
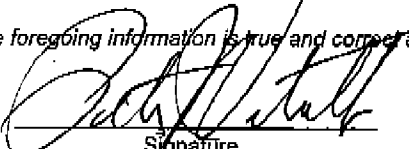


11-14-03

11-14-2003

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings $\Rightarrow \Rightarrow \Rightarrow$		RI	 102600004		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): <u>11-14-03</u> Amerifit, Inc. 166 Highland Park Drive Bloomfield, CT 06002 <input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-State <input type="checkbox"/> Other _____ Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			2. Name and address of receiving party(ies) Name: <u>Webster Bank</u> Internal Address: _____ Address: _____ Street Address: <u>CityPlace II, 185 Asylum Street</u> City: <u>Hartford</u> State: <u>CT</u> Zip: <u>06103</u> <input type="checkbox"/> Individual(s) citizenship _____ <input type="checkbox"/> Association _____ <input type="checkbox"/> General Partnership _____ <input type="checkbox"/> Limited Partnership _____ <input type="checkbox"/> Corporation-State _____ <input checked="" type="checkbox"/> Other <u>a federal savings bank</u> If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
3. Nature of conveyance: <input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input checked="" type="checkbox"/> Other <u>Mortgage, Assignment and Security Agreement (Trademarks)</u> Execution Date: <u>November 3, 2003</u>					
4. Application number(s) or registration number(s): A. Trademark Application No.(s) See <u>Schedule A</u> attached hereto.			B. Trademark Registration No.(s) See <u>Schedule A</u> attached hereto.		
Additional number(s) attached <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No					
5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>John J. Murphy, Esq.</u> Internal Address: <u>jmurphy@mayogilligan.com</u> _____ _____ Street Address: <u>Mayo, Gilligan &amp; Zito, LLP</u> <u>100 Great Meadow Road</u> _____ City: <u>Wethersfield</u> State: <u>CT</u> Zip: <u>06109</u>			6. Total number of applications and registrations involved: <u>2</u> 7. Total fee (37 CFR 3.41).....\$ <u>65.00</u> <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> 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. <u>Peter J. Vitale</u> Name of Person Signing President of Amerifit, Inc.  Signature <u>11/03/03</u> Date Total number of pages including cover sheet, attachments, and document: <u>6</u>					

11/14/2003 ECDOPER 00000220 1266820

 Mail documents to be recorded with required cover sheet information to:  
 Commissioner of Patent & Trademarks, Box Assignments  
 Washington, D.C. 20231
01 FC:8521  
02 FC:852240.00 OP  
25.00 OP

700093192

TRADEMARK  
REEL: 002876 FRAME: 0451

1/22/2004 12:16 FAX 8605290493  
0/29/2003 12:01 FAX 860 692 1630

MAYO, GILLIGAN, & ZITO  
ABL

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P. 2

10-28-2003 3:40PM FROM AMERIFIT 8602423707

## **SCHEDULE A**

### **Trademark Registrations in the United States of America**

#### **REGISTRATIONS**

<b>TRADEMARK</b>	<b>APPLICATION/REG. NO.</b>	<b>REG. DATE</b>
ACUTRIM	1266820	2/14/84
ACUTRIM LATE DAY	1421697	12/23/86

**MORTGAGE, ASSIGNMENT AND SECURITY AGREEMENT  
(TRADEMARKS)**

**THIS MORTGAGE, ASSIGNMENT AND SECURITY AGREEMENT - TRADEMARKS** (the "Mortgage") made this 3rd day of November, 2003, between **AMERIFIT, INC.**, a Delaware corporation with an office and principal place of business located at 166 Highland Park Drive, Bloomfield, Connecticut 06002 (the "Borrower"), and **WEBSTER BANK**, a federal savings bank chartered under the laws of the United States of America with an office at CityPlace II, 185 Asylum Street, Hartford, Connecticut 06103-3494 (the "Secured Party").

**WHEREAS**, Borrower and Secured Party have entered into a certain Commercial Revolving Loan and Security Agreement dated April 30, 2003 (the "Loan Agreement") evidencing a certain revolving credit loan in the principal amount not to exceed FOUR MILLION AND 00/100 DOLLARS (\$4,000,000.00) (the "Loan"); and

**WHEREAS**, pursuant to the Loan Agreement Borrower has executed and delivered to Secured Party a certain revolving promissory note to evidence the Revolving Credit Loan (the "Note"); and

**WHEREAS**, the Borrower is the sole and exclusive owner of the United States Trademarks and trademark applications and all other corresponding trademarks and trademark applications in any states or foreign countries as set forth on Schedule A annexed hereto and made a part hereof (the "Trademark Rights"); and

**WHEREAS**, pursuant to the Loan Agreement, the Borrower has granted the Secured Party a security interest in, among other things, the Trademark Rights, on the terms and conditions set forth in the Loan Agreement; and

**WHEREAS**, Borrower has acquired additional Trademark Rights and it is a condition precedent to the obligation of the Secured Party to consent to Borrower's investment in such Trademark Rights that the Borrower shall execute and deliver this Mortgage;

**NOW THEREFORE**, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions set forth in the Loan Agreement, the Borrower hereby agrees with the Secured Party as follows:

1. The Borrower hereby assigns, conveys and transfers to the Secured Party, its successors and assigns, on the terms and conditions set forth in the Loan Agreement, and as security for the Note and the obligations and liabilities of the Borrower to the Secured Party under the Loan Agreement, the Loan Agreement and any and all other documents, instruments and agreements executed and delivered pursuant thereto and in connection therewith, whether now existing or hereafter arising, a first lien upon and security interest in all of the Borrower's right, title, and interest in, to and under the Trademark Rights, together with (i) all reissues or extensions thereof and (ii) all claims for damages by reason of past or future infringement of the Trademark Rights with the right to sue for and collect said damages and the right to collect all royalties under any license agreements with respect to any of the Trademark Rights, whether now or hereafter granted (hereinafter sometimes collectively referred to as the "Collateral").

2. The Borrower represents and warrants unto the Secured Party that the Borrower has not heretofore assigned, transferred or encumbered its right, title and interest in, to and under the Collateral.

3. The Borrower represents and warrants that it knows of no impediments to the validity and/or enforceability of any or all of the Trademark Rights.

4. The Borrower represents and warrants that the Trademark Rights are all the trademarks (domestic and foreign) used by the Borrower or in connection with its business.

5. The Borrower covenants and agrees with the Secured Party that, so long as this Mortgage shall remain in effect:

(a) The Borrower shall pay all fees necessary for the issuance, maintenance, renewal or reissuance of the Trademark Rights and shall do all such other acts and things necessary for maintaining the Trademark Rights.

(b) The Borrower shall endeavor to detect and prevent any infringement of the Trademark Rights, including, in the exercise of its reasonable legal and business judgment, the bringing of infringement suits to enforce the Trademark Rights. The Borrower shall inform the Secured Party of any actual or suspected infringement of the Trademark Rights of which it has knowledge and of any action contemplated or taken by the Borrower in response to such infringement. The Secured Party shall have the right, in consultation with the Borrower, to require the Borrower to take such action as the Secured Party may reasonably determine to be required to enforce such Trademark Rights.

(c) The Borrower shall, in the exercise of its reasonable legal and business judgment, undertake to defend any attack upon the Trademark Rights and upon the validity and enforceability thereof. The Secured Party shall have the right, in consultation with the Borrower, to require the Borrower to take such action as the Secured Party may reasonably determine to be required to defend the Trademark Rights.

(d) The Borrower shall not, without the written consent of the Secured Party, permit the Trademark Rights to lapse or otherwise abandon the Trademark Rights.

(e) At any time and from time to time, the Borrower shall, upon the request of the Secured Party, execute and deliver such further documents and do such other acts and things as the Secured Party reasonably may require in order to effect the purpose of this Mortgage and of the rights and powers herein granted, including, without limitation, all documents necessary or advisable to record title to the Collateral, including valid, recordable assignments of any or all of the Trademark Rights, and the Borrower does hereby irrevocably appoint the Secured Party, its successors and assigns, as its attorney-in-fact to execute any or all of such documents and to do such other things or acts on behalf of the Borrower, its successors and assigns, and the Borrower confirms all such acts said attorney-in-fact may do pursuant to this authority.

6. Borrower authorizes Secured Party to modify this Agreement by amending Schedule A to include any future trademarks and trademark applications which are Trademark Rights hereunder.

7. Until the occurrence of an Event of Default as defined in Section of the Loan Agreement and subject to the provisions of the Loan Agreement and the Loan Agreement, the Secured Party hereby acknowledges the Borrower's exclusive right and license to use the Collateral for the Borrower's own benefit and account, to grant licenses and sublicenses on reasonable terms with respect to the Collateral and to

generally deal in the ordinary course of business with the Collateral. The foregoing grant of authority shall not permit the Borrower to take any actions prohibited hereunder.

8. Notwithstanding anything to the contrary, nothing herein contained shall relieve the Borrower from the performance of any covenant, agreement or obligation on the Borrower's part to be performed under any license agreement now existing or hereafter executed by the Borrower licensing the use of the Collateral or any part thereof or from liability to any licensee thereunder or other party or impose any liability on the Secured Party for the acts or omissions of the Borrower in connection with any such license or license agreement.

9. This Mortgage shall terminate upon payment in full and satisfaction of the obligations secured hereby and, upon such termination, all rights in the Collateral mortgaged and in which a security interest is granted hereunder shall be reconveyed by the Secured Party to the Borrower and the Secured Party shall promptly execute and deliver to the Borrower such documents or instruments as the Borrower may reasonable request of such termination.

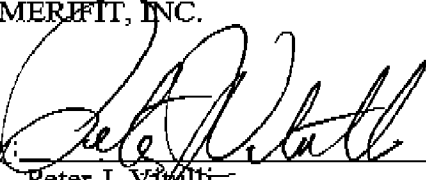
10. This Mortgage shall be binding upon the Borrower, its successors, and assigns and shall inure to the benefit of the Secured Party, its successors and assigns.

11. This Mortgage may not be amended or modified except with the written consent of the Secured Party.

IN WITNESS WHEREOF, the Borrower and the Secured Party have caused this Mortgage to be executed by their respective officers thereunto duly authorized on the day and year first above written.

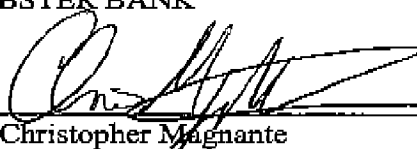
BORROWER:

AMERIFIT, INC.

By:   
Peter J. Viulli  
Its President  
Duly Authorized

SECURED PARTY:

WEBSTER BANK

By:   
Christopher Magnante  
Its Assistant Vice President  
Duly Authorized

STATE OF CONNECTICUT

COUNTY OF HARTFORD

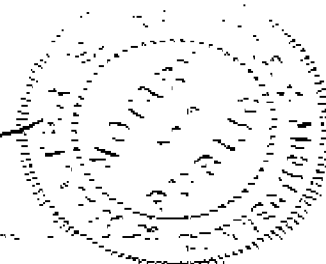
} Hartford

On this the 3 day of November, 2003, before me, the undersigned officer, personally appeared Peter J. Vitulli, who acknowledged himself to be the President of Amerifit, Inc., a Delaware corporation, and that he, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained as his free act and deed and the free act and deed of the corporation, by signing the name of the corporation by himself as President.

In Witness Whereof I hereunto set my hand.



Notary Public/

~~Commissioner of the Superior Court~~

**WALTER E. BARNES**  
**NOTARY PUBLIC**  
MY COMMISSION EXPIRES SEP. 30, 2004

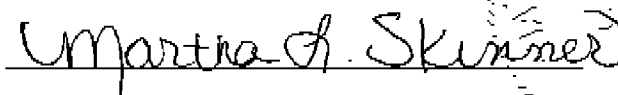
STATE OF CONNECTICUT

COUNTY OF HARTFORD

} Hartford

On this the 31<sup>st</sup> day of October, 2003, before me, the undersigned officer, personally appeared Christopher Magnante, who acknowledged himself to be the Assistant Vice President of Webster Bank, a federal savings bank, and that he, as such Assistant Vice President, being authorized so to do, executed the foregoing instrument for the purposes therein contained as his free act and deed and the free act and deed of the savings bank, by signing the name of the savings bank by himself as Assistant Vice President.

In Witness Whereof I hereunto set my hand.



Notary Public/My Commission Expires:

~~Commissioner of the Superior Court~~

**MARTHA L. SKINNER**  
**NOTARY PUBLIC**  
**STATE OF CONNECTICUT**  
MY COMMISSION EXPIRES AUG. 31, 2007