to time, the Company hereby agrees with the Agent, for the benefit of itself and the ratable benefit of the Investors, as follows:

1. Defined Terms. Unless otherwise defined herein, the capitalized terms used herein which are defined in the Collateral Agreement shall have the meanings specified in the Collateral Agreement.

2. Security Interest in Trademarks. To secure the prompt and complete payment, observance and performance when due (whether at the stated maturity, by acceleration or otherwise) of all the Obligations, the Company hereby assigns and pledges to the Agent, for the benefit of itself and the ratable benefit of the Investors, a security interest in all of the Company's right, title and interest in and to the following, whether now-owned or existing or hereafter arising or acquired and wheresoever located (collectively, the "**Collateral**"):

(a) trademarks, trademark registrations, trade names and trademark applications for any of the foregoing in the United States Patent and Trademark Office or in any other office or with any other official anywhere in the world or which are used in the United States or any state, territory or possession thereof, or in any other place, nation or jurisdiction anywhere in the world, including, without limitation, the trademarks, trademark registrations, service marks, service mark registrations and applications listed on Schedule I, attached hereto and made a part hereof, and (i) all renewals thereof, (ii) 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 thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing trademarks, and trademark registrations, trade names, service marks, service mark registration and applications, together with the items described in clauses (i) through (iv) in this subparagraph (a), are sometimes hereinafter individually and/or collectively referred to as the "**Trademarks**");

(b) license agreements with any other party in connection with any Trademarks or such other party's trademarks or trademark applications, whether the Company is a licensor or licensee under any such license agreement, and the right to prepare for sale, sell and advertise for sale, all of the inventory

now or hereafter owned by the Company and now or hereafter covered by such license agreements (all of the foregoing being hereinafter referred to collectively as the "**Licenses**"); and

(c) the goodwill of the Company's business connected with and symbolized by the Trademarks;

3. Restrictions on Future Agreements. The Company agrees that until all the Obligations shall have been satisfied in full and the Notes shall have been terminated, the Company will not, without the Agent's prior written consent, such consent not to be unreasonably withheld, abandon any Trademark or enter into any agreement, including, without limitation, any license agreement (other than as necessary to maintain or protect any Trademark), which is inconsistent with the Company's obligations under this Agreement, and the Company further agrees that it will not take any action, or permit any action to be taken by any other Persons to the extent that such Persons are subject to its control, including licensees, or fail to take any action, which would affect the validity, priority, perfection or enforcement of the rights transferred to the Agent under this Agreement, and any such agreement or action if it shall take place shall be null and void and of no effect whatsoever.

4. New Trademarks. The Company represents and warrants that the Trademarks listed on Schedule I constitute all of the significant trademarks, applications, trade names, service marks, service mark registrations and all trademark registrations now owned and material license agreements entered into by the Company. If, before the Obligations shall have been satisfied in full and the Notes shall have been terminated, the Company shall, after the date hereof, (i) obtain rights to any new trademarks, trademark registrations, trademark applications, service marks, service mark registrations, or trade names, (ii) become entitled to the benefit of any trademarks, trademark registrations, trademark applications, trade names, service marks, service mark registrations, trademark licenses or trademark license renewals or (iii) enter into any new trademark license agreements, the provisions of paragraph 2 above shall automatically apply thereto, and the Company shall give to the Agent prompt written notice thereof of all new trademark registrations and applications. The Company hereby authorizes the Agent to modify this Agreement by Schedule I to include any future trademarks, trademark applications, trade names, service marks, service mark registrations, trademark registrations or license agreements that are the Trademarks or the Licenses, under paragraph 2 above or under this paragraph 4.

5. Additional Representations and Warranties. The Company hereby represents, warrants, covenants and agrees that:

(a) Except as otherwise provided or permitted herein or in the Collateral Agreement, it is and will continue to be the owner of all its right, title and interest in the Collateral so long as the Trademarks and Licenses shall continue in force. The Trademarks and Licenses are and shall continue to be free from any Lien except for Permitted Liens.

(b) It has the full right and power to grant the security interest in the Collateral made hereby.

(c) It has made no previous assignment, transfer or agreements in conflict herewith or constituting a present or future assignment, transfer, or encumbrance on any of the Collateral, except for Permitted Liens.

(d) So long as any Obligations remain outstanding and the Notes have not terminated, it will not execute, and there will not be on file in any public office, any effective financing statement or other document or instrument covering the Collateral.

(e) Subject to any limitation stated therein or in connection therewith, all information furnished to the Agent concerning the Collateral and proceeds thereof, for the purpose of obtaining credit or an extension of credit, is, or will be at the time the same is furnished, accurate and correct in all material respects.

(f) To the best of the Company's knowledge and belief following diligent inquiry, no infringement or unauthorized use presently is being made of any of the Trademarks or Licenses which has or may reasonably be expected to have, alone or in the aggregate, a material adverse effect on the Company.

(g) The Company will not sell, assign or otherwise transfer any of its right, title or interest in any of the Collateral.

#### 6. Royalties; Term.

(a) The Company hereby agrees that any rights granted hereunder to the Agent for the benefit of itself and the ratable benefit of the Investors with respect to all the Collateral as described above shall be worldwide and without any liability for royalties or other related charges from the Agent to the Company.

(b) The term of the security interest granted herein shall extend until the earlier of (i) the expiration or abandonment of each of the Trademarks and Licenses subject to this Agreement, or (ii) the payment in full of the Obligations and the termination of the Notes.

7. The Agent's Right to Inspect. The Agent shall have the right, at any time and from time to time, to inspect the Company's premises and to examine the Company's books, records and operations, including, without limitation, the Company's merchandise quality control processes upon reasonable notice and at such reasonable times and as often as may be reasonably requested. The Company agrees (i) not to sell or assign its interest in, or grant any license under, the Collateral; and (ii) to maintain the quality of any and all merchandise in connection with which the Trademarks are used, substantially consistent with or better than the quality of said merchandise as of the date hereof.

8. Termination of Security Interest. This Agreement is made for collateral purposes only. Upon payment in full of the Obligations and termination of the Notes, the Agent shall, at the Company's sole cost and expense, execute and deliver to the Company all termination statements, releases or other instruments as may be necessary or proper to re-vest in the Company (without recourse to or warranty by the Agent) full title to the Collateral granted hereby, subject to any disposition thereof which may have been made by the Agent pursuant hereto or pursuant to the Collateral Agreement.

9. Duties of the Company. The Company shall have the duty (i) to prosecute diligently any trademark application that is part of the Trademarks pending as of the date hereof or thereafter until the obligations shall have been paid in full, (ii) to make applications on trademarks, as appropriate, and (iii) to preserve and maintain all rights in trademark applications, trademarks, trademark registrations, service marks, and service mark registrations, that are part of the Trademarks except, in the case of (i) or (iii), where the failure to do so would not have or be reasonably expected to have a material adverse effect on the Company. Any expenses incurred in connection with such applications shall be borne by the Company. The Company shall not abandon any right to file a trademark application in the United States or any pending trademark application in any country without the prior written consent of the Agent except as would not have or be reasonably expected to have a material adverse effect on the Company. If the Company fails to comply with any of the foregoing duties, the Agent shall have the right (but shall not be obligated) to do so in the Company's name to the extent permitted by law, but at the Company's expense,

and the Company hereby agrees to reimburse the Agent in full for all expenses, including the fees and disbursements of counsel incurred by the Agent in protecting, defending and maintaining the Collateral. In the event that the Company shall fail to pay when due any fees required to be paid by it hereunder, or shall fail to discharge any Lien prohibited hereby, or shall fail to comply with any other duty hereunder, the Agent may, but shall not be required to, pay, satisfy, discharge or bond the same for the account of the Company, and all monies so paid out shall be Obligations of the Company repayable on demand.

10. The Agent's Right to Sue. From and after the occurrence and during continuance of an Event of Default, the Agent shall have the right, but shall in no way be obligated, to bring suit in its own name for its own benefit and for the benefit of the Investors to enforce the Trademarks and Licenses, and if the Agent shall commence any such suit, the Company shall, at the request of the Agent, do any and all lawful acts and execute any and all proper documents required by the Agent in aid of such enforcement. The Company shall, upon demand, promptly reimburse the Agent for all costs and expenses incurred by Agent pursuant to the terms of the Collateral Agreement.

11. Waivers. No course of dealing among the Company, the Agent and the Investors or any of them, and no failure to exercise, nor any delay in exercising, on the part of the Agent or the Investors, any right, power or privilege hereunder or under the Collateral 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 the exercise of any other right, power or privilege.

12. Cumulative Remedies; Power of Attorney; Effect On Other Agreements. All of the Agent's rights and remedies with respect to the Collateral, whether established hereby, by the Collateral Agreement, by the Security Documents, by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Upon the occurrence and during the continuance of an Event of Default and the giving by the Agent of written notice to the Company of the Agent's intention to enforce its right and claims against the Company, the Company hereby authorizes the Agent to make, constitute and appoint any officer or agent of the Agent as the Agent may select, in its sole discretion, as the Company's true and lawful attorney-in-fact, with power (but not the obligation) to (i) endorse the Company's name on all applications, documents, papers and instruments necessary or desirable for the Agent in the use of the Collateral, or (ii) take any other actions with respect to the Collateral as the Agent deems in the best interest of the Agent and the Investors, or (iii) grant or issue any exclusive or non-exclusive license under the Collateral to anyone, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Collateral to anyone free and clear of any encumbrance upon title thereof (other than any encumbrance created hereby). 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 the Obligations have been paid in full and the Notes have been terminated. The Company acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of the Agent and the Investors under the Security Documents but rather is intended to facilitate the exercise of such rights and remedies. The Agent and the Investors 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 Code as enacted in any jurisdiction in which the Collateral may be located. Recourse to security will not be required at any time.

13. Binding Effect; Benefits. This Trademark Security Agreement shall be binding upon the Company and its successors and assigns, and shall inure to the benefit of the Agent and the Investors. The Company's successors and assigns shall include, without limitation, a receiver, trustee or debtor-in-possession of or for the Company.

14. Amendments, Etc. No amendment or waiver of any provision of this Agreement nor consent to any departure by the Company herefrom shall in any event be effective unless the same shall be in

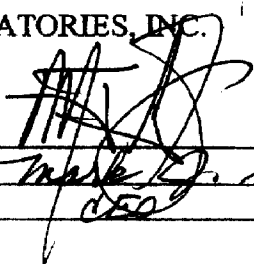
writing and signed by the party to be charged therewith, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

15. Notices. All notices and other communications provided for hereunder shall be given in the manner set forth in the Collateral Agreement and to the addresses first above written or, as to each party, at such other address as may be designated by such party in a written notice to the other party.

16. **GOVERNING LAW.** ALL ISSUES AND QUESTIONS CONCERNING THE CONSTRUCTION, VALIDITY, ENFORCEMENT AND INTERPRETATION OF THIS AGREEMENT HERETO SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS, WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW OR CONFLICT OF LAW RULES OR PROVISIONS (WHETHER OF THE STATE OF TEXAS OR ANY OTHER JURISDICTION) THAT WOULD CAUSE THE APPLICATION OF THE LAWS OF ANY OTHER JURISDICTION OTHER THAN THE STATE OF TEXAS.

IN WITNESS WHEREOF, the Company has caused this Trademark Security Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the day first above written.

ADAMS LABORATORIES, INC.

By:   
Name: Mark G. Gainer  
Title: CEO



**SCHEDULE I**  
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