



02-27-2004

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings ⇌ ⇌ ⇌

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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): Perio Products Mfg. Inc.

2.24-04

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other Purchase Agreement

Execution Date: 12/27/2000

2. Name and address of receiving party(ies)

Name: Walgreen Asset Group

Internal Address:

Street Address: 6808 West Archer Avenue

City: Chicago State: IL Zip: 60638

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State 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

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 1,325,585

Additional number(s) attached Yes No

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

Name: John L. Welsh

Internal Address: Welsh & Flaxman LLC

Street Address: 2450 Crystal Drive, Suite 112

City: Arlington State: VA Zip: 22202

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41) \$ 40

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

John L. Welsh

Name of Person Signing

Signature

02/24/2004

Date

Total number of pages including cover sheet, attachments, and document: 8

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

AGREEMENT

THIS AGREEMENT made and entered into this 27th day of December, 2000 by and between Perio Products, Inc. an Ohio Corporation (hereinafter referred to as "Seller,") and Walgreen Asset Group, Inc. an Illinois Corporation or its nominee (hereinafter referred to as "Purchaser").

1. Sale That Seller agrees to sell and Purchaser agrees to buy, upon the terms and conditions set forth in this Agreement the following products of the Seller:

A. Wax for Braces
B. Fresh Stix.

A. As part of the purchase price, Purchaser will receive all packaging design, customer lists, design plans, trade secrets, formulas, any and all orders for Wax for Braces and Fresh Stix which have been received by Seller but not filled and the registered Trademark for "Fresh Stix" as well as all customers of the products from December 1, 1997 thru the Closing Date (the Customer List), and all product records and files used by the Seller in the production and distribution of the products including but not limited to those items listed on Exhibit A.

B. The names Wax for Braces and Fresh Stix and any similar name and all goodwill associated therewith, and all patents, formulas, trademarks, trade names, logos, slogans or other similar rights owned by Seller and used exclusively in connection with the products all as set forth on Exhibit B which is attached hereto (the Intangibles).

This sale does not include any accounts receivables, cash on hand, product inventory or cash in the banks at the date of Closing. Purchaser shall also not be liable for any credits or discounts given by Perio to customers.

2. Purchase Price Purchaser agrees to pay Seller the sum of [REDACTED] for the products enumerated in Paragraph 1. It is agreed that the purchase price shall be payable by a certified check.

3. Seller's Warranties Seller represents and warrants to and covenants with Purchaser, and Purchaser's successors and assigns (which representations, warranties and covenants shall survive the Closing), as follows:

(A) There is no action, proceeding or investigation pending or threatening against Seller before any court or governmental entity relative to the property being sold pursuant to this Agreement, and that the Seller does not have any reasonable grounds to know of any basis

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for any such action, proceeding, or investigation, and that no such action, proceeding, or investigation has resulted in any order, injunction or decree affecting the property being sold pursuant to this Agreement.

(B) That the Seller has filed all state and federal tax returns required by law to be filed by the Seller for the products prior to the execution of this Agreement and has paid or adequately provided for all taxes shown by such returns to be due and payable; and that the Seller will file all tax returns required by law to be filed for the business.

(C) Seller is an Ohio Corporation duly organized, validly existing and in good standing under the laws of the State of Ohio.

(D) Seller has full power and authority to execute and deliver the Agreement and to consummate the transaction contemplated hereby. The execution, delivery and consummation of this Agreement have been duly authorized and approved by such officers, directors, shareholders, of the Seller.

(E) The invoices, and sales orders for Wax for Braces and Fresh Stix are attached as Exhibit C. These documents fairly presents the revenues generated by Fresh Stix and Wax for Braces. Further attached as Exhibit D is a record of the expenses incurred in the production and selling of Fresh Stix and Wax for Braces. These documents fairly presents the expenses of Fresh Stix and Wax for Braces.

(F) Neither the execution or delivery by Seller of this Agreement or the transactions contemplated hereby will: (1) result in the creation of any lien, security interest, or encumbrance upon any of the assets of Seller; (2) violate any order, writ, injunction, decree, judgment, law, rule, regulation or ruling of any court or governmental authority applicable to Seller or any of its properties; or (3) require any consent, approval or authorization of, or declaration, filing or registration with, any governmental or regulatory authority.

(G) Copies of all leases, instruments, agreements and other documents which have been delivered or may be delivered to Purchaser by Seller pursuant to or in connection with this Agreement are and will be complete and correct as of the date hereof and as of the Closing. See Exhibit E, attached hereto and made a part hereof, are lists of all contracts, leases, licenses and other agreements relating to the products. Seller is not in default and has not received any notice of default under any such contract, lease, license or other agreement or under any other obligation relating to the assets.

As of the date hereof there is, and on the Closing Date there will be, no litigation at law or in equity, no proceeding before any commission or other administrative or regulatory, and no dispute, claim or controversy including, without limitation, labor union strikes, elections, arbitrations, grievances, complaints, or affecting the property being sold

pursuant to this Agreement. and consummate the transactions contemplated by this Agreement.

(H) On the date hereof Seller has, and on the Closing Seller shall have, duly prepared and timely filed all local, state and federal tax returns (including, without limitation, those which relate to FICA, withholding and other payroll taxes) required to be filed by such dates, and paid all taxes, penalties and interest with respect thereto affecting the property being sold pursuant to this Agreement. To the extent that any tax liability affecting the property being sold pursuant to this Agreement has accrued but not become payable, after the Closing, Seller shall duly prepare and timely file any and all local, state and federal tax returns which pertain, in whole or in part, to the period on or before the Closing, and pay all taxes, penalties and interest with respect thereto.

4. **Risk of Loss** The risk of loss to all the property being sold pursuant to this Agreement shall be on the Seller to the Closing Date.

5. **Closing** The Closing will take place on or before December 28, 2000 at the offices of the Seller or at such place or time as the parties may mutually agree.

6. **Transfer at Closing** At the time of Closing, Seller shall transfer to Purchaser free and clear of any encumbrance, by bill of sale with warranties of title all the assets enumerated in Paragraph 1. Furthermore, both parties agree to execute and deliver all documents necessary to give full effect and terms to this Agreement.

7. **Final Inspection** Purchaser shall have the right to a final walk through within three (3) days before closing to review the items being transferred.

8. General Provisions

(a) Titles and Section headings are for convenience and reference only, and neither form a part of this Agreement or are to be used as an aid in its interpretation.

(b) This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors and assigns.

(c) All Statements, representations, warranties made by Seller in this Agreement and any instrument delivered by Seller pursuant to this Agreement, except as otherwise expressly stated, shall survive the Closing.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

(e) Notices given pursuant to this Agreement shall be in writing and given either by personal delivery or by mailing of the notice in the United States mail, certified mail, return receipt requested, to the following addresses:

To Seller: Perio Products Mfg. Inc.
Thomas J. Murray
4228 Hartford Lane
Dublin, Ohio 43016

To Purchaser: Walgreen Asset Group
Charles Richard Walgreen
C/O Michael J. Laird
6808 West Archer Ave.
Chicago, Illinois 60638

10. Liabilities to be Paid by Seller On or prior to the Closing Date, Seller will pay all federal, state and local taxes that are due together with all outstanding debts relating to the assets being transferred.

11. Bulk Sale Seller represents that the sale of Fresh Stix and Wax for Braces is not a Bulk Sale under Ohio Law and thus the parties are not obligated to comply with the Bulk Transfer provisions of Ohio Statute.

12. Covenant Not To Compete At the Closing, Purchaser, Seller and Seller's Shareholder shall enter into a covenant not to compete, in the form attached hereto as Exhibit F (The Non-Compete agreement). Pursuant to the non-compete Agreement, Seller and Seller's Shareholder shall agree not to directly or indirectly compete with the Purchaser in connection with the Selling of Wax for Braces or Fresh Stix (Sold Products) by soliciting any existing retailer of the Seller (as determined on the Closing Date) wherever located and/or by engaging in any business which is competitive with the sold products (Wax for Braces or Fresh Stix) anywhere in the United States for a period of five (5) years.

Notwithstanding the above the parties agree that the Seller may continue to sell direct to individuals purchasing "Fresh Stix" from the Seller's 800 Number. Seller however shall not sell said products to any retailers and/or resellers of the product.

13. Trademarks Purchaser shall have the right to use the Perio logo name on its packaging for a period of 365 days after the Date of Closing. Seller shall have the right to continue to use the name Fresh Stix for a period of 365 days after the Date of Closing when selling to consumers directly. After the 365 days Perio will change the name to Fresh Sticks.

14. Contingencies This contract is contingent upon Purchaser being introduced by Seller to Seller's key clients and Purchaser completing a financial, legal and business due diligence of Seller and the assets, the results of both which are satisfactory to Buyer and Buyer's representatives. In connection with this introduction and audit, the Seller will allow representatives of the Buyer the opportunity to inspect and review all of the assets, books, records, contracts and other documents pertaining to Seller's clients, the assets or the business; and Seller and its representatives agree to cooperate with and facilitate Buyer's efforts in regard to the introduction to clients and due diligence audit. Closing to occur on December 27, 2000.

15. Production Seller further agrees to manufacture for Purchaser the products at the cost of fifty cents for Fresh Stix and twenty-three cents for Wax for Braces. The price of the manufacturing of said products shall remain for a period of six months. By the end of the production transition period, Purchaser further agrees to exhaust Seller's raw material inventory that relates to the products being sold pursuant to this Agreement and/or agrees to buy no more than three months of Seller's excess raw materials for the products being sold pursuant to this Agreement at Seller's LIFO cost.

16. Conduct of business pending Closing Between the date of this Agreement and the date of Closing, the Seller shall conduct the sale of the products in the same manner in which it has been conducted.

17. Broker - Seller is solely responsible for payment of all broker fees

18. Indemnification

A. Seller indemnifies and holds harmless Purchaser against any loss, damage or expense (including, without limitation, taxes, penalties, interest and reasonable attorney's fees) asserted against or suffered by Purchaser arising out of or resulting from (1) any breach of this Agreement by Seller; (2) any material inaccuracy in the representations, warranties, and covenants made by Seller in this Agreement, or in any certificate, schedule, exhibit or written instrument delivered or to be delivered under this Agreement; and (3) any liability, obligation, demand, claim, action, or judgment, known or unknown, which may already have arisen or which may hereafter arise, by reason of or in connection with the Seller's products prior to the Closing. Seller's obligation under this Section 18 shall terminate two years from the date of Closing.

B. Purchaser shall promptly notify Seller of any claim or demand which Purchaser determines has given or could give rise to a right of indemnification under this Agreement. Unless Seller give Purchaser written notice that either contests Purchaser's right to indemnification for a claim or demand within thirty (30) days of the date Purchaser notifies them of such a claim or demand, Seller shall be deemed to have acknowledge Purchaser's right to indemnification for such claim or demand pursuant to the provisions of this Agreement. If any claim or demand relates to a claim or demand asserted by a third party against Purchaser, Seller shall have the duty, at Seller's

expense, to defend any such claim or demand. Purchaser shall make available to Seller and Seller's representatives all records and other materials reasonably required by them for their use in contesting any such claim or demand. Purchaser shall have the right, but not the obligation, to employ separate counsel, and to participate with Seller in the defense of any such claim or demand, but the fees and expenses of such separate counsel shall be paid by the Purchaser. In no event shall Purchaser be obligated to defend any such claim or demand.

19. Option Seller further agrees to grant Purchaser an option to purchase the Interdental Cleaner Machine (Fresh Six Cutting Machine, sawdust vacuum system, all cutter heads and operations manuals at a price of Twenty Thousand Dollars (\$20,000.00) This option shall be valid for a period of 180 days from the Date of Closing. Purchaser shall exercise his option only by delivering written notice thereof signed by Purchaser, to Seller on or before the expiration date. Any such notice, sent by certified or registered mail shall be considered delivered when deposited in the U.S. Mail.

As consideration for this Option, Purchaser has entered into this Agreement with Seller.

If Purchaser fails timely to exercise this Option, all of Purchaser's rights hereunder shall automatically terminate, without notice.

If this Option is timely exercised, Seller shall transfer to Purchaser free and clear of any encumbrance, by bill of sale with warranties of title the Interdental Cleaner Machine (Fresh Six Cutting Machine) Also, at the time of the transfer of Interdental Cleaner Machine (Fresh Six Cutting Machine), it shall be in proper working condition.

This Option Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors, or assigns.

20. Governing Law This Agreement shall be governed by and construed according to the laws of the State of Ohio.


21. Entire Agreement This Agreement contains all the terms agreed upon by the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings between the parties dealing with the subject matter, whether oral or written.

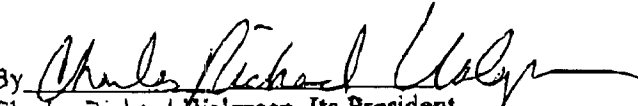
IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of the day and year first above written.

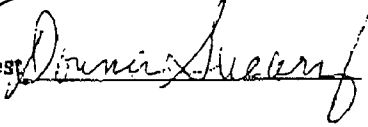
SELLERS:

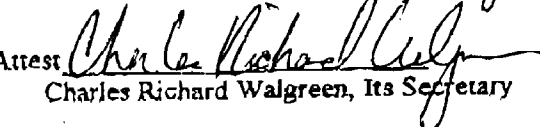
PURCHASERS:

Perio Products Mfg, Inc

By 
12/27/00
Thomas J Murray, President

By  12/27/00
Charles Richard Walgreen, Its President

Attest 

Attest  12/27/00
Charles Richard Walgreen, Its Secretary