

USPTO

3/17/2011 3:17:48 PM PAGE 4/011 Fax Server

TO: ERIN O'BRIEN COMPANY: C/O CC

06/07/2011



103626619

~~900185383~~

Electronic Version v1.1
Stylesheet Version v1.1

MCD 3/2/11

| | |
|-----------------------|-------------------|
| SUBMISSION TYPE: | NEW ASSIGNMENT |
| NATURE OF CONVEYANCE: | SECURITY INTEREST |

CONVEYING PARTY DATA

| Name | Formerly | Execution Date | Entity Type |
|-------------------------------|----------|----------------|------------------------------------|
| PHYSICIANS CARE ALLIANCE, LLC | | 01/25/2011 | LIMITED LIABILITY COMPANY, ARIZONA |

RECEIVING PARTY DATA

| | |
|-----------------|-------------------------------|
| Name: | COMERICA BANK |
| Street Address: | 75 East Trimble Road |
| City: | San Jose |
| State/Country: | CALIFORNIA |
| Postal Code: | 95131 |
| Entity Type: | Texas banking association: TX |

PROPERTY NUMBERS Total: 30

| Property Type | Number | Word Mark |
|----------------------|----------|---------------------|
| Serial Number: | 85109652 | OXYGENATING TRIO |
| Serial Number: | 85109683 | ULTRA PEEL FORTE |
| Serial Number: | 85109668 | SMOOTHING BODY PEEL |
| Serial Number | 85109658 | PIGMENT BAR |
| Serial Number | 85109638 | DRY SKIN RELIEF BAR |
| Serial Number: | 85109633 | COLLAGEN HYDRATOR |
| Serial Number: | 85109623 | BRIGHTENING THERAPY |
| Serial Number | 85109611 | BLEMISH CONTROL BAR |
| Serial Number: | 85109600 | A & C SYNERGY SERUM |
| Registration Number. | 2863801 | PCA SKIN |
| Registration Number. | 2865758 | PCA SKIN |
| Registration Number | 2736777 | C-QUENCH |
| Registration Number. | 2931673 | PCA |
| Registration Number. | 3837903 | PCA SKIN |

CH \$765.00 85109652

USPTO

3/17/2011 3:17:48 PM PAGE 5/011 Fax Server

TO:ERIN O'BRIEN COMPANY:C/O COOLEY LLP

| | | |
|----------------------|---------|---------------------------|
| Registration Number: | 3471092 | PIGMENT GEL |
| Registration Number: | 3397373 | EXLINEA |
| Registration Number: | 3406253 | PCA SKIN |
| Registration Number: | 3415305 | PCA SKIN |
| Registration Number: | 3415304 | PCA SKIN |
| Registration Number: | 3323386 | PCA |
| Registration Number: | 2571987 | SENSI PEEL |
| Registration Number: | 2528392 | SENSI PEEL |
| Registration Number: | 2486790 | THERE'S SCIENCE BEHIND IT |
| Registration Number: | 2519195 | ULTRA PEEL |
| Registration Number: | 2444020 | ULTRA PEEL |
| Registration Number: | 2403056 | PHYSICIAN'S CHOICE |
| Registration Number: | 2168976 | PIGMENT GEL |
| Registration Number: | 2170792 | APRES PEEL |
| Registration Number: | 2095085 | PCA PEEL |
| Registration Number: | 2121227 | SILKCOAT |

CORRESPONDENCE DATA

Fax Number: (858)550-8420
Correspondence will be sent via US Mail when the fax attempt is unsuccessful.
 Phone: 858-550-8403
 Email: erin.obrien@cooley.com
 Correspondent Name: Erin O'Brien
 Address Line 1: c/o Cooley LLP
 Address Line 2: 4401 Eastgate Mail
 Address Line 4: San Diego, CALIFORNIA 92121

| | |
|-------------------------|---------------------------|
| ATTORNEY DOCKET NUMBER. | 036703-1181 PHYSICIANS CA |
| NAME OF SUBMITTER. | Erin O'Brien |
| Signature | /Erin O'Brien/ |
| Date. | 03/02/2011 |

Total Attachments. 6

source=Physicians Care Alliance signed IPSA#page1.tif
 source=Physicians Care Alliance signed IPSA#page2.tif
 source=Physicians Care Alliance signed IPSA#page3.tif
 source=Physicians Care Alliance signed IPSA#page4.tif
 source=Physicians Care Alliance signed IPSA#page5.tif
 source=Physicians Care Alliance signed IPSA#page6.tif



INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (the "Agreement") is made as of January 25, 2011, by and between Physicians Care Alliance, LLC, an Arizona Limited Liability Company, ("Grantor"), and Comerica Bank ("Secured Party").

RECITALS

A. Secured Party has agreed to lend to Grantor certain funds (the "Loan"), and Grantor desires to borrow such funds from Secured Party pursuant to the terms of that certain Letter Agreement, dated January 25, 2011, and that certain Fixed Rate-Installment Note dated January 25, 2011, executed by Grantor and payable to the order of Secured Party in the original stated principal amount of One Million Three Hundred Thousand and no/100 (\$1,300,000.00) (together with the Letter Agreement, as may be at any time hereafter supplemented, modified, amended, or restated, collectively, the "Loan Agreement"). All initially capitalized terms used herein without definition shall have the meanings ascribed to them in the Loan Agreement.

B. In order to induce Secured Party to enter into the Loan Agreement, Grantor has agreed to grant a security interest in certain intangible property to Secured Party for purposes of securing the obligations of Grantor to Secured Party.

NOW, THEREFORE, THE PARTIES HERETO AGREE 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, Grantor hereby grants a security interest and mortgage to Secured Party, as security, in and to Grantor's entire right, title and interest in, to and under the following (all of which shall collectively be called the "Intellectual Property Collateral"):

(a) 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;

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

(c) Any trademark and servicemark rights, 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 A attached hereto and incorporated herein by this reference (collectively, the "Trademarks").

(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 and incorporated herein by this reference (collectively, the "Patents").

(e) Any and all claims for damages by way of past, present and future infringement 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;

(f) All licenses or other rights to use any of the Patents or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights; and

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

(h) All proceeds and products of the foregoing, including without limitation 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 the Commissioner of Patents and Trademarks record this Agreement.

3. Covenants and Warranties. Grantor represents, warrants, covenants and agrees as follows:

(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) Each of the Patents 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;

(e) Grantor shall register or cause to be registered (to the extent not already registered) with the United States Patent and Trademark Office those intellectual property rights listed on Exhibits A or B hereto within thirty (30) days of the date of this Agreement. Grantor shall register or cause to be registered with the United States Patent and Trademark Office 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 or B);

(f) Grantor shall promptly give Secured Party written notice of any applications or registrations of any additional intellectual property rights filed with the United States Patent and Trademark Office, including the date of such filing and the registration or application numbers, if any.

(g) Grantor shall, prior to the filing of any such applications or registrations, execute such documents as Secured Party may reasonably request for Secured Party to maintain its perfection in such intellectual property rights to be registered by Grantor, and upon the request of Secured Party, shall file such documents simultaneously with the filing of any such applications or registrations.

(h) Grantor shall deliver to Secured Party within thirty (30) days of the last day of each fiscal quarter, a report signed by Grantor, in form reasonably acceptable to Secured Party, listing any applications or registrations that Grantor has made or filed in respect of any patents or trademarks and the status of any outstanding applications or registrations. 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 or Patent not specified in Exhibits A or B to this Agreement;

(i) Grantor shall, from time to time, promptly execute, deliver or file such additional instruments and documents and take such further actions as Secured Party may reasonably request from time to time to perfect, continue the perfection or maintain the priority of Secured Party's security interest in the Intellectual Property Collateral.

(j) Grantor shall: (i) protect, defend and maintain the validity and enforceability of the Trademarks; (ii) use its best efforts to detect infringements of the Trademarks or Patents and promptly advise Secured Party in writing of material infringements detected, and (iii) not allow any Trademarks or Patents 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.

(k) Secured Party may audit Grantor's Intellectual Property Collateral to confirm compliance with this Section 3, provided such audit may not occur more often than twice per year, unless an Event of Default has occurred and is continuing. Secured Party shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor is required under this Section 3 to take but which Grantor fails to take within fifteen (15) days of notice thereof 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 3.

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

(m) Except for, and upon, the filing with the United States Patent and Trademark office with respect to the Patents and Trademarks such documents as are 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 in the U.S. or (ii) for the perfection in the United States or the exercise by Secured Party of its rights and remedies hereunder.

(n) 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;

(o) 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, and

(p) 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.

4 **Secured Party's Rights.** Secured Party shall have the right, but not the obligation, to take, at Grantor's 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 4.

5 **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.

6 **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 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 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 modify, in its sole discretion, this Agreement without first obtaining Grantor's approval of or signature to such modification by amending Exhibit A or Exhibit B, thereof, as appropriate, to include reference to any right, title or interest in any Patents or Trademarks acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Patents or Trademarks in which Grantor no longer has or claims any right, title or interest, (ii) 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 (iii) 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 California Uniform Commercial Code.

7. Events of Default. The occurrence of any of the following shall constitute an Event of Default under the 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 five (5) days of the occurrence of such breach.

8. 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 Arizona 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 a nonexclusive, royalty free license to use the 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.

9. Indemnity. Grantor agrees to defend, indemnify and hold harmless Secured Party and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Agreement; and (b) all losses or expenses in any way suffered, incurred, or paid by Secured Party as a result of or in any way arising out of, following or consequential to transactions between Secured Party and Grantor, whether under this Agreement or otherwise (including without limitation reasonable attorneys' fees and reasonable expenses), except for losses arising from or out of Secured Party's gross negligence or willful misconduct.

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

11. Attorneys' Fees. If any action relating to this Agreement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements.

12. Amendments. This Agreement may be amended only by a written instrument signed by both parties hereto.

13. 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.

14. Arizona Law and Jurisdiction; Jury Waiver. This Agreement shall be governed by the laws of the State of Arizona, without regard for choice of law provisions. Grantor and Secured Party consent to the exclusive jurisdiction of any state or federal court located in Maricopa County, Arizona. THE UNDERSIGNED ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED UNDER CERTAIN CIRCUMSTANCES. TO THE EXTENT PERMITTED BY LAW, EACH PARTY, AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS, HIS OR HER CHOICE, KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, WAIVES ANY RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OTHER DOCUMENT, INSTRUMENT OR AGREEMENT BETWEEN THE UNDERSIGNED PARTIES.

[The remainder of this page was intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written

GRANTOR:

PHYSICIANS CARE ALLIANCE, LLC, an Arizona Limited Liability Company

By: Jennifer Lindner
Member

By: Richard Lindner
Member

Address of Grantor
6710 East Camelback Road, Suite 230
Scottsdale, AZ 85251

Attn

SECURED PARTY:

COMERICA BANK

By: Steven Spangler
Vice President

Address of Secured Party:
75 East Trimble Road
San Jose, California 95131
Attn: Credit Manager
Fax number: (408) 556-5097

EXHIBIT A

Trademarks

| | Serial Number | Reg. Number | Word Mark | Check Status | Live/Dead |
|----|---------------|-------------|---------------------------|--------------|-----------|
| 1 | 85109652 | PRINCIPAL | OXYGENATING TRIO | TARR | LIVE |
| 2 | 85109683 | PRINCIPAL | ULTRA PEEL FORTE | TARR | LIVE |
| 3 | 85109668 | PRINCIPAL | SMOOTHING BODY PEEL | TARR | LIVE |
| 4 | 85109658 | PRINCIPAL | PIGMENT BAR | TARR | LIVE |
| 5 | 85109638 | PRINCIPAL | DRY SKIN RELIEF BAR | TARR | LIVE |
| 6 | 85109633 | PRINCIPAL | COLLAGEN HYDRATOR | TARR | LIVE |
| 7 | 85109623 | PRINCIPAL | BRIGHTENING THERAPY | TARR | LIVE |
| 8 | 85109611 | PRINCIPAL | BLEMISH CONTROL BAR | TARR | LIVE |
| 9 | 85109600 | PRINCIPAL | A & C SYNERGY SERUM | TARR | LIVE |
| 10 | 78257876 | 2863801 | PCA SKIN | TARR | LIVE |
| 11 | 78257872 | 2885758 | PCA SKIN | TARR | LIVE |
| 12 | 78163842 | 2736777 | C-QUENCH | TARR | LIVE |
| 13 | 78167678 | 2931673 | PCA | TARR | LIVE |
| 14 | 77925332 | 3837903 | PCA SKIN | TARR | LIVE |
| 15 | 77322814 | 3471092 | PIGMENT GEL | TARR | LIVE |
| 16 | 77115544 | 3397373 | EXLINEA | TARR | LIVE |
| 17 | 77115543 | 3406253 | PCA SKIN | TARR | LIVE |
| 18 | 77115542 | 3415305 | PCA SKIN | TARR | LIVE |
| 19 | 77115541 | 3415304 | PCA SKIN | TARR | LIVE |
| 20 | 77108043 | 3323386 | PCA | TARR | LIVE |
| 21 | 75908588 | 2571997 | SENSI PEEL | TARR | LIVE |
| 22 | 75908618 | 2528392 | SENSI PEEL | TARR | LIVE |
| 23 | 75818229 | 2486790 | THERE'S SCIENCE BEHIND IT | TARR | LIVE |
| 24 | 75818228 | 2519195 | ULTRA PEEL | TARR | LIVE |
| 25 | 75818227 | 2444020 | ULTRA PEEL | TARR | LIVE |
| 26 | 75132677 | 2403056 | PHYSICIAN'S CHOICE | TARR | LIVE |
| 27 | 75185412 | 2168876 | PIGMENT GEL | TARR | LIVE |
| 28 | 75185400 | 2170792 | APRES PEEL | TARR | LIVE |
| 29 | 75166271 | 2095085 | PCA PEEL | TARR | LIVE |
| 30 | 75166128 | 2121227 | SILKCOAT | TARR | LIVE |

EXHIBIT B

Patents

None