

01-29-2003



1-2903

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

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

102351191

Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

FHP Manufacturing Company

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

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

3. Nature of conveyance:

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

Execution Date: 1/24/2003

2. Name and address of receiving party(ies)

Name: Heller Financial, Inc., *

Internal Address: *as Administrative Agent

Street Address: 500 West Monroe Street

City: Chicago State: IL Zip: 60661

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Delaware
- 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) 2475884 2454903

2447217 2236079

Additional number(s) attached Yes No

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

Name: Deneen Sanders, Paralegal

Internal Address: Goldberg, Kohn, et. al.

Street Address: 55 East Monroe Street

Suite 3700

City: Chicago State: IL Zip: 60603

6. Total number of applications and registrations involved:

4

7. Total fee (37 CFR 3.41).....\$ 115.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Deneen Sanders
Name of Person Signing

January 28, 2002
Date

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

01/30/2003 6TON11 00000045 2475884

01 FC:8521 40.00/DP
02 FC:8522 75.00/DP

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

TRADEMARK
REEL: 002660 FRAME: 0233

TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (the "Agreement") made as of this 24th day of January, 2003 by FHP Manufacturing Company, a Delaware corporation ("Grantor") in favor of Heller Financial, Inc., a Delaware corporation, in its capacity as Administrative Agent for the Lenders party to the Credit Agreement (defined below) ("Grantee").

WITNESSETH

WHEREAS, Grantor and Grantee are parties to that certain Credit Agreement dated as of August 31, 1999 (as the same may be amended or otherwise modified from time to time, the "Credit Agreement") providing for the extensions of credit to be made to Grantor by Lenders;

WHEREAS, pursuant to the terms of the Amended and Restated Security Agreement of even date herewith between Grantor and Grantee (as the same may be amended or otherwise modified from time to time, the "Security Agreement"), Grantor has granted to Grantee, for the benefit of Lenders, a security interest in substantially all of the assets of Grantor including all right, title and interest of Grantor in, to and under all now owned and hereafter acquired Trademarks (as defined in the Security Agreement), which includes the goodwill of the business symbolized by Grantor's Trademarks, and all products and proceeds thereof, to secure the payment of all amounts owing by Grantor under the Credit Agreement;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Grantor agrees as follows:

1. Defined Terms. This Agreement is being executed pursuant to and in connection with the Credit Agreement and Security Agreement and is subject to the applicable terms and provisions thereof. All terms capitalized but not otherwise defined herein shall have the same meanings herein as in the Security Agreement.

2. Grant and Reaffirmation of Grant of Security Interests. To secure the complete and timely payment and satisfaction of the Obligations, Grantor hereby grants to Grantee, and hereby reaffirms its prior grant pursuant to the Security Agreement of, a continuing security interest in Grantor's entire right, title and interest in and to the following (all of the following items or types of property being herein collectively referred to as the "Trademark Collateral"), whether now owned or existing or hereafter created or acquired:

(i) each Trademark listed on Schedule 1 annexed hereto, together with any reissues, continuations or extensions thereof, and all of the goodwill of the business connected with the use of, and symbolized by, each Trademark; and

(ii) all products and proceeds of the forgoing, including without limitation, any claim by Grantor against third parties for past, present or future (a) infringement or dilution of any Trademark, or (b) injury to the goodwill associated with any Trademark.

3. Warranties and Representations. Grantor warrants and represents to Grantee that:

(i) Grantor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each Trademark, free and clear of any liens, charges and encumbrances, including without limitation licenses and covenants by Grantor not to sue third persons to protect the Trademarks;

(ii) Grantor has no notice of any suits or actions commenced or threatened with reference to any Trademark; and

(iii) Grantor has the unqualified right to execute and deliver this Agreement and perform its terms.

4. Restrictions on Future Agreements. Grantor agrees that until Grantor's Obligations shall have been satisfied in full and the Credit Agreement shall have been terminated, Grantor shall not, except as otherwise permitted by the Security Agreement or the Credit Agreement, sell or assign its interest in, or other than in the ordinary course of business, grant any license under, any Trademark or enter into any other agreement with respect to any Trademark, without the prior written consent of Grantee, and Grantor further agrees that it shall not take any action or permit any action to be taken by others, including licensees, subject to its control, or fail to take any action which would affect the validity or enforceability of the rights pledged to Grantee under this Agreement.

5. Product Quality. Grantor agrees (i) to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with commercially reasonable business practices, and (ii) to provide Grantee, upon Grantee's reasonable request from time to time, with a certificate of an officer of Grantor certifying Grantor's compliance with the foregoing. Grantor agrees that upon the occurrence and during the continuance of an Event of Default, Grantee, or a conservator appointed by Grantee, shall have the right to establish such additional product quality controls as Grantee, or said conservator, in its reasonable judgment, may deem necessary to assure maintenance of the quality of products sold by Grantor under the Trademarks.

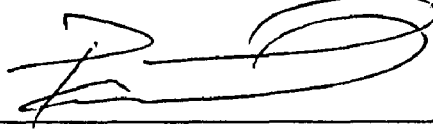
7. Grantee's Right to Sue. At any time after the occurrence and during the continuance of an Event of Default, Grantee shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Trademarks and, if Grantee shall commence any such suit, Grantor shall, at the request of Grantee, do any and all lawful acts and execute any and all proper documents required by Grantee in aid of such enforcement and Grantor shall promptly, upon demand, reimburse and indemnify Grantee for all costs and expenses incurred by Grantee in the exercise of its rights under this Section 7.

8. Cumulative Remedies; Power of Attorney. Grantee hereby acknowledges and affirms that the rights and remedies with respect to the Trademarks, whether established hereby or by the Security Agreement, the Credit Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Grantor hereby authorizes Grantee upon the occurrence and during the continuance of an Event of Default, to make, constitute and appoint any officer or Administrative Agent of Grantee as Grantee may select, in its sole discretion, as Grantor's true and lawful attorney-in-fact, with power to (i) endorse Grantor's name on all applications, documents, papers and instruments necessary or desirable for Grantee in the use of the Trademarks or (ii) take any other actions with respect to the Trademarks as Grantee deems to be in the best interest of Grantee, or (iii) grant or issue any exclusive or non-exclusive license under the Trademarks to anyone, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone. Grantor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until Grantor's Obligations shall have been paid in full and the Credit Agreement has been terminated. Grantor hereby further acknowledges and agrees that following Grantee's foreclosure on the Trademarks the use by Grantee of the Trademarks shall be worldwide, except as limited by their terms, including applicable laws, and without any liability for royalties or related charges from Grantee to Grantor.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, Grantor has duly executed this Agreement as of the date first written above.

FHP MANUFACTURING COMPANY

By: 
Its: CEO, VP, ASST SEC.

Agreed and Accepted
As of the Date First Written Above

HELLER FINANCIAL, INC.,
as Administrative Agent

By: _____
Its: _____

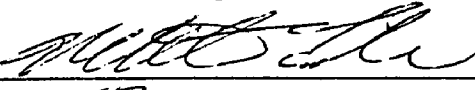
IN WITNESS WHEREOF, Grantor has duly executed this Agreement as of the date first written above.

FHP MANUFACTURING COMPANY

By: _____
Its: _____

Agreed and Accepted
As of the Date First Written Above

HELLER FINANCIAL, INC.,
as Administrative Agent

By: 
Its: VP

SCHEDULE A

TRADEMARK REGISTRATIONS

| <u>Trademark Description</u> | <u>U.S. Registration No.</u> | <u>Date Registered</u> |
|------------------------------|------------------------------|------------------------|
| ENVIROMISER | 2475884 | 8/7/01 |
| FHP MANUFACTURING COMPANY | 2454903 | 5/29/01 |
| FLORIDA HEAT PUMP | 2447217 | 4/24/01 |
| GEO-MISER | 2236079 | 3/30/1999 |

USE BASED TRADEMARK APPLICATIONS

| <u>Trademark Application Description</u> | <u>U.S. Application No.</u> | <u>Date Applied</u> |
|--|-----------------------------|---------------------|
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