

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM381123

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|---|-------------------------------------|-----------------------------------|---|
| SUBMISSION TYPE: | NEW ASSIGNMENT | | |
| NATURE OF CONVEYANCE: | SECURITY INTEREST | | |
| CONVEYING PARTY DATA | | | |
| Name | Formerly | Execution Date | Entity Type |
| SCHAWBEL TECHNOLOGIES LLC | | 04/14/2016 | Limited Liability Company: MASSACHUSETTS |
| RECEIVING PARTY DATA | | | |
| Name: | GIBRALTAR BUSINESS CAPITAL, LLC | | |
| Street Address: | 400 SKOKIE BOULEVARD, SUITE 375 | | |
| City: | NORTHBROOK | | |
| State/Country: | ILLINOIS | | |
| Postal Code: | 60062 | | |
| Entity Type: | Limited Liability Company: DELAWARE | | |
| PROPERTY NUMBERS Total: 3 | | | |
| Property Type | Number | Word Mark | |
| Registration Number: | 3878044 | COOLWARE PERSONAL COOLING SYSTEMS | |
| Registration Number: | 4676503 | PROFLEX | |
| Registration Number: | 3151548 | COLORFUSION | |
| CORRESPONDENCE DATA | | | |
| Fax Number: | 3127829000 | | |
| <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: | 3127829000 | | |
| Email: | NKONDZIOLKA@RSPLAW.COM | | |
| Correspondent Name: | ANDREW M. SACHS, ESQ. | | |
| Address Line 1: | 180 N. LA SALLE ST. SUITE 3300 | | |
| Address Line 4: | CHICAGO, ILLINOIS 60601 | | |
| NAME OF SUBMITTER: | ANDREW M. SACHS | | |
| SIGNATURE: | /ANDREW M. SACHS/ | | |
| DATE SIGNED: | 04/19/2016 | | |
| Total Attachments: 10 | | | |
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INTELLECTUAL PROPERTY SECURITY AGREEMENT

This INTELLECTUAL PROPERTY SECURITY AGREEMENT ("Agreement"), dated as of April 14, 2016, is executed by and between SCHAWBEL TECHNOLOGIES LLC, a Massachusetts limited liability company, having a business location at the address set forth below under its signature ("Debtor") and GIBRALTAR BUSINESS CAPITAL, LLC, a Delaware limited liability company, having a business location at the address set forth below under its signature ("Secured Party").

RECITALS:

The Debtor and the Secured Party are parties to a Loan and Security Agreement of even date herewith (as the same may hereafter be amended, supplemented or restated from time to time, the "Loan Agreement") setting forth the terms on which the Secured Party may now or hereafter extend credit to or for the account of the Debtor.

As a condition to continuing to extend credit to or for the account of the Debtor, the Secured Party has required the execution and delivery of this Agreement by the Debtor.

ACCORDINGLY, in consideration of the mutual covenants contained in the Loan Documents and herein, the parties hereby agree as follows:

1. **Definitions.** All terms defined in the Recitals hereto or in the Loan Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

"**Copyrights**" means the copyright registrations, applications and exclusive copyright licenses, including, without limitation, the federally registered copyrights set forth in **Exhibit A**.

"**Patents**" means all of the Debtor's right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the federally registered patents listed on **Exhibit B**.

"**Security Interest**" has the meaning given in Section 2.

"**Trademarks**" means all of the Debtor's right, title and interest in and to: (i) trademarks, service marks, collective membership marks, registrations and applications for registration for each, and the respective goodwill associated with each, (ii) licenses, fees or royalties with respect to each, (iii) the right to sue for past, present and future infringement, dilution and damages therefor, (iv) and licenses thereunder, all as presently existing or hereafter arising or acquired, including, without limitation, the federally registered marks listed on **Exhibit C**, but, excluding, "intent to use" trademark applications for which a statement of use has not been filed (but only until such statement is filed).

2. **Security Interest.** As security for the payment of the Obligations, the Debtor hereby pledges and collaterally assigns to, and grants the Secured Party a security interest (the

"Security Interest"), in the Patents, Trademarks and Copyrights (other than Excluded Collateral) to secure payment of the Obligations.

3. **Representations, Warranties and Agreements.** Debtor represents, warrants and agrees as follows:

(a) **Authority.** This Agreement has been duly and validly authorized by all necessary action on the part of the Debtor.

(b) **Copyrights.** **Exhibit A** accurately lists all federally registered Copyrights owned or controlled by the Debtor as of the date hereof and accurately reflects in all material respects the existence and status of all federally registered Copyrights and all applications and registrations pertaining thereto as of the date hereof. If after the date hereof, the Debtor owns or controls any federally registered Copyrights not listed on **Exhibit A** or if **Exhibit A** ceases to accurately reflect, in all material respects, the existence and status of applications and registrations pertaining to federally registered Copyrights, then the Debtor shall promptly provide written notice to the Secured Party with a replacement **Exhibit A**, which upon acceptance by the Secured Party shall become part of this Agreement.

(c) **Patents.** **Exhibit B** accurately lists all federally registered Patents owned or controlled by the Debtor as of the date hereof, or to which Debtor has a right as of the date hereof to have it assigned to it, and accurately reflects the existence and status of applications and letters patent pertaining to all federally registered Patents as of the date hereof. If after the date hereof, Debtor owns, controls or has a right to have assigned to it any federally registered Patents not listed on **Exhibit B**, or if **Exhibit B** ceases to accurately reflect the existence and status of applications and letters patent pertaining to federally registered Patents, then the Debtor shall promptly provide written notice to the Secured Party with a replacement **Exhibit B**, which upon acceptance by the Secured Party shall become part of this Agreement.

(d) **Trademarks.** **Exhibit C** accurately lists all federally registered Trademarks owned or controlled by the Debtor as of the date hereof and accurately reflects the existence and status of all federally registered Trademarks and all applications and registrations pertaining thereto as of the date hereof. If after the date hereof, the Debtor owns or controls any federally registered Trademarks not listed on **Exhibit C** or if **Exhibit C** ceases to accurately reflect the existence and status of applications and registrations pertaining to federally registered Trademarks, then the Debtor shall promptly provide written notice to the Secured Party with a replacement **Exhibit C**, which upon acceptance by the Secured Party shall become part of this Agreement.

(e) **Affiliates.** As of the date hereof, no Affiliate owns, controls, or has a right to have assigned to it any items that would, if such item were owned by the Debtor, constitute federally registered Patents, Trademarks or Copyrights necessary for the operation of a material portion of the Debtor's business. If after the date hereof any Affiliate owns, controls, or has a right to have assigned to it any such items, then the Debtor shall promptly either: (i) cause such Affiliate to assign all of its rights in such

item(s) to Debtor; or (ii) notify the Secured Party of such item(s) that are federally registered and necessary for the operation of a material portion of the Debtor's business and cause such Affiliate to execute and deliver to the Secured Party an intellectual property security agreement substantially in the form of this Agreement.

(f) **Title.** Debtor has absolute title to each owned Patent, Trademark and Copyright, (except licenses thereunder) listed on Exhibits A, B and C, free and clear of all liens except liens in favor of the Secured Party and other Permitted Liens. Debtor (i) will have, at the time Debtor acquires any ownership rights in Patents, Trademarks or Copyrights hereafter arising (except licenses thereunder), absolute title to each such Patent, Trademark or Copyright free and clear of all liens except liens in favor of the Secured Party and other Permitted Liens, and (ii) will keep all Patents, Trademarks and Copyrights free and clear of all liens except for liens in favor of the Secured Party and other Permitted Liens.

(g) **Defense.** The Debtor will at its own expense and using commercially reasonable efforts, protect and defend the Patents, Trademarks and Copyrights that are necessary for the operation of a material portion of the business of the Debtor (except licenses thereunder) against all claims or demands of all Persons.

(h) **Maintenance.** Debtor will at its own expense maintain the Patents, Trademarks and Copyrights to the extent necessary for the operation of a material portion of the business of the Debtor including, but not limited to, filing all applications to obtain letters patent or trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. Except to the extent reasonably advisable in its business, Debtor covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent, Trademark or Copyright, nor fail to file any required affidavit or renewal in support thereof, without first providing the Secured Party: (i) sufficient written notice, of at least thirty (30) days, to allow the Secured Party to timely pay any such maintenance fees or annuities which may become due on any Patents, Trademarks or Copyrights, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable. For the avoidance of doubt, the terms and conditions set forth in this Section 3(h) shall not apply to any licenses of Patents, Trademarks and Copyrights.

(i) **Secured Party's Right to Take Action.** If Debtor fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of thirty (30) days after the Secured Party gives the Debtor written notice thereof (or, in the case of the agreements contained in subsection (h), immediately upon the occurrence of such failure, without notice or lapse of time), or, if Debtor notifies the Secured Party that it intends to abandon a Patent, Trademark or Copyright, except to the extent reasonably advisable in its business, the Secured Party may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of Debtor (or, at the Secured Party's option, in the Secured Party's own name) and may (but need not) take any and all

other actions which the Secured Party may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(j) **Costs and Expenses.** The Debtor shall pay the Secured Party on demand the amount of all out-of-pocket moneys reasonably expended and all reasonable and documented out-of-pocket costs and expenses (including reasonable attorneys' fees and disbursements) incurred by the Secured Party in connection with or as a result of the Secured Party's taking action under subsection (i) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by the Secured Party at the default rate of interest set forth in the Loan Agreement.

(k) **Power of Attorney.** To the extent required to facilitate the Secured Party's taking action under subsection (i) and exercising its rights under Section 6 for the purpose of perfecting its Security Interest, the Debtor hereby irrevocably (solely during the term of this Agreement) appoints (which appointment is coupled with an interest) the Secured Party, or its delegate, as the attorney-in-fact of the Debtor with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of the Debtor, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by the Debtor under this Section 3, or, necessary for the Secured Party, after an Event of Default (as defined in the Loan Agreement), to enforce or use the Patents, Trademarks or Copyrights or to grant or issue any exclusive or non-exclusive license under the Patents, Trademarks or Copyrights to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents, Trademarks or Copyrights to any third party. The Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Loan Agreement as provided therein and the payment and performance of all Obligations.

4. **Debtor's Use of the Patents, Trademarks and Copyrights.** The Debtor shall be permitted to control and manage the Patents, Trademarks and Copyrights, including the right to exclude others from making, using or selling items covered by the Patents, Trademarks and Copyrights and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Event of Default occurs.

5. **Events of Default.** The occurrence of an Event of Default, as defined in the Loan Agreement, shall constitute an Event of Default under this Agreement.

6. **Remedies.** Upon the occurrence of an Event of Default and at any time thereafter, the Secured Party may, at its option, take any or all of the following actions provided that such actions are taken in accordance with the Loan Agreement:

(a) The Secured Party may exercise any or all remedies available under the Loan Agreement.

(b) The Secured Party may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents, Trademarks and Copyrights.

(c) The Secured Party may enforce the Patents, Trademarks and Copyrights and any licenses thereunder, and if Secured Party shall commence any suit for such enforcement, the Debtor shall, at the request of Secured Party, do any and all lawful acts and execute any and all proper documents required by Secured Party in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by the Secured Party. This Agreement shall terminate upon termination of the Loan Agreement. A waiver signed by the Secured Party shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of the Secured Party's rights or remedies. All rights and remedies of the Secured Party shall be cumulative and may be exercised singularly or concurrently, at the Secured Party's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Debtor under this Agreement shall be given in the manner and with the effect provided in the Loan Agreement. The Secured Party shall not be obligated to preserve any rights the Debtor may have against prior parties, to realize on the Patents, Trademarks and Copyrights at all or in any particular manner or order, or to apply any cash proceeds of Patents, Trademarks and Copyrights in any particular order of application. This Agreement shall be binding upon and inure to the benefit of the Debtor and the Secured Party and their respective participants, successors and assigns and shall take effect when signed by the Debtor and delivered to the Secured Party, and the Debtor waives notice of the Secured Party's acceptance hereof. A carbon, photographic or other reproduction of this Agreement or of any financing statement shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of Illinois without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.


THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Intellectual Property Security Agreement as of the date written above.

GIBRALTAR BUSINESS CAPITAL,
LLC, a Delaware limited liability company

SCHAWBEL TECHNOLOGIES LLC, a
Massachusetts limited liability company

By: 
Name: Mark J. Schawbel
Title: C.E.O.

By: _____
Name: _____
Title: _____

400 Skokie Boulevard, Suite 375
Northbrook, Illinois 60062

2400 District Avenue, Suite 150
Burlington, Massachusetts 01803

IN WITNESS WHEREOF, the parties have executed this Intellectual Property Security Agreement as of the date written above.

GIBRALTAR BUSINESS CAPITAL,
LLC, a Delaware limited liability company

SCHAWBEL TECHNOLOGIES LLC, a
Massachusetts limited liability company

By: _____
Name: _____
Title: _____

By: William Schawbel
Name: William Schawbel
Title: Sole Director & Manager

400 Skokie Boulevard, Suite 375
Northbrook, Illinois 60062

2400 District Avenue, Suite 150
Burlington, Massachusetts 01803

EXHIBIT A
COPYRIGHTS

EXHIBIT B

PATENTS

| Patent Title | Application Number | Filing Date | Application Status | Patent Number | Issue Date |
|---|---------------------------|--------------------|---------------------------|----------------------|-------------------|
| HEATED INSOLE WITH REMOVABLE AND RECHARGEABLE BATTERY | 14/248861 | 4/9/2014 | Granted | 8869428 | 10/28/2014 |
| HEATED INSOLE WITH REMOVABLE AND RECHARGEABLE BATTERY | 14/511528 | 10/10/2014 | Granted | 9179734 | 11/10/2015 |
| HEATED INSOLE WITH REMOVABLE AND RECHARGEABLE BATTERY | 14/285118 | 5/22/2014 | Granted | 8869429 | 10/28/2014 |
| INSOLE | 29/487518 | 4/9/2014 | Granted | D734012 | 7/14/2015 |
| INSOLE | 29/487520 | 4/9/2014 | Granted | D722222 | 2/10/2015 |
| BATTERY PACK FOR AN INSOLE | 29/487523 | 4/9/2014 | Granted | D724013 | 3/10/2015 |
| BATTERY PACK FOR AN INSOLE | 29/487528 | 4/9/2014 | Granted | D719504 | 12/16/2014 |
| BATTERY PACK FOR AN INSOLE | 29/487530 | 4/9/2014 | Granted | D737769 | 9/1/2015 |
| HEATED INSOLE REMOTE CONTROL SYSTEM | 13/166351 | 6/22/2011 | Granted | 8850716 | 10/7/2014 |
| HEATED INSOLE REMOTE CONTROL SYSTEMS | 14/466477 | 8/22/2014 | Granted | 9101177 | 8/11/2015 |
| DEVICE FOR COOLING OR HEATING | 29/500830 | 8/28/2014 | Granted | D738995 | 9/15/2015 |
| DEVICE FOR COOLING OR HEATING | 29/500821 | 8/28/2014 | Granted | D747810 | 1/19/2016 |
| HEATED INSOLE WITH REMOVABLE AND HEATING ASSEMBLY | 14/568516 | 12/12/2014 | Granted | 9314064 | 4/19/2016 |

EXHIBIT C

TRADEMARKS

| Case Number | Trademark Name | Application Number | Filing Date | Trademark Status | Registration Number | Class | Goods |
|-------------|---|--------------------|-------------|------------------|---------------------|------------|--|
| 12263/67 | COOLWARE PERSONAL COOLING SYSTEM & DESIGN | 77/892881 | 12/14/2009 | Registered | 3878044 | 11 Int. | Personal cooling device worn around the neck of the individual user and comprised primarily of a portable, battery-operated electric fan and a water reservoir |
| 12263/59 | PROFLEX | 86/136353 | 12/5/2013 | Registered | 4676503 | 25 Int. | Remote controlled battery powered heated insoles |
| 12263/70 | COLORFUSION | 78/302621 | 9/19/2003 | Registered | 3151548 | 11 Int. | Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes. |