

03-21-2005



**RECORDATION
TRADE**

102962774

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

3.1205

1. Name of conveying party(ies)/Execution Date(s):

Vogel Capital, Inc.

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

Citizenship (see guidelines) Massachusetts

Execution Date(s) March 8, 2005

Additional names of conveying parties attached? Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Middlesex Savings Bank

Internal Address: Attn: Mark D. Miller

Street Address: 6 Main Street

City: Natick

State: Massachusetts

Country: USA Zip: 01760

- Association
- General Partnership
- Limited Partnership
- Corporation
- 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)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)

None

B. Trademark Registration No.(s)

73/407,239

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

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

Name: Thomas L. Guidi, Esq.

Internal Address: Hemenway & Barnes

Street Address: 60 State Street, 8th Floor

City: Boston

State: MA Zip: 02109

Phone Number: 617-557-9709

Fax Number: 617-227-0781

Email Address: tguidi@hembar.com

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ ---40.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number _____

Authorized User Name _____

OPR/FINANCE
2005 MAR 17 PM 2:37

9. Signature:

Signature

MARK D. MILLER

Name of Person Signing

3/8/05

Date

Total number of pages including cover sheet, attachments, and document: 7

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

03/18/2005 6TON11 00000035 73407239

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INTELLECTUAL PROPERTY SECURITY AGREEMENT

INTELLECTUAL PROPERTY SECURITY AGREEMENT, dated March 8, 2005 (the "Agreement"), between Vogel Capital, Inc., a Massachusetts corporation having its principal place of business at 85 Hayes Memorial Drive, Marlborough, Massachusetts 01752 (the "Grantor"), and Middlesex Savings Bank, a Massachusetts banking corporation (the "Secured Party").

WHEREAS, Secured Party has agreed to make a term loan to Grantor (the "Term Loan") and make advances of money under a revolving line of credit (the "Line of Credit", collectively with the Term Loan, the "Loans"), pursuant to a certain Loan and Security Agreement of even date herewith, between Grantor and Secured Party (the "Loan Agreement"). In order to induce Secured Party to enter into the Loan Agreement, Grantor has agreed to grant to Secured Party a security interest in certain intangible property, including Copyrights, Trademarks, Patents, and other assets (as defined herein), to secure the obligations of Grantor under the Loan Agreement. Defined terms used but not defined herein shall have the same meanings as in the Loan Agreement.

WHEREAS, pursuant to the terms of the Loan Agreement, Grantor has granted to Secured Party a security interest in all of Grantor's right title and interest, whether presently existing or hereafter acquired in, to and under all of the Collateral (as defined therein).

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged and intending to be legally bound, as collateral security for the prompt and complete payment when due of Grantor's Indebtedness (as defined below), Grantor hereby represents, warrants, covenants and agrees as follows:

1. **Grant of Security Interest.** As collateral security for the prompt and complete payment and performance of all of Grantor's present or future indebtedness, obligations and liabilities to Secured Party (hereinafter, the "Indebtedness"). Grantor hereby grants to Secured Party a security interest in all of Grantor's right, title and interest in, to and under its registered and unregistered intellectual property collateral (all of which shall collectively be called the "Intellectual Property Collateral"), including, without limitation, the following:

(a) Any and all copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the "Copyrights");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights which may be available to Grantor now or hereafter existing, created, acquired or held;

(d) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "Patents");

(e) Any trademark and service mark rights, slogans, trade dress, and tradenames, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "Trademarks");

(f) Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(g) All amendments, extensions, renewals and extensions of any of the Copyrights, Trademarks or Patents; and

(h) All proceeds and products of the foregoing, including without limitation all royalties, rents, usage, fees and all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

2. **Authorization and Request.** Grantor authorizes and requests that Secured Party record this Agreement with the Register of Copyrights and the Commissioner of Patents and Trademarks.

3. **Reassignment.** At such time as Grantor shall completely satisfy all of the obligations secured hereunder, Secured Party shall execute and deliver to Grantor all deeds, assignments, and other instruments as may be necessary or proper to reinvest in Grantor full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Secured Party pursuant hereto.

4. **Covenants and Warranties of Grantor.** Grantor covenants and warrants that:

(a) Grantor is now the sole owner of the Intellectual Property Collateral, except for non-exclusive licenses granted by Grantor to its customers in the ordinary course of business;

(b) Performance of this Agreement does not conflict with or result in a breach of any agreement to which Grantor is party or by which Grantor is bound;

(c) During the term of this Agreement, Grantor will not transfer or otherwise encumber any interest in the Intellectual Property Collateral, except for non-exclusive licenses granted by Grantor in the ordinary course of business or as set forth in this Agreement;

(d) Grantor represents that the Intellectual Property Collateral is not encumbered except for Secured Party's interest as of the date hereof and that certain junior security interest held by Diamond Machining Technology, Inc.;

(e) To its knowledge, each of the Intellectual Property Collateral is valid and enforceable, and no part of the Intellectual Property Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual Property Collateral violates the rights of any third party;

(f) Grantor shall promptly advise Secured Party of any material change in the composition of the Intellectual Property Collateral, including but not limited to any subsequent ownership right of the Grantor in or to any Trademark, Patent or Copyright not specified in this Agreement;

(g) Grantor shall (i) protect, defend and maintain the validity and enforceability of the Trademarks, Patents and Copyrights (ii) use its best efforts to detect infringements of the Trademarks, Patents and Copyrights and promptly advise Secured Party in writing to material infringements detected and (iii) not allow any Trademarks, Patents or Copyrights to be abandoned, forfeited or dedicated to the public without the written consent of Secured Party, which shall not be unreasonably withheld, unless Grantor determines that reasonable business practices suggest that abandonment is appropriate;

(h) Grantor shall register or cause to be registered (to the extent not already registered) with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, those intellectual property rights listed on Exhibit A, B and C hereto within thirty (30) days of the date of this Agreement. If reasonable business practice suggests the same, Grantor shall register or cause to be registered with the United States Patent and Trademark Office or the United States Copyright Office, as applicable, those additional intellectual property rights developed or acquired by Grantor from time to time in connection with any product prior to the sale or licensing of such product to any third party (including without limitation revisions or additions to the intellectual property rights listed on such Exhibits

A, B and C). Grantor shall, from time to time, execute and file such other instruments, and take such further actions as Secured Party may reasonably request from time to time to perfect or continue the perfection of Secured Party's interest in the Intellectual Property Collateral;

(i) This Agreement creates, and in the case of after-acquired Intellectual Property Collateral, this Agreement will create at the time Grantor first has rights in such after-acquired Intellectual Property Collateral, in favor of Secured Party a valid and perfected first priority security interest in the Intellectual Property Collateral securing the payment and performance of the obligations evidenced by the Loan Agreement upon making the filings referred to in clause (i) below;

(j) To its knowledge, except for, and upon, the filing with the United States Patent and Trademark office with respect to the Patents and Trademarks and the Register of Copyrights with respect to the Copyrights necessary to perfect the security interests created hereunder, and except as has been already made or obtained, no authorization, approval or other action by, and no notice to or filing with, any U.S. governmental authority or U.S. regulatory body is required either (i) for the grant by Grantor of the security interest granted hereby or for the execution, delivery or performance of this Agreement by Grantor or (ii) for the perfection in the United States or the exercise by Secured Party of its rights and remedies hereunder;

(k) All information heretofore, herein or hereafter supplied to Secured Party by or on behalf of Grantor with respect to the Intellectual Property Collateral is accurate and complete in all material respects;

(l) Grantor shall not enter into any agreement that would materially impair or conflict with Grantor's obligations hereunder without Secured Party's prior written consent, which consent shall not be unreasonably withheld. Grantor shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Grantor's rights and interests in any property included within the definition of the Intellectual Property Collateral acquired under such contracts, except that certain contracts may contain anti-assignment provisions that could in effect prohibit the creation of a security interest in such contracts if Grantor is required, in its commercially reasonable judgment, to accept such provisions; and

(m) Upon any executive officer of Grantor obtaining actual knowledge thereof, Grantor will promptly notify Secured Party in writing of any event that materially adversely affects the value of any Intellectual Property Collateral, the ability of Grantor to dispose of any Intellectual Property Collateral or the rights and remedies of Secured Party in relation thereto, including the levy of any legal process against any of the Intellectual Property Collateral.

5. Secured Party's Rights. Secured Party shall have the right, but not the obligation, to take, at Grantors sole expense, any actions that Grantor is required under this Agreement to take but which Grantor fails to take, after fifteen (15) days' notice to Grantor. Grantor shall reimburse and indemnify Secured Party for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this Section 5.

6. Inspection Rights. Grantor hereby grants to Secured Party and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable written notice to Grantor, any of Grantor's plants and facilities that manufacture, install or store products (or that have done so during the prior six-month period) that are sold utilizing any of the Intellectual Property Collateral, and to inspect the products and quality control records relating thereto upon reasonable written notice to Grantor and as often as may be reasonably requested.

7. Further Assurances; Attorney in Fact.

(a) On a continuing basis, Grantor will make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the

United States Patent and Trademark Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Secured Party, to perfect Secured Party's security interest in all Copyrights, Patents and Trademarks and otherwise to carry out the intent and purposes of this Agreement, or for assuring and confirming to Secured Party the grant or perfection of a security interest in all Intellectual Property Collateral.

(b) Grantor hereby irrevocably appoints Secured Party as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, from time to time in Secured Party's discretion, to take any action and to execute any instrument which Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, including (i) to file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Intellectual Property Collateral without the signature of Grantor where permitted by law and (ii) after the occurrence of an Event of Default, to transfer the Intellectual Property Collateral into the name of Secured Party or a third party to the extent permitted under the Massachusetts Uniform Commercial Code.

8. Events of Default. The occurrence of any of the following shall constitute an Event of Default under this Agreement:

(a) An Event of Default occurs under the Loan Agreement; or

(b) Grantor breaches any warranty or agreement made by Grantor in this Agreement and, as to any breach that is capable of cure, Grantor fails to cure such breach within ten (10) days after receiving written notice of the occurrence of such breach from Secured Party.

9. Remedies. Upon the occurrence and continuance of an Event of Default, Secured Party shall have the right to exercise all the remedies of a secured party under the Massachusetts Uniform Commercial Code, including without limitation the right to require Grantor to assemble the Intellectual Property Collateral and any tangible property in which Secured Party has a security interest and to make it available to Secured Party at a place designated by Secured Party. Secured Party shall have nonexclusive, royalty free license to use the Copyrights, Patents and Trademarks to the extent reasonably necessary to permit Secured Party to exercise its rights and remedies upon the occurrence of an Event of Default. Grantor will pay any expenses (including reasonable attorneys' fees) incurred by Secured Party in connection with the exercise of any of Secured Party's rights hereunder, including without limitation any expense incurred in disposing of the Intellectual Property Collateral. All of Secured Party's rights and remedies with respect to the Intellectual Property Collateral shall be cumulative.

10. Course of Dealing. No course of dealing, or any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

11. Amendments. Subject to the provisions of Section 7 above, this Agreement may be amended only by a written instrument signed by the Grantor and the Secured Party.

12. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

13. Governing Law; Consent to Jurisdiction. THIS AGREEMENT IS INTENDED TO TAKE EFFECT AS A SEALED INSTRUMENT AND SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS. The Grantor agrees that any suit for the enforcement of this Agreement may be brought in the courts of the State or any federal court sitting therein and consents to the non-exclusive jurisdiction of such court and to service of process in any such suit being made upon Grantor by mail at the address specified in preamble of this Agreement. Grantor hereby waives any objection that it may now or hereafter have to the venue of any such suit or any such court or that such suit is brought in an inconvenient court.

14. Waiver of Jury Trial. GRANTOR WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS

AGREEMENT, ANY RIGHTS OR OBLIGATIONS HEREUNDER OR THE PERFORMANCE OF ANY SUCH RIGHTS OR OBLIGATIONS. Except as prohibited by law, Grantor waives any right which it may have to claim or recover in any litigation referred to in the preceding sentence any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages.

[Remainder of the page intentionally left blank; signature page follows.]

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

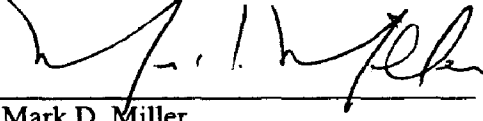
GRANTOR

VOGEL CAPITAL, INC.

By: 
Mark Brandon
President

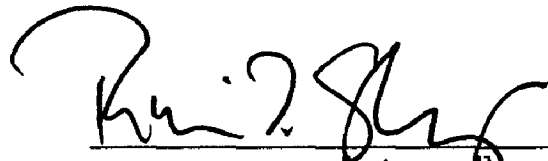
SECURED PARTY

MIDDLESEX SAVINGS BANK

By: 
Mark D. Miller
Vice President

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF SUFFOLK

Before me, the undersigned notary public, on this 8th day of March, 2005, personally appeared Mark Brandon, who proved to me through satisfactory evidence of identification, which consisted of MA Drivers License, to be the person whose name is signed to the foregoing instrument and acknowledged to me that he signed it as his free act and deed and the free act and deed of Vogel Capital, Inc. as President of Vogel Capital, Inc., for its stated purpose.

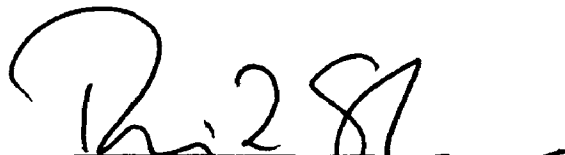

[notary seal]

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF SUFFOLK



ROBIN L. SHEEDY
Notary Public
Commonwealth of Massachusetts
My Commission Expires
September 2, 2005

Before me, the undersigned notary public, on this 8th day of March, 2005, personally appeared Mark D. Miller, who proved to me through satisfactory evidence of identification, which consisted of MA Drivers License, to be the person whose name is signed to the foregoing instrument and acknowledged to me that he signed it as his free act and deed and the free act and deed of Middlesex Savings Bank as Vice President of Middlesex Savings Bank, for its stated purpose.


[notary seal]



ROBIN L. SHEEDY
Notary Public
Commonwealth of Massachusetts
My Commission Expires
September 2, 2005