

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM560758

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	SECURITY INTEREST		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
ProSomnus Sleep Technologies, Inc.		01/31/2020	Corporation: DELAWARE
RECEIVING PARTY DATA			
Name:	SMC Holdings II, LP - Class SLEEP		
Street Address:	650 Madison Avenue, 20th Floor		
Internal Address:	c/o Spring Mountain Capital, LP		
City:	New York		
State/Country:	NEW YORK		
Postal Code:	10022		
Entity Type:	Limited Partnership: DELAWARE		
PROPERTY NUMBERS Total: 7			
Property Type	Number	Word Mark	
Registration Number:	5322027	PROSOMNUS SLEEP TECHNOLOGIES	
Registration Number:	5282348	PROSOMNUS SLEEP TECHNOLOGIES	
Registration Number:	5206297		
Registration Number:	5206296	PROSOMNUS	
Registration Number:	4642632	MICRO2	
Registration Number:	5171839	MICRO2	
Registration Number:	5532184	LEADER IN PRECISION OAT	
CORRESPONDENCE DATA			
Fax Number:	2127540330		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	212-907-7300		
Email:	ejaffe@golenbock.com		
Correspondent Name:	Elizabeth A. Jaffe		
Address Line 1:	711 Third Avenue		
Address Line 4:	New York, NEW YORK 10017		
NAME OF SUBMITTER:	Elizabeth A. Jaffe		
SIGNATURE:	/Elizabeth A. Jaffe/		

OP \$190.00 5322027

DATE SIGNED:	02/06/2020
---------------------	------------

Total Attachments: 9

- source=SMC_ProSomnus Security Agreement#page1.tif
- source=SMC_ProSomnus Security Agreement#page2.tif
- source=SMC_ProSomnus Security Agreement#page3.tif
- source=SMC_ProSomnus Security Agreement#page4.tif
- source=SMC_ProSomnus Security Agreement#page5.tif
- source=SMC_ProSomnus Security Agreement#page6.tif
- source=SMC_ProSomnus Security Agreement#page7.tif
- source=SMC_ProSomnus Security Agreement#page8.tif
- source=SMC_ProSomnus Security Agreement#page9.tif

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (this “**Agreement**”) is entered into as of January 31, 2020 by and between ProSomnus Sleep Technologies, Inc., a Delaware corporation (“**PSTI**”), ProSomnus Holdings Inc., a Delaware corporation (together with PSTI, individually a “**Grantor**”, or collectively “**Grantors**”), and SMC Holdings II, LP – Class SLEEP, a Delaware limited partnership (“**Lender**”).

RECITALS

Pursuant to that certain Loan and Security Agreement by and between Grantors and Lender dated as of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the “**Loan Agreement**”), Lender has agreed to make certain advances of money and to extend certain financial accommodations to Grantors. Capitalized terms used herein are used as defined in the Loan Agreement. Pursuant to the terms of the Loan Agreement, each Grantor has granted to Lender a security interest in its personal property.

NOW, THEREFORE, each Grantor hereby agrees as follows:

AGREEMENT

1. Incorporation of Loan Agreement. The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. Terms used herein which are not defined herein but are defined in the Loan Agreement shall have the meanings ascribed to them therein.

2. Ownership of Intellectual Property. Each Grantor represents and warrants that Schedules A, B, and C attached hereto set forth any and all intellectual property rights in connection with which such Grantor has registered or filed an application with either the United States Patent and Trademark Office or the United States Copyright Office, as applicable.

3. Grant of Security Interest, Etc. To secure its obligations under the Loan Agreement and under any other agreement now existing or hereafter arising between Grantors and Lender, each Grantor hereby grants to Lender a security interest in all of such Grantor’s right, title and interest in its intellectual property (including without limitation those patents, trademarks and copyrights, and any applications for any of the foregoing, listed on Schedules A, B and C hereto), in each case wherever located and whether now existing or hereafter acquired, and all products and proceeds thereof (such as, by way of example but not by way of limitation, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all re-issues, divisions continuations, renewals, extensions and continuations-in-part thereof. Each Grantor hereby authorizes Lender to modify, in its sole discretion and without first obtaining such Grantor’s approval of or signature to such modification, Schedules A, B, and C hereto, as appropriate, to include reference to any right, title or interest in any copyrights, patents or trademarks acquired by such Grantor after the execution hereof or to delete any reference to any right, title or interest in any copyrights, patents or trademarks in which such Grantor no longer has or claims to have any right, title or interest.

4. Restrictions on Future Agreements. Each Grantor hereby agrees and covenants that until all of the Obligations are paid in full in cash to Lender, such Grantor will not, without Lender’s prior written consent, take any action or enter into any agreement, including, without limitation entering into any license agreement, which is inconsistent with such Grantor’s obligations under this Agreement, and each Grantor further agrees and covenants that without Lender’s prior written consent it will not take any action, or permit any action to be taken by others subject to its control, including its licensees, or fail to take any action which would materially and adversely affect the validity or enforcement or nature of the rights transferred to Lender under this Agreement. Each Grantor hereby agrees and covenants not to sell or assign its interest in, or grant any exclusive license under, its trademark registrations, trademark applications, patents or patent applications issued by or filed with the United States Patent and Trademark Office or its copyrights or copyright applications issued by or filed with the United States Copyright Office, in each case, without receiving the prior written consent of Lender thereto, except to the extent expressly permitted under the Loan Agreement.

5. New Patents, Marks and Copyrights. Each Grantor shall promptly disclose to Lender in writing all trademark registrations, trademark applications, patents and patent applications issued by or filed with the United States Patent and Trademark Office and all copyrights and copyright applications issued by or filed with the United States Copyright Office, in which event the provisions of Section 3 above shall automatically apply thereto. Each Grantor hereby authorizes Lender to modify this Agreement by noting any such future acquired trademark registrations, trademark applications, patents, patent applications, copyrights and copyright applications on Schedule A, B or C, as applicable; provided, however, that the failure of Lender to make any such notation shall not limit or affect the obligations of any Grantor or the rights of Lender hereunder.

6. Royalties; Terms. Each Grantor hereby agrees that the security interest of Lender in all trademark registrations, trademark applications, patents, patent applications, copyrights and copyright applications as described above shall be worldwide and without any liability for royalties or other related charges from Lender to any Grantor or any other person or entity. The term of the security interest granted herein shall extend until the earlier of (i) the expiration of each of the respective trademark registrations, trademark applications, patents, patent applications, copyrights and copyright applications assigned hereunder and (ii) the date that all of the Obligations are paid in full in cash to Lender.

7. Duties of Grantors. Except to the extent the same is no longer material to any Grantor's business, each Grantor shall preserve, maintain and enforce against infringement all rights in the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement. Any expenses incurred in connection with the foregoing (including, but not limited to, maintenance or renewal fees) shall be borne by Grantors.

8. Lender's Right to Sue. From and after the occurrence and during the continuance of an Event of Default, Lender shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement, and any licenses thereunder, and, if Lender shall commence any such suit, Grantors shall, at the request of Lender, do any and all lawful acts and execute any and all proper documents reasonably required by Lender in aid of such enforcement, and Grantors shall promptly, upon demand, reimburse and indemnify Lender for all documented and reasonable out-of-pocket costs and expenses incurred by Lender in the exercise of its rights under this Section 8.

9. Waivers. No course of dealing between any Grantor and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder 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 or the exercise of any other right, power or privilege.

10. Severability. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

11. Modification. This Agreement cannot be altered, amended or modified in any way, except as specifically provided in Section 5 hereof or by a writing signed by the parties hereto.

12. Further Assurances. Each Grantor shall execute and deliver to Lender, at any time or times hereafter at the request of Lender, all papers (including, without limitation, any as may be deemed desirable by Lender for filing or recording with the United States Patent and Trademark Office or the United States Copyright Office, and any successors thereto) and take all such actions (including, without limitation, paying the cost of filing or recording any of the foregoing in all public offices reasonably deemed desirable by Lender), as Lender may request, to evidence Lender's interest in the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement and the goodwill associated therewith and enforce Lender's rights under this Agreement.

13. Cumulative Remedies; Power of Attorney; Effect on Loan Agreement. All of Lender's rights and remedies with respect to the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement, whether established hereby, by the Loan Agreement or otherwise,

or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Each Grantor hereby constitutes and appoints Lender as such Grantor's true and lawful attorney-in-fact, with full power of substitution in the premises, with power at any time after the occurrence and during the continuance of an Event of Default, to (i) endorse such Grantor's name on all applications, documents, papers and instruments determined by Lender as necessary or desirable for Lender in the use of the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement, (ii) take any other actions with respect to the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement as Lender deems in good faith to be in the best interest of Lender, (iii) grant or issue any exclusive or non-exclusive license under the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement to any Person, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement to any Person. Each Grantor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The appointment of Lender as such Grantor's attorney in fact, and each of Lender's rights and powers, being coupled with an interest, is irrevocable until all of the Obligations are paid in full in cash to Lender. Each Grantor acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of Lender under the Loan Agreement or any other ancillary documents but rather is intended to facilitate the exercise of such rights and remedies. Lender 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 Uniform Commercial Code as enacted in any jurisdiction in which the patent applications, patents, trademark applications, trademark registrations, copyrights and copyright registrations subject to this Agreement may be enforced.

14. Joint and Several Obligations; Binding Effect; Benefits. The Grantors agree that they shall be jointly and severally liable for all representations, warranties, covenants and agreements made or given by either or both of them to Lender under or in connection with this Agreement. This Agreement shall be binding upon Grantor and its respective successors and assigns and shall inure to the benefit of Lender and its respective successors, assigns and nominees.

15. Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, is an original, and all taken together, constitute one Agreement. A signature delivered via facsimile or portable document format shall be afforded treatment as an original signature.

16. Governing Law; Jurisdiction. The parties agree that this Agreement, and any disputes arising under this Agreement will be governed by and construed in accordance with the laws of the State of New York, without giving effect to any conflict of laws principle to the contrary. Each party hereto hereby irrevocably and unconditionally consents and submits to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York sitting in New York County, for any actions, suits or proceedings arising out of or relating to this Agreement or the transactions contemplated by this Agreement.


17. Intercreditor Agreement. Notwithstanding anything herein to the contrary, (i) this Agreement and certain of the rights of Lender hereunder are subject to the provisions of that certain Subordination and Intercreditor Agreement, dated as of the date hereof, by and between Lender and William G. Dickerson (the "**Intercreditor Agreement**") and (ii) in the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control.

[Signature page follows]

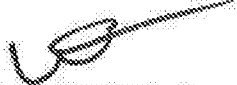
IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GRANTORS:

PROSOMNUS SLEEP TECHNOLOGIES, INC.

By: 
Name: Leonard A. Lybach
Title: CEO

PROSOMNUS HOLDINGS INC.

By: 
Name: Leonard A. Lybach
Title: CEO

LENDER:

SMC HOLDINGS II, LP -- CLASS SLEEP

By: SMC Holdings II G.P., LLC, its general partner

By: _____
Name: Gregory P. Ho
Title: Managing Member

IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GRANTORS:

PROSOMNUS SLEEP TECHNOLOGIES, INC.

By: _____
Name:
Title:

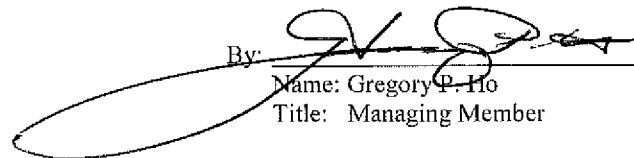
PROSOMNUS HOLDINGS INC.

By: _____
Name:
Title:

LENDER:

SMC HOLDINGS II, LP – CLASS SLEEP

By: SMC Holdings II G.P., LLC, its general partner

By: 
Name: Gregory P. Ho
Title: Managing Member

SCHEDULE A

COPYRIGHTS

None.

SCHEDULE B

PATENTS

ProSomnus Sleep Technologies, Inc.

Title	Application Number	Filing Date	Patent Number	Registration Date
Mandibular advancement device	15/416,666	Jan. 26, 2017	9,949,868	Apr. 24, 2018
Mandibular advancement device	14/809,208	July 25, 2015	9,820,882	Nov. 21, 2017
Automated method of manufacturing oral appliances	15/416,715	Jan. 26, 2017	9,808,327	Nov. 7, 2017
Automated method of manufacturing oral appliances	15/789,582	Oct. 20, 2017	10,213,280	Feb. 26, 2019
Mandibular advancement device	15/913,548	Mar. 6, 2018		
Mandibular advancement device	15/987,816	May 23, 2018		
Mandibular advancement device with guide channel	15/727,508	Oct. 6, 2017		
Computer aided design matrix for the manufacture of dental devices	15/651,874	July 17, 2017		
Computer aided design matrix for the manufacture of dental devices	15/991,991	May 29, 2018		
Automated method of manufacturing oral appliances	16/285,113	Feb. 25, 2019		
Fin sleeves for a mandibular advancement device and methods of using the same	16/088,325	Feb. 25, 2019		
Fin sleeves for a mandibular advancement device and methods of using the same	PCT/US17/15530	Jan. 29, 2017		
SYMMETRICAL ADVANCEMENT OF MANDIBLE	PCT/US19/29471	Apr. 26, 2019		
AUTOMATED METHOD OF MANUFACTURING ORAL APPLIANCES	PCT/US17/42456	July 17, 2017		
COMPUTER AIDED DESIGN MATRIX FOR THE MANUFACTURE OF DENTAL DEVICES	PCT/US17/42411	July 17, 2017		
LINERS FOR A MANDIBULAR ADVANCEMENT DEVICE	62/947,394	Dec. 12, 2019		
ACCESSORIES FOR A MANDIBLE ADVANCEMENT DEVICE	62/947,398	Dec. 12, 2019		

MANDIBULAR ADVANCEMENT DEVICE WITH GUIDE CHANNEL	62/533,420	July 17, 2017		
---	------------	---------------	--	--




ProSomnus Holdings Inc.

None.

SCHEDULE C

TRADEMARKS

ProSomnus Sleep Technologies, Inc.

Mark	Application Number	Filing Date	Registration Number	Registration Date
 PROSOMNUS SLEEP TECHNOLOGIES PROSOMNUS SLEEP TECHNOLOGIES	87/362,525	Mar. 7, 2017	5,322,027	Oct. 31, 2017
 PROSOMNUS SLEEP TECHNOLOGIES PROSOMNUS SLEEP TECHNOLOGIES	87/060,480	June 4, 2016	5,282,348	Sep. 5, 2017
	87/060,482	June 4, 2016	5,206,297	May 16, 2017
PROSOMNUS PROSOMNUS	87/060,475	June 4, 2016	5,206,296	May 16, 2017
MicroO₂ MICRO2	86/196,271	Feb. 18, 2014	4,642,632	Nov. 18, 2014
MICRO2 MICRO2	86/167,893	Jan. 16, 2014	5,171,839	Mar. 28, 2017
LEADER IN PRECISION OAT LEADER IN PRECISION OAT	87/806,107	Feb. 21, 2018	5,532,184	July 31, 2018

ProSomnus Holdings Inc.

None.