

Form PTO-1594  
(Rev. 10/02)  
OMB No. 0651-0027 (exp. 6/30/2005)  
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### RECORDATION FORM COVER SHEET TRADEMARKS ONLY

U.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):

Robert Lupica

- 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 License
- Merger
- Change of Name

Execution Date: 05/09/2002

2. Name and address of receiving party(ies)

Name: Eco-DenT International, Inc.

Internal

Address:

Street Address: P.O. Box 5285

City: Redwood City State: CA Zip: 94063

Individual(s) citizenship United States

Association

General Partnership

Limited Partnership

Corporation-State California

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) 2566390

Additional number(s) attached  Yes  No

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

Name: Joi A. White, Esq.

Internal Address: Carr & Ferrell LLP

Street Address: 2225 East Bayshore Road

Suite 200

City: Palo Alto State: CA Zip: 94303

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 3.41).....\$ 40.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

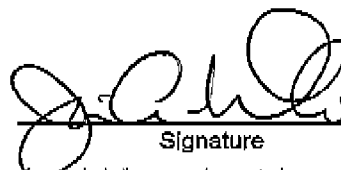
06-0600

DO NOT USE THIS SPACE

9. Signature.

Joi A. White

Name of Person Signing



Signature

July 29, 2003

Date

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

4

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

CH \$40.00 060600 2566390

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (this "Agreement") is made and entered into as of May 9, 2002 (the "Effective Date") by and between Robert Lupica and Ingrid Lupica, husband and wife, individually and doing business jointly as Smile International Trading (collectively, "Smile") and Eco-DenT International, Inc., a California corporation ("Eco-DenT"). Smile and Eco-DenT are referred to collectively herein as the "Parties," and individually herein as a "Party."

### RECITALS

A. Smile and Eco-DenT are parties to a certain Supply and Distribution Agreement dated January 1, 1999 (the "Supply Agreement"). A dispute (the "Dispute") has arisen regarding a certain transaction made pursuant to the Supply Agreement.

B. The Parties now wish to terminate the Supply Agreement, and resolve the Dispute, all on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. Payment. Upon execution hereof, Eco-DenT will pay to Smile SIXTEEN THOUSAND FIVE HUNDRED DOLLARS (\$16,500.00).
2. Termination of Supply Agreement. The parties agree that the Supply Agreement is terminated, effective as of December 31, 2001.
3. Mutual Releases; Representation and Warranty. Effective upon receipt of a valid instrument providing full payment under Paragraph 1, above:

(a) Except for the obligations assumed pursuant to this Agreement, Smile and Eco-DenT mutually and generally release and forever discharge each other, and their respective successors, assigns, agents, representatives, advisors and predecessors, and directors, officers, and employees, from any and all actions, causes of action, obligations, costs, expenses, damages, losses, claims, liabilities and demands of whatsoever nature which either party may have against the other, whether such claims are asserted or unasserted, known or unknown, and whether in law, equity or arbitration, arising out of or pertaining to any occurrence, event, circumstance or matter of any kind, including but not limited to the Dispute, or any other claims arising out of or related to the Supply Agreement.

(b) Robert Lupica affirms that he is or will be the owner of U.S. Trademark Application Serial No. 75/615,773 and the resulting U.S. registration for TERRADENT. For good and valuable consideration, the receipt of which is hereby acknowledged, Robert Lupica hereby grants to Marc Warsowe an irrevocable exclusive royalty-free license to all right, title and interest in the TERRADENT mark in the United States, and agrees to execute, upon written request, such documents as may be necessary or helpful to memorialize, ratify or otherwise effectuate the grant of this license.

(c) Smile represents and warrants that Smile neither owns nor claims to own any interest in any other intellectual property right in or to any materials provided to Eco-DenT in connection with or pursuant to the Supply Agreement. To the extent that the foregoing representation and warranty is false, Smile hereby irrevocably assigns and transfers to Eco-DenT all such interests, free and clear of all liens and encumbrances.

(d) For good and valuable consideration, the receipt of which is hereby acknowledged, Smile hereby irrevocably assigns to Eco-DenT whatever right, title and interest it may have in and to a \$1,100 claim against Frisetta Kunststoff GmbH & Co. KG ("Frisetta") for goods damaged or missing in transit to Eco-DenT,

TRADEMARK

REEL: 002691 FRAMES: 0954

and agrees to notify Frisetta of said assignment in writing within seven (7) days of the execution of this Agreement, and further agrees to execute, upon written request, such documents as may be necessary or helpful to memorialize, ratify or otherwise effectuate this assignment.

4. Scope of Release. The Parties understand and agree that this Agreement shall be effective as a full and final accord and satisfaction of all disputes and matters described in the preceding paragraph (the "Released Matters"). The Parties acknowledge that they are familiar with section 1542 of the California Civil Code, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The Parties expressly waive and relinquish any and all rights which any of them may have under, or which may be conferred on them by, the provisions of California Civil Code section 1542, as well as under any other state or federal statute or common law principle of similar effect, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Matters. In connection with such waiver the Parties acknowledge that they or their attorneys may hereafter discover claims or facts in addition to or different from those which they know or believe to exist with respect to the released matters, but that it is their intention hereby fully, finally, and forever to settle and release all of the disputes and differences, known or unknown, suspected or unsuspected, which do now exist, may exist in future, or heretofore existed, arising out of or in connection with the Released Matters.

5. Parties Affected. This Agreement, expressly including Paragraph 3, shall bind and benefit the Parties and their legal successors, agents, representatives, advisors, and predecessors, as well as their directors, officers, and employees, both past and present, and the spouses of the individual Parties.

6. Parties to Bear Own Costs. Except as provided for in Section 8 below, each Party agrees to bear its own costs, including attorneys' fees and other legal expenses.

7. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the law of the State of California.

8. Breach Of Terms Of Agreement. If any Party fails to fulfill any obligation imposed on such party under this Agreement (the "Defaulting Party"), the other Party may give written notice requiring performance of such obligation within thirty (30) calendar days of receipt by the Defaulting Party of such written notice. If the Defaulting Party fails to cure the breach within thirty (30) days after such written notice, the Party not in default shall be entitled to seek damages and/or specific performance, and/or any other remedy available in law. If any Party to this Agreement seeks to enforce rights hereunder, the non-prevailing Party or parties shall be required to pay all costs and expenses reasonably incurred by the prevailing Party, including reasonable attorneys' fees.

9. Compromise. It is understood and agreed that this is a compromise and release of disputed claims, and that nothing contained herein shall be construed as an admission by any Party of liability or responsibility of any kind, or a concession by any party that assertions of any other Party with respect to the Dispute are valid.

10. Further Assurances. The Parties agree to execute such other documents and to take such other action as may be reasonably necessary to further the purposes of the Agreement and to ensure fulfillment of its terms.

11. Non-Waiver. No breach of any provisions hereof can be waived unless such waiver is made expressly and in writing. Express waiver of any one breach shall not be deemed a waiver of any other breach of the same or any other provision hereof.

12. Entire Agreement. All agreements, covenants, understandings, representations, and warranties, express or implied, oral and written, of the parties concerning the subject matter of this Agreement are contained or referred to herein. No other agreements, covenants, understandings, representations or warranties, express or implied, oral or written, have been made by any party hereto to any other party concerning the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, understandings, representations, covenants and warranties concerning the subject matter of this Agreement, other than those referred to herein, are merged herein.

13. Notices. Any notice required or permitted to be given under this Agreement may be delivered personally to the addressee thereof. Alternatively, such notice shall be deemed to have been received by the addressee three (3) business days after mailing by certified or registered mail, addressed as follows (in either event notice shall only be valid if a copy thereof is simultaneously mailed to the designated copy recipient):

Notice to Smile  
12036 Hadden Hall Drive  
Chesterfield, VA 23838


Notice to Eco-Dent  
3130 Spring Street  
Redwood City, CA 94063-3929


Any Party shall be entitled to change the above addresses for delivery of notices by giving written notice of any new addresses, or any new address, to the other Party.


IN WITNESS WHEREOF, the parties hereto have caused the Agreement to be executed as of the Effective Date.

SMILE INTERNATIONAL TRADING

By:   
\_\_\_\_\_  
Robert Lupica, Proprietor

By:   
\_\_\_\_\_  
Ingrid Lupica, Proprietor

  
\_\_\_\_\_  
Robert Lupica, individually

  
\_\_\_\_\_  
Ingrid Lupica, individually

ECO-DENT INTERNATIONAL, INC

By:   
\_\_\_\_\_  
Marc Warsowe, President