

10-19-1998

FORM PTO-1694
1-31-92



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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

100852278

Tab settings

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

MRD 10-14-98

1. Name of conveying party(ies):

Ducharme, McMillen & Associates, Inc.
6610 Mutual Drive
Fort Wayne, Indiana 46825

- Individual(s)
- General Partnership
- Corporation-State Indiana
- 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: May 5, 1998

2. Name and address of receiving party(ies):

Name: The Provident Bank

Internal Address: _____

Street Address: One East Fourth Street

City: Cincinnati State: OH ZIP: 45202

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State _____
- Other National Banking Association

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)

75/215,501
75/230,372

B. Trademark registration No.(s)

1,771,804 431,509
1,770,403 431,508

Additional numbers attached? Yes No

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

Name: Philip F. Schultz

Internal Address: Taft, Stettinius &

Hollister LLP

Street Address: 425 Walnut Street,

Suite 1800

City: Cincinnati State: OH ZIP: 45202

6. Total number of applications and registrations involved: 6

7. Total fee (37 CFR 3.41):..... \$ 165.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number. 20-0053 for any excess or shortage.

(Attach duplicate copy of this page if paying by deposit account)

10/16/1998 JSHABAZZ 00000067 75215501

DO NOT USE THIS SPACE

01 FD:481
02 FD:482

40.00 OP
125.00 OP

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Linda D. Bayliss, Paralegal for
Taft, Stettinius & Hollister LLP

Name of Person Signing

Linda Bayliss

Signature

TRADEMARK

Oct 6, 1998
Date

REEL: 1800 FRAME: 0739

THIS COLLATERAL TRADEMARK AND LICENSE ASSIGNMENT NO. 2 ("Assignment") is made by DUCHARME, MCMILLEN & ASSOCIATES, INC., an Indiana corporation having its principal office and place of business at 6610 Mutual Drive, Fort Wayne, Indiana 46825 ("Assignor"), in favor of THE PROVIDENT BANK, whose address is One East Fourth Street, Cincinnati, Ohio 45202 ("Assignee"):

W I T N E S S E T H

WHEREAS, Assignor, Assignor's parent company, DMA Holdings, Inc. ("Holdings") and Assignee are parties to a certain Amended and Restated Loan and Security Agreement of even date herewith (as amended and/or restated from time to time, the "Loan Agreement"), which Loan Agreement provides (i) for the Assignee to make loans and other financial accommodations to Assignor and Holdings, and to, from time to time, extend credit to or for the account of Assignor and Holdings and (ii) for the grant by Assignor to Assignee of a security interest in certain of Assignor's assets, including, without limitation, its service marks, service mark applications, service names, trademarks, trademark applications, tradenames, goodwill and licenses;

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

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.

2. Assignment of Trademarks. To secure the complete and timely satisfaction of all of the "Obligations" (as defined in the Loan Agreement), Assignor hereby grants, assigns and conveys to Assignee all of Assignor's rights, title and interest in and to all of its now owned or existing and hereafter acquired or arising:

(i) trademarks, trademark registrations, tradenames and trademark applications, service marks, service mark registrations, service names and service mark applications, including, without limitation, the trademarks, trademark registrations, tradenames and trademark applications, service marks, service mark registrations, service names and service mark applications listed on Schedule A, attached hereto and made a part thereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payment for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing trademarks, service marks, trademark

and service mark registrations, tradenames, service names and applications, together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "Trademarks");

(ii) License agreements with any other party, whether Assignor is a licensor or licensee under any such license agreement and whether relating to patent, trademark, service mark or other rights, including, without limitation, the licenses listed on Schedule A attached hereto and made a part hereof, now or hereafter owned by Assignor and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to collectively as the "Licenses"); and

(iii) the goodwill of Assignor's business including but not by way of limitation such goodwill connected with and symbolized by the Trademarks.

3. Restrictions on Future Assignments. Assignor agrees that until the Obligations shall have been satisfied in full and the Loan Agreement shall have been terminated, Assignor will not, without Assignee's prior written consent, enter into any agreement relating to the Trademarks or Licenses (for example, a license agreement) and Assignor further agrees that it will not take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any action, which would affect the validity or enforcement of the rights transferred to Assignee under this Assignment.

4. New Trademarks, and Licenses. Assignor represents and warrants that the Trademarks and Licenses listed on Schedule A constitute all of such items now owned by Assignor. If, before the Obligations shall have been satisfied in full, Assignor shall (1) obtain rights to any new trademarks, trademark registrations, tradenames, service marks, service mark registrations, service names, or licenses, or (ii) become entitled to the benefit of any service mark or trademark application, service mark, service mark registration, trademark, trademark registration, or license renewal, the provisions of this Assignment shall automatically apply thereto and Assignor shall give to Assignee prompt written notice thereof. Assignor hereby authorizes Assignee as attorney in fact to modify this Assignment by amending Schedule A, as applicable, to include any future service marks, service mark registrations, service mark applications, service names, trademarks, trademark registrations, trademark applications, tradenames and licenses which are Trademarks or Licenses, as applicable, under Paragraph 2 above or under this Paragraph 4, and to file or refile this Assignment with the United States Patent and Trademark Office.

5. Representations and Warranties. Assignor represents and warrants to and agrees with Assignee that:

(i) The Trademarks and Licenses are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;

(ii) To the best of Assignor's knowledge, each of the Trademarks and Licenses is valid and enforceable;

(iii) Assignor is the owner of the Trademarks and all rights of Assignor under the Licenses and has the power and authority to make, and will continue to have authority to perform this Assignment according to its terms;

(iv) This Assignment does not violate and is not in contravention of any other agreement to which Assignor is a party or any judgment or decree by which Assignor is bound and does not require any consent under any other agreement to which Assignor is a party or by which Assignor is bound; and

(v) There has been no prior sale, pledge, encumbrance, assignment or other transfer or disposition of any of the Trademarks or Licenses or any part thereof and the same are free from all liens, charges and encumbrances of any kind, including but not limited to licenses, shop rights and covenants not to sue third persons.

6. Royalties; Terms. Assignor hereby agrees that the use by Assignee of all Trademarks and Licenses as described above shall be worldwide and without any liability for royalties or other related charges from Assignee to the Assignor. The term of the assignments granted herein shall extend until the earlier of (i) the expiration of each of the respective Trademarks and Licenses assigned hereunder, or (ii) the Obligations have been paid in full and the Loan Agreement has been terminated.

7. Grant of License to Assignor. Unless and until an "Event of Default" (as defined in the Loan Agreement) shall have occurred, Assignee hereby grants to Assignor a nontransferable right and license to use the Trademarks and to exercise Assignee's rights under the Licenses for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Assignor in this Paragraph 7, without the prior written consent of Assignee. From and after the occurrence of an Event of Default, Assignor's license with respect to Trademarks and Licenses as set forth in this Paragraph 7 shall terminate forthwith, and Assignee shall have, in addition to all other rights and remedies given it by this Assignment, those 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 Trademarks or Licenses may be located, including, but not by way of limitation, the location of Assignee's principal place of business. Assignee shall have the right to supervise Assignor's use of the Trademarks and to direct the tax

preparation and sales activities by Assignor of goods and/or services in connection with which the Trademarks are used, but only in such manner as is reasonably calculated to maintain a high level of quality of the goods and services rendered under the Trademarks to protect Assignee's proprietary interest in the Trademarks. Assignee shall not require that Assignor maintain a level of quality for the goods and services rendered under the Trademarks that is higher than the level maintained by Assignor at the time of this Assignment to Assignee. Assignor agrees to certify periodically, at no less than annual intervals, the qualifications of the employees and agents of Assignor to perform the tax preparation, property assessment, and refund filing services provided under the Trademarks. Provided however, that Assignee not be compensated for such supervision and direction, and that Assignee's sphere of supervision and direction shall not include the manner of funding or the amount or nature of consideration paid to or payable by or for a consumer for any such goods or services.

8. Reassignment to Assignor. Upon payment in full of the Obligations and termination of the Loan Agreement, Assignee shall execute and deliver to Assignor all assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Trademarks and Licenses, subject to any disposition thereof which may have been made by Assignee pursuant hereto, pursuant to the Loan Agreement and/or pursuant to any of the other "Loan Documents" (as defined in the Loan Agreement.

9. Duties of Assignor. Assignor shall have the duty (i) to prosecute diligently any trademark or service mark application of the Trademarks made by it pending as of the date hereof or thereafter until the Obligations shall have been paid in full, (ii) to make application on trademarks and service marks, as appropriate, and (iii) to preserve and maintain all of its rights in trademark applications, trademarks, trademark registrations, service mark applications, service marks, and service mark registrations of the Trademarks. Any expenses incurred in connection with such applications shall be borne by Assignor. Assignor shall not abandon any right to file a Trademark application, or any pending Trademark application, or Trademark without the consent of Assignee, which consent shall not be unreasonably withheld. Assignor hereby authorizes the Commissioner of Patents and Trademarks to issue any and all certificates of registration on all Trademarks to Assignee as assignee of Assignor's entire interest;

10. Financing Statements; Documents. At the request of Assignee, Assignor will join with Assignee in executing one or more financing statements pursuant to the applicable states' version of the Uniform Commercial Code in form satisfactory to Assignee and will pay the costs of filing and/or recording this Assignment and all financing, continuation and termination statements in all public offices where filing or recording is

deemed necessary or desirable by Assignor. Assignor will execute and deliver to Assignee from time to time such supplemental assignments or other instruments, including, but not by way of limitation, additional assignments to be filed with the United States Patent and Trademark Office, as Assignee may require for the purpose of confirming Assignee's interest in the Trademarks and Licenses.

11. Assignee's Right to Sue. Assignee shall have the same rights, if any, as Assignor has, but shall in no way be obligated, to bring suit in its own name to enforce the Licenses and Trademarks, and any licenses thereunder, and, if Assignee shall commence any such suit, Assignor shall, at the request of Assignee, do any and all lawful acts and execute any and all proper documents required by Assignee in aid of such enforcement and Assignor shall promptly, upon demand and as a part of the Obligations, reimburse and indemnify Assignee for all costs and expenses incurred by Assignee in the exercise of its rights under this Paragraph 11.

12. Waivers. No course of dealing between Assignor and Assignee nor any failure to exercise nor any delay in exercising, on the part of Assignee, any right, power or privilege hereunder or under the Loan Agreement or under any of the other Loan Documents 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.

13. Severability. The provisions of this Assignment 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 Assignment in any jurisdiction.

14. Modification. This Assignment cannot be altered, amended or modified in any way, except as specifically provided in Paragraph 4 hereof or by a writing signed by the parties hereto.

15. Cumulative Remedies; Effect on Loan Agreement. All of Assignee's rights and remedies with respect to the Trademarks and Licenses, whether established hereby or by the Loan Agreement, or by any other Loan Documents or agreements or by law shall be cumulative and may be exercised singularly or concurrently. Assignor acknowledges and agrees that this Assignment is not intended to limit or restrict in any way the rights and remedies of Assignee under the Loan Agreement or other Loan Documents but rather is intended to facilitate the exercise of such rights and remedies.

Schedule A

DuCharme, McMillen & Associates, Inc. owns the following-described service marks and trademarks:

U.S. Service Mark Registration No. 1,771,804
Mark: DMA and Design
(copy of Certificate of Registration attached)

U.S. Service Mark Registration No. 1,770,403
Mark: DMA (Stylized)
(copy of Certificate of Registration attached)

Canadian Trade-mark Registration No. 431,509
Mark: DMA and Design
(copy of Certificate of Registration attached)

Canadian Trade-mark Registration No. 431,508
Mark: DMA (Stylized)
(copy of Certificate of Registration attached)

DuCharme, McMillen & Associates, Inc. owns the following-described copyrights:

U.S. Copyright Registration TXu 737-656
Title: COMPS Database
(copy of Certificate of Registration attached)

U.S. Copyright Registration TXu 743-524
Title: DMAX Database
(copy of Certificate of Registration attached)

U.S. Copyright Registration TXu 732-658
Title: State Income Tax Automated Spreadsheet Analysis System
(copy of Certificate of Registration attached)

U.S. Copyright Registration TXu 732-659
Title: Comparable Sales Database System
(copy of Certificate of Registration attached)

DuCharme, McMillen & Associates, Inc. has developed or is in the process of developing the following proprietary computer software applications, copyright to which subsists in the work or has been assigned to DuCharme, McMillen & Associates, Inc.:

Indiana Property Record Card system
"FAST" (Fixed Asset Tracking) system

DuCharme, McMillen & Associates, Inc. has filed the following applications for service mark registration:

U.S. Service Mark Application Serial No. 75/215,501
Filed: December 19, 1996
Mark: STARS

U.S. Service Mark Application Serial No. 75/230,372
Filed: January 23, 1997
Mark: STARS (and Design)